UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF THE
NINETY-SIXTH CONGRESS
OF THE UNITED STATES OF AMERICA

1980

AND

PROCLAMATIONS

VOLUME 94

IN THREE PARTS

PART 1

PUBLIC LAWS 96–188 THROUGH 96–366

UNITED STATES
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96-235	*D.C., revenue bonds for housing, issuance, delegation of authority.* AN ACT To amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval	Apr. 12, 1980	335
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96-342	*Department of Defense Authorization Act, 1981.* AN ACT To authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, track combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes	Sept. 8, 1980	1077
96-343	*Military Personnel and Compensation Amendments of 1980.* AN ACT To extend certain expiring provisions of law relating to personnel management of the Armed Forces, to provide a variable housing allowance for members of the uniformed services to reflect housing costs in different areas of the United States, to improve certain special and incentive pays for members of the uniformed services, and for other purposes	Sept. 8, 1980	1123
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96-356	*Hay transportation assistance program, payments.* AN ACT To amend the Act of December 20, 1944, as amended	Sept. 24, 1980	1177
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96-358	*Agricultural Subterminal Facilities Act of 1980.* AN ACT To provide for the development of State plans for the construction and improvement of subterminal storage and transportation facilities for certain types of agricultural commodities within the State or within a group of States acting together on a regional basis, and to amend the Consolidated Farm and Rural Development Act to authorize loans for the construction and improvement of such facilities, and for other purposes	Sept. 25, 1980	1184
96-359	*Infant Formula Act of 1980.* AN ACT To amend the Federal Food, Drug, and Cosmetic Act to strengthen the authority under that Act to assure the safety and nutrition of infant formulas, and for other purposes	Sept. 26, 1980	1190

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96-370	*Ice Age National Scenic Trail, establishment.* AN ACT To establish the Ice Age National Scenic Trail, and for other purposes	Oct. 3, 1980	1360
96-371	*National Port Week, designation authorization.* JOINT RESOLUTION Authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 5, 1980, as "National Port Week", and for other purposes	Oct. 3, 1980	1361
96-372	*FHA and rural housing authorities, temporary extension.* JOINT RESOLUTION Providing for temporary extension of certain Federal Housing Administration authorities and for rural housing authorities	Oct. 3, 1980	1363
96-373	*Consumer Product Safety Act, amendment.* AN ACT To amend the Consumer Product Safety Act to modify certain postemployment restrictions applicable to officers and employees of the Consumer Product Safety Commission	Oct. 3, 1980	1366
96-374	*Education Amendments of 1980.* AN ACT To amend and extend the Higher Education Act of 1965, and for other purposes	Oct. 3, 1980	1367

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96-375	*Water resource development, feasibility investigations.* AN ACT To authorize the Secretary of the Interior to engage in feasibiliy investigations of certain water resource developments, and for other purposes	Oct. 3, 1980	1505
96-376	*Coast Guard, appropriation authorization.* AN ACT To authorize appropriations for the Coast Guard for fiscal year 1981, to authorize supplemental appropriations for fiscal year 1980, and for other purposes	Oct. 3, 1980	1509
96-377	*U.S. savings bonds, interest rate increase.* AN ACT To facilitate the management of the public debt by permitting an increase in the investment yield on United States savings bonds above the existing 7 per centum ceiling, and by increasing the amount of the bonds paying interest in excess of 4¼ percentum which may be outstanding	Oct. 3, 1980	1512
96-378	*Small vessels, inspection and manning.* AN ACT To amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes	Oct. 6, 1980	1513
96-379	*Dams, name changes.* AN ACT To change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam and Lake, and to designate Clark Hill Dam and Lake on the Savannah River, Georgia and South Carolina as "Clarks Hill Dam and Lake"	Oct. 6, 1980	1520
96-380	*Towing Safety Advisory Committee, establishment.* AN ACT To establish a Towing Safety Advisory Committee in the Department of Transportation	Oct. 6, 1980	1521
96-381	*Marine Protection, Research, and Sanctuaries Act of 1972, amendment.* AN ACT To amend section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for title II of such Act for fiscal year 1980	Oct. 6, 1980	1523
96-382	*Maritime torts, statute of limitations.* AN ACT To provide for a uniform national three-year statute of limitations in actions to recover damages for personal injury or death, arising out of a maritime tort, and for other purposes	Oct. 6, 1980	1525
96-383	*William H. Harsha Lake and William H. Harsha Dam, designation.* AN ACT To rename a reservoir and dam in the Little Miami River Basin, Ohio, as the "William H. Harsha Lake" and the "William H. Harsha Dam"	Oct. 6, 1980	1526
96-384	*Ray Roberts Lake, designation.* AN ACT To change the name of Aubrey Lake, Texas, to Ray Roberts Lake	Oct. 6, 1980	1527
96-385	*Veterans' Disability Compensation and Housing Benefits Amendments of 1980.* AN ACT To amend title 38, United States Code, to provide cost-of-living increases in the rates of compensation for veterans with service-connected disabilities and in the rates of dependency and indemnity compensation for surviving spouses and children of veterans, to provide for limited grants for special home adaptations for certain severely disabled veterans, to provide for Veterans' Administration guaranties for loans to refinance certain existing veterans' home loans and to increase the maximum loan guaranties for home loans made to veterans, and to provide for the confidentiality of certain Veterans' Administration medical quality assurance records; and for other purposes	Oct. 7, 1980	1528
96-386	*Magnetic Fusion Energy Engineering Act of 1980.* AN ACT To provide for an accelerated program of research and development of magnetic fusion energy technologies leading to the construction and successful operation of a magnetic fusion demonstration plant in the United States before the end of the twentieth century to be carried out by the Department of Energy	Oct. 7, 1980	1539

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96-387	*Vessels, coastwise trade documentation.* AN ACT To authorize the documentation of certain vessels as vessels of the United States, and for other purposes...	Oct. 7, 1980	1545
96-388	*U.S. Holocaust Memorial Council, establishment.* AN ACT To establish the United States Holocaust Memorial Council	Oct. 7, 1980	1547
96-389	*Bretton Woods Agreements Act, amendment.* AN ACT To amend the Bretton Woods Agreements Act to authorize consent to an increase in the United States quota in the International Monetary Fund, and for other purposes	Oct. 7, 1980	1551
96-390	*Bob Casey Federal Building—U.S. Courthouse, designation.* AN ACT To name a certain Federal building in Houston, Texas, the Bob Casey Federal Building—U.S. Courthouse	Oct. 7, 1980	1556
96-391	*Federal employee retirement, survivorship benefits.* AN ACT To amend title 5, United States Code, to require any Federal employee who elects at the time of retirement not to provide survivorship benefits for the employee's spouse to notify (or take all reasonable steps to notify) the spouse of that election	Oct. 7, 1980	1557
96-392	*O. C. Fisher Federal Building, designation.* AN ACT To designate the Federal Building located at 33 West Twohig, San Angelo, Texas, as the "O. C. Fisher Federal Building"	Oct. 7, 1980	1558
96-393	*Minton-Capehart Federal Building, designation.* AN ACT To name a certain Federal building in Indianapolis, Indiana, the Minton-Capehart Federal Building	Oct. 7, 1980	1559
96-394	*J. Marvin Jones Federal Building, designation.* AN ACT To designate the building known as the Federal Building and United States Courthouse in Amarillo, Texas, as the "J. Marvin Jones Federal Building"...	Oct. 7, 1980	1560
96-395	*John S. Monagan Federal Building, designation.* AN ACT To designate the United States Court House and the United States Post Office Federal Building in Waterbury, Connecticut, as the "John S. Monagan Federal Building"	Oct. 7, 1980	1561
96-396	*U.S. Secret Service Uniformed Division, basic compensation adjustments.* AN ACT To amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same adjustments in the basic compensation of officers and members of the United States Secret Service Uniformed Division as are given to Federal employees under the General Schedule	Oct. 7, 1980	1562
96-397	*Justice Department Appropriation Authorization Act, FY 1980, authority continuation.* AN ACT To continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1980, for a certain period	Oct. 7, 1980	1563
96-398	*Mental Health Systems Act.* AN ACT To improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes	Oct. 7, 1980	1564
96-399	*Housing and Community Development Act of 1980.* AN ACT To amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes	Oct. 8, 1980	1614
96-400	*Department of Transportation and Related Agencies Appropriation Act, 1981.* AN ACT Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes	Oct. 9, 1980	1681

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96-401	*Northern Cheyenne Indian Reservation, leases.* AN ACT Relating to certain leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation	Oct. 9, 1980	1701
96-402	*Uniformed Services Survivor Benefits Amendments of 1980.* AN ACT To amend title 10, United States Code, to remove certain inequities in the Survivor Benefit Plan provided for under chapter 73 of such title, and for other purposes	Oct. 9, 1980	1705
96-403	*Social security tax receipts, allocation adjustments.* AN ACT To amend title II of the Social Security Act to make necessary adjustments in the allocation of social security tax receipts between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund	Oct. 9, 1980	1709
96-404	*Fort Berthold Reservation Tribes, damage claims against U.S.* AN ACT To authorize the Three Affiliated Tribes of the Fort Berthold Reservation to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes	Oct. 9, 1980	1711
96-405	*Blackfeet and Gros Ventre Tribes, damage claims against U.S.* AN ACT To authorize the Blackfeet and Gros Ventre Tribes to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes	Oct. 9, 1980	1713
96-406	*Umatilla and Wallowa National Forests, land inclusion.* AN ACT To extend the provisions of the General Exchange Act, as amended, to certain lands in order that they may become parts of the Umatilla and Wallowa National Forests, and for other purposes	Oct. 9, 1980	1715
96-407	*Hewson A. Ryan, Honorary Consul of Honduras.* AN ACT Granting the consent of the Congress to Hewson A. Ryan to accept the office and title of Honorary Consul of Honduras	Oct. 9, 1980	1717
96-408	*James M. Hanley Federal Building, designation.* AN ACT To designate the building known as United States Court House and Federal Building in Syracuse, New York, as the "James M. Hanley Federal Building"	Oct. 9, 1980	1718
96-409	*Edith Green-Wendell Wyatt Federal Building, designation.* AN ACT To designate the Federal building in Portland, Oregon the "Edith Green Federal Building"	Oct. 9, 1980	1719
96-410	*Robert N. Giaimo Federal Building, designation.* AN ACT To designate the United States Federal Building in New Haven, Connecticut, as the "Robert N. Giaimo Federal Building"	Oct. 9, 1980	1720
96-411	*James C. Cleveland Federal Building, designation.* AN ACT To redesignate the United States Post Office and Courthouse Building in Concord, New Hampshire, as the "James C. Cleveland Federal Building"	Oct. 9, 1980	1721
96-412	*Andrew W. Breidenbach Environmental Research Center, designation.* AN ACT To name the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenbach Environmental Research Center"	Oct. 9, 1980	1722
96-413	*William S. Moorhead Federal Building, designation.* AN ACT To designate the United States Federal Building in Pittsburgh, Pennsylvania, as the "William S. Moorhead Federal Building"	Oct. 9, 1980	1723

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96-414	*Lord Cornwallis, observance of 200th anniversary of surrender to General George Washington; designation.* JOINT RESOLUTION Designating October 19, 1981, as a "Day of National Observance of the Two Hundreth Anniversary of the Surrender of Lord Cornwallis to General George Washington at Yorktown, Virginia"	Oct. 9, 1980	1724
96-415	*Carl Albert Indian Health Facility, designation.* AN ACT To designate the Indian Health Facility in Ada, Oklahoma, the "Carl Albert Indian Health Facility".	Oct. 9, 1980	1725
96-416	*National Agriculture Day, designation.* JOINT RESOLUTION To proclaim March 19, 1981, as "National Agriculture Day"	Oct. 9, 1980	1726
96-417	*Customs Courts Act of 1980.* AN ACT To improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes	Oct. 10, 1980	1727
96-418	*Military Construction Authorization Act, 1981* AN ACT To authorize certain construction at military installations for fiscal year 1981, and for other purposes	Oct. 10, 1980	1749
96-419	*National Lupus Week, designation authorization.* JOINT RESOLUTION To provide for the designation of a week as "National Lupus Week"	Oct. 10, 1980	1784
96-420	*Maine Indian Claims Settlement Act of 1980.* AN ACT To provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes	Oct. 10, 1980	1785
96-421	*National Patriotism Week, designation.* JOINT RESOLUTION To designate the week commencing with the third Monday in February of 1981 as "National Patriotism Week"	Oct. 10, 1980	1798
96-422	*Refugee Education Assistance Act of 1980.* AN ACT To provide general assistance to local educational agencies for the education of Cuban and Haitian refugee children, to provide special impact aid to such agencies for the education of Cuban and Haitian refugee children and Indochinese refugee children, and to provide assistance to State educational agencies for the education of Cuban and Haitian refugee adults	Oct. 10, 1980	1799
96-423	*Federal Railroad Safety Authorization Act of 1980.* AN ACT To amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes	Oct. 10, 1980	1811
96-424	*Refugee Education Assistance Act of 1980, provision, repeal.* AN ACT To repeal a provision of the Refugee Education Assistance Act of 1980	Oct. 10, 1980	1820
96-425	*Automobile Fuel Efficiency Act of 1980.* AN ACT To amend title V of the Motor Vehicle Information and Cost Savings Act to reduce administrative burdens on low volume automobile manufacturers, to encourage an increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers for carryforward or carryback of credits earned under the Act, and for other purposes	Oct. 10, 1980	1821
96-426	*Frank Carlson Federal Building, designation.* AN ACT To name the Federal Building located at 444 Southeast Quincy, Topeka, Kansas, the "Frank Carlson Federal Building"	Oct. 10, 1980	1830

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96-427	*Federal Employees' Group Life Insurance Act of 1980.* AN ACT To amend chapter 87 of title 5, United States Code, to increase the amounts of regular and optional group life insurance available to Federal employees and provide optional life insurance on family members, and for other purposes	Oct. 10, 1980	1831
96-428	*Martin Luther King, Junior, National Historic Site; establishment.* AN ACT To establish the Martin Luther King, Junior, National Historic Site in the State of Georgia, and for other purposes	Oct. 10, 1980	1839
96-429	*Abraham A. Ribicoff Federal Building, designation.* AN ACT To designate the United States Federal Building in Hartford, Connecticut, as the "Abraham A. Ribicoff Federal Building"	Oct. 10, 1980	1844
96-430	*Boston African American National Historic Site, establishment.* AN ACT To provide for the establishment of the Boston African American national Historic Site in the Commonwealth of Massachusetts, and for other purposes	Oct. 10, 1980	1845
96-431	*Military leave for Federal employees.* AN ACT To amend title 5, United States Code, to provide that military leave be made available for Federal employees on a fiscal year rather than a calendar year basis, to allow certain unused leave to accumulate for subsequent use, and for other purposes	Oct. 10, 1980	1850
96-432	*U.S. Capitol grounds.* AN ACT To amend the Act of July 31, 1946, as amended, relating to the United States Capitol Grounds, and for other purposes	Oct. 10, 1980	1851
96-433	*Brokers and dealers' customers, increased protection; financial privacy, applicability to SEC.* AN ACT To amend the Securities Investor Protection Act to increase the amount of protection available under such Act to customers of brokers and dealers, and to provide for the applicability of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission	Oct. 10, 1980	1855
96-434	*Assiniboine Tribe, claims against U.S.* AN ACT To authorize the Assiniboine Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes	Oct. 10, 1980	1859
96-435	*Adams National Historic Site, Quincy, Mass.* AN ACT Authorizing the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Massachusetts, and authorizing the Secretary to administer the United First Parish Church as a national historic site, and for other purposes	Oct. 10, 1980	1861
96-436	*Military Construction Appropriation Act, 1981.* AN ACT Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes	Oct. 13, 1980	1863
96-437	*U.S. Grain Standards Act, amendment.* AN ACT To amend the United States Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes	Oct. 13, 1980	1870
96-438	*Consolidated Farm and Rural Development Act, amendment.* AN ACT To amend the Consolidated Farm and Rural Development Act	Oct. 13, 1980	1871
96-439	*Internal Revenue Code of 1954, amendment.* AN ACT To amend the Internal Revenue Code of 1954 to authorize three additional judges for the Tax Court and to remove the age limitation on appointments to the Tax Court	Oct. 13, 1980	1878

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96-440	*Privacy Protection Act of 1980.* AN ACT To limit governmental search and seizure of documentary materials possessed by persons, to provide a remedy for persons aggrieved by violations of the provisions of this Act, and for other purposes	Oct. 13, 1980	1879
96-441	*National Collection of Fine Arts and Museum of History and Technology, name changes.* AN ACT To rename the National Collection of Fine Arts and the Museum of History and Technology of the Smithsonian Institution as the National Museum of American Art and the National Museum of American History, respectively	Oct. 13, 1980	1884
96-442	*Manassas National Battlefield Park Amendments of 1980.* AN ACT To amend the Act entitled "An Act to preserve within Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battle of Manassas, and for other purposes", approved April 17, 1954 (68 Stat. 56; 16 U.S.C. 429b)	Oct. 13, 1980	1885
96-443	*Italian-American Heritage Week, designation authorization.* JOINT RESOLUTION To authorize and request the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week"	Oct. 13, 1980	1888
96-444	*Certain legislative branch employees, transfer.* AN ACT To transfer certain employees of the Architect of the Capitol to the Sergeant at Arms and Doorkeeper of the Senate	Oct. 13, 1980	1889
96-445	*People's Republic of China, claim payment priorities.* AN ACT To establish priorities in the payment of claims against the People's Republic of China	Oct. 13, 1980	1891
96-446	*Disaster relief, bequests and gifts.* AN ACT To authorize the acceptance and use of bequests and gifts for disaster relief	Oct. 13, 1980	1893
96-447	*Civil Rights Commission Authorization Act of 1980.* AN ACT To amend section 106 of the Civil Rights Act of 1957 to authorize appropriations for the Commission on Civil Rights for the fiscal year 1981	Oct. 13, 1980	1894
96-448	*Staggers Rail Act of 1980.* AN ACT To reform the economic regulation of railroads, and for other purposes	Oct. 14, 1980	1895
96-449	*Hostage Relief Act of 1980.* AN ACT To provide certain benefits to individuals held hostage in Iran and to similarly situated individuals, and for other purposes	Oct. 14, 1980	1967
96-450	*Intelligence Authorization Act for Fiscal Year 1981.* AN ACT To authorize appropriations for fiscal year 1981 for the intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, and for other purposes	Oct. 14, 1980	1975
96-451	*Federal Boat Safety Act of 1971, amendment.* AN ACT To amend the Federal Boat Safety Act of 1971 to promote recreational boating safety through the development, administration, and financing of a national recreational boating safety improvement program, and for other purposes	Oct. 14, 1980	1983
96-452	*Fifth Circuit Court of Appeals Reorganization Act of 1980.* AN ACT To amend title 28, United States Code, to divide the fifth judicial circuit of the United States into two circuits, and for other purposes	Oct. 14, 1980	1994
96-453	*Maritime Education and Training Act of 1980.* AN ACT To amend the Merchant Marine Act, 1936, to revise and reenact the laws pertaining to the United States Merchant Marine Academy and to State maritime academies and for other maritime education and training purposes	Oct. 15, 1980	1997

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96-454	*Household Goods Transportation Act of 1980.* AN ACT To reduce regulation of and increase competition in the household goods moving industry, and for other purposes	Oct. 15, 1980	2011
96-455	*Trademark Trial and Appeal Board, membership.* AN ACT To amend section 17 of the Act of July 5, 1946, as amended, entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes"..	Oct. 15, 1980	2024
96-456	*Classified Information Procedures Act.* AN ACT To provide certain pretrial, trial and appellate procedures for criminal cases involving classified information	Oct. 15, 1980	2025
96-457	*Water resources research and development, authorities extension.* AN ACT To extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs, and for other purposes	Oct. 15, 1980	2032
96-458	*Judicial Councils Reform and Judicial Conduct and Disability Act of 1980.* AN ACT To revise the composition of the judicial councils of the Federal judicial circuits, to establish a procedure for the processing of complaints against Federal judges, and for other purposes	Oct. 15, 1980	2035
96-459	*Maritime Appropriation Authorization Act for Fiscal Year 1981.* AN ACT To authorize appropriations for fiscal year 1981 and a supplemental appropriation for fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes	Oct. 15, 1980	2042
96-460	*Chesapeake Bay Research Coordination Act of 1980.* AN ACT To provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes	Oct. 15, 1980	2044
96-461	*National Bureau of Standards Authorization Act for Fiscal Years 1981 and 1982.* AN ACT To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal years 1981 and 1982, and for other purposes ...	Oct. 15, 1980	2049
96-462	*Federal District Court Organization Act of 1980.* AN ACT To amend title 28 to make certain changes in judicial districts and in divisions within judicial districts, and for other purposes	Oct. 15, 1980	2053
96-463	*Used Oil Recycling Act of 1980.* AN ACT To amend the Solid Waste Disposal Act to further encourage the use of recycled oil	Oct. 15, 1980	2055
96-464	*Coastal Zone Management Improvement Act of 1980.* AN ACT To improve coastal zone management in the United States, and for other purposes	Oct. 17, 1980	2060
96-465	*Foreign Service Act of 1980.* AN ACT To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes	Oct. 17, 1980	2071
96-466	*Veterans' Rehabilitation and Education Amendments of 1980.* AN ACT To amend title 38, United States Code, to provide for updated and expanded rehabilitation programs for veterans with service-connected disabilities, to provide a 10-percent increase in the rates of educational assistance under the GI bill, to make certain improvements in the educational assistance programs for veterans and eligible survivors and dependents, to revise and expand veterans' employment and training programs, and to provide for certain cost savings; and for other purposes	Oct. 17, 1980	2171
96-467	*Tariff treatment of certain articles.* AN ACT Relating to the tariff treatment of certain articles	Oct. 17, 1980	2220

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96-468	*Swine Health Protection Act.* AN ACT To regulate the feeding of garbage to swine	Oct. 17, 1980	2229
96-469	*Animal Cancer Research Act.* AN ACT To provide for research and coordination of research in the diagnosis, prevention, and control of malignant tumors in domestic animals, poultry, and wildlife	Oct. 17, 1980	2235
96-470	*Congressional Reports Elimination Act of 1980.* AN ACT To discontinue or amend certain requirements for agency reports to Congress	Oct. 19, 1980	2237
96-471	*Installment Sales Revision Act of 1980.* AN ACT To amend the Internal Revenue Code of 1954 to revise the rules relating to certain installment sales	Oct. 19, 1980	2247
96-472	*Earthquake hazards reduction and fire prevention and control programs.* AN ACT To amend the Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974 to authorize the appropriation of funds to the Director of the Federal Emergency Management Agency to carry out the earthquake hazards reduction program and the fire prevention and control program, and for other purposes	Oct. 19, 1980	2257
96-473	*Social Security Act, amendment.* AN ACT To amend the Social Security Act with respect to the retirement test, to reduce spending under title II of the Social Security Act, and for other purposes	Oct. 19, 1980	2263
96-474	*Kisatchie National Forest, La., land conveyance.* AN ACT To authorize the Secretary of Agriculture to convey certain Government-owned property in the Kisatchie National Forest to the State of Louisiana in exchange for certain property at old Camp Livingston, Louisiana	Oct. 19, 1980	2267
96-475	*Federal coal leases in N. Mex., exchange.* AN ACT To provide for the exchange of certain Federal coal leases in the State of New Mexico for other Federal coal leases in that State	Oct. 19, 1980	2269
96-476	*Rattlesnake National Recreation Area and Wilderness Act of 1980.* AN ACT To establish the Rattlesnake National Recreation Area and Wilderness in the State of Montana	Oct. 19, 1980	2271
96-477	*Small Business Investment Incentive Act of 1980.* AN ACT To amend the Federal securities laws to provide incentives for small business investment, and for other purposes	Oct. 21, 1980	2275
96-478	*Act to Prevent Pollution from Ships.* AN ACT To implement the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, and for other purposes	Oct. 21, 1980	2297
96-479	*National Materials and Minerals Policy, Research and Development Act of 1980.* AN ACT To provide for a national policy for materials and to strengthen the materials research, development, production capability, and performance of the United States, and for other purposes	Oct. 21, 1980	2305
96-480	*Stevenson-Wydler Technology Innovation Act of 1980.* AN ACT To promote United States technological innovation for the achievement of national economic, environmental, and social goals, and for other purposes	Oct. 21, 1980	2311
96-481	*Small business programs and Federal litigation assistance.* AN ACT To amend the Small Business Act, to provide for the payment of the United States of certain fees and costs incurred by prevailing parties in Federal agency adjudications and in civil actions in courts of the United States, and for other purposes	Oct. 21, 1980	2321

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96-482	*Solid Waste Disposal Act Amendments of 1980.* AN ACT To amend and reauthorize the Solid Waste Disposal Act	Oct. 21, 1980	2334
96-483	*Clean Water Act, amendment.* AN ACT To extend certain authorizations in the Clean Water Act, and for other purposes	Oct. 21, 1980	2360
96-484	*Pamunkey Indian Tribe; land dispute with Southern Railway Co.* AN ACT To ratify a settlement agreement in a land dispute between the Pamunkey Indian Tribe and the Southern Railway Company, and for other purposes	Nov. 24, 1980	2365
96-485	*National Family Week, designation authorization.* JOINT RESOLUTION To authorize the President to issue a proclamation designating the week of November 23 through 29, 1980, as "National Family Week"	Nov. 26, 1980	2368
96-486	*Federal Question Jurisdictional Amendments Act of 1980.* AN ACT To eliminate the amount in controversy requirement for Federal question jurisdiction.	Dec. 1, 1980	2369
96-487	*Alaska National Interest Lands Conservation Act.* AN ACT To provide for the designation and conservation of certain public lands in the the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes	Dec. 2, 1980	2371
96-488	*U.S.S. Intrepid, transfer to museum.* AN ACT To allow the obsolete aircraft carrier United States ship Intrepid to be transferred to the Intrepid Museum Foundation, Incorporated, before the expiration of the otherwise applicable sixty-day congressional review period	Dec. 2, 1980	2552
96-489	*Skiing and winter recreational activities, safety promotion.* AN ACT To promote safety and health in skiing and other outdoor winter recreational activities	Dec. 2, 1980	2553
96-490	*Customs valuation; trade agreement protocol, approval and implementation.* AN ACT To approve and implement the protocol to the trade agreement relating to customs valuation, and for other purposes	Dec. 2, 1980	2556
96-491	*Moapa Band of Paiutes, lands in trust.* AN ACT To provide for certain lands to be held in trust for the Moapa Band of Paiute and to be considered to be part of the Moapa Indian Reservation	Dec. 2, 1980	2561
96-492	*Ute Mountain Ute Tribe, land conveyance.* AN ACT To require the Secretary of the Interior to convey a parcel of land located in Colorado and certain mineral interests to the Ute Mountain Ute Tribe and to pay an amount to such tribe for energy development	Dec. 2, 1980	2565
96-493	*Gasohol Competition Act of 1980.* AN ACT To amend the Clayton Act to prohibit restrictions on the use of credit instruments in the purchase of gasohol	Dec. 2, 1980	2568
96-494	*Agricultural Act of 1980.* AN ACT To increase the minimum price support loan rates for wheat, feed grains, and soybeans, to improve the farmer-held reserve program for wheat and feed grains, to establish a five-year food security wheat reserve, and for other purposes	Dec. 3, 1980	2570
96-495	*Suisun Marsh Preservation and Restoration Act of 1979.* AN ACT To provide for a cooperative agreement between the Secretary of the Interior and the State of California to improve and manage the Suisun Marsh in California	Dec. 3, 1980	2581

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96-496	*Arts and Humanities Act of 1980.* AN ACT To amend the National Foundation on the Arts and the Humanities Act of 1965 and the Museum Services Act to extend the authorizations of appropriations contained in such Acts, to amend the Arts and Artifacts Indemnity Act to make certain changes in the coverage provisions of such Act, and for other purposes	Dec. 4, 1980	2583
96-497	*Gold Star Wives of America, Federal charter.* AN ACT To incorporate the Gold Star Wives of America	Dec. 4, 1980	2595
96-498	*Jacob K. Javits Federal Building, designation.* AN ACT To designate the Jacob K. Javits Federal Building	Dec. 4, 1980	2598
96-499	*Omnibus Reconciliation Act of 1980.* AN ACT To provide for reconciliation pursuant to section 3 of the First Concurrent Resolution on the Budget for the fiscal year 1981	Dec. 5, 1980	2599
96-500	*Federal employees disability determinations, review.* AN ACT To amend title 5, United States Code, to permit Federal employees to obtain review of certain disability determinations made by the Office of Personnel Management under the civil service retirements and disability system	Dec. 5, 1980	2696
96-501	*Pacific Northwest Electric Power Planning and Conservation Act.* AN ACT To assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes	Dec. 5, 1980	2697
96-502	*Safe Drinking Water Act, amendment.* AN ACT To amend the Safe Drinking Water Act, and for other purposes	Dec. 5, 1980	2737
96-503	*Former Vice President or spouse, Secret Service protection.* JOINT RESOLUTION To authorize the United States Secret Service to continue to furnish protection to the former Vice President or his spouse	Dec. 5, 1980	2740
96-504	*Employment as U.S. justice or judge, annuity payment discontinuance.* AN ACT To amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes	Dec. 5, 1980	2741
96-505	*Metlakatla Indian Community Enrollment Act of 1980.* AN ACT To provide for the removal of the names of certain Alaska Natives from the Alaska Native Roll and to allow their enrollment with the Metlakatla Indian Community	Dec. 5, 1980	2743
96-506	*Public Works and Economic Development Act of 1965, amendment; Appalachian Regional Act of 1965, amendment.* AN ACT To amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965 to extend the authorization for such Acts for two additional years	Dec. 8, 1980	2745
96-507	*Communications Act of 1934, amendment.* AN ACT To repeal section 506 of the Communications Act of 1934	Dec. 8, 1980	2747
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96-512	*Methane Transportation Research, Development, and Demonstration Act of 1980.* AN ACT Entitled the "Methane Transportation Research, Development, and Demonstration Act of 1980"	Dec. 12, 1980	2827
96-513	*Defense Officer Personnel Management Act.* AN ACT To amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, separation, and mandatory retirement of regular commissioned officers of the Army, Navy, Air Force, and Marine Corps, to establish the permanent grade of commodore admiral in the Navy, to equalize the treatment of female commissioned officers with that of male commissioned officers, and for other purposes	Dec. 12, 1980	2835
96-514	*Department of the Interior and related agencies, appropriations, fiscal year 1981.* AN ACT Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes	Dec. 12, 1980	2957
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96-516	*National Science Foundation Authorization and Science and Technology Equal Opportunities Act.* AN ACT To authorize appropriations for activities for the National Science Foundation for the fiscal year 1981, and to promote the full use of human resources in science and technology through a comprehensive and continuing program to increase substantially the contribution and advancement of women and minorities in scientific, professional, and technical careers, and for other purposes	Dec. 12, 1980	3007
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PUBLIC LAWS

ENACTED DURING THE

SECOND SESSION OF THE NINETY-SIXTH CONGRESS

OF THE

UNITED STATES OF AMERICA

Begun and held at the City of Washington on Thursday, January 3, 1980, and adjourned sine die on Tuesday, December 16, 1980. JIMMY CARTER, *President;* WALTER F. MONDALE, *Vice President;* THOMAS P. O'NEILL, JR., *Speaker of the House of Representatives.*

Public Law 96-188
96th Congress

Joint Resolution

To extend by sixty days the expiration date of the Defense Production Act of 1950.

Jan. 28, 1980
[H.J. Res. 478]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, **That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "January 28, 1980" and inserting in lieu thereof "March 28, 1980".**

Defense Production Act of 1950, amendment.

Approved January 28, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Jan. 24, considered and passed House and Senate.

Public Law 96-189
96th Congress

An Act

Feb. 8, 1980
[H.R. 4320]

To consent to the amended Bear River Compact between the States of Utah, Idaho, and Wyoming.

Bear River Compact. Congressional consent.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to the amended Bear River Compact between the States of Idaho, Utah, and Wyoming. Such compact reads as follows:

"AMENDED BEAR RIVER COMPACT

Amended agreement by Idaho, Utah, and Wyoming.

"The State of Idaho, the State of Utah and the State of Wyoming, acting through their respective Commissioners after negotiations participated in by a representative of the United States of America appointed by the President, have agreed to an Amended Bear River Compact as follows:

"ARTICLE I

"A. The major purposes of this Compact are to remove the causes of present and future controversy over the distribution and use of the waters of the Bear River; to provide for efficient use of water for multiple purposes; to permit additional development of the water resources of Bear River; to promote interstate comity; and to accomplish an equitable apportionment of the waters of the Bear River among the compacting States.

"B. The physical and all other conditions peculiar to the Bear River constitute the basis for this Compact. No general principle or precedent with respect to any other interstate stream is intended to be established.

"ARTICLE II

Definitions.

"As used in this Compact the term

"1. 'Bear River' means the Bear River and its tributaries from its source in the Uinta Mountains to its mouth in Great Salt Lake;

"2. 'Bear Lake' means Bear Lake and Mud Lake;

"3. 'Upper Division' means the portion of Bear River from its source in the Uinta Mountains to and including Pixley Dam, a diversion dam in the Southeast Quarter of Section 25, Township 23 North, Range 120 West, Sixth Principal Meridian, Wyoming;

"4. 'Central Division' means the portion of Bear River from Pixley Dam to and including Stewart Dam, a diversion dam in Section 34, Township 13 South, Range 44 East, Boise Base and Meridian, Idaho;

"5. 'Lower Division' means the portion of the Bear River between Stewart Dam and Great Salt Lake, including Bear Lake and its tributary drainage;

"6. 'Upper Utah Section Diversions' means the sum of all diversions in second-feet from the Bear River and the tributaries of the Bear River joining the Bear River upstream from the point where the Bear River crosses the Utah-Wyoming State line above Evanston,

Wyoming; excluding the diversions by the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal;

"7. 'Upper Wyoming Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line above Evanston, Wyoming, to the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, and including the diversions by the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal;

"8. 'Lower Utah Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Wyoming-Utah State line east of Woodruff, Utah, to the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph, Utah;

"9. 'Lower Wyoming Section Diversions' means the sum of all diversions in second-feet from the Bear River main stem from the point where the Bear River crosses the Utah-Wyoming State line northeast of Randolph to and including the diversion at Pixley Dam;

"10. 'Commission' means the Bear River Commission, organized pursuant to Article III of this Compact;

"11. 'Water user' means a person, corporation, or other entity having a right to divert water from the Bear River for beneficial use;

"12. 'Second-foot' means a flow of one cubic foot of water per second of time passing a given point;

"13. 'Acre-foot' means the quantity of water required to cover one acre to a depth of one foot, equivalent to 43,560 cubic feet;

"14. 'Biennium' means the 2-year period commencing on October 1 of the first odd-numbered year after the effective date of this Compact and each 2-year period thereafter;

"15. 'Water year' means the period beginning October 1 and ending September 30 of the following year;

"16. 'Direct flow' means all water flowing in a natural watercourse except water released from storage or imported from a source other than the Bear River watershed;

"17. 'Border Gaging Station' means the stream flow gaging station in Idaho on the Bear River above Thomas Fork near the Wyoming-Idaho boundary line in the Northeast Quarter of the Northeast Quarter of Section 15, Township 14 South, Range 46 East, Boise Base and Meridian, Idaho;

"18. 'Smiths Fork' means a Bear River tributary which rises in Lincoln County, Wyoming, and flows in a general southwesterly direction to its confluence with Bear River near Cokeville, Wyoming;

"19. 'Grade Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, and flows in a westerly direction and in its natural channel is tributary to Smiths Fork in Section 17, Township 25 North, Range 118 West, Sixth Principal Meridian, Wyoming;

"20. 'Pine Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, emerging from its mountain canyon in Section 34, Township 25 North, Range 118 West, Sixth Principal Meridian, Wyoming, and in its natural channel is tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"21. 'Bruner Creek' and 'Pine Creek Springs' means Smiths Fork tributaries which rise in Lincoln County, Wyoming, in Sections 31 and 32, Township 25 North, Range 118 West, Sixth Principal Meridian, and in their natural channels are tributary to Smiths Fork in Section 36, Township 25 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"22. 'Spring Creek' means a Smiths Fork tributary which rises in Lincoln County, Wyoming, in Sections 1 and 2, Township 24, Range 119 West, Sixth Principal Meridian, Wyoming, and flows in a general westerly direction to its confluence with Smiths Fork in Section 4, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"23. 'Sublette Creek' means the Bear River tributary which rises in Lincoln County, Wyoming, and flows in a general westerly direction to its confluence with Bear River in Section 20, Township 24 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"24. 'Hobble Creek' means the Smiths Fork tributary which rises in Lincoln County, Wyoming, and flows in a general southwesterly direction to its confluence with Smiths Fork in Section 35, Township 28 North, Range 118 West, Sixth Principal Meridian, Wyoming;

"25. 'Hilliard East Fork Canal' means that irrigation canal which diverts water from the right bank of the East Fork of Bear River in Summit County, Utah, at a point West 1,310 feet and North 330 feet from the Southeast corner of Section 16, Township 2 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the Southwest Quarter of Section 21, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"26. 'Lannon Canal' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, East 1,480 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"27. 'Lone Mountain Ditch' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, North 1,535 feet and East 1,120 feet from the West Quarter corner of Section 19, Township 3 North, Range 10 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"28. 'Hilliard West Side Canal' means that irrigation canal which diverts water from the right bank of the Bear River in Summit County, Utah, at a point North 2,190 feet and East 1,450 feet from the South Quarter corner of Section 13, Township 3 North, Range 9 East, Salt Lake Base and Meridian, Utah, and runs in a northerly direction crossing the Utah-Wyoming State line into the South Half of Section 20, Township 12 North, Range 119 West, Sixth Principal Meridian, Wyoming;

"29. 'Francis Lee Canal' means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter corner of Section 30, Township 18 North, Range 120 West, Sixth Principal Meridian, Wyoming, and runs in a westerly direction across the Wyoming-Utah State line into Section 16, Township 9 North, Range 8 East, Salt Lake Base and Meridian, Utah;

"30. 'Chapman Canal' means that irrigation canal which diverts water from the left bank of the Bear River in Uinta County, Wyoming, in the Northeast Quarter of Section 36, Township 16 North, Range 121 West, Sixth Principal Meridian, Wyoming, and runs in a northerly direction crossing over the low divided into the Saleratus drainage basin near the Southeast corner of Section 36,

Township 17 North, Range 121 West, Sixth Principal Meridian, Wyoming, and then in a general westerly direction crossing the Wyoming-Utah State line;

"31. 'Neponset Reservoir' means that reservoir located principally in Sections 34 and 35, Township 8 North, Range 7 East, Salt Lake Base and Meridian, Utah, having a capacity of 6,900 acre-feet.

"ARTICLE III

Bear River Commission, establishment and membership.

"A. There is hereby created an interstate administrative agency to be known as the 'Bear River Commission' which is hereby constituted a legal entity and in such name shall exercise the powers hereinafter specified. The Commission shall be composed of nine Commissioners, three Commissioners representing each signatory State, and if appointed by the President, one additional Commissioner representing the United States of America who shall serve as chairman, without vote. Each Commissioner, except the chairman, shall have one vote. The State Commissioners shall be selected in accordance with State law. Six Commissioners who shall include two Commissioners from each State shall constitute a quorum. The vote of at least two-thirds of the Commissioners when a quorum is present shall be necessary for the action of the Commission.

Compensation and expenses.

"B. The compensation and expenses of each Commissioner and each adviser shall be paid by the government which he represents. All expenses incurred by the Commission in the administration of this Compact, except those paid by the United States of America, shall be paid by the signatory States on an equal basis.

Powers.

"C. The Commission shall have power to:

"1. Adopt bylaws, rules, and regulations not inconsistent with this Compact;

"2. Acquire, hold, convey or otherwise dispose of property;

"3. Employ such persons and contract for such services as may be necessary to carry out its duties under this Compact;

"4. Sue and be sued as a legal entity in any court of record of a signatory State, and in any court of the United States having jurisdiction of such action;

"5. Co-operate with State and Federal agencies in matters relating to water pollution of interstate significance;

"6. Perform all functions required of it by this Compact and do all things necessary, proper or convenient in the performance of its duties hereunder, independently or in co-operation with others, including State and Federal agencies.

"D. The Commission shall:

"1. Enforce this Compact and its order made hereunder by suit or other appropriate action;

Report, transmittal to President and Governors.

"2. Compile a report covering the work of the Commission and expenditures during the current biennium, and an estimate of expenditures for the following biennium and transmit it to the President of the United States and to the Governors of the signatory States on or before July 1 following each biennium.

"ARTICLE IV

Water rights, limitations.

"Rights to direct flow water shall be administered in each signatory State under State law, with the following limitations:

"A. When there is a water emergency, as hereinafter defined for each division, water shall be distributed therein as provided below.

"1. Upper Division

"a. When the divertible flow as defined below for the upper division is less than 1,250 second-feet, a water emergency shall be deemed to exist therein and such divertible flow is allocated for diversion in the river sections of the Division as follows:

"Upper Utah Section Diversions—0.6 percent,

"Upper Wyoming Section Diversions—49.3 percent,

"Lower Utah Section Diversions—40.5 percent,

"Lower Wyoming Section Diversions—9.6 percent.

"Such divertible flow shall be the total of the following five items:

"(1) Upper Utah Section Diversions in second-feet,

"(2) Upper Wyoming Section Diversions in second-feet,

"(3) Lower Utah Section Diversions in second-feet,

"(4) Lower Wyoming Section Diversions in second-feet,

"(5) The flow in second-feet passing Pixley Dam.

"b. The Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal, which divert water in Utah to irrigate lands in Wyoming, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.

"c. The Chapman, Bear River, and Francis Lee Canals, which divert water from the main stem of Bear River in Wyoming to irrigate lands in both Wyoming and Utah, shall be supplied from the divertible flow allocated to the Upper Wyoming Section Diversions.

"d. The Beckwith Quinn West Side Canal, which diverts water from the main stem of Bear River in Utah to irrigate lands in both Utah and Wyoming, shall be supplied from the divertible flow allocated to the Lower Utah Section Diversions.

"e. If for any reason the aggregate of all diversions in a river section of the Upper Division does not equal the allocation of water thereto, the unused portion of such allocation shall be available for use in the other river sections in the Upper Division in the following order: (1) In the other river section of the same State in which the unused allocation occurs; and (2) in the river sections of the other State. No permanent right of use shall be established by the distribution of water pursuant to this paragraph e.

"f. Water allocated to the several sections shall be distributed in each section in accordance with State law.

"2. Central Division

"a. When either the divertible flow as hereinafter defined for the Central Division is less than 870 second-feet, or the flow of the Bear River at Border Gaging Station is less than 350 second-feet, whichever shall first occur, a water emergency shall be deemed to exist in the Central Division and the total of all diversions in Wyoming from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, Smiths Fork, and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and from the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border shall be limited for the benefit of the State of Idaho, to not exceeding forty-three (43) percent of the divertible flow. The remaining fifty-seven (57) percent of the divertible flow shall be available for use in Idaho in the Central Division, but if any portion of such allocation is not used therein it shall be available for use in Idaho in the Lower Division.

"The divertible flow for the Central Division shall be the total of the following three items:

"(1) Diversions in second-feet in Wyoming consisting of the sum of all diversions from Grade Creek, Pine Creek, Bruner Creek and Pine Creek Springs, Spring Creek, Sublette Creek, and Smiths Fork and all the tributaries of Smiths Fork above the mouth of Hobble Creek including Hobble Creek, and the main stem of the Bear River between Pixley Dam and the point where the river crosses the Wyoming-Idaho State line near Border, Wyoming.

"(2) Diversions in second-feet in Idaho from the Bear River main stem from the point where the river crosses the Wyoming-Idaho State line near Border to Stewart Dam including West Fork Canal which diverts at Stewart Dam.

"(3) Flow in second-feet of the Rainbow Inlet Canal and of the Bear River passing downstream from Stewart Dam.

"b. The Cook Canal, which diverts water from the main stem of the Bear River in Wyoming to irrigate lands in both Wyoming and Idaho, shall be considered a Wyoming diversion and shall be supplied from the divertible flow allocated to Wyoming.

"c. Water allocated to each State shall be distributed in accordance with State law.

"3. Lower Division

"a. When the flow of water across the Idaho-Utah boundary line is insufficient to satisfy water rights in Utah, covering water applied to beneficial use prior to January 1, 1976, any water user in Utah may file a petition with the Commission alleging that by reason of diversions in Idaho he is being deprived of water to which he is justly entitled, and that by reason thereof, a water emergency exists, and requesting distribution of water under the direction of the Commission. If the Commission finds a water emergency exists, it shall put into effect water delivery schedules based on priority of rights and prepared by the Commission without regard to the boundary line for all or any part of the Division, and during such emergency, water shall be delivered in accordance with such schedules by the State official charged with the administration of public waters.

Emergency declaration authority.

"B. The Commission shall have authority upon its own motion (1) to declare a water emergency in any or all river divisions based upon its determination that there are diversions which violate this Compact and which encroach upon water rights in a lower State, (2) to make appropriate orders to prevent such encroachments, and (3) to enforce such orders by action before State administrative officials or by court proceedings.

User's water rights, petition filing.

"C. When the flow of water in an interstate tributary across a State boundary line is insufficient to satisfy water rights on such tributary in a lower State, any water user may file a petition with the Commission alleging that by reason of diversions in an upstream State he is being deprived of water to which he is justly entitled and that by reason thereof a water emergency exists, and requesting distribution of water under the direction of the Commission. If the Commission finds that a water emergency exists and that interstate control of water of such tributary is necessary, it shall put into effect water delivery schedules based on priority of rights and prepared without regard to the State boundary line. The State officials in charge of water distribution on interstate tributaries may appoint and fix the compensation and expenses of a joint water commissioner for each tributary. The proportion of the compensation and expenses

Water delivery schedules.

Joint water commissioner.

to be paid by each State shall be determined by the ratio between the number of acres therein which are irrigated by diversions from such tributary, and the total number of acres irrigated from such tributary.

Interstate water delivery schedules, findings of fact.

"D. In preparing interstate water delivery schedules the Commission, upon notice and after public hearings, shall make findings of fact as to the nature, priority, and extent of water rights, rates of flow, duty of water, irrigated acreages, types of crops, time of use, and related matters; provided that such schedules shall recognize and incorporate therein priority of water rights as adjudicated in each of the signatory States. Such findings of fact shall, in any court or before any tribunal, constitute prima facie evidence of the facts found.

Prima facie evidence.

Emergency termination.

"E. Water emergencies provided for herein shall terminate on September 30 of each year unless terminated sooner or extended by the Commission.

"ARTICLE V

Lower Division water rights, Idaho and Utah.

"A. Water rights in the Lower Division acquired under the laws of Idaho and Utah covering water applied to beneficial use prior to January 1, 1976, are hereby recognized and shall be administered in accordance with State law based on priority of rights as provided in Article IV, paragraph A3. Rights to water first applied to beneficial use on or after January 1, 1976, shall be satisfied from the respective allocations made to Idaho and Utah in this paragraph and the water allocated to each State shall be administered in accordance with State law. Subject to the foregoing provisions, the remaining water in the Lower Division, including ground water tributary to the Bear River, is hereby apportioned for use in Idaho and Utah as follows:

"(1) Idaho shall have the first right to the use of such remaining water resulting in an annual depletion of not more than 125,000 acre-feet.

"(2) Utah shall have the second right to the use of such remaining water resulting in an annual depletion of not more than 275,000 acre-feet.

"(3) Idaho and Utah shall each have an additional right to deplete annually on an equal basis, 75,000 acre-feet of the remaining water after the rights provided by subparagraphs (1) and (2) above have been satisfied.

"(4) Any remaining water in the Lower Division after the allocations provided for in subparagraphs (1), (2), and (3) above have been satisfied shall be divided; thirty (30) percent to Idaho and seventy (70) percent to Utah.

Allocation charge.

"B. Water allocated under the above subparagraphs shall be charged against the State in which it is used regardless of the location of the point of diversion.

Depletions.

"C. Water depletions permitted under provisions of subparagraphs (1), (2), (3), and (4) above, shall be calculated and administered by a Commission-approved procedure.

"ARTICLE VI

Reservoir storage rights.

"A. Existing storage rights in reservoirs constructed above Stewart Dam prior to February 4, 1955, are as follows:

"Idaho	324 acre-feet
"Utah	11,850 acre-feet
"Wyoming	2,150 acre-feet

"Additional rights are hereby granted to store in any water year above Stewart Dam, 35,500 acre-feet of Bear River water and no more

under this paragraph for use in Utah and Wyoming; and to store in any water year in Idaho or Wyoming on Thomas Fork 1,000 acre-feet of water for use in Idaho. Such additional storage rights shall be subordinate to, and shall not be exercised when the effect thereof will be to impair or interfere with (1) existing direct flow rights for consumptive use in any river division and (2) existing storage rights above Stewart Dam, but shall not be subordinate to any right to store water in Bear Lake or elsewhere below Stewart Dam. One-half of the 35,500 acre-feet of additional storage right above Stewart Dam so granted to Utah and Wyoming is hereby allocated to Utah, and the remaining one-half thereof is allocated to Wyoming.

Additional storage rights.

"B. In addition to the rights defined in Paragraph A of this Article, further storage entitlements above Stewart Dam are hereby granted. Wyoming and Utah are granted an additional right to store in any year 70,000 acre-feet of Bear River water for use in Utah and Wyoming to be divided equally; and Idaho is granted an additional right to store 4,500 acre-feet of Bear River water in Wyoming or Idaho for use in Idaho. Water rights granted under this paragraph and water appropriated, including ground water tributary to Bear River, which is applied to beneficial use on or after January 1, 1976, shall not result in an annual increase in depletion of the flow of the Bear River and its tributaries above Stewart Dam of more than 28,000 acre-feet in excess of the depletion as of January 1, 1976. Thirteen thousand (13,000) acre-feet of the additional depletion above Stewart Dam is allocated to each of Utah and Wyoming, and two thousand (2,000) acre-feet is allocated to Idaho.

Limitations.

"The additional storage rights provided for in this Paragraph shall be subordinate to, and shall not be exercised when the effect thereof will be to impair or interfere with (1) existing direct flow rights for consumptive use in any river division and (2) existing storage rights above Stewart Dam, but shall not be subordinate to any right to store water in Bear Lake or elsewhere below Stewart Dam; provided, however, there shall be no diversion of water to storage above Stewart Dam under this Paragraph B when the water surface elevation of Bear Lake is below 5,911.00 feet, Utah Power & Light Company datum (the equivalent of elevation 5,913.75 feet based on the sea level datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947). Water depletions permitted under this Paragraph B shall be calculated and administered by a Commission-approved procedure.

"C. In addition to the rights defined in Article VI, Paragraphs A and B, Idaho, Utah and Wyoming are granted the right to store and use water above Stewart Dam that otherwise would be bypassed or released from Bear Lake at times when all other direct flow and storage rights are satisfied. The availability of such water and the operation of reservoir space to store water above Bear Lake under this paragraph shall be determined by a Commission-approved procedure. The storage provided for in this Paragraph shall be subordinate to all other storage and direct flow rights in the Bear River. Storage rights under this Paragraph shall be exercised with equal priority on the following basis: six (6) percent thereof to Idaho; forty-seven (47) percent thereof to Utah; and forty-seven (47) percent thereof to Wyoming.

Irrigation reserve.

"D. The waters of Bear Lake below elevation 5,912.91 feet, Utah Power and Light Company Bear Lake datum (the equivalent of elevation 5,915.66 feet based on the sea level datum of 1929 through the Pacific Northwest Supplementary Adjustment of 1947) shall constitute a reserve for irrigation. The water of such reserve shall not

be released solely for the generation of power, except in emergency, but after release for irrigation it may be used in generating power if not inconsistent with its use for irrigation. Any water in Bear Lake in excess of that constituting the irrigation reserve may be used for the generation of power or for other beneficial uses. As new reservoir capacity above the Stewart Dam is constructed to provide additional storage pursuant to Paragraph A of this Article, the Commission shall make a finding in writing as to the quantity of additional storage and shall thereupon make an order increasing the irrigation reserve in accordance with the following table:

"Additional Storage (Acre-feet)	Lake surface elevation, Utah Power and Light Company, Bear Lake datum
5,000	5,913.24
10,000	5,913.56
15,000	5,913.87
20,000	5,914.15
25,000	5,914.41
30,000	5,914.61
35,500	5,914.69
36,500	5,914.70

"E. Subject to existing rights, each State shall have the use of water, including groundwater, for ordinary domestic, and stock watering purposes, as determined by State law and shall have the right to impound water for such purposes in reservoirs having storage capacities not in excess, in any case, of 20 acre-feet, without deduction from the allocation made by paragraphs A, B, and C of this Article.

"F. The storage rights in Bear Lake are hereby recognized and confirmed subject only to the restrictions hereinbefore recited.

"ARTICLE VII

Development projects.

"It is the policy of the signatory States to encourage additional projects for the development of the water resources of the Bear River to obtain the maximum beneficial use of water with a minimum of waste, and in furtherance of such policy, authority is granted within the limitations provided by this Compact, to investigate, plan, construct, and operate such projects without regard to State boundaries, provided that water rights for each such project shall, except as provided in Article VI, paragraphs A and B, thereof, be subject to rights theretofore initiated and in good standing.

"ARTICLE VIII

Water rights, acquisition.

"A. No State shall deny the right of the United States of America, and subject to the conditions hereinafter contained, no State shall deny the right of another signatory State, any person or entity of another signatory State, to acquire rights to the use of water or to construct or to participate in the construction and use of diversion works and storage reservoirs with appurtenant works, canals, and conduits in one State for use of water in another State, either directly or by exchange. Water rights acquired for out-of-state use shall be appropriated in the State where the point of diversion is located in the manner provided by law for appropriation of water for use within such State.

Property rights, acquisition.

"B. Any signatory State, any person or any entity of any signatory State, shall have the right to acquire in any other signatory State such property rights as are necessary to the use of water in conformity with this Compact by donation, purchase, or, as hereinafter

provided through the exercise of the power of eminent domain in accordance with the law of the State in which such property is located. Any signatory State, upon the written request of the Governor of any other signatory State for the benefit of whose water users property is to be acquired in the State to which such written request is made, shall proceed expeditiously to acquire the desired property either by purchase at a price acceptable to the requesting Governor, or if such purchase cannot be made, then through the exercise of its power of eminent domain and shall convey such property to the requesting State or to the person, or entity designated by its Governor provided, that all costs of acquisition and expenses of every kind and nature whatsoever incurred in obtaining such property shall be paid by the requesting State or the person or entity designated by its Governor.

Facilities, State authority.

"C. Should any facility be constructed in a signatory State by and for the benefit of another signatory State or persons or entities therein, as above provided, the construction, repair, replacement, maintenance and operation of such facility shall be subject to the laws of the State in which the facility is located.

Facilities, taxation.

"D. In the event lands or other taxable facilities are acquired by a signatory State in another signatory State for the use and benefit of the former, the users of the water made available by such facilities, as a condition precedent to the use thereof, shall pay to the political subdivisions of the State in which such facilities are located, each and every year during which such rights are enjoyed for such purposes, a sum of money equivalent to the average of the amount of taxes annually levied and assessed against the land and improvements thereon during the ten years preceding the acquisition of such land. Said payments shall be in full reimbursement for the loss of taxes in such political subdivision of the State.

"E. Rights to the use of water acquired under this Article shall in all respects be subject to this Compact.

"ARTICLE IX

Water exchanges.

"Stored water, or water from another watershed may be turned into the channel of the Bear River in one State and a like quantity, with allowance for loss by evaporation, transpiration, and seepage, may be taken out of the Bear River in another State either above or below the point where the water is turned into the channel, but in making such exchange the replacement water shall not be inferior in quality for the purpose used or diminished in quantity. Exchanges shall not be permitted if the effect thereof is to impair vested rights or to cause damage for which no compensation is paid. Water from another watershed or source which enters the Bear River by actions within a State may be claimed exclusively by that State and use thereof by that State shall not be subject to the depletion limitations of Articles IV, V and VI. Proof of any claimed increase in flow shall be the burden of the State making such claim, and it shall be approved only by the unanimous vote of the Commission.

"ARTICLE X

Interstate canals, water use.

"A. The following rights to the use of Bear River water carried in interstate canals are recognized and confirmed.

"Name of Canal	Date of priority	Primary right second-feet	Lands irrigated	
			Acres	State
Hilliard East Fork	1914	28.00	2,644	Wyoming
Chapman	8-13-86	16.46	1,155	Wyoming
	8-13-86	98.46	6,892	Utah
	4-12-12	.57	40	Wyoming
	5- 3-12	4.07	285	Utah
	5-21-12	10.17	712	Utah
	2- 6-13	.79	55	Wyoming
	8-28-05	[1]134.00		
Francis Lee	1879	2.20	154	Wyoming
	1879	7.41	519	Utah

"[1] Under the right as herein confirmed not to exceed 134 second-feet may be carried across the Wyoming-Utah State line in the Chapman Canal at any time for filling the Neponset Reservoir, for irrigation of land in Utah and for other purposes. The storage right in Neponset Reservoir is for 6,900 acre-feet, which is a component part of the irrigation right for the Utah lands listed above.

"All other rights to the use of water carried in interstate canals and ditches, as adjudicated in the State in which the point of diversion is located, are recognized and confirmed.

Administration.

"B. All interstate rights shall be administered by the State in which the point of diversion is located and during times of water emergency, such rights shall be filled from the allocations specified in Article IV hereof for the Section in which the point of diversion is located, with the exception that the diversion of water into the Hilliard East Fork Canal, Lannon Canal, Lone Mountain Ditch, and Hilliard West Side Canal shall be under the administration of Wyoming. During times of water emergency these canals and the Lone Mountain Ditch shall be supplied from the allocation specified in Article IV for the Upper Wyoming Section Diversions.

"ARTICLE XI

Applications.

"Applications for appropriation, for change of point of diversion, place and nature of use, and for exchange of Bear River water shall be considered and acted upon in accordance with the law of the State in which the point of diversion is located, but no such application shall be approved if the effect thereof will be to deprive any water user in another State of water to which he is entitled, nor shall any such application be approved if the effect thereof will be an increase in the depletion of the flow of the Bear River and its tributaries beyond the limits authorized in each State in Articles IV, V and VI of this Compact. The official of each State in charge of water administration shall, at intervals and in the format established by the Commission, report on the status of use of the respective allocations.

Allocation status report.

"ARTICLE XII

"Nothing in this Compact shall be construed to prevent the United States, a signatory State or political subdivision thereof, person, corporation, or association, from instituting or maintaining any action or proceeding, legal or equitable, for the protection of any right under State or Federal law or under this Compact.

"ARTICLE XIII

"Nothing contained in this Compact shall be deemed:

"1. To affect the obligations of the United States of America to the Indian tribes;

"2. To impair, extend or otherwise affect any right or power of the United States, its agencies or instrumentalities involved herein; nor the capacity of the United States to hold or acquire additional rights to the use of the water of the Bear River;

"3. To subject any property or rights of the United States to the laws of the States which were not subject thereto prior to the date of this Compact;

"4. To subject any property of the United States to taxation by the States or any subdivision thereof, nor to obligate the United States to pay any State or subdivision thereof for loss of taxes.

"ARTICLE XIV

Commission review and proposed amendments.

"At intervals not exceeding twenty years, the Commission shall review the provisions hereof, and after notice and public hearing, may propose amendments to any such provision, provided, however, that the provisions contained herein shall remain in full force and effect until such proposed amendments have been ratified by the legislatures of the signatory States and consented to by Congress.

"ARTICLE XV

Termination of Compact.

"This Compact may be terminated at any time by the unanimous agreement of the signatory States. In the event of such termination all rights established under it shall continue unimpaired.

"ARTICLE XVI

Constitutionality of provision.

"Should a court of competent jurisdiction hold any part of this Compact to be contrary to the constitution of any signatory State or to the Constitution of the United States, all other severable provisions of this Compact shall continue in full force and effect.

"ARTICLE XVII

Ratification and notice.

"This Compact shall be in effect when it shall have been ratified by the Legislature of each signatory State and consented to by the Congress of the United States of America. Notice of ratification by the legislatures of the signatory States shall be given by the Governor of each signatory State to the Governor of each of the other signatory States and to the President of the United States of America, and the President is hereby requested to give notice to the Governor of each of the signatory States of approval by the Congress of the United States of America.

"IN WITNESS WHEREOF, the Commissioners and their advisers have executed this Compact in five originals, one of which shall be deposited with the General Services Administration of the United States of America, one of which shall be forwarded to the Governor of each of the signatory States, and one of which shall be made a part of the permanent records of the Bear River Commission.

"Done at Salt Lake City, Utah, this 22nd day of December, 1978.
"For the State of Idaho:
"(s) Clifford J. Skinner
"(s) J. Daniel Roberts
"(s) Don W. Gilbert
"For the State of Utah:
"(s) S. Paul Holmgren
"(s) Simeon Weston
"(s) Daniel F. Lawrence
"For the State of Wyoming:
"(s) George L. Christopulos
"(s) J. W. Myers
"(s) John A. Teichert
"Approved:
"Wallace N. Jibson
"Representative of the United States of America
"Attest:
"Daniel F. Lawrence
"Secretary of the Bear River Commission."

Approved February 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-524 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-526 accompanying S. 1489 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 27, considered and passed House.
Dec. 20, S. 1489 considered and passed Senate.
Vol. 126 (1980): Jan. 23, considered and passed Senate.

Public Law 96-190
96th Congress

An Act

To provide financial assistance for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution for minor disputes.

Feb. 12, 1980
[S. 423]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Dispute Resolution Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "Dispute Resolution Act". 28 USC app.

SEC. 2. (a) The Congress finds and declares that— 28 USC app.

(1) for the majority of Americans, mechanisms for the resolution of minor disputes are largely unavailable, inaccessible, ineffective, expensive, or unfair;

(2) the inadequacies of dispute resolution mechanisms in the United States have resulted in dissatisfaction and many types of inadequately resolved grievances and disputes;

(3) each individual dispute, such as that between neighbors, a consumer and seller, and a landlord and tenant, for which adequate resolution mechanisms do not exist may be of relatively small social or economic magnitude, but taken collectively such disputes are of enormous social and economic consequence;

(4) there is a lack of necessary resources or expertise in many areas of the Nation to develop new or improved consumer dispute resolution mechanisms, neighborhood dispute resolution mechanisms, and other necessary dispute resolution mechanisms;

(5) the inadequacy of dispute resolution mechanisms throughout the United States is contrary to the general welfare of the people;

(6) neighborhood, local, or community based dispute resolution mechanisms can provide and promote expeditious, inexpensive, equitable, and voluntary resolution of disputes, as well as serve as models for other dispute resolution mechanisms; and

(7) the utilization of neighborhood, local, or community resources, including volunteers (and particularly senior citizens) and available building space such as space in public facilities, can provide for accessible, cost-effective resolution of minor disputes.

(b) It is the purpose of this Act to assist the States and other interested parties in providing to all persons convenient access to dispute resolution mechanisms which are effective, fair, inexpensive, and expeditious.

DEFINITIONS

SEC. 3. For purposes of this Act— 28 USC app.

(1) the term "Advisory Board" means the Dispute Resolution Advisory Board established under section 7(a);

(2) the term "Attorney General" means the Attorney General of the United States (or the designee of the Attorney General of the United States);

(3) the term "Center" means the Dispute Resolution Resource Center established under section 6(a);

(4) the term "dispute resolution mechanism" means—

(A) a court with jurisdiction over minor disputes;

(B) a forum which provides for arbitration, mediation, conciliation, or a similar procedure, which is available to resolve a minor dispute; or

(C) a governmental agency or mechanism with the objective of resolving minor disputes;

(5) the term "grant recipient" means any State or local government, any State or local governmental agency, and any nonprofit organization which receives a grant under section 8;

(6) the term "local" means of or pertaining to any political subdivision of a State; and

(7) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

CRITERIA FOR DISPUTE RESOLUTION MECHANISMS

28 USC app.

SEC. 4. Any grant recipient which desires to use any financial assistance received under this Act in connection with establishing or maintaining a dispute resolution mechanism shall provide satisfactory assurances to the Attorney General that the dispute resolution mechanism will provide for—

(1) assistance to persons using the dispute resolution mechanism;

(2) the resolution of disputes at times and locations which are convenient to persons the dispute resolution mechanism is intended to serve;

(3) adequate arrangements for participation by persons who are limited by language barriers or other disabilities;

(4) reasonable, fair, and readily understandable forms, rules, and procedures, which shall include, where appropriate, those which would—

(A) ensure that all parties to a dispute are directly involved in the resolution of the dispute, and that the resolution is adequately implemented;

(B) promote, where feasible, the voluntary resolution of disputes (including the resolution of disputes by the parties before resorting to the dispute resolution mechanism established by the grant recipient);

(C) promote the resolution of disputes by persons not ordinarily involved in the judicial system;

(D) provide an easy way for any person to determine the proper name in which, and the proper procedure by which, any person may be made a party to a dispute resolution proceeding;

(E) permit the use of dispute resolution mechanisms by the business community if State law so permits; and

(F) ensure reasonable privacy protection for individuals involved in the dispute resolution process;

(5) the dissemination of information relating to the availability, location, and use of other redress mechanisms in the event that dispute resolution efforts fail or the dispute involved does not come within the jurisdiction of the dispute resolution mechanism;

(6) consultation and cooperation with the community and with governmental agencies; and

(7) the establishment of programs or procedures for effectively, economically, and appropriately communicating to disputants the availability and location of the dispute resolution mechanism.

DEVELOPMENT OF DISPUTE RESOLUTION MECHANISMS BY STATES

SEC. 5. Each State is hereby encouraged to develop— 28 USC app.

(1) sufficient numbers and types of readily available dispute resolution mechanisms which meet the criteria established in section 4; and

(2) a public information program which effectively communicates to potential users the availability and location of such dispute resolution mechanisms. Public information program.

ESTABLISHMENT OF PROGRAM; DISPUTE RESOLUTION RESOURCE CENTER

SEC. 6. (a) The Attorney General shall establish a Dispute Resolution Program in the Department of Justice. Such program shall include establishment of a Dispute Resolution Resource Center and a Dispute Resolution Advisory Board and the provision of financial assistance under section 8. 28 USC app.

(b) The Center— Functions.

(1) shall serve as a national clearinghouse for the exchange of information concerning the improvement of existing dispute resolution mechanisms and the establishment of new dispute resolution mechanisms;

(2) shall provide technical assistance to State and local governments and to grant recipients to improve existing dispute resolution mechanisms and to establish new dispute resolution mechanisms;

(3) shall conduct research relating to the improvement of existing dispute resolution mechanisms and to the establishment of new dispute resolution mechanisms, and shall encourage the development of new dispute resolution mechanisms;

(4) shall undertake comprehensive surveys of the various State and local governmental dispute resolution mechanisms and major privately operated dispute resolution mechanisms in the States, which shall determine— Surveys.

(A) the nature, number, and location of dispute resolution mechanisms in each State;

(B) the annual expenditure and operating authority for each such mechanism;

(C) the existence of any program for informing the potential users of the availability of each such mechanism;

(D) an assessment of the present use of, and projected demand for, the services offered by each such mechanism; and

(E) other relevant data relating to the types of disputes addressed by each such mechanism including the average cost and time expended in resolving various types of disputes;

(5) shall identify, after consultation with the Advisory Board, those dispute resolution mechanisms or aspects thereof which—

(A) are most fair, expeditious, and inexpensive to all parties in the resolution of disputes; and

(B) are suitable for general adoption;

(6) shall make recommendations, after consultation with the Advisory Board, regarding the need for new or improved dispute resolution mechanisms and similar mechanisms;

(7) shall identify, after consultation with the Advisory Board, the types of minor disputes which are most amenable to resolution through specific dispute resolution techniques, in order to assist the Attorney General in determining the types of projects which shall receive financial assistance under section 8;

(8) shall, as soon as practicable after the date of the enactment of this Act, undertake an information program to advise potential grant recipients, and the chief executive officer, attorney general, and chief judicial officer of each State, of the availability of funds, and eligibility requirements, under this Act;

Grants and contracts.

(9) may make grants to, or enter into contracts with, to the extent or in such amounts as are provided in appropriation Acts, public agencies, institutions of higher education, and qualified persons to conduct research, demonstrations, or special projects designed to carry out the provisions of paragraphs (1) through (7); and

(10) in awarding such grants and entering into such contracts, shall have as one of its major priorities dispute resolution mechanisms that resolve consumer disputes.

(c) Upon request of the Center, the Community Relations Service of the Department of Justice and the Federal Mediation and Conciliation Service are authorized to assist the Center in performing its functions under this section.

Detailed Federal employees.

(d) Upon the request of the Attorney General, not more than a total of ten Federal employees from the various executive agencies (as defined in section 105 of title 5, United States Code) may be detailed to the Center to assist the Center to perform its functions under this Act. The head of any such agency, with the consent of the employee concerned, may enter into an agreement with the Attorney General to provide for the detail of any employee of his agency for a period of not more than five years, notwithstanding the time limitation contained in section 3341 of title 5, United States Code. An employee detailed under this section is considered, for the purpose of preserving his allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed. Such employee is entitled to pay, allowances, and other benefits from funds available to the agency from which such employee is detailed, except that the Department of Justice shall pay to such employee all travel expenses and allowances payable for services performed during the detail.

Travel expenses and allowances.

DISPUTE RESOLUTION ADVISORY BOARD

28 USC app.

SEC. 7. (a) The Attorney General shall establish a Dispute Resolution Advisory Board in the Department of Justice.

Functions.

(b) The Advisory Board shall—

(1) advise the Attorney General with respect to the administration of the Center under section 6 and the administration of the financial assistance program under section 8;

(2) consult with the Center in accordance with the provisions of section 6(b)(5), section 6(b)(6), and section 6(b)(7); and

(3) consult with the Attorney General in accordance with the provisions of sections 8(b)(4) and 9(d).

Membership.

(c)(1) The Advisory Board shall consist of nine members appointed by the Attorney General, and shall be composed of persons from State

governments, local governments, business organizations, the academic or research community, neighborhood organizations, community organizations, consumer organizations, the legal profession, and State courts.

(2) A vacancy in the Advisory Board shall be filled in the same manner as the original appointment. Vacancies.

(3)(A) Except as provided in subparagraph (B), members of the Advisory Board shall be appointed for terms which expire at the end of September 30, 1984. Terms.

(B) Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of the term.

(d) While away from their homes or regular places of business in the performance of services for the Advisory Board, members of the Advisory Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government service are allowed expenses under section 5703 of title 5, United States Code. The members of the Advisory Board shall receive no compensation for their services except as provided in this subsection. Travel expenses and per diem.

(e) The Chairman of the Federal Trade Commission may advise and consult with the Attorney General, and may consult with the Center, regarding matters within its jurisdiction.

FINANCIAL ASSISTANCE

SEC. 8. (a) The Attorney General may provide financial assistance in the form of grants to applicants who have submitted, in accordance with subsection (c), applications for the purpose of improving existing dispute resolution mechanisms or establishing new dispute resolution mechanisms. 28 USC app.

(b) As soon as practicable after the date of the enactment of this Act, the Attorney General shall prescribe— Grant applications.

(1) the form and content of applications for financial assistance to be submitted in accordance with subsection (c);

(2) the time schedule for submission of such applications;

(3) the procedures for approval of such applications, and for notification to each State of financial assistance awarded to applicants in the State for any fiscal year;

(4) after consultation with the Advisory Board, the specific criteria for awarding grants to applicants under this section, which shall— Development of criteria.

(A) be consistent with the criteria established in section 4;

(B) take into account—

(i) the population and population density of the States in which applicants for financial assistance available under this section are located;

(ii) the financial need of States and localities in which such applicants are located;

(iii) the need in the State or locality involved for the type of dispute resolution mechanism proposed;

(iv) the national need for experience with the type of dispute resolution mechanism proposed; and

(v) the need for obtaining experience in each region of the Nation with dispute resolution mechanisms in a diversity of situations, including rural, suburban, and urban situations; and

(C) provide that one of the major priorities of the Attorney General shall be the funding of dispute resolution mechanisms that resolve consumer disputes;

Reports.

(5)(A) the form and content of such reports to be filed under this section as may be reasonably necessary to monitor compliance with the requirements of this Act and to evaluate the effectiveness of projects funded under this Act; and

(B) the procedures to be followed by the Attorney General in reviewing such reports;

(6) the manner in which financial assistance received under this section may be used, consistent with the purposes specified in subsection (e); and

Publication in Federal Register.

(7) procedures for publishing in the Federal Register a notice and summary of approved applications.

(c) Any State or local government, State or local governmental agency, or nonprofit organization shall be eligible to receive a grant for financial assistance under this section. Any such entity which desires to receive a grant under this section may submit an application to the Attorney General in accordance with the specific criteria established by the Attorney General under subsection (b)(4). Such application shall—

Application contents.

(1) set forth a proposed plan demonstrating the manner in which the financial assistance will be used—

(A) to establish a new dispute resolution mechanism which satisfies the criteria specified in section 4; or

(B) to improve an existing dispute resolution mechanism in order to bring such mechanism into compliance with such criteria;

(2) set forth the types of disputes to be resolved by the dispute resolution mechanism;

(3) identify the person responsible for administering the project set forth in the application;

(4) include an estimate of the cost of the proposed project;

(5) provide for the establishment of fiscal controls and fund accounting of Federal financial assistance received under this Act;

(6) provide for the submission of reports in such form and containing such information as the Attorney General may require under subsection (b)(5)(A);

(7) set forth the nature and extent of participation of interested parties, including representatives of those individuals whose disputes are to be resolved by the mechanism, in the development of the application; and

(8) describe the qualifications, period of service, and duties of persons who will be charged with resolving or assisting in the resolution of disputes.

(d) The Attorney General, in determining whether to approve any application for financial assistance to carry out a project under this section, shall give special consideration to projects which are likely to continue in operation after expiration of the grant made by the Attorney General.

Use of assistance funds.

(e)(1) Financial assistance available under this section may be used only for the following purposes—

(A) compensation of personnel engaged in the administration, adjudication, conciliation, or settlement of minor disputes, including personnel whose function is to assist in the preparation and resolution of claims and the collection of judgments;

(B) recruiting, organizing, training, and educating personnel described in subparagraph (A);

(C) improvement or leasing of buildings, rooms, and other facilities and equipment and leasing or purchase of vehicles needed to improve the settlement of minor disputes;

(D) continuing monitoring and study of the mechanisms and settlement procedures employed in the resolution of minor disputes in a State;

(E) research and development of effective, fair, inexpensive, and expeditious mechanisms and procedures for the resolution of minor disputes;

(F) sponsoring programs of nonprofit organizations to carry out any of the provisions of this paragraph; and

(G) other necessary expenditures directly related to the operation of new or improved dispute resolution mechanisms.

Restriction on financial assistance.

(2) Financial assistance available under this section may not be used for the compensation of attorneys for the representation of disputants or claimants or for otherwise providing assistance in any adversary capacity.

Notice of application to State officers.

(f)(1) In the case of an application for financial assistance under this section submitted by a local government or governmental agency, the Attorney General shall furnish notice of such application to the chief executive officer, attorney general, and chief judicial officer of the State in which such applicant is located at least thirty days before the approval of such application. The chief executive officer, attorney general, and chief judicial officer of the State shall be given an opportunity to submit written comments to the Attorney General regarding such application and the Attorney General shall take such comments into consideration in determining whether to approve such application.

(2) In the case of an application for financial assistance under this section submitted by a nonprofit organization, the Attorney General shall furnish notice of such application to the chief executive officer, attorney general, and chief judicial officer of the State in which the applicant is located and to the chief executive officers of the units of general local government in which such applicant is located at least thirty days before the approval of such application. The chief executive officer, attorney general, and chief judicial officer of the State, and the chief executive officers of the units of general local government shall be given an opportunity to submit written comments to the Attorney General regarding such application and the Attorney General shall take such comments into consideration in determining whether to approve such application.

Estimated project cost, disbursement.

(g)(1) Upon the approval of an application by the Attorney General under this section, the Attorney General shall disburse to the grant recipient involved such portion of the estimated cost of the approved project as the Attorney General considers appropriate, except that the amount of such disbursement shall be subject to the provisions of paragraph (2).

Federal share.

(2) The Federal share of the estimated cost of any project approved under this section shall not exceed—

(A) 100 per centum of the estimated cost of the project, for the first and second fiscal years for which funds are available for grants under this section;

(B) 75 per centum of the estimated cost of the project, for the third fiscal year for which funds are available for such grants; and

(C) 60 per centum of the estimated cost of the project, for the fourth fiscal year for which funds are available for such grants.

Payments.

(3) Payments made under this subsection may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment. Such payments shall not be used to compensate for any administrative expense incurred in submitting an application for a grant under this section.

(4) In the case of any State or local government, or State or local governmental agency, which desires to receive financial assistance under this section, such government or agency may not receive any such financial assistance for any fiscal year if its expenditure of non-Federal funds for other than nonrecurrent expenditures for the establishment and administration of dispute resolution mechanisms will be less than its expenditure for such purposes in the preceding fiscal year, unless the Attorney General determines that a reduction in expenditures is reasonable.

Notice and hearing on project compliance.

(h) Whenever the Attorney General, after giving reasonable notice and opportunity for hearing to any grant recipient, finds that the project for which such grant was received no longer complies with the provisions of this Act, or with the relevant application as approved by the Attorney General, the Attorney General shall notify such grant recipient of such findings and no further payments may be made to such grant recipient by the Attorney General until the Attorney General is satisfied that such noncompliance has been, or promptly will be, corrected. The Attorney General may authorize the continuance of payments with respect to any program pursuant to this Act which is being carried out by such grant recipient and which is not involved in the noncompliance.

Independent study, contract.

(i) The Attorney General, to the extent or in such amounts as are provided in appropriation Acts shall enter into a contract for an independent study of the Dispute Resolution Program. The study shall evaluate the performance of such program and determine its effectiveness in carrying out the purpose of this Act. The study shall contain such recommendations for additional legislation as may be appropriate, and shall include recommendations concerning the continuation or termination of the Dispute Resolution Program. Not later than April 1, 1984, the Attorney General shall make public and submit to each House of the Congress a report of the results of the study.

Report to Congress.

(j) No funds for assistance available under this section shall be expended until one year after the date of the enactment of this Act.

RECORDS; AUDIT; ANNUAL REPORT

28 USC app.

SEC. 9. (a) Each grant recipient shall keep such records as the Attorney General shall require, including records which fully disclose the amount and disposition by such grant recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the project or undertaking supplied by other sources, and such other records as will assist in effective financial and performance audits.

Restriction on Attorney General's authority.

(b) The Attorney General shall have access for purposes of audit and examination to any relevant books, documents, papers, and records of grant recipients. The authority of the Attorney General under this subsection is restricted to compiling information necessary to the filing of the annual report required under this section. No

information revealed to the Attorney General pursuant to such audit and examination about an individual or business which has utilized the dispute resolution mechanism of a grant recipient may be used in, or disclosed for, any administrative, civil, or criminal action or investigation against the individual or business except in an action or investigation arising out of and directly related to the program being audited and examined.

Access to records by Comptroller General.

(c) The Comptroller General of the United States, or any duly authorized representatives of the Comptroller General, shall have access to any relevant books, documents, papers, and records of grant recipients until the expiration of three years after the final year of the recipient of any financial assistance under this Act, for the purpose of financial and performance audits and examination.

Report to President and Congress.

(d) The Attorney General, in consultation with the Advisory Board shall submit to the President and the Congress not later than one year after the date of the enactment of this Act, and on or before February 1 of each succeeding year, a report relating to the administration of this Act during the preceding fiscal year. Such report shall include—

(1) a list of all grants awarded;

(2) a summary of any actions undertaken in accordance with section 8(h);

(3) a listing of the projects undertaken during such fiscal year and the types of other dispute resolution mechanisms which are being created, and, to the extent feasible, a statement as to the success of all mechanisms in achieving the purpose of this Act;

(4) the results of financial and performance audits conducted under this section; and

(5) an evaluation of the effectiveness of the Center in implementing this Act, including a detailed analysis of the extent to which the purpose of this Act has been achieved, together with recommendations with respect to whether and when the program should be terminated and any recommendations for additional legislation or other action.

AUTHORIZATION OF APPROPRIATIONS

28 USC app.

SEC. 10. (a) To carry out the provisions of section 6 and section 7, there is authorized, to be appropriated to the Attorney General $1,000,000 for each of the fiscal years 1980, 1981, 1982, 1983, and 1984.

(b) To carry out the provisions of section 8, there is authorized to be appropriated to the Attorney General $10,000,000 for each of the fiscal years 1981, 1982, 1983, and 1984.

(c) Sums appropriated under this section are authorized to remain available until expended.

Approved February 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT: No. 96-492, Pt. 1 (Comm. on Interstate and Foreign Commerce) and Pt. 2 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Apr. 5, considered and passed Senate.
Dec. 10-12, considered and passed House, amended.
Vol. 126 (1980): Jan. 30, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 7 (1980): Feb. 12, Presidential statement.

Public Law 96-191
96th Congress

An Act

To establish an independent personnel system for employees of the General Accounting Office.

Feb. 15, 1980
[H.R. 5176]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "General Accounting Office Personnel Act of 1980".

General Accounting Office Personnel Act of 1980.
31 USC 1 note.

GENERAL PERSONNEL AUTHORITY

SEC. 2. The Comptroller General of the United States (hereinafter referred to as the "Comptroller General") may appoint, pay, assign, and direct such personnel as the Comptroller General determines necessary to discharge the duties and functions of the General Accounting Office.

31 USC 52-1.

ESTABLISHMENT OF PERSONNEL MANAGEMENT SYSTEM

SEC. 3. (a) The Comptroller General shall, not later than the effective date established by section 9(a), establish by regulation a personnel management system for the General Accounting Office (hereinafter referred to as the "personnel system") which shall meet the requirements of subsections (b) through (h). Before promulgating any regulation or any amendment thereto under this section, the Comptroller General shall provide notice and an opportunity for public comment. No reprisal or threat of reprisal shall be made against any employee of the General Accounting Office as a result of comments provided with respect to any proposed regulation or amendment under this section.

31 USC 52-2.

Notice and public comment.

Reprisal.

(b)(1) The personnel system shall—

Functions.

(A) embody the merit system principles described in section 2301(b) of title 5, United States Code;

(B) prohibit the personnel practices prohibited in section 2302(b) of such title;

5 USC 2302.

(C) prohibit the political activities prohibited under subchapter III of chapter 73 of title 5, United States Code;

5 USC 7321.

(D) assure that all employees of the General Accounting Office are appointed, promoted, and assigned solely on the basis of merit and fitness, but without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service; and

(E) in the case of any individual who would be a preference eligible in the executive branch, provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.

(2) Nothing in this section prohibits or restricts any lawful effort to achieve equal employment opportunity through affirmative action.

(c) The personnel system shall provide that the pay of the employees of the General Accounting Office shall be fixed by the Comptroller General consistent with the principles of section 5301(a) of title 5, United States Code. Under the personnel system—

Employee pay.

Rates, publication.

(1) the Comptroller General shall publish a schedule of pay rates which shall apply to employees of the General Accounting Office and, except as provided in paragraph (3) of this subsection or section 5, the highest rate under such schedule shall not exceed the highest rate of basic pay payable for GS-15 under the General Schedule;

5 USC 5332 note.

(2) except as provided in section 5, the pay of the employees of the General Accounting Office shall be adjusted at the same time and to the same extent as rates of basic pay are adjusted for the General Schedule;

5 USC 5332 note.

5 USC 5332 note.

(3) such schedule may provide for rates which do not exceed the maximum rate payable for grade GS-18 of the General Schedule for up to one hundred employees, reduced by the number of employees who are in the General Accounting Office Senior Executive Service established under section 5, except for employees in such service pursuant to section 5(a)(4); and

(4) employees of the General Accounting Office shall be entitled to grade and pay retention, consistent with the principles of subchapter VI of chapter 53 of title 5, United States Code.

5 USC 5361. Employee performance appraisals.

(d) The personnel system shall include a system for performance appraisals of employees of the General Accounting Office which meets the requirements of section 4302 of title 5, United States Code. The personnel system shall provide that the Comptroller General has the same responsibility with respect to the performance appraisal system under this subsection as the Office of Personnel Management has with respect to the performance appraisal systems under such section. The Comptroller General shall implement the performance system required by this subsection as soon as practicable, but not later than October 1, 1981.

Labor-management relations program.

(e) The personnel system shall provide for procedures to ensure that each employee of the General Accounting Office has the right, freely and without fear of penalty or reprisal, to form, join, and assist an employee organization, or to refrain from such activity, and shall provide for a labor-management relations program, consistent with chapter 71 of title 5, United States Code.

5 USC 7101 *et seq.*

(f) The personnel system shall provide for the reduction in grade or removal of employees based on unacceptable performance consistent with section 4303 of title 5, United States Code, and the taking of other personnel actions consistent with chapter 75 of such title.

5 USC 7501 *et seq.* Discrimination, prohibitions.

(g)(1) The personnel system shall provide that all personnel actions affecting employees or applicants for employment in the General Accounting Office shall be taken without regard to race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition.

Minority recruitment program.

(2) The personnel system shall include a minority recruitment program consistent with section 7201 of title 5, United States Code.

(3) Nothing in this Act shall be construed to abolish or diminish any right or remedy granted to employees of or applicants for employment in the General Accounting Office by section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), by sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), by section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), by sections 501 and 505 of the Rehabilitation Act of 1973 (29 U.S.C. 791, 794a), or by any other law prohibiting discrimination in Federal employment on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; except that, with respect to employees and applicants for employment in the General Accounting Office, authorities granted thereunder to the Equal Employment Opportunity Commission,

Office of Personnel Management, the Merit Systems Protection Board, or any other agency in the executive branch—

(A) involving oversight and appeals, shall be exercised by the General Accounting Office Personnel Appeals Board established by section 4; and

(B) involving other responsibilities, shall be exercised by the Comptroller General.

(h) The personnel system shall provide procedures for the processing of complaints and grievances which are not otherwise provided for under subsections (e), (f), and (g). Complaints and grievances.

GENERAL ACCOUNTING OFFICE PERSONNEL APPEALS BOARD

SEC. 4. (a)(1) There is established within the General Accounting Office a board to be known as the General Accounting Office Personnel Appeals Board (hereinafter referred to as the "Board"). The Board shall be composed of five members appointed by the Comptroller General in accordance with this subsection. 31 USC 52-3.

(2) Each appointment made by the Comptroller General under paragraph (1) shall be made— Appointments.

(A) from a written list of candidates submitted to the Comptroller General by any organization eligible to make such a submission under paragraph (4); and

(B) after consultation with organizations which represent employees of the General Accounting Office and with the member or members of each committee of the Congress having legislative jurisdiction over the personnel system who are designated by the chair of each such committee to consult with the Comptroller General.

(3) An individual shall be eligible for appointment as a member of the Board only if such individual— Eligibility.

(A) has a total of three years of full-time or part-time experience in the adjudication or arbitration of personnel matters;

(B) is not a current or former officer or employee of the General Accounting Office;

(C) has the demonstrated ability, background, training, and experience necessary to be especially qualified to serve as a member of the Board; and

(D) demonstrates a capacity and willingness to devote sufficient time to service as a member of the Board in order to enable the Board to dispose of cases under this section in a timely manner.

(4) An organization shall be eligible to submit a list of candidates to the Comptroller General under paragraph (2)(A) if, in the opinion of the Comptroller General, the membership of the organization is composed primarily of individuals who are experienced in the adjudication or arbitration of personnel matters. The submission of any list under this paragraph shall be made in the form, at the time, and according to the procedures, which the Comptroller General may require.

(b)(1) Except as provided in paragraph (2), members of the Board shall be appointed for terms of three years. Terms of office.

(2) Of the members first appointed to the Board two shall be appointed for a term of three years, two shall be appointed for a term of two years, and one shall be appointed for a term of one year, as designated by the Comptroller General at the time of appointment.

(3) Members of the Board shall not be eligible for reappointment.

(4) Any vacancy in the membership of the Board shall be filled in the same manner as the original appointment. Any individual Vacancies.

appointed to fill a vacancy shall serve only for the unexpired portion of the term with respect to which such vacancy has occurred, except that, if the unexpired portion is less than one year, the Comptroller General may appoint the individual for a term which is equal to three years plus that unexpired portion.

(5) A member of the Board may continue to serve after the expiration of the term for which the member was appointed until a successor has taken office, except that the member may not so continue to serve for more than six months after the date on which the term for which the member was appointed otherwise would expire under this subsection.

Removal procedures.

(c)(1) A member of the Board may be removed from the Board—

(A) by majority vote of the members of the Board (other than the member who is the subject of the proposed action of removal); and

(B) only for inefficiency, neglect of duty, or malfeasance in office.

Notice and hearing.

(2) Any member of the Board who is the subject of any proposed action of removal under this subsection shall be given notice and opportunity for a hearing before the Board prior to any vote of the members of the Board under paragraph (1)(A). The Board may dispense with the opportunity for a hearing only upon the submission of a written waiver of the hearing to the Chair by the member subject to the proposed action.

Waiver.

Compensation.

(d) Each member of the Board who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate payable for GS-18 under the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Board. A member of the Board who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Board shall be entitled to travel expenses and per diem allowances in accordance with section 5703 of title 5, United States Code.

5 USC 5332 note.

Chairperson.

(e) The members of the Board shall select from among the members of the Board a Chair who shall be the chief executive and administrative officer of the Board.

General Counsel.

(f)(1) The Chair shall select and the Comptroller General shall appoint an individual to serve as General Counsel of the Board (hereinafter referred to as the "General Counsel"). The General Counsel shall be eligible for reappointment and shall serve at the pleasure of the Chair.

(2) The Chair shall fix the rate of pay of the General Counsel, except that the rate of pay shall not exceed the maximum rate payable for GS-15 of the General Schedule.

5 USC 5332 note.

Duties.

(g) The General Counsel shall—

(1) investigate any allegation concerning prohibited personnel practices referred to in section 3(b)(1)(B) of this Act to the extent necessary to determine whether there are reasonable grounds to believe that any such practice has occurred, exists, or is to be taken by any employee of the General Accounting Office;

(2) investigate any allegation concerning prohibited political activities referred to in section 3(b)(1)(C) of this Act;

(3) investigate matters under the jurisdiction of the Board if so requested by the Board or any member of the Board; and

(4) otherwise assist the Board in carrying out its functions.

Corrective or disciplinary action, Board authority.

(h) The Board may consider, decide, and order corrective or disciplinary action (as appropriate) in cases arising from—

(1) employee appeals concerning any removal, suspension for

more than fourteen days, reduction in grade, reduction in pay, or furlough of thirty days or less;

(2) prohibited personnel practices referred to in section 3(b)(1)(B);

(3) prohibited political activities referred to in section 3(b)(1)(C) of this Act;

(4) determinations of appropriate units of employees for collective bargaining;

(5) elections and certifications of collective bargaining representatives;

(6) any labor practice prohibited under the labor-management system established under section 3(e) and any other matter appealable to the Board under that system;

(7) actions involving discrimination prohibited under section 3(g); and

(8) any other issue relating to the personnel of the General Accounting Office which the Comptroller General, by regulation, determines is most appropriately resolved by the Board.

(i) The Comptroller General shall promptly implement any corrective action ordered by the Board, in cases in which the Comptroller General has the authority to do so.

(j) The Board shall have authority to designate a panel of its members, or an individual member, to take any action which the Board is authorized to take under subsection (h). Any decision made under subsection (h) by a panel or individual member designated under this subsection shall be considered to be a final decision of the Board unless the decision is reopened and reconsidered by the Board under subsection (k).

(k) The Board may, on the motion of any party or on its own motion, reopen and reconsider any decision under subsection (h) within thirty days after the decision is rendered. Decisions, reconsideration.

(l)(1) Any final decision of the Board (or of any panel or individual member designated under subsection (j)) under subsections (h) (1), (2), (3), (6) and (7) may be appealed to the United States Court of Appeals for the circuit in which the petitioner resides or to the United States Court of Appeals for the District of Columbia. Any appeal under this subsection shall be in accordance with the procedures of chapter 158 of title 28, United States Code. Notwithstanding any other provision of law, any petition for review of a final decision of the Board shall be filed within thirty days after the date the petitioner receives notice of the final decision of the Board. Appeal. 28 USC 2341 *et seq.*

(2) In any case filed under paragraph (1), the court shall review the record and set aside any agency action, findings, or conclusions found to be— Case review.

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) obtained without procedures required by law, rule, or regulation having been followed; or

(C) unsupported by substantial evidence.

(m) The Board shall promulgate regulations— Regulations.

(1) providing for employee appeals, consistent with the principles of sections 7701 and 7702 of title 5, United States Code; and

(2) establishing its operating procedure.

GAO SENIOR EXECUTIVE SERVICE; MERIT PAY SYSTEM

SEC. 5. (a)(1) The Comptroller General may promulgate regulations establishing a General Accounting Office Senior Executive Service (hereinafter referred to as the GAO Senior Executive Service) which— 31 USC 52-4.

(A) meets the requirements set forth in section 3131 of title 5, United States Code, for the Senior Executive Service;

(B) provides that positions in the GAO Senior Executive Service meet requirements which are consistent with the provisions of section 3132(a)(2) of such title;

5 USC 3132.

(C) provides rates of pay for the GAO Senior Executive Service which are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of such title, and which are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

5 USC 5382.

(D) provides a performance appraisal system for the GAO Senior Executive Service that conforms to the provisions of subchapter II of chapter 43 of such title;

5 USC 4311.

(E) permits the Comptroller General to award ranks to members of the GAO Senior Executive Service consistent with the provisions applicable to the Office of Personnel Management and the President under section 4507 of such title;

5 USC 4507.

(F) provides for removal consistent with section 3592 of such title, and removal or suspension consistent with section 7543 of such title; and

5 USC 3592.
5 USC 7543.

(G) permits the Comptroller General to pay performance awards to members of the GAO Senior Executive Service consistent with the provisions applicable to performance awards under section 5384 of such title.

5 USC 5384.

(2) Except as otherwise provided in paragraph (1), the Comptroller General may make applicable for the GAO Senior Executive Service any of the provisions of title 5, United States Code, applicable to applicants for or members of the Senior Executive Service.

Exception.

(3) Employees in the GAO Senior Executive Service shall not be subject to the provisions of the personnel system established under section 3 (c), (d), (e) and (f).

(4) The GAO Senior Executive Service may include positions referred to in—

(A) section 203(c) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 51a);

(B) section 203(i) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 52b); and

(C) section 204(d) of the Legislative Reorganization Act of 1970 (31 U.S.C. 1154(d)).

Merit pay system.

(b) The Comptroller General may promulgate regulations establishing a merit pay system for such employees of the General Accounting Office as the Comptroller General considers appropriate. The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401(a) of title 5, United States Code.

NONCOMPETITIVE APPOINTMENTS; TECHNICAL ASSISTANCE

31 USC 52-5.

SEC. 6. (a) Notwithstanding any other provision of law, any employee of the General Accounting Office who has completed at least one year of continuous service under a nontemporary appointment under the personnel system established pursuant to section 3 acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

(b) The Director of the Office of Personnel Management shall, on request from the Comptroller General, provide technical and consulting services to the Comptroller General in the establishment of the personnel system for the General Accounting Office.

COORDINATION WITH CERTAIN OTHER PROVISIONS OF LAW

SEC. 7. (a) Except as provided under section 5(a)(4), nothing contained in this Act shall be construed as repealing, amending, or otherwise affecting the provisions of— 31 USC 52-6.

(1) sections 302 and 303 of the Budget and Accounting Act, 1921 (31 U.S.C. 42 and 43), or subsections (a) and (b) of section 203 of the Federal Legislative Salary Act of 1964 (31 U.S.C. 42a (a) and (b));

(2) section 203(c) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 51a);

(3) section 203(i) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 52b);

(4) section 204(d) of the Legislative Reorganization Act of 1970 (31 U.S.C. 1154(d)); or

(5) section 401 of the General Accounting Office Act of 1974 (31 U.S.C. 52c).

(b) Except as specifically provided in this Act, nothing contained in this Act shall be construed to repeal, amend, or limit the application of any provision of law applicable to employees of the General Accounting Office.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 8. (a) Section 2108(3) of title 5, United States Code, is amended by inserting "or the General Accounting Office" after "the Senior Executive Service".

(b) Subsection 5102(a)(1) of such title is amended by striking out "or" at the end of clause (vii), by inserting "or" at the end of clause (viii), and by adding at the end thereof the following: 5 USC 5102.

"(ix) the General Accounting Office;".

(c)(1) Paragraph (1) of section 5108(c) of such title is repealed. 5 USC 5108.

(2) Paragraphs (2), (3), and (4) of such section are redesignated paragraphs (1), (2), and (3), respectively.

(d) Section 5342(a)(1) of such title is amended by striking out "or" at the end of subparagraph (H), by inserting "or" at the end of subparagraph (I), and by adding at the end thereof the following: 5 USC 5342.

"(J) the General Accounting Office;".

(e)(1) Subchapter III of chapter 73 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 7328. General Accounting Office employees 5 USC 7328.

"The preceding provisions of this subchapter shall not apply to employees of the General Accounting Office.".

(2) The chapter analysis for chapter 73 of title 5, United States Code, is amended by adding after the item relating to section 7327 the following new item:

"7328. General Accounting Office employees.".

(3) Subsections (a), (b), and (d) of section 311 of the Budget and Accounting Act, 1921 (31 U.S.C. 52) are amended to read as follows: Comptroller General's authority.

"(a) The Comptroller General shall appoint, fix the pay of, and remove employees of the General Accounting Office under the General Accounting Office Personnel Act of 1980. *Ante*, p. 27.

"(b) All officers and employees of the General Accounting Office shall perform such duties as may be assigned to them by the Comptroller General.".

(4) Subsections (e) and (f) of such section are redesignated subsections (c) and (d), respectively.

(f) Section 13 of the Federal Employees Pay Act of 1946 (31 U.S.C. 46a) is repealed. Repeal.

(g) Section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended by striking out "(other than the General Accounting Office)".

AUTHORIZATION

31 USC 52-7.

SEC. 9. There are hereby authorized to be appropriated beginning fiscal year 1981 and for each fiscal year thereafter such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

31 USC 52-1 note.

SEC. 10. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on—

(1) October 1, 1980; or

(2) if later, one hundred and twenty days after the date of the enactment of this Act.

(b) The provisions of section 3 shall take effect on the date of the enactment of this Act, except the personnel system established by the Comptroller General under that section shall take effect on the effective date established by subsection (a).

Approved February 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-494 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 96-540 accompanying S. 1879 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 15, considered and passed House.
Vol. 126 (1980): Jan. 25, S. 1879 considered and passed Senate.
Jan. 30, Senate vitiated passage of S. 1879; H.R. 5176, amended, passed in lieu.
Feb. 4, House concurred in Senate amendment.

Public Law 96-192
96th Congress

An Act

To amend the Federal Aviation Act of 1958 in order to promote competition in international air transportation, provide greater opportunities for United States air carriers, establish goals for developing United States international aviation negotiating policy, and for other purposes.

Feb. 15, 1980
[S. 1300]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "International Air Transportation Competition Act of 1979".

International Air Transportation Competition Act of 1979.
49 USC 1301 note.

SEC. 2. Section 102(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(a)) is amended to read as follows:

"DECLARATION OF POLICY: THE BOARD

"FACTORS FOR INTERSTATE, OVERSEAS, AND FOREIGN AIR TRANSPORTATION

"SEC. 102. (a) In the exercise and performance of its powers and duties under this Act, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The assignment and maintenance of safety as the highest priority in air commerce, and prior to the authorization of new air transportation services, full evaluation of the recommendations of the Secretary of Transportation on the safety implications of such new services and full evaluation of any report or recommendation submitted under section 107 of this Act. 49 USC 1307.

"(2) The prevention of any deterioration in established safety procedures, recognizing the clear intent, encouragement, and dedication of the Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public.

"(3) The availability of a variety of adequate, economic, efficient, and low-price services by air carriers and foreign air carriers without unjust discriminations, undue preferences or advantages, or unfair or deceptive practices, the need to improve relations among, and coordinate transportation by, air carriers, and the need to encourage fair wages and equitable working conditions for air carriers.

"(4) The placement of maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital, taking account, nevertheless, of material differences, if any, which may exist between interstate and overseas air transportation, on the one hand, and foreign air transportation, on the other.

"(5) The development and maintenance of a sound regulatory environment which is responsive to the needs of the public and in which decisions are reached promptly in order to facilitate adaption of the air transportation system to the present and future needs of the domestic and foreign commerce of the United States, the Postal Service, and the national defense.

"(6) The encouragement of air service at major urban areas in the United States through secondary or satellite airports, where consistent with regional airport plans of regional and local authorities, and when such encouragement is endorsed by appropriate State entities encouraging such service by air carriers whose sole responsibility in any specific market is to provide service exclusively at the secondary or satellite airport, and fostering an environment which reasonably enables such carriers to establish themselves and to develop their secondary or satellite airport services.

"(7) The prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, and the avoidance of—

"(A) unreasonable industry concentration, excessive market domination, and monopoly power; and

"(B) other conditions;

that would tend to allow one or more air carriers or foreign air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.

"(8) The maintenance of a comprehensive and convenient system of continuous scheduled interstate and overseas airline service for small communities and for isolated areas in the United States, with direct Federal assistance where appropriate.

"(9) The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation, and low prices, and to determine the variety, quality, and price of air transportation services.

"(10) The encouragement of entry into air transportation markets by new air carriers, the encouragement of entry into additional air transportation markets by existing air carriers, and the continued strengthening of small air carriers so as to assure a more effective, competitive airline industry.

"(11) The promotion, encouragement, and development of civil aeronautics and a viable, privately owned United States air transport industry.

"(12) The strengthening of the competitive position of United States air carriers to at least assure equality with foreign air carriers, including the attainment of opportunities for United States air carriers to maintain and increase their profitability, in foreign air transportation.".

Repeal.

SEC. 3. (a) Section 102(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1302(c)) is repealed.

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 102. Declaration of policy: The Board."

is amended by striking out

"(a) Factors for interstate and overseas air transportation.
"(b) Factors for all-cargo service.
"(c) Factors for foreign air transportation."

and inserting in lieu thereof

"(a) Factors for interstate, overseas, and foreign air transportation.
"(b) Factors for all-cargo service.".

SEC. 4. Sections 401(d)(1) through 401(d)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1371 (d)(1) through (d)(3)) are amended to read as follows:

"ISSUANCE OF CERTIFICATE

"(d)(1) The Board shall issue a certificate authorizing the whole or any part of the transportation covered by the application, if it finds that the applicant is fit, willing, and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder, and that such transportation is consistent with the public convenience and necessity; otherwise such application shall be denied.

Temporary air transportation.

"(2) In the case of an application for a certificate to engage in temporary air transportation, the Board may issue a certificate authorizing the whole or any part thereof for such limited periods as is consistent with the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform such transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.

Charter air transportation.

"(3) In the case of an application for a certificate to engage in charter air transportation, the Board may issue a certificate to any applicant, not holding a certificate under paragraph (1) or (2) of this subsection on January 1, 1977, authorizing interstate air transportation of persons, which authorizes the whole or any part thereof for such periods, as is consistent with the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform the transportation covered by the application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder.".

SEC. 5. The first sentence of section 401(e)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(e)(2)) is amended by striking out the words ", insofar as the operation is to take place without the United States,".

SEC. 6. Section 401(g) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(g)) is amended to read as follows:

"AUTHORITY TO MODIFY, SUSPEND, OR REVOKE

"(g)(1) The Board upon petition or complaint or upon its own initiative, after notice and hearings, or pursuant to the simplified procedures under subsection (p) of this section, may alter, amend, modify, or suspend any such certificate, in whole or in part, if the public convenience and necessity so require, or may revoke any such certificate, in whole or in part, for intentional failure to comply with any provision of this title or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such certificate. No such certificate shall be revoked unless the holder thereof fails to comply, within a reasonable time to be fixed by the Board, with an order of the Board commanding obedience to the provision, or to the order (other than an order issued in accordance with this sentence), rule, regulation, term, condition, or limitation found by the Board to have been violated. No certificate to engage in foreign air transportation may be altered, amended, modified, suspended, or revoked pursuant to the simplified procedures of subsection (p) of this section if the holder of such certificate requests an oral evidentiary hearing

Foreign air transportation, oral hearing.

or the Board finds that, under all the facts and circumstances, an oral evidentiary hearing is required in the public interest.

Protest or memorandum.

"(2) Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of a certificate pursuant to paragraph (1) of this subsection.

Foreign air transportation.

"(3) Notwithstanding the provisions of paragraph (1) of this subsection, the Board may suspend or revoke authority of an air carrier to serve any point in foreign air transportation authorized in a certificate issued under this section, upon notice and with a reasonable opportunity for the affected carrier to present its views, but without hearing, if the carrier has notified the Board in accordance with subsection (j) of this section or any regulation of the Board that it proposes to suspend all service provided by that carrier to such point, or, except at a point which is provided seasonal service comparable to that provided during the previous year, if the carrier has failed to provide any regularly scheduled service to the point for 90 days preceding the date of the Board's notice to the carrier of its proposed action.".

SEC. 7. Section 402(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(b)) is amended to read as follows:

"ISSUANCE OF PERMIT

"(b) The Board is empowered to issue such a permit if it finds (1) that the applicant is fit, willing, and able properly to perform such foreign air transportation and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder and (2) either that the applicant is qualified, and has been designated by its government, to perform such foreign air transportation under the terms of an agreement with the United States, or that such transportation will be in the public interest.".

SEC. 8. The third sentence of section 402(d) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(d)) is amended by striking out "Such application shall be set for public hearing and the" and inserting in lieu thereof "The".

SEC. 9. Section 402(f) of the Federal Aviation Act of 1958 (49 U.S.C. 1372(f)) is amended by inserting "(1)" immediately after "(f)" and by adding at the end thereof the following new paragraph:

Foreign air carriers.

"(2) Whenever the Board finds that the government, aeronautical authorities, or foreign air carriers of any foreign country have, over the objections of the Government of the United States, impaired, limited, or denied the operating rights of United States air carriers, or engaged in unfair, discriminatory, or restrictive practices with a substantial adverse competitive impact upon United States carriers, with respect to air transportation services to, from, through, or over the territory of such country, the Board may, without hearing but subject to the approval of the President of the United States, summarily suspend the permits of the foreign air carriers of such country, or alter, modify, amend, condition, or limit operations under such permits, if it finds such action to be in the public interest. The Board may also, without hearing but subject to Presidential approval, to the extent necessary to make the operation of this paragraph effective, restrict operations between such foreign country and the United States by any foreign air carrier of a third country.".

SEC. 10. Section 407(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1377(a)) is amended by inserting the phrase "or foreign air carrier"

immediately after the words "air carrier" each time those words appear therein.

SEC. 11. Section 412 of the Federal Aviation Act of 1958 (49 U.S.C. 1382) is amended by—

(1) striking subsections (a) and (b) thereof;

(2) redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively;

(3) striking the words ", affecting interstate or overseas air transportation and" in subsection (a)(1), as so redesignated by this section;

(4) inserting the words ", including international comity or foreign policy considerations," immediately after "public benefits" in paragraph (a)(2)(A)(i), as so redesignated by this section;

(5) inserting the words "affecting interstate or overseas air transportation," immediately after the word "agreement," in paragraph (a)(2)(A)(iii), as so redesignated by this section;

(6) inserting the words "or foreign air carrier" immediately after the words "air carrier" the first two times those words appear in subsection (a)(1), as so redesignated by this section; and

(7) striking out "or (c)", inserting ", the Secretary of State," after "shall provide to the Attorney General", and striking out "such Secretary" and inserting in lieu thereof "either Secretary", in subsection (b), as redesignated by this section.

SEC. 12. (a) The center heading for section 412(a) of the Federal Aviation Act of 1958, as redesignated by section 11 of this Act, is amended by striking out

"AFFECTING INTERSTATE OR OVERSEAS AIR TRANSPORTATION".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading

"Sec. 412. Pooling and other agreements."

is amended to read as follows:

"(a) Filing and approval of agreements.
"(b) Proceedings upon filing.
"(c) Mutual aid agreement.".

SEC. 13. Section 416(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1386) is amended by adding at the end thereof the following new paragraph:

"(7) The Board may by order, to the extent it finds that such action is required in the public interest, exempt any foreign air carrier for a period not to exceed 30 days from the requirements or limitations of this Act, to the extent necessary to authorize the foreign air carrier to carry passengers, cargo, or mail in interstate or overseas air transportation in certain markets if the Board, after consultation with the Secretary of Transportation, finds that— Foreign air carrier exemption.

"(A) because of an emergency created by unusual circumstances not arising in the normal course of business, traffic in such markets cannot be accommodated by air carriers holding certificates under section 401 of this Act; *Ante*, p. 37.

"(B) all possible efforts have been made to accommodate such traffic by utilizing the resources of such air carriers (including, for example, the use of foreign aircraft, or sections of foreign aircraft, that are under lease or charter to such air carriers, and the use of such air carriers' reservation systems to the extent practicable);

"(C) such authorization is necessary to avoid undue hardship for the traffic in such market that cannot be accommodated by air carriers holding certificates under section 401 of this Act; and

Ante, p. 37.

"(D) in any case where the inability to accommodate traffic in a market results from a labor dispute, the granting of such an exemption will not result in an undue advantage to any party to such dispute.

Whenever the Board grants such authority to a foreign air carrier under this paragraph, the Board shall—

"(i) assure that any air transportation provided by the foreign carrier under such authority is made available on fair and reasonable terms;

"(ii) continuously monitor the passenger load factor of air carriers in such market that hold certificates under section 401 of this Act; and

"(iii) review such authority no less frequently than once every 30 days to assure that the unusual circumstances that created the need for such authority still exist.

The Board may renew any exemption under this paragraph (including any renewal thereof) for a period not to exceed 30 days. In no event shall any authorization to a foreign air carrier under this paragraph remain in effect for more than 5 days after the unusual circumstances that created the need for such authorization have ceased.".

SEC. 14. Section 1002(j)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(1)) is amended to read as follows:

"SUSPENSION AND REJECTION OF RATES IN FOREIGN AIR TRANSPORTATION

"(j)(1) Whenever any air carrier or foreign air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carriers) rate, fare, or charge for foreign air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, or in the case of a tariff filed by a foreign air carrier if such action is in the public interest, the Board, by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period or periods not exceeding 365 days in the aggregate beyond the time when such tariff would otherwise go into effect. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or in the case of a tariff filed by a foreign air carrier if the Board concludes with or without hearing that such action is in the public interest, the Board may take action to reject or cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. The Board may at any time rescind the

suspension of such tariff and permit the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded and an order made within the period of suspension or suspensions, or if the Board shall otherwise so direct, the proposed rate, fare, charge, classification, rule, regulation, or practice shall go into effect subject, however, to being canceled when the proceeding is concluded. During the period of any suspension or suspensions, or following rejection or cancellation of a tariff, including tariffs which have gone into effect provisionally, the affected air carrier or foreign air carrier shall maintain in effect and use the rate, fare, or charge, or the classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder which was in effect immediately prior to the filing of the new tariff or such other rate, fare or charge as may be provided for under an applicable intergovernmental agreement or understanding. If the suspension, rejection, or cancellation is of an initial tariff, the affected air carrier or foreign air carrier may file for purposes of operations pending effectiveness of a new tariff, a tariff embodying any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.".

SEC. 15. Section 1002(j)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(2)) is amended to read as follows:

Suspension of tariff.

"(2) With respect to any existing tariff of an air carrier or foreign air carrier stating rates, fares, or charges for foreign air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter into a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, or in the case of a tariff filed by a foreign air carrier if such action is in the public interest, the Board upon reasonable notice, and by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, and the effective date thereof, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, following the effective date of such suspension, for a period or periods not exceeding 365 days in the aggregate from the effective date of such suspension. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or in the case of a tariff filed by a foreign air carrier if the Board concludes with or without hearing that such action is in the public interest, the Board may take action to cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded within the period of suspension or suspensions, the tariff shall again go into effect subject, however, to being canceled when the proceeding is concluded. For the purposes of operation during the period of such suspension, or the period following cancellation of an existing tariff pending effectiveness of a new tariff, the air carrier or foreign air carrier may file a tariff embodying any rate, fare, or charge, or any

classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.".

SEC. 16. Section 1002(j)(5) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)(5)) is amended by (1) striking the word "and" at the end of subparagraph (E) thereof, (2) striking the period at the end of subparagraph (F) and inserting in lieu thereof "; and", and (3) adding at the end thereof the following new subparagraph:

"(G) reasonably estimated or foreseeable future costs and revenues for such air carrier or foreign air carrier for a reasonably limited future period during which the rate at issue would be in effect.".

SEC. 17. Section 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1502) is amended by inserting "(a)" immediately after "SEC. 1102." and by adding at the end thereof the following new subsections:

"GOALS FOR INTERNATIONAL AVIATION POLICY

"(b) In formulating United States international air transportation policy, the Congress intends that the Secretary of State, the Secretary of Transportation, and the Civil Aeronautics Board shall develop a negotiating policy which emphasizes the greatest degree of competition that is compatible with a well-functioning international air transportation system. This includes, among other things:

"(1) the strengthening of the competitive position of United States air carriers to at least assure equality with foreign air carriers, including the attainment of opportunities for United States air carriers to maintain and increase their profitability, in foreign air transportation;

"(2) freedom of air carriers and foreign air carriers to offer fares and rates which correspond with consumer demand;

"(3) the fewest possible restrictions on charter air transportation;

"(4) the maximum degree of multiple and permissive international authority for United States air carriers so that they will be able to respond quickly to shifts in market demand;

"(5) the elimination of operational and marketing restrictions to the greatest extent possible;

"(6) the integration of domestic and international air transportation;

"(7) an increase in the number of nonstop United States gateway cities;

"(8) opportunities for carriers of foreign countries to increase their access to United States points if exchanged for benefits of similar magnitude for United States carriers or the traveling public with permanent linkage between rights granted and rights given away;

"(9) the elimination of discrimination and unfair competitive practices faced by United States airlines in foreign air transportation, including excessive landing and user fees, unreasonable ground handling requirements, undue restrictions on operations, prohibitions against change of gauge, and similar restrictive practices; and

"(10) the promotion, encouragement, and development of civil aeronautics and a viable, privately owned United States air transport industry.

"CONSULTATION WITH AFFECTED GROUPS

"(c) To assist in developing and implementing such an international aviation negotiating policy, the Secretaries of State and Transportation and the Civil Aeronautics Board shall consult, to the maximum extent practicable, with the Secretary of Commerce, the Secretary of Defense, airport operators, scheduled air carriers, charter air carriers, airline labor, consumer interest groups, travel agents and tour organizers, and other groups, institutions, and government agencies affected by international aviation policy concerning both broad policy goals and individual negotiations.

"OBSERVER STATUS FOR CONGRESSIONAL REPRESENTATIVES

"(d) The President shall grant to at least one representative of each House of Congress the privilege to attend international aviation negotiations as an observer if such privilege is requested in advance in writing.".

SEC. 18. (a) The center heading for section 1102 of the Federal Aviation Act of 1958 is amended to read as follows: 49 USC 1502.

"INTERNATIONAL AGREEMENTS

"ACTIONS OF THE BOARD AND SECRETARY OF TRANSPORTATION".

(b) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE XI—MISCELLANEOUS"

is amended by striking out

"Sec. 1102. International agreements."

and inserting in lieu thereof

"Sec. 1102. International agreements.
"(a) Actions of the Board and Secretary of Transportation.
"(b) Goals for international aviation policy.
"(c) Consultation with affected groups.
"(d) Observer status for Congressional representatives.".

SEC. 19. Section 1104 of the Federal Aviation Act of 1958 (49 U.S.C. 1504) is amended by striking the words "international negotiations and" and inserting in lieu thereof "international negotiations or".

SEC. 20. The third sentence of section 1108(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1508(b)) is amended by inserting immediately before the period at the end thereof the following: ", unless specifically authorized under section 416(b)(7) of this Act or under regulations prescribed by the Secretary authorizing United States air carriers to engage in otherwise authorized common carriage and carriage of mail with foreign registered aircraft under lease or charter to them without crew". *Ante*, p. 39.

SEC. 21. Section 1117 of the Federal Aviation Act of 1958 (49 U.S.C. 1517) is amended to read as follows:

"TRANSPORTATION OF GOVERNMENT-FINANCED PASSENGERS AND PROPERTY

"TRANSPORTATION BETWEEN THE UNITED STATES AND A PLACE OUTSIDE THEREOF

"SEC. 1117. (a) Except as provided in subsection (c) of this section, whenever any executive department or other agency or instrumentality of the United States shall procure, contract for, or otherwise obtain for its own account or in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted or utilized by or otherwise established for the account of the United States, or shall furnish to or for the account of any foreign nation, or any international agency, or other organization, of whatever nationality, without provisions for reimbursement, any transportation of persons (and their personal effects) or property by air between a place in the United States and a place outside thereof, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is available.

49 USC 1371.

"TRANSPORTATION BETWEEN TWO PLACES OUTSIDE THE UNITED STATES

"(b) Except as provided in subsection (c) of this section, whenever persons (and their personal effects) or property described in subsection (a) of this section are transported by air between two places both of which are outside the United States, the appropriate agency or agencies shall take such steps as may be necessary to assure that such transportation is provided by air carriers holding certificates under section 401 of this Act to the extent authorized by such certificates or by regulations or exemption of the Civil Aeronautics Board and to the extent service by such carriers is reasonably available.

"TRANSPORTATION PURSUANT TO BILATERAL AGREEMENT

"(c) Nothing in this section shall preclude the transportation of persons (and their personal effects) or property by foreign air carriers if such transportation is provided for under the terms of a bilateral or multilateral air transport agreement between the United States and a foreign government or governments and if such agreement (1) is consistent with the goals for international aviation policy set forth in section 1102(b) of this Act and (2) provides for the exchange of rights or benefits of similar magnitude.

Ante, p. 42.

"DISALLOWANCE OF IMPROPER EXPENDITURE BY COMPTROLLER GENERAL

"(d) The Comptroller General of the United States shall disallow any expenditure from appropriated funds for payment for personnel or cargo transportation in violation of this section in the absence of satisfactory proof of the necessity therefor. Nothing in this section shall prevent the application to such traffic of the antidiscrimination provisions of this Act.".

SEC. 22. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE XI—MISCELLANEOUS"

is amended by striking out

"Sec. 1117. Transportation of Government-financed passengers and property."

and inserting in lieu thereof

"Sec. 1117. Transportation of Government-financed passengers and property.
"(a) Transportation between the United States and a place outside thereof.
"(b) Transportation between two places outside the United States.
"(c) Transportation pursuant to bilateral agreement.
"(d) Disallowance of improper expenditure by Comptroller General.".

SEC. 23. Section 2 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1159b) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and adding a new subsection (b) as follows:

Discriminatory, predatory, or anticompetitive practices.

"(b)(1) Whenever the Civil Aeronautics Board, upon complaint or upon its own initiative, determines that a foreign government or instrumentality, including a foreign air carrier (A) engages in unjustifiable or unreasonable discriminatory, predatory, or anticompetitive practices against a United States air carrier or (B) imposes unjustifiable or unreasonable restrictions on access of a United States air carrier to foreign markets, the Board may take such action as it deems to be in the public interest to eliminate such practices or restrictions. Such actions may include, but are not limited to, the denial, transfer, alteration, modification, amendment, cancellation, suspension, limitation, or revocation of any foreign air carrier permit or tariff pursuant to the powers of the Board under the Federal Aviation Act of 1958.

49 USC 1301 note.
Complaint, filing.

"(2) Any United States air carrier or any agency of the Government of the United States may file a complaint under this section with the Civil Aeronautics Board. The Board shall approve, deny, dismiss, set such complaint for hearing or investigation, or institute other proceedings proposing remedial action within 60 days after receipt of the complaint. The Board may extend the period for taking such action for an additional period or periods of up to 30 days each if the Board concludes that it is likely that the complaint can be satisfactorily resolved through negotiations with the foreign government or instrumentality during such additional period, but in no event may the aggregate period for taking action under this subsection exceed 180 days from receipt of the complaint. In considering any complaint, or in any proceedings under its own initiative, under this subsection the Board shall (A) solicit the views of the Department of State and the Department of Transportation and (B) provide any affected air carrier or foreign air carrier with reasonable notice and such opportunity to file written evidence and argument as is consistent with acting on the complaint within the time limits set forth in this subsection.

Solicitation of views.

Transmittal to President.

"(3) Any action proposed by the Board pursuant to this section shall be transmitted to the President pursuant to section 801 of the Federal Aviation Act of 1958 (49 U.S.C. 1461).".

SEC. 24. (a) Section 1002(j) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(j)) is amended by adding at the end thereof the following new paragraphs:

Foreign air fares.

"(6) The Board shall not have authority to find any fare for foreign air transportation of persons to be unjust or unreasonable on the basis that such fare is too low or too high if—

"(A) with respect to any proposed increase filed with the Board on or after the date of enactment of this paragraph, and before the 180th day after such date of enactment, such proposed fare would not be more than the standard foreign fare level for the same or essentially similar class of service. No such fare shall be suspended, unless the Board determines that it may be unduly preferential, unduly prejudicial, or unjustly discriminatory or that suspension is in the public interest because of unreasonable regulatory actions by a foreign government with respect to fare proposals of an air carrier; or

"(B) with respect to any proposed increase filed with the Board after the 180th day after the date of enactment of this paragraph such proposed fare would not be more than 5 percent higher than the standard foreign fare level for the same or essentially similar class of service. No such fare shall be suspended, unless the Board determines that it may be unduly preferential, unduly prejudicial, or unjustly discriminatory or that suspension is in the public interest because of unreasonable regulatory actions by a foreign government with respect to fare proposals of an air carrier; or

"(C) with respect to any proposed decrease filed after the date of enactment of this paragraph, the fare would not be more than 50 percent lower than the standard foreign fare level for the same or essentially similar class of service, except that this provision shall not apply to any proposed decrease in any fare if the Board determines that such proposed fare may be predatory or discriminatory or that suspension of any such fare is required because of unreasonable regulatory actions by a foreign government with respect to fare proposals by an air carrier.

"Standard foreign fare level."

"(7) For purposes of this subsection, 'standard foreign fare level' means that fare level (as adjusted only in accordance with paragraph (9) of this subsection) filed for and permitted by the Civil Aeronautics Board to go into effect on or after October 1, 1979 and before the 180th day after the date of enactment of this paragraph (with seasonal fares adjusted by the percentage difference that prevailed between seasons in 1978), or the fare level established under paragraph (8), for each pair of points, for each class of fare existing on that date, and in effect on the effective date of the establishment of each additional class of fare established after October 1, 1979.

Unjust or unreasonable fares, determination.

"(8)(A) The Board is authorized, on the basis of oral evidentiary hearings before an administrative law judge, to determine that a fare between two points on October 1, 1979 is unjust or unreasonable. Such oral evidentiary hearing shall be completed within 180 days of enactment of this section, and the Board may establish such deadlines including the deadline for the judge's decision as the Board may deem necessary to meet such requirement. If the Board determines that such a fare is unjust or unreasonable, the Board shall, on the basis of such hearing record, establish the standard foreign fare level between such points.

"(B) Standard foreign fare levels shall not be established under this paragraph for points between which the passengers carried by United States carriers in foreign air transportation are, in the aggregate, more than 25 percent of the total passengers carried by United States air carriers in foreign air transportation during the most recent 12-month period for which data is available.

"(C) The establishment of a standard foreign fare level under this paragraph does not permit a reduction in fares.

"(D) No standard foreign fare level established under this paragraph shall take effect on or before the 180th day after the date of enactment of this paragraph.

"(E) The authority given the Board by subparagraph (A) of this paragraph shall expire on the 180th day after the date of enactment of this paragraph.

"(9) The Board shall, within 30 days after the date of enactment of this paragraph, and not less often than every 60 days thereafter with respect to fuel costs and not less often than every 180 days with respect to all other costs, adjust each standard foreign fare level for the particular foreign air transportation to which such standard foreign fare level applies by increasing or decreasing such standard foreign fare level, as the case may be, by the percentage change from the last previous period in the actual operating cost per available seatmile. In determining the standard foreign fare level, the Board shall make no adjustment to costs acutally incurred. In establishing standard foreign fare levels and making the adjustments called for in this paragraph, the Board may use all relevant or appropriate information reasonably available to it. Fare adjustment.

"(10) The Board may by rule increase the percentage specified in paragraph (6)(C) of this subsection.".

(b) Section 403(c)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)(1)) is amended by (1) inserting the words "or foreign air carrier" after the words "air carrier" each time those words appear therein and (2) inserting the words "or foreign air carrier's" after the words "air carrier's".

(c) Section 403(c)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)(2)) is amended to read as follows:

"(2) If the effect of any proposed tariff change would be to institute a fare that is outside of the applicable range of fares specified in subparagraphs (A) and (B) of section 1002(d)(4) or subparagraphs (A), (B), and (C) of section 1002(j)(6) of this Act, or specified by the Board under section 1002(d)(7) or section 1002(j)(9) of this Act, or would be to institute a fare to which such range of fares does not apply, then such proposed change shall not be implemented except after 60 days' notice filed in accordance with regulations prescribed by the Board.". 49 USC 1482.

SEC. 25. Section 1002(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(c)) is amended by inserting the words ", subject to section 1102(a) of this Act," immediately before the words "issue an appropriate order". 49 USC 1502.

SEC. 26. (a) Paragraph (1) of section 401(n) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(n)(1)) is amended to read as follows:

"(1) Notwithstanding any other provision of this title, no air carrier providing air transportation under a certificate issued under this section shall commingle, on the same flight, passengers being transported in interstate, overseas, or foreign charter air transportation with passengers being transported in scheduled interstate, overseas, or foreign air transportation, except that this subsection shall not apply to the carriage of passengers in air transportation under group fare tariffs.". Commingling of passengers.

(b) Paragraph (1) of section 401(n) of the Federal Aviation Act of 1958 (49 U.S.C. 1371(n)(1)) and the authority of the Civil Aeronautics Board with respect to such paragraph shall cease to be in effect on December 31, 1981.

SEC. 27. Section 414 of the Federal Aviation Act of 1958 (49 U.S.C. 1384) is amended by adding at the end thereof the following new

sentence: "Notwithstanding the preceding sentence, on the basis of the findings required by subsection (a)(2)(A)(i) of section 412, the Board shall, as part of any order under such section which approves any contract, agreement, or request or any modification or cancellation thereof, exempt any person affected by such order from the operations of the 'anti-trust laws' set forth in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12) to the extent necessary to enable such person to proceed with the transaction specifically approved by the Board in such order and with those transactions necessarily contemplated by such order.".

"Anti-trust laws."

SEC. 28. Section 45 of the Airline Deregulation Act of 1978 (49 U.S.C. 1341 note) is amended by inserting "(a)" after "SEC. 45." and by adding at the end thereof the following new subsections:

Fee collection.

"(b) Nothing in this section shall prohibit the Secretary of Transportation or the Administrator of the Federal Aviation Administration from collecting a fee, charge, or price for any test, authorization, certificate, permit, or rating, administered or issued outside the United States, relating to any airman or repair station.

"United States."

"(c) For purposes of this section, the term 'United States' shall have the meaning given such term in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301).".

Love Field, Tex.

SEC. 29. (a) Except as provided in subsection (c), notwithstanding any other provision of law, neither the Secretary of Transportation, the Civil Aeronautics Board, nor any other officer or employee of the United States shall issue, reissue, amend, revise, or otherwise modify (either by action or inaction) any certificate or other authority to permit or otherwise authorize any person to provide the transportation of individuals, by air, as a common carrier for compensation or hire between Love Field, Texas, and one or more points outside the State of Texas, except (1) charter air transportation not to exceed ten flights per month, and (2) air transportation provided by commuter airlines operating aircraft with a passenger capacity of 56 passengers or less.

(b) Except as provided in subsections (a) and (c), notwithstanding any other provision of law, or any certificate or other authority heretofore or hereafter issued thereunder, no person shall provide or offer to provide the transportation of individuals, by air, for compensation or hire as a common carrier between Love Field, Texas, and one or more points outside the State of Texas, except that a person providing service to a point outside of Texas from Love Field on November 1, 1979, may continue to provide service to such point.

(c) Subsections (a) and (b) shall not apply with respect to, and it is found consistent with the public convenience and necessity to authorize, transportation of individuals, by air, on a flight between Love Field, Texas, and one or more points within the States of Louisiana, Arkansas, Oklahoma, New Mexico, and Texas by an air carrier, if (1) such air carrier does not offer or provide any through service or ticketing with another air carrier or foreign air carrier, and (2) such air carrier does not offer for sale transportation to or from, and the flight or aircraft does not serve, any point which is outside any such State. Nothing in this subsection shall be construed to give authority not otherwise provided by law to the Secretary of Transportation, the Civil Aeronautics Board, any other officer or employee of the United States, or any other person.

(d) This section shall not take effect if enacted after the enactment of the Aviation Safety and Noise Abatement Act of 1979. Effective date. *Post*, p. 50.

Approved February 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-602 accompanying H.R. 5481 (Comm. on Public Works and Transportation) and No. 96-716 (Comm. of Conference).
SENATE REPORTS: No. 96-329 (Comm. on Commerce, Science, and Transportation) and No. 96-531 (Comm. of Conference).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 29, considered and passed Senate.
Nov. 13, H.R. 5481 considered and passed Senate; passage vacated and S. 1300, amended, passed in lieu.
Vol. 126 (1980): Jan. 31, Senate agreed to conference report.
Feb. 4, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 7 (1980): Feb. 15, Presidential statement.

Public Law 96-193
96th Congress

An Act

Feb. 18, 1980
[H.R. 2440]

To provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to assure continued safety in aviation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Aviation Safety and Noise Abatement Act of 1979".

Aviation Safety and Noise Abatement Act of 1979.
49 USC 2101 note.

TITLE I

Definitions.
49 USC 2101.

SEC. 101. For purposes of this title—

(1) the term "airport" means any air carrier airport whose projects for airport development are eligible for terminal development costs under section 20(b) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1720(b));

(2) the term "airport operator" means any person holding a valid certificate issued pursuant to section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432) to operate an airport; and

(3) the term "Secretary" means the Secretary of Transportation.

Regulations.
49 USC 2102.

SEC. 102. Not later than the last day of the twelfth month which begins after the date of enactment of this Act, the Secretary, after consultation with the Administrator of the Environmental Protection Agency and such other Federal, State, and interstate agencies as he deems appropriate, shall by regulation—

(1) establish a single system of measuring noise, for which there is a highly reliable relationship between projected noise exposure and surveyed reactions of people to noise, to be uniformly applied in measuring the noise at airports and the areas surrounding such airports;

(2) establish a single system for determining the exposure of individuals to noise which results from the operations of an airport and which includes, but is not limited to, noise intensity, duration, frequency, and time of occurrence; and

(3) identify land uses which are normally compatible with various exposures of individuals to noise.

Noise exposure map.
49 USC 2103.

SEC. 103. (a)(1) After the effective date of the regulations promulgated in accordance with section 102 of this title, any airport operator of an airport may submit to the Secretary a noise exposure map, prepared in consultation with any public agencies and planning agencies in the area surrounding such airport, which sets forth, in accordance with the regulations promulgated pursuant to section 102, the noncompatible uses in each area of the map, as of the date of submission of such map, a description of the projected aircraft operations at such airport during 1985, and the ways, if any, in which such operations will affect such map.

Revision.

(2) If, after the submission to the Secretary of a noise exposure map under paragraph (1), any change in the operation of an airport would create any substantial new noncompatible use in any area surround-

ing such airport, the operator of such airport shall submit a revised noise exposure map showing such new noncompatible use.

(b)(1) Section 11 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1711) is amended by renumbering paragraphs (6) through (21), and all references thereto, as paragraphs (7) through (22), respectively, and by adding immediately after paragraph (5) the following new paragraph:

"(6) 'Airport noise compatibility planning' means the development for planning purposes of information necessary to prepare and submit (A) the noise exposure map and related information pursuant to section 103 of the Aviation Safety and Noise Abatement Act of 1979, including any cost associated with obtaining such information, or (B) a noise compatibility program for submission pursuant to section 104 of such Act.". "Airport noise compatibility planning."

Infra.

(2)(A) Section 13(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1713) is amended by— Planning grants.

(i) inserting "(1)" immediately before the first sentence thereof; and

(ii) adding at the end thereof the following new paragraph:

"(2) In order to promote the development of an effective noise compatibility program, for fiscal years beginning after September 30, 1979, the Secretary may make grants of funds for airport noise compatibility planning to sponsors of those air carrier airports whose projects for airport development are eligible for terminal development costs under section 20(b) of this title.". 49 USC 1720.

(B) Section 13(b) of such Act is amended to read as follows: 49 USC 1713.

"(b) AMOUNT AND LIMITATION OF GRANTS.—(1) The award of grants under subsection (a)(1) of this section is subject to the following limitations:

"(A) The total funds obligated for grants under subsection (a)(1) of this section may not exceed $150,000,000, and the amount obligated in any one fiscal year may not exceed $15,000,000.

"(B) The United States share of any airport master planning grant under this section shall be that per centum for which a project for airport development at that airport would be eligible under section 17 of this Act. In the case of any airport system planning grant under this section, the United States share shall be 75 percent. 49 USC 1717.

"(C) No more than 10 percent of the funds made available under subsection (a)(1) of this section in any fiscal year may be allocated for projects within a single State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam. Grants for projects encompassing an area located in two or more States shall be charged to each State in the proportion which the number of square miles the project encompasses in each State bears to the square miles encompassed by the entire project.

"(2)(A) The total funds obligated for grants under subsection (a)(2) of this section may not exceed $15,000,000.

"(B) The United States share of any airport noise compatibility planning grant under this section shall be that percent for which a project for airport development at that airport would be eligible under section 17 of this Act.".

SEC. 104. (a) Any airport operator who has submitted a noise exposure map and the related information pursuant to section 103(a)(1) may, after consultation with the officials of any public agencies and planning agencies in the area surrounding such airport, the Federal officials having local responsibility for such airport, and Noise compatibility program, submission by airport operators. 49 USC 2104.

any air carriers using such airport, submit a noise compatibility program to the Secretary. Such program shall set forth the measures which such operator has taken or proposes for the reduction of existing noncompatible uses and the prevention of the introduction of additional noncompatible uses within the area covered by the noise exposure map submitted by such operator. Such measures may include, but are not limited to—

(1) the implementation of any preferential runway system;

(2) the implementation of any restriction on the use of such airport by any type or class of aircraft based on the noise characteristics of such aircraft;

(3) the construction of barriers and acoustical shielding, including the soundproofing of public buildings;

(4) the use of flight procedures to control the operation of aircraft to reduce exposure of individuals to noise in the area surrounding the airport; and

(5) acquisition of land and interests therein, including, but not limited to, air rights, easements, and development rights, so as to assure the use of property for purposes which are compatible with airport operations.

Criteria for approval or disapproval of program.

(b) The Secretary shall approve or disapprove any program submitted to him pursuant to subsection (a) (other than as such program relates to flight procedures referred to in subsection (a)(4) of this section) within one hundred and eighty days after it is received by him. The Secretary shall approve such program (other than as such program relates to flight procedures referred to in subsection (a)(4) of this section) (A) if the measures to be undertaken in carrying out such program (i) do not create an undue burden on interstate or foreign commerce, and (ii) are reasonably consistent with obtaining the goal of reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses, and (B) if the program provides for its revision made necessary by any revised noise exposure map submitted under section 103(a)(2) of this title. Failure of the Secretary to approve or disapprove such program (other than as such program relates to flight procedures referred to in subsection (a)(4) of this section) within such time period shall be deemed to be an approval of such program. With respect to any part of such program which relates to such flight procedures, the Secretary shall provide such part of such program to the Administrator of the Federal Aviation Administration who shall either approve or disapprove such part of such program.

Flight procedures, submission to FAA.

Incurring of obligations for grants.

Grants, availability.

(c)(1) The Secretary is authorized to incur obligations to make grants under this Act from funds made available under subsection (e) of this section for any project to carry out a noise compatibility program or parts thereof not disapproved under subsection (b) of this section. Grants under this Act may be made to operators of airports submitting noise compatibility programs and to units of local government in the area surrounding such airports if the Secretary determines such units have the capability to carry out projects for which grant applications are made in accordance with such noise compatibility programs. Such airport operator may in turn agree to make the grant available to public agencies in the area surrounding such airports if the Secretary determines such agencies have the capability to carry out projects for which grant applications are made in accordance with such noise compatibility programs. The Federal share of any project for which a grant is made under this subsection shall be 80 percent of the cost of the project. All of the provisions of the Airport and Airway Development Act of 1970 applicable to grants

Federal share.

49 USC 1701 note.

made under that Act (except section 17 of those provisions relating to apportionment) shall be applicable to any grant made under this Act, unless the Secretary determines that any provision of such Act of 1970 is inconsistent with, or unnecessary to carry out, the purposes of this Act.

49 USC 1717.

49 USC 1701 note.

(2) The Secretary, further, is authorized under this section to make grants to operators of airports and to units of local government referred to in paragraph (1) for any project to carry out a noise compatibility program developed prior to the enactment of this Act or the promulgation of its implementing regulations if the Secretary determines that such prior program is substantially consistent with the purposes of reducing existing uses and preventing the introduction of additional noncompatible uses and that the purposes of this Act would be furthered by prompt implementation of such program.

(d) The United States shall not be liable for damages resulting from aviation noise by reason of any action taken by the Secretary or the Administrator of the Federal Aviation Administration under this section.

U.S. liability for damages.

(e) The Secretary shall obligate from funds available for expenditure under section 14(a)(3) of the Airport and Airway Development Act of 1970, not less than $25,000,000, for the fiscal year ending September 30, 1980, for making grants under subsection (c) of this section.

Post, p. 54.

SEC. 105. The Secretary, acting through the Administrator of the Federal Aviation Administration, after consultation with the officials of any public agencies or planning agencies in the area surrounding such airport, shall prepare and publish a noise exposure map and a noise compatibility program for the airport established by the Act of June 29, 1940 (54 Stat. 686), and the airport the construction of which was authorized by the Act of September 7, 1950 (64 Stat. 770). Such map and program shall be prepared and published in accordance with the requirements of this Act no later than 1 year after the effective date of the regulations promulgated in accordance with section 102 of this Act.

Noise exposure map and program, preparation and publication. 49 USC 2105.

SEC. 106. No part of any noise exposure map or related information described in section 103(a) submitted to, or prepared by, the Secretary and no part of the list of land uses identified by the Secretary as land uses which are normally compatible with various exposures of individuals to noise shall be admitted as evidence, or used for any other purpose, in any suit or action seeking damages or other relief for the noise that results from the operation of an airport.

Maps and land use lists, prohibition. 49 USC 2106.

SEC. 107. (a) No person who acquires property or an interest therein after the date of enactment of this Act in an area surrounding an airport with respect to which a noise exposure map has been submitted under section 103 of this title shall be entitled to recover damages with respect to the noise attributable to such airport if such person had actual or constructive knowledge of the existence of such noise exposure map unless, in addition to any other elements for recovery of damages, such person can show that—

Recovery of damage provisions. 49 USC 2107.

(1) a significant change in the type or frequency of aircraft operations at the airport; or

(2) a significant change in the airport layout; or

(3) a significant change in the flight patterns; or

(4) a significant increase in nighttime operations;

occurred after the date of the acquisition of such property or interest therein and that the damages for which recovery is sought have resulted from any such change or increase.

Constructive knowledge.

(b) For purposes of this section, constructive knowledge shall be imputed, at a minimum, to any person who acquires property or an interest therein in an area surrounding an airport after the date of enactment of this Act if—

(1) prior to the date of such acquisition, notice of the existence of a noise exposure map for such area was published at least three times in a newspaper of general circulation in the county in which such property is located; or

(2) a copy of such noise exposure map is furnished to such person at the time of such acquisition.

Study.
49 USC 2108.
Ante, p. 51.

SEC. 108. The Secretary shall study (1) airport noise compatibility planning carried out with grants made under section 13 of the Airport and Airway Development Act of 1970, and (2) airport noise compatibility programs carried out with grants made under this title, to determine to what extent such planning and programs are achieving the goals of reducing existing noncompatible uses of land around airports and preventing the introduction of new noncompatible uses around airports. Not later than January 1, 1981, the Secretary shall submit a report to Congress setting forth the determinations made pursuant to such studies together with legislative recommendations, if any, which the Secretary determines necessary.

Report to Congress.

TITLE II

SEC. 201. (a) Paragraph (3) of subsection (a) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714) is amended by striking out "$525,000,000 for fiscal year 1980." and inserting in lieu thereof "$569,000,000 for fiscal year 1980.".

(b) Paragraph (4) of subsection (a) of section 14 of the Airport and Airway Development Act of 1970 is amended by striking out "$85,000,000 for fiscal year 1980." and inserting in lieu thereof "$98,000,000 for fiscal year 1980.".

Repeal.

(c) The last sentence of paragraph (2) of subsection (b) of section 14 of the Airport and Airway Development Act of 1970 is hereby repealed.

Obligation or expenditure, reduction of available amount.

(d) Subsection (e) of section 14 of the Airport and Airway Development Act of 1970 is amended by adding at the end thereof the following new sentence: "If in fiscal year 1980, or in any subsequent fiscal year, the total amount obligated under subsection (c) of this section in such fiscal year is less than the minimum amount made available for obligation under such subsection for such fiscal year, the amount available for obligation or expenditure as determined under the preceding sentence of this subsection shall be reduced by an amount equal to the difference between the amount made available under subsection (c) for such fiscal year and the total amount obligated under such subsection (c) for such fiscal year.".

(e) Subsections (a), (c), and (d) of section 14 of the Airport and Airway Development Act of 1970 are amended by inserting the phrase "or more than" immediately after the words "not less than" each time those words appear therein.

Apportionment of funds.

SEC. 202. (a) Paragraph (4) of subsection (a) of section 15 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1715(a)(4)) is amended by striking out "and minus $15,000,000 in the case of each of the fiscal years 1977 through 1980," and inserting in lieu thereof "and minus $15,000,000 in the case of fiscal years 1977 through 1979, and minus $20,000,000 in the case of fiscal year 1980,".

(b) Paragraph (4) of subsection (a) of section 15 of the Airport and Airway Development Act of 1970 is further amended by striking out

"and $15,000,000 of the amount made available for each of the other fiscal years" and inserting in lieu thereof "$15,000,000 of the amount made available for each of the fiscal years 1977 through 1979, and $20,000,000 of the amount made available for fiscal year 1980".

Project costs.

SEC. 203. Paragraph (2)(A) of subsection (a) of section 17 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1717) is amended by striking out "1980," and inserting in lieu thereof "shall be 90 per centum of the allowable project costs in the case of grants from funds for fiscal year 1980,".

Trust fund amounts, availability.

SEC. 204. Subparagraph (A) of section 208(f)(1) of the Airport and Airway Revenue Act of 1970, as amended (49 U.S.C. 1742(f)(1)(A)) is amended by striking out all after "1976" and inserting in lieu thereof "or of the Aviation Safety and Noise Abatement Act of 1979 (as such Acts were in effect on the date of enactment of the Aviation Safety and Noise Abatement Act of 1979);".

Airport development projects, approval. Environmental impact statement, waiver.

SEC. 205. Subsection (c) of section 16 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1716(c)) is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of law, the Secretary may approve an application for an airport development project (other than an airport development project to which subsection (d)(1) applies) at an existing airport without requiring the preparation of an environmental impact statement with respect to noise for such project if:

"(A) completion of the project would allow existing aircraft operations at the airport that involve aircraft that do not comply with the noise standards prescribed for 'stage 2' aircraft in 14 CFR 36.1 to be replaced by aircraft operations involving aircraft that do comply with such standards;

"(B) the project complies with all other statutory and administrative requirements imposed under this Act.".

SEC. 206. Part II of the Airport and Airway Development Act of 1970 (49 U.S.C. 1711 et seq.) is amended by adding at the end thereof the following new section:

Airport development project, approval. 49 USC 1731.

"SEC. 31. Notwithstanding any other provision of this title, no airport development project involving the construction or extension of any runway may be approved by the Secretary at any general aviation airport located astride a line separating two counties within a single State if, before the submission of such project to the Secretary, such project has not been approved by the governing body of any village incorporated under the laws of that State which is located entirely within five miles of the nearest boundary of such airport.".

TITLE III

DEFINITIONS

49 USC 2121.

SEC. 301. For purposes of this title—

(1) the term "noncomplying aircraft" means any civil subsonic turbojet powered aircraft (A) which (i) has a maximum certificated takeoff weight of 75,000 pounds or more, and (ii) in the case of an aircraft registered in the United States, has a standard airworthiness certificate issued pursuant to section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423), and (B) which does not comply with the ncise standards prescribed for new subsonic aircraft in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14

CFR part 36), as such regulations were in effect on January 1, 1977; and

(2) the term "Secretary" means the Secretary of Transportation.

COMPLIANCE FOR INTERNATIONAL CARRIERS

Rulemaking. 49 USC 2122.

SEC. 302. (a) If, by January 1, 1980, the International Civil Aviation Organization (hereafter referred to as "ICAO") does not reach an agreement (1) which adopts the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977, or (2) on noise standards and an international schedule for compliance with ICAO Noise Standards (annex 16) which are substantially compatible with the standards set forth in such regulations issued by the Secretary (14 CFR parts 36 and 91), the Secretary, acting through the Administrator, shall commence a rulemaking to require all air carriers and foreign air carriers engaging in foreign air transportation to comply with the noise standards set forth in such regulations (14 CFR parts 36 and 91) or with ICAO Noise Standards (annex 16) which are substantially compatible with the standards set forth in such regulations issued by the Secretary (14 CFR parts 36 and 91) during the 5-year period thereafter, at a phased rate of compliance similar to that in effect for aircraft registered in the United States. The requirement applied to air carriers engaging in foreign air transportation shall not be more stringent than those applied to foreign air carriers. Such rulemaking shall be concluded within 120 days.

Termination.

Rulemaking.

(b) If, prior to January 1, 1980, the International Civil Aviation Organization reaches an agreement on noise standards that complies with clause (a)(1) or (a)(2) of this section, the Secretary, acting through the Administrator of the Federal Aviation Administration, shall immediately commence a rulemaking to require all air carriers and foreign air carriers engaging in foreign air transportation to comply with the noise standards set forth in such agreement at a phased rate of compliance similar to that in effect for aircraft registered in the United States. The requirement applied to air carriers engaging in foreign air transportation shall not be more stringent than those applied to foreign air carriers. Such rulemaking shall be concluded within 120 days.

Termination.

NEW TECHNOLOGY AIRCRAFT INCENTIVE

Noncomplying three-engine aircrafts; noise standards, exemption. 49 USC 2123.

SEC. 303. (a) The Secretary shall provide an exemption from applicable noise standards to permit the operation of any noncomplying three-engine aircraft, but not beyond January 1, 1985, if (1) the operator of such aircraft has a plan for the replacement of such aircraft which has been approved by the Secretary, and (2) the operator of such aircraft has entered into a binding contract by January 1, 1983, for delivery prior to January 1, 1985, of a replacement aircraft which meets, at a minimum, the noise standards for new type certificated aircraft set forth in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration, on March 2, 1978 (F.R. Vol. 43, p. 8722, et seq.).

14 CFR Part 36.

Noncomplying two-engine aircrafts; noise standards, exemption.

(b) The Secretary shall provide an exemption from applicable noise standards to permit the operation of any noncomplying two-engine aircraft, but not beyond January 1, 1986, if (1) the operator of such aircraft has a plan for the replacement of such aircraft which has

been approved by the Secretary, and (2) the operator of such aircraft has entered into a binding contract by January 1, 1983, for delivery prior to January 1, 1986, of a replacement aircraft which meets, at a minimum, the noise standards for new type certificated aircraft set forth in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration, on March 2, 1978 (F.R. Vol. 43, p. 8722, et seq.). 14 CFR 36.

SMALL COMMUNITY SERVICE EXEMPTION

SEC. 304. (a) The Secretary shall provide an exemption from applicable noise standards to any person operating a noncomplying two-engine aircraft to permit such person to operate such aircraft. 49 USC 2124.

(b) Any exemption issued pursuant to this section shall terminate on whichever of the following dates first occurs: Termination.

(1) in the event such operator sells or otherwise disposes of such aircraft to another person on or after January 1, 1983, on the date such aircraft is delivered to such other person;

(2) in the case of an aircraft with a seating configuration of 100 passenger seats or less, on January 1, 1988; or

(3) in the case of an aircraft with a seating configuration of more than 100 passenger seats, on January 1, 1985.

(c) For the purposes of subsection (b) of this section, the seating configuration of an aircraft shall be the seating configuration that existed on such aircraft on December 1, 1979, or such earlier date as the Secretary may establish in individual cases. Seating configuration.

TRADEOFF ALLOWANCE

SEC. 305. Notwithstanding any other provision of law or any rule, regulation, or order issued pursuant thereto, the tradeoff provisions contained in appendix C of part 36 of title 14 of the Code of Federal Regulations shall apply in determining whether any aircraft complies with the provisions of subpart E of part 91 of title 14 of the Code of Federal Regulations. 49 USC 2125. 14 CFR 36. 14 CFR 91.

TITLE IV

SEC. 401. Not later than 90 days after the date of enactment of this Act, and each January 31 thereafter, until implementation of collision avoidance systems in the national air traffic control system, the Secretary of Transportation shall submit to the Congress a report on the status of the development of such systems. Such reports shall set forth proposed timetables for the implementation of such systems. The Secretary of Transportation's report shall include proposals for any legislation needed to implement such systems. Report to Congress. 49 USC 1348 note.

SEC. 402. Section 1112 of the Federal Aviation Act of 1958 is amended to read as follows: 49 USC 1512.

"STATE OR SUBDIVISION INCOME TAX ON COMPENSATION PAID TO INTERSTATE AIR CARRIER EMPLOYEES

"SEC. 1112. (a) No part of the compensation paid by an air carrier to an employee who performs his regularly assigned duties as such an employee on an aircraft in more than one State, shall be subject to the income tax laws of any State or subdivision thereof other than the State or subdivision thereof of such employee's residence and the State or subdivision thereof in which such employee earns more than 50 per centum of the compensation paid by the carrier to such employee.

"(b) For the purposes of subsection (a), an employee shall be deemed to have earned 50 per centum of his compensation in any State or subdivision in which his scheduled flight time in such State or subdivision is more than 50 per centum of his total scheduled flight time in the calendar year while so employed.

"State." "(c) For the purposes of this section the term 'State' also means the District of Columbia and any of the possessions of the United States;

"Compensation." and the term 'compensation' shall mean all moneys received for services rendered by the employee in the performance of his duties and shall include wages and salary.".

49 USC 1301. SEC. 403. That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading

"TITLE XI—MISCELLANEOUS"

is amended by striking the item designated as "Sec. 1112" and inserting in lieu thereof:

"Sec. 1112. State or subdivision income tax on compensation paid to interstate air carrier employees.".

TITLE V

Regulations. 49 USC 1359. SEC. 501. (a) The Administrator of the Federal Aviation Administration (hereinafter referred to as the "Administrator") shall, within 90 days after the date of enactment of this Act, promulgate regulations for airports operated by the Administration to regulate the access to public areas by individuals or by religious and nonprofit organizations (as defined in section 501(c)(3) of the Internal Revenue

26 USC 501. Code of 1954) for the purpose of soliciting funds or distributing materials.

Fund solicitation, permit application. (b) In promulgating regulations under this section the Administrator shall consider requiring any individual or organization described in subsection (a) to submit an application for a permit to engage in the soliciting of funds or the distribution of materials. In considering such an application the Administrator may require that—

(1) a responsible individual representative of the applicant shall be designated to represent the organization,

(2) each individual participating in any solicitation or distribution will display a proper identification approved by the Administrator,

(3) the number of individuals engaged in any solicitation or distribution at any one time shall not exceed a reasonable number, in keeping with the need for free movement in and operation of the airports as provided for by the permit,

(4) the solicitation or distribution be confined to limited areas and times, and

(5) no individual or organization which holds a permit under this section shall be permitted to—

(A) use sound amplification or display signs (other than signs approved by the Administrator);

(B) intentionally interfere with users of the airport;

(C) engage in the use of indecent or obscene remarks or conduct; or

(D) engage in the use of loud, threatening, or abusive language intended to coerce, intimidate or disturb the peace.

Posting of permit. (c)(1) The Administrator shall consider requiring that a copy of a permit (if such is required) be conspicuously posted in the area in which any solicitation or distribution is permitted.

(2) The Administrator shall consider whether revocation of approval for any permit if required and approved under this section should occur for any violation of any rule or regulation promulgated hereunder.

(d) Regulations intended to be promulgated under this section shall be submitted to Congress within 30 days after the date of enactment of this Act. Regulations, submittal to Congress.

SEC. 502. (a) Paragraph (1) of section 902(l) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(l)(1)) is amended to read as follows: Carrying weapons or explosives aboard aircraft.

"(1) With respect to any aircraft in, or intended for operation in air transportation or intrastate air transportation, whoever—

"(A) while aboard, or while attempting to board such aircraft has on or about his person or his property a concealed deadly or dangerous weapon which is, or could be, accessible to such person in flight;

"(B) has placed, attempted to place, or attempted to have placed a loaded firearm aboard such aircraft in baggage or other property which is not accessible to passengers in flight; or

"(C) has on or about his person, or who placed, attempted to place, or attempted to have placed aboard such aircraft any bomb or similar explosive or incendiary device;

shall be fined not more than $1,000 or imprisoned not more than one year, or both.". Penalty.

(b) Paragraph (3) of section 902(l) of the Federal Aviation Act of 1958 is amended— Conditional provisions.

(1) by striking out "This subsection" and by inserting in lieu thereof "Paragraph (1)(A) of this subsection";

(2) by inserting "officers or employees of" before "the Federal Government"; and

(3) by inserting "(other than loaded firearms)" after "persons transporting weapons".

(c) Section 902(l) of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new paragraph:

"(4) For purposes of this subsection—

"(A) the term 'firearm' means any starter gun and any weapon which is designed to or has been converted to expel any projectile by the action of an explosive; and "Firearm."

"(B) the term 'loaded firearm' means any firearm which has a cartridge, a detonator, or powder in the chamber, magazine, cylinder, or clip of such firearm.". "Loaded firearm."

SEC. 503. (a) Except as provided in subsection (c), notwithstanding any other provision of law, neither the Secretary of Transportation, the Civil Aeronautics Board, nor any other officer or employee of the United States shall issue, reissue, amend, revise, or otherwise modify (either by action or inaction) any certificate or other authority to permit or otherwise authorize any person to provide the transportation of individuals, by air, as a common carrier for compensation or hire between Love Field, Texas, and one or more points outside the State of Texas, except (1) charter air transportation not to exceed ten flights per month, and (2) air transportation provided by commuter airlines operating aircraft with a passenger capacity of 56 passengers or less. Certain flights into and from Love Field, Tex.

(b) Except as provided in subsections (a) and (c), notwithstanding any other provision of law, or any certificate or other authority heretofore or hereafter issued thereunder, no person shall provide or offer to provide the transportation of individuals, by air, for compensation or hire as a common carrier between Love Field, Texas, and one or more points outside the State of Texas, except that a person

providing service to a point outside of Texas from Love Field on November 1, 1979, may continue to provide service to such a point.

(c) Subsections (a) and (b) shall not apply with respect to, and it is found consistent with the public convenience and necessity to authorize, transportation of individuals, by air, on a flight between Love Field, Texas, and one or more points within the States of Louisiana, Arkansas, Oklahoma, New Mexico, and Texas by an air carrier, if (1) such air carrier does not offer or provide any through service or ticketing with another air carrier or foreign air carrier, and (2) such air carrier does not offer for sale transportation to or from, and the flight or aircraft does not serve, any point which is outside any such State. Nothing in this subsection shall be construed to give authority not otherwise provided by law to the Secretary of Transportation, the Civil Aeronautics Board, any other officer or employee of the United States, or any other person.

Effective date. *Ante*, p. 35.

(d) This section shall not take effect if enacted after the enactment of the International Air Transportation Competition Act of 1979.

Approved February 18, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-475 (Comm. on Public Works and Transportation); No. 96-203, pt. 1 (Comm. on Public Works and Transportation) and No. 96-203, pt. 2 (Comm. on Interstate and Foreign Commerce), both accompanying H.R. 3942; and 96-715 (Comm. of Conference).

SENATE REPORT No. 96-52 accompanying S. 413 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Apr. 10, May 1, S. 413 considered and passed Senate.
Oct. 22, H.R. 2440 considered and passed House; passed Senate, amended, in lieu of S. 413.

Vol. 126 (1980): Jan. 31, House agreed to conference report.
Feb. 5, Senate agreed to conference report.

Public Law 96-195
96th Congress

An Act

To extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance.

Feb. 25, 1980
[S. 1452]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1214 of the Merchant Marine Act, 1936 (46 U.S.C. 1294), is amended by striking "September 30, 1979" and inserting in lieu thereof "September 30, 1984".

Merchant Marine Act, 1936, amendment.

Approved February 25, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-738 accompanying H.R. 5784 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-550 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Jan. 25, considered and passed Senate.
Feb. 11, considered and passed House, in lieu of H.R. 5784.

79-194 O—81—pt. 1——8 : QL3

Public Law 96-196
96th Congress

Joint Resolution

Feb. 28, 1980
[H.J. Res. 469]

Designating February 19, 1980, as "Iwo Jima Commemoration Day".

Whereas the battle of Iwo Jima produced the most famous and lasting symbol of the courage and resolute determination that brought victory to the Armed Forces of the United States during World War II; and

Whereas the battle of Iwo Jima was a military victory critical to the assault on Japan, providing a base for American fighter escorts and a way station for bombers raiding Japan; and

Whereas the invasion of Iwo Jima cost five thousand nine hundred and thirty-one American lives and seventeen thousand two hundred and seventy-two casualties; and

Whereas the 19th of February 1980 marks the thirty-fifth anniversary of the invasion of Iwo Jima: Now, therefore, be it

Iwo Jima Commemoration Day. Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 19, 1980, is designated as "Iwo Jima Commemoration Day" and the President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved February 28, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-573 accompanying S.J: Res. 140 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 13, considered and passed House.
Feb. 19, considered and passed Senate in lieu of S.J. Res. 140.

Public Law 96-197
96th Congress

Joint Resolution

To authorize and request the President to issue a proclamation honoring the memory of Walt Disney on the twenty-fifth anniversary of his contribution to the American dream.

Feb. 28, 1980
[H.J. Res. 477]

Whereas the name of Walt Disney is synonymous with love of children, the joy and freedom of youth, and the strength of the family bond; and

Whereas twenty-five years ago, Walt Disney made tangible these most basic and cherished values in a magic land where age relives fond memories of the past and youth may savor the challenge and promises of the future; and

Whereas Walt Disney's dream embodies the ideals, the hopes, and the hard work that have created America; and

Whereas this embodiment contributes to the international understanding of American life and purpose; and

Whereas official recognition of Walt Disney and his dream-come-true will enhance the United States, nationally and internationally, as a land where wholesome family pastimes are both encouraged and enjoyed; and

Whereas the silver anniversary of Walt Disney's creation makes appropriate a salute to its creator: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation honoring the memory of Walt Disney on the twenty-fifth anniversary of his contribution to the American dream.

Walt Disney, twenty-fifth anniversary. Designation authorization.

Approved February 28, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 13, considered and passed House.
Feb. 18, considered and passed Senate.

Public Law 96-198
96th Congress

Joint Resolution

Mar. 5, 1980
[H.J. Res. 267]

To provide for designation of Friday, March 7, 1980, as "Teacher Day, United States of America".

Whereas teachers, through education of the young, provide both the foundation of modern civilization and the means for enhancing the lives of all members of society; and

Whereas the personal inspiration and enrichment which students receive from their teachers extend far beyond the few years spent in the classroom to exert a valuable lifelong influence on the young people of this Nation, and through them, on all of our citizens; and

Whereas teachers richly deserve individual recognition, honor, and encouragement for their dedication and excellence in the pursuit of their profession; and such recognition, honor, and encouragement should be bestowed each year on a nationwide basis; and

Whereas students, parents, school administrators, and all other citizens of the United States should be encouraged to personally communicate by word and deed to their present and former teachers, the special appreciation and recognition that teachers so richly deserve: Now, therefore, be it

Teacher Day, United States of America. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating Friday, March 7, 1980, as "Teacher Day, United States of America", and inviting the people of the United States to observe the period with appropriate activities.

Approved March 5, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-576 accompanying S.J. Res. 135 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 25, considered and passed House.
Feb. 26, S.J. Res. 135 considered and passed Senate.
Feb. 27, Senate vitiated passage of S.J. Res. 135; H.J. Res. 267 passed in lieu.

Public Law 96-199
96th Congress

An Act

To establish the Channel Islands National Park, and for other purposes.

Mar. 5, 1980
[H.R. 3757]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Parks and Recreation Act of 1978, amendment.

TITLE I

SEC. 101. The National Parks and Recreation Act of 1978, approved November 10, 1978 (92 Stat. 3467), is amended as follows:

16 USC 1 note.

(a) Section 318, re: Point Reyes National Seashore is amended by:

Point Reyes National Seashore, area description.

(1) in subsection (a), change the period following "May 1978" to a comma and insert "plus those areas depicted on the map entitled 'Point Reyes and GGNRA Amendments, dated October 25, 1979'.";

16 USC 459c-1.

(2) in subsection (b), changing the word "The" at the beginning of section 5(a) to "Except for property which the Secretary specifically determines is needed for interpretive or resources management purposes of the seashore, the";

16 USC 459c-5.

(3) in subsection (c), after "May 1, 1978", inserting "or, in the case of areas added by action of the Ninety-sixth Congress, May 1, 1979", and at the end of the subsection, following the word "property", inserting "that were in existence or under construction as of May 1, 1978";

(4) in subsection (d), changing the phrase "subsection (c)" to read "subsections (c), (d), and (e)" and adding the following at the end thereof:

Lands and improvements, acceptance and management.

"(d) The Secretary is authorized to accept and manage in accordance with this Act, any lands and improvements within or adjacent to the seashore which are donated by the State of California or its political subdivisions. He is directed to accept any such lands offered for donation which comprise the Tomales Bay State Park, or lie between said park and Fish Hatchery Creek. The boundaries of the seashore shall be changed to include any such donated lands.

"(e) Notwithstanding any other provision of law, no fee or admission charge may be levied for admission of the general public to the seashore.";

(5) adding a new subsection (f) as follows:

Appropriation authorization.
16 USC 459c-7.

"(f) Section 9 of such Act is amended by adding at the end thereof: 'In addition to the sums heretofore authorized by this section, there is further authorized to be appropriated $5,000,000 for the acquisition of lands or interests therein.'.".

(b) Section 551, re: the National Trails System Act is amended by:

North Country National Scenic Trail.
16 USC 1244.

(1) in paragraph (9), add the following at the end thereof:

"(8) The North Country National Scenic Trail, a trail of approximately thirty-two hundred miles, extending from eastern New York State to the vicinity of Lake Sakakawea in North Dakota, following the approximate route depicted on the map identified as 'Proposed North Country Trail-Vicinity Map' in the Department of the Interior 'North Country Trail Report', dated June 1975. The map shall be on

Administration.

file and available for public inspection in the office of the Director, National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.";

16 USC 1244.

(2) in paragraph (15), subsection (e), delete the "," after Continental Divide National Scenic Trail, and insert "and the North Country National Scenic Trail,";

(3) in paragraph (15), subsection (f), after the phrase "Continental Divide National Scenic Trail", insert "or the North Country National Scenic Trail";

16 USC 1249.

(4) in paragraph (23), revise subsection (c) to read as follows:

Appropriation authorization.

"(c) There is hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this Act relating to the trails designated by paragraphs 5(a) (3), (4), (5), (6), (7), and (8): *Provided,* That no such funds are authorized to be appropriated prior to October 1, 1978: *And provided further,* That notwithstanding any other provisions of this Act or any other provisions of law, no funds may be expended by Federal agencies for the acquisition of lands or interests in lands outside the exterior boundaries of existing Federal areas for the Continental Divide National Scenic Trail, the North Country National Scenic Trail, the Oregon National Historic Trail, the Mormon Pioneer National Historic Trail, the Lewis and Clark National Historic Trail, and the Iditarod National Historic Trail.".

16 USC 410y-1a.

(c) Section 320, re: Chesapeake and Ohio Canal National Historical Park, is amended by changing the colon following the word "acres" to a period, and by deleting the proviso in its entirety.

SEC. 102. The Wild and Scenic Rivers Act of 1968 (82 Stat. 906), as amended (16 U.S.C. 1271), is further amended—

16 USC 1276.

(a) in section 5(a) by adding the following new clause at the end thereof:

"(76) Birch, West Virginia: The main stem from the Cora Brown Bridge in Nicholas County to the confluence of the river with the Elk River in Braxton County.".

(b) in section 5(b) by deleting "(75)" and inserting "(76)".

Revised boundary map.

SEC. 103. The Act of October 27, 1972 (86 Stat. 1299), as amended (16 U.S.C. 459), is further amended as follows:

16 USC 460bb.
16 USC 460bb-1.

(a) In subsection 2(a), change the period following "October 1978" to a comma and insert "plus those areas depicted on the map entitled 'Point Reyes and GGNRA Amendments and dated October 25, 1979.'".

16 USC 460bb-5.

(b) In section 6, after "$61,610,000" insert "plus $15,500,000", after "herein", insert "said total development ceiling to be reduced by $10,000,000".

Report and annual listing.

SEC. 104. The Act of August 18, 1970 (84 Stat. 825), as amended, is further amended as follows:

16 USC 1a-5.

(a) In section 8 near the end thereof, delete the sentence "Each report and annual listing shall be printed as a House document.", and insert in lieu the following: "Each report and annual listing shall be printed as a House document: *Provided,* That should adequate supplies of previously printed identical reports remain available, newly submitted identical reports shall be omitted from printing upon the receipt by the Speaker of the United States House of Representatives of a joint letter from the chairman of the Committee on Interior and Insular Affairs of the United States House of Representatives and the chairman of the Committee on Energy and Natural Resources of the United States Senate indicating such to be the case."; and

(b) Insert "(a)" after "SEC. 8." and add a new subsection (b) as follows:

"(b) Within six months of the date of enactment of this subsection, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive, 'National Park System Plan', which document shall constitute a professional guide for the identification of natural and historic themes of the United States, and from which candidate areas can be identified and selected to constitute units of the National Park System. Such plan shall be revised and updated annually.". National Park System Plan, submitttal to congressional committees.

SEC. 105. (a) The Secretary of the Interior is authorized to revise the boundaries of the following units of the National Park System: Boundary revisions.

(1) Carl Sandburg Home National Historic Site, North Carolina: to add approximately seventeen acres.

(2) Chickamauga and Chattanooga National Military Park, Georgia and Tennessee: to add approximately one acre.

(3) Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia: to add approximately twenty acres.

(b) Sections 302, 303, and 304 of the National Parks and Recreation Act of 1978 (92 Stat. 3467) shall be applicable to the boundary revisions authorized in subsection (a) of this section, except that for the purposes of this section, the date of enactment referred to in section 302 of such Act shall be deemed to be the date of enactment of this section.

(c) For the purposes of acquiring the lands and interests in lands added to the units referred to in subsection (a), there are authorized to be appropriated from the Land and Water Conservation Fund such sums as may be necessary, but not to exceed $304,000 for Chickamauga and Chattanooga National Military Park and not to exceed $234,000 for Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park. Appropriation authorization.

SEC. 106. The Secretary of the Interior is authorized and directed to take such measures as may be necessary to provide for the continued protection of the historic Palmer's Chapel in the Cataloochee Valley of the Great Smoky Mountains National Park. The importance of the chapel in memorializing the early settlement of the valley and in providing an opportunity for interpreting the cultural traditions of the former residents of the valley is hereby recognized, and the Secretary is authorized to make suitable arrangements for the history of the chapel to be communicated to park visitors and for the chapel to continue to be used for memorial purposes by former residents and their descendants. Palmer's Chapel, continued protection. 16 USC 403k-3.

SEC. 107. Section 304(a) of the Act of October 21, 1976 (90 Stat. 2732), is amended by inserting after "to the jurisdiction of the" the following: "Secretary of the Army, the land under the jurisdiction of the".

SEC. 108. The Act of June 30, 1944 (58 Stat. 645), as amended (16 U.S.C. 450bb), is further amended (1) by changing "Boundary Map, Harpers Ferry National Historical Park", numbered 385-40,000D and dated April 1974 to "Boundary Map, Harpers Ferry National Historical Park", numbered 385-80,021A and dated April 1979 and changing "two thousand acres" to "two thousand four hundred and seventy-five acres" in the first section; and (2) by changing "$1,300,000" to "$1,600,000" in section 4. Boundary Map, Harpers Ferry National Historical Park. 16 USC 450bb note.

SEC. 109. Subsection 5(b) of the Act of October 13, 1964 (78 Stat. 1087), an Act "To authorize the Secretary of the Interior to cooperate with the State of Wisconsin in the designation and administration of the Ice Age National Scientific Reserve in the State of Wisconsin, and Ice Age National Scientific Reserve, Wis., grants. 16 USC 469h.

for other purposes", as amended (16 U.S.C. 469h), is further amended by changing "$425,000" to "$2,500,000".

Appropriation authorization. 16 USC 251m.

SEC. 110. Section 320 of the Act of October 21, 1976 (90 Stat. 2732), is amended in subsection (j) by changing "$13,000,000" to "$23,700,000".

16 USC 459d-7.

SEC. 111. Paragraph (13) of section 101 of the Act entitled "An Act to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, and for other purposes", approved October 21, 1976 (90 Stat. 2732, 2733), is amended by changing the period to a semicolon and inserting the following thereafter: "the Secretary of the Interior is authorized to revise the boundary of the seashore to add approximately two hundred and seventy-four acres and to delete approximately two thousand acres, and sections 302 and 303 of the Act of April 11, 1972 (86 Stat. 120, 121), shall apply to the boundary revision authorized herein.".

16 USC 459d-1 note.

Fort Saint Jean Baptiste de Natchitoches, La.

SEC. 112. (a) In order to commemorate the first European settlement in Louisiana, Fort Saint Jean Baptiste de Natchitoches (hereinafter called the "fort"), the Secretary is authorized to render the State of Louisiana such assistance, in the form of technical advice, grants of funds for land acquisition and development, and other help necessary to reconstruct the fort: *Provided,* That no funds shall be expended for reconstruction unless the Secretary determines that such reconstruction can be based on historical documentation.

Agreements with the State of Louisiana.

(b) The Secretary is authorized to enter into a cooperative agreement with the State of Louisiana and affected local governmental authorities which agreement shall include but not limited to—

(1) assurances that the State of Louisiana shall operate and maintain the fort as a public area;

(2) assurances that the State of Louisiana shall incur all operation and maintenance costs;

(3) assurances by the State of Louisiana that they will manage the fort consistent with its historic character; and

(4) authority for the Secretary to obtain reimbursement from or offset against the State of Louisiana of all Federal funds previously granted under this section, including subsequent violation of paragraph (3) of this subsection.

Appropriation authorization.

(c) There is hereby authorized to be appropriated not to exceed $2,813,000 for the purposes of this section: *Provided,* That the Secretary may expend not to exceed 75 per centum of the total cost incurred in the reconstruction of the fort.

Memorial in Washington D.C. for USN men and women.

SEC. 113. (a) The United States Navy Memorial Foundation is authorized to erect a memorial on public grounds in the District of Columbia in honor and in commemoration of the men and women of the United States Navy who have served their country in war and peace.

16 USC 431 note.

(b)(1) The Secretary is authorized and directed to select, with the approval of the National Commission of Fine Arts and the National Capital Planning Commission, a suitable site on public grounds of the United States, in the District of Columbia or on such grounds principally serving as a site for national monuments along the Potomac River in Northern Virginia, upon which may be erected the memorial authorized in subsection (a).

(2) The design and plans for such memorial shall be subject to the approval of the Secretary, the National Commission of Fine Arts, and the National Capital Planning Commission.

(3) Other than as to the land authorized for the erection of the memorial in paragraph (1) of this subsection, neither the United States nor the District of Columbia shall be put to any expense in the erection of this memorial.

(c) The authority conferred pursuant to this section shall lapse unless (1) the erection of such memorial is commenced within five years from the date of enactment of this section, and (2) prior to its commencement funds are certified available in an amount sufficient, in the judgment of the Secretary to insure completion of the memorial.

(d) The maintenance and care of the memorial erected under the provisions of this section shall be the responsibility of the Secretary. Maintenance and care.

SEC. 114. Section 206 of the Act of October 15, 1966 (80 Stat. 915), is amended by deleting all of subsection 6(c) and inserting in lieu thereof the following: 16 USC 470n.

"(c) For the purposes of this section there is authorized to be appropriated an amount equal to the assessment for United States membership in the Centre for fiscal years 1979, 1980, 1981, and 1982: *Provided,* That no appropriation is authorized and no payment shall be made to the Centre in excess of 25 per centum of the total annual assessment of such organization. Authorization for payment of such assessments shall begin in fiscal year 1981, but shall include earlier costs.". Appropriation authorization.

SEC. 115. (a) The Secretary of the Interior is authorized to revise the boundary of the Saratoga National Historic Park to add approximately one hundred and forty-seven acres. 16 USC 159e.

(b) For the purposes of acquiring land and interest in land added to the unit referred to in subsection (a) there are authorized to be appropriated from the Land and Water Conservation Fund such sums as may be necessary but not to exceed $74,000 for Saratoga National Historic Park. Appropriation authorization.

SEC. 116. The Secretary of the Interior shall designate the David Berger Memorial located at the Jewish Community Center in Cleveland Heights, Ohio, as a national memorial. The significance of the memorial in preserving the memory of the eleven Israeli athletes who were assassinated at the Olympic games in Munich, Germany, in 1972 is, by this designation, recognized by the Congress. David Berger Memorial, Cleveland, Ohio, designation. 16 USC 431 note.

SEC. 117. The Secretary of the Interior is authorized to acquire by purchase with donated or appropriated funds not to exceed two and one-half acres of land and submerged lands, waters, or interest therein, at Charleston, South Carolina, known generally as the Fleet Landing Site, for purposes of a mainland tour boat facility for access to Fort Sumter National Monument. Property so acquired shall be administered as a part of Fort Sumter National Monument. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section. Fleet Landing site, Charleston, S.C., acquisition. Appropriation authorization.

SEC. 118. Subsection 507(q) of the Act of November 10, 1978 (92 Stat. 3506) is amended in clause (2)(E) by changing "5" to "9". 16 USC 460kk.

SEC. 119. (a) In order to protect the unique scenic, scientific, educational, and recreational values of certain lands in and around Yaquina Head, in Lincoln County, Oregon, there is hereby established, subject to valid existing rights, the Yaquina Head Outstanding Natural Area (hereinafter referred to as the "area"). The boundaries of the area are those shown on the map entitled "Yaquina Head Area", dated July 1979, which shall be on file and available for public inspection in the Office of the Director, Bureau of Land Management, United States Department of the Interior, and the State Office of the Bureau of Land Management in the State of Oregon. Yaquina Head Outstanding Natural Area, Oreg., establishment. 43 USC 1783.

(b)(1) The Secretary of the Interior (hereinafter referred to as the "Secretary") shall administer the Yaquina Head Outstanding Natural Area in accordance with the laws and regulations applicable to the public lands as defined in section 103(e) of the Federal Land Administration.

Policy and Management Act of 1976, as amended (43 U.S.C. 1702), in such a manner as will best provide for—

(A) the conservation and development of the scenic, natural, and historic values of the area;

(B) the continued use of the area for purposes of education, scientific study, and public recreation which do not substantially impair the purposes for which the area is established; and

(C) protection of the wildlife habitat of the area.

Management plan, development.

(2) The Secretary shall develop a management plan for the area which accomplishes the purposes and is consistent with the provisions of this section. This plan shall be developed in accordance with the provisions of section 202 of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1712).

Quarrying of materials, permits and contracts.

(3) Notwithstanding any other provision of this section, the Secretary is authorized to issue permits or to contract for the quarrying of materials from the area in accordance with the management plan for the area on condition that the lands be reclaimed and restored to the satisfaction of the Secretary. Such authorization to quarry shall require payment of fair market value for the materials to be quarried, as established by the Secretary, and shall also include any terms and conditions which the Secretary determines necessary to protect the values of such quarry lands for purposes of this section.

Reservation of lands for lighthouse purposes, revocation.

(c) The reservation of lands for lighthouse purposes made by Executive order of June 8, 1866, of certain lands totaling approximately 18.1 acres, as depicted on the map referred to in subsection 119(a), is hereby revoked. The lands referred to in subsection 119(a) are hereby restored to the status of public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1702), and shall be administered in accordance with the management plan for the area developed pursuant to subsection 119(b), except that such lands are hereby withdrawn from settlement, sale, location, or entry, under the public land laws, including the mining laws (30 U.S.C., ch. 2), leasing under the mineral leasing laws (30 U.S.C. 181 et seq.), and disposals under the Materials Act of July 31, 1947, as amended (30 U.S.C. 601, 602).

39 USC 21 *et seq.*

(d) The Secretary shall, as soon as possible but in no event later than twenty-four months following the date of the enactment of this section, acquire by purchase, exchange, donation, or condemnation all or any part of the lands and waters and interests in lands and waters within the area referred to in subsection 119(a) which are not in Federal ownership except that State land shall not be acquired by purchase or condemnation. Any lands or interests acquired by the Secretary pursuant to this section shall become public lands as defined in the Federal Land Policy and Management Act of 1976, as amended. Upon acquisition by the United States, such lands are automatically withdrawn under the provisions of subsection 119(c) except that lands affected by quarrying operations in the area shall be subject to disposals under the Materials Act of July 31, 1947, as amended (30 U.S.C. 601, 602). Any lands acquired pursuant to this subsection shall be administered in accordance with the management plan for the area developed pursuant to subsection 119(b).

43 USC 1702.

Administration.

Wind energy research, study.

(e) The Secretary is authorized to conduct a study relating to the use of lands in the area for purposes of wind energy research. If the Secretary determines after such study that the conduct of wind energy research activity will not substantially impair the values of the lands in the area for purposes of this section, the Secretary is further authorized to issue permits for the use of such lands as a site for installation and field testing of an experimental wind turbine

generating system. Any permit issued pursuant to this subsection shall contain such terms and conditions as the Secretary determines necessary to protect the values of such lands for purposes of this section.

Terms and conditions.

(f) The Secretary shall develop and administer, in addition to any requirements imposed pursuant to paragraph 119(b)(3), a program for the reclamation and restoration of all lands affected by quarrying operations in the area acquired pursuant to subsection 119(d). All revenues received by the United States in connection with quarrying operations authorized by paragraph 119(b)(3) shall be deposited in a separate fund account which shall be established by the Secretary of the Treasury. Such revenues are hereby authorized to be appropriated to the Secretary as needed for reclamation and restoration of any lands acquired pursuant to subsection 119(d). After completion of such reclamation and restoration to the satisfaction of the Secretary, any unexpended revenues in such fund shall be returned to the general fund of the United States Treasury.

Development and administration.

Appropriation authorization.

(g) There are hereby authorized to be appropriated in addition to that authorized by subsection 119(f), such sums as may be necessary to carry out the provisions of this section.

Appropriation authorization.

SEC. 120. (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to conduct a survey of sites which he deems exhibit qualities most appropriate for the commemoration of each former President of the United States. The survey may include sites associated with the deeds, leadership, or lifework of a former President, and it may identify sites or structures historically unrelated to a former President but which may be suitable as a memorial to honor such President.

Presidential monument sites, survey.
16 USC 467b.

(b) The Secretary shall, from time to time, prepare and transmit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate reports on individual sites and structures identified in the survey referred to in subsection (a), together with his recommendation as to whether such site or structure is suitable for establishment as a national historic site or national memorial to commemorate a former President. Each such report shall include pertinent information with respect to the need for acquisition of lands and interests therein, the development of facilities, and the operation and maintenance of the site or structure and the estimated cost thereof. If during the six-month period following the transmittal of a report pursuant to this subsection neither Committee has by vote of a majority of its members disapproved a recommendation of the Secretary that a site or structure is suitable for establishment as a national historic site, the Secretary may thereafter by appropriate order establish the same as a national historic site, including the lands and interests therein identified in the report accompanying his recommendation. The Secretary may acquire the lands and interests therein by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, and he shall administer the site in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended.

Individual sites and structures; report to congressional committees.

16 USC 1-4, 22, 43.
16 USC 450m, 450n.

(c) Nothing in this section shall be construed as diminishing the authority of the Secretary under the Act of August 21, 1935 (49 Stat. 666), as amended, or as authorizing the Secretary to establish any national memorial, creation of which is hereby expressly reserved to the Congress.

Appropriation authorization.

(d) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 121. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1980. Notwithstanding any other provisions of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

TITLE II

Channel Islands National Park, Calif. Establishment. 16 USC 410ff.

SEC. 201. In order to protect the nationally significant natural, scenic, wildlife, marine, ecological, archaeological, cultural, and scientific values of the Channel Islands in the State of California, including, but not limited to, the following:

(1) the brown pelican nesting area;

(2) the undisturbed tide pools providing species diversity unique to the eastern Pacific coast;

(3) the pinnipeds which breed and pup almost exclusively on the Channel Islands, including the only breeding colony for northern fur seals south of Alaska;

(4) the Eolian landforms and caliche;

(5) the presumed burial place of Juan Rodriquez Cabrillo; and

(6) the archaeological evidence of substantial populations of Native Americans;

there is hereby established the Channel Islands National Park, the boundaries of which shall include San Miguel and Prince Islands, Santa Rosa, Santa Cruz, Anacapa, and Santa Barbara Islands, including the rocks, islets, submerged lands, and waters within one nautical mile of each island, as depicted on the map entitled, "Proposed Channel Islands National Park" numbered 159-20,008 and dated April 1979, which shall be on file and available for public inspection in the offices of the Superintendent of the park and the Director of the National Park Service, Department of the Interior. The Channel Islands National Monument is hereby abolished as such, and the lands, waters, and interests therein withdrawn or reserved for the monument are hereby incorporated within and made a part of the new Channel Islands National Park.

Channel Islands National Monument. Abolishment.

16 USC 410ff-1.

SEC. 202. (a) Within the boundaries of the park as established in section 201, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire lands, waters, or interests therein (including but not limited to scenic easements) by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange, or otherwise. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of any right retained by the owner. Any lands, waters, or interests therein owned by the State of California or any political subdivision thereof shall not be acquired. Notwithstanding any other provision of law, Federal property located within the boundaries of the park shall with the concurrence of the head of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary for the purposes of the park: *Provided,* That the Secretary shall permit the use of federally owned park lands and waters which (i) have been transferred from another Federal agency pursuant to this section or which (ii) were the subject of a lease or permit issued by a Federal agency as of the date of enactment of this title, for essential national security missions and

California lands or interests, exemption.

for navigational aids, subject to such terms and conditions as the Secretary deems necessary to protect park resources.

Nature Conservancy Lands, acquisition.

(b) Notwithstanding the acquisition authority contained in subsection 202(a), any lands, waters, or interests therein, which are owned wholly or in part, by or which hereafter may be owned by, or under option to, the National Park Foundation, The Nature Conservancy (including any lands, waters, or interests therein which are designated as "Nature Conservancy Lands" on the map referred to in section 201 of this title) or any similar national, nonprofit conservation organization, or an affiliate or subsidiary thereof shall be acquired only with the consent of the owner thereof: *Provided,* That the Secretary may acquire such property in accordance with the provisions of this Act if he determines that the property is undergoing or is about to undergo a change in use which is inconsistent with the purposes of this title.

Santa Rosa Island lands, priority acquisition.

(c) With respect to the privately owned lands on Santa Rosa Island, the Secretary shall acquire such lands as expeditiously as possible after the date of enactment of this title. The acquisition of these lands shall take priority over the acquisition of other privately owned lands within the park.

(d)(1) The owner of any private property may, on the date of its acquisition and as a condition of such acquisition, retain for himself a right of use and occupancy of all or such portion of such property as the owner may elect for a definite term of not more than twenty-five years, or ending at the death of the owner, or his spouse, whichever is later. The owner shall elect the term to be reserved. Any such right retained pursuant to this subsection with respect to any property shall be subject to termination by the Secretary upon his determination that such property is being used for any purpose which is incompatible with the administration of the park or with the preservation of the resources therein, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right, of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

Lease agreement with former owner.

(2) In the case of any property acquired by the Secretary pursuant to this title with respect to which a right of use and occupancy was not reserved by the former owner pursuant to this subsection, at the request of the former owner, the Secretary may enter into a lease agreement with the former owner under which the former owner may continue any existing use of such property which is compatible with the administration of the park and with the preservation of the resources therein.

(3) Any right retained pursuant to this subsection, and any lease entered into under paragraph (2), shall be subject to such access and other provisions as may be required by the Secretary for visitor use and resources management.

Natural resources study report, development. 16 USC 410ff-2.

SEC. 203. (a) The Secretary is directed to develop, in cooperation and consultation with the Secretary of Commerce, the State of California, and various knowledgeable Federal and private entities, a natural resources study report for the park, including, but not limited to, the following:

(1) an inventory of all terrestrial and marine species, indicating their population dynamics, and probable trends as to future numbers and welfare;

(2) recommendations as to what actions should be considered for adoption to better protect the natural resources of the park.

Submittal to congressional committees.

Such report shall be submitted within two complete fiscal years from the date of enactment of this title to the Committee on Interior and

Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and updated revisions of such report shall be similarly submitted at subsequent two year intervals to cover a period of ten years after the date of enactment of this title.

Cooperative agreements with State of California.

(b) The Secretary is authorized and directed to enter into and continue cooperative agreements with the Secretary of Commerce and the State of California for the enforcement of Federal and State laws and regulations on those lands and waters within and adjacent to the park which are owned by the State of California. No provision of this title shall be deemed to affect the rights and jurisdiction of the State of California within the park, including, but not limited to, authority over submerged lands and waters within the park boundaries, and the marine resources therein.

16 USC 410ff-3.

SEC. 204. (a) Subject to the provisions of section 201 of this title, the Secretary shall administer the park in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.). In the administration of the park, the Secretary may utilize such statutory authority available for the conservation and management of wildlife and natural and cultural resources as he deems appropriate to carry out the purposes of this title. The park shall be administered on a low-intensity, limited-entry basis.

(b) In recognition of the special fragility and sensitivity of the park's resources, it is the intent of Congress that the visitor use within the park be limited to assure negligible adverse impact on the park resources. The Secretary shall establish appropriate visitor carrying capacities for the park.

Comprehensive general management plan, submittal to congressional committees.

(c)(1) Within three complete fiscal years from the date of enactment of this title, the Secretary, in consultation with The Nature Conservancy and the State of California, shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive general managment plan for the park, pursuant to criteria stated in the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended (16 U.S.C. 1a-1 et seq.). Such plan shall include alternative considerations for the design and operation of a public transportation system connecting the park with the mainland, with such considerations to be developed in cooperation with the State of California and the Secretary of Transportation. The Secretary shall seek the advice of the scientific community in the preparation of said plan, and conduct hearings for public comment in Ventura and Santa Barbara Counties.

16 USC 1a-7.

Hearings.

(2) Those aspects of such a plan which relate to marine mammals shall be prepared by the Secretary of Commerce, in consultation with the Secretary and the State of California.

Federal funds, approval for expenditure.

16 USC 410ff-4.

SEC. 205. The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking with respect to the lands and waters within or adjacent or related to the park, and the head of any Federal agency having authority to license or permit any undertaking with respect to such lands and waters, shall, prior to the approval of the expenditure of any Federal funds on such undertaking or prior to the issuance of any license or permit, as the case may be, afford the Secretary a reasonable opportunity to comment with regard to such undertaking and shall give due consideration to any comments made by the Secretary and to

the effect of such undertaking on the purposes for which the park is established.

Review of park area; report to President. 16 USC 410ff-5. 16 USC 1132.

SEC. 206. Within three complete fiscal years from the date of enactment of this title, the Secretary shall review the area within the park and shall report to the President, in accordance with subsections 3 (c) and (d) of the Wilderness Act (78 Stat. 890), his recommendations as to the suitability or nonsuitability of any area within the park for designation as wilderness. Any designation of any such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

16 USC 1131 note.

SEC. 207. Notwithstanding any other provision of law, no fees shall be charged for entrance or admission to the park.

16 USC 410ff-6.

16 USC 410ff-7.

SEC. 208. The Secretary is authorized to expend Federal funds for the cooperative management of The Nature Conservancy and other private property for research, resources management, and visitor protection and use. All funds authorized to be appropriated for the purposes of the Channel Islands National Monument are hereby transferred to the Channel Islands National Park. Effective October 1, 1980, there are hereby authorized to be appropriated such further sums as may be necessary to carry out the purposes of this title, but not to exceed $500,000 for development. From the Land and Water Conservation Fund there is authorized to be appropriated $30,100,000 for the purposes of land acquisition. For the authorizations made in this section, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

Transfer of funds.

Appropriation authorizations.

Approved March 5, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-119 (Comm. on Interior and Insular Affairs), No. 96-182, Pt. I accompanying H.R. 2975 (Comm. on Interior and Insular Affairs) and No. 96-182, Pt. II accompanying H.R. 2975 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 96-484 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 125 (1979): May 7, considered and passed House.

Vol. 126 (1980): Feb. 18, considered and passed Senate, amended.

Feb. 20, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 10 (1980): Mar. 5, Presidential statement.

Public Law 96-200
96th Congress

Joint Resolution

Mar. 6, 1980
[S.J. Res. 109]

To provide for the designation of October 3, 1980, as "American Enterprise Day".

Whereas America's enterprise system is a cornerstone in our society; and

Whereas that system has produced the highest standard of living in the world; and

Whereas that system depends on and rewards individual initiative and innovation; and

Whereas American productivity is vital to the world's economy and must be encouraged; and

Whereas the continuance and growth of our enterprise system depends in large part on the education of America's young men and women concerning that system: Now, therefore, be it

American Enterprise Day. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating October 3, 1980, as "American Enterprise Day" and encouraging appropriate Government agencies to foster the recognition of the significance of America's enterprise system on that day.

Approved March 6, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 31, considered and passed Senate.
Vol. 126 (1980): Feb. 25, considered and passed House, amended.
Feb. 26, Senate concurred in House amendments.

Public Law 96-201
96th Congress

An Act

To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Ambassador Kenneth Taylor.

Mar. 6, 1980
[H.R. 6374]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized to present, on behalf of the Congress, to Ambassador Kenneth Taylor, a gold medal of appropriate design in recognition of his valiant efforts to secure the safe return of six American Embassy officials in Tehran. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary of the Treasury. There are authorized to be spent from already appropriated funds not to exceed $20,000 to carry out the provisions of this subsection.

Ambassador Kenneth Taylor. Commemorative medal.

Cost.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal, and the appropriation used for carrying out the provisions of this subsection shall be reimbursed out of the proceeds of such sale.

Duplicates.

(c) The medals provided for in this Act are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 369).

31 USC 368.

Approved March 6, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 11, 12, considered and passed House.
Feb. 21, considered and passed Senate, amended.
Feb. 25, House concurred in Senate amendment.

79-194 O—81—pt. 1——9 : QL3

Public Law 96-202
96th Congress

Joint Resolution

Mar. 8, 1980
[S.J. Res. 43]

To proclaim March 21, 1980, "National Energy Education Day".

Whereas inexpensive and abundant energy permitted our great Nation to rise to a position of pre-eminence in the world community of nations; and

Whereas events of recent years have shown that traditional energy resources are in potentially short supply and these massive changes in the world energy production and distribution system have made this subject a focal point of domestic and foreign policy; and

Whereas the development of new energy technologies, including solar energy and other renewable resources, promise to reduce our dependence on insecure and hostile foreign cartels; and

Whereas these fundamental changes require the update of our educational system at all grade levels to prepare our youth to meet the new demands which are being created; and

Whereas a National Energy Education Day (NEED) will bring together teachers, school officials, parent groups, to help the Nation's children understand the international energy crisis; and

Whereas NEED must be a total educational effort, the start of an ongoing process which can demonstrate that to ignore the plight of an energy shortfall and to fail to seek sound remedies would be an error: Now, therefore, be it

National Energy Education Day. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 21, 1980, is proclaimed "National Energy Education Day" to commence an ongoing program of energy education in schools, both public and private, at all grade levels, and the President is authorized and requested to issue (A) a proclamation calling upon the general public and education institutions of the United States to observe this day with appropriate activities and ceremonies, and (B) to direct all appropriate Federal agencies to cooperate with and participate in the celebration of "National Energy Education Day".

Approved March 8, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-279 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Aug. 2, considered and passed Senate.
Vol. 126 (1980): Feb. 25, considered and passed House.

Public Law 96-203
96th Congress

An Act

To authorize the conveyance of lands in the city of Hot Springs, Arkansas.

Mar. 10, 1980
[S. 1850]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any provisions of the Act of May 8, 1922 (42 Stat. 506), the Leo N. Levi Memorial Hospital Association is authorized to assign or convey all or any portion of or interests in and to lots one and two, in block 114 in the city of Hot Springs, Arkansas, to a nonprofit corporation organized under the laws of the State of Arkansas, its successors or assigns, for the purpose of erecting and maintaining thereon a housing facility for the elderly. Execution of such assignment or conveyance by the Leo N. Levi Memorial Hospital Association and execution of mortgages by said nonprofit corporation or its successors or assigns, in connection with the housing facility, shall not constitute a forfeiture of any rights granted to the Leo N. Levi Memorial Hospital Association by said Act of May 8, 1922. If at any time after lots one or two of block 114 are assigned or conveyed to said nonprofit corporation the property is used or permitted to be used for purposes other than housing facilities for the elderly or the purposes provided for in the Act of May 8, 1922, all the rights, privileges, and powers in such property authorized by this Act or by said Act of May 8, 1922, shall be forfeited to the United States.

Hot Springs, Ark.
Land conveyance.

SEC. 2. The Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended (16 U.S.C. 460l-4 et seq.), is further amended as follows:

16 USC 460*l*-9.

(1) in subsection 7(a), within the paragraph numbered (3), after the phrase "Ninety-fifth Congress", insert the phrase "or, in the case of national recreation areas, prior to the convening of the Ninety-sixth Congress"; and

(2) in subsection 7(c), change "expire ten years from the date of enactment of the authorizing legislation establishing such boundaries;" to "apply only to those boundaries established subsequent to January 1, 1965;".

National Maritime Museum, whaling artifacts, display. Appropriation authorization.

SEC. 3. The Secretary of the Interior is authorized to acquire by donation, or by purchase with donated or appropriated funds, a suitable collection of whaling artifacts and associated items for preservation and display at the National Maritime Museum located at the Golden Gate National Recreation Area. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not to exceed $3,000,000 for the purchase of said collection, which sums may be appropriated from the amounts previously authorized for development purposes at said recreation area.

Approved March 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-783 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-473 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 18, considered and passed Senate.
Vol. 126 (1980): Feb. 25, considered and passed House, amended.
Feb. 26, Senate concurred in House amendments.

Public Law 96-204
96th Congress

Joint Resolution

To authorize and request the President to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week".

Mar. 11, 1980
[H.J. Res. 434]

Whereas approximately forty million Americans, nearly one-fifth of our Nation's population, are afflicted with diabetes, heart conditions, epilepsy, allergies, or other medical problems the symptoms of which, in emergency situations, are difficult to detect or are not readily associated with such medical problems; and

Whereas many such Americans suffer avoidable injury or death each year because of the delay which is frequently involved in the proper diagnosis and treatment of such hidden medical problems in emergency situations; and

Whereas special emergency identification and information services are available which are designed with the needs of victims of such hidden medical conditions specifically in mind; and

Whereas these emergency identification and information systems have been credited with saving the lives of more than two thousand people afflicted by hidden medical conditions each year: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating April 6 through 12, 1980, "National Medic Alert Week", and calling upon the people of the United States and upon interested associations and organizations to observe such week with appropriate ceremonies and activities.

National Medic Alert Week. Designation authorization.

Approved March 11, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-575 (Comm. on the Judiciary) and No. 96-578 accompanying S.J. Res. 132 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 29, considered and passed House.
Vol. 126 (1980): Feb. 28, considered and passed Senate.

Public Law 96-205
96th Congress

An Act

Mar. 12, 1980
[H.R. 3756]

To authorize appropriations for certain insular areas of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

United States insular areas. Appropriation authorization.

TITLE I—TRUST TERRITORY OF THE PACIFIC ISLANDS

48 USC 1681 note.

SEC. 101. Section 2 of the Act of June 30, 1954 (68 Stat. 330), is amended by inserting after "for fiscal year 1980, $112,000,000;" the following: "for fiscal years after fiscal year 1980, such sums as may be necessary, including, but not limited to, sums needed for completion of the capital improvement program, for a basic communications system, and for a feasibility study and construction of a hydroelectric project on Ponape;".

SEC. 102. The Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (91 Stat. 1159; Public Law 95-134) is amended by inserting after section 105, the following new section:

Radiation exposure, compensation, research, and medical care. 48 USC 1681 note.

"SEC. 106. (a) In addition to any other payments or benefits provided by law to compensate inhabitants of the atolls of Bikini, Enewetak, Rongelap, and Utirik, in the Marshall Islands, for radiation exposure or other losses sustained by them as a result of the United States nuclear weapons testing program at or near their atolls during the period 1946 to 1958, the Secretary of the Interior (hereinafter in this section referred to as the 'Secretary') shall provide for the people of the atolls of Bikini, Enewetak, Rongelap, and Utirik and for the people of such other atolls as may be found to be or to have been exposed to radiation from the nuclear weapons testing program, a program of medical care and treatment and environmental research and monitoring for any injury, illness, or condition which may be the result directly or indirectly of such nuclear weapons testing program. The program shall be implemented according to a plan developed by the Secretary in consultation with the Secretaries of Defense, Energy, and Health, Education, and Welfare and with the direct involvement of representatives from the people of each of the affected atolls and from the government of the Marshall Islands. The plan shall set forth, as appropriate to the situation, condition, and needs of the individual atoll peoples:

"(1) an integrated, comprehensive health care program including primary, secondary, and tertiary care with special emphasis upon the biological effects of ionizing radiation;

"(2) a schedule for the periodic comprehensive survey and analysis of the radiological status of the atolls to and at appropriate intervals, but not less frequently than once every five years, the development of an updated radiation dose assessment, together with an estimate of the risks associated with the predicted human exposure, for each such atoll; and

"(3) an education and information program to enable the people of such atolls to more fully understand nuclear radiation and its effects;

"(b)(1) The Secretary shall submit the plan to the Congress no later than January 1, 1981, together with his recommendations, if any, for further legislation. The plan shall set forth the specific agencies responsible for implementing the various elements of the plan. With respect to general health care the Secretary shall consider, and shall include in his recommendations, the feasibility of using the Public Health Service. After consultation with the Chairman of the National Academy of Sciences, the Secretary of Energy, the Secretary of Defense, and the Secretary of Health, Education, and Welfare, the Secretary shall establish a scientific advisory committee to review and evaluate the implementation of the plan and to make such recommendations for its improvement as such committee deems advisable.

Plan, submittal to Congress.

Scientific advisory committee.

"(2) At the request of the Secretary, any Federal agency shall provide such information, personnel, facilities, logistical support, or other assistance as the Secretary deems necessary to carry out the functions of this program; the costs of all such assistance shall be reimbursed to the provider thereof out of the sums appropriated pursuant to this section.

Assistance from Federal agencies.

"(3) All costs associated with the development and implementation of the plan shall be assumed by the Secretary of Energy and effective October 1, 1980, there are authorized to be appropriated to the Secretary of Energy such sums as may be necessary to achieve the purposes of this section.

Development and implementation costs.

"(c) The Secretary shall report to the appropriate committees of the Congress, and to the people of the affected atolls annually, or more frequently if necessary, on the implementation of the plan. Each such report shall include a description of the health status of the individuals examined and treated under the plan, an evaluation by the scientific advisory committee, and any recommendations for improvement of the plan. The first such report shall be submitted not later than January 1, 1982.".

Report to congressional committees.

SEC. 103. Paragraph 104(a)(3) of Public Law 95-134 (91 Stat. 1159) is hereby amended by deleting all after the word "cause" and inserting in lieu thereof the following words, ", even if such an individual has been compensated under paragraph (1) of this section.".

SEC. 104. Notwithstanding any other provision of law, except in cases in which the Federal program is terminated with respect to all recipients under the program, Federal programs in the fields of education and health care shall not cease to apply to the Trust Territory of the Pacific Islands or any successor government or governments, nor shall participation in any applicable Federal programs in the fields of education and health care by the Trust Territory of the Pacific Islands or any successor government or governments be denied, decreased or ended, either before or after the termination of the trusteeship, without the express approval of the United States Congress.

Federal education and health care programs.
48 USC 1695.

TITLE II—NORTHERN MARIANA ISLANDS

SEC. 201. (a) The salary and expenses of the government comptroller for the Northern Mariana Islands shall be paid from funds appropriated to the Department of the Interior.

Government comptroller, salary.
48 USC 1681c.

(b) Section 4 of the Act of June 30, 1954, as amended by section 2 of Public Law 93-111 (87 Stat. 354) is further amended as follows:

48 USC 1681b.

(1) strike the words "government of the Trust Territory of the Pacific Islands" wherever they appear and insert in lieu thereof the words "governments of the Trust Territory of the Pacific Islands or the Northern Mariana Islands,";

(2) after the words "High Commissioner of the Trust Territory of the Pacific Islands" insert the words "or Governor of the Northern Mariana Islands, as the case may be,";

(3) wherever the words "High Commissioner" appear and are not followed by the words "of the Trust Territory of the Pacific Islands" insert the words "or Governor, as the case may be,"; and

(4) after the words "District Court of Guam" insert the words "or District Court of the Northern Mariana Islands, as the case may be".

Health care services grant, effective date.

SEC. 202. Effective October 1, 1980, there are hereby authorized to be appropriated to the Secretary of the Interior $24,400,000 plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs from October 1979 price levels as indicated by engineering cost indexes applicable to the types of construction involved, for a grant to the Commonwealth of the Northern Mariana Islands to provide for health care services. No grant may be made by the Secretary of the Interior pursuant to this section without the prior approval of the Secretary of Health, Education, and Welfare.

SEC. 203. Subsection (g) of section 5 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", approved August 18, 1978 (92 Stat. 492), is amended by changing "not to exceed $3,000,000" to "such sums as may be necessary, but not to exceed $3,000,000 for development,".

SEC. 204. (a) Section 3(d) of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes" (Public Law 95-348; 92 Stat. 487) is amended by inserting "(1)" after "(d)" and by inserting "or upon receipt of a resolution adopted by both houses of the legislature of the Northern Mariana Islands accompanied by a letter of request from either the Governor or the Lieutenant Governor of the Northern Mariana Islands," after "Constitution of the Northern Mariana Islands," the first place it appears, and by adding at the end of "(d)" the following new paragraphs:

48 USC 1681 note.

Administration and enforcement duties.

"(2) For purposes of carrying out any administration and enforcement required by this subsection, the Secretary of the Treasury (hereinafter in this subsection referred to as the 'Secretary'), or his delegate, at no cost to the Northern Marianas government, may (A) employ citizens of the Northern Mariana Islands (as defined by Article III of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States (approved, Public Law 94-241; 90 Stat. 265)), or (B) use the services of employees of the government of the Northern Mariana Islands, upon agreement to pay such government for the use of such services. In addition, the Secretary, or his delegate, shall make every effort to assure that citizens of the Northern Mariana Islands (as so defined) are trained to ultimately assume the administration and enforcement duties required of the Secretary or his delegate under this section. Notwithstanding any other provision of law, the Secretary or his delegate is authorized to the maximum extent feasible in administering and enforcing the requested sections of the Covenant, to employ and train Northern Mariana Islands' citizens without regard to United States Civil Service hiring or job classification laws or any

employment ceilings imposed upon the Secretary. The preceding sentence shall not exempt such Northern Mariana Islands' citizens so hired from any other laws affecting Federal or Internal Revenue Service employees and shall remain in effect until the end of the third full fiscal year following the date of enactment.

"(3) As part of the administration of taxes required by this subsection, the Secretary or his delegate shall establish, at no cost to the Northern Marianas government, a taxpayers information service to provide such information and assistance to citizens of the Northern Mariana Islands (as so defined) as may be necessary for the filing of returns and the payment of such taxes.". Taxpayers information service.

(b) The Secretary shall take such steps as are necessary to ensure that the proceeds of taxes collected under the provisions of sections 601, 602, 603, and 604 of the Covenant (Public Law 94-241) are covered directly upon collection into the treasury of the Commonwealth of the Northern Mariana Islands. Taxes. 48 USC 1681 note. 90 Stat. 269.

SEC. 205. (a) Except as provided in subsection (c), any person, including an individual, trust, estate, partnership, association, company, or corporation, which is a resident of or which is organized under the laws of the Commonwealth of the Northern Mariana Islands and which is subject to the provisions of section 601 of the Covenant to Establish the Commonwealth of the Northern Mariana Islands in Political Union with the United States (Public Law 94-241), shall be exempted from the requirements of such section with respect to income derived from sources within the Commonwealth of the Northern Mariana Islands for taxable years beginning after December 31, 1978, and before January 1, 1981. Nothing in this section shall be construed as relieving such person from the obligation to comply with the requirements of section 601 with respect to income derived from sources outside of the Commonwealth of the Northern Mariana Islands. 48 USC 1681 note.

(b) Except as provided in subsection (c), any person, including an individual, trust, estate, partnership, association, company, or corporation, which is a resident of or which is organized under the laws of the Commonwealth of the Northern Mariana Islands and which is subject to the provisions of section 601 of the Covenant to Establish the Commonwealth of the Northern Mariana Islands (Public Law 94-241), shall be exempt from the requirements of such section with respect to income from sources within the Northern Mariana Islands for its taxable year beginning after December 31, 1980, and before January 1, 1982: *Provided,* That the Secretary receives written notice from the Governor of the Northern Mariana Islands not later than September 30, 1980, that sections 1, 2, 3, 4, and 5 of chapter 2 of Public Law 1-30 of the Commonwealth of the Northern Mariana Islands or its successor, have been repealed in their entirety, effective December 31, 1981.

(c) It is the sense of Congress that the term "rebate" as used in section 602 of Public Law 94-241 does not permit the abatement of taxes. "Rebate."

TITLE III—GUAM

SEC. 301. (a) Subsection (c) of section 204 of Public Law 95-134 (91 Stat. 1159, 1162) is amended by deleting the second sentence of said subsection. 48 USC 1424c.

(b) Any civil action under section 204 of the Omnibus Territories Act of 1977 (91 Stat. 1162) shall be barred unless it is commenced not later than April 1, 1982. 48 USC 1424c note.

SEC. 302. The Act of November 4, 1963 (77 Stat. 302), to provide for the rehabilitation of Guam, and for other purposes, is hereby amended as follows:

(1) in the first sentence of section 3, delete the comma after "United States" and delete the words "with interest as set forth below," and

(2) after paragraph (c) of section 3, delete the last paragraph before section 4 and insert in lieu thereof:

48 USC 1421h.

"All amounts heretofore withheld from sums collected pursuant to section 30 of the said Organic Act as interest on the amounts made available to the government of Guam pursuant to this Act shall be credited as reimbursement payments by Guam on the principal amount advanced by the United States under this Act.".

SEC. 303. Section 11 of the Organic Act of Guam (64 Stat. 387; 48 U.S.C. 1423a), as amended, is hereby amended by deleting all after the words "December 31, 1980.", and substituting the following language:

Guam Power Authority, refinancing obligations.

"The Secretary, upon determining that the Guam Power Authority is unable to refinance on reasonable terms the obligations purchased by the Federal Financing Bank under the fifth sentence of this section by December 31, 1980, may, with the concurrence of the Secretary of the Treasury, guarantee for purchase by the Federal Financing Bank; and such bank is authorized to purchase, obligations of the Guam Power Authority issued to refinance the principal amount of the obligations guaranteed under the fifth sentence of this section. The obligations that refinance such principal amount shall mature not later than December 31, 1990, and shall bear interest at a rate determined in accordance with section 6 of the Federal Financing Bank Act (12 U.S.C. 2285). Should the Guam Power Authority fail to pay in full any installment of interest or principal when due on the bonds or other obligations guaranteed under this section, the Secretary of the Treasury, upon notice from the Secretary shall deduct and pay to the Federal Financing Bank or the Secretary, according to their respective interests, such unpaid amounts from sums collected and payable pursuant to section 30 of this Act (48 U.S.C. 1421h). Notwithstanding any other provision of law, Acts making appropriations may provide for the withholding of any payments from the United States to the government of Guam which may be or may become due pursuant to any law and offset the amount of such withheld payments against any claim the United States may have against the government of Guam or the Guam Power Authority pursuant to this guarantee. For the purpose of this Act, under section 3466 of the Revised Statutes (31 U.S.C. 191) the term 'person' includes the government of Guam and the Guam Power Authority. The Secretary may place such stipulations as he deems appropriate on the bonds or other obligations he guarantees.".

"Person."

TITLE IV—VIRGIN ISLANDS

SEC. 401. (a) Subsection (b) of section 31 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1545(b)), as amended, is further amended by numbering the existing paragraph "(1)" and by the addition thereto of the following new paragraph:

Property transfer.

39 Stat. 1706.

"(2) Subject to valid existing rights, title to all property in the Virgin Islands which may have been acquired by the United States from Denmark under the Convention entered into August 16, 1916, not reserved or retained by the United States in accordance with the

provisions of Public Law 93-435 (88 Stat. 1210) is hereby transferred to the Virgin Islands government.". 48 USC 1705 *et seq.*

(b) The General Services Administration shall release from the mortgage dated January 26, 1972, given by the government of the Virgin Islands to the Administrator of the General Services Administration, approximately ten acres of such mortgaged land for construction of the proposed Saint Croix armory upon payment by the government of the Virgin Islands of the outstanding principal due on such ten acres.

SEC. 402. No extension, renewal, or renegotiation of the lease of real property on Water Island in the Virgin Islands to which the United States is a party may be entered into before 1992 unless such extension, renewal, or renegotiation is specifically approved by Act of Congress. Water Island property.

SEC. 403. (a) Subsection 28(a) of the Revised Organic Act of the Virgin Islands is amended by inserting after the words "and naturalization fees collected in the Virgin Islands," the following: "(less the cost of collecting such duties, taxes and fees as may be directly attributable (as certified by the Comptroller of the Virgin Islands) to the importation of petroleum products until January 1, 1982: *Provided,* That any other retained costs not heretofore remitted pursuant to the Act of August 18, 1978, shall be immediately remitted to the Treasury of the Virgin Islands notwithstanding any other provision of law)." 48 USC 1642. 92 Stat. 487.

(b) The paragraph entitled "U.S. Customs Service" involving the collection of customs duties in the Virgin Islands in the Act of July 25, 1979, is hereby repealed. Repeal. 93 Stat. 122.

SEC. 404. Subsection (d) of section 4 of Public Law 95-348 (92 Stat. 487, 491) is hereby repealed. 48 USC 1642a. 48 USC 1641 note.

SEC. 405. Any excise taxes levied by the Legislature of the Virgin Islands may be levied and collected as the Legislature of the Virgin Islands may direct as soon as the articles, goods, merchandise, and commodities subject to said tax are brought into the Virgin Islands. Excise taxes. 48 USC 1574 note.

SEC. 406. Not later than two years after the date of enactment of this Act, the Administrator of the General Services Administration shall convey, without consideration, all right, title, and interest of the United States in and to the property known as the former District Court Building (including the parcel of land upon which said building is located), 48 B Norre Gade, St. Thomas, Virgin Islands, to the Government of the Virgin Islands. District Court Building property, transfer.

SEC. 407. Subsection (f) of section 2 of the Act entitled "An Act to authorize the government of the Virgin Islands to issue bonds in anticipation of revenue receipts and to authorize the guarantee of such bonds by the United States under specified conditions, and for other purposes" (90 Stat. 1193; Public Law 94-392; 48 U.S.C. 1574b) is amended by striking out the last sentence and inserting in lieu thereof the following language: "No commitment to guarantee may be issued by the Secretary, and no guaranteed but unobligated funds may be obligated by the government of the Virgin Islands after October 1, 1984. After October 1, 1984, any unobligated proceeds of bonds or other obligations issued by the government of the Virgin Islands pursuant to this section shall be repaid immediately by the government of the Virgin Islands to the lenders with the agreed upon interest. Should there be any delay in the government of the Virgin Islands' making such repayment, the Secretary shall deduct the requisite amounts from moneys under his control that would otherwise be paid to the government of the Virgin Islands under section 28(b) of the Revised Organic Act of the Virgin Islands.". Bonds, issuance. 26 USC 7652.

TITLE V—AMERICAN SAMOA

Government comptroller, salary. 48 USC 1668.

SEC. 501. The salary and expenses of the government comptroller for American Samoa shall be paid from funds appropriated to the Department of the Interior.

Customs duties collection. 48 USC 1669.

SEC. 502. The Secretary of the Treasury shall, upon the request of the Governor of American Samoa, administer and enforce the collection of all customs duties derived from American Samoa, without cost to the government of American Samoa. The Secretary of the Treasury, in consultation with the Governor of American Samoa, shall make every effort to employ and train the residents of American Samoa to carry out the provisions of this section. The administration and enforcement of this section shall commence October 1, 1980.

TITLE VI—MISCELLANEOUS

48 USC 1469a.

SEC. 601. Title V of the Act of October 15, 1977, entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (91 Stat. 1159) shall be applied with respect to the Department of the Interior by substituting "shall" for "may" in the last sentence of subsection (d), and adding the following sentence at the end of subsection (d): "Notwithstanding any other provision of law, in the case of American Samoa and the Northern Mariana Islands any department or agency shall waive any requirement for local matching funds under $100,000 (including in-kind contributions) required by law to be provided by American Samoa or the Northern Mariana Islands.".

SEC. 602. (a) Any amount authorized to be appropriated for a fiscal year by this Act or an amendment made by this Act but not appropriated for such fiscal year is authorized to be appropriated in succeeding fiscal years.

(b) Any amount appropriated pursuant to this Act or an amendment made by this Act for a fiscal year but not expended during such fiscal year shall remain available for expenditure in succeeding fiscal years.

U.S. Government services, facilities, and equipment. 48 USC 1469c.

SEC. 603. To the extent practicable, services, facilities, and equipment of agencies and instrumentalities of the United States Government may be made available, on a reimbursable basis, to the governments of the territories and possessions of the United States and the Trust Territory of the Pacific Islands. Reimbursements may be credited to the appropriation or fund of the agency or instrumentality through which the services, facilities, and equipment are provided. If otherwise authorized by law, such services, facilities, and equipment may be made available without reimbursement.

SEC. 604. Any new borrowing authority provided in this Act or authority to make payments under this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.

Nuclear fuel or radioactive waste, transportation and storage. Report to Congress. 48 USC 1491.

SEC. 605. (a) Prior to the granting of any license, permit, or other authorization or permission by any agency or instrumentality of the United States to any person for the transportation of spent nuclear fuel or high-level radioactive waste for interim, long-term, or permanent storage to or for the storage of such fuel or waste on any territory or possession of the United States, the Secretary of the Interior is directed to transmit to the Congress a detailed report on the proposed transportation or storage plan, and no such license, permit, or other authorization or permission may be granted nor may

any such transportation or storage occur unless the proposed transportation or storage plan has been specifically authorized by Act of Congress: *Provided,* That the provisions of this section shall not apply to the cleanup and rehabilitation of Bikini and Enewetak Atolls.

"Territory or possession."

(b) For the purpose of this section the words "territory or possession" include the Trust Territory of the Pacific Islands and any area not within the boundaries of the several States over which the United States claims or exercises sovereignty.

Definitions.

SEC. 606. (a) Section 8 of the Act of March 2, 1917 ("Jones Act"), as amended (48 U.S.C. 749), is amended by adding the following after the last sentence thereof: "Notwithstanding any other provision of law, as used in this section (1) 'submerged lands underlying navigable bodies of water' include lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide, all lands underlying the navigable bodies of water in and around the island of Puerto Rico and the adjacent islands, and all artificially made, filled in, or reclaimed lands which formerly were lands beneath navigable bodies of water; (2) 'navigable bodies of water and submerged lands underlying the same in and around the island of Puerto Rico and the adjacent islands and waters' extend from the coastline of the island of Puerto Rico and the adjacent islands as heretofore or hereafter modified by accretion, erosion, or reliction, seaward to a distance of three marine leagues; (3) 'control' includes all right, title, and interest in and to and jurisdiction and authority over the submerged lands underlying the harbor areas and navigable streams and bodies of water in and around the island of Puerto Rico and the adjacent islands and waters, and the natural resources underlying such submerged lands and waters, and includes proprietary rights of ownership, and the rights of management, administration, leasing, use, and development of such natural resources and submerged lands beneath such waters.".

(b) Section 7 of the Act of March 2, 1917 ("Jones Act"), as amended (48 U.S.C. 747), is amended by adding the following after the last sentence thereof: "Notwithstanding any other provision of law, as used in this section 'control' includes all right, title, and interest in and to and jurisdiction and authority over the aforesaid property and includes proprietary rights of ownership, and the rights of management, administration, leasing, use, and development of such property.".

SEC. 607. (a) The first section of the Act entitled "An Act to place certain submerged lands within the jurisdiction of the governments of Guam, the Virgin Islands, and American Samoa, and for other purposes", approved October 5, 1974 (48 U.S.C. 1705), is amended by adding at the end thereof the following new subsection:

Mineral deposits, conveyance of U.S. rights, title, and interest.

"(d)(1) The Secretary of the Interior shall, not later than sixty days after the date of enactment of this subsection, convey to the governments of Guam, the Virgin Islands, and American Samoa, as the case may be, all right, title, and interest of the United States in deposits of oil, gas, and other minerals in the submerged lands conveyed to the government of such territory by subsection (a) of this section.

"(2) The conveyance of mineral deposits under paragraph (1) of this subsection shall be subject to any existing lease, permit, or other interest granted by the United States prior to the date of such conveyance. All rentals, royalties, or fees which accrue after such date of conveyance in connection with any such lease, permit, or other interest shall be payable to the government of the territory to which such mineral deposits are conveyed.".

(b) Subsection (c) of the first section of such Act (48 U.S.C. 1705(c)) is amended by inserting "subsection (a) or (b) of" after "pursuant to".

SEC. 608. The following Acts are hereby amended as follows:

(a) In the Act of October 15, 1966 (80 Stat. 915), as amended (16 U.S.C. 470a-t):

16 USC 470a.

(1) amend subsection 101(a) in paragraph (2) by deleting "and" at the end thereof and, in paragraph (3) by deleting "Trust." and inserting in lieu thereof "Trust; and".

(2) amend subsection 101(b) by deleting "and" after "American Samoa," and by changing the period at the end of the paragraph to a comma and inserting "and the Commonwealth of the Northern Mariana Islands.".

16 USC 470t.

(3) amend subsection 212(b) by changing "Senate Committee on Interior and Insular Affairs." to "Senate Committee on Energy and Natural Resources.".

(b) In the Act of June 27, 1960 (74 Stat. 220), as amended (16 U.S.C. 469):

16 USC 469a-3.

(1) amend subsection 5(c) by deleting "Interior and Insular Affairs Committee of the United States Congress" and by inserting in lieu thereof "Committee on Interior and Insular Affairs of the House of Representatives and Committee on Energy and Natural Resources of the Senate".

"State."
16 USC 469c-1.

(2) after section 7, add the following new section:

"SEC. 8. As used in this Act, the term 'State' includes the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

16 USC 460*l*-3.

(c) In the Act of May 28, 1963 (77 Stat. 49; 16 U.S.C. 460l-3) amend section 4 by deleting "and American Samoa." and by inserting in lieu thereof "American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

Approved March 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-120 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-467 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): May 7, considered and passed House.
Vol. 126 (1980): Feb. 7, considered and passed Senate, amended.
Feb. 25, House concurred in Senate amendment with amendments.
Feb. 28, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 11 (1980): Mar. 12, Presidential statement.

Public Law 96-206
96th Congress

Joint Resolution

To recognize the Honorable Carl Vinson on the occasion of the christening of the United States Ship Carl Vinson, March 15, 1980.

Mar. 13, 1980
[S.J. Res. 149]

Whereas the nuclear powered aircraft carrier United States Ship Carl Vinson (CVN70) will be christened and launched at Newport News, Virginia, on Saturday, March 15, 1980; and

Whereas Carl Vinson is the first living American to be present at the launching of a United States Navy warship which bears his name, a name that is synonymous with America's preeminent naval power, a name that stands for strength through preparedness; and

Whereas Carl Vinson served as Chairman of the House Armed Services Committee for fourteen years and as Chairman of the old Naval Affairs Committee for sixteen years, during which time he played a major role in developing a national defense posture second to none, believing always in the philosophy that "No man should ever place the defense of his nation below any other priority"; and

Whereas Carl Vinson's record of fifty years continuous service in the House of Representatives remains unsurpassed, reflecting a lifelong commitment to the security, freedom, and prosperity of all Americans; and

Whereas Carl Vinson served his country with distinction, providing enlightened leadership, and demonstrating an incomparable ability as a legislator: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation extending best wishes to Carl Vinson on this historic occasion and expressing deep appreciation on behalf of the people of the United States of America for his unswerving devotion to his beloved Nation.

Carl Vinson.
Recognition.

Approved March 13, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 4, considered and passed Senate.
Mar. 6, considered and passed House.

Public Law 96-207
96th Congress

Joint Resolution

Mar. 13, 1980
[H.J. Res. 493]

Providing for the appointment of William G. Bowen as a citizen regent of the Board of Regents of the Smithsonian Institution.

Smithsonian Institution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, caused by the death of Doctor John Nicholas Brown of Rhode Island on October 9, 1979, be filled by the appointment of William G. Bowen of New Jersey for the statutory term of six years.

Approved March 13, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-592 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Jan 31, S.J. Res. 137 considered and passed Senate; H.J. Res. 493 considered and passed House.
Mar. 4, H.J. Res. 493 considered and passed Senate.
Mar. 6, Senate vitiated passage of S.J. Res. 137.

Public Law 96-208
96th Congress

Joint Resolution

Providing for the appointment of Carlisle H. Humelsine as a citizen regent of the Board of Regents of the Smithsonian Institution.

Mar. 13, 1980
[H.J. Res. 494]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, caused by the resignation of Thomas J. Watson, Jr. of Connecticut on October 12, 1979, be filled by the appointment of Carlisle H. Humelsine of Virginia for the statutory term of six years.

Smithsonian Institution.

Approved March 13, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-593 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Jan. 31, S.J. Res. 138 considered and passed Senate; H.J. Res. 494 considered and passed House.
Mar. 5, H.J. Res. 494 considered and passed Senate.
Mar. 6, Senate vitiated passage of S.J. Res. 138.

79-194 O—81—pt. 1——10 : QL3

Public Law 96-209
96th Congress

An Act

Mar. 14, 1980
[H.R. 4337]

To provide for the transfer of the Foreign Claims Settlement Commission of the United States to the United States Department of Justice as a separate agency in that Department; to provide for the authority and responsibility of the Department of Justice to supply to the Foreign Claims Settlement Commission certain administrative support services without altering the adjudicatory independence of the Commission; to change the terms of office and method of appointment of the members of the Commission; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the purposes of this Act are as follows:

TITLE I

U.S. Foreign Claims Settlement Commission, transfer to Justice Department.
22 USC 1622a.
22 USC 1622 note.

SEC. 101. The Foreign Claims Settlement Commission of the United States, established under Reorganization Plan Numbered 1 of 1954, is hereby transferred to the Department of Justice as a separate agency within that Department.

22 USC 1622b.

SEC. 102. All functions, powers, and duties of the Foreign Claims Settlement Commission established by Reorganization Plan Numbered 1 of 1954 are hereby transferred with the Commission, together with personnel, assets, liabilities, unexpended balances of appropriations, authorizations, allocations, and other funds held, used, available, or to be made available in connection with the statutory functions of the Commission. The Commission shall continue to perform its functions as provided by the War Claims Act of 1948, as amended, the International Claims Settlement Act of 1949, as amended, and Reorganization Plan Numbered 1 of 1954.

50 USC app. 2001 note.
22 USC 1621 note.

Chairman and members.
22 USC 1622c.

SEC. 103. (a) The Commission shall be composed of a Chairman and two members. The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, to serve on a full-time basis for a term of three years, and compensated at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) The other members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate, and serve on a part-time basis, and be compensated on a per diem basis at a rate of compensation equivalent to the daily rate for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day that such member is employed in the actual performance of official business of the Commission as may be directed by the Chairman. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

Terms of office.

(c) The terms of Office of the Chairman and members of the Commission shall be for three years, except the Chairman and members first appointed after the enactment of this subsection shall be appointed to terms ending respectively September 30, 1982,

September 30, 1981, and September 30, 1980. The incumbent of any such office may continue to serve until a successor takes office.

(d) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, members of the Foreign Claims Settlement Commission who are serving on the effective date of this Act, shall continue to serve in their same capacities until the expiration of the terms to which they were appointed.

SEC. 104. The Commission is authorized, in accordance with civil service laws and in accordance with title 5 of the United States Code, to appoint and fix the compensation of such officers and employees as may be necessary to carry out the functions of the Commission. The Commission is authorized to employ experts and consultants in accordance with section 3109 of title 5 of the United States Code, without compensation or at rates of compensation not in excess of the maximum daily rate prescribed for GS-18 under section 5332 of title 5 of the United States Code. Notwithstanding any other provision of law, the Commission is further authorized to employ nationals of other countries who may possess special knowledge, languages, or other expertise necessary to assist the Commission. The Commission is authorized to pay expenses of packing, shipping, and storing personal effects of personnel of the Commission assigned abroad, and to pay allowances and benefits similar to those provided by title IX of the Foreign Service Act of 1946, as amended. The Commission is authorized, with the consent of the head of any other department or agency of the Federal Government, to utilize the facilities and services of such department or agency in carrying out the functions of the Commission. Officers and employees of any department and agency of the Federal Government may, with the consent of the head of such department or agency, be assigned to assist the Commission in carrying out its functions. The Commission shall reimburse such department and agency for the pay of such officers or employees.

22 USC 1622d.

Experts and consultants.

5 USC 5332 note.

22 USC 1131.

SEC. 105. All functions, powers, and duties not directly related to adjudicating claims are hereby vested in the Chairman, including the functions set forth in section 3 of Reorganization Plan Numbered 1 of 1954 and the authority to issue rules and regulations.

22 USC 1622e.

22 USC 1622 note.

SEC. 106. The Attorney General shall provide necessary administrative support and services to the Commission. The Chairman shall prepare the budget requests, authorization documents, and legislative proposals for the Commission within the procedures established by the Department of Justice, and the Attorney General shall submit these items to the Director of the Office of Management and Budget as proposed by the Chairman.

22 USC 1622f.

Budget requests, submittal to Director of OMB.

SEC. 107. Nothing in this Act shall be construed to diminish the independence of the Commission in making its determinations on claims in programs that it is authorized to administer pursuant to the powers and responsibilities conferred upon the Commission by the War Claims Act of 1948, as amended, the International Claims Settlement Act of 1949, as amended, and Reorganization Plan Numbered 1 of 1954. The decisions of the Commission with respect to claims shall be final and conclusive on all questions of law and fact, and shall not be subject to review by the Attorney General or any other official of the United States or by any court by mandamus or otherwise.

Restriction.

22 USC 1622g.

50 USC app. 2001 note.

22 USC 1621 note.

22 USC 1622 note.

SEC. 108. Subsection 2(d) of the War Claims Act of 1948, as amended by section 104 of the Act of October 22, 1962 (76 Stat. 1107), is hereby repealed.

Repeal.

50 USC app. 2001.

SEC. 109. Section 5316 of title 5 of the United States Code is amended—

(1) by striking out paragraph (31) and inserting in lieu thereof: "(31) Chairman, Foreign Claims Settlement Commission of the United States, Department of Justice."; and
(2) by striking out paragraph (90) of said section.

TITLE II—ANNUAL ASSAY COMMISSION

Abolition.
31 USC 363 note.

Transfer of functions.

The Annual Assay Commission, and the positions of Assay Commissioners established by section 3547 of the Revised Statutes of the United States (31 U.S.C. 363), as amended, are hereby abolished. The functions of that Commission and of the Assay Commissioners are hereby transferred to the Secretary of the Treasury.

TITLE III—UNITED STATES MARINE CORPS MEMORIAL COMMISSION

Abolition.

The United States Marine Corps Memorial Commission, established by Act of August 4, 1947 (61 Stat. 724), is hereby abolished.

TITLE IV—THE LOW-EMISSION VEHICLE CERTIFICATION BOARD

Abolition.
42 USC 7546 note.

The Low-Emission Vehicle Certification Board established by Act of December 31, 1970 (84 Stat. 1700; 42 U.S.C. 1857f-6e), is hereby abolished.

TITLE V—DETERMINATION ORDER

22 USC 1622a note.

The Director of the Office of Management and Budget is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions, powers, and duties pursuant to this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connnection with the functions transferred by this Act, as the

Director may deem necessary to accomplish the purposes of this Act. The Director is further authorized and directed to provide for terminating the affairs of each agency, board, or commission abolished by this Act.

TITLE VI

This Act shall take effect on the date of enactment.

Effective date. 22 USC 1622a note.

Approved March 14, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-407 (Comm. on Government Operations).
SENATE REPORT No. 96-509 accompanying S. 1419 (Comm. on Government Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 17, considered and passed House.
Dec. 20, S. 1419 considered and passed Senate.
Vol. 126 (1980): Feb. 26, Senate vitiated passage of S. 1419; H.R. 4337, amended, passed in lieu.
Feb. 28, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 11 (1980): Mar. 14, Presidential statement.

Public Law 96-210
96th Congress

An Act

Mar. 17, 1980
[H.R. 5913]

To amend section 502(a) of the Merchant Marine Act, 1936.

Merchant Marine Act, 1936, amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, **That the third sentence of section 502(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1152(a)), is amended by striking the words ", at any time prior to June 30, 1979,".**

Approved March 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-739 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 11, 12, considered and passed House.
Mar. 5, considered and passed Senate.

Public Law 96-211
96th Congress

An Act

To authorize the President of the United States to present on behalf of the Congress a specially struck gold medal to Simon Wiesenthal.

Mar. 17, 1980
[S. 1792]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized to present, on behalf of the Congress, to Simon Wiesenthal, a gold medal of appropriate design in recognition of his contribution to international justice through the documentation and location of war criminals from World War II. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury. There is authorized to be appropriated not to exceed $15,000 after October 1, 1980, to carry out the provisions of this subsection.

Simon Wiesenthal. Commemorative medal.

Appropriation authorization.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal. The appropriation made to carry out the provisions of subsection (a) shall be reimbursed out of the proceeds of such sales.

Duplicates.

(c) The medals provided for in this Act are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

Approved March 17, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-435 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 30, considered and passed Senate.
Vol. 126 (1980): Mar. 3, H.R. 5548 considered and passed House; passage vacated and S. 1792 passed in lieu.

Public Law 96-212
96th Congress

An Act

Mar. 17, 1980
[S. 643]

To amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes.

Refugee Act of 1980.
8 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Refugee Act of 1980".

TITLE I—PURPOSE

8 USC 1521 note.

SEC. 101. (a) The Congress declares that it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands, including, where appropriate, humanitarian assistance for their care and maintenance in asylum areas, efforts to promote opportunities for resettlement or voluntary repatriation, aid for necessary transportation and processing, admission to this country of refugees of special humanitarian concern to the United States, and transitional assistance to refugees in the United States. The Congress further declares that it is the policy of the United States to encourage all nations to provide assistance and resettlement opportunities to refugees to the fullest extent possible.

(b) The objectives of this Act are to provide a permanent and systematic procedure for the admission to this country of refugees of special humanitarian concern to the United States, and to provide comprehensive and uniform provisions for the effective resettlement and absorption of those refugees who are admitted.

TITLE II—ADMISSION OF REFUGEES

SEC. 201. (a) Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding after paragraph (41) the following new paragraph:

"Refugee."

"(42) The term 'refugee' means (A) any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or (B) in such special circumstances as the President after appropriate consultation (as defined in section 207(e) of this Act) may specify, any person who is within the country of such person's nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The term 'refugee' does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any person on

Post, p. 103.

account of race, religion, nationality, membership in a particular social group, or political opinion.".

(b) Chapter 1 of title II of such Act is amended by adding after section 206 (8 U.S.C. 1156) the following new sections:

"ANNUAL ADMISSION OF REFUGEES AND ADMISSION OF EMERGENCY SITUATION REFUGEES

"SEC. 207. (a)(1) Except as provided in subsection (b), the number of refugees who may be admitted under this section in fiscal year 1980, 1981, or 1982, may not exceed fifty thousand unless the President determines, before the beginning of the fiscal year and after appropriate consultation (as defined in subsection (e)), that admission of a specific number of refugees in excess of such number is justified by humanitarian concerns or is otherwise in the national interest. Entry, numerical limitations. 8 USC 1157.

"(2) Except as provided in subsection (b), the number of refugees who may be admitted under this section in any fiscal year after fiscal year 1982 shall be such number as the President determines, before the beginning of the fiscal year and after appropriate consultation, is justified by humanitarian concerns or is otherwise in the national interest.

"(3) Admissions under this subsection shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after appropriate consultation.

"(b) If the President determines, after appropriate consultation, that (1) an unforeseen emergency refugee situation exists, (2) the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns or is otherwise in the national interest, and (3) the admission to the United States of these refugees cannot be accomplished under subsection (a), the President may fix a number of refugees to be admitted to the United States during the succeeding period (not to exceed twelve months) in response to the emergency refugee situation and such admissions shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after the appropriate consultation provided under this subsection. Emergency conditions.

"(c)(1) Subject to the numerical limitations established pursuant to subsections (a) and (b), the Attorney General may, in the Attorney General's discretion and pursuant to such regulations as the Attorney General may prescribe, admit any refugee who is not firmly resettled in any foreign country, is determined to be of special humanitarian concern to the United States, and is admissible (except as otherwide provided under paragraph (3)) as an immigrant under this Act. Attorney General's authority.

"(2) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of any refugee who qualifies for admission under paragraph (1) shall, if not otherwise entitled to admission under paragraph (1) and if not a person described in the second sentence of section 101(a)(42), be entitled to the same admission status as such refugee if accompanying, or following to join, such refugee and if the spouse or child is admissible (except as otherwise provided under paragraph (3)) as an immigrant under this Act. Upon the spouse's or child's admission to the United States, such admission shall be charged against the numerical limitation established in accordance with the appropriate subsection under which the refugee's admission is charged. Spouse or child, admission status. 8 USC 1101. *Ante*, p. 102.

Waiver.
8 USC 1182.

"(3) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not be applicable to any alien seeking admission to the United States under this subsection, and the Attorney General may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation. The Attorney General shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal year and a summary of the reasons for granting such waivers.

Report to Congress.

"(4) The refugee status of any alien (and of the spouse or child of the alien) may be terminated by the Attorney General pursuant to such regulations as the Attorney General may prescribe if the Attorney General determines that the alien was not in fact a refugee within the meaning of section 101(a)(42) at the time of the alien's admission.

Ante, p. 102.

Report to congressional committees.

"(d)(1) Before the start of each fiscal year the President shall report to the Committees on the Judiciary of the House of Representatives and of the Senate regarding the foreseeable number of refugees who will be in need of resettlement during the fiscal year and the anticipated allocation of refugee admissions during the fiscal year. The President shall provide for periodic discussions between designated representatives of the President and members of such committees regarding changes in the worldwide refugee situation, the progress of refugee admissions, and the possible need for adjustments in the allocation of admissions among refugees.

Consultation, publication in Congressional Record.

"(2) As soon as possible after representatives of the President initiate appropriate consultation with respect to the number of refugee admissions under subsection (a) or with respect to the admission of refugees in response to an emergency refugee situation under subsection (b), the Committees on the Judiciary of the House of Representatives and of the Senate shall cause to have printed in the Congressional Record the substance of such consultation.

Proposed determination, review hearing.

"(3)(A) After the President initiates appropriate consultation prior to making a determination under subsection (a), a hearing to review the proposed determination shall be held unless public disclosure of the details of the proposal would jeopardize the lives or safety of individuals.

"(B) After the President initiates appropriate consultation prior to making a determination, under subsection (b), that the number of refugee admissions should be increased because of an unforeseen emergency refugee situation, to the extent that time and the nature of the emergency refugee situation permit, a hearing to review the proposal to increase refugee admissions shall be held unless public disclosure of the details of the proposal would jeopardize the lives or safety of individuals.

"Appropriate consultation."

"(e) For purposes of this section, the term 'appropriate consultation' means, with respect to the admission of refugees and allocation of refugee admissions, discussions in person by designated Cabinet-level representatives of the President with members of the Committees on the Judiciary of the Senate and of the House of Representatives to review the refugee situation or emergency refugee situation, to project the extent of possible participation of the United States therein, to discuss the reasons for believing that the proposed admission of refugees is justified by humanitarian concerns or grave

humanitarian concerns or is otherwise in the national interest, and to provide such members with the following information:

"(1) A description of the nature of the refugee situation.

"(2) A description of the number and allocation of the refugees to be admitted and an analysis of conditions within the countries from which they came.

"(3) A description of the proposed plans for their movement and resettlement and the estimated cost of their movement and resettlement.

"(4) An analysis of the anticipated social, economic, and demographic impact of their admission to the United States.

"(5) A description of the extent to which other countries will admit and assist in the resettlement of such refugees.

"(6) An analysis of the impact of the participation of the United States in the resettlement of such refugees on the foreign policy interests of the United States.

"(7) Such additional information as may be appropriate or requested by such members.

To the extent possible, information described in this subsection shall be provided at least two weeks in advance of discussions in person by designated representatives of the President with such members.

"ASYLUM PROCEDURE

"SEC. 208. (a) The Attorney General shall establish a procedure for an alien physically present in the United States or at a land border or port of entry, irrespective of such alien's status, to apply for asylum, and the alien may be granted asylum in the discretion of the Attorney General if the Attorney General determines that such alien is a refugee within the meaning of section 101(a)(42)(A). 8 USC 1158.

Ante, p. 102.

"(b) Asylum granted under subsection (a) may be terminated if the Attorney General, pursuant to such regulations as the Attorney General may prescribe, determines that the alien is no longer a refugee within the meaning of section 101(a)(42)(A) owing to a change in circumstances in the alien's country of nationality or, in the case of an alien having no nationality, in the country in which the alien last habitually resided. Termination.

"(c) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of an alien who is granted asylum under subsection (a) may, if not otherwise eligible for asylum under such subsection, be granted the same status as the alien if accompanying, or following to join, such alien. Spouse or child, status. 8 USC 1101.

"ADJUSTMENT OF STATUS OF REFUGEES

"SEC. 209. (a)(1) Any alien who has been admitted to the United States under section 207— 8 USC 1159.

Ante, p. 103.

"(A) whose admission has not been terminated by the Attorney General pursuant to such regulations as the Attorney General may prescribe,

"(B) who has been physically present in the United States for at least one year, and

"(C) who has not acquired permanent resident status,

shall, at the end of such year period, return or be returned to the custody of the Service for inspection and examination for admission to the United States as an immigrant in accordance with the provisions of sections 235, 236, and 237. 8 USC 1225, 1226, 1227.

Permanent residence, admission conditions.

"(2) Any alien who is found upon inspection and examination by an immigration officer pursuant to paragraph (1) or after a hearing before a special inquiry officer to be admissible (except as otherwise provided under subsection (c)) as an immigrant under this Act at the time of the alien's inspection and examination shall, notwithstanding any numerical limitation specified in this Act, be regarded as lawfully admitted to the United States for permanent residence as of the date of such alien's arrival into the United States.

"(b) Not more than five thousand of the refugee admissions authorized under section 207(a) in any fiscal year may be made available by the Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, to adjust to the status of an alien lawfully admitted for permanent residence the status of any alien granted asylum who—

Ante, p. 103.

"(1) applies for such adjustment,

"(2) has been physically present in the United States for at least one year after being granted asylum,

"(3) continues to be a refugee within the meaning of section 101(a)(42)(A) or a spouse or child of such a refugee,

"(4) is not firmly resettled in any foreign country, and

"(5) is admissible (except as otherwise provided under subsection (c)) as an immigrant under this Act at the time of examination for adjustment of such alien.

Alien's admission record.

Upon approval of an application under this subsection, the Attorney General shall establish a record of the alien's admission for lawful permanent residence as of the date one year before the date of the approval of the application.

"(c) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not be applicable to any alien seeking adjustment of status under this section, and the Attorney General may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.".

8 USC 1182.

(c) The table of contents of such Act is amended by inserting after the item relating to section 206 the following new items:

"Sec. 207. Annual admission of refugees and admission of emergency situation refugees.
"Sec. 208. Asylum procedure.
"Sec. 209. Adjustment of status of refugees.".

SEC. 202. Section 211 of the Immigration and Nationality Act (8 U.S.C. 1181) is amended—

(1) by inserting "and subsection (c)" in subsection (a) after "Except as provided in subsection (b)"; and

(2) by adding at the end thereof the following new subsection:

"(c) The provisions of subsection (a) shall not apply to an alien whom the Attorney General admits to the United States under section 207.".

SEC. 203. (a) Subsection (a) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended to read as follows:

8 USC 1101.

"(a) Exclusive of special immigrants defined in section 101(a)(27), immediate relatives specified in subsection (b) of this section, and aliens who are admitted or granted asylum under section 207 or 208, the number of aliens born in any foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, shall not in any of the first three quarters of any fiscal

Ante, p. 105.

year exceed a total of seventy-two thousand and shall not in any fiscal year exceed two hundred and seventy thousand.".

(b) Section 202 of such Act (8 U.S.C. 1152) is amended—

(1) by striking out "and the number of conditional entries" in subsection (a);

(2) by striking out "(8)" in subsection (a) and inserting in lieu thereof "(7)";

(3) by striking out "or conditional entries" and "and conditional entries" in subsection (e);

(4) by striking out "20 per centum" in subsection (e)(2) and inserting in lieu thereof "26 per centum";

(5) by striking out paragraph (7) of subsection (e);

(6) by striking out "(7)" in paragraph (8) of subsection (e) and inserting in lieu thereof "(6)"; and

(7) by redesignating paragraph (8) of subsection (e) as paragraph (7).

(c) Section 203 of such Act (8 U.S.C. 1153) is amended—

(1) by striking out "or their conditional entry authorized, as the case may be," in subsection (a);

(2) by striking out "20 per centum" in subsection (a)(2) and inserting in lieu thereof "26 per centum";

(3) by striking out paragraph (7) of subsection (a);

(4) by striking out "and less the number of conditional entries and visas available pursuant to paragraph (7)" in subsection (a)(8);

(5) by striking out "or to conditional entry under paragraphs (1) through (8)" in subsection (a)(9) and inserting in lieu thereof "under paragraphs (1) through (7)";

(6) by redesignating paragraphs (8) and (9) of subsection (a) as paragraphs (7) and (8), respectively;

(7) by striking out "(7)" in subsection (d) and inserting in lieu thereof "(6)"; and

(8) by striking out subsections (f), (g), and (h).

(d) Sections 212(a)(14), 212(a)(32), and 244(d) of such Act (8 U.S.C. 1182(a)(14), 1182(a)(32), 1254(d)) are each amended by striking out "section 203(a)(8)" and inserting in lieu thereof "section 203(a)(7)".

(e) Subsection (h) of section 243 of such Act (8 U.S.C. 1253) is amended to read as follows:

Deportation.
8 USC 1251.

"(h)(1) The Attorney General shall not deport or return any alien (other than an alien described in section 241(a)(19)) to a country if the Attorney General determines that such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(2) Paragraph (1) shall not apply to any alien if the Attorney General determines that—

"(A) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

"(B) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

"(C) there are serious reasons for considering that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States; or

"(D) there are reasonable grounds for regarding the alien as a danger to the security of the United States.".

(f) Section 212(d)(5) of such Act (8 U.S.C. 1182(d)(5)) is amended—

(1) by inserting "(A)" after "(5)";

(2) by inserting ", except as provided in subparagraph (B)," after "Attorney General may"; and

(3) by adding at the end thereof the following new subparagraph:

Parole into United States.

"(B) The Attorney General may not parole into the United States an alien who is a refugee unless the Attorney General determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee under section 207.".

Ante, p. 103.

(g) Section 5 of Public Law 95-412 (8 U.S.C. 1182 note) is amended by striking out "September 30, 1980" and inserting in lieu thereof "April 1, 1980".

8 USC 1153 note.

(h) Any reference in any law (other than the Immigration and Nationality Act or this Act) in effect on April 1, 1980, to section 203(a)(7) of the Immigration and Nationality Act shall be deemed to be a reference to such section as in effect before such date and to sections 207 and 208 of the Immigration and Nationality Act.

8 USC 1101 note.
8 USC 1153.
Ante, p. 105.

(i) Section 203(g) of such Act (8 U.S.C. 1153(g)), section 101(a)(3) of Public Law 95-145, and the first section of Public Law 89-732 are each amended by striking out "two years" and inserting in lieu thereof "one year".

8 USC 1255 note.

Effective date.

SEC. 204. (a) Except as provided in subsections (b) and (c), this title and the amendments made by this title shall take effect on the date of the enactment of this Act, and shall apply to fiscal years beginning with the fiscal year beginning October 1, 1979.

8 USC 1101 note.

(b)(1)(A) Section 207(c) of the Immigration and Nationality Act (as added by section 201(b) of this Act) and the amendments made by subsections (b), (c), and (d) of section 203 of this Act shall take effect on April 1, 1980.

Ante, p. 102.
Ante, p. 106.

(B) The amendments made by section 203(f) shall apply to aliens paroled into the United States on or after the sixtieth day after the date of the enactment of this Act.

(C) The amendments made by section 203(i) shall take effect immediately before April 1, 1980.

(2) Notwithstanding sections 207(a) and 209(b) of the Immigration and Nationality Act (as added by section 201(b) of this Act), the fifty thousand and five thousand numerical limitations specified in such respective sections shall, for fiscal year 1980, be equal to 25,000 and 2,500, respectively.

Ante, p. 105.

(3) Notwithstanding any other provision of law, for fiscal year 1980—

(A) the fiscal year numerical limitation specified in section 201(a) of the Immigration and Nationality Act shall be equal to 280,000, and

8 USC 1151.

(B) for the purpose of determining the number of immigrant visas and adjustments of status which may be made available under sections 203(a)(2) and 202(e)(2) of such Act, the granting of a conditional entry or adjustment of status under section 203(a)(7) or 202(e)(7) of such Act after September 30, 1979, and before April 1, 1980, shall be considered to be the granting of an immigrant visa under section 203(a)(2) or 202(e)(2), respectively, of such Act during such period.

8 USC 1153, 1152.

Conditional entrant status.

(c)(1) The repeal of subsections (g) and (h) of section 203 of the Immigration and Nationality Act, made by section 203(c)(8) of this title, shall not apply with respect to any individual who before April 1, 1980, was granted a conditional entry under section 203(a)(7) of the Immigration and Nationality Act (and under section 202(e)(7) of such

Ante, p. 107.

Act, if applicable), as in effect immediately before such date, and it shall not apply to any alien paroled into the United States before April 1, 1980, who is eligible for the benefits of section 5 of Public Law 95-412.

8 USC 1182 note.

(2) An alien who, before April 1, 1980, established a date of registration at an immigration office in a foreign country on the basis of entitlement to a conditional entrant status under section 203(a)(7) of the Immigration and Nationality Act (as in effect before such date), shall be deemed to be entitled to refugee status under section 207 of such Act (as added by section 201(b) of this title) and shall be accorded the date of registration previously established by that alien. Nothing in this paragraph shall be construed to preclude the acquisition by such an alien of a preference status under section 203(a) of such Act.

Registration date.

8 USC 1153.

Ante, p. 102.

(3) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not be applicable to any alien who has entered the United States before April 1, 1980, pursuant to section 203(a)(7) of such Act or who has been paroled as a refugee into the United States under section 212(d)(5) of such Act, and who is seeking adjustment of status, and the Attorney General may waive any other provision of section 212(a) of such Act (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

Waiver.
8 USC 1182.

(d)(1) Notwithstanding section 207(a) of the Immigration and Nationality Act (as added by section 201(b) of this title), the President may make the determination described in the first sentence of such section not later than forty-five days after the date of the enactment of this Act for fiscal year 1980.

Determination, deadline.
8 USC 1157 note.

(2) The Attorney General shall establish the asylum procedure referred to in section 208(a) of the Immigration and Nationality Act (as added by section 201(b) of this title) not later than June 1, 1980.

Asylum procedure, deadline.
8 USC 1158 note.

(e) Any reference in this Act or in chapter 2 of title IV of the Immigration and Nationality Act to the Secretary of Education or the Secretary of Health and Human Services or to the Department of Health and Human Services shall be deemed, before the effective date of the Department of Education Organization Act, to be a reference to the Secretary of Health, Education, and Welfare or to the Department of Health, Education, and Welfare, respectively.

Ante, p. 105.
8 USC 1521 note.

93 Stat. 668.
20 USC 3401 note.

TITLE III—UNITED STATES COORDINATOR FOR REFUGEE AFFAIRS AND ASSISTANCE FOR EFFECTIVE RESETTLEMENT OF REFUGEES IN THE UNITED STATES

PART A—UNITED STATES COORDINATOR FOR REFUGEE AFFAIRS

Presidential appointment.
8 USC 1525.

SEC. 301. (a) The President shall appoint, by and with the advice and consent of the Senate, a United States Coordinator for Refugee Affairs (hereinafter in this part referred to as the "Coordinator"). The Coordinator shall have the rank of Ambassador-at-Large.

(b) The Coordinator shall be responsible to the President for—

(1) the development of overall United States refugee admission and resettlement policy;

(2) the coordination of all United States domestic and international refugee admission and resettlement programs in a manner that assures that policy objectives are met in a timely fashion;

(3) the design of an overall budget strategy to provide individual agencies with policy guidance on refugee matters in

the preparation of their budget requests, and to provide the Office of Management and Budget with an overview of all refugee-related budget requests;

(4) the presentation to the Congress of the Administration's overall refugee policy and the relationship of individual agency refugee budgets to that overall policy;

(5) advising the President, Secretary of State, Attorney General, and the Secretary of Health and Human Services on the relationship of overall United States refugee policy to the admission of refugees to, and the resettlement of refugees in, the United States;

(6) under the direction of the Secretary of State, representation and negotiation on behalf of the United States with foreign governments and international organizations in discussions on refugee matters and, when appropriate, submitting refugee issues for inclusion in other international negotiations;

(7) development of an effective and responsive liaison between the Federal Government and voluntary organizations, Governors and mayors, and others involved in refugee relief and resettlement work to reflect overall United States Government policy;

Recommendations to President and Congress.

(8) making recommendations to the President and to the Congress with respect to policies for, objectives of, and establishment of priorities for, Federal functions relating to refugee admission and resettlement in the United States; and

(9) reviewing the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to the performance of functions relating to refugee admission and resettlement in the United States.

Consultation.

(c)(1) In the conduct of the Coordinator's duties, the Coordinator shall consult regularly with States, localities, and private nonprofit voluntary agencies concerning the sponsorship process and the intended distribution of refugees.

Reports to coordinator.

(2) The Secretary of Labor and the Secretary of Education shall provide the Coordinator with regular reports describing the efforts of their respective departments to increase refugee access to programs within their jurisdiction, and the Coordinator shall include information on such programs in reports submitted under section 413(a)(1) of the Immigration and Nationality Act.

Post, p. 115.

PART B—ASSISTANCE FOR EFFECTIVE RESETTLEMENT OF REFUGEES IN THE UNITED STATES

SEC. 311. (a) Title IV of the Immigration and Nationality Act is amended—

(1) by striking out the title heading and inserting in lieu thereof the following:

"TITLE IV—MISCELLANEOUS AND REFUGEE ASSISTANCE

"CHAPTER 1—MISCELLANEOUS"; and

(2) by adding at the end thereof the following new chapter:

"CHAPTER 2—REFUGEE ASSISTANCE

"OFFICE OF REFUGEE RESETTLEMENT

"SEC. 411. (a) There is established, within the Department of Health and Human Services, an office to be known as the Office of Refugee Resettlement (hereinafter in this chapter referred to as the 'Office'). The head of the Office shall be a Director (hereinafter in this chapter referred to as the 'Director'), to be appointed by the Secretary of Health and Human Services (hereinafter in this chapter referred to as the 'Secretary'). Establishment. 8 USC 1521. Director.

"(b) The function of the Office and its Director is to fund and administer (directly or through arrangements with other Federal agencies), in consultation with and under the general policy guidance of the United States Coordinator for Refugee Affairs (hereinafter in this chapter referred to as the 'Coordinator'), programs of the Federal Government under this chapter. Functions.

"AUTHORIZATION FOR PROGRAMS FOR DOMESTIC RESETTLEMENT OF AND ASSISTANCE TO REFUGEES

"SEC. 412. (a) CONDITIONS AND CONSIDERATIONS.—(1) In providing assistance under this section, the Director shall, to the extent of available appropriations, (A) make available sufficient resources for employment training and placement in order to achieve economic self-sufficiency among refugees as quickly as possible, (B) provide refugees with the opportunity to acquire sufficient English language training to enable them to become effectively resettled as quickly as possible, (C) insure that cash assistance is made available to refugees in such a manner as not to discourage their economic self-sufficiency, in accordance with subsection (e)(2), and (D) insure that women have the same opportunities as men to participate in training and instruction. 8 USC 1522.

"(2) The Director, together with the Coordinator, shall consult regularly with State and local governments and private nonprofit voluntary agencies concerning the sponsorship process and the intended distribution of refugees among the States and localities. Consultation.

"(3) In the provision of domestic assistance under this section, the Director shall make a periodic assessment, based on refugee population and other relevant factors, of the relative needs of refugees for assistance and services under this chapter and the resources available to meet such needs. In allocating resources, the Director shall avoid duplication of services and provide for maximum coordination between agencies providing related services. Domestic assistance, periodic assessment.

"(4) No grant or contract may be awarded under this section unless an appropriate proposal and application (including a description of the agency's ability to perform the services specified in the proposal) are submitted to, and approved by, the appropriate administering official. Grants and contracts under this section shall be made to those agencies which the appropriate administering official determines can best perform the services. Payments may be made for activities authorized under this chapter in advance or by way of reimbursement. In carrying out this section, the Director, the Secretary of State, and any such other appropriate administering official are authorized— Grants and contracts.

"(A) to make loans, and

"(B) to accept and use money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for the purpose of carrying out this section.

"(5) Assistance and services funded under this section shall be provided to refugees without regard to race, religion, nationality, sex, or political opinion.

Assistance, conditions.

"(6) As a condition for receiving assistance under this section, a State must—

"(A) submit to the Director a plan which provides—

"(i) a description of how the State intends to encourage effective refugee resettlement and to promote economic self-sufficiency as quickly as possible,

"(ii) a description of how the State will insure that language training and employment services are made available to refugees receiving cash assistance,

"(iii) for the designation of an individual, employed by the State, who will be responsible for insuring coordination of public and private resources in refugee resettlement,

"(iv) for the care and supervision of and legal responsibility for unaccompanied refugee children in the State, and

"(v) for the identification of refugees who at the time of resettlement in the State are determined to have medical conditions requiring, or medical histories indicating a need for, treatment or observation and such monitoring of such treatment or observation as may be necessary;

"(B) meet standards, goals, and priorities, developed by the Director, which assure the effective resettlement of refugees and which promote their economic self-sufficiency as quickly as possible and the efficient provision of services; and

Report.

"(C) submit to the Director, within a reasonable period of time after the end of each fiscal year, a report on the uses of funds provided under this chapter which the State is responsible for administering.

Assistance monitoring system, development.

"(7) The Secretary, together with the Secretary of State with respect to assistance provided by the Secretary of State under subsection (b), shall develop a system of monitoring the assistance provided under this section. This system shall include—

"(A) evaluations of the effectiveness of the programs funded under this section and the performance of States, grantees, and contractors;

"(B) financial auditing and other appropriate monitoring to detect any fraud, abuse, or mismanagement in the operation of such programs; and

"(C) data collection on the services provided and the results achieved.

Application information.

"(8) The Attorney General shall provide the Director with information supplied by refugees in conjunction with their applications to the Attorney General for adjustment of status, and the Director shall compile, summarize, and evaluate such information.

"(9) The Secretary and the Secretary of State may issue such regulations as each deems appropriate to carry out this chapter.

"Refugee."

"(10) For purposes of this chapter, the term 'refugee' includes any alien described in section 207(c)(2).

Ante, p. 103.

Grants and contracts.

"(b) PROGRAM OF INITIAL RESETTLEMENT.—(1)(A) For—

"(i) fiscal years 1980 and 1981, the Secretary of State is authorized, and

(ii) fiscal year 1982 and succeeding fiscal years, the Director (except as provided in subparagraph (B)) is authorized,

to make grants to, and contracts with, public or private nonprofit agencies for initial resettlement (including initial reception and placement with sponsors) of refugees in the United States. Grants to, or contracts with, private nonprofit voluntary agencies under this paragraph shall be made consistent with the objectives of this chapter, taking into account the different resettlement approaches and practices of such agencies. Resettlement assistance under this paragraph shall be provided in coordination with the Director's provision of other assistance under this chapter. The Secretary of State and the Director shall jointly monitor the assistance provided during fiscal years 1980 and 1981 under this paragraph.

Study, report to Congress.

"(B) The President shall provide for a study of which agency is best able to administer the program under this paragraph and shall report, not later than March 1, 1981, to the Congress on such study. If the President determines after such study that the Director should not administer the program under this paragraph, the authority of the Director under the first sentence of subparagraph (A) shall be exercised by such officer as the President shall from time to time specify.

Orientation, education, and job training programs.

"(2) The Director is authorized to develop programs for such orientation, instruction in English, and job training for refugees, and such other education and training of refugees, as facilitates their resettlement in the United States. The Director is authorized to implement such programs, in accordance with the provisions of this section, with respect to refugees in the United States. The Secretary of State is authorized to implement such programs with respect to refugees awaiting entry into the United States.

Refugee temporary care.

"(3) The Secretary is authorized, in consultation with the Coordinator, to make arrangements (including cooperative arrangements with other Federal agencies) for the temporary care of refugees in the United States in emergency circumstances, including the establishment of processing centers, if necessary, without regard to such provisions of law (other than the Renegotiation Act of 1951 and section 414(b) of this chapter) regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the Secretary may specify.

50 USC app. 1211 note.

Medical screening and care.

"(4) The Secretary, in consultation with the Coordinator, shall—

"(A) assure that an adequate number of trained staff are available at the location at which the refugees enter the United States to assure that all necessary medical records are available and in proper order;

"(B) provide for the identification of refugees who have been determined to have medical conditions affecting the public health and requiring treatment;

"(C) assure that State or local health officials at the resettlement destination within the United States of each refugee are promptly notified of the refugee's arrival and provided with all applicable medical records; and

"(D) provide for such monitoring of refugees identified under subparagraph (B) as will insure that they receive appropriate and timely treatment.

The Secretary shall develop and implement methods for monitoring and assessing the quality of medical screening and related health services provided to refugees awaiting resettlement in the United States.

"(c) PROJECT GRANTS AND CONTRACTS FOR SERVICES FOR REFUGEES.—The Director is authorized to make grants to, and enter into

contracts with, public or private nonprofit agencies for projects specifically designed—

"(1) to assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services;

"(2) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and

"(3) to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, educational and other services.

"(d) ASSISTANCE FOR REFUGEE CHILDREN.—(1) The Director is authorized to make grants, and enter into contracts, for payments for projects to provide special educational services (including English language training) to refugee children in elementary and secondary schools where a demonstrated need has been shown.

Child welfare services.

"(2)(A) The Director is authorized to provide assistance, reimbursement to States, and grants to and contracts with public and private nonprofit agencies, for the provision of child welfare services, including foster care maintenance payments and services and health care, furnished to any refugee child (except as provided in subparagraph (B)) during the thirty-six month period beginning with the first month in which such refugee child is in the United States.

"(B)(i) In the case of a refugee child who is unaccompanied by a parent or other close adult relative (as defined by the Director), the services described in subparagraph (A) may be furnished until the month after the child attains eighteen years of age (or such higher age as the State's child welfare services plan under part B of title IV of the Social Security Act prescribes for the availability of such services to any other child in that State).

42 USC 620.

Legal and financial responsibility, interim period.

"(ii) The Director shall attempt to arrange for the placement under the laws of the States of such unaccompanied refugee children, who have been accepted for admission to the United States, before (or as soon as possible after) their arrival in the United States. During any interim period while such a child is in the United States or in transit to the United States but before the child is so placed, the Director shall assume legal responsibility (including financial responsibility) for the child, if necessary, and is authorized to make necessary decisions to provide for the child's immediate care.

"(iii) In carrying out the Director's responsibilities under clause (ii), the Director is authorized to enter into contracts with appropriate public or private nonprofit agencies under such conditions as the Director determines to be appropriate.

List of unaccompanied children.

"(iv) The Director shall prepare and maintain a list of (I) all such unaccompanied children who have entered the United States after April 1, 1975, (II) the names and last known residences of their parents (if living) at the time of arrival, and (III) the children's location, status, and progress.

"(e) CASH ASSISTANCE AND MEDICAL ASSISTANCE TO REFUGEES.—(1) The Director is authorized to provide assistance, reimbursement to States, and grants to, and contracts with, public or private nonprofit agencies for up to 100 per centum of the cash assistance and medical assistance provided to any refugee during the thirty-six month period beginning with the first month in which such refugee has entered the United States and for the identifiable and reasonable administrative costs of providing this assistance.

"(2) Cash assistance provided under this subsection to an employable refugee is conditioned, except for good cause shown—

"(A) on the refugee's registration with an appropriate agency providing employment services described in subsection (c)(1), or, if there is no such agency available, with an appropriate State or local employment service; and

"(B) on the refugee's acceptance of appropriate offers of employment;

except that subparagraph (A) does not apply during the first sixty days after the date of the refugee's entry.

"(3) The Director shall develop plans to provide English training and other appropriate services and training to refugees receiving cash assistance. English training.

"(4) If a refugee is eligible for aid or assistance under a State plan approved under part A of title IV or under title XIX of the Social Security Act, or for supplemental security income benefits (including State supplementary payments) under the program established under title XVI of that Act, funds authorized under this subsection shall only be used for the non-Federal share of such aid or assistance, or for such supplementary payments, with respect to cash and medical assistance provided with respect to such refugee under this paragraph. Aid under State plan. 42 USC 601, 1396. 42 USC 1381.

"(5) The Director is authorized to allow for the provision of medical assistance under paragraph (1) to any refugee, during the one-year period after entry, who does not qualify for assistance under a State plan approved under title XIX of the Social Security Act on account of any resources or income requirement of such plan, but only if the Director determines that— Medical assistance provision. 42 USC 1396.

"(A) this will (i) encourage economic self-sufficiency, or (ii) avoid a significant burden on State and local governments; and

"(B) the refugee meets such alternative financial resources and income requirements as the Director shall establish.

"CONGRESSIONAL REPORTS

"SEC. 413. (a)(1) The Secretary, in consultation with the Coordinator, shall submit a report on activities under this chapter to the Committees on the Judiciary of the House of Representatives and of the Senate not later than the January 31 following the end of each fiscal year, beginning with fiscal year 1980. 8 USC 1523.

"(2) Each such report shall contain— Contents.

"(A) an updated profile of the employment and labor force statistics for refugees who have entered under this Act since May 1975, as well as a description of the extent to which refugees received the forms of assistance or services under this chapter during that period;

"(B) a description of the geographic location of refugees;

"(C) a summary of the results of the monitoring and evaluation conducted under section 412(a)(7) during the period for which the report is submitted;

"(D) a description of (i) the activities, expenditures, and policies of the Office under this chapter and of the activities of States, voluntary agencies, and sponsors, and (ii) the Director's plans for improvement of refugee resettlement;

"(E) evaluations of the extent to which (i) the services provided under this chapter are assisting refugees in achieving economic self-sufficiency, achieving ability in English, and achieving employment commensurate with their skills and abilities, and

(ii) any fraud, abuse, or mismanagement has been reported in the provisions of services or assistance;

"(F) a description of any assistance provided by the Director pursuant to section 412(e)(5);

"(G) a summary of the location and status of unaccompanied refugee children admitted to the United States; and

"(H) a summary of the information compiled and evaluation made under section 412(a)(8).

Analysis.

"(b) The Secretary, in consultation with the Coordinator, shall conduct and report to Congress, not later than one year after the date of the enactment of this chapter, an analysis of—

"(1) resettlement systems used by other countries and the applicability of such systems to the United States;

"(2) the desirability of using a system other than the current welfare system for the provision of cash assistance, medical assistance, or both, to refugees; and

"(3) alternative resettlement strategies.

"AUTHORIZATION OF APPROPRIATIONS

8 USC 1524.

"SEC. 414. (a)(1) There are hereby authorized to be appropriated for fiscal year 1980 and for each of the two succeeding fiscal years, such sums as may be necessary for the purpose of providing initial resettlement assistance, cash and medical assistance, and child welfare services under subsections (b)(1), (b)(3), (b)(4), (d)(2), and (e) of section 412.

"(2) There are hereby authorized to be appropriated for fiscal year 1980 and for each of the two succeeding fiscal years $200,000,000, for the purpose of carrying out the provisions (other than those described in paragraph (1)) of this chapter.

Contract authority.

"(b) The authority to enter into contracts under this chapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

SEC. 312. (a) The table of contents of the Immigration and Nationality Act is amended—

(1) by striking out the item relating to title IV and inserting in lieu thereof the following:

"TITLE IV—MISCELLANEOUS AND REFUGEE ASSISTANCE

"CHAPTER 1—MISCELLANEOUS";

and

(2) by adding at the end the following new items:

"CHAPTER 2—REFUGEE ASSISTANCE

"Sec. 411. Office of Refugee Resettlement.
"Sec. 412. Authorization for programs for domestic resettlement of and assistance to refugees.
"Sec. 413. Congressional reports.
"Sec. 414. Authorization of appropriations.".

Contributions to United Nations.

(b)(1) Subsection (b) of section 2 of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) is amended by striking out paragraphs (1) through (6) and inserting in lieu thereof the following:

"(1) for contributions to the activities of the United Nations High Commissioner for Refugees for assistance to refugees under his mandate or persons on behalf of whom he is exercising his good offices, and for contributions to the Intergovernmental Committee for European Migration, the International Commit-

tee of the Red Cross, and to other relevant international organizations; and

"(2) for assistance to or on behalf of refugees who are outside the United States designated by the President (by class, group, or designation of their respective countries of origin or areas of residence) when the President determines that such assistance will contribute to the foreign policy interests of the United States.". Assistance for refugees outside U.S.

(2) Subsection (c)(2) of such section is amended by striking out "$25,000,000" and inserting in lieu thereof "$50,000,000".

(c) The Indochina Migration and Refugee Assistance Act of 1975 (Public Law 94-23) is repealed. Repeal. 22 USC 2601 note.

SEC. 313. (a) Except as otherwise provided in this section, the amendments made by this part shall apply to fiscal years beginning on or after October 1, 1979. Limitations. 8 USC 1522 note.

(b) Subject to subsection (c), the limitations contained in sections 412(d)(2)(A) and 412(e)(1) of the Immigration and Nationality Act on the duration of the period for which child welfare services and cash and medical assistance may be provided to particular refugees shall not apply to such services and assistance provided before April 1, 1981. *Ante*, p. 111.

(c) Notwithstanding section 412(e)(1) of the Immigration and Nationality Act and in lieu of any assistance which may otherwise be provided under such section with respect to Cuban refugees who entered the United States and were receiving assistance under section 2(b) of the Migration and Refugee Assistance Act of 1962 before October 1, 1978, the Director of the Office of Refugee Resettlement is authorized— Cuban refugees. 22 USC 2601.

(1) to provide reimbursement—

(A) in fiscal year 1980, for 75 percent,

(B) in fiscal year 1981, for 60 percent,

(C) in fiscal year 1982, for 45 percent, and

(D) in fiscal year 1983, for 25 percent,

of the non-Federal costs of providing cash and medical assistance (other than assistance described in paragraph (2)) to such refugees, and

(2) to provide reimbursement in any fiscal year for 100 percent of the non-Federal costs associated with such Cuban refugees with respect to whom supplemental security income payments were being paid as of September 30, 1978, under title XVI of the Social Security Act. Non-Federal cost reimbursement.

(d) The requirements of section 412(a)(6)(A) of the Immigration and Nationality Act shall apply to assistance furnished under chapter 2 of title IV of such Act after October 1, 1980, or such earlier date as the Director of the Office of Refugee Resettlement may establish. *Ante*, p. 111.

TITLE IV—SOCIAL SERVICES FOR CERTAIN APPLICANTS FOR ASYLUM

SEC. 401. (a) The Director of the Office of Refugee Resettlement is authorized to use funds appropriated under paragraphs (1) and (2) of section 414(a) of the Immigration and Nationality Act to reimburse State and local public agencies for expenses which those agencies incurred, at any time, in providing aliens described in subsection (c) of this section with social services of the types for which reimbursements were made with respect to refugees under paragraphs (3) through (6) of section 2(b) of the Migration and Refugee Assistance 8 USC 1522 note. *Ante*, p. 116.

22 USC 2601. Act of 1962 (as in effect prior to the enactment of this Act) or under any other Federal law.

Work permit. (b) The Attorney General is authorized to grant to an alien described in subsection (c) of this section permission to engage in employment in the United States and to provide to that alien an "employment authorized" endorsement or other appropriate work permit.

Applicability. (c) This section applies with respect to any alien in the United States (1) who has applied before November 1, 1979, for asylum in the United States, (2) who has not been granted asylum, and (3) with respect to whom a final, nonappealable, and legally enforceable order of deportation or exclusion has not been entered.

Approved March 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-608 *accompanying* H.R. 2816 (Comm. on the Judiciary) and No. 96-781 (Comm. of Conference).

SENATE REPORTS: No. 96-256 (Comm. on the Judiciary) and No. 96-590 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Sept. 6, considered and passed Senate.
Dec. 13, 20, H.R. 2816 considered and passed House; passage vacated and S. 643, amended, passed in lieu.

Vol. 126 (1980): Feb. 26, Senate agreed to conference report.
Mar. 4, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 12 (1980): Mar. 18, Presidential statement.

Public Law 96-213
96th Congress

An Act

To adjust target prices for the 1980 and 1981 crops of wheat and feed grains; to extend the disaster payment programs for the 1980 crops of wheat, feed grains, upland cotton, and rice; and to authorize the Secretary of Agriculture to require that producers of wheat, feed grains, upland cotton, and rice not exceed the normal crop acreage for the 1980 and 1981 crops.

Mar. 18, 1980
[H.R. 3398]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Adjustment Act of 1980".

Agricultural Adjustment Act of 1980.
7 USC 1421 note.

TARGET PRICES FOR THE 1980 AND 1981 CROPS OF CORN AND WHEAT

SEC. 2. Section 105A(b)(1) of the Agricultural Act of 1949 is amended by— 7 USC 1444c.

(1) in the third sentence of subparagraph (B), striking out "through 1981 crops" and inserting in lieu thereof "crop"; and

(2) adding at the end of subparagraph (B) two new sentences as follows: "The established price for corn shall be $2.35 per bushel in the case of the 1980 crop. For the 1981 crop, the established price shall be not less than the established price for the 1980 crop, adjusted upward to reflect such changes in the cost of producing corn as the Secretary finds necessary and appropriate for the purpose of establishing and maintaining a fair and equitable relationship between loan rates, established prices, and production costs for corn and competing commodities.".

SEC. 3. Section 107A(b)(1) of the Agricultural Act of 1949 is amended by striking out the fourth sentence of subparagraph (B) and adding at the end thereof two new sentences as follows: "The established price for wheat shall be $3.63 per bushel in the case of the 1980 crop. For the 1981 crop, the established price shall be not less than the established price for the 1980 crop, adjusted upward to reflect such changes in the cost of producing wheat as the Secretary finds necessary and appropriate for the purpose of establishing and maintaining a fair and equitable relationship between loan rates, established prices, and production costs for wheat and competing commodities.". 7 USC 1445b.

EXTENSION OF DISASTER PAYMENT PROGRAMS

SEC. 4. (a) Section 101(h)(4) of the Agricultural Act of 1949 is amended by— 7 USC 1441.

(1) in subparagraph (B), striking out "1978 and 1979 crops of rice" and inserting in lieu thereof "1978, 1979, and 1980 crops of rice"; and

(2) in subparagraph (C), striking out "1978 and 1979 crops of rice" and inserting in lieu thereof "1978, 1979, and 1980 crops of rice".

(b) Section 103(f)(5) of the Agricultural Act of 1949 is amended by— 7 USC 1444.

(1) in subparagraph (A), striking out "1978 and 1979 crops of upland cotton" and inserting in lieu thereof "1978, 1979, and 1980 crops of upland cotton"; and

(2) in subparagraph (B), striking out "1978 and 1979 crops of upland cotton" and inserting in lieu thereof "1978, 1979, and 1980 crops of upland cotton".

7 USC 1444c. (c) Section 105A(b)(2) of the Agricultural Act of 1949 is amended by—

(1) in subparagraph (A), striking out "1978 and 1979 crops of feed grains" and inserting in lieu thereof "1978, 1979, and 1980 crops of feed grains"; and

(2) in subparagraph (B), striking out "1978 and 1979 crops of feed grains" and inserting in lieu thereof "1978, 1979, and 1980 crops of feed grains".

7 USC 1445b. (d) Section 107A(b)(2) of the Agricultural Act of 1949 is amended by—

(1) in subparagraph (A), striking out "1978 and 1979 crops of wheat" and inserting in lieu thereof "1978, 1979, and 1980 crops of wheat"; and

(2) in subparagraph (B), striking out "1978 and 1979 crops of wheat" and inserting in lieu thereof "1978, 1979, and 1980 crops of wheat".

LIMITATIONS ON DISASTER PAYMENTS

SEC. 5. Effective for the 1980 and 1981 crops, section 101 of the Food
7 USC 1308. and Agriculture Act of 1977 is amended by—

(1) in subsection (1), inserting "(excluding disaster payments)" after "payments";

(2) inserting after subsection (1) a new subsection (2) as follows:

"(2) Beginning with the 1980 crop year, the total amount of disaster payments that a person shall be entitled to receive under one or more of the annual programs established under the Agriculture Act of
7 USC 1421 note. 1949, as amended, and the Agricultural Adjustment Act of 1938, as
7 USC 1281. amended, for wheat, feed grains, upland cotton, and rice for any crop year shall not exceed $100,000.";

(3) redesignating subsections (2), (3), and (4) as subsections (3), (4), and (5), respectively; and

(4) in subsection (3), as redesignated by clause (3) of this section, striking out "disaster loss or".

NORMAL CROP ACREAGE

SEC. 6. Effective for the 1980 and 1981 crops, section 1001 of the
7 USC 1309. Food and Agriculture Act of 1977 is amended to read as follows:

"NORMALLY PLANTED ACREAGE AND TARGET PRICES

Loans, purchases, and payments, eligibility.

"SEC. 1001. (a) Notwithstanding any other provision of law, effective for one or more of the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, the Secretary of Agriculture may require, as a condition of eligibility for loans, purchases, and payments under the
7 USC 1421 note. Agricultural Act of 1949, that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary, adjusted as deemed necessary by the Secretary to be fair and equitable among producers. The acreage for any farm normally planted to crops designated by the Secretary shall be reduced by any set-aside or diverted acreage.

"(b) Notwithstanding any other provision of law—

"(1) Whenever the Secretary, for one or more of the 1980 and 1981 crops of wheat, feed grains, upland cotton, and rice, requires that producers not exceed the acreage on the farm normally planted to crops designated by the Secretary in accordance with subsection (a) of this section, the Secretary may increase the established price for any such commodity by the amount the Secretary determines appropriate to compensate producers for not exceeding the acreage on the farm normally planted to crops designated by the Secretary and participation in any required set-aside with respect to such commodity. Established price, increase.

"(2) In determining the amount of any increase in the established price for any commodity under this subsection, the Secretary shall take into account changes in the cost of production resulting from not exceeding the acreage on the farm normally planted to crops designated by the Secretary and participation in any required set-aside with respect to such commodity.

"(3) If the established price is increased for any commodity under this subsection, the Secretary may increase the established price for any other commodity in such amount as the Secretary determines necessary for effective operation of the program.

"(4) The Secretary shall adjust any increase in the established price under this subsection to reflect, in whole or in part, any land diversion payments for the commodity for which an increase is determined.

"(c) Notwithstanding any other provision of this section, producers of the 1980 crop of any commodity who exceed the acreage on the farm normally planted to crops designated by the Secretary may receive loans and purchases and, in the case of commodities for which there is an established price, payments based on the established price for the commodity as determined under the applicable provisions of the Agricultural Act of 1949 in effect on the date preceding the date of enactment of the Agricultural Adjustment Act of 1980.". 1980 crop, loans, purchases and payments. 7 USC 1421 note. *Ante*, p. 119.

Approved March 18, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-228, pt. 1 (Comm. on Agriculture), No. 96-228, pt. 2 (Comm. on Appropriations), and No. 96-789 (Comm. of Conference).
SENATE REPORT No. 96-446 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 8, considered and passed House.
Dec. 20, considered and passed Senate, amended.
Vol. 126 (1980): Mar. 4, Senate and House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 12 (1980): Mar. 18, Presidential statement.

Public Law 96-214
96th Congress

An Act

Mar. 24, 1980
[S. 2225]

To provide that receipts from certain sales of items by the Sergeant at Arms of the Senate to Senators and committees and offices of the Senate shall be credited to the appropriation from which such items were purchased.

Contingent expenses of the Senate, sales receipts for certain items.
2 USC 111a.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in any case in which appropriated funds are used by a Senator or a committee or office of the Senate to purchase from the Sergeant at Arms and Doorkeeper of the Senate items which were purchased by him from the appropriation for "miscellaneous items" under "Contingent Expenses of the Senate" in any appropriation Act, the amounts received by the Sergeant at Arms and Doorkeeper shall be deposited in the Treasury of the United States for credit to such appropriation. This Act does not apply to amounts received from the sale of used or surplus furniture and equipment.

Approved March 24, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-556 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 5, considered and passed Senate.
Mar. 11, considered and passed House.

Public Law 96-215
96th Congress

An Act

To authorize the voluntary interservice transfer of officers between the commissioned corps of the National Oceanic and Atmospheric Administration and the Armed Forces, to authorize advance payments of pay and allowances to officers of such corps under the same conditions that apply to advance payments to members of the Armed Forces, and to provide officers of such corps the same unemployment compensation benefits that apply to members of the Armed Forces.

Mar. 25, 1980
[S. 1454]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Act of August 10, 1956 (70A Stat. 619; 33 U.S.C. 857a(a)), is amended by adding at the end thereof the following new clause:

Armed Forces and NOAA, transfer of personnel. Authorization of benefits.

"(13) Section 716, Commissioned officers: transfers between armed forces and to and from National Oceanic and Atmospheric Administration.".

SEC. 2. (a) Section 716 of title 10, United States Code, is amended to read as follows:

"§716. Commissioned officers: transfers between armed forces and to and from National Oceanic and Atmospheric Administration

"(a) Notwithstanding any other provision of law, the President may, within authorized strengths, transfer any commissioned officer with his consent from his armed force or from the National Oceanic and Atmospheric Administration to, and appoint him in, another armed force or the National Oceanic and Atmospheric Administration. The Secretary of Defense, the Secretary of the department in which the Coast Guard is operating, and the Secretary of Commerce shall jointly establish, by regulations approved by the President, policies, and procedures for such transfers and appointments.

Regulations.

"(b) An officer transferred under this section—

"(1) may not be assigned precedence or relative rank higher than that which he held on the day before his transfer; and

"(2) shall be credited for retirement and pay purposes with the same years of service with which he has been credited on the day before his transfer.".

(b) The item relating to such section in the table of sections at the beginning of chapter 41 of such title is amended to read as follows:

"716. Commissioned officers: transfers between armed forces and to and from National Oceanic and Atmospheric Administration.".

SEC. 3. Section 1006 of title 37, United States Code, is amended—

Advance payments.

(1) by striking out "an armed force or of the Public Health Service" in subsection (a), (b), and (c) and inserting in lieu thereof "a uniformed service";

(2) by striking out "members of the armed forces or of the Public Health Service" in subsection (c) and inserting in lieu thereof "members of the uniformed services";

(3) by striking out "from his armed force or from the Public Health Service" in subsection (d) and inserting in lieu thereof "from his uniformed service";

(4) by striking out "armed forces and the Public Health Service" in subsection (e) and inserting in lieu thereof "uniformed services"; and

(5) by striking out "an armed force or of the Public Health Service" in subsection (h) and inserting in lieu thereof "a uniformed service".

SEC. 4. (a) Subparagraph (B) of section 8501(1) of title 5, United States Code, is amended to read as follows:

"(B) as a member of the armed forces or the Commissioned Corps of the National Oceanic and Atmospheric Administration;".

(b) Paragraph (1) of section 8521(a) of title 5, United States Code, is amended by inserting "or the Commissioned Corps of the National Oceanic and Atmospheric Administration" after "armed forces".

5 USC 8501 note.

(c) The amendments made by this section shall apply with respect to assignments of services and wages pursuant to any first claim (for a benefit year) which is filed after the date of the enactment of this Act.

Approved March 25, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-539, pt. 1 (Comm. on Ways and Means), No. 96-539, pt. 2 (Comm. on Merchant Marine and Fisheries), and No. 96-539, pt. 3 (Comm. on Armed Services).

SENATE REPORT No. 96-297 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Sept. 6, considered and passed Senate.
Dec. 20, considered and passed House, amended.

Vol. 126 (1980): Mar. 11, Senate concurred in House amendments.

Public Law 96-216
96th Congress

An Act

To amend the Act of August 9, 1955 (69 Stat. 539) (25 U.S.C. 415), as amended, to authorize a ninety-nine-year lease for the Moses Allotment Numbered 10, Chelan County, Washington.

Mar. 27, 1980
[S. 1682]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of August 9, 1955 (69 Stat. 539), as amended (25 U.S.C. 415), is amended by striking out "and the Navajo Reservation" and inserting in lieu thereof the following: "the Navajo Reservation, and the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington".

Indian lands in Chelan County, Wash., lease authorization.

Approved March 27, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-808 accompanying H.R. 5900 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-395 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 7, considered and passed Senate.
Vol. 126 (1980): Mar. 17, H.R. 5900 considered and passed House.
Mar. 18, considered and passed House in lieu of H.R. 5900.

Public Law 96-217
96th Congress

An Act

Mar. 27, 1980
[S. 2222]

To extend the time for commencing actions on behalf of an Indian tribe, band, or group, or on behalf of an individual Indian whose land is held in trust or restricted status.

Indian claims. Commencement of actions, extension.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the third proviso in section 2415(a) of title 28, United States Code, is amended by striking out "after April 1, 1980" and inserting in lieu thereof "after December 31, 1982".

(b) The proviso in section 2415(b) of title 28, United States Code, is amended by striking out "on or before April 1, 1980" and inserting in lieu thereof "on or before December 31, 1982".

Legislative proposals, submittal to Congress. 28 USC 2415 note.

SEC. 2. Not later than June 30, 1981, the Secretary of the Interior, after consultation with the Attorney General, shall submit to the Congress legislative proposals to resolve those Indian claims subject to the amendments made by the first section of this Act that the Secretary of the Interior or the Attorney General believes are not appropriate to resolve by litigation.

Approved March 27, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-807 (Comm. on the Judiciary) and No. 96-843 (Comm. of Conference).
SENATE REPORT No. 96-569 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 20, considered and passed Senate.
Mar. 18, considered and passed House, amended.
Mar. 24, House and Senate agreed to conference report.

Public Law 96-218
96th Congress

Joint Resolution

Mar. 28, 1980
[H.J. Res. 414]

Authorizing the President to proclaim May 1, 1980, "National Bicycling Day".

Whereas, for more than a century, Americans of all ages have used the bicycle for personal transportation, health, fitness, and enjoyment;

Whereas more than one hundred million Americans engage in bicycling for recreation and transportation;

Whereas, for more than twenty years, the bicycle industry of the United States has celebrated the month of May as American Bike Month, observing the joys and utility of this unique, human-powered vehicle;

Whereas no single vehicle is more widely used by the youth of our Nation;

Whereas, with the increasing complexity of our national energy situation, Americans of all ages have discovered the great variety of practical uses of the bicycle for commuting, shopping, touring, improving physical fitness, camping, and enjoying the out-of-doors; and

Whereas the bicycle can be expected to play an increasingly important role in our Nation's energy conservation program: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating May 1, 1980, as "National Bicycling Day", and calling upon the people of the United States to observe such day with appropriate activities.

National Bicycling Day. Designation authorization.

Approved March 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-792 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 96-621 accompanying S.J. Res. 100 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 3, considered and passed House.
Mar. 18, considered and passed Senate, in lieu of S.J. Res. 100.

79-194 O—81—pt. 1——12 : QL3

Public Law 96-219
96th Congress

Joint Resolution

Mar. 28, 1980
[H.J. Res. 514]

Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Federal Trade Commission.

Federal Trade Commission, transfer of funds.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is transferred, out of funds previously appropriated, for the fiscal year ending September 30, 1980, namely:

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

(By transfer)

For an additional amount for "Salaries and expenses", $12,100,000, which shall be derived by transfer from unobligated balances available under the heading "International Communication Agency, Salaries and Expenses": *Provided,* That authority made available by this joint resolution shall be available from March 15, 1980, and shall remain available until April 30, 1980: *Provided further,* That obligations of the Federal Trade Commission made pursuant to this joint resolution shall not exceed $9,800,000: *Provided further,* That none of the funds made available by this joint resolution for the Federal Trade Commission may be used for the final promulgation of trade regulation rules authorized by section 18 of the Federal Trade Commission Act, as amended, nor to initiate any new activities: *Provided further,* That no new trade regulation rules promulgated under the authority of section 18 of the Federal Trade Commission Act, as amended, after August 30, 1979, are to become effective during the period covered by this joint resolution for the Federal Trade Commission, unless authorizing legislation for the Federal Trade Commission is enacted into law during such period.

15 USC 57a.

Approved March 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-848 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 26, considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 13:
Mar. 28, Presidential statement.

Public Law 96-220
96th Congress

An Act

To extend the Emergency Agricultural Credit Adjustment Act of 1978, and for other purposes.

Mar. 30, 1980
[S. 2269]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Emergency Agricultural Credit Adjustment Act of 1978, extension. 7 USC prec. 1961 note.

SECTION 1. The Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961 note) is amended by—

(1)(A) amending clause (C) of section 202 to read as follows: "(C) is not able to obtain sufficient credit elsewhere due to economic stresses, such as a general tightening of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodities."; and

Definition.

(B) in the last sentence of section 202, striking out "and" and inserting immediately before the period at the end of the sentence a semicolon and the following: "and the term 'able to obtain sufficient credit elsewhere' means able to obtain sufficient credit elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. For the purpose of determining whether an applicant under this title is not able to obtain sufficient credit elsewhere, the Secretary shall require at least one written indication of declination of credit, from a legally organized lending institution within reasonable proximity to the applicant, that specifies the reasons for the declination: *Provided,* That for loans in excess of $300,000, the Secretary shall require at least two such written declinations: *Provided further,* That for loans of $300,000 or less, the Secretary may waive the requirement of this sentence if the Secretary determines that it would impose an undue burden on the applicant";

Declination of credit, written indication.

(2) in section 203(a)(1), inserting before the comma at the end thereof a colon and the following: "*Provided,* That no loan may be insured or guaranteed under this title for the purpose of refinancing outstanding indebtedness on farm or home real estate unless such real estate was purchased by the applicant at least one year prior to the date of the loan application";

7 USC prec. 1961 note.

(3) in section 205(d), adding at the end thereof a new sentence as follows: "For purposes of carrying out the agreements required under clause (2) of the preceding sentence, not later than three years after the loan is insured, and not later than at the end of every two-year period thereafter for the term of the loan, the Secretary shall review the loan; and if, based on such review, the Secretary determines that the borrower is able to obtain a loan from a credit source specified in clause (2) at reasonable rates and terms for loans for similar purposes and periods of time, the borrower shall, on request by the Secretary, apply for and accept such loan pursuant to the terms of the agreement and clause (2).";

Loan review. 7 USC prec. 1961 note.

7 USC prec. 1961 note.

(4) at the end of section 205, adding a new subsection (e) as follows:

"(e) No loan that is for more than $300,000 may be insured under this title, unless the Secretary determines that the applicant is not able to obtain from a private or cooperative lending agency a loan guaranteed by the Secretary under this title sufficient to finance the applicant's actual needs at reasonable rates and terms.";

7 USC prec. 1961 note.

(5) in section 207(c), striking out "$4,000,000,000" and inserting in lieu thereof "$6,000,000,000";

7 USC prec. 1961 note.

(6) in section 211, striking out "May 15, 1980" and inserting in lieu thereof "September 30, 1981"; and

(7) adding at the end thereof a new section 212 as follows:

"STUDY AND REPORT

7 USC prec. 1961 note.

"SEC. 212. (a) The Secretary shall conduct a comprehensive study of the operation and effectiveness of the program of financial assistance authorized under this title. The study shall include, but shall not be limited to, an examination and analysis of the following items:

"(1) the effect of loans insured or guaranteed under this title on the overall financial condition of borrowers and their ability to maintain viable agricultural production operations;

"(2) the implementation and effect of the provisions of this title requiring, as a condition of eligibility, that loan applicants not be able to obtain sufficient credit elsewhere;

"(3) the loan repayment delinquency rate and the percentage of borrowers who subsequently are able to obtain credit from other sources and repay the loans extended to them under this title;

"(4) the use under this title of loan guarantees as compared with insured loans;

"(5) the purposes for which loans are actually insured or guaranteed under this title in relation to the purposes specified in section 203, and an evaluation of the family farm preference established under section 203(b);

Ante, p. 129.
7 USC prec. 1961 note.

"(6) the methods of servicing loans and encouraging the repayment of loans insured or guaranteed under this title; and

"(7) the need for extending beyond September 30, 1981, the authority for insuring and guaranteeing loans under this title.

Report to Congress.

"(b) The Secretary shall complete the study required under this section and submit a report to Congress by March 31, 1981. Any recommendations by the Secretary for extending the authority to insure and guarantee loans under this title shall contain an evaluation of possible alternatives, such as (1) the merger of the program of financial assistance authorized under this title with the farm ownership and operating loan programs authorized under the Consolidated Farm and Rural Development Act, and (2) the combination of all farm loan programs into a single program.".

7 USC 1921 note.

SEC. 2. The provisions of sections 1(5), 1(6), and 1(7) of this Act shall become effective on the date of enactment of this Act. The other provisions of section 1 of this Act shall become effective upon promulgation by the Secretary of Agriculture of regulations implementing such provisions within a reasonable time after the date of enactment of this Act, but in no event shall such provisions become effective later than October 1, 1980.

Effective dates.
7 USC prec. 1961 note.
Regulations.

Approved March 30, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-782 accompanying H.R. 6291 (Comm. on Agriculture) and No. 96-854 (Comm. of Conference).
SENATE REPORT No. 96-591 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 4, considered and passed Senate.
Mar. 5, H.R. 6291 considered and passed House; passage vacated and S. 2269, amended, passed in lieu.
Mar. 26, Senate agreed to conference report.
Mar. 27, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 14:
Mar. 30, Presidential statement.

Public Law 96-221
96th Congress

An Act

Mar. 31, 1980
[H.R. 4986]

To facilitate the implementation of monetary policy, to provide for the gradual elimination of all limitations on the rates of interest which are payable on deposits and accounts, and to authorize interest-bearing transaction accounts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Depository Institutions Deregulation and Monetary Control Act of 1980.
12 USC 226 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Depository Institutions Deregulation and Monetary Control Act of 1980".

TITLE I—MONETARY CONTROL ACT OF 1980

Monetary Control Act of 1980.

SHORT TITLE

12 USC 226 note.

SEC. 101. This title may be cited as the "Monetary Control Act of 1980".

REPORTING REQUIREMENTS

SEC. 102. Section 11(a) of the Federal Reserve Act (12 U.S.C. 248(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

Reports of assets and liabilities.

(2) by adding at the end thereof the following new paragraph:

"(2) To require any depository institution specified in this paragraph to make, at such intervals as the Board may prescribe, such reports of its liabilities and assets as the Board may determine to be necessary or desirable to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates. Such reports shall be made (A) directly to the Board in the case of member banks and in the case of other depository institutions whose reserve requirements under section 19 of this Act exceed zero, and (B) for all other reports to the Board through the (i) Federal Deposit Insurance Corporation in the case of insured State nonmember banks, savings banks, and mutual savings banks, (ii) National Credit Union Administration Board in the case of insured credit unions, (iii) Federal Home Loan Bank Board in the case of any institution insured by the Federal Savings and Loan Insurance Corporation or which is a member as defined in section 2 of the Federal Home Loan Bank Act, and (iv) such State officer or agency as the Board may designate in the case of any other type of bank, savings and loan association, or credit union. The Board shall endeavor to avoid the imposition of unnecessary burdens on reporting institutions and the duplication of other reporting requirements. Except as otherwise required by law, any data provided to any department, agency, or instrumentality of the United States pursuant to other reporting requirements shall be made available to the Board. The Board may classify depository

12 USC 461.

12 USC 1422.

institutions for the purposes of this paragraph and may impose different requirements on each such class.".

RESERVE REQUIREMENTS

SEC. 103. Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended to read as follows:

"(b) RESERVE REQUIREMENTS.—

"(1) DEFINITIONS.—The following definitions and rules apply to this subsection, subsection (c), section 11A, the first paragraph of section 13, and the second, thirteenth, and fourteenth paragraphs of section 16: *Post*, p. 140. *Post*, p. 139. *Post*, p. 140.

"(A) The term 'depository institution' means—

"(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act; 12 USC 1813. 12 USC 1815.

"(ii) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

"(iii) any savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

"(iv) any insured credit union as defined in section 101 of the Federal Credit Union Act or any credit union which is eligible to make application to become an insured credit union pursuant to section 201 of such Act; 12 USC 1752. 12 USC 1781.

"(v) any member as defined in section 2 of the Federal Home Loan Bank Act; 12 USC 1422.

"(vi) any insured institution as defined in section 401 of the National Housing Act or any institution which is eligible to make application to become an insured institution under section 403 of such Act; and 12 USC 1724. 12 USC 1726.

"(vii) for the purpose of section 13 and the fourteenth paragraph of section 16, any association or entity which is wholly owned by or which consists only of institutions referred to in clauses (i) through (vi). *Post*, p. 139. *Post*, p. 140.

"(B) The term 'bank' means any insured or noninsured bank, as defined in section 3 of the Federal Deposit Insurance Act, other than a mutual savings bank or a savings bank as defined in such section. 12 USC 1813.

"(C) The term 'transaction account' means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposits, negotiable order of withdrawal accounts, savings deposits subject to automatic transfers, and share draft accounts.

"(D) The term 'nonpersonal time deposits' means a transferable time deposit or account or a time deposit or account representing funds deposited to the credit of, or in which any beneficial interest is held by, a depositor who is not a natural person.

Transaction account, determination by regulation.

"(E) In order to prevent evasions of the reserve requirements imposed by this subsection, after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, the Board of Governors of the Federal Reserve System is authorized to determine, by regulation or order, that an account or deposit is a transaction account if such account or deposit may be used to provide funds directly or indirectly for the purpose of making payments or transfers to third persons or others.

"(2) RESERVE REQUIREMENTS.—(A) Each depository institution shall maintain reserves against its transaction accounts as the Board may prescribe by regulation solely for the purpose of implementing monetary policy—

"(i) in the ratio of 3 per centum for that portion of its total transaction accounts of $25,000,000 or less, subject to subparagraph (C); and

"(ii) in the ratio of 12 per centum, or in such other ratio as the Board may prescribe not greater than 14 per centum and not less than 8 per centum, for that portion of its total transaction accounts in excess of $25,000,000, subject to subparagraph (C).

"(B) Each depository institution shall maintain reserves against its nonpersonal time deposits in the ratio of 3 per centum, or in such other ratio not greater than 9 per centum and not less than zero per centum as the Board may prescribe by regulation solely for the purpose of implementing monetary policy.

Regulation.

"(C) Beginning in 1981, not later than December 31 of each year the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount which is contained in subparagraph (A) or which was last determined pursuant to this subparagraph for the purpose of such subparagraph, by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage increase in the total transaction accounts of all depository institutions. The increase in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the preceding calendar year from the amount of such accounts on June 30 of the calendar year involved. In the case of any such 12-month period in which there has been a decrease in the total transaction accounts of all depository institutions, the Board shall issue such a regulation decreasing for the next succeeding calendar year such dollar amount by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage decrease in the total transaction accounts of all depository institutions. The decrease in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the calendar year involved from the amount of such accounts on June 30 of the previous calendar year.

Uniform application.

"(D) Any reserve requirement imposed under this subsection shall be uniformly applied to all transaction accounts at all depository institutions. Reserve requirements imposed under this subsection shall be uniformly applied to nonpersonal time deposits at all depository institutions, except that such requirements may vary by the maturity of such deposits.

Waiver.

"(3) WAIVER OF RATIO LIMITS IN EXTRAORDINARY CIRCUMSTANCES.—Upon a finding by at least 5 members of the Board

that extraordinary circumstances require such action, the Board, after consultation with the appropriate committees of the Congress, may impose, with respect to any liability of depository institutions, reserve requirements outside the limitations as to ratios and as to types of liabilities otherwise prescribed by paragraph (2) for a period not exceeding 180 days, and for further periods not exceeding 180 days each by affirmative action by at least 5 members of the Board in each instance. The Board shall promptly transmit to the Congress a report of any exercise of its authority under this paragraph and the reasons for such exercise of authority.

Report to Congress.

"(4) SUPPLEMENTAL RESERVES.—(A) The Board may, upon the affirmative vote of not less than 5 members, impose a supplemental reserve requirement on every depository institution of not more than 4 per centum of its total transaction accounts. Such supplemental reserve requirement may be imposed only if—

"(i) the sole purpose of such requirement is to increase the amount of reserves maintained to a level essential for the conduct of monetary policy;

"(ii) such requirement is not imposed for the purpose of reducing the cost burdens resulting from the imposition of the reserve requirements pursuant to paragraph (2);

"(iii) such requirement is not imposed for the purpose of increasing the amount of balances needed for clearing purposes; and

"(iv) on the date on which the supplemental reserve requirement is imposed, the total amount of reserves required pursuant to paragraph (2) is not less than the amount of reserves that would be required if the initial ratios specified in paragraph (2) were in effect.

"(B) The Board may require the supplemental reserve authorized under subparagraph (A) only after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board. The Board shall promptly transmit to the Congress a report with respect to any exercise of its authority to require supplemental reserves under subparagraph (A) and such report shall state the basis for the determination to exercise such authority.

Report to Congress.

"(C) The supplemental reserve authorized under subparagraph (A) shall be maintained by the Federal Reserve banks in an Earnings Participation Account. Except as provided in subsection (c)(1)(A)(ii), such Earnings Participation Account shall receive earnings to be paid by the Federal Reserve banks during each calendar quarter at a rate not more than the rate earned on the securities portfolio of the Federal Reserve System during the previous calendar quarter. The Board may prescribe rules and regulations concerning the payment of earnings on Earnings Participation Accounts by Federal Reserve banks under this paragraph.

Earnings Participation Account.

"(D) If a supplemental reserve under subparagraph (A) has been required of depository institutions for a period of one year or more, the Board shall review and determine the need for continued maintenance of supplemental reserves and shall transmit annual reports to the Congress regarding the need, if any, for continuing the supplemental reserve.

Reports to Congress.

"(E) Any supplemental reserve imposed under subparagraph (A) shall terminate at the close of the first 90-day period after

Termination.

such requirement is imposed during which the average amount of reserves required under paragraph (2) are less than the amount of reserves which would be required during such period if the initial ratios specified in paragraph (2) were in effect.

"(5) RESERVES RELATED TO FOREIGN OBLIGATIONS OR ASSETS.—Foreign branches, subsidiaries, and international banking facilities of nonmember depository institutions shall maintain reserves to the same extent required by the Board of foreign branches, subsidiaries, and international banking facilities of member banks. In addition to any reserves otherwise required to be maintained pursuant to this subsection, any depository institution shall maintain reserves in such ratios as the Board may prescribe against—

"(A) net balances owed by domestic offices of such depository institution in the United States to its directly related foreign offices and to foreign offices of nonrelated depository institutions;

"(B) loans to United States residents made by overseas offices of such depository institution if such depository institution has one or more offices in the United States; and

"(C) assets (including participations) held by foreign offices of a depository institution in the United States which were acquired from its domestic offices.

"(6) EXEMPTION FOR CERTAIN DEPOSITS.—The requirements imposed under paragraph (2) shall not apply to deposits payable only outside the States of the United States and the District of Columbia, except that nothing in this subsection limits the authority of the Board to impose conditions and requirements on member banks under section 25 of this Act or the authority of the Board under section 7 of the International Banking Act of 1978 (12 U.S.C. 3105).

12 USC 601-604a.

"(7) DISCOUNT AND BORROWING.—Any depository institution in which transaction accounts or nonpersonal time deposits are held shall be entitled to the same discount and borrowing privileges as member banks. In the administration of discount and borrowing privileges, the Board and the Federal Reserve banks shall take into consideration the special needs of savings and other depository institutions for access to discount and borrowing facilities consistent with their long-term asset portfolios and the sensitivity of such institutions to trends in the national money markets.

Reserves.

"(8) TRANSITIONAL ADJUSTMENTS.—

"(A) Any depository institution required to maintain reserves under this subsection which was engaged in business on July 1, 1979, but was not a member of the Federal Reserve System on or after that date, shall maintain reserves against its deposits during the first twelve-month period following the effective date of this paragraph in amounts equal to one-eighth of those otherwise required by this subsection, during the second such twelve-month period in amounts equal to one-fourth of those otherwise required, during the third such twelve-month period in amounts equal to three-eighths of those otherwise required, during the fourth twelve-month period in amounts equal to one-half of those otherwise required, and during the fifth twelve-month period in amounts equal to five-eighths of those otherwise required, during the sixth twelve-month period in amounts equal to three-fourths of those otherwise required, and during the

seventh twelve-month period in amounts equal to seven-eighths of those otherwise required. This subparagraph does not apply to any category of deposits or accounts which are first authorized pursuant to Federal law in any State after April 1, 1980.

"(B) With respect to any bank which was a member of the Federal Reserve System during the entire period beginning on July 1, 1979, and ending on the effective date of the Monetary Control Act of 1980, the amount of required reserves imposed pursuant to this subsection on and after the effective date of such Act that exceeds the amount of reserves which would have been required of such bank if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied may, at the discretion of the Board and in accordance with such rules and regulations as it may adopt, be reduced by 75 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 25 per centum during the third year. *Ante*, p. 132.

"(C)(i) With respect to any bank which is a member of the Federal Reserve System on the effective date of the Monetary Control Act of 1980, the amount of reserves which would have been required of such bank if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied that exceeds the amount of required reserves imposed pursuant to this subsection shall, in accordance with such rules and regulations as the Board may adopt, be reduced by 25 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 75 per centum during the third year.

"(ii) If a bank becomes a member bank during the four-year period beginning on the effective date of the Monetary Control Act of 1980, and if the amount of reserves which would have been required of such bank, determined as if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied, and as if such bank had been a member during such period, exceeds the amount of reserves required pursuant to this subsection, the amount of reserves required to be maintained by such bank beginning on the date on which such bank becomes a member of the Federal Reserve System shall be the amount of reserves which would have been required of such bank if it had been a member on the day before such effective date, except that the amount of such excess shall, in accordance with such rules and regulations as the Board may adopt, be reduced by 25 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 75 per centum during the third year.

"(D)(i) Any bank which was a member bank on July 1, 1979, and which withdraws from membership in the Federal Reserve System during the period beginning on July 1, 1979, and ending on the day before the date of enactment of the Depository Institutions Deregulation and Monetary Control Act of 1980, shall maintain reserves beginning on such date of enactment in an amount equal to the amount of reserves it would have been required to maintain if it had been a member bank on such date of enactment. After such date of *Ante*, p. 132.

enactment, any such bank shall maintain reserves in the same amounts as member banks are required to maintain under this subsection, pursuant to subparagraphs (B) and (C)(i).

"(ii) Any bank which withdraws from membership in the Federal Reserve System on or after the date of enactment of the Depository Institutions Deregulation and Monetary Control Act of 1980 shall maintain reserves in the same amount as member banks are required to maintain under this subsection, pursuant to subparagraphs (B) and (C)(i).

Ante, p. 132.

"(E) This subparagraph applies to any depository institution which was engaged in business on August 1, 1978, as a depository institution organized under the laws of a State, which was not a member of the Federal Reserve System on that date, and the principal office of which was outside the continental limits of the United States on that date and has remained outside the continental limits of the United States ever since. Such a depository institution shall not be required to maintain reserves against its deposits pursuant to this subsection until the first day of the sixth calendar year which begins after the effective date of the Monetary Control Act of 1980. Such a depository institution shall maintain reserves against its deposits during the sixth calendar year which begins after such effective date in an amount equal to one-eighth of that otherwise required by paragraph (2), during the seventh such year in an amount equal to one-fourth of that otherwise required, during the eighth such year in an amount equal to three-eighths of that otherwise required, during the ninth such year in an amount equal to one-half of that otherwise required, during the tenth such year in an amount equal to five-eighths of that otherwise required, during the eleventh such year in an amount equal to three-fourths of that otherwise required, and during the twelfth such year in an amount equal to seven-eighths of that otherwise required.

"(9) EXEMPTION.—This subsection shall not apply with respect to any financial institution which—

"(A) is organized solely to do business with other financial institutions;

"(B) is owned primarily by the financial institutions with which it does business; and

"(C) does not do business with the general public.

"(10) WAIVERS.—In individual cases, where a Federal supervisory authority waives a liquidity requirement, or waives the penalty for failing to satisfy a liquidity requirement, the Board shall waive the reserve requirement, or waive the penalty for failing to satisfy a reserve requirement, imposed pursuant to this subsection for the depository institution involved when requested by the Federal supervisory authority involved.".

FORM OF RESERVES

SEC. 104. (a) Section 19(c) of the Federal Reserve Act (12 U.S.C. 461) is amended to read as follows:

"(c)(1) Reserves held by a depository institution to meet the requirements imposed pursuant to subsection (b) shall, subject to such rules and regulations as the Board shall prescribe, be in the form of—

"(A) balances maintained for such purposes by such depository institution in the Federal Reserve bank of which it is a member or at which it maintains an account, except that (i) the Board may, by regulation or order, permit depository institutions to maintain all or a portion of their required reserves in the form of vault cash, except that any portion so permitted shall be identical for all depository institutions, and (ii) vault cash may be used to satisfy any supplemental reserve requirement imposed pursuant to subsection (b)(4), except that all such vault cash shall be excluded from any computation of earnings pursuant to subsection (b)(4)(C); and Vault cash.

"(B) balances maintained by a depository institution which is not a member bank in a depository institution which maintains required reserve balances at a Federal Reserve bank, in a Federal Home Loan Bank, or in the National Credit Union Administration Central Liquidity Facility, if such depository institution, Federal Home Loan Bank, or National Credit Union Administration Central Liquidity Facility maintains such funds in the form of balances in a Federal Reserve bank of which it is a member or at which it maintains an account. Balances received by a depository institution from a second depository institution and used to satisfy the reserve requirement imposed on such second depository institution by this section shall not be subject to the reserve requirements of this section imposed on such first depository institution, and shall not be subject to assessments or reserves imposed on such first depository institution pursuant to section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817), section 404 of the National Housing Act (12 U.S.C. 1727), or section 202 of the Federal Credit Union Act (12 U.S.C. 1782).

"(2) The balances maintained to meet the reserve requirements of subsection (b) by a depository institution in a Federal Reserve bank or passed through a Federal Home Loan Bank or the National Credit Union Administration Central Liquidity Facility or another depository institution to a Federal Reserve bank may be used to satisfy liquidity requirements which may be imposed under other provisions of Federal or State law.". Liquidity requirements.

(b) The first sentence of section 5A(b)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)) is amended—

(1) by striking out "and" before "(D)"; and

(2) by inserting before the period at the end thereof the following: "; and (E) balances maintained in a Federal Reserve bank or passed through a Federal Home Loan Bank or another depository institution to a Federal Reserve bank pursuant to the Federal Reserve Act". 12 USC 226.

MISCELLANEOUS AMENDMENTS

SEC. 105. (a) The first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342) is amended—

(1) by inserting "or other depository institutions" after "member banks";

(2) by inserting "or other items" after "payable upon presentation" the first and third place it appears therein;

(3) by inserting "or other items" after "payable upon presentation within its district";

(4) by inserting "or other depository institution" after "nonmember bank or trust company" each place it appears therein;

(5) by striking out "sufficient to offset the items in transit held for its account by the Federal reserve bank" and inserting in lieu thereof "in such amount as the Board determines taking into account items in transit, services provided by the Federal Reserve bank, and other factors as the Board may deem appropriate"; and

(6) by inserting "or other depository institution" after "prohibiting a member or nonmember bank".

(b)(1) The second paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 412) is amended—

(A) by inserting before the period at the end of the third sentence the following: ", or assets that Federal Reserve banks may purchase or hold under section 14 of this Act"; and

12 USC 353-359, 348a.

(B) by adding at the end thereof the following: "Collateral shall not be required for Federal Reserve notes which are held in the vaults of Federal Reserve banks.".

(2) Section 14(b)(1) of the Federal Reserve Act (12 U.S.C. 355), as such section is in effect on the effective date of this title and as it will be in effect on June 1, 1981, is amended by inserting after "reclamation districts," the following: "and obligations of, or fully guaranteed as to principal and interest by, a foreign government or agency thereof,".

(c) The thirteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 360) is amended—

(1) by striking out "member banks" each place it appears therein and inserting in lieu thereof "depository institutions";

(2) by striking out "member bank" each place it appears therein and inserting in lieu thereof "depository institution"; and

(3) by inserting after "checks" each place it appears therein, the following: "and other items, including negotiable orders of withdrawal and share drafts".

(d) The fourteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 248(o)) is amended by striking out "its member banks" and inserting in lieu thereof "depository institutions".

(e) The first sentence of section 19(e) of the Federal Reserve Act (12 U.S.C. 463) is amended to read as follows: "No member bank shall keep on deposit with any depository institution which is not authorized to have access to Federal Reserve advances under section 10(b) of this Act a sum in excess of 10 per centum of its own paid-up capital and surplus.".

12 USC 347b.

(f) The last subsection of section 19 of the Federal Reserve Act (12 U.S.C. 505) is amended by striking out "(j)(1)" and inserting in lieu thereof "(l)(1)".

ABOLITION OF PENALTY RATE

12 USC 347b.

SEC. 106. Section 10(b) of the Federal Reserve Act (12 U.S.C. 374b) is amended by striking out the second sentence of the first paragraph.

PRICING OF SERVICES

SEC. 107. The Federal Reserve Act is amended by inserting after section 11 the following new section:

"PRICING OF SERVICES

12 USC 248a.

Ante, p. 132.

"SEC. 11A. (a) Not later than the first day of the sixth month after the date of enactment of the Monetary Control Act of 1980, the Board shall publish for public comment a set of pricing principles in

accordance with this section and a proposed schedule of fees based upon those principles for Federal Reserve bank services to depository institutions, and not later than the first day of the eighteenth month after the date of enactment of the Monetary Control Act of 1980, the Board shall begin to put into effect a schedule of fees for such services which is based on those principles.

Ante, p. 132.

"(b) The services which shall be covered by the schedule of fees under subsection (a) are—

"(1) currency and coin services;

"(2) check clearing and collection services;

"(3) wire transfer services;

"(4) automated clearinghouse services;

"(5) settlement services;

"(6) securities safekeeping services;

"(7) Federal Reserve float; and

"(8) any new services which the Federal Reserve System offers, including but not limited to payment services to effectuate the electronic transfer of funds.

"(c) The schedule of fees prescribed pursuant to this section shall be based on the following principles:

"(1) All Federal Reserve bank services covered by the fee schedule shall be priced explicitly.

"(2) All Federal Reserve bank services covered by the fee schedule shall be available to nonmember depository institutions and such services shall be priced at the same fee schedule applicable to member banks, except that nonmembers shall be subject to any other terms, including a requirement of balances sufficient for clearing purposes, that the Board may determine are applicable to member banks.

"(3) Over the long run, fees shall be established on the basis of all direct and indirect costs actually incurred in providing the Federal Reserve services priced, including interest on items credited prior to actual collection, overhead, and an allocation of imputed costs which takes into account the taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm, except that the pricing principles shall give due regard to competitive factors and the provision of an adequate level of such services nationwide.

"(4) Interest on items credited prior to collection shall be charged at the current rate applicable in the market for Federal funds.

"(d) The Board shall require reductions in the operating budgets of the Federal Reserve banks commensurate with any actual or projected decline in the volume of services to be provided by such banks. The full amount of any savings so realized shall be paid into the United States Treasury.".

EFFECTIVE DATES

SEC. 108. This title shall take effect on the first day of the sixth month which begins after the date of the enactment of this title, except that the amendments regarding sections 19(b)(7) and 19(b)(8)(D) of the Federal Reserve Act shall take effect on the date of enactment of this title.

12 USC 248 note.

Ante, p. 133.

Depository Institutions Deregulation Act of 1980.

TITLE II—DEPOSITORY INSTITUTIONS DEREGULATION

SHORT TITLE

12 USC 3501 note.

SEC. 201. This title may be cited as the "Depository Institutions Deregulation Act of 1980".

FINDINGS AND PURPOSE

12 USC 3501.

SEC. 202. (a) The Congress hereby finds that—

(1) limitations on the interest rates which are payable on deposits and accounts discourage persons from saving money, create inequities for depositors, impede the ability of depository institutions to compete for funds, and have not achieved their purpose of providing an even flow of funds for home mortgage lending; and

(2) all depositors, and particularly those with modest savings, are entitled to receive a market rate of return on their savings as soon as it is economically feasible for depository institutions to pay such rate.

(b) It is the purpose of this title to provide for the orderly phase-out and the ultimate elimination of the limitations on the maximum rates of interest and dividends which may be paid on deposits and accounts by depository institutions by extending the authority to impose such limitations for 6 years, subject to specific standards designed to ensure a phase-out of such limitations to market rates of interest.

ESTABLISHMENT AND AUTHORITY OF COMMITTEE

Depository Institutions Deregulation Committee.
12 USC 3502.

SEC. 203. (a) The authorities conferred by section 19(j) of the Federal Reserve Act (12 U.S.C. 371b), section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)), and section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) or by any other provision of Federal law, other than section 117 of the Federal Credit Union Act (12 U.S.C. 1763), to prescribe rules governing the payment of interest and dividends and the establishment of classes of deposits or accounts, including limitations on the maximum rates of interest and dividends which may be paid on deposits and accounts, and the authority conferred by the provisions of section 102 of Public Law 94-200 (12 U.S.C. 461 note) are hereby transferred to the Depository Institutions Deregulation Committee (hereinafter in this title referred to as the "Deregulation Committee").

Members.

(b) The Deregulation Committee shall consist of the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation, the Chairman of the Federal Home Loan Bank Board, and the Chairman of the National Credit Union Administration Board, who shall be voting members, and the Comptroller of the Currency who shall be a nonvoting member of the Deregulation Committee. The Deregulation Committee shall hold public meetings at least quarterly. All meetings of the Deregulation Committee shall be conducted in conformity with the provisions of section 552b of title 5, United States Code. The Deregulation Committee may not take any action unless such action is approved by a majority vote of the voting members of the Deregulation Committee.

Delegation of authorities, prohibition.

(c) The authorities conferred by this title on the Deregulation Committee and its members may not be delegated.

DIRECTIVE TO THE COMMITTEE

SEC. 204. (a) The Deregulation Committee shall, by regulation, exercise the authorities transferred by section 203 to provide for the orderly phase-out and the ultimate elimination of the limitations on the maximum rates of interest and dividends which may be paid on deposits and accounts as rapidly as economic conditions warrant. The phase-out of such limitations may be achieved by the Deregulation Committee by the gradual increase in such limitations applicable to all existing categories of accounts, the complete elimination of the limitations applicable to particular categories of accounts, the creation of new categories of accounts not subject to limitations or with limitations set at current market rates, any combination of the above methods, or any other method. Regulation. 12 USC 3503.

(b) The Deregulation Committee shall work toward providing all depositors with a market rate of return on their savings with due regard for the safety and soundness of depository institutions. Pursuant to the authority granted by this title, the Deregulation Committee shall increase all limitations on the maximum rates of interest and dividends which may be paid on deposits and accounts to market rates as soon as feasible, except that the Deregulation Committee shall not increase such limitations above market rates during the six-year period beginning on the date of enactment of this title.

TARGETS

SEC. 205. (a) In order to assist the Deregulation Committee in establishing the limitations on the maximum rates of interest and dividends which may be paid on all deposits and accounts at market rates as soon as feasible and in order to provide maximum assurance that interest rate controls will be phased-out during the 6-year period following the date of enactment of this title, the Deregulation Committee shall vote, not later than 18 months after such date of enactment, on whether to increase the limitations on the maximum rates applicable to passbook and similar savings accounts by at least one-fourth of one percentage point during such 18-month period, and shall vote, not later than the end of each of the third, fourth, fifth, and sixth years after such date of enactment, on whether to increase the limitations on the maximum rates applicable to all categories of deposits and accounts by at least one-half of one percentage point. 12 USC 3504.

(b) The Deregulation Committee may, consistent with the purposes of this title, adjust the limitations on the rates applicable to all categories of deposits and accounts to rates which are higher or lower than the targets set forth in this section.

REPORTS

SEC. 206. Each member of the Deregulation Committee shall separately report to the Congress annually after the date of enactment of this Act regarding the economic viability of depository institutions. Each such report shall contain— 12 USC 3505.

(1) an assessment of whether the removal of any differential between the rates payable on deposits and accounts by banks and those payable by thrift institutions will adversely affect the housing finance market or the viability of the thrift industry;

(2) recommendations for measures which would encourage savings, provide for the equitable treatment of small savers, and ensure a steady and adequate flow of funds to thrift institutions and the housing market;

(3) findings concerning disintermediation of savings deposits from insured banks and insured thrift institutions to uninsured money market innovators paying market rates to savers; and

(4) recommendations for such legislative and administrative actions as the member involved considers necessary to maintain the economic viability of depository institutions.

TERMINATIONS

Repeals. 12 USC 3506.

SEC. 207. (a) Section 7 of Public Law 89-597 (12 U.S.C. 461 note) is hereby repealed.

(b) Effective upon the expiration of 6 years after the date of enactment of this Act—

(1) section 102 of Public Law 94-200 (12 U.S.C. 461 note) is hereby repealed;

(2) the second sentence of section 18(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)(1)) is amended by striking out "payment and" and by striking out ", including limitations on the rates of interest and dividends that may be paid";

(3) the third, fifth, and eighth sentences of section 18(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)(1)) are hereby repealed;

(4) the first sentence of section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) is amended by striking out "payment and" and by striking out ", including limitations on the rates of interest which may be paid";

(5) the second sentence of section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) is hereby repealed;

(6) the third sentence of section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) is amended by striking out "No member bank" and all that follows through "*Provided*, That, the" and inserting in lieu thereof "The";

(7) the first sentence of section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) is amended by striking out "payment and" and by striking out ", including limitations on the rates of interest or dividends on deposits, shares, or withdrawable accounts that may be paid";

(8) the second and fourth sentences of section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) are hereby repealed;

(9) the third sentence of section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) is amended by striking out ", including specifically the authority" and all that follows through "of that authority";

(10) section 117 of the Federal Credit Union Act (12 U.S.C. 1763) is amended by striking out ", pursuant to such regulations as may be issued by the Board,";

(11) section 501(a)(2) of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by striking out "(A)" and by striking out subparagraph (B);

Post, p. 161.

(12) section 527 of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by striking out ", except as provided in section 501(a)(2)(B)"; and

Post, p. 168.

(13) Public Law 93-123 (12 U.S.C. 371b note) is hereby repealed.

ENFORCEMENT

12 USC 3507.

SEC. 208. (a) Compliance with the regulations issued by the Deregulation Committee under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board of Governors of the Federal Reserve System;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation; and

(2) section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)), section 407 of the National Housing Act (12 U.S.C. 1730), and section 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions. 12 USC 1437.

(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any regulation prescribed under this title shall be deemed to be a violation of a regulation prescribed under the Act involved. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in such subsection may exercise, for the purpose of enforcing compliance with any regulation prescribed under this title, any other authority conferred on it by law.

TRANSITIONAL PROVISIONS

SEC. 209. All rules and regulations issued pursuant to any authority transferred by section 203 of this title shall remain in effect until repealed, amended, or superseded by a regulation of the Deregulation Committee. 12 USC 3508.

TERMINATION OF AUTHORITY

SEC. 210. Upon the expiration of six years after the date of the enactment of this Act, all authorities transferred to the Deregulation Committee by this title shall cease to be effective and the Deregulation Committee shall cease to exist. 12 USC 3509.

TITLE III—CONSUMER CHECKING ACCOUNT EQUITY ACT OF 1980

Consumer Checking Account Equity Act of 1980.

SHORT TITLE

SEC. 301. This title may be cited as the "Consumer Checking Account Equity Act of 1980". 12 USC 226 note.

AUTOMATIC TRANSFER ACCOUNTS

SEC. 302. (a) Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts

drawn upon the bank, pursuant to terms and conditions prescribed by the Board.".

(b) Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1), an insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board of Directors.".

NOW ACCOUNTS

SEC. 303. Section 2(a) of Public Law 93-100 (12 U.S.C. 1832(a)) is amended to read as follows:

"(a)(1) Notwithstanding any other provision of law but subject to paragraph (2), a depository institution is authorized to permit the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

"(2) Paragraph (1) shall apply only with respect to deposits or accounts which consist solely of funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit.".

REMOTE SERVICE UNITS

SEC. 304. Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following new sentence: "This section does not prohibit the establishment of remote service units by associations for the purpose of crediting savings accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions, as provided in regulations prescribed by the Board.".

SHARE DRAFTS

SEC. 305. (a) Section 101(5) of the Federal Credit Union Act (12 U.S.C. 1752(5)) is amended—

(1) by striking out "or share certificate" each place it appears therein and inserting in lieu thereof ", share certificate, or share draft account"; and

(2) by striking out "or 'share certificate'" and inserting in lieu thereof ", 'share certificate', or 'share draft'".

(b) Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) is amended by striking out "credit unions serving" and all that follows through the end thereof and inserting in lieu thereof "credit unions serving predominately low-income members (as defined by the Board) payments on—

"(A) shares which may be issued at varying dividend rates;

"(B) share certificates which may be issued at varying dividend rates and maturities; and

12 USC 1785.

"(C) share draft accounts authorized under section 205(f);

subject to such terms, rates, and conditions as may be established by the board of directors, within limitations prescribed by the Board.".

(c) Section 117 of the Federal Credit Union Act (12 U.S.C. 1763) is amended—

(1) in the first sentence—

(A) by striking out "and" the second place it appears therein and inserting in lieu thereof a comma; and

(B) by inserting ", and at different rates on different types of share draft accounts" before the period at the end thereof; and

(2) in the second sentence, by striking out "and share certificates" and inserting in lieu thereof ", share certificates, and share draft accounts".

(d) Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end thereof the following new subsection:

"(f)(1) Every insured credit union is authorized to maintain, and make loans with respect to, share draft accounts in accordance with rules and regulations prescribed by the Board. Except as provided in paragraph (2), an insured credit union may pay dividends on share draft accounts and may permit the owners of such share draft accounts to make withdrawals by negotiable or transferable instruments or other orders for the purpose of making transfers to third parties.

"(2) Paragraph (1) shall apply only with respect to share draft accounts in which the entire beneficial interest is held by one or more individuals or members or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit.".

EFFECTIVE DATES

SEC. 306. The amendments made by sections 302, 304, and 305 of this title shall take effect at the close of March 31, 1980, and the amendments made by section 303 of this title shall take effect on December 31, 1980. 12 USC 371a note.

REPEAL OF EXISTING LAW

SEC. 307. At the close of March 31, 1980, the amendments made by sections 101 through 103 of Public Law 96-161 are hereby repealed. 12 USC 371a, 1464, 1752, 1757, 1828.

DEPOSIT INSURANCE

SEC. 308. (a)(1) The following provisions of the Federal Deposit Insurance Act are amended by striking out "$40,000" each place it appears therein and inserting in lieu thereof "$100,000": 12 USC 1811 note.

(A) The first sentence of section 3(m) (12 U.S.C. 1813(m)).

(B) The first sentence of section 7(i) (12 U.S.C. 1817(i)).

(C) The last sentence of section 11(a)(1) (12 U.S.C. 1821(a)(1)).

(D) The fifth sentence of section 11(i) (12 U.S.C. 1821(i)).

(2) The amendments made by this subsection are not applicable to any claim arising out of the closing of a bank prior to the effective date of this section. Exemption. 12 USC 1813 note.

(b)(1) The following provisions of title IV of the National Housing Act are amended by striking out "$40,000" each place it appears therein and inserting in lieu thereof "$100,000": 12 USC 1724.

(A) Section 401(b) (12 U.S.C. 1724(b)).

(B) Section 405(a) (12 U.S.C. 1728(a)).

(2) The amendments made by this subsection are not applicable to any claim arising out of a default, as defined in section 401(d) of the Exemption. 12 USC 1724 note.

National Housing Act (12 U.S.C. 1724(d)), where the appointment of a conservator, receiver, or other legal custodian as set forth in that section became effective prior to the effective date of this section.

(c)(1) The second sentence of section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended by striking out "$40,000" and inserting in lieu thereof "$100,000".

Exemption. 12 USC 1787 note.

(2) The amendment made by this subsection is not applicable to any claim arising out of the closing of a credit union for liquidation on account of bankruptcy or insolvency pursuant to section 207 of the Federal Credit Union Act (12 U.S.C. 1787) prior to the effective date of this section.

(d) Section 7(d) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)) is amended—

(1) in the first sentence—

(A) by inserting "(1)" after "(d)";

(B) by striking out "December 31, 1961" and inserting in lieu thereof "December 31, 1980"; and

(C) by striking out "33⅓ per centum" and inserting in lieu thereof "40 per centum"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of this subsection—

"(A) whenever the Board of Directors determines that the ratio of the Corporation's capital account to the estimated insured deposits is less than 1.10 per centum, the Board of Directors shall increase the per centum of net assessment income to be transferred to the Corporation's capital account by such an amount, but not to exceed 50 per centum, as it determines will result in maintaining that ratio at not less than 1.10 per centum;

"(B) whenever the Board of Directors determines that the ratio of the Corporation's capital account to the estimated insured deposits exceeds 1.25 per centum, the Board of Directors may reduce the per centum of net assessment income to be transferred to the Corporation's capital account by such an amount as it determines will result in maintaining such ratio at not less than 1.25 per centum; and

"(C) whenever the Board of Directors determines that the ratio of the Corporation's capital account to the estimated insured deposits exceeds 1.40 per centum, the Board of Directors shall reduce the per centum of net assessment income to be transferred to the Corporation's capital account by such an amount as it determines will result in maintaining that ratio at not more than 1.40 per centum.".

Effective date. 12 USC 1817 note.

(e) The amendments made by this section shall take effect on the date of enactment of this Act.

CREDIT UNION AMENDMENTS

SEC. 309. (a) The Federal Credit Union Act is amended—

12 USC 1757.

(1) in section 107(5)(A)(i)—

(A) by inserting ", including an individual cooperative unit," immediately following "dwelling"; and

(B) by inserting "(except that a loan on an individual cooperative unit shall be adequately secured as defined by the Board)" after "thirty years";

12 USC 1795d.

(2) by striking out section 305(b)(3) and inserting in lieu thereof the following:

"(3) shall share in dividend distributions at rates determined by the Board. However, rates on the required capital stock shall be without preference; and";

(3) by striking out ", to the extent or in such amounts as are provided in advance in appropriation Acts" in section 307(15); and 12 USC 1795f.

(4) in title III, as so redesignated by subsection (b)(1), by striking out "Administrator" each place it appears and inserting in lieu thereof "Board". 12 USC 1795b–1795g.

(b) The Federal Credit Union Act is amended— 12 USC 1751.

(1) by striking out the heading of subchapter III of such Act and inserting in lieu thereof "TITLE III—CENTRAL LIQUIDITY FACILITY"; 12 USC 1795.

(2) in title III, as so redesignated by paragraph (1), by striking out "subchapter" each place it appears therein and inserting in lieu thereof "title"; and 12 USC 1795a, 1795c, 1795f, 1795g.

(3) in section 307(3), by striking out "subchapters I and II of this chapter" and inserting in lieu thereof "titles I and II of this Act". 12 USC 1795f.

INTEREST RATES ON CREDIT UNION LOANS

SEC. 310. Section 107(5)(A)(vi) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(vi)) is amended to read as follows:

"(vi) the rate of interest may not exceed 15 per centum per annum on the unpaid balance inclusive of all finance charges, except that the Board may establish—

"(I) after consultation with the appropriate committees of the Congress, the Department of Treasury, and the Federal financial institution regulatory agencies, an interest rate ceiling exceeding such 15 per centum per annum rate, for periods not to exceed 18 months, if it determines that money market interest rates have risen over the preceding six-month period and that prevailing interest rate levels threaten the safety and soundness of individual credit unions as evidenced by adverse trends in liquidity, capital, earnings, and growth; and

"(II) a higher interest rate ceiling for Agent members of the Central Liquidity Facility in carrying out the provisions of title III for such periods as the Board may authorize;". 12 USC 1795.

FEDERAL HOME LOAN BANK SETTLEMENT AND PROCESSING OF DRAFTS

SEC. 311. Section 11(e) of the Federal Home Loan Bank Act (12 U.S.C. 1431(e)) is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) The Board may, subject to such rules and regulations, including definitions of terms used in this paragraph, as the Board shall from time to time prescribe, authorize Federal Home Loan Banks to be drawees of, and to engage in, or be agents or intermediaries for, or otherwise participate or assist in, the collection and settlement of (including presentment, clearing, and payment of, and remitting for), checks, drafts, or any other negotiable or nonnegotiable items or instruments of payment drawn on or issued by members of any Federal Home Loan Bank or by institutions which are eligible to make application to become members pursuant to section 4, and to 12 USC 1424.

have such incidental powers as the Board shall find necessary for the exercise of any such authorization.

"(B) A Federal Home Loan Bank shall make charges, to be determined and regulated by the Board consistent with the principles set forth in section 11A(c) of the Federal Reserve Act, or utilize the services of, or act as agent for, or be a member of, a Federal Reserve bank, clearinghouse, or any other public or private financial institution or other agency, in the exercise of any powers or functions pursuant to this paragraph.

Ante, p. 140.

Rules and regulations.

"(C) The Board is authorized, with respect to participation in the collection and settlement of any items by Federal Home Loan Banks, and with respect to the collection and settlement (including payment by the payor institution) of items payable by Federal savings and loan associations and Federal mutual savings banks, to prescribe rules and regulations regarding the rights, powers, responsibilities, duties, and liabilities, including standards relating thereto, of such Banks, associations, or banks and other parties to any such items or their collection and settlement. In prescribing such rules and regulations, the Board may adopt or apply, in whole or in part, general banking usage and practices, and, in instances or respects in which they would otherwise not be applicable, Federal Reserve regulations and operating letters, the Uniform Commercial Code, and clearinghouse rules.".

CENTRAL LIQUIDITY FACILITY SETTLEMENT AND PROCESSING OF SHARE DRAFTS

SEC. 312. Section 307 of the Federal Credit Union Act (12 U.S.C. 1795f) is amended—

(1) by inserting "(a)" after "SEC. 307."; and

(2) by adding at the end thereof the following:

"(b)(1) The Board may authorize the Central Liquidity Facility or its Agent members, subject to such rules and regulations, including definitions of terms used in this subsection, as the Board shall from time to time prescribe, to be drawees of, and to engage in, or be agents or intermediaries for, or otherwise participate or assist in, the collection and settlement of (including presentment, clearing, and payment of, and remitting for), checks, share drafts, or any other negotiable or nonnegotiable items or instruments of payment drawn on or issued by members of the Central Liquidity Facility, any of its Agent members, or any other credit union eligible to become a member of the Central Liquidity Facility, and to have such incidental powers as the Board shall find necessary for the exercise of any such authorization.

"(2) The Central Liquidity Facility or its Agent members shall make charges, to be determined and regulated by the Board consistent with the principles set forth in section 11A(c) of the Federal Reserve Act, or utilize the services of, or act as agent for, or be a member of, a Federal Reserve bank, clearinghouse, or any other public or private financial institution or other agency, in the exercise of any powers or functions pursuant to this subsection.

Ante, p. 140.

Rules and regulations.

"(3) The Board is authorized, with respect to participation in the collection and settlement of any items by the Central Liquidity Facility or by its Agent members, and with respect to the collection and settlement (including payment by the payor institution) of items payable by members of the Central Liquidity Facility or of any of its Agent members, to prescribe rules and regulations regarding the rights, powers, responsibilities, duties, and liabilities, including standards relating thereto, of such entities and other parties to any

such items or their collection and settlement. In prescribing such rules and regulations, the Board may adopt or apply, in whole or in part, general banking usage and practices, and, in instances or respects in which they would otherwise not be applicable, Federal Reserve regulations and operating letters, the Uniform Commercial Code, and clearinghouse rules.".

ALASKA USA FEDERAL CREDIT UNION

SEC. 313. Any person who is a member of the Alaska USA Federal Credit Union prior to any termination date which is contained in section 5 of the charter of such credit union and which would otherwise apply to such person may continue to be a member of such credit union on and after such date until the expiration of two years after the date of the enactment of this Act. For purposes of this section, the term "member of the Alaska USA Federal Credit Union" means any person who has an account at such credit union.

TITLE IV—POWERS OF THRIFT INSTITUTIONS AND MISCELLANEOUS PROVISIONS

FEDERAL SAVINGS AND LOAN INVESTMENT AUTHORITY

SEC. 401. Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended to read as follows:

"(c) An association may to such extent, and subject to such rules and regulations as the Board may prescribe from time to time, invest in, sell, or otherwise deal with the following loans, or other investments:

"(1) Loans or investments without percentage of assets limitation: Without limitation as a percentage of assets, the following are permitted:

"(A) ACCOUNT LOANS.—Loans on the security of its savings accounts and loans specifically related to negotiable order-of-withdrawal accounts.

"(B) SINGLE-FAMILY AND MULTI-FAMILY MORTGAGE LOANS.—Loans on the security of liens upon residential real property in an amount which, when added to the amount unpaid upon prior mortgages, liens or encumbrances, if any, upon such real estate does not exceed the appraised value thereof, except that the amount of any such loan hereafter made shall not exceed 66⅔ per centum of the appraised value if such real estate is unimproved, 75 per centum of the appraised value if such real estate is improved by offsite improvements such as street, water, sewers, or other utilities, 75 per centum of the appraised value if such real estate is in the process of being improved by a building or buildings to be constructed or in the process of construction, or 90 per centum of the appraised value if such real estate is improved by a building or buildings. Notwithstanding the above loan-to-value ratios, the Board may permit a loan-to-value ratio in excess of 90 per centum if such real estate is improved by a building or buildings and that portion of the unpaid balance of such loan which is in excess of an amount equal to 90 per centum of such value is guaranteed or insured by a public or private mortgage insurer or in the case of any loan for the purpose of providing housing for persons of low income, as described in regulations of the Board.

"(C) UNITED STATES GOVERNMENT SECURITIES.—Investments in obligations of, or fully guaranteed as to principal and interest by, the United States.

"(D) FEDERAL HOME LOAN BANK AND FEDERAL NATIONAL MORTGAGE ASSOCIATION SECURITIES.—Investments in the stock or bonds of a Federal home loan bank or in the stock of the Federal National Mortgage Association.

"(E) FEDERAL HOME LOAN MORTGAGE CORPORATION INSTRUMENTS.—Investments in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act.

12 USC 1454, 1455.

"(F) OTHER GOVERNMENT SECURITIES.—Investments in obligations, participations, securities, or other instruments of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association, the Student Loan Marketing Association or the Government National Mortgage Association, or any other agency of the United States and an association may issue and sell securities which are guaranteed pursuant to section 306(g) of the National Housing Act.

12 USC 1721.

"(G) BANK DEPOSITS.—Investments in the time deposits, certificates, or accounts of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

"(H) STATE SECURITIES.—Investments in general obligations of any State or any political subdivision thereof.

"(I) PURCHASE OF INSURED LOANS.—Purchase of loans secured by liens on improved real estate which are insured under provisions of the National Housing Act, or insured as provided in the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38, United States Code.

12 USC 1701.
38 USC 1801 note.
38 USC 1801 *et seq.*

"(J) HOME IMPROVEMENT AND MANUFACTURED HOME LOANS.—Loans made for the repair, equipping, alteration, or improvement of any residential real property, and loans made for the purpose of manufactured home financing.

"(K) INSURED LOANS TO FINANCE THE PURCHASE OF FEE SIMPLE.—Loans as to which the association has the benefit of insurance under section 240 of the National Housing Act, or of a commitment or agreement therefor.

12 USC 1715z-5.

"(L) LOANS TO FINANCIAL INSTITUTIONS, BROKERS, AND DEALERS.—Loans to financial institutions with respect to which the United States or an agency or instrumentality thereof has any function of examination or supervision, or to any broker or dealer registered with the Securities and Exchange Commission, secured by loans, obligations, or investments in which the association has the statutory authority to invest directly.

"(M) LIQUIDITY INVESTMENTS.—Investments which, at the time of making, are assets eligible for inclusion toward the satisfaction of any liquidity requirement imposed by the Board pursuant to section 5A of the Federal Home Loan Bank Act, but only to the extent that the investment is permitted to be so included under regulations of the Board or is otherwise authorized.

12 USC 1425a.

"(N) INVESTMENT IN THE NATIONAL HOUSING PARTNERSHIP CORPORATION, PARTNERSHIPS, AND JOINT VENTURES.—Investments in shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban

Development Act of 1968, and investments in any partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of such Act. 42 USC 3931. 42 USC 3937.

"(O) HOUSING AND URBAN DEVELOPMENT GUARANTEED INVESTMENTS.—Loans as to which the association has the benefit of any guaranty under title IV of the Housing and Urban Development Act of 1968, under part B of the Urban Growth and New Community Development Act of 1970, or under section 802 of the Housing and Community Development Act of 1974 as in effect on or after the date of enactment of the Depository Institutions Deregulation and Monetary Control Act of 1980, or of a commitment or agreement therefor. 42 USC 3901. 42 USC 4511. 42 USC 1440, 12 USC 371, 1464. *Ante*, p. 132.

"(P) STATE HOUSING CORPORATION INVESTMENTS.—Investments in, commitments to invest in, loans to, or commitments to lend to any State housing corporation, provided that such obligations or loans are secured directly, or indirectly through an agent or fiduciary, by a first lien on improved real estate which is insured under the provisions of the National Housing Act and that in the event of default, the holder of such obligations or loans would have the right directly, or indirectly through an agent or fiduciary, to cause to be subject to the satisfaction of such obligations or loans the real estate described in the first lien or the insurance proceeds under the National Housing Act. 12 USC 1701.

"(Q) INVESTMENT COMPANIES.—An association may invest in, redeem, or hold shares or certificates in any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such management company's investment policy, changeable only if authorized by shareholder vote, solely to any such investments as an association by law or regulation may, without limitation as to percentage of assets, invest in, sell, redeem, hold, or otherwise deal with. The Board shall prescribe rules and regulations to implement the provisions of this subparagraph. 15 USC 80a-51. Rules and regulations.

"(2) LOANS OR INVESTMENTS LIMITED TO 20 PER CENTUM OF ASSETS.—The following loans or investments are permitted, but authority conferred in the following subparagraphs is limited to not in excess of 20 per centum of the assets of the association for each subparagraph:

"(A) COMMERCIAL REAL ESTATE LOANS.—Loans on security of first liens upon other improved real estate.

"(B) CONSUMER LOANS AND CERTAIN SECURITIES.—An association may make secured or unsecured loans for personal, family, or household purposes, and may invest in, sell, or hold commercial paper and corporate debt securities, as defined and approved by the Board.

"(3) LOANS OR INVESTMENTS LIMITED TO 5 PER CENTUM OF ASSETS.—The following loans or investments are permitted, but the authority conferred in the following subparagraphs is limited to not in excess of 5 per centum of assets of the association for each subparagraph:

"(A) EDUCATION LOANS.—Loans made for the payment of expenses of college, university, or vocational education.

"(B) COMMUNITY DEVELOPMENT INVESTMENTS.—Investments in real property and obligations secured by liens on

real property located within a geographic area or neighborhood receiving concentrated development assistance by a local government under title I of the Housing and Community Development Act of 1974, except that no investment under this subparagraph in such real property may exceed an aggregate investment of 2 per centum of the assets of the association.

42 USC 5301.

"(C) NONCONFORMING LOANS.—Loans upon the security of or respecting real property or interests therein used for primarily residential or farm purposes that do not comply with the limitations of this subsection.

"(D) CONSTRUCTION LOANS WITHOUT SECURITY.—Investments not exceeding the greater of (A) the sum of its surplus, undivided profits, and reserves or (B) 5 per centum of the assets of the association, in loans the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate where (i) the association relies substantially for repayment on the borrower's general credit standing and forecast of income without other security, or (ii) the association relies on other assurances for repayment, including but not limited to a guaranty or similar obligation of a third party. Investments under this subsection shall not be included in any percentage of assets or other percentage referred to in this subsection.

"(4) OTHER LOANS AND INVESTMENTS.—The following additional loans and other investments to the extent authorized below:

"(A) BUSINESS DEVELOPMENT CREDIT CORPORATIONS.—An association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to invest in, lend to, or to commit itself to lend to, any business development credit corporation incorporated in the State in which the home office of the association is located in the same manner and to the same extent as savings and loan associations chartered by such State are authorized, but the aggregate amount of such investments, loans, and commitments of any such association shall not exceed one-half of 1 per centum of the total outstanding loans of the association or $250,000, whichever is less.

"(B) SERVICE CORPORATIONS.—Investments in the capital stock, obligations, or other securities of any corporation organized under the laws of the State in which the home office of the association is located, if the entire capital stock of such corporation is available for purchase only by savings and loan associations of such State and by Federal associations having their home offices in such State, but no association may make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 3 per centum of the assets of the association, except that not less than one-half of the investment permitted under this subparagraph which exceeds one per centum of assets shall be used primarily for community, inner-city, and community development purposes.

"(C) FOREIGN ASSISTANCE, CERTAIN GUARANTEED LOANS.—(i) Loans secured by mortgages as to which the association has the benefit of insurance under title X of the National

Housing Act or of a commitment or agreement for such insurance. 12 USC 1749aa.

"(ii) Investments in housing project loans having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961 or loans having the benefit of any guaranty under section 224 of such Act, or any commitment or agreement with respect to such loans made pursuant to either of such sections and in the share capital and capital reserve of the Inter-American Savings and Loan Bank. This authority extends to the acquisition, holding, and disposition of loans having the benefit of any guaranty under section 221 or 222 of such Act, or of any commitment or agreement for any such guaranty. 22 USC 2181. 75 Stat. 432. 22 USC 2181, 2182.

"(iii) Investments under clause (i) of this subparagraph shall not be included in any percentage of assets or other percentage referred to in this subsection. Investments under clause (ii) of this subparagraph shall not exceed, in the case of any association, 1 per centum of the assets of such association.

"(D) STATE AND LOCAL GOVERNMENT OBLIGATIONS.—An association whose general reserves, surplus, and undivided profits aggregate a sum in excess of that amount which is determined by the Board for the purpose of the third sentence of section 403(b) of the National Housing Act is authorized to invest in obligations which constitute prudent investments, as defined by the Board, of its home State and political subdivisions thereof (including any agency, corporation, or instrumentality) if (i) the proceeds of such obligations are to be used for rehabilitation, financing, or the construction of residential real estate, and (ii) the aggregate amount of all investments under this subparagraph shall not exceed the amount of the association's general reserves, surplus, and undivided profits. 12 USC 1726.

"(6) DEFINITIONS.—As used in this subsection—

"(A) the terms 'residential real property' or 'residential real estate' mean leaseholds, homes (including condominiums and cooperatives, except that in connection with loans on individual cooperative units, such loans shall be adequately secured as defined by the Board), combinations of homes and business property, other dwelling units, or combinations of dwelling units including homes and business property involving only minor or incidental business use, or property to be improved by construction of such structures;

"(B) the term 'loans' includes obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment; and

"(C) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and any territory or possession of the United States.".

CREDIT CARDS

SEC. 402. Section 5(b) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)) is amended by adding at the end thereof the following new paragraph: *Post*, p. 159.

"(4) An association is authorized, subject to such regulations as the Board may prescribe, to issue credit cards, extend credit in connec-

tion therewith, and otherwise engage in or participate in credit card operations.".

TRUST POWERS

SEC. 403. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by adding at the end thereof the following new subsection:

"(n)(1) The Board is authorized and empowered to grant by special permit to an association applying therefor, when not in contravention of State or local law, the right to act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which come into competition with associations are permitted to act under the laws of the State in which the association is located. Subject to the rules and regulations of the Board, service corporations may invest in State or federally-chartered corporations which are located in the State in which the home office of the association is located and which are engaged in trust activities.

"(2) Whenever the laws of such State authorize or permit the exercise of any or all of the foregoing powers by State banks, trust companies, or other corporations which compete with associations, the granting to and the exercise of such powers by associations shall not be deemed to be in contravention of State or local law within the meaning of this section.

"(3) Associations exercising any or all of the powers enumerated in this section shall segregate all assets held in any fiduciary capacity from the general assets of the association and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of this section. The State banking authority involved may have access to reports of examination made by the Board insofar as such reports relate to the trust department of such association but nothing in this section shall be construed as authorizing such State banking authority to examine the books, records, and assets of such associations.

"(4) No association shall receive in its trust department deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange, or other items for collection or exchange purposes. Funds deposited or held in trust by the association awaiting investment shall be carried in a separate account and shall not be used by the association in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Board.

"(5) In the event of the failure of such association, the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of the association.

"(6) Whenever the laws of a State require corporations acting in a fiduciary capacity to deposit securities with the State authorities for the protection of private or court trusts, associations so acting shall be required to make similar deposits and securities so deposited shall be held for the protection of private or court trusts, as provided by the State law. Associations in such cases shall not be required to execute the bond usually required of individuals if State corporations under similar circumstances are exempt from this requirement. Associations shall have power to execute such bond when so required by the laws of the State involved.

"(7) In any case in which the laws of a State require that a corporation acting as trustee, executor, administrator, or in any capacity specified in this section, shall take an oath or make an affidavit, the president, vice president, cashier, or trust officer of such association may take the necessary oath or execute the necessary affidavit.

"(8) It shall be unlawful for any association to lend any officer, director, or employee any funds held in trust under the powers conferred by this section. Any officer, director, or employee making such loan, or to whom such loan is made, may be fined not more than $5,000, or imprisoned not more than five years, or may be both fined and imprisoned, in the discretion of the court.

"(9) In passing upon applications for permission to exercise the powers enumerated in this section, the Board may take into consideration the amount of capital and surplus of the applying association, whether or not such capital and surplus is sufficient under the circumstances of the case, the needs of the community to be served, and any other facts and circumstances that seem to it proper, and may grant or refuse the application accordingly, except that no permit shall be issued to any association having a capital and surplus less than the capital and surplus required by State law of State banks, trust companies, and corporations exercising such powers.

"(10)(A) Any association desiring to surrender its right to exercise the powers granted under this section, in order to relieve itself of the necessity of complying with the requirements of this section, or to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, or for any other purpose, may file with the Board a certified copy of a resolution of its board of directors signifying such desire.

"(B) Upon receipt of such resolution, the Board, after satisfying itself that such association has been relieved in accordance with State law of all duties as trustee, executor, administrator, guardian or other fiduciary, under court, private or other appointments previously accepted under authority of this section, may in its discretion, issue to such association a certificate certifying that such association is no longer authorized to exercise the powers granted by this section.

"(C) Upon the issuance of such a certificate by the Board, such association (i) shall no longer be subject to the provisions of this section or the regulations of the Board made pursuant thereto, (ii) shall be entitled to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, and (iii) shall not exercise thereafter any of the powers granted by this section without first applying for and obtaining a new permit to exercise such powers pursuant to the provisions of this section.

"(D) The Board is authorized and empowered to promulgate such regulations as it may deem necessary to enforce compliance with the provisions of this subsection and the proper exercise of the trust powers granted by this subsection. Regulations.

"(11)(A) In addition to the authority conferred by other law, if, in the opinion of the Board, an association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of five consecutive years to exercise, the powers granted by this section or otherwise fails or has failed to comply with the requirements of this subsection, the Board may issue and serve upon Revocation order.

the association a notice of intent to revoke the authority of the association to exercise the powers granted by this subsection. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association.

Hearing. "(B) Such hearing shall be conducted in accordance with the provisions of subsection (d)(7), and subject to judicial review as therein provided, and shall be fixed for a date not earlier than thirty days and not later than sixty days after service of such notice unless an earlier or later date is set by the Board at the request of any association so served.

"(C) Unless the association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent, or if upon the record made at any such hearing, the Board shall find that any allegation specified in the notice of charges has been established, the Board may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this subsection, except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination.

Effective date. "(D) A revocation order shall become effective not earlier than the expiration of thirty days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.".

CONVERSIONS

SEC. 404. The first sentence of section 5(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(i)) is amended by inserting ", and any State stock savings and loan type institution may (if such institution existed in stock form for at least the 4 years preceding the date of enactment of the Depository Institutions Deregulation and Monetary *Ante*, p. 132. Control Act of 1980) convert its charter to a Federal stock charter under this Act," after "Federal savings and loan association under this Act".

LIQUIDITY REQUIREMENTS

SEC. 405. Section 5A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)) is amended to read as follows:

"(b)(1) Any institution which is a member or which is an insured 12 USC 1724. institution as defined in section 401(a) of the National Housing Act shall maintain the aggregate amount of its assets of the following types at not less than such amount as, in the opinion of the Board, is appropriate:

"(A) cash;

"(B) to such extent as the Board may approve for the purposes of this section, time and savings deposits in Federal Home Loan Banks and commercial banks;

"(C) to such extent as the Board may so approve, such obligations, including such special obligations, of the United States, a State, any territory or possession of the United States, or a

political subdivision, agency or instrumentality of any one or more of the foregoing, and bankers' acceptances, as the Board may approve; and

"(D) to such extent as the Board may so approve, shares or certificates of any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such investment company's investment policy, changeable only if authorized by shareholder vote, solely to any of the obligations or other investments enumerated in subparagraphs (A) through (C). 15 USC 80a-51.

"(2) The requirement prescribed by the Board pursuant to this subsection (hereinafter in this section referred to as the 'liquidity requirement') may not be less than 4 per centum or more than 10 per centum of the obligation of the institution on withdrawable accounts and borrowings payable on demand or with unexpired maturities of one year or less, or in the case of institutions which are insurance companies, such other base or bases as the Board may determine to be comparable. The Board shall prescribe rules and regulations to implement the provisions of this subsection.". Liquidity requirement. Rules and regulations.

STUDY OF MORTGAGE PORTFOLIOS

SEC. 406. (a)(1) The President shall convene an interagency task force consisting of the Secretary of the Treasury, the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration Board. The task force shall conduct a study and make recommendations regarding— Interagency task force. 12 USC 1425a note.

(A) the options available to provide balance to the asset-liability management problems inherent in the thrift portfolio structure;

(B) the options available to increase the ability of thrift institutions to pay market rates of interest in period of rapid inflation and high interest rates; and

(C) the options available through the Federal Home Loan Bank system and other Federal agencies to assist thrifts in times of economic difficulties.

(2) In carrying out such study, the task force shall solicit the views of, and invite participation by, consumer and public interest groups, business, labor, and State regulators of depository institutions.

(b) Not later than three months after the date of enactment of this Act, the task force shall transmit to the President and the Congress its findings and recommendations for such action as it deems appropriate. Report to President and Congress.

MUTUAL CAPITAL CERTIFICATES

SEC. 407. (a) Section 5(b) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)) is amended by adding at the end thereof the following:

"(5)(A) In accordance with rules and regulations issued by the Board, mutual capital certificates may be issued and sold directly to subscribers or through underwriters, and such certificates shall constitute part of the general reserve and net worth of the issuing association. The Board, in its rules and regulations relating to the issuance and sale of mutual capital certificates, shall provide that such certificates—

"(i) shall be subordinate to all savings accounts, savings certificates, and debt obligations;

"(ii) shall constitute a claim in liquidation on the general reserves, surplus, and undivided profits of the association remaining after the payment in full of all savings accounts, savings certificates, and debt obligations;

"(iii) shall be entitled to the payment of dividends; and

"(iv) may have a fixed or variable dividend rate.

"(B) The Board shall provide in its rules and regulations for charging losses to the mutual capital certificate, reserves, and other net worth accounts.".

Rules and regulations.

(b) Section 403(b) of the National Housing Act (12 U.S.C. 1726(b)), is amended by adding at the end thereof the following: "Mutual capital certificates, subordinate to the rights of holders of savings accounts, savings certificates, and the Corporation, shall be deemed to be reserves for the purposes of this subsection in accordance with rules and regulations prescribed by the Corporation. The Corporation shall provide in its rules and regulations for charging losses to the mutual capital certificate, reserves, and other net worth accounts. In the event an insured institution fails to maintain the reserves required by this title, no payment of dividends on such certificates shall be made except with the approval of the Corporation.".

MUTUAL SAVINGS BANKS

SEC. 408. (a) Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended—

(1) by inserting "(1)" after "(a)";

(2) in the fourth and fifth sentences by striking out "(1)" and "(2)" each place they appear therein and inserting in lieu thereof "(A)" and "(B)", respectively; and

(3) by adding at the end thereof the following new paragraph:

"(2) A Federal mutual savings bank may make commercial, corporate, and business loans except that—

"(A) not more than 5 per centum of the assets of such a bank may be so loaned; and

"(B) such loans may only be made within the State where the bank is located or within 75 miles of the bank's home office.".

(b) Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended by adding at the end thereof the following new paragraph:

"(3) In addition to the authority conferred by paragraph (1), Federal mutual savings bank may accept demand deposits in connection with a commercial, corporate, or business loan relationship.".

INSURANCE RESERVES

SEC. 409. The third sentence of section 403(b) of the National Housing Act (12 U.S.C. 1726(b)) is amended by striking out "5 per centum" and inserting in lieu thereof "an amount no greater than 6 per centum nor less than 3 per centum as determined by the Federal Home Loan Bank Board".

TITLE V—STATE USURY LAWS

PART A—MORTGAGE USURY LAWS

MORTGAGES

SEC. 501. (a)(1) The provisions of the constitution or the laws of any State expressly limiting the rate or amount of interest, discount points, finance charges, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, credit sale, or advance which is— 12 USC 1735f-7 note.

(A) secured by a first lien on residential real property, by a first lien on stock in a residential cooperative housing corporation where the loan, mortgage, or advance is used to finance the acquisition of such stock, or by a first lien on a residential manufactured home;

(B) made after March 31, 1980; and

(C) described in section 527(b) of the National Housing Act (12 U.S.C. 1735f-5(b)), except that for the purpose of this section—

(i) the limitation described in section 527(b)(1) of such Act that the property must be designed principally for the occupancy of from one to four families shall not apply;

(ii) the requirement contained in section 527(b)(1) of such Act that the loan be secured by residential real property shall not apply to a loan secured by stock in a residential cooperative housing corporation or to a loan or credit sale secured by a first lien on a residential manufactured home;

(iii) the term "federally related mortgage loan" in section 527(b) of such Act shall include a credit sale which is secured by a first lien on a residential manufactured home and which otherwise meets the definitional requirements of section 527(b) of such Act, as those requirements are modified by this section; "Federally related mortgage loan."

(iv) the term "residential loans" in section 527(b)(2)(D) of such Act shall also include loans or credit sales secured by a first lien on a residential manufactured home; "Residential loans."

(v) the requirement contained in section 527(b)(2)(D) of such Act that a creditor make or invest in loans aggregating more than $1,000,000 per year shall not apply to a creditor selling residential manufactured homes financed by loans or credit sales secured by first liens on residential manufactured homes if the creditor has an arrangement to sell such loans or credit sales in whole or in part, or if such loans or credit sales are sold in whole or in part to a lender, institution, or creditor described in section 527(b) of such Act or in this section or a creditor, as defined in section 103(f) of the Truth in Lending Act, as such section was in effect on the day preceding the date of enactment of this title, if such creditor makes or invests in residential real estate loans or loans or credit sales secured by first liens on residential manufactured homes aggregating more than $1,000,000 per year; and 15 USC 1602.

(vi) the term "lender" in section 527(b)(2)(A) of such Act shall also be deemed to include any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act. "Lender."

"Depository institution."

(2)(A) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest which may be charged, taken, received, or reserved shall not apply to any deposit or account held by, or other obligation of a depository institution. For purposes of this paragraph, the term "depository institution" means—

(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(ii) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(iii) any savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(iv) any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);

(v) any member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422); and

(vi) any insured institution as defined in section 408 of the National Housing Act (12 U.S.C. 1730a).

Exemption.

(B) This paragraph shall not apply to any such deposit, account, or obligation which is payable only at an office of an insured bank, as defined in section 3 of the Federal Deposit Insurance Act, located in the Commonwealth of Puerto Rico.

12 USC 1813.

Effective date.

(b)(1) Except as provided in paragraphs (2) and (3), the provisions of subsection (a)(1) shall apply to any loan, mortgage, credit sale, or advance made in any State on or after April 1, 1980.

Exemption, State action.

(2) Except as provided in paragraph (3), the provisions of subsection (a)(1) shall not apply to any loan, mortgage, credit sale, or advance made in any State after the date (on or after April 1, 1980, and before April 1, 1983) on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of subsection (a)(1) to apply with respect to loans, mortgages, credit sales, and advances made in such State.

(3) In any case in which a State takes an action described in paragraph (2), the provisions of subsection (a)(1) shall continue to apply to—

(A) any loan, mortgage, credit sale, or advance which is made after the date such action was taken pursuant to a commitment therefor which was entered during the period beginning on April 1, 1980, and ending on the date on which such State takes such action; and

(B) any loan, mortgage, or advance which is a rollover of a loan, mortgage, or advance, as described in regulations of the Federal Home Loan Bank Board, which was made or committed to be made during the period beginning on April 1, 1980, and ending on the date on which such State takes any action described in paragraph (2).

Discount points, limitation.

(4) At any time after the date of enactment of this Act, any State may adopt a provision of law placing limitations on discount points or such other charges on any loan, mortgage, credit sale, or advance described in subsection (a)(1).

(c) The provisions of subsection (a)(1) shall not apply to a loan, mortgage, credit sale, or advance which is secured by a first lien on a residential manufactured home unless the terms and conditions relating to such loan, mortgage, credit sale, or advance comply with consumer protection provisions specified in regulations prescribed by the Federal Home Loan Bank Board. Such regulations shall—

(1) include consumer protection provisions with respect to balloon payments, prepayment penalties, late charges, and deferral fees;

(2) require a 30-day notice prior to instituting any action leading to repossession or foreclosure (except in the case of abandonment or other extreme circumstances);

(3) require that upon prepayment in full, the debtor shall be entitled to a refund of the unearned portion of the precomputed finance charge in an amount not less than the amount which would be calculated by the actuarial method, except that the debtor shall not be entitled to a refund which is less than $1; and

(4) include such other provisions as the Federal Home Loan Bank Board may prescribe after a finding that additional protections are required.

(d) The provisions of subsection (c) shall not apply to a loan, mortgage, credit sale, or advance secured by a first lien on a residential manufactured home until regulations required to be issued pursuant to paragraphs (1), (2), and (3) of subsection (c) take effect, except that the provisions of subsection (c) shall apply in the case of such a loan, mortgage, credit sale, or advance made prior to the date on which such regulations take effect if the loan, mortgage, credit sale, or advance includes a precomputed finance charge and does not provide that, upon prepayment in full, the refund of the unearned portion of the precomputed finance charge is in an amount not less the amount which would be calculated by the actuarial method, except that the debtor shall not be entitled to a refund which is less than $1. The Federal Home Loan Bank Board shall issue regulations pursuant to the provisions of paragraphs (1), (2), and (3) of subsection (c) that shall take effect prospectively not less than 30 days after publication in the Federal Register and not later than 120 days from the date of enactment of this Act. Regulations.

(e) For the purpose of this section— Definitions.

(1) a "prepayment" occurs upon—

(A) the refinancing or consolidation of the indebtedness;

(B) the actual prepayment of the indebtedness by the consumer whether voluntarily or following acceleration of the payment obligation by the creditor; or

(C) the entry of a judgment for the indebtedness in favor of the creditor;

(2) the term "actuarial method" means the method of allocating payments made on a debt between the outstanding balance of the obligation and the precomputed finance charge pursuant to which a payment is applied first to the accrued precomputed finance charge and any remainder is subtracted from, or any deficiency is added to, the outstanding balance of the obligation;

(3) the term "precomputed finance charge" means interest or a time price differential within the meaning of sections 106(a) (1) and (2) of the Truth in Lending Act (15 U.S.C. 1605(a) (1) and (2)) as computed by an add-on or discount method; and

(4) the term "residential manufactured home" means a mobile home as defined in section 603(6) of the National Mobile Home Construction and Safety Standards Act of 1974 which is used as a residence. 42 USC 5402.

(f) The Federal Home Loan Bank Board is authorized to issue rules and regulations and to publish interpretations governing the implementation of this section. Rules and regulations.

(g) This section takes effect on April 1, 1980. Effective date.

PART B—BUSINESS AND AGRICULTURAL LOANS

BUSINESS AND AGRICULTURAL LOANS

12 USC 86a.

SEC. 511. (a) If the applicable rate prescribed in this section exceeds the rate a person would be permitted to charge in the absence of this section, such person may in the case of a business or agricultural loan in the amount of $25,000 or more, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any such loan, interest at a rate of not more than 5 per centum in excess of the discount rate, including any surcharge thereon, on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the person is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such person would be permitted to charge in the absence of this section, and such State imposed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the person taking, receiving, reserving, or charging such interest.

EFFECTIVE DATE OF PART B

12 USC 86a note.

SEC. 512. The provisions of this part shall apply only with respect to business or agricultural loans in amounts of $25,000 or more made in any State during the period beginning on April 1, 1980, and ending on the earlier of—

(1) April 1, 1983; or

(2) the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of this part to apply with respect to loans made in such State,

except that such provisions shall apply to any loan made on or after such earlier date pursuant to a commitment to make such loan which was entered into on or after April 1, 1980, and prior to such earlier date.

PART C—OTHER LOANS

INSURED BANKS

SEC. 521. The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end thereof the following new section:

12 USC 1831d.

"SEC. 27. (a) In order to prevent discrimination against State-chartered insured banks, including insured savings banks and insured mutual savings banks, or insured branches of foreign banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank or insured branch of a foreign bank would be permitted to charge in the absence of this subsection, such State bank or such insured branch of a foreign bank may, notwithstanding any State constitution or statute which is

hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such State bank or such insured branch of a foreign bank is located or at the rate allowed by the laws of the State, territory, or district where the bank is located, whichever may be greater.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank or such insured branch of a foreign bank would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from such State bank or such insured branch of a foreign bank taking, receiving, reserving, or charging such interest.".

INSURED SAVINGS AND LOAN ASSOCIATIONS

SEC. 522. Title IV of the National Housing Act (12 U.S.C. 1724 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 414. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such institution is located or at the rate allowed by the laws of the State, territory, or district where such institution is located, whichever may be greater. 12 USC 1730g.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving such interest.".

INSURED CREDIT UNIONS

SEC. 523. Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end thereof the following new subsection:

Ante, p. 147.

"(g)(1) If the applicable rate prescribed in this subsection exceeds the rate an insured credit union would be permitted to charge in the absence of this subsection, such credit union may, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this subsection, take, receive, reserve, and charge on any loan, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such insured credit union is located or at the rate allowed by the laws of the State, territory, or district where such credit union is located, whichever may be greater.

"(2) If the rate prescribed in paragraph (1) exceeds the rate such credit union would be permitted to charge in the absence of this subsection, and such State fixed rate is thereby preempted by the rate described in paragraph (1), the taking, receiving, reserving, or charging a greater rate than is allowed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the credit union taking or receiving such interest.".

SMALL BUSINESS INVESTMENT COMPANIES

SEC. 524. Section 308 of the Small Business Investment Act of 1958 (15 U.S.C. 687) is amended by adding at the end thereof the following new subsection:

"(i)(1) The purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans and equity funds from small business investment companies to small business concerns.

"(2) In the case of a business loan, the small business investment company making such loan may charge interest on such loan at a rate which does not exceed the lowest of the rates described in subparagraphs (A), (B), and (C).

"(A) The rate described in this subparagraph is the maximum rate prescribed by regulation by the Small Business Administration for loans made by any small business investment company (determined without regard to any State rate incorporated by such regulation).

"(B) The rate described in this subparagraph is the maximum rate authorized by an applicable State law or constitutional provision which is not preempted for purposes of this subsection.

"(C)(i) The rate described in this subparagraph is the higher of the Federal Reserve rate or the maximum rate authorized by applicable State law or constitutional provision (determined without regard to the preemption of such State law or constitutional provision).

"Federal Reserve rate."

"(ii) For purposes of clause (i), the term 'Federal Reserve rate' means the rate equal to the sum of 1 percentage point plus the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which

the principal office of the small business investment company is located.

"(iii) The rate described in this subparagraph shall not apply to loans made in a State if there is no maximum rate authorized by applicable State law or constitutional provision for such loans or there is a maximum rate authorized by an applicable State law or constitutional provision which is not preempted for purposes of this subsection.

"(3) A State law or constitutional provision shall be preempted for purposes of paragraph (2)(B) with respect to any loan if such loan is made before the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of this subsection to apply with respect to loans made in such State, except that such State law or constitutional or other provision shall be preempted in the case of a loan made, on or after the date on which such law is adopted or such certification is made, pursuant to a commitment to make such loan which was entered into on or after April 1, 1980, and prior to the date on which such law is adopted or such certification is made.

"(4)(A) If the maximum rate of interest authorized under paragraph (2) on any loan made by a small business investment company exceeds the rate which would be authorized by applicable State law if such State law were not preempted for purposes of this subsection, the charging of interest at any rate in excess of the rate authorized by paragraph (2) shall be deemed a forfeiture of the greater of (i) all interest which the loan carries with it, or (ii) all interest which has been agreed to be paid thereon.

"(B) In the case of any loan with respect to which there is a forfeiture of interest under subparagraph (A), the person who paid the interest may recover from a small business investment company making such loan an amount equal to twice the amount of the interest paid on such loan. Such interest may be recovered in a civil action commenced in a court of appropriate jurisdiction not later than two years after the most recent payment of interest.".

EFFECTIVE DATE

SEC. 525. The amendments made by sections 521 through 523 of this title shall apply only with respect to loans made in any State during the period beginning on April 1, 1980, and ending on the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the amendments made by such sections to apply with respect to loans made in such State, except that such amendments shall apply to a loan made on or after the date such law is adopted or such certification is made if such loan is made pursuant to a commitment to make such loan which was entered into on or after April 1, 1980, and prior to the date on which such law is adopted or such certification is made.

12 USC 1730g note.

SEVERABILITY

SEC. 526. If any provision of this Act or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Act and the application of such provision to any

12 USC 1730g note.

person or circumstance other than that as to which it is held invalid shall not be affected thereby.

DEFINITION

12 USC 1730g note.

SEC. 527. For purposes of this title, the term "State" includes the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Trust Territories of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands, except as provided in section 501(a)(2)(B).

EFFECT ON OTHER LAW

12 USC 1735f-7 note.
93 Stat. 1114.

SEC. 528. In any case in which one or more provisions of, or amendments made by, this title, section 529 of the National Housing Act, or any other provision of law, including section 5197 of the Revised Statutes (12 U.S.C. 85), apply with respect to the same loan, mortgage, credit sale, or advance, such loan, mortgage, credit sale, or advance may be made at the highest applicable rate.

REPEAL OF EXISTING LAW

93 Stat. 789.
12 USC 85 note.
93 Stat. 1234.
12 USC 85 and note, 86a and note, 371b-1 and note, 1425b, 1730e, 1735f-7 note, 1828, 1831a and note; 15 USC 687.

SEC. 529. Effective at the close of March 31, 1980, Public Law 96-104, section 105(a)(2) of Public Law 96-161, and the amendments made by and the provisions of title II of Public Law 96-161 are hereby repealed, except that the provisions of such Public Law, the provisions of such section, the amendments made by such title, and the provisions of such title shall continue to apply to any loan made, any deposit made, or any obligation issued in any State during any period when those provisions or amendments were in effect in such State.

TITLE VI—TRUTH IN LENDING SIMPLIFICATION

SHORT TITLE

Truth in Lending Simplification and Reform Act.
15 USC 1601 note.

SEC. 601. This title may be cited as the "Truth in Lending Simplification and Reform Act".

DEFINITIONS

SEC. 602. (a) Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended—

"Creditor."

(1) by striking out the first sentence and inserting in lieu thereof the following: "The term 'creditor' refers only to a person who both (1) regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required; and (2) is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the previous sentence, a person who regularly arranges for the extension of consumer credit, which is payable in more than four installments or for which the payment of a finance charge is or may be required, from persons who are not creditors is a creditor, and in the case of an open end credit plan involving a credit card, the card issuer and any person who honors the credit card and offers a discount which is a finance charge are creditors."; and

(2) by redesignating the references to sections 127(a)(6), 127(a)(7), 127(a)(8), 127(b)(9), and 127(b)(11) in the next succeeding sentence as references to sections 127(a)(5), 127(a)(6), 127(a)(7), 127(b)(8), and 127(b)(10), respectively.

(b) The first sentence of section 103(g) of the Truth in Lending Act (15 U.S.C. 1602(g)) is amended to read as follows: "The term 'credit sale' refers to any sale in which the seller is a creditor.".

EXEMPTED TRANSACTIONS

SEC. 603. (a) Section 103(h) of the Truth in Lending Act (15 U.S.C. 1602(h)) is amended by striking out "household, or agricultural" and inserting in lieu thereof "or household".

(b) Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by redesignating subsections (s) and (t) as subsections (x) and (y), respectively, and by inserting after subsection (r) the following new subsections:

"(s) The term 'agricultural purposes' includes the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures those agricultural products, including but not limited to the acquisition of farmland, real property with a farm residence, and personal property and services used primarily in farming. "Agricultural purposes."

"(t) The term 'agricultural products' includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.". "Agricultural products."

(c) Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Credit transactions involving extensions of credit primarily for business, commercial, or agricultural purposes, or to government or governmental agencies or instrumentalities, or to organizations.";

(2) by amending paragraph (3) to read as follows:

"(3) Credit transactions, other than those in which a security interest is or will be acquired in real property, or in personal property used or expected to be used as the principal dwelling of the consumer, in which the total amount financed exceeds $25,000."; and

(3) by striking out paragraph (5).

OPEN END CREDIT PLAN

SEC. 604. Section 103(i) of the Truth in Lending Act (15 U.S.C. 1602(i)) is amended to read as follows:

"(i) The term 'open end credit plan' means a plan under which the creditor reasonably contemplates repeated transactions, which prescribes the terms of such transactions, and which provides for a finance charge which may be computed from time to time on the outstanding unpaid balance. A credit plan which is an open end credit plan within the meaning of the preceding sentence is an open end credit plan even if credit information is verified from time to time.".

MODEL FORMS

15 USC 1604.

SEC. 605. Section 105 of the Truth in Lending Act (15 U.S.C. 1605) is amended by inserting "(a)" before "The", and by adding at the end thereof the following:

Publication.

"(b) The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this title and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by creditors or lessors of data processing or similar automated equipment. Nothing in this title may be construed to require a creditor or lessor to use any such model form or clause prescribed by the Board under this section. A creditor or lessor shall be deemed to be in compliance with the disclosure provisions of this title with respect to other than numerical disclosures if the creditor or lessor (1) uses any appropriate model form or clause as published by the Board, or (2) uses any such model form or clause and changes it by (A) deleting any information which is not required by this title, or (B) rearranging the format, if in making such deletion or rearranging the format, the creditor or lessor does not affect the substance, clarity, or meaningful sequence of the disclosure.

Notice in Federal Register.

"(c) Model disclosure forms and clauses shall be adopted by the Board after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

Effective date.

15 USC 1666 *et seq.*, 1667 *et seq.*

"(d) Any regulation of the Board, or any amendment or interpretation thereof, requiring any disclosure which differs from the disclosures previously required by this chapter, chapter 4, or chapter 5, or by any regulation of the Board promulgated thereunder shall have an effective date of that October 1 which follows by at least six months the date of promulgation, except that the Board may at its discretion take interim action by regulation, amendment, or interpretation to lengthen the period of time permitted for creditors or lessors to adjust their forms to accommodate new requirements or shorten the length of time for creditors or lessors to make such adjustments when it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive disclosure practices. Notwithstanding the previous sentence, any creditor or lessor may comply with any such newly promulgated disclosure requirements prior to the effective date of the requirements.".

COMPONENTS OF FINANCE CHARGE

SEC. 606. (a) Section 106(a) of the Truth in Lending Act (15 U.S.C. 1605(a)) is amended by striking out ", including any of the following types of charges which are applicable" and inserting in lieu thereof the following: ". The finance charge does not include charges of a type payable in a comparable cash transaction. Examples of charges which are included in the finance charge include any of the following types of charges which are applicable".

(b) Section 106(d) of the Truth in Lending Act (15 U.S.C. 1605(d)) is amended by striking out paragraphs (3) and (4).

ACCURACY OF ANNUAL PERCENTAGE RATE

SEC. 607. (a) Section 107(c) of the Truth in Lending Act (15 U.S.C. 1606(c)) is amended to read as follows:

"(c) The disclosure of an annual percentage rate is accurate for the purpose of this title if the rate disclosed is within a tolerance not greater than one-eighth of 1 per centum more or less than the actual rate or rounded to the nearest one-fourth of 1 per centum. The Board may allow a greater tolerance to simplify compliance where irregular payments are involved.".

(b) Section 107(e) of the Truth in Lending Act (15 U.S.C. 1606(e)) is amended by striking out "(c) or".

(c) Section 107(f) of the Truth in Lending Act (15 U.S.C. 1606(f)) is hereby repealed. Repeal.

RESTITUTION

SEC. 608. (a) Section 108 of the Truth in Lending Act (15 U.S.C. 1607) is amended by adding at the end thereof the following:

"(e)(1) In carrying out its enforcement activities under this section, each agency referred to in subsection (a) or (c), in cases where an annual percentage rate or finance charge was inaccurately disclosed, shall notify the creditor of such disclosure error and is authorized in accordance with the provisions of this subsection to require the creditor to make an adjustment to the account of the person to whom credit was extended, to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower. For the purposes of this subsection, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in determining whether a disclosure error has occurred and in calculating any adjustment, (A) each agency shall apply (i) with respect to the annual percentage rate, a tolerance of one-quarter of 1 percent more or less than the actual rate, determined without regard to section 107(c) of this title, except in the case of an irregular mortgage lending transaction, and (ii) with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerance provided under this subsection for the annual percentage rate; except that (B) with respect to transactions consummated after two years following the effective date of section 608 of the Truth in Lending Simplification and Reform Act, each agency shall apply (i) for transactions that have a scheduled amortization of ten years or less, with respect to the annual percentage rate, a tolerance not to exceed one-quarter of 1 percent more or less than the actual rate, determined without regard to section 107(c) of this title, but in no event a tolerance of less than the tolerances allowed under section 107(c), (ii) for transactions that have a scheduled amortization of more than ten years, with respect to the annual percentage rate, only such tolerances as are allowed under section 107(c) of this title, and (iii) for all transactions, with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerances provided under this subsection for the annual percentage rate.

Ante, p. 170.

Supra.

"(2) Each agency shall require such an adjustment when it determines that such disclosure error resulted from (A) a clear and consistent pattern or practice of violations, (B) gross negligence, or (C) a willful violation which was intended to mislead the person to whom the credit was extended. Notwithstanding the preceding sentence, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, an agency need not require such an adjustment if it determines that such disclosure error—

"(A) resulted from an error involving the disclosure of a fee or charge that would otherwise be excludable in computing the finance charge, including but not limited to violations involving the disclosures described in sections 106(b), (c) and (d) of this title, in which event the agency may require such remedial action as it determines to be equitable, except that for transactions consummated after two years after the effective date of section 608 of the Truth in Lending Simplification and Reform Act, such an adjustment shall be ordered for violations of section 106(b);

Ante, p. 171.
15 USC 1605.

"(B) involved a disclosed amount which was 10 per centum or less of the amount that should have been disclosed and (i) in cases where the error involved a disclosed finance charge, the annual percentage rate was disclosed correctly, and (ii) in cases where the error involved a disclosed annual percentage rate, the finance charge was disclosed correctly; in which event the agency may require such adjustment as it determines to be equitable;

"(C) involved a total failure to disclose either the annual percentage rate or the finance charge, in which event the agency may require such adjustment as it determines to be equitable; or

"(D) resulted from any other unique circumstance involving clearly technical and nonsubstantive disclosure violations that do not adversely affect information provided to the consumer and that have not misled or otherwise deceived the consumer.

In the case of other such disclosure errors, each agency may require such an adjustment.

"(3) Notwithstanding paragraph (2), no adjustment shall be ordered (A) if it would have a significantly adverse impact upon the safety or soundness of the creditor, but in any such case, the agency may require a partial adjustment in an amount which does not have such an impact, except that with respect to any transaction consummated after the effective date of section 608 of the Truth in Lending Simplification and Reform Act, the agency shall require the full adjustment, but permit the creditor to make the required adjustment in partial payments over an extended period of time which the agency considers to be reasonable, (B) if the amount of the adjustment would be less than $1, except that if more than one year has elapsed since the date of the violation, the agency may require that such amount be paid into the Treasury of the United States, or (C) except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in the case of an open-end credit plan, more than two years after the violation, or in the case of any other extension of credit, as follows:

Ante, p. 171.

"(i) with respect to creditors that are subject to examination by the agencies referred to in paragraphs (1) through (3) of section 108(a) of this title, except in connection with violations arising from practices identified in the current examination and only in connection with transactions that are consummated after the date of the immediately preceding examination, except that where practices giving rise to violations identified in earlier examinations have not been corrected, adjustments for those violations shall be required in connection with transactions consummated after the date of the examination in which such practices were first identified;

"(ii) with respect to creditors that are not subject to examination by such agencies, except in connection with transactions that are consummated after May 10, 1978; and

"(iii) in no event after the later of (I) the expiration of the life of the credit extension, or (II) two years after the agreement to extend credit was consummated.

"(4)(A) Notwithstanding any other provision of this section, an adjustment under this subsection may be required by an agency referred to in subsection (a) or (c) only by an order issued in accordance with cease and desist procedures provided by the provision of law referred to in such subsections.

"(B) In the case of an agency which is not authorized to conduct cease and desist proceedings, such an order may be issued after an agency hearing on the record conducted at least thirty but not more than sixty days after notice of the alleged violation is served on the creditor. Such a hearing shall be deemed to be a hearing which is subject to the provisions of section 8(h) of the Federal Deposit Insurance Act and shall be subject to judicial review as provided therein. 12 USC 1818.

"(5) Except as otherwise specifically provided in this subsection and notwithstanding any provision of law referred to in subsection (a) or (c), no agency referred to in subsection (a) or (c) may require a creditor to make dollar adjustments for errors in any requirements under this title, except with regard to the requirements of section 165. *Post*, p. 184.

"(6) A creditor shall not be subject to an order to make an adjustment, if within sixty days after discovering a disclosure error, whether pursuant to a final written examination report or through the creditor's own procedures, the creditor notifies the person concerned of the error and adjusts the account so as to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

"(7) Notwithstanding the second sentence of subsection (e)(1), subsection (e)(3)(C)(i), and subsection (e)(3)(C)(ii), each agency referred to in subsection (a) or (c) shall require an adjustment for an annual percentage rate disclosure error that exceeds a tolerance of one quarter of one percent less than the actual rate, determined without regard to section 107(c) of this title, except in the case of an irregular mortgage lending transaction, with respect to any transaction consummated between January 1, 1977, and the effective date of section 608 of the Truth in Lending Simplification and Reform Act.". *Ante*, p. 170. *Ante*, p. 171.

(b) This section shall take effect on the date of enactment of the Truth in Lending Simplification and Reform Act. Effective date. 15 USC 1607 note.

(c) Effective one year after the date of enactment of the Truth in Lending Simplification and Reform Act, section 108(e)(1)(A)(i) and section 108(e)(7) of the Truth in Lending Act are amended by striking out ", except in the case of an irregular mortgage lending transaction". *Ante*, p. 168. 15 USC 1607. *Ante*, p. 171.

EFFECT ON OTHER LAWS

SEC. 609. Section 111(a) of the Truth in Lending Act (15 U.S.C. 1610(a)) is amended to read as follows:

"(a)(1) Chapters 1, 2, and 3 do not annul, alter, or affect the laws of any State relating to the disclosure of information in connection with credit transactions, except to the extent that those laws are inconsistent with the provisions of this title, and then only to the extent of the inconsistency. Upon its own motion or upon the request of any creditor, State, or other interested party which is submitted in accordance with procedures prescribed in regulations of the Board, the Board shall determine whether any such inconsistency exists. If the Board determines that a State-required disclosure is incon- 15 USC 1601 *et seq.*, 1631 *et seq.*, 1661 *et seq.*

sistent, creditors located in that State may not make disclosures using the inconsistent term or form, and shall incur no liability under the law of that State for failure to use such term or form, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(2) Upon its own motion or upon the request of any creditor, State, or other interested party which is submitted in accordance with procedures prescribed in regulations of the Board, the Board shall determine whether any disclosure required under the law of any State is substantially the same in meaning as a disclosure required under this title. If the Board determines that a State-required disclosure is substantially the same in meaning as a disclosure required by this title, then creditors located in that State may make such disclosure in compliance with such State law in lieu of the disclosure required by this title, except that the annual percentage rate and finance charge shall be disclosed as required by section 122.".

State-required disclosure.

Post, p. 175.

ANNUAL REPORTS

SEC. 610. (a) Section 114 of the Truth in Lending Act (15 U.S.C. 1613) is amended by striking out "Not later than January 3 of each year after 1969," and inserting in lieu thereof "Each year".

(b) Section 18(f)(6) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(6)) is amended by striking out "not later than March 15 of".

(c) Section 707 of the Equal Credit Opportunity Act (15 U.S.C. 1691f) is amended by striking out "Not later than February 1 of each year after 1976" and inserting in lieu thereof "Each year".

GENERAL DISCLOSURE REQUIREMENTS

SEC. 611. Sections 121 and 122 of the Truth in Lending Act (15 U.S.C. 1631 and 1632) are amended to read as follows:

"§ 121. General requirement of disclosure

"(a) Subject to subsection (b), a creditor or lessor shall disclose to the person who is obligated on a consumer lease or a consumer credit transaction the information required under this title. In a transaction involving more than one obligor, a creditor or lessor, except in a transaction under section 125, need not disclose to more than one of such obligors if the obligor given disclosure is a primary obligor.

15 USC 1635.

"(b) If a transaction involves one creditor as defined in section 103(f), or one lessor as defined in section 181(3), such creditor or lessor shall make the disclosures. If a transaction involves more than one creditor or lessor, only one creditor or lessor shall be required to make the disclosures. The Board shall by regulation specify which creditor or lessor shall make the disclosures.

Ante, p. 168.
15 USC 1667.

"(c) The Board may provide by regulation that any portion of the information required to be disclosed by this title may be given in the form of estimates where the provider of such information is not in a position to know exact information.

"(d) The Board shall determine whether tolerances for numerical disclosures other than the annual percentage rate are necessary to facilitate compliance with this title, and if it determines that such tolerances are necessary to facilitate compliance, it shall by regulation permit disclosures within such tolerances. The Board shall exercise its authority to permit tolerances for numerical disclosures other than the annual percentage rate so that such tolerances are

narrow enough to prevent such tolerances from resulting in misleading disclosures or disclosures that circumvent the purposes of this title.

"§ 122. Form of disclosure; additional information

"(a) Information required by this title shall be disclosed clearly and conspicuously, in accordance with regulations of the Board. The terms 'annual percentage rate' and 'finance charge' shall be disclosed more conspicuously than other terms, data, or information provided in connection with a transaction, except information relating to the identity of the creditor. Regulations of the Board need not require that disclosures pursuant to this title be made in the order set forth in this title and, except as otherwise provided, may permit the use of terminology different from that employed in this title if it conveys substantially the same meaning.

"Annual percentage rate" and "finance charge."

"(b) Any creditor or lessor may supply additional information or explanation with any disclosures required under chapters 4 and 5 and, except as provided in section 128(b)(1), under this chapter.".

15 USC 1666 *et seq.*, 1667 *et seq.*
Post, p. 179.

RESCISSION

SEC. 612. (a)(1) Section 125(a) of the Truth in Lending Act (15 U.S.C. 1635(a)) is amended to read as follows:

"(a) Except as otherwise provided in this section, in the case of any consumer credit transaction (including opening or increasing the credit limit for an open end credit plan) in which a security interest, including any such interest arising by operation of law, is or will be retained or acquired in any property which is used as the principal dwelling of the person to whom credit is extended, the obligor shall have the right to rescind the transaction until midnight of the third business day following the consummation of the transaction or the delivery of the information and rescission forms required under this section together with a statement containing the material disclosures required under this title, whichever is later, by notifying the creditor, in accordance with regulations of the Board, of his intention to do so. The creditor shall clearly and conspicuously disclose, in accordance with regulations of the Board, to any obligor in a transaction subject to this section the rights of the obligor under this section. The creditor shall also provide, in accordance with regulations of the Board, appropriate forms for the obligor to exercise his right to rescind any transaction subject to this section.".

(2) Section 103 of the Truth in Lending Act (15 U.S.C. 1602), as amended by section 603(b), is amended by adding at the end thereof the following:

Ante, p. 169.

"(u) The term 'material disclosures' means the disclosure, as required by this title, of the annual percentage rate, the method of determining the finance charge and the balance upon which a finance charge will be imposed, the amount of the finance charge, the amount to be financed, the total of payments, the number and amount of payments, and the due dates or periods of payments scheduled to repay the indebtedness.".

"Material disclosures."

(3) Section 125(b) of the Truth in Lending Act (15 U.S.C. 1635(b)) is amended by striking out "ten days" each place it appears therein and inserting in lieu thereof "20 days".

(4) Section 125(b) of the Truth in Lending Act (15 U.S.C. 1635(b)) is amended by adding at the end thereof the following new sentence: "The procedures prescribed by this subsection shall apply except when otherwise ordered by a court.".

(5) Section 125(c) of the Truth in Lending Act (15 U.S.C. 1635(c)) is amended by inserting "information, forms, and" after "whom".

(6) Section 125 of the Truth in Lending Act (15 U.S.C. 1635) is amended by striking out subsections (e) and (f) and inserting in lieu thereof the following:

"(e)(1) This section does not apply to—

"(A) a residential mortgage transaction as defined in section 103(w); *Infra.*

"(B) a transaction which constitutes a refinancing or consolidation (with no new advances) of the principal balance then due and any accrued and unpaid finance charges of an existing extension of credit by the same creditor secured by an interest in the same property;

"(C) a transaction in which an agency of a State is the creditor; or

"(D) advances under a preexisting open end credit plan if a security interest has already been retained or acquired and such advances are in accordance with a previously established credit limit for such plan.

"(2) The provisions of paragraph (1)(D) shall cease to be effective 3 years after the effective date of the Truth in Lending Simplification and Reform Act. *Ante,* p. 168.

"(f) An obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the sale of the property, whichever occurs first, notwithstanding the fact that the information and forms required under this section or any other disclosures required under this chapter have not been delivered to the obligor, except that if (1) any agency empowered to enforce the provisions of this title institutes a proceeding to enforce the provisions of this section within three years after the date of consummation of the transaction, (2) such agency finds a violation of section 125, and (3) the obligor's right to rescind is based in whole or in part on any matter involved in such proceeding, then the obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the earlier sale of the property, or upon the expiration of one year following the conclusion of the proceeding, or any judicial review or period for judicial review thereof, whichever is later. 15 USC 1635.

"(g) In any action in which it is determined that a creditor has violated this section, in addition to rescission the court may award relief under section 130 for violations of this title not relating to the right to rescind.". 15 USC 1640.

(b) Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by inserting after subsection (u) the following:

"Dwelling." "(v) The term 'dwelling' means a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives.

"Residential mortgage transaction." "(w) The term 'residential mortgage transaction' means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against the consumer's dwelling to finance the acquisition or initial construction of such dwelling.".

OPEN END DISCLOSURES

SEC. 613. (a) Section 127(a) of the Truth in Lending Act (15 U.S.C. 1637(a)) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "If no such time period is provided, the creditor shall disclose such fact.";

(2) by striking out paragraph (5) and redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively; and

(3) by amending paragraphs (5) and (6), as redesignated by paragraph (2), to read as follows:

"(5) Identification of other charges which may be imposed as part of the plan, and their method of computation, in accordance with regulations of the Board.

"(6) In cases where the credit is or will be secured, a statement that a security interest has been or will be taken in (A) the property purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type.".

(b) Section 127(b)(2) of the Truth in Lending Act (15 U.S.C. 1637(b)(2)) is amended to read as follows:

"(2) The amount and date of each extension of credit during the period, and a brief identification, on or accompanying the statement of each extension of credit in a form prescribed by the Board sufficient to enable the obligor either to identify the transaction or to relate it to copies of sales vouchers or similar instruments previously furnished, except that a creditor's failure to disclose such information in accordance with this paragraph shall not be deemed a failure to comply with this chapter or this title if (A) the creditor maintains procedures reasonably adapted to procure and provide such information, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161. In lieu of complying with the requirements of the previous sentence, in the case of any transaction in which the creditor and seller are the same person, as defined by the Board, and such person's open end credit plan has fewer than 15,000 accounts, the creditor may elect to provide only the amount and date of each extension of credit during the period and the seller's name and location where the transaction took place if (A) a brief identification of the transaction has been previously furnished, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161.". 15 USC 1666. 15 USC 1666.

(c) Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637) is amended by striking out paragraph (7) and by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (7), (8), (9), and (10), respectively.

(d) Section 127(a)(7) of the Truth in Lending Act (15 U.S.C. 1637(a)), as redesignated by subsection (a)(2), is amended by striking out "each of two billing cycles per year, at semiannual intervals" and inserting in lieu thereof "one billing cycle per calendar year, at intervals of not less than six months or more than eighteen months".

(e) Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is hereby repealed. Repeal.

(f) Section 143 of the Truth in Lending Act (15 U.S.C. 1663) is amended by striking out "or the appropriate rate determined under section 127(a)(5)". *Post*, p. 183. *Ante*, p. 176.

(g) Section 161(a) of the Truth in Lending Act (15 U.S.C. 1666(a)) is amended by redesignating the references to sections 127(b)(11) and 127(a)(8) as references to sections 127(b)(10) and 127(a)(7), respectively.

OTHER THAN OPEN END DISCLOSURES

SEC. 614. (a) Section 128(a) of the Truth in Lending Act (15 U.S.C. 1638(a)) is amended to read as follows:

"(a) For each consumer credit transaction other than under an open end credit plan, the creditor shall disclose each of the following items, to the extent applicable:

"(1) The identity of the creditor required to make disclosure.

"Amount financed." Computation method.

"(2)(A) The 'amount financed', using that term, which shall be the amount of credit of which the consumer has actual use. This amount shall be computed as follows, but the computations need not be disclosed and shall not be disclosed with the disclosures conspicuously segregated in accordance with subsection (b)(1):

"(i) take the principal amount of the loan or the cash price less downpayment and trade-in;

"(ii) add any charges which are not part of the finance charge or of the principal amount of the loan and which are financed by the consumer, including the cost of any items excluded from the finance charge pursuant to section 106; and

15 USC 1605.

"(iii) subtract any charges which are part of the finance charge but which will be paid by the consumer before or at the time of the consummation of the transaction, or have been withheld from the proceeds of the credit.

"(B) In conjunction with the disclosure of the amount financed, a creditor shall provide a statement of the consumer's right to obtain, upon a written request, a written itemization of the amount financed. The statement shall include spaces for a 'yes' and 'no' indication to be initialed by the consumer to indicate whether the consumer wants a written itemization of the amount financed. Upon receiving an affirmative indication, the creditor shall provide, at the time other disclosures are required to be furnished, a written itemization of the amount financed.

"Itemization of the amount financed."

For the purposes of this subparagraph, 'itemization of the amount financed' means a disclosure of the following items, to the extent applicable:

"(i) the amount that is or will be paid directly to the consumer;

"(ii) the amount that is or will be credited to the consumer's account to discharge obligations owed to the creditor;

"(iii) each amount that is or will be paid to third persons by the creditor on the consumer's behalf, together with an identification of or reference to the third person; and

"(iv) the total amount of any charges described in the preceding subparagraph (A)(iii).

"(3) The 'finance charge', not itemized, using that term.

"(4) The finance charge expressed as an 'annual percentage rate', using that term. This shall not be required if the amount financed does not exceed $75 and the finance charge does not exceed $5, or if the amount financed exceeds $75 and the finance charge does not exceed $7.50.

"(5) The sum of the amount financed and the finance charge, which shall be termed the 'total of payments'.

"(6) The number, amount, and due dates or period of payments scheduled to repay the total of payments.

"(7) In a sale of property or services in which the seller is the creditor required to disclose pursuant to section 121(b), the 'total sale price', using that term, which shall be the total of the cash

Ante, p. 174.

price of the property or services, additional charges, and the finance charge.

"(8) Descriptive explanations of the terms 'amount financed', 'finance charge', 'annual percentage rate', 'total of payments', and 'total sale price' as specified by the Board. The descriptive explanation of 'total sale price' shall include reference to the amount of the downpayment.

"(9) Where the credit is secured, a statement that a security interest has been taken in (A) the property which is purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type. Secured credit statement.

"(10) Any dollar charge or percentage amount which may be imposed by a creditor solely on account of a late payment, other than a deferral or extension charge.

"(11) A statement indicating whether or not the consumer is entitled to a rebate of any finance charge upon refinancing or prepayment in full pursuant to acceleration or otherwise, if the obligation involves a precomputed finance charge. A statement indicating whether or not a penalty will be imposed in those same circumstances if the obligation involves a finance charge computed from time to time by application of a rate to the unpaid principal balance.

"(12) A statement that the consumer should refer to the appropriate contract document for any information such document provides about nonpayment, default, the right to accelerate the maturity of the debt, and prepayment rebates and penalties.

"(13) In any residential mortgage transaction, a statement indicating whether a subsequent purchaser or assignee of the consumer may assume the debt obligation on its original terms and conditions.".

(b) Section 128(b) of the Truth in Lending Act (15 U.S.C. 1638(b)) is amended to read as follows:

"(b)(1) Except as otherwise provided in this chapter, the disclosures required under subsection (a) shall be made before the credit is extended. Except for the disclosures required by subsection (a)(1) of this section, all disclosures required under subsection (a) and any disclosure provided for in subsection (b), (c), or (d) of section 106 shall be conspicuously segregated from all other terms, data, or information provided in connection with a transaction, including any computations or itemization. 15 USC 1605.

"(2) In the case of a residential mortgage transaction, as defined in section 103(w), which is also subject to the Real Estate Settlement Procedures Act, good faith estimates of the disclosures required under subsection (a) shall be made in accordance with regulations of the Board under section 121(c) before the credit is extended, or shall be delivered or placed in the mail not later than three business days after the creditor receives the consumer's written application, whichever is earlier. If the disclosure statement furnished within three days of the written application contains an annual percentage rate which is subsequently rendered inaccurate within the meaning of section 107(c), the creditor shall furnish another statement at the time of settlement or consummation.". *Ante*, p. 176. 12 USC 2601 note. *Ante*, p. 174. *Ante*, p. 170.

(c) Section 128(c) of the Truth in Lending Act (15 U.S.C. 1638(c)) is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "deferred payment price" and inserting in lieu thereof "total sale price"; and

(3) by adding at the end thereof the following new paragraph:

"(2) If a creditor receives a request for a loan by mail or telephone without personal solicitation and the terms of financing, including the annual percentage rate for representative amounts of credit, are set forth in the creditor's printed material distributed to the public, or in the contract of loan or other printed material delivered to the obligor, then the disclosures required under subsection (a) may be made at any time not later than the date the first payment is due.".

Repeal. (d)(1) Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is hereby repealed.

(2) The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by striking out the item relating to section 129 and inserting in lieu thereof the following:

"129. [Repealed].".

Repeal. (e)(1) Section 126 of the Truth in Lending Act (15 U.S.C. 1636) is hereby repealed.

(2) The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by striking out the item relating to section 126 and inserting in lieu thereof the following:

"126. [Repealed].".

(f)(1) The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by striking out the item relating to section 128 and inserting in lieu thereof the following:

"128. Consumer credit not under open end credit plans.".

(2) The section heading for section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended by striking out "SALES" and inserting in lieu thereof "CONSUMER CREDIT".

CIVIL LIABILITY

SEC. 615. (a) Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended—

(1) in subsection (a)(2)(B), by striking out "in such action" and inserting in lieu thereof "under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same creditor";

(2) in subsection (a)(3), by inserting "or in any action in which a person is determined to have a right of rescission under section 125" after "liability";

15 USC 1635.

(3) by amending subsections (b), (c), and (d) to read as follows:

"(b) A creditor or assignee has no liability under this section or section 108 or section 112 for any failure to comply with any requirement imposed under this chapter or chapter 5, if within sixty days after discovering an error, whether pursuant to a final written examination report or notice issued under section 108(e)(1) or through the creditor's or assignee's own procedures, and prior to the institution of an action under this section or the receipt of written notice of the error from the obligor, the creditor or assignee notifies the person concerned of the error and makes whatever adjustments in the appropriate account are necessary to assure that the person will not be required to pay an amount in excess of the charge actually disclosed, or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

15 USC 1607, 1611.
15 USC 1631 *et seq.*, 1667 *et seq.*
Ante, p. 171.

"(c) A creditor or assignee may not be held liable in any action brought under this section or section 125 for a violation of this title if the creditor or assignee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted

15 USC 1635.

to avoid any such error. Examples of a bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programing, and printing errors, except that an error of legal judgment with respect to a person's obligations under this title is not a bona fide error.

"(d) When there are multiple obligors in a consumer credit transaction or consumer lease, there shall be no more than one recovery of damages under subsection (a)(2) for a violation of this title.";

(4) in subsection (e), by adding at the end thereof the following new sentence: "This subsection does not bar a person from asserting a violation of this title in an action to collect the debt which was brought more than one year from the date of the occurrence of the violation as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.";

(5) in subsection (f), by inserting ", section 108(b), section 108(c), section 108(e)," after "this section"; 15 USC 1607. *Ante*, p. 171.

(6) in subsection (g), by adding at the end thereof the following new sentence: "This subsection does not bar any remedy permitted by section 125."; and 15 USC 1635.

(7) by amending subsection (h) to read as follows:

"(h) A person may not take any action to offset any amount for which a creditor or assignee is potentially liable to such person under subsection (a)(2) against any amount owed by such person, unless the amount of the creditor's or assignee's liability under this title has been determined by judgment of a court of competent jurisdiction in an action of which such person was a party. This subsection does not bar a consumer then in default on the obligation from asserting a violation of this title as an original action, or as a defense or counterclaim to an action to collect amounts owed by the consumer brought by a person liable under this title.".

(b) Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended—

(1) by inserting ", including any requirement under section 125," immediately after "this chapter"; and

(2) by adding at the end thereof the following: "In connection with the disclosures referred to in section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125, section 127(a), or of paragraph (4), (5), (6), (7), (8), (9), or (10) of section 127(b) or for failing to comply with disclosure requirements under State law for any term or item which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms or items referred to in section 127(a) or any of those paragraphs of section 127(b). In connection with the disclosures referred to in section 128, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125 or of paragraph (2) (insofar as it requires a disclosure of the 'amount financed'), (3), (4), (5), (6), or (9) of section 128(a), or for failing to comply with disclosure requirements under State law for any term which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms referred to in any of those paragraphs of section 128(a). With respect to any failure to make disclosures required under this chapter or chapter 4 or 5 of this title, liability shall be imposed only upon the creditor required to make disclosure, except as provided in section 131.". 15 USC 1637. *Ante*, p. 176. *Ante*, p. 177. *Ante*, p. 173. 15 USC 1638. *Ante*, p. 178. 15 USC 1631 *et seq.*, 1666 *et seq.*, 1667 *et seq.* *Post*, p. 182.

LIABILITY OF ASSIGNEES

SEC. 616. (a) Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is amended to read as follows:

"§ 131. Liability of assignees

15 USC 1607. "(a) Except as otherwise specifically provided in this title, any civil action for a violation of this title or proceeding under section 108 which may be brought against a creditor may be maintained against any assignee of such creditor only if the violation for which such action or proceeding is brought is apparent on the face of the disclosure statement, except where the assignment was involuntary. For the purpose of this section, a violation apparent on the face of the disclosure statement includes, but is not limited to (1) a disclosure which can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned, or (2) a disclosure which does not use the terms required to be used by this title.

Ante, p. 176. "(b) Except as provided in section 125(c), in any action or proceeding by or against any subsequent assignee of the original creditor without knowledge to the contrary by the assignee when he acquires the obligation, written acknowledgement of receipt by a person to whom a statement is required to be given pursuant to this title shall be conclusive proof of the delivery thereof and, except as provided in subsection (a), of compliance with this chapter. This section does not affect the rights of the obligor in any action against the original creditor.

15 USC 1635. "(c) Any consumer who has the right to rescind a transaction under section 125 may rescind the transaction as against any assignee of the obligation.".

Repeal. (b) Section 115 of the Truth in Lending Act (15 U.S.C. 1614) is hereby repealed.

(c)(1) The table of sections at the beginning of chapter 1 of the Truth in Lending Act is amended by striking out the item relating to section 115 and inserting in lieu thereof the following:

"115. [Repealed].".

(2) The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by striking out the item relating to section 131 and inserting in lieu thereof the following:

"131. Liability of assignees.".

LIABILITY OF CREDIT CARDHOLDER

SEC. 617. Section 133(a) of the Truth in Lending Act (15 U.S.C. 1643(a)) is amended to read as follows:

"(a)(1) A cardholder shall be liable for the unauthorized use of a credit card only if—

"(A) the card is an accepted credit card;

"(B) the liability is not in excess of $50;

"(C) the card issuer gives adequate notice to the cardholder of the potential liability;

"(D) the card issuer has provided the cardholder with a description of a means by which the card issuer may be notified of loss or theft of the card, which description may be provided on the face or reverse side of the statement required by section 127(b) or on a separate notice accompanying such statement;

"(E) the unauthorized use occurs before the card issuer has been notified that an unauthorized use of the credit card has

occurred or may occur as the result of loss, theft, or otherwise; and

"(F) the card issuer has provided a method whereby the user of such card can be identified as the person authorized to use it.

"(2) For purposes of this section, a card issuer has been notified when such steps as may be reasonably required in the ordinary course of business to provide the card issuer with the pertinent information have been taken, whether or not any particular officer, employee, or agent of the card issuer does in fact receive such information.".

DISSEMINATION OF ANNUAL PERCENTAGE RATES

SEC. 618. (a) Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end thereof the following new section:

"§ 136. Dissemination of annual percentage rates 15 USC 1646.

"(a) The Board shall collect, publish, and disseminate to the public, on a demonstration basis in a number of standard metropolitan statistical areas to be determined by the Board, the annual percentage rates charged for representative types of nonsale credit by creditors in such areas. For the purpose of this section, the Board is authorized to require creditors in such areas to furnish information necessary for the Board to collect, publish, and disseminate such information.

"(b) The Board is authorized to enter into contracts or other arrangements with appropriate persons, organizations, or State agencies to carry out its functions under subsection (a) and to furnish financial assistance in support thereof.".

(b) The table of sections contained at the beginning of such chapter is amended by adding at the end thereof the following new item:

"136. Dissemination of annual percentage rates.".

CREDIT ADVERTISING

SEC. 619. (a) Section 143 of the Truth in Lending Act (15 U.S.C. 1662) is amended to read as follows:

"§ 143. Advertising of open end credit plans 15 USC 1663.

"No advertisement to aid, promote, or assist directly or indirectly the extension of consumer credit under an open end credit plan may set forth any of the specific terms of that plan unless it also clearly and conspicuously sets forth all of the following items:

"(1) Any minimum or fixed amount which could be imposed.

"(2) In any case in which periodic rates may be used to compute the finance charge, the periodic rates expressed as annual percentage rates.

"(3) Any other term that the Board may by regulation require to be disclosed.".

(b) Section 144(d) of the Truth in Lending Act (15 U.S.C. 1664) is amended by striking out paragraphs (1) through (4) thereof, and inserting in lieu thereof the following:

"(1) The downpayment, if any.

"(2) The terms of repayment.

"(3) The rate of the finance charge expressed as an annual percentage rate.".

CORRECTION OF BILLING ERRORS

SEC. 620. (a) Section 161(b) of the Truth in Lending Act (15 U.S.C. 1666(b)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

"(6) Failure to transmit the statement required under section 127(b) of this Act to the last address of the obligor which has been disclosed to the creditor, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.".

(b) Section 161(c) of the Truth in Lending Act (15 U.S.C. 1666(c)) is amended by inserting ", which may include finance charges on amounts in dispute," after "of statements of account".

CREDIT BALANCES

SEC. 621. (a) Section 165 of the Truth in Lending Act (15 U.S.C. 1666d) is amended to read as follows:

"§ 165. Treatment of credit balances

"Whenever a credit balance in excess of $1 is created in connection with a consumer credit transaction through (1) transmittal of funds to a creditor in excess of the total balance due on an account, (2) rebates of unearned finance charges or insurance premiums, or (3) amounts otherwise owed to or held for the benefit of an obligor, the creditor shall—

"(A) credit the amount of the credit balance to the consumer's account;

"(B) refund any part of the amount of the remaining credit balance, upon request of the consumer; and

"(C) make a good faith effort to refund to the consumer by cash, check, or money order any part of the amount of the credit balance remaining in the account for more than six months, except that no further action is required in any case in which the consumer's current location is not known by the creditor and cannot be traced through the consumer's last known address or telephone number.".

(b) The table of sections at the beginning of chapter 4 of the Truth in Lending Act is amended by striking out the item relating to section 165 and inserting in lieu thereof the following:

"165. Treatment of credit balances.".

GOVERNMENT EXEMPTION

SEC. 622. (a) Section 113 of the Truth in Lending Act (15 U.S.C. 1612) is amended to read as follows:

"§ 113. Effect on governmental agencies

"(a) Any department or agency of the United States which administers a credit program in which it extends, insures, or guarantees consumer credit and in which it provides instruments to a creditor which contain any disclosures required by this title shall, prior to the issuance or continued use of such instruments, consult with the Board to assure that such instruments comply with this title.

"(b) No civil or criminal penalty provided under this title for any violation thereof may be imposed upon the United States or any

department or agency thereof, or upon any State or political subdivision thereof, or any agency of any State or political subdivision.

"(c) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under this title in any case in which the violation results from the use of an instrument required by any such department or agency.

"(d) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under the laws of any State (other than laws determined under section 111 to be inconsistent with this title) for any technical or procedural failure, such as a failure to use a specific form, to make information available at a specific place on an instrument, or to use a specific typeface, as required by State law, which is caused by the use of an instrument required to be used by such department or agency.". 15 USC 1610.

(b) The table of sections at the beginning of chapter 1 of the Truth in Lending Act is amended by striking out the item relating to section 113 and inserting in lieu thereof the following:

"113. Effect on governmental agencies.".

ORAL DISCLOSURES

SEC. 623. (a) Section 146 of the Truth in Lending Act (15 U.S.C. 1665a) is amended to read as follows:

"§ 146. Use of annual percentage rate in oral disclosures

"In responding orally to any inquiry about the cost of credit, a creditor, regardless of the method used to compute finance charges, shall state rates only in terms of the annual percentage rate, except that in the case of an open end credit plan, the periodic rate also may be stated and, in the case of an other than open end credit plan where a major component of the finance charge consists of interest computed at a simple annual rate, the simple annual rate also may be stated. The Board may, by regulation, modify the requirements of this section or provide an exception from this section for a transaction or class of transactions for which the creditor cannot determine in advance the applicable annual percentage rate.".

(b) The table of sections at the beginning of chapter 3 of the Truth in Lending Act is amended by striking out the item relating to section 146 and inserting in lieu thereof the following:

"146. Use of annual percentage rate in oral disclosures.".

CONSUMER LEASING

SEC. 624. Section 185(b) of the Truth in Lending Act (15 U.S.C. 1667d(b)) is amended by striking out "sections 115, 130, and 131" and inserting in lieu thereof "sections 130 and 131". 15 USC 1640; *Ante*, p. 182.

EFFECTIVE DATE

SEC. 625. (a) Except as provided in section 608(b), the amendments made by this title shall take effect upon the expiration of two years after the date of enactment of this title. 15 USC 1602 note. *Ante*, p. 171.

(b) All regulations, forms, and clauses required to be prescribed under the amendments made by this title shall be promulgated at least one year prior to such effective date.

(c) Notwithstanding subsections (a) and (b), any creditor may comply with the amendments made by this title, in accordance with the regulations, forms, and clauses prescribed by the Board, prior to such effective date.

TITLE VII—AMENDMENTS TO THE NATIONAL BANKING LAWS

PART A—NATIONAL BANKING LAWS

POWER TO HOLD REAL PROPERTY OR INTERESTS IN REAL PROPERTY

SEC. 701. (a) Section 5137 of the Revised Statutes (12 U.S.C. 29) is amended—

(1) by inserting before the period at the end of the last paragraph thereof the following: "except as otherwise provided in this section"; and

(2) by adding at the end thereof the following new paragraph: "For real estate in the possession of a national banking association upon application by the association, the Comptroller of the Currency may approve the possession of any such real estate by such association for a period longer than five years, but not to exceed an additional five years, if (1) the association has made a good faith attempt to dispose of the real estate within the five-year period, or (2) disposal within the five-year period would be detrimental to the association. Upon notification by the association to the Comptroller of the Currency that such conditions exist that require the expenditure of funds for the development and improvement of such real estate, and subject to such conditions and limitations as the Comptroller of the Currency shall prescribe, the association may expend such funds as are needed to enable such association to recover its total investment.".

(b) Section 4(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(a)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this Act, the period ending December 31, 1980, referred to in paragraph (2) above, may be extended by the Board of Governors to December 31, 1982, but only for the divestiture by a bank holding company of real estate or interests in real estate lawfully acquired for investment or development. In making its decision whether to grant such extension, the Board shall consider whether the company has made a good faith effort to divest such interests and whether such extension is necessary to avert substantial loss to the company.".

DIVIDENDS ON PREFERRED STOCK

SEC. 702. The first sentence of subsection (a) of section 302 of the Act entitled "An Act to provide relief in the existing national emergency in banking, and for other purposes", approved March 9, 1933 (12 U.S.C. 51b), is amended by striking out "at a rate not exceeding 6 per centum per annum".

CONSIDERATION OF PREFERRED STOCK IN DETERMINING IMPAIRMENT OF CAPITAL

SEC. 703. The third sentence of section 345 of the Banking Act of 1935 (12 U.S.C. 51b-1) is amended by striking out "at a rate not exceeding six per centum per annum".

REVOCATION OF TRUST POWERS

SEC. 704. The first section of the Act of September 28, 1962 (76 Stat. 668; 12 U.S.C. 92a), is amended by adding at the end thereof the following new subsection:

"(k)(1) In addition to the authority conferred by other law, if, in the opinion of the Comptroller of the Currency, a national banking association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of five consecutive years to exercise, the powers granted by this section or otherwise fails or has failed to comply with the requirements of this section, the Comptroller may issue and serve upon the association a notice of intent to revoke the authority of the association to exercise the powers granted by this section. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association. Notice of intent. Hearing.

"(2) Such hearing shall be conducted in accordance with the provisions of subsection (h) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)), and subject to judicial review as provided in such section, and shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or later date is set by the Comptroller at the request of any association so served. Judicial review.

"(3) Unless the association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent, or if upon the record made at any such hearing, the Comptroller shall find that any allegation specified in the notice of charges has been established, the Comptroller may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this section, except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination.

"(4) A revocation order shall become effective not earlier than the expiration of thirty days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Comptroller or a reviewing court.". Revocation orders, effective date.

EMERGENCY LIMITATIONS AND RESTRICTIONS ON BUSINESS OF MEMBER BANKS

SEC. 705. Section 4 of the Act of March 9, 1933 (48 Stat. 2; 12 U.S.C. 95), is amended—

(1) by inserting "(a)" after "SEC. 4."; and

(2) by adding at the end thereof the following:

"(b)(1) In the event of natural calamity, riot, insurrection, war, or other emergency conditions occurring in any State whether caused by acts of nature or of man, the Comptroller of the Currency may designate by proclamation any day a legal holiday for the national banking associations located in that State. In the event that the emergency conditions affect only part of a State, the Comptroller of Legal holidays, designation.

the Currency may designate the part so affected and may proclaim a legal holiday for the national banking associations located in that affected part. In the event that a State or a State official authorized by law designates any day as a legal holiday for either emergency or ceremonial reasons for all banks chartered by that State to do business within that State, that same day shall be a legal holiday for all national banking associations chartered to do business within that State unless the Comptroller of the Currency shall by written order permit all national banking associations located in that State to remain open.

"State." "(2) For the purpose of this subsection, the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.".

PROCEDURE FOR CONVERSION, MERGER, OR CONSOLIDATION

SEC. 706. The second sentence of subsection (b) of section 2 of the Act of August 17, 1950 (64 Stat. 456; 12 U.S.C. 214a(b)), is amended by striking out "unanimous" and inserting in lieu thereof "majority".

DELEGATION OF AUTHORITY

SEC. 707. (a) Chapter 9 of title VII of the Revised Statutes (12 U.S.C. 1 et seq.) is amended by inserting after section 327 the following new section:

12 USC 4a. "SEC. 327A. The Comptroller of the Currency may delegate to any duly authorized employee, representative, or agent any power vested in the office by law.".

(b) The table of contents contained at the beginning of chapter 9 of title VII of the Revised Statutes is amended by inserting after the item relating to section 327 the following new item:

"327A. Delegation of authority.".

AUTHORITY TO PRESCRIBE REGULATIONS

SEC. 708. Chapter 4 of title LXII of the Revised Statutes (12 U.S.C. 21 et seq.) is amended by inserting immediately following section 5239 a new section 5239A to read as follows:

12 USC 93a. "SEC. 5239A. Except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to another regulatory agency, the Comptroller of the Currency is authorized to prescribe rules and regulations to carry out the responsibilities of the office, except that the authority conferred by this

12 USC 36. section does not apply to section 5155 of the Revised Statutes or to securities activities of National Banks under the Act commonly known as the 'Glass-Steagall Act'.".

EXAMINATION OF NATIONAL BANKING ASSOCIATIONS

SEC. 709. (a) Section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by striking out the first two sentences and inserting in lieu thereof the following: "The Comptroller of the Currency, with the approval of the Secretary of the Treasury, shall appoint examiners who shall examine every national bank as often as the Comptroller of the Currency shall deem necessary.".

Foreign operations. (b) Section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by adding at the end thereof the following new sentence: "The

Comptroller of the Currency, upon the request of the Board of Governors of the Federal Reserve System, is authorized to assign examiners appointed under this section to examine foreign operations of State banks which are members of the Federal Reserve System.".

OWNERSHIP INTEREST OF DIRECTORS OF NATIONAL BANKS

SEC. 710. The second sentence of section 5146 of the Revised Statutes (12 U.S.C. 72) is amended by striking out the second sentence and inserting in lieu thereof the following: "Every director must own in his or her own right either shares of the capital stock of the association of which he or she is a director the aggregate par value of which is not less than $1,000, or an equivalent interest, as determined by the Comptroller of the Currency, in any company which has control over such association within the meaning of section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841). If the capital of the bank does not exceed $25,000, every director must own in his or her own right either shares of such capital stock the aggregate par value of which is not less than $500, or an equivalent interest, as determined by the Comptroller of the Currency, in any company which has control over such association within the meaning of section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).".

PURCHASE OF STOCK IN BANKERS' BANKS

SEC. 711. The paragraph numbered "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24(7)) is amended by inserting before the period at the end thereof the following: ": *Provided further*, That, notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation if the stock of such bank is owned exclusively by other banks (except to the extent State law requires directors qualifying shares) and if such bank is engaged exclusively in providing banking services for other banks and their officers, directors, or employees, but in no event shall the total amount of such stock held by the association exceed at any time 10 per centum of its capital stock and paid in and unimpaired surplus, and in no event shall the purchase of such stock result in the association's acquiring more than 5 per centum of any class of voting securities of such bank".

INTERSTATE TRUST OPERATIONS

SEC. 712. (a) Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended by adding at the end thereof the following: "Notwithstanding the provisions of the preceding sentence, a national banking association the operations of which are limited as provided in the preceding sentence shall be deemed an additional bank within the contemplation of section 3 of the Bank Holding Company Act of 1956.".

12 USC 1842.

(b) Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following:

"(2)(A) Except as provided in subparagraph (B), the restrictions contained in paragraph (1) regarding the acquisition of shares or assets of, or interests in, an additional bank shall apply to the acquisition of shares or assets of, or interests in, a trust company.

"(B) Subparagraph (A) shall not apply with respect to the acquisition of shares or assets of, or interests in, a trust company if such acquisition was approved by the Board on or before March 5, 1980, and if such trust company opened for business and was operating on or before March 5, 1980.

"Trust company."

"(C) For the purpose of this paragraph, the term 'trust company' means any company whose powers are limited to the powers specified in subsection (a) of the first section of the Act entitled 'An Act to place authority over the trust powers of national banks in the Comptroller of the Currency', approved September 28, 1962 (12 U.S.C. 92a), for a national bank located in the same State in which such trust company is located.".

Termination date.

(c) The amendments made by this section are hereby repealed on October 1, 1981.

LOANS FOR THE FORMATION OF A ONE-BANK HOLDING COMPANY

SEC. 713. Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, the Board shall not follow any practice or policy in the consideration of any application for the formation of a one-bank holding company if following such practice or policy would result in the rejection of such application solely because the transaction to form such one-bank holding company involves a bank stock loan which is for a period of not more than twenty-five years. The previous sentence shall not be construed to prohibit the Board from rejecting any application solely because the other financial arrangements are considered unsatisfactory. The Board shall consider transactions involving bank stock loans for the formation of a one-bank holding company having a maturity of twelve years or more on a case by case basis and no such transaction shall be approved if the Board believes the safety or soundness of the bank may be jeopardized.".

PART B—TERMINATION OF NATIONAL BANK CLOSED RECEIVERSHIP FUND

PURPOSE

12 USC 191 note.

SEC. 721. The purpose of this part is to terminate the closed receivership fund by—

(1) providing final notice of availability of liquidating dividends to creditors of national banks closed on or before January 22, 1934;

(2) barring rights of creditors to collect liquidating dividends from the Comptroller of the Currency after a reasonable period of time following such final notice; and

(3) refunding to the Comptroller the principal amount of such fund and any income earned thereon.

DEFINITIONS

12 USC 191 note.

SEC. 722. For purposes of this part—

(1) the term "closed receivership fund" means the aggregation of undisbursed liquidating dividends from national banks closed on or before January 22, 1934, held by the Comptroller in his capacity as successor to receivers of those banks;

(2) the term "Comptroller" means the Comptroller of the Currency;

(3) the term "claimant" means a depositor or other creditor who asserts a claim against a closed national bank for a liquidating dividend; and

(4) the term "liquidating dividend" means an amount of money in the closed receivership fund determined by a receiver of a closed national bank or by the Comptroller to be owed by that bank to a depositor or other creditor.

TERMINATION OF CLOSED RECEIVERSHIP FUND

SEC. 723. (a) The Comptroller shall publish notice once a week for four weeks in the Federal Register that all rights of depositors and other creditors of closed national banks to collect liquidating dividends from the closed receivership fund shall be barred after twelve months following the last date of publication of such notice. Notice, publication in Federal Register. 12 USC 191 note.

(b) The Comptroller shall pay the principal amount of a liquidating dividend, exclusive of any income earned thereon, to a claimant presenting a valid claim, if the claimant applies to collect within twelve months following the last date notice is published.

(c) If a creditor shall fail to apply to collect a liquidating dividend within twelve months after the last date notice is published, all rights of the claimant against the closed receivership fund with respect to the liquidating dividend shall be barred.

(d) The principal amount of any liquidating dividends (1) for which claims have not been asserted within twelve months following the last date notice is published or (2) for which the Comptroller has determined a valid claim has not been submitted shall, together with any income earned on liquidating dividends and other moneys, if any, remaining in the closed receivership fund, be covered into the general funds of the Comptroller.

TITLE VIII—REGULATORY SIMPLIFICATION

Financial Regulation Simplification Act of 1980.

SHORT TITLE

SEC. 801. This title may be cited as the "Financial Regulation Simplification Act of 1980". 12 USC 3501 note.

FINDINGS

SEC. 802. The Congress hereby finds that many regulations issued by the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, and the National Credit Union Administration Board (hereinafter in this title referred to as the "Federal financial regulatory agencies") often impose costly, duplicative, and unnecessary burdens on both financial institutions and consumers. Regulations should be simple and clearly written. Regulations should achieve legislative goals effectively and efficiently. Regulations should not impose unnecessary costs and paperwork burdens on the economy, on financial institutions, or on consumers. 12 USC 3521. "Federal financial regulatory agencies."

POLICY

SEC. 803. Any regulation issued by the Federal financial regulatory agencies shall, to the maximum extent practicable, insure that— 12 USC 3522.

(1) the need for and purpose of such regulation is established clearly;

(2) meaningful alternatives to the promulgation of such regulation are considered before such regulation is issued;

(3) compliance costs, paperwork, and other burdens on the financial institutions, consumers, and public are minimized;

(4) conflicts, duplication, and inconsistencies between the regulations issued by the Federal financial regulatory agencies are to be avoided to the extent possible taking into account differences in statutory responsibilities, the classes of financial institutions' regulation and methods of implementation of statutory or policy objectives;

(5) timely participation and comment by other Federal agencies, appropriate State and local agencies, financial institutions, and consumers are available; and

(6) any regulation issued shall be as simple and clearly written as possible and understandable by those who are subject to such regulation.

REVIEW OF EXISTING REGULATIONS

12 USC 3523.

SEC. 804. The Federal financial regulatory agencies shall establish a program which assures periodic review of existing regulations to determine whether those regulations achieve the policies stated in section 803. Those regulations which are not in keeping with such policies shall be revised accordingly.

REPORTING

Report to congressional committees. 12 USC 3524.

SEC. 805. Not later than six months after the date of enactment of this title and in subsequent annual reports, each Federal financial regulatory agency shall submit a report of its progress in implementing this title to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

TERMINATION DATE

12 USC 3521 note.

SEC. 806. This title is hereby repealed five years after the date of enactment of this title.

TITLE IX—FOREIGN CONTROL OF UNITED STATES FINANCIAL INSTITUTIONS

DEFINITIONS

12 USC 3101 note.

SEC. 901. For purposes of this title—

(1) the term "domestic financial institution" means any bank, mutual savings bank, or savings and loan association organized under the laws of any State or of the United States;

(2) the term "foreign person" means any foreign organization or any individual resident in a foreign country or any organization or individual owned or controlled by such an organization or individual; and

(3) the term "takeover" means any acquisition of the stock or assets of any domestic financial institution if, after such acquisition, the amount of stock or assets held is 5 per centum or more of the institution's stock or assets.

MORATORIUM

SEC. 902. The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board may not approve any application relating to the takeover of any domestic financial institution by a foreign person until July 1, 1980, unless— 12 USC 3101 note.

(1) such takeover is necessary to prevent the bankruptcy or insolvency of the domestic financial institution involved;

(2) the application was initially submitted for filing on or before March 5, 1980;

(3) the domestic financial institution has deposits of less than $100,000,000;

(4) the application relates to a takeover of shares or assets pursuant to a foreign person's intrafirm reorganization of its interests in a domestic financial institution, including specifically any application to establish a bank holding company pursuant to such reorganization;

(5) the application relates to a takeover of the assets or shares of a domestic financial institution if such assets or shares are owned or controlled by a foreign person; or

(6) the application relates to the takeover of a domestic financial institution which is a subsidiary of a bank holding company under an order to divest by December 31, 1980.

Approved March 31, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-842 (Comm. of Conference).
SENATE REPORTS: No. 96-368 (Comm. on Banking, Housing, and Urban Affairs) and No. 96-640 (Comm. of Conference).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 10, 11, considered and passed House.
Oct. 23, 29, 31, Nov. 1, considered and passed Senate, amended.
Nov. 7, House concurred in Senate amendment with amendments.
Vol. 126 (1980): Mar. 27, House agreed to conference report.
Mar. 27, 28, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 14 (1980): Mar. 31, Presidential statement.

Public Law 96-222
96th Congress

An Act

Apr. 1, 1980
[H.R. 2797]

To make technical corrections related to the Revenue Act of 1978.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Technical Corrections Act of 1979.

SECTION 1. SHORT TITLE, ETC.

26 USC 1 note.

(a) SHORT TITLE.—This Act may be cited as the "Technical Corrections Act of 1979".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

26 USC 1 note.

SEC. 2. COORDINATION OF ENACTMENT DATES OF REVENUE ACT OF 1978 AND ENERGY TAX ACT OF 1978.

The Revenue Act of 1978 is amended by inserting after section 3 the following new section:

26 USC 46 note.

"SEC. 4. COORDINATION OF ENACTMENT DATES WITH ENERGY TAX ACT OF 1978.

26 USC 46, 48.
26 USC 1 note.

"For purposes of applying the amendments made by this Act to sections 46 and 48 of the Internal Revenue Code of 1954, the Energy Tax Act of 1978 shall be deemed to have been enacted immediately before this Act."

TITLE I—AMENDMENTS RELATED TO REVENUE ACT OF 1978

SEC. 101. AMENDMENTS RELATED TO TITLE I.

(a) GENERAL RULE.—

26 USC 43.

(1) AMENDMENT RELATED TO SECTION 104 OF THE ACT.—Subparagraph (C) of section 43(c)(1) (relating to individual entitled to exclude income under section 911 not eligible individual) is amended to read as follows:

"(C) INDIVIDUAL WHO CLAIMS BENEFITS OF SECTION 911, 913, OR 931 NOT ELIGIBLE INDIVIDUAL.—The term 'eligible individual' does not include an individual who, for the taxable year, claims the benefits of—

"(i) section 911 (relating to income earned by individuals in certain camps outside the United States),

"(ii) section 913 (relating to deduction for certain expenses of living abroad), or

"(iii) section 931 (relating to income from sources within possessions of the United States)."

(2) AMENDMENTS RELATED TO SECTION 105 OF THE ACT.— 92 Stat. 2773.

(A) PAYMENTS TREATED AS EARNED INCOME FOR AFDC.— Section 402 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 602.

"(d)(1) For purposes of paragraphs (7) and (8) of subsection (a), any refund of Federal income taxes made by reason of section 43 of the Internal Revenue Code of 1954 (relating to earned income credit) and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit) shall be considered earned income. 26 USC 43.

"(2) In any case in which such advance payments for a taxable year made by all employers to an individual under section 3507 of such Code exceed the amount of such individual's earned income credit allowable under section 43 of such Code for such year, so that such individual is liable under section 43(g) of such Code for a tax equal to such excess, such individual's benefit amount must be appropriately adjusted so as to provide payment to such individual of an amount equal to the amount of the benefits lost by such individual on account of such excess advance payments."

(B) PAYMENT TREATED AS EARNED INCOME FOR SSI.—Section 1612(a)(1) of the Social Security Act is amended— 42 USC 1382a.

(i) by striking out "and" at the end of subparagraph (A); and

(ii) by adding after subparagraph (B) the following new subparagraph:

"(C) any refund of Federal income taxes made by reason of section 43 of the Internal Revenue Code of 1954 (relating to earned income credit) and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit); and". 26 USC 43.

(C) TREATMENT OF EXCESS PAYMENTS UNDER SSI.—Section 1631(b) of the Social Security Act is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph: 42 USC 1383.

"(2) In any case in which advance payments for a taxable year made by all employers to an individual under section 3507 of the Internal Revenue Code of 1954 (relating to advance payment of earned income credit) exceed the amount of such individual's earned income credit allowable under section 43 of such Code for such year, so that such individual is liable under section 43(g) of such Code for a tax equal to such excess, the Secretary shall provide for an appropriate adjustment of such individual's benefit amount under this title so as to provide payment to such individual of an amount equal to the amount of such benefits lost by such individual on account of such excess advance payments." 26 USC 3507.

(D) EFFECTIVE DATE FOR ADVANCE PAYMENT OF EARNED INCOME CREDIT.—Paragraph (2) of section 105(g) of the Revenue Act of 1978 (relating to effective date for advance payment of earned income credit) is amended by striking out "June 30, 1978" and inserting in lieu thereof "June 30, 1979". 26 USC 3507 note.

(E) CLERICAL ADMENDMENT.—Subsection (h) of section 43 (relating to coordination with advance payments of earned income credit) is redesignated as subsection (g). 26 USC 43.

(3) AMENDMENT RELATED TO SECTION 112 OF THE ACT.—Paragraph (8) of section 128(a) (relating to cross references) is amended by striking out "benefits, see" and inserting in lieu thereof "benefits which are not includible in gross income under section 85,". 92 Stat. 2777. 26 USC 128.

26 USC 457.

(4) AMENDMENT RELATED TO SECTION 131 OF THE ACT.—Subparagraph (B) of section 457(d)(9) (relating to application to rural electric cooperatives of rules for eligible State deferred compensation plans) is amended to read as follows:

"(B) RURAL ELECTRIC COOPERATIVE DEFINED.—For purposes of subparagraph (A), the term 'rural electric cooperative' means—

"(i) any organization which is exempt from tax under section 501(a) and which is engaged primarily in providing electric service on a mutual or cooperative basis, and

"(ii) any organization described in paragraph (4) or (6) of section 501(c) which is exempt from tax under section 501(a) and at least 80 percent of the members of which are organizations described in clause (i)."

92 Stat. 2783.

(5) AMENDMENT RELATED TO SECTION 133 OF THE ACT.—Subsection (c) of section 133 of the Revenue Act of 1978 (relating to effective date for clarification of deductibility of payments of deferred compensation, etc., to independent contractors) is amended to read as follows:

26 USC 404 note.

"(c) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to deductions for taxable years beginning after December 31, 1978.

"(2) SPECIAL RULE FOR CERTAIN TITLE INSURANCE COMPANIES.—

"(A) IN GENERAL.—In the case of a qualified title insurance company plan, the amendment made by subsection (a) shall apply to deductions for taxable years beginning after December 31, 1979.

"(B) QUALIFIED TITLE INSURANCE COMPANY PLAN.—For purposes of subparagraph (A), the term 'qualified title insurance company plan' means a plan of a qualified title insurance company—

"(i) which defers the payment of amounts credited by such company to separate accounts for members of such company in consideration of their issuance of policies of title insurance, and

"(ii) under which no part of such amounts is payable to or withdrawable by the members until after the period for the adverse possession of real property under applicable State law.

"(C) QUALIFIED TITLE INSURANCE COMPANY.—For purposes of subparagraph (B), the term 'qualified title insurance company' means an unincorporated title insurance company organized as a business trust—

"(i) which is engaged in the business of providing title insurance coverage on interests in and liens upon real property obtained by clients of the members of such company, and

"(ii) which is subject to tax under section 831 of the Internal Revenue Code of 1954."

26 USC 831.

92 Stat. 2783.

(6) AMENDMENTS RELATED TO SECTION 134 OF THE ACT.—

26 USC 125.

(A) EMPLOYMENT REQUIREMENT.—Subparagraph (B) of section 125(g)(3) (relating to certain participation eligibility rules not treated as discriminatory) is amended by striking out "service requirement" each place it appears and inserting in lieu thereof "employment requirement".

(B) EFFECTIVE DATE.—Subsection (c) of section 134 of the Revenue Act of 1978 is amended by striking out "taxable years" and inserting in lieu thereof "plan years". 26 USC 125 note.

(7) AMENDMENTS RELATED TO SECTION 141 OF THE ACT.— 92 Stat. 2787.

(A) AMENDMENT TO ANTI-FLOW-THROUGH RULES.—Paragraph (9) of section 46(f) (relating to special rule for additional credit) is amended— 26 USC 46.

(i) by striking out "subparagraph (B) of subsection (a)(2)" each place it appears and inserting in lieu thereof "subparagraph (E) of subsection (a)(2)", and

(ii) by striking out "an employee stock ownership plan which meets the requirements of section 301(d) of the Tax Reduction Act of 1975" in subparagraph (A) and inserting in lieu thereof "a tax credit employee stock ownership plan which meets the requirements of section 409A".

(B) CLARIFICATION OF EFFECTIVE DATE.—Section 141 of the Revenue Act of 1978 (relating to ESOPS) is amended by striking out subsection (g) and inserting in lieu thereof the following new subsections:

"(g) EFFECTIVE DATES FOR TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLANS.— 26 USC 409A note.

"(1) IN GENERAL.—Except as otherwise provided in this subsection and subsection (h), the amendments made by this section shall apply with respect to qualified investment for taxable years beginning after December 31, 1978.

"(2) ELECTION TO HAVE AMENDMENTS APPLY DURING 1978.—At the election of the taxpayer, paragraph (1) shall be applied by substituting 'December 31, 1977' for 'December 31, 1978'; except that in the case of a plan in existence before December 31, 1978, any such election shall not affect the required allocation of employer securities attributable to qualified investment for taxable years beginning before January 1, 1979. An election under the preceding sentence shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe. Such an election, once made, shall be irrevocable.

"(3) VOTING RIGHT PROVISIONS.—Section 409A(e) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to plans to which section 409A of such Code applies, beginning with the first day of such application. 26 USC 409A.

"(4) RIGHT TO DEMAND EMPLOYER SECURITIES, ETC.—Paragraphs (1)(A) and (2) of section 409A(h) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply to distributions after December 31, 1978, made by a plan to which section 409A of such Code applies.

"(5) SUBSECTION (f)(7).—The amendment made by subsection (f)(7) shall apply to years beginning after December 31, 1978. 26 USC 415 note.

"(6) RETROACTIVE APPLICATION OF AMENDMENT MADE BY SUBSECTION (d).—In determining the regular tax deduction under section 56(c) of the Internal Revenue Code of 1954 for any taxable year beginning before January 1, 1979, the amount of the credit allowable under section 38 of such Code shall be determined without regard to section 46(a)(2)(B) of such Code (as in effect before the enactment of the Energy Tax Act of 1978). 26 USC 56 note.

"(h) EFFECTIVE DATES FOR SECTION 4975 EMPLOYEE STOCK OWNERSHIP PLANS.—Paragraphs (5) and (6) of subsection (f) shall apply— 26 USC 1 note. 26 USC 4975 note.

"(1) insofar as they make the requirements of subsections (e) and (h)(1)(B) of section 409A of the Internal Revenue Code of 1954

26 USC 4975. applicable to section 4975 of such Code, to stock acquired after December 31, 1979, and

"(2) insofar as they make paragraphs (1)(A) and (2) of section 409A(h) of such Code applicable to such section 4975, to distributions after December 31, 1978."

(C) DEFINITION OF QUALIFYING EMPLOYER SECURITY FOR EMPLOYEE STOCK OWNERSHIP PLAN.—The first sentence of
26 USC 4975. paragraph (8) of section 4975(e) (defining qualifying employer security) is amended to read as follows:

"The term 'qualifying employer security' means any employer security within the meaning of section 409A(l)."

(D) NONRECOGNITION OF GAIN ON CONTRIBUTION TO TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN.—Subsection (m) of
26 USC 409A. section 409A (relating to contributions of stock of controlling corporation) is amended to read as follows:

"(m) NONRECOGNITION OF GAIN OR LOSS ON CONTRIBUTION OF EMPLOYER SECURITIES TO TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN.—No gain or loss shall be recognized to the taxpayer with respect to the transfer of employer securities to a tax credit employee stock ownership plan maintained by the taxpayer to the extent that such transfer is required under subparagraph (A) or (B) of section 48(n)(1)."

(E) SECTION 4975 EMPLOYEE STOCK OWNERSHIP PLANS MAY DISTRIBUTE CASH IN CERTAIN CASES.—Paragraph (2) of section 409A(h) (relating to allowing plan to distribute cash in certain cases) is amended by inserting "or of section 4975(e)(7)" after "the requirements of this section".

(F) MATCHED EMPLOYER AND EMPLOYEE CONTRIBUTIONS MUST STAY IN PLAN.—Subsection (d) of section 409A (relating to employer securities must stay in plan) is amended by inserting "(or allocated to a participant's account in connection with matched employer and employee contributions)" after "under subsection (b)".

(G) LIMITATION ON REQUIRED TRANSFERS FOR MATCHING EMPLOYEES PLAN PERCENTAGE.—Clause (i) of section
26 USC 48. 48(n)(1)(B) (relating to matching percentage) is amended to read as follows:

"(i) to make transfers of employer securities to a tax credit employee stock ownership plan maintained by the employer having an aggregate value equal to the lesser of—

"(I) the sum of the qualified matching employee contributions made to such plan for the taxable year, or

"(II) one-half of 1 percent of the amount of the qualified investment (as determined under subsections (c) and (d) of section 46) for the taxable year, and".

(H) TIME FOR MAKING TRANSFERS ATTRIBUTABLE TO QUALIFIED MATCHING EMPLOYEE CONTRIBUTIONS.—The last sentence of section 48(n)(1)(C) (relating to times for making transfers) is amended by inserting before the period at the end thereof the following: "(including where such excess is attributable to qualified matching employee contributions made after the close of the taxable year)".

(I) DATE FOR ESTABLISHING PLAN.—

(i) Paragraph (1) of section 409A(f) (relating to plan must be established before employer's due date) is amended to read as follows: 26 USC 409A.

"(1) IN GENERAL.—A plan meets the requirements of this subsection only if it is established on or before the due date (including any extension of such date) for the filing of the employer's tax return for the first taxable year of the employer for which an employee plan credit is claimed by the employer with respect to the plan."

(ii) Paragraph (2) of section 409A(f) is amended by inserting before the period at the end thereof the following: "with respect to the plan".

(J) DEFINITION OF EMPLOYER SECURITIES.—

(i) Subparagraph (B) of section 409A(l)(2) (relating to special rule where there is no readily tradable common stock) is amended by striking out "class of stock" and inserting in lieu thereof "class of common stock".

(ii) Paragraph (3) of section 409A(l) is amended to read as follows:

"(3) PREFERRED STOCK MAY BE ISSUED IN CERTAIN CASES.—Noncallable preferred stock shall be treated as employer securities if such stock is convertible at any time into stock which meets the requirements of paragraph (1) or (2) (whichever is applicable) and if such conversion is at a conversion price which (as of the date of the acquisition by the ESOP) is reasonable. For purposes of the preceding sentence, under regulations prescribed by the Secretary, preferred stock shall be treated as noncallable if after the call there will be a reasonable opportunity for a conversion which meets the requirements of the preceding sentence."

(K) VOTING RIGHTS REQUIREMENTS.—Paragraph (7) of section 4975(e) (defining leveraged employee stock ownership plan) is amended by striking out the last sentence and inserting in lieu thereof the following: 26 USC 4975.

"A plan shall not be treated as an employee stock ownership plan unless it meets the requirements of section 409A(h) and, if the employer has a registration-type class of securities (as defined in section 409A(e)(4)), it meets the requirements of section 409A(e)."

(L) NAME CHANGES.—

(i) The following provisions are each amended by striking out "an ESOP" each place it appears (other than in any heading) and inserting in lieu thereof "a tax credit employee stock ownership plan":

(I) Section 48(n)(1)(A)(i). 26 USC 48.

(II) Section 48(n)(2).

(III) Section 48(n)(2)(A).

(IV) Section 48(n)(5).

(V) Section 401(a)(21). 26 USC 401.

(VI) Section 409A(m). 26 USC 409A.

(VII) Section 415(c)(6)(B)(i). 26 USC 415.

(VIII) The last sentence of section 1504(a). 26 USC 1504.

(ii) The following provisions are each amended by striking out "ESOP" each place it appears and inserting in lieu thereof "tax credit employee stock ownership plan":

(I) Section 409A(a) (other than in the subsection heading).

(II) Section 409A(l)(3).

26 USC 48.

(III) Section 48(n)(1)(B)(i) (as amended by clause (i)).

(IV) Section 48(n)(2).

(V) Section 48(n)(3).

(VI) Section 48(n)(4)(A).

(iii) The following provisions are each amended by striking out "ESOP" each place it appears (other than in any heading) and inserting in lieu thereof "employee plan":

26 USC 46.

(I) Section 46(a)(2).

(II) Section 48(n) (as amended by clauses (i) and (ii)).

(III) Section 48(o).

26 USC 56.

(IV) Section 56(c).

26 USC 409A.

(V) Section 409A (as amended by subparagraph (I) and clauses (i) and (ii)).

26 USC 6699.

(VI) Section 6699.

(iv) The following provisions are each amended by striking out "leveraged employee" each place it appears and inserting in lieu thereof "employee":

26 USC 415.

(I) Section 415(c)(6)(B)(i).

26 USC 1504.

(II) The last sentence of section 1504(a).

Ante, p. 199.

(III) Section 4975(e)(7) (other than in the paragraph heading).

26 USC 46.

(v)(I) The heading of subparagraph (E) of section 46(a)(2) is amended by striking out "ESOP" and inserting in lieu thereof "EMPLOYEE PLAN".

(II) The subsection heading for section 48(n) is amended by striking out "ESOP" and inserting in lieu thereof "EMPLOYEE PLAN".

(III) The subparagraph headings for subparagraphs (A) and (B) of section 48(n)(1) are each amended by striking out "ESOP" and inserting in lieu thereof "EMPLOYEE PLAN".

(IV) The paragraph headings for paragraph (4) of section 48(n) and paragraphs (4), (5), (6), and (7) of section 48(o) are each amended by striking out "ESOP" and inserting in lieu thereof "EMPLOYEE PLAN".

(V) The paragraph heading for section 48(o)(3) is amended by striking out "ESOP" and inserting in lieu thereof "EMPLOYEE PLAN".

(VI) The subsection heading for subsection (a) of section 409A is amended by striking out "ESOP" and inserting in lieu thereof "TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN".

26 USC 409A.

(VII) The section heading for section 409A is amended by striking out "ESOPS" and inserting in lieu thereof "TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLANS".

(VIII) The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by striking out "ESOPS" in the item relating to section 409A and inserting in lieu thereof "tax credit employee stock ownership plans".

26 USC 6699.

(IX) The section heading of section 6699 is amended by striking out "ESOP" and inserting in lieu thereof "TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN".

(X) The table of sections for subchapter B of chapter 68 is amended by striking out "ESOP" in the item relating to section 6699 and inserting in lieu thereof "tax credit employee stock ownership plan". 26 USC 6699.

(XI) The paragraph heading for paragraph (7) of section 4975(e) is amended by striking out "LEVERAGED EMPLOYEE" and inserting in lieu thereof "EMPLOYEE". 26 USC 4975.

(M) CLERICAL AMENDMENTS.—

(i) Subparagraph (E) of section 46(a)(2) is amended by inserting "and ending on" before "December 31, 1983" each place it appears. 26 USC 46.

(ii) Subparagraph (B) of section 48(n)(2) is amended by adding "and" at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii). 26 USC 48.

(iii) Paragraph (5) of section 48(o) (as amended by subparagraph (L)) is amended by inserting "percentage" after "attributable to the matching employee plan".

(8) AMENDMENTS RELATED TO SECTION 142 OF THE ACT.— 92 Stat. 2796.

(A) Subsection (c) of section 691 (relating to deduction for estate tax) is amended by adding at the end thereof the following new paragraph: 26 USC 691.

"(5) COORDINATION WITH SECTION 402(E).—For purposes of section 402(e) (other than paragraph (1)(D) thereof), the total taxable amount of any lump sum distribution shall be reduced by the amount of the deduction allowable under paragraph (1) of this subsection which is attributable to the total taxable amount (determined without regard to this paragraph)." 26 USC 402.

(B) Paragraph (2) of section 2039(f) (relating to lump sum distributions) is amended by striking out "without the application of paragraph (2) thereof" and inserting in lieu thereof "(without the application of paragraph (2) thereof), except to the extent that section 402(e)(4)(J) applies to such distribution". 26 USC 2039.

(9) AMENDMENT RELATED TO SECTION 143 OF THE ACT.—Subparagraph (B) of section 401(a)(22) is amended by striking "as securities" and inserting in lieu thereof "are securities". 92 Stat. 2796. 26 USC 401.

(10) AMENDMENTS RELATED TO SECTION 152 OF THE ACT.— 92 Stat. 2797.

(A) CERTAIN EMPLOYEES MAY BE EXCLUDED.—Paragraph (2) of section 408(k) (relating to participation requirements for simplified employee pensions) is amended by adding at the end thereof the following new sentence: 26 USC 408.

"For purposes of this paragraph, there shall be excluded from consideration employees described in subparagraph (A) or (C) of section 410(b)(2)."

(B) CONTRIBUTIONS UNDER SIMPLIFIED EMPLOYEE PENSION NOT SUBJECT TO FICA OR FUTA TAXES.—

(i) FICA TAX.—Paragraph (5) of section 3121(a) (defining wages) is amended by striking out "or" at the end of subparagraph (B), by striking out the semicolon at the end of subparagraph (C) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph: 26 USC 3121.

"(D) under a simplified employee pension if, at the time of the payment, it is reasonable to believe that the employee will be entitled to a deduction under section 219 for such payment;".

(ii) FUTA TAX.—Paragraph (5) of section 3306(b) (defining wages) is amended by striking out "or" at the end 26 USC 3306.

of subparagraph (B), by striking out the semicolon at the end of subparagraph (C) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(D) under a simplified employee pension if, at the time of the payment, it is reasonable to believe that the employee will be entitled to a deduction under section 219 for such payment;".

26 USC 219.

(C) CORRECTION OF CERTAIN EXCESS CONTRIBUTIONS.—Subparagraph (A) of section 408(d)(5) (relating to certain distributions of excess contributions after due date for taxable year) is amended by adding at the end thereof the following new sentence:

26 USC 408.

"If employer contributions on behalf of the individual are paid for the taxable year to a simplified employee pension, the dollar limitation of the preceding sentence shall be increased by the lesser of the amount of such contributions or $7,500."

(D) CLARIFICATION OF SECTION 219(b)(7).—Paragraph (7) of section 219(b) (relating to simplified employee pensions) is amended to read as follows:

26 USC 219.

"(7) SPECIAL RULES IN CASE OF SIMPLIFIED EMPLOYEE PENSIONS.—

"(A) LIMITATION.—If there is an employer contribution on behalf of the employee to a simplified employee pension, the limitation under paragraph (1) shall be the lesser of—

"(i) 15 percent of the compensation includible in the employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified employee pension), or

"(ii) the sum of—

"(I) the amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of $7,500), and

"(II) $1,500, reduced (but not below zero) by the amount described in subclause (I).

"(B) CERTAIN LIMITATIONS DO NOT APPLY TO EMPLOYER CONTRIBUTION.—Paragraphs (2) and (3) shall not apply with respect to the employer contribution to a simplified employee pension.

"(C) SPECIAL RULE FOR APPLYING SUBPARAGRAPH (A)(ii).—In the case of an employee who is an officer, shareholder, or owner-employee described in section 408(k)(3), the $7,500 amount specified in subparagraph (A)(ii)(I) shall be reduced by the amount of tax taken into account with respect to such individual under subparagraph (D) of section 408(k)(3)."

(E) COORDINATION WITH PLAN FOR SHAREHOLDER-EMPLOYEES.—Paragraph (4) of section 404(h) (relating to effect on self-employed individuals) is amended—

26 USC 404.

(i) by inserting "or described in section 1379(b)(1)" after "of subsection (e)",

(ii) by inserting "or a shareholder-employee (as defined in section 1379(d))" after "section 401(c)(1)", and

(iii) by striking out "SELF-EMPLOYED INDIVIDUALS" in the paragraph heading and inserting in lieu thereof "SELF-EMPLOYED INDIVIDUALS OR SHAREHOLDER-EMPLOYEES".

(F) COORDINATION WITH SECTION 401(j).—Subsection (k) of section 408 (defining simplified employee pension) is amended— 26 USC 401. 26 USC 408.

(i) by striking out "and (5)" in paragraph (1) and inserting in lieu thereof "(5), and (6)",

(ii) by redesignating paragraph (6) as paragraph (7), and

(iii) by inserting after paragraph (5) the following new paragraph:

"(6) EMPLOYER MAY NOT MAINTAIN PLAN TO WHICH SECTION 401(j) APPLIES.—The requirements of this paragraph are met with respect to a simplified employee pension for a calendar year unless the employer maintains during any part of such year a plan—

"(A) some or all of the active participants in which are employees (within the meaning of section 401(c)(1)) or shareholder-employees (as defined in section 1379(d)), and

"(B) to which section 401(j) applies."

(G) EMPLOYER MAY NOT MAINTAIN INTEGRATED PLAN.—

(i) The second sentence of section 408(k)(3)(D) (relating to treatment of certain contributions and taxes) is amended by striking out "Taxes paid" and inserting in lieu thereof "If the employer does not maintain an integrated plan at any time during the taxable year, taxes paid".

(ii) Paragraph (3) of section 408(k) is amended by adding at the end thereof the following new subparagraph:

"(E) INTEGRATED PLAN DEFINED.—For purposes of subparagraph (D), the term 'integrated plan' means a plan which meets the requirements of section 401(a), 403(a), or 405(a) but would not meet such requirements if contributions or benefits under chapter 2 (relating to tax on self-employment income), chapter 21 (relating to Federal Insurance Contributions Act), title II of the Social Security Act, or any other Federal or State law were not taken into account." 26 USC 1401. 26 USC 3101. 42 USC 401.

(H) PENALTY FOR FAILURE TO FILE REPORTS.—Subsection (a) of section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended— 26 USC 6693.

(i) by striking out "section 408(i)" the first place it appears and inserting in lieu thereof "subsection (i) or (l) of section 408", and

(ii) by striking out "section 408(i)" the second place it appears and inserting in lieu thereof "such subsection".

(I) APPLICATION WITH SECTION 415.—Paragraph (5) of section 415(e) is amended— 26 USC 415.

(i) by striking out "any simplified employee pension" in the first sentence, and

(ii) by inserting after the first sentence the following new sentence: "For purposes of this section, any contribution by an employer to a simplified employee pension for an individual for a taxable year shall be treated as an employer contribution to a defined contribution plan for such individual for such year."

(J) CLERICAL AMENDMENTS.—

(i) Subsection (j) of section 408 is amended by inserting "and" at the end of paragraph (1), by striking out ", and" 26 USC 408.

at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out paragraph (3).

26 USC 404. (ii) Paragraphs (2), (3), and (4) of section 404(h) are each amended by striking out "subparagraph (1)" each place it appears and inserting in lieu thereof "paragraph (1)".

92 Stat. 2797. (iii) Paragraph (2) of section 152(g) of the Revenue Act of 1978 is amended by striking out "section 415(b)(2)" and inserting in lieu thereof "section 415(a)(2)".

26 USC 415.

92 Stat. 2800. (11) AMENDMENTS RELATED TO SECTION 153 OF THE ACT.—

(A) WAIVER OF SECTION 415(b)(1)(B) LIMITATION DOES NOT APPLY WHERE PARTICIPANT IS ALSO A PARTICIPANT OF ANOTHER QUALIFIED PLAN.—Paragraph (7) of section 415(b) (relating to benefits under certain collectively bargained plans) is amended by inserting after the second sentence the following new sentence: "This paragraph shall not apply to a participant for any period for which he is a participant under another plan to which this section applies which is maintained by an employer maintaining this plan."

26 USC 415.

(B) FORMULA FOR DETERMINING BENEFITS IN THE CASE OF SECTION 415(b)(7) PLANS.—Subparagraph (C) of section 415(b)(7) is amended to read as follows:

"(C) under which benefits are determined solely by reference to length of service, the particular years during which service was rendered, age at retirement, and date of retirement,".

92 Stat. 2801. (12) AMENDMENT RELATED TO SECTION 154 OF THE ACT.—Subparagraph (A) of section 403(b)(7) is amended by striking out "which satisfied" and inserting in lieu thereof "which satisfies".

26 USC 403.

92 Stat. 2801. (13) AMENDMENT RELATED TO SECTION 156 OF THE ACT.—

26 USC 403 note. (A) EFFECTIVE DATE.—Subsection (d) of section 156 of the Revenue Act of 1978 (relating to effective date for provision allowing rollover of section 403(b) annuities) is amended by striking out "December 31, 1978" and inserting in lieu thereof "December 31, 1977".

26 USC 403 note. (B) TRANSITIONAL RULE FOR MAKING SECTION 403(b)(8) ROLLOVER IN THE CASE OF PAYMENTS DURING 1978.—In the case of any payment made during 1978 in a qualifying distribution described in section 403(b)(8) of the Internal Revenue Code of 1954, the applicable period specified in section 402(a)(5)(C) of such Code shall not expire before the close of December 31, 1980.

26 USC 403, 4973. (C) CLERICAL AMENDMENTS.—Sections 403(b)(1) and 4973(c)(1) are each amended by striking out "409(d)(3)(C)", and inserting in lieu thereof "409(b)(3)(C)".

92 Stat. 2803. (14) AMENDMENTS RELATED TO SECTION 157 OF THE ACT.—

26 USC 402 note. (A) EFFECTIVE DATE FOR REMOVAL OF CERTAIN REQUIREMENTS.—Paragraph (3) of section 157(h) of the Revenue Act of 1978 is amended by striking out "the amendments made by this section" each place it appears and inserting in lieu thereof "the amendments made by this subsection".

26 USC 219, 220, 408, 409, 4973, 402. (B) CONFORMING AMENDMENTS FOR SPOUSAL ROLLOVERS.—Sections 219(b)(4), 220(b)(5), 408(a)(1), 409(a)(4), and 4973(b)(1)(A) are each amended by inserting "402(a)(7)," after "section 402(a)(5),".

26 USC 402. (C) SPOUSAL ROLLOVERS.—Clause (i) of section 402(a)(7)(A) is amended to read as follows:

"(i) any portion of a qualifying rollover distribution attributable to an employee is paid to the spouse of the employee after the employee's death,".

(D) EXTENSION OF TRANSITIONAL RULE.—Subparagraph (B) of section 157(h)(3) of the Revenue Act of 1978 (relating to transitional rule for removal of certain requirements) is amended— 92 Stat. 2803. 26 USC 402 note.

(i) by striking out "any payment" and inserting in lieu thereof "any payment made during 1978", and

(ii) by striking out "December 31, 1978" and inserting in lieu thereof "December 31, 1980".

(E) CLERICAL AMENDMENTS.—

(i) Clause (iii) of section 402(a)(6)(D) (relating to sales of distributed property) is amended by striking out "many designate" and inserting in lieu thereof "may designate". 26 USC 402.

(ii) Subparagraph (B) of section 408(d)(5) is amended by striking out all that follows clause (i) and inserting in lieu thereof the following: 26 USC 408.

"(ii) the information was erroneous,

subparagraph (A) shall be applied by increasing the dollar limit set forth therein by that portion of the excess contribution which was attributable to such information."

(iii) Paragraph (20) of section 401(a)(1) is amended by striking out "makes a payment or distribution described in section 402(a)(5)(i) or 403(a)(4)(i)" and inserting in lieu thereof "makes a qualifying rollover distribution (determined as if section 402(a)(5)(D)(i) did not contain subclause (II) thereof) described in section 402(a)(5)(A)(i) or 403(a)(4)(A)(i)". 26 USC 401.

(b) EFFECTIVE DATES.—

(1) SPECIAL EFFECTIVE DATES.—

(A) SUBSECTION (a)(1).—The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 1977. 26 USC 43 note.

(B) SUBSECTION (a)(2).—The amendments made by subparagraphs (A) and (B) of subsection (a)(2) shall apply to payments for months beginning after December 31, 1979. 26 USC 602 note.

(C) DEFINITION OF QUALIFYING EMPLOYER SECURITIES.—The amendment made by subparagraph (C) of subsection (a)(6) shall apply to stock acquired after December 31, 1979. 26 USC 4975 note.

(D) COORDINATION WITH SECTION 691.—The amendment made by subsection (a)(7) shall apply with respect to the estates of decedents dying after the date of the enactment of this Act. 26 USC 691 note.

(E) CONTRIBUTIONS UNDER SIMPLIFIED EMPLOYEE PENSION.—The amendments made by subparagraph (B) of subsection (a)(10) shall apply to payments made on or after January 1, 1979. 26 USC 3121 note.

(F) PENALTY FOR FAILURE TO FURNISH REPORTS.—The amendment made by subparagraph (I) of subsection (a)(10) shall apply with respect to failures occuring after the date of the enactment of this Act. 26 USC 6693 note.

(G) COORDINATION WITH SECTION 415.—The amendment made by subparagraph (I) of subsection (a)(10) shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 415 note.

(2) GENERAL EFFECTIVE DATE.—

For general effective date, see section 201.

SEC. 102. AMENDMENTS RELATED TO TITLE II.

(a) GENERAL RULE.—

(1) AMENDMENTS RELATED TO SUBTITLE A OF TITLE II OF THE ACT.— 92 Stat. 2814.

(A) STOCK OWNERSHIP RULES.—Subsection (a) of section 465 (relating to deductions limited to amount at risk) is amended— 26 USC 465.

(i) by striking out "(determined by reference to the rules contained in section 318 rather than under section 544)" in paragraph (1)(C), and

(ii) by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULES FOR APPLYING PARAGRAPH (1)(C).—For purposes of paragraph (1)(C)— 26 USC 544.

"(A) section 544(a)(2) shall be applied as if such section did not contain the phrase 'or by or for his partner'; and

"(B) sections 544(a)(4)(A) and 544(b)(1) shall be applied by substituting 'the corporation meet the stock ownership requirements of section 542(a)(2)' for 'the corporation a personal holding company'."

(B) CLARIFICATION OF RULES FOR RECAPTURE OF LOSSES WHERE AMOUNT AT RISK IS LESS THAN ZERO.—Subsection (d) of section 465 (defining loss) is amended by inserting before the period at the end thereof the following: "(determined without regard to subsection (e)(1)(A))".

(C) CLARIFICATION OF LIMITATION ON RECAPTURE OF LOSSES.—Subparagraph (A) of section 465(e)(2) (relating to limitation on recapture of losses where amount at risk is less than zero) is amended by inserting "by reason of losses" after "with respect to the activity".

(D) EXCLUSION FOR CERTAIN EQUIPMENT LEASING BY CLOSELY-HELD CORPORATIONS.—

(i) Subsection (c) of section 465 (relating to deductions limited to amount at risk) is amended by adding at the end thereof the following new paragraphs:

"(4) EXCLUSION FOR CERTAIN EQUIPMENT LEASING BY CLOSELY-HELD CORPORATIONS.—

"(A) IN GENERAL.—In the case of a corporation described in subsection (a)(1)(C) actively engaged in equipment leasing—

"(i) the activity of equipment leasing shall be treated as a separate activity, and

"(ii) subsection (a) shall not apply to losses from such activity.

"(B) 50-PERCENT GROSS RECEIPTS TEST.—For purposes of subparagraph (A), a corporation shall not be considered to be actively engaged in equipment leasing unless 50 percent or more of the gross receipts of the corporation for the taxable year is attributable, under regulations prescribed by the Secretary, to equipment leasing.

"(C) COMPONENT MEMBERS OF CONTROLLED GROUP TREATED AS A SINGLE CORPORATION.—For purposes of subparagraph (A), the component members of a controlled group of corporations shall be treated as a single corporation.

"(5) WAIVER OF CONTROLLED GROUP RULE WHERE THERE IS SUBSTANTIAL LEASING ACTIVITY.—

"(A) IN GENERAL.—In the case of the component members of a qualified leasing group, paragraph (4) shall be applied—

"(i) by substituting '80 percent' for '50 percent' in subparagraph (B) thereof, and

"(ii) as if paragraph (4) did not include subparagraph (C) thereof.

"(B) QUALIFIED LEASING GROUP.—For purposes of this paragraph, the term 'qualified leasing group' means a controlled group of corporations which, for the taxable year and each of the 2 immediately preceding taxable years, satisfied each of the following 3 requirements:

"(i) AT LEAST 3 EMPLOYEES.—During the entire year, the group had at least 3 full-time employees substantially all of the services of whom were services directly related to the equipment leasing activity of the qualified leasing members.

"(ii) AT LEAST 5 SEPARATE LEASING TRANSACTIONS.—During the year, the qualified leasing members in the aggregate entered into at least 5 separate equipment leasing transactions.

"(iii) AT LEAST $1,000,000 EQUIPMENT LEASING RECEIPTS.—During the year, the qualified leasing members in the aggregate had at least $1,000,000 in gross receipts from equipment leasing.

The term 'qualified leasing group' does not include any controlled group of corporations to which, without regard to this paragraph, paragraph (4) applies.

"(C) QUALIFIED LEASING MEMBER.—For purposes of this paragraph, a corporation shall be treated as a qualified leasing member for the taxable year only if for each of the taxable years referred to in subparagraph (B)—

"(i) it is a component member of the controlled group of corporations, and

"(ii) it meets the requirements of paragraph (4)(B) (as modified by subparagraph (A)(i) of this paragraph).

"(6) DEFINITIONS RELATING TO PARAGRAPHS (4) AND (5).—For purposes of paragraphs (4) and (5)—

"(A) EQUIPMENT LEASING.—The term 'equipment leasing' means—

"(i) the leasing of equipment which is section 1245 property, and 26 USC 1245.

"(ii) the purchasing, servicing, and selling of such equipment.

"(B) LEASING OF MASTER SOUND RECORDINGS, ETC., EXCLUDED.—The term 'equipment leasing' does not include the leasing of master sound recordings, and other similar contractual arrangements with respect to tangible or intangible assets associated with literary, artistic, or musical properties.

"(C) CONTROLLED GROUP OF CORPORATIONS; COMPONENT MEMBER.—The terms 'controlled group of corporations' and 'component member' have the same meanings as when used in section 1563. The determination of the taxable years taken into account with respect to any controlled group of corporations shall be made in a manner consistent with the manner set forth in section 1563."

(ii) Subparagraph (D) of section 465(c)(3) is amended to read as follows: 26 USC 465.

"(D) EXCLUSION FOR REAL PROPERTY.—In the case of activities described in subparagraph (A), the holding of real property (other than mineral property) shall be treated as a separate activity, and subsection (a) shall not apply to losses from such activity. For purposes of the preceding sentence, personal property and services which are incidental to making real property available as living accommodations shall be treated as part of the activity of holding such real property."

26 USC 465. (iii) Paragraph (5) of section 465(b) is amended by striking out "to which this section applies" and inserting in lieu thereof "to which subsection (a) applies".

26 USC 465 note. (E) CLERICAL AMENDMENT TO EFFECTIVE DATE.—Subparagraph (A) of section 204(b)(2) of the Revenue Act of 1978 (relating to special transitional rules for leasing activities) is amended by striking out "this section" and inserting in lieu thereof "this subtitle".

(2) AMENDMENTS RELATED TO SUBTITLE B OF TITLE II OF THE ACT.—

92 Stat. 2817.

26 USC 6501. (A) AMENDMENT OF SECTION 6501.—Section 6501 (relating to limitations on assessment and collection) is amended by redesignating the subsection added by section 212(a) of the Revenue Act of 1978 as subsection (o).

26 USC 6511. (B) AMENDMENT OF SECTION 6511(g)(2).—Paragraph (2) of section 6511(g) (relating to special rule for partnership items of federally registered partnerships) is amended by striking out "6501(q)" and inserting in lieu thereof "6501(o)".

26 USC 761. (C) AMENDMENT OF SECTION 761.—Subsection (a) of section 761 (defining partnership) is amended by striking out "or" at the end of paragraph (1), by inserting "or" at the end of paragraph (2), and by inserting after paragraph (2) the following new paragraph:

"(3) by dealers in securities for a short period for the purpose of underwriting, selling, or distributing a particular issue of securities,".

(b) EFFECTIVE DATE.—

For general effective date, see section 201.

92 Stat. 2820. **SEC. 103. AMENDMENTS RELATED TO TITLE III.**

(a) GENERAL RULE.—

(1) AMENDMENT RELATED TO SECTION 301 OF THE ACT.—Subparagraph (A) of section 857(b)(4) (relating to imposition of tax on income from foreclosure property) is amended to read as follows:

26 USC 857.

"(A) IMPOSITION OF TAX.—A tax is hereby imposed for each taxable year on the net income from foreclosure property of every real estate investment trust. Such tax shall be computed by multiplying the net income from foreclosure property by the highest rate of tax specified in section 11(b)."

92 Stat. 2824. (2) AMENDMENTS RELATED TO SECTION 312 OF THE ACT.—

(A) CLARIFICATION OF FLOW-THROUGH PROVISIONS.—Paragraph (2) of section 312(c) of the Revenue Act of 1978 (relating to repeal of certain obsolete provisions) is amended to read as follows:

26 USC 46. 26 USC 48. "(2) Paragraphs (1) and (2) of section 46(f) and subparagraph (B) of section 48(a)(7) are each amended by striking out 'described in section 50' and inserting in lieu thereof 'described in section 50 (as in effect before its repeal by the Revenue Act of 1978)'."

26 USC 1 note.

(B) CLERICAL AMENDMENTS TO SPECIAL RULES FOR ENERGY PROPERTY.—

(i) Subsection (a) of section 46 (relating to amount of investment credit) is amended by redesignating paragraph (10) as paragraph (9). 26 USC 46.

(ii) Clause (i) of section 46(a)(9)(B) (as redesignated by clause (i)) is amended to read as follows:

"(i) paragraph (3)(B) shall be applied by substituting '100 percent' for the percentage determined under the table contained in such paragraph,".

(iii) Clause (ii) of section 46(a)(9)(B) (as so redesignated) is amended by striking out "(7), (8), and (9)" and inserting in lieu thereof "(7) and (8)".

(iv) Subsection (d) of section 6401 is amended by striking out "46(a)(10)(C)" and inserting in lieu thereof "46(a)(9)(C)". 26 USC 6401.

(3) AMENDMENT RELATED TO SECTION 313 OF THE ACT.—Subparagraph (B) of section 46(c)(5) (relating to applicable percentage in the case of certain pollution control facilities) is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply for purposes of applying the energy percentage." 92 Stat. 2826. 26 USC 46.

(4) AMENDMENTS RELATED TO SECTION 315 OF THE ACT.— 92 Stat. 2828.

(A) CREDIT ALLOWED TO NONCORPORATE LESSORS.—Paragraph (3) of section 46(e) (relating to special rule for noncorporate lessors) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply with respect to any property which is treated as section 38 property by reason of section 48(a)(1)(E)." 26 USC 46.

(B) COORDINATION WITH ENERGY PROPERTY.—Clause (i) of section 48(g)(2)(B) is amended by striking out "subsection (a)(1)(E)" and inserting in lieu thereof "subsections (a)(1)(E) and (l))". 26 USC 48.

(5) AMENDMENT RELATED TO SECTION 316 OF THE ACT.—Sections 50B(f) and 52(f) (and the predecessor of section 52(f), section 52(h)) are each amended by striking out "section 46(e)" and inserting in lieu thereof "subsections (e) and (h) of section 46". 92 Stat. 2829. 26 USC 50B, 52.

(6) AMENDMENTS RELATED TO SECTION 321 OF THE ACT.— 92 Stat. 2830.

(A) EXTENSION OF TERMINATION DATE.—Paragraph (4) of section 51(c) (relating to termination) is amended by striking out "December 31, 1980" and inserting in lieu thereof "December 31, 1981". 26 USC 51.

(B) EFFECTIVE DATE FOR PROVISION MAKING NEW JOBS CREDIT ELECTIVE.—Subsection (d) of section 321 of the Revenue Act of 1978 (relating to effective dates) is amended by adding at the end thereof the following new paragraph: 92 Stat. 2830.

"(5) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1976." 26 USC 44B note.

(C) CLARIFICATION OF EFFECTIVE DATE.—Subparagraph (A) of section 321(d)(2) of the Revenue Act of 1978 (relating to special rules for newly targeted groups) is amended by inserting ", for purposes of applying the amendments made by this section" after "newly targeted group". 26 USC 51 note.

(D) CLARIFICATION OF TRANSITIONAL RULE.—Paragraph (3) of section 321(d) of the Revenue Act of 1978 (relating to transitional rule) is amended to read as follows: 26 USC 51 note.

"(3) TRANSITIONAL RULE.—In the case of a taxable year which begins in 1978 and ends after December 31, 1978, the amount of

the credit determined under section 51 of the Internal Revenue Code of 1954 shall be the sum of— 26 USC 51.

"(A) the amount of the credit which would be so determined without regard to the amendments made by this section, plus

"(B) the amount of the credit which would be so determined by reason of the amendments made by this section."

(E) FUTA WAGES TO BE TREATED AS INCLUDING REMUNERATION OF YOUTH PARTICIPATING IN A COOPERATIVE EDUCATION PROGRAM.—

26 USC 51. (i) Subparagraph (D) of section 51(d)(8) (relating to members of targeted groups) is amended to read as follows:

"(D) WAGES.—In the case of remuneration attributable to services performed while the individual meets the requirements of subparagraph (A), wages, and unemployment insurance wages, shall be determined without regard to section 26 USC 3306. 3306(c)(10)(C)."

(ii) Paragraph (1) of section 51(c) (defining wages) is amended by striking out "and subsection (h)(2)," and inserting in lieu thereof ", subsection (d)(8)(D), and subsection (h)(2),".

(F) AGE REQUIREMENT FOR QUALIFIED COOPERATIVE EDUCATION PROGRAMS.—Clause (i) of section 51(d)(8)(A) (defining youth participating in a qualified cooperative education program) is amended by striking out "19" and inserting in lieu thereof "20".

(G) CLERICAL AMENDMENTS.—

26 USC 44B. (i) Subsection (a) of section 44B is amended by striking out "at the taxpayer" and inserting in lieu thereof "of the taxpayer".

(ii) Paragraph (2) of section 44B(c) is amended by striking out "may be" and inserting in lieu thereof "may by".

26 USC 51. (iii) Paragraph (2) of section 51(c) is amended by striking out "amounts paid" and inserting in lieu thereof "amounts paid or incurred".

(iv) Paragraph (1) of section 51(d) is amended by striking out "or" at the end of subparagraph (E).

(v) Clause (i) of section 51(d)(4)(A) is amended by striking out "active day" and inserting in lieu thereof "active duty".

(vi) Subparagraph (B) of section 51(d)(4) is amended by striking out "premployment" and inserting in lieu thereof "preemployment".

(vii) Paragraph (5) of section 51(d) is amended by striking out "pre-employment" and inserting in lieu thereof "preemployment".

(viii) Paragraph (12) of section 51(d) is amended by striking out "employer" and inserting in lieu thereof "employers".

(ix) The last sentence of section 51(e) is amended by inserting "except as provided in subsection (h)(1)," after "the preceding sentence,".

26 USC 6501. (x) Section 6501 is amended by redesignating the subsection added by section 321(b)(2) of the Revenue Act 92 Stat. 2830. of 1978 as subsection (p).

(xi) Subparagraph (B) of section 321(d)(2) of the Revenue Act of 1978 is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following: 26 USC 51 note.

"(i) such individual meets the requirements of paragraph (1) of section 51(d) of such Code, and

"(ii) in the case of an individual meeting the requirements of subparagraph (A) of such paragraph (1), a credit was not claimed for such individual by the taxpayer for a taxable year beginning before January 1, 1979."

(xii) Paragraph (4) of section 321(d) of the Revenue Act of 1978 is amended by striking out "subsection (u)(2)" and inserting in lieu thereof "subsection (c)(2)". 26 USC 53 note.

(xiii) Section 383 and subsection (a) of section 6411 are each amended by striking out "section 53(c)" and inserting in lieu thereof "section 53(b)". 26 USC 383, 6411.

(7) AMENDMENTS RELATED TO SECTION 322 OF THE ACT.— 92 Stat. 2836.

(A) CLARIFICATION OF EFFECTIVE DATE.—Paragraph (1) of section 322(e) of the Revenue Act of 1978 (relating to effective date) is amended by adding at the end thereof the following new sentence: "For purposes of applying section 50A(a)(2) of the Internal Revenue Code of 1954 with respect to a taxable year beginning before January 1, 1979, the rules of sections 50A(a)(4), 50A(a)(5), and 50B(e)(3) of such Code (as in effect on the day before the date of the enactment of this Act) shall apply." 26 USC 50A note.

(B) TRANSITIONAL RULE FOR EMPLOYEES HIRED AFTER SEPTEMBER 26, 1978.—Subparagraph (B) of section 322(e)(2) of the Revenue Act of 1978 (relating to eligible employees hired after September 26, 1978) is amended—

(i) by striking out "September 27, 1978," and inserting in lieu thereof "September 26, 1978, for purposes of applying the amendments made by this section,"; and

(ii) by striking out "January 1, 1979." and inserting in lieu thereof "January 1, 1979, and any wages paid or incurred after December 31, 1978, with respect to such individual shall be considered to be attributable to services rendered after that date."

(C) FEDERAL WELFARE RECIPIENT EMPLOYMENT INCENTIVE EXPENSES.—Effective with respect to wages paid or incurred after September 30, 1978, and before January 1, 1979, subparagraph (B) of section 50B(a)(2) (relating to work incentive program expenses), as in effect before the amendments made by section 322 of the Revenue Act of 1978, is amended by striking out "October 1, 1978" and inserting in lieu thereof "January 1, 1979". 26 USC 50B. 92 Stat. 2836.

(D) CLERICAL AMENDMENTS.—

(i) Subparagraph (C) of section 50A(a)(4) (relating to limitation with respect to nonbusiness eligible employees) is amended by striking out " '$6,000' and" and inserting in lieu thereof " '$6,000' for". 26 USC 50A.

(ii) Subparagraph (B) of section 50B(g)(2) is amended by striking out "giving to such credit" and inserting in lieu thereof "giving rise to such credit". 26 USC 50B.

(iii) Clause (i) of section 50B(h)(1)(A) is amended by striking out "9-day" and inserting in lieu thereof "90-day".

92 Stat. 2836.
26 USC 280C.

(iv) The second subsection designated as subsection (d) of section 322 of the Revenue Act of 1978 is amended by striking out "our" in paragraph (1)(A) thereof and inserting in lieu thereof "out".

92 Stat. 2842.
26 USC 103 note.

(8) AMENDMENT RELATED TO SECTION 337 OF THE ACT.—Subsection (a) of section 337 of the Revenue Act of 1978 (relating to disposition of amounts generated by advance refunding of certain governmental obligations) is amended by striking out "or a refund profit" and inserting in lieu thereof "of a refund profit".

92 Stat. 2844.
26 USC 1244 note.

(9) AMENDMENT RELATING TO SECTION 345 OF THE ACT.—Subsection (e) of section 345 of the Revenue Act of 1978 (relating to effective date for small business corporation stock provision) is amended to read as follows:

"(e) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to stock issued after November 6, 1978.

"(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1978.

"(3) TRANSITIONAL RULE FOR SUBSECTION (b).—In the case of a taxable year which includes November 6, 1978, the amendments made by subsection (b) shall apply with respect to stock issued after such date."

92 Stat. 2847.
26 USC 274.

(10) AMENDMENTS RELATED TO SECTION 361 OF THE ACT.—

(A) OTHER CLUBS.—Subparagraph (C) of section 274(a)(2) (relating to special rule for country clubs) is amended by striking out "country".

(B) CLERICAL AMENDMENT.—Subsection (b) of section 361 of the Revenue Act of 1978 is amended—

(i) by striking out "section 274(2)" and inserting in lieu thereof "section 274(a)", and

(ii) by striking out "COUNTRY" in the subsection heading.

26 USC 274 note.

(C) USE OF FACILITIES IN CASE OF INDEPENDENT CONTRACTORS, ETC.—

(i) IN GENERAL.—Subsection (a) of section 274 of the Internal Revenue Code of 1954 (relating to disallowance of certain entertainment, etc., expenses) shall not apply to expenses paid or incurred by the taxpayer for goods, services, and facilities to the extent that the expenses are includible in the gross income of a recipient of the entertainment, amusement, or recreation who is not an employee of the taxpayer as compensation for services rendered or as a prize or award under section 74 of such Code.

26 USC 74.

(ii) INFORMATION RETURN REQUIREMENT.—Clause (i) shall not apply to any amount paid or incurred by the taxpayer if such amount is required to be included in any information return filed by such taxpayer under part III of subchapter A of chapter 61 of such Code and is not so included.

26 USC 6031.

(iii) APPLICATION OF SUBPARAGRAPH.—This subparagraph shall only apply with respect to expenses paid or incurred during 1979 or 1980.

92 Stat. 2848.
26 USC 860 note.

(11) AMENDMENTS RELATED TO SECTION 362 OF THE ACT.—

(A) Subsection (e) of section 362 of the Revenue Act of 1978 (relating to effective date for deficiency dividend procedure

for regulated investment companies) is amended by striking out "860(d)" and inserting in lieu thereof "860(e)". 26 USC 860.

(B) The subsection heading of subsection (f) of section 860 is amended by striking out "EFFICIENCY" and inserting in lieu thereof "DEFICIENCY".

(C) Clause (i) of section 860(f)(2)(A) is amended by striking out "computed without regard" and inserting in lieu thereof "(computed without regard". 26 USC 860.

(12) AMENDMENT RELATED TO SECTION 365 OF THE ACT.—Subparagraph (A) of section 357(c)(3) (relating to liabilities in excess of basis) is amended to read as follows: 92 Stat. 2854. 26 USC 357.

"(A) IN GENERAL.—If a taxpayer transfers, in an exchange to which section 351 applies, a liability the payment of which either— 26 USC 351.

"(i) would give rise to a deduction, or

"(ii) would be described in section 736(a),

then, for purposes of paragraph (1), the amount of such liability shall be excluded in determining the amount of liabilities assumed or to which the property transferred is subject."

(13) AMENDMENTS RELATED TO SECTION 366 OF THE ACT.— 92 Stat. 2855.

(A) WITHHOLDING.—Subsection (a) of section 3401 (defining wages) is amended— 26 USC 3401.

(i) by striking out "or" at the end of paragraph (17),

(ii) by striking out the period at the end of the paragraph (18) added by section 207(a) of the Foreign Earned Income Act of 1978 and inserting in lieu thereof a semicolon, 92 Stat. 3108.

(iii) by redesignating the paragraph (18) added by section 164(b)(1) of the Revenue Act of 1978 as paragraph (19), 92 Stat. 2811.

(iv) by striking out "section 124." in paragraph (19) (as so redesignated) and inserting in lieu thereof "section 127; or", and

(v) by adding at the end thereof the following new paragraph:

"(20) for any medical care reimbursement made to or for the benefit of an employee under a self-insured medical reimbursement plan (within the meaning of section 105(h)(6))."

(B) CLARIFICATION OF NONDISCRIMINATORY ELIGIBILITY CLASSIFICATIONS.—Clause (ii) of section 105(h)(3)(A) is amended by striking out "highly compensated participants" and inserting in lieu thereof "highly compensated individuals". 26 USC 105.

(C) CLARIFICATION OF EXCESS REIMBURSEMENT OF HIGHLY COMPENSATED INDIVIDUALS.—Subparagraph (A) of section 105(h)(7) is amended to read as follows:

"(A) in the case of a benefit available to highly compensated individuals but not to all other participants (or which otherwise fails to satisfy the requirements of paragraph (2)(B)), the amount reimbursed under the plan to the employee with respect to such benefit, and".

(D) CLARIFICATION OF EFFECTIVE DATE.—Subsection (b) of section 366 of the Revenue Act of 1978 is amended to read as follows: 26 USC 105 note.

"(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts reimbursed after December 31, 1979. For purposes 26 USC 105 note.

of applying such amendment, there shall not be taken into account any amount reimbursed before January 1, 1980."

92 Stat. 2857.
26 USC 374.
(14) AMENDMENT RELATED TO SECTION 369 OF THE ACT.—Clause (iv) of section 374(e)(1)(A) (relating to use of expired net operating loss carryovers to offset income arising from certain railroad reorganization proceedings) is amended by striking out "March 31, 1967" and inserting in lieu thereof "March 31, 1976".

92 Stat. 2859.
26 USC 172.
(15) AMENDMENT RELATED TO SECTION 371 OF THE ACT.—Paragraph (2) of section 371(a) of the Revenue Act of 1978 (relating to net operating losses attributable to product liability losses) is amended by striking out "Clause (i) of section 172(b)(1)(A)" and inserting in lieu thereof "Subparagraph (A) of section 172(b)(1)".

92 Stat. 2863.
26 USC 466.
(16) AMENDMENT RELATED TO SECTION 373 OF THE ACT.—Subparagraph (B) of section 466(e)(2) (relating to initial opening balance of suspense account) is amended by striking out "first taxable years" and inserting in lieu thereof "first taxable year".

(b) EFFECTIVE DATES.—

26 USC 51 note.
(1) SPECIAL EFFECTIVE DATE.—The amendment made by subsection (a)(5)(F) shall apply to wages paid or incurred on or after November 27, 1979, in taxable years ending on or after such date.

(2) GENERAL EFFECTIVE DATE.—

Post, p. 228.
For general effective date, see section 201.

SEC. 104. AMENDMENTS RELATED TO TITLE IV.

(a) IN GENERAL.—

92 Stat. 2866.
26 USC 877.
(1) AMENDMENT RELATED TO SECTION 401 OF THE ACT.—Subsection (b) of section 877 is amended by striking out "402(e)(1), or section 1201(b)" and inserting in lieu thereof "or 402(e)(1)".

92 Stat. 2867.
(2) AMENDMENTS RELATED TO SECTION 402 OF THE ACT.—

26 USC 1202.
(A) AMENDMENTS OF TRANSITIONAL RULE.—Subsection (c) of section 1202 (relating to transitional rule of taxable years which include November 1, 1978) is amended—

(i) by striking out so much of such subsection as precedes "a taxpayer other than a corporation" and inserting in lieu thereof:

"(c) TRANSITIONAL RULE.—If for any taxable year ending after October 31, 1978, and beginning before November 1, 1979,"; and

(ii) by amending subparagraph (B) of paragraph (1) to read as follows:

"(B) the net capital gain taking into account only gain or loss properly taken into account for the portion of the taxable year after October 31, 1978, plus".

(B) COMPUTATION OF MAXIMUM 25 PERCENT ALTERNATIVE CAPITAL GAINS TAX FOR 1978.—

26 USC 1201.
(i) Paragraph (1) of section 1201(b) (as such paragraph was in effect for taxable years beginning before January 1, 1979) is amended by striking out "50 percent of the net capital gain" and inserting in lieu thereof "the excess of the net capital gain over the deduction under section 1202".

(ii) Subsection (c) of section 1201 (as such subsection was in effect for taxable years beginning before January 1, 1979) is amended to read as follows:

"(c) COMPUTATION OF TAX WHERE CAPITAL GAIN EXCEEDS $50,000.—The tax computed for purposes of subsection (b)(3) shall be the amount by which a tax determined under section 1 or 511 on an amount equal to the taxable income (but not less than the excess of the net capital gain over the deduction under section 1202) for the

26 USC 1, 511.

taxable year exceeds a tax determined under section 1 or 511 on an amount equal to the sum of— 26 USC 1, 511.

"(1) the amount subject to tax under subsection (b)(1), plus

"(2) an amount determined by multiplying the sum referred to in subsection (b)(2)(A) by a fraction—

"(A) the numerator of which is the excess of the net capital gain over the deduction under section 1202, and 26 USC 1202.

"(B) the denominator of which is the net capital gain."

(C) SPECIAL RULE FOR PASS-THROUGH ENTITIES.—

(i) IN GENERAL.—In applying sections 1201(c)(2)(A)(ii) and 1202(c)(1)(B) of the Internal Revenue Code of 1954 with respect to any pass-through entity, the determination of the period for which gain or loss is properly taken into account shall be made at the entity level. 26 USC 1201 note. 26 USC 1201, 1202.

(ii) PASS-THROUGH ENTITY DEFINED.—For purposes of clause (i), the term "pass-through entity" means—

(I) a regulated investment company,

(II) a real estate investment trust,

(III) an electing small business corporation,

(IV) a partnership,

(V) an estate or trust, and

(VI) a common trust fund.

(3) AMENDMENTS RELATED TO SECTION 403 OF THE ACT.— 92 Stat. 2868.

(A) CLARIFICATION OF TRANSITIONAL RULE.—Subsection (c) of section 1201 (relating to transitional rule for taxable years which include January 1, 1979) is amended— 26 USC 1201.

(i) by striking out so much of such section as precedes "a corporation" and inserting in lieu thereof the following:

"(c) TRANSITIONAL RULE.—If for any taxable year ending after December 31, 1978, and beginning before January 1, 1980,", and

(ii) by amending clause (ii) of paragraph (2)(A) to read as follows:

"(ii) the net capital gain taking into account only gain or loss properly taken into account for the portion of the taxable year after December 31, 1978, plus".

(B) UNDISTRIBUTED CAPITAL GAIN OF REGULATED INVESTMENT COMPANY.—Clause (iii) of section 852(b)(3)(D) (relating to treatment by shareholders of undistributed capital gain) is amended by striking out "70 percent" and inserting in lieu thereof "72 percent". 26 USC 852.

(C) ADDITION TO RESERVES FOR BAD DEBTS.—Clause (iv) of section 593(b)(2)(E) is amended by striking out "⅜" each place it appears and inserting in lieu thereof "18/46". 26 USC 593.

(D) CLERICAL AMENDMENTS.—

(i) Paragraph (3) of section 904(b) is amended by redesignating the subparagraph (E) added by section 403(c)(4) of the Revenue Act of 1978 as subparagraph (F). 26 USC 904.

(ii) Subparagraph (B) of section 403(c)(4) of the Revenue Act of 1978 is amended by striking out "striking the period at the end of subparagraph (D) of paragraph (3), inserting in lieu thereof a comma, and inserting immediately thereafter" and inserting in lieu thereof "adding at the end of paragraph (3)".

(4) AMENDMENTS RELATED TO SECTION 421 OF THE ACT.— 92 Stat. 2871.

(A) CERTAIN DEDUCTIONS WHICH MAY BE CARRIED OVER NOT TAKEN INTO ACCOUNT.—Paragraph (1) of section 55(b) (defin- 26 USC 55.

ing alternative minimum taxable income) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (A), a deduction shall not be taken into account to the extent such deduction may be carried to another taxable year."

(B) TREATMENT OF FOREIGN TAX CREDIT.—Paragraphs (1) and (2) of section 55(c) (relating to credits) are amended to read as follows:

26 USC 55.

"(1) CREDITS OTHER THAN FOREIGN TAX CREDIT NOT ALLOWABLE, ETC.—For purposes of determining the amount of any credit allowable under subpart A of part IV of this subchapter (other than the foreign tax credit allowed under section 33(a))—

26 USC 31.
26 USC 33.

"(A) the tax imposed by this section shall not be treated as a tax imposed by this chapter, and

"(B) the amount of the foreign tax credit allowed under section 33(a) shall be determined without regard to this section.

"(2) FOREIGN TAX CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

"(A) DETERMINATION OF FOREIGN TAX CREDIT.—The total amount of the foreign tax credit which can be taken against the tax imposed by subsection (a) shall be determined under subpart A of part III of subchapter N (sec. 901 and following).

26 USC 901.

"(B) INCREASE IN AMOUNT OF FOREIGN TAXES TAKEN INTO ACCOUNT.—For purposes of the determination provided by subparagraph (A), the amount of taxes paid or accrued to foreign countries or possessions of the United States during the taxable year shall be increased by an amount equal to the lesser of—

"(i) the foreign tax credit allowable under section 33(a) in computing the regular tax for the taxable year, or

"(ii) the tax imposed by subsection (a).

26 USC 904.

"(C) SECTION 904(a) LIMITATION.—For purposes of the determination provided by subparagraph (A), the limitation of section 904(a) shall be an amount equal to the same proportion of the sum of the tax imposed by subsection (a) against which such credit is taken and the regular tax (excluding the tax imposed by section 56) as—

26 USC 56.

"(i) the taxpayer's alternative minimum taxable income from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(ii) his entire alternative minimum taxable income.

For such purpose, the amount of the limitation of section 904(a) shall not exceed the tax imposed by subsection (a).

"(D) DEFINITION OF ALTERNATIVE MINIMUM TAXABLE INCOME FROM SOURCES WITHOUT THE UNITED STATES.—For purposes of subparagraph (C), the term 'alternative minimum taxable income from sources without the United States' means the items of gross income from sources without the United States adjusted as provided in subparagraph (A), (B), and (C) of section 55(b)(1) (taking into account in such adjustment only items described in such subparagraphs which are properly attributable to items of gross income from sources without the United States).

26 USC 55.

"(E) SPECIAL RULE FOR APPLYING SECTION 904(c).—In determining the amount of foreign taxes paid or accrued during the taxable year which may be deemed to be paid or accrued

in a preceding or succeeding taxable year under section 904(c)— 26 USC 904.

"(i) the limitation of section 904(a) shall be increased by the amount of the limitation determined under subparagraph (C), and

"(ii) any increase under subparagraph (B) shall be taken into account."

(C) REGULAR TAX DETERMINED WITHOUT REGARD TO FOREIGN TAX CREDIT ALLOWED AGAINST MINIMUM TAX.—Paragraph (2) of section 55(b) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the amount of the credit allowable under section 33 shall be determined without regard to this section." 26 USC 55. 26 USC 33.

(D) TREATMENT OF ZERO BRACKET AMOUNT.—Subsection (b) of section 55 (relating to definitions for purposes of alternative minimum tax) is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF ZERO BRACKET AMOUNT.—In the case of an individual who does not itemize his itemized deductions, the zero bracket amount shall be treated as a deduction allowed."

(E) TREATMENT OF CERTAIN FOREIGN TAXES FOR THE ADJUSTED ITEMIZED DEDUCTION PREFERENCE.—Paragraphs (1)(A) and (2)(A)(v) of section 57(b) (relating to adjusted itemized deductions) are each amended by inserting ", and foreign," after "State and local". 26 USC 57.

(F) ADJUSTED ITEMIZED DEDUCTIONS OF ESTATE OR TRUST.—Subparagraph (A) of section 57(b)(2) (defining adjusted itemized deductions of estate or trust) is amended by striking out "clauses (i) through (vi)" and inserting in lieu thereof "clauses (iii) through (vi)".

(G) CARRYOVER OF RESIDENTIAL ENERGY CREDIT.—Paragraph (3) of section 55(c) is amended by adding at the end thereof the following new sentence: 26 USC 55.

"In determining any carryover under subsection 44C(b)(6), a rule similar to the rule set forth in subparagraph (A) shall be treated as inserted in this paragraph before subparagraph (A), and the applications of subparagraphs (A), (B), and (C) shall be adjusted accordingly." 26 USC 44.

(H) CLERICAL AMENDMENTS.—

(i) Subsection (a) of section 55 (relating to alternative minimum tax) is amended by striking out all after paragraph (1) and inserting in lieu thereof the following:

"(2) the regular tax for the taxable year,

then there is imposed (in addition to all other taxes imposed by this title) a tax equal to the amount of such excess."

(ii) Subparagraph (A) of section 55(c)(3) (relating to carryover and carryback of certain credits) is amended by striking out "section 53(c)" and inserting in lieu thereof "section 53(b)". 26 USC 53.

(iii) Paragraph (2) of section 443(d) (relating to adjustment in computing minimum tax for tax preferences) is amended by striking out "in the case of a corporation,". 26 USC 443.

(iv) Paragraph (3) of section 453(c) is amended by striking out "section 56" and inserting in lieu thereof "sections 55 and 56". 26 USC 453.

(v) Sections 871(b)(1) and 877(b) are each amended by striking out "section 55" and inserting in lieu thereof "55". 26 USC 871, 877.

26 USC 666.

(vi) The second sentence of section 666(c) (relating to pro rata portion of taxes deemed distributed) is amended by inserting "(other than the tax imposed by section 55)" after "equal to the taxes".

26 USC 5.

(vii) Paragraph (4) of section 5(a) is amended by striking out "section 55" and inserting in lieu thereof "sections 55 and 56".

26 USC 55.

(viii) Paragraph (2) of section 55(b) is amended by inserting "409(c)," after "408(f),".

92 Stat. 2878.

(5) AMENDMENTS RELATED TO SECTION 441 OF THE ACT.—

26 USC 1348 note.

(A) TRANSITIONAL RULE.—Paragraph (2) of section 441(b) of the Revenue Act of 1978 (relating to transitional rules) is amended to read as follows:

"(2) TAXABLE YEARS WHICH STRADDLE NOVEMBER 1, 1978.—In the case of a taxable year which begins before November 1, 1978, and ends after October 31, 1978, the amount taken into account under section 1348(b)(2)(B) of the Internal Revenue Code of 1954 by reason of section 57(a)(9) of such Code shall be 50 percent of the lesser of—

26 USC 1348.
26 USC 57.

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain taking into account only gain or loss properly taken into account for the portion of the taxable year before November 1, 1978."

26 USC 1348.

(B) CLERICAL AMENDMENT.—Subsection (a) of section 441 of the Revenue Act of 1978 is amended by striking out "subparagraph (b)" and inserting in lieu thereof "subparagraph (B)".

(b) EFFECTIVE DATES.—

26 USC 1201 note.

(1) SPECIAL EFFECTIVE DATE FOR SUBSECTION (a)(2)(B).—The amendments made by subsection (a)(2)(B) shall apply to taxable years beginning in 1978.

(2) GENERAL EFFECTIVE DATE.—

Post, p. 228.

For general effective date, see section 201.

SEC. 105. AMENDMENTS RELATED TO TITLE V.

(a) GENERAL RULE.—

92 Stat. 2879.

(1) AMENDMENTS RELATED TO SECTION 502 OF THE ACT.—

26 USC 7463.

(A) Subsection (g) of section 7463 (relating to small tax case procedures) is hereby repealed.

26 USC 7456.

(B) Subsection (c) of section 7456 (relating to commissioners of the Tax Court) is amended by striking out "sections 7428" and inserting in lieu thereof "sections 7428, 7463".

92 Stat. 2880.

(2) AMENDMENT RELATED TO SECTION 504 OF THE ACT.—Paragraph (2) of section 6411(d) (relating to tentative refund of tax under claim of right adjustment) is amended to read as follows:

26 USC 6411.

"(2) ALLOWANCE OF ADJUSTMENTS.—Within a period of 90 days from the date on which an application is filed under paragraph (1) or from the date of the overpayment (determined under section 1341(b)(1)), whichever is later, the Secretary shall—

26 USC 1341.

"(A) review the application,

"(B) determine the amount of the overpayment, and

"(C) apply, credit, or refund such overpayment,

in a manner similar to the manner provided in subsection (b)."

92 Stat. 2881.

(3) AMENDMENTS RELATED TO SECTION 511 OF THE ACT.—

26 USC 2040.

(A) AGGREGATE ADJUSTED CONSIDERATION MUST BE LESS THAN VALUE.—Paragraph (2) of section 2040(c) (relating to limitations) is amended by adding at the end thereof the following new subparagraph:

"(C) AGGREGATE ADJUSTED CONSIDERATION MUST BE LESS THAN VALUE.—Paragraph (1) shall not apply if the sum of—

"(i) the adjusted consideration furnished by the decedent, and

"(ii) the adjusted consideration furnished by the decedent's spouse,

equals or exceeds the value of the interest."

(B) CLERICAL AMENDMENT.—Paragraph (1) of section 2040(c) is amended by striking out "subsections (a)" and inserting in lieu thereof "subsection (a)". 26 USC 2040.

(4) AMENDMENTS RELATED TO SECTION 514 OF THE ACT.— 92 Stat. 2883.

(A) The first sentence of paragraph (3) of section 2055(e) is amended— 26 USC 2055.

(i) by striking out "subparagraph (a) or (B)" and inserting in lieu thereof "subparagraph (A) or (B)", and

(ii) by striking out "so that interest" and inserting in lieu thereof "so that the interest".

(B) Section 514 of the Revenue Act of 1978 is amended by adding at the end thereof the following new subsection:

"(c) EFFECTIVE DATES.— 26 USC 2055 note.

"(1) FOR SUBSECTION (a).—The amendment made by subsection (a) shall apply in the case of decedents dying after December 31, 1969.

"(2) FOR SUBSECTION (b).—Subsection (b)—

"(A) insofar as it relates to section 170 of the Internal Revenue Code of 1954 shall apply to transfers in trust and contributions made after July 31, 1969, and 26 USC 170.

"(B) insofar as it relates to section 2522 of the Internal Revenue Code of 1954 shall apply to transfers made after December 31, 1969." 26 USC 2522.

(5) AMENDMENTS RELATED TO SECTION 515 OF THE ACT.— 92 Stat. 2884.

(A) AMENDMENT OF SECTION 1040 OF THE CODE.—Section 1040 (relating to use of certain appreciated carryover basis property to satisfy pecuniary bequest) is amended by adding at the end thereof the following new subsection: 26 USC 1040.

"(d) APPLICATION TO SECTION 2032A PROPERTY.—For purposes of this section, references to carryover basis property shall be treated as including a reference to property the valuation of which is determined under section 2032A." 26 USC 2032A.

(B) PERIOD FOR WHICH SECTION 1040 APPLIES.—Notwithstanding section 515 of the Revenue Act of 1978, section 1040 of the Internal Revenue Code of 1954 (as amended by subparagraph (A)) shall apply with respect to the estates of decedents dying after December 31, 1976. 26 USC 1040 note. *Supra.*

(6) AMENDMENTS RELATED TO SECTION 531 OF THE ACT.— 92 Stat. 2886.

(A) Paragraph (6) of section 216(b) (relating to deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraphs: 26 USC 216.

"(A) IN GENERAL.—If the original seller acquires any stock of the corporation from the corporation or by foreclosure, the original seller shall be treated as a tenant-stockholder for a period not to exceed 3 years from the date of the acquisition of such stock.

"(B) STOCK ACQUISITION MUST TAKE PLACE NOT LATER THAN 1 YEAR AFTER TRANSFER OF DWELLING UNITS.—Except in the case of an acquisition of stock of a corporation by foreclosure, subparagraph (A) shall apply only if the acquisition of stock occurs not later than 1 year after the date on which the apartments or houses (or leaseholds therein) are transferred by the original seller to the corporation. For purposes of this subparagraph and subparagraph (A), the term 'by foreclosure' means by foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest in the stock held by the original seller."

"By foreclosure."

(B) Subparagraph (D) of section 216(b)(6) (as redesignated by subparagraph (A) of this paragraph) is amended by adding at the end thereof the following new sentence: "The estate of an original seller shall succeed to, and take into account, the tax treatment of the original seller under this paragraph."

Ante, p. 219.

(7) AMENDMENTS RELATED TO SECTION 543 OF THE ACT.—

92 Stat. 2888.

(A) Section 126 (relating to certain cost-sharing payments) is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

26 USC 126.

"(b) EXCLUDABLE PORTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'excludable portion' means that portion (or all) of a payment made to any person under any program described in subsection (a) which—

"(A) is determined by the Secretary of Agriculture to be made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife, and

"(B) is determined by the Secretary of the Treasury or his delegate as not increasing substantially the annual income derived from the property.

"(2) PAYMENTS NOT CHARGEABLE TO CAPITAL ACCOUNT.—The term 'excludable portion' does not include that portion of any payment which is properly associated with an amount which is allowable as a deduction for the taxable year in which such amount is paid or incurred.

"(c) ELECTION FOR SECTION NOT TO APPLY.—

"(1) IN GENERAL.—The taxpayer may elect not to have this section (and section 1255) apply to any excludable portion (or portion thereof).

26 USC 1255.

"(2) MANNER AND TIME FOR MAKING ELECTION.—Any election under paragraph (1) shall be made in the manner prescribed by the Secretary by regulations and shall be made not later than the due date prescribed by law (including extensions) for filing the return of tax under this chapter for the taxable year in which the payment was received or accrued.

"(d) DENIAL OF DOUBLE BENEFITS.—No deduction or credit shall be allowed with respect to any expenditure which is properly associated with any amount excluded from gross income under subsection (a).

"(e) BASIS OF PROPERTY NOT INCREASED BY REASON OF EXCLUDABLE PAYMENTS.—Notwithstanding any provision of section 1016 to the contrary, no adjustment to basis shall be made with respect to property acquired or improved through the use of any payment, to the extent that such adjustment would reflect any amount which is excluded from gross income under subsection (a)."

26 USC 1016.

(B) Paragraph (1) of section 1255(a) is amended by striking out all after subparagraph (B)(i) and inserting in lieu thereof the following: 26 USC 1255.

"(ii) the adjusted basis of such property,

shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle, except that this section shall not apply to the extent such gain is recognized as ordinary income under any other provision of this part."

(C) Subsection (a)(9) of section 126 (relating to certain cost-sharing payments) is amended by inserting "or his delegate" after "Secretary of the Treasury". 26 USC 126.

(D) Paragraph (2) of section 1255(b) (relating to special rules applicable to gain from disposition of section 126 property) is amended by striking out "(2)" and inserting in lieu thereof "(2) for purposes of sections 163(d), 170(e), 341(e)(12), 453(d)(4)(B), and 751(c),". 26 USC 1255.

(E) Paragraph (10) of section 126(a) (relating to certain cost-sharing payments) is amended by striking out "Any State program" and inserting in lieu thereof "Any program of a State, possession of the United States, a political subdivision of any of the foregoing, or the District of Columbia". 26 USC 126.

(b) EFFECTIVE DATES.— 26 USC 7456 note.

(1) SPECIAL EFFECTIVE DATE FOR SUBSECTION (a)(1).—The amendments made by subsection (a)(1) shall take effect on the date of the enactment of this Act.

(2) GENERAL EFFECTIVE DATE.—

For general effective date, see section 201. *Post,* p. 228.

SEC. 106. AMENDMENTS RELATED TO TITLE VI.

(a) IN GENERAL.—

(1) Paragraph (1) of section 172(b) (relating to net operating loss carrybacks and carryovers) is amended by redesignating the subparagraph (H) added by section 601(b)(1) of the Revenue Act of 1978 as subparagraph (I). 26 USC 172. 92 Stat. 2892.

(2) Subsection (a) of section 1016 (relating to adjustments of basis) is amended by redesignating the paragraph (21) added by section 601(b)(3) of the Revenue Act of 1978 as paragraph (22). 26 USC 1016.

(3) Paragraph (3) of section 601(b) of the Revenue Act of 1978 is amended by striking out "by redesignating paragraph (23) as (22) and by inserting after paragraph (20)" and inserting in lieu thereof "by inserting before paragraph (23)".

(4) Subsection (a) of section 1391 (defining general stock ownership corporation) is amended— 26 USC 1391.

(A) by striking out ", and" at the end of paragraph (1) and inserting in lieu thereof a semicolon,

(B) by inserting "or" at the end of paragraph (4)(D)(ii),

(C) by inserting "and" at the end of paragraph (4)(D)(iii), and

(D) by inserting "and" at the end of paragraph (4)(E).

(5) Subsection (c) of section 1392 is amended by striking out "WHERE" in the subsection heading and inserting in lieu thereof "WHEN". 26 USC 1392.

(6) Subparagraph (A) of section 172(b)(1) is amended by striking out "and (H)" and inserting in lieu thereof ", (H), and (I)". 26 USC 172.

(7) Subparagraph (B) of section 172(b)(1) is amended by striking out "and (G)" and inserting in lieu thereof "(G), and (I)".

(b) EFFECTIVE DATE.—

Post, p. 228. For general effective date, see section 201.

SEC. 107. AMENDMENTS RELATED TO TITLE VII.

(a) IN GENERAL.—

92 Stat. 2897. (1) AMENDMENTS RELATED TO SECTION 701 OF THE ACT.—

(A) COMPUTATION OF ADJUSTED ITEMIZED DEDUCTIONS IN CASE OF ESTATES AND TRUSTS.—Subparagraph (C) of section 57(b)(2) (relating to special rules for estates and trusts) is amended by striking out "section 170(c)(2)(B)" each place it appears and inserting in lieu thereof "section 170(c) (determined without regard to section 170(c)(2)(A))".

26 USC 57.

26 USC 911 note.

26 USC 911.

(B) EFFECTIVE DATE FOR PROVISION RELATING TO FOREIGN TAXES ATTRIBUTABLE TO SECTION 911 EXCLUSION.—Subparagraph (B) of section 701(u)(10) of the Revenue Act of 1978 (relating to effective date) is amended to read as follows:

"(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years beginning in calendar year 1978 but only in the case of taxpayers who make an election under section 209(c) of the Foreign Earned Income Act of 1978."

26 USC 911 note.

26 USC 58.

(C) ALLOCATION OF ITEMS OF TAX PREFERENCE IN THE CASE OF ESTATES AND TRUSTS.—Paragraph (1) of section 58(c) (relating to estates and trusts) is amended by striking out "on the basis of the income of the estate or trust allocable to each" and inserting in lieu thereof "in accordance with regulations prescribed by the Secretary".

26 USC 1250.

(D) AMENDMENT OF SECTION 1250.—The last sentence of section 1250(a)(1)(B) (relating to gain from disposition of certain depreciable property) is amended by inserting before the period at the end thereof the following: "which was allowed under section 167(k)".

(E) CLERICAL AMENDMENTS.—

26 USC 37. (i) Paragraph (3) of section 701(a) of the Revenue Act of 1978 is amended by striking out "Subsection (c)" and inserting in lieu thereof "Subsection (e)".

26 USC 191. (ii) Subparagraph (C) of section 191(f)(2) is amended by striking out "the date of" and inserting in lieu thereof "the date".

92 Stat. 2925. (2) AMENDMENTS RELATED TO SECTION 702 OF THE ACT.—

26 USC 1014. (A) Paragraph (3) of section 1014(a) is amended by striking out "section 2032.1" and inserting in lieu thereof "section 2032A".

26 USC 2613. (B)(i) Clause (i) of section 2613(e)(2)(A) is amended by inserting "(other than as a potential appointee under a power of appointment held by another)" after "the trust".

(ii) Subparagraph (B) of section 2613(e)(2) is amended—

(I) by inserting after clause (ii) the following new clause:

"(iii) an employee of the grantor or of any beneficiary,",

(II) by striking out clause (vi), by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively, and

(III) by inserting "or" at the end of clause (vi) (as so redesignated).

Repeal. 26 USC 1016. (C) Paragraph (3) of section 702(r) of the Revenue Act of 1978 is hereby repealed.

(D) The section 6698 which relates to failure to file information with respect to carryover basis property is redesignated as section 6698A. 26 USC 6698A.

(E) The table of sections for subchapter B of chapter 68 is amended by striking out 26 USC 6698A.

"Sec. 6698. Failure to file information with respect to carryover basis property."

and inserting in lieu thereof the following:

"Sec. 6698A. Failure to file information with respect to carryover basis property."

(F)(i) If the executor elects the benefits of this subparagraph with respect to any estate, section 2035(b) of the Internal Revenue Code of 1954 (relating to adjustments for gifts made within 3 years of decedent's death) shall be applied with respect to transfers made by the decedent during 1977 as if paragraph (2) of such section 2035(b) read as follows: 26 USC 2035 note. 26 USC 2035.

"(2) to any gift to a donee made during 1977 to the extent of the amount of such gift which was excludable in computing taxable gifts by reason of section 2503(b) (relating to $3,000 annual exclusion for purposes of the gift tax) determined without regard to section 2513(a)." 26 USC 2503. 26 USC 2513.

(ii) The election under clause (i) with respect to any estate shall be made on or before the later of—

(I) the due date for filing the estate tax return, or

(II) the day which is 120 days after the date of the enactment of this Act.

(3) AMENDMENTS RELATED TO SECTION 703 OF THE ACT.— 92 Stat. 2939.

(A) The first sentence of paragraph (8) of section 46(f) is amended by striking out "subsection (a)(7)(D)" and inserting in lieu thereof "subsection (a)(7)(C)". 26 USC 46.

(B) Subsection (e) of section 703 of the Revenue Act of 1978 is hereby repealed. Repeal. 26 USC 911.

(C) Paragraph (1) of section 703(q) of the Revenue Act of 1978 is amended by striking out "section 103(d)" and inserting in lieu thereof "section 103(c)". 26 USC 103.

(b) EFFECTIVE DATE.—

For general effective date, see section 201. *Post*, p. 228.

SEC. 108. AMENDMENTS RELATED TO CERTAIN OTHER ACTS ENACTED DURING 1978.

(a) FOREIGN EARNED INCOME ACT OF 1978.— 26 USC 1 note.

(1) IN GENERAL.—

(A) TAX TABLES TO APPLY TO INDIVIDUALS CLAIMING SECTION 911 EXCLUSION.—Section 202 of the Foreign Earned Income Act of 1978 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection: 92 Stat. 3098. 26 USC 43, 911, 1302, 1304, 1402, 6012, 6091.

"(f) TAX TABLES TO APPLY TO INDIVIDUALS CLAIMING SECTION 911 EXCLUSION.—Paragraph (1) of section 3(b) (relating to tax tables not to apply to certain individuals) is amended by striking out subparagraph (A)." 26 USC 3.

(B) DETERMINATION OF HOUSING DEDUCTION.—

(i) Clause (i) of section 913(e)(3)(A) is amended by striking out "earned income" each place it appears and inserting in lieu thereof "housing income". 26 USC 913.

(ii) Subsection (e) of section 913 is amended by adding at the end thereof the following new paragraphs:

"(6) HOUSING INCOME.—For purposes of this subsection, the term 'housing income' has the meaning given to the term 'earned income' by section 911(b) (determined with the rule set forth in paragraph (3) of section 911(c)).

26 USC 911.

"(7) RECAPTURE OF EXCESS HOUSING DEDUCTIONS ATTRIBUTABLE TO TREATMENT OF AFTER-RECEIVED COMPENSATION.—

"(A) IN GENERAL.—There shall be included in the gross income of the individual for the taxable year in which any after-received compensation is received an amount equal to any excess housing deduction determined for such year.

"(B) EXCESS HOUSING DEDUCTION.—For purposes of subparagraph (A), the excess housing deduction determined for any taxable year is the excess (if any) of—

"(i) the aggregate amount which has been allowed as a housing deduction (for such taxable year and all prior taxable years), over

"(ii) the aggregate amount which would have been allowable as a housing deduction (for such taxable year and all prior taxable years for which a housing deduction has been allowed), by taking after-received compensation into account under this subsection as if it had been received in the taxable year in which the services were performed.

In applying the preceding sentence to any taxable year, proper adjustment shall be made for the effect of applying such sentence for purposes of all prior taxable years.

"(C) TREATMENT OF AMOUNT INCLUDED IN INCOME.—Any amount included in gross income under subparagraph (A) shall not be treated as income for purposes of applying subsection (c) of this section.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) HOUSING DEDUCTION.—The term 'housing deduction' means that portion of the deduction allowable under subsection (a) for any taxable year which is attributable to qualified housing expenses. For such purpose, qualified housing expenses shall be taken into account after all other amounts described in subsection (b).

"(ii) AFTER-RECEIVED COMPENSATION.—The term 'after-received compensation' means compensation received by an individual in a taxable year which is attributable to services performed by such individual in the third preceding, second preceding, or first preceding taxable year."

26 USC 911.

(C) CLERICAL AMENDMENT.—Paragraph (2) of section 911(a) (relating to income earned by individuals in certain camps) is amended by striking out "qualified foreign" and inserting in lieu thereof "a foreign country or".

(D) AMENDMENT OF LAST SENTENCE OF SECTION 911(a).—The last sentence of section 911(a) (relating to income earned by individuals in certain camps) is amended—

(i) by inserting "any deduction," after "his gross income", and

(ii) by striking out "deductions allowed by sections 217" and inserting in lieu thereof "deduction allowed by section 217".

26 USC 217.

(E) AMENDMENT OF SECTION 3(b).—Paragraph (1) of section 3(b) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively. 26 USC 3.

(F) QUALIFIED HOME LEAVE TRAVEL EXPENSES.—

(i) Subsection (g) of section 913 (relating to qualified home leave travel expenses) is amended to read as follows: 26 USC 913.

"(g) QUALIFIED HOME LEAVE TRAVEL EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified home leave travel expenses' means the reasonable amounts paid or incurred by or on behalf of an individual for the transportation of such individual, his spouse, and each dependent—

"(A) from a point of outside the United States to the individual's principal domestic residence, and

"(B) from the individual's principal domestic residence to a point outside the United States.

"(2) LIMITATION TO COST BETWEEN TAX HOME AND PLACE OF RESIDENCE.—The amount taken into account under subparagraph (A) or (B) of paragraph (1) with respect to any transportation shall not exceed the reasonable amount for transportation between the location of the individual's tax home outside the United States and the individual's principal domestic residence.

"(3) SUBSTITUTION OF NEAREST PORT OF ENTRY IN CERTAIN CASES.—With respect to any person whose travel in the United States is not travel to and from the individual's principal domestic residence, paragraphs (1) and (2) shall be applied by substituting the nearest port of entry in the United States for the individual's principal domestic residence.

"(4) NEAREST PORT OF ENTRY.—For purposes of paragraph (3), the nearest port of entry in the United States shall not include a nearest port of entry located in Alaska or Hawaii unless the individual elects to have such port of entry taken into account.

"(5) PRINCIPAL DOMESTIC RESIDENCE DEFINED.—For purposes of this subsection, an individual's principal domestic residence is the location of such individual's present (or, if none, most recent) principal residence in the United States.

"(6) 1 ROUND TRIP PER 12-MONTH PERIOD ABROAD.—Amounts may be taken into account under paragraph (4) of subsection (b) only with respect to 1 trip to the United States, and 1 trip from the United States, per person for each continuous period of 12 months for which the individual's tax home is in a foreign country."

(ii) Clause (ii) of section 913(i)(1)(C) (relating to qualified second household) is amended by striking out ", and paragraph (1) of subsection (g)," and inserting in lieu thereof ", and subsection (g),".

(G) AMENDMENT OF SECTION 119.—Subsection (a) of section 119 (as in effect on the day before the date of the enactment of the Foreign Earned Income Act of 1978) is amended by striking out "(a) GENERAL RULE.—". 26 USC 119. 26 USC 1 note.

(2) EFFECTIVE DATES.— 26 USC 3 note.

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by paragraph (1) shall take effect as if included in the Foreign Earned Income Act of 1978.

(B) PARAGRAPH (1)(E).—The amendment made by paragraph (1)(E) shall apply to taxable years beginning after December 31, 1978.

26 USC 1 note.

(b) AMENDMENTS RELATED TO THE BLACK LUNG BENEFITS REVENUE ACT.—

(1) CORRECTION OF PROVISIONS RELATED TO TAX COURT JURISDICTION.—

26 USC 6503.

(A) Subsection (g) of section 6503 is amended—

(i) by striking out "4971, 4975, 4985, or 4986" and inserting in lieu thereof "4951, 4952, 4971, or 4975", and

(ii) by striking out "4971(c)(3), 4975(f)(6), 4985(e)(4), or 4986(e)(2)" and inserting in lieu thereof "4951(e)(4), 4952(e)(2), 4971(c)(3), or 4975(f)(6)".

26 USC 6511.

(B) Subsection (f) of section 6511 is amended—

(i) by inserting "or section 4975" after "chapter 42", and

(ii) by striking out "CHAPTER 42" in the subsection heading and inserting in lieu thereof "CHAPTER 42 AND CERTAIN CHAPTER 43".

26 USC 6862.

(C) Section 6862 is amended by striking out "certain excise taxes" and inserting in lieu thereof "the taxes imposed by chapters 41, 42, 43, and 44".

26 USC 7422.

(D) Subsection (g) of section 7422 is amended by striking out "4944, 4945" each place it appears and inserting in lieu thereof "4944, 4945, 4951, 4952".

(E) Paragraph (1) of section 7422(g) is amended by striking out "section 4945(a) (relating to initial taxes on taxable expenditures)" and inserting in lieu thereof "section 4945(a) (relating to initial taxes on taxable expenditures), section 4951(a) (relating to initial taxes on self-dealing), 4952(a) (relating to initial taxes on taxable expenditures)".

(F) Subsection (g) of section 7422 is amended by striking out "section 4945(b) (relating to additional taxes on taxable expenditures)" and inserting in lieu thereof "section 4945(b) (relating to additional taxes on taxable expenditures), section 4951(b) (relating to additional taxes on self-dealing), 4952(b) (relating to additional taxes on taxable expenditures)".

(2) CORRECTION OF REFERENCES TO 1969 ACT.—

92 Stat. 12.
30 USC 934, 934a.
30 USC 801 note.
30 USC 801 note.

(A) Subsections (b), (c)(1), and (d) of section 3 of the Black Lung Benefits Revenue Act of 1977 are each amended by striking out "Federal Coal Mine Health and Safety Act of 1969" each place it appears and inserting in lieu thereof "Federal Mine Safety and Health Act of 1977".

26 USC 501, 192.

(B) Sections 501(c)(21) and 192(e) are each amended by striking out "Federal Coal Mine Health and Safety Act of 1969" and inserting in lieu thereof "Federal Mine Safety and Health Act of 1977".

(3) CLERICAL AMENDMENTS.—

92 Stat. 12.
30 USC 934a.

(A) Paragraph (1) of section 3(c) of the Black Lung Benefits Revenue Act of 1977 is amended by striking out "subsection (a)(4)" and inserting in lieu thereof "subsection (a)(5)".

26 USC 7454.

(B) Subsection (b) of section 7454 is amended by striking out "section 502(c)(21)" and inserting in lieu thereof "section 501(c)(21)".

26 USC 192 note.

(4) EFFECTIVE DATE.—Any amendment made by this subsection shall take effect as if included in the provision of the Black Lung Benefits Revenue Act of 1977 to which such amendment relates.

26 USC 1 note.

26 USC 1 note.

(c) AMENDMENTS RELATED TO ENERGY TAX ACT OF 1978.—

26 USC 6421.

(1) REPAYMENT OF TAX ON GASOLINE USED IN COMMERCIAL FISHERIES.—Subparagraph (B) of section 6421(d)(2) (defining

qualified business use) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to use in a vessel employed in the fisheries or in the whaling business."

(2) TIRES USED IN MANUFACTURE OF BUSES.—

(A) Subparagraph (C) of section 6416(b)(3) (relating to tax-paid articles used for further manufacture, etc.) is amended by striking out "such other article is" and all that follows and inserting in lieu thereof the following: 26 USC 6416.

"such other article is—

"(i) an automobile bus chassis or an automobile bus body, or

"(ii) by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft;".

(B) Subparagraph (B) of section 6416(b)(4) (relating to tires and inner tubes) is amended to read as follows:

"(B) such other article is—

"(i) an automobile bus chassis or an automobile bus body, or

"(ii) by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft,".

(C) Subsection (e) of section 4071 (relating to tires on imported articles) is amended by striking out "under section 4061" and inserting in lieu thereof "under section 4061 or if such article is an automobile bus chassis or an automobile bus body". 26 USC 4071. 26 USC 4061.

(3) REFUND OF TAX ON LUBRICATING OIL USED IN PRODUCING REREFINED OIL.—Paragraph (2) of section 6416(b) (relating to credit or refund for certain uses) is amended by striking out "or" at the end of subparagraph (L), by striking out the period at the end of subparagraph (M) and inserting in lieu thereof "; or", and by inserting after subparagraph (M) the following: 26 USC 6416.

"(N) in the case of lubricating oil taxable under section 4091 which is contained in a mixture which is rerefined oil (as defined in section 4093(b)(3)), used or sold. 26 USC 4091. 26 USC 4093.

The amount of the credit or refund under subparagraph (N) with respect to any lubricating oil shall be the amount which would be exempt from tax under section 4093."

(4) CREDIT OR REFUND OF TAX ON TRUCK CHASSIS OR BODY USED IN THE MANUFACTURE OF A BUS.—Subparagraph (A) of section 6416(b)(3) (relating to tax-paid articles used for further manufacture, etc.) is amended by striking out "component part of," and all that follows and inserting in lieu thereof the following:

"component part of—

"(i) another article taxable under chapter 32, or 26 USC 4061 *et seq.*

"(ii) an automobile bus chassis or an automobile bus body, manufactured or produced by him;".

(5) Section 4221(e)(6) (relating to bus parts and accessories) is amended to read as follows: 26 USC 4221.

"(6) BUS PARTS AND ACCESSORIES.—Under regulations prescribed by the Secretary, the tax imposed by section 4061(b) shall not apply to any part or accessory which is sold for use by the

purchaser on or in connection with an automobile bus, or is to be resold by the purchaser or a second purchaser for such use."

(6) CLERICAL AMENDMENT.—The last sentence of section 48(a)(10)(B) is amended by striking out "51" and inserting in lieu thereof "5".

26 USC 48.

(7) EFFECTIVE DATE.—Any amendment made by this subsection shall take effect as if included in the provision of the Energy Tax Act of 1978 to which such amendment relates; except that the amendment made by paragraph (6) shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act.

26 USC 48 note.

26 USC 1 note.

(d) AMENDMENTS RELATED TO PUBLIC LAW 95-472.—Subsection (c) of section 6324B (relating to special lien for additional estate tax attributable to farm, etc., valuation) is amended to read as follows:

92 Stat. 1332.

26 USC 6324B.

"(c) CERTAIN RULES AND DEFINITIONS MADE APPLICABLE.—

"(1) IN GENERAL.—The rule set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this section as if it were a lien imposed by section 6324A.

"(2) QUALIFIED REAL PROPERTY.—For purposes of this section, the term 'qualified real property' includes qualified replacement property (within the meaning of section 2032A(h)(3)(B))."

TITLE II—GENERAL EFFECTIVE DATE

26 USC 43 note.

SEC. 201. GENERAL EFFECTIVE DATE.

Except as otherwise provided in title I, any amendment made by title I shall take effect as if it had been included in the provision of the Revenue Act of 1978 to which such amendment relates.

26 USC 1 note.

Approved April 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-250 (Comm. on Ways and Means).
SENATE REPORT No. 96-498 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 125 (1979): July 16, considered and passed House.
Vol. 126 (1980): Feb. 26, considered and passed Senate, amended.
Feb. 28, House concurred in certain Senate amendments and disagreed to Senate amendment No. 67.
Mar. 18, Senate receded from its amendment No. 67 and offered another amendment to the House bill.
Mar. 19, House concurred in Senate amendment.

Public Law 96-223
96th Congress

An Act

To impose a windfall profit tax on domestic crude oil, and for other purposes.

Apr. 2, 1980
[H.R. 3919]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Crude Oil Windfall Profit Tax Act of 1980.

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Crude Oil Windfall Profit Tax Act of 1980". 26 USC 1 note.

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954. 26 USC 1 *et seq.*

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of 1954 Code; table of contents.

TITLE I—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

Sec. 101. Windfall profit tax.
Sec. 102. Allocation of net revenues from windfall profit tax to certain uses.
Sec. 103. Study of effects of decontrol of oil prices and of windfall profit tax.

TITLE II—ENERGY CONSERVATION AND PRODUCTION INCENTIVES

PART I—RESIDENTIAL ENERGY CREDIT

Sec. 201. General provisions relating to credit.
Sec. 202. Renewable energy source expenditures.
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PART II—BUSINESS ENERGY INVESTMENT CREDITS

Sec. 221. Changes in amount and period of application of energy percentage.
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PART III—PRODUCTION OF FUEL FROM NONCONVENTIONAL SOURCES; ALCOHOL FUELS

Sec. 231. Production tax credit.
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PART IV—ENERGY-RELATED USES OF TAX EXEMPT BONDS

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TITLE I—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

SEC. 101. WINDFALL PROFIT TAX.

(a) IN GENERAL.—

(1) AMENDMENT OF SUBTITLE D.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 45—WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL

"SUBCHAPTER A. Imposition and amount of tax.
"SUBCHAPTER B. Categories of oil.
"SUBCHAPTER C. Miscellaneous provisions.

"Subchapter A—Imposition and Amount of Tax

"Sec. 4986. Imposition of tax.
"Sec. 4987. Amount of tax.
"Sec. 4988. Windfall profit; removal price.
"Sec. 4989. Adjusted base price.
"Sec. 4990. Phaseout of tax.

26 USC 4986. **"SEC. 4986. IMPOSITION OF TAX.**

"(a) IMPOSITION OF TAX.—An excise tax is hereby imposed on the windfall profit from taxable crude oil removed from the premises during each taxable period.

"(b) TAX PAID BY PRODUCER.—The tax imposed by this section shall be paid by the producer of the crude oil.

26 USC 4987. **"SEC. 4987. AMOUNT OF TAX.**

"(a) IN GENERAL.—The amount of tax imposed by section 4986 with respect to any barrel of taxable crude oil shall be the applicable percentage of the windfall profit on such barrel.

"(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a)—

"(1) GENERAL RULE FOR TIERS 1 AND 2.—The applicable percentage for tier 1 oil and tier 2 oil which is not independent producer oil is—

"Tier 1 70
"Tier 2 60

"(2) INDEPENDENT PRODUCER OIL.—The applicable percentage for independent producer oil which is tier 1 oil or tier 2 oil is—

"Tier 1 50
"Tier 2 30

"(3) TIER 3 OIL.—The applicable percentage for tier 3 oil is 30 percent.

"(c) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by section 4986 shall be the same fraction of the amount of such tax imposed on the whole barrel.

"SEC. 4988. WINDFALL PROFIT; REMOVAL PRICE. 26 USC 4988.

"(a) GENERAL RULE.—For purposes of this chapter, the term 'windfall profit' means the excess of the removal price of the barrel of crude oil over the sum of—

"(1) the adjusted base price of such barrel, and

"(2) the amount of the severance tax adjustment with respect to such barrel provided by section 4996(c).

"(b) NET INCOME LIMITATION ON WINDFALL PROFIT.—

"(1) IN GENERAL.—The windfall profit on any barrel of crude oil shall not exceed 90 percent of the net income attributable to such barrel.

"(2) DETERMINATION OF NET INCOME.—For purposes of paragraph (1), the net income attributable to a barrel shall be determined by dividing—

"(A) the taxable income from the property for the taxable year attributable to taxable crude oil, by

"(B) the number of barrels of taxable crude oil from such property taken into account for such taxable year.

"(3) TAXABLE INCOME FROM THE PROPERTY.—For purposes of paragraph (2)—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the taxable income from the property shall be determined under section 613(a). 26 USC 613.

"(B) CERTAIN DEDUCTIONS NOT ALLOWED.—No deduction shall be allowed for—

"(i) depletion,

"(ii) the tax imposed by section 4986,

"(iii) section 263(c) costs, or 26 USC 263.

"(iv) qualified tertiary injectant expenses to which an election under subparagraph (E) applies.

"(C) TAXABLE INCOME REDUCED BY COST DEPLETION.—Taxable income shall be reduced by the cost depletion which would have been allowable for the taxable year with respect to the property if—

"(i) all—

"(I) section 263(c) costs, and

"(II) qualified tertiary injectant expenses to which an election under subparagraph (E) applies,

incurred by the taxpayer had been capitalized and taken into account in computing cost depletion, and

"(ii) cost depletion had been used by the taxpayer with respect to such property for all taxable periods.

"(D) SECTION 263(c) COSTS.—For purposes of this paragraph, the term 'section 263(c) costs' means intangible drilling and development costs incurred by the taxpayer which (by reason of an election under section 263(c)) may be

deducted as expenses for purposes of this title (other than this paragraph). Such term shall not include costs incurred in drilling a nonproductive well.

"(E) ELECTION TO CAPITALIZE QUALIFIED TERTIARY INJECTANT EXPENSES.—

"(i) IN GENERAL.—Any taxpayer may elect, with respect to any property, to capitalize qualified tertiary injectant expenses for purposes of this paragraph. Any such election shall apply to all qualified tertiary injectant expenses allocable to the property for which the election is made, and may be revoked only with the consent of the Secretary. Any such election shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

"(ii) QUALIFIED TERTIARY INJECTANT EXPENSES.—The term 'qualified tertiary injectant expenses' means any expense allowable as a deduction under section 193.

Post, p. 286.

"(4) SPECIAL RULE FOR APPLYING PARAGRAPH (3)(C) TO CERTAIN TRANSFERS OF PROVEN OIL OR GAS PROPERTIES.—

"(A) IN GENERAL.—In the case of any proven oil or gas property transfer which (but for this subparagraph), would result in an increase in the amount determined under paragraph (3)(C) with respect to the transferee, paragraph (3)(C) shall be applied with respect to the transferee by taking into account only those amounts which would have been allowable with respect to the transferor under paragraph (3)(C) and those costs incurred during periods after such transfer.

"(B) PROVEN OIL OR GAS PROPERTY TRANSFER.—For purposes of subparagraph (A), the term 'proven oil or gas property transfer' means any transfer (including the subleasing of a lease or the creation of a production payment which gives the transferee an economic interest in the property) after 1978 of an interest (including an interest in a partnership or trust) in any proven oil or gas property (within the meaning of section 613A(c)(9)(A)).

26 USC 613A.

"(5) SPECIAL RULE WHERE THERE IS PRODUCTION PAYMENT.—For purposes of paragraph (2), if any portion of the taxable crude oil removed from the property is applied in discharge of a production payment, the gross income from such portion shall be included in the gross income from the property of both the person holding such production payment and the person holding the interest from which such production payment was created.

"(c) REMOVAL PRICE.—For purposes of this chapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'removal price' means the amount for which the barrel is sold.

"(2) SALES BETWEEN RELATED PERSONS.—In the case of a sale between related persons (within the meaning of section 103(b)(6)(C)), the removal price shall not be less than the constructive sales price for purposes of determining gross income from the property under section 613.

26 USC 103.

26 USC 613.

"(3) OIL REMOVED FROM PREMISES BEFORE SALE.—If crude oil is removed from the premises before it is sold, the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(4) REFINING BEGUN ON PREMISES.—If the manufacture or conversion of crude oil into refined products begins before such oil is removed from the premises—

"(A) such oil shall be treated as removed on the day such manufacture or conversion begins, and

"(B) the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613. 26 USC 613.

"(5) MEANING OF TERMS.—The terms 'premises' and 'refined product' have the same meaning as when used for purposes of determining gross income from the property under section 613.

"SEC. 4989. ADJUSTED BASE PRICE. 26 USC 4989.

"(a) ADJUSTED BASE PRICE DEFINED.—For purposes of this chapter, the term 'adjusted base price' means the base price for the barrel of crude oil plus an amount equal to—

"(1) such base price, multiplied by

"(2) the inflation adjustment for the calendar quarter in which the crude oil is removed from the premises.

The amount determined under the preceding sentence shall be rounded to the nearest cent.

"(b) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—For purposes of subsection (a), the inflation adjustment for any calendar quarter is the percentage by which—

"(A) the implicit price deflator for the gross national product for the second preceding calendar quarter, exceeds

"(B) such deflator for the calendar quarter ending June 30, 1979.

"(2) ADDITIONAL ADJUSTMENT FOR TIER 3 OIL.—The adjusted base price for tier 3 oil shall be determined by substituting for the implicit price deflator referred to in paragraph (1)(A) an amount equal to such deflator multiplied by 1.005 to the nth power where 'n' equals the number of calendar quarters beginning after September 1979 and before the calendar quarter in which the oil is removed from the premises.

"(3) FIRST REVISION OF PRICE DEFLATOR USED.—For purposes of paragraphs (1) and (2), the first revision of the price deflator shall be used.

"(c) BASE PRICE FOR TIER 1 OIL.—For purposes of this chapter, the base price for tier 1 oil is—

"(1) the ceiling price which would have applied to such oil under the March 1979 energy regulations if it had been produced and sold in May 1979 as upper tier oil, reduced by

"(2) 21 cents.

"(d) BASE PRICES FOR TIER 2 OIL AND TIER 3 OIL.—For purposes of this chapter—

"(1) GENERAL RULE.—Except as provided in paragraph (2), the base prices for tier 2 oil and tier 3 oil shall be prices determined pursuant to the method prescribed by the Secretary by regulations. Any method so prescribed shall be designed so as to yield, with respect to oil of any grade, quality, and field, a base price which approximates the price at which such oil would have sold in December 1979 if—

"(A) all domestic crude oil were uncontrolled, and

"(B) the average removal price for all domestic crude oil (other than Sadlerochit oil) were—

"(i) $15.20 a barrel for purposes of determining base prices for tier 2 oil, and

"(ii) $16.55 a barrel for purposes of determining base prices for tier 3 oil.

"(2) INTERIM RULE.—For months beginning before October 1980 (or such earlier date as may be provided in regulations taking effect before such earlier date), the base prices for tier 2 oil and tier 3 oil, respectively, shall be the product of—

"(A)(i) the highest posted price for December 31, 1979, for uncontrolled crude oil of the same grade, quality, and field, or

"(ii) if there is no posted price described in clause (i), the highest posted price for such date for uncontrolled crude oil at the nearest domestic field for which prices for oil of the same grade and quality were posted for such date, multiplied by

"(B) a fraction the denominator of which is $35, and the numerator of which is—

"(i) $15.20 for purposes of determining base prices for tier 2 oil, and

"(ii) $16.55 for purposes of determining base prices for tier 3 oil.

For purposes of the preceding sentence, no price which was posted after January 14, 1980, shall be taken into account.

"(3) MINIMUM INTERIM BASE PRICE.—The base price determined under paragraph (2) for tier 2 oil or tier 3 oil shall not be less than the sum of—

"(A) the ceiling price which would have applied to such oil under the March 1979 energy regulations if it had been produced and sold in May 1979 as upper tier oil, plus

"(B)(i) $1 in the case of tier 2 oil, or

"(ii) $2 in the case of tier 3 oil.

26 USC 4990.

"SEC. 4990. PHASEOUT OF TAX.

"(a) PHASEOUT.—Notwithstanding any other provision of this chapter, the tax imposed by this chapter with respect to any crude oil removed from the premises during any month during the phaseout period shall not exceed—

"(1) the amount of tax which would have been imposed by this chapter with respect to such crude oil but for this subsection, multiplied by

"(2) the phaseout percentage for such month.

"(b) TERMINATION OF TAX.—Notwithstanding any other provision of this chapter, no tax shall be imposed by this chapter with respect to any crude oil removed from the premises after the phaseout period.

"(c) DEFINITIONS.—For purposes of this section—

"(1) PHASEOUT PERIOD.—The term 'phaseout period' means the 33-month period beginning with the month following the target month.

"(2) PHASEOUT PERCENTAGE.—The phaseout percentage for any month is 100 percent reduced by 3 percentage points for each month after the target month and before the month following the month for which the phaseout percentage is being determined.

"(3) TARGET MONTH.—The term 'target month' means the later of—

"(A) December 1987, or

"(B) the first month for which the Secretary publishes an estimate under subsection (d)(2).

In no event shall the target month be later than December 1990.

"(d) DETERMINATION OF AGGREGATE NET WINDFALL REVENUE.—

"(1) ESTIMATE BY THE SECRETARY.—For each month after 1986, the Secretary shall make an estimate of the aggregate net windfall revenue as of the close of such month. Any such estimate shall be made during the preceding month and shall be made on the basis of the best available data as of the date of making such estimate.

"(2) PUBLICATION.—If the Secretary estimates under paragraph (1) that the aggregate net windfall revenue as of the close of any month will exceed $227,300,000,000, the Secretary shall (not later than the last day of the preceding month) publish notice in the Federal Register that he has made such an estimate for such month. Publication in Federal Register.

"(3) AGGREGATE NET WINDFALL REVENUE DEFINED.—For purposes of this subsection, the term 'aggregate net windfall revenue' means the amount which the Secretary estimates to be the excess of—

"(A) the gross revenues from the tax imposed by section 4986 during the period beginning on March 1, 1980, and ending on the last day of the month for which the estimate is being made, over

"(B) the sum of—

"(i) the refunds of and other adjustments to such tax for such period, plus

"(ii) the decrease in the income taxes imposed by chapter 1 resulting from the tax imposed by section 4986.

For purposes of subparagraph (A), there shall not be taken into account any revenue attributable to an economic interest in crude oil held by the United States.

"Subchapter B—Categories of Oil

"Sec. 4991. Taxable crude oil; categories of oil.
"Sec. 4992. Independent producer oil.
"Sec. 4993. Incremental tertiary oil.
"Sec. 4994. Definitions and special rules relating to exemptions.

"SEC. 4991. TAXABLE CRUDE OIL; CATEGORIES OF OIL.

26 USC 4991.

"(a) TAXABLE CRUDE OIL.—For purposes of this chapter, the term 'taxable crude oil' means all domestic crude oil other than exempt oil.

"(b) EXEMPT OIL.—For purposes of this chapter, the term 'exempt oil' means—

"(1) any crude oil from a qualified governmental interest or a qualified charitable interest,

"(2) any exempt Indian oil,

"(3) any exempt Alaskan oil, and

"(4) any exempt front-end oil.

"(c) TIER 1 OIL.—For purposes of this chapter, the term 'tier 1 oil' means any taxable crude oil other than—

"(1) tier 2 oil, and

"(2) tier 3 oil.

"(d) TIER 2 OIL.—For purposes of this chapter—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'tier 2 oil' means—

"(A) any oil which is from a stripper well property within the meaning of the June 1979 energy regulations, and

"(B) any oil from an economic interest in a National Petroleum Reserve held by the United States.

"(2) EXCLUSION OF CERTAIN OIL.—The term 'tier 2 oil' does not include tier 3 oil.

"(e) TIER 3 OIL.—For purposes of this chapter—

"(1) IN GENERAL.—The term 'tier 3 oil' means—

"(A) newly discovered oil,

"(B) heavy oil, and

"(C) incremental tertiary oil.

"(2) NEWLY DISCOVERED OIL.—The term 'newly discovered oil' has the meaning given to such term by the June 1979 energy regulations.

"(3) HEAVY OIL.—The term 'heavy oil' means all crude oil which is produced from a property if crude oil produced and sold from such property during—

"(A) the last month before July 1979 in which crude oil was produced and sold from such property, or

"(B) the taxable period,

had a weighted average gravity of 16 degrees API or less (corrected to 60 degrees Fahrenheit).

"(4) INCREMENTAL TERTIARY OIL.—

"For definition of incremental tertiary oil, see section 4993.

26 USC 4992.

"SEC. 4992. INDEPENDENT PRODUCER OIL.

"(a) GENERAL RULE.—For purposes of this chapter, the term 'independent producer oil' means that portion of an independent producer's qualified production for the quarter which does not exceed such person's independent producer amount for such quarter.

"(b) INDEPENDENT PRODUCER DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'independent producer' means, with respect to any quarter, any person other than a person to whom subsection (c) of section 613A does not apply by reason of paragraph (2) (relating to certain retailers) or paragraph (4) (relating to certain refiners) of section 613A(d).

26 USC 613A.

"(2) RULES FOR APPLYING PARAGRAPHS (2) AND (4) OF SECTION 613A(d).—For purposes of paragraph (1), paragraphs (2) and (4) of section 613A(d) shall be applied—

"(A) by substituting 'quarter' for 'taxable year' each place it appears in such paragraphs, and

"(B) by substituting '$1,250,000' for '$5,000,000' in paragraph (2) of section 613A(d).

"(c) INDEPENDENT PRODUCER AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—A person's independent producer amount for any quarter is the product of—

"(A) 1,000 barrels, multiplied by

"(B) the number of days in such quarter (31 in the case of the first quarter of 1980).

"(2) PRODUCTION EXCEEDS AMOUNT.—If a person's qualified production for any quarter exceeds such person's independent producer amount for such quarter, the independent producer amount shall be allocated—

"(A) between tiers 1 and 2 in proportion to such person's production for such quarter of domestic crude oil in each such tier, and

"(B) within any tier, on the basis of the removal prices for such person's domestic crude oil in such tier removed during such quarter, beginning with the highest of such prices.

"(d) QUALIFIED PRODUCTION OF OIL DEFINED.—For purposes of this section—

"(1) IN GENERAL.—An independent producer's qualified production of oil for any quarter is the number of barrels of taxable crude oil—

"(A) of which such person is the producer,

"(B) which is removed during such quarter,

"(C) which is tier 1 oil or tier 2 oil, and

"(D) which is attributable to the independent producer's working interest in a property.

"(2) WORKING INTEREST DEFINED.—

"(A) IN GENERAL.—The term 'working interest' means an operating mineral interest (within the meaning of section 614(d))— 26 USC 614.

"(i) which was in existence as such an interest on January 1, 1980, or

"(ii) which is attributable to a qualified overriding royalty interest.

"(B) QUALIFIED OVERRIDING ROYALTY INTEREST.—For purposes of subparagraph (A)(ii), the term 'qualified overriding royalty interest' means an overriding royalty interest in existence as such an interest on January 1, 1980, but only if on February 20, 1980, there was in existence a binding contract under which such interest was to be converted into an operating mineral interest (within the meaning of section 614(d)).

"(3) PRODUCTION FROM TRANSFERRED PROPERTY.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, in the case of a transfer on or after January 1, 1980, of an interest in any property, the qualified production of the transferee shall not include any production attributable to such interest.

"(B) SMALL PRODUCER TRANSFER EXEMPTION.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any transfer of an interest in property if the transferee establishes (in such manner as may be prescribed by the Secretary by regulations) that at no time after December 31, 1979, has the property been held by a person who was a disqualified transferor for any quarter ending after September 30, 1979, and ending before the date such person transferred the interest.

"(ii) DISQUALIFIED TRANSFEROR.—The term 'disqualified transferor' means, with respect to any quarter, any person who—

"(I) had qualified production for such quarter which exceeded such person's independent producer amount for such quarter, or

"(II) was not an independent producer for such quarter.

"(iii) SPECIAL RULES.—For purposes of this paragraph—

"(I) PROPERTY HELD BY PARTNERSHIPS.—Property held by a partnership at any time shall be treated as owned proportionately by the partners of such partnership at such time.

"(II) PROPERTY HELD BY TRUST OR ESTATE.—Property held by any trust or estate shall be treated as owned both by such trust or estate and proportionately by its beneficiaries.

"(III) CONSTRUCTIVE APPLICATION.—This chapter shall be treated as having been in effect for periods after September 30, 1979, for purposes of making any determination under subclause (I) or (II) of clause (ii).

"(C) OTHER EXCEPTIONS.—Subparagraph (A) shall not apply in the case of—

"(i) a transfer of property at death,

"(ii) a change of beneficiaries of a trust which qualifies under clause (iii) of section 613A(c)(9)(B) (determined without regard to the exception at the end of such clause), and

26 USC 613A.

"(iii) any transfer so long as the transferor and transferee are required by subsection (e) to share the 1,000 barrel amount contained in subsection (c)(1)(A).

The preceding sentence shall apply in the case of any property only if the production from the property was qualified production for the transferor.

"(D) TRANSFERS INCLUDE SUBLEASES, ETC.—For purposes of this paragraph—

"(i) a sublease shall be treated as a transfer, and

"(ii) an interest in a partnership or trust shall be treated as an interest in property held by the partnership or trust.

"(e) ALLOCATION WITHIN RELATED GROUP.—

"(1) IN GENERAL.—In the case of persons who are members of the same related group at any time during any quarter, the 1,000 barrel amount contained in subsection (c)(1)(A) for days during such quarter shall be reduced for each such person by allocating such amount among all such persons in proportion to their respective qualified production for such quarter.

"(2) RELATED GROUP.—For purposes of this subsection, persons shall be treated as members of a related group if they are described in any of the following clauses:

"(A) a family,

"(B) a controlled group of corporations,

"(C) a group of entities under common control, or

"(D) if 50 percent or more of the beneficial interest in 1 or more corporations, trusts, or estates is owned by the same family, all such entities and such family.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the meaning given such term by section 613A(c)(8)(D)(i).

"(B) GROUP OF ENTITIES UNDER COMMON CONTROL.—The term 'group of entities under common control' means any group of corporations, trusts, or estates which (as determined under regulations prescribed by the Secretary) are under common control. Such regulations shall be based on principles similar to the principles which apply under subparagraph (A).

"(C) FAMILY.—The term 'family' means an individual and the spouse and minor children of such individual.

"(D) CONSTRUCTIVE OWNERSHIP.—For purposes of paragraph (2)(D), an interest owned by or for a corporation, partnership, trust, or estate shall be considered as owned directly by the entity and proportionately by its shareholders, partners, or beneficiaries, as the case may be.

"(E) MEMBERS OF MORE THAN 1 RELATED GROUP.—If a person is a member of more than 1 related group during any quarter, the determination of such person's allocation under paragraph (1) shall be made by reference to the related group which results in the smallest allocation for such person.

"SEC. 4993. INCREMENTAL TERTIARY OIL. 26 USC 4993.

"(a) IN GENERAL.—For purposes of this chapter, the term 'incremental tertiary oil' means the excess of—

"(1) the amount of crude oil which is removed from a property during any month and which is produced on or after the project beginning date and during the period for which a qualified tertiary recovery project is in effect on the property, over

"(2) the base level for such property for such month.

"(b) DETERMINATION OF AMOUNT.—For purposes of this section—

"(1) BASE LEVEL.—The base level for any property for any month is the average monthly amount (determined under rules similar to rules used in determining the base production control level under the June 1979 energy regulations) of crude oil removed from such property during the 6-month period ending March 31, 1979, reduced (but not below zero) by the sum of—

"(A) 1 percent of such amount for each month which begins after 1978 and before the first month beginning after the project beginning date, and

"(B) 2½ percent of such amount for each month which begins after the project beginning date (or after 1978 if the project beginning date is before 1979) and before the month for which the base level is being determined.

"(2) MINIMUM AMOUNT IN CASE OF PROJECTS CERTIFIED BY DOE.—In the case of a project described in subsection (c)(1)(A), for the period during which the project is in effect, the amount of the incremental tertiary oil shall not be less than the incremental production determined under the June 1979 energy regulations.

"(3) ALLOCATION RULES.—The determination of which barrels of crude oil removed during any month are incremental tertiary oil shall be made—

"(A) first by allocating the amount of incremental tertiary oil between—

"(i) oil which (but for this subsection) would be tier 1 oil, and

"(ii) oil which (but for this subsection) would be tier 2 oil,

in proportion to the respective amounts of each such oil removed from the property during such month, and

"(B) then by taking into account barrels of crude oil so removed in the order of their respective removal prices, beginning with the highest of such prices.

"(c) QUALIFIED TERTIARY RECOVERY PROJECT.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified tertiary recovery project' means—

"(A) a qualified tertiary enhanced recovery project with respect to which a certification as such has been approved and is in effect under the June 1979 energy regulations, or

"(B) any project for enhancing recovery of crude oil which meets the requirements of paragraph (2).

"(2) REQUIREMENTS.—A project meets the requirements of this paragraph if—

"(A) the project involves the application (in accordance with sound engineering principles) of 1 or more tertiary recovery methods which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered,

"(B) the project beginning date is after May 1979,

"(C) the portion of the property to be affected by the project is adequately delineated,

"(D) the operator submits (at such time and in such manner as the Secretary may by regulations prescribe) to the Secretary—

"(i) a certification from a petroleum engineer that the project meets the requirements of subparagraphs (A), (B), and (C), or

"(ii) a certification that a jurisdictional agency (within the meaning of subsection (d)(5)) has approved the project as meeting the requirements of subparagraphs (A), (B), and (C), and that such approval is still in effect, and

"(E) the operator submits (at such time and such manner as the Secretary may by regulations prescribe) to the Secretary a certification from a petroleum engineer that the project continues to meet the requirements of subparagraphs (A), (B), and (C).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) TERTIARY RECOVERY METHOD.—The term 'tertiary recovery method' means—

"(A) any method which is described in subparagraphs (1) through (9) of section 212.78(c) of the June 1979 energy regulations, or

10 CFR 212.78.

"(B) any other method to provide tertiary enhanced recovery which is approved by the Secretary for purposes of this chapter.

"(2) PROJECT BEGINNING DATE.—The term 'project beginning date' means the later of—

"(A) the date on which the injection of liquids, gases, or other matter begins, or

"(B) the date on which—

"(i) in the case of a project described in subsection (c)(1)(A), the project is certified as a qualified tertiary enhanced recovery project under the June 1979 energy regulations, or

"(ii) in the case of a project described in subsection (c)(1)(B), a petroleum engineer certifies, or a jurisdictional agency approves, the project as meeting the requirements of subparagraphs (A), (B), and (C) of subsection (c)(2).

"(3) PROJECT ONLY AFFECTS PORTION OF PROPERTY.—If a qualified tertiary recovery project can reasonably be expected to increase the ultimate recovery of crude oil from only a portion of a property, such portion shall be treated as a separate property.

"(4) SIGNIFICANT EXPANSION TREATED AS SEPARATE PROJECT.—A significant expansion of any project shall be treated as a separate project.

"(5) JURISDICTIONAL AGENCY.—The term 'jurisdictional agency' means—

"(A) in the case of an application involving a tertiary recovery project on lands not under Federal jurisdiction—

"(i) the appropriate State agency in the State in which such lands are located which is designated by the Governor of such State in a written notification submitted to the Secretary as the agency which will approve projects under this subsection, or

"(ii) if the Governor of such State does not submit such written notification within 180 days after the date of the enactment of the Crude Oil Windfall Profit Tax Act of 1980, the United States Geological Survey (until such time as the Governor submits such notification), or

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"(B) in the case of an application involving a tertiary recovery project on lands under Federal jurisdiction, the United States Geological Survey.

"(6) BASIS OF REVIEW OF CERTAIN QUALIFIED TERTIARY RECOVERY PROJECTS.—In the case of any project which is approved under subsection (c)(2)(D)(ii) and for which a certification is submitted to the Secretary, the project shall be considered as meeting the requirements of subparagraphs (A), (B), and (C) of subsection (c)(2) unless the Secretary determines that—

"(A) the approval of the jurisdictional agency was not supported by substantial evidence on the record upon which such approval was based, or

"(B) additional evidence not contained in the record upon which such approval was based demonstrates that such project does not meet the requirements of subparagraph (A), (B), or (C) of subsection (c)(2).

If the Secretary makes a determination described in subparagraph (A) or (B) of the preceding sentence, the determination of whether the project meets the requirements of subparagraphs (A), (B), and (C) of subsection (c)(2) shall be made without regard to the preceding sentence.

"(7) RULINGS RELATING TO CERTAIN QUALIFIED TERTIARY RECOVERY PROJECTS.—In the case of any tertiary recovery project for which a certification is submitted to the Secretary under subsection (c)(2)(D)(ii), a taxpayer may request a ruling from the Secretary with respect to whether such project is a qualified tertiary recovery project. The Secretary shall issue such ruling within 180 days of the date after he receives the request and such information as may be necessary to make a determination.

"SEC. 4994. DEFINITIONS AND SPECIAL RULES RELATING TO EXEMPTIONS.

26 USC 4994.

"(a) QUALIFIED GOVERNMENTAL INTEREST.—For purposes of section 4991(b)—

"(1) IN GENERAL.—The term 'qualified governmental interest' means an economic interest in crude oil if—

"(A) such interest is held by a State or political subdivision thereof or by an agency or instrumentality of a State or political subdivision thereof, and

"(B) under the applicable State or local law, all of the net income received pursuant to such interest is dedicated to a public purpose.

"(2) NET INCOME.—For purposes of this paragraph, the term 'net income' means gross income reduced by production costs, and severance taxes of general application, allocable to the interest.

"(3) AMOUNTS PLACED IN CERTAIN PERMANENT FUNDS TREATED AS DEDICATED TO PUBLIC PURPOSE.—The requirements of paragraph (1)(B) shall be treated as met with respect to any net income which, under the applicable State or local law, is placed in a permanent fund the earnings on which are dedicated to a public purpose.

"(b) QUALIFIED CHARITABLE INTEREST.—For purposes of section 4991(b)—

"(1) IN GENERAL.—The term 'qualified charitable interest' means an economic interest in crude oil if—

"(A) such interest is—

"(i) held by an organization described in clause (ii), (iii), or (iv) of section 170(b)(1)(A) which is also described in section 170(c)(2), or

26 USC 170.

"(ii) held—

"(I) by an organization described in clause (i) of section 170(b)(1)(A) which is also described in section 170(c)(2), and

"(II) for the benefit of an organization described in clause (i) of this subparagraph, and

"(B) such interest was held by the organization described in clause (i) or subclause (I) of clause (ii) of subparagraph (A) on January 21, 1980, and at all times thereafter before the last day of the taxable period.

"(2) SPECIAL RULE.—For purposes of paragraph (1)(A)(ii), an interest shall be treated as held for the benefit of an organization described in paragraph (1)(A)(i) only if all the proceeds from such interest were dedicated on January 21, 1980, and at all times thereafter before the last day of the taxable period, to the organization described in paragraph (1)(A)(i).

"(c) FRONT-END TERTIARY OIL.—

"(1) EXEMPTION FOR TERTIARY PROJECTS OF INDEPENDENTS.—For purposes of this chapter, the term 'exempt front-end oil' means any domestic crude oil—

"(A) which is removed from the premises before October 1, 1981, and

"(B) which is treated as front-end oil by reason of a front-end tertiary project on one or more properties each of which is a qualified property.

"(2) REFUNDS FOR TERTIARY PROJECTS OF INTEGRATED PRODUCERS.—

"(A) IN GENERAL.—In the case of any front-end tertiary project which does not meet the requirements of paragraph (1)(B), the excess of—

"(i) the allowed expenses of the taxpayer with respect to such project, over

"(ii) the tertiary incentive revenue,

shall be treated as a payment by the taxpayer with respect to the tax imposed by this chapter made on September 30, 1981.

"(B) LIMITATION BASED ON AMOUNT OF TAX.—The amount of the payment determined under subparagraph (A) with

respect to any producer shall not exceed the aggregate tax imposed by section 4986 with respect to front-end oil of that producer removed after February 1980 and before October 1981.

"(C) TERTIARY INCENTIVE REVENUE.—For purposes of this paragraph, the term 'tertiary incentive revenue' has the meaning given such term by the front-end tertiary provisions of the energy regulations.

"(3) DEFINITION OF ALLOWED EXPENSES; PREPAID EXPENSES NOT TAKEN INTO ACCOUNT.—For purposes of this subsection (including the application of the front-end tertiary provisions for purposes of this subsection)—

"(A) ALLOWED EXPENSES.—Except as provided in subparagraph (B), allowed expenses shall be determined under the front-end tertiary provisions of the energy regulations.

"(B) PREPAID EXPENSES NOT TAKEN INTO ACCOUNT.—The term 'allowed expenses' shall not include any amount attributable to periods after September 30, 1981.

"(C) PERIOD TO WHICH ITEM IS ATTRIBUTABLE.—For purposes of subparagraph (B)—

"(i) any injectant and any fuel shall be treated as attributable to periods before October 1, 1981, if the injectant is injected, or the fuel is used, before October 1, 1981, and

"(ii) any other item shall be treated as attributable to periods before October 1, 1981, only to the extent that under chapter 1 deductions for such item (including depreciation in respect of such item) are properly allocable to periods before October 1, 1981.

For purposes of the preceding sentence, an act shall be treated as taken before a date if it would have been taken before such date but for an act of God, a severe mechanical breakdown, or an injunction.

"(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) FRONT-END TERTIARY PROVISIONS.—The term 'front-end tertiary provisions' means—

"(i) the provisions of section 212.78 of the energy regulations which exempt crude oil from ceiling price limitations to provide financing for tertiary projects (as such provisions took effect on October 1, 1979), and 10 CFR 212.78.

"(ii) any modification of such provisions, but only to the extent that such modification is for purposes of coordinating such provisions with the tax imposed by this chapter.

"(B) FRONT-END OIL.—The term 'front-end oil' means any domestic crude oil which is not subject to a first sale ceiling price under the energy regulations solely by reason of the front-end tertiary provisions of such regulations.

"(C) QUALIFIED PROPERTY.—The term 'qualified property' means any property if, on January 1, 1980, 50 percent or more of the operating mineral interest in such property is held by persons who were independent producers (within the meaning of section 4992(b)) for the last quarter of 1979.

"(D) FRONT-END TERTIARY PROJECT.—The term 'front-end tertiary project' means any project which qualifies under the front-end tertiary provisions of the energy regulations.

"(E) ORDERING RULE.—Front-end oil of any taxpayer shall be treated as attributable first to projects which meet the requirements of paragraph (1)(B).

"(d) EXEMPT INDIAN OIL.—For purposes of this chapter, the term 'exempt Indian oil' means any domestic crude oil—

"(1) the producer of which is an Indian tribe, an individual member of an Indian tribe, or an Indian tribal organization under an economic interest held by such a tribe, member, or organization on January 21, 1980, and which is produced from mineral interests which are—

"(A) held in trust by the United States for the tribe, member, or organization, or

"(B) held by the tribe, member, or organization subject to a restriction on alienation imposed by the United States because it is held by an Indian tribe, an individual member of an Indian tribe, or an Indian tribal organization,

"(2) the producer of which is a native corporation organized under the Alaska Native Claims Settlement Act (as in effect on January 21, 1980), and which—

43 USC 1601 note.

"(A) is produced from mineral interests held by the corporation which were received under that Act, and

"(B) is removed from the premises before 1992, or

"(3) the proceeds from the sale of which are deposited in the Treasury of the United States to the credit of tribal or native trust funds pursuant to a provision of law in effect on January 21, 1980.

"(e) EXEMPT ALASKAN OIL.—For purposes of this chapter, the term 'exempt Alaskan oil' means any crude oil (other than Sadlerochit oil) which is produced—

"(1) from a reservoir from which oil has been produced in commercial quantities through a well located north of the Arctic Circle, or

"(2) from a well located on the northerly side of the divide of the Alaska-Aleutian Range and at least 75 miles from the nearest point on the Trans-Alaska Pipeline System.

"Subchapter C—Miscellaneous Provisions

"Sec. 4995. Withholding; depositary requirements.
"Sec. 4996. Other definitions and special rules.
"Sec. 4997. Records and information; regulations.
"Sec. 4998. Cross references.

26 USC 4995.

"SEC. 4995. WITHHOLDING; DEPOSITARY REQUIREMENTS.

"(a) WITHHOLDING BY PURCHASER.—

"(1) WITHHOLDING REQUIRED.—Except to the extent provided in regulations prescribed by the Secretary—

"(A) the first purchaser of any domestic crude oil shall withhold a tax equal to the amount of the tax imposed by section 4986 with respect to such oil from amounts payable by such purchaser to the producer of such oil, and

"(B) the first purchaser of such oil shall be liable for the payment of the tax required to be withheld under subparagraph (A) and shall not be liable to any person for the amount of any such payment.

"(2) DETERMINATION OF AMOUNT TO BE WITHHELD.—

"(A) IN GENERAL.—The purchaser shall determine the amount to be withheld under paragraph (1)—

"(i) on the basis of the certification furnished to the purchaser under section 6050C, unless the purchaser has reason to believe that any information contained in such certification is not correct, or

"(ii) if clause (i) does not apply, under regulations prescribed by the Secretary.

Post, p. 251.

"(B) NET INCOME LIMITATION NOT TO BE APPLIED.—For purposes of determining the amount to be withheld under paragraph (1), subsection (b) of section 4988 shall not apply.

"(3) ADJUSTMENTS FOR WITHHOLDING ERRORS.—

"(A) IN GENERAL.—To the extent provided in regulations prescribed by the Secretary, withholding errors made by a purchaser with respect to the crude oil of a producer removed during any calendar year shall be corrected by that purchaser by making proper adjustments in the amounts withheld from subsequent payments to such producer for crude oil removed during the same calendar year.

"(B) WITHHOLDING ERROR.—For purposes of subparagraph (A), there is a withholding error if the amount withheld by the purchaser under paragraph (1) with respect to any payment for any crude oil exceeds (or is less than) the tax imposed by section 4986 with respect to such oil (determined without regard to section 4988(b)).

"(C) LIMITATION ON AMOUNT OF ADJUSTMENTS.—No adjustment shall be required under subparagraph (A) with respect to any payment for any crude oil to the extent that such adjustment would result in amounts withheld from such payment in excess of the windfall profit from such crude oil.

"(D) VOLUNTARY WITHHOLDING.—The Secretary may by regulations provide for withholding under this subsection of additional amounts from payments by any purchaser to any producer if the purchaser and producer agree to such withholding. For purposes of this title, any amount withheld pursuant to such an agreement shall be treated as an amount required to be withheld under paragraph (1).

"(4) PRODUCER TREATED AS HAVING PAID WITHHELD AMOUNT.—

"(A) IN GENERAL.—The producer of any domestic crude oil shall be treated as having paid any amount withheld with respect to such oil under this subsection.

"(B) TIME PAYMENT DEEMED MADE.—The producer shall be treated as having made any payment described in subparagraph (A) on the last day of the first February after the calendar year in which the oil is removed from the premises.

"(5) PRODUCER REQUIRED TO FILE RETURN ONLY TO EXTENT PROVIDED IN REGULATIONS.—Except to the extent provided in regulations, the producer of crude oil with respect to which withholding is required under paragraph (1) shall not be required to file a return of the tax imposed by section 4986 with respect to such oil.

"(6) PURCHASER'S QUARTERLY RETURNS TO CONTAIN SUMMARY.—The purchaser's return of tax under this chapter for any calendar quarter of any calendar year shall contain such information (with respect to such quarter and the prior quarters of such calendar year) as may be necessary to facilitate the coordination of the withholding of tax by such purchaser with respect to each producer with the determination of the tax imposed by section 4986 with respect to such producer.

"(7) ELECTION FOR PURCHASER AND OPERATOR TO HAVE OPERATOR TAKE PLACE OF PURCHASER.—

"(A) IN GENERAL.—If the purchaser of domestic crude oil and the operator of the property from which the crude oil was produced make a joint election under this paragraph with respect to such property (or portion thereof)—

"(i) the operator shall be substituted for the purchaser for purposes of applying this subsection and subsection (b) (and so much of subtitle F as relates to such subsections), and

26 USC 6001.

"(ii) if the operator is not an integrated oil company, the operator shall be treated as having the same status as the purchaser for purposes of applying subsection (b) with respect to amounts withheld by the operator by reason of such election.

"(B) REGULATIONS MAY LIMIT ELECTION.—The Secretary may by regulations limit the circumstances under which an election under this paragraph may be made to situations where substituting the operator for the purchaser is administratively more practicable.

"(8) NO ASSESSMENTS OR REFUNDS BEFORE CLOSE OF THE YEAR.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any oil subject to withholding under this subsection—

"(A) no notice of any deficiency with respect to the tax imposed by section 4986 may be mailed under section 6212, and

26 USC 6212.

"(B) no proceeding in any court for the refund of the tax imposed by section 4986 may be begun,

before the last day of the first February after the calendar year in which such oil was removed from the premises.

"(b) DEPOSITARY REQUIREMENTS.—

"(1) INTEGRATED OIL COMPANIES.—In the case of an integrated oil company, deposit of the estimated amount of—

"(A) withholding under subsection (a) by such company, and

"(B) such company's liability for the tax imposed by section 4986 with respect to oil for which withholding is not required,

shall be made twice a month.

"(2) PERSONS WHO ARE NOT INTEGRATED OIL COMPANIES.—In the case of a person, other than an integrated oil company—

"(A) DEPOSITS OF WITHHELD AMOUNTS.—Deposit of the amounts required to be withheld under subsection (a) shall be made not later than—

"(i) except as provided in clause (ii), 45 days after the close of the month in which the oil was removed, or

"(ii) in the case of oil purchased under a contract therefor by an independent refiner under which no payment is required to be made before the 46th day after the close of the month in which the oil is purchased, before the first day of the 3rd month which begins after the close of the month in which such oil was removed.

"(B) ESTIMATED SECTION 4986 TAX.—Deposits of the estimated amount of such person's liability for the tax imposed by section 4986 with respect to oil for which withholding is not required shall be made not later than 45 days after the

close of the month in which the oil was removed from the premises.

"(3) INTEGRATED OIL COMPANY DEFINED.—For purposes of this subsection, the term 'integrated oil company' means a taxpayer described in paragraph (2) or (4) of section 613A(d) who is not an independent refiner. 26 USC 613A.

"(4) INDEPENDENT REFINER.—For purposes of this subsection, the term 'independent refiner' has the same meaning as in paragraph (3) of section 3 of the Emergency Petroleum Allocation Act of 1973 (as in effect on January 1, 1980), except that 'the preceding calendar quarter' shall be substituted for 'November 27, 1973' in applying such paragraph for purposes of this paragraph. 15 USC 752.

"(c) CROSS REFERENCE.—

"For provision authorizing the Secretary to establish by regulations the mode and time for collecting the tax imposed by section 4986 (to the extent not otherwise provided in this chapter), see section 6302(a).

"SEC. 4996. OTHER DEFINITIONS AND SPECIAL RULES. 26 USC 4996.

"(a) PRODUCER AND OPERATOR.—For purposes of this chapter—

"(1) PRODUCER.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'producer' means the holder of the economic interest with respect to the crude oil.

"(B) PARTNERSHIPS.—

"(i) IN GENERAL.—If (but for this subparagraph) a partnership would be treated as the producer of any crude oil—

"(I) such crude oil shall be allocated among the partners of such partnership, and

"(II) any partner to whom such crude oil is allocated (and not the partnership) shall be treated as the producer of such crude oil.

"(ii) ALLOCATION.—Except to the extent otherwise provided in regulations, any allocation under clause (i)(I) shall be determined on the basis of a person's proportionate share of the income of the partnership.

"(2) OPERATOR.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'operator' means the person primarily responsible for the management and operation of crude oil production on a property.

"(B) DESIGNATION OF OTHER PERSON.—Under regulations prescribed by the Secretary, the term 'operator' means the person (or persons) designated with respect to a property (or portion thereof) as the operator for purposes of this chapter by persons holding operating mineral interests in the property.

"(b) OTHER DEFINITIONS.—For purposes of this chapter—

"(1) CRUDE OIL.—The term 'crude oil' has the meaning given to such term by the June 1979 energy regulations.

"(2) BARREL.—The term 'barrel' means 42 United States gallons.

"(3) DOMESTIC.—The term 'domestic', when used with respect to crude oil, means crude oil produced from an oil well located in the United States or in a possession of the United States.

26 USC 638.

"(4) UNITED STATES.—The term 'United States' has the meaning given to such term by paragraph (1) of section 638 (relating to Continental Shelf areas).

"(5) POSSESSION OF THE UNITED STATES.—The term 'possession of the United States' has the meaning given to such term by paragraph (2) of section 638.

"(6) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given to such term by section 106(b)(2)(C)(ii) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3316(b)(2)(C)(ii)).

"(7) TAXABLE PERIOD.—The term 'taxable period' means—

"(A) March 1980, and

"(B) each calendar quarter beginning after March 1980.

"(8) ENERGY REGULATIONS.—

"(A) IN GENERAL.—The term 'energy regulations' means regulations prescribed under section 4(a) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 753(a)).

"(B) MARCH 1979 ENERGY REGULATIONS.—The March 1979 energy regulations shall be the terms of the energy regulations as such terms existed on March 1, 1979.

"(C) JUNE 1979 ENERGY REGULATIONS.—The June 1979 energy regulations—

"(i) shall be the terms of the energy regulations as such terms existed on June 1, 1979, and

"(ii) shall be treated as including final action taken pursuant thereto before June 1, 1979, and as including action taken before, on, or after such date with respect to incremental production from qualified tertiary enhanced recovery projects.

"(D) CONTINUED APPLICATION OF REGULATIONS AFTER DECONTROL.—Energy regulations shall be treated as continuing in effect without regard to decontrol of oil prices or any other termination of the application of such regulations.

"(c) SEVERANCE TAX ADJUSTMENT.—For purposes of this chapter—

"(1) IN GENERAL.—The severance tax adjustment with respect to any barrel of crude oil shall be the amount by which—

"(A) any severance tax imposed with respect to such barrel, exceeds

"(B) the severance tax which would have been imposed if the barrel had been valued at its adjusted base price.

"(2) SEVERANCE TAX DEFINED.—For purposes of this subsection, the term 'severance tax' means a tax—

"(A) imposed by a State with respect to the extraction of oil, and

"(B) determined on the basis of the gross value of the extracted oil.

"(3) LIMITATIONS.—

"(A) 15 PERCENT LIMITATION.—A severance tax shall not be taken into account to the extent that the rate thereof exceeds 15 percent.

"(B) INCREASES AFTER MARCH 31, 1979, MUST APPLY EQUALLY.—The amount of the severance tax taken into account under paragraph (1) shall not exceed the amount which would have been imposed under a State severance tax in effect on March 31, 1979, unless such excess is attributable to an increase in the rate of the severance tax (or to the imposition of a severance tax) which applies equally to all portions of the gross value of each barrel of oil subject to such tax.

"(d) ALASKAN OIL FROM SADLEROCHIT RESERVOIR.—For purposes of this chapter—

"(1) IN GENERAL.—In the case of Sadlerochit oil—

"(A) ADJUSTED BASE PRICE INCREASED BY TAPS ADJUSTMENT.—The adjusted base price for any calendar quarter (determined without regard to this subsection) shall be increased by the TAPS adjustment (if any) for such quarter provided by paragraph (2).

"(B) REMOVAL PRICE DETERMINED ON MONTHLY BASIS.—The removal price of such oil removed during any calendar month shall be the average of the producer's removal prices for such month.

"(2) TAPS ADJUSTMENT.—

"(A) IN GENERAL.—The TAPS adjustment for any calendar quarter is the excess (if any) of—

"(i) $6.26 over

"(ii) the TAPS tariff for the preceding calendar quarter.

"(B) TAPS TARIFF.—For purposes of subparagraph (A), the TAPS tariff for the preceding calendar quarter is the average per barrel amount paid for all transportation (ending in such quarter) of crude oil through the TAPS.

"(C) TAPS DEFINED.—For purposes of this paragraph, the term 'TAPS' means the Trans-Alaska Pipeline System.

"(3) SADLEROCHIT OIL DEFINED.—The term 'Sadlerochit oil' means crude oil produced from the Sadlerochit reservoir in the Prudhoe Bay oilfield.

"(e) SPECIAL RULES FOR POST-1978 TRANSFERS OF PROPERTY.—In the case of a transfer after 1978 of any portion of a property, for purposes of this chapter (including the application of the June 1979 energy regulations for purposes of this chapter), after such transfer crude oil produced from any portion of such property shall not constitute oil from a stripper well property, newly discovered oil, or heavy oil, if such oil would not be so classified if the property had not been transferred.

"(f) ADJUSTMENT OF REMOVAL PRICE.—In determining the removal price of oil from a property in the case of any transaction, the Secretary may adjust the removal price to reflect clearly the fair market value of oil removed.

"(g) NO EXEMPTIONS FROM TAX.—No taxable crude oil, and no producer of such crude oil, shall be exempt from the tax imposed by this chapter except to the extent provided in this chapter or in any provision of law enacted after the date of the enactment of this chapter which grants a specific exemption, by reference to this chapter, from the tax imposed by this chapter.

"(h) CROSS REFERENCE.—

"For the holder of the economic interest in the case of a production payment, see section 636.

"SEC. 4997. RECORDS AND INFORMATION; REGULATIONS. 26 USC 4997.

"(a) RECORDS AND INFORMATION.—Each taxpayer liable for tax under section 4986, each partnership, trust, or estate producing domestic crude oil, each purchaser of domestic crude oil, and each operator of a well from which domestic crude oil was produced, shall keep such records, make such returns, and furnish such information (to the Secretary and to other persons having an interest in the oil) with respect to such oil as the Secretary may by regulations prescribe.

"(b) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter, including such changes in the application of the energy regulations for purposes of this chapter as may be necessary or appropriate to carry out such purposes.

26 USC 4998. **"SEC. 4998. CROSS REFERENCES.**

"(1) For additions to the tax and additional amount for failure to file tax return or to pay tax, see section 6651.

"(2) For additions to the tax and additional amounts for failure to file certain information returns, registration statements, etc., see section 6652.

"(3) For additions to the tax and additional amounts for negligence and fraud, see section 6653.

"(4) For additions to the tax and additional amounts for failure to make deposit of taxes, see section 6656.

"(5) For additions to the tax and additional amounts for failure to collect and pay over tax, or attempt to evade or defeat tax, see section 6672.

"(6) For criminal penalties for attempt to evade or defeat tax, willful failure to collect or pay over tax, willful failure to file return, supply information, or pay tax, and for fraud and false statements, see sections 7201, 7202, 7203, and 7206.

"(7) For criminal penalties for failure to furnish certain information regarding windfall profit tax on domestic crude oil, see section 7241."

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"CHAPTER 45. Windfall profit tax on domestic crude oil."

(b) DEDUCTIBILITY OF WINDFALL PROFIT TAX.—The first sentence of 26 USC 164. section 164(a) (relating to deduction for taxes) is amended by inserting after paragraph (4) the following new paragraph:

Ante, p. 230. "(5) The windfall profit tax imposed by section 4986."

(c) TIME FOR FILING RETURN OF WINDFALL PROFIT TAX; DEPOSITARY REQUIREMENTS.—

(1) TIME FOR FILING RETURN OF WINDFALL PROFIT TAX.—

(A) Part V of subchapter A of chapter 61 (relating to time for filing returns and other documents) is amended by adding at the end thereof the following new section:

26 USC 6076. **"SEC. 6076. TIME FOR FILING RETURN OF WINDFALL PROFIT TAX.**

"(a) GENERAL RULE.—Except in the case of a return required by *Ante*, p. 244. regulations prescribed under section 4995(a)(5), each return—

Ante, p. 230. "(1) of the tax imposed by section 4986 (relating to windfall profit tax) for any taxable period (within the meaning of section 4996(b)(7)), or

"(2) by a person required under section 4995(a) to withhold the windfall profit tax for any taxable period,

shall be filed not later than the last day of the second month following the close of the taxable period.

"(b) CROSS REFERENCE.—

"For depositary requirements applicable to the tax imposed by section 4986, see section 4995(b)."

(B) The table of sections for such part V is amended by adding at the end thereof the following new item:

"Sec. 6076. Time for filing return of windfall profit tax."

26 USC 6302. (2) CROSS REFERENCE.—Subsection (d) of section 6302 is amended to read as follows:

"(d) CROSS REFERENCES.—

"(1) For treatment of earned income advance amounts as payment of withholding and FICA taxes, see section 3507(d).
"(2) For depositary requirements applicable to the windfall profit tax imposed by section 4986, see section 4995(b)."

(3) TECHNICAL AMENDMENT.—Section 7512 (relating to separate accounting for certain collected taxes, etc.) is amended— 26 USC 7512.

(A) by striking out "or by chapter 33" in subsections (a) and (b) and inserting in lieu thereof ", by chapter 33, or by section 4986", and

(B) by striking out "or chapter 33" in subsections (b) and (c) and inserting in lieu thereof ", chapter 33, or section 4986".

(d) CERTAIN INFORMATION REQUIRED TO BE FURNISHED.—

(1) GENERAL RULE.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050C. INFORMATION REGARDING WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL. 26 USC 6050C.

"(a) CERTIFICATION FURNISHED BY OPERATOR.—Under regulations prescribed by the Secretary, the operator of a property from which domestic crude oil was produced shall certify (at such time and in such manner as the Secretary shall by regulations prescribe) to the purchaser—

"(1) the adjusted base price (within the meaning of section 4989) with respect to such crude oil, *Ante*, p. 233.

"(2) the tier and category of such crude oil for purposes of the tax imposed by section 4986, *Ante*, p. 230.

"(3) if any certification is furnished to the operator by the producer with respect to whether such oil is exempt oil or independent producer oil, a copy of such certification,

"(4) the amount of such crude oil, and

"(5) such other information as the Secretary by regulations may require.

"(b) AGREEMENT BETWEEN OPERATOR AND PURCHASER.—The Secretary may by regulations provide that, if the operator and purchaser agree thereto, the operator shall be relieved of the duty of furnishing some or all of the information required under subsection (a).

"(c) SPECIAL RULE FOR OIL NOT SUBJECT TO WITHHOLDING.—If the tax imposed by section 4986 with respect to any oil for which withholding is not required under section 4995(a)— *Ante*, p. 244.

"(1) subsections (a) and (b) shall be applied by substituting 'producer' for 'purchaser', and

"(2) paragraph (3) of subsection (a) shall not apply.

"(d) CROSS REFERENCES.—

"(1) For additions to tax for failure to furnish information required under this section, see section 6652(b).
"(2) For penalty for willful failure to supply information required under this section, see section 7241."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 6652(b) is amended— 26 USC 6652.

(i) by striking out "or section 6050A" and inserting in lieu thereof the following: ", section 6050A", and

(ii) by inserting ", or section 6050C (relating to information regarding windfall profit tax on crude oil)" after "fishing boat operators)".

(B) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050C. Information regarding windfall profit tax on domestic crude oil."

(e) CRIMINAL PENALTY FOR FAILURE TO FURNISH CERTAIN INFORMATION.—

(1) IN GENERAL.—Part II of subchapter A of chapter 75 (relating to penalties applicable to certain taxes) is amended by adding at the end thereof the following new section:

26 USC 7241.

"SEC. 7241. WILLFUL FAILURE TO FURNISH CERTAIN INFORMATION REGARDING WINDFALL PROFIT TAX ON DOMESTIC CRUDE OIL.

Ante, p. 251.

"Any person who is required under section 6050C (or regulations thereunder) to furnish any information or certification to any other person and who willfully fails to furnish such information or certification at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than $10,000, or imprisoned not more than 1 year, or both, together with the costs of prosecution."

(2) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 7241. Willful failure to furnish certain information regarding windfall profit tax on domestic crude oil."

(f) DEFICIENCY PROCEDURES.—

(1) The following provisions are each amended by striking out "or 44" each place it appears and inserting in lieu thereof "44, or 45":

26 USC 6211. (A) section 6211(a),
(B) section 6211(b)(2),
26 USC 6212. (C) section 6212(a),
26 USC 6213. (D) section 6213(a),
(E) section 6213(f),
26 USC 6214. (F) section 6214(c),
(G) section 6214(d),
26 USC 6161. (H) section 6161(b)(1),
26 USC 6344. (I) section 6344(a)(1), and
26 USC 7422. (J) section 7422(e).

26 USC 6211. (2) Subsection (a) of section 6211 is amended by striking out "and 44" and inserting in lieu thereof "44, and 45".

(3) Subsection (b) of section 6211 is amended by adding at the end thereof the following new paragraphs:

Ante, p. 244. "(5) The amount withheld under section 4995(a) from amounts payable to any producer for crude oil removed during any taxable period (as defined in section 4996(b)(7)) which is not otherwise shown on a return by such producer shall be treated as tax shown by the producer on a return for the taxable period.

Ante, p. 247. "(6) Any liability to pay amounts required to be withheld under section 4995(a) shall not be treated as a tax imposed by chapter 45."

Ante, p. 230.

26 USC 6212. (4) Paragraph (1) of section 6212(b) is amended—

(A) by striking out "or chapter 44" and inserting in lieu thereof "chapter 44, or chapter 45",

(B) by striking out "chapter 44, and this chapter" and inserting in lieu thereof "chapter 44, chapter 45, and this chapter", and

(C) by striking out "TAXES IMPOSED BY CHAPTER 42" in the paragraph heading and inserting in lieu thereof "CERTAIN EXCISE TAXES".

(5) Paragraph (1) of section 6212(c) is amended— 26 USC 6212.
(A) by striking out "or of chapter 42 tax" and inserting in lieu thereof "of chapter 42 tax", and
(B) by inserting ", or of chapter 45 tax for the same taxable period" after "to which such petition relates".
(6)(A) Subsection (a) of section 6512 is amended— 26 USC 6512.
(i) by striking out "chapter 41, 42, 43, or 44 taxes" and inserting in lieu thereof "certain excise taxes",
(ii) by striking out "or of tax imposed by chapter 41" and inserting in lieu thereof "of tax imposed by chapter 41", and
(iii) by inserting ", or of tax imposed by chapter 45 for the same taxable period" after "to which such petition relates".
(B) Paragraph (1) of section 6512(b) is amended—
(i) by striking out "or of tax imposed by chapter 41" and inserting in lieu thereof "of tax imposed by chapter 41", and
(ii) by inserting ", or of tax imposed by chapter 45 for the same taxable period" after "to which such petition relates".
(7) The subsection heading for subsection (c) of section 6601 is amended by striking out "CHAPTER 41, 42, 43, OR 44 TAX" and inserting in lieu thereof "CERTAIN EXCISE TAX". 26 USC 6601.
(8) Subsection (a) of section 6653 is amended— 26 USC 6653.
(A) by striking out "or by chapter 12" and inserting in lieu thereof ", by chapter 12",
(B) by striking out "is due" and inserting in lieu thereof ", or by chapter 45 (relating to windfall profit tax) is due", and
(C) by striking out "OR GIFT" in the subsection heading and inserting in lieu thereof ", GIFT, OR WINDFALL PROFIT".
(9) Subsection (a) of section 6862 is amended by striking out "certain excise taxes" and inserting in lieu thereof "the excise taxes imposed by chapters 41, 42, 43, 44, and 45". 26 USC 6862.

(g) SPECIAL RULES FOR STATUTE OF LIMITATIONS.—
(1) ASSESSMENT.—Section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new subsection: 26 USC 6501.

"(q) SPECIAL RULES FOR WINDFALL PROFIT TAX.—
"(1) OIL SUBJECT TO WITHHOLDING.—
"(A) IN GENERAL.—In the case of any oil to which section 4995(a) applies and with respect to which no return is required, the return referred to in this section shall be the return (of the person liable for the tax imposed by section 4986) of the taxes imposed by subtitle A for the taxable year in which the removal year ends. *Ante*, p. 230.
"(B) REMOVAL YEAR.—For purposes of subparagraph (A), the term 'removal year' means the calendar year in which the oil is removed from the premises.
"(2) EXTENSION OF LIABILITY ATTRIBUTABLE TO DOE RECLASSIFICATION.—
"(A) IN GENERAL.—In the case of the tax imposed by chapter 45, if a Department of Energy change becomes final, the period for assessing any deficiency attributable to such change shall not expire before the date which is 1 year after the date on which such change becomes final. *Ante*, p. 230.
"(B) DEPARTMENT OF ENERGY CHANGE.—For purposes of subparagraph (A) and section 6511(h)(2), the term 'Department of Energy change' means any change by the Department of Energy in the classification under the June 1979 energy regulations (as defined in section 4996(b)(8)(C)) of a property or of domestic crude oil from a property. *Post*, p. 254.

"(3) PARTNERSHIP ITEMS OF FEDERALLY REGISTERED PARTNERSHIPS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (o) shall apply to the tax imposed by section 4986."

Ante, p. 230.

26 USC 6511.

(2) REFUND.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (h) as (i) and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULES FOR WINDFALL PROFIT TAXES.—

"(1) OIL SUBJECT TO WITHHOLDING.—In the case of any oil to which section 4995(a) applies and with respect to which no return is required, the return referred to in subsection (a) shall be the return (of the person liable for the tax imposed by section 4986) of the taxes imposed by subtitle A for the taxable year in which the removal year (as defined in section 6501(q)(1)(B)) ends.

Ante, p. 253.

"(2) SPECIAL RULE FOR DOE RECLASSIFICATION.—In the case of any tax imposed by chapter 45, if a Department of Energy change (as defined in section 6501(q)(2)(B)) becomes final, the period for filing a claim for credit or refund for any overpayment attributable to such change shall not expire before the date which is 1 year after the date on which such change becomes final.

Ante, p. 230.

"(3) PARTNERSHIP ITEMS OF FEDERALLY REGISTERED PARTNERSHIPS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (g) shall apply to the tax imposed by section 4986."

(h) INTEREST ON OVERPAYMENTS.—Section 6611 (relating to interest on overpayment) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

26 USC 6611.

"(h) SPECIAL RULE FOR WINDFALL PROFIT TAX.—

"(1) IN GENERAL.—If any overpayment of tax imposed by section 4986 is refunded within 45 days after—

"(A) the last date (determined without regard to any extension of time for filing the return) prescribed for filing the return of the tax imposed by section 4986 for the taxable period with respect to which the overpayment was made, or

"(B) if such return is filed after such last date, the date on which the return is filed,

no interest shall be allowed under subsection (a) on such overpayment.

"(2) SPECIAL RULE WHERE NO RETURN IS REQUIRED.—In the case of any oil for which no return of the tax imposed by section 4986 is required, the return referred to in paragraph (1) shall be the return of the tax imposed by subtitle A for the taxable year of the producer in which the removal year (with respect to which the overpayment was made) ends. For purposes of the preceding sentence, the term 'removal year' means the calendar year in which the oil is removed from the premises."

26 USC 4986 note.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to periods after February 29, 1980.

(2) TRANSITIONAL RULES.—For the period ending June 30, 1980, the Secretary of the Treasury or his delegate shall prescribe rules relating to the administration of chapter 45 of the Internal Revenue Code of 1954. To the extent provided in such rules, such rules shall supplement or supplant for such period the administrative provisions contained in chapter 45 of such Code (or in so much of subtitle F of such Code as relates to such chapter 45).

26 USC 6001.

SEC. 102. ALLOCATION OF NET REVENUES FROM WINDFALL PROFIT TAX TO CERTAIN USES. 31 USC 555.

(a) SEPARATE ACCOUNT IN TREASURY ESTABLISHED.—The net revenues from the windfall profit tax for each fiscal year beginning after September 30, 1980, and before October 1, 1990, are hereby allocated for accounting purposes to a separate account in the Treasury to be known as the Windfall Profit Tax Account (hereinafter in this section referred to as the "Account").

(b) SPECIFIED USES FOR AMOUNTS IN THE ACCOUNT.—

(1) BASIC NET REVENUES.—In the case of the amount of basic net revenues allocated to the Account for any fiscal year, there shall be a further allocation to subaccounts for the following uses:

Use for	Percent
Income tax reductions	60
Low-income assistance	25
Energy and transportation programs	15

(2) ADDITIONAL NET REVENUES.—In the case of the amount of additional net revenues allocated to the Account for any fiscal year, there shall be a further allocation to subaccounts for the following uses:

Use for	Percent
Income tax reductions	66⅔
Low-income assistance	33⅓

(3) SPECIAL RULE FOR LOW-INCOME ASSISTANCE FOR 1982 AND SUBSEQUENT YEARS.—In the case of any amount allocated under paragraph (1) to the subaccount for low-income assistance for the fiscal year beginning October 1, 1981, or any subsequent fiscal year—

(A) 50 percent shall be allocated to a program to assist AFDC and SSI recipients under the Social Security Act, and 42 USC 1305.

(B) 50 percent shall be allocated to a program of emergency energy assistance.

(c) NET REVENUES DEFINED.—For purposes of this section—

(1) IN GENERAL.—The term "net revenues of the windfall profit tax" means, for any fiscal year, the amount which the Secretary estimates to be the excess of—

(A) the gross revenues from the tax imposed by section 4986 for the fiscal year, over *Ante*, p. 230.

(B) the sum of—

(i) the refunds of and other adjustments to such tax for such fiscal year, plus

(ii) the decrease in the income taxes imposed by chapter 1 resulting from the tax imposed by section 4986. 26 USC 1 *et seq.*

For purposes of subparagraph (A), there shall not be taken into account any revenue attributable to an economic interest in crude oil held by the United States.

(2) BASIC NET REVENUES.—The term "basic net revenues" means the estimated net revenues which would result for any period under the assumptions for such period which were made in enacting the Crude Oil Windfall Profit Tax Act of 1980. *Ante*, p. 229.

(3) ADDITIONAL NET REVENUES.—The term "additional net revenues" means for any period the net revenues in excess of the basic net revenues for such period.

(d) PRESIDENT TO PROPOSE ALLOCATION OF NET REVENUES.—

(1) IN GENERAL.—The President shall propose for each fiscal year to which this section applies an allocation of the net revenues among the uses set forth in subsection (b).

(2) TIME AND MANNER FOR PROPOSING.—Except for the fiscal year beginning October 1, 1980, the proposal for each fiscal year shall be contained in the annual budget for such fiscal year. The proposal for the fiscal year beginning October 1, 1980, shall be submitted by the President within 90 days after the date of the enactment of this Act.

Reports to Congress.

(e) REPORTS.—The Secretary of the Treasury shall report to the Congress not later than January 1 of 1982 and of each calendar year thereafter before 1992—

(1) the net revenues derived from the windfall profit tax for the fiscal year ending on September 30 of the preceding year, and

(2) the actual disposition for such fiscal year of such revenues among the uses specified in subsection (b).

26 USC 4986 note.

SEC. 103. STUDY OF EFFECTS OF DECONTROL OF OIL PRICES AND OF WINDFALL PROFIT TAX.

Report to Congress.

(a) GENERAL RULE.—The President shall, not later than January 1, 1983, submit to the Congress a report on the effect of decontrol of oil prices and the windfall profit tax on—

(1) domestic oil production,
(2) foreign oil imports,
(3) profits of the oil industry,
(4) inflation,
(5) employment,
(6) economic growth,
(7) Federal revenues, and
(8) national security.

(b) REPORT TO INCLUDE RECOMMENDATIONS.—The report required under subsection (a) shall include such legislative recommendations as the President determines to be advisable.

TITLE II—ENERGY CONSERVATION AND PRODUCTION INCENTIVES

PART I—RESIDENTIAL ENERGY CREDIT

SEC. 201. GENERAL PROVISIONS RELATING TO CREDIT.

26 USC 44C.

(a) JOINT OWNERSHIP OF ENERGY ITEMS.—Section 44C(d) (relating to special rules) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) JOINT OWNERSHIP OF ENERGY ITEMS.—

"(A) IN GENERAL.—Any expenditure otherwise qualifying as an energy conservation expenditure or a renewable energy source expenditure shall not be treated as failing to so qualify merely because such expenditure was made with respect to 2 or more dwelling units.

"(B) LIMITS APPLIED SEPARATELY.—In the case of any expenditure described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made by each individual."

(b) SECRETARIAL AUTHORITY.—

(1) IN GENERAL.—Section 44C(c) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph: 26 USC 44C.

"(9) LIMITATIONS ON SECRETARIAL AUTHORITY.—

"(A) IN GENERAL.—The Secretary shall not specify any item under paragraph (4)(A)(viii) or any form of renewable energy under paragraph (5)(A)(i) unless the Secretary determines that—

"(i) there will be a reduction in oil or natural gas consumption as a result of such specification, and such reduction is sufficient to justify any resulting decrease in Federal revenues,

"(ii) such specification will not result in an increased use of any item which is known to be, or reasonably suspected to be, environmentally hazardous or a threat to public health or safety, and

"(iii) available Federal subsidies do not make such specification unnecessary or inappropriate (in the light of the most advantageous allocation of economic resources).

"(B) FACTORS TAKEN INTO ACCOUNT.—In making any determination under subparagraph (A)(i), the Secretary (after consultation with the Secretary of Energy)—

"(i) shall make an estimate of the amount by which the specification will reduce oil and natural gas consumption, and

"(ii) shall determine whether such specification compares favorably, on the basis of the reduction in oil and natural gas consumption per dollar of cost to the Federal Government (including revenue loss), with other Federal programs in existence or being proposed.

"(C) FACTORS TAKEN INTO ACCOUNT IN MAKING ESTIMATES.—In making any estimate under subparagraph (B)(i), the Secretary shall take into account (among other factors)—

"(i) the extent to which the use of any item will be increased as a result of the specification,

"(ii) whether sufficient capacity is available to increase production to meet any increase in demand caused by such specification,

"(iii) the amount of oil and natural gas used directly or indirectly in the manufacture of such item and other items necessary for its use, and

"(iv) the estimated useful life of such item."

(2) PERIOD FOR SPECIFYING ITEMS.—Paragraph (6) of section 44C(c) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraphs:

"(C) ACTION ON REQUESTS.—

"(i) IN GENERAL.—The Secretary shall make a final determination with respect to any request filed under subparagraph (A)(ii) for specifying an item under paragraph (4)(A)(viii) or for specifying a form of renewable energy under paragraph (5)(A)(i) within 1 year after the filing of the request, together with any information required to be filed with such request under subparagraph (A)(ii).

"(ii) REPORTS.—Each month the Secretary shall publish a report of any request which has been denied

during the preceding month and the reasons for the denial.

"(D) EFFECTIVE DATE.—

"(i) IN GENERAL.—In the case of any item or energy source specified under paragraph (4)(A)(viii) or (5)(A)(i), the credit allowed by subsection (a) shall apply with respect to expenditures which are made on or after the date on which final notice of such specification is published in the Federal Register.

"(ii) EXPENDITURES TAKEN INTO ACCOUNT IN FOLLOWING TAXABLE YEARS.—The Secretary may prescribe by regulations that expenditures made on or after the date referred to in clause (i) and before the close of the taxable year in which such date occurs shall be taken into account in the following taxable year."

SEC. 202. RENEWABLE ENERGY SOURCE EXPENDITURES.

26 USC 44C.

(a) AMOUNT OF CREDIT.—Paragraph (2) of section 44C(b) (relating to qualified renewable energy source expenditures) is amended to read as follows:

"(2) RENEWABLE ENERGY SOURCE.—In the case of any dwelling unit, the qualified renewable energy source expenditures are 40 percent of so much of the renewable energy source expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $10,000."

(b) SOLAR ELECTRIC ENERGY.—Clause (i) of section 44C(c)(5)(A) (defining renewable energy source property) is amended by striking out "providing hot water" and inserting in lieu thereof "providing hot water or electricity".

(c) COSTS OF DRILLING GEOTHERMAL WELL.—Subparagraph (B) of section 44C(c)(2) (relating to renewable energy source expenditure) is amended to read as follows:

"(B) CERTAIN LABOR AND OTHER COSTS INCLUDED.—The term 'renewable energy source expenditure' includes—

"(i) expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of renewable energy source property, and

"(ii) expenditures for an onsite well drilled for any geothermal deposit (as defined in section 613(e)(3)), but only if the taxpayer has not elected under section 263(c) to deduct any portion of such expenditures."

26 USC 613.
26 USC 263.

(d) SOLAR PANELS INSTALLED ON ROOFS.—Paragraph (2) of section 44C(c) (relating to renewable energy source expenditure) is amended by adding at the end thereof the following new subparagraph:

"(D) CERTAIN SOLAR PANELS.—No solar panel installed as a roof (or portion thereof) shall fail to be treated as renewable energy source property solely because it constitutes a structural component of the dwelling on which it is installed."

26 USC 44C note.

(e) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1979.

(2) SUBSECTIONS (b), (c), AND (d).—The amendments made by subsections (b), (c), and (d) shall apply to expenditures made after December 31, 1979, in taxable years ending after such date.

SEC. 203. PROVISIONS TO PREVENT DOUBLE BENEFITS.

(a) CREDIT TO BE REDUCED WHERE CERTAIN FINANCING IS USED.—

(1) IN GENERAL.—Section 44C(c) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph: 26 USC 44C.

"(10) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—

"(A) REDUCTION OF QUALIFIED EXPENDITURES.—For purposes of determining the amount of energy conservation or renewable energy source expenditures made by any individual with respect to any dwelling unit, there shall not be taken into account expenditures which are made from subsidized energy financing.

"(B) DOLLAR LIMITS REDUCED.—Paragraph (1) or (2) of subsection (b) (whichever is appropriate) shall be applied with respect to such dwelling unit for any taxable year of such taxpayer by reducing each dollar amount contained in such paragraph (reduced as provided in subsection (b)(3)) by an amount equal to the sum of—

"(i) the amount of the expenditures which were made by the taxpayer during such taxable year or any prior taxable year with respect to such dwelling unit and which were not taken into account by reason of subparagraph (A), and

"(ii) the amount of any Federal, State, or local grant received by the taxpayer during such taxable year or any prior taxable year which was used to make energy conservation or renewable energy source expenditures with respect to the dwelling unit and which was not included in the gross income of such taxpayer.

"(C) SUBSIDIZED ENERGY FINANCING.—For purposes of subparagraph (A), the term 'subsidized energy financing' means financing provided under a Federal, State, or local program a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy."

(b) RETURN REQUIREMENT.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information returns) is amended by adding at the end thereof the following new section:

"SEC. 6050D. RETURNS RELATING TO ENERGY GRANTS AND FINANCING. 26 USC 6050D.

"(a) IN GENERAL.—Every person who administers a Federal, State, or local program a principal purpose of which is to provide subsidized financing or grants for projects to conserve or produce energy shall, to the extent required under regulations prescribed by the Secretary, make a return setting forth the name and address of each taxpayer receiving financing or a grant under such program and the aggregate amount so received by such individual.

"(b) DEFINITION OF PERSON.—For purposes of this section, the term 'person' means the officer or employee having control of the program, or the person appropriately designated for purposes of this section."

(2) CONFORMING AMENDMENT.—The table of sections for such subpart B is amended by adding at the end thereof the following new item:

"Sec. 6050D. Returns relating to energy grants and financing."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980, but only with respect to financing or grants made after such date. 26 USC 44C note.

PART II—BUSINESS ENERGY INVESTMENT CREDITS

SEC. 221. CHANGES IN AMOUNT AND PERIOD OF APPLICATION OF ENERGY PERCENTAGE.

26 USC 46.

(a) IN GENERAL.—Subparagraph (C) of section 46(a)(2) (relating to energy percentage) is amended to read as follows:

"(C) ENERGY PERCENTAGE.—For purposes of this paragraph—

"(i) IN GENERAL.—The energy percentage shall be determined in accordance with the following table:

"Column A—Description	Column B—Percentage	Column C—Period	
In the case of:	The energy percentage is:	For the period:	
		Beginning on:	And ending on:
I. GENERAL RULE.—Property not described in any of the following provisions of this column	10 percent	Oct. 1, 1978	Dec. 31, 1982.
II. SOLAR, WIND, OR GEOTHERMAL PROPERTY.—Property described in section 48(l)(2)(A)(ii) or 48(l)(3)(A)(viii)	A. 10 percent	Oct. 1, 1978	Dec. 31, 1979.
	B. 15 percent	Jan. 1, 1980	Dec. 31, 1985.
III. OCEAN THERMAL PROPERTY.—Property described in section 48(l)(3)(A)(ix)	15 percent	Jan. 1, 1980	Dec. 31, 1985.
IV. QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—Property described in section 48(l)(2)(A)(vii)	11 percent	Jan. 1, 1980	Dec. 31, 1985.
V. QUALIFIED INTERCITY BUSES.—Property described in section 48(l)(2)(A)(ix)	10 percent	Jan. 1, 1980	Dec. 31, 1985.
VI. BIOMASS PROPERTY.—Property described in section 48(l)(15)	10 percent	Oct. 1, 1978	Dec. 31, 1985.

"(ii) PERIODS FOR WHICH PERCENTAGE NOT SPECIFIED.—In the case of any energy property, the energy percentage shall be zero for any period for which an energy percentage is not specified for such property under clause (i) (as modified by clauses (iii) and (iv)).

"(iii) LONGER PERIOD FOR CERTAIN LONG-TERM PROJECTS.—For the purpose of applying the energy percentage contained in subclause (I) of clause (i) with respect to property which is a part of a project with a normal construction period of 2 years or more (within the meaning of section 46(d)(2)(A)(i)), 'December 31, 1990' shall be substituted for 'December 31, 1982' if—

"(I) before January 1, 1983, the taxpayer has completed all engineering studies in connection with the commencement of the construction of the project, and has applied for all environmental and construction permits required under Federal, State, or local law in connection with the commencement of the construction of the project, and

"(II) before January 1, 1986, the taxpayer has entered into binding contracts for the acquisition,

construction, reconstruction, or erection of equipment specially designed for the project and the aggregate cost to the taxpayer of that equipment is at least 50 percent of the reasonably estimated cost for all such equipment which is to be placed in service as part of the project upon its completion.

"(iv) LONGER PERIOD FOR CERTAIN HYDROELECTRIC GENERATING PROPERTY.—If an application has been docketed by the Federal Energy Regulatory Commission before January 1, 1986, with respect to the installation of any qualified hydroelectric generating property, for purposes of applying the energy percentage contained in subclause (IV) of clause (i) with respect to such property, 'December 31, 1988' shall be substituted for 'December 31, 1985'."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 48(l) (relating to treatment as section 38 property) is amended to read as follows: 26 USC 48.

"(1) TREATMENT AS SECTION 38 PROPERTY.—For any period for which the energy percentage determined under section 46(a)(2)(C) for any energy property is greater than zero— 26 USC 46.

"(A) such energy property shall be treated as meeting the requirements of paragraph (1) of subsection (a), and

"(B) paragraph (3) of subsection (a) shall not apply to such property."

(2) Paragraph (11) of section 48(l) (relating to special rule for property financed by industrial development bonds) is amended by striking out "5 percent" and inserting in lieu thereof "one-half of the energy percentage determined under section 46(a)(2)(C)". *Post*, p. 266.

SEC. 222. CHANGES IN ENERGY PROPERTY ITEM DESCRIPTIONS.

(a) IN GENERAL.—Subparagraph (A) of section 48(l)(2) (defining energy property) is amended—

(1) by striking out "or" at the end of clause (v), and

(2) by adding at the end thereof the following new clauses:

"(vii) qualified hydroelectric generating property,

"(viii) cogeneration equipment, or

"(ix) qualified intercity buses,".

(b) ALTERNATIVE ENERGY PROPERTY.—Subparagraph (A) of section 48(l)(3) (defining alternative energy property) is amended—

(1) by striking out "(other than coke or coke gas)" in clause (iii),

(2) by striking out clause (v) and inserting in lieu thereof the following:

"(v) equipment to convert—

"(I) coal (including lignite), or any nonmarketable substance derived therefrom, into a substitute for a petroleum or natural gas derived feedstock for the manufacture of chemicals or other products, or

"(II) coal (including lignite), or any substance derived therefrom, into methanol, ammonia, or a hydroprocessed coal liquid or solid,",

(3) by striking out "and" at the end of clause (vii),

(4) by striking out the period at the end of clause (viii) and inserting in lieu thereof ", and", and

(5) by adding at the end thereof the following new clause:

"(ix) equipment, placed in service at either of 2 locations designated by the Secretary after consultation

with the Secretary of Energy, which converts ocean thermal energy to usable energy."

(c) SOLAR OR WIND ENERGY PROPERTY.—Paragraph (4) of section 48(l) (defining solar or wind energy property) is amended— 26 USC 48.

(1) by striking out "or" at the end of subparagraph (A),

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new subparagraph:

"(C) to provide solar process heat."

(d) SPECIALLY DEFINED ENERGY PROPERTY.—

(1) ALUMINA ELECTROLYTIC CELLS.—Paragraph (5) of section 48(l) (defining specially defined energy property) is amended—

(A) by striking out "or" at the end of subparagraph (K), and

(B) by redesignating subparagraph (L) as subparagraph (M) and by inserting after subparagraph (K) the following new subparagraph:

"(L) modifications to alumina electrolytic cells, or".

(2) STANDARDS FOR SECRETARIAL DISCRETION.—Paragraph (5) of section 48(l) is amended by adding at the end thereof the following new sentence: "The Secretary shall not specify any property under subparagraph (M) unless he determines that such specification meets the requirements of paragraph (9) of section 44C(c) for specification of items under section 44C(c)(4)(A)(viii)." *Ante*, p. 257.

(e) QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—

(1) IN GENERAL.—Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph:

"(13) QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—

"(A) IN GENERAL.—The term 'qualified hydroelectric generating property' means property installed at a qualified hydroelectric site which is—

"(i) equipment for increased capacity to generate electricity by water (up to, but not including, the electrical transmission stage), and

"(ii) structures for housing such generating equipment, fish passageways, and dam rehabilitation property, required by reason of the installation of equipment described in clause (i).

"(B) QUALIFIED HYDROELECTRIC SITE.—The term 'qualified hydroelectric site' means any site—

"(i) at which—

"(I) there is a dam the construction of which was completed before October 18, 1979, and which was not significantly enlarged after such date, or

"(II) electricity is to be generated without any dam or other impoundment of water, and

"(ii) the installed capacity of which is less than 125 megawatts.

"(C) LIMITATION ON CREDIT WHEN INSTALLED CAPACITY EXCEEDS 25 MEGAWATTS.—For purposes of applying the energy percentage to any qualified hydroelectric generating property placed in service in connection with a site the installed capacity of which exceeds 25 megawatts, the amount taken into account as qualified investment shall not exceed the amount which (but for this subparagraph) would be the qualified investment multiplied by a fraction—

"(i) the numerator of which is 25 reduced by 1 for each whole megawatt by which such installed capacity exceeds 100 megawatts, and

"(ii) the denominator of which is the number of megawatts of such installed capacity but not in excess of 100.

"(D) DAM REHABILITATION PROPERTY.—For purposes of this paragraph, the term 'dam rehabilitation property' means any amount properly chargeable to capital account for property (or additions or improvements to property) in connection with the rehabilitation of a dam.

"(E) INSTALLED CAPACITY.—The term 'installed capacity' means, with respect to any site, the installed capacity of all electrical generating equipment placed in service at such site. Such term includes the capacity of equipment installed during the 3 taxable years following the taxable year in which the equipment is placed in service."

(2) REGULAR INVESTMENT CREDIT TO APPLY TO FISH PASSAGEWAYS.—Subparagraph (D) of section 46(a)(2) (relating to special rule for certain energy property) is amended by adding at the end thereof the following new sentence: "In the case of any qualified hydroelectric generating property which is a fish passageway, the preceding sentence shall not apply to any period after 1979 for which the energy percentage for such property is greater than zero." 26 USC 46.

(f) COGENERATION PROPERTY.—Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph: 26 USC 48.

"(14) COGENERATION EQUIPMENT.—

"(A) IN GENERAL.—The term 'cogeneration equipment' means property which is an integral part of a system for using the same fuel to produce both qualified energy and electricity at an industrial or commercial facility at which, as of January 1, 1980, electricity or qualified energy was produced.

"(B) ONLY COGENERATION INCREASES TAKEN INTO ACCOUNT.—The term 'cogeneration equipment' includes property only to the extent that such property increases the capacity of the system to produce qualified energy or electricity, whichever is the secondary energy product of the system.

"(C) LIMITATION ON USE OF OIL OR GAS.—The term 'cogeneration equipment' does not include any property which is part of a system if—

"(i) such system uses oil or natural gas (or a product of oil or natural gas) as a fuel for any purpose other than—

"(I) start-up,

"(II) flame control, or

"(III) back-up, or

"(ii) more than 20 percent (determined on a Btu basis) of the fuel for such system for any taxable year consists of oil or natural gas (or a product of oil or natural gas).

"(D) QUALIFIED ENERGY.—The term 'qualified energy' means steam, heat, or other forms of useful energy (other than electric energy) to be used for industrial, commercial, or space-heating purposes (other than in the production of electricity).

"(E) INDUSTRIAL INCLUDES PURIFICATION AND DESALINIZATION OF WATER.—The term 'industrial' includes the purification of water and the desalinization of water."

(g) BIOMASS PROPERTY.—

26 USC 48.

(1) IN GENERAL.—Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph:

"(15) BIOMASS PROPERTY.—

"(A) IN GENERAL.—The term 'biomass property' means—

"(i) any property described in clause (i), (ii), or (iii) of paragraph (3)(A), as modified by the last sentence of paragraph (3)(A) and by subparagraph (B) of this paragraph, and

"(ii) any equipment described in so much of clause (vi) or (vii) of paragraph (3)(A) as relates to property described in clause (i) of this subparagraph.

"(B) MODIFICATIONS.—For purposes of subparagraph (A)—

"(i) the term 'alternate substance' has the meaning given to such term by paragraph (3)(B), except that such term does not include any inorganic substance and does not include coal (including lignite) or any product of such coal, and

"(ii) clause (iii) of paragraph (3)(A) shall be applied by substituting 'a qualified fuel' for 'a synthetic liquid, gaseous, or solid fuel'.

"(C) QUALIFIED FUEL.—For purposes of subparagraph (B), the term 'qualified fuel' means—

"(i) any synthetic solid fuel, and

"(ii) alcohol for fuel purposes if the primary source of energy for the facility producing the alcohol is not oil or natural gas or a product of oil or natural gas."

(2) STORAGE OF FUEL DERIVED FROM GARBAGE.—Subparagraph (A) of section 48(l)(3) (defining alternative energy property) is amended by adding at the end thereof the following new sentence:

Ante, p. 261.

"The equipment described in clause (vii) includes equipment used for the storage of fuel derived from garbage at the site at which such fuel was produced from garbage."

(h) QUALIFIED INTERCITY BUSES.—Subsection (l) of section 48 (relating to energy property) is amended by adding at the end thereof the following new paragraph:

"(16) QUALIFIED INTERCITY BUSES.—

"(A) IN GENERAL.—Paragraph (2)(A)(ix) shall apply only with respect to the qualified investment in qualified intercity buses of a taxpayer—

"(i) which is a common carrier regulated by the Interstate Commerce Commission or an appropriate State agency (as determined by the Secretary), and

"(ii) which is engaged in the trade or business of furnishing intercity passenger transportation or intercity charter service by bus.

"(B) QUALIFIED INTERCITY BUS.—The term 'qualified intercity bus' means an automobile bus—

"(i) the chassis and body of which is exempt under section 4063(a)(6) from the tax imposed by section 4061(a),

26 USC 4063.
26 USC 4061.

"(ii) which has—

"(I) a seating capacity of more than 35 passengers (in addition to the driver), and

"(II) 1 or more baggage compartments, separated from the passenger area, with a capacity of at least 200 cubic feet, and

"(iii) which is used predominantly by the taxpayer in the trade or business of furnishing intercity passenger transportation or intercity charter service.

"(C) OPERATING CAPACITY MUST INCREASE.—Under regulations prescribed by the Secretary—

"(i) IN GENERAL.—The amount of qualified investment taken into account under paragraph (2)(A)(ix) for any taxable year shall not exceed the amount of the qualified investment which is attributable to an increase in the taxpayer's total operating seating capacity for the taxable year over such capacity as of the close of the preceding taxable year.

"(ii) SPECIAL RULES.—The regulations prescribed under this subparagraph—

"(I) shall provide that only buses used predominantly on a full-time basis in the trade or business of furnishing intercity passenger or intercity charter service shall be taken into account in determining the taxpayer's total operating seating capacity, and

"(II) shall provide rules treating related taxpayers as 1 person."

(i) TECHNICAL AMENDMENTS.—

(1) PUBLIC UTILITY PROPERTY.— 26 USC 48.

(A) Paragraph (3) of section 48(l) is amended by striking out subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(B) Subsection (l) of section 48 is amended by adding at the end thereof the following new paragraph:

"(17) EXCLUSION FOR PUBLIC UTILITY PROPERTY.—The terms 'alternative energy property', 'biomass property', 'solar or wind energy property', 'recycling equipment', and 'cogeneration property' do not include property which is public utility property (within the meaning of section 46(f)(5))." 26 USC 46.

(2) OCEAN THERMAL PROPERTY.—Section 48(a)(2)(B) (relating to property used outside the United States) is amended—

(A) by striking out "and" at the end of clause (ix),

(B) by striking out the period at the end of clause (x) and inserting in lieu thereof ", and", and

(C) by inserting immediately after clause (x) the following new clause:

"(xi) any property described in subsection (l)(3)(A)(ix) which is owned by a United States person and which is used in international or territorial waters to generate energy for use in the United States."

(3) POLLUTION CONTROL EQUIPMENT.—Subparagraph (C) of section 48(l)(3) (as redesignated by paragraph (1)) is amended by adding at the end thereof the following new sentence: *Supra.*

"For purposes of the preceding sentence, in the case of property which is alternative energy property solely by reason of the amendments made by section 222(b) of the Crude Oil Windfall Profit Tax Act of 1980, 'January 1, 1980' shall be substituted for 'October 1, 1978'." *Ante,* p. 261.

26 USC 48 note.

(j) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to periods after December 31, 1979, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

26 USC 48.

(2) ALUMINA ELECTROLYTIC CELLS.—The amendments made by subsection (d)(1) shall apply to periods after September 30, 1978, under rules similar to the rules of section 48(m) of such Code.

SEC. 223. OTHER CHANGES WITH RESPECT TO THE INVESTMENT CREDIT FOR INVESTMENT IN ENERGY PROPERTY.

(a) BOILERS FUELED BY PETROLEUM COKE OR PETROLEUM PITCH.—

(1) IN GENERAL.—Paragraph (10) of section 48(a) (relating to boilers fueled by oil or gas) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'petroleum or petroleum products' does not include petroleum coke or petroleum pitch."

26 USC 48 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to periods after December 31, 1979, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

(b) REPEAL OF REFUNDABLE CREDIT FOR SOLAR OR WIND PROPERTY.—

26 USC 46.

(1) IN GENERAL.—Paragraph (10) of section 46(a) (relating to special rules in case of energy property) is amended—

(A) in subparagraph (A)—

(i) by inserting "and" at the end of clause (i),

(ii) by striking out "(other than solar or wind energy property), and" and inserting in lieu thereof a period in clause (ii), and

(iii) by striking out clause (iii);

(B) by striking out "OTHER THAN SOLAR OR WIND ENERGY PROPERTY" in the heading of subparagraph (B); and

(C) by striking out subparagraph (C).

26 USC 6401.

(2) CONFORMING AMENDMENT.—Section 6401 (relating to amounts treated as overpayments) is amended by striking out subsection (d).

26 USC 46 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to qualified investment for taxable years beginning after December 31, 1979.

(c) CREDIT TO BE REDUCED WHERE CERTAIN FINANCING IS USED.—

Ante, p. 261.

(1) IN GENERAL.—Paragraph (11) of section 48(l) (relating to special rule for property financed by industrial development bonds), as amended by section 221(b)(2), is amended to read as follows:

"(11) SPECIAL RULE FOR PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING OR INDUSTRIAL DEVELOPMENT BONDS.—

"(A) REDUCTION OF QUALIFIED INVESTMENT.—For purposes of applying the energy percentage to any property, if such property is financed in whole or in part by—

"(i) subsidized energy financing, or

"(ii) the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103,

26 USC 103.

the amount taken into account as qualified investment shall not exceed the amount which (but for this subparagraph) would be the qualified investment multiplied by the fraction determined under subparagraph (B).

"(B) DETERMINATION OF FRACTION.—For purposes of subparagraph (A), the fraction determined under this subparagraph is 1 reduced by a fraction—

"(i) the numerator of which is that portion of the qualified investment in the property which is allocable to such financing or proceeds, and

"(ii) the denominator of which is the qualified investment in the property.

"(C) SUBSIDIZED ENERGY FINANCING.—For purposes of subparagraph (A), the term 'subsidized energy financing' means financing provided under a Federal, State, or local program a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy."

(2) EFFECTIVE DATES.— 26 USC 48 note.

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply to periods after December 31, 1982, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954. 26 USC 48.

(B) EARLIER APPLICATION FOR CERTAIN PROPERTY.—In the case of property which is—

(i) qualified hydroelectric generating property (described in section 48(l)(2)(A)(vii) of such Code),

(ii) cogeneration equipment (described in section 48(l)(2)(A)(viii) of such Code),

(iii) qualified intercity buses (described in section 48(l)(2)(A)(ix) of such Code),

(iv) ocean thermal property (described in section 48(l)(3)(A)(ix) of such Code), or

(v) expanded energy credit property,

the amendment made by paragraph (1) shall apply to periods after December 31, 1979, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

(C) EXPANDED ENERGY CREDIT PROPERTY.—For purposes of subparagraph (B), the term "expanded energy credit property" means—

(i) property to which section 48(l)(3)(A) of such Code applies because of the amendments made by paragraphs (1) and (2) of section 222(b), *Ante*, p. 261.

(ii) property described in section 48(l)(4)(C) of such Code (relating to solar process heat), *Ante*, p. 262.

(iii) property described in section 48(l)(5)(L) of such Code (relating to alumina electrolytic cells), and *Ante*, p. 262.

(iv) property described in the last sentence of section 48(l)(3)(A) of such Code (relating to storage equipment for refuse-derived fuel). *Ante*, p. 264.

(D) FINANCING TAKEN INTO ACCOUNT.—For the purpose of applying the provisions of section 48(l)(11) of such Code in the case of property financed in whole or in part by subsidized energy financing (within the meaning of section 48(l)(11)(C) of such Code), no financing made before January 1, 1980, shall be taken into account. The preceding sentence shall not apply to financing provided from the proceeds of any tax-exempt industrial development bond (within the meaning of section 103(b)(2) of such Code). *Ante*, p. 266. 26 USC 103.

PART III—PRODUCTION OF FUEL FROM NONCONVENTIONAL SOURCES; ALCOHOL FUELS

SEC. 231. PRODUCTION TAX CREDIT.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by inserting after section 44C the following new section:

26 USC 44D.

"SEC. 44D. CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to—

"(1) $3, multiplied by

"(2) the barrel-of-oil equivalent of qualified fuels—

"(A) sold by the taxpayer to an unrelated person during the taxable year, and

"(B) the production of which is attributable to the taxpayer.

"(b) LIMITATIONS AND ADJUSTMENTS.—

"(1) PHASEOUT OF CREDIT.—The amount of the credit allowable under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

"(A) the amount by which the reference price for the calendar year in which the taxable year begins exceeds $23.50, bears to

"(B) $6.

"(2) CREDIT AND PHASEOUT ADJUSTMENT BASED ON INFLATION.—The $3 amount in subsection (a) and the $23.50 and $6 amounts in paragraph (1) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which a taxable year begins. In the case of gas from a tight formation, the $3 amount in subsection (a) shall not be adjusted.

"(3) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANCING.—

"(A) IN GENERAL.—The amount of the credit allowable under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and a fraction—

"(i) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

"(I) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

"(II) proceeds of any issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103, and

26 USC 103.

"(III) the aggregate amount of subsidized energy financing (within the meaning of section 48(l)(11)(C)) provided in connection with the project, and

Ante, p. 266.

"(ii) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

"(B) AMOUNTS DETERMINED AT CLOSE OF YEAR.—The amounts under subparagraph (A) for any taxable year shall be determined as of the close of the taxable year.

"(4) CREDIT REDUCED FOR ENERGY CREDIT.—The amount allowable as a credit under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1), (2), and (3)) shall be reduced by the excess of—

"(A) the aggregate amount allowed under section 38 for the taxable year or any prior taxable year by reason of the energy percentage with respect to property used in the project, over 26 USC 38.

"(B) the aggregate amount recaptured with respect to the amount described in subparagraph (A)—

"(i) under section 47 for the taxable year or any prior taxable year, or 26 USC 47.

"(ii) under this paragraph for any prior taxable year.

The amount recaptured under section 47 with respect to any property shall be appropriately reduced to take into account any reduction in the credit allowed by this section by reason of the preceding sentence.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for a taxable year shall not exceed the tax imposed by this chapter for such taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a). 26 USC 31, 39, 43. 26 USC 53.

"(c) DEFINITION OF QUALIFIED FUELS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified fuels' means—

"(A) oil produced from shale and tar sands,

"(B) gas produced from—

"(i) geopressured brine, Devonian shale, coal seams, or a tight formation, or

"(ii) biomass,

"(C) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when used as feedstocks,

"(D) qualifying processed wood fuels, and

"(E) steam produced from solid agricultural byproducts (not including timber byproducts).

"(2) GAS FROM GEOPRESSURED BRINE, ETC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the determination of whether any gas is produced from geopressured brine, Devonian shale, coal seams, or a tight formation shall be made in accordance with section 503 of the Natural Gas Policy Act of 1978. 15 USC 3413.

"(B) SPECIAL RULES FOR GAS FROM TIGHT FORMATIONS.—The term 'gas produced from a tight formation' shall only include—

"(i) gas the price of which is regulated by the United States, and

"(ii) gas for which the maximum lawful price applicable under the Natural Gas Policy Act of 1978 is at least 150 percent of the then applicable price under section 103 of such Act. 15 USC 3301 note. 15 USC 3313.

"(3) BIOMASS.—The term 'biomass' means any organic material which is an alternate substance (as defined in section 48(l)(3)(B)) other than coal (including lignite) or any product of such coal.

26 USC 48.

"(4) QUALIFYING PROCESSED WOOD FUEL.—

"(A) IN GENERAL.—The term 'qualifying processed wood fuel' means any processed solid wood fuel (other than charcoal, fireplace products, or a product used for ornamental or recreational purposes) which has a Btu content per unit of volume or weight, determined without regard to any non-wood elements, which is at least 40 percent greater per unit of volume or weight than the Btu content of the wood from which it is produced (determined immediately before the processing).

"(B) ELECTION.—A taxpayer shall elect, at such time and in such manner as the Secretary by regulations may prescribe, as to whether Btu content per unit shall be determined for purposes of this paragraph on a volume or weight basis. Any such election—

"(i) shall apply to all production from a facility; and

"(ii) shall be effective for the taxable year with respect to which it is made and for all subsequent taxable years and, once made, may be revoked only with the consent of the Secretary.

"(5) AGRICULTURAL BYPRODUCT STEAM.—Steam produced from solid agricultural byproducts which is used by the taxpayer in his trade or business shall be treated as having been sold by the taxpayer to an unrelated person on the date on which it is used.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ONLY PRODUCTION WITHIN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to qualified fuels the production of which is within—

"(A) the United States (within the meaning of section 638(1)), or

26 USC 638.

"(B) a possession of the United States (within the meaning of section 638(2)).

"(2) COMPUTATION OF INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICE.—

Publication in Federal Register.

"(A) IN GENERAL.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor and the reference price for the preceding calendar year in accordance with this paragraph.

"(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GNP implicit price deflator for the calendar year and the denominator of which is the GNP implicit price deflator for calendar year 1979. The term 'GNP implicit price deflator' means the first revision of the implicit price deflator for the gross national product as computed and published by the Department of Commerce.

"(C) REFERENCE PRICE.—The term 'reference price' means with respect to a calendar year the Secretary's estimate of the annual average wellhead price per barrel for all domestic crude oil the price of which is not subject to regulation by the United States.

"(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a property or facility in which more than 1 person has an interest, except to the extent provided in regulations prescribed by the Secretary, production from the property or facility (as the case may be) shall be allocated among such persons in proportion to their respective interests in the gross sales from such property or facility.

"(4) SPECIAL RULES APPLICABLE TO GAS FROM GEOPRESSURED BRINE, DEVONIAN SHALE, COAL SEAMS, OR A TIGHT FORMATION.—

"(A) CREDIT ALLOWED ONLY FOR NEW PRODUCTION.—The amount of the credit allowable under subsection (a) shall be determined without regard to any production attributable to a property from which gas from Devonian shale, coal seams, geopressured brine, or a tight formation was produced in marketable quantities before January 1, 1980.

"(B) REFERENCE PRICE AND APPLICATION OF PHASEOUT FOR DEVONIAN SHALE.—

"(i) REFERENCE PRICE FOR DEVONIAN SHALE.—For purposes of this section, the term 'reference price' for gas from Devonian shale sold during calendar years 1980, 1981, and 1982 shall be the average wellhead price per thousand cubic feet for such year of high cost natural gas (as defined in section 107(c) (2), (3), and (4) of the Natural Gas Policy Act of 1978 and determined under section 503 of that Act) as estimated by the Secretary after consultation with the Federal Energy Regulatory Commission. 15 USC 3317. 15 USC 3413.

"(ii) DIFFERENT PHASEOUT TO APPLY FOR 1980, 1981, AND 1982.—For purposes of applying paragraphs (1) and (2) of subsection (b) with respect to sales during calendar years 1980, 1981, and 1982 of gas from Devonian shale, '$4.05' shall be substituted for '$23.50' and '$1.03' shall be substituted for '$6.00'.

"(5) PHASEOUT DOES NOT APPLY FOR FIRST 3 YEARS OF PRODUCTION FROM FACILITY PRODUCING QUALIFYING PROCESSED WOOD OR STEAM FROM SOLID AGRICULTURAL BYPRODUCTS.—In the case of a facility for the production of—

"(A) qualifying processed wood fuel,

or

"(B) steam from solid agricultural byproducts,

paragraph (1) of subsection (b) shall not apply with respect to the amount of the credit allowable under subsection (a) for fuels sold during the 3-year period beginning on the date the facility is placed in service.

"(6) BARREL-OF-OIL EQUIVALENT.—The term 'barrel-of-oil equivalent' with respect to any fuel means that amount of such fuel which has a Btu content of 5.8 million; except that in the case of qualified fuels described in subparagraph (C), (D), or (E) of subsection (c)(1), the Btu content shall be determined without regard to any material from a source not described in such subparagraph.

"(7) BARREL DEFINED.—The term 'barrel' means 42 United States gallons.

"(8) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). 26 USC 52.

26 USC 1371.

"(9) PASS-THROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.

26 USC 52.

"(e) CREDIT NOT ALLOWABLE IF TAXPAYER MAKES ELECTION UNDER NATURAL GAS POLICY ACT OF 1978.—If the taxpayer makes an election under section 107(d) of the Natural Gas Policy Act of 1978 to have subsections (a) and (b) of section 107 of that Act, and subtitle B of title I of that Act, apply with respect to gas described in subsection (c)(1)(B)(i) produced from any well on a property, then the credit allowable by subsection (a) shall not be allowed with respect to any gas produced on that property.

15 USC 3301 note.
15 USC 3317.
15 USC 3331.

"(f) APPLICATION OF SECTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply with respect to qualified fuels—

"(A) which are—

"(i) produced from a well drilled after December 31, 1979, and before January 1, 1990, or

"(ii) produced in a facility placed in service after December 31, 1979, and before January 1, 1990, and

"(B) which are sold after December 3, 1979, and before January 1, 2001.

"(2) SPECIAL RULES APPLICABLE TO QUALIFIED PROCESSED WOOD AND SOLID AGRICULTURAL BYPRODUCT STEAM.—

"(A) CREDIT ALLOWED ONLY FOR CERTAIN PRODUCTION.—In the case of qualifying processed wood fuel and steam from solid agricultural byproducts, this section shall apply only with respect to—

"(i) qualifying processed wood fuel produced in facilities placed in service after December 3, 1979, and before January 1, 1982, which is sold before the later of—

"(I) October 1, 1983, or

"(II) the date which is 3 years after the date on which the facility is placed in service; and

"(ii) steam produced in facilities placed in service after December 31, 1979, from solid agricultural byproducts which is sold before January 1, 1985.

"(B) EXPANDED PRODUCTION OF STEAM TREATED AS NEW FACILITY PRODUCTION.—For purposes of this subsection and subsection (d)(5), in the case of a facility for the production of steam from solid agricultural byproducts which was placed in service before January 1, 1980, any production of steam attributable to an expansion of the capacity of the facility to produce such steam through placing additional or replacement equipment in service after December 31, 1979, shall be treated as if it were produced by a facility placed in service on the date on which such equipment is placed in service."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Credit for producing fuel from a nonconventional source."

26 USC 6096.

(2) Subsection (b) of section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

26 USC 44D note.

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years ending after December 31, 1979.

SEC. 232. ALCOHOL FUELS.

(a) EXTENSION OF EXEMPTION THROUGH 1992.—

(1) GASOLINE.—Subsection (c) of section 4081 (relating to gasoline mixed with alcohol) is amended by adding at the end thereof the following new paragraph: 26 USC 4081.

"(4) TERMINATION.—Paragraph (1) shall not apply to any sale after December 31, 1992."

(2) SPECIAL FUELS.—Subsection (k) of section 4041 (relating to fuels containing alcohol) is amended by adding at the end thereof the following new paragraph: 26 USC 4041.

"(3) TERMINATION.—Paragraph (1) shall not apply to any sale or use after December 31, 1992."

(3) TECHNICAL AMENDMENT.—Subsections (a)(2) and (b)(2) of the Energy Tax Act of 1978 are each amended by striking out ", and before October 1, 1984". 26 USC 4041 note, 4081 note.

(b) CREDIT AGAINST INCOME TAX.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by inserting before section 45 the following new section:

"SEC. 44E. ALCOHOL USED AS FUEL. 26 USC 44E.

"(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the alcohol mixture credit, plus

"(2) the alcohol credit.

"(b) DEFINITION OF ALCOHOL MIXTURE CREDIT AND ALCOHOL CREDIT.—For purposes of this section—

"(1) ALCOHOL MIXTURE CREDIT.—

"(A) IN GENERAL.—The alcohol mixture credit of any taxpayer for any taxable year is 40 cents for each gallon of alcohol used by the taxpayer in the production of a qualified mixture.

"(B) QUALIFIED MIXTURE.—The term 'qualified mixture' means a mixture of alcohol and gasoline or of alcohol and a special fuel which—

"(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

"(ii) is used as a fuel by the taxpayer producing such mixture.

"(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Alcohol used in the production of a qualified mixture shall be taken into account—

"(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

"(ii) for the taxable year in which such sale or use occurs.

"(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified mixture.

"(2) ALCOHOL CREDIT.—

"(A) IN GENERAL.—The alcohol credit of any taxpayer for any taxable year is 40 cents for each gallon of alcohol which is not in a mixture with gasoline or a special fuel (other than any denaturant) and which during the taxable year—

"(i) is used by the taxpayer as a fuel in a trade or business, or

"(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

"(B) USER CREDIT NOT TO APPLY TO ALCOHOL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any alcohol which was sold in a retail sale described in subparagraph (A)(ii).

"(3) SMALLER CREDIT FOR LOWER PROOF ALCOHOL.—In the case of any alcohol with a proof which is at least 150 but less than 190, paragraphs (1)(A) and (2)(A) shall be applied by substituting "30 cents" for "40 cents".

"(4) ADDING OF DENATURANTS NOT TREATED AS MIXTURE.—The adding of any denaturant to alcohol shall not be treated as the production of a mixture.

"(c) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—The amount of the credit allowable under this section with respect to any alcohol shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such alcohol solely by reason of the application of section 4041(k) or 4081(c).

Ante, p. 273.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ALCOHOL DEFINED.—

"(A) IN GENERAL.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum, natural gas, or coal, or

"(ii) alcohol with a proof of less than 150.

"(B) DETERMINATION OF PROOF.—The determination of the proof of any alcohol shall be made without regard to any added denaturants.

"(2) SPECIAL FUEL DEFINED.—The term 'special fuel' includes any liquid fuel (other than gasoline) which is suitable for use in an internal combustion engine.

"(3) MIXTURE OR ALCOHOL NOT USED AS A FUEL, ETC.—

"(A) MIXTURES.—If—

"(i) any credit was allowable under this section with respect to alcohol used in the production of any qualified mixture, and

"(ii) any person—

"(I) separates the alcohol from the mixture, or

"(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to 40 cents a gallon (30 cents in the case of alcohol with a proof less than 190) for each gallon of alcohol in such mixture.

"(B) ALCOHOL.—If—

"(i) any credit was allowable under this section with respect to the retail sale of any alcohol, and

"(ii) any person mixes such alcohol or uses such alcohol other than as a fuel,

then there is hereby imposed on such person a tax equal to 40 cents a gallon (30 cents in the case of alcohol with a proof less than 190) for each gallon of such alcohol.

"(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

26 USC 4081.

"(4) VOLUME OF ALCOHOL.—For purposes of determining—

"(A) under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), or

"(B) under section 4041(k) or 4081(c) the percentage of any mixture which consists of alcohol, *Ante*, p. 273.

the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).

"(5) PASS-THROUGH IN THE CASE OF SUBCHAPTER S CORPORATIONS, ETC.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply. 26 USC 1371. 26 USC 52.

"(e) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the credit allowed by this section for the taxable year shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowed under a section of this subpart having a lower number designation than this section, other than credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a). 26 USC 31, 39, 43. 26 USC 53.

"(2) CARRYOVER OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the amount of the credit determined under subsection (a) for any taxable year exceeds the limitation provided by paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be an alcohol fuel credit carryover to each of the 7 taxable years following the unused credit year, and shall be added to the amount allowable as credit under subsection (a) for such years. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 7 taxable years to which (by reason of the preceding sentence) such credit may be carried, and then to each of the other 6 taxable years to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATION.—The amount of the unused credit which may be added under subparagraph (A) for any succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such succeeding taxable year exceeds the sum of—

"(i) the credit allowable under subsection (a) for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(f) TERMINATION.—

"(1) IN GENERAL.—This section shall not apply to any sale or use after December 31, 1992.

"(2) NO CARRYOVERS TO YEARS AFTER 1994.—No amount may be carried under subsection (e)(2) to any taxable year beginning after December 31, 1994."

(2) TECHNICAL AMENDMENTS RELATED TO CARRYOVER OF CREDIT.—

26 USC 55.

(A) Paragraph (3) of section 55(c) is amended by adding at the end thereof the following new sentence:

Ante, p. 273.

"In determining any carryover under section 44E(e)(2), a rule similar to the rule set forth in subparagraph (A) shall be treated as inserted in this paragraph before subparagraph (A), and the applications of subparagraphs (A), (B), and (C) shall be adjusted accordingly."

26 USC 381.

(B) Subsection (c) of section 381 (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(27) CREDIT UNDER SECTION 44E FOR ALCOHOL USED AS FUEL.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44E, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44E in respect of the distributor or transferor corporation."

26 USC 383.

(C) Section 383 (relating to special limitations on unused investment credits, work incentive credits, new employee credits, foreign taxes, and capital losses), as in effect for taxable years beginning after June 30, 1982, is amended—

(i) by inserting "to any unused credit of the corporation under section 44E(e)(2)," after "section 53(c),", and

(ii) by striking out **"NEW EMPLOYEE CREDITS"** in the section heading and inserting in lieu thereof **"NEW EMPLOYEE CREDITS, ALCOHOL FUEL CREDITS".**

26 USC 1 note.

(D) Section 383 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended—

(i) by inserting "to any unused credit of the corporation which could otherwise be carried forward under section 44E(e)(2)," after "section 53(c),", and

(ii) by striking out **"NEW EMPLOYEE CREDITS"** in the section heading and inserting in lieu thereof **"NEW EMPLOYEE CREDITS, ALCOHOL FUEL CREDITS".**

(3) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 4081.

(A) Paragraph (3) of section 4081(c) (defining alcohol) is amended by adding at the end thereof the following new sentence: "Such term does not include alcohol with a proof of less than 190 (determined without regard to any added denaturants)."

(B) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting immediately after the item relating to section 44D the following new item:

"Sec. 44E. Alcohol used as fuel."

26 USC 6

(C) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund), as amended by section 231, is amended by striking out "and 44D" and inserting "44D, and 44E".

(c) CREDIT TO BE INCLUDED IN INCOME.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 86. ALCOHOL FUEL CREDIT. 26 USC 86.

"Gross income includes an amount equal to the amount of the credit allowable to the taxpayer under section 44E for the taxable year (determined without regard to subsection (e) thereof)." *Ante*, p. 273.

(2) TECHNICAL AMENDMENT.—Subparagraph (B) of section 55(b)(1) (defining alternative minimum taxable income) is amended by striking out "section 667" and inserting in lieu thereof "section 86 or 667". 26 USC 55.

(3) CONFORMING AMENDMENT.—The table of sections for such part II is amended by inserting at the end thereof the following new item:

"Sec. 86. Alcohol fuel credit."

(d) REFUND OF TAX ON GASOLINE USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

(1) GENERAL RULE.—Section 6427 (relating to fuels not used for taxable purposes) is amended— 26 USC 6427.

(A) by redesignating subsections (f), (g), (h), (i), and (j) as subsections (g), (h), (i), (j), and (k), respectively; and

(B) by inserting after subsection (e) the following new subsection:

"(f) GASOLINE USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (i), if any gasoline on which tax is imposed by section 4081 is used by any person in producing a mixture described in section 4081(c) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such gasoline. The preceding sentence shall not apply with respect to any mixture sold or used after December 31, 1992. 26 USC 4081. *Ante*, pp. 273, 276. *Infra.*

"(2) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under subsection (d) or (e) of this section or under section 6420 or 6421 with respect to any gasoline with respect to which an amount is payable under paragraph (1)." 26 USC 6420, 6421.

(2) QUARTERLY REFUND ALLOWED WHERE $200 OR MORE IS PAYABLE.—

(A) Subparagraph (A) of section 6427(g)(2) (as redesignated by paragraph (1)) is amended by striking out "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause: 26 USC 6427.

"(iii) $200 or more is payable under subsection (f),".

(B) Subparagraph (B) of section 6427(g)(2) (as redesignated by paragraph (1)) is amended to read as follows:

"(B) SPECIAL RULE.—If the requirements of clause (ii) or clause (iii) of subparagraph (A) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in the clause (or clauses) of subparagraph (A) the requirements of which are met by such person for such quarter."

(3) TREATMENT OF SUBSEQUENT SEPARATION.—Paragraph (2) of section 4081(c) (relating to later separation of gasoline) is amended by inserting "(or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1))" after "this subsection". 26 USC 4081.

(4) TECHNICAL AMENDMENTS.—

26 USC 39.

(A) Subsections (a)(4) and (b) of section 39 are each amended by striking out "6427(h)" and inserting in lieu thereof "6427(i)".

26 USC 6427.

(B) Subsections (a), (b)(1), (c), (d), and (e)(1) of section 6427 are each amended by striking out "(h)" and inserting in lieu thereof "(i)".

Ante, p. 277.

(C) Subsection (g)(1) of such section 6427 (as redesignated by paragraph (1)(A)) is amended by striking out "(a), (b), (c), (d), or (e)" and inserting in lieu thereof "(a), (b), (c), (d), (e), or (f)".

(D) Subsection (i)(2) of such section 6427 (as redesignated by paragraph (1)(A)) is amended by striking out "(f)(2)" and inserting in lieu thereof "(g)(2)".

26 USC 7210, 7603, 7604, 7605, 7609, 7610.

(E) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) are each amended by striking out "6427(g)(2)" each place it appears and inserting in lieu thereof "6427(h)(2)".

(e) EXEMPTION FROM DISTILLED SPIRITS RULES.—

(1) IN GENERAL.—Subchapter B of chapter 51 (relating to distilled spirits, wines, and beers) is amended by redesignating section 5181 as section 5182 and by inserting after section 5180 the following new section:

26 USC 5182.

26 USC 5181.

"SEC. 5181. DISTILLED SPIRITS FOR FUEL USE.

"(a) IN GENERAL.—

"(1) PURPOSES FOR WHICH PLANT MAY BE ESTABLISHED.—On such application and bond and in such manner as the Secretary may prescribe by regulation, a person may establish a distilled spirits plant solely for the purpose of—

"(A) producing, processing, and storing, and

"(B) using or distributing,

distilled spirits to be used exclusively for fuel use.

"(2) REGULATIONS.—In prescribing regulations under paragraph (1) and in carrying out the provisions of this section, the Secretary shall, to the greatest extent possible, take steps to—

"(A) expedite all applications;

"(B) establish a minimum bond; and

"(C) generally encourage and promote (through regulation or otherwise) the production of alcohol for fuel purposes.

"(b) AUTHORITY TO EXEMPT.—The Secretary may by regulation provide for the waiver of any provision of this chapter (other than this section or any provision requiring the payment of tax) for any distilled spirits plant described in subsection (a) if the Secretary finds it necessary to carry out the provisions of this section.

"(c) SPECIAL RULES FOR SMALL PLANT PRODUCTION.—

"(1) APPLICATIONS.—

"(A) IN GENERAL.—An application for an operating permit for an eligible distilled spirits plant shall be in such a form and manner, and contain such information, as the Secretary may by regulations prescribe; except that the Secretary shall, to the greatest extent possible, take steps to simplify the application so as to expedite the issuance of such permits.

"(B) RECEIPT OF APPLICATION.—Within 15 days of receipt of an application under subparagraph (A), the Secretary shall send a written notice of receipt to the applicant, together with a statement as to whether the application meets the requirements of subparagraph (A). If such a notice is not sent

and the applicant has a receipt indicating that the Secretary has received an application, paragraph (2) shall apply as if a written notice required by the preceding sentence, together with a statement that the application meets the requirements of subparagraph (A), had been sent on the 15th day after the date the Secretary received the application.

"(C) MULTIPLE APPLICATIONS.—If more than one application is submitted with respect to any eligible distilled spirits plant in any calendar quarter, the provisions of this section shall apply only to the first application submitted with respect to such plant during such quarter. For purposes of the preceding sentence, if a corrected or amended first application is filed, such application shall not be considered as a separate application, and the 15-day period referred to in subparagraph (A) shall commence with receipt of the corrected or amended application.

"(2) DETERMINATION.—

"(A) IN GENERAL.—In any case in which the Secretary under paragraph (1)(B) has notified an applicant of receipt of an application which meets the requirements of paragraph (1)(A), the Secretary shall make a determination as to whether such operating permit is to be issued, and shall notify the applicant of such determination, within 45 days of the date on which notice was sent under paragraph (1)(B).

"(B) FAILURE TO MAKE DETERMINATION.—If the Secretary has not notified an applicant within the time prescribed under subparagraph (A), the application shall be treated as approved.

"(C) REJECTION OF APPLICATION.—If the Secretary determines under subparagraph (A) that a permit should not be issued—

"(i) the Secretary shall include in the notice to the applicant of such determination under subparagraph (A) detailed reasons for such determination, and

"(ii) such determination shall not prejudice any further application for such operating permit.

"(3) BOND.—No bond shall be required for an eligible distilled spirits plant. For purposes of section 5212 and subsection (e)(2) of this section, the premises of an eligible distilled spirits plant shall be treated as bonded premises. 26 USC 5212.

"(4) ELIGIBLE DISTILLED SPIRITS PLANT.—The term 'eligible distilled spirits plant' means a plant which is used to produce distilled spirits exclusively for fuel use and the production from which does not exceed 10,000 proof gallons per year.

"(d) WITHDRAWAL FREE OF TAX.—Distilled spirits produced under this section may be withdrawn free of tax from the bonded premises (and any premises which are not bonded by reason of subsection (c)(3)) of a distilled spirits plant exclusively for fuel use as provided in section 5214(a)(12). 26 USC 5214.

"(e) PROHIBITED WITHDRAWAL, USE, SALE, OR DISPOSITION.—

"(1) IN GENERAL.—Distilled spirits produced under this section shall not be withdrawn, used, sold, or disposed of for other than fuel use.

"(2) RENDERING UNFIT FOR USE.—For protection of the revenue and under such regulations as the Secretary may prescribe, distilled spirits produced under this section shall, before withdrawal from the bonded premises of a distilled spirits plant, be

rendered unfit for beverage use by the addition of substances which will not impair the quality of the spirits for fuel use.

"(f) DEFINITION OF DISTILLED SPIRITS.—For purposes of this section, the term 'distilled spirits' does not include distilled spirits produced from petroleum, natural gas, or coal".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 5601.

(A) Section 5601(a) (relating to criminal penalties) is amended by adding the word "or" at the end of paragraph (14) and by inserting immediately after paragraph (14) the following new paragraph:

"(15) UNAUTHORIZED WITHDRAWAL, USE, SALE, OR DISTRIBUTION OF DISTILLED SPIRITS FOR FUEL USE.—Withdraws, uses, sells, or otherwise disposes of distilled spirits produced under section 5181 for other than fuel use;".

Ante, p. 278.

26 USC 5214.

(B) Section 5214(a) (relating to withdrawal of distilled spirits from bonded premises free of tax) is amended by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon and the word "or" and by adding at the end thereof the following new paragraph:

"(12) free of tax in the case of distilled spirits produced under section 5181."

Ante, p. 278.

26 USC 5004.

(C) Section 5004(a)(2)(B) (relating to lien for tax) is amended by striking out "or (11)," and inserting "(11), or (12),".

26 USC 5005.

(D) Section 5005(d) (relating to person liable for tax) is amended by striking out "or (11)," and inserting "(11), or (12),".

Repeal. 26 USC 4081 note.

(E) Section 221(d) of the Energy Tax Act of 1978 is repealed.

(F) The table of sections for subchapter B of chapter 51 is amended by striking out the item relating to section 5181 and by inserting after section 5180 the following new items:

"Sec. 5181. Distilled spirits for fuel use.
"Sec. 5182. Cross references."

Submittal to congressional committees. 26 USC 4041 note.

(f) STUDY OF IMPORTED ALCOHOL.—Within 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall furnish to the Committee on Finance of the United States Senate and to the Committee on Ways and Means of the United States House of Representatives recommendations as to what methods, if any, may be used to limit the importing of alcohol into the United States for fuel purposes, including, but not limited to—

(1) denial of the exemption under sections 4081(c) and 4041(k) of the Internal Revenue Code of 1954 or of the credit under section 44E of such Code to fuels produced from imported alcohol,

Ante, pp. 273, 276, 277.

(2) import quotas and duties on such alcohol, and

(3) strict surveillance of such imports to monitor their effect on the domestic fuel alcohol industry.

(g) REPORTS.—Subsection (c) of section 221 of the Energy Tax Act of 1978 is amended to read as follows:

26 USC 4041 note. Submittal to Congress.

"(c) REPORTS.—On April 1 of each year, beginning with April 1, 1981, and ending with April 1, 1992, the Secretary of Energy, in consultation with the Secretary of the Treasury and the Secretary of Transportation, shall submit to the Congress a report on the use of alcohol in fuel. The report shall include—

"(1) a description of the firms engaged in the alcohol fuel industry,

"(2) the amount of alcohol fuel sold in each State, and the amount of gasoline saved in each State by reason of the use of alcohol fuels,

"(3) the revenue loss resulting from the exemptions from tax for alcohol fuels under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954 and the credit allowable under section 44E of such Code and the impact of such revenue loss on the Highway Trust Fund, and

Ante, pp. 273, 276, 277.

"(4) the cost of production and the retail cost of alcohol fuels as compared to gasoline and special fuels not mixed with alcohol."

(h) EFFECTIVE DATES.—

(1) SUBSECTIONS (b) AND (c).—The amendments made by subsections (b) and (c) shall apply to sales or uses after September 30, 1980, in taxable years ending after such date.

26 USC 44E note.

(2) SUBSECTION (d).—

26 USC 6427 note.

(A) IN GENERAL.—The amendments made by subsection (d) shall take effect on January 1, 1979.

(B) TRANSITIONAL RULE.—Any mixture sold or used on or after January 1, 1979, and before the date of the enactment of this Act which is described in section 6427(f)(1) of the Internal Revenue Code of 1954 (as amended by subsection (d)) shall, for purposes of section 6427 of such Code, be treated as sold or used on the date of the enactment of this Act.

Ante, p. 277.

(3) DISTILLED SPIRITS PLANTS.—The amendments made by subsection (e) shall take effect on the first day of the first calendar month beginning more than 60 days after the date of the enactment of this Act.

26 USC 5181 note.

PART IV—ENERGY-RELATED USES OF TAX-EXEMPT BONDS

SEC. 241. SOLID WASTE DISPOSAL FACILITIES.

(a) IN GENERAL.—Section 103 (relating to interest on governmental obligations) is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

26 USC 103.

"(g) QUALIFIED STEAM-GENERATING OR ALCOHOL-PRODUCING FACILITIES.—

"(1) IN GENERAL.—For purposes of subsection (b)(4)(E), the term 'solid waste disposal facility' includes—

Definitions.

"(A) a qualified steam-generating facility, and

"(B) a qualified alcohol-producing facility.

"(2) QUALIFIED STEAM-GENERATING FACILITY DEFINED.—For purposes of paragraph (1), the term 'qualified steam-generating facility' means a steam-generating facility for which—

"(A) more than half of the fuel (determined on a Btu basis) is solid waste or fuel derived from solid waste, and

"(B) substantially all of the solid waste derived fuel is produced at a facility which is—

"(i) located at or adjacent to the site for such steam-generating facility, and

"(ii) owned and operated by the person who owns and operates the steam-generating facility.

"(3) QUALIFIED ALCOHOL-PRODUCING FACILITY.—For purposes of paragraph (1), the term 'qualified alcohol-producing facility' means a facility—

"(A) the primary product of which is alcohol,

"(B) more than half of the feedstock for which is solid waste or a feedstock derived from solid waste, and

"(C) substantially all of the solid waste derived feedstock for which is produced at a facility which is—

"(i) located at or adjacent to the site for such alcohol-producing facility, and

"(ii) owned and operated by the person who owns and operates the alcohol-producing facility.

"(4) SPECIAL RULE IN CASE OF STEAM-GENERATING FACILITY.—A facility for producing solid waste derived fuel shall be treated as a facility which meets the requirements of clauses (i) and (ii) of paragraph (2)(B) if—

"(A) such facility and the steam-generating facility are owned and operated by or for a State or the same political subdivision or subdivisions of a State, and

"(B) substantially all of the solid waste used in producing the solid waste derived fuel at the facility producing such fuel is collected from the area in which the steam-generating facility is located."

26 USC 103 note.

(b) CERTAIN SOLID WASTE AND ENERGY-PRODUCING FACILITIES.—

Ante, p. 281.
Post, p. 286.

(1) GENERAL RULE.—For purposes of section 103 of the Internal Revenue Code of 1954, any obligation issued by an authority for 2 or more political subdivisions of a State which is part of an issue substantially all of the proceeds of which are to be used to provide solid waste-energy producing facilities shall be treated as an obligation of a political subdivision of a State which meets the requirements of section 103(b)(4)(E) of such Code (relating to solid waste disposal, etc., facilities). Nothing in the preceding sentence shall be construed to override the limitations of section 103(c) of such Code (relating to arbitrage bonds).

(2) SOLID WASTE-ENERGY PRODUCING FACILITIES.—For purposes of paragraph (1), the term "solid waste-energy producing facilities" means any solid waste disposal facility and any facility for the production of steam and electrical energy if—

(A) substantially all of the fuel for the facility producing steam and electrical energy is derived from solid waste from such solid waste disposal facility,

(B) both such solid waste disposal facility and the facility producing steam and electrical energy are owned and operated by the authority referred to in paragraph (1), and

(C) all of the electrical energy and steam produced by the facility for producing steam and electricity which is not used by such facility is sold, for purposes other than resale, to an agency or instrumentality of the United States.

(3) SOLID WASTE DISPOSAL FACILITY.—For purposes of paragraph (2), the term "solid waste disposal facility" means any solid waste disposal facility within the meaning of section 103(b)(4)(E) of the Internal Revenue Code of 1954 (determined without regard to section 103(g) of such Code).

(4) OBLIGATIONS MUST BE IN REGISTERED FORM.—This subsection shall not apply to any obligation which is not issued in registered form.

26 USC 103 note.

(c) SPECIAL RULE FOR CERTAIN ALCOHOL-PRODUCING FACILITIES.—

Ante, p. 281.

(1) IN GENERAL.—Subparagraph (C) of section 103(g)(3) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall not apply to any facility for the production of alcohol from solid waste if—

(A) substantially all of the solid waste derived feedstock for such facility is produced at a facility which—

(i) went into full production in 1977,

(ii) is located within the limits of a city, and

(iii) is located in the same metropolitan area as the alcohol-producing facility, and

(B) before March 1, 1980, there were negotiations between a governmental body and an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 with respect to the utilization of a special process for the production of alcohol at such alcohol-producing facility. 26 USC 501.

(2) LIMITATION.—The aggregate amount of obligations which may be issued by reason of paragraph (1) with respect to any project shall not exceed $30,000,000.

(3) TERMINATION.—This subsection shall not apply to obligations issued after December 31, 1985.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) and the provisions of subsections (b) and (c) shall apply with respect to obligations issued after October 18, 1979. 26 USC 103 note.

SEC. 242. QUALIFIED HYDROELECTRIC GENERATING FACILITIES.

(a) QUALIFIED HYDROELECTRIC GENERATING FACILITIES.—

(1) IN GENERAL.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended— 26 USC 103.

(A) by striking out "or" at the end of subparagraph (F),

(B) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof ", or", and

(C) by inserting after subparagraph (G) the following new subparagraph:

"(H) qualified hydroelectric generating facilities."

(2) DEFINITIONS.—Subsection (b) of section 103 is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) QUALIFIED HYDROELECTRIC GENERATING FACILITIES.—For purposes of this section—

"(A) QUALIFIED HYDROELECTRIC GENERATING FACILITY.—The term 'qualified hydroelectric generating facility' means any qualified hydroelectric generating property which is owned by a State, political subdivision thereof, or agency or instrumentality of any of the foregoing.

"(B) QUALIFIED HYDROELECTRIC GENERATING PROPERTY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'qualified hydroelectric generating property' has the meaning given to such term by section 48(l)(13). *Ante*, p. 262.

"(ii) DAM MUST BE OWNED BY GOVERNMENTAL BODY.—The term 'qualified hydroelectric generating property' does not include any property installed at the site of any dam described in section 48(l)(13)(B)(i)(I) unless such dam was owned by one or more governmental bodies described in subparagraph (A) on October 18, 1979, and at all times thereafter until the obligations are no longer outstanding.

"(C) LIMITATION.—Paragraph (4)(H) of this subsection shall not apply to any issue of obligations (otherwise qualifying under paragraph (4)(H)) if the portion of the proceeds of such issue which is used to provide qualified hydroelectric generating facilities exceeds (by more than an insubstantial amount) the product of—

"(i) the eligible cost of the facilities being provided in whole or in part from the proceeds of the issue, and

"(ii) the installed capacity fraction.

"(D) INSTALLED CAPACITY FRACTION.—The term 'installed capacity fraction' means the fraction—

"(i) the numerator of which is 25, reduced by 1 for each megawatt by which the installed capacity exceeds 100 megawatts, and

"(ii) the denominator of which is the number of megawatts of the installed capacity (but not in excess of 100).

For purposes of the preceding sentence, the term 'installed capacity' has the meaning given to such term by section 48(l)(13)(E).

Ante, p. 262.

"(E) ELIGIBLE COST.—

"(i) IN GENERAL.—The eligible cost of any facilities is that portion of the total cost of such facilities which is reasonably expected—

"(I) to be the cost to the governmental body described in subparagraph (A), and

"(II) to be attributable to periods after October 18, 1979, and before 1986 (determined under rules similar to the rules of section 48(m)).

"(ii) LONGER PERIOD FOR CERTAIN HYDROELECTRIC GENERATING PROPERTY.—If an application has been docketed by the Federal Energy Regulatory Commission before January 1, 1986, with respect to the installation of any qualified hydroelectric generating property, clause (i)(II) shall be applied with respect to such property by substituting '1989' for '1986'.

"(F) CERTAIN PRIOR ISSUES TAKEN INTO ACCOUNT.—If the proceeds of 2 or more issues (whether or not the issuer of each issue is the same) are or will be used to finance the same facilities, then, for purposes of subparagraph (C), in determining the amount of the proceeds of any later issue used to finance such facilities, there shall be taken into account the proceeds used to finance such facilities of all prior such issues which are outstanding at the time of such later issue (not including as outstanding any obligation which is to be redeemed from the proceeds of the later issue)."

26 USC 103 note.

(b) APPLICATION OF SECTION 103(b)(4)(H) TO CERTAIN FACILITIES.—

Ante, p. 283.

(1) IN GENERAL.—For purposes of section 103(b)(4)(H) of the Internal Revenue Code of 1954 (relating to qualified hydroelectric generating facilities), in the case of a hydroelectric generating facility described in paragraph (2)—

(A) the facility shall be treated as a qualified hydroelectric generating facility (as defined in section 103(b)(8)(A) of such Code) without regard to clause (ii) of section 48(l)(13)(B) of such Code (relating to maximum generating capacity), and

(B) the fraction referred to in subparagraph (C) of section 103(b)(8) of such Code shall be deemed to be 1.

(2) FACILITIES TO WHICH PARAGRAPH (1) APPLIES.—A facility is described in this paragraph if—

(A) it would be a qualified hydroelectric generating facility (as defined in section 103(b)(8)(A) of such Code) if clause (ii) of section 48(l)(13)(B) did not apply,

(B) it constitutes an expansion of generating capacity at an existing hydroelectric generating facility,

(C) such facility is located at 1 of 2 dams located in the same county where—

(i) the rated capacity of the hydroelectric generating facilities at each such dam on October 18, 1979, was more than 750 megawatts,

(ii) the construction of the first such dam began in 1956, power at such first dam was first generated in 1959, and full power production at such first dam began in 1961, and

(iii) the construction of the second such dam began in 1959, power at such second dam was first generated in 1963, and full power production at such second dam began in 1964,

(D) acquisition or construction of the existing facility referred to in subparagraph (B) was financed with the proceeds of an obligation described in section 103(a)(1) of such Code, 26 USC 103.

(E) the existing facility is owned and operated by a State, political subdivision of a State, or agency or instrumentality of any of the foregoing,

(F) no more than 60 percent of the electric power and energy produced by such existing facility and of the qualified hydroelectric generating facility is to be sold to anyone other than an exempt person (within the meaning of section 103(b)(3) of such Code), and

(G) the agency of the State in which the facility is located which has jurisdiction over water rights had granted, before October 18, 1979, a water right under which expanded power and energy generating capacity for the facility was contemplated.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and the provisions of subsection (b) shall apply with respect to obligations issued after October 18, 1979. 26 USC 103 note.

SEC. 243. RENEWABLE ENERGY PROPERTY. 26 USC 103 note.

(a) CERTAIN STATE OBLIGATIONS FOR RENEWABLE ENERGY PROPERTY.—

(1) IN GENERAL.—Paragraph (1) of subsection (b) of section 103 of the Internal Revenue Code of 1954 shall not apply to any obligation issued as part of an issue substantially all of the proceeds of which are to be used to provide renewable energy property, if—

(A) the obligations are general obligations of a State,

(B) the authority for the issuance of the obligations requires that taxes be levied in sufficient amount to provide for the payment of principal and interest on such obligations,

(C) the amount of such obligations, when added to the sum of the amounts of all such obligations previously issued by the State which are outstanding, does not exceed the smaller of—

(i) $500,000,000 or

(ii) one-half of 1 percent of the value of all property in the State,

(D) such obligations are issued pursuant to a program to provide financing for small scale energy projects which was established by a State the legislature of which, before Octo-

ber 18, 1979, approved a constitutional amendment to provide for such a program, and

(E) such obligations meet the requirements of paragraph (1) of section 103(h) of the Internal Revenue Code of 1954.

Ante, p. 281.
Infra.

(2) RENEWABLE ENERGY PROPERTY.—For purposes of this subsection, the term "renewable energy property" means property used to produce energy (including heat, electricity, and substitute fuels) from renewable energy sources (including wind, solar, and geothermal energy, waste heat, biomass, and water).

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to obligations issued after the date of enactment of this Act.

SEC. 244. CERTAIN OBLIGATIONS MUST BE IN REGISTERED FORM AND NOT GUARANTEED OR SUBSIDIZED UNDER AN ENERGY PROGRAM.

(a) GENERAL RULE.—Section 103 (relating to interest on governmental obligations), as amended by section 241, is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

Ante, p. 281.

"(h) CERTAIN OBLIGATIONS MUST BE IN REGISTERED FORM AND NOT GUARANTEED OR SUBSIDIZED UNDER AN ENERGY PROGRAM.—

"(1) IN GENERAL.—An obligation to which this subsection applies shall be treated as an obligation not described in subsection (a) if—

"(A) such obligation is not issued in registered form,

"(B) the payment of principal or interest with respect to such obligation is guaranteed (in whole or in part) by the United States under a program a principal purpose of which is to encourage the production or conservation of energy, or

"(C) the payment of the principal or interest with respect to such obligation is to be made (in whole or in part) with funds provided under such a program of the United States, a State, or a political subdivision of a State.

"(2) OBLIGATIONS TO WHICH THIS SUBSECTION APPLIES.—This subsection shall apply to any obligations to which paragraph (1) of subsection (b) does not apply by reason of—

Ante, p. 283.

"(A) subsection (b)(4)(H) (relating to qualified hydroelectric generating facilities), or

"(B) subsection (g) (relating to qualified steam-generating or alcohol-producing facilities)."

26 USC 103 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to obligations issued on or after October 18, 1979.

PART V—TERTIARY INJECTANTS

SEC. 251. TERTIARY INJECTANTS.

(a) DEDUCTION FOR TERTIARY INJECTANTS.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

26 USC 193.

"SEC. 193. TERTIARY INJECTANTS.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction for the taxable year an amount equal to the qualified tertiary injectant expenses of the taxpayer for tertiary injectants injected during such taxable year.

Definitions.

"(b) QUALIFIED TERTIARY INJECTANT EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified tertiary injectant expenses' means any cost paid or incurred during the taxable year (whether or not chargeable to capital account) for any tertiary injectant (other than a hydrocarbon injectant which is recoverable) which is used as a part of a tertiary recovery method.

"(2) HYDROCARBON INJECTANT.—The term 'hydrocarbon injectant' includes natural gas, crude oil, and any other injectant which is comprised of more than an insignificant amount of natural gas or crude oil. The term does not include any tertiary injectant which is hydrocarbon-based, or a hydrocarbon-derivative, and which is comprised of no more than an insignificant amount of natural gas or crude oil. For purposes of this paragraph, that portion of a hydrocarbon injectant which is not a hydrocarbon shall not be treated as a hydrocarbon injectant.

"(3) TERTIARY RECOVERY METHOD.—The term 'tertiary recovery method' means—

"(A) any method which is described in subparagraphs (1) through (9) of section 212.78(c) of the June 1979 energy regulations (as defined by section 4996(b)(8)(C)), or 10 CFR 212.78. *Ante*, p. 247.

"(B) any other method to provide tertiary enhanced recovery which is approved by the Secretary for purposes of this section.

"(c) APPLICATION WITH OTHER DEDUCTIONS.—No deduction shall be allowed under subsection (a) with respect to any expenditure—

"(1) with respect to which the taxpayer has made an election under section 263(c), or 26 USC 263.

"(2) with respect to which a deduction is allowed or allowable to the taxpayer under any other provision of this chapter."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) The table of sections for such part VI is amended by adding at the end thereof the following new item:

"Sec. 193. Tertiary injectants."

(B) Section 263(a)(1) (relating to capital expenditures) is amended—

(i) by striking out "or" at the end of subparagraph (E),

(ii) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", or", and

(iii) by adding at the end thereof the following new subparagraph:

"(G) expenditures for tertiary injectants with respect to which a deduction is allowed under section 193." *Ante*, p. 286.

(C) Section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended— 26 USC 1245.

(i) by striking out "or 190" each place it appears in paragraphs (2)(D) and (3)(D) and inserting in lieu thereof "190, or 193",

(ii) by inserting "193," after "190," each place it appears in paragraph (2), and

(iii) by inserting "or 193" after "190" in the last sentence of paragraph (2).

(D) Section 1250(b)(3) (relating to depreciation adjustments) is amended by striking out "or 190" and inserting in lieu thereof "190, or 193". 26 USC 1250.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1979. 26 USC 193 note.

Home Energy Assistance Act of 1980.

TITLE III—LOW-INCOME ENERGY ASSISTANCE

SHORT TITLE

42 USC 8601 note.

SEC. 301. This title may be cited as the "Home Energy Assistance Act of 1980".

STATEMENT OF FINDINGS AND PURPOSE

42 USC 8601.

SEC. 302. (a) The Congress finds that—

(1) recent dramatic increases in the cost of primary energy sources have caused corresponding sharp increases in the cost of home energy;

(2) reliable data projections show that the cost of home energy will continue to climb at excessive rates;

(3) the cost of essential home energy imposes a disproportionately larger burden on fixed-income, lower income, and lower middle income households and the rising cost of such energy is beyond the control of such households;

(4) fixed-income, lower-income, and lower-middle-income households should be protected from disproportionately adverse effects on their incomes resulting from national energy policy;

(5) adequate home heating is a necessary aspect of shelter and the lack of home heating poses a threat to life, health, or safety;

(6) adequate home cooling is necessary for certain individuals to avoid a threat to life, health, or safety;

(7) low-income households often lack access to energy supplies because of the structure of home energy distribution systems and prevailing credit practices; and

(8) assistance to households in meeting the burden of rising energy costs is insufficient from existing State and Federal sources.

Grants.

(b) It is the purpose of this title to make grants to States to provide assistance to eligible households to offset the rising costs of home energy that are excessive in relation to household income.

DEFINITIONS

42 USC 8602.

SEC. 303. As used in this title—

(1) "household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent;

(2) "home energy" means a source of heating or cooling in residential dwellings;

(3) "lower living standard income level" means the income level (adjusted for regional, metropolitan, and nonmetropolitan differences and family size) determined annually by the Secretary of Labor based upon the most recent "lower living standard family budget" issued by the Secretary of Labor;

(4) "Secretary" means the Secretary of Health, Education, and Welfare; and

(5) "State" means each of the several States and the District of Columbia.

HOME ENERGY GRANTS AUTHORIZED

SEC. 304. (a) The Secretary is authorized to make grants, in accordance with the provisions of this title, to States on behalf of eligible households to assist such households to meet the rising costs of home energy. 42 USC 8603.

(b) There are authorized to be appropriated $3,000,000,000 for the fiscal year 1981 to carry out the provisions of this title.

(c) For the purpose of affording adequate notice of assistance available under this title, appropriations under this title are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. Funds appropriated under subsection (b) of this section shall remain available until expended.

ELIGIBLE HOUSEHOLDS

SEC. 305. (a) Eligible household means any household which the State determines is— 42 USC 8604.

(1) a household in which one or more individuals are eligible for (A) aid to families with dependent children under the State's plan approved under part A of title IV of the Social Security Act (other than such aid in the form of foster care in accordance with section 408 of such Act), (B) supplemental security income payments under title XVI of the Social Security Act, (C) food stamps under the Food Stamp Act of 1977, or (D) payments under section 415, 521, 541, or 542 of title 38, United States Code (relating to certain veterans' benefits); and 42 USC 601. 42 USC 608. 42 USC 1381. 7 USC 2011 note.

(2) any other household with an income equal to or less than the lower living standard income level as determined pursuant to subsection (c) of this section.

(b) Notwithstanding clause (1) of subsection (a), a household which is eligible for supplemental security income payments under title XVI of the Social Security Act, but not eligible under subsection (a)(1)(A), (C), or (D) of this section, shall not be considered eligible for home energy assistance under this title if the eligibility of a household is dependent upon—

(1) an individual whose annual supplemental security income benefit rate is reduced pursuant to section 1611(e)(1) of the Social Security Act by reason of being in an institution receiving payments (under title XIX of that Act) with respect to that individual, 42 USC 1382. 42 USC 1396.

(2) an individual to whom the reduction specified in section 1612(a)(2)(A)(i) of that Act applies, or 42 USC 1382a.

(3) a child described in section 1614(f)(2) of that Act (who is living together with a parent or the spouse of a parent). 42 USC 1382c.

(c) In verifying income eligibility for the purpose of clause (2) of subsection (a), the State shall apply procedures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV of the Social Security Act. 42 USC 601.

ALLOTMENTS

SEC. 306. (a)(1) From 95 per centum of the sums appropriated pursuant to section 304(b) for the fiscal year 1981, the Secretary shall allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the aggregate residential energy expenditure in such State bears to the aggregate residential energy expenditure for all States. 42 USC 8605.

(2) From 95 per centum of such sums, the Secretary shall allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the total number of heating degree days in such State squared, multiplied by the number of households in such State having incomes equal to or less than the lower living standard income level, bears to the sum of such products for all States.

(3)(A) If the allotment for any State determined under paragraphs (1) and (2) of this subsection is less than $100,000,000, the allotment of such State shall, subject to paragraphs (6) and (8) of this subsection, be the greater of its allotment as so determined under paragraphs (1) and (2) or the product of the total amount available for allotment under paragraphs (1) and (2) of this subsection and such State's alternative allotment percentage.

(B) If the allotment for any State determined under paragraphs (1) and (2) of this subsection is equal to or more than $100,000,000, the allotment of such State shall, subject to paragraphs (6) and (8) of this subsection and subparagraph (C) of this paragraph, be the greater of its allotment as so determined under such paragraphs (6) and (8) or the product of the total amount available for allotment under paragraphs (1) and (2) of this subsection and such State's alternative allotment percentage.

Appropriation authorization.

(C) There is authorized to be appropriated amounts not in excess of $90,000,000 for the fiscal year 1981 for the additional amounts to be allocated pursuant to subparagraph (B) of this paragraph.

(4) The alternative allotment percentage for any State shall be equal to (A) the percentage of 95 per centum of the total amount appropriated for the fiscal year pursuant to section 304(b) which the State would receive if its allotment were increased from the $25,000,000 authorized under this subsection to the extent necessary (as determined by the Secretary on the basis of what he determines to be the best available information) so that, if such allotment were divided in a manner such that the amount for all recipient households in such State consisting of only one individual were equal, and the amount for all other recipient households in such State were equal to 150 per centum of such amount for a one-individual household, sufficient additional amounts would be available to assure that the amount for each recipient household would be at least $120, or, unless the percentage determined under subparagraph (A) would be higher, (B) the percentage of 90 per centum of the total amount authorized to be appropriated for fiscal year 1981 under section 304(b) which would be allotted to such State if—

(i) of such 90 per centum (I) one-half was allotted to each State according to the ratios determined under paragraph (1) of subsection (a) of this section and (II) one-half was allotted to each State according to the ratios which would be determined under paragraph (2) of such subsection (a) if, for purposes of such paragraph, the word "squared" were deleted and the term "lower living standard" were defined as 125 per centum of the poverty level as determined in accordance with the criteria established by the Office of Management and Budget; and

(ii) the allotment of each State as determined under subdivision (i) were increased to the extent necessary (as determined by the Secretary on the basis of what he determines to be the best available information) so that, if such allotment were divided in a manner such that the amount for all recipient households in such State consisting of only one individual were equal, and the amount for all other recipient households in such State were equal to 150 per centum of such amount for a one-individual

household, sufficient additional amounts would be available to assure that the amount for each recipient household would be at least $120.

There are authorized to be appropriated $25,000,000 for the fiscal year 1981 for the additional amounts to be allocated to States pursuant to the application of subparagraph (A) of this paragraph. In the event that the aggregate of such additional amounts would exceed the amount appropriated under the preceding sentence, the additional amount applicable to each State shall be reduced on a pro rata basis. Appropriation authorization.

(5) For purposes of this subsection, the term "recipient household" means— "Recipient household."

(A) a household that is an eligible household under section 3(i) of the Food Stamp Act of 1977 and participates in the food stamp program, but which is not a recipient household under subparagraph (B) or (C) of this paragraph; 7 USC 2012.

(B) a household that contains any individual who receives aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act, but which is not a recipient household under subparagraph (C); and 42 USC 601.

(C) a household that contains an individual who is an eligible individual or eligible spouse receiving supplemental security income benefits under title XVI of the Social Security Act, or an individual receiving payments from the Secretary under an agreement entered into by the Secretary under section 1616 of such Act or section 212 of Public Law 93-66. 42 USC 1381. 42 USC 1382e. 87 Stat. 155.

For purposes of subparagraphs (B) and (C) the term "household" shall be defined by the Secretary, and shall not include an institution.

(6) The allotment of any State shall be increased under paragraph (3) of this subsection only if the increase is attributable in whole or part to the provisions of subparagraph (A) or (B)(ii) of paragraph (4).

(7) If the allotment for any State determined under paragraphs (1) and (2) of this subsection (without the application of paragraph (8)), is less than the lower of—

(A) the amount which would be allotted to such State if "one-half" in paragraph (1) of this subsection were replaced by "one-quarter" and "one-half" in paragraph (2) of this subsection were replaced by "three-quarters"; or

(B) the amount which would be allotted to such State if the word "squared" in paragraph (2) of this subsection were deleted,

then the allotment of such State shall, subject to paragraph (8) of this subsection, be increased to the lower of the allotment it would receive under subparagraph (A) or (B).

(8) The allotments for any fiscal year determined under paragraphs (1) and (2) of this subsection which are not increased pursuant to paragraphs (3)(A) and (7) of this subsection shall be adjusted to the extent necessary and on a pro rata basis to assure that the total of such allotments when added to the allotments which are increased pursuant to paragraphs (3)(A) and (7) of this subsection do not exceed the sum of (A) 95 per centum of the sums appropriated for such fiscal year pursuant to section 304(b) plus (B) the amount appropriated pursuant to the authorization in paragraph (4).

(9) If the amount appropriated for fiscal year 1981 is less than the sum of $3,000,000,000 plus such additional amounts as are necessary to carry out paragraphs (3) and (4), then each State's allotment shall be determined on the basis of an appropriation of such sum and shall be reduced on a pro rata basis as necessary.

(b)(1) From the remainder of the sums appropriated pursuant to section 304(b) for each fiscal year, the Secretary shall—

(A) first reserve $2,500,000 to be apportioned on the basis of need between the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and

(B) then transfer to the Director of the Community Services Administration $100,000,000, subject to the provisions of the second sentence of this paragraph for carrying out energy crisis related activities under section 222(a)(5) of the Economic Opportunity Act of 1964.

42 USC 2809.

The percentage of the amount transferred under subparagraph (B) of this paragraph and available for use in each State shall be the same percentage as the percentage allotted to such State under this section for the total amounts available for allotment to States under subsection (a) of this section. Twenty per centum of the total amount transferred under subparagraph (B) may be utilized without regard to the requirements of the preceding sentence.

(2) Each jurisdiction to which paragraph (1)(A) applies may receive grants under this title upon an application submitted to the Secretary containing provisions which describe the programs for which assistance is sought under this title, and which are consistent with the requirements of section 308(b) of this title.

(3)(A)(i) The remainder of the sums appropriated pursuant to section 304(b) shall be distributed for home energy assistance programs in accordance with the provisions of this subparagraph. The Secretary shall make incentive grants to States to pay a Federal share of incentive fuel assistance programs for residential energy costs established by any State to serve the same population as the population eligible under this title.

Incentive grants to States.

(ii) No grant may be made under this subparagraph unless the State makes an application to the Secretary containing such provisions which the Secretary deems necessary and which describes the State program for which assistance is sought under this subparagraph.

(iii) The Federal share for any fiscal year for Federal assistance under this subparagraph shall not exceed 25 per centum.

(B) That part of the remainder of the sums appropriated pursuant to section 304(b) which is not required to carry out the provisions of subparagraph (A) of this paragraph shall be distributed by the Secretary in accordance with the allocation formula contained in subsection (a) of this section.

(4)(A) From the sums appropriated pursuant to section 304(b) and made available under paragraph (1)(B) of this subsection, the Director shall reserve a sum not to exceed $3,000,000 in each fiscal year for outreach activities designed to assure that eligible households with elderly members are made aware of the assistance available under this title. The Director shall enter into agreements with national aging organizations to carry out the provisions of this subparagraph.

Outreach activities.

(B) No payment may be made by the Director under this paragraph to any national aging organization unless the Director determines that such outreach activities will be coordinated with State outreach activities required under section 308(b)(16).

(c) The portion of any State's allotment under subsection (a) for a fiscal year, which the Secretary determines will not be required for the period such allotment is available for carrying out the purposes of this title, shall be available for reallotment from time to time, on such dates during such period as the Secretary may fix, to other States

based on need and ability to expend the funds consistent with the provisions of this title and taking into account the proportion of the original allotments made available to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out such portion of its State application approved under this title, and the total reduction shall be similarly reallotted among the States whose proportionate amounts are not so reduced. In carrying out the requirements of this subsection the Secretary shall take into account the climatic conditions and such other relevant factors as may be necessary to assure that no State loses funds necessary to carry out the purposes of this title. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

Reallocations, advance notice and comment period.

(d)(1) Any allocations to a State may be reallocated only if the Secretary has provided thirty days advance notice to the chief executive and to the general public. During such period comments may be submitted to the Secretary.

Publication in Federal Register.

(2) After considering any comments submitted during such period, the Secretary shall notify the chief executive of any decision to reallocate funds, and shall publish such decision in the Federal Register.

(e) The aggregate residential energy expenditure for each State and for all States shall be determined by the Secretary after consulting with the Secretary of Energy.

(f) The allotments made under this section shall be made on the basis of the latest reliable data available to the Secretary.

Indian tribe members, benefits provision.

(g)(1) In any State in which the Secretary determines (after having taken into account the amount of funds available to the State) that the members of an Indian tribe are not receiving benefits under this title that are equivalent to benefits provided to other households in the State, and if the Secretary further determines that the members of such tribe would be better served by means of grants made directly to provide such benefits, the Secretary shall reserve from sums that would otherwise be allotted to such State not less than 100 per centum of an amount which bears the same ratio to the State's allotment for the fiscal year involved as the population of all eligible Indians for whom a determination under this paragraph has been made bears to the population of all eligible households in such State.

(2) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or where there is no tribal organization, to such other entity as the Secretary determines has the capacity to provide assistance pursuant to this title.

Eligibility, submittal of plan.

(3) In order for a tribal organization or other entity to be eligible for an award for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe by regulation.

USES OF HOME ENERGY GRANTS

42 USC 8606.

SEC. 307. Grants for fiscal year 1981 under this title may be used for home energy assistance in accordance with plans approved under section 308.

STATE PLANS

42 USC 8607.

SEC. 308. (a) Each State desiring to receive a home energy grant under this title shall submit a State plan to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary deems necessary.

Requirements.

(b) Each such State plan shall—

(1) be submitted in accordance with the procedures, timetables, and standards established by the Secretary pursuant to subsection (d)(4) of this section;

(2) designate an agency of the State to be determined by the chief executive to administer the program authorized by this title and describe local administrative arrangements;

Assistance payments.

(3) provide for a State program for furnishing home energy assistance to eligible households through payments made in accordance with the provisions of the plan, to—

(A)(i) home energy suppliers,

(ii) eligible households whenever the chief executive determines such payments to be feasible, or when the eligible household is making undesignated payments for rising energy costs in the form of rent increases, or

(iii) any combination of home energy supplier and eligible household whenever the chief executive determines such payments to be feasible, and

(B) building operators, in housing projects established under sections 221(d)(3) and 236 of the National Housing Act of 1968, section 202 of the Housing Act of 1959, section 515 of the Housing Act of 1949, low rent housing established by the United States Housing Act of 1937, and section 8 of the Housing Act of 1974, and State and local government-operated projects in an aggregate monthly amount computed on the basis of the number of eligible tenants making undesignated energy payments in the form of rent times of quotient of the exact costs of residential fuel costs paid as an undesignated part of rent divided by the number of tenants, the amount of such monthly quotient not to exceed a ceiling amount per eligible tenant as determined under regulations by the Secretary annually to be comparable to the amount established for other eligible households, if such operators give assurances to the State that tenants eligible for assistance under this title are not discriminated against with respect to rent;

12 USC 1701q.
42 USC 1485.
42 USC 1437 note.

(4) describe with particularity the procedures by which eligible households in the State are identified and certified as participants;

(5) describe energy usage and the average cost of home energy in the State identified by the type of fuel and by region of the State;

(6) describe the amount of assistance to be provided to or on behalf of participating households assuring (A) that priority is given to households with lowest incomes and to eligible households having at least one elderly or handicapped individual, and (B) that the highest level of assistance is provided to households with lowest incomes and the highest energy costs in relation to income, taking into account—

(i) the average home energy expenditure,

(ii) the proportional burden of energy costs in relation to ranges of income,

(iii) the variation in degree days in regions of the State in any State where appropriate, and

(iv) any other relevant consideration selected by the chief executive including provisions for payment levels for households making undesignated payments in the form of rent;

(7) provide, in accordance with clause (3)(A), for agreements with home energy suppliers under which— Home energy suppliers, agreements.

(A) the State will pay on a timely basis by way of regular installments, as reimbursements or a line of credit, to the supplier designated by each participating household the amount of assistance determined in accordance with clause (6) and shall notify each participating household of the amount of assistance paid on its behalf;

(B) the home energy supplier will charge the household specified in subclause (A), in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this title;

(C) the home energy supplier will provide assurances that the home energy supplier will not discriminate against any eligible household in regard to terms and conditions of sale, credit, delivery and price; and

(D) subject to such subsection (f) of this section the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this clause will contain provisions to assure that no household receiving assistance under this title will have home energy terminated unless—

(i) the household has failed to pay the amount charged to such household in accordance with subclause (B) for at least two months,

(ii) the household receives a written termination notice not less than thirty days prior to the termination, and

(iii) the household is afforded, in a timely fashion before termination, an opportunity for a hearing by an agency designated by the State;

unless the supplier is located in a State in which the termination policy contains provisions for a longer grace period, or notification period, than that described in this clause;

(8) provide for the direct payment to households to which subclauses (A) (ii) and (iii) of clause (3) applies; Direct payments.

(9) provide for public participation in the development of the plan; Public participation.

(10) provide assurances that the State will treat owners and renters equitably under the program assisted under this title; Owners and renters, equal treatment.

(11) provide that—

(A) the State may use for planning and administering the plan an amount of the funds received by such State under this title not to exceed 5 per centum of the cost of carrying out the plan except that—

(i) upon proof of unusual circumstances and upon application to the Secretary, the State may use an additional amount for planning and administering the plan not to exceed 2½ per centum of the cost of carrying out the plan, and

(ii) in no case may the Federal share of the cost of planning and administering the plan exceed 50 per centum of such cost, and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the plan and will not use Federal funds for such remaining costs;

(12) describe the administrative procedures to be used in carrying out the plan;

Hearing.

(13) provide an opportunity for a fair hearing before the State agency designated under clause (2) to any individual whose claim for assistance under the plan is denied or is not acted upon with reasonable promptness;

Weather-related and supply shortage emergencies.

(14) provide that, of the funds the State receives for each fiscal year, the State may reserve 3 per centum of the funds to be available for weather related and supply shortage emergencies, and if the State reserves such funds, the plan shall identify—

(A) the procedures for planning for such emergencies,

(B) the administrative procedures designating the emergency and implementing an emergency plan,

(C) the procedures for determining the assistance to be provided in such emergencies, and

(D) the procedures for the use of the funds under this clause for the purposes of this title in the event that there are no emergencies;

(15) provide assurance that there will be, to the maximum extent possible, referral of individuals to, and coordination with, existing Federal, State, and local weatherization and energy conservation efforts;

Outreach activities.

(16) provide for outreach activities designed to assure that all eligible households, particularly households with elderly or handicapped individuals, households with individuals who are unable to leave their residences, households with migrants, households with individuals with limited English proficiency, households with working poor individuals, households with children, and households in remote areas, are aware of the assistance available under this title by using community action agencies, area agencies on aging, State and local welfare agencies, volunteer programs carried out under the Domestic Volunteer Service Act of 1973, and other appropriate agencies and organizations within the State including home energy suppliers together with provisions for the reimbursement of such agencies, from administrative funds, for outreach and certification activities;

42 USC 4951 note.

(17) establish procedures for monitoring the assistance provided under the plan including monitoring and auditing any agreements entered into under clause (7) of this subsection and describe the documentation to be required of energy suppliers concerning energy supplied to eligible households;

(18) provide assurances that the State will not reduce regular benefit levels, from the levels of such benefits as of February 26, 1980, in existing federally assisted cash assistance programs, except that in a State which increases such programs solely for the purpose of energy assistance, such increase shall not be considered a part of the regular program for the purposes of this paragraph;

Fiscal control and fund accounting.

(19) provide that fiscal control and fund accounting procedures will be established as may be necessary to assure the proper dispersal of and accounting for Federal funds paid to the State under this title;

(20) provide that reports will be furnished in such form and contain such information as the Secretary may reasonably require, particularly for the carrying out of provisions of section 309; and Reports.

(21) provide assurances in the case described in section 305(a)(2) that the State will not establish any standards of eligibility under this title based on an assets test which counts cars, household and personal belongings, or primary residences and in the case of a household which the State determines to be eligible under section 305(a)(1), no such test will be established under this title.

(c) The State is authorized to make grants to eligible households to meet the rising costs of cooling whenever the household establishes that such cooling is the result of medical need pursuant to standards established by the Secretary. Grants.

(d)(1) The Secretary shall approve any State plan, or modification thereof, that meets the requirements of subsections (b) and (c) and shall not finally disapprove, in whole or in part, any plan, or any notification thereof, for assistance under this title without first affording the State reasonable notice and opportunity for a hearing within the State. Whenever the Secretary disapproves a plan the Secretary shall, on a timely basis, assist the State to overcome the deficiencies in the plan. Plan approval and disapproval.

(2) Where the Secretary determines that a waiver is likely to assist in promoting the objectives of this title, the Secretary may waive compliance with any of the requirements of subsection (b) to the extent and for the period the Secretary finds necessary to enable any such State to carry out the program assisted under this title. Waiver.

(3) The Secretary shall carry out the functions of the Secretary under this section promptly.

(4) The Secretary, as soon as possible after the date of enactment of this title, shall establish criteria and standards for the State plan requirements under subsections (b) and (c) of this section, together with timetables for carrying out the plan.

(e) Any State which makes advances available for activities relating to the development of a State plan and for other activities under this title in substantial compliance with an approved State plan may be reimbursed for such advances from the allocation made to that State under section 306(a) when funds are appropriated to carry out the provisions of this title.

(f) A State agency may exempt small home energy suppliers from the requirements of subsection (b)(7)(D), of this section if the State agency determines that compliance with such subsection, will seriously jeopardize the ability of the small home energy supplier to conduct such business. Exemption.

(g) A State may use funds available under this title for the purpose of providing credits against State tax to energy suppliers who supply such energy at reduced rates to lower income households, but such credit may not exceed the amount of the loss of revenue to such supplier on account of such reduced rate. Any certifications for such tax credits shall be made by the State, but such State may utilize Federal data available to such State with respect to recipients of supplemental security income benefits if timely delivery of benefits to eligible households and suppliers will not be impeded by the implementation of such plan. Credits against State tax.

(h) At the option of the State, any portion of such State's allotment may be reserved by the Secretary for the purpose of making direct payments to eligible households (except for individuals described in Direct payments.

42 USC 1381.

section 305(b) (1), (2), and (3)) containing a recipient of supplemental security income benefits under title XVI of the Social Security Act for home energy assistance in accordance with guidelines issued by the Secretary.

Form of payment.

(i) At the option of the State, payments described in subsection (b) of this section may be made, without limitation, in the form of a duly issued coupon, stamp, or certificate.

UNIFORM DATA COLLECTION

42 USC 8608.

SEC. 309. (a) The Secretary, after consultation with the Secretary of Energy, shall establish uniform standards for data collection which shall be used by States in all reports required under this title.

(b)(1) The standards established by the Secretary under this section shall apply to (A) information concerning home energy consumption, (B) the cost and type of fuels used, (C) the type of fuel used by various income groups, (D) the number and income levels of households assisted by this title, and (E) any other information which the Secretary determines to be reasonably necessary to carry out the provisions of this title.

(2) In carrying out this section, the Secretary shall analyze information supplied by the Secretary of Energy on the price structure of various types of fuel, particularly the increases in such price structure as it relates to the financial assistance provided under this title.

Report to Congress.

(c) The Secretary shall report annually to Congress concerning data collected under subsection (b).

PAYMENTS

42 USC 8609.

SEC. 310. (a) From the amount allotted to each State pursuant to section 306, the Secretary shall pay to the State which has an application approved under section 308 an amount equal to the amount needed for the purposes set forth in the State plan.

(b) Payments under this title may be made in installments in advance or by way of reimbursement, with necessary adjustments on account of overpayments and underpayments.

WITHHOLDING

42 USC 8610.

SEC. 311. Whenever the Secretary, after reasonable notice and opportunity for hearing within the State to any State, finds that there has been a substantial failure to comply with any provision set forth in the State plan of that State approved under section 308, the Secretary shall notify the State that further payments will not be made under this title until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made under this title.

CRIMINAL PENALTIES

42 USC 8611.

SEC. 312. Whoever violates provisions of this title or who knowingly provides false information in any report required under this title shall be fined not more than $10,000 or imprisoned not more than five years or both.

ADMINISTRATION

Delegation of authority.
42 USC 8612.

SEC. 313. (a)(1) The Secretary may delegate any functions under this title, except the making of regulations, to any officer or employee of the Department of Health, Education, and Welfare.

(2) The Secretary shall issue regulations under this title, within sixty days after the date of enactment of this title. Regulations.

(b) In administering the provisions of this title, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution, to the extent such services and facilities are otherwise authorized to be made available for such purpose, in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon. Federal agency services and facilities, utilization.

(c)(1) Notwithstanding any other provision of law, the amount of any fuel assistance payments or allowances provided to an eligible household under this title shall not be considered income or resources of such household (of any member thereof) for any purpose under any Federal or State law, including any law relating to taxation, public assistance or welfare program.

(2) Section 5(d) of the Food Stamp Act of 1977 is amended by striking out "and (10)" and inserting in lieu thereof the following: "(10) during fiscal year 1981, any income attributable to an increase in State public assistance grants which is intended primarily to meet the increased cost of home energy, and (11)". 7 USC 2014.

(d) The Secretary shall establish procedures for Federal monitoring of State administration of programs assisted under this title. Federal monitoring. 42 USC 8612.

(e) The Secretary shall coordinate the administration of the program established under this title with appropriate programs authorized by the Economic Opportunity Act of 1964 and any other existing Federal energy programs which provide related assistance programs. 42 USC 2701 note.

(f) The Secretary, after consultation with the Secretary of the Department of Energy, the Director of the Community Services Administration, the Secretary of Housing and Urban Development and the Secretary of Agriculture, shall establish procedures for referrals for participation in Federal weatherization programs under section 308(b)(15).

(g) The Secretary, in cooperation with such other agencies as may be appropriate, shall develop and implement the capacity for estimating total annual energy expenditures of low-income households in each State. The Secretary shall submit to the Congress his estimates pursuant to this subsection together with a description of the manner in which they were determined prior to the beginning of each calendar year starting with 1981. Total annual energy expenditure estimates. Submittal to Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. REPEAL OF CARRYOVER BASIS.

(a) IN GENERAL.—Subsections (a), (d), and (e) of section 2005 of the Tax Reform Act of 1976 (relating to carryover basis), and subsection (a), paragraphs (2) through (9) of subsection (c), and paragraphs (1) and (3) of subsection (r) of section 702 of the Revenue Act of 1978, and the amendments made by those subsections or paragraphs are hereby repealed. 26 USC 306 and note, 691, 1001, 1014, 1016, 1023, 1024, 1223, 1246, 6039A, 6698A.

(b) REVIVAL OF PRIOR LAW.—Except to the extent necessary to carry out subsection (d), the Internal Revenue Code of 1954 shall be applied and administered as if the provisions repealed by subsection (a), and the amendments made by those provisions, had not been enacted. 26 USC 1023 note.

(c) CONFORMING CHANGES.—

26 USC 1016.

(1) Subsection (c) of section 1016 (relating to increase in basis in case of certain involuntary conversions) is amended to read as follows:

"(c) INCREASE IN BASIS IN THE CASE OF CERTAIN INVOLUNTARY CONVERSIONS.—

"(1) IN GENERAL.—If—

"(A) there is a compulsory or involuntary conversion (within the meaning of section 1033) of any property, and

26 USC 1033.

"(B) an additional estate tax is imposed on such conversion under section 2032A(c),

26 USC 2032A.

then the adjusted basis of such property shall be increased by the amount of such tax.

"(2) TIME ADJUSTMENT MADE.—Any adjustment under paragraph (1) shall be deemed to have occurred immediately before the compulsory or involuntary conversion.".

(2)(A) Section 1040 (relating to satisfaction of a pecuniary bequest) is amended to read as follows:

26 USC 1040.

"SEC. 1040. USE OF FARM, ETC., REAL PROPERTY TO SATISFY PECUNIARY BEQUEST.

"(a) GENERAL RULE.—If the executor of the estate of any decedent satisfies the right of a qualified heir (within the meaning of section 2032A(e)(1)) to receive a pecuniary bequest with property with respect to which an election was made under section 2032A, then gain on such exchange shall be recognized to the estate only to the extent that, on the date of such exchange, the fair market value of such property exceeds the value of such property for purposes of chapter 11 (determined without regard to section 2032A).

"(b) SIMILAR RULE FOR CERTAIN TRUSTS.—To the extent provided in regulations prescribed by the Secretary, a rule similar to the rule provided in subsection (a) shall apply where—

"(1) by reason of the death of the decedent, a qualified heir has a right to receive from a trust a specific dollar amount which is the equivalent of a pecuniary bequest, and

"(2) the trustee of the trust satisfies such right with property with respect to which an election was made under section 2032A.

"(c) BASIS OF PROPERTY ACQUIRED IN EXCHANGE DESCRIBED IN SUBSECTION (a) OR (b).—The basis of property acquired in an exchange with respect to which gain realized is not recognized by reason of subsection (a) or (b) shall be the basis of such property immediately before the exchange increased by the amount of the gain recognized to the estate or trust on the exchange."

(B) The item relating to section 1040 in the table of sections for part III of subchapter O of chapter 1 is amended to read as follows:

"Sec. 1040. Use of farm, etc., real property to satisfy pecuniary bequest."

26 USC 2614.

(3) The second sentence of section 2614(a) (relating to special rules for generation-skipping transfers) is amended to read as follows: "If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time as, or after, the death of the deemed transferor, the basis of such property shall be adjusted in a manner similar to the manner provided under section 1014(a)."

26 USC 1014 note.

(d) ELECTION OF CARRYOVER BASIS RULES BY CERTAIN ESTATES.—Notwithstanding any other provision of law, in the case of a decedent dying after December 31, 1976, and before November 7, 1978, the executor (within the meaning of section 2203 of the Internal Revenue Code of 1954) of such decedent's estate may irrevocably elect, within

26 USC 2203.

120 days following the date of enactment of this Act and in such manner as the Secretary of the Treasury or his delegate shall prescribe, to have the basis of all property acquired from or passing from the decedent (within the meaning of section 1014(b) of the Internal Revenue Code of 1954) determined for all purposes under such Code as though the provisions of section 2005 of the Tax Reform Act of 1976 (as amended by the provisions of section 702(c) of the Revenue Act of 1978) applied to such property acquired or passing from such decedent. 26 USC 1014. 90 Stat. 1872. 92 Stat. 2925.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply in respect of decedents dying after December 31, 1976. 26 USC 1023 note.

SEC. 402. DISAPPROVAL OF PRESIDENTIAL ACTIONS ADJUSTING OIL IMPORTS.

Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended by adding at the end thereof the following new subsection:

"(e)(1) An action taken by the President under subsection (b) to adjust imports of petroleum or petroleum products shall cease to have force and effect upon the enactment of a disapproval resolution, provided for in paragraph (2), relating to that action.

"(2)(A) This paragraph is enacted by the Congress—

"(i) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedures to be followed in that House in the case of disapproval resolutions and such procedures supersede other rules only to the extent that they are inconsistent therewith; and

"(ii) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

"(B) For purposes of this subsection, the term 'disapproval resolution' means only a joint resolution of either House of Congress the matter after the resolving clause of which is as follows: 'That the Congress disapproves the action taken under section 232 of the Trade Expansion Act of 1962 with respect to petroleum imports under ———— dated ————.', the first blank space being filled with the number of the proclamation, Executive order, or other Executive act issued under the authority of subsection (b) of such section 232 for purposes of adjusting imports of petroleum or petroleum products and the second blank being filled with the appropriate date. "Disapproval resolution." 19 USC 1862.

"(C)(i) All disapproval resolutions introduced in the House of Representatives shall be referred to the Committee on Ways and Means and all disapproval resolutions introduced in the Senate shall be referred to the Committee on Finance. Resolutions, referral to congressional committees.

"(ii) No amendment to a disapproval resolution shall be in order in either the House of Representatives or the Senate, and no motion to suspend the application of this clause shall be in order in either House nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this clause by unanimous consent."

SEC. 403. QUALIFIED LIQUIDATIONS OF LIFO INVENTORIES.

(a) TREATMENT OF QUALIFIED LIQUIDATIONS.—

(1) IN GENERAL.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

26 USC 473.

"SEC. 473. QUALIFIED LIQUIDATIONS OF LIFO INVENTORIES.

"(a) GENERAL RULE.—If, for any liquidation year—

"(1) there is a qualified liquidation of goods which the taxpayer inventories under the LIFO method, and

"(2) the taxpayer elects to have the provisions of this section apply with respect to such liquidation,

then the gross income of the taxpayer for such taxable year shall be adjusted as provided in subsection (b).

"(b) ADJUSTMENT FOR REPLACEMENTS.—If the liquidated goods are replaced (in whole or in part) during any replacement year and such replacement is reflected in the closing inventory for such year, then the gross income for the liquidation year shall be—

"(1) decreased by an amount equal to the excess of—

"(A) the aggregate replacement cost of the liquidated goods so replaced during such year, over

"(B) the aggregate cost of such goods reflected in the opening inventory of the liquidation year, or

"(2) increased by an amount equal to the excess of—

"(A) the aggregate cost reflected in such opening inventory of the liquidated goods so replaced during such year, over

"(B) such aggregate replacement cost.

"(c) QUALIFIED LIQUIDATION DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified liquidation' means—

"(A) a decrease in the closing inventory of the liquidation year from the opening inventory of such year, but only if

"(B) the taxpayer establishes to the satisfaction of the Secretary that such decrease is directly and primarily attributable to a qualified inventory interruption.

"(2) QUALIFIED INVENTORY INTERRUPTION DEFINED.—

"(A) IN GENERAL.—The term 'qualified inventory interruption' means a regulation, request, or interruption described in subparagraph (B) but only to the extent provided in the notice published pursuant to subparagraph (B).

"(B) DETERMINATION BY SECRETARY.—Whenever the Secretary, after consultation with the appropriate Federal officers, determines—

"(i) that—

"(I) any Department of Energy regulation or request with respect to energy supplies, or

"(II) any embargo, international boycott, or other major foreign trade interruption,

has made difficult or impossible the replacement during the liquidation year of any class of goods for any class of taxpayers, and

"(ii) that the application of this section to that class of goods and taxpayers is necessary to carry out the purposes of this section,

Publication in Federal Register.

he shall publish a notice of such determinations in the Federal Register, together with the period to be affected by such notice.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) LIQUIDATION YEAR.—The term 'liquidation year' means the taxable year in which occurs the qualified liquidation to which this section applies.

"(2) REPLACEMENT YEAR.—The term 'replacement year' means any taxable year in the replacement period; except that such term shall not include any taxable year after the taxable year in which replacement of the liquidated goods is completed.

"(3) REPLACEMENT PERIOD.—The term 'replacement period' means the shorter of—

"(A) the period of the 3 taxable years following the liquidation year, or

"(B) the period specified by the Secretary in a notice published in the Federal Register with respect to that qualified inventory interruption.

Any period specified by the Secretary under subparagraph (B) may be modified by the Secretary in a subsequent notice published in the Federal Register.

"(4) LIFO METHOD.—The term 'LIFO method' means the method of inventorying goods described in section 472. 26 USC 472.

"(5) ELECTION.—

"(A) IN GENERAL.—An election under subsection (a) shall be made subject to such conditions, and in such manner and form and at such time, as the Secretary may prescribe by regulation.

"(B) IRREVOCABLE ELECTION.—An election under this section shall be irrevocable and shall be binding for the liquidation year and for all determinations for prior and subsequent taxable years insofar as such determinations are affected by the adjustments under this section.

"(e) REPLACEMENT; INVENTORY BASIS.—For purposes of this chapter—

"(1) REPLACEMENTS.—If the closing inventory of the taxpayer for any replacement year reflects an increase over the opening inventory of such goods for such year, the goods reflecting such increase shall be considered, in the order of their acquisition, as having been acquired in replacement of the goods most recently liquidated (whether or not in a qualified liquidation) and not previously replaced.

"(2) AMOUNT AT WHICH REPLACEMENT GOODS TAKEN INTO ACCOUNT.—In the case of any qualified liquidation, any goods considered under paragraph (1) as having been acquired in replacement of the goods liquidated in such liquidation shall be taken into purchases and included in the closing inventory of the taxpayer for the replacement year at the inventory cost basis of the goods replaced.

"(f) SPECIAL RULES FOR APPLICATION OF ADJUSTMENTS.—

"(1) PERIOD OF LIMITATIONS.—If—

"(A) an adjustment is required under this section for any taxable year by reason of the replacement of liquidated goods during any replacement year, and

"(B) the assessment of a deficiency, or the allowance of a credit or refund of an overpayment of tax attributable to such adjustment, for any taxable year, is otherwise prevented by the operation of any law or rule of law (other than section 7122, relating to compromises), 26 USC 7122.

then such deficiency may be assessed, or credit or refund allowed, within the period prescribed for assessing a deficiency or allowing a credit or refund for the replacement year if a notice for

deficiency is mailed, or claim for refund is filed, within such period.

"(2) INTEREST.—Solely for purposes of determining interest on any overpayment or underpayment attributable to an adjustment made under this section, such overpayment or underpayment shall be treated as an overpayment or underpayment (as the case may be) for the replacement year.

26 USC 472. "(g) COORDINATION WITH SECTION 472.—The Secretary shall prescribe such regulations as may be necessary to coordinate the provisions of this section with the provisions of section 472."

(2) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 473. Qualified liquidations of LIFO inventories."

26 USC 473 note. (3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to qualified liquidations (within the meaning of section 473(c) of the Internal Revenue Code of 1954) in taxable years ending after October 31, 1979.

Ante, p. 302.

(b) RECOGNITION OF GAIN ON CERTAIN DISPOSITIONS OF LIFO INVENTORIES.—

(1) AMENDMENT OF SECTION 336.—Section 336 (relating to general rule for liquidations) is amended to read as follows:

26 USC 336. **"SEC. 336. DISTRIBUTIONS OF PROPERTY IN LIQUIDATION.**

"(a) GENERAL RULE.—Except as provided in subsection (b) of this
26 USC 453. section and in section 453(d) (relating to disposition of installment obligations), no gain or loss shall be recognized to a corporation on the distribution of property in partial or complete liquidation.

"(b) LIFO INVENTORY.—

"(1) IN GENERAL.—If a corporation inventorying goods under the LIFO method distributes inventory assets in partial or complete liquidation, then the LIFO recapture amount with respect to such assets shall be treated as gain to the corporation recognized from the sale of such inventory assets.

"(2) EXCEPTION WHERE BASIS DETERMINED UNDER SECTION
26 USC 334. 334(b)(1).—Paragraph (1) shall not apply to any liquidation
26 USC 332. under section 332 for which the basis of property received is determined under section 334(b)(1).

"(3) LIFO RECAPTURE AMOUNT.—For purposes of this subsection, the term 'LIFO recapture amount' means the amount (if any) by which—

"(A) the inventory amount of the inventory assets under
26 USC 471. the first-in, first-out method authorized by section 471, exceeds

"(B) the inventory amount of such assets under the LIFO method.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) LIFO METHOD.—The term 'LIFO method' means the
26 USC 472. method authorized by section 472 (relating to last-in, first-out inventories).

"(B) OTHER DEFINITIONS.—The term 'inventory assets' has the meaning given to such term by subparagraph (A) of
26 USC 311. section 311(b)(2), and the term 'inventory amount' has the meaning given to such term by subparagraph (B) of section 311(b)(2) (as modified by paragraph (3) of section 311(b))."

26 USC 337. (2) SECTION 337 LIQUIDATIONS.—

(A) Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is

amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE FOR LIFO INVENTORIES.—

"(1) IN GENERAL.—In the case of a corporation inventorying goods under the LIFO method, this section shall apply to gain from the sale or exchange of inventory assets (which under subsection (b)(2) constitute property) only to the extent that such gain exceeds the LIFO recapture amount with respect to such assets.

"(2) DEFINITIONS.—The terms used in this subsection shall have the same meaning as when used in section 336(b). *Ante*, p. 304.

"(3) CROSS REFERENCE.—

"For treatment of gain from the sale or exchange of an installment obligation as gain resulting from the sale or exchange of the property in respect of which the obligation was received, see the last sentence of section 453(d)(1)."

(B) Subparagraph (B) of section 453(d)(4) (relating to liquidations to which section 337 applies) is amended by adding at the end thereof the following new sentence: "In the case of any installment obligation which would have met the requirements of clauses (i) and (ii) of the first sentence of this subparagraph but for section 337(f), gain shall be recognized to such corporation by reason of such distribution only to the extent gain would have been recognized under section 337(f) if such corporation had sold or exchanged such installment obligation on the day of such distribution." 26 USC 453. 26 USC 337. *Ante*, p. 304.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to distributions and dispositions pursuant to plans of liquidation adopted after December 31, 1981. 26 USC 336 note.

SEC. 404. EXEMPTION OF CERTAIN INTEREST INCOME FROM TAX.

(a) IN GENERAL.—Section 116 (relating to partial exclusion of dividends received by individuals) is amended to read as follows:

"SEC. 116. PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST RECEIVED BY INDIVIDUALS. 26 USC 116.

"(a) EXCLUSION FROM GROSS INCOME.—Gross income does not include the sum of the amounts received during the taxable year by an individual as—

"(1) a dividend from a domestic corporation, or

"(2) interest.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The aggregate amount excluded under subsection (a) for any taxable year shall not exceed $200 ($400 in the case of a joint return under section 6013). 26 USC 6013.

"(2) CERTAIN DIVIDENDS EXCLUDED.—Subsection (a)(1) shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations). 26 USC 501. 26 USC 521.

"(c) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) INTEREST DEFINED.—The term 'interest' means—

"(A) interest on deposits with a bank (as defined in section 581),

"(B) amounts (whether or not designated as interest) paid, in respect of deposits, investment certificates, or withdrawable or repurchasable shares, by—

"(i) a mutual savings bank, cooperative bank, domestic building and loan association, industrial loan association or bank, or credit union, or

"(ii) any other savings or thrift institution which is chartered and supervised under Federal or State law,

the deposits or accounts in which are insured under Federal or State law or which are protected and guaranteed under State law,

"(C) interest on—

"(i) evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a domestic corporation in registered form, and

"(ii) to the extent provided in regulations prescribed by the Secretary, other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public,

"(D) interest on obligations of the United States, a State, or a political subdivision of a State (not excluded from gross income of the taxpayer under any other provision of law), and

"(E) interest attributable to participation shares in a trust established and maintained by a corporation established pursuant to Federal law.

"(2) DISTRIBUTIONS FROM REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—Subsection (a) shall apply with respect to any dividend from—

"(A) a regulated investment company, subject to the limitations provided in section 854(b)(2), or

Post, p. 307.

"(B) real estate investment trust, subject to the limitations provided in section 857(c).

Post, p. 307.

"(3) CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR EXCLUSION.—In the case of a nonresident alien individual, subsection (a) shall apply only—

"(A) in determining the tax imposed for the taxable year pursuant to section 871(b)(1) and only in respect of dividends and interest which are effectively connected with the conduct of a trade or business within the United States, or

26 USC 871.

"(B) in determining the tax imposed for the taxable year pursuant to section 877(b)."

26 USC 877.

(b) CLERICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 is amended by inserting "and interest" after "dividends" in the item relating to section 116.

Ante, p. 305.

(2) The first sentence of paragraph (2) of section 265 (relating to interest) is amended by inserting after "subtitle" the following: ", or to purchase or carry obligations or shares, or to make deposits or other investments, the interest on which is described in section 116(c) to the extent such interest is excludable from gross income under section 116".

26 USC 265.

(3) Paragraph (2) of section 584(c) (relating to income of participants in fund) is amended by inserting "or interest" after "dividends" each place it appears in the caption and text thereof.

26 USC 584.

(4) Paragraph (7) of section 643(a) (relating to definition of distributable net income) is amended by inserting "or interest" after "dividends" each place it appears in the caption or text thereof.

26 USC 643.

(5) Paragraph (5) of section 702(a) (relating to income and credits of partners) is amended by inserting "or interest" after "dividends". 26 USC 702.

(6) Subsection (b) of section 854 (relating to other dividends) is amended— 26 USC 854.

(A) by inserting "AND TAXABLE INTEREST" in the caption after "DIVIDENDS",

(B) by striking out the caption of paragraph (1) and inserting in lieu thereof "DEDUCTION UNDER SECTION 243.—",

(C) by striking out "the exclusion under section 116 and" in paragraph (1),

(D) by redesignating paragraphs (2) and (3) as (3) and (4),

(E) by inserting after paragraph (1) the following new paragraph:

"(2) EXCLUSION UNDER SECTION 116.—In the case of a dividend (other than a dividend described in subsection (a)) received from a regulated investment company— *Ante*, p. 305.

"(A) which meets the requirements of section 852(a) for the taxable year in which it paid the dividend, 26 USC 852.

"(B) the aggregate interest received by which during the taxable year is less than 75 percent of its gross income, and

"(C) the aggregate dividends received by which during the taxable year is less than 75 percent of its gross income, then, in computing the exclusion under section 116, there shall be taken into account only that portion of the dividend which bears the same ratio to the amount of such dividend as the sum of the aggregate dividends received and aggregate interest received bears to gross income. For purposes of the preceding sentence, gross income and aggregate interest received shall each be reduced by so much of the deduction allowable by section 163 for the taxable year as does not exceed aggregate interest received for the taxable year." 26 USC 163.

(F) by striking out "section 116(b)" in subparagraph (B) of paragraph (4) (as redesignated by subparagraph (D) of this paragraph) and inserting in lieu thereof "section 116(b)(2)",

(G) by striking out "section 116(c)" in subparagraph (B) of paragraph (4) (as so redesignated) and inserting in lieu thereof "section 116(c)(2)", and

(H) by adding at the end of paragraph (4) (as redesignated) the following new subparagraph:

"(C) The term 'aggregate interest received' includes only interest described in section 116(c)(1)." "Aggregate interest received."

(7) The table of sections for part I of subchapter M of chapter 1 is amended by inserting "and taxable interest" after "dividends" in the item relating to section 854.

(8) Subsection (c) of section 857 (relating to restrictions applicable to dividends received from real estate investment trusts) is amended to read as follows: 26 USC 857.

"(c) LIMITATIONS APPLICABLE TO DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—

"(1) CAPITAL GAIN DIVIDEND.—For purposes of section 116 (relating to exclusion for dividends and interest received by individuals), a capital gain dividend (as defined in subsection (b)(3)(C)) received from a real estate investment trust shall not be considered a dividend.

"(2) OTHER DIVIDENDS.—In the case of a dividend received from a real estate investment trust (other than a dividend described in paragraph (1)), if—

"(A) the real estate investment trust meets the requirements of this part for the taxable year during which it paid the dividend, and

"(B) the aggregate interest received by the real estate investment trust for the taxable year is less than 75 percent of its gross income,

Ante, p. 305. then, in computing the exclusion under section 116, there shall be taken into account only that portion of the dividend which bears the same ratio to the amount of such dividend as aggregate interest received bears to gross income.

"(3) ADJUSTMENTS TO GROSS INCOME AND AGGREGATE INTEREST RECEIVED.—For purposes of paragraph (2)—

"(A) gross income does not include the net capital gain,

"(B) gross income and aggregate interest received shall each be reduced by so much of the deduction allowable by

26 USC 163. section 163 for the taxable year (other than for interest on mortgages on real property owned by the real estate investment trust) as does not exceed aggregate interest received for the taxable year, and

"(C) gross income shall be reduced by the sum of the taxes

26 USC 857. imposed by paragraphs (4), (5), and (6) of section 857(b).

"(4) AGGREGATE INTEREST RECEIVED.—For purposes of this subsection, the term 'aggregate interest received' means only interest described in section 116(c)(1).

"(5) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a real estate investment trust which may be taken into account as a dividend for purposes of the exclusion under section 116 shall not exceed the amount so designated by the trust in a written notice to its shareholders mailed not later than 45 days after the close of its taxable year.

"(6) CROSS REFERENCE.—

"For restriction on dividends received by a corporation, see section 243(c)(2)."

26 USC 116 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1980, and before January 1, 1983.

Approved April 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-304 (Comm. on Ways and Means) and No. 96-817 (Comm. of Conference).
SENATE REPORT No. 96-394 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 125 (1979): June 28, considered and passed House.
Nov. 15, 16, 19, 20, 26-30, Dec. 3-7, 10-15, 17, considered and passed Senate, amended.
Vol. 126 (1980): Mar. 12, 13, House agreed to conference report.
Mar. 19-21, 24-27, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 14 (1980): Apr. 2, Presidential statement.

Public Law 96-224
96th Congress

Joint Resolution

Designating the week of October 5 through October 11, 1980, as "National Diabetes Week".

Apr. 2, 1980
[H.J. Res. 463]

Whereas diabetes kills more Americans than all other diseases except cancer and cardiovascular diseases; and

Whereas ten million Americans suffer from diabetes and $5,300,000,000 annually are used for health care costs, disability payments, and lost wage costs due to diabetes; and

Whereas a national awareness of the diabetes problem may stimulate interest and concern leading to increased research and eventually a cure for diabetes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 5 through October 11, 1980, is designated as "National Diabetes Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

National Diabetes Week. Designation.

Approved April 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-794 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 3, considered and passed House.
Mar. 20, considered and passed Senate in lieu of S.J. Res. 128.

Public Law 96-225
96th Congress

Joint Resolution

Apr. 3, 1980
[H.J. Res. 520]

Defense Production Act of 1950, extension.

To extend by sixty days the expiration date of the Defense Production Act of 1950.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, **That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "March 28, 1980" and inserting in lieu thereof "May 27, 1980".**

Approved April 3, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 28, considered and passed House.
Apr. 1, considered and passed Senate.

Public Law 96-226
96th Congress

An Act

To improve budget management and expenditure control by revising certain provisions relating to the Comptroller General and the Inspectors General of the Departments of Energy and Health, Education, and Welfare, and for other purposes.

Apr. 3, 1980
[H.R. 24]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "General Accounting Office Act of 1980".

General Accounting Office Act of 1980.
31 USC 1 note.

TITLE I—GENERAL ACCOUNTING OFFICE PROVISIONS

UNVOUCHERED EXPENDITURES

SEC. 101. Section 117 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 67) is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any provision of law which permits an expenditure to be accounted for solely on the approval, authorization, or certificate of the President of the United States or an official of an executive agency, the Comptroller General shall have access to such books, documents, papers, records, and other information relating to any such expenditure as may be necessary to enable him to determine whether the expenditure was, in fact, actually made and whether such expenditure was authorized by law. The provisions of this paragraph may be superseded only by a provision of law enacted after the date of enactment of this paragraph which specifically repeals or modifies the provisions of this paragraph. In the case of an expenditure under section 102, 103, 105(d) (1), (3), or (5), or 106(b) (2) or (3), of title 3, United States Code, the provisions of sections 102, 103, 105(d), and 106(b) of such title shall govern the examination of such expenditures by the Comptroller General in lieu of the provisions of this subsection.

Access to records and information.

"(2) With respect to any expenditure accounted for solely on the approval, authorization, or certificate of the President of the United States or an official of an executive agency and notwithstanding any provision of law, no officer or employee of the General Accounting Office may release the findings of its audit of such expenditure or disclose any books, documents, papers, records, or other information concerning such expenditure to anyone not an officer or employee of the General Accounting Office, except to the President or the head of the agency concerned or, in the case of unresolved discrepancies, to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and to the Committees of the House and the Senate having legislative or appropriations oversight with respect to the expenditure in question.

Information disclosure, prohibition.

"(3)(A) Nothing in this subsection shall be construed as affecting the authority contained in section 8(b) of the Central Intelligence Agency Act of 1949.

50 USC 403j.

Foreign intelligence or counter-intelligence activities.

"(B) The President may exempt from the provisions of paragraph (1) of this subsection financial transactions which relate to sensitive foreign intelligence or foreign counterintelligence activities, or sensitive law enforcement investigations if an audit proceeding pursuant to the provisions of paragraph (1) of this subsection would expose the identifying details of an active investigation or endanger the safety of investigative or domestic intelligence sources involved in such law enforcement investigations. An exemption under this subparagraph may be given for a class or category of financial transactions.

Exempted transactions, review. 50 USC 403j.

"(C) Information concerning financial transactions taken pursuant to section 8(b) of the Central Intelligence Agency Act of 1949 and information concerning financial transactions exempted from the provisions of paragraph (1) pursuant to subparagraph (B) shall be reviewable by the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

Report to congressional committees.

"(4) Not later than sixty days after the beginning of each fiscal year starting on or after October 1, 1980, the Director of the Office of Management and Budget shall submit to the chairman of the Committees on the Budget and the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and to the Comptroller General, a report listing every account potentially subject to audit by the Comptroller General under paragraph (1).".

ENFORCEMENT OF ACCESS TO RECORDS

SEC. 102. Section 313 of the Budget and Accounting Act, 1921 (31 U.S.C. 54), is amended by designating the existing paragraph as subsection (a) and by adding at the end the following new subsections:

Written request.

"(b)(1) When access to any books, documents, papers, or records of any department or establishment is not made available within a reasonable period of time, the Comptroller General in his discretion may make a written request to the head of the department or establishment concerned. Any such request shall set forth any authority in addition to subsection (a) for such access and the reasons such access is desired. The head of the department or establishment concerned shall have a period of twenty days from the date of receipt to respond to the written request of the Comptroller General. The response shall describe any books, documents, papers, or records withheld and the reasons therefor. If within such twenty-day period full access to such books, documents, papers, or records has not been afforded the Comptroller General or any of his designated assistants or employees, the Comptroller General may file a written report of the matter with the President of the United States, the Director of the Office of Management and Budget, the Attorney General, the head of the department or establishment concerned, and with the Speaker of the House of Representatives and the President of the Senate.

Report.

Withheld material.

"(2) Subject to subsection (d) the Comptroller General, through any attorney designated by him in writing, may, after twenty calendar days after the filing of a written report under paragraph (1), apply to the United States District Court for the District of Columbia for any order requiring the head of the department or establishment concerned to produce the material withheld. The Attorney General is authorized to represent the defendant official in such proceedings.

Any failure to obey an order of the court under this subsection may be treated by the court as a contempt thereof.

Subpena of material.

"(c)(1) Subject to subsection (d), the Comptroller General may require by subpena the production of books, records, correspondence, memoranda, papers, and documents of contractors, subcontractors, or other non-Federal persons to which he has access by law or by agreement of the non-Federal person from whom access is sought. Subpenas may be issued under the signature of the Comptroller General and shall identify the material sought and the authority on which access is based. Service of a subpena issued under this subsection may be made by anyone authorized by the Comptroller General (A) by delivering a copy thereof to the person named therein, or (B) by mailing a copy thereof by certified or registered mail, return receipt requested, addressed to such person at his residence, or principal place of business. A verified return by the person so serving the subpena setting forth the manner of service or in the case of service by certified or registered mail, the return post office receipt signed by the person so served, shall be proof of service.

Refusal to obey subpena.

"(2) In the case of contumacy or refusal to obey a subpena issued under paragraph (1) of this subsection, by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such court, upon application made by the Comptroller General through any attorney designated by him in writing, shall have jurisdiction to issue to such person an order requiring such person to produce the matter requested. Any failure of any such person to obey such order of the court may be treated by the court as a contempt thereof.

Exempted material.

"(d) The Comptroller General may not bring an action under subsection (b) for an order or issue a subpena under subsection (c) requiring the production of material—

"(1) if such material relates to activities designated by the President as being foreign intelligence or foreign counterintelligence activities;

"(2) if such material is specifically exempted from disclosure to the Comptroller General by statute provided that such statute (A) requires that the material be withheld from the Comptroller General in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding from the Comptroller General or refers to particular types of matters to be withheld from the Comptroller General; or

"(3) if the President or the Director of the Office of Management and Budget within twenty days after the filing of a report under subsection (b)(1), certifies in writing to the Comptroller General, the Speaker of the House of Representatives, and the President of the Senate, that (A) such material consists of matters which could be withheld from disclosure under section 552(b)(5) or 552(b)(7), of title 5, United States Code and (B) the disclosure of such material to the Comptroller General could reasonably be expected to substantially impair the operations of the Federal Government. Such certification shall be nondelegable by the President or by the Director of the Office of Management and Budget and shall be accompanied by a full explanation of the rationale therefor.

Confidentiality of information.

"(e) Any written information, books, documents, papers, or records made available to the Comptroller General pursuant to this section shall be subject to the same level of confidentiality as is required of the agency from which obtained. The officers and employees of the General Accounting Office shall be subject to the same penalties

prescribed by statute for unauthorized disclosure or use as the officers or employees of the agency from which such material was obtained. Information described in section 552(b)(6) of title 5 of the United States Code obtained by the Comptroller General shall be maintained in a manner designed to prevent unwarranted invasions of personal privacy.

"(f) Nothing in this section shall be construed as authority to withhold information from Congress.".

AVAILABILITY OF DRAFT REPORTS

SEC. 103. Section 312 of the Budget and Accounting Act, 1921 (31 U.S.C. 53) is amended by adding at the end thereof the following new subsection:

Agency comment period.

"(f)(1) No portion of any draft report prepared by the General Accounting Office shall be submitted to any agency for comment thereon for a period in excess of thirty days unless the Comptroller General determines, upon a showing by such agency, that a longer period is necessary and is likely to result in improvement in the accuracy of such report.

"(2) Failure of an agency to return comments by the conclusion of the comment period established under paragraph (1) of this subsection shall not result in the delayed delivery of any such report.

"(3) Whenever an agency is requested to comment on a draft report, the Comptroller General shall—

"(A) in the case of any report initiated, pursuant to subsection (b) of this section or otherwise, at the request of either House of Congress or by any committee or member thereof, make such draft report available on request to such House, committee, or member; or

"(B) in the case of any other report, make such draft report available on request to the Committee on Governmental Affairs of the Senate and to the Committee on Government Operations of the House.

Statement of changes.

"(4) The Comptroller General shall prepare and issue with the final version of any report of the General Accounting Office a statement of (A) any significant changes, from any prior drafts of such report, in the findings, conclusions, or recommendations which were based on an agency's comments on such a draft, and (B) the reasons for making such changes.

Classified information.

"(5) Procedures followed pursuant to this subsection shall be subject to statutory and Executive order guidelines for the handling and storage of classified information and material.".

APPOINTMENT OF THE COMPTROLLER GENERAL AND THE DEPUTY COMPTROLLER GENERAL

SEC. 104. (a) Section 302 of the Budget and Accounting Act, 1921 (31 U.S.C. 42) is amended by inserting "(a)" before "There" and by adding at the end thereof the following new subsection:

Commission, establishment.

"(b)(1) Whenever, after the date of enactment of this subsection, a vacancy occurs in the Office of Comptroller General or in the Office of Deputy Comptroller General, there is established a commission to recommend individuals to the President for appointment to the vacant office. Any such commission shall consist of—

Membership.

"(A) the Speaker of the House of Representatives,

"(B) the President pro tempore of the Senate,

"(C) the majority and minority leaders of the House of Representatives and the Senate,

"(D) the chairman and ranking minority member of the Committee on Government Operations of the House of Representatives and of the Committee on Governmental Affairs of the Senate, and

"(E) in the case of a vacancy in the Office of Deputy Comptroller General, the Comptroller General of the United States.

"(2) Any commission established under paragraph (1) shall submit to the President for consideration the names of not less than three persons for the Office of Comptroller General. The President, within his discretion, may request that additional names be submitted.".

Terms of office.

(b)(1) The first paragraph of section 303 of such Act (31 U.S.C. 43) is amended by striking out the first sentence and inserting in lieu thereof the following: "Except as otherwise provided in this section, the Comptroller General shall hold office for fifteen years and the Deputy Comptroller General shall hold office from the date of his appointment until the date on which an individual is appointed to fill a vacancy in the Office of Comptroller General. The Deputy Comptroller General may continue to serve until his successor is appointed.".

31 USC 43 note.

(2) The amendment made by paragraph (1) shall not apply to the person occupying the position of Deputy Comptroller General on the date of enactment of this Act, but shall apply with respect to any vacancy in such position occurring on or after such date, and shall apply to any person appointed to fill such a vacancy.

TITLE II—CONFORMING AMENDMENTS WITH RESPECT TO THE INSPECTORS GENERAL OF THE DEPARTMENTS OF ENERGY AND HEALTH, EDUCATION, AND WELFARE

AMENDMENT TO THE ACT OF OCTOBER 15, 1976

SEC. 201. Section 203(b) of the Act of October 15, 1976 (90 Stat. 2430; 42 U.S.C. 3523), is amended to read as follows:

"(b) In carrying out the responsibilities specified in subsection (a)(1), the Inspector General shall—

"(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

"(2) establish guidelines for determining the appropriate use of non-Federal auditors;

"(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1); and

Report to Attorney General.

"(4) shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.".

AMENDMENT TO THE DEPARTMENT OF ENERGY ORGANIZATION ACT

SEC. 202. Section 208 of the Department of Energy Organization Act (42 U.S.C. 7138) is amended by adding at the end thereof the following new subsections:

"(h) In carrying out the responsibilities specified in subsection (b)(1), the Inspector General shall—

"(1) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

"(2) establish guidelines for determining the appropriate use of non-Federal auditors; and

"(3) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in paragraph (1).

"(i) In carrying out his duties and responsibilities under this section, the Inspector General shall give particular regard to the activities of the Comptroller General with a view toward avoiding duplication and insuring effective coordination and cooperation.

Report to Attorney General.

"(j) In carrying out his duties and responsibilities under this section, the Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.".

Approved April 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-425 (Comm. on Government Operations).
SENATE REPORT No. 96-570 accompanying S. 1878 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 29, considered and passed House.
Vol. 126 (1980): Feb. 28, considered and passed Senate, amended, in lieu of S. 1878.
Mar. 19, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 14 (1980): Apr. 3, Presidential statement.

Public Law 96-227
96th Congress

An Act

To restore to the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah, and with respect to the Cedar City Band of Paiute Indians of Utah, to restore or confirm, the Federal trust relationship, to restore to members of such Bands those Federal services and benefits furnished to American Indian Tribes by reason of such trust relationship, and for other purposes.

Apr. 3, 1980
[H.R. 4996]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Paiute Indian Tribe of Utah Restoration Act".

Paiute Indian Tribe of Utah Restoration Act.
25 USC 761 note.

SEC. 2. For the purposes of this Act—

Definitions.
25 USC 761.

(1) the term "tribe" means the Cedar City, Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah;

(2) the term "Secretary" means the Secretary of the Interior or his authorized representative;

(3) the term "Interim Council" means the council elected pursuant to section 5;

(4) the term "member", when used with respect to the tribe, means a person enrolled on the membership roll of the tribe, as provided in section 4 of this Act; and

(5) the term "final membership roll" means the final membership roll of the tribe published on April 15, 1955, on pages 2499 through 2503 of volume 20 of the Federal Register and on April 14, 1956, on pages 2453 through 2456 of volume 21 of the Federal Register.

Federal trust relationship, restoration.
25 USC 762.

SEC. 3. (a) The Federal trust relationship is restored to the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah and restored or confirmed with respect to the Cedar City Band of Paiute Indians of Utah. The provisions of the Act of June 18, 1934 (48 Stat. 984) as amended, except as inconsistent with specific provisions of this Act, are made applicable to the tribe and the members of the tribe. The tribe and the members of the tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes. Notwithstanding any provision to the contrary in any law establishing such services or benefits, eligibility of the tribe and its members for such Federal services and benefits shall become effective upon enactment of this Act without regard to the existence of a reservation for the tribe or the residence of members of the tribe on a reservation. For the purpose of providing for Federal services and benefits, the service area shall be Iron, Millard, Sevier, and Washington Counties, Utah, except that should lands in any other county be added to the reservation pursuant to section 7(c), the service area shall also include the area on or near the additions to the reservation.

25 USC 461.

Effective date.

(b) Except as provided in subsection (c), all rights and privileges of the tribe and of members of the tribe under any Federal treaty, Executive order, agreement, or statute, or under any other authority, which were diminished or lost under the Act of September 1, 1954 (68 Stat. 1099), are hereby restored, and such Act shall be inapplicable to

25 USC 741.

the tribe and to members of the tribe after the date of enactment of this Act.

(c) This Act shall not grant or restore any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, to the tribe or any member of the tribe.

(d) Except as specifically provided in this Act, nothing in this Act shall alter any property right or obligation, any contractual right or obligations, or any obligation for taxes already levied.

Final tribal membership roll. 25 USC 763.

SEC. 4. (a) The final membership roll is declared open. The Secretary, the Interim Council, and tribal officials under the tribal constitution and bylaws shall take such measures as will insure the continuing accuracy of the membership roll.

Membership qualifications.

(b)(1) Until after the initial election of tribal officers under the tribal constitution and bylaws, a person shall be a member of the tribe and his name shall be placed on the membership roll if he is living and if—

(A) his name is listed on the final membership roll;

(B) he was entitled on September 1, 1954, to be on the final membership roll but his name was not listed on that roll;

(C) he is a descendant of a person specified in subparagraph (A) or (B) and possesses at least one-fourth degree of blood of members of the tribe or their Paiute Indian ancestors;

(D) his name is listed on the roll established pursuant to the Act of October 17, 1968 (82 Stat. 1147), for the disposition of judgment funds, as a member of the Cedar City Band of Paiute Indians;

(E) he was entitled on October 17, 1968, to be on the judgment distribution roll as a member of the Cedar City Band as specified in subparagraph (D) but his name was not listed on that roll; or

(F) he is a descendant of a person specified in subparagraph (D) or (E) and possesses at least one-fourth degree of blood of members of the tribe or their Paiute Indian ancestors.

(2) After the initial election of tribal officials under the tribal constitution and bylaws, the provisions of the tribal constitution and bylaws shall govern membership in the tribe.

Verification of descendancy, age, and blood.

(c)(1) Before election of the Interim Council, verification of descendancy, age, and blood shall be made upon oath before the Secretary and his determination thereon shall be final.

(2) After election of the Interim Council and before the initial election of the tribal officials, verification of descendancy, age, and blood shall be made upon oath before the Interim Council, or its authorized representative. A member of the tribe, with respect to the inclusion of any name, and any person, with respect to the exclusion of his name, may appeal to the Secretary, who shall make a final determination of each such appeal within ninety days after an appeal has been filed with him. The determination of the Secretary with respect to an appeal under this paragraph shall be final.

(3) After the initial election of tribal officials, the provisions of the tribal constitution and bylaws shall govern the verification of any requirements for membership in the tribe, and the Secretary and the Interim Council shall deliver their records and files, and other material relating to enrollment matters, to the tribal governing body.

(d) For purposes of sections 5 and 6, a member who is eighteen years of age or older is entitled and eligible to be given notice of, attend, participate in, and vote at, general council meetings and to nominate candidates for, to run for any office in, and to vote in, elections of members to the Interim Council and to other tribal councils.

Interim Council.
25 USC 764.

SEC. 5. (a) Within forty-five days after the date of the enactment of this Act, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Interim Council. Such general council meeting shall be held within sixty days after the date of the enactment of this Act. Within forty-five days after such general council meeting the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect six members of the tribe to the Interim Council from among the nominees submitted to him from such general council meeting. The Secretary shall assure that notice of the time, place, and purpose of such meeting and election shall be provided to members described in section 4(d) at least fifteen days before such general meeting and election. The ballot shall provide for write-in votes. The Secretary shall approve the Interim Council elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. If he is not so satisfied, he shall hold another election under this section, with the general council meeting to nominate candidates for election to the Interim Council to be held within sixty days after such election.

(b) The Interim Council shall represent the tribe and its members in the implementation of this Act and shall be the acting tribal governing body until tribal officials are elected pursuant to section 6(c) and shall have no powers other than those given to it in accordance with this Act. The Interim Council shall have full authority and capacity to receive grants from and to make contracts with the Secretary and the Secretary of Health, Education, and Welfare with respect to Federal services and benefits for the tribe and its members: *Provided,* That no authority to enter into contracts or to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts. The Interim Council shall have the authority to bind the tribal governing body as the successor in interest to the Interim Council for a period extending not more than six months after the date on which the tribal governing body takes office. Except as provided in the preceding sentence, the Interim Council shall have no power or authority after the time when the duly-elected tribal governing body takes office.

(c) Within thirty days after receiving notice of a vacancy on the Interim Council, the Interim Council shall hold a general council meeting for the purpose of electing a person to fill such vacancy. The Interim Council shall provide notice of the time, place, and purpose of such meeting and election to members described in section 4(d) at least ten days before such general meeting and election. The person nominated to fill such vacancy at the general council meeting who received the highest number of votes in the election shall fill such vacancy.

Tribal constitution and bylaws.
25 USC 765.
25 USC 461.

SEC. 6. (a) Upon the written request of the Interim Council, the Secretary shall conduct an election by secret ballot, pursuant to the provisions of section 16 of the Act of June 18, 1934 (48 Stat. 987), for the purpose of adopting a constitution and bylaws for the tribe. The election shall be held within sixty days after the Secretary has—

(1) reviewed and updated the final membership roll for accuracy, in accordance with sections 4(a), 4(b)(1), and 4(c)(1),

(2) made a final determination of all appeals filed under section 4(c)(2), and

Publication in Federal Register.

(3) published in the Federal Register a certified copy of the membership roll of the tribe.

(b) The Interim Council shall draft and distribute to each member described in section 4(d), no later than thirty days before the election under subsection (a), a copy of the proposed constitution and bylaws of the tribe, as drafted by the Interim Council, along with a brief and impartial description of the proposed constitution and bylaws. The members of the Interim Council may freely consult with members of the tribe concerning the text and description of the constitution and bylaws, except that such consultation may not be carried on within fifty feet of the polling places on the date of the election.

(c) In any election held pursuant to subsection (a), a vote of a majority of those actually voting shall be necessary and sufficient for the adoption of a tribal constitution and bylaws.

(d) Not later than one hundred and twenty days after the tribe adopts a constitution and bylaws, the Interim Council shall conduct an election by secret ballot for the purpose of electing the individuals who will serve as tribal officials as provided in the tribal constitution and bylaws. For the purpose of this election and notwithstanding any provision in the tribal constitution and bylaws to the contrary, absentee balloting shall be permitted.

Indian lands.
25 USC 766.

SEC. 7. (a) The Secretary, within one year following the date of the enactment of this Act, shall accept the real property of members of the tribe or bands if conveyed or otherwise transferred to him, and real property held for the benefit of members of the tribe or bands if conveyed or otherwise transferred to him by the owner or owners of such land held for the benefit of the bands. Such property shall be subject to all valid existing rights including, but not limited to, liens, outstanding taxes (local and State), and mortgages. The land transferred to the Secretary pursuant to this subsection shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Utah. Subject to the conditions imposed by this subsection, the land transferred shall be taken in the name of the United States in trust for the tribe or bands to be held as Indian lands are held, and shall be part of their reservation. The transfer of real property authorized by this section shall be exempt from all local, State, and Federal taxation. All real property transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

(b) The State of Utah shall exercise civil and criminal jurisdiction with respect to the reservation and persons on the reservation as if it had assumed jurisdiction pursuant to the Act of August 15, 1953 (67 Stat. 588), as amended by the Act of April 11, 1968 (82 Stat. 79), and pursuant to sections 63-36-9 through 63-36-21 of the Utah State Code.

28 USC 1360 note.

(c) Inasmuch as the Kanosh, Koosharem and Indian Peaks Bands of Paiute Indians lost land which had been their former reservations and the Cedar City Band of Paiute Indians had never had a reservation, the Secretary shall negotiate with the tribe or bands, or with representatives of the tribe chosen by the tribe or bands, concerning the enlargement of the reservation for the tribe established pursuant to subsection (a) and shall within two years after the date of enactment of this Act, develop a plan for the enlargement of the reservation for the tribe. The plan shall include acquisition of not to exceed a total of fifteen thousand acres of land to be selected from available public, State, or private lands within Beaver, Iron, Millard, Sevier, or Washington Counties, Utah. Upon approval of such plan by the tribal officials elected under the tribal constitution and bylaws adopted pursuant to section 6, the Secretary shall submit such plan, in the form of proposed legislation, to the Congress.

Reservation enlargement plan, submittal to Congress.

(d) To assure that legitimate State and local interests are not prejudiced by the enlargement of the reservation for the tribe, the Secretary, in developing the plan under subsection (c) for the enlargement of the reservation for the tribe, shall notify and consult with all appropriate officials of the State of Utah, all appropriate local government officials in the affected five county area in the State of Utah and any other interested parties. Such consultation shall include the following subjects:

(1) the size and location of the additions to the reservation;

(2) the effect the enlargement of the reservation would have on State and local tax revenues;

(3) the criminal and civil jurisdiction of the State of Utah with respect to the reservation and persons on the reservation;

(4) hunting, fishing, and trapping rights of the tribe, and members of the tribe, on the reservation;

(5) the provision of State and local services to the reservation and to the tribe and members of the tribe on the reservation; and

(6) the provision of Federal services to the reservation and to the tribe and members of the tribe and the provision of services by the tribe to members of the tribe.

(e) Any plan developed under this section for the enlargement of the reservation for the tribe shall provide that—

(1) the enlargement of the reservation will not grant or restore to the tribe or any member of the tribe any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, on such addition to the reservation;

(2) the Secretary shall not accept any real property in trust for the benefit of the tribe or bands unless such real property is located either within Beaver, Iron, Millard, Sevier, or Washington Counties, State of Utah;

(3) the transfer of any real property to the Secretary in trust for the benefit of the tribe or bands as an addition to the reservation shall be exempt from all Federal, State, and local taxation, and all such real property shall, as of the date of such transfer, be exempt from Federal, State, and local taxation; and

(4) the State of Utah shall exercise civil and criminal jurisdiction with respect to the addition to the reservation and persons on such lands as if it had assumed jurisdiction pursuant to the Act of August 15, 1953 (67 Stat. 588), as amended by the Act of April 11, 1968 (82 Stat. 79), and pursuant to sections 63-36-9 through 63-36-21 of the Utah State Code. 28 USC 1360 note.

(f) The Secretary shall append to the plan a detailed statement describing the manner in which the notification and consultation prescribed by subsection (d) was carried out and shall include any written comments with respect to the enlargement of the reservation for the tribe submitted to the Secretary by State and local officials and other interested parties in the course of such consultation.

Claims for Indian lands. 25 USC 767.

SEC. 8. Any legal claims for lands owned by the Shivwits, Kanosh, Koosharem, or Indian Peaks Bands of Paiute Indians of Utah and lost through tax sales or any other sales to individuals, corporations, or the State of Utah since September 1, 1954, are hereby barred.

25 USC 768.

SEC. 9. The Secretary may make such rules and regulations as are necessary to carry out the purposes of the Act.

Approved April 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 97-712 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-481 accompanying S. 1273 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 19, S. 1273 considered and passed Senate.
Vol. 126 (1980): Feb. 25, H.R. 4996 considered and passed House.
Mar. 11, considered and passed Senate, amended.
Mar. 25, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 14 (1980): Apr. 3, Presidential statement.

Public Law 96-228
96th Congress

An Act

To authorize the striking of Bicentennial medals.

Apr. 3, 1980
[S. 1515]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in commemoration of the adoption of the Constitution of the United States of America and of those individuals who participated in the American Revolution, the Secretary of the Treasury shall strike and furnish to the United States Capitol Historical Society (hereinafter referred to as the "Society") not more than fifty thousand medals each year with suitable designs, emblems, and inscriptions to be determined by the Society, with the concurrence of the Commission of Fine Arts, subject to the approval of the Secretary of the Treasury. Subject to the availability of the production facilities of the Bureau of the Mint, the medals shall be struck and delivered at such time as may be required by the Society in quantities not less than two thousand medals of each alloy authorized in this Act, but no medals shall be struck after December 31, 1989. The medals shall be considered to be national medals within the meaning of section 3551 of the Revised Statutes (31 U.S.C. 368). Bicentennial medals.

SEC. 2. The medals shall be furnished by the Secretary of the Treasury to the Society at a price equal to the cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses, plus a surcharge equal to 50 per centum of such cost of manufacture. Such surcharge shall be deposited in the Treasury as miscellaneous receipts. Security satisfactory to the Director of the Mint shall be furnished by the Society to indemnify the United States for full payment of the costs of manufacture.

SEC. 3. The medals authorized to be issued pursuant to this Act shall be struck in bronze, silver, and gold and shall be of such size or sizes as is determined by the Secretary of the Treasury in consultation with the Society. Size.

SEC. 4. No agreement or contract shall be entered into, directly or indirectly, by the Society and any person for the marketing of the medals authorized by this Act. All gross proceeds arising from the sale of the medals authorized by this Act shall accrue, in their entirety, to the Society. Proceeds.

Records and documents, examination.

SEC. 5. The Comptroller General of the United States shall have the right to examine all books, records, documents, and other data of the Society as may be related to the medals authorized by this Act, including all records and documents pertaining to the marketing of the medals.

Approved April 3, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-296 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 6, considered and passed Senate.
Vol. 126 (1980): Mar. 17, considered and passed House, amended.
Mar. 25, Senate concurred in House amendment.

Public Law 96-229
96th Congress

An Act

To authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1980, and for other purposes.

Apr. 7, 1980
[H.R. 2676]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Environmental Research, Development, and Demonstration Authorization Act of 1980.

SHORT TITLE

SECTION 1. This Act may be cited as the "Environmental Research, Development, and Demonstration Authorization Act of 1980".

PROGRAM AUTHORIZATIONS

SEC. 2. (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities for the fiscal year 1980 for the following activities:

(1) $66,659,000 for water quality activities authorized under the Federal Water Pollution Control Act of which— 33 USC 1251 note.

(A) $25,224,000 is for the Health and Ecological Effects program: *Provided,* That the Agency is encouraged to obligate and to expend $900,000 of these funds on the Cold Climate Research program through the Agency's Corvallis Environmental Research Laboratory, Corvallis, Oregon: *Provided further,* That of the funds appropriated pursuant to this paragraph, $3,600,000 shall be obligated and expended on the Great Lakes Research Station, Grosse Ile, Michigan: *And provided further,* That of the funds appropriated pursuant to this paragraph, $1,000,000 shall be obligated and expended on research to develop environmentally sound methods to control aquatic weeds;

(B) $14,827,000 is for the Industrial Processes program;

(C) $12,250,000 is for the Monitoring and Technical Support program; and

(D) $14,358,000 is for the Public Sector Activities program.

(2) $9,638,000 for activities under the Federal Insecticide, Fungicide, and Rodenticide Act of which— 7 USC 136 note.

(A) $8,298,000 is for the Health and Ecological Effects program;

(B) $900,000 is for the Industrial Processes program; and

(C) $440,000 is for the Monitoring and Technical Support program.

(3) $26,919,000 for water supply activities authorized under the Safe Drinking Water Act of which— 42 USC 201 note.

(A) $21,944,000 is for the Public Sector Activities program;

(B) $4,000,000 is for a groundwater program to include soil pollution research activities; and

(C) $975,000 is for the Monitoring and Technical Support program.

15 USC 2601 note.

(4) $30,977,000 for toxic substances control activities authorized under the Toxic Substances Control Act of which—

(A) $26,397,000 is for the Health and Ecological Effects program;

(B) $1,742,000 is for the Industrial Processes program; and

(C) $2,838,000 is for the Monitoring and Technical Support program.

42 USC 201 note.

(5) $2,930,000 for radiation activities authorized under the Public Health Service Act, in the Health and Ecological Effects program.

42 USC 7401 note.

(6) $71,963,000 for air quality activities authorized under the Clean Air Act of which—

(A) $46,624,000 is for the Health and Ecological effects program;

(B) $4,050,000 is for the Industrial Processes program; and

(C) $21,289,000 is for the Monitoring and Technical Support program.

42 USC 6901 note.

(7) $10,243,000 for solid waste activities authorized under the Resource Conservation and Recovery Act, of which—

(A) $8,143,000 is for the Public Sector Activities program, and

(B) $2,100,000 is for a Hazardous Waste program, of which—

Non-nuclear hazardous waste disposal, study.

(i) $300,000 shall be used for a study of non-nuclear hazardous waste disposal including consideration of the effects of such disposal on the environment, and a general review of disposal technology, alternatives to disposal, and options for containing or removing hazardous wastes already in the environment. The Administrator of the Environmental Protection Agency shall enter into appropriate arrangements with the National Academy of Sciences to conduct this study. The Academy should complete the study within eighteen months after funding arrangements have been made and make interim reports at least every six months to the Congress and the Environmental Protection Agency. The Administrator shall regularly report to the Congress on the Agency's response to the interim reports and shall deliver his recommendations for acting on the findings of the final study no later than July 1, 1981;

Reports to Congress and EPA.

(ii) $300,000 shall be used to begin development of protocols and working manuals specifying the types of health problems associated with various hazardous wastes, effects of various kinds of exposure, strategies to contain releases from hazardous disposal sites, actions to be taken by on-scene response teams, and other activities deemed by the Administrator to be of urgent need in responding to hazardous waste releases; and

(iii) $1,500,000 shall be used to demonstrate cost-effective strategies for isolating, containing, or neutralizing hazardous wastes.

42 USC 4901 note.

(8) $500,000 for noise control activities authorized under the Noise Control Act, in the Health and Ecological Effects program.

(9) $25,449,000 for Interdisciplinary activities of which—

(A) $5,099,000 is for the Health and Ecological Effects program;

(B) $16,883,000 is for the Anticipatory Research program; and

(C) $3,467,000 is for the Monitoring and Technical Support program.

(10) $103,461,000 for Energy-related activities of which—

(A) $49,186,000 is for the Health and Ecological Effects program; and

(B) $54,275,000 is for the Energy Control program.

(b) There is authorized to be appropriated to the Environmental Protection Agency, Office of Research and Development, for the fiscal year 1980, for program management and support, $26,753,000.

(c) No funds may be transferred from any particular category listed in subsection (a) or (b) to any other category or categories listed in either such subsection if the total of the funds so transferred from that particular category would exceed 10 per centum thereof, and no funds may be transferred to any particular category listed in subsection (a) or (b) from any other category or categories listed in either such subsection if the total of the funds so transferred to that particular category would exceed 10 per centum thereof, unless— Transfer of funds.

(1) a period of thirty legislative days has passed after the Administrator of the Environmental Protection Agency or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor or Report to Speaker of House and President of Senate.

(2) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action. Notice to EPA Administrator.

(d)(1) The Administrator shall continue to be responsible for conducting and shall continue to conduct full-scale demonstrations of energy-related pollution control technologies as necessary in his judgment to fulfill the provisions of the Clean Air Act as amended, the Federal Water Pollution Control Act as amended, and other pertinent pollution control statutes. 42 USC 4363a. 42 USC 7401 note. 33 USC 1251 note.

(2) Energy-related environmental protection projects authorized to be administered by the Environmental Protection Agency under this Act shall not be transferred administratively to the Department of Energy or reduced through budget amendment. No action shall be taken through administrative or budgetary means to diminish the ability of the Environmental Protection Agency to initiate such projects. Energy-related environmental protection projects.

(e) The Administrator shall establish a separately identified program to conduct continuing and long-term environmental research and development. Unless otherwise specified by law, at least 15 per centum of the funds appropriated to the Agency for environmental research and development in each category listed in subsection (a) of this section shall be allocated for such long-term environmental research and development under this subsection. Long-term environmental research and development. 42 USC 4363.

OTHER AUTHORIZATIONS

SEC. 3. There is authorized to be appropriated to the Secretary of Commerce for the fiscal year 1980 for use by the National Bureau of Standards—

(1) $500,000 for research in the area of environmental measurement sciences; and

(2) $3,500,000 to carry out activities authorized in section 5002 of the Resource Conservation and Recovery Act of 1976 (Public Law 94-580).

42 USC 6952.

REPORTING

42 USC 4369a.

SEC. 4. (a) The Administrator shall keep the appropriate committees of the House and the Senate fully and currently informed about all aspects of the environmental research and development activities of the Environmental Protection Agency.

Report to congressional committees.

(b) Each year, at the time of the submission of the President's annual budget request, the Administrator shall make available to the appropriate committees of Congress sufficient copies of a report fully describing funds requested and the environmental research and development activities to be carried out with these funds.

REIMBURSEMENT FOR USE OF FACILITIES

42 USC 4370.

SEC. 5. (a) The Administrator is authorized to allow appropriate use of special Environmental Protection Agency research and test facilities by outside groups or individuals and to receive reimbursement or fees for costs incurred thereby when he finds this to be in the public interest. Such reimbursement or fees are to be used by the Agency to defray the costs of use by outside groups or individuals.

(b) The Administrator may promulgate regulations to cover such use of Agency facilities in accordance with generally accepted accounting, safety, and laboratory practices.

Waiver.

(c) When he finds it is in the public interest the Administrator may waive reimbursement or fees for outside use of Agency facilities by nonprofit private or public entities.

Approved April 7, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-58 (Comm. on Science and Technology) and No. 96-611 (Comm. of Conference).

SENATE REPORT No. 96-158 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Mar. 26, 27, considered and passed House.
May 23, considered and passed Senate, amended.
Nov. 14, Senate agreed to conference report.
Nov. 29, point of order made and sustained against conference report; House receded from its disagreement and agreed to Senate amendment No. 1 with an amendment; agreed to amendments numbered 2 through 7.

Vol. 126 (1980): Mar. 25, Senate agreed to House amendment.

Public Law 96-230
96th Congress

An Act

To extend the reorganization authority of the President under chapter 9 of title 5.

Apr. 8, 1980
[H.R. 6585]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 905(b) of title 5, United States Code, is amended by striking out "three years" and inserting in lieu thereof "four years".

President's reorganization authority, extension.

Approved April 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-805 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 10, considered and passed House.
Apr. 2, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 15 (1980):
Apr. 8, Presidential statement.

Public Law 96-231
96th Congress

Joint Resolution

Apr. 8, 1980
[S.J. Res. 131]

Designating April 10, 1980, as "ORT Centennial Day".

Whereas the Organization for Rehabilitation through Training (ORT) has historically been the earliest pioneer in the use of systematic vocational and technical training as a strategy to banish deprivation and economic backwardness; and

Whereas the ORT has provided productive channels for human advancement through the acquisition of skills for livelihood at times and places where such programs were nonexistent; and

Whereas the ORT has assisted almost two million people in more than forty countries on five continents, thereby becoming the biggest nongovernmental voluntary program of vocational and job training in the world; and

Whereas the ORT has become part of the array of ongoing services that are essential to communities, as evidenced by the rapid development of technical training programs and educational institutions in many countries, including Argentina, Iran, Peru, and India, and by the continuing enrichment of the quality of educational services throughout Latin America; and

Whereas the ORT has provided assistance needed for the assimilation of hundreds of thousands of north African Jews by the French community, and for the migration and resettlement process of Soviet Jewish refugees; and

Whereas the ORT has been the means for the development of Israel's human resources and has provided the training for a major portion of Israel's skilled labor force: Now, therefore, be it

ORT Centennial Day. Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 10, 1980, is designated as "ORT Centennial Day"; and the President is authorized and requested to issue a proclamation calling upon the people of the United States to salute the Organization for Rehabilitation through Training on its one-hundredth anniversary in recognition of its accomplishments.

Approved April 8, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-622 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 18, considered and passed Senate.
Apr. 1, considered and passed House.

Public Law 96-232
96th Congress

An Act

To designate the building known as the Federal Building in Evansville, Indiana, as the "Winfield K. Denton Building".

Apr. 10, 1980
[H.R. 5794]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 101 Northwest Seventh Street, Evansville, Indiana (commonly known as the Federal Building), shall hereafter be known and designated as the "Winfield K. Denton Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "Winfield K. Denton Building".

Winfield K. Denton Building. Designation.

Approved April 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-666 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 3, considered and passed House.
Vol. 126 (1980): Apr. 1, considered and passed Senate.

Public Law 96-233
96th Congress

Joint Resolution

Apr. 10, 1980
[S.J. Res. 97]

Designating April 13 through April 19 as "Days of Remembrance of Victims of the Holocaust".

Whereas, less than forty years ago, six million Jews as well as millions of others were murdered in Nazi concentration camps as part of a planned program of extermination;

Whereas the people of the United States of America should always remember the terrible atrocities committed by the Nazis so that they are never repeated;

Whereas the people of the United States should continually rededicate themselves to the principle of equality;

Whereas the people of the United States should remain eternally vigilant against all tyranny, recognizing that tyranny provides a breeding ground for bigotry to flourish;

Whereas April 13 has been designated internationally as a day of remembrance of victims of the Nazi holocaust, known as Yom Hoshoah; and

Whereas it is appropriate for the American people to join in the international commemoration: Now, therefore, be it

Days of Remembrance of Victims of the Holocaust. Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in memory of all the victims of the holocaust and in the hope that Americans will strive always to overcome cruelty and prejudice through vigilance and resistance, the days of April 13 through April 19, 1980, are hereby designated as the "Days of Remembrance of Victims of the Holocaust". The President is requested to issue a proclamation calling upon the people of the United States to remember the atrocities committed by the Nazis and to commemorate such days with appropriate ceremonies and activities.

Approved April 10, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-317 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 14, considered and passed Senate.
Vol. 126 (1980): Apr. 1, considered and passed House.

Public Law 96-234
96th Congress

An Act

To encourage greater participation in the farmer-held reserve program for corn and wheat, and for other purposes.

Apr. 11, 1980
[S. 2427]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Corn and wheat, farmer-held reserve program.

FARMER-HELD RESERVE PROGRAM

SECTION 1. Section 110 of the Agricultural Act of 1949 is amended by— 7 USC 1445e.

(1) redesignating subsections (c) through (g) as subsections (d) through (h), respectively; and

(2) inserting after subsection (b) a new subsection (c) as follows:

"(c) Notwithstanding any other provision of law, the Secretary may, to the extent the Secretary determines such action necessary in order to encourage producers to store corn and wheat for extended periods of time under the terms and conditions of the program authorized by this section, make price support loans under this section on the 1979 crops of corn and wheat (at the same level of support as provided by this Act) to any producer of corn or wheat who did not (1) file a timely agreement to participate in the 1979 set-aside program for the commodity and (2) comply with the requirements of the 1979 set-aside program for the commodity.". Price support loans.

SALE OF COMMODITY CREDIT CORPORATION STOCKS OF CORN FOR USE IN MAKING ALCOHOL FOR MOTOR FUEL

SEC. 2. Section 110(e) of the Agricultural Act of 1949, as redesignated by section 1(1) of this Act, is amended by—

(1) striking out "and" at the end of clause (1);

(2) striking out the period at the end of clause (2) and inserting in lieu thereof a semicolon and "and"; and

(3) adding at the end thereof a new clause (3) as follows:

"(3) sales of corn when sold at not less than the release level under the extended loan program for use in the production of alcohol for motor fuel at facilities that (A) begin operation after January 4, 1980, and (B), whenever supplies of corn are not readily available, can produce alcohol from agricultural or forestry biomass feedstocks other than corn.".

FARM STORAGE FACILITY LOAN PROGRAM

SEC. 3. Section 4(h) of the Commodity Credit Corporation Charter Act is amended by— 15 USC 714b.

(1) striking out "$50,000" both places it occurs and inserting in lieu thereof "$100,000"; and

(2) striking out "the size of such facility for which a loan is obtained shall be based upon the amount of space required to store the quantity of the commodity estimated to be produced by the borrower during a two-year period;".

Approved April 11, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-633 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 26, considered and passed Senate.
Apr. 1, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 15:
Apr. 11, Presidential statement.

Public Law 96-235
96th Congress

An Act

To amend the District of Columbia Self-Government and Governmental Reorganization Act to authorize the Council of the District of Columbia to delegate its authority to issue revenue bonds for undertakings in the area of housing to any housing finance agency established by it and to provide that payments of such bonds may be made without further approval.

Apr. 12, 1980
[H.R. 3824]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 490 of the District of Columbia Self-Government and Governmental Reorganization Act, relating to revenue bonds and other obligations, is amended by adding after subsection (f) the following new subsection:

D.C. Revenue bonds for housing, issuance. Delegation of authority. D.C. Code 47-254.

"(g)(1) The Council may delegate to any housing finance agency established by it (whether established before or after the date of the enactment of this subsection) the authority of the Council under subsection (a) to issue revenue bonds, notes, and other obligations to borrow money to finance or assist in the financing of undertakings in the area of primarily low- and moderate-income housing. The Council shall define for the purposes of the preceding sentence what undertakings shall constitute undertakings in the area of primarily low- and moderate-income housing. Any such housing finance agency may exercise authority delegated to it by the Council as described in the first sentence of this paragraph (whether such delegation is made before or after the date of the enactment of this subsection) only in accordance with this subsection.

"(2) Revenue bonds, notes, and other obligations issued by a housing finance agency of the District under a delegation of authority described in paragraph (1) shall be issued by resolution of the agency, and any such resolution shall not be considered to be an act of the Council.

D.C. Code 47-224.

"(3) The fourth sentence of section 446 shall not apply to (A) the expenditure of funds derived from the sale of any revenue bond, note, or other obligation issued by a housing finance agency established by the Council to which a delegation of authority described in paragraph (1) has been made, (B) the creation by such an agency of a security interest in the revenues or assets of such agency in connection with the sale of any such bond, note, or other obligation, or (C) the payment (as to either principal or interest or both) of any such bond, note, or other obligation.".

Approved April 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-129 (Comm. on the District of Columbia) and No. 96-830 (Comm. of Conference).
SENATE REPORTS: No. 96-262 (Comm. on Governmental Affairs) and No. 96-619 (Comm. of Conference).
CONGRESSIONAL RECORD:
Vol. 125 (1979): May 14, considered and passed House.
Aug. 2, considered and passed Senate, amended.
Vol. 126 (1980): Mar. 11, Senate agreed to conference report.
Apr. 1, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 16 (1980): Apr. 12, Presidential statement.

79-194 O—81—pt. 1——25 : QL3

Public Law 96-236
96th Congress

An Act

Apr. 22, 1980
[H.R. 6029]

Providing for the implementation of the International Sugar Agreement, 1977, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

International Sugar Agreement 1977, implementation.

7 USC 3601.

SECTION 1. DEFINITIONS.

For purposes of this Act—

(1) The term "Agreement" means the International Sugar Agreement, 1977, signed at New York City on December 9, 1977.

(2) The term "sugar" has the same meaning as is given to such term in paragraph (12) of Article 2 of the Agreement.

(3) The term "entry" means entry, or withdrawal from warehouse, for consumption in the customs territory of the United States.

7 USC 3602.

SEC. 2. IMPLEMENTATION OF AGREEMENT.

On and after the entering into force of the Agreement with respect to the United States, and for such period before January 1, 1983, as the Agreement remains in force, the President may, in order to carry out and enforce the provisions of the Agreement—

(1) regulate the entry of sugar by appropriate means, including, but not limited to—

(A) the imposition of limitations on the entry of sugar which is the product of foreign countries, territories, or areas not members of the International Sugar Organization, and

(B) the prohibition of the entry of any shipment or quantity of sugar not accompanied by a valid certificate of contribution or such other documentation as may be required under the Agreement;

Recordkeeping.

(2) require of appropriate persons the keeping of such records, statistics, and other information, and the submission of such reports, relating to the entry, distribution, prices, and consumption of sugar and alternative sweeteners as he may from time to time prescribe; and

(3) take such other action, and issue and enforce such rules or regulations, as he may consider necessary or appropriate in order to implement the rights and obligations of the United States under the Agreement.

7 USC 3603.

SEC. 3. DELEGATION OF POWERS AND DUTIES.

The President may exercise any power or duty conferred on him by this Act through such agencies or offices of the United States as he shall designate. Such agencies or offices shall issue such regulations as they determine are necessary to implement this Act.

SEC. 4. CRIMINAL OFFENSES. 7 USC 3604.

Any person who—

(1) knowingly fails to keep any information, or to submit any report, required under section 2;

(2) submits any report under section 2 knowing that the report or any part thereof is false; or

(3) knowingly violates any rule or regulation issued to carry out this Act;

is guilty of an offense and upon conviction thereof is punishable by a fine of not more than $1,000.

SEC. 5. REPORT TO CONGRESS. 7 USC 3605.

The President shall submit to Congress, on or before May 1 and November 1 of each year, a report on the operation and effect of the Agreement during the immediately preceding six-month period. Unless otherwise published on a regular basis by an agency of the United States, the report shall contain, but not be limited to—

(1) information with respect to world and domestic sugar demand, supplies, and prices during the period concerned;

(2) projections with respect to world and domestic sugar demand, supplies, and prices; and

(3) a summary of the international and domestic actions taken during the period concerned under the Agreement and under domestic legislation to protect the interests of United States consumers and producers of sugar.

SEC. 6. PROTECTION OF INTERESTS OF UNITED STATES CONSUMERS. 7 USC 3606.

The powers and duties conferred by sections 2 and 3 shall be exercised in the manner the President considers appropriate to protect the interest of United States consumers. If the President determines that there has been an unwarranted increase in the price of sugar due in whole or in part to the Agreement, or to market manipulation by two or more members of the International Sugar Organization, the President shall request the International Sugar Council or the Executive Committee to increase supplies of sugar available to world markets by suspending sugar export quotas or to take any other appropriate action, and, at the same time, shall report that determination to the Congress. If the International Sugar Council fails to take corrective action to remedy the situation within a reasonable time after such request, the President shall submit to the Congress such recommendations as he may consider appropriate to correct the situation. In the event that members of the International Sugar Organization involved in market manipulation which has resulted in price increases have failed to remedy the situation within a reasonable time after a request for remedy, the exercise of the authority set forth in section 2 shall be suspended until the President determines that effective market manipulation activities have ceased.

Recommendations, submittal to Congress.

Approved April 22, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-725, pt. 1 (Comm. on Ways and Means).
SENATE REPORT No. 96-644 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 11, considered and passed House.
Apr. 2, considered and passed Senate.

Public Law 96-237
96th Congress

Joint Resolution

Apr. 24, 1980
[H.J. Res. 474]

To authorize and request the President to issue a proclamation designating April 21 through April 28, 1980, as "Jewish Heritage Week".

Whereas the Congress recognizes that an understanding of the heritage of all American ethnic groups contributes to the unity of our country; and

Whereas intergroup understanding can be further fostered through an appreciation of the culture, history, and traditions of the Jewish community and the contributions of Jews to our country and society; and

Whereas the month of April contains events of major significance in the Jewish calendar—Passover, the anniversary of the Warsaw Ghetto Uprising, Israeli Independence Day, Solidarity Sunday for Soviet Jewry, and Jerusalem Day: Now, therefore, be it

Jewish Heritage Week. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating April 21 through April 28, 1980, as "Jewish Heritage Week" and calling upon the people of the United States, State and local government agencies, and interested organizations to observe that week with appropriate ceremonies, activities, and programs.

Approved April 24, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 21, considered and passed House.
Apr. 22, considered and passed Senate.

Public Law 96-238
96th Congress

An Act

To authorize the Secretary of the Army to convey to the Michigan Job Development Authority the lands and improvements comprising the Michigan Army Missile Plant in Sterling Heights, Macomb County, Michigan, in return for two new office buildings at the Detroit Arsenal, Warren, Michigan.

Apr. 24, 1980
[H.R. 6464]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to section 2 and notwithstanding any other provision of law, the Secretary of the Army (hereinafter in this Act referred to as the "Secretary") is authorized to convey to the Michigan Job Development Authority, a public corporation of the State of Michigan (hereinafter in this Act referred to as the "Authority"), all right, title, and interest of the United States in and to the lands and improvements comprising the Michigan Army Missile Plant, Sterling Heights, Macomb County, Michigan, and related personal property (as determined by the Secretary).

Michigan Army Missile Plant, conveyance to Michigan Job Development Authority.

SEC. 2. (a) In consideration for the conveyance authorized by the first section of this Act, the Authority, pursuant to an agreement to be entered into between the Authority and the Secretary, shall—

Terms and conditions.

(1) provide to the United States buildings and other improvements as described in subsection (b);

(2) provide to the United States (A) the cost (as determined by the Secretary) of relocating the Federal Government activities located at the Michigan Army Missile Plant to the buildings provided in accordance with paragraph (1), and (B) the amount of Federal costs (as determined by the Secretary) incident to the construction of such buildings and such relocation; and

(3) pay to the United States an amount equal to the amount by which the fair market value (as determined by the Secretary) of the property conveyed by the United States under the first section of this Act exceeds the sum of (A) the actual cost (as determined by the Secretary) of the buildings and improvements provided to the United States in accordance with paragraph (1), and (B) the amounts provided to the United States in accordance with paragraph (2).

(b) The buildings and improvements to be provided to the United States under subsection (a)(1) shall consist of two buildings not to exceed one hundred and ninety-six thousand gross square feet each and appropriate related site improvements, to be constructed on land belonging to the United States at the Detroit Arsenal, Warren, Michigan, in accordance with plans and specifications approved by the Secretary.

Detroit Arsenal, Mich., building and improvement construction.

(c) Any moneys received by the Secretary under subsection (a)(2) shall be credited to the appropriations accounts to which the costs of such relocation and such incidental costs are charged. Any moneys received by the Secretary under subsection (a)(3) shall be covered into the Treasury as miscellaneous receipts.

Administration.

SEC. 3. The Secretary is authorized to accept and administer any property provided to the United States under this Act.

SEC. 4. The Secretary may require such additional terms and conditions as the Secretary considers appropriate to carry out the provisions of this Act and to protect the interests of the United States.

Report to congressional committees.

SEC. 5. Before the conveyance described in the first section of this Act, the Secretary shall report to the appropriate committees of Congress on such conveyance and on the agreement entered into under section 2(a) with respect to the conveyance.

Approved April 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-828 (Comm. on Armed Services).
SENATE REPORT No. 96-649 accompanying S. 2235 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 1, considered and passed House.
Apr. 22, considered and passed Senate in lieu of S. 2235
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 17:
Apr. 24, Presidential statement.

Public Law 96-239
96th Congress

An Act

To amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for two months the date on which the Pension Benefit Guaranty Corporation must pay benefits under terminated multiemployer plans.

Apr. 30, 1980
[H.R. 7140]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4082(c) of title IV of the Employee Retirement Income Security Act of 1974 (relating to effective dates; special rules) as amended by Public Law 95-214 and Public Law 96-24, is further amended—

(1) by striking "May 1, 1980" in paragraphs (1), (2), and (4) and substituting "July 1, 1980", in each such paragraph; and

(2) by striking "April 30, 1980" in paragraphs 2(B) and 4(D) and substituting "June 30, 1980" in each such paragraph.

Employee Retirement Income Security Act of 1974, amendment.
29 USC 1381.
93 Stat. 70.

Approved April 30, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 28, considered and passed House.
Apr. 29, considered and passed Senate, amended; House concurred in Senate amendments.

Public Law 96-240
96th Congress

Joint Resolution

May 1, 1980
[H.J. Res. 541]

Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Federal Trade Commission.

Federal Trade Commission, transfer of funds.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is transferred, out of funds previously appropriated, for the fiscal year ending September 30, 1980, namely:

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

(By transfer)

For an additional amount for "Salaries and expenses", $7,600,000, which shall be derived by transfer from unobligated balances available under the heading "Department of State, International Organizations and Conferences, Contributions to International Organizations": *Provided,* That authority made available by this joint resolution shall be available from April 30, 1980, and shall remain available until May 31, 1980: *Provided further,* That obligations of the Federal Trade Commission made pursuant to this joint resolution shall not exceed $5,800,000: *Provided further,* That none of the funds made available by this joint resolution for the Federal Trade Commission may be used for the final promulgation of trade regulation rules authorized by section 18 of the Federal Trade Commission Act, as amended, nor to initiate any new activities: *Provided further,* That no new trade regulation rules promulgated under the authority of section 18 of the Federal Trade Commission Act, as amended, after August 30, 1979, are to become effective during the period covered by this joint resolution for the Federal Trade Commission, unless authorizing legislation for the Federal Trade Commission is enacted into law during such period.

Ante, p. 128.

15 USC 57a.

Approved May 1, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
May 1, considered and passed House and Senate.

Public Law 96-241
96th Congress

An Act

To ensure that the compensation and other emoluments attached to the office of Secretary of State are those which were in effect January 1, 1977.

May 3, 1980
[S. 2637]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the compensation and other emoluments attached to the office of Secretary of State shall be those in effect January 1, 1977, notwithstanding any increase in such compensation or emoluments under (1) the Federal Salary Act of 1967 (Public Law 90-206; 81 Stat. 642) or the Executive Salary Cost-of-Living Adjustment Act (Public Law 94-82; 89 Stat. 419) taking effect during the period beginning at noon of January 3, 1977, and ending at noon of January 3, 1983, or (2) any other provision of law, or provision which has the force and effect of law, if such increase becomes effective during that period.

Office of Secretary of State, compensation and other emoluments.
5 USC 5312 note.
5 USC 5332 note.
5 USC 5312 note.

(b) Subsection (a) of this section shall be effective during the period beginning on the enactment of this Act and ending the earlier of noon of January 3, 1983, or the date on which the first individual appointed to the office of Secretary of State after the enactment of this Act ceases to hold that office.

Effective date.

SEC. 2. (a) Any person aggrieved by an action of the Secretary of State may bring a civil action in an appropriate United States district court to contest the constitutionality of the appointment and continuance in office of the Secretary of State on the ground that such appointment and continuance in office is in violation of article I, section 6, clause 2, of the Constitution. The United States district courts shall have exclusive jurisdiction, without regard to the sum or value of the matter in controversy, to determine the validity of such appointment and continuance in office.

Civil action.
22 USC 2651 note.

Jurisdiction.

(b) Any action brought under this section shall be heard and determined by a panel of three judges in accordance with section 2284 of title 28, United States Code. Any review of the action of a court convened pursuant to such section shall be by petition of certiorari to the Supreme Court.

Hearing.

(c) Any judge designated to hear any action brought under this section shall cause such action to be in every way expedited.

(d) This section applies only with respect to the Secretary of State who is first appointed to that office after the enactment of this Act.

Approved May 3, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
May 1, considered and passed Senate and House.

Public Law 96-242
96th Congress

An Act

May 5, 1980
[H.R. 4197]

To amend the Wool Products Labeling Act of 1939 with respect to recycled wool.

Wool Products Labeling Act, amendment.
15 USC 68.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2(c) of the Wool Products Labeling Act of 1939 (54 Stat. 1128) is amended to read as follows:

"(c) The term 'recycled wool' means (1) the resulting fiber when wool has been woven or felted into a wool product which, without ever having been utilized in any way by the ultimate consumer, subsequently has been made into a fibrous state, or (2) the resulting fiber when wool or reprocessed wool has been spun, woven, knitted, or felted into a wool product which, after having been used in any way by the ultimate consumer, subsequently has been made into a fibrous state.".

Repeal.

(b) Subsection (d) of section 2 of the Wool Products Labeling Act of 1939 is repealed.

(c) Subsections (e), (f), (g), (h), and (i) of section 2 of the Wool Products Labeling Act of 1939 and all references thereto are redesignated as subsections (d), (e), (f), (g), and (h), respectively.

(d) Section 2(d) of such Act, as redesignated by subsection (c) of this section, is amended by striking out ", reprocessed wool, or reused wool" and inserting in lieu thereof "or recycled wool".

15 USC 68b.

SEC. 2. Section 4(a)(2)(A) of the Wool Products Labeling Act of 1939 is amended—

(1) by striking out "(2) reprocessed wool; (3) reused wool" and inserting in lieu thereof "(2) recycled wool";

(2) by striking out "(4)" and inserting in lieu thereof "(3)"; and

(3) by striking out "(5)" and by inserting in lieu thereof "(4)".

Effective date.
15 USC 68 note.

SEC. 3. The amendments made by this Act shall take effect with respect to wool products manufactured on or after the date sixty days after the date of enactment of this Act.

Approved May 5, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-795 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 96-655 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 11, considered and passed House.
Apr. 23, considered and passed Senate.

Public Law 96-243
96th Congress

Joint Resolution

Making an urgent appropriation for the food stamp program for the fiscal year ending September 30, 1980, for the Department of Agriculture.

May 16, 1980
[H.J. Res. 545]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1980, namely:

Food stamp program, additional appropriations.

DEPARTMENT OF AGRICULTURE

FOOD STAMP PROGRAM

For an additional amount for the "Food Stamp Program", $2,556,174,000: *Provided,* That funds provided herein shall remain available until September 30, 1980, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That the Department of Agriculture is directed to study the effects of regulations which would limit benefits to participants in the food stamp program based upon value of the participants' assets, shall recommend an appropriate level of asset value which would deny or reduce benefits to a participant and analyze the impacts of such a restriction. Appropriate exemptions to this restriction should be considered. The Department is to analyze the administrative burden which this will impose upon the States. The Department is to report to Congress its findings in this matter not later than January 15, 1981: *Provided further,* That the Secretary of Agriculture shall study the impact and advisability of counting, for the purposes of income in determining eligibility: all educational loans on which payment is deferred; grants, fellowships, scholarships, and veteran's educational benefits used for the payment of tuition and mandatory fees at any educational institution of higher learning; and all housing subsidies including, but not limited to payments made by an outside party on behalf of an individual or household. The Department is to report to Congress its findings in this matter not later than January 15, 1981: *Provided further,* That notwithstanding any other provision of law, the Secretary of Agriculture shall make the determination on benefit reductions required by section 18 of the Food Stamp Act of 1977, as amended, on the basis of a total appropriation for fiscal year 1980 of $9,191,000,000: *Provided further,* That total appropriations shall not exceed $9,191,000,000 for fiscal year 1980.

7 USC 2027.

31 USC 665.

Regulatory effects of benefit limitations, study.
7 USC 2014 note.

Report to Congress.
7 USC 2014 note.

Report to Congress.

7 USC 2027.

Approved May 16, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-927 (Comm. on Appropriations) and No. 96-973 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 126 (1980):
May 13, considered and passed House.
May 14, considered and passed Senate, amended.
May 15, House agreed to conference report; receded and concurred in Senate amendments with amendments; Senate agreed to conference report and concurred in House amendments.

Public Law 96-244
96th Congress

An Act

May 19, 1980
[H.R. 126]

To permit the Secretary of the Interior to accept privately donated funds and to expend such funds on property on the National Register of Historic Places.

Department of the Interior. Privately donated funds, acceptance and expenditure.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (80 Stat. 915; as amended, 16 U.S.C. 470a), is further amended by adding a new section 109 as follows:

16 USC 470h-1.

"SEC. 109. (a) In furtherance of the purposes of this Act, the Secretary may accept the donation of funds which may be expended by him for projects to acquire, restore, preserve, or recover data from any district, building, structure, site, or object which is listed on the National Register of Historic Places established pursuant to section 101 of this Act, so long as the project is owned by a State, any unit of local government, or any nonprofit entity.

16 USC 470a.

"(b) In expending said funds, the Secretary shall give due consideration to the following factors: the national significance of the project; its historical value to the community; the imminence of its destruction or loss; and the expressed intentions of the donor. Funds expended under this subsection shall be made available without regard to the matching requirements established by section 102 of this Act, but the recipient of such funds shall be permitted to utilize them to match any grants from the Historic Preservation Fund established by section 108 of this Act.

16 USC 470b.

16 USC 470h.

Transfer of funds.

"(c) The Secretary is hereby authorized to transfer unobligated funds previously donated to the Secretary for the purposes of the National Park Service, with the consent of the donor, and any funds so transferred shall be used or expended in accordance with the provisions of this Act.".

Appropriation authorization. 16 USC 470t.

SEC. 2. The Act referred to in the preceding section is further amended in subsection 212(a) by changing the period at the end thereof to a comma, and inserting the following: "$2,500,000 in fiscal year 1981, $2,500,000 in fiscal year 1982, and $2,500,000 in fiscal year 1983."

Approved May 19, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-592 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-625 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 27, considered and passed House.
Vol. 126 (1980): Mar. 19, considered and passed Senate, amended.
May 1, House concurred in certain Senate amendments and in others with amendments.
May 6, Senate concurred in House amendments.

Public Law 96-245
96th Congress

An Act

To authorize the use of certified mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes.

May 21, 1980
[H.R. 5673]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act of June 11, 1960 (74 Stat. 200), is amended by adding at the end thereof the following new paragraph:

National Labor Relations Board, use of certified mail.

"(57) Section 11(4) of the National Labor Relations Act (29 U.S.C. 161(4)) is amended—

"(A) by inserting 'or certified' after 'registered' each place it appears; and

"(B) by inserting 'when' after 'mailed or'.".

Approved May 21, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-659 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 96-678 accompanying S. 2101 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 3, considered and passed House.
Vol. 126 (1980): May 7, considered and passed House in lieu of S. 2101.

Public Law 96-246
96th Congress

An Act

May 23, 1980
[H.R. 6839]

To authorize appropriations under the Endangered Species Act of 1973 to carry out State cooperative programs through fiscal year 1982.

Endangered Species Act of 1973, appropriation authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Endangered Species Act of 1973 (16 U.S.C. 1535) is further amended by striking out paragraph (2) of subsection (i) in its entirety and inserting in lieu thereof the following:

"(2) $12,000,000 for the period beginning October 1, 1977, and ending September 30, 1980.

"(3) $12,000,000 for the period beginning October 1, 1980, and ending September 30, 1982.".

Approved May 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-896 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 5, considered and passed House.
May 12, considered and passed Senate.

Public Law 96-247
96th Congress

An Act

To authorize actions for redress in cases involving deprivations of rights of institutionalized persons secured or protected by the Constitution or laws of the United States.

May 23, 1980
[H.R. 10]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights of Institutionalized Persons Act".

Civil Rights of Institutionalized Persons Act.
42 USC 1997 note.

SEC. 2. DEFINITIONS.

42 USC 1997.

As used in this Act—

(1) The term "institution" means any facility or institution—

(A) which is owned, operated, or managed by, or provides services on behalf of any State or political subdivision of a State; and

(B) which is—

(i) for persons who are mentally ill, disabled, or retarded, or chronically ill or handicapped;

(ii) a jail, prison, or other correctional facility;

(iii) a pretrial detention facility;

(iv) for juveniles—

(I) held awaiting trial;

(II) residing in such facility or institution for purposes of receiving care or treatment; or

(III) residing for any State purpose in such facility or institution (other than a residential facility providing only elementary or secondary education that is not an institution in which reside juveniles who are adjudicated delinquent, in need of supervision, neglected, placed in State custody, mentally ill or disabled, mentally retarded, or chronically ill or handicapped); or

(v) providing skilled nursing, intermediate or long-term care, or custodial or residential care.

(2) Privately owned and operated facilities shall not be deemed "institutions" under this Act if—

(A) the licensing of such facility by the State constitutes the sole nexus between such facility and such State;

(B) the receipt by such facility, on behalf of persons residing in such facility, of payments under title XVI, XVIII, or under a State plan approved under title XIX, of the Social Security Act, constitutes the sole nexus between such facility and such State; or

42 USC 1381, 1395.
42 USC 1396.

(C) the licensing of such facility by the State, and the receipt by such facility, on behalf of persons residing in such facility, of payments under title XVI, XVIII, or under a State plan approved under title XIX, of the Social Security Act, constitutes the sole nexus between such facility and such State;

(3) The term "person" means an individual, a trust or estate, a partnership, an association, or a corporation;

(4) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States;

(5) The term "legislative days" means any calendar day on which either House of Congress is in session.

42 USC 1997a.

SEC. 3. INITIATION OF ACTIONS.

(a) Whenever the Attorney General has reasonable cause to believe that any State or political subdivision of a State, official, employee, or agent thereof, or other person acting on behalf of a State or political subdivision of a State is subjecting persons residing in or confined to an institution, as defined in section 2, to egregious or flagrant conditions which deprive such persons of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States causing such persons to suffer grievous harm, and that such deprivation is pursuant to a pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities, the Attorney General, for or in the name of the United States, may institute a civil action in any appropriate United States district court against such party for such equitable relief as may be appropriate to insure the minimum corrective measures necessary to insure the full enjoyment of such rights, privileges, or immunities, except that such equitable relief shall be available under this Act to persons residing in or confined to an institution as defined in section 2(1)(B)(ii) only insofar as such persons are subjected to conditions which deprive them of rights, privileges, or immunities secured or protected by the Constitution of the United States.

USC prec. title 1.

Attorney's fee, allowance.

(b) In any action commenced under this section, the court may allow the prevailing party, other than the United States, a reasonable attorney's fee against the United States as part of the costs.

(c) Any complaint filed by the Attorney General pursuant to this section shall be personally signed by him.

42 USC 1997b.

SEC. 4. CERTIFICATION REQUIREMENTS.

(a) At the time of the commencement of an action under section 2 the Attorney General shall certify to the court—

(1) that at least 49 calendar days previously he has notified in writing the Governor or chief executive officer and attorney general or chief legal officer of the appropriate State or political subdivision and the director of the institution of—

(A) the alleged conditions which deprive rights, privileges, or immunities secured or protected by the Constitution or laws of the United States and the alleged pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities;

(B) the supporting facts giving rise to the alleged conditions and the alleged pattern or practice, including the dates or time period during which the alleged conditions and pattern or practice of resistance occurred; and when feasible, the identity of all persons reasonably suspected of being involved in causing the alleged conditions and pattern or practice at the time of the certification, and the date on which the alleged conditions and pattern or practice were first brought to the attention of the Attorney General; and

(C) the minimum measures which he believes may remedy the alleged conditions and the alleged pattern or practice of resistance;

(2) that he has notified in writing the Governor or chief executive officer and attorney general or chief legal officer of the appropriate State or political subdivision and the director of the institution of his intention to commence an investigation of such institution, that such notice was delivered at least seven days prior to the commencement of such investigation and that between the time of such notice and the commencement of an action under section 3 of this Act— Notification of investigation.

(A) he has made a reasonable good faith effort to consult with the Governor or chief executive officer and attorney general or chief legal officer of the appropriate State or political subdivision and the director of the institution, or their designees, regarding financial, technical, or other assistance which may be available from the United States and which he believes may assist in the correction of such conditions and pattern or practice of resistance;

(B) he has encouraged the appropriate officials to correct the alleged conditions and pattern or practice of resistance through informal methods of conference, conciliation and persuasion, including, to the extent feasible, discussion of the possible costs and fiscal impacts of alternative minimum corrective measures, and it is his opinion that reasonable efforts at voluntary correction have not succeeded; and

(C) he is satisfied that the appropriate officials have had a reasonable time to take appropriate action to correct such conditions and pattern or practice, taking into consideration the time required to remodel or make necessary changes in physical facilities or relocate residents, reasonable legal or procedural requirements, the urgency of the need to correct such conditions, and other circumstances involved in correcting such conditions; and

(3) that he believes that such an action by the United States is of general public importance and will materially further the vindication of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States. USC prec. title 1.

(b) Any certification made by the Attorney General pursuant to this section shall be personally signed by him.

SEC. 5. INTERVENTION IN ACTIONS. 42 USC 1997c.

(a)(1) Whenever an action has been commenced in any court of the United States seeking relief from egregious or flagrant conditions which deprive persons residing in institutions of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States causing them to suffer grievous harm and the Attorney General has reasonable cause to believe that such deprivation is pursuant to a pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities, the Attorney General, for or in the name of the United States, may intervene in such action upon motion by the Attorney General.

(2) The Attorney General shall not file a motion to intervene under paragraph (1) before 90 days after the commencement of the action, except that if the court determines it would be in the interests of justice, the court may shorten or waive the time period.

(b)(1) The Attorney General shall certify to the court in the motion to intervene filed under subsection (a)— Certification to court.

(A) that he has notified in writing, at least fifteen days previously, the Governor or chief executive officer, attorney

general or chief legal officer of the appropriate State or political subdivision, and the director of the institution of—

(i) the alleged conditions which deprive rights, privileges, or immunities secured or protected by the Constitution or laws of the United States and the alleged pattern or practice of resistance to the full enjoyment of such rights, privileges, or immunities;

(ii) the supporting facts giving rise to the alleged conditions, including the dates and time period during which the alleged conditions and pattern or practice of resistance occurred; and

(iii) to the extent feasible and consistent with the interests of other plaintiffs, the minimum measures which he believes may remedy the alleged conditions and the alleged pattern or practice of resistance; and

(B) that he believes that such intervention by the United States is of general public importance and will materially further the vindication of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.

(2) Any certification made by the Attorney General pursuant to this subsection shall be personally signed by him.

(c) Any motion to intervene made by the Attorney General pursuant to this section shall be personally signed by him.

Attorney's fee, allowance.

(d) In any action in which the United States joins as an intervenor under this section, the court may allow the prevailing party, other than the United States, a reasonable attorney's fee against the United States as part of the costs. Nothing in this subsection precludes the award of attorney's fees available under any other provisions of the United States Code.

42 USC 1997d.

SEC. 6. PROHIBITION OF RETALIATION.

No person reporting conditions which may constitute a violation under this Act shall be subjected to retaliation in any manner for so reporting.

42 USC 1997e.

SEC. 7. EXHAUSTION OF REMEDIES.

(a)(1) Subject to the provisions of paragraph (2), in any action brought pursuant to section 1979 of the Revised Statutes of the United States (42 U.S.C. 1983) by an adult convicted of a crime confined in any jail, prison, or other correctional facility, the court shall, if the court believes that such a requirement would be appropriate and in the interests of justice, continue such case for a period of not to exceed ninety days in order to require exhaustion of such plain, speedy, and effective administrative remedies as are available.

(2) The exhaustion of administrative remedies under paragraph (1) may not be required unless the Attorney General has certified or the court has determined that such administrative remedies are in substantial compliance with the minimum acceptable standards promulgated under subsection (b).

Grievance resolution standards.

(b)(1) No later than one hundred eighty days after the date of enactment of this Act, the Attorney General shall, after consultation with persons, State and local agencies, and organizations with background and expertise in the area of corrections, promulgate minimum standards for the development and implementation of a plain, speedy, and effective system for the resolution of grievances of adults confined in any jail, prison, or other correctional facility. The Attorney General shall submit such proposed standards for publica-

Publication in Federal Register.

tion in the Federal Register in accordance with section 553 of title 5, United States Code. Such standards shall take effect thirty legislative days after publication unless, within such period, either House of Congress adopts a resolution of disapproval of such standards. Effective date.

(2) The minimum standards shall provide— Minimum standards provisions.

(A) for an advisory role for employees and inmates of any jail, prison, or other correctional institution (at the most decentralized level as is reasonably possible), in the formulation, implementation, and operation of the system;

(B) specific maximum time limits for written replies to grievances with reasons thereto at each decision level within the system;

(C) for priority processing of grievances which are of an emergency nature, including matters in which delay would subject the grievant to substantial risk of personal injury or other damages;

(D) for safeguards to avoid reprisals against any grievant or participant in the resolution of a grievance; and

(E) for independent review of the disposition of grievances, including alleged reprisals, by a person or other entity not under the direct supervision or direct control of the institution.

(c)(1) The Attorney General shall develop a procedure for the prompt review and certification of systems for the resolution of grievances of adults confined in any jail, prison, or other correctional facility, or pretrial detention facility, to determine if such systems, as voluntarily submitted by the various States and political subdivisions, are in substantial compliance with the minimum standards promulgated under subsection (b). Prompt review and certification of systems procedure.

(2) The Attorney General may suspend or withdraw the certification under paragraph (1) at any time that he has reasonable cause to believe that the grievance procedure is no longer in substantial compliance with the minimum standards promulgated under subsection (b). Suspension or withdrawal of certification.

(d) The failure of a State to adopt or adhere to an administrative grievance procedure consistent with this section shall not constitute the basis for an action under section 3 or 5 of this Act.

SEC. 8. REPORT TO CONGRESS. 42 USC 1997f.

The Attorney shall include in his report to Congress on the business of the Department of Justice prepared pursuant to section 522 of title 28, United States Code—

(1) a statement of the number, variety, and outcome of all actions instituted pursuant to this Act including the history of, precise reasons for, and procedures followed in initiation or intervention in each case in which action was commenced;

(2) a detailed explanation of the procedures by which the Department has received, reviewed and evaluated petitions or complaints regarding conditions in institutions;

(3) an analysis of the impact of actions instituted pursuant to this Act, including, when feasible, an estimate of the costs incurred by States and other political subdivisions;

(4) a statement of the financial, technical, or other assistance which has been made available from the United States to the State in order to assist in the correction of the conditions which are alleged to have deprived a person of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States; and USC prec. title 1.

(5) the progress made in each Federal institution toward meeting existing promulgated standards for such institutions or constitutionally guaranteed minima.

42 USC 1997g.

SEC. 9. PRIORITIES FOR USE OF FUNDS.

(a) It is the intent of Congress that deplorable conditions in institutions covered by this Act amounting to deprivations of rights protected by the Constitution or laws of the United States be corrected, not only by litigation as contemplated in this Act, but also by the voluntary good faith efforts of agencies of Federal, State, and local governments. It is the further intention of Congress that where Federal funds are available for use in improving such institutions, priority should be given to the correction or elimination of such unconstitutional or illegal conditions which may exist. It is not the intent of this provision to require the redirection of funds from one program to another or from one State to another.

USC prec. title 1.

42 USC 1997h.

SEC. 10. NOTICE TO FEDERAL DEPARTMENTS.

At the time of notification of the commencement of an investigation of an institution under section 3 or of the notification of an intention to file a motion to intervene under section 5 of this Act, and if the relevant institution receives Federal financial assistance from the Department of Health and Human Services or the Department of Education, the Attorney General shall notify the appropriate Secretary of his action and the reasons for such action and shall consult with such officials. Following such consultation, the Attorney General may proceed with an action under this Act if he is satisfied that such action is consistent with the policies and goals of the executive branch.

42 USC 1997i.

SEC. 11. DISCLAIMER—STANDARDS OF CARE.

Provisions of this Act shall not authorize promulgation of regulations defining standards of care.

42 USC 1997j.

SEC. 12. DISCLAIMER—PRIVATE LITIGATION.

The provisions of this Act shall in no way expand or restrict the authority of parties other than the United States to enforce the legal rights which they may have pursuant to existing law with regard to institutionalized persons. In this regard, the fact that the Attorney General may be conducting an investigation or contemplating litigation pursuant to this Act shall not be grounds for delay of or prejudice to any litigation on behalf of parties other than the United States.

Approved May 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-80 (Comm. on the Judiciary) and No. 96-897 (Comm. of Conference).

SENATE REPORT No. 96-416 accompanying S. 10 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 125 (1979): May 16, 23, considered and passed House.
May 24, considered in Senate.

Vol. 126 (1980): Feb. 26, 27, S. 10 considered in Senate.
Feb. 28, H.R. 10 considered and passed Senate, amended, in lieu of S. 10.
Apr. 23-25, 28-30, May 1, 6, Senate considered and agreed to conference report.
May 12, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 21 (1980): May 23, Presidential statement.

Public Law 96-248
96th Congress

An Act

To amend the Act of November 8, 1978 (92 Stat. 3095), to designate certain Cibola National Forest lands as additions to the Sandia Mountain Wilderness, New Mexico.

May 23, 1980
[H.R. 3928]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act of November 8, 1978 (92 Stat. 3096), is amended by adding the following new subsection at the end thereof:

Cibola National Forest, N. Mex.

"(c) In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890) and section 2(g) of the Endangered American Wilderness Act of 1978 (92 Stat. 42), the western exterior boundary of the Sandia Mountain Wilderness is extended to a line beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east, on the south boundary of the Elena Gallegos Grant and extending north 2,700 feet; thence east 1,515 feet; thence north 1,260 feet; thence east 3,160 feet; thence north 4,125 feet; thence north 42 degrees east, 4,480 feet; thence north 1,710 feet; thence west 3,235 feet; thence north 19 degrees west, 2,350 feet; thence west 1,400 feet; thence north 3,820 feet to a point on the north boundary of such grant; thence south 81 degrees 30 minutes east, 150 feet along the boundary of such grant to the 7½-mile corner. Such boundary will enclose approximately 6,423 acres of the lands in the grant as it is described in section 1 of this Act. Such lands, upon acquisition by the United States, will be administered as a part of the Sandia Mountain Wilderness. Subject to valid existing rights, all lands within the Sandia Mountain Wilderness, including those lands added to such wilderness by operation of this Act, and all other lands in the grant described in section 1 of this Act which have been or may hereafter be acquired by the United States, are hereby withdrawn from all forms of entry or appropriation under the mining laws and from the operation of the mineral leasing laws of the United States.

Sandia Mountain Wilderness, boundary extension. 16 USC 1131 note. 16 USC 1132 note.

Mining and mineral leasing laws.

SEC. 2. Section 4 of the Act of November 8, 1978, is amended by changing "$12,000,000" to "$20,000,000".

92 Stat. 3096.

Albuquerque, N. Mex., purchase option. 92 Stat. 3095.

SEC. 3. The proviso in section 1 of the Act of November 8, 1978, is amended to read as follows: *"Provided,* That the tract of land described in this section shall not be included within the exterior boundaries of the Cibola National Forest until the Secretary of Agriculture determines that the city of Albuquerque, New Mexico, has acquired an option to purchase a tract of land containing approximately 640 acres located immediately to the west of such tract for open space or city park use: *And provided further,* That if such option is not exercised the tract of land described in this section shall no longer be included within the exterior boundaries of the Cibola National Forest.".

Approved May 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-679 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-666 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 17, considered and passed House.
Vol. 126 (1980): May 5, considered and passed Senate, amended.
May 7, House concurred in Senate amendments.

Public Law 96-249
96th Congress

An Act

May 26, 1980
[S. 1309]

To amend the Food Stamp Act of 1977 to improve food stamp program fiscal accountability through reductions in inaccurate eligibility and benefit determinations; to improve the system of deductions; to increase the specific dollar limitations on appropriations for the fiscal years 1980 and 1981 food stamp programs; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food Stamp Act Amendments of 1980".

Food Stamp Act Amendments of 1980.
7 USC 2011 note.

TITLE I—REDUCTION IN FOOD STAMP ERROR AND FRAUD AND REVISION OF DEDUCTIONS

MEALS IN SHELTERS FOR BATTERED WOMEN AND CHILDREN

SEC. 101. (a) Section 3 of the Food Stamp Act of 1977 is amended by— 7 USC 2012.

(1) striking out in clause (1) of subsection (g) "and (7)" and inserting in lieu thereof "(7), and (8)"; 93 Stat. 392.

(2) striking out in subsection (g) "and (7)" and inserting in lieu thereof "(7)";

(3) inserting immediately before the period at the end of subsection (g) the following: ", and (8) in the case of women and children temporarily residing in public or private nonprofit shelters for battered women and children, meals prepared and served, by such shelters";

(4) inserting in the last sentence of subsection (i) after "section 1616(e) of the Social Security Act," the following: "temporary residents of public or private nonprofit shelters for battered women and children,"; and 42 USC 1382e.

(5) striking out in clause (2) of subsection (k) "and (7)" and inserting in lieu thereof "(7), and (8)".

(b) Section 10 of the Food Stamp Act of 1977 is amended as follows: 93 Stat. 392. 7 USC 2019.

(1) inserting after "purchased" a comma;

(2) striking out the comma immediately after "residents"; and

(3) inserting after "programs" the following: ", public and private nonprofit shelters that prepare and serve meals for battered women and children".

EXCLUDING ENERGY ASSISTANCE PAYMENTS FROM INCOME

SEC. 102. Section 5(d) of the Food Stamp Act of 1977 is amended by— 7 USC 2014.

(1) striking out "and" before "(10)"; and

(2) inserting before the period at the end thereof the following: ", and (11) any payments or allowances made under any Federal, State, or local laws for the purpose of providing energy assistance".

CONSUMER PRICE INDEX

93 Stat. 390.
7 USC 2014.
Post, p. 369.

SEC. 103. Section 5(e) of the Food Stamp Act of 1977 is amended by inserting "for all urban consumers" after "Consumer Price Index" each time those words appear.

DEPENDENT CARE DEDUCTIONS FOR WORKING ADULTS

SEC. 104. Effective October 1, 1981, section 5(e) of the Food Stamp Act of 1977 is amended by—

(1) in the fourth sentence, amending clause (1) to read as follows: "(1) a dependent care deduction for the actual cost of payments necessary for the care of a dependent regardless of the dependent's age, the maximum allowable level of which shall be $90 per month, per household, when such care enables a household member to accept or continue employment, or training or education that is preparatory for employment, and";

(2) in the fourth sentence, striking out everything after "March 31" down to the period at the end of the sentence; and

(3) in clause (B), striking out "that for the excess shelter expense deduction contained in clause (2) of the preceding sentence" and inserting in lieu thereof the following: "described in clause (1) of the preceding sentence".

EXPANDED MEDICAL DEDUCTIONS FOR THE ELDERLY

SEC. 105. Effective October 1, 1981, section 5(e)(A) of the Food Stamp Act of 1977 is amended by—

(1) inserting "or their spouses" before ", exclusive of special diets,"; and

(2) striking out "$35" and inserting in lieu thereof "$25".

MEDICAL DEDUCTION FOR THE BLIND AND DISABLED IN CERTAIN AREAS

SEC. 106. Effective October 1, 1981, section 5(e) of the Food Stamp Act of 1977 is amended by:

(1) in the fourth and last sentences, inserting "and blindness" after each time "disability" appears; and

(2) in the fourth and last sentences, striking out "title II" each time that it appears and inserting in lieu thereof: "titles I, II, X, XIV, and XVI".

RETROSPECTIVE ACCOUNTING

7 USC 2014.

SEC. 107. Section 5(f) of the Food Stamp Act of 1977 is amended to read as follows:

"(f) Household income for those households that by contract for other than an hourly or piecework basis, or by self-employment, derive their annual income in a period of time shorter than one year, shall be calculated by the State agency for the purpose of determining household eligibility by being averaged over a twelve-month period. For those households that receive nonexcluded income of the type specified in subsection (d)(3) of this section, such income shall be calculated by being averaged over the period for which it is provided. State agencies shall elect and use one of the following two methods in calculating income for all other households:

"(1) taking into account the income reasonably anticipated to be received by the household in the certification period for which

eligibility is being determined and the income that has been received by the household during the thirty days preceding the filing of its application for food stamps so that the State agency may reasonably ascertain the income that is and will be actually available to the household for the certification period; or

"(2) using income received in a previous month as the basis, in accordance with standards prescribed by the Secretary, except for the month of application and subsequent months specified by the Secretary for newly applying households (other than households reapplying within thirty days after the end of a prior certification period). In addition, the Secretary shall make modifications or exceptions to this method of income calculation with respect to households experiencing sudden and significant losses of income (including households experiencing losses of income of $50 per month or more) or the addition of a new member, households in immediate need in accordance with the provisions of section 11(e)(9) of this Act, migrant farmworker households, and other classes of households if the Secretary determines that this method of income calculation would be impracticable to administer or would cause serious hardship for such households. In promulgating regulations governing the method of income calculation described in this subsection, the Secretary shall consult with the Secretary of Health and Human Services so that, wherever feasible, and consistent with the purposes of the applicable Acts, households receiving income under title IV-A of the Social Security Act shall have income calculated on a consolidated and comparable basis.".

7 USC 2020.

Regulations, consultation with Secretary of Health and Human Services.

42 USC 601.

VEHICLE USE BY HANDICAPPED HOUSEHOLD MEMBERS

SEC. 108. The second sentence of section 5(g) of the Food Stamp Act of 1977 is amended by—

7 USC 2014.

(1) inserting after "other than one used to produce earned income" the following: "or that is necessary for transportation of a physically disabled household member"; and

(2) striking out "or to transport disabled household members".

STATE OPTION ON ADMINISTRATIVE FRAUD HEARINGS

SEC. 109. Section 6(b) of the Food Stamp Act of 1977 is amended by inserting after the first sentence thereof a new sentence as follows: "Each State agency shall proceed against such alleged fraudulent activity either by way of administrative fraud hearings in accordance with clause (1) of this subsection or by referring such matters to appropriate legal authorities for civil or criminal action in accordance with clause (2) of this subsection, or both.".

93 Stat. 391.
7 USC 2015.

PERIODIC REPORTING

SEC. 110. Section 6(c) of the Food Stamp Act of 1977 is amended by striking out everything after the first sentence and inserting in lieu thereof the following:

7 USC 2015.

"(1) State agencies that elect to use a system of retrospective accounting in accordance with section 5(f)(2) of this Act shall require certain categories of households to file periodic reports of household circumstances in accordance with standards prescribed by the Secretary. Other State agencies, which have received the approval of the Secretary, may also require such

Ante, p. 358.

categories of households to file periodic reports. Each household that is not required to file such periodic reports on a monthly basis shall be required to report or cause to be reported to the State agency, on a form designed or approved by the Secretary, changes in income or household circumstances which the Secretary deems necessary in order to assure accurate eligibility and benefit determinations.

"(2) Any household required to file a periodic report under paragraph (1) of this subsection shall, (A) if it is eligible to participate and has filed a timely and complete report, receive its allotment, based on the reported information for a given month, within thirty days of the end of that month unless the Secretary determines that a longer period of time is necessary, (B) have available special procedures that permit the filing of the required information in the event all adult members of the household are mentally or physically handicapped or lacking in reading or writing skills to such a degree as to be unable to fill out the required forms, (C) have a reasonable period of time after the close of the month in which to file their reports on forms approved by the Secretary, and (D) be afforded prompt notice of failure to file any report timely or completely, and given a reasonable opportunity to cure that failure (with any applicable time requirements extended accordingly) and to exercise its rights under section 11(e)(10) of this Act.

7 USC 2020.

"(3) Reports required to be filed under paragraph (1) of this subsection shall be considered complete if, in accordance with standards prescribed by the Secretary, they contain sufficient information to enable the State agency to determine household eligibility and allotment levels. All report forms, including those related to periodic reports of circumstances, shall contain a description, in understandable terms in prominent and bold face lettering, of the appropriate civil and criminal provisions dealing with violations of this Act including the prescribed penalties. The reporting requirements contained in paragraph (1) of this subsection shall be the sole such requirements for reporting changes in circumstances for participating households. In promulgating regulations implementing these reporting requirements, the Secretary shall consult with the Secretary of Health and Human Services, and, wherever feasible, households that receive assistance under title IV-A of the Social Security Act and that are required to file comparable reports under that Act shall be provided the opportunity to file reports at the same time for purposes of both Acts.".

Regulations, consultation with Secretary of Health and Human Services. 42 USC 601.

CONFORMING AMENDMENTS FOR RETROSPECTIVE ACCOUNTING AND PERIODIC INCOME REPORTING

7 USC 2012.

SEC. 111. Section 3(c) of the Food Stamp Act of 1977 is amended to read as follows:

"Certification period."

"(c) 'Certification period' means the period for which households shall be eligible to receive authorization cards. For those households that are required to submit periodic reports under section 6(c)(1) of this Act, the certification period shall be at least six months but no longer than twelve months. For households that are not required to submit periodic reports, the certification period shall be determined as follows:

"(1) In the case of a household all of whose members are included in a federally aided public assistance or general assistance grant, the period shall coincide with the period of such grant.

"(2) In the case of all other households, the period shall be not less than three months: *Provided,* That such period may be up to twelve months for any household consisting entirely of unemployable or elderly or primarily self-employed persons, or as short as circumstances require for those households as to which there is a substantial likelihood of frequent changes in income or household status, and for any household on initial certification, as determined by the Secretary.".

SEC. 112. Section 5(d)(2) of the Food Stamp Act of 1977 is amended by inserting after the second comma the following: "subject to modification by the Secretary in light of section 5(f)(2) of this Act,". 7 USC 2014. *Ante*, p. 358.

SEC. 113. Section 11(e)(4) of the Food Stamp Act of 1977 is amended by inserting immediately after "subsection" the following: ": *Provided,* That the timeliness standards for submitting the notice of expiration and filing an application for recertification may be modified by the Secretary in light of sections 5(f)(2) and 6(c) of this Act if administratively necessary". 7 USC 2020. *Ante*, pp. 358, 359.

PARTICIPATION BY STRIKERS

SEC. 114. Section 6(d) of the Food Stamp Act of 1977 is amended by adding at the end thereof a new paragraph (4) as follows: 7 USC 2015.

"(4) Notwithstanding any other provision of law, a household shall not participate in the food stamp program at any time that any member of such household, not exempt from the work registration requirements of paragraph (1) of this subsection, is on strike as defined in section 501(2) of the Labor Management Relations Act, 1947, because of a labor dispute (other than a lockout) as defined in section 2(9) of the National Labor Relations Act: *Provided,* That a household shall not lose its eligibility to participate in the food stamp program as a result of one of its members going on strike if the household was eligible for food stamps immediately prior to such strike: *Provided further,* That such ineligibility shall not apply to any household that does not contain a member on strike, if any of its members refuses to accept employment at a plant or site because of a strike or lockout: *Provided further,* That such ineligibility shall not apply if the household meets the income qualifications, assets requirements, and work registration requirements, as mandated in subsection (i) of this section.". 29 USC 142. 29 USC 152.

INCOME AND RESOURCES OF INELIGIBLE ALIEN

SEC. 115. Section 6(f) of the Food Stamp Act of 1977 is amended by adding at the end thereof a new sentence as follows: "The income (less a pro rata share) and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection shall be considered in determining the eligibility and the value of the allotment of the household of which such individual is a member.". 7 USC 2015.

MATCHING OF INCOME INFORMATION AND OTHER VERIFICATION

SEC. 116. Section 11(e)(3) of the Food Stamp Act of 1977 is amended by— 7 USC 2020.

(1) inserting after "section 5(d) of this Act" the following: "(in part through the use of the information, if any, obtained under subsections (h) and (i) of section 16 of this Act)"; and

Post, p. 367.

(2) inserting after "sections 5 and 6 of this Act," the following: "although the State agency may verify prior to certification, whether questionable or not, the size of any applicant household and any factors of eligibility involving households that fall within the State agency's error-prone household profiles as developed by the State agency from the quality control program conducted under section 16 of this Act and as approved by the Secretary,".

7 USC 2025.

PHOTO IDENTIFICATION

SEC. 117. Section 11(e) of the Food Stamp Act of 1977, as amended, is amended by striking out "and" at the end of paragraph (15), and adding at the end thereof a new paragraph (17) as follows:

7 USC 2020.

"(17) that the State agency shall require each household certified as eligible to participate by methods other than the out-of-office methods specified in the last sentence of paragraph (2) of this subsection in those project areas or parts of project areas in which the Secretary, in consultation with the Department's Inspector General, finds that it would be useful to protect the program's integrity, to present a photographic identification card when using its authorization card in order to receive its coupons;".

REPORTING ILLEGAL ALIENS

SEC. 118. Section 11(e) of the Food Stamp Act of 1977, as amended by section 117 of this Act, is amended by adding at the end thereof a new paragraph (18) as follows:

"(18) notwithstanding paragraph (8) of this subsection, for the immediate reporting to the Immigration and Naturalization Service by the State agency of a determination by personnel responsible for the certification or recertification of households that any member of a household is ineligible to receive food stamps because that member is present in the United States in violation of the Immigration and Nationality Act;".

8 USC 1101 note.

COMPUTERIZATION

SEC. 119. Section 11(e) of the Food Stamp Act of 1977, as amended by section 118 of this Act, is amended by inserting "and" at the end of paragraph (18) and adding at the end thereof a new paragraph (19) as follows:

7 USC 2020.

"(19) at the option of the State agency, for the establishment and operation of an automatic data processing and information retrieval system that meets such conditions as the Secretary may prescribe and that is designed to provide efficient and effective administration of the food stamp program.".

STATE COMPLIANCE WITH LAW

SEC. 120. Section 11(g) of the Food Stamp Act of 1977 is amended by—

(1) inserting after "determines" the following: ", upon information received by the Secretary, investigation initiated by the Secretary, or investigation that the Secretary shall initiate upon receiving sufficient information evidencing a pattern of lack of

compliance by a State agency of a type specified in this subsection,";

(2) inserting "without good cause" before "to comply";

(3) striking out "or" before "the State plan of operation";

(4) inserting after "section," the following: "or the Secretary's standards for the efficient and effective administration of the program established under section 16(b)(1) of this Act"; and 7 USC 2025.

(5) inserting before the period at the end of the second sentence the following: ", and, whether or not the Secretary refers such matter to the Attorney General, the Secretary shall proceed to withhold from the State such funds authorized under sections 16(a) and 16(c) of this Act as the Secretary determines to be appropriate, subject to administrative and judicial review under section 14 of this Act.". 93 Stat. 391. 7 USC 2025. *Post*, p. 364. 7 USC 2023.

SEC. 121. Section 16(b) of the Food Stamp Act of 1977 is amended by striking out the last sentence thereof. 7 USC 2025.

SOCIAL SECURITY OFFICE APPLICATION

SEC. 122. Section 11(i)(2) of the Food Stamp Act of 1977 is amended by striking out "simplified affidavit" and inserting in lieu thereof "simple application". 7 USC 2020.

SPECIAL FINANCIAL AUDIT REVIEW OF HIGH PARTICIPATION STATES

SEC. 123. Section 11 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (l) as follows:

"(l) Whenever the ratio of a State's average food stamp participation in any quarter of a fiscal year to the State's total population in that quarter (estimated on the basis of the latest available population estimates as provided by the Department of Commerce, Bureau of the Census, Series P-25, Current Population Reports (or its successor series)) exceeds 60 per centum, the Office of the Inspector General of the Department of Agriculture shall immediately schedule a financial audit review of a sample of project areas within that State, and shall, upon completion of the audit, provide a report to Congress of its findings and recommendations within one hundred and eighty days. Any financial audit review subsequent to the first such review, required under the preceding sentence, shall be conducted at the option of the Office of the Inspector General.".

FORFEITURE OF PROPERTY INVOLVED IN ILLEGAL FOOD STAMP TRANSACTIONS

SEC. 124. Section 15 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (g) as follows: 7 USC 2024.

"(g) The Secretary may subject to forfeiture and denial of property rights any nonfood items, moneys, negotiable instruments, securities, or other things of value that are furnished or intended to be furnished by any person in exchange for coupons or authorization cards in any manner not authorized by this Act or the regulations issued under this Act. Any forfeiture and disposal of property forfeited under this subsection shall be conducted in accordance with procedures contained in regulations issued by the Secretary.".

STATE INCENTIVES FOR REDUCING ERROR

7 USC 2025.

SEC. 125. Section 16(c) of the Food Stamp Act of 1977 is amended by—

(1) striking out "Effective October 1, 1978, the" and inserting in lieu thereof "The";

(2) inserting "(1) effective October 1, 1978," after "such share to";

(3) inserting "(A)" after "State agency whose";

(4) inserting "semiannual" before "cumulative";

(5) striking out "section is less" and inserting in lieu thereof "section are less";

(6) inserting before the period at the end thereof the following: "and (B) whose rate of invalid decisions in denying eligibility as calculated in the quality control program conducted under subsection (d)(1) of this section is less than a nationwide percentage that the Secretary determines to be reasonable;

"(2) effective October 1, 1980, 65 per centum of all such administrative costs in the case of a State agency meeting the standards contained in paragraph (1) of this subsection;

"(3) effective October 1, 1980, 60 per centum of all such administrative costs in the case of a State agency whose cumulative allotment error rate as determined under paragraph (1)(A) of this subsection is greater than 5 per centum but less than 8 per centum or the national standard payment error rate for the base period, whichever is lower, and which also meets the standard contained in paragraph (1)(B) of this subsection; and

"(4) effective October 1, 1980, 55 per centum of all such administrative costs in the case of a State agency whose annual rate of error reduction is equal to or exceeds 25 per centum. No State agency shall receive more than one of the increased federally funded shares of administrative costs set forth in paragraphs (1) through (4) of this subsection".

STATE LIABILITY FOR ERRORS

SEC. 126. Section 16 of the Food Stamp Act of 1977 is amended by adding at the end thereof a new subsection (g) as follows:

"(g)(1) The Secretary shall institute an error liability program under which each State agency shall, other than for good cause as determined by the Secretary, pay to the Secretary or have withheld by the Secretary as described in paragraph (4) of this subsection, the amount by which the dollar value equivalent of the State agency's payment error rate, as determined by the Secretary, for each six-month period, exceeds the dollar value equivalent of either—

"(A) the State agency payment error rate for the base period less a national annual rate of error reduction, as determined by the Secretary, taking into account program circumstances and rates of error reduction in comparable Federal or federally assisted public assistance programs, or

"(B) the national standard payment error rate for the base period, whichever is higher.

Definitions.

"(2) As used in this subsection, (A) 'base period' means, for fiscal year 1981, the six months beginning October 1, 1979, and ending March 31, 1980 and, for each fiscal year thereafter, the six months beginning October 1 and ending March 30 of the prior fiscal year; (B) 'payment error rate' means the percentage of all food stamp allot-

ments which are issued in a given period by a State agency to households that fail to meet the eligibility requirements of sections 5 and 6 of this Act, are overissued to eligible households, and are underissued to eligible households; (C) 'national standard payment error rate' means the weighted mean payment error rate for all State agencies; and (D) 'dollar value equivalent' means the value of allotments determined by multiplying a given error rate by the dollar value of all the allotments issued by a State agency during the particular period in question. 7 USC 2014, 2015.

"(3) The Secretary shall conduct a study to determine whether it is feasible to include in the calculation of each State agency's payment error rate, and in the calculation of the national standard payment error rate, invalid decisions by each State agency denying eligibility to households that are in fact eligible. If the Secretary determines that such a change in the method of calculation is feasible, the Secretary shall implement changes in the method of calculating payment error rates for the purposes described in this section. Feasibility study.

"(4) If the Secretary makes a claim against a State for payment under paragraph (1) of this subsection, that State may seek administrative and judicial review of such claim under the procedures set forth in section 14 of this Act. If such claim is ultimately determined to be valid or is not contested by the State, it shall be collected by the Secretary and may be collected through State payment, through withholding amounts otherwise payable to the State agency under subsection (a) of this section, or through other mechanisms authorized by the Federal Claims Collection Act of 1966.". Administrative and judicial review. 7 USC 2023. 31 USC 951 note.

DISCLOSURE PROVISIONS

SEC. 127. (a)(1) Subsection (i) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph: 26 USC 6103.

"(7) DISCLOSURE OF CERTAIN RETURN INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF AGRICULTURE AND TO STATE FOOD STAMP AGENCIES.—

"(A) IN GENERAL.—The Commissioner of Social Security may disclose return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection— 26 USC 1402, 3121, 3401.

"(i) upon request, to officers and employees of the Department of Agriculture, and

"(ii) upon written request, to officers and employees of a State food stamp agency.

"(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, determining an individual's eligibility for benefits, or the amounts of benefits, under the food stamp program established under the Food Stamp Act of 1977. 7 USC 2011 note.

"(C) STATE FOOD STAMP AGENCY.—For purposes of this paragraph, the term 'State food stamp agency' means any agency described in section 3(n)(1) of the Food Stamp Act of

7 USC 2012.

1977 which administers the food stamp program established under such Act.".

26 USC 6103.

(2)(A) Subparagraph (A) of section 6103(p)(3) of such Code (relating to records of inspection and disclosure) is amended by striking out "(l)(1) or (4)(B) or (5)" and inserting in lieu thereof "(l)(1), (4)(B), (5), or (7)".

(B) Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended by striking out "(l)(3) or (6)" in so much of such paragraph as precedes subparagraph (A) thereof and inserting in lieu thereof "(l)(3), (6), or (7)".

(C) Clause (i) of section 6103(p)(4)(F) of such Code is amended by striking out "(l)(6)" and inserting in lieu thereof "(l)(6) or (7)".

26 USC 7213.

(D) The first sentence of paragraph (2) of section 7213(a) of such Code is amended—

(i) by striking out "or any educational institution" and inserting in lieu thereof "any educational institution, or any State food stamp agency (as defined in section 6103(l)(7)(C))", and

(ii) by striking out "subsection (d), (l)(6), or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (l)(6) or (7), or (m)(4)(B)".

Effective date. 26 USC 6103 note.

(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

42 USC 503.

(b)(1) Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(d)(1) The State agency charged with the administration of the State law—

"(A) shall disclose, upon request and on a reimbursable basis, to officers and employees of the Department of Agriculture and to officers or employees of any State food stamp agency any of the following information contained in the records of such State agency—

"(i) wage information,

"(ii) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such individual,

"(iii) the current (or most recent) home address of such individual, and

"(iv) whether an individual has refused an offer of employment and, if so, a description of the employment so offered and the terms, conditions, and rate of pay therefor, and

"(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to insure that information disclosed under subparagraph (A) is used only for purposes of determining an individual's eligibility for benefits, or the amount of benefits, under the food stamp program established under the Food Stamp Act of 1977.

Notification to State agency.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State.

"State food stamp agency."

"(3) For purposes of this subsection, the term 'State food stamp agency' means any agency described in section 3(n)(1) of the Food

Stamp Act of 1977 which administers the food stamp program established under such Act.". 7 USC 2012.

(2) Paragraph (2) of section 304(a) of the Social Security Act is amended by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), or (d)". 42 USC 504.

(3) The amendments made by this subsection shall take effect on January 1, 1983. Effective date. 42 USC 503 note.

PAYMENT OF CERTAIN LEGAL FEES

SEC. 128. Section 16 of the Food Stamp Act of 1977, as amended by section 126 of this Act, is amended by adding at the end thereof a new subsection (h) as follows: 7 USC 2025.

"(h) Notwithstanding any other provision of law, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of officers and employees of the Department of Agriculture may be paid in judicial or administrative proceedings to which such officers and employees have been made parties and that arise directly out of their performance of duties under this Act; and".

COST SHARING FOR COMPUTERIZATION

SEC. 129. Section 16 of the Food Stamp Act of 1977, as amended by section 128 of this Act, is amended by adding at the end thereof a new subsection (i) as follows:

"(i) Effective October 1, 1980, the Secretary is authorized to pay to each State agency an amount equal to—

"75 per centum of the costs incurred by the State agency in the planning, design, development, or installation of automatic data processing and information retrieval systems that the Secretary determines (1) will assist in meeting the requirements of this Act, (2) meet such conditions as the Secretary prescribes, (3) are likely to provide more efficient and effective administration of the food stamp program, and (4) will be compatible with other such systems used in the administration of State plans under the Aid to Families with Dependent Children Program under title IV of the Social Security Act: *Provided,* That there shall be no such payments to the extent that a State agency is reimbursed for such costs under any other Federal program or uses such systems for purposes not connected with the food stamp program: *Provided further,* That any costs matched under this subsection shall be excluded in determining the State agency's administrative costs under any other subsection of this section.". 42 USC 601.

CONTINUATION OF CASH-OUT PILOT PROJECTS

SEC. 130. Section 17(b)(1) of the Food Stamp Act of 1977 is amended by adding at the end thereof a new sentence as follows: "Any pilot or experimental project implemented under this paragraph involving the payment of the value of allotments in the form of cash to eligible households shall be continued until October 1, 1981, if the State so requests.". 7 USC 2026.

WORKFARE JOB-SEARCH TIME PERIOD

SEC. 131. Section 17(b)(2) of the Food Stamp Act of 1977, as amended, is amended by adding after the phrase "thirty days" in the second sentence the following: "(ten days in at least one pilot project area designated by the Secretary)". *Post,* p. 368.

WORKFARE PILOT PROJECT REVISIONS

7 USC 2026. *Ante*, p. 367.

SEC. 132. (a) Section 17(b)(2) of the Food Stamp Act of 1977 is amended by striking out everything after "Act," in the last sentence and inserting in lieu thereof the following: "shall issue interim reports no later than October 1, 1979, October 1, 1980, and March 30, 1981, shall issue a final report describing the results of such pilot projects based upon their operation from their commencement through the fiscal year ending September 30, 1981, and shall pay to the agencies or organizations operating such pilot projects 50 per centum of all administrative costs involved in such operation.".

Effective date. 7 USC 2026 note.

(b) The provisions of section 17(b)(2) of the Food Stamp Act of 1977 for the sharing of administrative costs, as added by subsection (a) of this section, shall be effective on the date of enactment of this Act.

STUDY OF CPI

7 USC 2026.

SEC. 133. Section 17 of the Food Stamp Act of 1977, is amended by adding at the end thereof a new subsection (e) as follows:

"(e) The Director of the Congressional Budget Office, in consultation with the Secretary, the Secretary of Commerce, and the Secretary of Labor, shall review the Consumer Price Index and the various alternative consumer price or cost-of-living indices, such as the Personal Consumption Expenditure (PCE) Deflator, to examine the limitations of each statistical alternative and the factors causing the various indices to differ with each other and to reflect inconsistencies with their own prior year indices in measuring the cost-of-living or the rate of inflation. The study shall seek to determine whether the Consumer Price Index is the most accurate indexation base for the food stamp program, or whether an alternative or combination of alternatives may be the more accurate indexation base to reflect consumer prices or changes in the costs of living. The Director of the Congressional Budget Office shall report the results of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, together with such recommendations as the Director deems appropriate, by February 1, 1981.".

Results, report to congressional committees.

USE OF FEDERAL FUNDS TO INTERFERE WITH PROGRAM IMPLEMENTATION

93 Stat. 389. 7 USC 2027. *Post*, p. 370.

SEC. 134. Section 18(a) of the Food Stamp Act of 1977 is amended by—

(1) inserting "(1)" immediately after the subsection designation; and

(2) adding at the end thereof a new paragraph (2) as follows:

"(2) No funds authorized to be appropriated under this Act or any other Act of Congress shall be used by any person, firm, corporation, group, or organization at any time, directly or indirectly, to interfere with or impede the implementation of any provision of this Act or any rule, regulation, or project thereunder, except that this limitation shall not apply to the provision of legal and related assistance in connection with any proceeding or action before any State or Federal agency or court. The President shall ensure that this paragraph is complied with by such order or other means as the President deems appropriate.".

ANNUAL ADJUSTMENT OF THE THRIFTY FOOD PLAN

SEC. 135. Section 3(o) of the Food Stamp Act of 1977 is amended by— 7 USC 2012.

(1) striking out "and" before "(4)";

(2) inserting "through January 1, 1980," after "(4)"; and

(3) inserting before the period at the end thereof the following: ", (5) on January 1, 1981, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding September 30, and (6) on January 1, 1982, adjust the cost of such diet to the nearest dollar increment to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding September 30 and the subsequent three months ending December 31 as projected by the Secretary in light of the best available data; and, as of every January 1 thereafter, for the nine months ending the preceding September 30 and the subsequent three months ending December 31 as projected by the Secretary in light of the best available data".

ADJUSTMENTS OF DEDUCTIONS

SEC. 136. Section 5(e) of the Food Stamp Act of 1977 is amended by— 93 Stat. 390. 7 USC 2014. *Ante*, p. 358.

(1) striking out the comma after "1978" in the second sentence and inserting "through January 1, 1980," immediately thereafter;

(2) inserting before the period at the end of the second sentence the following: ", and, on January 1, 1981, shall be adjusted to the nearest $5 to reflect such changes for the twelve months ending the preceding September 30; and, on January 1, 1982, shall be adjusted to the nearest $5 to reflect such changes for the twelve months ending the preceding September 30 and the subsequent three months ending December 31 as projected by the Secretary in light of the best available data; and, as of every January 1 thereafter, for the nine months ending the preceding September 30 and the subsequent three months ending December 31 projected by the Secretary in light of the best available data";

(3) striking out "(commencing July 1, 1978)" in clause (2) of the fourth sentence and inserting in lieu thereof "on July 1, 1978, and July 1, 1979" in lieu thereof; and

(4) inserting before the period at the end of the fourth sentence the following: ", on January 1, 1981, adjusted to the nearest $5 increment to reflect such changes for the eighteen-month period ending the preceding September 30, and, on January 1, 1982, adjusted to the nearest $5 to reflect such changes for the twelve months ending the preceding September 30 and the subsequent three months ending December 31 as projected by the Secretary in light of the best available data, and, on every January 1 thereafter, adjusted annually to the nearest $5 increment to reflect such changes for the nine months ending the preceding September 30 and the subsequent three months ending December 31 projected by the Secretary in light of the best available data".

ADJUSTMENT OF POVERTY GUIDELINES

7 USC 2014.

SEC. 137. Section 5(c) of the Food Stamp Act of 1977 is amended by striking out everything after "forty-eight contiguous States" and inserting a period in lieu thereof.

REDUCTION IN ASSETS LIMITATIONS

SEC. 138. Section 5(g) of the Food Stamp Act of 1977 is amended by striking out "$1,750" and inserting in lieu thereof "$1,500".

RESTRICTION ON STUDENT PARTICIPATION

7 USC 2015.

SEC. 139. Section 6(e) of the Food Stamp Act of 1977 is amended by striking out everything after "(1)" and inserting in lieu thereof the following: "is physically and mentally fit and is between the ages of eighteen and sixty, (2) is enrolled at least half time in an institution of higher education, and (3)(A) is not employed a minimum of twenty hours per week or does not participate in a federally financed work study program during the regular school year or (B) is not the head of a household (or spouse of such head) containing one or more other persons who are dependents of that individual because he or she supplies more than half of their support, or (C) is not so enrolled as a result of participation in the work incentive program under title IV of the Social Security Act, as amended (42 U.S.C. 602).".

SEC. 140. Section 6(d) of the Food Stamp Act of 1977 is amended by striking out everything after "person" in the parenthesis in clause (D) of paragraph (2) and inserting in lieu thereof the following: "enrolled in an institution of higher education shall be ineligible to participate in the food stamp program unless he or she meets the requirements of subsection (e) of this section)".

TITLE II—FOOD STAMP FUNDING

APPROPRIATIONS CEILING

93 Stat. 389.
7 USC 2027.
Ante, p. 368.

SEC. 201. The first sentence of section 18(a) of the Food Stamp Act of 1977 is amended by—

(1) striking out "$6,188,600,000" and inserting "$9,491,000,000" in lieu thereof; and

(2) striking out "$6,235,900,000" and inserting "$9,739,276,000" in lieu thereof.

Approved May 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-295 accompanying H.R. 4303 (Comm. on Agriculture), No. 96-788 (Comm. on Agriculture), and No. 96-957 (Comm. of Conference).

SENATE REPORTS: No. 96-236 (Comm. on Agriculture, Nutrition, and Forestry) and No. 96-704 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 125 (1979): June 25, 26, H.R. 4303 considered and passed House.
July 21, 23, S. 1309 considered and passed Senate.

Vol. 126 (1980): May 7, 8, S. 1309 considered and passed House, amended.
May 14, Senate agreed to conference report.
May 15, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 22 (1980): May 27, Presidential statement.

Public Law 96-250
96th Congress

Joint Resolution

To extend the expiration date of the Defense Production Act of 1950.

May 26, 1980
[S.J. Res. 175]

Defense Production Act of 1950, extension.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "May 27, 1980" and inserting in lieu thereof "August 27, 1980".

Approved May 26, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
May 16, considered and passed Senate.
May 20, considered and passed House.

Public Law 96-251
96th Congress

An Act

May 26, 1980
[S. 668]

To permit the Cow Creek Band of the Umpqua Tribe of Indians to file with the United States Court of Claims any claim such band could have filed with the Indian Claims Commission under the Act of August 13, 1946 (60 Stat. 1049).

Cow Creek Band of Umpqua Indian Tribe, filing of claims.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the time limitations of sections 2401 and 2501 of title 28, United States Code, and of section 12 of the Act entitled "An Act to create an Indian Claims Commission to provide for the powers, duties, and functions thereof, and for other purposes", approved August 13, 1946 (25 U.S.C. 70a), hereinafter in this Act referred to as the "Act of August 13, 1946", the United States Court of Claims shall have jurisdiction to consider any claim filed by the Cow Creek Band of the Umpqua Tribe of Indians within five years after the date of the enactment of this Act respecting any matter for which a claim could have been filed by such band with the Indian Claims Commission under section 2 of the Act of August 13, 1946, as amended by the Act of October 27, 1974 (25 U.S.C. 70a).

25 USC 70k.

SEC. 2. In determining the amount to be awarded in any action under this Act, the Court of Claims shall make appropriate deductions for all payments made by the United States on any claim for which an action is brought pursuant to this Act, and for all other offsets, counterclaims, and demands that would be permitted to be made by the Indian Claims Commission under the third paragraph of section 2 of the Act of August 13, 1946, as amended by the Act of October 27, 1974 (25 U.S.C. 70a), if the claim were to be determined by such Commission.

Costs of suit and attorneys' fees.

SEC. 3. The Court of Claims may award to any prevailing party, other than the United States, in any action under this Act costs of suit and reasonable attorneys' fees. The fees of such attorney or attorneys for all services rendered in prosecuting the claim in question, whether before the court or otherwise, shall, unless the amount of such fees is stipulated in the approved contract between the attorney or attorneys and the claimant, be fixed by the court at such amount as the court, in accordance with standards obtaining for prosecuting similar contingent claims in courts of law, finds to be adequate compensation for services rendered and results obtained, considering the contingent nature of the case, plus all reasonable expenses incurred in the prosecution of the claim, but the amount so fixed by the court, exclusive of reimbursements for actual expenses, shall not exceed 10 per centum of the amount recovered in such case.

Definition.

SEC. 4. (a) For purposes of this Act, the term "Cow Creek Band of the Umpqua Tribe of Indians" means the group of persons descended from persons considered members of such band for purposes of the treaty entered into between such band and the United States on September 19, 1853 (10 Stat. 1027), as ratified by the Senate on April 12, 1854, except that such group shall not include any person, or the descendent of any person, who shared in the distribution of funds

under the Act entitled "An Act to provide for the termination of Federal supervision over the property of the Klamath Tribe of Indians located in the State of Oregon and the individual members thereof, and for other purposes", approved August 13, 1954 (25 U.S.C. 564 et seq.), or under the Act entitled "An Act to provide for the termination of Federal supervision over the property of certain tribes and bands of Indians located in western Oregon and the individual members thereof, and for other purposes", approved August 13, 1954 (25 U.S.C. 691 et seq.).

(b) In any proceeding under this Act, the Council of the Cow Creek Band of the Umpqua Tribe of Indians, a nonprofit corporation incorporated in the State of Oregon, shall be considered to be the governing body of such band.

SEC. 5. The provisions of the Act of November 4, 1963 (77 Stat. 301), shall be applicable with respect to any claim filed by the Cow Creek Band of the Umpqua Tribe of Indians with the Court of Claims pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission. 25 USC 70n-1.

Approved May 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-910 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-397 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 7, considered and passed Senate.
Vol. 126 (1980): May 12, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 22 (1980): May 27, Presidential statement.

Public Law 96-252
96th Congress

An Act

May 28, 1980
[H.R. 2313]

To amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Trade Commission Improvements Act of 1980.

SHORT TITLE

15 USC 58 note.

SECTION 1. This Act may be cited as the "Federal Trade Commission Improvements Act of 1980".

RECONSIDERATION OF ORDERS

SEC. 2. Section 5(b) of the Federal Trade Commission Act (15 U.S.C. 45(b)) is amended—

(1) in the last sentence thereof, by striking out ": *Provided, however,* That" and inserting in lieu thereof ", except that (1)", and by inserting before the period at the end thereof the following: "; and (2) in the case of an order, the Commission shall reopen any such order to consider whether such order (including any affirmative relief provision contained in such order) should be altered, modified, or set aside, in whole or in part, if the person, partnership, or corporation involved files a request with the Commission which makes a satisfactory showing that changed conditions of law or fact require such order to be altered, modified, or set aside, in whole or in part"; and

(2) by adding at the end thereof the following new sentence: "The Commission shall determine whether to alter, modify, or set aside any order of the Commission in response to a request made by a person, partnership, or corporation under paragraph (2) not later than 120 days after the date of the filing of such request.".

DISCLOSURE OF COMMERCIAL OR FINANCIAL INFORMATION; QUARTERLY FINANCIAL REPORTS

SEC. 3. (a) Section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46(f)) is amended—

(1) by striking out ", except trade secrets and names of customers, as it shall deem expedient" and inserting in lieu thereof "as are"; and

(2) by inserting before the period at the end thereof the following: ": *Provided,* That the Commission shall not have any authority to make public any trade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential, except that the Commission may disclose such information to officers and employees of appropriate Federal law enforcement agencies or to any officer

or employee of any State law enforcement agency upon the prior certification of an officer of any such Federal or State law enforcement agency that such information will be maintained in confidence and will be used only for official law enforcement purposes".

(b) Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by adding at the end thereof the following new undesignated paragraph:

"The Commission shall establish a plan designed to substantially reduce burdens imposed upon small businesses as a result of requirements established by the Commission under clause (b) relating to the filing of quarterly financial reports. Such plan shall (1) be established after consultation with small businesses and persons who use the information contained in such quarterly financial reports; (2) provide for a reduction of the number of small businesses required to file such quarterly financial reports; and (3) make revisions in the forms used for such quarterly financial reports for the purpose of reducing the complexity of such forms. The Commission, not later than December 31, 1980, shall submit such plan to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives. Such plan shall take effect not later than October 31, 1981.". Plan for filing of quarterly financial reports; submittal to congressional committees. Effective date.

CONFIDENTIALITY OF LINE-OF-BUSINESS REPORTS

SEC. 4. Section 6 of the Federal Trade Commission Act (15 U.S.C. 46), as amended in section 3(b), is further amended by adding at the end thereof the following new undesignated paragraph:

"No officer or employee of the Commission or any Commissioner may publish or disclose information to the public, or to any Federal agency, whereby any line-of-business data furnished by a particular establishment or individual can be identified. No one other than designated sworn officers and employees of the Commission may examine the line-of-business reports from individual firms, and information provided in the line-of-business program administered by the Commission shall be used only for statistical purposes. Information for carrying out specific law enforcement responsibilities of the Commission shall be obtained under practices and procedures in effect on the date of the enactment of the Federal Trade Commission Improvements Act of 1980, or as changed by law.". *Ante*, p. 374.

COMMISSION INVESTIGATIONS OF INSURANCE BUSINESSES

SEC. 5. (a) Section 6 of the Federal Trade Commission Act, as amended in section 3(b) and section 4, is further amended by adding at the end thereof the following new undesignated paragraph:

"Nothing in this section (other than the provisions of clause (c) and clause (d)) shall apply to the business of insurance, except that the Commission shall have authority to conduct studies and prepare reports relating to the business of insurance. The Commission may exercise such authority only upon receiving a request which is agreed to by a majority of the members of the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Interstate and Foreign Commerce of the House of Representatives. The authority to conduct any such study shall expire at the end of the Congress during which the request for such study was made.". Studies and reports. Expiration date.

Study and evaluation. 15 USC 46 note.

(b) The amendment made in subsection (a) shall not be construed to prohibit the Federal Trade Commission from participating with the Secretary of Health and Human Services in a comprehensive study and evaluation of the comparative effectiveness of various State policies and programs relating to the regulation of health insurance policies available for purchase by individuals who are eligible for benefits under the program of health insurance benefits established in title XVIII of the Social Security Act.

42 USC 1395.

ENFORCEMENT AUTHORITY

SEC. 6. The first undesignated paragraph of section 10 of the Federal Trade Commission Act (15 U.S.C. 50) is amended—

(1) by inserting "any" after "produce"; and

(2) by inserting "an order of a district court of the United States directing compliance with" after "obedience to".

STANDARDS AND CERTIFICATION RULEMAKINGS

SEC. 7. Section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) is amended by inserting after "section 5(a)(1))" the following: ", except that the Commission shall not develop or promulgate any trade rule or regulation with regard to the regulation of the development and utilization of the standards and certification activities pursuant to this section".

ADVANCE NOTICE OF PROPOSED COMMISSION RULES

SEC. 8. (a) Section 18(b) of the Federal Trade Commission Act (15 U.S.C. 57a(b)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by redesignating paragraph (1) through paragraph (4) as subparagraph (A) through subparagraph (D), respectively; and

(3) by adding at the end thereof the following new paragraph:

Notice; publication in Federal Register.

"(2)(A) Prior to the publication of any notice of proposed rulemaking pursuant to paragraph (1)(A), the Commission shall publish an advance notice of proposed rulemaking in the Federal Register. Such advance notice shall—

"(i) contain a brief description of the area of inquiry under consideration, the objectives which the Commission seeks to achieve, and possible regulatory alternatives under consideration by the Commission; and

"(ii) invite the response of interested parties with respect to such proposed rulemaking, including any suggestions or alternative methods for achieving such objectives.

Submittal to congressional committees.

"(B) The Commission shall submit such advance notice of proposed rulemaking to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives. The Commission may use such additional mechanisms as the Commission considers useful to obtain suggestions regarding the content of the area of inquiry before the publication of a general notice of proposed rulemaking under paragraph (1)(A).

Notice, submittal to congressional committees.

"(C) The Commission shall, 30 days before the publication of a notice of proposed rulemaking pursuant to paragraph (1)(A), submit such notice to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives.".

(b)(1) Section 18(c) of the Federal Trade Commission Act (15 U.S.C. 57a(c)) is amended by striking out "subsection (b)(3)" and inserting in lieu thereof "subsection (b)(1)(C)".

(2) Section 18(e)(5)(C) of the Federal Trade Commission Act (15 U.S.C. 57a(e)(5)(C)) is amended by striking out "subsection (b)(4)" and inserting in lieu thereof "subsection (b)(1)(D)".

PRESIDING OFFICER AT RULEMAKING PROCEEDINGS

SEC. 9. (a) Section 18(c) of the Federal Trade Commission Act (15 U.S.C. 57a(c)) is amended—

(1) by redesignating paragraph (1) through paragraph (4) as paragraph (2) through paragraph (5), respectively; and

(2) by inserting before paragraph (2), as so redesignated in paragraph (1), the following new paragraph:

"(1)(A) The Commission shall provide for the conduct of proceedings under this subsection by hearing officers who shall perform their functions in accordance with the requirements of this subsection.

"(B) The officer who presides over the rulemaking proceedings shall be responsible to a chief presiding officer who shall not be responsible to any other officer or employee of the Commission. The officer who presides over the rulemaking proceeding shall make a recommended decision based upon the findings and conclusions of such officer as to all relevant and material evidence, except that such recommended decision may be made by another officer if the officer who presided over the proceeding is no longer available to the Commission.

"(C) Except as required for the disposition of ex parte matters as authorized by law, no presiding officer shall consult any person or party with respect to any fact in issue unless such officer gives notice and opportunity for all parties to participate.".

(b) Section 18(c) of the Federal Trade Commission Act (15 U.S.C. 57a(c)), as amended in subsection (a), is further amended—

(1) in paragraph (2) thereof, as so redesignated in subsection (a)(1)—

(A) by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)"; and

(B) by striking out "paragraph (2)(B)" and inserting in lieu thereof "paragraph (3)(B)";

(2) in paragraph (3) thereof, as so redesignated in subsection (a)(1), by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (2)"; and

(3) in paragraph (4)(A) thereof, as so redesignated in subsection (a)(1), by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

(c) Section 18(e)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(e)(1)(B)) is amended by striking out "subsection (c)(4)" and inserting in lieu thereof "subsection (c)(5)".

COMPENSATION FOR PARTICIPATION IN RULEMAKING PROCEEDINGS

SEC. 10. (a) Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)) is amended by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

Compensation.

"(3) The amount of compensation which may be paid to any person under this subsection in connection with the participation by such person in any particular rulemaking proceeding under this section may not exceed $75,000. The aggregate amount of compensation paid under this subsection in any fiscal year to any person for all rulemaking proceedings in which such person participates during such fiscal year may not exceed $50,000.".

(b) Section 18(h)(2) of the Federal Trade Commission Act (15 U.S.C. 57a(h)(2)) is amended to read as follows:

"(2) The Commission shall reserve an amount equal to 25 percent of the amount appropriated for the payment of compensation under this subsection for any fiscal year for use in accordance with this paragraph. Such reserved amount shall be available solely for the payment of compensation to persons who either (A) would be regulated by the proposed rule involved; or (B) represent persons who would be so regulated. Any portion of such reserved amount which is not used for the payment of compensation to such persons under this paragraph shall revert to the Treasury of the United States.".

(c) Section 18(h)(4) of the Federal Trade Commission Act, as so redesignated in subsection (a), is amended by striking out "$1,000,000" and inserting in lieu thereof "$750,000".

(d) Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)), as amended in subsection (a), is further amended by adding at the end thereof the following new paragraph:

Small business outreach program, establishment.

"(5) The Commission, in connection with the administration of this subsection pursuant to rules prescribed by the Commission under paragraph (1), shall establish a small business outreach program. Such program shall—

"(A) solicit public comment from small businesses whose views otherwise would not be adequately represented, in order to ensure a fair determination in rulemaking proceedings under this section; and

"(B) encourage the participation of small businesses in the compensation program administered by the Commission under this subsection by disseminating to small businesses information which explains the procedures and requirements applicable to the receipt of compensation under such program.".

Repeal. 15 USC 57a, 57a note.

(e) The amendments made in subsection (a) and subsection (c) are repealed, effective at the end of fiscal year 1982. Effective upon such repeal, paragraph (5) of section 18(h) of the Federal Trade Commission Act, as added by subsection (d), is redesignated as paragraph (4) of section 18(h) of such Act.

COMMISSION RULEMAKINGS RELATING TO CHILDREN'S ADVERTISING; PUBLICATION OF TEXT OF PROPOSED RULES

SEC. 11. (a)(1) Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) is amended by adding at the end thereof the following new subsection:

"(i) The Commission shall not have any authority to promulgate any rule in the children's advertising proceeding pending on the date of the enactment of the Federal Trade Commission Improvements Act of 1980 or in any substantially similar proceeding on the basis of a determination by the Commission that such advertising constitutes an unfair act or practice in or affecting commerce.".

Ante, p. 374.

(2) Section 18(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)) is amended by striking out "The" and inserting in lieu thereof "Except as provided in subsection (i), the".

(3) Section 18(b)(1)(A) of the Federal Trade Commission Act, as so redesignated in section 8(a), is amended by inserting after "particularity" the following: "the text of the rule, including any alternatives, which the Commission proposes to promulgate, and".

(b) The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1980, 1981, or 1982, under section 24 of such Act, as amended by section 17 and as so redesignated in section 13, for the purpose of initiating any new rulemaking proceeding under section 18 of such Act which is intended to result in, or which may result in, the promulgation of any rule by the Commission which prohibits or otherwise regulates any commercial advertising on the basis of a determination by the Commission that such commercial advertising constitutes an unfair act or practice in or affecting commerce. 15 USC 57a note. *Post*, pp. 391, 380.

(c) The amendments made in subsection (a) shall take effect on the date of the enactment of this Act. The children's advertising proceeding pending on the date of the enactment of this Act shall not proceed further until such time as the Commission has complied with section 18(b)(1)(A) of the Federal Trade Commission Act, as amended by subsection (a)(3) and as so redesignated in section 8(a). In any such further proceeding, interested parties shall be given a reasonable opportunity to present their views in accordance with section 18(b)(1)(B) of the Federal Trade Commission Act, as so redesignated in section 8(a), section 18(b)(1)(C) of such Act, as so redesignated in section 8(a), and section 18(c) of such Act (15 U.S.C. 57a(c)). Effective date. 15 USC 57a note.

EX PARTE MEETINGS

SEC. 12. Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a), as amended in section 11(a)(1), is further amended by adding at the end thereof the following new subsections:

"(j)(1) For purposes of this subsection, the term 'outside party' means any person other than (A) a Commissioner; (B) an officer or employee of the Commission; or (C) any person who has entered into a contract or any other agreement or arrangement with the Commission to provide any goods or services (including consulting services) to the Commission. "Outside party."

"(2) Not later than 60 days after the date of the enactment of the Federal Trade Commission Improvements Act of 1980, the Commission shall publish a proposed rule, and not later than 180 days after such date of enactment the Commission shall promulgate a final rule, which shall authorize the Commission or any Commissioner to meet with any outside party concerning any rulemaking proceeding of the Commission. Such rule shall provide that— Proposed rule, publication. *Ante*, p. 374. Final rule.

"(A) notice of any such meeting shall be included in any weekly calendar prepared by the Commission; and

"(B) a verbatim record or a summary of any such meeting, or of any communication relating to any such meeting, shall be kept, made available to the public, and included in the rulemaking record.

"(k) Not later than 60 days after the date of the enactment of the Federal Trade Commission Improvements Act of 1980, the Commission shall publish a proposed rule, and not later than 180 days after

such date of enactment the Commission shall promulgate a final rule, which shall prohibit any officer, employee, or agent of the Commission with any investigative responsibility or other responsibility relating to any rulemaking proceeding within any operating bureau of the Commission, from communicating or causing to be communicated to any Commissioner or to the personal staff of any Commissioner any fact which is relevant to the merits of such proceeding and which is not on the rulemaking record of such proceeding, unless such communication is made available to the public and is included in the rulemaking record. The provisions of this subsection shall not apply to any communication to the extent such communication is required for the disposition of ex parte matters as authorized by law.".

CIVIL INVESTIGATIVE DEMANDS

15 USC 57c, 58.

SEC. 13. The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by redesignating section 20 and section 21 as section 24 and section 25, respectively, and by inserting after section 19 the following new section:

Definitions.
15 USC 57b-1.

"SEC. 20. (a) For purposes of this section:

"(1) The terms 'civil investigative demand' and 'demand' mean any demand issued by the Commission under subsection (c)(1).

"(2) The term 'Commission investigation' means any inquiry conducted by a Commission investigator for the purpose of ascertaining whether any person is or has been engaged in any unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1)).

15 USC 45.

"(3) The term 'Commission investigator' means any attorney or investigator employed by the Commission who is charged with the duty of enforcing or carrying into effect any provisions relating to unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1)).

"(4) The term 'custodian' means the custodian or any deputy custodian designated under section 21(b)(2)(A).

Post, p. 385.

"(5) The term 'documentary material' includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document.

"(6) The term 'person' means any natural person, partnership, corporation, association, or other legal entity, including any person acting under color or authority of State law.

"(7) The term 'violation' means any act or omission constituting an unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1)).

"(b) For the purpose of investigations performed pursuant to this section with respect to unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1)), all actions of the Commission taken under section 6 and section 9 shall be conducted pursuant to subsection (c).

15 USC 46, 49.

"(c)(1) Whenever the Commission has reason to believe that any person may be in possession, custody, or control of any documentary material, or may have any information, relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1)), the Commission may, before the institution of any proceedings under this Act, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, to file written reports or answers to questions, to give

oral testimony concerning documentary material or other information, or to furnish any combination of such material, answers, or testimony.

"(2) Each civil investigative demand shall state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to such violation.

"(3) Each civil investigative demand for the production of documentary material shall—

"(A) describe each class of documentary material to be produced under the demand with such definiteness and certainty as to permit such material to be fairly identified;

"(B) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(C) identify the custodian to whom such material shall be made available.

"(4) Each civil investigative demand for written reports or answers to questions shall—

"(A) propound with definiteness and certainty the reports to be produced or the questions to be answered;

"(B) prescribe a date or dates at which time written reports or answers to questions shall be submitted; and

"(C) identify the custodian to whom such reports or answers shall be submitted.

"(5) Each civil investigative demand for the giving of oral testimony shall—

"(A) prescribe a date, time, and place at which oral testimony shall be commenced; and

"(B) identify a Commission investigator who shall conduct the investigation and the custodian to whom the transcript of such investigation shall be submitted.

"(6)(A) Any civil investigative demand may be served by any Commission investigator at any place within the territorial jurisdiction of any court of the United States.

"(B) Any such demand or any enforcement petition filed under this section may be served upon any person who is not found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign nation. 28 USC app.

"(C) To the extent that the courts of the United States have authority to assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such district court would have if such person were personally within the jurisdiction of such district court.

"(7) Service of any civil investigative demand or any enforcement petition filed under this section may be made upon a partnership, corporation, association, or other legal entity by—

"(A) delivering a duly executed copy of such demand or petition to any partner, executive officer, managing agent, or general agent of such partnership, corporation, association, or other legal entity, or to any agent of such partnership, corporation, association, or other legal entity authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or other legal entity;

"(B) delivering a duly executed copy of such demand or petition to the principal office or place of business of the partnership, corporation, association, or other legal entity to be served; or

"(C) depositing a duly executed copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or other legal entity at its principal office or place of business.

"(8) Service of any civil investigative demand or of any enforcement petition filed under this section may be made upon any natural person by—

"(A) delivering a duly executed copy of such demand or petition to the person to be served; or

"(B) depositing a duly executed copy in the United States mails by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

"(9) A verified return by the individual serving any civil investigative demand or any enforcement petition filed under this section setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand or enforcement petition.

"(10) The production of documentary material in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by any person having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

"(11) Each reporting requirement or question in a civil investigative demand shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objection shall be stated in lieu of an answer, and it shall be submitted under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by any person responsible for answering each reporting requirement or question, to the effect that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted.

"(12)(A) Any Commission investigator before whom oral testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by any individual acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed. After the testimony is fully transcribed, the Commission investigator before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian.

"(B) Any Commission investigator before whom oral testimony is to be taken shall exclude from the place where the testimony is to be taken all other persons except the person giving the testimony, his attorney, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.

"(C) The oral testimony of any person taken pursuant to a civil investigative demand shall be taken in the judicial district of the

United States in which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the Commission investigator before whom the oral testimony of such person is to be taken and such person.

"(D)(i) Any person compelled to appear under a civil investigative demand for oral testimony pursuant to this section may be accompanied, represented, and advised by an attorney. The attorney may advise such person, in confidence, either upon the request of such person or upon the initiative of the attorney, with respect to any question asked of such person.

"(ii) Such person or attorney may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection. An objection may properly be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination. Such person shall not otherwise object to or refuse to answer any question, and shall not himself or through his attorney otherwise interrupt the oral examination. If such person refuses to answer any question, the Commission may petition the district court of the United States pursuant to this section for an order compelling such person to answer such question.

"(iii) If such person refuses to answer any question on grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of section 6004 of title 18, United States Code.

"(E)(i) After the testimony of any witness is fully transcribed, the Commission investigator shall afford the witness (who may be accompanied by an attorney) a reasonable opportunity to examine the transcript. The transcript shall be read to or by the witness, unless such examination and reading are waived by the witness. Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the Commission investigator with a statement of the reasons given by the witness for making such changes. The transcript shall then be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign.

"(ii) If the transcript is not signed by the witness during the 30-day period following the date upon which the witness is first afforded a reasonable opportunity to examine it, the Commission investigator shall sign the transcript and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with any reasons given for the failure to sign.

"(F) The Commission investigator shall certify on the transcript that the witness was duly sworn by him and that the transcript is a true record of the testimony given by the witness, and the Commission investigator shall promptly deliver the transcript or send it by registered or certified mail to the custodian.

"(G) The Commission investigator shall furnish a copy of the transcript (upon payment of reasonable charges for the transcript) to the witness only, except that the Commission may for good cause limit such witness to inspection of the official transcript of his testimony.

"(H) Any witness appearing for the taking of oral testimony pursuant to a civil investigative demand shall be entitled to the same fees and mileage which are paid to witnesses in the district courts of the United States.

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"(d) Materials received as a result of a civil investigative demand shall be subject to the procedures established in section 21.

Post, p. 385.

Enforcement for noncompliance.

"(e) Whenever any person fails to comply with any civil investigative demand duly served upon him under this section, or whenever satisfactory copying or reproduction of material requested pursuant to the demand cannot be accomplished and such person refuses to surrender such material, the Commission, through such officers or attorneys as it may designate, may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person, a petition for an order of such court for the enforcement of this section. All process of any court to which application may be made as provided in this subsection may be served in any judicial district.

Investigative demand, petition for modification.

"(f)(1) Not later than 20 days after the service of any civil investigative demand upon any person under subsection (c), or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding 20 days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any Commission investigator named in the demand, such person may file with the Commission a petition for an order by the Commission modifying or setting aside the demand.

"(2) The time permitted for compliance with the demand in whole or in part, as deemed proper and ordered by the Commission, shall not run during the pendency of such petition at the Commission, except that such person shall comply with any portions of the demand not sought to be modified or set aside. Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of the demand to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of such person.

"(g) At any time during which any custodian is in custody or control of any documentary material, reports, answers to questions, or transcripts of oral testimony given by any person in compliance with any civil investigative demand, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this section or section 21.

"(h) Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section. Any final order so entered shall be subject to appeal pursuant to section 1291 of title 28, United States Code. Any disobedience of any final order entered under this section by any court shall be punished as a contempt of such court.

"(i) Notwithstanding any other provision of law, the Commission shall have no authority to issue a subpoena or make a demand for information, under authority of this Act or any other provision of law, unless such subpoena or demand for information is signed by a Commissioner acting pursuant to a Commission resolution. The Commission shall not delegate the power conferred by this section to sign subpoenas or demands for information to any other person.

"(j) The provisions of this section shall not—

Ante, p. 374.

"(1) apply to any proceeding under section 5(b); or

"(2) apply to or affect the jurisdiction, duties, or powers of any agency of the Federal Government, other than the Commission,

regardless of whether such jurisdiction, duties, or powers are derived in whole or in part, by reference to this Act.".

CONFIDENTIALITY

SEC. 14. The Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended in section 13, is further amended by inserting after section 20 the following new section:

Ante, p. 380.

"SEC. 21. (a) For purposes of this section:

15 USC 57b-2.

"(1) The term 'material' means documentary material, written reports or answers to questions, and transcripts of oral testimony.

"Material."

"(2) The term 'Federal agency' has the meaning given it in section 552(e) of title 5, United States Code.

"Federal agency."

"(b)(1) With respect to any document or transcript of oral testimony received by the Commission pursuant to compulsory process in an investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission, the procedures established in paragraph (2) through paragraph (7) shall apply.

"(2)(A) The Commission shall designate a duly authorized agent to serve as custodian of documentary material, or written reports or answers to questions, and transcripts of oral testimony, and such additional duly authorized agents as the Commission shall determine from time to time to be necessary to serve as deputies to the custodian.

Custodian of documentary material, designation.

"(B) Any person upon whom any demand for the production of documentary material has been duly served shall make such material available for inspection and copying or reproduction to the custodian designated in such demand at the principal place of business of such person (or at such other place as such custodian and such person thereafter may agree and prescribe in writing or as the court may direct pursuant to section 20(h)) on the return date specified in such demand (or on such later date as such custodian may prescribe in writing). Such person may upon written agreement between such person and the custodian substitute copies for originals of all or any part of such material.

Material, availability for inspection or reproduction.

Ante, p. 380.

"(3)(A) The custodian to whom any documentary material, written reports or answers to questions, and transcripts of oral testimony are delivered shall take physical possession of such material, reports or answers, and transcripts, and shall be responsible for the use made of such material, reports or answers, and transcripts, and for the return of material, pursuant to the requirements of this section.

Responsibility for use.

"(B) The custodian may prepare such copies of the documentary material, written reports or answers to questions, and transcripts of oral testimony as may be required for official use by any duly authorized officer or employee of the Commission under regulations which shall be promulgated by the Commission. Notwithstanding subparagraph (C), such material and transcripts may be used by any such officer or employee in connection with the taking of oral testimony under this section.

Copies.

"(C) Except as otherwise provided in this section, while in the possession of the custodian, no documentary material, reports or answers to questions, and transcripts of oral testimony shall be available for examination by any individual other than a duly authorized officer or employee of the Commission without the consent of the person who produced the material or transcripts. Nothing

Examination.

in this section is intended to prevent disclosure to either House of the Congress or to any committee or subcommittee of the Congress, except that the Commission immediately shall notify the owner or provider of any such information of a request for information designated as confidential by the owner or provider.

"(D) While in the possession of the custodian and under such reasonable terms and conditions as the Commission shall prescribe—

"(i) documentary material or written reports shall be available for examination by the person who produced the material, or by any duly authorized representative of such person; and

"(ii) answers to questions in writing and transcripts of oral testimony shall be available for examination by the person who produced the testimony or by his attorney.

"(4) Whenever the Commission has instituted a proceeding against a person, partnership, or corporation, the custodian may deliver to any officer or employee of the Commission documentary material, written reports or answers to questions, and transcripts of oral testimony for official use in connection with such proceeding. Upon the completion of the proceeding, the officer or employee shall return to the custodian any such material so delivered which has not been received into the record of the proceeding.

"(5) If any documentary material, written reports or answers to questions, and transcripts of oral testimony have been produced in the course of any investigation by any person pursuant to compulsory process and—

"(A) any proceeding arising out of the investigation has been completed; or

"(B) no proceeding in which the material may be used has been commenced within a reasonable time after completion of the examination and analysis of all such material and other information assembled in the course of the investigation;

then the custodian shall, upon written request of the person who produced the material, return to the person any such material which has not been received into the record of any such proceeding (other than copies of such material made by the custodian pursuant to paragraph (3)(B)).

"(6) The custodian of any documentary material, written reports or answers to questions, and transcripts of oral testimony may deliver to any officers or employees of appropriate Federal law enforcement agencies, in response to a written request, copies of such material for use in connection with an investigation or proceeding under the jurisdiction of any such agency. Such materials shall not be made available to any such agency until the custodian receives certification of any officer of such agency that such information will be maintained in confidence and will be used only for official law enforcement purposes. Such documentary material, written reports or answers to questions, and transcripts of oral testimony may be used by any officer or employee of such agency only in such manner and subject to such conditions as apply to the Commission under this section. The custodian may make such materials available to any State law enforcement agency upon the prior certification of any officer of such agency that such information will be maintained in confidence and will be used only for official law enforcement purposes.

"(7) In the event of the death, disability, or separation from service in the Commission of the custodian of any documentary material, written reports or answers to questions, and transcripts of oral testimony produced under any demand issued under this Act, or the

official relief of the custodian from responsibility for the custody and control of such material, the Commission promptly shall—

"(A) designate under paragraph (2)(A) another duly authorized agent to serve as custodian of such material; and

"(B) transmit in writing to the person who produced the material or testimony notice as to the identity and address of the successor so designated.

Any successor designated under paragraph (2)(A) as a result of the requirements of this paragraph shall have (with regard to the material involved) all duties and responsibilities imposed by this section upon his predecessor in office with regard to such material, except that he shall not be held responsible for any default or dereliction which occurred before his designation.

"(c)(1) All information reported to or otherwise obtained by the Commission which is not subject to the requirements of subsection (b) shall be considered confidential when so marked by the person supplying the information and shall not be disclosed, except in accordance with the procedures established in paragraph (2) and paragraph (3).

"(2) If the Commission determines that a document marked confidential by the person supplying it may be disclosed because it is not a trade secret or commercial or financial information which is obtained from any person and which is privileged or confidential, within the meaning of section 6(f), then the Commission shall notify such person in writing that the Commission intends to disclose the document at a date not less than 10 days after the date of receipt of notification.

Ante, p. 374.

"(3) Any person receiving such notification may, if he believes disclosure of the document would cause disclosure of a trade secret, or commercial or financial information which is obtained from any person and which is privileged or confidential, within the meaning of section 6(f), before the date set for release of the document, bring an action in the district court of the United States for the district within which the documents are located or in the United States District Court for the District of Columbia to restrain disclosure of the document. Any person receiving such notification may file with the appropriate district court or court of appeals of the United States, as appropriate, an application for a stay of disclosure. The documents shall not be disclosed until the court has ruled on the application for a stay.

File for stay of disclosure.

"(d)(1) The provisions of subsection (c) shall not be construed to prohibit—

"(A) the disclosure of information to either House of the Congress or to any committee or subcommittee of the Congress, except that the Commission immediately shall notify the owner or provider of any such information of a request for information designated as confidential by the owner or provider;

"(B) the disclosure of the results of any investigation or study carried out or prepared by the Commission, except that no information shall be identified nor shall information be disclosed in such a manner as to disclose a trade secret of any person supplying the trade secret, or to disclose any commercial or financial information which is obtained from any person and which is privileged or confidential;

"(C) the disclosure of relevant and material information in Commission adjudicative proceedings or in judicial proceedings to which the Commission is a party; or

"(D) the disclosure to a Federal agency of disaggregated information obtained in accordance with section 3512 of title 44, United States Code, except that the recipient agency shall use such disaggregated information for economic, statistical, or policymaking purposes only, and shall not disclose such information in an individually identifiable form.

Information disclosure in adjudicative or judicial proceedings.

"(2) Any disclosure of relevant and material information in Commission adjudicative proceedings or in judicial proceedings to which the Commission is a party shall be governed by the rules of the Commission for adjudicative proceedings or by court rules or orders, except that the rules of the Commission shall not be amended in a manner inconsistent with the purposes of this section.

"(e) Nothing in this section shall supersede any statutory provision which expressly prohibits or limits particular disclosures by the Commission, or which authorizes disclosures to any other Federal agency.

Exemption from disclosure.

"(f) Any material which is received by the Commission in any investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission, and which is provided pursuant to any compulsory process under this Act or which is provided voluntarily in place of such compulsory process shall be exempt from disclosure under section 552 of title 5, United States Code.".

REGULATORY ANALYSES; JUDICIAL REVIEW; REGULATORY AGENDAS

SEC. 15. The Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended in section 13 and section 14, is further amended by inserting after section 21 the following new section:

15 USC 57b-3.

"SEC. 22. (a) For purposes of this section:

"Rule."
15 USC 46, 57a.

"(1) The term 'rule' means any rule promulgated by the Commission under section 6 or section 18, except that such term does not include interpretive rules, rules involving Commission management or personnel, general statements of policy, or rules relating to Commission organization, procedure, or practice. Such term does not include any amendment to a rule unless the Commission—

"(A) estimates that such amendment will have an annual effect on the national economy of $100,000,000 or more;

"(B) estimates that such amendment will cause a substantial change in the cost or price of goods or services which are used extensively by particular industries, which are supplied extensively in particular geographic regions, or which are acquired in significant quantities by the Federal Government, or by State or local governments; or

"(C) otherwise determines that such amendment will have a significant impact upon persons subject to regulation under such amendment and upon consumers.

"Rulemaking."

"(2) The term 'rulemaking' means any Commission process for formulating or amending a rule.

Preliminary regulatory analysis, contents.

"(b)(1) In any case in which the Commission publishes notice of a proposed rulemaking, the Commission shall issue a preliminary regulatory analysis relating to the proposed rule involved. Each preliminary regulatory analysis shall contain—

"(A) a concise statement of the need for, and the objectives of, the proposed rule;

"(B) a description of any reasonable alternatives to the proposed rule which may accomplish the stated objective of the rule in a manner consistent with applicable law; and

"(C) for the proposed rule, and for each of the alternatives described in the analysis, a preliminary analysis of the projected benefits and any adverse economic effects and any other effects, and of the effectiveness of the proposed rule and each alternative in meeting the stated objectives of the proposed rule.

Final regulatory analysis, contents.

"(2) In any case in which the Commission promulgates a final rule, the Commission shall issue a final regulatory analysis relating to the final rule. Each final regulatory analysis shall contain—

"(A) a concise statement of the need for, and the objectives of, the final rule;

"(B) a description of any alternatives to the final rule which were considered by the Commission;

"(C) an analysis of the projected benefits and any adverse economic effects and any other effects of the final rule;

"(D) an explanation of the reasons for the determination of the Commission that the final rule will attain its objectives in a manner consistent with applicable law and the reasons the particular alternative was chosen; and

"(E) a summary of any significant issues raised by the comments submitted during the public comment period in response to the preliminary regulatory analysis, and a summary of the assessment by the Commission of such issues.

"(3)(A) In order to avoid duplication or waste, the Commission is authorized to—

"(i) consider a series of closely related rules as one rule for purposes of this subsection; and

"(ii) whenever appropriate, incorporate any data or analysis contained in a regulatory analysis issued under this subsection in the statement of basis and purpose to accompany any rule promulgated under section 18(a)(1)(B), and incorporate by reference in any preliminary or final regulatory analysis information contained in a notice of proposed rulemaking or a statement of basis and purpose.

Ante, p. 376.

Preliminary and final regulatory analyses, availability. Fee.

"(B) The Commission shall include, in each notice of proposed rulemaking and in each publication of a final rule, a statement of the manner in which the public may obtain copies of the preliminary and final regulatory analyses. The Commission may charge a reasonable fee for the copying and mailing of regulatory analyses. The regulatory analyses shall be furnished without charge or at a reduced charge if the Commission determines that waiver or reduction of the fee is in the public interest because furnishing the information primarily benefits the general public.

Publication in Federal Register.

"(4) The Commission is authorized to delay the completion of any of the requirements established in this subsection by publishing in the Federal Register, not later than the date of publication of the final rule involved, a finding that the final rule is being promulgated in response to an emergency which makes timely compliance with the provisions of this subsection impracticable. Such publication shall include a statement of the reasons for such finding.

"(5) The requirements of this subsection shall not be construed to alter in any manner the substantive standards applicable to any action by the Commission, or the procedural standards otherwise applicable to such action.

Judicial review.

"(c)(1) The contents and adequacy of any regulatory analysis prepared or issued by the Commission under this section, including the adequacy of any procedure involved in such preparation or issuance, shall not be subject to any judicial review in any court, except that a court, upon review of a rule pursuant to section 18(e), may set aside such rule if the Commission has failed entirely to prepare a regulatory analysis.

18 USC 57a.

"(2) Except as specified in paragraph (1), no Commission action may be invalidated, remanded, or otherwise affected by any court on account of any failure to comply with the requirements of this section.

"(3) The provisions of this subsection do not alter the substantive or procedural standards otherwise applicable to judicial review of any action by the Commission.

Regulatory agenda.

"(d)(1) The Commission shall publish at least semiannually a regulatory agenda. Each regulatory agenda shall contain a list of rules which the Commission intends to propose or promulgate during the 12-month period following the publication of the agenda. On the first Monday in October of each year, the Commission shall publish in the Federal Register a schedule showing the dates during the current fiscal year on which the semiannual regulatory agenda of the Commission will be published.

Publication dates in Federal Register.

"(2) For each rule listed in a regulatory agenda, the Commission shall—

"(A) describe the rule;

"(B) state the objectives of and the legal basis for the rule; and

"(C) specify any dates established or anticipated by the Commission for taking action, including dates for advance notice of proposed rulemaking, notices of proposed rulemaking, and final action by the Commission.

"(3) Each regulatory agenda shall state the name, office address, and office telephone number of the Commission officer or employee responsible for responding to any inquiry relating to each rule listed.

"(4) The Commission shall not propose or promulgate a rule which was not listed on a regulatory agenda unless the Commission publishes with the rule an explanation of the reasons the rule was omitted from such agenda.".

GOOD FAITH RELIANCE UPON ACTIONS OF BOARD OF GOVERNORS OF FEDERAL RESERVE SYSTEM

SEC. 16. The Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended in section 13, section 14, and section 15, is further amended by inserting after section 22 the following new section:

"Board of Governors." 15 USC 57b-4.

"SEC. 23. (a) For purposes of this section, the term 'Board of Governors' means the Board of Governors of the Federal Reserve System.

"(b) Notwithstanding any other provision of law, if—

"(1) any person, partnership, or corporation engages in any conduct or practice which allegedly constitutes a violation of any Federal law with respect to which the Board of Governors of the Federal Reserve System has rulemaking authority; and

"(2) such person, partnership, or corporation engaged in such conduct or practice in good faith reliance upon, and in conformity with, any rule, regulation, statement of interpretation, or statement of approval prescribed or issued by the Board of Governors under such Federal law;

then such good faith reliance shall constitute a defense in any administrative or judicial proceeding commenced against such person, partnership, or corporation by the Commission under this Act or in any administrative or judicial proceeding commenced against such person, partnership, or corporation by the Attorney General of the United States, upon request made by the Commission, under any provision of law.

"(c) The provisions of subsection (b) shall apply regardless of whether any rule, regulation, statement of interpretation, or statement of approval prescribed or issued by the Board of Governors is amended, rescinded, or held to be invalid by judicial authority or any other authority after a person, partnership, or corporation has engaged in any conduct or practice in good faith reliance upon, and in conformity with, such rule, regulation, statement of interpretation, or statement of approval.

"(d) If, in any case in which—

"(1) the Board of Governors has rulemaking authority with respect to any Federal law; and

"(2) the Commission is authorized to enforce the requirements of such Federal law;

any person, partnership, or corporation submits a request to the Board of Governors for the issuance of any statement of interpretation or statement of approval relating to any conduct or practice of such person, partnership, or corporation which may be subject to the requirements of such Federal law, then the Board of Governors shall dispose of such request as soon as practicable after the receipt of such request.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 17. Section 24 of the Federal Trade Commission Act, as so redesignated in section 13, is amended— 15 USC 57c. *Ante*, p. 380.

(1) by striking out "and" after "1976;"; and

(2) by striking out "1977. For fiscal years" and all that follows through "law." and inserting in lieu thereof "1977; not to exceed $70,000,000 for the fiscal year ending September 30, 1980; not to exceed $75,000,000 for the fiscal year ending September 30, 1981; and not to exceed $80,000,000 for the fiscal year ending September 30, 1982.".

RESTRICTION OF COMMISSION AUTHORITY UNDER LANHAM TRADEMARK ACT

SEC. 18. The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1980, 1981, or 1982, under section 24 of such Act, as amended by section 17 and as so redesignated in section 13, for the purpose of taking any action under section 14 of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes" (15 U.S.C. 1064), commonly referred to as the Lanham Trademark Act, with respect to the cancellation of the registration of any mark on the ground that such mark has become the common descriptive name of an article or substance. 15 USC 57c note.

RESTRICTION OF COMMISSION REGULATION OF FUNERAL INDUSTRY

SEC. 19. (a) For purposes of this section: 15 USC 57a note.

"Commission." (1) The term "Commission" means the Federal Trade Commission.

"Funeral trade regulation rule." (2) The term "funeral trade regulation rule" means the proposed trade regulation rule which was published in the Federal Register of August 29, 1975, beginning at page 39901, and which relates to the regulation of funeral industry practices.

(b) Except as provided in subsection (c), the Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1980, 1981, or 1982, under section 24 of such Act, as amended by section 17 and as so redesignated in section 13, to issue—

(1) the funeral trade regulation rule in final form; or

(2) any other trade regulation rule, in proposed or final form, which sets forth rules substantially similar to the rules set forth in the funeral trade regulation rule.

Funds, use. (c)(1) The Commission shall have authority to use the funds specified in subsection (b) to issue the funeral trade regulation rule in final form only to the extent that the funeral trade regulation rule (in its final form)—

(A) requires persons, partnerships, and corporations furnishing goods and services relating to funerals to disclose the fees or prices charged for such goods and services in a manner prescribed by the Commission; and

(B) prohibits or prevents such persons, partnerships, and corporations from—

(i) engaging in any misrepresentation;

(ii) engaging in any boycott against, or making any threat against, any other person, partnership, or corporation furnishing goods and services relating to funerals;

(iii) conditioning the furnishing of any such goods or services to a consumer upon the purchase by such consumer of other such goods or services; or

(iv) furnishing any such goods or services to a consumer for a fee without obtaining the prior approval of such consumer.

(2)(A) The Commission, before issuing the funeral trade regulation rule in final form—

Publication in Federal Register. (i) shall publish in the Federal Register for public comment a revised version of the funeral trade regulation rule which contains the provisions specified in subparagraph (A) and subparagraph (B) of paragraph (1);

(ii) shall allow interested persons to submit written data, views, and arguments relating to such revised version of the funeral trade regulation rule, and make all such submissions publicly available; and

(iii) may permit interested persons, or, as appropriate, a single representative of each group of such persons having the same or similar interests with respect to such revised version of the funeral trade regulation rule, to present their position orally.

(B) The requirements established in subparagraph (A) are in addition to, and not in lieu of, any other requirements established in the Federal Trade Commission Act (15 U.S.C. 41 et seq.), or in any other provision of law, and applicable to the promulgation of trade regulation rules by the Commission. The requirements established in subparagraph (A) shall not be construed to vacate or otherwise affect any proceedings conducted by the Commission before the date of the

enactment of this Act with respect to the funeral trade regulation rule.

(d) If, upon application to the Commission by an appropriate State agency, the Commission determines (pursuant to rules prescribed by the Commission) that—

(1) there is in effect a State requirement which applies to any transaction to which this section applies; and

(2) such State requirement affords an overall level of protection to consumers which is as great as, or greater than, the protection afforded by this section;

then only such State requirement shall be applicable to the extent specified in such determination for so long as the State administers and enforces effectively any such State requirement.

RESTRICTION OF COMMISSION AUTHORITY RELATING TO AGRICULTURAL COOPERATIVES

SEC. 20. (a) The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1980, 1981, or 1982, under section 24 of such Act, as amended by section 17 and as so redesignated in section 13, for the purpose of conducting any study, investigation, or prosecution of any agricultural cooperative for any conduct which, because of the provisions of the Act entitled "An Act to authorize association of producers of agricultural products", approved February 18, 1922 (7 U.S.C. 291 et seq.), commonly known as the Capper-Volstead Act, is not a violation of any Federal antitrust Act or the Federal Trade Commission Act (15 U.S.C. 41 et seq.). 15 USC 57c note.

(b) The Federal Trade Commission shall not have any authority to use any funds which are authorized to be appropriated to carry out the Federal Trade Commission Act (15 U.S.C. 41 et seq.) for fiscal year 1980, 1981, or 1982, under section 24 of such Act, as amended by section 17 and as so redesignated in section 13, for the purpose of conducting any study or investigation of any agricultural marketing orders. Study or investigation, prohibition.

CONGRESSIONAL REVIEW OF RULES

SEC. 21. (a)(1) The Federal Trade Commission, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session. Such final rule shall be referred to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House, respectively. 15 USC 57a-1.

(2) Any such final rule shall become effective in accordance with its terms unless, before the end of the period of 90 calendar days of continuous session after the date such final rule is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such final rule. Effective date.

(b)(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in

that House in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2)(A) Any concurrent resolution disapproving a final rule of the Commission shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Interstate and Foreign Commerce of the House, as the case may be.

(B) If a committee to which a concurrent resolution is referred does not report such concurrent resolution before the end of the period of 75 calendar days of continuous session of the Congress after the referral of such resolution to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Interstate and Foreign Commerce of the House, as the case may be, under subsection (a)(1), it shall be in order to move to discharge any such committee from further consideration of such concurrent resolution.

(C)(i) A motion to discharge in the Senate may be made only by a Member favoring the concurrent resolution, shall be privileged (except that it may not be made after the committee has reported a concurrent resolution with respect to the same final rule of the Commission), and debate on such motion shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same final rule of the Commission.

(ii) A motion to discharge in the House may be made by presentation in writing to the Clerk. The motion may be called up only if the motion has been signed by one-fifth of the Members of the House. The motion is highly privileged (except that it may not be made after the committee has reported a concurrent resolution of disapproval with respect to the same rule). Debate on such motion shall be limited to not more than 1 hour, the time to be divided equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3)(A) When a committee has reported, or has been discharged from further consideration of, a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be privileged in the Senate and highly privileged in the House of Representatives, and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the concurrent resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such concurrent resolution. A motion further to

limit debate shall not be debatable. An amendment to, or motion to recommit, the concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

(4) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a concurrent resolution shall be decided without debate.

(5) Notwithstanding any other provision of this subsection, if a House has approved a concurrent resolution with respect to any final rule of the Commission, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same final rule.

(c)(1) If a final rule of the Commission is disapproved by the Congress under subsection (a)(2), then the Commission may promulgate a final rule which relates to the same acts or practices as the final rule disapproved by the Congress in accordance with this subsection. Such final rule—

(A) shall be based upon—

(i) the rulemaking record of the final rule disapproved by the Congress; or

(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Commission in accordance with section 553 of title 5, United States Code, in any case in which the Commission determines that it is necessary to supplement the existing rulemaking record; and

(B) may contain such changes as the Commission considers necessary or appropriate.

(2) The Commission, after promulgating a final rule under this subsection, shall submit the final rule to the Congress in accordance with subsection (a)(1).

(d) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the final rule involved, and shall not be construed to create any presumption of validity with respect to such final rule.

(e)(1) The Comptroller General shall prepare a report which examines the review of Commission rules under this section. Such report shall— Report, contents.

(A) list the final rules submitted to the Congress by the Commission during the period in which this section is in effect;

(B) list the final rules disapproved by the Congress under subsection (a)(2);

(C) specify the number of instances in which the Commission promulgates a final rule in accordance with subsection (c); and

(D) include an analysis of any impact which the provisions of this section have had upon the decisionmaking and rulemaking processes of the Commission.

(2) The Comptroller General shall submit the report required in paragraph (1) to the Congress before the end of fiscal year 1982. Report to Congress.

(f)(1) Any interested party may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this section. The district court immediately shall certify all questions of the constitutionality of this section Actions in a U.S. district court.

to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

Appeal to Supreme Court of the United States.

(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than 20 days after the decision of the court of appeals.

(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(g)(1) For purposes of this section—

(A) continuity of session is broken only by an adjournment sine die; and

(B) days on which either House is not in session because of an adjournment of more than 5 days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

(2) If an adjournment sine die of the Congress occurs after the Commission has submitted a final rule under subsection (a)(1), but such adjournment occurs—

(A) before the end of the period specified in subsection (a)(2); and

(B) before any action necessary to disapprove the final rule is completed under subsection (a)(2);

Resubmittal to Congress.

then the Commission shall be required to resubmit the final rule involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

(h) For purposes of this section:

Definitions.

(1) The term "Commission" means the Federal Trade Commission.

(2) The term "concurrent resolution" means a concurrent resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the final rule promulgated by the Federal Trade Commission dealing with the matter of ——, which final rule was submitted to the Congress on ——.". (The blank spaces shall be filled appropriately.)

(3) The term "rule" means any rule promulgated by the Commission pursuant to the Federal Trade Commission Act (15 U.S.C. 41 et seq.), other than any rule promulgated under section 18(a)(1)(A) of such Act (15 U.S.C. 57a(a)(1)(A)).

Effective date. 15 USC 57a-1 note.

(i) The provisions of this section shall take effect on the date of the enactment of this Act and shall cease to have any force or effect after September 30, 1982.

OVERSIGHT HEARINGS

15 USC 57a note.

SEC. 22. The Consumer Subcommittee of the Committee on Commerce, Science, and Transportation of the Senate shall conduct an oversight hearing with respect to the Federal Trade Commission at least once during the first 6 calendar months, and at least once during the last 6 calendar months, of each of the fiscal years 1980, 1981, and 1982.

EFFECTIVE DATE

SEC. 23. The provisions of this Act, and the amendments made by this Act, shall take effect on the date of the enactment of this Act. 15 USC 45 note.

Approved May 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-181 (Comm. on Interstate and Foreign Commerce) and No. 96-917 (Comm. of Conference).
SENATE REPORTS: No. 96-184 accompanying S. 1020 and No. 96-500 accompanying S. 1991 (both from Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 14, 27, considered and passed House.
Vol. 126 (1980): Feb. 7, H.R. 2313 considered and passed Senate, amended, in lieu of S. 1020 and S. 1991.
May 20, House agreed to conference report.
May 21, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 22 (1980): May 28, Presidential statement.

Public Law 96-253
96th Congress

An Act

May 29, 1980
[S. 2648]

To authorize appropriations for the Federal Election Commission for fiscal year 1981.

Federal Election Campaign Act of 1971, amendment.

2 USC 438.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of section 314 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended by striking out "and" after "1977," and by inserting after "1978" the following: ", and $9,400,000 (of which not more than $400,000 are authorized to be appropriated for the national clearinghouse function described in section 311(a)(10)) for the fiscal year ending September 30, 1981".

Approved May 29, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-929 accompanying H.R. 7281 (Comm. on House Administration).

SENATE REPORT No. 96-679 (Comm. on Rules and Administration).

CONGRESSIONAL RECORD, Vol. 126 (1980):

May 8, considered and passed Senate.

May 12, H.R. 7281 considered and passed House; passage vacated and S. 2648, amended, passed in lieu.

May 16, Senate concurred in House amendments.

Public Law 96-254
96th Congress

An Act

To amend the Railroad Revitalization and Regulatory Reform Act of 1976 to authorize additional appropriations for the Northeast Corridor improvement project and to require the Secretary of Transportation to begin development of energy efficient rail passenger corridors, to provide for the protection of the employees of the Rock Island Railroad, and for other purposes.

May 30, 1980
[S. 2253]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Railroad Revitalization and Regulatory Reform Act of 1976, amendment.

TITLE I—ROCK ISLAND TRANSITION AND EMPLOYEE ASSISTANCE

SHORT TITLE

Rock Island Railroad Transition and Employee Assistance Act. 45 USC 1001 note.

SEC. 101. This title may be cited as the "Rock Island Railroad Transition and Employee Assistance Act".

CONGRESSIONAL FINDINGS

45 USC 1001.

SEC. 102. Congress hereby finds that—

(1) uninterrupted continuation of services over Rock Island lines is dependent on adequate employee protection provisions covering Rock Island Railroad employees who are not hired by other railroads;

(2) for those Rock Island Railroad employees not hired by other rail carriers, there is no other practicable means of obtaining funds to meet the necessary costs of such employee protection that are assumed by the Rock Island Railroad;

(3) a cessation of necessary operations of the Rock Island Railroad would have serious repercussions on the economies of the States in which such railroad principally operates; and

(4) premature cessation of services over lines which are the subject of pending purchase application would result in harm to the shipping public and could imperil continuation of vital commuter service.

DEFINITIONS

45 USC 1002.

SEC. 103. As used in this title, the term—

(1) "bankruptcy court" means the court having jurisdiction over the reorganization of the Rock Island Railroad;

(2) "Board" means the Railroad Retirement Board;

(3) "Commission" means the Interstate Commerce Commission;

(4) "employee" includes any employee of the Rock Island Railroad as of August 1, 1979, but does not include any individual serving as president, vice-president, secretary, treasurer, comptroller, counsel, member of the board of directors, or any other person performing such functions;

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(5) the term "Rock Island Railroad" means the Chicago, Rock Island and Pacific Railroad Company; and

(6) the term "Secretary" means the Secretary of Transportation.

SERVICE CONTINUATION

45 USC 1003.
93 Stat. 1023.

SEC. 104. (a) Notwithstanding the provisions of section 11125 of title 49, United States Code, or Public Law 96-131, the Commission shall order directed service for a period of not to exceed 90 days over any line of the Rock Island Railroad if the Secretary finds and certifies to the Commission that—

(1) a lack of rail service exists which cannot be resolved by a grant of interim operating authority over such line and grains or foods are ready to be shipped to market; or

(2) a lack of rail service exists which cannot be resolved by a grant of interim operating authority over such line and a rail carrier, shipper, State, or other interested party has expressed in writing to the Secretary an interest in purchasing, leasing, or rehabilitating the particular rail line or facility for purposes of providing rail services, and there is a reasonable expectation that such transaction will be consummated.

Directed service.

(b)(1) Not more than $15,000,000 of the funds available for expenditure by the Secretary out of the Railroad Rehabilitation and Improvement Fund established under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.) may be made available by the Secretary to the Commission for purposes of providing directed service under this section and section 18(b) of the Milwaukee Railroad Restructuring Act.

93 Stat. 746.
Post, p. 405.

(2) Funds may be made available for directed service under this section without regard to the findings of the Secretary required under title V of the Railroad Revitalization and Regulatory Reform Act of 1976, and section 516 of such Act (45 U.S.C. 836) shall not apply to any directed service provided with such funds.

45 USC 821.

Trackage rights, compensation terms.

(c) The terms of compensation for all trackage rights, joint facilities, and similar arrangements between other rail carriers and the trustee of the Rock Island Railroad which are in effect on or after March 15, 1980, on portions of the lines of the Rock Island Railroad involved in temporary emergency operations shall be continued in effect during the duration of the temporary emergency operating authority with the carrier providing temporary emergency service substituting for the trustee, except where the Rock Island Railroad has been given more favorable treatment by virtue of its bankruptcy. Such continuation shall not alter or affect the ultimate rights of other rail carriers under trackage rights, joint facilities, or similar arrangements nor prejudice the ultimate determination of any controversy or proceeding concerning rights of the parties with regard to assignment by the trustee of rights in or to the facilities or under the arrangements.

RAILROAD HIRING

45 USC 1004.

SEC. 105. (a) Each person who is an employee of the Rock Island Railroad on August 1, 1979, and who, prior to January 1, 1981, is separated or furloughed (other than for cause) from his employment with such railroad, or from his employment with another rail carrier providing temporary service over lines of the Rock Island Railroad, as a result of a reduction of service by such railroad or such temporary

service carrier shall, unless found to be less qualified than other applicants, have the first right of hire by any other rail carrier that is subject to regulation by the Commission for any vacancy that is not covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulations, or Executive order, or by the order of a Federal or State court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a rail carrier shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.

(b) The rights afforded to Rock Island Railroad employees by this section shall be coequal to the rights afforded to Chicago, Milwaukee, Saint Paul and Pacific Railroad Company employees by section 8 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 907). 93 Stat. 740.

EMPLOYEE PROTECTION AGREEMENTS

SEC. 106. (a) No later than 10 days after the date of enactment of this Act, in order to avoid disruption of rail service and undue displacement of employees, the Rock Island Railroad and labor organizations representing the employees of such railroad, with the assistance of the National Mediation Board, may enter into an agreement providing protection for employees of such railroad who are adversely affected as a result of a reduction in service by such railroad. Such employee protection may include, but need not be limited to, employee relocation incentive compensation, moving expenses, and separation allowances. 45 USC 1005.

(b) If the Rock Island Railroad and the labor organizations representing the employees of such railroad are unable to enter into an employee protection agreement under subsection (a) of this section within 10 days after the date of enactment of this Act, the parties shall immediately submit the matter to the Commission. The Commission shall impose upon the parties by appropriate order a fair and equitable arrangement with respect to employee protection no later than 30 days after the date of enactment of this Act, unless the Rock Island Railroad and the authorized representatives of its employees have by then entered into a labor protection agreement. For purposes of this subsection, the term "fair and equitable" means no less protective of the interests of employees than protection afforded under section 9 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 908), subject to the limitations set forth in section 110 of this title. "Fair and equitable." 93 Stat. 741.

(c) If an employee protection arrangement is imposed by the Commission under subsection (b) of this section, the bankruptcy court shall immediately authorize and direct the Rock Island Railroad trustee to, and the Rock Island Railroad trustee and the labor organizations representing the employees of the railroad shall, immediately implement such arrangement.

(d)(1) An order of the Commission under subsection (b) of this section may not be stayed by the Commission or by any court, and an order of the bankruptcy court under subsection (c) of this section may not be stayed by any other court. Commission or court orders, stays.

(2) Any order described in paragraph (1) of this subsection may be appealed only to the court of appeals of the United States having jurisdiction to review decisions and orders of the bankruptcy court. Any such appeal to such court of appeals shall be filed within 5 days after the date of entry of the order of the Commission or the Appeal.

bankruptcy court, as the case may be, and such court of appeals shall finally determine such appeal within 60 days after the date such appeal is filed. No determination by the court of appeals under this subsection may be reviewed in any other court.

Benefit and allowance claims.

(e)(1) Any claim of an employee for benefits and allowances under an employee protection agreement or arrangement entered into under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under such agreement or arrangement and shall certify such amount to the Rock Island Railroad for payment.

(2) Benefits and allowances under such agreement or arrangement entered into under this section shall be paid by the Rock Island Railroad from its own assets or in accordance with section 110 of this title, and claims of employees for such benefits and allowances shall be treated as administrative expenses of the estate of the Rock Island Railroad.

93 Stat. 742.

(f) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(7)) is amended by striking out "and the Milwaukee Railroad Restructuring Act" and inserting in lieu thereof ", the Milwaukee Railroad Restructuring Act, and the Rock Island Railroad Transition and Employee Assistance Act".

EMPLOYMENT OF ROCK ISLAND RAILROAD EMPLOYEES

Employee and employment lists, preparation and maintenance.
45 USC 1006.

SEC. 107. (a) The Board shall prepare and maintain—

(1) a list of employees separated from employment with the Rock Island Railroad who indicate a desire to appear on a list to be available to rail carriers; and

(2) a list of employment, by class and craft, available with rail carriers,

based upon information submitted to the Board by the Rock Island Railroad and other rail carriers. Upon the request of any rail carrier, the Board shall make available to such carrier a copy of the list described in paragraph (1) of this subsection.

(b) The Board shall maintain the lists required by subsection (a) of this section through December 31, 1984.

ELECTION

Assistance and benefits, reception and waiver.
45 USC 1007.

11 USC 101.
49 USC 10101.

SEC. 108. (a) Any employee who receives any assistance under an employee protection agreement or arrangement entered into under section 106 of this title or any new career training assistance under section 119 of this title shall be deemed to waive any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, or any applicable contract or agreement.

Statement filing.

(b) Any employee of the Rock Island Railroad who is entitled to receive assistance under this title shall, no later than April 1, 1981, file a statement with the Board indicating whether such employee elects to receive (1) assistance under this title; or (2) any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11, United States Code, subtitle IV of title 49, United States Code, or any applicable contract or agreement.

(c) With regard to any employee who elects benefits under subsection (b)(2) of this section, nothing in this title shall be deemed to

determine or otherwise affect the priority, status, or timing of payment of, or the liability for any claim for, employee protection which might have existed in the absence of this title.

(d) An empolyee shall not be eligible to receive any assistance (other than moving expenses) under an employee protection agreement or arrangement entered into under section 106 of this title or any new career training assistance under section 119 of this title— Assistance limitations.

(1) during any period in which such employee is employed by any rail carrier providing temporary service over any lines of the Rock Island Railroad; or

(2) at any time after the date such employee receives an offer of employment, in his craft and for which such employee is qualified, from a rail carrier acquiring lines of the Rock Island Railroad.

AUTHORIZATION OF APPROPRIATIONS

SEC. 109. (a) Section 14(c) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913(c)) is amended— 93 Stat. 743.

(1) by inserting "and the Rock Island Railroad Transition and Employee Assistance Act" immediately after "this Act"; and

(2) by adding at the end thereof the following new sentence: "Effective October 1, 1980, there is authorized to be appropriated to the Board an additional $1,000,000 to carry out its administrative expenses under this Act and the Rock Island Railroad Transition and Employee Assistance Act.". Effective date. *Ante*, p. 399.

(b) Section 14(b) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913(b)) is amended by adding at the end thereof the following new sentence: "Effective October 1, 1980, there is authorized to be appropriated an additional $1,500,000 for new career training assistance under section 12 of this Act and section 119 of the Rock Island Railroad Transition and Employee Assistance Act.". Effective date. 93 Stat. 743. 45 USC 911. *Post*, p. 408

OBLIGATION GUARANTEES

SEC. 110. (a) The Secretary, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831), shall guarantee obligations of the Rock Island Railroad for purposes of providing employee protection in accordance with the terms of any employee protection agreement or arrangement entered into under section 106 of this title. 45 USC 1008.

(b) Any obligation guaranteed pursuant to this section shall be treated as an administrative expense of the estate of the Rock Island Railroad.

(c) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary pursuant to this section shall not exceed $75,000,000. Aggregate unpaid principal amount.

(d) The total liability of the Rock Island Railroad in connection with benefits and allowances provided under any employee protection agreement or arrangement entered into under section 106 of this title shall not exceed $75,000,000. Total liability.

(e) Except in connection with obligations guaranteed under this section, the United States shall incur no liability in connection with any employee protection agreement or arrangement entered into under section 106 of this title.

(f) Section 511(g) and section 516 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(g) and 836) shall not apply to any obligation guaranteed under this section.

EXPEDITED PROCEEDINGS

45 USC 1009.

SEC. 111. (a) The Commission shall give all proceedings involving the Rock Island Railroad preference over all other pending proceedings related to rail carriers and make all of its decisions at the earliest practicable time.

(b) The Commission shall, within 100 days of the filing of an application (or such shorter period as the court may set) pursuant to section 17 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 915), reach a decision on all proceedings filed after January 1, 1980, which involve a sale, transfer or lease of any line of the Rock Island Railroad to a solvent carrier.

93 Stat. 744.

TRANSACTION ASSISTANCE

SEC. 112. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by adding at the end thereof the following new subsection:

"(h) PURCHASE OF ESSENTIAL PROPERTIES FOR COMMON CARRIER SERVICE.—(1) Notwithstanding subsections (a) through (g) of this section (other than subsections (b)(2) and (d)(3)), the Secretary shall, upon application of a noncarrier entity—

93 Stat. 744.

"(A) purchase, from funds available on May 1, 1980, not less than $25,000,000 in redeemable preference shares, bonds, or trustee certificates convertible to redeemable preference shares under this section as necessary for the purchase, lease, or rehabilitation of properties of the Rock Island Railroad by responsible noncarrier entities to be used for common carrier rail service; and

"(B) purchase not more than $18,000,000 in redeemable preference shares or trustee certificates convertible to redeemable preference shares under this section as necessary for the purchase of properties of the Milwaukee Railroad by responsible noncarrier entities to be used for common carrier rail service, to the extent that the Secretary determines that funds are available.

"(2) Preference shares, bonds, and trustee certificates purchased under this subsection shall be purchased under terms and conditions that insure that the applicant will be financially capable of making the requisite dividend or interest and redemption or principal payments without impairing its financial resources, and the Secretary shall insure that all assistance provided under this subsection is likely to be repaid or can be secured.

Noncarrier entity, description.

"(3)(A)(i) For purposes of this subsection, a responsible noncarrier entity may include an association composed of representatives of national railway labor organizations, employee coalitions, shippers, or any combination thereof, and States or State organizations, which wish to acquire, lease, or rehabilitate properties of the Rock Island Railroad or the Milwaukee Railroad pursuant to a feasible employee, employee-shipper, or State ownership plan. A responsible noncarrier entity may also include any railroad that wishes to contribute any of its properties under common ownership with the property being acquired by the association.

Ownership plan, submittal to Secretary.

"(ii) Any ownership plan described in clause (i) of this subparagraph shall be submitted to the Secretary no later than August 20, 1980, or such later date as the Secretary considers appropriate.

"(B) For purposes of this subsection, the return on redeemable preference shares shall be the minimum established pursuant to section 506(a)(3) of this title. 45 USC 826.

"(4) This subsection shall apply to purchase applications filed with the Commission prior to September 15, 1980, and approved by the court having jurisdiction over the reorganization of the Rock Island Railroad or the Milwaukee Railroad, as the case may be, and by the Commission.".

APPLICABILITY OF NEPA AND EPCA

SEC. 113. The provisions of the National Environmental Policy Act and section 382(b) of the Energy Policy and Conservation Act (42 U.S.C. 6362(b)) shall not apply to transactions carried out pursuant to this title. 45 USC 1010. 42 USC 4321 note.

AUTHORITY OF THE RAILROAD RETIREMENT BOARD

SEC. 114. (a) The Board may prescribe such regulations as may be necessary to carry out its duties under this title. 45 USC 1011.

(b) In carrying out its duties under this title, the Board may exercise such of the powers, duties, and remedies provided in subsections (a), (b), and (d) of section 12 of the Railroad Unemployment Insurance Act (45 U.S.C. 362 (a), (b), and (d)) as are not inconsistent with the provisions of this title.

PUBLICATIONS AND REPORTS

SEC. 115. Within 45 days after the date of enactment of this Act, the Board shall publish, and make available for distribution by the Rock Island Railroad to all eligible employees, a document which describes in detail the rights of such employees under sections 106, 107, 108, and 119 of this title. 45 USC 1012.

AMENDMENTS TO MILWAUKEE RAILROAD RESTRUCTURING ACT

SEC. 116. Section 18 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 916) is amended— 93 Stat. 746.

(1) by striking "Until" and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, until"; and

(2) by adding at the end thereof the following new subsection:

"(b) The Commission shall upon request provide for directed service, not to exceed 30 days during the period immediately prior to acquisition, on the Milwaukee Railroad under section 11125 of title 49, United States Code. Such directed service shall be limited to those lines or line segments where legislation has been enacted by a State legislature prior to the date of enactment of this subsection which would provide for such State to tender a bona fide offer for acquisition of such lines or line segments. The Commission may order directed service by the Milwaukee Railroad under this subsection without inclusion of a 6 percent profit factor. The Commission shall take the action described in this subsection only in the event that the Secretary of Transportation determines that such service cannot be continued under the Emergency Rail Service Assistance Act.". Directed service.

RAIL TECHNOLOGICAL IMPROVEMENTS

45 USC 1013.

SEC. 117. Notwithstanding any other provision of law, the Secretary may, after a hearing and consistent with findings based upon evidence developed therein or pursuant to expressions of agreement between national railroad labor representatives and the developer or operator of new equipment or technology, to exempt from the mandatory requirements of the provisions of the Act of March 2, 1893, the Act of March 2, 1903, and the Act of April 14, 1910 (45 U.S.C. 1 through 16), also referred to as the Safety Appliance Acts, any railroad equipment, or equipment which will be operated on rails, when such requirements preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under the existing statutes.

AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 118. (a) Section 216(f)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(5)) is amended by adding the following sentence after the first sentence thereof: "For purposes of this subsection, the Railway Labor Executives' Association shall be deemed to represent all of the representatives of crafts or classes of employees of the Corporation and its subsidiaries as though that organization held powers of attorney from each representative of a craft or class for the limited purposes of negotiating and agreeing upon an employee stock ownership plan.".

Crafts or classes of employees, representation.

(b) Section 216(f)(5) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)(5)) is further amended by adding the following sentence after the second sentence thereof: "The plan shall not be subject to change under the provisions of section 6 of the Railway Labor Act until after such time as securities have been distributed from the plan to the participants in the plan or their beneficiaries pursuant to the terms of the plan.".

(c) Section 216(f) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(f)) is further amended by adding the following at the end thereof:

Fiduciary responsibility.

"(8)(A) Except as provided in subparagraph (B) of this paragraph, no person described in subparagraph (C) of this paragraph shall have or be subject to any fiduciary responsibility, obligation, or duty, nor shall any such person be subject to civil liability, under any Federal or State law, as a fiduciary or otherwise—

"(i) in connection with the employee stock ownership plan and related trust established by the Corporation pursuant to the requirements of this subsection or with ConRail Equity Corporation (I) on account of any reorganization or restructuring of the Corporation, its successors or assigns, or their assets or capital structure, or (II) on account of any action taken or not taken by the Corporation which may affect its ability to attain the performance levels established in connection with the plan pursuant to paragraph (2)(A)(ii) of this subsection;

"(ii) for or in connection with the establishment, continuation or implementation of the plan and related trust or of ConRail Equity Corporation or the acquisition of, investment in or retention of any security of the Corporation or ConRail Equity Corporation, or of any of their successors and assigns, by the plan or ConRail Equity Corporation, or the disposition of any such security to the extent that such disposition is made in connection with a reorganization or restructuring of the Corporation, its successors and assigns, or their assets or capital structure, as directed or approved by or on behalf of the Association or the United States, or the acquisition or retention of any cash, security or other property received in connection with any such reorganization or restructuring; or

"(iii) for or in connection with any other action taken or not taken pursuant to any term or condition of the plan or related trust agreement or of the articles of incorporation or bylaws of ConRail Equity Corporation.

Any directions described in clauses (i)(I), (ii), or (iii) shall be taken at the direction, or with the consent, of the Association or of the Secretary or his designate.

"(B) Subparagraph (A) of this paragraph shall not be interpreted to relieve any person from any fiduciary or other responsibility, obligation or duty under any Federal or State law to take or not to take actions with respect to the plan in connection with (i) receiving contributions, (ii) exercising custodial responsibilities, (iii) determining eligibility to participate in the plan, (iv) calculating, determining and paying benefits, (v) processing and deciding claims, (vi) preparing and distributing plan information, benefit statements, returns and reports, (vii) maintaining plan records, (viii) appointing plan fiduciaries and other persons to advise or assist in plan administration and (ix) other than as provided in subparagraph (A), acquiring, holding or disposing of plan assets.

"(C) For purposes of subparagraph (A) of this paragraph, the term 'person' includes each of the following: "Person."

"(i) the trustee or trustees of the plan, the Corporation and its subsidiaries, ConRail Equity Corporation, the Association, and any of their successors and assigns;

"(ii) each director, officer, employee and agent of the Corporation of any of its subsidiaries, of ConRail Equity Corporation, of the plan, of the Association or of any of their successors and assigns; and

"(iii) each member of the Finance Committee and any of their employees and agents.

"(D) Neither this paragraph nor paragraph (9) of this subsection shall be construed to grant immunity from any criminal law of the United States or of any State or the District of Columbia.

"(9) The United States shall indemnify, defend, and hold harmless the persons described in paragraph (8)(C) of this subsection from and against any and all liabilities, claims, actions, judgments, amounts paid in settlement, and costs and expenses (including reasonable fees of accountants, experts, and attorneys) actually incurred in connection with the establishment, implementation, or operation of the plan or ConRail Equity Corporation or with any transaction which is required by or is appropriate to effectuate fully the provisions of this subsection, Indemnity.

except as may arise in connection with the execution of a responsibility, obligation, or duty excluded from paragraph (8)(A) by paragraph (8)(B), if it is determined that such persons were acting in good faith. The indemnity provided in this paragraph shall be a full faith and credit obligation of the United States.

Corporation securities.

"(10) All securities of the Corporation, all securities of any subsidiary of the Corporation and of ConRail Equity Corporation, and all interests in the employee stock ownership plan which are issued or transferred in connection with the employee stock ownership plan established by the Corporation pursuant to the requirements of this subsection shall be deemed for all purposes to have been issued subject to and authorized and approved pursuant to section 11301(b) of title 49 of the United States Code and any corresponding provision of any successor statute.".

NEW CAREER TRAINING ASSISTANCE

45 USC 1014.

SEC. 119. (a) An employee who elects to receive a separation allowance from the Rock Island Railroad under an employee protection agreement or arrangement entered into under section 106 of this title may receive from the Board reasonable expenses for training in qualified institutions for new career opportunities.

Eligibility.

(b) To be eligible for assistance under this section, an employee—

(1) must first exhaust any Federal educational benefits available to such employee under any existing program; and

(2) must begin his course of training within 2 years following the date of such employee's separation from employment with the Rock Island Railroad.

(c) Reasonable expenses for assistance under this section shall be determined by the Board on the basis of an application therefor filed by an employee with the Board.

Termination date.

(d) No assistance may be provided under this section after April 1, 1984.

(e) As used in this section—

"Expenses."

(1) the term "expenses" means actual, reasonable expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed $3,000; and

"Qualified institution."

38 USC 1770 *et seq.*

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38 of the United States Code, or a State-accredited institution which has been in existence for not less than 2 years.

93 Stat. 743.

(f) Section 12(e)(2) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 911(e)(2)) is amended by inserting the following immediately before the period at the end thereof: ", or a State-accredited institution which has been in existence for not less than two years".

DIRECTED SERVICE

45 USC 1015.

SEC. 120. (a) In the event agreement cannot be reached between the Rock Island Railroad and any party desiring to provide commuter service, the Commission shall order directed service, for the 2-year period beginning on the date of enactment of this Act, over any passenger commuter line of the Rock Island Railroad that was in operation on March 1, 1980, if the directed service carrier agrees to provide such service without payment under section 11125(b)(5) of title 49 of the United States Code. If the parties are unable to agree on

compensation, the trustee of the Rock Island Railroad shall receive compensation for the property and facilities of the Rock Island Railroad on terms determined by the Commission to be reasonable.

(b) Notwithstanding any other provision of law, a passenger commuter line of the Rock Island Railroad over which directed service is provided pursuant to this section may not be abandoned, and service over such line may not be discontinued, during the period of such directed service. Abandonment restriction.

TEMPORARY RAIL BANKING

SEC. 121. During the 180-day period beginning on the date of enactment of this Act, no rail line or facility of the Rock Island Railroad which has been approved for abandonment by the Commission or the bankruptcy court may be downgraded, scrapped, or otherwise disposed of without the approval of the Secretary under this section. In no case before abandonment has been approved and before the 180-day period has elapsed shall the Secretary approve a disposition of such portion of the rail line or related facility to any carrier or other entity not engaged in providing railroad services or not formed for the purpose of providing railroad services. The Secretary, upon application by the Rock Island Railroad, shall grant such approval unless he finds that— Approval by Secretary. 45 USC 1016. Disapproval conditions.

(1) a rail carrier, shipper, State, or other interested party has expressed in writing an interest in purchasing, leasing or rehabilitating the particular rail line or facility for purposes of providing rail service; and

(2) there is a reasonable expectation that such purchase transaction will be consummated.

TEMPORARY OPERATING APPROVAL

SEC. 122. (a) The Commission may authorize any rail carrier willing to do so voluntarily to use the tracks and facilities of the Rock Island Railroad or the Milwaukee Railroad. The use of such tracks and facilities shall be under such terms of compensation as the carriers establish between themselves, or if the carriers are unable to agree, under such terms of compensation as the Commission finds to be reasonable. 45 USC 1017.

(b) In carrying out the provisions of this section, the Commission shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with the traffic subject to the action of the Commission.

(c) As used in this section, the term "Milwaukee Railroad" means the Chicago, Milwaukee, Saint Paul and Pacific Railroad Company. "Milwaukee Railroad."

DEFINITION OF RESTRUCTURED MILWAUKEE RAILROAD

SEC. 123. Section 3(6) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 902(6)) is amended to read as follows: 93 Stat. 736.

"(6) the term 'restructured Milwaukee Railroad' means the entity that is designated as the reorganized railroad under the reorganization plan for the Milwaukee Railroad finally certified by the Commission.". "Restructured Milwaukee Railroad."

SAVINGS PROVISION

SEC. 124. If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title 45 USC 1001 note.

and the application of such provision to other persons or circumstances shall not be affected thereby.

Passenger Railroad Rebuilding Act of 1980.

TITLE II—RAIL PASSENGER CORRIDORS

SHORT TITLE

45 USC 501 note.

SEC. 201. This title may be cited as the "Passenger Railroad Rebuilding Act of 1980".

RAIL PASSENGER CORRIDOR SERVICE

SEC. 202. Section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853) is amended—

(1) in the first sentence, by striking "goals:" and inserting in lieu thereof "goals to the extent compatible with the amount of authorizations specified in section 704 of this title:";

45 USC 854.

(2) in paragraph (1)(A)(i) thereof, by striking "Within 5 years after the date of enactment of this Act," and inserting in lieu thereof "No later than September 30, 1985,"; and

(3) in the fourth sentence of paragraph (1)(E), by striking out "6" and inserting in lieu thereof "9".

SEPARATION OF PASSENGER AND FREIGHT TRAFFIC

SEC. 203. Section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853) is further amended—

(1) by inserting "(A)" immediately after the paragraph heading in paragraph (3) and by adding at the end of such paragraph the following:

Alternate off-corridor routing plans.

"(B)(i) Within 6 months after the date of enactment of the Passenger Railroad Rebuilding Act of 1980, the Secretary shall develop plans for alternate off-corridor routings of freight traffic over lines along the Northeast Corridor between the Washington, District of Columbia Metropolitan area and the New York Metropolitan area, including intermediate points.

Agreements with rail freight carriers.

"(ii) The Secretary may enter into agreements with rail freight carriers and regional transportation agencies for a period of no less than 5 years to provide for the implementation by such rail carriers of the off-corridor routings on such terms and conditions as the parties may agree. Promptly upon reaching such agreement, the Secretary shall apply to the Commission for approval of the agreement and all related agreements accompaning such application.

"(iii) If the Commission finds that approval of such agreements is necessary to carry out the purposes of this Act, it shall, within 90 days after the receipt of the application, approve such application and related agreements including the provision of service use of tracks and facilities as provided in such application.

"(iv) If the Secretary and any other involved rail freight carriers are unable to reach the agreement or agreements necessary as provided in clause (ii) of this subparagraph, the Secretary may, with the consent of all involved rail freight carriers, make application to the Commission which shall, within 90 days after such application, if it finds that doing so is necessary to carry out the purposes of this Act, find the terms and conditions for the agreement necessary and such terms and conditions shall be binding upon all involved rail freight carriers.

"(v) Within 12 months after the date of enactment of the Passenger Railroad Rebuilding Act, the Secretary shall submit to the Congress a report on:

Report to Congress.

Ante, p. 410.

"(I) an evaluation of the extent to which passenger and freight operations should be separated in the Northeast Corridor; and

"(II) an evaluation of any operational, safety, maintenance, or other problems of mixing freight and passenger service on the same rail lines.

In the preparation of such report, the Secretary shall consult with the Comptroller General of the United States, the National Railroad Passenger Corporation, the Association, affected railroads, and other interested parties. The Secretary, in preparing such report, shall consider such factors as congestion, delays to both passengers and freight, fuel efficiency, safety, the control of train operations, and the impact of diversion to other modes and the impact of diversion on other modes."; and

Consultation.

(2) by adding at the end thereof the following new paragraph:

"(6) ELIMINATION OF CONGESTION.—The elimination, to the maximum extent practicable, of congestion in rail freight and rail passenger traffic at the Baltimore and Potomac Tunnel in Baltimore, Maryland, by the rehabilitation and improvement of such tunnel and the rail lines approaching such tunnel, for purposes of implementing the Northeast Corridor improvement project under this title.".

Baltimore and Potomac Tunnel, Md.

AUTHORIZATION OF APPROPRIATIONS

SEC. 204. (a) Section 704(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)) is amended—

(1) in paragraph (1) thereof, by striking "$1,600,000,000" and inserting in lieu thereof "$2,313,000,000";

(2) in paragraph (1) thereof, by striking out "and after such goals have been achieved, the goals of section 703(1)(A)(ii)";

(3) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(4) $37,000,000 to remain available until expended in order to effectuate the goals of section 703(3)(B) and section 703(6) of this title.".

45 USC 853.

(b) Section 704 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854) is amended by adding at the end thereof the following new subsections:

"(h) ACQUISITION OF REAL PROPERTY.—The Secretary is authorized to acquire for the United States, by lease, purchase, condemnation, or otherwise, any interest in real property (including lands, easements, and rights-of-way, and any other property interests, including contract rights) which the Secretary considers necessary to effectuate the goals of section 703 of this title.

"(i) REIMBURSEMENT AGREEMENTS.—Where a portion of the costs of improvements authorized under section 703 of this title are to be borne by a State or local or regional transportation authorities or other responsible parties, the Secretary is authorized to enter into agreements with such cost-sharing parties providing for the Secretary to carry out such improvements with funds appropriated pursuant to this section and requiring reimbursement to the Secretary by the cost-sharing parties of their portion of the costs of such improvements. Where the Secretary has entered into such reimbursement agreements, the Secretary is further authorized, to the extent and in

the amounts provided in appropriation Acts, to incur obligations for contracts to carry out such improvements in anticipation of such reimbursement. Funds reimbursed to the Secretary shall be credited to the appropriation originally charged for the costs of such improvements and shall be available for further obligation.

"(j) EXCESS EQUIPMENT AND OTHER PROPERTY.—Notwithstanding the provisions of section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483) or of any other law, the Secretary may transfer to the National Railroad Passenger Corporation, in accordance with procedures which the Secretary shall establish, excess real or personal property from the Northeast Corridor improvement project. As consideration to the United States for such transfer, property so transferred shall be made subject to the mortgage entered into pursuant to subsection (e) of this section. For purposes of this subsection, the term 'excess real or personal property' means—

"Excess real or personal property."

"(1) any interest in real property acquired under the authority of subsection (h) of this section which is determined by the Secretary to be (A) usable by the National Railroad Passenger Corporation, and (B) no longer required by the Federal Government in order to implement the Northeast Corridor improvement project; or

"(2) any item of personal property, such as equipment, which is acquired with funds authorized under this section.".

Effective date. 45 USC 854 note.

(c) The amendments made by this section shall take effect on October 1, 1980.

MANAGEMENT GOAL

SEC. 205. Section 701 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851) is amended by adding at the end thereof the following new subsection:

"(d) MANAGEMENT GOAL.—(1) It shall be a goal of the National Railroad Passenger Corporation to manage its operating costs, pricing policies, and other factors so that annual revenues derived from the operation of intercity rail passenger service over the Northeast Corridor route between Washington, District of Columbia, and Boston, Massachusetts, shall equal or exceed:

"(A) 55 percent of the annual operating costs of providing such service in fiscal year 1981;

"(B) 75 percent of the annual operating costs of providing such service in fiscal years 1982 through 1986; and

"(C) 100 percent of the annual operating costs of providing such service in subsequent fiscal years.

"(2) The National Railroad Passenger Corporation shall include in the annual report required by sections 308 and 805 of the Rail Passenger Services Act a discussion and accounting of its success in meeting the goal specified in paragraph (1) of this subsection.".

93 Stat. 542; 45 USC 548, 644.

TRANSFER OF AUTHORITY

SEC. 206. (a) Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.) is amended by redesignating sections 705 and 706 as sections 706 and 707, respectively, and by inserting after section 704 the following new section:

45 USC 543, 545, 546, 562-564, 791. 49 USC 1653.

"TRANSFER OF AUTHORITY

45 USC 855. *Ante*, p. 410.

"SEC. 705. (a) TRACK IMPROVEMENTS.—Within 90 days after the date of enactment of the Passenger Railroad Rebuilding Act of 1980, the

Secretary and the National Railroad Passenger Corporation shall agree on the reallocation to the Corporation of authority and responsibility with respect to the contracting of construction solely related to track improvements in connection with the Northeast Corridor improvement project.

"(b) OTHER AUTHORITY.—Effective October 1, 1985, the Secretary shall transfer to the Corporation all authority and responsibility, for carrying out the Northeast Corridor improvement project and implementing the goals of section 703 of this title.". 45 USC 853.

(b) The table of contents of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by striking out the items relating to sections 705 and 706 and inserting immediately after the item relating to section 704 the following:

"Sec. 705. Transfer of authority.
"Sec. 706. Conforming amendments.
"Sec. 707. Facilities with historical or architectural significance.".

WORKING CAPITAL FUND

SEC. 207. Section 9 of the Department of Transportation Act (49 U.S.C. 1657) is amended by adding at the end thereof the following new subsection:

"(r)(1) The Secretary is authorized to establish a working capital fund for financing the activities of the Transportation Systems Center. Such fund will be effective on October 1, 1980, and shall be available without fiscal year limitation. The Transportation Systems Center is authorized to perform research, development, test, evaluation, analysis, and other related activities as the Secretary may direct for the Department and other Government agencies and, when approved by the Secretary or his designee, for State and local governments, other public authorities, private sources, and foreign countries. Transportation Systems Center. Effective date.

"(2) The capital of the fund shall consist of— Capital included in fund.

"(A) the net assets of the Transportation Systems Center as of October 1, 1980, including any unexpended advances made to the Center for which valid obligations are incurred as of September 30, 1980;

"(B) any appropriations to the fund, which are hereby authorized to be made; and

"(C) the fair and reasonable value of property or other assets transferred to the fund after September 30, 1980, by the Department and other agencies of the Government less the related liabilities and unpaid obligations, and the fair and reasonable value of property or other assets donated to the fund from other sources.

"(3) The fund shall be reimbursed or credited with advance payments from applicable funds or appropriations of the Department and other Federal agencies, and with advance payments from other sources, as authorized by the Secretary or his designee, for services provided at rates that will recover the expense of operation, including accrual of annual leave and overhead, and for acquisition of property and equipment in accordance with regulations to be issued by the Secretary. The fund shall also be credited with receipts from the sale or exchange of property or in payment for loss or damage of property held by the fund. Fund reimbursements and credits.

"(4) At the close of each fiscal year, there shall be transferred into the Treasury as miscellaneous receipts any funds accumulated which Surplus funds, transfer to Treasury.

the Secretary determines to be surplus to the needs of the working capital fund.".

AMENDMENT TO RAIL PASSENGER SERVICE ACT

Repeal.
Effective date.

SEC. 208. Effective October 1, 1980, section 601(b)(3) of the Rail Passenger Service Act of 1970 (45 U.S.C. 601(b)(3)) is repealed.

PRIORITIES FOR IMPROVEMENTS

45 USC 853.
Ante, p. 410.

SEC. 209. Section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976 is further amended by adding at the end thereof the following new paragraph:

"(7) PRIORITIES FOR IMPROVEMENTS.—The following considerations shall be applied to the selection and scheduling of specific projects, in the following order:

"(A) Safety of the passengers and users of the Northeast Corridor must be paramount, and safety-related items should be completed prior to other items.

"(B) Potential ridership should be considered, with those activities which benefit the greatest number of passengers completed before those involving fewer passengers.

"(C) Reliability of intercity passenger service must be emphasized.

"(D) Trip-time requirements of this Act must be achieved to the extent compatible with the priorities cited in subparagraphs (A) through (C) of this paragraph.

"(E) Reducing maintenance cost levels is desirable, and improvements which will pay for the investment by achieving lower operating or maintenance cost should be implemented.

"(F) On-time performance of Northeast Corridor commuter and freight operations must be optimized, and construction operations should be scheduled in order that the fewest possible passengers are inconvenienced and service is maintained.

"(G) Planning should focus on completing activities which will provide immediate benefits to the users of the Northeast Corridor.".

AUTHORITY OF THE SECRETARY

Ante, p. 411.

SEC. 210. Section 704(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(c)) is amended—

(1) by striking out "COORDINATION.—The Secretary" and inserting in lieu thereof "COORDINATION AND CONSULTATION.—(1) The Secretary"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall consult with the Secretary of Housing and Urban Development and the Secretary of Commerce and with other appropriate Federal officials to take steps to utilize Federal funds from the several Federal departments to assist and encourage public and private redevelopment in the vicinity of urban rail stations on the Northeast Corridor served by intercity and commuter rail service for purposes of aiding in the revitalization of urban areas around such stations. The Secretaries shall, within one year after the date of the enactment of this subsection, report to the Congress on the methods by which Federal funds from the several Federal depart-

Report to Congress.

ments have been and will be coordinated to achieve urban redevelopment and revitalization in the vicinity of such stations.".

DEMONSTRATION SERVICE

SEC. 211. Section 601(b)(1)(B) of the Rail Passenger Service Act (45 U.S.C. 601(b)(1)(B)) is amended by inserting immediately after "1981," the following: "of which $500,000 may be expended for the purchase of a self-propelled single car capable of carrying 50 to 60 passengers for purposes of demonstrating the feasibility of developing feeder service to basic system service and State subsidized service,". 93 Stat. 550.

RAIL PASSENGER CORRIDORS

SEC. 212. The Rail Passenger Service Act (45 U.S.C. 501 et seq.) is further amended by adding at the end thereof the following new title:

"TITLE X—RAIL PASSENGER CORRIDORS

"SEC. 1001. DEVELOPMENT OF EVALUATION METHOD. 45 USC 651.

"(a) The Secretary, in consultation with the Corporation, shall develop a method for evaluating rail passenger corridors.

"(b)(1) The evaluation method developed by the Secretary under this section shall be designed to determine which corridors (A) have the greatest potential for attracting riders on rail passenger service in the corridor, (B) have the greatest potential to reduce energy consumption, and (C) are capable of providing cost-effective rail passenger service.

"(2) In developing an evaluation method for purposes of making the determinations described in paragraph (1) of this subsection, the Secretary shall consider at least each of the following factors:

"(A) Potential ridership.

"(B) Operating costs and revenues.

"(C) Preliminary information on the costs of capital expenditures required.

"(D) Economic and demographic growth projections.

"(E) The evidence of State commitment to rail passenger service.

"(F) The adequacy of energy efficiency of other transportation modes in the area served.

"(c) The Secretary shall, in consultation with the Corporation, determine which corridors have the greatest potential to attract riders, reduce energy consumption, and provide cost effective rail passenger service according to the evaluation method developed under subsection (a), and shall establish a priority ranking of such corridors. Corridor priority ranking.

"(d) The Secretary shall, within 60 days after the date of enactment of this title, submit the proposed method for evaluating rail passenger corridors (together with explanatory material) and the ranking of the corridors with the greatest potential to both Houses of Congress and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate. Proposed method, submittal to Congress and congressional committees.

"SEC. 1002. DESIGN AND ENGINEERING. 45 USC 652.

"(a) Upon completion of the Secretary's ranking of corridors under section 1001 of this title, the Corporation shall develop design and

engineering plans to the extent necessary to provide accurate information on capital expenditures for improvements and equipment, operating cost projections, running times, and other information which the Corporation, in consultation with the Secretary, determines necessary to complete an accurate assessment of the anticipated costs and benefits of instituting new service in such corridors.

"(b) In preparing a design and engineering plan for a corridor under this section, the Corporation shall consult with the Secretary and shall request the views of the appropriate officials of each State in such corridor.

Cooperation with rail carriers.

"(c)(1) The Corporation shall develop a design and engineering plan for a corridor under this section cooperatively with the rail carriers that own tracks and facilities used or to be used in providing passenger service in such corridor.

"(2) If a rail carrier described in paragraph (1) or this subsection is unwilling to cooperate with the Corporation in developing a design and engineering plan, the Corporation may apply to the Secretary for assistance in obtaining such cooperation. The Secretary may require such a private rail carrier to cooperate with the Corporation in developing such plan, and shall fix an amount which the Corporation shall reimburse such carrier for the work it performs.

Required cooperation.

45 USC 653.

"SEC. 1003. FINAL CORRIDOR EVALUATION.

Report to Congress and congressional committees.

"(a) The Secretary and the Corporation shall prepare a final corridor evaluation and submit a report to both Houses of Congress and to the Committee on Interstate and Foreign Commerce of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate with respect to each corridor. Such report shall include for each corridor—

"(1) ridership projections for rail passenger service in such corridor;

"(2) operating cost and revenue projections for such corridor;

"(3) projected capital expenditures, as determined by the Corporation under section 1002, for improvements in such corridor.

Corridor evaluations report.

"(b) The Secretary and the Corporation shall submit such a report on corridor evaluations by February 15, 1981. If the Secretary and the Corporation believe that further analysis is required after February 15, 1981, they shall submit a supplemental report with such additional information.

45 USC 654.

"SEC. 1004. EQUIPMENT ACQUISITION.

"The Corporation shall, to the extent of funds available under section 1008(a)(2) of this title, acquire necessary equipment for purposes of providing service in rail passenger corridors.

45 USC 655.

"SEC. 1005. PRIVATE SECTOR DEVELOPMENT.

"(a) The Secretary shall encourage the private sector development of potential rail passenger corridors, including the corridor between Atlantic City, New Jersey, and Philadelphia, Pennsylvania.

"(b) In order to carry out the purposes of this section, the Secretary shall—

"(1) in cooperation with private rail carriers, the Corporation, the Consolidated Rail Corporation, commuter agencies, and State and local transportation authorities, take all necessary steps to remove institutional and legal barriers to the private development of rail passenger corridors;

"(2) ensure that investment of Federal funds in contiguous corridors is coordinated with privately developed corridors; and

"(3) coordinate the investment of Federal funds with State, local, and private funds for nonoperational improvements, such as stations, in privately developed corridors.

"(c) The Secretary shall, no later than February 15, 1981, submit a report to the Congress describing the action taken under this section. Report to Congress.

"SEC. 1006. SPEED RESTRICTIONS. 45 USC 656.

"(a) The Corporation shall identify any restriction imposed by a State or local government on the speed of Amtrak trains that the Corporation determines impedes the achievement of high-speed intercity rail passenger service by the Corporation.

"(b) The Corporation shall consult with each State or local government that imposes a speed restriction identified under subsection (a) of this section, for purposes of (1) evaluating alternatives to such speed restriction, taking into account the particular local safety hazard which is the basis for such restriction, and (2) considering the possibility of eliminating or modifying such speed restriction in order to permit safe operations at higher speeds in the State or locality involved.

"SEC. 1007. SERVICE BETWEEN CORRIDORS. 45 USC 657.

"If the Corporation determines that improvements in or institution of rail passenger service on a route between corridors would be justified by an increase in overall ridership on Amtrak trains, the Corporation shall undertake such service or improvements in such service as it considers appropriate in order to increase ridership on such route and in the connecting corridors.

"SEC. 1008. AUTHORIZATION OF APPROPRIATIONS. 45 USC 658.

"(a) There are authorized to be appropriated to the Secretary—

"(1) for the evaluation of corridors under sections 1001 and 1003 of this title and for the benefit of the Corporation in preparing design and engineering plans under section 1002 of this title, not to exceed $38,000,000 for the fiscal year ending September 30, 1981; and

"(2) for the acquisition of equipment under section 1004 of this title, not to exceed $25,000,000 for the fiscal year ending September 30, 1982.

"(b) There is authorized to be appropriated, out of funds available under section 704(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976, for private sector development under section 1005 of this title, not to exceed $200,000 for the fiscal year ending September 30, 1981. *Ante*, p. 411.

"(c) Amounts appropriated under subsection (a) of this section are authorized to remain available until expended.".

AMTRAK INTERCITY SERVICE

SEC. 213. Section 403(d)(2) of the Rail Passenger Service Act (45 U.S.C. 563(d)(2)) is amended by striking out "April 1, 1981" and inserting in lieu thereof "October 1, 1981". 93 Stat. 544.

CONRAIL EMPLOYEE PROTECTION

SEC. 214. (a) The Consolidated Railroad Corporation shall make payments in accordance with title V of the Regional Rail Reorganiza- 45 USC 779 note.

45 USC 771.

tion Act of 1973, and the United States Railway Association shall not, as a result of such payments, withhold any funds from the Corporation.

(b) This section shall take effect as of March 1, 1980, and shall remain in effect until the expiration of the 45-day period beginning on the date of enactment of this Act. After the expiration of such 45-day period, payments by the Consolidated Rail Corporation under title V of the Regional Rail Reorganization Act of 1973, and funding of the Corporation by the United States Railway Association, shall be governed by applicable law.

RELOCATION OF FACILITIES

SEC. 215. (a) The Secretary of Transportation may not take any action with respect to the relocation of the Amtrak maintenance-of-way facility at Bristol, Pennsylvania, until 60 days after the date the Secretary reports to the Congress under subsection (b) of this section.

Report to Congress.

(b) The Secretary of Transportation shall consider and report to the Congress with respect to—

(1) preliminary design plans for sites which are potential alternatives to the maintenance-of-way facility referred to in subsection (a) of this section;

(2) the current value, current use, and alternative uses of such potential alternative sites;

(3) potential labor protection costs to be incurred in the maintenance-of-way relocation; and

(4) potential problems arising from jurisdictional labor disputes arising as a result of such a relocation.

OPERATION OF ADDITIONAL TRAINS

SEC. 216. Section 402 of the Rail Passenger Service Act (45 U.S.C. 562) is amended by adding at the end thereof the following new subsection:

93 Stat. 542.

Ordered operations, application and hearing.

"(h) Upon receipt of an application from the Corporation in any situation where the Corporation is unable to obtain a satisfactory, voluntary agreement from a rail carrier for operation of additional trains on the rail lines of that rail carrier, the Secretary may, after a hearing on the record, order such rail carrier, within 60 days, to permit or provide requested operation of trains of the Corporation over such rail lines on schedules based upon legally permissible operating times. If the Secretary determines not to hold a hearing, the Secretary, within 30 days after receipt of an application from the Corporation, shall publish in the Federal Register his reasons for not holding a hearing. Any such hearing must include a consideration of whether such an order would unduly impair freight operations of the rail carrier involved, and the burden shall be on the rail carrier seeking to oppose the operation of an additional train to demonstrate that the requested operation will impair freight operations. In establishing such scheduled running times, the Secretary shall give proper consideration to the statutory goal that the Corporation shall implement schedules which will attain a system-wide average speed of at least 55 miles per hour which can be adhered to with a high degree of reliability and passenger comfort. The compensation payable by the Corporation to a rail carrier for an operation ordered pursuant to this subsection shall be that which is properly established pursuant to an agreement between the Corporation and such rail carrier, or, in the

Publication in Federal Register.

Compensation.

absence of an applicable agreement, shall be determined by the Commission in a proceeding pursuant to subsection (a) of this section.".

Approved May 30, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-839 and supplemental report No. 96-839, pt. 2, both accompanying H.R. 6837 (Comm. on Interstate and Foreign Commerce) and No. 96-1041 (Comm. on Conference).

SENATE REPORTS: No. 96-614 (Comm. on Commerce, Science, and Transportation) and No. 96-677 accompanying S. 2156 (Comm of Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 126 (1980):

Mar. 6, considered and passed Senate.

Mar. 28, 31, H.R. 6837 considered and passed House; passage vacated and S. 2253, amended, passed in lieu.

May 8, S. 2156 considered and passed Senate.

May 22, House and Senate agreed to conference report on S. 2253.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 22:

May 30, Presidential statement.

Public Law 96-255
96th Congress

An Act

May 30, 1980
[H.R. 6615]

To amend the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 to authorize appropriations to carry out the provisions of such Act for fiscal years 1981 and 1982, and for other purposes.

National Ocean Pollution Research and Development and Monitoring Planning Act of 1978, amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10 of the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978, as amended (33 U.S.C. 1709), is amended—

(1) by striking out "and" after "1979,", and

(2) by striking out "1980." and inserting in lieu thereof "1980, not to exceed $3,000,000 for the fiscal year ending September 30, 1981, and not to exceed $4,000,000 for the fiscal year ending September 30, 1982.".

SEC. 2. Section 4(a) of the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 (33 U.S.C. 1703(a)) is amended by striking out "February" immediately after "submitted by" and inserting in lieu thereof "September".

Name change.
33 USC 1701 note.

SEC. 3. Section 1 of the National Ocean Pollution Research and Development and Monitoring Planning Act of 1978 is amended by striking out "Research and Development and Monitoring".

Approved May 30, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-893, Pt. 1 (Comm. on Merchant Marine and Fisheries) and No. 96-893, Pt. 2 (Comm. on Science and Technology).

SENATE REPORT No. 96-691 accompanying S. 2687 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 126 (1980):

May 5, considered and passed House.

May 15, considered and passed Senate in lieu of S. 2687.

Public Law 96-256
96th Congress

An Act

To extend the present public debt limit through June 5, 1980.

May 30, 1980
[H.R. 7471]

Public debt limit, extension.
31 USC 757b note.
93 Stat. 589.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 101 of the Act of September 29, 1979, entitled "An Act to provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process" (Public Law 96-78) is amended by striking out "May 31, 1980" and inserting in lieu thereof "June 5, 1980".

Approved May 30, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
May 30, considered and passed House and Senate.

Public Law 96-257
96th Congress

An Act

May 31, 1980
[H.R. 6081]

To amend the Foreign Assistance Act of 1961 to authorize assistance in support of peaceful and democratic processes of development in Central America.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Special Central American Assistance Act of 1979".

Special Central American Assistance Act of 1979.

SEC. 2. Chapter 4 of part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

22 USC 2151 note.

"SEC. 536. CENTRAL AMERICAN ECONOMIC SUPPORT.—(a) The Congress finds that peaceful and democratic development in Central America is in the interest of the United States and of the community of American States generally, that the recent civil strife in Nicaragua has caused great human suffering and disruption to the economy of that country, and that substantial external assistance to Nicaragua is necessary to help alleviate that suffering and to promote economic recovery within a peaceful and democratic process. The Congress further finds that peaceful and democratic development in certain other Central American countries will be significantly assisted by additional economic support at this time.

22 USC 2346e.

Appropriation authorization.
22 USC 2346.

"(b) There are authorized to be appropriated to the President for use in carrying out section 531 for the purposes set forth in subsection (a) of this section, in addition to funds otherwise available for such purposes, $80,000,000 for the fiscal year 1980, which are authorized to remain available until expended.

Human rights violations.

"(c) In furnishing assistance under this chapter to the Government of Nicaragua, the President shall take into account the extent to which that Government has engaged in violations of the right to organize and operate labor unions free from political oppression, has engaged in or permitted violations of human rights, has engaged in violations of the right to freedom of the press, or has engaged in violations of the right to freedom of religion.

Presidential encouragement of human rights.

"(d) The President shall encourage the Government of Nicaragua to respect the right to freedom of the press, the right to organize and operate free labor unions, the right to freedom of religion, as well as all other fundamental human rights.

22 USC 2304.

"(e) The Congress reaffirms the requirement of section 502B(a)(1) of this Act that a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries. In furtherance of that goal, assistance to Nicaragua under this section shall be terminated, in accordance with sections 116 and 502B of this Act, if the Government of Nicaragua engages in a consistent pattern of gross violations of internationally recognized human rights.

22 USC 2151n.

Report to congressional committees.

"(f) The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a report for each six-month period in which funds are expended for Nicaragua under the authorization contained in subsection (b) of this section. Each such report shall discuss fully and

completely the status of respect in Nicaragua for human rights, political pluralism, freedom of the press and assembly, freedom of religion, and freedom of labor to organize and bargain collectively.

Certification of nonterrorism; transmittal to the Speaker of the House and the Senate Committee on Foreign Relations.

"(g) The President shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, certification prior to releasing any assistance to the Government of Nicaragua under this chapter, that the Government of Nicaragua has not cooperated with or harbors any international terrorist organization or is aiding, abetting, or supporting acts of violence or terrorism in other countries. In the event that the President transmits such a certification, but at a later date he determines that the Government of Nicaragua cooperates with or harbors any international terrorist organization or is aiding, abetting, or supporting acts of violence or terrorism in other countries, the President shall terminate assistance to the Government of Nicaragua under this chapter and the outstanding balance of any loan to the Government of Nicaragua, or any of its agencies or instrumentalities, with funds authorized to be appropriated by this chapter shall become immediately due and payable.

U.S. support of OAS members against terrorism.

"(h) It is the sense of the Congress that the United States should support those traditionally faithful allies of the United States, including Guatemala, El Salvador, Costa Rica, Panama, Nicaragua, and Honduras, which are responsible members of the Organization of American States against terrorism and external subversion.

"(i) Funds made available under this chapter for the National School of Agriculture in Nicaragua shall be used under an understanding with the Autonomous National University of Nicaragua that the National School of Agriculture will cooperate in programs with United States institutions of higher education.

Loan funds, private sector use.

"(j) Any agreement between the United States and the Government of Nicaragua regarding the use of funds authorized to be appropriated under this chapter, which are to be made available in the form of loans, shall specifically require that at least 60 per centum of such loan funds, and any local currency generated in conjunction therewith, shall be used for assistance to the private sector. "Insofar as practicable, local currency used for assistance to the private sector in Nicaragua shall, consistent with the accomplishment of the purposes set forth in subsection (a) of this section, be used in ways which will strengthen private financial institutions which will help keep the private sector in Nicaragua financially independent."

Local currency loan programs.

"Local currency loan programs in Nicaragua shall be monitored and audited in accordance with section 624(g) of the Foreign Assistance Act. The President shall report on the implementation of this provision in the report required under subsection (e) of this section.".

22 USC 2384.

Assistance termination, conditions.

"(k) The President shall terminate assistance to the Government of Nicaragua under this chapter if he determines and reports to the Congress that Soviet, Cuban, or other foreign combat military forces are stationed or situated within the borders of Nicaragua and that the presence of such forces constitutes a threat to the national security of the United States or to any Latin American ally of the United States.

Free, open elections.

"(k) The President shall terminate assistance to Nicaragua under this section if he determines that the Government of Nicaragua has engaged in a consistent pattern of violations of the right to organize and operate labor unions free from political oppression.".

"(k) The President shall encourage the holding of free, open elections in Nicaragua within a reasonable period of time and shall,

in providing any additional assistance to Nicaragua, take into consideration the progress which is being made toward holding such elections.".

"(k) None of the funds authorized under this chapter may be used for assistance for any school or other educational instrumentality or facility which would house, employ or be made available to Cuban personnel."

"(k) The President shall terminate assistance under this chapter if he determines that the Government of Nicaragua engages in systematic violations of free speech and press."

Loan funds, U.S. goods or services purchase.

"(k) Any agreement between the United States and the Government of Nicaragua regarding the use of funds authorized to be appropriated under this chapter, made available in the form of loans, shall specifically require that such loan funds shall be used for the purchase of goods or services of U.S. origin.".

"(k) Up to one per centum of the funds made available to Nicaragua from amounts authorized in subsection (b) shall be used to make publicly known to the people of Nicaragua the extent of U.S. aid programs to them. The President shall periodically report to the Congress on the effectiveness of his efforts to carry out this subsection."

Report to Congress.

Approved May 31, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-713 (Comm. on Foreign Affairs).
SENATE REPORT No. 96-522 accompanying S. 2012 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Jan. 29, S. 2012 considered and passed Senate.
Feb. 22, 25-27, considered and passed House.
May 19, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 23:
May 31, Presidential statement.

Public Law 96-258
96th Congress

An Act

To amend subtitle IV of title 49, United States Code, to codify recent law and improve the Code without substantive change.

June 3, 1980
[H.R. 3807]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Interstate Commerce Act, amendment.

AMENDMENTS TO SUBTITLE IV OF TITLE 49

SECTION 1. Title 49, United States Code, is amended as follows:

(1) Section 10324(c) is amended to read as follows: 49 USC 10324.

"(c)(1) An action of the Commission is enforceable unless the Commission stays or postpones the action.

"(2) The Commission shall stay or postpone a decision made by a division, an individual Commissioner, a board, or an employee if an application for rehearing, reargument, or reconsideration is made under section 10323 of this title before the decision becomes effective. 49 USC 10323. The stay or postponement is effective until the Commission or appellate division disposes of the matter.".

(2) Section 10327(k)(1) is amended by striking out "at least 7" and substituting "a majority of the". 49 USC 10327.

(3) Section 10382(a) is amended— 49 USC 10382.

(A) by redesignating clauses (5) and (6) as (6) and (7), respectively;

(B) by inserting the following new clause immediately below clause (4):

"(5) shall present the views of users, the general public, affected communities, and, when appropriate, providers of rail transportation in proceedings of departments, agencies, and instrumentalities of the United States Government related to—

"(A) the impact of energy proposals and actions on rail transportation; and

"(B) whether transportation policy is consistent with the energy policies of the United States Government;"; and

(C) by striking out "clauses (1)–(4)" in clause (6), as redesignated, and substituting "clauses (1)–(5)".

(4) The first sentence of section 10525(d) is amended by striking out "is, or is likely" and substituting "affects or impairs, or is likely". 49 USC 10525.

(5) Section 10526(a) is amended— 49 USC 10526.

(A) by striking out "is" in clause (2);

(B) by striking out "or" in clause (8);

(C) by striking out the period in clause (9) and substituting a semicolon and "or"; and

(D) by inserting the following new clause immediately below clause (9):

"(10) a motor vehicle carrying not more than 15 individuals in a single, daily roundtrip to commute to and from work.".

(6) Section 10544(d)(1) is amended by inserting "or the District of Columbia," immediately after "States". 49 USC 10544.

49 USC 10706. (7) Section 10706(c)(2) is amended by striking out the period after "section" and substituting a dash.

49 USC 10784. (8) Section 10784(a) is amended—

(A) by striking out "thereafter correct, revise, and supplement that valuation, including previous inventories and classifications, by keeping" and substituting "keep"; and

(B) by adding at the end thereof the following new sentence: "When necessary, the Commission may correct, revise, and supplement an inventory or valuation of property it has made.".

49 USC 10923. (9) Section 10923(b)(2) is amended—

(A) by striking out "and" in clause (C);

(B) by striking out ", and the changing character of the requirements of those shippers." in clause (D) and substituting a semicolon and "and"; and

(C) by inserting the following new clause immediately below clause (D):

"(E) the changing character of the requirements of those shippers.".

49 USC 11101. (10) Section 11101(c) is amended—

(A) in clause (1)(A) by inserting "(i)" before "a farmer", and by striking out "or a motor private carrier;" and substituting a comma and "or (ii)";

(B) in clause (1)(B) by striking out "(B)" and substituting "a motor private carrier and it" as a flush phrase after "or (ii)" in clause (1)(A), and by striking out "(i)" and "(ii)";

(C) in clause (1)(C) by striking out "(C)" and substituting "(B)"; and

(D) in clause (2) by striking out "(1)(C)" and substituting "(1)(B)".

49 USC 11121. (11) Section 11121(a) is amended to read as follows:

Rail carrier car service. "(a)(1) A rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of

49 USC 10501. chapter 105 of this title shall furnish safe and adequate car service and establish, observe, and enforce reasonable rules and practices on car service. The Commission may require a rail carrier to provide facilities and equipment that are reasonably necessary to furnish safe and adequate car service if the Commission decides that the rail carrier has materially failed to furnish that service. The Commission may begin a proceeding under this paragraph when an interested

Hearing. person files an application with it. The Commission may act only after a hearing on the record and an affirmative finding, based on the evidence presented, that—

"(A) providing the facilities or equipment will not materially and adversely affect the ability of the carrier to provide safe and adequate transportation;

"(B) the amount spent for the facilities or equipment, including a return equal to the carrier's current cost of capital, will be recovered; and

"(C) providing the facilities or equipment will not impair the ability of the carrier to attract adequate capital.

"(2) The Commission may require a rail carrier to—

"(A) file its car service rules with the Commission; and

"(B) incorporate those rules in its tariffs.".

49 USC 11304. (12) Section 11304(a)(2) is amended—

(A) by striking out "bankruptcy from" and substituting "a case

11 USC 101. under title 11 from"; and

(B) by striking out "bankruptcy," and substituting "that case,".

(13)(A) Subchapter III of chapter 113 is amended by adding at the end thereof the following new section:

"§ 11351. Supplemental orders 49 USC 11351.

"When cause exists, the Interstate Commerce Commission may make appropriate orders supplemental to an order made in a proceeding under sections 11342-11345 and 11347 of this title.". 49 USC 11342-11345, 11347.

(B) The analysis of chapter 113 is amended by inserting immediately below item 11350 the following new item:

"11351. Supplemental orders.".

(C) Section 11912 is amended by striking out "or 11347" and substituting "11347, or 11351". 49 USC 11912.

(14) Section 11707(e) is amended by striking out "that person receives written notice from the carrier that it" and substituting "the carrier gives a person written notice that the carrier". 49 USC 11707.

(15) Section 11909(a) is amended by striking out "multilates" and substituting "mutilates". 49 USC 11909.

(16) The last sentence of section 11914(c) is amended by striking out "Venue" and "was" and substituting "Trial" and "is", respectively. 49 USC 11914.

LEGISLATIVE PURPOSE AND CONSTRUCTION

SEC. 2. (a) Section 1 of this Act restates, without substantive change, laws enacted before April 24, 1979, that were replaced by that section. That section may not be construed as making a substantive change in the laws replaced. Laws enacted after April 23, 1979, that are inconsistent with this Act are considered as superseding it to the extent of the inconsistency. 49 USC prec. 10101 note.

(b) A reference to a law replaced by section 1 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) An order, rule, or regulation in effect under a law replaced by section 1 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by section 1 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications. Savings provision.

REPEALS

SEC. 3. (a) The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal. 49 USC prec. 10101 note.

(b) The laws specified in the following schedule are repealed except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large	
			Volume	Page
1887				
Feb. 4	104	1(14)(b), 15(8) (c), (d), 20c, 27(4)(f), 203(b)(7b).	24	
1976				
Feb. 5	94-210	202(e)(2) "Sec. 15(8) (c), (d)"	90	37.
1978				
Nov. 6	95-598	337	92	2680.
	95-599	126(c)	92	2706.
8	95-607	401-402	92	3067.
	95-611	5	92	3090.
9	95-620	804	92	3348.

49 USC 15 note.
24 Stat. 384.
49 USC 15.
49 USC 15.
49 USC 10525 note.
49 USC 11304 note.
49 USC 20c, 313, 922a.

(c) The repeals, by subsection (b) of this section, of section 15(8) (c) and (d) of the Act of February 4, 1887 (ch. 104, 24 Stat. 379), and section 401 of the Act of November 8, 1978 (Public Law 95-607, 92 Stat. 3067), are effective July 1, 1980.

(d) The amendments made by section 1 (4), (5)(A), (6), (7), (8), (9), (10), (13), (14), (15), and (16) of this Act are effective October 17, 1978.

(e) The amendment made by section 1(12) of this Act and the repeal, by subsection (b) of this section, of section 337 of the Act of November 6, 1978 (Public Law 95-598, 92 Stat. 2680), are effective on the date of enactment of this Act or on October 1, 1979, whichever is later.

Approved June 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-332 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 125 (1979): July 23, considered and passed House.
Vol. 126 (1980): May 13, considered and passed Senate, amended.
May 20, House concurred in Senate amendments.

Public Law 96-259
96th Congress

An Act

To provide for increased participation by the United States in the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund.

June 3, 1980
[S. 662]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Inter-American, Asian, and African Development Banks and Fund, increased U.S. participation.

TITLE I—INTER-AMERICAN DEVELOPMENT BANK

SEC. 101. The Inter-American Development Bank Act (22 U.S.C. 283 et seq.) is amended—

22 USC 283z.

(1) by redesignating section 29 as section 28; and

(2) by adding at the end thereof the following new section:

Authorized capital stock increase.
22 USC 283z-1.

"SEC. 29. (a) The United States Governor of the Bank is authorized to vote for two resolutions which were proposed by the Governors at a special meeting in December 1978 and are pending before the Board of Governors of the Bank. These resolutions provide for (1) an increase in the authorized capital stock of the Bank and additional subscriptions thereto, and (2) an increase in the resources of the Fund for Special Operations and contributions thereto. Upon adoption of these resolutions, the United States Governor is authorized on behalf of the United States (A) to subscribe to two hundred twenty-seven thousand eight hundred and ninety-six shares of the increase in the authorized capital stock of the Bank, of which two hundred ten thousand eight hundred and four shall be callable and seventeen thousand and ninety-two shall be paid-in, and (B) to contribute to the Fund for Special Operations $630,000,000; except that any commitment to make such subscriptions to paid-in and callable capital stock and to make such contributions to the Fund for Special Operations shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

Appropriation authorization.

"(b) In order to pay for the increase in the United States subscription and contribution provided for in this section, there are authorized to be appropriated, without fiscal year limitation, for payment by the Secretary of the Treasury (1) $2,474,287,189 for the United States subscription to the capital stock of the Bank, and (2) $630,000,000 for the United States share of the increase in the resources of the Fund for Special Operations.

U.S. cost, minimization.

"(c) For the purpose of keeping to a minimum the cost to the United States, the Secretary of the Treasury—

"(1) shall pay the United States contribution to the Fund for Special Operations authorized by this section by letter of credit in four annual installments; and

"(2) shall take the steps necessary to obtain a certification from the Bank that any undisbursed balances resulting from drawdowns on such letter of credit will not exceed at any time the United States share of expected disbursement requirements for the following three-month period.

Funds, limitation.

"(d) None of the funds authorized to be appropriated by this section may be used for any form of assistance to any country which is not a member of the Bank.".

Energy and mineral exploration, Presidential report to Congress. 22 USC 283 note.

SEC. 102. The President shall evaluate a proposal for joint action by the countries of the Western Hemisphere and other countries which participate in the Inter-American Development Bank to increase exploration for and exploitation of energy and mineral resources of the Western Hemisphere through multilateral incentives, administered by the Inter-American Development Bank, to private investment in such resources. The President shall report his findings to the Congress not later than September 30, 1980, together with such recommendations as he considers appropriate.

TITLE II—ASIAN DEVELOPMENT BANK

SEC. 201. The Asian Development Bank Act (22 U.S.C. 285 et seq.) is amended by adding at the end thereof the following new sections:

Asian Development Fund, U.S. contribution. 22 USC 285u.

"SEC. 24. (a) The United States Governor of the Bank is authorized to contribute on behalf of the United States $378,250,000 to the Asian Development Fund, a special fund of the Bank, except that any commitment to make such contribution shall be made subject to obtaining the necessary appropriations.

Appropriation authorization.

"(b) In order to pay for the United States contribution to the Asian Development Fund provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $378,250,000 for payment by the Secretary of the Treasury.

U.S. cost, *minimization.*

"(c) For the purpose of keeping to a minimum the cost to the United States, the Secretary of the Treasury—

"(1) shall pay the United States contribution to the Asian Development Fund authorized by this section by letter of credit in four annual installments; and

"(2) shall take the steps necessary to obtain a certification from the Bank that any undisbursed balances resulting from drawdowns on such letter of credit will not exceed at any time the United States share of expected disbursement requirements for the following three-month period.

Taiwan, Bank membership. 22 USC 285v.

"SEC. 25. It is the sense of the Congress that it is the policy of the United States that Taiwan (before January 1, 1979, known as the Republic of China) shall be permitted to retain membership in the Asian Development Bank and that the United States Executive Director of the Bank shall notify the Bank that a serious review of future United States participation, including any future payments to the Asian Development Fund, would ensue if Taiwan were expelled from the Bank.".

TITLE III—AFRICAN DEVELOPMENT FUND

SEC. 301. The African Development Fund Act (22 U.S.C. 290g *et seq.*) is amended—

22 USC 290g-10.

(1) by redesignating section 212 as section 211; and

(2) by adding at the end thereof the following new section:

U.S. contribution. 22 USC 290g-11.

"SEC. 212. (a) The United States Governor of the Fund is authorized to contribute on behalf of the United States $125,000,000 to the Fund as the United States contribution to the second replenishment of the resources of the Fund, except that any commitment to make such

contribution shall be made subject to obtaining the necessary appropriations.

"(b) In order to pay for the United States contribution provided for in this section, there is authorized to be appropriated, without fiscal year limitation, $125,000,000 for payment by the Secretary of the Treasury. Appropriation authorization.

"(c) For the purpose of keeping to a minimum the cost to the United States, the Secretary of the Treasury— U.S. cost, minimization.

"(1) shall pay the United States contribution to the African Development Fund authorized by this section by letter of credit in three annual installments; and

"(2) shall take the steps necessary to obtain a certification from the Fund that any undisbursed balances resulting from drawdowns on such letter of credit will not exceed at any time the United States share of expected disbursement requirements for the following three-month period.".

TITLE IV—EXPORT OPPORTUNITY ENHANCEMENT

SEC. 401. The Secretary of the Treasury shall instruct the United States Executive Directors of the Inter-American Development Bank, the Asian Development Bank, and the African Development Fund to take all possible steps to assure that information relative to potential procurement opportunities for United States firms is expeditiously communicated to the Secretary of the Treasury, the Secretary of State, and the Secretary of Commerce. Such information shall be disseminated as broadly as possible to both large and small business. 22 USC 262i.

TITLE V—HUMAN RIGHTS REPORTING

SEC. 501. (a) Section 701 of the Act of October 3, 1977 (Public Law 95-118; 22 U.S.C. 262g), is amended in subsection (c)— 22 USC 262d.

(1) by inserting "(1)" immediately after "(c)"; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) The Secretary of the Treasury shall report quarterly on all loans considered by the Boards of Executive Directors of the institutions listed in subsection (a) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. Each such quarterly report shall include a list of all loans considered by the Boards of Executive Directors of such institutions and shall specify with respect to each such loan—

"(i) the institution involved;

"(ii) the date of final action;

"(iii) the borrower;

"(iv) the amount;

"(v) the project or program;

"(vi) the vote of the United States Government;

"(vii) the reason for United States Government opposition, if any;

"(viii) the final disposition of the loan; and

"(ix) if the United States Government opposed the loan, whether the loan meets basic human needs.

"(B) The information required to be reported under subparagraph (A) also shall be included in the annual report to the Congress of the National Advisory Council on International Monetary and Financial Policies.".

(b) Such section is further amended by adding at the end thereof the following new subsection:

"(g)(1) The Secretary of the Treasury, in consultation with the Secretary of State, shall report quarterly to the chairmen and ranking minority members of the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Subcommittee on International Development Institutions and Finance of such Committee, and the Committee on Foreign Relations of the Senate, in each instance in which the United States Executive Director of an institution listed in subsection (a) opposes any loan, financial assistance, or technical assistance for reasons regarding human rights. Each such report shall include—

"(A) the reasons for such opposition;

"(B) all policy considerations taken into account in reaching the decision to oppose such loan, financial assistance, or technical assistance;

"(C) a description of the human rights conditions in the country involved;

"(D) a record of how the United States Government voted on all other loans, financial assistance, and technical assistance to such country during the preceding two years; and

"(E) information as to how the decision to oppose such loan, financial assistance, or technical assistance relates to overall United States Government policy on human rights in such country.

"(2) The Secretary of the Treasury or his delegate shall consult frequently and in a timely manner with the chairmen and ranking minority members specified in paragraph (1) to inform them regarding any prospective changes in policy direction toward countries which have or recently have had poor human rights records.".

22 USC 262d.

(c) Title VII of the Act of October 3, 1977, is amended by adding at the end thereof the following new section:

22 USC 262d note.

"SEC. 705. The President shall direct the United States Governor of the International Bank for Reconstruction and Development, the United States Governor of the International Finance Corporation, the United States Governor of the International Development Association, the United States Governor of the Inter-American Development Bank, the United States Governor of the Asian Development Bank, and the United States Governor of the African Development Fund, to consult with the other Governors of those institutions concerning adoption of an amendment to the Articles of Agreement of their respective institutions to establish human rights standards to be considered in connection with each application for assistance.".

TITLE VI—USE OF RENEWABLE RESOURCES FOR ENERGY PRODUCTION

22 USC 262j note.

SEC. 601. The Congress finds that—

(1) without an adequate supply of energy at affordable prices the world's poor will continue to be deprived of jobs, food, water, shelter, and clothing, and poor countries will continue to be economically and politically unstable;

(2) dependence on increasingly expensive fossil fuel resources consumes too much of the capital available to poor countries with the result that funds are not available to meet the basic needs of poor people;

(3) in many developing countries the cost of large central generators and long distance electrical distribution makes it unlikely that rural energy by means of a national grid will contribute to meeting the needs of poor people;

(4) only one of eight rural inhabitants lives in an area which has access to electricity and even fewer rural inhabitants actually have or can afford electricity;

(5) wood, animal and agricultural waste, and other "noncommercial" fuels still supply about half the total energy in developing countries and all but a seventh in rural sectors;

(6) growing dependence of the world's poor on wood for heating and cooking has forced the overcutting of forests and as a consequence erosion and loss of available agricultural land; and

(7) recent initiatives by the international financial institutions to develop and utilize decentralized solar, hydro, biomass, geothermal, and wind energy should be significantly expanded to make renewable energy resources increasingly available to the world's poor on a wide scale.

SEC. 602. (a) The United States Government, in connection with its voice and vote in the Inter-American Development Bank, the African Development Fund, and the Asian Development Bank, shall encourage such institutions— 22 USC 262j.

(1) to promote the decentralized production of renewable energy;

(2) to identify renewable resources to produce energy in rural development projects and determine the feasibility of substituting them for systems using fossil fuel;

(3) to train personnel in developing technologies for getting energy from renewable resources;

(4) to support research into the use of renewable resources, including hydropower, biomass, solar photovoltaic, and solar thermal;

(5) to support an information network to make available to policymakers the full range of energy choices;

(6) to broaden their energy planning, analyses, and assessments to include consideration of the supply of, demand for, and possible uses of renewable resources; and

(7) to coordinate with the Agency for International Development and other aid organizations in supporting effective rural energy programs.

(b) For purposes of this section, the term "renewable resource" means any energy resource which— "Renewable resource."

(1) meets the needs of rural communities;

(2) saves capital without wasting labor;

(3) is modest in scale and simple to install and maintain and which can be managed by local individuals;

(4) is acceptable and affordable; and

(5) does not damage the environment.

Report to Congress.

(c) The Secretary of the Treasury, in consultation with the Director of the United States International Development Cooperation Agency, shall report to the Congress not later than six months after the date of enactment of this Act and annually thereafter on the progress toward achieving the goals set forth in this title.

Approved June 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-135 accompanying H.R. 3829 (Comm. on Banking, Finance and Urban Affairs) and Nos. 96-837, 96-867, and 96-974 (all from Comm. of Conference).
SENATE REPORT No. 96-135 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD:
Vol. 125 (1979): May 17, considered and passed Senate.
Vol. 126 (1980): Mar. 5, 6, H.R. 3829 considered and passed House; passage vacated and S. 662, amended, passed in lieu.
Mar. 25, Apr. 17, House recommitted conference report on S. 662.
May 21, House agreed to conference report.
May 22, Senate agreed to conference report.

Public Law 96-260
96th Congress

An Act

To authorize the Secretary of Commerce to sell two obsolete vessels to Coast Line Company and for other purposes.

June 3, 1980
[H.R. 4088]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (a) Notwithstanding any other provisions of law, the Secretary of Commerce is authorized, within two years after the date of enactment of this Act (A) to sell, subject to such conditions as he deems are appropriate in the national interest, the five obsolete vessels, Arcturus, Hyades, Pictor, Procyon, and Zelima, for the purpose of conversion and operation in the fisheries of the United States, and the two obsolete vessels, Private George Peters and Resolute, for the purpose of conversion and operation in the fisheries or the domestic commerce of the United States, after due advertisement and upon competitive bids, to the highest bidder: *Provided,* That the Secretary shall not sell the vessels for less than their scrap value in the domestic market, and (B) to allow obsolete vessels previously sold from the reserve fleet to be converted and operated in the fisheries of the United States: *Provided,* That (1) any conversion work shall be performed in the United States; (2) the vessels shall be documented and operated under the laws of the United States; (3) if the vessels are scrapped, they shall be scrapped in the domestic market; and (4) purchasers must be citizens of the United States as defined in section 2 of the Shipping Act of 1916, as amended (46 U.S.C. 802).

Obsolete vessels, sale.

(b) That the Act entitled "An Act to authorize the employment of certain foreign citizens on the vessel Seafreeze Atlantic, Official Number 517242", approved December 15, 1975 (Public Law 94-150, Stat. 307), is amended—

Seafreeze Atlantic, name change.

89 Stat. 807.
46 USC 1405 note.

(1) by striking out "Seafreeze Atlantic, Official Number 517242 (hereafter referred to in this Act as the 'Seafreeze Atlantic')," in the first section and inserting in lieu thereof "Arctic Trawler, formerly the Seafreeze Atlantic, Official Number 517242 (hereafter referred to in this Act as the 'Arctic Trawler')";

Arctic Trawler, designation.

(2) by striking out "Seafreeze Atlantic" each place it appears in sections 2, 3, and 4 and inserting in lieu thereof "Arctic Trawler"; and

46 USC 1405 note.

(3) by striking out "four-year period" each place it appears in sections 2 and 3 and inserting in lieu thereof "six-year period".

Approved June 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-846 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 24, considered and passed House.
Apr. 2, considered and passed Senate, amended.
May 15, House concurred in Senate amendment with amendments.
May 20, Senate concurred in House amendments.

Public Law 96-261
96th Congress

Joint Resolution

June 4, 1980
[H.J. Res. 554]

Making an appropriation for the Federal Trade Commission for the fiscal year ending September 30, 1980.

Federal Trade Commission. Supplemental appropriation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1980, namely:

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $1,500 for official reception and representation expenses; $49,700,000.

Approved June 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1054 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 30, considered and passed House.
June 3, considered and passed Senate.

Public Law 96-262
96th Congress

An Act

To authorize appropriations for the Commercial Fisheries Research and Development Act of 1964 for fiscal years 1981, 1982, and 1983.

June 5, 1980
[H.R. 4890]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779b) is amended—

Commercial Fisheries Research and Development Act of 1964, amendments.

(1) by amending subsection (a) by striking out "and September 30, 1980." in paragraph (2) and inserting in lieu thereof ", September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983.";

(2) by amending subsection (b)—

(A) by striking out "and" at the end of paragraph (1),

(B) by inserting ", and" immediately after "1980" in paragraph (2), and

(C) by adding immediately after paragraph (2) the following new paragraph:

"(3) $5,000,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, and September 30, 1983"; and

(3) by amending paragraph (2) of subsection (c) by striking out "and September 30, 1980." and inserting in lieu thereof "September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983.".

Approved June 5, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-889 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-722 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 5, considered and passed House.
May 22, considered and passed Senate.

Public Law 96-263
96th Congress

An Act

June 6, 1980
[H.R. 3789]

To amend section 16(b) of the Soil Conservation and Domestic Allotment Act, as amended, providing for a Great Plains conservation program.

Soil Conservation and Domestic Allotment Act, amendments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 16(b) of the Soil Conservation and Domestic Allotment Act (70 Stat. 1115, as amended; 16 U.S.C. 590p(b)) is amended—

(1) by deleting the third and fourth sentences of paragraph (1) thereof beginning with "Such contracts may be entered into . . ." and inserting in lieu thereof the following: "Such contracts may be entered into during the period ending not later than September 30, 1991, with respect to farms, ranches, and other lands in counties in the Great Plains area of the States of Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, designated by the Secretary as susceptible to serious wind or water erosion by reason of their soil types, terrain, and climatic, soil, topographic, flood, saline, other natural hazards, and other factors. The landowner or operator shall furnish to the Secretary a plan of farming operations or land use which incorporates such soil and water conservation practices and principles as may be determined by him to be practicable for maximum mitigation of climatic, soil, topographic, flood, saline, and other natural hazards of the area in which such land is located, and which outlines a schedule of proposed changes in cropping systems or land use and of the conservation measures which are to be carried out on the farm, ranch, or other land during the contract period to protect the farm, ranch, or other land from erosion and deterioration by natural causes."; and

(2) deleting "$300,000,000" and "$25,000,000" in the proviso in paragraph (7) and inserting in lieu thereof "$600,000,000" and "$50,000,000", respectively.

Effective date. 16 USC 590p note.

SEC. 2. This Act shall become effective October 1, 1980.

Approved June 6, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-755 (Comm. on Agriculture).
SENATE REPORT No. 96-648 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 21, considered and passed House.
May 22, considered and passed Senate.

Public Law 96-264
96th Congress

An Act

To extend the present public debt limit through June 30, 1980.

June 6, 1980
[H.R. 7428]

Public debt limit, temporary increase; oil import fee, termination.
31 USC 757b note.
93 Stat. 589; *Ante*, p. 421.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 101 of the Act of September 29, 1979, entitled "An Act to provide for a temporary increase in the public debt limit, and to amend the Rules of the House of Representatives to make possible the establishment of the public debt limit in the future as a part of the congressional budget process" (Public Law 96-78) is amended by striking out "June 5, 1980" and inserting in lieu thereof "June 30, 1980".

SEC. 2. TERMINATION OF APRIL 2, 1980, OIL IMPORT FEE.

19 USC 1862 note.

Notwithstanding any other provision of law, the action taken by the President under section 232(b) of the Trade Expansion Act of 1962 (19 U.S.C. 1862(b)) with respect to petroleum imports under Proclamation 4744, dated April 2, 1980, as amended, shall cease to have force and effect upon the date of the enactment of this Act.

45 FR 22864.

THOMAS P. O'NEILL, JR.
Speaker of the House of Representatives.

WARREN G. MAGNUSON
President of the Senate pro Tempore.

IN THE HOUSE OF REPRESENTATIVES, U.S.,
June 5, 1980.

The House of Representatives having proceeded to reconsider the bill (H.R. 7428) entitled "An Act to extend the present public debt limit through June 30, 1980", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

EDMUND L. HENSHAW, JR.
Clerk.

By Thomas E. Ladd
Assistant to the Clerk.

I certify that this Act originated in the House of Representatives.

EDMUND L. HENSHAW, JR.
Clerk.

By Thomas E. Ladd
Assistant to the Clerk.

IN THE SENATE OF THE UNITED STATES,
June 6 (legislative day, January 3), 1980.

The Senate having proceeded to reconsider the bill (H.R. 7428) entitled "An Act to extend the present public debt limit through June 30, 1980", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

J. S. KIMMITT
Secretary.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1049 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 4, considered and passed House; considered and passed Senate, amended.
June 5, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 23:
June 5, vetoed; Presidential message.
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 5, House overrode veto.
June 6, Senate overrode veto.

Public Law 96-265
96th Congress

An Act

June 9, 1980
[H.R. 3236]

To amend the Social Security Act to provide better work incentives and improved accountability in the disability programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Social Security Disability Amendments of 1980".

Social Security Disability Amendments of 1980.
42 USC 1305 note.

TABLE OF CONTENTS

Sec. 1. Short title.

TITLE I—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER OASDI PROGRAM

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TITLE III—PROVISIONS AFFECTING DISABILITY RECIPIENTS UNDER OASDI AND SSI PROGRAMS; ADMINISTRATIVE PROVISIONS

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TITLE IV—PROVISIONS RELATING TO AFDC AND CHILD SUPPORT PROGRAMS

Sec. 401. Work requirement under the AFDC program.
Sec. 402. Use of Internal Revenue Service to collect child support for non-AFDC families.
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Sec. 404. Federal matching for child support duties performed by certain court personnel.

Sec. 405. Child support management information system.
Sec. 406. AFDC management information system.
Sec. 407. Child support reporting and matching procedures.
Sec. 408. Access to wage information for purposes of carrying out State plans for child support.

TITLE V—OTHER PROVISIONS RELATING TO THE SOCIAL SECURITY ACT

Sec. 501. Relationship between social security and SSI benefits.
Sec. 502. Extension of National Commission on Social Security.
Sec. 503. Time for making of social security contributions with respect to covered State and local employees.
Sec. 504. Eligibility of aliens for SSI benefits.
Sec. 505. Authority for demonstration projects.
Sec. 506. Additional funds for demonstration project relating to the terminally ill.
Sec. 507. Voluntary certification of medicare supplemental health insurance policies.

TITLE I—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER OASDI PROGRAM

LIMITATION ON TOTAL FAMILY BENEFITS IN DISABILITY CASES

42 USC 403.

SEC. 101. (a) Section 203(a) of the Social Security Act is amended—

(1) by striking out "except as provided by paragraph (3)" in paragraph (1) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "except as provided by paragraphs (3) and (6)";

(2) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) Notwithstanding any of the preceding provisions of this subsection other than paragraphs (3)(A), (3)(C), and (5) (but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits, whether or not such total benefits are otherwise subject to reduction under this subsection but after any reduction under this subsection which would otherwise be applicable, shall be, reduced or further reduced (before the application of section 224) to the smaller of—

"(A) 85 percent of such individual's average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

"(B) 150 percent of such individual's primary insurance amount.".

42 USC 415.

42 USC 402, 423.

42 USC 424a.

42 USC 403.

(b)(1) Section 203(a)(2)(D) of such Act is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraph (8)".

(2) Section 203(a)(8) of such Act, as redesignated by subsection (a)(2) of this section, is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (7)".

42 USC 415.

(3) Section 215(i)(2)(A)(ii)(III) of such Act is amended by striking out "section 203(a) (6) and (7)" and inserting in lieu thereof "section 203(a) (7) and (8)".

(4) Section 215(i)(2)(D) of such Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of section 203(a) (as added by section 101(a)(3) of the Social Security Disability Amendments of 1980).".

Supra.

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes eligible for benefits (determined under sections 215(a)(3)(B) and 215(a)(2)(A) of the Social Security Act, as applied for this purpose) after 1978, and who first becomes entitled to disability insurance benefits after June 30, 1980. 42 USC 403 note. 42 USC 415.

REDUCTION IN NUMBER OF DROPOUT YEARS FOR YOUNGER DISABLED WORKERS

SEC. 102. (a) Section 215(b)(2)(A) of the Social Security Act is amended to read as follows: 42 USC 415.

"(2)(A) The number of an individual's benefit computation years equals the number of elapsed years reduced—

"(i) in the case of an individual who is entitled to old-age insurance benefits (except as provided in the second sentence of this subparagraph), or who has died, by 5 years, and

"(ii) in the case of an individual who is entitled to disability insurance benefits, by the number of years equal to one-fifth of such individual's elapsed years (disregarding any resulting fractional part of a year), but not by more than 5 years.

Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual's primary insurance amount for purposes of any subsequent eligibility for disability or old-age insurance benefits unless prior to the month in which such eligibility begins there occurs a period of at least 12 consecutive months for which he was not entitled to a disability or an old-age insurance benefit. If an individual described in clause (ii) is living with a child (of such individual or his or her spouse) under the age of 3 in any calendar year which is included in such individual's computation base years, but which is not disregarded pursuant to clause (ii) or to subparagraph (B) (in determining such individual's benefit computation years) by reason of the reduction in the number of such individual's elapsed years under clause (ii), the number by which such elapsed years are reduced under this subparagraph pursuant to clause (ii) shall be increased by one (up to a combined total not exceeding 3) for each such calendar year; except that (I) no calendar year shall be disregarded by reason of this sentence (in determining such individual's benefit computation years) unless the individual was living with such child substantially throughout the period in which the child was alive and under the age of 3 in such year and the individual had no earnings as described in section 203(f)(5) in such year, (II) the particular calendar years to be disregarded under this sentence (in determining such benefit computation years) shall be those years (not otherwise disregarded under clause (ii)) which, before the application of section 215(f), meet the conditions of subclause (I), and (III) this sentence shall apply only to the extent that its application would not result in a lower primary insurance amount. The number of an individual's benefit computation years as determined under this subparagraph shall in no case be less than 2.". 42 USC 403.

(b) Section 223(a)(2) of such Act is amended by inserting "and section 215(b)(2)(A)(ii)" after "section 202(q)" in the first sentence. 42 USC 423. 42 USC 415, 402.

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes entitled to disability insurance benefits on or after July 1, 1980; except that the 42 USC 415 note.

Ante, p. 443.

third sentence of section 215(b)(2)(A) of the Social Security Act (as added by such amendments) shall apply only with respect to monthly benefits payable for months beginning on or after July 1, 1981.

PROVISIONS RELATING TO MEDICARE WAITING PERIOD FOR RECIPIENTS OF DISABILITY BENEFITS

42 USC 426.

SEC. 103. (a)(1)(A) Section 226(b)(2) of the Social Security Act is amended by striking out "consecutive" in clauses (A) and (B).

(B) Section 226(b) of such Act is further amended by striking out "consecutive" in the matter following paragraph (2).

42 USC 1395c.

(2) Section 1811 of such Act is amended by striking out "consecutive".

42 USC 1395p.

(3) Section 1837(g)(1) of such Act is amended by striking out "consecutive".

45 USC 231f.

(4) Section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 is amended by striking out "consecutive" each place it appears.

42 USC 426.

(b) Section 226 of the Social Security Act is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

"(f) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

Supra.
Supra.

"(1) more than 60 months before the month in which his current disability began in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2), or

"(2) more than 84 months before the month in which his current disability began in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection,

shall not include any month which occurred during such previous period.".

42 USC 426 note.

(c) The amendments made by this section shall apply with respect to hospital insurance or supplementary medical insurance benefits for services provided on or after the first day of the sixth month which begins after the date of the enactment of this Act.

CONTINUATION OF MEDICARE ELIGIBILITY

42 USC 426.

SEC. 104. (a) Section 226(b) of the Social Security Act is amended—

(1) by striking out "ending with the month" in the matter following paragraph (2) and inserting in lieu thereof "ending (subject to the last sentence of this subsection) with the month", and

(2) by adding at the end thereof the following new sentence: "For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in para-

42 USC 422.

graph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, and throughout all of which such individual would have been entitled to monthly insurance benefits under title II or as a qualified railroad retirement beneficiary had such individual been unable to engage in substantial gainful activity, but not in excess of 24 such months.". 42 USC 401.

(b) The amendments made by subsection (a) shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to such first day. Effective date. 42 USC 426 note.

TITLE II—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER THE SSI PROGRAM

BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

SEC. 201. (a) Part A of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

"BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

"SEC. 1619. (a) Any individual who is an eligible individual (or eligible spouse) by reason of being under a disability and was eligible to receive benefits under section 1611(b) or under this section for the month preceding the month for which eligibility for benefits under this section is now being determined, and who would otherwise be denied benefits by reason of section 1611(e)(4) or ceases to be an eligible individual (or eligible spouse) because his earnings have demonstrated a capacity to engage in substantial gainful activity, shall nevertheless qualify for a monthly benefit equal to an amount determined under section 1611(b)(1) (or, in the case of an individual who has an eligible spouse, under section 1611(b)(2)), and for purposes of titles XIX and XX of this Act shall be considered a disabled individual receiving supplemental security income benefits under this title, for so long as the Secretary determines that— 42 USC 1382h. 42 USC 1382. 42 USC 1396, 1397.

"(1) such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability, and continues to meet all non-disability-related requirements for eligibility for benefits under this title; and

"(2) the income of such individual, other than income excluded pursuant to section 1612(b), is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments). 42 USC 1382a.

"(b) For purposes of titles XIX and XX, any individual under age 65 who, for the month preceding the first month in the period to which this subsection applies, received—

"(i) a payment of supplemental security income benefits under section 1611(b) on the basis of blindness or disability,

42 USC 1382e.
87 Stat. 155.

"(ii) a supplementary payment under section 1616 of this Act or under section 212 of Public Law 93-66 on such basis,

"(iii) a payment of monthly benefits under subsection (a), or

"(iv) a supplementary payment under section 1616(c)(3),

shall be considered to be a blind or disabled individual receiving supplemental security income benefits for so long as the Secretary determines under regulations that—

"(1) such individual continues to be blind or continues to have the disabling physical or mental impairment on the basis of which he was found to be under a disability and, except for his earnings, continues to meet all non-disability-related requirements for eligibility for benefits under this title;

"(2) the income of such individual would not, except for his earnings, be equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments);

"(3) the termination of eligibility for benefits under title XIX or XX would seriously inhibit his ability to continue his employment; and

"(4) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits under this title and titles XIX and XX which would be available to him in the absence of such earnings.".

42 USC 1382e.

(b)(1) Section 1616(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Any State (or political subdivision) making supplementary payments described in subsection (a) shall have the option of making such payments to individuals who receive benefits under this title under the provisions of section 1619, or who would be eligible to receive such benefits but for their income.".

42 USC 1382 note.

(2) Section 212(a) of Public Law 93-66 is amended by adding at the end thereof the following new paragraph:

"(4) Any State having an agreement with the Secretary under paragraph (1) may, at its option, include individuals receiving benefits under section 1619 of the Social Security Act, or who would be eligible to receive such benefits but for their income, under the agreement as though they are aged, blind, or disabled individuals as specified in paragraph (2)(A).".

Ante, p. 445.

(c) Part A of title XVI of the Social Security Act is amended by adding at the end thereof (after the new section added by subsection (a) of this section) the following new section:

Ante, p. 445.

"MEDICAL AND SOCIAL SERVICES FOR CERTAIN HANDICAPPED PERSONS

42 USC 1382i.

"SEC. 1620. (a) There are authorized to be appropriated such sums as may be necessary to establish and carry out a 3-year Federal-State pilot program to provide medical and social services for certain handicapped individuals in accordance with this section.

"(b)(1) The total sum of $18,000,000 shall be allotted to the States for such program by the Secretary, during the period beginning September 1, 1981, and ending September 30, 1984, as follows:

"(A) The total sum of $6,000,000 shall be allotted to the States for the fiscal year ending September 30, 1982 (which for purposes of this section shall include the month of September 1981).

"(B) The total sum of $6,000,000, plus any amount remaining available (after the application of paragraph (4)) from the allot-

ment made under subparagraph (A), shall be allotted to the States for the fiscal year ending September 30, 1983.

"(C) The total sum of $6,000,000, plus any amount remaining available (after the application of paragraph (4)) from the allotments made under subparagraphs (A) and (B), shall be allotted to the States for the fiscal year ending September 30, 1984.

"(2) The allotment to each State from the total sum allotted under paragraph (1) for any fiscal year shall bear the same ratio to such total sum as the number of individuals in such State who are over age 17 and under age 65 and are receiving supplemental security income benefits as disabled individuals in such year (as determined by the Secretary on the basis of the most recent data available) bears to the total number of such individuals in all the States. For purposes of the preceding sentence, the term 'supplemental security income benefits' includes payments made pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66.

"Supplemental security income benefits."

42 USC 1382e.

87 Stat. 155.

"(3) At the beginning of each fiscal year in which the pilot program under this section is in effect, each State that does not intend to use the allotment to which it is entitled for such year (or any allotment which was made to it for a prior fiscal year), or that does not intend to use the full amount of any such allotment, shall certify to the Secretary the amount of such allotment which it does not intend to use, and the State's allotment for the fiscal year (or years) involved shall thereupon be reduced by the amount so certified.

Certification to Secretary.

"(4) The portion of the total amount available for allotment for any particular fiscal year under paragraph (1) which is not allotted to States for that year by reason of paragraph (3) (plus the amount of any reductions made at the beginning of such year in the allotments of States for prior fiscal years under paragraph (3)) shall be reallocated in such manner as the Secretary may determine to be appropriate to States which need, and will use, additional assistance in providing services to severely handicapped individuals in that particular year under their approved plans. Any amount reallocated to a State under this paragraph for use in a particular fiscal year shall be treated for purposes of this section as increasing such State's allotment for that year by an equivalent amount.

Reallocation.

"(c) In order to participate in the pilot program and be eligible to receive payments for any period under subsection (d), a State (during such period) must have a plan, approved by the Secretary as meeting the requirements of this section, which provides medical and social services for severely handicapped individuals whose earnings are above the level which ordinarily demonstrates an ability to engage in substantial gainful activity and who are not receiving benefits under section 1611 or 1619 or assistance under a State plan approved under section 1902, and which—

42 USC 1382.

Ante, p. 445.

42 USC 1396a.

"(1) declares the intent of the State to participate in the pilot program;

"(2) designates an appropriate State agency to administer or supervise the administration of the program in the State;

"(3) describes the criteria to be applied by the State in determining the eligibility of any individual for assistance under the plan and in any event requires a determination by the State agency to the effect that (A) such individual's ability to continue his employment would be significantly inhibited without such assistance and (B) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the

42 USC 1381, 1396, 1397.

cash and other benefits that would be available to him under this title and titles XIX and XX in the absence of those earnings;

"(4) describes the process by which the eligibility of individuals for such assistance is to be determined (and such process may not involve the performance of functions by any State agency or entity which is engaged in making determinations of disability for purposes of disability insurance or supplemental security income benefits except when the use of a different agency or entity to perform those functions would not be feasible);

"(5) describes the medical and social services to be provided under the plan;

"(6) describes the manner in which the medical and social services involved are to be provided and, if they are not to be provided through the State's medical assistance and social services programs under titles XIX and XX (with the Federal payments being made under subsection (d) of this section rather than under those titles), specifies the particular mechanisms and procedures to be used in providing such services; and

"(7) contains such other provisions as the Secretary may find to be necessary or appropriate to meet the requirements of this section or otherwise carry out its purpose.

The plan under this section may be developed and submitted as a separate State plan, or may be submitted in the form of an amendment to the State's plan under section 2003(d)(1).

42 USC 1397b.

"(d)(1) From its allotment under subsection (b) for any fiscal year (and any amounts remaining available from allotments made to it for prior fiscal years), the Secretary shall from time to time pay to each State which has a plan approved under subsection (c) an amount equal to 75 per centum of the total sum expended under such plan (including the cost of administration of such plan) in providing medical and social services to severely handicapped individuals who are eligible for such services under the plan.

"(2) The method of computing and making payments under this section shall be as follows:

"(A) The Secretary shall, prior to each period for which a payment is to be made to a State, estimate the amount to be paid to the State for such period under the provisions of this section.

"(B) From the allotment available therefor, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this subsection) by which he finds that his estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid to the State for such period under this section.

Regulations.

"(e) Within nine months after the date of the enactment of this section, the Secretary shall prescribe and publish such regulations as may be necessary or appropriate to carry out the pilot program and otherwise implement this section.

Reports to Secretary and Congress.

"(f) Each State participating in the pilot program under this section shall from time to time report to the Secretary on the operation and results of such program in that State, with particular emphasis upon the work incentive effects of the program. On or before October 1, 1983, the Secretary shall submit to the Congress a report on the program, incorporating the information contained in the State reports along with his findings and recommendations.".

(d) The amendments made by subsections (a) and (b) shall become effective on January 1, 1981, but shall remain in effect only for a period of three years after such effective date. Effective date. 42 USC 1382h note.

(e) The Secretary shall provide for separate accounts with respect to the benefits payable by reason of the amendments made by subsections (a) and (b) so as to provide for evaluation of the effects of such amendments on the programs established by titles II, XVI, XIX, and XX of the Social Security Act. 42 USC 1382h note. 42 USC 401, 1381, 1396, 1397.

EARNED INCOME IN SHELTERED WORKSHOPS

SEC. 202. (a) Section 1612(a)(1) of the Social Security Act is amended— 42 USC 1382a.

(1) by striking out "and" after the semicolon at the end of subparagraph (A); and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) remuneration received for services performed in a sheltered workshop or work activities center; and".

(b) The amendments made by subsection (a) shall apply only with respect to remuneration received in months after September 1980. 42 USC 1382a note.

TERMINATION OF ATTRIBUTION OF PARENTS' INCOME AND RESOURCES WHEN CHILD ATTAINS AGE 18

SEC. 203. (a) Section 1614(f)(2) of the Social Security Act is amended by striking out "under age 21" and inserting in lieu thereof "under age 18". 42 USC 1382c.

(b) The amendment made by subsection (a) shall become effective on October 1, 1980; except that the amendment made by such subsection shall not apply, in the case of any child who, in September 1980, was 18 or over and received a supplemental security income benefit for such month, during any period for which such benefit would be greater without the application of such amendment. Effective date. 42 USC 1382c note.

TITLE III—PROVISIONS AFFECTING DISABILITY RECIPIENTS UNDER OASDI AND SSI PROGRAMS; ADMINISTRATIVE PROVISIONS

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

SEC. 301. (a)(1) Section 225 of the Social Security Act is amended by inserting "(a)" after "SEC. 225.", and by adding at the end thereof the following new subsection: 42 USC 425.

"(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's entitlement to such benefits is based, has or may have ceased, if—

"(1) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and 29 USC 720.

"(2) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual

may (following his participation in such program) be permanently removed from the disability benefit rolls.".

(2) Section 225(a) of such Act (as designated under subsection (a) of this section) is amended by striking out "this section" each place it appears and inserting in lieu thereof "this subsection".

42 USC 1383.

(b) Section 1631(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's eligibility for such benefit is based, has or may have ceased, if—

42 USC 1382c.

"(A) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

29 USC 720.

"(B) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.".

Effective date.
42 USC 425 note.

(c) The amendments made by this section shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to individuals whose disability has not been determined to have ceased prior to such first day.

EXTRAORDINARY WORK EXPENSES DUE TO SEVERE DISABILITY

42 USC 423.

SEC. 302. (a)(1) Section 223(d)(4) of the Social Security Act is amended by inserting after the third sentence the following new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.".

42 USC 1382c.
Post, p. 453.

(2) Section 1614(a)(3)(D) of such Act is amended by inserting after the first sentence the following new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the

amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.".

(b) Section 1612(b)(4)(B) of such Act is amended by striking out "plus one-half of the remainder thereof, and (ii)" and inserting in lieu thereof the following: "(ii) such additional amounts of earned income of such individual (for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility), if such individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe, (iii) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, and (iv)". 42 USC 1382a.

(c) The amendments made by this section shall apply with respect to expenses incurred on or after the first day of the sixth month which begins after the date of the enactment of this Act. 42 USC 423 note.

REENTITLEMENT TO DISABILITY BENEFITS

SEC. 303. (a)(1) Section 222(c)(1) of the Social Security Act is amended by striking out "section 223 or 202(d)" and inserting in lieu thereof "section 223, 202(d), 202(e), or 202(f)". 42 USC 422. 42 USC 423, 402.

(2) Section 222(c)(3) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof ", or, in the case of an individual entitled to widow's or widower's insurance benefits under section 202 (e) or (f) who became entitled to such benefits prior to attaining age 60, with the month in which such individual becomes so entitled.".

(b)(1)(A) Section 223(a)(1) of such Act is amended by striking out "or the third month following the month in which his disability ceases." at the end of the first sentence and inserting in lieu thereof "or, subject to subsection (e), the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.".

(B) Section 202(d)(1)(G) of such Act is amended—

(i) by redesignating clauses (i) and (ii) as clauses (III) and (IV), respectively, and

(ii) by striking out "the third month following the month in which he ceases to be under such disability" and inserting in lieu thereof ", or, subject to section 223(e), the termination month (and for purposes of this subparagraph, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity,".

42 USC 423.

42 USC 422.

42 USC 402.

(C) Section 202(e)(1) of such Act is amended by striking out "the third month following the month in which her disability ceases (unless she attains age 65 on or before the last day of such third month)." at the end thereof and inserting in lieu thereof ", subject to section 223(e), the termination month (unless she attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which her disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.".

(D) Section 202(f)(1) of such Act is amended by striking out "the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third month)." at the end thereof and inserting in lieu thereof ", subject to section 223(e), the termination month (unless he attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.".

(2)(A) Section 223 of such Act is amended by adding at the end thereof the following new subsection: 42 USC 423.

"(e) No benefit shall be payable under subsection (d)(1)(B)(ii), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 or under subsection (a)(1) of this section to an individual for any month, after the third month, in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 222(c)(4)(A).". 42 USC 402. 42 USC 422.

(B) Section 216(i)(2)(D) of such Act is amended by striking out "(ii)" and all that follows and inserting in lieu thereof "(ii) the month preceding (I) the termination month (as defined in section 223(a)(1)), or, if earlier (II) the first month for which no benefit is payable by reason of section 223(e), where no benefit is payable for any of the succeeding months during the 15-month period referred to in such section." 42 USC 416.

(c)(1)(A) Section 1614(a)(3) of such Act is amended by adding at the end thereof the following new subparagraph: 42 USC 1382c.

"(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall, subject to section 1611(e)(4), nonetheless be considered (except for purposes of section 1631(a)(5)) to be disabled through the end of the month preceding the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the earlier of (i) the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (ii) the first month, after the period of 15 consecutive months following the end of such period of trial work, in which such individual engages in or is determined to be able to engage in substantial gainful activity.". 42 USC 1382. 42 USC 1383.

(B) Section 1614(a)(3)(D) of such Act is amended by striking out "paragraph (4)" and inserting in lieu thereof "subparagraph (F) or paragraph (4)". *Ante*, p. 450.

(2) Section 1611(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) No benefit shall be payable under this title, except as provided in section 1619 (or section 1616(c)(3)), with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1614(a)(3)(F) for any month, after the third month, in which he engages in substantial gainful activity during the fifteen-month period following the end of his trial work period determined by application of section 1614(a)(4)(D)(i).". *Ante*, pp. 445, 446. *Supra*.

(d) The amendments made by this section shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to such first day. Effective date. 42 USC 402 note.

DISABILITY DETERMINATIONS; FEDERAL REVIEW OF STATE AGENCY DETERMINATIONS

SEC. 304. (a) Section 221(a) of the Social Security Act is amended to read as follows: 42 USC 421.

"(a)(1) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall be made by a State agency, notwithstanding any other provision of law, in any State that notifies 42 USC 416, 423.

the Secretary in writing that it wishes to make such disability determinations commencing with such month as the Secretary and the State agree upon, but only if (A) the Secretary has not found, under subsection (b)(1), that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and (B) the State has not notified the Secretary, under subsection (b)(2), that it does not wish to make such determinations. If the Secretary once makes the finding described in clause (A) of the preceding sentence, or the State gives the notice referred to in clause (B) of such sentence, the Secretary may thereafter determine whether (and, if so, beginning with which month and under what conditions) the State may again make disability determinations under this paragraph.

"(2) The disability determinations described in paragraph (1) made by a State agency shall be made in accordance with the pertinent provisions of this title and the standards and criteria contained in regulations or other written guidelines of the Secretary pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations (if it does not wish to do so with respect to all individuals in the State), and the conditions under which it may choose not to make all such determinations. In addition, the Secretary shall promulgate regulations specifying, in such detail as he deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability insurance program throughout the United States. The regulations may, for example, specify matters such as—

Regulations.

"(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations,

"(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries of facilities for making disability determinations,

"(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Secretary, and, as he finds appropriate, by the State, of its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function,

"(D) fiscal control procedures that the State agency may be required to adopt, and

"(E) the submission of reports and other data, in such form and at such time as the Secretary may require, concerning the State agency's activities relating to the disability determination.

Nothing in this section shall be construed to authorize the Secretary to take any action except pursuant to law or to regulations promulgated pursuant to law.".

42 USC 421.

(b) Section 221(b) of such Act is amended to read as follows:

Disability determinations.

"(b)(1) If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other

written guidelines, the Secretary shall, not earlier than 180 days following his finding, and after he has complied with the requirements of paragraph (3), make the disability determinations referred to in subsection (a)(1).

Notification to Secretary.

"(2) If a State, having notified the Secretary of its intent to make disability determinations under subsection (a)(1), no longer wishes to make such determinations, it shall notify the Secretary in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days, or (if later) until the Secretary has complied with the requirements of paragraph (3). Thereafter, the Secretary shall make the disability determinations referred to in subsection (a)(1).

Assumption of State agency function.

"(3)(A) The Secretary shall develop and initiate all appropriate procedures to implement a plan with respect to any partial or complete assumption by the Secretary of the disability determination function from a State agency, as provided in this section, under which employees of the affected State agency who are capable of performing duties in the disability determination process for the Secretary shall, notwithstanding any other provision of law, have a preference over any other individual in filling an appropriate employment position with the Secretary (subject to any system established by the Secretary for determining hiring priority among such employees of the State agency) unless any such employee is the administrator, the deputy administrator, or assistant administrator (or his equivalent) of the State agency, in which case the Secretary may accord such priority to such employee.

State agency employees, determination by Secretary of Labor.

"(B) The Secretary shall not make such assumption of the disability determination function until such time as the Secretary of Labor determines that, with respect to employees of such State agency who will be displaced from their employment on account of such assumption by the Secretary and who will not be hired by the Secretary to perform duties in the disability determination process, the State has made fair and equitable arrangements to protect the interests of employees so displaced. Such protective arrangements shall include only those provisions which are provided under all applicable Federal, State and local statutes including, but not limited to, (i) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements; (ii) the continuation of collective-bargaining rights; (iii) the assignment of affected employees to other jobs or to retraining programs; (iv) the protection of individual employees against a worsening of their positions with respect to their employment; (v) the protection of health benefits and other fringe benefits; and (vi) the provision of severance pay, as may be necessary.".

42 USC 421.

(c) Section 221(c) of such Act is amended to read as follows:

Review.

"(c)(1) The Secretary may on his own motion or as required under paragraphs (2) and (3) review a determination, made by a State agency under this section, that an individual is or is not under a disability (as defined in section 216(i) or 223(d)) and, as a result of such review, may modify such agency's determination and determine that such individual either is or is not under a disability (as so defined) or that such individual's disability began on a day earlier or later than that determined by such agency, or that such disability ceased on a day earlier or later than that determined by such agency. A review by the Secretary on his own motion of a State agency determination

42 USC 416, 423.

under this paragraph may be made before or after any action is taken to implement such determination.

"(2) The Secretary (in accordance with paragraph (3)) shall review determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)). Any review by the Secretary of a State agency determination under this paragraph shall be made before any action is taken to implement such determination.

42 USC 416, 423.

"(3) In carrying out the provisions of paragraph (2) with respect to the review of determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

"(A) at least 15 percent of all such determinations made by State agencies in the fiscal year 1981,

"(B) at least 35 percent of all such determinations made by State agencies in the fiscal year 1982, and

"(C) at least 65 percent of all such determinations made by State agencies in any fiscal year after the fiscal year 1982.".

42 USC 421.

(d) Section 221(d) of such Act is amended by striking out "(a)" and inserting in lieu thereof "(a), (b)".

(e) The first sentence of section 221(e) of such Act is amended—

(1) by striking out "which has an agreement with the Secretary" and inserting in lieu thereof "which is making disability determinations under subsection (a)(1)",

(2) by striking out "as may be mutually agreed upon" and inserting in lieu thereof "as determined by the Secretary", and

(3) by striking out "carrying out the agreement under this section" and inserting in lieu thereof "making disability determinations under subsection (a)(1)".

(f) Section 221(g) of such Act is amended—

(1) by striking out "has no agreement under subsection (b)" and inserting in lieu thereof "does not undertake to perform disability determinations under subsection (a)(1), or which has been found by the Secretary to have substantially failed to make disability determinations in a manner consistent with his regulations and guidelines", and

(2) by striking out "not included in an agreement under subsection (b)" and inserting in lieu thereof "for whom no State undertakes to make disability determinations".

Report to Congress.
42 USC 421 note.

(g) The Secretary of Health and Human Services shall implement a program of reviewing, on his own motion, decisions rendered by administrative law judges as a result of hearings under section 221(d) of the Social Security Act, and shall report to the Congress by January 1, 1982, on his progress.

Effective date.
42 USC 421 note.

(h) The amendments made by subsections (a), (b), (d), (e), and (f) shall be effective beginning with the twelfth month following the month in which this Act is enacted. Any State that, on the effective date of the amendments made by this section, has in effect an agreement with the Secretary of Health and Human Services under section 221(a) of the Social Security Act (as in effect prior to such amendments) will be deemed to have given to the Secretary the notice specified in section 221(a)(1) of such Act as amended by this section, in lieu of continuing such agreement in effect after the effective date of such amendments. Thereafter, a State may notify the Secretary in writing that it no longer wishes to make disability determinations, effective not less than 180 days after the notification is given.

State agreements with Secretary of Health and Human Services, notification.

(i) The Secretary of Health and Human Services shall submit to the Congress by July 1, 1980, a detailed plan on how he expects to assume the functions and operations of a State disability determination unit when this becomes necessary under the amendments made by this section, and how he intends to meet the requirements of section 221(b)(3) of the Social Security Act. Such plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out such function. If any amendment of Federal law or regulation is required to carry out such plan, recommendations for such amendment should be included in the report.

Plan, submittal to Congress.
42 USC 421 note.
42 USC 421.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS

SEC. 305. (a) Section 205(b) of the Social Security Act is amended by inserting after the first sentence the following new sentence: "Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Secretary's determination and the reason or reasons upon which it is based.".

42 USC 405.

(b) Section 1631(c)(1) of such Act is amended by inserting after the first sentence thereof the following new sentence: "Any such decision by the Secretary which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Secretary's determination and the reason or reasons upon which it is based.".

42 USC 1383.

(c) The amendments made by this section shall apply with respect to decisions made on or after the first day of the 13th month following the month in which this Act is enacted.

42 USC 405 note.

LIMITATION ON PROSPECTIVE EFFECT OF APPLICATION

SEC. 306. (a) Section 202(j)(2) of the Social Security Act is amended to read as follows:

42 USC 402.

"(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).".

42 USC 405.

(b) Section 216(i)(2)(G) of such Act is amended—

42 USC 416.

(1) by inserting "(and shall be deemed to have been filed on such first day)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

42 USC 423. (c) Section 223(b) of such Act is amended—

(1) by inserting "(and shall be deemed to have been filed in such first month)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made, or if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

42 USC 402 note. (d) The amendments made by this section shall apply to applications filed after the month in which this Act is enacted.

LIMITATION ON COURT REMANDS

42 USC 405. SEC. 307. The sixth sentence of section 205(g) of the Social Security Act is amended by striking out all that precedes "and the Secretary shall" and inserting in lieu thereof the following: "The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding;".

TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

Report to Congress. 42 USC 401 note. 42 USC 401. SEC. 308. The Secretary of Health and Human Services shall submit to the Congress, no later than July 1, 1980, a report recommending the establishment of appropriate time limitations governing decisions on claims for benefits under title II of the Social Security Act. Such report shall specifically recommend—

(1) the maximum period of time (after application for a payment under such title is filed) within which the initial decision of the Secretary as to the rights of the applicant should be made;

(2) the maximum period of time (after application for reconsideration of any decision described in paragraph (1) is filed) within which a decision of the Secretary on such reconsideration should be made;

(3) the maximum period of time (after a request for a hearing with respect to any decision described in paragraph (1) is filed) within which a decision of the Secretary upon such hearing (whether affirming, modifying, or reversing such decision) should be made; and

(4) the maximum period of time (after a request for review by the Appeals Council with respect to any decision described in paragraph (1) is made) within which the decision of the Secretary upon such review (whether affirming, modifying, or reversing such decision) should be made.

In determining the time limitations to be recommended, the Secretary shall take into account both the need for expeditious processing of claims for benefits and the need to assure that all such claims will be thoroughly considered and accurately determined.

PAYMENT FOR EXISTING MEDICAL EVIDENCE

SEC. 309. (a) Section 223(d)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required and requested by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.". 42 USC 423.

(b) The amendment made by subsection (a) shall apply with respect to evidence requested on or after the first day of the sixth month which begins after the date of the enactment of this Act. 42 USC 423 note.

PAYMENT OF CERTAIN TRAVEL EXPENSES

SEC. 310. (a) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 401.

"(j) There are authorized to be made available for expenditure, out of the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund (as determined appropriate by the Secretary), such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) 42 USC 410. to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.".

(b) Section 1631 of such Act is amended by adding at the end thereof the following new subsection: 42 USC 1383.

"Payment of Certain Travel Expenses

"(h) The Secretary shall pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 1614(e)) to attend reconsideration 42 USC 1382c. interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the

points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.".

42 USC 1395i.

(c) Section 1817 of such Act is amended by adding at the end thereof the following new subsection:

Travel expenses, authorized trust fund payments.

"(i) There are authorized to be made available for expenditure out of the Trust Fund such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations.".

42 USC 410.

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

42 USC 421.

SEC. 311. (a) Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i) In any case where an individual is or has been determined to be under a disability, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years; except that where a finding has been made that such disability is permanent, such reviews shall be made at such times as the Secretary determines to be appropriate. Reviews of cases under the preceding sentence shall be in addition to, and shall not be considered as a substitute for, any other reviews which are required or provided for under or in the administration of this title.".

Effective date.
42 USC 421 note.

(b) The amendment made by subsection (a) shall become effective on January 1, 1982.

REPORT BY SECRETARY

Submittal to Congress.
42 USC 401 note.

SEC. 312. The Secretary of Health and Human Services shall submit to the Congress not later than January 1, 1985, a full and complete report as to the effects produced by reason of the preceding provisions of this Act and the amendments made thereby.

TITLE IV—PROVISIONS RELATING TO AFDC AND CHILD SUPPORT PROGRAMS

WORK REQUIREMENT UNDER THE AFDC PROGRAM

42 USC 602.

SEC. 401. (a) Section 402(a)(19)(A) of the Social Security Act is amended—

(1) by striking out all that follows "(A)" and precedes clause (i), and inserting in lieu thereof the following: "that every individual, as a condition of eligibility for aid under this part, shall

register for manpower services, training, employment, and other employment-related activities (including employment search, not to exceed eight weeks in total in each year) with the Secretary of Labor as provided by regulations issued by him, unless such individual is—";

(2) by striking out "or" at the end of clause (v);

(3) by striking out "under section 433(g)" in clause (vi); 42 USC 633.

(4) by adding "or" after the semicolon at the end of clause (vi); and

(5) by inserting after clause (vi) the following new clause:

"(vii) a person who is working not less than 30 hours per week;".

(b) Section 402(a)(19)(B) of such Act is amended by inserting "to families with dependent children" immediately after "that aid". 42 USC 602.

(c) Section 402(a)(19)(D) of such Act is amended by striking out ", and income derived from a special work project under the program established by section 432(b)(3)". 42 USC 632.

(d) Section 402(a)(19)(F) of such Act is amended—

(1) by striking out, "and for so long as any child, relative, or individual (certified to the Secretary of Labor pursuant to subparagraph (G))" in the matter preceding clause (i), and inserting in lieu thereof "(and for such period as is prescribed under joint regulations of the Secretary and the Secretary of Labor) any child, relative or individual"; and

(2) by inserting "and" after the semicolon at the end of clause (iv), and striking out all that follows.

(e) Section 402(a)(19)(G) of such Act is amended—

(1) by inserting "(which will, to the maximum extent feasible, be located in the same facility as that utilized for the administration of programs established pursuant to section 432(b) (1), (2), or (3))" immediately after "administrative unit" in clause (i);

(2) by striking out "subparagraph (A)," in clause (ii), and inserting in lieu thereof "subparagraph (A) of this paragraph (I)";

(3) by striking out "part C" where it first appears in clause (ii) and inserting in lieu thereof "section 432(b) (1), (2), or (3)"; and

(4) by striking out "employment or training under part C," in clause (ii) and inserting in lieu thereof "employment or training under section 432(b) (1), (2), or (3), (II) such social and supportive services as are necessary to enable such individuals as determined appropriate by the Secretary of Labor actively to engage in other employment-related (including but not limited to employment search) activities, as well as timely payment for necessary employment search expenses, and (III) for a period deemed appropriate by the Secretary of Labor after such an individual accepts employment, such social and supportive services as are reasonable and necessary to enable him to retain such employment,".

(f) Section 402(a)(19) of such Act is further amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by adding "and" after the semicolon at the end of subparagraph (G); and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) that an individual participating in employment search activities shall not be referred to employment opportunities which do not meet the criteria for appropriate work

and training to which an individual may otherwise be assigned under section 432(b)(1), (2), or (3);".

42 USC 632.
42 USC 603.

(g) Section 403(c) of such Act is amended by striking out "part C" and inserting in lieu thereof "section 432(b)(1), (2), or (3)".

(h) Section 403(d)(1) of such Act is amended by adding at the end thereof the following new sentence: "In determining the amount of the expenditures made under a State plan for any quarter with respect to social and supportive services pursuant to section 402(a)(19)(G), there shall be included the fair and reasonable value of goods and services furnished in kind from the State or any political subdivision thereof.".

Ante, p. 461.

42 USC 602 note.

(i) The amendments made by this section (other than those made by subsections (c) and (d)) shall take effect on September 30, 1980, and the joint regulations referred to in section 402(a)(19)(F) of the Social Security Act (as amended by this section) shall be promulgated on or before such date, and take effect on such date.

Ante, p. 461.

USE OF INTERNAL REVENUE SERVICE TO COLLECT CHILD SUPPORT FOR NON-AFDC FAMILIES

SEC. 402. (a) The first sentence of section 452(b) of the Social Security Act is amended by inserting "(or undertaken to be collected by such State pursuant to section 454(6))" immediately after "assigned to such State".

42 USC 652.
42 USC 654.

Effective date.
42 USC 652 note.

(b) The amendment made by subsection (a) shall take effect July 1, 1980.

SAFEGUARDS RESTRICTING DISCLOSURE OF CERTAIN INFORMATION UNDER AFDC AND SOCIAL SERVICE PROGRAMS

42 USC 602.

SEC. 403. (a) Section 402(a)(9) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (B); and

(2) by striking out "; and the safeguards" and all that follows and inserting in lieu thereof the following: ", and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an entity referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient;".

42 USC 1397b.

(b) Section 2003(d)(1)(B) of such Act is amended—

(1) by striking out "provides that" and inserting in lieu thereof "provides safeguards which restrict";

(2) by striking out "will be restricted";

(3) by inserting "(A)" after "connected with"; and

(4) by inserting before the semicolon at the end thereof the following: ", and (B) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an entity referred to in clause (B) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient;".

(c) The amendments made by this section shall take effect on September 1, 1980. Effective date. 42 USC 602 note.

FEDERAL MATCHING FOR CHILD SUPPORT DUTIES PERFORMED BY CERTAIN COURT PERSONNEL

SEC. 404. (a) Section 455 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 655.

"(c)(1) Subject to paragraph (2), there shall be included, in determining amounts expended by a State during any quarter for the operation of the plan approved under section 454, so much of the expenditures of courts of such State and its political subdivisions (excluding expenditures for or in connection with judges and other individuals making judicial determinations, but not excluding expenditures for or in connection with their administrative and support personnel) as are attributable to the performance of services which are directly related to, and clearly identifiable with, the operation of such plan. 42 USC 654.

"(2) The aggregate amount of the expenditures which are included pursuant to paragraph (1) for the quarters in any calendar year shall be reduced (but not below zero) by the total amount of expenditures described in paragraph (1) which were made by the State for the 12-month period beginning January 1, 1978.

"(3) The State agency may, if the law (or procedures established thereunder) of the State so provides, pay so much of the amount it receives under subsection (a) for any quarter as is payable by reason of the provisions of this subsection directly to the courts of the State (or political subdivisions thereof) furnishing the services on account of which the payment is payable.".

(b) The amendment made by subsection (a) shall apply with respect to expenditures made by States on or after July 1, 1980. Effective date. 42 USC 655 note.

CHILD SUPPORT MANAGEMENT INFORMATION SYSTEM

SEC. 405. (a) Section 455(a) of the Social Security Act is amended— 42 USC 655.

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and "; and

(3) by adding after and below paragraph (2) the following new paragraph:

"(3) equal to 90 percent (rather than the percent specified in clause (1) or (2)) of so much of the sums expended during such quarter as are attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system which the Secretary finds meets the requirements specified in section 454(16);". Automatic data processing and information retrieval system. *Infra.*

(b) Section 454 of such Act is amended— 42 USC 654.

(1) by striking out "and" at the end of paragraph (14),

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and", and

(3) by adding after paragraph (15) the following new paragraph:

"(16) provide, at the option of the State, for the establishment, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under section 452(d), of an automatic data processing and information retrieval system designed effectively and efficiently to assist *Post*, p. 464.

management in the administration of the State plan, in the State and localities thereof, so as (A) to control, account for, and monitor (i) all the factors in the child support enforcement collection and paternity determination process under such plan (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal ZIP codes) of any individual with respect to whom child support obligations are sought to be established or enforced and with respect to any person to whom such support obligations are owing) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether such individual is paying or is obligated to pay child support in more than one jurisdiction, (II) checking of records of such individuals on a periodic basis with Federal, intra- and inter-State, and local agencies, (III) maintaining the data necessary to meet the Federal reporting requirements on a timely basis, and (IV) delinquency and enforcement activities), (ii) the collection and distribution of support payments (both intra- and inter-State), the determination, collection and distribution, of incentive payments both inter- and intra-State, and the maintenance of accounts receivable on all amounts owed, collected and distributed, and (iii) the costs of all services rendered, either directly or by interfacing with State financial management and expenditure information, (B) to provide interface with records of the State's aid to families with dependent children program in order to determine if a collection of a support payment causes a change affecting eligibility for or the amount of aid under such program, (C) to provide for security against unauthorized access to, or use of, the data in such system, and (D) to provide management information on all cases under the State plan from initial referral or application through collection and enforcement.".

42 USC 652.

(c) Section 452 of such Act is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in section 454(16), unless he finds that such document, when implemented, will generally carry out the objectives of the management system referred to in such subsection, and such document—

Ante, p. 463.

"(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

"(B) contains a description of the proposed management system referred to in section 455(a)(3), including a description of information flows, input data, and output reports and uses,

Ante, p. 463.

"(C) sets forth the security and interface requirements to be employed in such management system,

"(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

"(E) contains an implementation plan and backup procedures to handle possible failures,

"(F) contains a summary of proposed improvement of such management system in terms of qualitative and quantitative benefits, and

"(G) provides such other information as the Secretary determines under regulation is necessary.

"(2)(A) The Secretary shall through the separate organizational unit established pursuant to subsection (a), on a continuing basis, review, assess, and inspect the planning, design, and operation of, management information systems referred to in section 455(a)(3), *Ante*, p. 463. with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under paragraph (1) and the conditions specified under section 454(16). *Ante*, p. 463.

"(B) If the Secretary finds with respect to any statewide management information system referred to in section 455(a)(3) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.".

(d) Section 452 of the Social Security Act is further amended by adding after subsection (d) (as added by subsection (c) of this section) *Ante*, p. 464. the following new subsection:

"(e) The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 455(a)(3).". Technical assistance to States.

(e) The amendments made by this section shall take effect on July 1, 1981, and shall be effective only with respect to expenditures, referred to in section 455(a)(3) of the Social Security Act (as amended by this Act), made on or after such date. Effective date. 42 USC 652 note.

AFDC MANAGEMENT INFORMATION SYSTEM

SEC. 406. (a) Section 403(a)(3) of the Social Security Act is amended— 42 USC 603.

(1) by striking out "and" at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) 90 per centum of so much of the sums expended during such quarter as are attributable to the planning, design, development, or installation of such statewide mechanized claims processing and information retrieval systems as (i) meet the conditions of section 402(a)(30), and *Infra.* (ii) the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of State plans approved under title XIX, and State programs 42 USC 1396. with respect to which there is Federal financial participation under title XX, and". 42 USC 1397.

(b)(1) Section 402(a) of such Act is amended— 42 USC 602.

(A) by striking out "and" at the end of paragraph (28);

(B) by striking out the period at the end of paragraph (29) and inserting in lieu thereof "; and"; and

(C) by adding after paragraph (29) the following new paragraph:

"(30) at the option of the State, provide for the establishment and operation, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under subsection (d), of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan for aid to families with dependent children approved under this part, so as (A) to control and account for (i) all the factors in the total eligibility determination process under such plan for aid (including but not limited to (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses, and mailing addresses (including postal ZIP codes), of all applicants and recipients of such aid and the relative with whom any child who is such an applicant or recipient is living) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction, (II) checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra- and inter-State, for determination and verification of eligibility and payment pursuant to requirements imposed by other provisions of this Act), (ii) the costs, quality, and delivery of funds and services furnished to applicants for and recipients of such aid, (B) to notify the appropriate officials of child support, food stamp, social service, and medical assistance programs approved under title XIX whenever the case becomes ineligible or the amount of aid or services is changed, and (C) to provide for security against unauthorized access to, or use of, the data in such system.".

42 USC 1396.

42 USC 602.

(2) Section 402 of such Act is further amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in subsection (a)(30), unless he finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

Ante, p. 465.

"(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

"(B) contains a description of the proposed statewide management system, including a description of information flows, input data, and output reports and uses,

"(C) sets forth the security and interface requirements to be employed in such statewide management system,

"(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

"(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plan containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

"(F) contains an implementation plan with charts of development events, testing descriptions, proposed acceptance criteria, and backup and fallback procedures to handle possible failure of contingencies, and

"(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits.

"(2)(A) The Secretary shall, on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a)(3)(B), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and the conditions specified under subsection (a)(30) of this section.

Ante, p. 465.

Ante, p. 465.

"(B) If the Secretary finds with respect to any statewide management information system referred to in section 403(a)(3)(B) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.".

(c) Part A of title IV of such Act is amended by adding at the end thereof the following new section:

"TECHNICAL ASSISTANCE FOR DEVELOPING MANAGEMENT INFORMATION SYSTEMS

"SEC. 413. The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 403(a)(3)(B) of this Act.".

42 USC 613.

Ante, p. 465.

(d) The amendments made by this section shall be effective with respect to expenditures made during calendar quarters beginning on or after July 1, 1981.

Effective date.
42 USC 613 note.

CHILD SUPPORT REPORTING AND MATCHING PROCEDURES

SEC. 407. (a) Section 455(b)(2) of the Social Security Act is amended by striking out "The Secretary" and inserting in lieu thereof "Subject to subsection (d), the Secretary".

42 USC 655.

(b) Section 455 of such Act is further amended by adding after subsection (c) (as added by section 404 of this Act) the following new subsection:

Ante, p. 463.

"(d) Notwithstanding any other provision of law, no amount shall be paid to any State under this section for any quarter, prior to the close of such quarter, unless for the period consisting of all prior quarters for which payment is authorized to be made to such State under subsection (a), there shall have been submitted by the State to the Secretary, with respect to each quarter in such period (other than the last two quarters in such period), a full and complete report (in such form and manner and containing such information as the Secretary shall prescribe or require) as to the amount of child support collected and disbursed and all expenditures with respect to which payment is authorized under subsection (a).".

(c) Section 403(b)(2) of such Act is amended—

42 USC 603.

(1) by striking out "and" at the end of clause (A); and

(2) by adding immediately before the semicolon at the end of clause (B) the following: ", and (C) reduced by such amount as is necessary to provide the 'appropriate reimbursement of the Federal Government' that the State is required to make under

42 USC 657.

section 457 out of that portion of child support collections retained by it pursuant to such section".

Effective date.
42 USC 603 note.

(d) The amendments made by this section shall be effective in the case of calendar quarters commencing on or after January 1, 1981.

ACCESS TO WAGE INFORMATION FOR PURPOSES OF CARRYING OUT STATE PLANS FOR CHILD SUPPORT

26 USC 6103.

SEC. 408. (a)(1) Subsection (l) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

"(7) DISCLOSURE OF CERTAIN RETURN INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO STATE AND LOCAL CHILD SUPPORT ENFORCEMENT AGENCIES.—

"(A) IN GENERAL.—Upon written request, the Commissioner of Social Security shall disclose directly to officers and employees of a State or local child support enforcement agency return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection.

26 USC 1402.
26 USC 3121, 3401.

"(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations. For purposes of the preceding sentence, the term 'child support obligations' only includes obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under part D of title IV of such Act.

"Child support obligations."

42 USC 654.

42 USC 651.

"(C) STATE OR LOCAL CHILD SUPPORT ENFORCEMENT AGENCY.—For purposes of this paragraph, the term 'State or local child support enforcement agency' means any agency of a State or political subdivision thereof operating pursuant to a plan described in subparagraph (B)."

26 USC 6103.

(2)(A) Subparagraph (A) of section 6103(p)(3) of such Code (relating to records of inspection and disclosure) is amended by striking out "(l)(1) or (4)(B) or (5)" and inserting in lieu thereof "(l)(1), (4)(B), (5), or (7)".

(B) Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended by striking out "(l)(3) or (6)" in so much of such paragraph as precedes subparagraph (A) thereof and inserting in lieu thereof "(l)(3), (6), or (7)".

(C) Clause (i) of section 6103(p)(4)(F) of such Code is amended by striking out "(l)(6)" and inserting in lieu thereof "(l)(6) or (7)".

(D) The first sentence of paragraph (2) of section 7213(a) of such Code is amended by striking out "subsection (d), (l)(6), or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (l)(6) or (7), or (m)(4)(B)".

Effective date.
26 USC 6103 note.

(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

42 USC 503.

(b)(1) Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(d)(1) The State agency charged with the administration of the State law—

"(A) shall disclose, upon request and on a reimbursable basis, directly to officers or employees of any State or local child support enforcement agency any wage information contained in the records of such State agency, and Wage information.

"(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to insure that information disclosed under subparagraph (A) is used only for purposes of establishing and collecting child support obligations from, and locating, individuals owing such obligations. Safeguards, establishment.

For purposes of the preceding sentence, the term 'child support obligations' only includes obligations which are being enforced pursuant to a plan described in section 454 of this Act which has been approved by the Secretary of Health and Human Services under part D of title IV of this Act. "Child support obligations." 42 USC 654. 42 USC 651.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State. Noncompliance of State agency.

"(3) For purposes of this subsection, the term 'State or local child support enforcement agency' means any agency of a State or political subdivision thereof operating pursuant to a plan described in the last sentence of paragraph (1)." Definition.

(2) Paragraph (2) of section 304(a) of the Social Security Act is amended by striking out "subsection (b) or (c)" and inserting in lieu thereof "subsection (b), (c), or (d)". 42 USC 504.

(3) The amendments made by this subsection shall take effect on July 1, 1980. Effective date. 42 USC 503 note.

TITLE V—OTHER PROVISIONS RELATING TO THE SOCIAL SECURITY ACT

RELATIONSHIP BETWEEN SOCIAL SECURITY AND SSI BENEFITS

SEC. 501. (a) Part A of title XI of the Social Security Act is amended by inserting immediately after section 1126 the following new section:

"ADJUSTMENT OF RETROACTIVE BENEFITS UNDER TITLE II ON ACCOUNT OF SUPPLEMENTAL SECURITY INCOME BENEFITS

"SEC. 1127. Notwithstanding any other provision of this Act, in any case where an individual— 42 USC 1320a-6.

"(1) makes application for benefits under title II and is subsequently determined to be entitled to those benefits, and 42 USC 401.

"(2) was an individual with respect to whom supplemental security income benefits were paid under title XVI (including State supplementary payments which were made under an agreement pursuant to section 1616(a) or an administration agreement under section 212 of Public Law 93-66) for one or more months during the period beginning with the first month 42 USC 1381. 42 USC 1382e. 87 Stat. 155.

for which a benefit described in paragraph (1) is payable and ending with the month before the first month in which such benefit is paid pursuant to the application referred to in paragraph (1),

the benefits (described in paragraph (1)) which are otherwise retroactively payable to such individual for months in the period described in paragraph (2) shall be reduced by an amount equal to so much of such supplemental security income benefits (including State supplementary payments) described in paragraph (2) for such month or months as would not have been paid with respect to such individual or his eligible spouse if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively; and from the amount of such reduction the Secretary shall reimburse the State on behalf of which such supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the period involved exceeded the expenditures which the State would have made (for such period) if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury.".

42 USC 401.

42 USC 404.

(b) Section 204 of such Act is amended by adding at the end thereof the following new subsection:

"(e) For payments which are adjusted by reason of payment of benefits under the supplemental security income program established by title XVI, see section 1127.".

42 USC 1381.
Ante, p. 469.

(c) Section 1631(b) of such Act is amended—

42 USC 1383.

(1) by inserting "(1)" immediately after "(b)", and

(2) by adding at the end thereof the following new paragraph:

"(2) For payments for which adjustments are made by reason of a retroactive payment of benefits under title II, see section 1127.".

42 USC 401.
Ante, p. 469.

(d) The amendments made by this section shall be applicable in the case of payments of monthly insurance benefits under title II of the Social Security Act entitlement for which is determined on or after the first day of the thirteenth month which begins after the date of the enactment of this Act.

42 USC 1320a-6 note.

EXTENSION OF NATIONAL COMMISSION ON SOCIAL SECURITY

SEC. 502. (a) Section 361(a)(2)(F) of the Social Security Amendments of 1977 is amended by striking out "a term of two years" and inserting in lieu thereof "a term which shall end on April 1, 1981".

42 USC 907a.

(b) Section 361(c)(2) of the Social Security Amendments of 1977 is amended by striking out all that follows the semicolon and inserting in lieu thereof "and the Commission shall cease to exist on April 1, 1981.".

TIME FOR MAKING OF SOCIAL SECURITY CONTRIBUTIONS WITH RESPECT TO COVERED STATE AND LOCAL EMPLOYEES

SEC. 503. (a) Subparagraph (A) of section 218(e)(1) of the Social Security Act is amended to read as follows:

42 USC 418.

"(A) that the State will pay to the Secretary of the Treasury, within the thirty-day period immediately following the last day of each calendar month, amounts equivalent to the sum of the

taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if the services for which wages were paid in such month to employees covered by the agreement constituted employment as defined in section 3121 of such Code; and". 26 USC 3101, 3111. 26 USC 3121.

(b) The amendment made by subsection (a) shall be effective with respect to the payment of taxes (referred to in section 218(e)(1)(A) of the Social Security Act, as amended by subsection (a)) on account of wages paid on or after July 1, 1980. Effective date. 42 USC 418 note. *Ante*, p. 470.

(c) The provisions of section 7 of Public Law 94-202 shall not be applicable to any regulation which becomes effective on or after July 1, 1980, and which is designed to carry out the purposes of subsection (a) of this section. 42 USC 405a. 42 USC 405a note.

ELIGIBILITY OF ALIENS FOR SSI BENEFITS

SEC. 504. (a) Section 1614(f) of the Social Security Act is amended by adding at the end thereof the following new paragraph: 42 USC 1382c.

"(3) For purposes of determining eligibility for and the amount of benefits for any individual who is an alien, such individual's income and resources shall be deemed to include the income and resources of his sponsor and such sponsor's spouse (if such alien has a sponsor) as provided in section 1621. Any such income deemed to be income of such individual shall be treated as unearned income of such individual.". *Infra.*

(b) Part A of title XVI of such Act is amended by adding at the end thereof (after the new section added by section 201(c) of this Act) the following new section: *Ante*, p. 445.

"ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIENS

"SEC. 1621. (a) For purposes of determining eligibility for and the amount of benefits under this title for an individual who is an alien, the income and resources of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse, shall be deemed to be the income and resources of such individual (in accordance with subsections (b) and (c)) for a period of three years after the individual's entry into the United States. Any such income deemed to be income of such individual shall be treated as unearned income of such individual. Eligibility determination for benefits. 42 USC 1382j.

"(b)(1) The amount of income of a sponsor (and his spouse) which shall be deemed to be the unearned income of an alien for any year shall be determined as follows:

"(A) The total yearly rate of earned and unearned income (as determined under section 1612(a)) of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined for such year. *Ante*, p. 449.

"(B) The amount determined under subparagraph (A) shall be reduced by an amount equal to (i) the maximum amount of the Federal benefit under this title for such year which would be payable to an eligible individual who has no other income and who does not have an eligible spouse (as determined under section 1611(b)(1)), plus (ii) one-half of the amount determined under clause (i) multiplied by the number of individuals who are dependents of such sponsor (or such sponsor's spouse if such 42 USC 1382.

spouse is living with the sponsor), other than such alien and such alien's spouse.

"(C) The amount of income which shall be deemed to be unearned income of such alien shall be at a yearly rate equal to the amount determined under subparagraph (B). The period for determination of such amount shall be the same as the period for determination of benefits under section 1611(c).

42 USC 1382.

"(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of an alien for any year shall be determined as follows:

"(A) The total amount of the resources (as determined under section 1613) of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined.

42 USC 1382b.

"(B) The amount determined under subparagraph (A) shall be reduced by an amount equal to (i) $1,500 in the case of a sponsor who has no spouse with whom he is living, or (ii) $2,250 in the case of a sponsor who has a spouse with whom he is living.

"(C) The resources of such sponsor (and spouse) as determined under subparagraphs (A) and (B) shall be deemed to be resources of such alien in addition to any resources of such alien.

"(c) In determining the amount of income of an alien during the period of three years after such alien's entry into the United States, the reduction in dollar amounts otherwise required under section 1612(a)(2)(A)(i) shall not be applicable if such alien is living in the household of a person who is a sponsor (or such sponsor's spouse) of such alien, and is receiving support and maintenance in kind from such sponsor (or spouse), nor shall support or maintenance furnished in cash or kind to an alien by such alien's sponsor (to the extent that it reflects income or resources which were taken into account in determining the amount of income and resources to be deemed to the alien under subsection (a) or (b)) be considered to be income of such alien under section 1612(a)(2)(A).

42 USC 1382a.

Information and documentation respecting sponsor.

"(d)(1) Any individual who is an alien shall, during the period of three years after entry into the United States, in order to be an eligible individual or eligible spouse for purposes of this title, be required to provide to the Secretary such information and documentation with respect to his sponsor as may be necessary in order for the Secretary to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide to the Secretary such information and documentation as the Secretary may request and which such alien or his sponsor provided in support of such alien's immigration application.

"(2) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to such persons and required in order to make any determination under this section will be provided by such persons to the Secretary, and whereby such persons shall inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

Sponsor and alien, liability for overpayment.

"(e) Any sponsor of an alien, and such alien, shall be jointly and severably liable for an amount equal to any overpayment made to such alien during the period of three years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause for such failure existed. Any such overpayment which is not repaid to the Secretary

or recovered in accordance with section 1631(b) shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this Act. *Ante*, p. 470.

"(f)(1) The provisions of this section shall not apply with respect to any individual who is an 'aged, blind, or disabled individual' for purposes of this title by reason of blindness (as determined under section 1614(a)(2)) or disability (as determined under section 1614(a)(3)), from and after the onset of the impairment, if such blindness or disability commenced after the date of such individual's admission into the United States for permanent residence. Aged, blind, or disabled individual, nonapplicability. 42 USC 1382c.

"(2) The provisions of this section shall not apply with respect to any alien who is—

"(A) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act; 8 USC 1153.

"(B) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c)(1) of such Act; *Ante*, p. 103.

"(C) paroled into the United States as a refugee under section 212(d)(5) of such Act; or *Ante*, p. 107.

"(D) granted political asylum by the Attorney General.".

(c) The amendments made by this section shall be effective with respect to individuals applying for supplemental security income benefits under title XVI of the Social Security Act for the first time after September 30, 1980. Effective date. 42 USC 1382j note. 42 USC 1381.

AUTHORITY FOR DEMONSTRATION PROJECTS

SEC. 505. (a)(1) The Secretary of Health and Human Services shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of (A) various alternative methods of treating the work activity of disabled beneficiaries under the old-age, survivors, and disability insurance program, including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of disabled beneficiaries and (B) altering other limitations and conditions applicable to such disabled beneficiaries (including, but not limited to, lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the manner in which such program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation), to the end that savings will accrue to the Trust Funds, or to otherwise promote the objectives or facilitate the administration of title II of the Social Security Act. 42 USC 1310 note. 42 USC 401.

(2) The experiments and demonstration projects developed under paragraph (1) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program without committing such program to the adoption of any particular system either locally or nationally.

(3) In the case of any experiment or demonstration project under paragraph (1), the Secretary may waive compliance with the benefit requirements of titles II and XVIII of the Social Security Act insofar as is necessary for a thorough evaluation of the alternative methods 42 USC 401, 1395.

under consideration. No such experiment or project shall be actually placed in operation unless at least ninety days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Secretary to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Secretary to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in paragraph (1).

Report to Congress.

(4) The Secretary shall submit to the Congress no later than January 1, 1983, a report on the experiments and demonstration projects with respect to work incentives carried out under this subsection together with any related data and materials which he may consider appropriate.

42 USC 401.

(5) Section 201 of the Social Security Act is amended by adding at the end thereof (after the new subsection added by section 310(a) of this Act) the following new subsection:

Ante, p. 459.

"(k) Expenditures made for experiments and demonstration projects under section 505(a) of the Social Security Disability Amendments of 1980 shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.".

Ante, p. 473.

42 USC 1310.

(b) Section 1110 of the Social Security Act is amended—

(1) by inserting "(1)" after "SEC. 1110. (a)";

(2) by striking out "for (1)" and "(2)" and inserting in lieu thereof "for (A)" and "(B)", respectively;

(3) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively;

(4) by striking out "under subsection (a)" each place it appears and inserting in lieu thereof "under paragraph (1)";

(5) by striking out "purposes of this section" and inserting in lieu thereof "purposes of this subsection"; and

(6) by adding at the end thereof the following new subsection:

Waiver.

42 USC 1381.

"(b)(1) The Secretary is authorized to waive any of the requirements, conditions, or limitations of title XVI (or to waive them only for specified purposes, or to impose additional requirements, conditions, or limitations) to such extent and for such period as he finds necessary to carry out one or more experimental, pilot, or demonstration projects which, in his judgment, are likely to assist in promoting the objectives or facilitate the administration of such title. Any costs for benefits under or administration of any such project (including planning for the project and the review and evaluation of the project and its results), in excess of those that would have been incurred without regard to the project, shall be met by the Secretary from amounts available to him for this purpose from appropriations made to carry out such title. The costs of any such project which is carried out in coordination with one or more related projects under other titles of this Act shall be allocated among the appropriations available for such projects and any Trust Funds involved, in a manner determined by the Secretary, taking into consideration the programs (or types of benefit) to which the project (or part of a project) is most closely related or which the project (or part of a project) is intended to benefit. If, in order to carry out a project under this subsection, the Secretary requests a State to make supplementary payments (or makes them himself pursuant to an agreement under section 1616),

42 USC 1382e.

or to provide medical assistance under its plan approved under title XIX, to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not make such payments or provide such medical assistance, the Secretary shall reimburse such State for the non-Federal share of such payments or assistance from amounts appropriated to carry out title XVI. 42 USC 1396. 42 USC 1381.

"(2) With respect to the participation of recipients of supplemental security income benefits in experimental, pilot, or demonstration projects under this subsection—

"(A) the Secretary is not authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his or her participation in the project;

"(B) the Secretary may not require any individual to participate in a project; and he shall assure (i) that the voluntary participation of individuals in any project is obtained through informed written consent which satisfies the requirements for informed consent established by the Secretary for use in any experimental, pilot, or demonstration project in which human subjects are at risk, and (ii) that any individual's voluntary agreement to participate in any project may be revoked by such individual at any time;

"(C) the Secretary shall, to the extent feasible and appropriate, include recipients who are under age 18 as well as adult recipients; and

"(D) the Secretary shall include in the projects carried out under this section such experimental, pilot, or demonstration projects as may be necessary to ascertain the feasibility of treating alcoholics and drug addicts to prevent the onset of irreversible medical conditions which may result in permanent disability, including programs in residential care treatment centers.".

(c) The Secretary shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out under this section no later than five years after the date of the enactment of this Act. Report to Congress. 42 USC 1310 note.

ADDITIONAL FUNDS FOR DEMONSTRATION PROJECT RELATING TO THE TERMINALLY ILL

SEC. 506. (a) The Secretary of Health and Human Services is authorized to provide for the participation, by the Social Security Administration, in a demonstration project relating to the terminally ill which is currently being conducted within the Department of Health and Human Services. The purpose of such participation shall be to study the impact on the terminally ill of provisions of the disability programs administered by the Social Security Administration and to determine how best to provide services needed by persons who are terminally ill through programs over which the Social Security Administration has administrative responsibility. 42 USC 1395*ll* note.

(b) For the purpose of carrying out this section there are authorized to be appropriated such sums (not in excess of $2,000,000 for any fiscal year) as may be necessary. Appropriation authorization.

VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES

SEC. 507. (a) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES

42 USC 1395ss.

"SEC. 1882. (a) The Secretary shall establish a procedure whereby medicare supplemental policies (as defined in subsection (g)(1)) may be certified by the Secretary as meeting minimum standards and requirements set forth in subsection (c). Such procedure shall provide an opportunity for any insurer to submit any such policy, and such additional data as the Secretary finds necessary, to the Secretary for his examination and for his certification thereof as meeting the standards and requirements set forth in subsection (c). Such certification shall remain in effect if the insurer files a notarized statement with the Secretary no later than June 30 of each year stating that the policy continues to meet such standards and requirements and if the insurer submits such additional data as the Secretary finds necessary to independently verify the accuracy of such notarized statement.

Emblem.

Where the Secretary determines such a policy meets (or continues to meet) such standards and requirements, he shall authorize the insurer to have printed on such policy (but only in accordance with such requirements and conditions as the Secretary may prescribe) an emblem which the Secretary shall cause to be designed for use as an indication that a policy has received the Secretary's certification. The Secretary shall provide each State commissioner or superintendent of insurance with a list of all the policies which have received his certification.

List of certified policies.

State regulatory program, standards and requirements.

"(b)(1) Any medicare supplemental policy issued in any State which the Supplemental Health Insurance Panel (established under paragraph (2)) determines has established under State law a regulatory program that—

"(A) provides for the application of standards with respect to such policies equal to or more stringent than the NAIC Model Standards (as defined in subsection (g)(2)(A));

"(B) includes a requirement equal to or more stringent than the requirement described in subsection (c)(2); and

"(C) provides for application of the standards and requirements described in subparagraphs (A) and (B) to all medicare supplemental policies (as defined in subsection (g)(1)) issued in such State,

shall be deemed (for so long as the Panel finds that such State regulatory program continues to meet the standards and requirements of this paragraph) to meet the standards and requirements set forth in subsection (c).

Supplemental Health Insurance Panel, establishment.

"(2)(A) There is hereby established a panel (hereinafter in this section referred to as the 'Panel') to be known as the Supplemental Health Insurance Panel. The Panel shall consist of the Secretary, who shall serve as the Chairman, and four State commissioners or superintendents of insurance, who shall be appointed by the President and serve at his pleasure. Such members shall first be appointed not later than December 31, 1980.

Quorum.

"(B) A majority of the members of the Panel shall constitute a quorum, but a lesser number may conduct hearings.

"(C) The Secretary shall provide such technical, secretarial, clerical, and other assistance as the Panel may require.

"(D) There are authorized to be appropriated such sums as may be necessary to carry out this paragraph. Appropriation authorization.

"(E) Members of the Panel shall be allowed, while away from their homes or regular places of business in the performance of services for the Panel, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code. Travel expenses.

"(c) The Secretary shall certify under this section any medicare supplemental policy, or continue certification of such a policy, only if he finds that such policy— Medicare supplemental policy, certification criteria.

"(1) meets or exceeds (either in a single policy or, in the case of nonprofit hospital and medical service associations, in one or more policies issued in conjunction with one another) the NAIC Model Standards; and

"(2) can be expected (as estimated for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for such period and in accordance with accepted actuarial principles and practices) to return to policyholders in the form of aggregate benefits provided under the policy, at least 75 percent of the aggregate amount of premiums collected in the case of group policies and at least 60 percent of the aggregate amount of premiums collected in the case of individual policies.

For purposes of paragraph (2), policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies. Individual policies.

"(d)(1) Whoever knowingly or willfully makes or causes to be made or induces or seeks to induce the making of any false statement or representation of a material fact with respect to the compliance of any policy with the standards and requirements set forth in subsection (c) or in regulations promulgated pursuant to such subsection, or with respect to the use of the emblem designed by the Secretary under subsection (a), shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both. False statement or representation, penalties and fines.

"(2) Whoever falsely assumes or pretends to be acting, or misrepresents in any way that he is acting, under the authority of or in association with, the program of health insurance established by this title, or any Federal agency, for the purpose of selling or attempting to sell insurance, or in such pretended character demands, or obtains money, paper, documents, or anything of value, shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both.

"(3)(A) Whoever knowingly sells a health insurance policy to an individual entitled to benefits under part A or enrolled under part B of this title, with knowledge that such policy substantially duplicates health benefits to which such individual is otherwise entitled, other than benefits to which he is entitled under a requirement of State or Federal law (other than this title), shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both. 42 USC 1395c, 1395j.

"(B) For purposes of this paragraph, benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual, shall not be considered as duplicative.

"(C) Subparagraph (A) shall not apply with respect to the selling of a group policy or plan of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof) or for members or former members (or combination thereof) of the labor organizations.

Policies mailed for prohibited purpose.

"(4)(A) Whoever knowingly, directly or through his agent, mails or causes to be mailed any matter for a prohibited purpose (as determined under subparagraph (B)) shall be guilty of a felony and upon conviction thereof shall be fined not more than $25,000 or imprisoned for not more than 5 years, or both.

Definition.

"(B) For purposes of subparagraph (A), a prohibited purpose means the advertising, solicitation, or offer for sale of a medicare supplemental policy, or the delivery of such a policy, in or into any State in which such policy has not been approved by the State commissioner or superintendent of insurance. For purposes of this paragraph, a medicare supplemental policy shall be deemed to be approved by the commissioner or superintendent of insurance of a State if—

"(i) the policy has been certified by the Secretary pursuant to subsection (c) or was issued in a State with an approved regulatory program (as defined in subsection (g)(2)(B));

"(ii) the policy has been approved by the commissioners or superintendents of insurance in States in which more than 30 percent of such policies are sold; or

"(iii) the State has in effect a law which the commissioner or superintendent of insurance of the State has determined gives him the authority to review, and to approve, or effectively bar from sale in the State, such policy;

except that such a policy shall not be deemed to be approved by a State commissioner or superintendent of insurance if the State notifies the Secretary that such policy has been submitted for approval to the State and has been specifically disapproved by such State after providing appropriate notice and opportunity for hearing pursuant to the procedures (if any) of the State.

Exceptions.

"(C) Subparagraph (A) shall not apply in the case of a person who mails or causes to be mailed a medicare supplemental policy into a State if such person has ascertained that the party insured under such policy to whom (or on whose behalf) such policy is mailed is located in such State on a temporary basis.

"(D) Subparagraph (A) shall not apply in the case of a person who mails or causes to be mailed a duplicate copy of a medicare supplemental policy previously issued to the party to whom (or on whose behalf) such duplicate copy is mailed, if such policy expires not more than 12 months after the date on which the duplicate copy is mailed.

Benefit information.

"(e) The Secretary shall provide to all individuals entitled to benefits under this title (and, to the extent feasible, to individuals about to become so entitled) such information as will permit such individuals to evaluate the value of medicare supplemental policies to them and the relationship of any such policies to benefits provided under this title.

State regulatory programs, study and evaluation.

"(f)(1)(A) The Secretary shall, in consultation with Federal and State regulatory agencies, the National Association of Insurance Commissioners, private insurers, and organizations representing

consumers and the aged, conduct a comprehensive study and evaluation of the comparative effectiveness of various State approaches to the regulation of medicare supplemental policies in (i) limiting marketing and agent abuse, (ii) assuring the dissemination of such information to individuals entitled to benefits under this title (and to other consumers) as is necessary to permit informed choice, (iii) promoting policies which provide reasonable economic benefits for such individuals, (iv) reducing the purchase of unnecessary duplicative coverage, (v) improving price competition, and (vi) establishing effective approved State regulatory programs described in subsection (b).

"(B) Such study shall also address the need for standards or certification of health insurance policies, other than medicare supplemental policies, sold to individuals eligible for benefits under this title.

"(C) The Secretary shall, no later than January 1, 1982, submit a report to the Congress on the results of such study and evaluation, accompanied by such recommendations as the Secretary finds warranted by such results with respect to the need for legislative or administrative changes to accomplish the objectives set forth in subparagraphs (A) and (B), including the need for a mandatory Federal regulatory program to assure the marketing of appropriate types of medicare supplemental policies, and such other means as he finds may be appropriate to enhance effective State regulation of such policies. Report to Congress.

"(2) The Secretary shall submit to the Congress no later than July 1, 1982, and periodically as may be appropriate thereafter (but not less often than once every 2 years), a report evaluating the effectiveness of the certification procedure and the criminal penalties established under this section, and shall include in such reports an analysis of— Report to Congress.

"(A) the impact of such procedure and penalties on the types, market share, value, and cost to individuals entitled to benefits under this title of medicare supplemental policies which have been certified by the Secretary;

"(B) the need for any change in the certification procedure to improve its administration or effectiveness; and

"(C) whether the certification program and criminal penalties should be continued.

"(g)(1) For purposes of this section, a medicare supplemental policy is a health insurance policy or other health benefit plan offered by a private entity to individuals who are entitled to have payment made under this title, which provides reimbursement for expenses incurred for services and items for which payment may be made under this title but which are not reimbursable by reason of the applicability of deductibles, coinsurance amounts, or other limitations imposed pursuant to this title; but does not include any such policy or plan of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof) or for members or former members (or combination thereof) of the labor organizations. For purposes of this section, the term 'policy' includes a certificate issued under such policy. Medicare supplemental policy, definition. "Policy."

"(2) For purposes of this section:

"(A) The term 'NAIC Model Standards' means the 'NAIC Model Regulation to Implement the Individual Accident and Sickness Insurance Minimum Standards Act', adopted by the "NAIC Model Standards."

National Association of Insurance Commissioners on June 6, 1979, as it applies to medicare supplement policies.

Definition.

"(B) The term 'State with an approved regulatory program' means a State for which the Panel has made a determination under subsection (b)(1).

"(C) The State in which a policy is issued means—

"(i) in the case of an individual policy, the State in which the policyholder resides; and

"(ii) in the case of a group policy, the State in which the holder of the master policy resides.

Regulations.

"(h) The Secretary shall prescribe such regulations as may be necessary for the effective, efficient, and equitable administration of the certification procedure established under this section. The Secretary shall first issue final regulations to implement the certification procedure established under subsection (a) not later than March 1, 1981.

Emblem usage, effective date.

"(i)(1) No medicare supplemental policy shall be certified and no such policy may be issued bearing the emblem authorized by the Secretary under subsection (a) until July 1, 1982. On and after such date policies certified by the Secretary may bear such emblem, including policies which were issued prior to such date and were subsequently certified, and insurers may notify holders of such certified policies issued prior to such date using such emblem in the notification.

"(2)(A) The Secretary shall not implement the certification program established under subsection (a) with respect to policies issued in a State unless the Panel makes a finding that such State cannot be expected to have established, by July 1, 1982, an approved State regulatory program meeting the standards and requirements of subsection (b)(1). If the Panel makes such a finding, the Secretary shall implement such program under subsection (a) with respect to medicare supplemental policies issued in such State, until such time as the Panel determines that such State has a program that meets the standards and requirements of subsection (b)(1).

Panel findings, transmittal to congressional committees; effective date.

"(B) Any finding by the Panel under subparagraph (A) shall be transmitted in writing, not later than January 1, 1982, to the Committee on Finance of the Senate and to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means of the House of Representatives and shall not become effective until 60 days after the date of its transmittal to the Committees of the Congress under this subparagraph. In counting such days, days on which either House is not in session because of an adjournment sine die or an adjournment of more than three days to a day certain are excluded in the computation.

"(j) Nothing in this section shall be construed so as to affect the right of any State to regulate medicare supplemental policies which, under the provisions of this section, are considered to be issued in another State.".

(b) The amendment made by this section shall become effective on the date of the enactment of this Act, except that the provisions of paragraph (4) of section 1882(d) of the Social Security Act (as added by this section) shall become effective on July 1, 1982.

Effective date. 42 USC 1395ss note.

Ante, p. 476.

Approved June 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-100 (Comm. on Ways and Means) and No. 96-944 (Comm. of Conference).
SENATE REPORT No. 96-408 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 6, considered and passed House.
Dec. 5, considered in Senate.
Vol. 126 (1980): Jan. 30, 31, considered and passed Senate, amended.
May 22, House agreed to conference report.
May 29, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 24 (1980): June 9, Presidential statement.

Public Law 96-266
96th Congress

Joint Resolution

June 9, 1980
[H.J. Res. 445]

To provide for designation of the week of September 21-27, 1980, as "National Cystic Fibrosis Week".

Whereas cystic fibrosis is the number one genetic killer of children in America, and between one thousand five hundred and two thousand five hundred are born each year in this country with the disease; and

Whereas public understanding of cystic fibrosis is essential to enhance early detection and treatment of the disease and reduce the misunderstanding and confusion concerning the symptoms of cystic fibrosis; and

Whereas a national awareness of the cystic fibrosis problem will stimulate interest and concern leading to increased research and eventually a cure for cystic fibrosis: Now, therefore, be it

National Cystic Fibrosis Week. Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 21-27, 1980, is designated as "National Cystic Fibrosis Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved June 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-793 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 3, considered and passed House.
May 28, considered and passed Senate in lieu of S.J. Res. 152.

Public Law 96-267
96th Congress

An Act

To establish the Bon Secour National Wildlife Refuge.

June 9, 1980
[H.R.. 6727]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Bon Secour National Wildlife Refuge, establishment.

CONGRESSIONAL FINDINGS

SECTION 1. The Congress finds that— 16 USC 668dd note.

(1) Alabama's shore near the mouth of Mobile Bay contains highly significant and varied wildlife habitat and supports important aquatic nurseries;

(2) the area is a critical resting and feeding site for birds of two flyways on their pilgrimages to and from Central and South America;

(3) nationally endangered and threatened species, such as the brown pelican, bald eagle, and several species of sea turtles, as well as many more species identified by the State to be of special concern, are indigenous to this ecosystem;

(4) this habitat should be preserved to ensure the well-being of these and other species, to serve as a living laboratory for scientists and students and to provide wildlife-oriented recreation for the public.

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) the term "refuge" means the Bon Secour National Wildlife Refuge;

(2) the term "Secretary" means the Secretary of the Interior; and

(3) the term "selection area" means those lands and waters in Baldwin and Mobile Counties, Alabama, depicted on the map entitled "Bon Secour National Wildlife Refuge, Selection Area," dated March, 1980 and on file at the United States Fish and Wildlife Service.

ESTABLISHMENT OF REFUGE

SEC. 3. (a) SELECTION.—(1) Within one year after the date of the enactment of this Act the Secretary shall—

(A) designate approximately ten thousand acres of land and water within the selection area as land which the Secretary considers appropriate for the refuge; and

(B) publish in the Federal Register a detailed map depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service.

Publication in Federal Register.

(2) The Secretary may make such minor revisions in the boundaries designated under paragraph 1(B) of this subsection as may be appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

(b) ACQUISITION.—The Secretary shall acquire (by donation, purchase with donated or appropriated funds, or exchange) lands, waters, or interests therein, within the boundaries designated under subsection (a)(1)(B).

Publication in Federal Register.

(c) ESTABLISHMENT.—The Secretary shall establish the Bon Secour National Wildlife Refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been acquired under this section to constitute an area that can be effectively managed as a refuge.

ADMINISTRATION

SEC. 4. The Secretary shall administer all lands, waters, and interests therein, acquired under this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee) to conserve an undisturbed beach-dune ecosystem which includes a diversity of fish and wildlife, and their habitat. The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of the refuge.

Appropriation authorization.

SEC. 5. There is authorized to be appropriated to the Department of the Interior, not to exceed—

(1) $6,000,000 for the fiscal year beginning October 1, 1980, and ending September 30, 1981, $8,000,000 for the period beginning October 1, 1981, and ending September 30, 1983, and $9,500,000 for the period beginning October 1, 1983 and ending September 30, 1985, for the acquisition of the refuge; and

(2) $1,500,000 for the period beginning October 1, 1980, for the development of the refuge.

These sums are to remain available until expended.

Approved June 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-895 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-740 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 5, considered and passed House.
May 22, considered and passed Senate.

Public Law 96-268
96th Congress

An Act

To amend the Act of October 15, 1966 (80 Stat. 953; 20 U.S.C. 65a), relating to the National Museum of the Smithsonian Institution, so as to authorize additional appropriations to the Smithsonian Institution for carrying out the purposes of said Act.

June 13, 1980
[S. 1786]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(b) of the National Museum Act of 1966 (20 U.S.C. 65a) is amended to read:

Smithsonian Institution. Appropriation authorization.

"(b) There are hereby authorized to be appropriated to the Smithsonian Institution for the fiscal year 1981, the sum of $803,000, and for the fiscal year 1982, the sum of $1,000,000.".

Approved June 13, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-646 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 1, considered and passed Senate.
June 3, 4, considered and passed House.

Public Law 96-269
96th Congress

An Act

June 13, 1980
[S. 2517]

To rename certain buildings of the Library of Congress.

Library of Congress Thomas Jefferson Building, designation.
2 USC 141 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building in the block bounded by East Capitol Street, Second Street Southeast, Independence Avenue Southeast, and First Street Southeast, in the District of Columbia (commonly known as the Library of Congress Building or the Library of Congress Main Building), shall hereafter be known and designated as the "Library of Congress Thomas Jefferson Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Library of Congress Thomas Jefferson Building.

Library of Congress John Adams Building, designation.
2 USC 141 note.

SEC. 2. The building in the block bounded by East Capitol Street, Second Street Southeast, Third Street Southeast, and Pennsylvania Avenue Southeast, in the District of Columbia (commonly known as the Library of Congress Thomas Jefferson Building or the Library of Congress Annex Building), shall hereafter be known and designated as the "Library of Congress John Adams Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Library of Congress John Adams Building.

Repeal.
2 USC 141 note.

SEC. 3. The Act entitled "An Act to name the building known as the Library of Congress Annex to be the Library of Congress Thomas Jefferson Building", approved April 13, 1976 (90 Stat. 329), is hereby repealed.

Approved June 13, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-686 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 14, considered and passed Senate.
June 3, considered and passed House.

Public Law 96-270
96th Congress

An Act

To establish a program for the inspection of schools to detect the presence of hazardous asbestos materials, to provide loans to States or local educational agencies to contain or remove hazardous asbestos materials from schools and to replace such materials with other suitable building materials, and for other purposes.

June 14, 1980
[S. 1658]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Asbestos School Hazard Detection and Control Act of 1980.
20 USC 3601 note.

SECTION 1. This Act may be cited as the "Asbestos School Hazard Detection and Control Act of 1980".

FINDINGS AND PURPOSES

20 USC 3601.

SEC. 2. (a) The Congress finds that—

(1) exposure to asbestos fibers has been identified over a long period of time and by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be dislodged into the air, and (B) asbestos concentrations far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the health of the school children and school employees who are exposed to such materials;

(7) the Department of Health and Human Services and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbestos fibers, but there is no systematic program for identifying hazardous conditions in schools or for remedying those conditions;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in noncommercial workplace environments such as schools, school employees and students

may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

(9) without an improved program of information distribution, technical and scientific assistance, and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this Act to identify and mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) It is the purpose of this Act to—

(1) direct the Secretary of Education to establish a task force to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) require States receiving administrative funds for any applicable program (as defined under section 400(c)(1)(A) of the General Education Provisions Act) to prepare a plan describing the manner in which information relating to programs established under this Act shall be distributed to local educational agencies;

20 USC 1221.

(3) provide scientific, technical, and financial assistance to State educational agencies and local educational agencies to enable them to conduct an asbestos detection program to identify asbestos hazards in schools;

(4) provide loans to local educational agencies for the mitigation of asbestos hazards which constitute an imminent hazard to the health and safety of school children and employees; and

(5) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

TASK FORCE

20 USC 3602.

SEC. 3. (a)(1) There is established a task force to be known as the Asbestos Hazards School Safety Task Force (hereinafter in this Act referred to as "Task Force"). The Task Force shall be composed of ten members, who shall be appointed by the Secretary within 30 days after the effective date of this Act, as follows:

Members.

(A) One representative of the Department of Education, recommended by the Secretary of Education.

(B) One representative of the Department of Health and Human Services.

(C) One representative of the National Cancer Institute.

(D) One representative of the Environmental Protection Agency, recommended by the Administrator of such agency.

(E) One representative of the National Institute of Environmental Health Sciences.

(F) One representative of the Occupational Safety and Health Administration, recommended by the Secretary of Labor.

(G) Four representatives from among organizations concerned with education and health.

Members of the Task Force shall be individuals who have knowledge of the medical problems associated with exposure to asbestos, or individuals who are familiar with procedures for the following activities: the containment or removal of asbestos from buildings; the replacement of asbestos materials removed from school buildings with other appropriate building materials; and the restoration of

such buildings to conditions comparable to those existing before such containment or removal was carried out.

(2) The Secretary shall designate a chairman of the Task Force from among its members. Chairman.

(3) Members shall be appointed for the life of the Task Force. Any vacancy in the Task Force shall be filled in the same manner in which the original appointment was made.

(b)(1) The Task Force shall meet, no later than 30 days after the appointment of its members, at the call of the chairman of the Task Force.

(2) Five members of the Task Force shall constitute a quorum for purposes of conducting the business of the Task Force, but a lesser number may hold hearings. Quorum.

(c)(1) Members of the Task Force who are not full-time officers or employees of the Federal Government shall receive compensation at a rate determined by the Secretary, but not to exceed the daily equivalent of the maximum annual rate of pay in effect for grade GS-16 of the General Schedule, for each day (including traveltime) during which they are engaged in the performance of the duties of the Task Force. Compensation. 44 FR 58671.

(2) While away from their homes or regular places of business in the performance of the duties of the Task Force, all members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code. Travel expenses.

(d)(1) Upon request of the Task Force, the Secretary shall make available to the Task Force personnel of the Department of Education to assist the Task Force in carrying out its duties.

(2) The Task Force may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) The duties of the Task Force shall include— Duties.

(1) the compilation of medical, scientific, and technical information explaining—

(A) the health and safety hazards associated with asbestos materials; and

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers;

(2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State educational agencies and to local educational agencies for the purpose of assisting such agencies in carrying out activities described in this Act;

(3) the review of applications for grants and loans under sections 5 and 6 of this Act, and the submission to the Secretary of recommendations respecting the approval or disapproval of such applications;

(4) the review of any guidelines established by the Environmental Protection Agency for identifying those schools in which exposure to asbestos fibers constitutes a health problem and for taking appropriate corrective actions at such schools, in order to determine whether any modifications of such guidelines should be recommended to the Secretary under paragraph (5); and

(5) providing the Secretary with assistance in formulating standards and procedures under section 7 of this Act by—

(A) submitting to the Secretary relevant information concerning the results of the review made under paragraph (4) of this subsection; and

(B) recommending such modifications to the guidelines referred to in such paragraph as the Task Force considers appropriate.

In carrying out its duties under this subsection, the Task Force shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

Termination. (f) The Task Force shall cease to exist at the end of the 180-day period beginning on the date that the authority of the Secretary to make loans under section 6 has expired.

STATE PLAN

20 USC 3603. SEC. 4. (a) Not later than six months after the effective date of this Act, the State educational agency of any State which receives administrative funds for any applicable program (as defined under 20 USC 1221. section 400(c)(1)(A) of the General Education Provisions Act) shall submit to the Secretary a plan which—

(1) describes the manner in which the State, not later than nine months after the effective date of this Act, shall distribute to local educational agencies within that State's jurisdiction information describing—

(A) the programs established under this Act;

(B) the health hazards associated with exposure to asbestos fibers; and

(C) the procedures established by the Secretary under section 7 for carrying out activities under programs under this Act, and such other relevant information regarding such activities as the State considers desirable;

(2) contains a general description of the content of the information to be distributed in accordance with paragraph (1) and provides assurances that the State shall continually revise such information and distribute such revised material to local educational agencies to ensure that such agencies have available to them the most recent material available with regard to the matters referred to in paragraph (1);

(3) describes the procedures to be used by the State for maintaining records on—

(A) the presence of asbestos materials in school buildings of local educational agencies;

(B) the asbestos detection, containment, or removal activities conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials); and

(C) repairs made to restore school buildings to conditions comparable to those existing before the containment or removal activities referred to in subparagraph (B) were undertaken; and

(4) designates a State agency or other administrative unit with the responsibility for submitting to the Secretary the reports described in subsection (b) of this section and provides assurances that such agency or unit shall carry out the duties specified under subsection (b).

(b) Not later than six months after the submission of the plan described in subsection (a), and each six months thereafter during the two-year period beginning on the effective date of this Act, the State agency or unit designated under paragraph (4) of subsection (a) shall submit to the Secretary a report which describes the actions taken by the State in accordance with its plan under such subsection. Report to Secretary.

ASBESTOS HAZARDS DETECTION PROGRAM

SEC. 5. (a)(1)(A) The Secretary may make grants to local educational agencies for the Federal share of the costs of carrying out an asbestos detection program meeting the standards established by the Secretary under section 7(a)(1) of this Act. Grants may be made under this section only during the two-year period beginning on the effective date of this Act. Grants. 20 USC 3604.

(B) The Secretary may make grants to State educational agencies for the Federal share of the costs of carrying out any asbestos detection program if—

(i) the State, through the State educational agency or some other appropriate State agency, is making grants to local educational agencies for asbestos hazard detection programs, and

(ii) such programs meet the standards established by the Secretary under section 7(a)(1) of this Act.

(C) Grants may be made under this section only during the two-year period beginning after the date of enactment of this Act. Time limitation.

(2) Subject to the second sentence of this paragraph, the Federal share of the costs referred to in paragraph (1) shall be 50 percent. Upon a determination by the Secretary that an applicant has limited fiscal resources and would be unable to participate in the program under this section without receiving from the Federal Government, as its Federal share of such costs, an amount greater than the amount permitted under the first sentence of this paragraph, the Secretary may increase the Federal share which may be paid to such applicant by such amount as the Secretary considers appropriate to permit the applicant to participate in the program. Federal share.

(b)(1) No grant may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force. The Secretary may not approve an application unless the application— Application for grant.

(A) contains a description of the methods to be used by the local educational agency, or in the case of an application by the State educational agency the methods to be used by the local educational agencies receiving grants from the State, to determine whether hazardous concentrations of asbestos fibers or materials emitting such fibers exist in school buildings under the jurisdiction of such agency;

(B) contains an estimate of the total cost of the detection program, including such detailed descriptions of the costs of each component of the program as the Secretary may require;

(C) designates the party which shall conduct the testing for the detection program and describes such party's qualifications for conducting such testing;

(D) contains assurances that the program shall be carried out in accordance with standards established by the Secretary under section 7(a)(1) and that any party employed to conduct such testing shall satisfy the competency standards established under such section; and

(E) contains such other information or assurances as the Secretary may require.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No grant may be awarded by the Secretary under this section for asbestos hazards detection programs conducted before the effective date of this Act unless the applicant has submitted an application to the Secretary—

(A) containing the information required under paragraph (1); and

(B) providing assurances that any program for which a grant is sought was carried out in a manner which substantially conforms to the requirements established by the Secretary under section 7(a)(1).

No grant may be awarded under this section for any asbestos hazards detection program completed before January 1, 1976.

(4) After reviewing the application submitted under this section, together with any recommendations made by the Task Force, the Secretary shall determine the amount of any grant to be awarded under this section. Funds may be awarded by the Secretary for the administrative costs incurred in the preparation and supervision of the asbestos detection program and for the following activities:

(A) Visual inspections of school buildings.

(B) The sampling of building and insulation materials.

(C) Appropriate tests to determine the level of asbestos content in suspected materials, and tests determined to be essential to detect the likelihood of imminent danger to persons within school buildings.

Report to Secretary.

(c) Local and State educational agencies receiving grants under this section shall file a report with the Secretary, not later than 120 days after the award of such grant, describing the detection activities which were undertaken, the results of the asbestos detection program, and plans for mitigating any imminent hazards which were detected by the testing. The report shall include a detailed accounting of the funds used to carry out the detection program.

Limitation of funds.

(d) During the period in which grants may be made under this section, not more than 20 percent of the funds appropriated to carry out this section may be made available by the Secretary to the Task Force to conduct education and technical assistance programs related to the detection of asbestos hazards in school buildings and the implementation of appropriate actions to mitigate such hazards.

ASBESTOS HAZARDS CONTROL LOAN PROGRAM

20 USC 3605.

SEC. 6. (a)(1) There is established within the Department of Education an Asbestos Hazards Control Loan Program (hereinafter in this Act referred to as the "Loan Program"), which shall be administered by the Secretary in accordance with this section.

Limitation on loan amount.

(2) The Secretary may make loans under this section to local educational agencies in an amount equal to 50 percent of the costs of carrying out projects for—

(A) the containment or removal of any materials containing asbestos in school buildings in which such materials pose an imminent hazard to the health and safety of children or employees;

(B) the replacement of the asbestos materials removed from school buildings with other appropriate building materials; and

(C) making repairs which the Secretary determines to be necessary to restore school buildings to conditions comparable to those existing before containment or removal activities were undertaken under subparagraph (A).

Loans may be made under this section only for projects affecting more than 2,500 square feet of surface and in which the asbestos material to be contained or removed consists of a minimum asbestos level, as determined by the Secretary under section 7(a)(2).

Increase of loan amount.

(3) If the Secretary determines that an applicant has limited fiscal resources and would be unable to carry out the projects described in paragraph (2) without receiving a loan under this section for an amount greater than the amount permitted under such paragraph, the Secretary may increase the amount of the loan payable to such applicant to an amount the Secretary considers appropriate to enable the applicant to carry out such projects.

Terms and condition.

(b) Loans under this section shall be made pursuant to loan agreements which shall provide for the following terms:

(1) The loan shall not bear any interest except as otherwise provided under paragraph (5).

(2) The loan shall have a maturity period of not more than 20 years (as determined by the Secretary) and shall be repayable during such period at such times and in such amounts as the Secretary may specify in the loan agreement.

(3) Repayment of the loan shall be made to the Secretary of the Treasury for deposit in the general fund of the Treasury.

Such loans shall be subject to such other terms and conditions as the Secretary may establish for the protection of the financial interest of the United States and in furtherance of the purposes of this Act.

Loan application.

(c)(1) No loan may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force, within the two-year period beginning on the effective date of this Act. The Secretary may not approve an application unless—

(A) the application contains such information as the Secretary may require, including information describing—

(i) the nature of the asbestos problem for which the loan is sought;

(ii) the asbestos content of the material to be contained or removed by the local educational agency, as determined under preliminary testing which was conducted in accordance with the standards established by the Secretary under section 7(a)(1), or, in the case of testing conducted before the effective date of this Act, was conducted in a manner which substantially conforms to such standards; and

(iii) the methods which will be used to contain or remove the asbestos materials, in accordance with section 7(b) of this Act, and any other pertinent details relating to the project or projects to be conducted by the applicant (as described in subsection (a)(2)); and

(B) the application contains assurances that—

(i) any employee engaged in any activity to carry out programs under this section shall be notified in writing by the local educational agency conducting the program of the hazards of working with asbestos, and shall be required to

utilize all appropriate safety procedures to minimize health risks;

(ii) no child or school employee shall be permitted in the vicinity of any asbestos containment or removal activity; and

(iii) the local educational agency shall pay employees engaged in containment, removal, or replacement activities to carry out programs under this section at reasonable rates of pay, as established by the Secretary on the basis of prevailing wage rates in the location of such work.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

Time limitation.

(3) No loans may be made by the Secretary under this section for projects described in subsection (a)(2) which commenced before the availability of loans under the Loan Program unless the local educational agency submits to the Secretary an application which—

(A) meets the requirements of paragraph (1); and

(B) contains assurances that any work already completed by the applicant has been carried out in substantial conformity with section 7(b).

No loan may be awarded under this section for any project described in subsection (a)(2) which was completed before January 1, 1976.

Reports to congressional committees.

(d) During each of the three calendar years after the year in which this Act is enacted, the Secretary shall submit before February 1 of such year a report to the appropriate committees of the House of Representatives and the Senate, which shall—

(1) describe the number of loans made in the preceding calendar year and specify each applicant for and recipient of a loan;

(2) describe the nature of the asbestos problem of each applicant;

(3) describe the types of programs for which loans were made;

(4) specify the estimated total costs of such programs to the recipients of loans and specify the amount of loans made under the Loan Program; and

(5) specify the number of loan applications which were disapproved during the preceding calendar year and describe the reasons for such disapprovals.

STANDARDS AND SAFETY PROCEDURES

20 USC 3606.

SEC. 7. (a)(1) Within 120 days after the first meeting of the Task Force, and after consultation with the Task Force, the Secretary shall establish and distribute to the State agency or unit designated under section 4(a)(4)—

(A) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducting such tests;

(B) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and

(C) standards for determining which contractors are qualified to carry out the testing and evaluation described in this paragraph.

Eligibility criteria.

(2) After consulting with the Task Force, the Secretary shall establish criteria to be used for determining eligibility for loans under section 6 of this Act. The criteria shall be based on the assessment of the extent of the health hazards posed by the presence

of asbestos fibers in schools, as determined in accordance with standards under paragraph (1)(B) of this subsection.

(b) After reviewing recommendations submitted to the Secretary by the Task Force under section 3(e)(5), the Secretary, with the concurrence of the Task Force, shall by regulation establish— Regulations.

(1) procedures to be used by local educational agencies, in programs for which loans are made under section 6, for—

(A) containing and removing asbestos materials in school buildings;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken; and

(2) standards for determining which contractors are qualified to carry out the activities referred to in paragraph (1).

(c) In carrying out his duties under this section, the Secretary shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

RECOVERY OF COSTS BY THE UNITED STATES

SEC. 8. (a)(1) As a condition of the award of any grant under section 5 or loan under section 6, the recipient of any such grant or loan shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to the recipient for the costs of any activities undertaken by the recipient under such sections. 20 USC 3607.

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar suit on its own behalf, the proceeds from any judgment recovered by the recipient in such suit) shall be used to repay to the United States, to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

(A) the amount of any grant made to the recipient under section 5;

(B) the amount outstanding on any loan made to the recipient under section 6; and

(C) an amount equal to the interest which would have been charged on such loan were the loan made by a commercial lender at prevailing interest rates (as determined by the Secretary).

(b) The Attorney General shall conduct an investigation to determine whether, by using all available means, the United States should or could recover, from any person determined by the Attorney General to be liable for such costs, the amounts expended by the United States to carry out this Act. Within one year after the effective date of this Act, the Attorney General shall submit to the Congress a report containing the results of the study, together with any appropriate recommendations. Investigation by Attorney General. Report to Congress.

(c) If the Attorney General determines in the report under subsection (b) that the United States should seek to recover the amounts expended by the United States to carry out this Act, the Attorney General shall proceed in an expeditious manner to recover such amounts from the persons referred to in subsection (b).

EMPLOYEE PROTECTION

20 USC 3608.

SEC. 9. No State or local educational agency receiving assistance under this Act may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisidiction of such agency.

RETAINED RIGHTS

20 USC 3609.

SEC. 10. Except as otherwise provided in section 8, nothing in this Act shall—

(1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or

(2) affect the rights of any party under any other law.

DEFINITIONS

20 USC 3610.

SEC. 11. For purposes of this Act—

(1) the term "asbestos" means—

(A) chrysotile, amosite, or crocidolite; or

(B) in fibrous form, tremolite, anthophyllite, or actinolite;

(2) the term "Attorney General" means the Attorney General of the United States;

(3) the term "imminent hazard to the health and safety" means, for purposes of section 6, that an asbestos material is, according to standards established by the Secretary, friable or easily damaged, or within easy reach of students or otherwise susceptible to damage (including damage from water or air circulation) which could result in the dispersal of asbestos fibers into the school environment;

(4) the term "local educational agency" means—

(A) any local educational agency as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965; and

20 USC 2854.

(B) the governing authority of any nonprofit elementary or secondary school;

(5) the term "nonprofit elementary or secondary school" means—

(A) any elementary or secondary school (as defined in section 198(a)(7) of the Elementary and Secondary Education Act of 1965) owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and

(B) any school of any agency of the United States;

(6) the term "school buildings" means—

(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph;

(7) the term "Secretary" means the Secretary of Education, or his designee;

(8) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Bureau of Indian Affairs, and the Office of Overseas Schools of the Department of Defense; and

(9) the term "State educational agency" has the same meaning given such term by section 198(a)(17) of the Elementary and Secondary Education Act of 1965. 20 USC 2854.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a)(1) There are authorized to be appropriated— 20 USC 3611.

(A) for the asbestos detection program under section 5, for the fiscal year ending September 30, 1981, and for the succeeding fiscal year, a total of not more than $22,500,000; and

(B) for the asbestos hazards control loan program under section 6, not more than $75,000,000 for the fiscal year ending September 30, 1981, and $75,000,000 for the fiscal year ending September 30, 1982.

(2) Sums appropriated under paragraph (1) of this subsection shall remain available for obligation until September 30, 1983.

(b) Programs under this Act shall be considered automatically eligible for the one-year contingent extension under section 414 of the General Education Provisions Act. 20 USC 1226a.

(c) If funds appropriated to carry out this Act are insufficient to pay the total amount required to make all the grants and loans authorized under this Act, the Secretary shall establish criteria to be used in determining which applicants for grants or loans under this Act have the greatest financial need for receiving funds under this Act and shall make determinations regarding the approval of applications for such grants or loans in accordance with such criteria. Financial need criteria.

(d) Notwithstanding any other provision of this Act, the authority of the Secretary to enter into agreements, or to make payments, under this Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

AMENDMENT TO THE EDUCATION OF THE HANDICAPPED ACT

20 USC 1411.

SEC. 13. Section 611(c)(2)(A)(i)(II) of the Education of the Handicapped Act is amended by striking out "$200,000" and inserting in lieu thereof "$300,000".

Approved June 14, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-197 accompanying H.R. 3282 (Comm. on Education and Labor).

SENATE REPORT No. 96-710 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Dec. 3, 13, H.R. 3282 considered and passed House.

Vol. 126 (1980): May 22, S. 1658 considered and passed Senate in lieu of H.R. 3282.

May 30, considered and passed House.

Public Law 96-271
96th Congress

An Act

To authorize appropriations for the International Natural Rubber Agreement for fiscal year 1981.

June 16, 1980
[S. 2666]

International Natural Rubber Agreement. Appropriation authorization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, **That in order to meet the obligations of the United States as a member of the International Natural Rubber Organization established by the International Natural Rubber Agreement, there is authorized to be appropriated for the fiscal year 1981 $88,000,000 for the payment of contributions by the United States to the buffer stock account established by the agreement. Funds appropriated under this Act are authorized to remain available during the period in which the International Natural Rubber Agreement remains in effect with respect to the United States.**

Approved June 16, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-964 accompanying H.R. 7219 (Comm. on Foreign Affairs).
SENATE REPORT No. 96-731 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 22, considered and passed Senate.
June 3, considered and passed House in lieu of H.R. 7219.

Public Law 96-272
96th Congress

An Act

June 17, 1980
[H.R. 3434]

To establish a program of adoption assistance, to strengthen the program of foster care assistance for needy and dependent children, to improve the child welfare, social services, and aid to families with dependent children programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Adoption Assistance and Child Welfare Act of 1980.

SHORT TITLE

42 USC 1305 note.

SECTION 1. This Act, with the following table of contents, may be cited as the "Adoption Assistance and Child Welfare Act of 1980".

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TITLE I—FOSTER CARE AND ADOPTION ASSISTANCE

FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

SEC. 101. (a)(1) Title IV of the Social Security Act is amended by adding at the end thereof the following new part:

"PART E—FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

"PURPOSE: APPROPRIATION

"SEC. 470. For the purpose of enabling each State to provide, in appropriate cases, foster care and adoption assistance for children who otherwise would be eligible for assistance under the State's plan approved under part A (or, in the case of adoption assistance, would be eligible for benefits under title XVI), there are authorized to be appropriated for each fiscal year (commencing with the fiscal year which begins October 1, 1980) such sums as may be necessary to carry out the provisions of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans under this part. 42 USC 670. 42 USC 601. 42 USC 1381.

"STATE PLAN FOR FOSTER CARE AND ADOPTION ASSISTANCE

"SEC. 471. (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which— 42 USC 671.

"(1) provides for foster care maintenance payments in accordance with section 472 and for adoption assistance payments in accordance with section 473;

"(2) provides that the State agency responsible for administering the program authorized by part B of this title shall administer, or supervise the administration of, the program authorized by this part; *Post*, p. 516.

"(3) provides that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

"(4) provides that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this title, under title XX of this Act, and under any other appropriate provision of Federal law; 42 USC 601, *post*, p. 516, 42 USC 1397.

"(5) provides that the State will, in the administration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

"(6) provides that the State agency referred to in paragraph (2) (hereinafter in this part referred to as the 'State agency') will make such reports, in such form and containing such information as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find State agency.

necessary to assure the correctness and verification of such reports;

"(7) provides that the State agency will monitor and conduct periodic evaluations of activities carried out under this part;

Information disclosure restriction.

"(8) provides safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, C, or D of this title or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosures to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

42 USC 601, *post*, p. 516, 42 USC 630, 651.
42 USC 301, 701, 1201, 1351, 1381, 1396, 1397.
42 USC 1381.

"(9) provides that where any agency of the State has reason to believe that the home or institution in which a child resides whose care is being paid for in whole or in part with funds provided under this part or part B of this title is unsuitable for the child because of the neglect, abuse, or exploitation of such child, it shall bring such condition to the attention of the appropriate court or law enforcement agency;

Post, p. 516.

"(10) provides that the standards referred to in section 2003(d)(1)(F) shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title;

42 USC 1397b.

Standards, review.

"(11) provides for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance payments to assure their continuing appropriateness;

Hearing.

"(12) provides for granting an opportunity for a fair hearing before the State agency to any individual whose claim for benefits available pursuant to this part is denied or is not acted upon with reasonable promptness;

Audit.

"(13) provides that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this title, which shall be conducted no less frequently than once every three years;

Goals.

"(14) provides (A) specific goals (which shall be established by State law on or before October 1, 1982) for each fiscal year (commencing with the fiscal year which begins on October 1, 1983) as to the maximum number of children (in absolute numbers or as a percentage of all children in foster care with respect to whom assistance under the plan is provided during

such year) who, at any time during such year, will remain in foster care after having been in such care for a period in excess of twenty-four months, and (B) a description of the steps which will be taken by the State to achieve such goals;

"(15) effective October 1, 1983, provides that, in each case, reasonable efforts will be made (A) prior to the placement of a child in foster care, to prevent or eliminate the need for removal of the child from his home, and (B) to make it possible for the child to return to his home; and

"(16) provides for the development of a case plan (as defined in section 475(1)) for each child receiving foster care maintenance payments under the State plan and provides for a case review system which meets the requirements described in section 475(5)(B) with respect to each such child. Case plan and case review system.

"(b) The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section. However, in any case in which the Secretary finds, after reasonable notice and opportunity for a hearing, that a State plan which has been approved by the Secretary no longer complies with the provisions of subsection (a), or that in the administration of the plan there is a substantial failure to comply with the provisions of the plan, the Secretary shall notify the State that further payments will not be made to the State under this part, or that such payments will be made to the State but reduced by an amount which the Secretary determines appropriate, until the Secretary is satisfied that there is no longer any such failure to comply, and until he is so satisfied he shall make no further payments to the State, or shall reduce such payments by the amount specified in his notification to the State. Plan approval.

"FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

"SEC. 472. (a) Each State with a plan approved under this part shall make foster care maintenance payments (as defined in section 475(4)) under this part with respect to a child who would meet the requirements of section 406(a) or of section 407 but for his removal from the home of a relative (specified in section 406(a)), if— 42 USC 672, *post*, p. 513. 42 USC 606, 607.

"(1) the removal from the home was the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child and (effective October 1, 1983) that reasonable efforts of the type described in section 471(a)(15) have been made;

"(2) such child's placement and care are the responsibility of (A) the State agency administering the State plan approved under section 471, or (B) any other public agency with whom the State agency administering or supervising the administration of the State plan approved under section 471 has made an agreement which is still in effect;

"(3) such child has been placed in a foster family home or child-care institution as a result of a determination referred to in paragraph (1); and

"(4) such child—

"(A) received aid under the State plan approved under section 402 in or for the month in which court proceedings leading to the removal of such child from the home were initiated, or 42 USC 602.

"(B)(i) would have received such aid in or for such month if application had been made therefor, or (ii) had been living

42 USC 606.

with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made.

"(b) Foster care maintenance payments may be made under this part only on behalf of a child described in subsection (a) of this section who is—

"(1) in the foster family home of an individual, whether the payments therefor are made to such individual or to a public or nonprofit private child-placement or child-care agency, or

"(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or nonprofit private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term 'foster care maintenance payments' (as defined in section 475(4)).

"Foster family home."

"(c) For the purposes of this part, (1) the term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term 'child-care institution' means a nonprofit private child-care institution, or a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.

"Child-care institution."

42 USC 1396, 1397.
42 USC 606.
42 USC 601.

"(d) For purposes of titles XIX and XX, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title.

"ADOPTION ASSISTANCE PROGRAM

42 USC 673.
Post, p. 514.

"SEC. 473. (a)(1) Each State with a plan approved under this part shall, directly through the State agency or through another public or nonprofit private agency, make adoption assistance payments pursuant to an adoption assistance agreement in amounts determined under paragraph (2) of this subsection to parents who, after the effective date of this section, adopt a child who—

42 USC 606, 607.

"(A)(i) at the time adoption proceedings were initiated, met the requirements of section 406(a) or section 407 or would have met such requirements except for his removal from the home of a relative (specified in section 406(a)) as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, or

42 USC 1381.

"(ii) meets all of the requirements of title XVI with respect to eligibility for supplemental security income benefits,

42 USC 602.

"(B)(i) received aid under the State plan approved under section 402 in or for the month in which court proceedings leading to the removal of such child from the home were initiated, or

"(ii)(I) would have received such aid in or for such month if application had been made therefor, or (II) had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made, or

42 USC 606.

"(iii) is a child described in subparagraph (A)(ii), and

"(C) has been determined by the State, pursuant to subsection (c) of this section, to be a child with special needs.

"(2) The amount of the adoption assistance payments shall be determined through agreement between the adoptive parents and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

Amount of payment.

"(3) Notwithstanding the preceding paragraph, (A) no payment may be made to parents with respect to any child who has attained the age of eighteen (or, where the State determines that the child has a mental or physical handicap which warrants the continuation of assistance, the age of twenty-one), and (B) no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

Restrictions.

"(4) For purposes of this part, individuals with whom a child (who has been determined by the State, pursuant to subsection (c), to be a child with special needs) is placed for adoption, pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

"(b) For purposes of titles XIX and XX, any child with respect to whom adoption assistance payments are made under this section shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title.

42 USC 1396, 1397.

42 USC 606.

42 USC 601.

"(c) For purposes of this section, a child shall not be considered a child with special needs unless—

Child with special needs.

"(1) the State has determined that the child cannot or should not be returned to the home of his parents; and

"(2) the State had first determined (A) that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is

reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance, and (B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section.

"PAYMENTS TO STATES; ALLOTMENTS TO STATES

42 USC 674.

"SEC. 474. (a) For each quarter beginning after September 30, 1980, each State which has a plan approved under this part (subject to the limitations imposed by subsection (b)) shall be entitled to a payment equal to the sum of—

42 USC 1396d.

"(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as foster care maintenance payments under section 472 for children in foster family homes or child-care institutions; plus

"(2) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as adoption assistance payments under section 473 pursuant to adoption assistance agreements; plus

"(3) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision, and

"(B) one-half of the remainder of such expenditures.

"(b)(1) Notwithstanding the provisions of subsections (a)(1) and (a)(3), the aggregate of the sums payable thereunder to any State (other than a State subject to limitation under section 1108(a)) with respect to expenditures relating to foster care, for the calendar quarters in any of the fiscal years 1981 through 1984 in which the conditions set forth in paragraph (2) are met, shall not exceed the State's allotment for such year.

42 USC 1308.
Post, pp. 526, 529, 530.

"(2)(A) The limitation in paragraph (1) shall apply—

"(i) with respect to fiscal year 1981, only if the amount appropriated under section 420 for such fiscal year is equal to or greater than $163,550,000;

"(ii) with respect to fiscal year 1982, only if the amount appropriated under section 420 for such fiscal year is equal to or greater than $220,000,000;

42 USC 620.

"(iii) with respect to fiscal year 1983, only if the amount appropriated under section 420 for such fiscal year is equal to $266,000,000; and

"(iv) with respect to fiscal year 1984, only if the amount appropriated under section 420 for such fiscal year is equal to $266,000,000.

"(B) The limitations set forth in paragraph (1) with respect to the fiscal years 1982 through 1984 shall apply only if the required appropriation is made in advance in an appropriation Act (as authorized under section 420(b)) for the fiscal year preceding the fiscal year to which the limitation would apply. 42 USC 620.

"(3) For purposes of this subsection, a State's allotment for any fiscal year shall be the greater of—

"(A) the amount determined under paragraph (4);

"(B) an amount which bears the same ratio to $100,000,000 as the under age eighteen population of such State bears to the under age eighteen population of the fifty States and the District of Columbia; or

"(C) at the option of the State, an amount determined under paragraph (5), but only in the case of a State which meets the requirements of such paragraph (5).

"(4) For purposes of paragraph (3)(A), a State's allotment shall be determined as follows: State allotment determination criteria.

"(A) The allotment for any State for fiscal year 1980 shall be an amount equal to such State's base amount (as determined under subparagraph (c)) increased by 21.2 percent.

"(B) The allotment for any State for each of the fiscal years 1981 through 1984 shall be an amount equal to such State's allotment for the preceding fiscal year, increased or decreased by a percentage equal to twice the percentage increase or decrease (as the case may be) (but not to exceed an increase or decrease of 10 percent) in the Consumer Price Index prepared by the Department of Labor, and used in determining cost-of-living adjustments under section 215(i) of this Act, for the second quarter of the preceding fiscal year as compared to such index for the second quarter of the second preceding fiscal year. For purposes of this subparagraph the Consumer Price Index for any quarter shall be the arithmetical mean of such index for the three months in such quarter. 42 USC 415.

"(C) The base amount shall be equal to the amount of the Federal funds payable to such State for fiscal year 1978 under section 403 on account of expenditures for aid with respect to which Federal financial participation is authorized in payments pursuant to section 408 (including administrative expenditures attributable to the provision of such aid as determined by the Secretary) and for those States which in fiscal year 1978 did not make foster care maintenance payments under section 408 on behalf of children otherwise eligible for such payment, solely because their foster care was provided by related persons, shall be equal to the total amount of Federal funds the State would have been entitled to be paid under section 403 on account of expenditures pursuant to section 408 for that fiscal year if such payments had been made. In the event that there is a dispute between any State and the Secretary as to the amount of such expenditures for such fiscal year, then, until the beginning of the fiscal year immediately following the fiscal year in which the dispute is finally resolved, the base amount shall be deemed to be the amount of Federal funds which would have been payable under section 403 if the amount of such expenditures were equal to the amount thereof claimed by the State. 42 USC 603. *Post*, p. 512.

"(5)(A) For purposes of paragraph (3)(C), a State's allotment for any fiscal year ending after September 30, 1980, and before October 1, 1984, may, at the option of the State (and if the State meets the

requirements of subparagraphs (B) and (C)), be determined by application of the provisions of paragraph (4) with the following modifications:

"(i) The base amount for purposes of determining an allotment for any such fiscal year shall be equal to the base amount determined under paragraph (4)(C) increased by a percentage equal to the percentage by which the average monthly number of children in such State receiving aid with respect to which Federal financial participation is authorized in payments pursuant to section 408, or receiving foster care maintenance payments with respect to which Federal financial participation is authorized under this part, for such fiscal year exceeds the average monthly number of such children for fiscal year 1978.

Post, p. 512.

"(ii) For purposes of clause (i), the percentage determined under such clause shall not exceed 33.1 percent in the case of fiscal year 1981, 46.4 percent in the case of fiscal year 1982, 61.1 percent in the case of fiscal year 1983, or 77.2 percent in the case of fiscal year 1984.

"(B) No State may exercise the option to have its allotment amount determined under the provisions of this paragraph unless, for fiscal year 1978, the average monthly number of children in such State receiving aid for which Federal financial participation is authorized in payments pursuant to section 408 as a percentage of the under age eighteen population of such State, was less than the average such percentage for the fifty States and the District of Columbia.

"(C) No State may exercise the option to have its allotment determined under this paragraph for any fiscal year other than fiscal year 1981 after the first fiscal year (after fiscal year 1978) with respect to which the average monthly number of children in such State receiving aid for which Federal financial participation is authorized in payments pursuant to section 408, or receiving foster care maintenance payments for which Federal financial participation is authorized under this part, as a percentage of the under age eighteen population of such State, was equal to or greater than the average such percentage for the fifty States and the District of Columbia for the fiscal year 1978. Any allotment determined under this paragraph for a State which opted to have its allotment so determined under this paragraph for the fiscal year prior to the first fiscal year for which its option may not be exercised by reason of the preceding sentence shall be considered to be such State's allotment for such prior fiscal year for purposes of determining allotments for subsequent fiscal years under paragraph (4).

"(D) In determining the number of children receiving aid for which Federal financial participation is authorized in payments under section 408 or under this part, for any fiscal year, with respect to any State and with respect to the national average for purposes of subparagraphs (B) and (C), there shall be included those children with respect to whom foster care maintenance payments were not made under section 408 or this part (though they were otherwise eligible for such payments) solely because their foster care was provided by related persons. In the event that there is a dispute between any State and the Secretary as to the number of such children (with respect to whom foster care maintenance payments were not made) for any fiscal year, then until the beginning of the fiscal year immediately following the fiscal year in which the dispute is finally resolved, determinations under subparagraphs (B) and (C) shall be

made on the basis of the number of such children claimed by the State.

"(E) The Secretary shall promulgate an interim allotment amount for purposes of this paragraph for each fiscal year for each State exercising its option to have its allotment determined under this paragraph, based on the most recent satisfactory data available, not later than six months after the beginning of such fiscal year. The amount of such allotment shall be adjusted, and the final allotment amount shall be promulgated, based on the most recent satisfactory data available, not later than nine months after the end of such fiscal year. Interim and final allotment amounts.

"(6) Except in the case of a State which loses the option of having its allotment determined under paragraph (5) by reason of the provisions of paragraph (5)(C), and subject to the provisions of such paragraph (5)(C), the amount of any allotment as determined in accordance with subparagraph (A), (B), or (C) of paragraph (3) for any fiscal year for any State shall be determined in accordance with the provisions of such subparagraph, without regard to the amount of such State's allotment for any prior fiscal year as determined in accordance with another such subparagraph.

"(c)(1) Except as provided in paragraphs (3) and (4), for any of the fiscal years 1981 through 1984 during which the limitation under subsection (b)(1) is in effect, sums available to a State from its allotment under subsection (b) for carrying out this part, which the State does not claim as reimbursement for expenditures in such year pursuant to subsection (a) of this section, may be claimed by the State as reimbursement for expenditures in such year pursuant to part B of this title, in addition to sums available pursuant to section 420 for carrying out part B. State reimbursements.

Post, p. 516.

"(2) Except as provided in paragraphs (3) and (4), for any of the fiscal years 1981 through 1984 during which the limitation under subsection (b)(1) is not in effect, a State may claim as reimbursement for expenditures for such year pursuant to part B of this title, in addition to amounts claimed under section 420, an amount equal to the amount by which the State's allotment amount for such fiscal year (as determined under subsection (b)(3)) exceeds the amount claimed by such State for such fiscal year as reimbursement for expenses relating to foster care under subsection (a); except that the total amount claimed by such State for such fiscal year under this paragraph, when added to the amount that such State receives for such fiscal year under section 420, may not exceed the amount that would have been payable to such State under section 420 for such fiscal year if the relvant amount described in subsection (b)(2)(A) had been appropriated for such fiscal year.

"(3) The provisions of paragraphs (1) and (2) shall not apply for any fiscal year with respect to any State which, with respect to such fiscal year, exercised its option to have its allotment amount determined under subsection (b)(5).

"(4)(A) No State may claim an amount under the provisions of this subsection as reimbursement for expenditures for any fiscal year pursuant to part B of this title to the extent that such amount, plus the amount claimed by such State for such fiscal year under section 420, exceeds the amount which would be allotted to such State under part B if the amount appropriated under section 420 were $141,000,000, unless such State has met the requirements set forth in section 427(a).

Post, p. 519.

42 USC 620.

"(B) If, for each of any two consecutive fiscal years, there is appropriated under section 420 a sum equal to $266,000,000, no State may claim any amount under the provisions of this subsection as reimbursement for expenditures for any succeeding fiscal year pursuant to part B of this title unless such State has met the requirements set forth in section 427(b).

Post, p. 516.
Post, p. 519.

"(C) If, for each of any two fiscal years during which the limitation under subsection (b)(1) is not in effect, the total amount claimed by a State as reimbursement for expenditures pursuant to part B under this subsection and under section 420 equals the amount which would be allotted to such State for such fiscal year under part B if the amount appropriated under section 420 were $266,000,000, such State may not claim any amount under the provisions of paragraph (2) as reimbursement for expenditures for any succeeding fiscal year pursuant to part B of this title unless such State has met the requirements set forth in section 427(b).

"DEFINITIONS

42 USC 675.
Ante, p. 501, post, p. 516.

"SEC. 475. As used in this part or part B of this title:

"(1) The term 'case plan' means a written document which includes at least the following: A description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the judicial determination made with respect to the child in accordance with section 472(a)(1); and a plan for assuring that the child receives proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

"(2) The term 'parents' means biological or adoptive parents or legal guardians, as determined by applicable State law.

"(3) The term 'adoption assistance agreement' means a written agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adoptive parents of a minor child which at a minimum (A) specifies the amounts of the adoption assistance payments and any additional services and assistance which are to be provided as part of such agreement, and (B) stipulates that the agreement shall remain in effect regardless of the State of which the adoptive parents are residents at any given time. The agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interests of the child in cases where the adoptive parents and child move to another State while the agreement is effective.

"(4) The term 'foster care maintenance payments' means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

"(5) The term 'case review system' means a procedure for assuring that—

"(A) each child has a case plan designed to achieve placement in the least restrictive (most family like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child,

"(B) the status of each child is reviewed periodically but no less frequently than once every six months by either a court or by administrative review (as defined in paragraph (6)) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship, and

"(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, no later than eighteen months after the original placement (and periodically thereafter during the continuation of foster care), which hearing shall determine the future status of the child (including, but not limited to, whether the child should be returned to the parent, should be continued in foster care for a specified period, should be placed for adoption, or should (because of the child's special needs or circumstances) be continued in foster care on a permanent or long-term basis); and procedural safeguards shall also be applied with respect to parental rights pertaining to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents.

"(6) The term 'administrative review' means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

"TECHNICAL ASSISTANCE; DATA COLLECTION AND EVALUATION

"SEC. 476. (a) The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this title and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country. 42 USC 676. *Ante*, p. 501, *post*, p. 516.

"(b) Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care.". Statistical reports to Secretary.

Repeal.
42 USC 608.

(2)(A) Effective with respect to expenditures made after September 30, 1980, section 408 of the Social Security Act is, subject to subparagraph (B), repealed.

42 USC 608 note.

(B) The repeal made by subparagraph (A) shall not be applicable in the case of any State for any quarter prior to the first quarter, which begins after September 30, 1980, in which such State has in effect a State plan approved under part E of the Social Security Act, or (if earlier) such repeal shall be effective with respect to expenditures made after September 30, 1982. During any period with respect to which the repeal made by subparagraph (A) is not applicable in the case of a State and during which a limitation is in effect under section 474(b)(1) of the Social Security Act, the aggregate of the sums payable to the State, under the State's plan approved under part A of title IV of such Act, with respect to expenditures (including administrative expenditures as determined by the Secretary of Health, Education, and Welfare) authorized or incurred by reason of the provisions of section 408 of such Act shall not exceed the amount of the allotment which such State would have had for such period under section 474(b) if such State had had an approved plan under part E of such title IV. Any amount which would have been available to such State from its allotment for any period with respect which such repeal is not applicable in the case of a State (whether or not a limitation is in effect under section 474(b)(1) of such Act) under section 474(b) of the Social Security Act (if such State had had an approved plan under part E of title IV of such Act) which the State does not claim as reimbursement with respect to expenditures (including administrative expenditures as determined by the Secretary) authorized or incurred by reason of the provisions of section 408 of such Act, may be claimed by the State as reimbursement for expenditures in such period pursuant to part B of title IV of such Act in the same manner as amounts available to States from allotments under section 474(b) of such Act, and not claimed as reimbursement under part E of title IV of such Act, are authorized to be claimed under section 474(c) of such Act.

Ante, p. 501.

Ante, p. 506.

42 USC 601.

Supra.

Post, p. 516.

42 USC 602.

(3)(A) Section 402(a)(20) of such Act is amended to read as follows:

"(20) provide that the State has in effect a State plan for foster care and adoption assistance approved under part E of this title;".

Ante, p. 501.

Effective date.
42 USC 602 note.

(B) The amendment made by subparagraph (A) shall become effective with respect to any State at the same time as the repeal of section 408 becomes effective with respect to such State under the provisions of paragraph (2) of this subsection.

Supra.

Effective date.
42 USC 675 note.

(4)(A) Clause (B) of the first sentence of section 475(3) of the Social Security Act (as added by subsection (a) of this section) shall be effective with respect to adoption assistance agreements entered into on or after October 1, 1983.

Ante, p. 510.

Interstate compacts.
42 USC 673a.

(B) The Secretary of Health, Education, and Welfare shall take all possible steps to encourage and assist the various States to enter into interstate compacts (which are hereby approved by the Congress) under which the interests of any adopted child with respect to whom an adoption assistance agreement has been entered into by a State under section 473 of the Social Security Act will be adequately protected, on a reasonable and equitable basis which is approved by the Secretary, if and when the child and his or her adoptive parent (or parents) move to another State.

Ante, p. 504.

(5)(A) Subject to the repeal provided under paragraph (2), the last paragraph of section 408 of the Social Security Act is amended to read as follows:

Ante, p. 512.

"For the purposes of this section, the term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and the term 'child-care institution' means a nonprofit private child-care institution, or a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing; but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent.".

"Foster family home."

"Child-care institution."

(B) The amendment made by subparagraph (A) shall be effective with respect to expenditures made on or after the date of the enactment of this Act.

Effective date.
42 USC 608 note.

(b)(1) The Secretary of Health, Education, and Welfare shall conduct a study of programs of foster care and adoption assistance established under part IV-E of the Social Security Act (as added by subsection (a) of this section), and shall submit to the Congress, not later than October 1, 1983, a full and complete report thereon, together with his recommendations as to (A) whether such part IV-E should be continued, and if so, (B) the changes (if any) which should be made in such part IV-E.

Report to Congress.
42 USC 670 note.
Ante, p. 501.

(2) Such report shall include, but not be limited to, the following:

(A) a determination as to (i) the extent of reduction that has occurred in the duration of foster care under such programs, (ii) the extent to which such programs of adoption assistance have resulted in an increase in the adoption of children who otherwise would have remained in foster care under State plans approved under title IV-A or IV-E of the Social Security Act, and (iii) the extent to which the availability of Federal funding for adoption assistance under title IV-E of such Act has resulted in States' initiating or expanding programs for adoption assistance, and

42 USC 601, *ante*, p. 501.

(B) specific legislative recommendations for ways to bring about further reduction in the duration of foster care for children.

FEDERAL PAYMENTS FOR DEPENDENT CHILDREN VOLUNTARILY PLACED IN FOSTER CARE

SEC. 102. (a)(1) Effective with respect to expenditures made after September 30, 1980, and before October 1, 1983, section 472(a) of the Social Security Act (as added by section 101 of this Act) is amended—

Ante, p. 503.

(A) by inserting "occurred pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian, or" after "removal from the home" in paragraph (1);

(B) by striking out "a determination" in paragraph (3) and inserting in lieu thereof "the voluntary placement agreement or judicial determination";

(C) by inserting "such agreement was entered into or" after "the month in which" in paragraph (4)(A); and

(D) by inserting "such agreement was entered into or" after "the month in which" in paragraph (4)(B)(ii).

Ante, p. 503.

(2) Section 472 of such Act (as so added) is further amended by redesignating subsection (d) as subsection (h), and by inserting after subsection (c) the following new subsections:

"(d) Notwithstanding any other provision of this title, Federal payments may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of children removed from their homes pursuant to voluntary placement agreements as described in subsection (a), only if (at the time such amounts were expended) the State has fulfilled all of the requirements of section 427(b).

Post, p. 519.

"(e) No Federal payment may be made under this part with respect to amounts expended by any State as foster care maintenance payments under this section, in the case of any child who was removed from his or her home pursuant to a voluntary placement agreement as described in subsection (a) and has remained in voluntary placement for a period in excess of 180 days, unless there has been a judicial determination by a court of competent jurisdiction (within the first 180 days of such placement) to the effect that such placement is in the best interests of the child.

Ante, p. 501, *post*, p. 516.

"Voluntary placement."

"Voluntary placement agreement."

"(f) For the purposes of this part and part B of this title, (1) the term 'voluntary placement' means an out-of-home placement of a minor, by or with participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement; and (2) the term 'voluntary placement agreement' means a written agreement, binding on the parties to the agreement, between the State agency, any other agency acting on its behalf, and the parents or guardians of a minor child which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and the agency while the child is in placement.

"(g) In any case where—

"(1) the placement of a minor child in foster care occurred pursuant to a voluntary placement agreement entered into by the parents or guardians of such child as provided in subsection (a), and

"(2) such parents or guardians request (in such manner and form as the Secretary may prescribe) that the child be returned to their home or to the home of a relative,

the voluntary placement agreement shall be deemed to be revoked unless the State agency opposes such request and obtains a judicial determination, by a court of competent jurisdiction, that the return of the child to such home would be contrary to the child's best interests.".

Ante, p. 504.

(3) Section 473(a)(1) of such Act (as so added) is amended—

(A) by inserting ", either pursuant to a voluntary placement agreement with respect to which Federal payments are provided under section 474 (or 403) or" immediately before "as a result of a judicial determination" in subparagraph (A)(i);

Ante, p. 506, 42 USC 603.

(B) by inserting "such agreement was entered into or" after "the month in which" in subparagraph (B)(i); and

(C) by inserting "such agreement was entered into or" after "the month in which" in subparagraph (B)(ii).

Ante, p. 510.

(4) Section 475(1) of such Act (as so added) is amended by inserting "voluntary placement agreement entered into or" before "judicial determination made".

(b)(1) Effective with respect to expenditures made after September 30, 1979 (but subject to the repeal provided under section 101(a)(2) (A) and (B)), section 408(a) of the Social Security Act is amended— *Ante*, p. 512.

(A) by inserting "pursuant to a voluntary placement agreement entered into by the child's parent or legal guardian, or" after "(specified in such section 406(a))" in clause (1); 42 USC 606.

(B) by striking out "such determination" in clause (3) and inserting in lieu thereof "such voluntary placement agreement or judicial determination";

(C) by inserting "such agreement was entered into or" after "the month in which" in clause (4)(A); and

(D) by inserting "such agreement was entered into or" after "the month in which" in clause (4)(B)(ii).

(2) Section 408 of such Act is further amended by adding at the end thereof the following new paragraph:

"For the purposes of this section, the provisions of subsections (d), (e), (f), and (g) of section 472 shall apply.". *Ante*, p. 503.

(c) The amendments made by subsections (a) and (b) shall be effective only with respect to expenditures made after September 30, 1979, and before October 1, 1983; and from and after October 1, 1983, the provisions of law amended by such subsections shall read as they would if this section had not been enacted. Effective date. 42 USC 672 note, 608, 672, 673, 675.

(d)(1) For purposes of section 472 of the Social Security Act, a child who was voluntarily removed from the home of a relative and who had a judicial determination prior to October 1, 1978, to the effect that continuation therein would be contrary to the welfare of such child, shall be deemed to have been so removed as a result of such judicial determination if, and from the date that, a case plan and a review meeting the requirements of section 471(a)(16) of such Act have been made with respect to such child and such child is determined to be in need of foster care as a result of such review. In the case of any child described in the preceding sentence, for purposes of section 472(a)(4) of such Act, the date of the voluntary removal shall be deemed to be the date on which court proceedings are initiated which led to such removal. 42 USC 672 note. *Ante*, p. 501.

(2) For purposes of section 408 of the Social Security Act (but subject to the repeal provided under section 101(a)(2) (A) and (B)), in any case where a child was voluntarily removed from the home of a relative prior to October 1, 1979, and a judicial determination was made (prior to October 1, 1978) to the effect that continuation in such home would have been contrary to the child's welfare— 42 USC 608 note. *Ante*, p. 512.

(A) such child shall be deemed to have been so removed as a result of a judicial determination to the effect that continuation in such home would be contrary to the welfare of such child, and

(B) Federal financial participation under the applicable State plan approved under section 402 of the Social Security Act for quarters beginning prior to October 1, 1979, shall not be denied with respect to aid furnished under such plan to or on behalf of such child. 42 USC 602.

For purposes of subsection (a)(4) of such section 408, the date of such child's voluntary removal shall be deemed to be the date on which court proceedings were initiated which led to such removal. *Ante*, p. 512.

(e) The Secretary of Health, Education, and Welfare, within three months after the close of each fiscal year with respect to which the amendments made by this section are in effect, shall submit to the Congress a full and complete report on the number of children placed in foster care pursuant to voluntary placement agreements under Report to Congress. 42 USC 672 note.

Ante, pp. 512, 513.

sections 408 and 472 of the Social Security Act and on the reasons for such placements together with a description of the extent to which such placements have contributed to the achievement of the objectives of this title, including such recommendations as he may deem appropriate with respect to the continuation (in such section 472) of authority to make Federal payments for dependent children voluntarily placed in foster care.

CHILD WELFARE SERVICES

SEC. 103. (a) Part B of title IV of the Social Security Act is amended (subject to subsection (c) of this section) by striking out all that precedes section 426 and inserting in lieu thereof the following:

"PART B—CHILD WELFARE SERVICES

"APPROPRIATION

42 USC 620.

"SEC. 420. (a) For the purpose of enabling the United States, through the Secretary, to cooperate with State public welfare agencies in establishing, extending, and strengthening child welfare services, there is authorized to be appropriated for each fiscal year the sum of $266,000,000.

"(b) Funds appropriated for any fiscal year pursuant to the authorization contained in subsection (a) shall be included in the appropriation Act (or supplemental appropriation Act) for the fiscal year preceding the fiscal year for which such funds are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence, shall apply notwithstanding the fact that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

"ALLOTMENTS TO STATES

42 USC 621.

"SEC. 421. (a) The sum appropriated pursuant to section 420 for each fiscal year shall be allotted by the Secretary for use by cooperating State public welfare agencies which have plans developed jointly by the State agency and the Secretary as follows: He shall first allot $70,000 to each State, and shall then allot to each State an amount which bears the same ratio to the remainder of such sum as the product of (1) the population of the State under the age of twenty-one and (2) the allotment percentage of the State (as determined under this section) bears to the sum of the corresponding products of all the States.

"Allotment percentage."

"(b) The 'allotment percentage' for any State shall be 100 per centum less the State percentage; and the State percentage shall be the percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that (1) the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and (2) the allotment percentage shall be 70 per centum in the case of Puerto Rico, the Virgin Islands, and Guam.

Promulgation by Secretary.

"(c) The allotment percentage for each State shall be promulgated by the Secretary between October 1 and November 30 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar

years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning October 1 next succeeding such promulgation.

"(d) For purposes of this section, the term 'United States' means the fifty States and the District of Columbia. "United States."

"STATE PLANS FOR CHILD WELFARE SERVICES

"SEC. 422. (a) In order to be eligible for payment under this part, a State must have a plan for child welfare services which has been developed jointly by the Secretary and the State agency designated pursuant to subsection (b)(1), and which meets the requirements of subsection (b). 42 USC 622. *Post*, p. 521.

"(b) Each plan for child welfare services under this part shall—

"(1) provide that (A) the individual or agency designated pursuant to section 2003(d)(1)(C) to administer or supervise the administration of the State's services program will administer or supervise the administration of the plan (except as otherwise provided in section 103(d) of the Adoption Assistance and Child Welfare Act of 1980), and (B) to the extent that child welfare services are furnished by the staff of the State agency or local agency administering the plan, a single organizational unit in such State or local agency, as the case may be, will be responsible for furnishing such child welfare services; 42 USC 1397b. *Ante*, p. 516.

"(2) provide for coordination between the services provided for children under the plan and the services and assistance provided under title XX, under the State plan approved under part A of this title, under the State plan approved under part E of this title, and under other State programs having a relationship to the program under this part, with a view to provision of welfare and related services which will best promote the welfare of such children and their families; 42 USC 1397. 42 USC 601. *Ante*, p. 501.

"(3) provide that the standards and requirements imposed with respect to child day care under title XX shall apply with respect to day care services under this part, except insofar as eligibility for such services is involved;

"(4) provide for the training and effective use of paid paraprofessional staff, with particular emphasis on the full-time or part-time employment of persons of low income, as community service aides, in the administration of the plan, and for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency; Paraprofessionals and volunteers.

"(5) contain a description of the services to be provided and specify the geographic areas where such services will be available;

"(6) contain a description of the steps which the State will take to provide child welfare services and to make progress in—

"(A) covering additional political subdivisions,

"(B) reaching additional children in need of services, and

"(C) expanding and strengthening the range of existing services and developing new types of services,

along with a description of the State's child welfare services staff development and training plans;

"(7) provide, in the development of services for children, for utilization of the facilities and experience of voluntary agencies Voluntary agencies, utilization.

in accordance with State and local programs and arrangements, as authorized by the State; and

"(8) provide that the agency administering or supervising the administration of the plan will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require.

"PAYMENT TO STATES

42 USC 623.

"SEC. 423. (a) From the sums appropriated therefor and the allotment under this part, subject to the conditions set forth in this section and in section 427, the Secretary shall from time to time pay to each State that has a plan developed in accordance with section 422 an amount equal to 75 per centum of the total sum expended under the plan (including the cost of administration of the plan) in meeting the costs of State, district, county, or other local child welfare services.

Computation method.

"(b) The method of computing and making payments under this section shall be as follows:

"(1) The Secretary shall, prior to the beginning of each period for which a payment is to be made, estimate the amount to be paid to the State for such period under the provisions of this section.

"(2) From the allotment available therefor, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that his estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid to the State for such prior period under this section.

"(c)(1) No payment may be made to a State under this part, for any fiscal year beginning after September 30, 1979, with respect to State expenditures made for (A) child day care necessary solely because of the employment, or training to prepare for employment, of a parent or other relative with whom the child involved is living, (B) foster care maintenance payments, and (C) adoption assistance payments, to the extent that the Federal payment with respect to those expenditures would exceed the total amount of the Federal payment under this part for fiscal year 1979.

"(2) Expenditures made by a State for any fiscal year which begins after September 30, 1979, for foster care maintenance payments shall be treated for purposes of making Federal payments under this part with respect to expenditures for child welfare services, as if such foster care maintenance payments constituted child welfare services of a type to which the limitation imposed by paragraph (1) does not apply; except that the amount payable to the State with respect to expenditures made for other child welfare services and for foster care maintenance payments during any such year shall not exceed 100 per centum of the amount of the expenditures made for child welfare services for which payment may be made under the limitation imposed by paragraph (1) as in effect without regard to this paragraph.

"(d) No payment may be made to a State under this part in excess of the payment made under this part for fiscal year 1979, for any fiscal year beginning after September 30, 1979, if for the latter fiscal year the total of the State's expenditures for child welfare services under this part (excluding expenditures for activities specified in subsection

(c)(1)) is less than the total of the State's expenditures under this part (excluding expenditures for such activities) for fiscal year 1979.

"REALLOTMENT

"SEC. 424. The amount of any allotment to a State under section 421 for any fiscal year which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in section 422 shall be available for reallotment from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (1) have need in carrying out their State plans so developed for sums in excess of those previously allotted to them under section 421 and (2) will be able to use such excess amounts during such fiscal year. Such reallotments shall be made on the basis of the State plans so developed, after taking into consideration the population under the age of twenty-one, and the per capita income of each such State as compared with the population under the age of twenty-one, and the per capita income of all such States with respect to which such a determination by the Secretary has been made. Any amount so reallotted to a State shall be deemed part of its allotment under section 421. 42 USC 624.

"DEFINITIONS

"SEC. 425. (a)(1) For purposes of this title, the term 'child welfare services' means public social services which are directed toward the accomplishment of the following purposes: (A) protecting and promoting the welfare of all children, including handicapped, homeless, dependent, or neglected children; (B) preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children; (C) preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; (D) restoring to their families children who have been removed, by the provision of services to the child and the families; (E) placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and (F) assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption. 42 USC 625.

"(2) Funds expended by a State for any calendar quarter to comply with the statistical report required by section 476(b), and funds expended with respect to nonrecurring costs of adoption proceedings in the case of children placed for adoption with respect to whom assistance is provided under a State plan for adoption assistance approved under part E of this title, shall be deemed to have been expended for child welfare services. *Ante*, p. 501.

"(b) For other definitions relating to this part and to part E of this title, see section 475 of this Act.". *Ante*, p. 510.

(b) Part B of title IV of such Act is amended by adding at the end thereof the following new sections:

"FOSTER CARE PROTECTION REQUIRED FOR ADDITIONAL FEDERAL PAYMENTS

"SEC. 427. (a) If, for any fiscal year after fiscal year 1979, there is appropriated under section 420 a sum in excess of $141,000,000, a State shall not be eligible for payment from its allotment in an 42 USC 627.

amount greater than the amount for which it would be eligible if such appropriation were equal to $141,000,000, unless such State—

"(1) has conducted an inventory of all children who have been in foster care under the responsibility of the State for a period of six months preceding the inventory, and determined the appropriateness of, and necessity for, the current foster placement, whether the child can be or should be returned to his parents or should be freed for adoption, and the services necessary to facilitate either the return of the child or the placement of the child for adoption or legal guardianship; and

"(2) has implemented and is operating to the satisfaction of the Secretary—

"(A) a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding twelve months can readily be determined;

"(B) a case review system (as defined in section 475(5)) for each child receiving foster care under the supervision of the State; and

"(C) a service program designed to help children, where appropriate, return to families from which they have been removed or be placed for adoption or legal guardianship.

"(b) If, for each of any two consecutive fiscal years after the fiscal year 1979, there is appropriated under section 420 a sum equal to $266,000,000, each State's allotment amount for any fiscal year after such two consecutive fiscal years shall be reduced to an amount equal to its allotment amount for the fiscal year 1979, unless such State—

"(1) has completed an inventory of the type specified in subsection (a)(1);

"(2) has implemented and is operating the program and systems specified in subsection (a)(2); and

"(3) has implemented a preplacement preventive service program designed to help children remain with their families.

"(c) Any amounts expended by a State for the purpose of complying with the requirements of subsection (a) or (b) shall be conclusively presumed to have been expended for child welfare services.

"PAYMENTS TO INDIAN TRIBAL ORGANIZATIONS

42 USC 628.

"SEC. 428. (a) The Secretary may, in appropriate cases (as determined by the Secretary) make payments under this part directly to an Indian tribal organization within any State which has a plan for child welfare services approved under this part. Such payments shall be made in such manner and in such amounts as the Secretary determines to be appropriate.

"(b) Amounts paid under subsection (a) shall be deemed to be a part of the allotment (as determined under section 421) for the State in which such Indian tribal organization is located.

"(c) For purposes of this section—

"Tribal organization."

"(1) the term 'tribal organization' means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body; and

"Indian tribe."

"(2) the term 'Indian tribe' means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as

defined in or established pursuant to the Alaska Native Claims Settlement Act (Public Law 92-203; 85 Stat. 688)) which (A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.". 43 USC 1601 note.

(c) In the case of Guam, Puerto Rico, and the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, section 422(b)(1) of such Act (as otherwise amended by subsection (a) of this section) shall be deemed to read as follows: 42 USC 622 note. *Ante*, p. 517.

"(1) provide that (A) the State agency designated pursuant to section 402(a)(3) to administer or supervise the administration of the plan of the State approved under part A of this title will administer or supervise the administration of such plan for child welfare services, and (B) to the extent that child welfare services are furnished by the staff of the State agency or local agency administering such plan for child welfare services, the organizational unit in such State or local agency established pursuant to section 402(a)(15) will be responsible for furnishing such child welfare services;". 42 USC 602. 42 USC 601.

(d) Notwithstanding section 422(b)(1) of the Social Security Act (as amended by subsection (a) of this section) if on December 1, 1974, the agency of a State administering its plan for child welfare services under part B of title IV of that Act was not the agency designated pursuant to section 402(a)(3) of that Act, such section 422(b)(1) shall not apply with respect to such agency, but only so long as such agency is not the agency designated under section 2003(d)(1)(C) of that Act; and if on December 1, 1974, the local agency administering the plan of a State under part B of title IV of that Act in a subdivision of the State was not the local agency in such subdivision administering the plan of such State under part A of that title, such section 422(b)(1) shall not apply with respect to such local agency, but only so long as such local agency is not the local agency administering the program of the State for the provision of services under title XX of that Act. 42 USC 622 note. *Ante*, p. 517. *Ante*, p. 516. 42 USC 602. 42 USC 1397b. 42 USC 1397.

(e) Section 2002(a)(8) of such Act is amended by striking out "or 422" and inserting in lieu thereof "or 423". 42 USC 1397a.

(f)(1) Notwithstanding any other provision of law, funds which are appropriated for fiscal year 1980 pursuant to section 420 of the Social Security Act, and for which States are eligible for payment under part B of title IV of that Act, shall remain available, to the extent so provided in an appropriation Act hereafter enacted, for payment with respect to expenditures for child welfare services under part B of title IV of that Act until September 30, 1981. 42 USC 620 note. *Ante*, p. 516.

(2) Section 420(b) of the Social Security Act (as added by subsection (a) of this section) shall apply only with respect to appropriation Acts, which appropriate funds for fiscal years after fiscal year 1981 pursuant to the authorization contained in section 420 of the Social Security Act, enacted after the date of enactment of this Act.

TITLE II—SOCIAL SERVICES

DETERMINATION OF AMOUNT ALLOCATED TO STATES

SEC. 201. (a) Section 2002(a)(2)(A) of the Social Security Act is amended by striking out clause (ii) and inserting in lieu thereof the following: 42 USC 1397a.

"(ii) The amount specified for purposes of clause (i) for fiscal year 1980 and each succeeding fiscal year shall be an amount (not exceeding $3,300,000,000) equal to the indexed ceiling amount for that fiscal year as determined under subparagraph (B).".

42 USC 1397a.

(b) Section 2002(a)(2) of such Act is amended (subject to subsection (c) of this section) by striking out subparagraphs (B), (C), and (D), and by inserting after subparagraph (A) the following new subparagraph:

"(B)(i)(I) Except as otherwise provided in clauses (ii), (iii), and (iv), the indexed ceiling amount for any fiscal year shall be an amount equal to the indexed ceiling amount for the preceding fiscal year increased or decreased (as the case may be) by an amount determined under division (II).

"(II) For purposes of division (I) the amount of the increase or decrease (as the case may be) shall be an amount equal to $2,500,000,000, multiplied by a percentage equal to the positive or negative percentage change in the Consumer Price Index prepared by the Department of Labor, and used in determining cost-of-living adjustments under section 215(i) of this Act, for the second quarter of the preceding fiscal year as compared to such index for the second quarter of the second preceding fiscal year (rounded to the nearest one-tenth of 1 per centum). For purposes of this clause the Consumer Price Index for any quarter shall be the arithmetical mean of such index for the three months in such quarter.

42 USC 415.

"(ii) If the percentage increase in the Consumer Price Index as determined under clause (i)(II) for any fiscal year exceeds the inflation rate for that fiscal year as shown for that year (or, if no rate is shown for that year, for the most recent preceding year for which a rate is shown) in the table which appears on page 25 of Senate Budget Committee Report Numbered 96-311, then for such fiscal year such inflation rate shall be used in making the determination under clause (i)(II) instead of the percentage increase in the Consumer Price Index.

"(iii) The indexed ceiling amount determined under clause (i) shall, if not a multiple of $100,000,000, be rounded to the next lesser amount that is a multiple of $100,000,000.

"(iv) The indexed ceiling amount for fiscal year 1979 shall be $2,500,000,000."

(c) With respect to fiscal year 1980 only—

42 USC 1397a.

(1) subparagraphs (B) and (C) of section 2002(a)(2) of such Act (as in effect immediately prior to the enactment of this Act) shall continue in effect, redesignated as subparagraphs (D) and (E), respectively;

(2) the subparagraph of such section 2002(a)(2) which is redesignated as subparagraph (E) and continued in effect by paragraph (1) of this subsection is amended by striking out "subparagraph (B)" and "subparagraph (D)" and inserting in lieu thereof "subparagraph (D)" and "subparagraph (F)", respectively; and

(3) subparagraph (D) of such section 2002(a)(2) (as in effect immediately prior to the enactment of this Act) shall continue in effect, redesignated as subparagraph (F) and amended to read as follows:

"(F) The amounts made available pursuant to subparagraph (E) for allotment in fiscal year 1980 shall be allotted by the Secretary to the States which have certified under subparagraph (D) that the amounts of their limitations for such fiscal year are less than their need for such year. The amount of such allotment to any State (which shall be in addition to any payments made to the State under subparagraph (A)) shall bear the same ratio to

the total amount available for allotment in such year under this subparagraph as the population of such State bears to the population of the fifty States and the District of Columbia, but shall in no case exceed the amount by which such State certified that its limitation is less than its need for such fiscal year.".

EXTENSION OF 100-PER CENTUM FEDERAL MATCHING FOR CHILD DAY CARE EXPENDITURES

SEC. 202. (a) Section 2002(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph: 42 USC 1397a.

"(17)(A) The total payment to a State under this section with respect to expenditures during any fiscal year for the provision of child day care services under this title (including expenditures for grants to qualified providers under section 2007) shall be equal to 100 per centum of such expenditures to the extent that such expenditures (during that fiscal year) do not exceed— 42 USC 1397f.

"(i) an amount which bears the same ratio to $200,000,000 as the amount of the State's limitation under paragraph (2)(A) bears to the indexed ceiling amount for such fiscal year, in the case of fiscal year 1980 and fiscal year 1981; or

"(ii) 8 per centum of the State's limitation under paragraph (2)(A) for such fiscal year, in the case of fiscal year 1982 and any subsequent fiscal year.

"(B) Federal funds payable to a State under this title (with respect to expenditures for child day care services) at the rate specified in subparagraph (A) shall, to the maximum extent that the State determines to be feasible, be employed in such a way as to increase the employment of welfare recipients and other low-income persons in jobs related to the provision of child day care services.".

(b) Section 2002(a)(1) of such Act is amended by striking out "100 per centum" and all that follows down through "2007" and inserting in lieu thereof "100 per centum of the expenditures during that quarter for child day care services (including expenditures for grants to qualified providers under section 2007) to the extent permitted by paragraph (17)".

LIMITATION ON FUNDS FOR TRAINING

SEC. 203. (a) The first sentence of section 2002(a)(2)(A)(i) of the Social Security Act is amended by striking out "in excess of an amount" and all that precedes it, and inserting in lieu thereof "Except as provided in clause (iii), no payment may be made under this section to any State for any fiscal year in excess of an amount". 42 USC 1397a.

(b) Section 2002(a)(2)(A) of such Act is further amended by adding after clause (ii) the following new clause:

"(iii) Payment with respect to expenditures for personnel training or retraining directly related to the provision of services under this title shall be made to a State in excess of the limitation for such State promulgated under clause (i) for any fiscal year and without regard to such limitation; except that—

"(I) notwithstanding any other provision of law, payment to a State with respect to such expenditures for fiscal years 1980 and 1981 may not exceed an amount equal to 4 per centum of such State's limitation (for the fiscal year involved) under clause (i), or, if greater, an amount equal to the amount of the payment made under this title to such State with respect to such expendi-

tures for fiscal year 1979, or equal to (a) the amount which would be payable without regard to this subclause with respect to expenditures pursuant to an appropriation made prior to October 1, 1979, by such State for fiscal year 1980, or, if less, (b) the amount determined under division (a) of this subclause reduced to the extent necessary and on a proportional basis so as to assure that the aggregate of the additional amounts payable to all States as a result of such division (a) does not exceed $6,000,000; and

Training plan, submittal to Secretary.

"(II) payment to a State with respect to such expenditures for fiscal year 1982 or any succeeding fiscal year may be made only if the State has submitted to the Secretary in accordance with paragraph (18) (prior to the beginning of the fiscal year involved) a training plan specifying how its funds expended for such training or retraining in that fiscal year will be used, and only with respect to expenditures included in such plan which are approved by the Secretary in accordance with criteria prescribed by him.".

42 USC 1397a.

(c) Section 2002(a) of such Act is amended by adding after paragraph (17) (as added by section 202(a) of this Act) the following new paragraph:

Ante, p. 523.

"(18) Effective October 1, 1981, no payment may be made under this section for training or retraining expenditures except in accordance with a training plan approved by the Secretary which, at a minimum—

"(A) describes how training needs were assessed and how the assessment was used to structure the training programs, the individuals to be trained, and the training resources to be used;

"(B) demonstrates that the training activities have a direct relationship to the title XX services program and to the State's staffing needs to carry out the title XX services program; and

42 USC 1397.

"(C) describes the State agency's plan to monitor training programs and to evaluate the agency's overall staff training and development program.".

USE OF RESTRICTED PRIVATE FUNDS FOR TRAINING PROGRAMS

42 USC 1397a.

SEC. 204. (a) Section 2002(a)(7)(D)(ii) of the Social Security Act is amended by striking out "and" at the end thereof and inserting in lieu thereof the following: "except that during fiscal years 1980 and 1981 the provisions of this clause shall not apply with respect to funds that are donated for the purpose of training or retraining as provided in subsection (a)(1), if such training or retraining is carried out by a public or nonprofit entity, and".

EMERGENCY SHELTER

SEC. 205. (a) Section 2002(a)(11) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(E) any expenditure for the provision of emergency shelter, for not in excess of thirty days in any six-month period, provided as a

protective service to an adult in danger of physical or mental injury, neglect, maltreatment, or exploitation.".

(b) The amendments made by this section shall be effective on and after October 1, 1979. Effective date. 42 USC 1397a note.

MULTIYEAR PLAN; CHOICE OF FISCAL YEAR

SEC. 206. (a) Section 2004(1) of the Social Security Act is amended to read as follows: 42 USC 1397c.

"(1) for each services program period, the beginning of the fiscal year of the Federal Government, the State government, or the political subdivisions of such State is established as the beginning of the State's services program period, and the end of such fiscal year, the succeeding fiscal year, or the second succeeding fiscal year is established as the end of the State's services program period; and".

(b) Section 2004 of such Act is further amended—

(1) by striking out "services program year" each place it appears and inserting in lieu thereof in each instance "services program period";

(2) by striking out "annual" in paragraph (2) (in the matter preceding subparagraph (A)) and in paragraph (4);

(3) by striking out "during that year" in paragraph (2) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "during that period";

(4) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(5) by adding at the end thereof the following new paragraph:

"(6) in the case of a State that adopts a services program planning period of longer than one year, the State agency publishes and makes generally available such information concerning the comprehensive services program at such times as the Secretary may by regulation require.".

(c) Section 2003(b) of such Act is amended— 42 USC 1397b.

(1) by striking out "each services program year" and inserting in lieu thereof "each fiscal year (as selected by the State under section 2004(1)) within each services program period"; and

(2) by striking out "any services program year" and inserting in lieu thereof "any services program period".

(d) Sections 2003(d)(1) and 2005 of such Act are each amended by striking out "services program year" and inserting in lieu thereof "services program period". 42 USC 1397b, 1397d.

(e) Section 2002(a)(3)(B) of such Act is amended by striking out "annual". 42 USC 1397a.

(f) The amendments made by this section shall be effective with respect to services program periods beginning after the date of the enactment of this Act. Effective date. 42 USC 1397a note.

SOCIAL SERVICES FUNDING FOR TERRITORIES

SEC. 207. (a) Section 2002(a)(2) of the Social Security Act is amended by adding after subparagraph (B) (as added by section 201(b) of this Act) the following new subparagraph: 42 USC 1397a. *Ante*, p. 521.

"(C) From the amounts made available under section 2001 for any fiscal year beginning with fiscal year 1980 (in addition to any sums appropriated for purposes of payments under the preceding provisions of this subsection), the Secretary shall allocate—

"(i) to the jurisdictions of Puerto Rico, Guam, and the Virgin Islands, for purposes of payments under sections 3(a) (4) and (5), 403(a)(3), 1003(a) (3) and (4), 1403(a) (3) and (4), and 1603(a) (4) and (5), with respect to services, the sums of $15,000,000, $500,000 and $500,000, respectively, and

42 USC 303, 603, 1203, 1353, 1383 note.

"(ii) to the jurisdiction of the Northern Mariana Islands, for purposes of payments under section 403(a)(3), with respect to services and for services programs for other individuals as defined by the Secretary, the sum of $100,000,

42 USC 603.

in addition to any amounts otherwise available to such jurisdictions under this Act.".

42 USC 1397.

(b) The last sentence of section 2001 of such Act is amended by inserting before the period at the end thereof the following: "(and to territorial jurisdictions as described in subsection (a)(2)(C) thereof)".

42 USC 1308, *post*, pp. 529, 530.

(c) Section 1108(a) of such Act is amended by striking out "section 2002(a)(2)(D)" and inserting in lieu thereof "section 2002(a)(2)(C)".

PERMANENT EXTENSION OF PROVISIONS RELATING TO CHILD DAY CARE SERVICES AND WIN TAX CREDIT

42 USC 1397e-1 note.

SEC. 208. (a) Section 4(d) of Public Law 96-178 is amended by striking out "during the period beginning October 1, 1979, and ending March 31, 1980" and inserting in lieu thereof "on or after October 1, 1979".

93 Stat. 1295. 26 USC 50B.

(b)(1) Section 50B(i) of the Internal Revenue Code of 1954 (relating to special rules with respect to employment of day care workers) is amended to read as follows:

"(i) SPECIAL RULES WITH RESPECT TO EMPLOYMENT OF DAY CARE WORKERS.—

"(1) ELIGIBLE EMPLOYEE.—An individual who would be an 'eligible employee' (as that term is defined for purposes of this section) except for the fact that such individual's employment is not on a substantially full-time basis, shall be deemed to be an eligible employee as so defined, if such employee's employment is related to the provision of child day care services and is performed on either a full-time or part-time basis.

"(2) ALTERNATIVE COMPUTATION WITH RESPECT TO CHILD DAY CARE SERVICES ELIGIBLE EMPLOYEES PAID FROM FUNDS MADE AVAILABLE UNDER TITLE XX OF THE SOCIAL SECURITY ACT.—The amount of the credit allowed a taxpayer under section 40, as determined under section 50A and the preceding provisions of this section, with respect to work incentive program expenses paid or incurred by him with respect to an eligible employee whose services are performed in connection with a child day care services program conducted by the taxpayer, and with respect to whom the taxpayer is reimbursed (in whole or in part) from funds made available pursuant to section 2007 of the Social Security Act, at the option of the taxpayer shall be equal to 100 percent of the unreimbursed wages paid or incurred by the taxpayer with respect to such employee, but not more than the amount of the limitation in paragraph (4).

42 USC 1397. 26 USC 40. 26 USC 50A.

42 USC 1397f.

"(3) UNREIMBURSED WAGES.—For purposes of this subsection, the term 'unreimbursed wages' means work incentive program expenses for which the taxpayer was not reimbursed under section 2007 of the Social Security Act or under any other grant or program.

"(4) LIMITATION.—The amount of the credit, as determined under paragraph (2), with respect to any employee shall not exceed the lesser of—

"(A) an amount equal to $6,000 minus the amount of the funds reimbursed to the taxpayer with respect to such employee from funds made available pursuant to section 2007 of the Social Security Act; or 42 USC 1397f.

"(B) with respect to work incentive program expenses attributable to service rendered—

"(i) during the one-year period which begins on the day such employee begins work for the taxpayer, an amount equal to the lesser of—

"(I) $3,000, or

"(II) 50 percent of the sum of the amount of the unreimbursed wages of such employee and the amount reimbursed to the taxpayer with respect to such employee from funds made available pursuant to section 2007 of the Social Security Act; or

"(ii) during the one-year period which begins on the day after the last day of the one-year period described in clause (i), an amount equal to the lesser of—

"(I) $1,500, or

"(II) 25 percent of the sum of the amount of the unreimbursed wages of such employee and the amount reimbursed to the taxpayer with respect to such employee from funds made available pursuant to section 2007 of the Social Security Act.".

(2) Section 50B(h)(1)(B) of such Code is amended by inserting "(except as provided in subsection (i))" after "full-time basis". 26 USC 50B.

(3)(A) The amendments made by paragraphs (1) and (2) shall be effective with respect to taxable years beginning after December 31, 1979. Effective date. 26 USC 50B note.

(B) The redesignation of subsection (i) of section 50B of the Internal Revenue Code of 1954 as subsection (j) by section 3(a)(1) of Public Law 96-178, shall remain in effect with respect to taxable years beginning after December 31, 1979. 26 USC 50B note. 93 Stat. 1295.

PERMANENT EXTENSION OF PROVISIONS RELATING TO SERVICES FOR ALCOHOLICS AND DRUG ADDICTS

SEC. 209. Section 5(b) of Public Law 96-178 is amended by striking out "during the period beginning October 1, 1978, and ending March 31, 1980" and inserting in lieu thereof "on or after October 1, 1978". 93 Stat. 1297. 42 USC 1397a note.

TITLE III—OTHER SOCIAL SECURITY ACT PROVISIONS

PERMANENT EXTENSION OF PROVISIONS RELATING TO CHILD SUPPORT ENFORCEMENT

SEC. 301. (a) Section 2(b) of Public Law 96-178 is amended by striking out "during the period beginning October 1, 1978, and ending March 31, 1980" and inserting in lieu thereof "on or after October 1, 1978". 93 Stat. 1295. 42 USC 655 note.

(b) Section 452(a)(10) of the Social Security Act is amended by adding at the end thereof (after and below subparagraph (H)) the following new sentence: 42 USC 652.

"The information contained in any such report under subparagraph (A) shall specifically include (i) the total amount of child support payments collected as a result of services furnished during the fiscal year involved to individuals under section 454(6), (ii) the cost to the States and to the Federal Government of furnishing such services to those individuals, and (iii) the extent to which the furnishing of such services was successful in providing sufficient support to those individuals to assure that they did not require assistance under the State plan approved under part A.".

42 USC 654.

42 USC 601.

INCENTIVES TO REPORT EARNINGS UNDER AFDC PROGRAMS

42 USC 602.

SEC. 302. (a) Section 402(a)(8) of the Social Security Act is amended—

(1) by inserting "or" at the end of subparagraph (D) thereof; and

(2) by adding after subparagraph (D) the following new subparagraph:

"(E) any of the persons specified in clause (ii) of subparagraph (A) with respect to which there is a failure without good cause to make a timely report (as prescribed by the State plan) to the State agency;".

Effective date.
42 USC 602 note.

(b) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

PRORATING OF SHELTER ALLOWANCE

SEC. 303. Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"PRORATING OF SHELTER ALLOWANCE IN CERTAIN CASES WHERE CHILD LIVES WITH RELATIVE NOT LEGALLY RESPONSIBLE FOR HIS SUPPORT

42 USC 612.

"SEC. 412. (a) Notwithstanding any other provision of this part, a State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed under this part solely because, under such plan, in any case in which one or more children live in any household—

"(1)(A) in which the total income of such child or children and the closely related family members (as defined in subsection (b)) living in the same household equals or exceeds the standard of need under such plan for a family equal in number to the total number of such children and closely related family members in the same household, or (B) where the income of children and family members cannot be determined due to failure to cooperate, and

"(2) which (A) does not include a relative (specified in section 406(a)(1)) who is legally responsible for the support of the child or children, or (B) includes one or more such relatives who is legally responsible for the support of the child or children but none of whom is eligible for aid under the State plan because such relative is being supported by another person or under another program,

42 USC 606.

the amount of the aid furnished with respect to such child or children for shelter, utilities, and similar expenses, bears the same ratio to the total amount which would be furnished for such expenses, if all the closely related family members with whom such child or children are

living were eligible for such aid, as the number of such children bears to the total number of such children and closely related family members.

"(b) For purposes of subsection (a), the term 'closely related family members' of a child means those relatives of his who are specified in section 406(a)(1) and any other individual for whose support such a relative is legally responsible, but does not include any such relative or other individual (1) with respect to whom benefits are provided under another public program eligibility for which is based on need, or (2) whose presence in the home would not increase the total amount which would be allowed for shelter, utilities, and similar expenses if he was eligible for aid.

"Closely related family members." 42 USC 606.

"(c) The amount of aid to families with dependent children for shelter, utilities, and similar expenses shall be identified, for purposes of this section, in the following manner:

"(1) If the State plan approved under this part provides for paying 100 per centum of the standard of need specified in the plan, and designates a portion of that standard, for families of specified sizes, to meet shelter, utilities, and similar expenses, then an amount equal to that portion shall be considered the total amount for such expenses for a family of the specified size.

"(2) If such plan provides for meeting less than 100 per centum of such standard, and designates a portion of that standard, for families of specified sizes, to meet such expenses, then an amount equal to that portion, multiplied by the proportion of the standard of need which such State pays as aid to families with dependent children, shall be considered the total amount for such expenses for a family of the specified size.

"(3) If such plan does not designate any portion of the standard of need for meeting such expenses, then such portion shall be prescribed by the Secretary, but in no event shall such portion exceed 30 per centum of the standard of need for a family of a specified size, multiplied by the proportion of such standard which the State pays as aid to families with dependent children.

"(d) For purposes of subsection (a), the total income of the child or children and the closely related family members (as defined in subsection (b)) shall be determined as it would be if all such individuals were applicants for aid under the State plan and shall not include any income which any such individual is obligated to apply to the support of any other individual not living in the household.".

SERVICES FOR DISABLED CHILDREN

SEC. 304. Section 1615 of the Social Security Act is amended by redesignating the second subsection (c) as subsection (e), and by striking out "October 1, 1979" in paragraph (1) of such subsection (e) and inserting in lieu thereof "October 1, 1982". 42 USC 1382d.

PUBLIC ASSISTANCE PAYMENTS TO TERRITORIAL JURISDICTIONS

SEC. 305. (a) Section 1108(a) of the Social Security Act is amended— *Ante*, p. 526. *Post*, p. 530.

(1) by striking out "with respect to the fiscal year 1972 and each fiscal year thereafter other than the fiscal year 1979" in paragraphs (1)(E), (2)(E), and (3)(E) and inserting in lieu thereof in each instance "with respect to each of the fiscal years 1972 through 1978"; and

(2) by striking out "with respect to the fiscal year 1979" in paragraphs (1)(F), (2)(F), and (3)(F) and inserting in lieu thereof in each instance "with respect to the fiscal year 1979 and each fiscal year thereafter".

Ante, pp. 526, 529.

(b) Section 1108(a) of such Act is further amended by striking out "under part A" in the matter preceding paragraph (1) and inserting in lieu thereof "under parts A and E".

42 USC 601, *ante*, p. 501.

(c) The last sentence of section 1118 of such Act is amended by striking out "when applied to quarters in the fiscal year ending September 30, 1979".

42 USC 1318.

PERIOD WITHIN WHICH CERTAIN CLAIMS MUST BE FILED

SEC. 306. (a) Part A of title XI of the Social Security Act is amended by adding after section 1131 the following new section:

"PERIOD WITHIN WHICH CERTAIN CLAIMS MUST BE FILED

42 USC 1320b-2.

"SEC. 1132. (a) Notwithstanding any other provision of this Act (but subject to subsection (b)), any claim by a State for payment with respect to an expenditure made during any calendar quarter by the State—

"(1) in carrying out a State plan approved under title I, IV, V, X, XIV, XVI, XIX, or XX of this Act, or

42 USC 301, 601, 701, 1201, 1351, 1381, 1396, 1397.

"(2) under any other provision of this Act which provides (on an entitlement basis) for Federal financial participation in expenditures made under State plans or programs,

shall be filed (in such form and manner as the Secretary shall by regulations prescribe) within the two-year period which begins on the first day of the calendar quarter immediately following such calendar quarter; and payment shall not be made under this Act on account of any such expenditure if claim therefor is not made within such two-year period; except that this subsection shall not be applied so as to deny payment with respect to any expenditure involving court-ordered retroactive payments or audit exceptions, or adjustments to prior year costs.

"(b) The Secretary shall waive the requirement imposed under subsection (a) with respect to the filing of any claim if he determines (in accordance with regulations) that there was good cause for the failure by the State to file such claim within the period prescribed under subsection (a). Any such waiver shall be only for such additional period of time as may be necessary to provide the State with a reasonable opportunity to file such claim. A failure to file a claim within such time period which is attributable to neglect or administrative inadequacies shall be deemed not to be for good cause.".

Effective date. 42 USC 1320b-2 note.

(b)(1) The amendment made by subsection (a) shall be effective only in the case of claims filed on account of expenditures made in calendar quarters commencing on or after October 1, 1979.

(2) In the case of claims filed prior to the date of enactment of this Act on account of expenditures described in section 1132 of the Social Security Act made in calendar quarters commencing prior to October 1, 1979, there shall be no time limit for the payment of such claims.

(3) In the case of such expenditures made in calendar quarters commencing prior to October 1, 1979, for which no claim has been filed on or before the date of enactment of this Act, payment shall not be made under this Act on account of any such expenditure unless

claim therefor is filed (in such form and manner as the Secretary shall by regulation prescribe) prior to January 1, 1981.

(4) The provisions of this subsection shall not be applied so as to deny payment with respect to any expenditure involving adjustments to prior year costs or court-ordered retroactive payments or audit exceptions. The Secretary may waive the requirements of paragraph (3) in the same manner as under section 1132(b) of the Social Security Act.

(c) Notwithstanding any other provision of law, there shall be no time limit for the filing or payment of such claims except as provided in this section, unless such other provision of law, in imposing such a time limitation, specifically exempts such filing or payment from the provisions of this section. 42 USC 1320b-2 note.

INCENTIVES FOR STATES TO COLLECT CHILD SUPPORT OBLIGATIONS

SEC. 307. (a) The heading of section 458 of the Social Security Act is amended by inserting "STATES AND" after "TO". 42 USC 658.

(b) Section 458(a) of such Act is amended—

(1) by inserting "or a State on its own behalf makes," after "another State,", and

(2) by striking out "or such other State" and inserting in lieu thereof ", such other State, or such State (in the case of a State which on its own behalf makes such enforcement and collection)".

(c) Section 458 of such Act is further amended by adding at the end thereof the following new subsection:

"(c) No payment under the preceding provisions of this section shall be made to any State or political subdivision thereof with respect to any amount collected and distributed by it unless such amount was collected and distributed in accordance with the State plan of the State approved by the Secretary as meeting the conditions required by section 454.". 42 USC 654.

EXCHANGE OF INFORMATION ON TERMINATED OR SUSPENDED PROVIDERS

SEC. 308. (a) Section 1862(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph: 42 USC 1395y.

"(4) The Secretary shall promptly notify each State agency which administers or supervises the administration of a State plan approved under title XIX of any determination made under the provisions of this subsection.". 42 USC 1396.

(b) Section 1866(c) of such Act is amended by adding at the end thereof the following new paragraph: 42 USC 1395cc.

"(3) Where an agreement filed under this title by a provider of services has been terminated by the Secretary, the Secretary shall promptly notify each State agency which administers or supervises the administration of a State plan approved under title XIX of such termination.".

(c) Section 1902(a) of such Act is amended— 42 USC 1396a.

(1) by striking out "and" at the end of paragraph (39);

(2) by striking out the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (40) the following new paragraph:

"(41) provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the State plan, the State agency shall promptly notify the Secretary of such action.".

POSTPONEMENT OF IMPOSITION OF CERTAIN PENALTIES RELATING TO CHILD SUPPORT REQUIREMENTS

42 USC 603 note. 42 USC 601. 42 USC 603.

SEC. 309. No reduction in the amount payable to any State under title IV of the Social Security Act with respect to fiscal year 1977 or fiscal year 1978 shall be made prior to October 1, 1980, on account of the provisions of section 403(h) of such Act.

CONTINUING MEDICAID ELIGIBILITY FOR CERTAIN RECIPIENTS OF VETERANS' ADMINISTRATION PENSIONS

SEC. 310. (a)(1) Part A of title XI of the Social Security Act is amended by adding after section 1132 (as added by section 305 of this Act) the following new section:

Ante, p. 530.

"APPLICANTS OR RECIPIENTS UNDER PUBLIC ASSISTANCE PROGRAMS NOT TO BE REQUIRED TO MAKE ELECTION RESPECTING CERTAIN VETERANS' BENEFITS

42 USC 1320b-3. 42 USC 301, 1201, 1351, 1381, 601. 38 USC 521 note. 42 USC 1381. 42 USC 1396.

"SEC. 1133. (a) Notwithstanding any other provision of law (but subject to subsection (b)), no individual who is an applicant for or recipient of aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV, or of benefits under the Supplemental Security Income program established by title XVI shall—

"(1) be required, as a condition of eligibility for (or of continuing to receive) such aid, assistance, or benefits, to make an election under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 with respect to pension paid by the Veterans' Administration, or

"(2) by reason of failure or refusal to make such an election, be denied (or suffer a reduction in the amount of) such aid, assistance, or benefits.

"(b) The provisions of subsection (a) shall be applicable only with respect to an individual, who is an applicant for or recipient of aid, assistance, or benefits described in subsection (a), during a period with respect to which there is in effect—

"(1) in case such individual is an applicant for or recipient of aid or assistance under a State plan referred to in subsection (a), in the State having such plan, or

"(2) in case such individual is an applicant for or recipient of benefits under the Supplemental Security Income program established by title XVI, in the State in which the individual applies for or receives such benefits,

a State plan for medical assistance, approved under title XIX, under which medical assistance is available to such individual only for periods for which such individual is a recipient of aid, assistance, or benefits described in subsection (a).".

Effective date. 42 USC 1320 b-3 note.

(2) The amendment made by paragraph (1) shall be effective on and after January 1, 1979; except that nothing contained in such amendment shall be construed to authorize or require any payment (or increase in payment) of any aid or assistance or benefits referred to in section 1133(a) of the Social Security Act (as added by paragraph (1))

for any benefit period which begins prior to the date of enactment of this Act.

(b)(1)(A) For purposes of section 1902(a)(10)(A) of the Social Security Act, any individual who, prior to the date of enactment of this Act and for the month of December 1978, was eligible for and received aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV of such Act, or was eligible for and received supplemental security income benefits under title XVI of such Act (or a supplementary payment described in section 13(c) of Public Law 93-233), and was also in receipt of (or was a dependent, for purposes of chapter 15 of title 38, United States Code, as in effect on December 31, 1978, of an individual in receipt of) pension from the Veterans' Administration for the month of December 1978 shall (subject to subparagraph (B)) be deemed to have been receiving such aid, assistance, supplemental security income, or supplementary payment, for each calendar month thereafter (prior to the month in which the provisions of this subparagraph cease to be effective with respect to him as determined under subparagraph (B)), if such individual would have been eligible therefor in December 1978 and in the month in which the provisions of this subparagraph cease to be effective with respect to him as determined under subparagraph (B) had the increase in income of such individual (or of the family of which such individual is a member), attributable to an election (made by such individual or another member of such individual's family) under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978, not occurred.

42 USC 1396a note.
42 USC 1396a.
42 USC 301, 1201, 1351, 1381, 601.
42 USC 1396a note.
38 USC 501 *et seq.*
38 USC 521 note.

(B)(i) The provisions of subparagraph (A) shall take effect on January 1, 1979, and shall cease to be effective, in the case of any individual, for and after the first calendar month beginning more than 10 days after an "informed election" (as defined in subdivision (ii) of this subparagraph) has been made by such individual (or, if such individual is not eligible to make such an election, by a member of such individual's family who is eligible to make such an election which affects such individual's eligibility for aid, assistance, or benefits under a plan or program referred to in subparagraph (A)).

Effective date.

(ii) The term "informed election" means an election made under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 (or a reaffirmation of such an election which previously was made under such section 306) after the date of compliance by the Administrator of Veterans' Affairs (hereinafter in this section referred to as the "Administrator") with the provisions of paragraph (2)(A) with respect to the individual concerned. An individual who fails, within the time limits prescribed in paragraph (2)(B), to disaffirm an election previously made by such individual under such section 306 shall be deemed, for purposes of this section and such section 306, to have reaffirmed such election.

"Informed election."
38 USC 521 note.

(2)(A) The Administrator shall provide to each individual to whom section 1133 of the Social Security Act (as added by subsection (a)(1) of this section) applies and who is eligible to make or has made an election under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978, a written notice, in clear and understandable language, which (i) describes the consequences to such individual (and possibly to such individual's family), in terms of a determination or possible determination of ineligibility for medical assistance under a State plan approved under title XIX of the Social Security Act, of making an election with respect to pension under such section 306, (ii) describes the provisions of subparagraph (B) of this paragraph and

42 USC 1320b-3 note.
Ante, p. 532.
38 USC 521 note.
42 USC 1396.

subsection (a) of this section, (iii) sets forth other relevant information that would be helpful to such individual in making an informed decision concerning such an election or the disaffirmation thereof, and (iv) in the case of any individual who has made such an election, is accompanied by a form prepared for the purpose of enabling such individual to file with the Administrator a written disaffirmation of such an election.

(B) Notwithstanding any other provision of law—

(i) any individual to whom section 1133 of the Social Security Act (as added by subsection (a)(1) of this section) applies may, within the 90-day period beginning with the day that there is mailed to such individual (at such individual's last known mailing address) a notice referred to in subparagraph (A), disaffirm an election previously made by such individual under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 by completing and mailing to the Administrator the form furnished such individual for such purpose by the Administrator pursuant to subparagraph (A),

Ante, p. 532.

38 USC 521 note.

(ii) whenever any such individual files such a disaffirmation with the Administrator, the amount of pension payable to such individual shall be adjusted, beginning with the first calendar month which commences after the receipt by the Administrator of such disaffirmation, to the amount that such pension would have been if such an election by such individual had not been made,

(iii) any individual who has filed a disaffirmation, pursuant to this subparagraph, of an election made by such individual under such section 306 may again make an election thereunder, but such subsequent election may not be disaffirmed under this subsection, and

(iv) no indebtedness to the United States, as a result of the disaffirmation by an individual, pursuant to this subparagraph, of an election made by such individual under such section 306 shall be considered to arise from the payment of pension pursuant to such an election.

(C) The Administrator shall promptly advise the Secretary of Health, Education, and Welfare, and provide identification of the individuals involved and other pertinent information with respect to (i) disaffirmations of elections made by individuals pursuant to subparagraph (B), (ii) individuals who, by failing to disaffirm within the 90-day period prescribed in subparagraph (B), are deemed to have reaffirmed elections previously made, and (iii) individuals who, after having disaffirmed an election under subparagraph (B), subsequently again make an election under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978. The Secretary, upon receipt of any such information with respect to an individual, shall promptly notify the appropriate agencies administering State plans approved under title I, X, XIV, XIX, and part A of title IV of the Social Security Act, and State agencies making supplemental payments pursuant to section 1616 of such Act or an agreement entered into pursuant to section 212(a) of Public Law 93-66.

38 USC 521 note.

42 USC 301, 1201, 1351, 1396, 601. 42 USC 1382e. 87 Stat. 155.

Approved June 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-136 (Comm. on Ways and Means), No. 96-136, Pt. 2 (Comm. on Appropriations), and No. 96-900 (Comm. of Conference).
SENATE REPORT No. 96-336 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Aug. 2, considered and passed House.
Oct. 25, 29, considered and passed Senate, amended.
Vol. 126 (1980): June 13, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 25 (1980): June 17, Presidential statement.

Public Law 96-273
96th Congress

An Act

June 17, 1980
[H.R. 4453]

To amend the Saccharin Study and Labeling Act to extend to June 30, 1981, the ban on actions by the Secretary of Health, Education, and Welfare respecting saccharin.

Saccharin Study and Labeling Act, amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Saccharin Study and Labeling Act (21 U.S.C. 348 note) is amended by striking out "During the 18-month period beginning on the date of the enactment of this Act" and inserting in lieu thereof "During the period beginning on the date of the enactment of this Act and ending June 30, 1981".

Approved June 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-348 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 96-715 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): July 23, 24, considered and passed House.
Vol. 126 (1980): June 9, considered and passed Senate.

Public Law 96-274
96th Congress

An Act

Pertaining to the inheritance of trust or restricted land on the Standing Rock Sioux Reservation, North Dakota and South Dakota.

June 17, 1980
[H.R. 2102]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to the extent that the laws of descent and distribution of the State in which trust or restricted land is located on the Standing Rock Indian Reservation in North Dakota and South Dakota (hereinafter the "reservation") are inconsistent with this Act, the provisions of this Act shall govern the right to inherit such trust or restricted land.

Standing Rock Sioux Reservation, N. Dak.-S. Dak.

SEC. 2. Only the Standing Rock Sioux Tribe of North Dakota and South Dakota (hereinafter the "tribe") or persons who are (a) enrolled members of the tribe, (b) members of a federally recognized Indian tribe, or (c) otherwise recognized as Indians by the Secretary of the Interior (hereinafter the "Secretary") shall be entitled to receive by devise or descent any interest in trust or restricted land within the boundaries of the reservation as defined by the Act of March 2, 1889 (25 Stat. 888), except as provided in section 4 of this Act.

Inheritance of trust or restricted land.

SEC. 3. (a) Whenever any Indian dies possessed of any interest in trust or restricted land within the reservation and the trust or restricted land has not been devised by a will approved by the Secretary pursuant to section 2 of the Act of June 25, 1910 (36 Stat. 856), as amended (25 U.S.C. 373) and which is consistent with the provisions of section 2 of this Act, such interest shall descend to the following persons, subject to their being eligible heirs pursuant to section 2 of this Act:

Eligible heirs.

(1) one-half of the interest shall descend to the surviving spouse and the other one-half shall descend in equal shares to the children of the decedent and to the issue of any deceased child of the decedent by right of representation;

(2) if there is no surviving spouse, the interest shall descend in equal shares to the children of the decedent and to the issue of any deceased child of the decedent by right of representation;

(3) if there are no surviving children or issue of any child, the interest shall descend to the surviving spouse;

(4) if there is no surviving spouse and no surviving children or issue of any child, the interest shall descend to the surviving parents or parent of the decedent;

(5) if there is no surviving spouse, and no surviving children or issue of any child, and no surviving parent, the interest shall descend equally to the brothers and sisters of the decedent; and,

(6) if there is no surviving spouse, no surviving children or issue of any child, no surviving parent, and no surviving brothers or sisters, the interest shall escheat to the tribe.

(b) Any interest which descends in accordance with this section shall be subject to the right of a non-Indian surviving spouse as provided in section 4(a) of this Act.

(c) As used in this section, the words "children" and "issue" include adopted children and children of unwed parents where the Secretary

"Children" and "issue."

determines that paternity has been acknowledged or established, except that (1) a child may not inherit by intestate succession from or through a parent whose parental rights with respect to said child have been terminated pursuant to lawful authority and (2) a parent may not inherit by intestate succession from or through a child with respect to which such parent's parental rights have been so terminated.

Non-Indian surviving spouse.

SEC. 4. (a) Notwithstanding the provisions of section 2 of this Act, the non-Indian surviving spouse of an Indian decedent who dies possessed of any interest in trust or restricted lands within the reservation shall be entitled to take not more than an undivided one-half interest in all such trust or restricted lands during his or her lifetime, but the remainder of such interest shall descend as provided in section 3 of this Act.

Tribal payment to Secretary.

(b) If a decedent has devised an interest in trust or restricted land located within the reservation to a person prohibited by section 2 from acquiring an interest in such trust or restricted land and the consequence of such prohibition is that the interest in land would escheat to the tribe pursuant to section 3(a)(6) of this Act, the devise shall be prohibited only if, while the estate is pending before the Secretary, the tribe pays to the Secretary on behalf of such devisee the fair market value of such interest as determined by the Secretary as of the date of the decedent's death. The value of any life estate reserved to a surviving spouse under the provisions of subsection (a) of this section shall be reflected in the Secretary's determination. The interest for which such payment is made by the tribe shall thereafter be held by the United States in trust for the tribe.

Life estate value reserved to a surviving spouse.

SEC. 5. The provisions of this Act shall apply only to estates of decedents whose deaths occur on or after the date of enactment of this Act.

Approved June 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-743 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-762 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 3, considered and passed House.
May 22, considered and passed Senate, amended, in lieu of S. 2102.
June 9, House concurred in Senate amendments.

Public Law 96-275
96th Congress

An Act

To protect the confidentiality of Shippers' Export Declarations, and to standardize export data submission and disclosure requirements.

June 17, 1980
[H.R. 6842]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301 of title 13, United States Code, is amended by adding at the end thereof the following new subsection:

Shippers' Export Declarations, confidentiality.

"(g) Shippers' Export Declarations (or any successor document), wherever located, shall be exempt from public disclosure unless the Secretary determines that such exemption would be contrary to the national interest.".

SEC. 2. Section 4199 of the Revised Statutes (46 U.S.C. 93) is amended to read as follows:

Export data submission and disclosure requirement standardization.

"SEC. 4199. (a) Copies of bills of lading or equivalent commercial documents relating to all cargo encompassed by the manifest required under this chapter shall be attached to such manifest and delivered to the appropriate officer of the United States Customs Service at the time such manifest is delivered.

"(b) The following information shall be included on such manifest, or on attached copies of bills of lading or equivalent commercial documents:

"(1) Name and address of shipper.
"(2) Description of the cargo.
"(3) Number of packages and gross weight.
"(4) Name of vessel or carrier.
"(5) Port of exit.
"(6) Port of destination.

"(c) Except as provided in subsection (d), the following information contained on such manifest, or on attached copies of bills of lading or equivalent commercial documents, shall be available for public disclosure:

"(1) Name and address of shipper, unless the shipper has made a biennial certification claiming confidential treatment pursuant to procedures adopted by the Secretary of the Treasury.
"(2) General character of the cargo.
"(3) Number of packages and gross weight.
"(4) Name of vessel or carrier.
"(5) Port of exit.
"(6) Port of destination.
"(7) Country of destination.

Disclosure, exemptions.

"(d) The information listed in subsection (c) shall not be available for public disclosure if—

"(1) the Secretary of the Treasury makes an affirmative finding on a shipment-by-shipment basis that disclosure is likely to pose a threat of personal injury or property damage; or
"(2) the information is exempt under the provisions of section 552(b)(1) of title 5 of the United States Code.

Access procedures, establishment.

"(e) The Secretary of the Treasury, in order to allow for the timely dissemination and publication of the information listed in subsection (c) above, is authorized to establish procedures to provide access to manifests, or attached bills of lading or equivalent commercial documents which shall include provisions for adequate protection against the public disclosure of information not available for public disclosure from such manifests or attached bills of lading, or equivalent commercial documents.".

13 USC 301 note.

SEC. 3. Nothing in this Act shall be construed as authorizing the withholding of information from Congress.

Effective dates. 13 USC 301 note.

SEC. 4. (a) Except as provided in subsection (b), this Act, and the amendments made by this Act, shall become effective on the later of July 1, 1980, or the date of enactment of this Act.

(b) The amendment made by section 2 shall become effective on the date which is forty-five days after the date of enactment of this Act.

Approved June 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-928, pt. 1 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 96-796 accompanying S. 2419 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 12, considered and passed House.
June 11, considered and passed Senate in lieu of S. 2419.

Public Law 96-276
96th Congress

An Act

To amend the Egg Research and Consumer Information Act and to establish an intergovernmental study group to analyze recent events in the silver cash and futures markets.

June 17, 1980
[H.R. 6285]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Egg Research and Consumer Information Act Amendments of 1980".

Egg Research and Consumer Information Act Amendments of 1980.
7 USC 2701 note.

SEC. 2. Section 8(a) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(a)) is amended by deleting the word "eighteen" in such section and inserting in lieu thereof the word "twenty".

SEC. 3. Section 8(b) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(b)) is amended by deleting the period at the end of the paragraph and inserting the following: ": *Provided further,* That two members of the Egg Board, and alternates therefor, shall be consumers or representatives of consumers, if approved by egg producers voting in a referendum on an amendment to the order. Such consumer appointments shall be made by the Secretary from nominations submitted by eligible organizations. If the Secretary determines that such nominees are not members of either a bona fide consumer organization or do not represent consumers, the Secretary may appoint such consumers or representatives of consumers as deemed necessary to properly represent the interest of consumers. Consumer members of the Egg Board shall be voting members.".

Egg Board, consumer members.

SEC. 4. Section 8(e) of the Egg Research and Consumer Information Act (7 U.S.C. 2707(e)) is amended by striking the third sentence and inserting in lieu thereof the following: "For fiscal year 1981, the rate of assessment prescribed by the order shall not exceed 7½ cents per case of commercial eggs or the equivalent thereof. For each fiscal year thereafter, the rate of assessment may be increased by no more than three-quarters of a cent per case of commercial eggs or the equivalent thereof: *Provided,* That the rate of assessment shall not exceed 10 cents per case of commercial eggs or the equivalent thereof.".

Rate of assessment.

SEC. 5. Section 9 of the Egg Research and Consumer Information Act (7 U.S.C. 2708) is amended by adding at the end thereof a new sentence as follows: "The failure of egg producers to approve an amendment to any Egg Research and Promotion Order shall not be deemed to invalidate such order.".

SEC. 6. Section 15 of the Egg Research and Consumer Information Act (7 U.S.C. 2714) is amended by striking section 15 of the Act and inserting in lieu thereof the following:

"SEC. 15. (a) The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued pursuant to this Act. Any civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided,* That nothing in this Act shall be

Enforcement of orders.

Civil actions, referral to Attorney General.

construed as requiring the Secretary to refer to the Attorney General violations of this Act whenever he believes that the administration and enforcement of the program would be adequately served by administrative action pursuant to paragraph (b) of this section or suitable written notice or warning to any person committing such violations.

Civil penalty; cease-and-desist order.

"(b)(1) Any person who violates any provisions of any order or regulation issued by the Secretary pursuant to this Act, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of him thereunder, may be assessed a civil penalty by the Secretary of not less than $500 or more than $5,000 for each such violation. Each violation shall be a separate offense. In addition to or in lieu of such civil penalty the Secretary may issue an order requiring such person to cease and desist from continuing such violation or violations. No penalty shall be assessed or cease and desist order issued unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation, and the order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate United States court of appeals.

Hearing.

Appeal.

"(2) Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under paragraph (b)(1) of this section may obtain review in the court of appeals of the United States for the circuit in which such person resides or has his place of business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence.

Final order, noncompliance penalty.

"(3) Any person who fails to obey a cease and desist order after it has become final and unappealable, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review pursuant to the procedures specified in paragraphs (b) (1) and (2) of this section, of not more than $500 for each offense, and each day during which such failure continues shall be deemed a separate offense.

Referral to Attorney General.

"(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.".

SEC. 7. The Commodity Exchange Act is amended by adding at the end thereof a new section 21 to read as follows:

Joint working group.
7 USC 4a note.

"SEC. 21. The Commission shall establish a joint working group with the Federal Reserve Board, Department of the Treasury, and Securities and Exchange Commission to analyze the various aspects of the events in the silver cash and futures markets during the period of September 1979 through March 1980. The joint working group will prepare a report of its findings that shall include, but not be limited

Report.

to, a description of the causes of this situation, an appraisal of the adequacy of consultation during this period between the members of the joint working group, and recommendations for legislative changes that could prevent a recurrence of these or similar events in any futures market. The joint working group shall submit its report to the appropriate committees of Congress by October 1, 1980.". Submittal to congressional committees.

Approved June 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-752 (Comm. on Agriculture).
SENATE REPORT No. 96-765 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 19, considered and passed House.
June 4, considered and passed Senate, amended.
June 10, House agreed to Senate amendments.

79-194 O—81—pt. 1——38 : QL3

Public Law 96-277
96th Congress

An Act

June 17, 1980
[H.R. 3979]

To repeal and amend certain laws regulating trade between Indians and certain Federal employees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 437 of title 18, United States Code, is amended to read as follows:

18 USC 437.

"§ 437. Federal employees contracting or trading with Indians

Fines and imprisonment.

"(a) Except as provided in subsection (b), whoever, being an officer, employee, or agent of the Bureau of Indian Affairs or the Indian Health Service has (other than as a lawful representative of the United States) any interest, in such officer, employee, or agent's name, or in the name of another person where such officer, employee, or agent benefits or appears to benefit from such interest—

"(1) in any contract made or under negotiation with any Indian, for the purchase or transportation or delivery of goods or supplies for any Indian, or

"(2) in any purchase or sale of any service or real or personal property (or any interest therein) from or to any Indian, or colludes with any person attempting to obtain any such contract, purchase, or sale, shall be fined not more than $5,000 or imprisoned not more than six months or both, and shall be removed from office, notwithstanding any other provision of law concerning termination from Federal employment.

Rules permitting sale of property.

"(b)(1) Notwithstanding the provisions of subsection (a) and in accordance with paragraph (2) of this subsection, the President or his designee may prescribe rules and regulations under which any officer, employee, or agent of the Bureau of Indian Affairs or of the Indian Health Service may purchase from or sell to any Indian any service or any real or personal property or any interest therein.

"(2) No rule or regulation prescribed pursuant to paragraph (1) of this subsection shall permit any officer, employee, or agent referred to in that paragraph—

"(A) to make any purchase from or sale to an Indian of any real or personal property (or any interest therein) for the purpose of commercially selling, reselling, trading, or bartering such property; or

"(B) to have any interest in any purchase or sale involving property or funds which are either held in trust by the United States for Indians or which are purchased, sold, utilized, or received in connection with a contract or grant to an Indian from the Bureau of Indian Affairs or the Indian Health Service, if such officer, employee, or agent is employed in the office or installation of such Bureau or Service which recommends, approves, executes, or administers such transaction, grant, or contract on behalf of the United States: *Provided,* That such officer, employee, or agent may have such an interest if such purchase or sale is approved by the Secretary of the Interior in the case of a

Bureau of Indian Affairs officer, employee, or agent, or by the Secretary of Health, Education, and Welfare in the case of an Indian Health Service officer, employee, or agent, or a designee of such Secretary who is not employed at such office or installation: *Provided further,* That (1) any such designee may not be a relative by blood or marriage of the officer, employee, or agent engaging in such purchase or sale; (2) with respect to purchases or sales by any officer, employee, or agent employed at the reservation, agency, or service unit level, such designee must be employed at not less than one grade level higher than such officer, employee, or agent at the Washington, District of Columbia, central office or at an area office installation other than that with authority over such reservation, agency, or service unit; (3) with respect to purchases or sales by any officer, employee, or agent employed at the area office level, such designee must be employed at not less than one grade level higher than such officer, employee, or agent at the Washington, District of Columbia, central office; and (4) the Secretary must approve purchases or sales by any officer, employee, or agent employed at the Washington, District of Columbia, central office; or

"(C) to acquire any interest in property held in trust, or subject to restriction against alienation imposed, by the United States unless the conveyance or granting of such interest in such property is otherwise authorized by law.

Indian benefit entitlement.

"(c) Except as provided in subsection (b)(2), nothing contained in this section shall be construed as preventing any officer, employee, or agent of the Bureau of Indian Affairs or the Indian Health Service who is an Indian, of whatever degree of Indian blood, from obtaining or receiving any benefit or benefits made available to Indians generally or to any member of his or her particular tribe, under any Act of Congress, nor to prevent any such officer, employee, or agent who is an Indian from being a member of or receiving benefits by reason of his or her membership in any Indian tribe, corporation, or cooperative association organized by Indians, when authorized under such rules and regulations as the Secretary of the Interior or the Secretary of Health, Education, and Welfare, or their designee shall prescribe.

"Indian."

"(d) For purposes of this section, the term 'Indian' means any member of an Indian tribe recognized as eligible for the services provided by the Bureau of Indian Affairs who is residing on a Federal Indian Reservation, on land held in trust by the United States for Indians, or on land subject to a restriction against alienation imposed by the United States. The term shall also include any such tribe and any Indian owned or controlled organization located on such a reservation or land.

"Bureau of Indian Affairs."

"(e) For purposes of this section, the term 'Bureau of Indian Affairs' means the Bureau of Indian Affairs and the Office of the Assistant Secretary for Indian Affairs, both in the Department of the Interior.".

Repeals. 25 USC 87a.

SEC. 2. Section 2078 of the Revised Statutes (25 U.S.C. 68) and the Act of June 19, 1939 (53 Stat. 840; 25 U.S.C. 68a and 441), are hereby repealed.

Validity of transaction, declaration by Secretary of Interior. 18 USC 437 note.

SEC. 3. The Secretary of the Interior may review any transaction, other than one involving the sale of property held in trust or subject to a restriction against alienation imposed by the United States, occurring prior to the effective date of this Act and, if the Secretary finds that such transaction would have been valid had the provisions of this Act been in effect at the time of such transaction, the

Secretary may declare such transaction to be valid, subject to all valid transactions subsequent to such time. The Secretary may issue or execute such documents as may be necessary or desirable to evidence the validity of such a transaction. A declaration of validity of a transaction pursuant to this section shall be conclusive evidence of such validity notwithstanding the provisions of section 437 of title 18, United States Code; section 2078 of the Revised Statutes; section 14 of the Act of June 30, 1834 (4 Stat. 738); and section 10 of the Act of June 22, 1874 (18 Stat. 177), which may have been in effect at the time of such transaction.

Ante, p. 544, 25 USC 68.

Effective date. 18 USC 437 note.

SEC. 4. The provisions of this Act shall take effect sixty days after the date of enactment of this Act.

Wa-He-Lute Indian School, tract of land.

SEC. 5. (a) On and after the effective date of this Act, the following tract of land shall be held by the Secretary of the Interior for the Wa-He-Lute Indian School for its use as an Indian school and community center for educational or cultural purposes:

> Part of Government lot 2, section 8, township 18 north, range 1 east, Willamette meridian, Thurston County, Washington, described more particularly as follows: Government lot 2, section 8, township 18 north, range 1 east, Willamette meridian, Thurston County, Washington, except excluding that portion which begins at the northeast corner of the William Packwood Donation Claim Numbered 37, thence south along the east line of said claim, 655 feet to the point of beginning, thence south 655 feet; thence east 420 feet; thence north 655 feet; thence west 420 feet to place of beginning; all in section 8, township 18 north, range 1 east, Willamette meridian, except including a strip of land 0.7 foot in width, lying along the north boundary of said excluded tract, acquired by the United States of America on February 23, 1942, by Declaration of Taking filed in United States District Court, Western District of Washington, Southern Division.

Title to land.

(b) Title to the land described in subsection (a) shall remain in the United States under the administration of the Secretary of the Interior who shall hold the above-described tract of land for the Wa-He-Lute Indian School so long as it is used for any of the above-mentioned purposes. At such time as the land ceases to be used for the above purposes, title thereto shall be taken in trust for the benefit of Willy Frank, Nisqually Enrollee No. 19 (November 8, 1976), or his heirs.

Approved June 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-653 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-629 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 27, considered and passed House.
Vol. 126 (1980): Mar. 19 considered and passed Senate, amended.
June 9, House concurred in Senate amendments Nos. 1 through 17 and concurred in Senate amendment No. 18 with amendment
June 12, Senate concurred in House amendments.

Public Law 96-278
96th Congress

Joint Resolution

To authorize and request the President to proclaim June 27, 1980, as "Helen Keller Day".

June 17, 1980
[S.J. Res. 127]

Whereas, Helen Keller was left incurably blind and deaf at the age of nineteen months;

Whereas, through her own determination and faith, and through the patience and understanding of her devoted teacher, Anne Sullivan, Helen Keller overcame the disability of blindness and deafness, became fluent in the use of sign language, mastered the Braille alphabet, and learned to speak;

Whereas, after her personal victory over her disabilities, Helen Keller turned her life and ambitions to the services of others, demonstrating to the world that her disabilities were minor compared to her talent and abilities;

Whereas, for more than a half century, Helen Keller has been a symbol of courage and faith serving to encourage and benefit millions of her fellow handicapped in America and throughout the world, serving to educate the nonhandicapped to the potential of handicapped persons;

Whereas, with limitless stamina and energy, Helen Keller dedicated her life to others, giving unceasingly—speaking, writing, traveling, and working constantly to improve the conditions of deaf and blind people;

Whereas, as counselor to the American Foundation for the Blind, she guided programs to advance economic, cultural, and societal opportunities of deaf and blind persons throughout the United States and was instrumental in launching a new era of work to advance these opportunities;

Whereas, through the Helen Keller World Crusade for the Blind, Helen Keller inspired programs for the education and rehabilitation of blind persons around the globe and became the primary force which led to increased awareness of the problems faced by the handicapped;

Whereas, wherever she went Helen Keller was received with a massive outpouring of love and admiration, being honored by heads of state, and being acclaimed by all;

Whereas, Helen Keller's spirit will endure as long as man can read and stories can be told of the woman who showed the world that there are no boundaries to courage and faith; and

Whereas, June 27, 1980, marks the one hundredth anniversary of Helen Keller's birth in Tuscumbia, Alabama: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation

Helen Keller Day.
Designation authorization.

designating June 27, 1980, as "Helen Keller Day" and encouraging appropriate Government agencies to foster the recognition of the significance of Helen Keller's achievements on that day with appropriate ceremonies, programs, and activities.

Approved June 17, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-566 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 19, considered and passed Senate.
June 5, considered and passed House.

Public Law 96-279
96th Congress

Joint Resolution

Designating the week beginning June 22, 1980, as "National Athletic Boosters Week".

June 18, 1980
[H.J. Res. 442]

Whereas athletic programs are a vital means of keeping youth in good physical shape, in teaching good sportsmanship, and in learning cooperation;
Whereas athletic development begins at an early age, commonly through school and community sponsored activities;
Whereas school athletic and physical education programs throughout America are facing serious financial difficulties as the result of many problems including inflation and the reorientation of programs to equalize programs for boys and girls;
Whereas to offset this growing crisis, school and community organizations across the Nation have been formed and have been extremely effective in boosting and encouraging athletic programs;
Whereas thousands of volunteer members learn how to work effectively in supporting athletic programs; and
Whereas there is a rising movement across the Nation to undertake support of these programs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning June 22, 1980, is designated as "National Athletic Boosters Week" and the President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

National Athletic Boosters Week. Designation.

Approved June 18, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 25, considered and passed House.
June 13, considered and passed Senate in lieu of S.J. Res. 177.

Public Law 96-280
96th Congress

Joint Resolution

June 18, 1980
[S.J. Res. 89]

Permitting the supply of additional low enriched uranium fuel under international agreements for cooperation in the civil uses of nuclear energy, and for other purposes.

22 USC 3201 note.

Whereas the Nuclear Non-Proliferation Act of 1978 urges the United States to provide a reliable supply of nuclear fuel to those nations which adhere to policies designed to prevent the proliferation of nuclear weapons; and

Whereas the United States, in order to achieve the goals of that Act should be able to continue to supply low-enriched uranium fuel to nations that have entered into good faith negotiations as called for in section 404(a) of the Act; and

42 USC 2153c.

Whereas pending such negotiations, limitations now contained in certain agreements for cooperation on the amount of low-enriched uranium which may be supplied thereunder are insufficient to permit adequate assurance of supplies: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Low-enriched uranium fuel. U.S. exports. 42 USC 2153c note.

SECTION 1. Limits contained in agreements for cooperation on the amount of low-enriched uranium which may be transferred by or exported from the United States pursuant thereto shall not be construed to preclude transfer or export of amounts of low-enriched uranium in excess of such limits to nations which are parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

42 USC 2153c note. 42 USC 2011 note. 22 USC 3201 note. "Low-enriched uranium."

SEC. 2. (a) The terms used in this joint resolution shall have the meanings ascribed to them by the Atomic Energy Act of 1954 and by the Nuclear Non-Proliferation Act of 1978.

(b) The term "low-enriched uranium" means uranium enriched to less than 20 per centum in the isotope 235.

Approved June 18, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-919 accompanying H.J. Res. 324 (Comm. on Foreign Affairs).
SENATE REPORT No. 96-657 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 28, considered and passed Senate.
May 5, considered and passed House, amended, in lieu of H.J. Res. 324.
June 6, Senate concurred in House amendment.

Public Law 96-281
96th Congress

Joint Resolution

Congratulating the Order of the Sons of Italy in America for their seventy-fifth anniversary and wishing the Order of the Sons of Italy in America success in future years and proclaiming June 22, 1980, as "National Italian-American Day".

June 19, 1980
[S.J. Res. 183]

Whereas the Order of the Sons of Italy in America is celebrating its seventy-fifth year;
Whereas the Order of the Sons of Italy in America has made substantial contributions to the causes of liberty, equality, and fraternity among Americans of Italian heritage;
Whereas the Order of the Sons of Italy in America has kept alive the rich cultural heritage of Italy and of the Italian people; and
Whereas the Order of the Sons of Italy in America has helped to enrich the diversified culture of the United States through educational, charitable, and benevolent programs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Senate and House of Representatives congratulate the Order of the Sons of Italy in America for their seventy-fifth anniversary and wish the Order of the Sons of Italy in America success in future years; and that Sunday, June 22, 1980, be proclaimed "National Italian-American Day" in honor of the seventy-fifth anniversary of the Sons of Italy in America.

National Italian-American Day, proclamation.

Approved June 19, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
June 12, considered and passed Senate.
June 17, considered and passed House.

Public Law 96-282
96th Congress

Joint Resolution

June 27, 1980
[H.J. Res. 521]

Making additional funds available by transfer for the fiscal year ending September 30, 1980, for the Selective Service System.

Selective Service System, additional funds.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is transferred, out of funds previously appropriated, for the fiscal year ending September 30, 1980, namely:

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

(By transfer)

For an additional amount for "Salaries and expenses", $13,285,000, which shall be derived by transfer from unobligated balances available under the heading "Military Personnel, Air Force": *Provided,* That none of the funds made available by this joint resolution shall be available for instituting or taking action to draft any individual for military service.

Approved June 27, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT: No. 96-885 (Comm. on Appropriations).
SENATE REPORT: No. 96-789 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 22, considered and passed House.
June 3-6, 9-12, considered and passed Senate, amended.
June 25, House concurred in Senate amendment.

Public Law 96-283
96th Congress

An Act

To establish an interim procedure for the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto, and for other purposes.

June 28, 1980
[H.R. 2759]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Deep Seabed Hard Mineral Resources Act.
30 USC 1401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deep Seabed Hard Mineral Resources Act".

30 USC 1401.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the United States' requirements for hard minerals to satisfy national industrial needs will continue to expand and the demand for such minerals will increasingly exceed the available domestic sources of supply;

(2) in the case of certain hard minerals, the United States is dependent upon foreign sources of supply and the acquisition of such minerals from foreign sources is a significant factor in the national balance-of-payments position;

(3) the present and future national interest of the United States requires the availability of hard mineral resources which is independent of the export policies of foreign nations;

(4) there is an alternate source of supply, which is significant in relation to national needs, of certain hard minerals, including nickel, copper, cobalt, and manganese, contained in the nodules existing in great abundance on the deep seabed;

(5) the nations of the world, including the United States, will benefit if the hard mineral resources of the deep seabed beyond limits of national jurisdiction can be developed and made available for their use;

(6) in particular, future access to the nickel, copper, cobalt, and manganese resources of the deep seabed will be important to the industrial needs of the nations of the world, both developed and developing;

(7) on December 17, 1970, the United States supported (by affirmative vote) the United Nations General Assembly Resolution 2749 (XXV) declaring inter alia the principle that the mineral resources of the deep seabed are the common heritage of mankind, with the expectation that this principle would be legally defined under the terms of a comprehensive international Law of the Sea Treaty yet to be agreed upon;

(8) it is in the national interest of the United States and other nations to encourage a widely acceptable Law of the Sea Treaty, which will provide a new legal order for the oceans covering a broad range of ocean interests, including exploration for and commercial recovery of hard mineral resources of the deep seabed;

(9) the negotiations to conclude such a Treaty and establish the international regime governing the exercise of rights over, and exploration of, the resources of the deep seabed, referred to in General Assembly Resolution 2749 (XXV) are in progress but may not be concluded in the near future;

(10) even if such negotiations are completed promptly, much time will elapse before such an international regime is established and in operation;

(11) development of technology required for the exploration and recovery of hard mineral resources of the deep seabed will require substantial investment for many years before commercial production can occur, and must proceed at this time if deep seabed minerals are to be available when needed;

(12) it is the legal opinion of the United States that exploration for and commercial recovery of hard mineral resources of the deep seabed are freedoms of the high seas subject to a duty of reasonable regard to the interests of other states in their exercise of those and other freedoms recognized by general principles of international law;

(13) pending a Law of the Sea Treaty, and in the absence of agreement among states on applicable principles of international law, the uncertainty among potential investors as to the future legal regime is likely to discourage or prevent the investments necessary to develop deep seabed mining technology;

(14) pending a Law of the Sea Treaty, the protection of the marine environment from damage caused by exploration or recovery of hard mineral resources of the deep seabed depends upon the enactment of suitable interim national legislation;

(15) a Law of the Sea Treaty is likely to establish financial arrangements which obligate the United States or United States citizens to make payments to an international organization with respect to exploration or recovery of the hard mineral resources of the deep seabed; and

(16) legislation is required to establish an interim legal regime under which technology can be developed and the exploration and recovery of the hard mineral resources of the deep seabed can take place until such time as a Law of the Sea Treaty enters into force with respect to the United States.

(b) PURPOSES.—The Congress declares that the purposes of this Act are—

(1) to encourage the successful conclusion of a comprehensive Law of the Sea Treaty, which will give legal definition to the principle that the hard mineral resources of the deep seabed are the common heritage of mankind and which will assure, among other things, nondiscriminatory access to such resources for all nations;

(2) pending the ratification by, and entering into force with respect to, the United States of such a Treaty, to provide for the establishment of an international revenue-sharing fund the proceeds of which shall be used for sharing with the international community pursuant to such Treaty;

(3) to establish, pending the ratification by, and entering into force with respect to, the United States of such a Treaty, an interim program to regulate the exploration for and commercial recovery of hard mineral resources of the deep seabed by United States citizens;

(4) to accelerate the program of environmental assessment of exploration for and commercial recovery of hard mineral

resources of the deep seabed and assure that such exploration and recovery activities are conducted in a manner which will encourage the conservation of such resources, protect the quality of the environment, and promote the safety of life and property at sea; and

(5) to encourage the continued development of technology necessary to recover the hard mineral resources of the deep seabed.

SEC. 3. INTERNATIONAL OBJECTIVES OF THIS ACT. 30 USC 1402.

(a) DISCLAIMER OF EXTRATERRITORIAL SOVEREIGNTY.—By the enactment of this Act, the United States—

(1) exercises its jurisdiction over United States citizens and vessels, and foreign persons and vessels otherwise subject to its jurisdiction, in the exercise of the high seas freedom to engage in exploration for, and commercial recovery of, hard mineral resources of the deep seabed in accordance with generally accepted principles of international law recognized by the United States; but

(2) does not thereby assert sovereignty or sovereign or exclusive rights or jurisdiction over, or the ownership of, any areas or resources in the deep seabed.

(b) SECRETARY OF STATE.—(1) The Secretary of State is encouraged to negotiate successfully a comprehensive Law of the Sea Treaty which, among other things, provides assured and nondiscriminatory access to the hard mineral resources of the deep seabed for all nations, gives legal definition to the principle that the resources of the deep seabed are the common heritage of mankind, and provides for the establishment of requirements for the protection of the quality of the environment as stringent as those promulgated pursuant to this Act.

(2) Until such a Treaty is concluded, the Secretary of State is encouraged to promote any international actions necessary to adequately protect the environment from adverse impacts which may result from any exploration for and commercial recovery of hard mineral resources of the deep seabed carried out by persons not subject to this Act.

SEC. 4. DEFINITIONS. 30 USC 1403.

For purposes of this Act, the term—

(1) "commercial recovery" means—

(A) any activity engaged in at sea to recover any hard mineral resource at a substantial rate for the primary purpose of marketing or commercially using such resource to earn a net profit, whether or not such net profit is actually earned;

(B) if such recovered hard mineral resource will be processed at sea, such processing; and

(C) if the waste of such activity to recover any hard mineral resource, or of such processing at sea, will be disposed of at sea, such disposal;

(2) "Continental Shelf" means—

(A) the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such submarine area; and

(B) the seabed and subsoil of similar submarine areas adjacent to the coast of islands;

(3) "controlling interest", for purposes of paragraph 14(C) of this section, means a direct or indirect legal or beneficial interest in or influence over another person arising through ownership of capital stock, interlocking directorates or officers, contractual relations, or other similar means, which substantially affect the independent business behavior of such person;

(4) "deep seabed" means the seabed, and the subsoil thereof to a depth of ten meters, lying seaward of and outside—

(A) the Continental Shelf of any nation; and

(B) any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States;

(5) "exploration" means—

(A) any at-sea observation and evaluation activity which has, as its objective, the establishment and documentation of—

(i) the nature, shape, concentration, location, and tenor of a hard mineral resource; and

(ii) the environmental, technical, and other appropriate factors which must be taken into account to achieve commercial recovery; and

(B) the taking from the deep seabed of such quantities of any hard mineral resource as are necessary for the design, fabrication, and testing of equipment which is intended to be used in the commercial recovery and processing of such resource;

(6) "hard mineral resource" means any deposit or accretion on, or just below, the surface of the deep seabed of nodules which include one or more minerals, at least one of which contains manganese, nickel, cobalt, or copper;

(7) "international agreement" means a comprehensive agreement concluded through negotiations at the Third United Nations Conference on the Law of the Sea, relating to (among other matters) the exploration for and commercial recovery of hard mineral resources and the establishment of an international regime for the regulation thereof;

(8) "licensee" means the holder of a license issued under title I of this Act to engage in exploration;

(9) "permittee" means the holder of a permit issued under title I of this Act to engage in commercial recovery;

(10) "person" means any United States citizen, any individual, and any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any nation;

(11) "reciprocating state" means any foreign nation designated as such by the Administrator under section 118;

(12) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration;

(13) "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States; and

(14) "United States citizen" means—

(A) any individual who is a citizen of the United States;

(B) any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any of the United States; and

(C) any corporation, partnership, joint venture, association, or other entity (whether organized or existing under the laws of any of the United States or a foreign nation) if the controlling interest in such entity is held by an individual or entity described in subparagraph (A) or (B).

TITLE I—REGULATION OF EXPLORATION AND COMMERCIAL RECOVERY BY UNITED STATES CITIZENS

SEC. 101. PROHIBITED ACTIVITIES BY UNITED STATES CITIZENS. 30 USC 1411.

(a) PROHIBITED ACTIVITIES AND EXCEPTIONS.—(1) No United States citizen may engage in any exploration or commercial recovery unless authorized to do so under—

(A) a license or a permit issued under this title;

(B) a license, permit, or equivalent authorization issued by a reciprocating state; or

(C) an international agreement which is in force with respect to the United States.

(2) The prohibitions of this subsection shall not apply to any of the following activities:

(A) Scientific research, including that concerning hard mineral resources.

(B) Mapping, or the taking of any geophysical, geochemical, oceanographic, or atmospheric measurements or random bottom samplings of the deep seabed, if such taking does not significantly alter the surface or subsurface of the deep seabed or significantly affect the environment.

(C) The design, construction, or testing of equipment and facilities which will or may be used for exploration or commercial recovery, if such design, construction, or testing is conducted on shore, or does not involve the recovery of any but incidental hard mineral resources.

(D) The furnishing of machinery, products, supplies, services, or materials for any exploration or commercial recovery conducted under a license or permit issued under this title, a license or permit or equivalent authorization issued by a reciprocating state, or under an international agreement.

(E) Activities, other than exploration or commercial recovery activities, of the Federal Government.

(b) EXISTING EXPLORATION.—(1) Subsection (a)(1)(A) shall not be deemed to prohibit any United States citizen who is engaged in exploration before the effective date of this Act from continuing to engage in such exploration—

(A) if such citizen applies for a license under section 103(a) with respect to such exploration within such reasonable period of time, after the date on which initial regulations to implement section 103(a) are issued, as the Administrator shall prescribe; and

(B) until such license is issued to such citizen or a final administrative or judicial determination is made affirming the denial of certification of the application for, or issuance of, such license.

(2) Notwithstanding paragraph (1), if the President by Executive order determines that immediate suspension of exploration activities Suspension of exploration.

is necessary for the reasons set forth in section 106(a)(2)(B) or the Administrator determines that immediate suspension of activities is necessary to prevent a significant adverse effect on the environment or to preserve the safety of life and property at sea, the Administrator is authorized, notwithstanding any other requirement of this Act, to issue an emergency order requiring any United States citizen who is engaged in exploration before the effective date of this Act to immediately suspend exploration activities. The issuance of such emergency order is subject to judicial review as provided in chapter 7 of title 5, United States Code.

Judicial review.

5 USC 701 *et seq.*

(3) The timely filing of any application for a license under paragraph (1)(A) shall entitle the applicant to priority of right for the issuance of such license under section 103(b). In any case in which more than one application referred to in paragraph (1) is filed based on exploration plans required by section 103(a)(2) which refer to all or part of the same deep seabed area, the Administrator shall, in taking action on such applications, apply principles of equity which take into consideration, among other things, the date on which the applicants or predecessors in interest, or component organizations thereof, commenced exploration activities and the continuity and extent of such exploration and amount of funds expended with respect to such exploration.

(c) INTERFERENCE.—No United States citizen may interfere or participate in interference with any activity conducted by any licensee or permittee which is authorized to be undertaken under a license or permit issued by the United States to the licensee or permittee under this Act or with any activity conducted by the holder of, and authorized to be undertaken under, a license or permit or equivalent authorization issued by a reciprocating state for the exploration or commercial recovery of hard mineral resources. United States citizens shall exercise their rights on the high seas with reasonable regard for the interests of other states in their exercise of the freedoms of the high seas.

30 USC 1412.

SEC. 102. LICENSES FOR EXPLORATION AND PERMITS FOR COMMERCIAL RECOVERY.

(a) AUTHORITY TO ISSUE.—Subject to the provisions of this Act, the Administrator shall issue to applicants who are eligible therefor licenses for exploration and permits for commercial recovery.

(b) NATURE OF LICENSES AND PERMITS.—(1) A license or permit issued under this title shall authorize the holder thereof to engage in exploration or commercial recovery, as the case may be, consistent with the provisions of this Act, the regulations issued by the Administrator to implement the provisions of this Act, and the specific terms, conditions, and restrictions applied to the license or permit by the Administrator.

(2) Any license or permit issued under this title shall be exclusive with respect to the holder thereof as against any other United States citizen or any citizen, national or governmental agency of, or any legal entity organized or existing under the laws of, any reciprocating state.

(3) A valid existing license shall entitle the holder, if otherwise eligible under the provisions of this Act and regulations issued under this Act, to a permit for commercial recovery. Such a permit recognizes the right of the holder to recover hard mineral resources, and to own, transport, use, and sell hard mineral resources recovered, under the permit and in accordance with the requirements of this Act.

(4) In the event of interference with the exploration or commercial recovery activities of a licensee or permittee by nationals of other states, the Secretary of State shall use all peaceful means to resolve the controversy by negotiation, conciliation, arbitration, or resort to agreed tribunals.

(c) RESTRICTIONS.—(1) The Administrator may not issue—

(A) any license or permit after the date on which an international agreement is ratified by and enters into force with respect to the United States, except to the extent that issuance of such license or permit is not inconsistent with such agreement;

(B) any license or permit the exploration plan or recovery plan of which, submitted pursuant to section 103(a)(2), would apply to an area to which applies, or would conflict with, (i) any exploration plan or recovery plan submitted with any pending application to which priority of right for issuance applies under section 103(b), (ii) any exploration plan or recovery plan associated with any existing license or permit, or (iii) any equivalent authorization which has been issued, or for which formal notice of application has been submitted, by a reciprocating state prior to the filing date of any relevant application for licenses or permits pursuant to this title;

(C) a permit authorizing commercial recovery within any area of the deep seabed in which exploration is authorized under a valid existing license if such permit is issued to other than the licensee for such area;

(D) any exploration license before July 1, 1981, or any permit which authorizes commercial recovery to commence before January 1, 1988;

(E) any license or permit the exploration plan or recovery plan for which applies to any area of the deep seabed if, within the 3-year period before the date of application for such license or permit, (i) the applicant therefor surrendered or relinquished such area under an exploration plan or recovery plan associated with a previous license or permit issued to such applicant, or (ii) a license or permit previously issued to the applicant had an exploration plan or recovery plan which applied to such area and such license or permit was revoked under section 106; or

(F) a license or permit, or approve the transfer of a license or permit, except to a United States citizen.

Vessel documentation.

(2) No permittee may use any vessel for the commercial recovery of hard mineral resources or for the processing at sea of hard mineral resources recovered under the permit issued to the permittee unless the vessel is documented under the laws of the United States.

Transportation of minerals from mining sites.

(3) Each permittee shall use at least one vessel documented under the laws of the United States for the transportation from each mining site of hard mineral resources recovered under the permit issued to the permittee.

(4) For purposes of the shipping laws of the United States, any vessel documented under the laws of the United States and used in the commercial recovery, processing, or transportation from any mining site of hard mineral resources recovered under a permit issued under this title shall be deemed to be used in, and used in an essential service in, the foreign commerce or foreign trade of the United States, as defined in section 905(a) of the Merchant Marine Act, 1936, and shall be deemed to be a vessel as defined in section 1101(b) of that Act.

46 USC 1244.
46 USC 1271.

Processing on land within U.S.

(5) Except as otherwise provided in this paragraph, the processing on land of hard mineral resources recovered pursuant to a permit

shall be conducted within the United States: *Provided,* That the President does not determine that such restrictions contravene the overriding national interests of the United States. The Administrator may allow the processing of hard mineral resources at a place other than within the United States if he finds, after opportunity for an agency hearing, that—

Processing outside U.S.

(A) the processing of the quantity concerned of such resource at a place other than within the United States is necessary for the economic viability of the commerical recovery activities of a permittee; and

(B) satisfactory assurances have been given by the permittee that such resource, after processing, to the extent of the permittee's ownership therein, will be returned to the United States for domestic use, if the Administrator so requires after determining that the national interest necessitates such return.

30 USC 1413.

SEC. 103. LICENSE AND PERMIT APPLICATIONS, REVIEW, AND CERTIFICATION.

(a) APPLICATIONS.—(1) Any United States citizen may apply to the Administrator for the issuance or transfer of a license for exploration or a permit for commercial recovery.

(2)(A) Applications for issuance or transfer of licenses for exploration and permits for commercial recovery shall be made in such form and manner as the Administrator shall prescribe in general and uniform regulations and shall contain such relevant financial, technical, and environmental information as the Administrator may by regulations require as being necessary and appropriate for carrying out the provisions of this title. In accordance with such regulations, each applicant for the issuance of a license shall submit an exploration plan as described in subparagraph (B), and each applicant for a permit shall submit a recovery plan as described in subparagraph (C).

Exploration plan.

(B) The exploration plan for a license shall set forth the activities proposed to be carried out during the period of the license, describe the area to be explored, and include the intended exploration schedule and methods to be used, the development and testing of systems for commercial recovery to take place under the terms of the license, an estimated schedule of expenditures, measures to protect the environment and to monitor the effectiveness of environmental safeguards and monitoring systems for commercial recovery, and such other information as is necessary and appropriate to carry out the provisions of this title. The area set forth in an exploration plan shall be of sufficient size to allow for intensive exploration.

Recovery plan.

(C) The recovery plan for a permit shall set forth the activities proposed to be carried out during the period of the permit, and shall include the intended schedule of commercial recovery, environmental safeguards and monitoring systems, details of the area or areas proposed for commercial recovery, a resource assessment thereof, the methods and technology to be used for commercial recovery and processing, the methods to be used for disposal of wastes from recovery and processing, and such other information as is necessary and appropriate to carry out the provisions of this title.

Size and location selection.

(D) The applicant shall select the size and location of the area of the exploration plan or recovery plan, which area shall be approved unless the Administrator finds that—

(i) the area is not a logical mining unit; or

(ii) commercial recovery activities in the proposed location would result in a significant adverse impact on the quality of the

environment which cannot be avoided by the imposition of reasonable restrictions.

"Logical mining unit."

(E) For purposes of subparagraph (D), "logical mining unit" means—

(i) in the case of a license for exploration, an area of the deep seabed which can be explored under the license in an efficient, economical, and orderly manner with due regard for conservation and protection of the environment, taking into consideration the resource data, other relevant physical and environmental characteristics, and the state of the technology of the applicant as set forth in the exploration plan; or

(ii) in the case of a permit, an area of the deep seabed—

(I) in which hard mineral resources can be recovered in sufficient quantities to satisfy the permittee's estimated production requirements over the initial 20-year term of the permit in an efficient, economical, and orderly manner with due regard for conservation and protection of the environment, taking into consideration the resource data, other relevant physical and environmental characteristics, and the state of the technology of the applicant set out in the recovery plan;

(II) which is not larger than is necessary to satisfy the permittee's estimated production requirements over the initial 20-year term of the permit; and

(III) in relation to which the permittee's estimated production requirements are not found by the Administrator to be unreasonable.

(b) PRIORITY OF RIGHT FOR ISSUANCE.—Subject to section 101(b), priority of right for the issuance of licenses to applicants shall be established on the basis of the chronological order in which license applications which are in substantial compliance with the requirements established under subsection (a)(2) of this section are filed with the Administrator. Priority of right shall not be lost in the case of any application filed which is in substantial but not full compliance with such requirements if the applicant thereafter brings the application into conformity with such requirements within such reasonable period of time as the Administrator shall prescribe in regulations.

(c) ELIGIBILITY FOR CERTIFICATION.—Before the Administrator may certify any application for issuance or transfer of a license for exploration or permit for commercial recovery, the Administrator must find in writing, after consultation with other departments and agencies pursuant to subsection (e) of this section, that—

(1) the applicant has demonstrated that, upon issuance or transfer of the license or permit, the applicant will be financially responsible to meet all obligations which may be required of a licensee or permittee to engage in the exploration or commercial recovery proposed in the application;

(2) the applicant has demonstrated that, upon issuance or transfer of the license or permit, the applicant will have the technological capability to engage in such exploration or commercial recovery;

(3) the applicant has satisfactorily fulfilled all obligations under any license or permit previously issued or transferred to the applicant under this Act; and

(4) the proposed exploration plan or recovery plan of the applicant meets the requirements of this Act and the regulations issued under this Act.

Applications, transmittal to Attorney General and FTC.

(d) ANTITRUST REVIEW.—(1) Whenever the Administrator receives any application for issuance or transfer of a license for exploration or permit for commercial recovery, the Administrator shall transmit promptly a complete copy of such application to the Attorney General of the United States and the Federal Trade Commission.

(2) The Attorney General and the Federal Trade Commission shall conduct such antitrust review of the application as they deem appropriate and shall, if they deem appropriate, advise the Administrator of the likely effects of such issuance or transfer on competition.

Recommendations.

(3) The Attorney General and the Federal Trade Commission may make any recommendations they deem advisable to avoid any action upon such application by the Administrator which would create or maintain a situation inconsistent with the antitrust laws. Such recommendations may include, without limitation, the denial of issuance or transfer of the license or permit or issuance or transfer upon such terms and conditions as may be appropriate.

(4) Any advice or recommendation submitted by the Attorney General or the Federal Trade Commission pursuant to this subsection shall be submitted within 90 days after receipt by them of the application. The Administrator shall not issue or transfer the license or permit during that 90-day period, except upon written confirmation by the Attorney General and the Federal Trade Commission that neither intends to submit any further advice or recommendation with respect to the application.

Attorney General and FTC, notification.

(5) If the Administrator decides to issue or transfer the license or permit with respect to which denial of the issuance or transfer of the license or permit has been recommended by the Attorney General or the Federal Trade Commission, or to issue or transfer the license or permit without imposing those terms and conditions recommended by the Attorney General or the Federal Trade Commission as appropriate to prevent any situation inconsistent with the antitrust laws, the Administrator shall, prior to or upon issuance or transfer of the license or permit, notify the Attorney General and the Federal Trade Commission of the reasons for such decision.

Violation.

(6) The issuance or transfer of a license or permit under this title shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or abridge any private right of action under such laws.

"Antitrust laws."

(7) As used in this subsection, the term "antitrust laws" means the Act of July 2, 1890 (commonly known as the Sherman Act; 15 U.S.C. 1-7); sections 73 through 77 of the Act of August 27, 1894 (commonly known as the Wilson Tariff Act; 15 U.S.C. 8-11); the Clayton Act (15 U.S.C. 12 et seq.); the Act of June 19, 1936 (commonly known as the Robinson-Patman Price Discrimination Act; 15 U.S.C. 13-13b and 21a); and the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(e) OTHER FEDERAL AGENCIES.—The Administrator shall provide by regulation for full consultation and cooperation, prior to certification of an application for the issuance or transfer of any license for exploration or permit for commercial recovery and prior to the issuance or transfer of such a license or permit, with other Federal agencies or departments which have programs or activities within their statutory responsibilities which would be affected by the activities proposed in the application for the issuance or transfer of a license or permit. Not later than 30 days after the date of enactment of this Act, the heads of any Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the recovery or processing of hard mineral resources shall transmit to the Admin-

Written comments, transmittal to Administrator.

istrator written comments as to their expertise or statutory responsibilities pursuant to this Act or any other Federal law. To the extent possible, such agencies shall cooperate to reduce the number of separate actions required to satisfy the statutory responsibilities of these agencies. The Administrator shall transmit to each such agency or department a complete copy of each application and each such agency or department, based on its legal responsibilities and authorities, may, not later than 60 days after receipt of the application, recommend certification of the application, issuance or transfer of the license or permit, or denial of such certification, issuance, or transfer. In any case in which an agency or department recommends such a denial, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall indicate how the application may be amended, or how terms, conditions, or restrictions might be added to the license or permit, to assure compliance with such law or regulation.

Transmittal of applications; recommendations.

(f) REVIEW PERIOD.—All time periods for the review of an application for issuance or transfer of a license or permit established pursuant to this section shall, to the maximum extent practicable, run concurrently from the date on which the application is received by the Administrator.

(g) APPLICATION CERTIFICATION.—Upon making the applicable determinations and findings required in sections 101, 102, and this section with respect to any applicant for the issuance or transfer of a license or a permit and the exploration or commercial recovery proposed by such applicant, after completion of procedures for receiving the application required by this Act, and upon payment by the applicant of the fee required under section 104, the Administrator shall certify the application for the issuance or transfer of the license or permit. The Administrator, to the maximum extent possible, shall endeavor to complete certification action on the application within 100 days after its submission. If final certification or denial of certification has not occurred within 100 days after submission of the application, the Administrator shall inform the applicant in writing of the then pending unresolved issues, the Administrator's efforts to resolve them, and an estimate of the time required to do so.

SEC. 104. LICENSE AND PERMIT FEES. 30 USC 1414.

No application for the issuance or transfer of a license for exploration or permit for commercial recovery shall be certified unless the applicant pays to the Administrator a reasonable administrative fee which shall be deposited into miscellaneous receipts of the Treasury. The amount of the administrative fee imposed by the Administrator on any applicant shall reflect the reasonable administrative costs incurred in reviewing and processing the application.

SEC. 105. LICENSE AND PERMIT TERMS, CONDITIONS, AND RESTRICTIONS; ISSUANCE AND TRANSFER OF LICENSES AND PERMITS. 30 USC 1415.

(a) ELIGIBILITY FOR ISSUANCE OR TRANSFER OF LICENSE OR PERMIT.—Before issuing or transferring a license for exploration or permit for commercial recovery, the Administrator must find in writing, after consultation with interested departments and agencies pursuant to section 103(e), and upon considering public comments received with respect to the license or permit, that the exploration or commercial recovery proposed in the application— Public comments.

(1) will not unreasonably interfere with the exercise of the freedoms of the high seas by other states, as recognized under general principles of international law;

(2) will not conflict with any international obligation of the United States established by any treaty or international convention in force with respect to the United States;

(3) will not create a situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict;

(4) cannot reasonably be expected to result in a significant adverse effect on the quality of the environment, taking into account the analyses and information in any applicable environmental impact statement prepared pursuant to section 109(c) or 109(d); and

(5) will not pose an inordinate threat to the safety of life and property at sea.

(b) ISSUANCE AND TRANSFER OF LICENSES AND PERMITS WITH TERMS, CONDITIONS, AND RESTRICTIONS.—(1) Within 180 days after certification of any application for the issuance or transfer of a license or permit under section 103(g), the Administrator shall propose terms and conditions for, and restrictions on, the exploration or commercial recovery proposed in the application which are consistent with the provisions of this Act and regulations issued under this Act. If additional time is needed, the Administrator shall notify the applicant in writing of the reasons for the delay and indicate the approximate date on which the proposed terms, conditions, and restrictions will be completed. The Administrator shall provide to each applicant a written statement of the proposed terms, conditions, and restrictions. Such terms, conditions, and restrictions shall be generally specified in regulations with general criteria and standards to be used in establishing such terms, conditions, and restrictions for a license or permit and shall be uniform in all licenses or permits, except to the extent that differing physical and environmental conditions require the establishment of special terms, conditions, and restrictions for the conservation of natural resources, protection of the environment, or the safety of life and property at sea.

Written statements.

(2) After preparation and consideration of the final environmental impact statement pursuant to section 109(d) on the proposed issuance of a license or permit and subject to the other provisions of this Act, the Administrator shall issue to the applicant the license or permit with the terms, conditions, and restrictions incorporated therein.

Final environmental impact statements.

(3) The licensee or permittee to whom a license or permit is issued or transferred shall be deemed to have accepted the terms, conditions, and restrictions in the license or permit if the licensee or permittee does not notify the Administrator within 60 days after receipt of the license or permit of each term, condition, or restriction with which the licensee or permittee takes exception. The licensee or permittee may, in addition to such objections as may be raised under applicable provisions of law, object to any term, condition, or restriction on the ground that the term, condition, or restriction is inconsistent with this Act or the regulations promulgated thereunder. If, after the Administrator takes final action on these objections, the licensee or permittee demonstrates that a dispute remains on a material issue of fact, the licensee or permittee is entitled to a decision on the record after the opportunity for an agency hearing pursuant to sections 556 and 557 of title 5, United States Code. Any such decision made by the Administrator shall be subject to judicial review as provided in chapter 7 of title 5, United States Code.

Objection to terms, notification to Administrator.

Hearing.

Judicial review.

5 USC 701 *et seq.*

(c) MODIFICATION AND REVISION OF TERMS, CONDITIONS, AND RESTRICTIONS.—(1) After the issuance or transfer of any license or permit under subsection (b), the Administrator, after consultation with interested agencies and the licensee or permittee, may modify any term, condition, or restriction in such license or permit—

(A) to avoid unreasonable interference with the interests of other states in their exercise of the freedoms of the high seas, as recognized under general principles of international law;

(B) if relevant data and other information (including, but not limited to, data resulting from exploration or commercial recovery activities under the license or permit) indicate that modification is required to protect the quality of the environment or to promote the safety of life and property at sea and if such modification is consistent with the regulations issued to carry out section 109(b);

(C) to avoid a conflict with any international obligation of the United States, established by any treaty or convention in force with respect to the United States, as determined in writing by the President; or

(D) to avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict, as determined in writing by the President.

License or permit revision, application.

(2) During the term of a license or a permit, the licensee or permittee may submit to the Administrator an application for a revision of the license or permit or the exploration plan or recovery plan associated with the license or permit. The Administrator shall approve such application upon a finding in writing that the revision will comply with the requirements of this Act and the regulations issued under this Act.

Modification or revision determination.

(3) The Administrator shall establish, by regulation, guidelines for a determination of the scale or extent of a proposed modification or revision for which any or all license or permit application requirements and procedures, including a public hearing, shall apply. Any increase in the size of the area, or any change in the location of an area, to which an exploration plan or a recovery plan applies, except an incidental increase or change, must be made by application for another license or permit.

(4) The procedures set forth in subsection (b)(3) of this section shall apply with respect to any modification under this subsection in the same manner, and to the same extent, as if such modification were an initial term, condition, or restriction proposed by the Administrator.

Regional Fishery Management Councils.

(d) PRIOR CONSULTATIONS.—Prior to making a determination to issue, transfer, modify, or renew a license or permit under this section, the Administrator shall consult with any affected Regional Fishery Management Council established pursuant to section 302 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852), if the activities undertaken pursuant to such license or permit could adversely affect any fishery within the Fishery Conservation Zone, or any anadromous species or Continental Shelf fishery resource subject to the exclusive management authority of the United States beyond such zone.

30 USC 1416.

SEC. 106. DENIAL OF CERTIFICATION OF APPLICATIONS AND OF ISSUANCE, TRANSFER, SUSPENSION, AND REVOCATION OF LICENSES AND PERMITS; SUSPENSION AND MODIFICATION OF ACTIVITIES.

(a) DENIAL, SUSPENSION, MODIFICATION, AND REVOCATION.—(1) The Administrator may deny certification of an application for the

issuance or transfer of, and may deny the issuance or transfer of, a license for exploration or permit for commercial recovery if the Administrator finds that the applicant, or the activities proposed to be undertaken by the applicant, do not meet the requirements set forth in section 103(c), section 105(a), or in any other provision of this Act, or any regulation issued under this Act, for the issuance or transfer of a license or permit.

(2) The Administrator may—

(A) in addition to, or in lieu of, the imposition of any civil penalty under section 302(a), or in addition to the imposition of any fine under section 303, suspend or revoke any license or permit issued under this Act, or suspend or modify any particular activities under such a license or permit, if the licensee or permittee, as the case may be, substantially fails to comply with any provision of this Act, any regulation issued under this Act, or any term, condition, or restriction of the license or permit; and

(B) suspend or modify particular activities under any license or permit, if the President determines that such suspension or modification is necessary (i) to avoid any conflict with any international obligation of the United States established by any treaty or convention in force with respect to the United States, or (ii) to avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict.

(3) No action may be taken by the Administrator to deny issuance or transfer of or to revoke any license or permit or, except as provided in subsection (c), to suspend any license or permit or suspend or modify particular activities under a license or permit, unless the Administrator—

Publication in Federal Register.

(A) publishes in the Federal Register and gives the applicant, licensee, or permittee, as the case may be, written notice of the intention of the Administrator to deny the issuance or transfer of or to suspend, modify, or revoke the license or permit and the reason therefor; and

Correction of deficiency.

(B) if the reason for the proposed denial, suspension, modification, or revocation is a deficiency which the applicant, licensee, or permittee can correct, affords the applicant, licensee, or permittee a reasonable time, but not more than 180 days from the date of the notice or such longer period as the Administrator may establish for good cause shown, to correct such deficiency.

(4) The Administrator shall deny issuance or transfer of, or suspend or revoke, any license or permit or order the suspension or modification of particular activities under a license or permit—

(A) on the thirtieth day after the date of the notice given to the applicant, licensee, or permittee under paragraph (3)(A) unless before such day the applicant, licensee, or permittee requests a review of the proposed denial, suspension, modification, or revocation; or

(B) on the last day of the period established under paragraph (3)(B) in which the applicant, licensee, or permittee must correct a deficiency, if such correction has not been made before such day.

Hearing.

(b) ADMINISTRATIVE REVIEW OF PROPOSED DENIAL, SUSPENSION, MODIFICATION, OR REVOCATION.—Any applicant, licensee, or permittee, as the case may be, who makes a timely request under subsection (a) for review of a denial of issuance or transfer, or a suspension or revocation, of a license for exploration or permit for commercial recovery, or a suspension or modification of particular activities

under such a license or permit, is entitled to an adjudication on the record after an opportunity for an agency hearing with respect to such denial or suspension, revocation, or modification.

(c) EFFECT ON ACTIVITIES; EMERGENCY ORDERS.—The issuance of any notice of proposed suspension or revocation of a license for exploration or permit for commercial recovery or proposed suspension or modification of particular activities under such a license or permit shall not affect the continuation of exploration or commercial recovery activities by the licensee or permittee. The provisions of paragraphs (3) and (4) of subsection (a) and the first sentence of this subsection shall not apply when the President determines by Executive order that an immediate suspension of a license for exploration or permit for commercial recovery, or immediate suspension or modification of particular activities under such a license or permit, is necessary for the reasons set forth in subsection (a)(2)(B), or the Administrator determines that an immediate suspension of such a license or permit, or immediate suspension or modification of particular activities under such a license or permit, is necessary to prevent a significant adverse effect on the environment or to preserve the safety of life and property at sea, and the Administrator issues an emergency order requiring such immediate suspension.

(d) JUDICIAL REVIEW.—Any determination of the Administrator, after any appropriate administrative review under subsection (b), to certify or deny certification of an application for the issuance or transfer of, or to issue, deny issuance of, transfer, deny the transfer of, modify, renew, suspend, or revoke any license for exploration or permit for commercial recovery, or suspend or modify particular activities under such a license or permit, or any immediate suspension of such a license or permit, or immediate suspension or modification of particular activities under such a license or permit, pursuant to subsection (c), is subject to judicial review as provided in chapter 7 of title 5, United States Code. 5 USC 701 *et seq.*

SEC. 107. DURATION OF LICENSES AND PERMITS. 30 USC 1417.

(a) DURATION OF A LICENSE.—Each license for exploration shall be issued for a period of 10 years. If the licensee has substantially complied with the license and the exploration plan associated therewith and has requested extensions of the license, the Administrator shall extend the license on terms, conditions, and restrictions consistent with this Act and the regulations issued under this Act for periods of not more than 5 years each. Extensions.

(b) DURATION OF A PERMIT.—Each permit for commercial recovery shall be issued for a term of 20 years and for so long thereafter as hard mineral resources are recovered annually in commercial quantities from the area to which the recovery plan associated with the permit applies. The permit of any permittee who is not recovering hard mineral resources in commercial quantities at the end of 10 years shall be terminated; except that the Administrator shall for good cause shown, including force majeure, adverse economic conditions, unavoidable delays in construction, major unanticipated vessel repairs that prevent the permittee from conducting commercial recovery activities during an annual period, or other circumstances beyond the control of the permittee, extend the 10-year period, but not beyond the initial 20-year term of the permit. Termination and extensions.

SEC. 108. DILIGENCE REQUIREMENTS. 30 USC 1418.

(a) IN GENERAL.—The exploration plan or recovery plan and the terms, conditions, and restrictions of each license and permit issued

under this title shall be designed to assure diligent development. Each licensee shall pursue diligently the activities described in the exploration plan of the licensee, and each permittee shall pursue diligently the activities described in the recovery plan of the permittee.

(b) EXPENDITURES.—Each license shall require such periodic reasonable expenditures for exploration by the licensee as the Administrator shall establish, taking into account the size of the area of the deep seabed to which the exploration plan associated with the license applies and the amount of funds which is estimated by the Administrator to be required for commercial recovery of hard mineral resources to begin within the time limit established by the Administrator. Such required expenditures shall not be established at a level which would discourage exploration by persons with less costly technology than is prevalently in use.

Less costly technology.

Temporary suspension.

(c) COMMERCIAL RECOVERY.—Once commercial recovery is achieved, the Administrator shall, within reasonable limits and taking into consideration all relevant factors, require the permittee to maintain commercial recovery throughout the period of the permit; except that the Administrator shall for good cause shown, including force majeure, adverse economic conditions, or other circumstances beyond the control of the permittee, authorize the temporary suspension of commercial recovery activities. The duration of such a suspension shall not exceed one year at any one time, unless the Administrator determines that conditions justify an extension of the suspension.

30 USC 1419.

SEC. 109. PROTECTION OF THE ENVIRONMENT.

(a) ENVIRONMENTAL ASSESSMENT—(1) DEEP OCEAN MINING ENVIRONMENTAL STUDY (DOMES).—The Administrator shall expand and accelerate the program assessing the effects on the environment from exploration and commercial recovery activities, including seabased processing and the disposal at sea of processing wastes, so as to provide an assessment, as accurate as practicable, of environmental impacts of such activities for the implementation of subsections (b), (c), and (d).

(2) SUPPORTING OCEAN RESEARCH.—The Administrator also shall conduct a continuing program of ocean research to support environmental assessment activity through the period of exploration and commercial recovery authorized by this Act. The program shall include the development, acceleration, and expansion, as appropriate, of studies of the ecological, geological, and physical aspects of the deep seabed in general areas of the ocean where exploration and commercial development under the authority of this Act are likely to occur, including, but not limited to—

(A) natural diversity of the deep seabed biota;

(B) life histories of major benthic, midwater, and surface organisms most likely to be affected by commercial recovery activities;

(C) long- and short-term effects of commercial recovery on the deep seabed biota; and

(D) assessment of the effects of seabased processing activities.

Plan, submittal to Congress.

Within 160 days after the date of enactment of this Act, the Administrator shall prepare a plan to carry out the program described in this subsection, including necessary funding levels for the next five fiscal years, and shall submit the plan to the Congress.

(b) TERMS, CONDITIONS, AND RESTRICTIONS.—Each license and permit issued under this title shall contain such terms, conditions,

and restrictions, established by the Administrator, which prescribe the actions the licensee or permittee shall take in the conduct of exploration and commercial recovery activities to assure protection of the environment. The Administrator shall require in all activities under new permits, and wherever practicable in activities under existing permits, the use of the best available technologies for the protection of safety, health, and the environment wherever such activities would have a significant effect on safety, health, or the environment, except where the Administrator determines that the incremental benefits are clearly insufficient to justify the incremental costs of using such technologies. Before establishing such terms, conditions, and restrictions, the Administrator shall consult with the Administrator of the Environmental Protection Agency, the Secretary of State, and the Secretary of the department in which the Coast Guard is operating, concerning such terms, conditions, and restrictions, and the Administrator shall take into account and give due consideration to the information contained in each final environmental impact statement prepared with respect to such license or permit pursuant to subsection (d).

Best available technologies.

Consultation.

(c) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.—(1) If the Administrator, in consultation with the Administrator of the Environmental Protection Agency and with the assistance of other appropriate Federal agencies, determines that a programmatic environmental impact statement is required, the Administrator shall, as soon as practicable after the enactment of this Act, with respect to the areas of the oceans in which any United States citizen is expected to undertake exploration and commercial recovery under the authority of this Act—

(A) prepare and publish draft programmatic environmental impact statements which assess the environmental impacts of exploration and commercial recovery in such areas;

(B) afford all interested parties a reasonable time after such dates of publication to submit comments to the Administrator on such draft statements; and

Comments.

(C) thereafter prepare (giving full consideration to all comments submitted under subparagraph (B)) and publish final programmatic environmental impact statements regarding such areas.

(2) With respect to the area of the oceans in which exploration and commercial recovery by any United States citizen will likely first occur under the authority of this Act, the Administrator shall prepare a draft and final programmatic environmental impact statement as required under paragraph (1), except that—

(A) the draft programmatic environmental impact statement shall be prepared and published as soon as practicable but not later than 270 days (or such longer period as the Administrator may establish for good cause shown) after the date of enactment of this Act; and

(B) the final programmatic environmental impact statement shall be prepared and published within 180 days (or such longer period as the Administrator may establish for good cause shown) after the date on which the draft statement is published.

(d) ENVIRONMENTAL IMPACT STATEMENTS ON ISSUANCE OF LICENSES AND PERMITS.—The issuance of, but not the certification of an application for, any license or permit under this title shall be deemed to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969. In preparing an environmental

42 USC 4332.
Consultation.

impact statement pursuant to this subsection, the Administrator shall consult with the agency heads referred to in subsection (b) and shall take into account, and give due consideration to, the relevant information contained in any applicable studies and any other environmental impact statement prepared pursuant to this section.

Publication. Each draft environmental impact statement prepared pursuant to this subsection shall be published, with the terms, conditions, and restrictions proposed pursuant to section 105(b), within 180 days (or such longer period as the Administrator may establish for good cause shown in writing) following the date on which the application for the

Publication. license or permit concerned is certified by the Administrator. Each final environmental impact statement shall be published 180 days (or such longer period as the Administrator may establish for good cause shown in writing) following the date on which the draft environmental impact statement is published.

A vessel or other floating craft. (e) EFFECT ON OTHER LAW.—For the purposes of this Act, any vessel or other floating craft engaged in commercial recovery or exploration shall not be deemed to be "a vessel or other floating craft" under

33 USC 1362. section 502(12)(B) of the Clean Water Act and any discharge of a pollutant from such vessel or other floating craft shall be subject to the Clean Water Act.

(f) STABLE REFERENCE AREAS.—

International negotiations. (1) Within one year after the enactment of this Act the Secretary of State shall, in cooperation with the Administrator and as part of the international consultations pursuant to subsection 118(f), negotiate with all nations that are identified in such subsection for the purpose of establishing international stable reference areas in which no mining shall take place: *Provided, however,* That this subsection shall not be construed as requiring any substantial withdrawal of deep seabed areas from deep seabed mining authorized by this Act.

(2) Nothing in this Act shall be construed as authorizing the United States to unilaterally establish such reference area or areas nor shall the United States recognize the unilateral claim to such reference area or areas by any State.

Report to Congress. (3) Within four years after the enactment of this Act, the Secretary of State shall submit a report to Congress on the progress of establishing such stable reference areas, including the designation of appropriate zones to insure a representative and stable biota of the deep seabed.

"Stable reference areas." (4) For purposes of this section "stable reference areas" shall mean an area or areas of the deep seabed to be used as a reference zone or zones for purposes of resource evaluation and environmental assessment of deep seabed mining in which no mining will occur.

30 USC 1420. **SEC. 110. CONSERVATION OF NATURAL RESOURCES.**

For the purpose of conservation of natural resources, each license and permit issued under this title shall contain, as needed, terms, conditions, and restrictions which have due regard for the prevention of waste and the future opportunity for the commercial recovery of the unrecovered balance of the hard mineral resources in the area to which the license or permit applies. In establishing these terms, conditions, and restrictions, the Administrator shall consider the state of the technology, the processing system utilized and the value and potential use of any waste, the environmental effects of the exploration or commercial recovery activities, economic and resource

"Conservation of natural resources." data, and the national need for hard mineral resources. As used in

this Act, the term "conservation of natural resources" is not intended to grant, imply, or create any inference of production controls or price regulation, in particular those which would affect the volume of production, prices, profits, markets, or the decision of which minerals or metals are to be recovered, except as such effects may be incidental to actions taken pursuant to this section.

SEC. 111. PREVENTION OF INTERFERENCE WITH OTHER USES OF THE HIGH SEAS. 30 USC 1421.

Each license and permit issued under this title shall include such restrictions as may be necessary and appropriate to ensure that exploration or commercial recovery activities conducted by the licensee or permittee do not unreasonably interfere with the interests of other states in their exercise of the freedoms of the high seas, as recognized under general principles of international law.

SEC. 112. SAFETY OF LIFE AND PROPERTY AT SEA. 30 USC 1422.

(a) CONDITIONS REGARDING VESSELS.—The Secretary of the department in which the Coast Guard is operating, in consultation with the Administrator, shall require in any license or permit issued under this title, in conformity with principles of international law, that vessels documented under the laws of the United States and used in activities authorized under the license or permit comply with conditions regarding the design, construction, alteration, repair, equipment, operation, manning, and maintenance relating to vessel and crew safety and the promotion of safety of life and property at sea.

(b) APPLICABILITY OF OTHER LAWS.—Notwithstanding any other provision of law, any vessel described in subsection (a) shall be subject to the provisions of the International Voyage Load Line Act of 1973, and to the provisions of titles 52 and 53 of the Revised Statutes and all Acts amendatory thereof or supplementary thereto. 46 USC 86 note. 46 USC 362 note, 543 note.

SEC. 113. RECORDS, AUDITS, AND PUBLIC DISCLOSURE. 30 USC 1423.

(a) RECORDS AND AUDITS.—(1) Each licensee and permittee shall keep such records, consistent with standard accounting principles, as the Administrator shall by regulation prescribe. Such records shall include information which will fully disclose expenditures for exploration and commercial recovery, including processing, of hard mineral resources, and such other information as will facilitate an effective audit of such expenditures.

(2) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of licensees and permittees which are necessary and directly pertinent to verify the expenditures referred to in paragraph (1). Accessibility.

(b) SUBMISSION OF DATA AND INFORMATION.—Each licensee and permittee shall be required to submit to the Administrator such data or other information as the Administrator may reasonably need for purposes of making determinations with respect to the issuance, revocation, modification, or suspension of any license or permit; compliance with the reporting requirement contained in section 309; and evaluation of the exploration or commercial recovery activities conducted by the licensee or permittee.

(c) PUBLIC DISCLOSURE.—Copies of any document, report, communication, or other record maintained or received by the Administrator containing data or information required under this title shall be made available to any person upon any request which (1) reasonably

describes such record and (2) is made in accordance with rules adopted by the Administrator stating the time, place, fees (if any, not to exceed the direct cost of the services rendered), and procedures to be followed, except that neither the Administrator nor any other officer or employee of the United States may disclose any data or information knowingly and willingly required under this title the disclosure of which is prohibited by section 1905 of title 18, United States Code. Any officer or employee of the United States who discloses data or information in violation of this subsection shall be subject to the penalties set forth in section 303(b) of this Act.

Penalties.

30 USC 1424.

SEC. 114. MONITORING OF ACTIVITIES OF LICENSEES AND PERMITTEES.

Each license and permit issued under this title shall require the licensee or permittee—

Federal observers.

(1) to allow the Administrator to place appropriate Federal officers or employees as observers aboard vessels used by the licensee or permittee in exploration or commercial recovery activities (A) to monitor such activities at such time, and to such extent, as the Administrator deems reasonable and necessary to assess the effectiveness of the terms, conditions, and restrictions of the license or permit, and (B) to report to the Administrator whenever such officers or employees have reason to believe there is a failure to comply with such terms, conditions, and restrictions;

(2) to cooperate with such officers and employees in the performance of monitoring functions; and

(3) to monitor the environmental effects of the exploration and commercial recovery activities in accordance with guidelines issued by the Administrator and to submit such information as the Administrator finds to be necessary and appropriate to assess environmental impacts and to develop and evaluate possible methods of mitigating adverse environmental effects.

30 USC 1425.

SEC. 115. RELINQUISHMENT, SURRENDER, AND TRANSFER OF LICENSES AND PERMITS.

(a) RELINQUISHMENT AND SURRENDER.—Any licensee or permittee may at any time, without penalty—

(1) surrender to the Administrator a license or a permit issued to the licensee or permittee; or

(2) relinquish to the Administrator, in whole or in part, any right to conduct any exploration or commercial recovery activities authorized by the license or permit.

Liability.

Any licensee or permittee who surrenders a license or permit, or relinquishes any such right, shall remain liable with respect to all violations and penalties incurred, and damage to persons or property caused, by the licensee or permittee as a result of activities engaged in by the licensee or permittee under such license or permit.

(b) TRANSFER.—Any license or permit, upon written request of the licensee or permittee, may be transferred by the Administrator; except that no such transfer may occur unless the proposed transferee is a United States citizen and until the Administrator determines that (1) the proposed transfer is in the public interest, and (2) the proposed transferee and the exploration or commercial recovery activities the transferee proposes to conduct meet the requirements of this Act and regulations issued under this Act.

SEC. 116. PUBLIC NOTICE AND HEARINGS. 30 USC 1426.

(a) REQUIRED PROCEDURES.—The Administrator may issue regulations to carry out this Act, establish and significantly modify terms, conditions, and restrictions in licenses and permits issued under this title, and issue or transfer licenses and permits under this title, only after public notice and opportunity for comment and hearings in accordance with the following:

(1) The Administrator shall publish in the Federal Register notice of all applications for licenses and permits, all proposals to issue or transfer licenses and permits, all regulations implementing this Act, all terms, conditions, and restrictions on licenses and permits, and all proposals to significantly modify licenses and permits. Interested persons shall be permitted to examine the materials relevant to any of these actions, and shall have at least 60 days after publication of such notice to submit written comments to the Administrator. Publication in Federal Register. Comments.

(2) The Administrator shall hold a public hearing in an appropriate location and may employ such additional methods as the Administrator deems appropriate to inform interested persons about each action specified in paragraph (1) and to invite their comments thereon.

(b) ADJUDICATORY HEARING.—If the Administrator determines that there exists one or more specific and material factual issues which require resolution by formal processes, at least one adjudicatory hearing shall be held in the District of Columbia in accordance with the provisions of section 554 of title 5, United States Code. The record developed in any such adjudicatory hearing shall be part of the basis for the Administrator's decision to take any action referred to in subsection (a). Hearings held pursuant to this section shall be consolidated insofar as practicable with hearings held by other agencies. Consolidation of hearings.

SEC. 117. CIVIL ACTIONS. 30 USC 1427.

(a) EQUITABLE RELIEF.—Except as provided in subsection (b) of this section, any person may commence a civil action for equitable relief on that person's behalf in the United States District Court for the District of Columbia—

(1) against any person who is alleged to be in violation of any provision of this Act or any condition of a license or permit issued under this title; or

(2) against the Administrator when there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary,

if the person bringing the action has a valid legal interest which is or may be adversely affected by such alleged violation or failure to perform. In suits brought under this subsection, the district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the provisions of this Act, or any term, condition, or restriction of a license or permit issued under this title, or to order the Administrator to perform such act or duty.

(b) NOTICE.—No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 60 days after the plaintiff has given notice of the alleged violation to the Administrator and to any alleged violator; or

(B) if the Administrator or the Attorney General has commenced and is diligently prosecuting a civil or criminal

action with respect to the alleged violation in a court of the United States; except that in any such civil action, any person having a valid legal interest which is or may be adversely affected by the alleged violation may intervene; or

(2) under subsection (a)(2) of this section, prior to 60 days after the plaintiff has given notice of such action to the Administrator. Notice under this subsection shall be given in such a manner as the Administrator shall prescribe by regulation.

(c) COSTS AND FEES.—The court, in issuing any final order in any action brought under subsection (a) of this section, may award costs of litigation, including reasonable attorney and expert witness fees, to any party whenever the court determines that such an award is appropriate.

(d) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall restrict the rights which any person or class of persons may have under other law to seek enforcement or to seek any other relief. All vessel safety and environmental requirements of or under this Act shall be in addition to other requirements of law.

30 USC 1428.

SEC. 118. RECIPROCATING STATES.

(a) DESIGNATION.—The Administrator, in consultation with the Secretary of State and the heads of other appropriate departments and agencies, may designate any foreign nation as a reciprocating state if the Secretary of State finds that such foreign nation—

(1) regulates the conduct of its citizens and other persons subject to its jurisdiction engaged in exploration for, and commercial recovery of, hard mineral resources of the deep seabed in a manner compatible with that provided in this Act and the regulations issued under this Act, which includes adequate measures for the protection of the environment, the conservation of natural resources, and the safety of life and property at sea, and includes effective enforcement provisions;

(2) recognizes licenses and permits issued under this title to the extent that such nation, under its laws, (A) prohibits any person from engaging in exploration or commercial recovery which conflicts with that authorized under any such license or permit and (B) complies with the date for issuance of licenses and the effective date for permits provided in section 102(c)(1)(D) of this Act;

(3) recognizes, under its procedures, priorities of right, consistent with those provided in this Act and the regulations issued under this Act, for applications for licenses for exploration or permits for commercial recovery, which applications are made either under its procedures or under this Act; and

(4) provides an interim legal framework for exploration and commercial recovery which does not unreasonably interfere with the interests of other states in their exercise of the freedoms of the high seas, as recognized under general principles of international law.

(b) EFFECT OF DESIGNATION.—No license or permit shall be issued under this title permitting any exploration or commercial recovery which will conflict with any license, permit, or equivalent authorization issued by any foreign nation which is designated as a reciprocating state under subsection (a).

(c) NOTIFICATION.—Upon receipt of any application for a license or permit under this title, the Administrator shall immediately notify all reciprocating states of such application. The notification shall include those portions of the exploration plan or recovery plan

submitted with respect to the application, or a summary thereof, and any other appropriate information not required to be withheld from public disclosure by section 113(c).

(d) REVOCATION OF RECIPROCATING STATE STATUS.—The Administrator, in consultation with the Secretary of State and the heads of other appropriate departments and agencies, shall revoke the designation of a foreign nation as a reciprocating state if the Secretary of State finds that such foreign nation no longer complies with the requirements of subsection (a). At the request of any holder of a license, permit, or equivalent authorization of such foreign nation, who obtained the license, permit, or equivalent authorization while such foreign nation was a reciprocating state, the Administrator, in consultation with the Secretary of State, may decide to recognize the license, permit, or equivalent authorization for purposes of subsection (b). Consultation.

(e) AUTHORIZATION.—The President is authorized to negotiate agreements with foreign nations necessary to implement this section. Presidential negotiation.

(f) INTERNATIONAL CONSULTATIONS.—The Administrator, in consultation with the Secretary of State and the heads of other appropriate departments and agencies, shall consult with foreign nations which enact, or are preparing to enact, domestic legislation establishing an interim legal framework for exploration and commercial recovery of hard mineral resources. Such consultations shall be carried out with a view to facilitating the designation of such nations as reciprocating states and, as necessary, the negotiation of agreements with foreign nations authorized by subsection (e). In addition, the Administrator shall provide such foreign nations with information on environmental impacts of exploration and commercial recovery activities, and shall provide any technical assistance requested in designing regulatory measures to protect the environment. Assistance on environmental protection.

TITLE II—TRANSITION TO INTERNATIONAL AGREEMENT

SEC. 201. DECLARATION OF CONGRESSIONAL INTENT. 30 USC 1441.

It is the intent of Congress—

(1) that any international agreement to which the United States becomes a party should, in addition to promoting other national oceans objectives—

(A) provide assured and nondiscriminatory access, under reasonable terms and conditions, to the hard mineral resources of the deep seabed for United States citizens, and

(B) provide security of tenure by recognizing the rights of United States citizens who have undertaken exploration or commercial recovery under title I before such agreement enters into force with respect to the United States to continue their operations under terms, conditions, and restrictions which do not impose significant new economic burdens upon such citizens with respect to such operations with the effect of preventing the continuation of such operations on a viable economic basis; *Ante*, p. 557.

(2) that the extent to which any such international agreement conforms to the provisions of paragraph (1) should be determined by the totality of the provisions of such agreement, including, but not limited to, the practical implications for the security of investments of any discretionary powers granted to an international regulatory body, the structures and decisionmaking procedures of such body, the availability of impartial and effective procedures for the settlement of disputes, and any features that

tend to discriminate against exploration and commercial recovery activities undertaken by United States citizens; and

(3) that this Act should be transitional pending—

(A) the adoption of an international agreement at the Third United Nations Conference on the Law of the Sea, and the entering into force of such agreement, or portions thereof, with respect to the United States, or

(B) if such adoption is not forthcoming, the negotiation of a multilateral or other treaty concerning the deep seabed, and the entering into force of such treaty with respect to the United States.

30 USC 1442.

SEC. 202. EFFECT OF INTERNATIONAL AGREEMENT.

Ante, p. 557.

If an international agreement enters into force with respect to the United States, any provision of title I, this title, or title III, and any regulation issued under any such provision, which is not inconsistent with such international agreement shall continue in effect with respect to United States citizens. In the implementation of such international agreement the Administrator, in consultation with the Secretary of State, shall make every effort, to the maximum extent practicable consistent with the provisions of that agreement, to provide for the continued operation of exploration and commercial recovery activities undertaken by United States citizens prior to entry into force of the agreement. The Administrator shall submit to the Congress, within one year after the date of such entry into force, a report on the actions taken by the Administrator under this section, which report shall include, but not be limited to—

Report to Congress.

(1) a description of the status of deep seabed mining operations of United States citizens under the international agreement; and

(2) an assessment of whether United States citizens who were engaged in exploration or commercial recovery on the date such agreement entered into force have been permitted to continue their operations.

30 USC 1443.

SEC. 203. PROTECTION OF INTERIM INVESTMENTS.

In order to further the objectives set forth in section 201, the Administrator, not more than one year after the date of enactment of this Act—

Proposed legislation, submittal to Congress.

(1) shall submit to the Congress proposed legislation necessary for the United States to implement a system for the protection of interim investments that has been adopted as part of an international agreement and any resolution relating to such international agreement; or

Status of negotiations, report to Congress.

(2) if a system for the protection of interim investments has not been so adopted, shall report to the Congress on the status of negotiations relating to the establishment of such a system.

30 USC 1444.

SEC. 204. DISCLAIMER OF OBLIGATION TO PAY COMPENSATION.

Sections 201 and 202 of this Act do not create or express any legal or moral obligation on the part of the United States Government to compensate any person for any impairment of the value of that person's investment in any operation for exploration or commercial recovery under title I which might occur in connection with the entering into force of an international agreement with respect to the United States.

TITLE III—ENFORCEMENT AND MISCELLANEOUS PROVISIONS

SEC. 301. PROHIBITED ACTS. 30 USC 1461.

It is unlawful for any person who is a United States citizen, or a foreign national on board a vessel documented or numbered under the laws of the United States, or subject to the jurisdiction of the United States under a reciprocating state agreement negotiated under section 118(e)—

(1) to violate any provision of this Act, any regulation issued under this Act, or any term, condition, or restriction of any license or permit issued to such person under this Act;

(2) to engage in exploration or commercial recovery after the revocation, or during the period of suspension, of an applicable license or permit issued under this Act, to engage in a particular exploration or commercial recovery activity during the period such activity has been suspended under this Act, or to fail to modify a particular exploration or commercial recovery activity for which modification was required under this Act;

(3) to refuse to permit any Federal officer or employee authorized to monitor or enforce the provisions of this Act, as provided in sections 114 and 304, to board a vessel documented or numbered under the laws of the United States, or any vessel for which such boarding is authorized by a treaty or executive agreement, for purposes of conducting any search or inspection in connection with the monitoring or enforcement of this Act or any regulation, term, condition, or restriction referred to in paragraph (1);

(4) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer or employee in the conduct of any search or inspection described in paragraph (3);

(5) to resist a lawful arrest for any act prohibited by this section;

(6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of any hard mineral resource recovered, processed, or retained in violation of this Act or any regulation, term, condition, or restriction referred to in paragraph (1); or

(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of any other person subject to this section knowing that such other person has committed any act prohibited by this section.

SEC. 302. CIVIL PENALTIES. 30 USC 1462.

(a) ASSESSMENT OF PENALTY.—Any person subject to section 301 who is found by the Administrator, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed any act prohibited by section 301 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Administrator by written notice. In determining the amount of such penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed and, with respect to the violator, any history of prior offenses, good faith demonstrated in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require.

Written notice.

Appeal filing, copy to Administrator.

(b) REVIEW OF CIVIL PENALTY.—Any person subject to section 301 against whom a civil penalty is assessed under subsection (a) may obtain review thereof in an appropriate district court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator. The Administrator shall promptly file in such court a certified copy of the record upon which the particular violation was found and such penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Administrator shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.

Referral to Attorney General.

(c) ACTION UPON FAILURE TO PAY ASSESSMENT.—If any person subject to section 301 fails to pay a civil penalty assessed against such person after the penalty has become final, or after the appropriate court has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General of the United States, who shall recover the civil penalty assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) COMPROMISE OR OTHER ACTION BY THE ADMINISTRATOR.—The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section unless an action brought under subsection (b) or (c) is pending in a court of the United States.

30 USC 1463.

SEC. 303. CRIMINAL OFFENSES.

(a) OFFENSE.—A person subject to section 301 is guilty of an offense if such person willfully and knowingly commits any act prohibited by section 301.

(b) PUNISHMENT.—Any offense described in paragraphs (1), (2), and (6) of section 301 is punishable by a fine of not more than $75,000 for each day during which the violation continues. Any offense described in paragraphs (3), (4), (5), and (7) of section 301 is punishable by a fine of not more than $75,000 or imprisonment for not more than six months, or both. If, in the commission of any offense, the person subject to the jurisdiction of the United States uses a dangerous weapon, engages in conduct that causes bodily injury to any Federal officer or employee, or places any such Federal officer or employee in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 or imprisonment for not more than ten years, or both.

30 USC 1464.

SEC. 304. ENFORCEMENT.

Coast Guard, assistance.

(a) RESPONSIBILITY.—Subject to the other provisions of this subsection, the Administrator shall enforce the provisions of this Act. The Secretary of the department in which the Coast Guard is operating shall exercise such other enforcement responsibilities with respect to vessels subject to the provisions of this Act as are authorized under other provisions of law and may, upon the specific request of the Administrator, assist the Administrator in the enforcement of the provisions of this Act. The Secretary of the department in which the Coast Guard is operating shall have the exclusive responsibility for enforcement measures which affect the safety of life and property at sea. The Administrator and the Secretary of the department in which the Coast Guard is operating may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment, includ-

Other Federal agencies, assistance.

ing aircraft and vessels, and facilities of any other Federal agency or department, and may authorize officers or employees of other departments or agencies to provide assistance as necessary in carrying out subsection (b). While providing such assistance, these officers and employees shall be under the control, authority, and supervision of the Coast Guard. The Administrator and the Secretary of the department in which the Coast Guard is operating may issue regulations jointly or severally as may be necessary and appropriate to carry out their duties under this section.

(b) POWERS OF AUTHORIZED OFFICERS.—To enforce this Act on board any vessel subject to the provisions of this Act, any officer who is authorized by the Administrator or by the Secretary of the department in which the Coast Guard is operating may—

(1) board and inspect any vessel which is subject to the provisions of this Act;

(2) search any such vessel if the officer has reasonable cause to believe that the vessel has been used or employed in the violation of any provision of this Act;

(3) arrest any person subject to section 301 if the officer has reasonable cause to believe that the person has committed a criminal offense under section 303;

(4) seize any such vessel together with its gear, furniture, appurtenances, stores, and cargo, used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act if such seizure is necessary to prevent evasion of the enforcement of this Act;

(5) seize any hard mineral resource recovered or processed in violation of any provision of this Act;

(6) seize any other evidence related to any violation of any provision of this Act;

(7) execute any warrant or other process issued by any court of competent jurisdiction; and

(8) exercise any other lawful authority.

(c) DEFINITION.—For purposes of this section, the term "provisions of this Act" or "provision of this Act" means (1) any provision of title I or II or this title, (2) any regulation issued under title I, title II, or this title, and (3) any term, condition, or restriction of any license or permit issued under title I.

Ante, pp. 557, 575, 577.

(d) PROPRIETARY INFORMATION.—Proprietary and privileged information seized or maintained under this title concerning a person or vessel engaged in exploration or commercial recovery shall not be made available for general or public use or inspection. The Administrator and the Secretary of the department in which the Coast Guard is operating shall issue regulations to insure the confidentiality of privileged and proprietary information.

Regulations.

SEC. 305. LIABILITY OF VESSELS.

30 USC 1465.

Any vessel documented or numbered under the laws of the United States (except a public vessel engaged in noncommercial activities) which is used in any violation of this Act, any regulation issued under this Act, or any term, condition, or restriction of any license or permit issued under title I shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof.

30 USC 1466.

SEC. 306. CIVIL FORFEITURES.

(a) IN GENERAL.—Any vessel subject to the provisions of sections 304 and 305, including its gear, furniture, appurtenances, stores, and cargo, which is used, in any manner, in connection with or as a result of the commission of any act prohibited by section 301 and any hard mineral resource which is recovered, processed, or retained, in any manner, in connection with or as a result of the commission of any such act, shall be subject to forfeiture to the United States. All or part of such vessel, and all such hard mineral resources, may be forfeited to the United States pursuant to a civil proceeding under this section. All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a vessel or cargo for violation of the customs laws, and the disposition of the vessel, cargo, or proceeds from the sale thereof and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section insofar as such provisions of law are applicable and not inconsistent with this Act.

(b) JURISDICTION OF COURTS.—Any district court of the United States which has jurisdiction under section 307 shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

Seizure of property by Attorney General.

(c) JUDGMENT.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States which has not previously been seized pursuant to this Act or for which security has not previously been obtained under subsection (d).

Bond or other security.

(d) PROCEDURE.—Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 307 shall stay the execution of such process, or discharge any property seized pursuant to such process, upon the receipt of a satisfactory bond or other security from any person subject to section 301 claiming such property. Such bond or other security shall be conditioned upon such person (1) delivering such property to the appropriate court upon order thereof, without any impairment of its value; or (2) paying the monetary value of such property pursuant to any order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(e) REBUTTABLE PRESUMPTION.—For purposes of this section, it shall be a rebuttable presumption that all hard mineral resources found on board a vessel subject to the provisions of sections 304 and 305 which is seized in connection with an act prohibited by section 301 were recovered, processed, or retained in violation of this Act.

30 USC 1467.

SEC. 307. JURISDICTION OF COURTS.

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act. These courts may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

SEC. 308. REGULATIONS.

30 USC 1468.

(a) PROPOSED REGULATIONS.—Not later than 270 days after the date of enactment of this Act, the Administrator shall solicit the views of the agency heads referred to in section 109(b) and of interested persons, and issue, in accordance with section 553 of title 5, United States Code, such proposed regulations as are required by or are necessary and appropriate to implement titles I and II and this title. The Administrator shall hold at least one public hearing on such proposed regulations.

Solicitation of views.

Ante, pp. 557, 575.

Public hearing.

(b) FINAL REGULATIONS.—Not later than 180 days after the date on which proposed regulations are issued pursuant to subsection (a), the Administrator shall solicit the views of the agency heads referred to in section 109(b) and of interested persons, consider the comments received during the public hearing required in subsection (a) and any written comments on the proposed regulations received by the Administrator, and issue, in accordance with section 553 of title 5, United States Code, such regulations as are required by or are necessary and appropriate to implement titles I and II and this title.

Views and comments, solicitation and consideration.

(c) AMENDMENTS.—The Administrator may at any time amend regulations issued pursuant to subsection (b) as the Administrator determines to be necessary and appropriate in order to provide for the conservation of natural resources within the meaning of section 110, protection of the environment, and the safety of life and property at sea. Such amended regulations shall apply to all exploration or commercial recovery activities conducted under any license or permit issued or maintained pursuant to this Act; except that any such amended regulations which provide for conservation of natural resources shall apply to exploration or commercial recovery conducted under an existing license or permit during the present term of such license or permit only if the Administrator determines that such amended regulations providing for conservation of natural resources will not impose serious or irreparable economic hardship on the licensee or permittee. Any amendment to regulations under this subsection shall be made on the record after an opportunity for an agency hearing.

Hearing.

(d) CONSISTENCY.—This Act and the regulations issued under this Act shall not be deemed to supersede any other Federal laws or treaties or regulations issued thereunder.

SEC. 309. BIENNIAL REPORT.

30 USC 1469.

(a) SUBMISSION OF REPORTS.—The Administrator shall submit to the Congress—

(1) not later than December 31, 1981, a report on the administration of this Act during the period beginning on the date of enactment of this Act and ending September 30, 1981; and

(2) not later than December 31 of each second year thereafter, a report on the administration of this Act during the two fiscal years preceding the date on which the report is required to be filed.

(b) CONTENTS.—Each report filed pursuant to subsection (a) shall include, but not be limited to, the following information with respect to the reporting period:

(1) Licenses and permits issued, modified, revised, suspended, revoked, relinquished, surrendered, or transferred; denials of certifications of applications for the issuance or transfer of licenses and permits; denials of issuance or transfer of licenses and permits; and required suspensions and modifications of activities under licenses and permits.

(2) A description and evaluation of the exploration and commercial recovery activities undertaken, including, but not limited to, information setting forth the quantities of hard mineral resources recovered and the disposition of such resources.

(3) An assessment of the environmental impacts, including a description and estimate of any damage caused by any adverse effects on the quality of the environment resulting from such activities.

(4) The number and description of all civil and criminal proceedings, including citations, instituted under this title, and the current status of such proceedings.

(5) Such recommendations as the Administrator deems appropriate for amending this Act to further fulfill its purposes.

30 USC 1470.

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Administrator, for purposes of carrying out the provisions of titles I and II and this title, such sums as may be necessary for the fiscal years ending September 30, 1981, and September 30, 1982.

30 USC 1471.

SEC. 311. SEVERABILITY.

If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act, or any other application, shall not be affected thereby.

TITLE IV—TAX

Deep Seabed Hard Mineral Removal Tax Act of 1979.

SEC. 401. SHORT TITLE.

26 USC 1 note.

This title may be cited as the "Deep Seabed Hard Mineral Removal Tax Act of 1979".

SEC. 402. IMPOSITION OF TAX ON REMOVAL OF HARD MINERAL RESOURCES FROM DEEP SEABED.

(a) GENERAL RULE.—Chapter 36 of the Internal Revenue Code of 1954 (relating to certain other excise taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter F—Tax on Removal of Hard Mineral Resources From Deep Seabed

"Sec. 4495. Imposition of tax.
"Sec. 4496. Definitions.
"Sec. 4497. Imputed value.
"Sec. 4498. Termination.

26 USC 4495.

"SEC. 4495. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any removal of a hard mineral resource from the deep seabed pursuant to a deep seabed permit.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any removal shall be 3.75 percent of the imputed value of the resource so removed.

"(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the person to whom the deep seabed permit is issued.

"(d) TIME FOR PAYING TAX.—The time for paying the tax imposed by subsection (a) shall be the time prescribed by the Secretary by regulations. The time so prescribed with respect to any removal shall be not earlier than the earlier of—

"(1) the commercial use of, or the sale or disposition of, any portion of the resource so removed, or

"(2) the day which is 12 months after the date of the removal of the resource.

"SEC. 4496. DEFINITIONS. 26 USC 4496.

"(a) DEEP SEABED PERMIT.—For purposes of this subchapter, the term 'deep seabed permit' means a permit issued under title I of the Deep Seabed Hard Minerals Resources Act.

"(b) HARD MINERAL RESOURCE.—For purposes of this subchapter, the term 'hard mineral resource' means any deposit or accretion on, or just below, the surface of the deep seabed of nodules which contain one or more minerals, at least one of which is manganese, nickel, cobalt, or copper.

"(c) DEEP SEABED.—For purposes of this subchapter, the term 'deep seabed' means the seabed, and the subsoil thereof to a depth of 10 meters, lying seaward of, and outside—

"(1) the Continental Shelf of any nation; and

"(2) any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States.

"(d) CONTINENTAL SHELF.—For purposes of this subchapter, the term 'Continental Shelf' means—

"(1) the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas; and

"(2) the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

"SEC. 4497. IMPUTED VALUE. 26 USC 4497.

"(a) IN GENERAL.—For purposes of this subchapter, the term 'imputed value' means, with respect to any hard mineral resource, 20 percent of the fair market value of the commercially recoverable metals and minerals contained in such resource. Such fair market value shall be determined—

"(1) as of the date of the removal of the hard mineral resource from the deep seabed; and

"(2) as if the metals and minerals contained in such resource were separated from such resource and were in the most basic form for which there is a readily ascertainable market price.

"(b) COMMERCIAL RECOVERABILITY.—

"(1) MANGANESE, NICKEL, COBALT, AND COPPER.—For purposes of subsection (a), manganese, nickel, cobalt, and copper shall be treated as commercially recoverable.

"(2) MINIMUM QUANTITIES AND PERCENTAGES.—The Secretary may by regulations prescribe for each metal or mineral quantities or percentages below which the metal or mineral shall be treated as not commercially recoverable.

"(c) SUSPENSION OF TAX WITH RESPECT TO CERTAIN METALS AND MINERALS HELD FOR LATER PROCESSING.—

"(1) ELECTION.—The permittee may, in such manner and at such time as may be prescribed by regulations, elect to have the application of the tax suspended with respect to one or more commercially recoverable metals or minerals in the resource which the permittee does not intend to process within one year of the date of extraction. Any metal or mineral affected by such

election shall not be taken into account in determining the imputed value of the resource at the time of its removal from the deep seabed. Any suspension under this paragraph with respect to a metal or mineral shall be permanent unless there is a redetermination affecting such metal or mineral under paragraph (2).

"(2) LATER COMPUTATION OF TAX.—If the permittee processes any metal or mineral affected by the election under paragraph (1), or if he sells any portion of the resource containing such a metal or mineral, then the amount of the tax under section 4495 shall be redetermined as if there had been no suspension under paragraph (1) with respect to such metal or mineral. In any such case there shall be added to the increase in tax determined under the preceding sentence an amount equal to the interest (at rates determined under section 6621) on such increase for the period from the date prescribed for paying the tax on the resources (determined under section 4495(d)) to the date of the processing or sale.

26 USC 6621.

Ante, p. 582.

"(d) DETERMINATIONS OF VALUE.—All determinations of value necessary for the application of this subchapter shall be made by the Secretary (after consultation with other appropriate Federal officials) on the basis of the best available information. Such determinations shall be made under procedures established by the Secretary by regulations.

26 USC 4498.

"SEC. 4498. TERMINATION.

Ante, p. 582.

"(a) GENERAL RULE.—The tax imposed by section 4495 shall not apply to any removal from the deep seabed after the earlier of—

"(1) the date on which an international deep seabed treaty takes effect with respect to the United States, or

"(2) the date 10 years after the date of the enactment of this subchapter.

"(b) INTERNATIONAL DEEP SEABED TREATY.—For purposes of subsection (a), the term 'international deep seabed treaty' means any treaty which—

"(1) is adopted by a United Nations Conference on the Law of the Sea, and

"(2) requires contributions to an international fund for the sharing of revenues from deep seabed mining.".

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 36 of such Code is amended by adding at the end thereof the following new item:

"SUBCHAPTER F. Tax on removal of hard mineral resources from deep seabed."

26 USC 4495 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1980.

30 USC 1472.

SEC. 103. ESTABLISHMENT OF DEEP SEABED REVENUE SHARING TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Deep Seabed Revenue Sharing Trust Fund" (hereinafter in this section referred to as the "Trust Fund"), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

(b) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(1) IN GENERAL.—There are hereby appropriated to the Trust Fund amounts determined by the Secretary of the Treasury to be

equivalent to the amounts of the taxes received in the Treasury under section 4495 of the Internal Revenue Code of 1954. *Ante*, p. 582.

(2) METHOD OF TRANSFER.—The amounts appropriated by paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amount required to be transferred.

(c) MANAGEMENT OF TRUST FUND.—

(1) REPORT.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and to report to the Congress for the fiscal year ending September 30, 1980, and each fiscal year thereafter on the financial condition and the results of the operations of the Trust Fund during the preceding year and on its expected condition and operations during the fiscal year and the next five fiscal years after the fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made. Printing as House document.

(2) INVESTMENT.—

(A) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price.

(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund may be sold by the Secretary at the market price.

(C) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(d) EXPENDITURES FROM TRUST FUND.—If an international deep seabed treaty is ratified by and in effect with respect to the United States on or before the date ten years after the date of the enactment of this Act, amounts in the Trust Fund shall be available, as provided by appropriations Acts, for making contributions required under such treaty for purposes of the sharing among nations of the revenues from deep seabed mining. Nothing in this subsection shall be deemed to authorize any program or other activity not otherwise authorized by law.

(e) USE OF FUNDS.—If an international deep seabed treaty is not in effect with respect to the United States on or before the date ten years after the date of the enactment of this Act, amounts in the Trust Fund shall be available for such purposes as Congress may hereafter provide by law.

(f) INTERNATIONAL DEEP SEABED TREATY.—For purposes of this section, the term "international deep seabed treaty" has the meaning given to such term by section 4498(b) of the Internal Revenue Code of 1954. *Ante*, p. 584.

30 USC 1473.

SEC. 404. ACT NOT TO AFFECT TAX OR CUSTOMS OR TARIFF TREATMENT OF DEEP SEABED MINING.

Except as otherwise provided in section 402, nothing in this Act shall affect the application of the Internal Revenue Code of 1954. Nothing in this Act shall affect the application of the customs or tariff laws of the United States.

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-411, Pt. I (Comm. on Interior and Insular Affairs), Pt. 2 (Comm. on Merchant Marine and Fisheries), Pt. 3 (Comm. on Ways and Means), and Pt. IV (Comm. on Foreign Affairs).

SENATE REPORTS: No. 96-307 (Comm. on Energy and Natural Resources; Comm. on Commerce, Science, and Transportation; and Comm. on Foreign Relations), No. 96-357 (Comm. on Finance), and No. 96-360 (Comm. on Environment and Public Works), all accompanying S. 493.

CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 14, S. 493 considered and passed Senate.
Vol. 126 (1980): June 9, H.R. 2759 considered and passed House.
June 23, considered and passed Senate, amended.
June 25, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 27 (1980): July 3, Presidential statement.

Public Law 96-284
96th Congress

An Act

To amend chapter 5 of title 37, United States Code, to revise the special pay provisions for medical officers in the uniformed services and to extend the special pay provisions for other health professionals in the uniformed services, and for other purposes.

June 28, 1980
[S. 2460]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Uniformed Services Health Professionals Special Pay Act of 1980.
37 USC 101 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Uniformed Services Health Professionals Special Pay Act of 1980".

REVISION OF SPECIAL PAY FOR MEDICAL OFFICERS OF THE ARMED FORCES

SEC. 2. (a) Section 302 of title 37, United States Code, relating to special pay for medical officers of the uniformed services, is amended to read as follows:

"§ 302. Special pay: medical officers of the armed forces

"(a)(1) An officer who is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer and who is on active duty under a call or order to active duty for a period of not less than one year is entitled to special pay in accordance with this subsection.

"(2) An officer described in paragraph (1) of this subsection who is serving in a pay grade below pay grade O-7 is entitled to variable special pay at the following rates:

"(A) $1,200 per year, if the officer is undergoing medical internship training.

"(B) $5,000 per year, if the officer has less than six years of creditable service and is not undergoing medical internship training.

"(C) $10,000 per year, if the officer has at least six but less than eight years of creditable service.

"(D) $9,500 per year, if the officer has at least eight but less than ten years of creditable service.

"(E) $9,000 per year, if the officer has at least ten but less than twelve years of creditable service.

"(F) $8,000 per year, if the officer has at least twelve but less than fourteen years of creditable service.

"(G) $7,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

"(H) $6,000 per year, if the officer has at least eighteen but less than twenty-two years of creditable service.

"(I) $5,000 per year, if the officer has twenty-two or more years of creditable service.

"(3) An officer described in paragraph (1) of this subsection who is serving in a pay grade above pay grade O-6 is entitled to variable special pay at the rate of $1,000 per year.

"(4)(A) Subject to subsection (c) of this section, an officer entitled to variable special pay under paragraph (2) or (3) of this subsection who has less than ten years of creditable service is entitled to additional special pay of $9,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

"(B) Subject to subsection (c) of this section, an officer entitled to variable special pay under paragraph (2) or (3) of this subsection who has ten or more years of creditable service is entitled to additional special pay of $10,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

"(5) An officer who is entitled to variable special pay under paragraph (2) or (3) of this subsection and who is board certified is entitled to additional special pay at the following rates:

"(A) $2,000 per year, if the officer has less than ten years of creditable service.

"(B) $2,500 per year, if the officer has at least ten but less than twelve years of creditable service.

"(C) $3,000 per year, if the officer has at least twelve but less than fourteen years of creditable service.

"(D) $4,000 per year, if the officer has at least fourteen but less than eighteen years of creditable service.

"(E) $5,000 per year, if the officer has eighteen or more years of creditable service.

"(b)(1) Subject to subsection (c) of this section and paragraph (2) of this subsection and under regulations prescribed under section 303a(a) of this title, an officer who is entitled to variable special pay under subsection (a)(2) of this section may be paid incentive special pay in an amount not to exceed $8,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

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"(2) An officer is not eligible for incentive special pay under paragraph (1) of this subsection unless the Secretary concerned has determined that such officer is qualified in the medical profession.

"(3) The amount that may be paid for incentive special pay under this subsection in any fiscal year may not exceed an amount equal to 6 percent of the total amount paid in such year for special pay under subsection (a) of this section and paragraph (1) of this subsection.

"(c)(1) An officer may not be paid additional special pay under subsection (a)(4) of this section or incentive special pay under subsection (b) of this section for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

Entitlement termination.

"(2) Under regulations prescribed by the Secretary of Defense under section 303a(a) of this title, the Secretary of the military department concerned may terminate at any time an officer's entitlement to the special pay authorized by subsection (a)(4) or (b)(1) of this section. If such entitlement is terminated, the officer concerned is entitled to be paid such special pay only for the part of the period of active duty that he served, and he may be required to refund any amount in excess of that entitlement.

"(d) Regulations prescribed by the Secretary of Defense under section 303a(a) of this title shall include standards for determining— Determination standards.

"(1) whether an officer is undergoing medical internship or initial residency training for purposes of subsections (a)(2)(A), (a)(2)(B), (a)(4), and (b)(1) of this section; and

"(2) whether an officer is board certified for purposes of subsection (a)(5) of this section.

"(e) Special pay payable to an officer under paragraphs (2), (3), and (5) of subsection (a) of this section shall be paid monthly. Special pay payable to an officer under subsection (a)(4) or (b)(1) of this section shall be paid annually at the beginning of the twelve-month period for which the officer is entitled to such payment.

"(f) An officer who voluntarily terminates service on active duty before the end of the period for which a payment was made to such officer under subsection (a)(4) or (b)(1) of this section shall refund to the United States an amount which bears the same ratio to the amount paid to such officer as the unserved part of such period bears to the total period for which the payment was made.

"(g) For purposes of this section, creditable service of an officer is computed by adding— Creditable services, computation.

"(1) all periods which the officer spent in medical internship or residency training during which the officer was not on active duty; and

"(2) all periods of active service in the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.".

(b) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"302. Special pay: medical officers of the armed forces.".

REVISION OF SPECIAL PAY FOR MEDICAL OFFICERS OF THE PUBLIC HEALTH SERVICE

SEC. 3. (a)(1) Chapter 5 of such title is amended by inserting after section 302b the following new section:

"§ 302c. Special pay: medical officers of the Public Health Service 37 USC 302c.

"(a) A medical officer of the Public Health Service who is on active duty for a period of at least one year is entitled to special pay at the following rates:

"(1) $100 a month for each month of active duty if the officer has not completed two years of active duty as an officer of the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.

"(2) $350 a month for each month of active duty if the officer has completed at least two years of active duty as an officer of the Medical Corps of the Army or Navy, as an officer of the Air Force designated as a medical officer, or as a medical officer of the Public Health Service.

"(b)(1) Subject to subsection (c) of this section and paragraph (2) of this subsection and under regulations prescribed under section 303a(a) of this title, an officer who is entitled to special pay under subsection (a) of this section and who is serving in a pay grade below pay grade O–7 may be paid incentive special pay in an amount not to

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exceed $8,000 for any twelve-month period during which the officer is not undergoing medical internship or initial residency training.

"(2) An officer is not eligible for incentive special pay under paragraph (1) of this subsection unless the Secretary of Health and Human Services has determined that such officer is qualified in the medical profession.

"(3) The amount that may be paid for incentive special pay under this subsection in any fiscal year may not exceed 6 percent of the total amount paid in such year for special pay under section 311 of this title for medical officers of the Public Health Service, for special pay under section 313 of this title, and for special pay under this section.

37 USC 311.

37 USC 313.

"(c)(1) An officer may not be paid incentive special pay under subsection (b) of this section for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

Entitlement termination.

Post, p. 592.

"(2) Under regulations prescribed under section 303a(a) of this title, the Secretary of Health and Human Services may terminate at any time an officer's entitlement to the special pay authorized by subsection (b) of this section. If such entitlement is terminated, the officer concerned is entitled to be paid such special pay only for the part of the period of active duty that he served, and he may be required to refund any amount in excess of that entitlement.

"(d) Regulations prescribed by the Secretary of Health and Human Services under section 303a(a) of this title shall include standards for determining whether an officer is undergoing medical internship or initial residency training for purposes of subsection (b) of this section.

"(e) Special pay payable to an officer under subsection (b) of this section shall be paid annually at the beginning of the twelve-month period for which the officer is entitled to such payment.

"(f) An officer who voluntarily terminates service on active duty before the end of the period for which a payment was made to such officer under subsection (b) of this section shall refund to the United States an amount which bears the same ratio to the amount paid to such officer as the unserved part of such period bears to the total period for which the payment was made.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 302b the following new item:

"302c. Special pay: medical officers of the Public Health Service.".

37 USC 313.

(b)(1) Subsection (a) of section 313 of such title, relating to special pay for medical officers who execute active duty agreements, is amended—

(A) by striking out "Secretary of Defense" and all that follows in such subsection through "Public Health Service," and inserting in lieu thereof "Secretary of Health and Human Services (hereinafter in this section referred to as the 'Secretary') and approved by the President, a medical officer of the Public Health Service"; and

(B) by striking out "Secretary concerned" each place it appears in such subsection and inserting in lieu thereof "Secretary".

(2) Subsection (b) of such section is amended by striking out "Secretary of Defense, the Secretary concerned" and inserting in lieu thereof "Secretary, the Secretary".

(3) Subsection (c) of such section is amended by striking out "by the Secretary of Defense or by the Secretary of Health, Education, and

Welfare, as appropriate," and inserting in lieu thereof "by the Secretary,".

(4) Subsection (e) of such section is amended—

(A) by striking out "The Secretary" and all that follows in such subsection through "each year" the first place it appears and inserting in lieu thereof "Not later than July 31 of each year, the Secretary shall submit a written report"; and

(B) by striking out the third sentence in such subsection.

(5) The heading of such section is amended to read as follows:

"§ 313. Special pay: medical officers of the Public Health Service who execute active duty agreements".

(6) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"313. Special pay: medical officers of the Public Health Service who execute active duty agreements.".

PERMANENT AUTHORITY FOR OTHER SPECIAL PAY PROVISIONS FOR HEALTH PROFESSIONALS IN THE UNIFORMED SERVICES

SEC. 4. (a) Section 302a of title 37, United States Code, relating to special pay for optometrists, is amended—

(1) by striking out "(a) In addition to any other basic pay, special pay, incentive pay, or allowances to which he is entitled, each" in subsection (a) and inserting in lieu thereof "Each";

(2) by striking out "beginning on or after October 1, 1977"; and

(3) by striking out subsections (b) and (c).

(b) Section 302b of such title, relating to special pay for dentists, is amended— 37 USC 302b.

(1) by striking out ", in addition to any other pay or allowances to which he is entitled,"; and

(2) by striking out the last sentence of such section.

(c) Section 303 of such title, relating to special pay for veterinarians, is amended— 37 USC 303.

(1) by striking out "(a) In addition to any other basic pay, special pay, incentive pay or allowances to which he is entitled, each" in subsection (a) and inserting in lieu thereof "Each";

(2) by striking out "beginning on or after October 1, 1977"; and

(3) by striking out subsections (b) and (c).

(d)(1) Subsection (a) of section 311 of such title, relating to continuation pay for physicians and dentists who extend their service on active duty, is amended to read as follows: 37 USC 311.

"(a)(1) Under regulations to be prescribed by the Secretary of Defense, an officer of the Army or Navy in the Dental Corps or an officer of the Air Force who is designated as a dental officer who— Active duty agreement.

"(A) is serving on active duty in a critical specialty designated by the Secretary of Defense;

"(B) has completed his initial active-duty obligation; and

"(C) executes a written agreement to remain on active duty for at least one additional year;

may be paid not more than four months' basic pay (under the rates of basic pay in effect on April 1, 1980) when he executes that agreement for each additional year that he agrees to remain on active duty. The eligibility of an officer for special pay under the preceding sentence, and the method of computing the amount of such special pay, shall be determined in accordance with the provisions of the regulations of the Secretary of Defense which on April 1, 1980, determined the

eligibility for and method of computation of such special pay, except that in computing the amount of such special pay, the rates of basic pay to be applied are the rates of basic pay in effect on April 1, 1980.

"(2) Under regulations to be prescribed by the Secretary of Health and Human Services, a medical officer of the Public Health Service above the pay grade of O-6 or such an officer who is below that pay grade who is undergoing initial residency training and who was on active duty on July 1, 1974, or a dental officer of the Public Health Service who—

"(A) is serving on active duty in a critical specialty designated by the Secretary of Health and Human Services;

"(B) has completed his initial active-duty obligation; and

"(C) executes a written agreement to remain on active duty for at least one additional year;

may be paid not more than four months' basic pay at the rate applicable to him when he executes that agreement for each additional year that he agrees to remain on active duty.

"(3) Pay under this section shall be paid in equal annual or semiannual installments as determined by the Secretary of Defense or the Secretary of Health and Human Services, as appropriate, in each additional year covered by an agreement to remain on active duty. However, in meritorious cases, the pay may be paid in fewer installments if the Secretary determines it to be in the best interest of the officer.".

(2) Subsection (c) of such section is amended by striking out "beginning with the calendar year 1968,".

(3) The heading of such section is amended to read as follows:

"§ 311. Special pay: continuation pay for dentists in the armed forces and physicians and dentists in the Public Health Service".

(4) The item relating to such section in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"311. Special pay: continuation pay for dentists in the armed forces and physicians and dentists in the Public Health Service.".

Repeal.

(e) Section 2 of the Act entitled "An Act to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services", approved May 6, 1974 (37 U.S.C. 302 note), is repealed.

GENERAL PROVISIONS RELATING TO HEALTH PROFESSIONALS

SEC. 5. (a) Chapter 5 of title 37, United States Code, is amended by inserting after section 303 the following new section:

37 USC 303a.

"§ 303a. Special pay: health professionals; general provisions

Administrative regulations.

"(a) The Secretary of Defense, with respect to the Army, Navy, and Air Force, and the Secretary of Health and Human Services, with respect to the Public Health Service, shall prescribe regulations for the administration of sections 302, 302a, 302b, 302c, 303, 311, and 313 of this title.

37 USC 302-302c, 303, 311, 313.

"(b) Special pay authorized under sections 302, 302a, 302b, 302c, and 303 of this title is in addition to any other pay or allowance to which an officer is entitled. The amount of special pay to which an officer is entitled under any of such sections may not be included in computing the amount of any increase in pay authorized by any other

provision of this title or in computing retired pay, severance pay, or readjustment pay.

"(c) The Secretary of Defense shall conduct a review every two years of the special pay for health professionals authorized by sections 302, 302a, 302b, 303, and 311 of this title. A report shall be submitted to the Congress not later than September 30, 1982, of the results of the first such review, and a report shall be submitted to the Congress not later than September 30 of each second year thereafter on the results of the review for the preceding two-year period.". Review. 37 USC 302–302b, 303, 311. Report to Congress.

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 303 the following new item:

"303a. Special pay: health professionals; general provisions.".

TECHNICAL AMENDMENT

SEC. 6. Section 306(e) of title 37, United States Code, relating to exclusions from special pay for officers holding positions of unusual responsibility, is amended by striking out "302 or 303" and inserting in lieu thereof "302, 302a, 302b, or 303".

TRANSITION PROVISIONS

SEC. 7. Notwithstanding any provision of the amendments made by this Act, and in accordance with regulations to be prescribed by the Secretary of Defense, any officer of the Army, Navy, or Air Force who at any time before the effective date of the amendments made by this Act was entitled to special pay under section 302 of title 37, United States Code, and any officer who after such effective date would have become entitled to special pay under such section (as in effect on the day before such effective date) had such section continued in effect, shall be paid basic pay and special pay under section 302 of such title (as in effect on and after the effective date of the amendments made by this Act) in a total amount not less than the total amount of the basic pay (as in effect on the day before such date) and special pay applicable (or which would have been applicable) to such officer under sections 302, 311, and 313 of such title (as in effect on the day before such date and computed on the rates of basic pay as in effect on the day before such date). 37 USC 302 note. 37 USC 302, 311, 313.

EFFECTIVE DATE

37 USC 302 note.

SEC. 8. The amendments made by sections 2 and 3 shall apply to special pay payable for periods beginning after the last day of the month in which this Act is enacted.

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-904 accompanyng H.R. 6982 (Comm. on Armed Services).
SENATE REPORT No. 96-749 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 28, considered and passed Senate.
June 23, H.R. 6982 considered and passed House; passage vacated and S. 2460, amended, passed in lieu.
June 26, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, VOL. 16, No. 27:
June 30, Presidential statement.

Public Law 96-285
96th Congress

An Act

To establish the Tensas River National Wildlife Refuge.

June 28, 1980
[H.R. 6022]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tensas River National Wildlife Refuge, establishment.

16 USC 668dd note.

CONGRESSIONAL FINDINGS

SECTION 1. The Congress finds that—

(1) the great forests of hardwoods, which once covered vast acreages along the lower reach of the Mississippi River Valley, are rapidly being destroyed;

(2) the remaining forests constitute a unique ecological, commercial, and recreational resource, providing a combination of forest products, habitat for a diversity of fish and wildlife, and opportunities to the public for scientific research and for recreational activities such as hunting, fishing, hiking, boating, and wildlife observation;

(3) the area within which the Tensas River National Wildlife Refuge will be located contains one of the largest tracts of such forests in the Mississippi River Valley; and

(4) establishment of the refuge represents a significant action by the Federal Government for the preservation and development of the environmental resources in the basins of the Tensas, Bouef, and Red Rivers of the State of Louisiana.

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term "refuge" means the Tensas River National Wildlife Refuge that includes those lands and waters, and interests therein, located along the Tensas River in Franklin, Madison, and Tensas Parishes, Louisiana, that are depicted on the map entitled "Tensas River National Wildlife Refuge", dated February 1980, and on file at the United States Fish and Wildlife Service.

(2) The term "Secretary" means the Secretary of the Interior.

ESTABLISHMENT OF REFUGE

SEC. 3. (a) ACQUISITION.—Within four years after the date of the enactment of this Act—

(1) the Secretary shall acquire lands and waters, and interests therein, referred to in section 2(1) through donation, purchase with donated or appropriated funds, or exchange, or through any combination of the foregoing; and

(2) the Secretary of the Army shall acquire such of those lands and waters, and interests therein, referred to in section 2(1) as are not acquired under paragraph (1).

The Secretary of the Army shall transfer to the Secretary jurisdiction over all lands and waters, and interests therein, acquired under paragraph (2) and the Secretary shall include all such lands, waters, and interests in the refuge. The Secretary and the Secretary of the Army may only enter into contracts or incur obligations to purchase lands and waters, and interests therein with appropriated funds to the extent budget authority has been provided in advance in appropriation Acts.

Publication in Federal Register.

(b) ESTABLISHMENT.—At such time as sufficient lands and waters, and interests therein, have been acquired under subsection (a) (1) and (2) to constitute an area that can be administered for refuge purposes, the Secretary shall establish the Tensas River National Wildlife Refuge by publication of notice to that effect in the Federal Register.

(c) ADJUSTMENTS.—The Secretary may make such minor adjustments with respect to the boundary of the refuge as may be necessary to facilitate the acquisition of lands and waters, and interests therein, for the refuge and to facilitate the administration of the refuge.

(d) ARMY ACQUISITIONS IN LIEU OF CERTAIN OTHER MITIGATION ACTIONS.—The land and waters and interests therein, which the Secretary of the Army is required to acquire under subsection (a)(2) of this section, shall when acquired in total be in lieu of and in satisfaction of the mitigation acquisitions which otherwise would be required for the following Corps of Engineers water resources projects and modifications thereof: the Tensas River project, the Tensas-Cocodrie Pumping Plant, the Sicily Island Levee, the Bushley Bayou Levee, the Below Red River Levee, and that portion of the Red River Waterway Project below River Mile 104. Should any of these projects not be authorized or implemented, the Secretary of the Army, in consultation with the Secretary, may substitute additional projects with similar mitigation requirements which may be authorized for construction in the future and which are located wholly within the State of Louisiana and within the area depicted on the Corps of Engineers map entitled "Tensas National Wildlife Refuge Mitigation Area" dated April 1980 and on file in the Office of the Chief of Engineers, which mitigation area includes the basins of the Tensas, Bouef, Ouachita and Black Rivers and the Red River basin below River Mile 104.

ADMINISTRATION

SEC. 4. (a) IN GENERAL.—The Secretary shall administer all lands and waters, and interests therein, acquired under this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee) to conserve the diversity of fish and wildlife and their habitat within the refuge; except that the Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretative education, as he deems appropriate to carry out the purposes of the refuge. The Secretary shall give special consideration to the management of the timber on the refuge to insure continued commercial production and harvest compatible with the purposes for which the refuge is established and the needs of fish and wildlife which depend upon a dynamic and diversified hardwood forest.

Timber management.

(b) FLOOD CONTROL.—The Secretary shall administer the refuge as part of an overall Federal management plan for the use of water and related land resources for the area. This Act shall not preclude the

construction and maintenance of the Tensas River flood control project, authorized by the Flood Control Act of 1944, as amended, in such modified configuration as may be determined by the Secretary of the Army, in consultation with the Secretary. The Secretary shall assist the Secretary of the Army in this flood control project, including the provision of all lands and rights-of-ways necessary for project construction and maintenance within the refuge area as determined by the Secretary of the Army, in consultation with the Secretary. The establishment of the refuge shall not preclude any other public or private works, determined to be in the public interest, to relieve flooding along or adjacent to the Tensas River. 58 Stat. 887.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. For the purposes of carrying out this Act, there are authorized to be appropriated, beginning October 1, 1980—

(1) not to exceed $10,000,000 to the Department of the Interior; to remain available until September 30, 1985, and

(2) not to exceed $40,000,000 to the Department of the Army, to remain available until September 30, 1985.

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-891 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-741 accompanying S. 2244 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 5, considered and passed House.
May 22, considered and passed Senate, amended, in lieu of S. 2244.
June 16, House concurred in Senate amendment.

Public Law 96-286
96th Congress

Joint Resolution

June 28, 1980
[H.J. Res. 569]

To provide for a temporary increase in the public debt limit.

Public debt limit, temporary increase.
31 USC 757b note.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, **During the period beginning on the date of the enactment of this Act and ending on February 28, 1981, the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased by $525,000,000,000.**

Approved June 28, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
June 13 considered and passed House.
June 26, considered and passed Senate.

Public Law 96-287
96th Congress

An Act

To establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes.

June 28, 1980
[H.R. 5926]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Biscayne National Park. Establishment.

TITLE I—BISCAYNE NATIONAL PARK

16 USC 410gg.

SEC. 101. In order to preserve and protect for the education, inspiration, recreation, and enjoyment of present and future generations a rare combination of terrestrial, marine, and amphibious life in a tropical setting of great natural beauty, there is hereby established the Biscayne National Park (hereinafter referred to in this title as the "park") in the State of Florida. The boundary of the park shall include the lands, waters, and interests therein as generally depicted on the map entitled "Boundary Map, Biscayne National Park", numbered 169-90,003, and dated April 1980, which map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the "Secretary") shall publish in the Federal Register, not more than one year after the date of enactment of this Act, a detailed description of the boundary established pursuant to this section. Following reasonable notice in writing to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate of his intention to do so, the Secretary may make minor revisions in the boundary of the park by publication of a revised boundary map or other description in the Federal Register.

Boundary map, availability for public inspection.

Boundary description, publication in Federal Register.

Minor boundary revisions, notice to congressional committees and publication in Federal Register.

SEC. 102. (a) Within the boundary of the park the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange, except that property owned by the State of Florida or any political subdivision thereof may be acquired only by donation, and subject to such reservations and restrictions as may be provided by Florida law. Lands, waters, and interests therein within such boundary which are owned by the United States and under the control of the Secretary are hereby transferred to the administrative jurisdiction of the National Park Service to be managed for the purposes of the park. Any federally owned lands within the park which are not under the control of the Secretary shall be transferred to his control for purposes of the park at such time as said lands cease to be needed by the agencies which currently control them.

Property acquisition; donation by Florida.
16 USC 410gg-1.

U.S. property, transfer to National Park Service.

(b) It is the express intent of the Congress that the Secretary shall substantially complete the land acquisition program authorized herein within three complete fiscal years from the effective date of this Act. Any owner of property within the park may notify the

Time limitation on land acquisition.

Notification to Secretary.

Secretary of the desire of such owner that his property be promptly acquired, and the Secretary shall give immediate and careful consideration, subject to the availability of funds, to the prompt acquisition of such property.

Preservation and administration. 16 USC 410gg-2. Fishing.

SEC. 103. (a) The Secretary shall preserve and administer the park in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), as amended and supplemented. The waters within the park shall continue to be open to fishing in conformity with the laws of the State of Florida except as the Secretary, after consultation with appropriate officials of said State, designates species for which, areas and times within which, and methods by which fishing is prohibited, limited, or otherwise regulated in the interest of sound conservation to achieve the purposes for which the park is established: *Provided,* That with respect to lands donated by the State after the effective date of this Act, fishing shall be in conformance with State law.

Biscayne National Monument, abolition.

(b) The Biscayne National Monument, as authorized by the Act of October 18, 1968 (82 Stat. 1188; 16 U.S.C. 450qq), as amended, is abolished as such, and all lands, waters, and interests therein acquired or reserved for such monument are hereby incorporated within and made a part of the park. Any funds available for the purposes of such monument are hereby made available for the purposes of the park, and authorizations of funds for the monument shall continue to be available for the park.

Designation of wilderness areas, report to President and Congress. 16 USC 410gg-3. 16 USC 1132.

SEC. 104. Within three complete fiscal years from the effective date of this Act, the Secretary shall review the area within the park and shall report to the President and the Congress, in accordance with subsections 3 (c) and (d) of the Wilderness Act (78 Stat. 890), his recommendations as to the suitability or nonsuitability of any area within the park for designation as wilderness. Any designation of any such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

Management plan, submittal to congressional committees. 16 USC 410gg-4.

SEC. 105. Within two complete fiscal years from the effective date of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a revised comprehensive general management plan for the park consistent with the provisions of this title and pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended (16 U.S.C. 1a-1 et seq.).

16 USC 1a-7.

Appropriation authorization. 16 USC 410gg-5.

SEC. 106. In addition to the sums previously authorized to be appropriated for Biscayne National Monument, there are authorized to be appropriated such sums as may be necessary for the administration of the park, and not to exceed $8,500,000 for the acquisition of lands and interests therein, as provided in this title. Notwithstanding any other provision of law, no fees shall be charged for entrance or admission to the park.

TITLE II—FORT JEFFERSON NATIONAL MONUMENT

Findings and establishment.

SEC. 201. The Congress recognizes the need for stabilizing and protecting the masonry fortifications at Fort Jefferson and for protecting and interpreting a pristine natural environment including the entire Dry Tortugas group of islands and their associated marine environments, significant coral formations, fish and other marine animal populations, and populations of nesting and migrating birds, all of which are located within Fort Jefferson National Monument,

Florida (hereinafter referred to in this title as the "monument"). The monument shall consist of the lands, waters, and interests therein generally depicted on a map entitled "Boundary Map, Fort Jefferson National Monument", numbered 364-90,001, and dated April 1980. Any Federal lands excluded from the Fort Jefferson National Monument pursuant to this section shall be administered by the Secretary in accordance with the Federal Land Policy and Management Act of 1976. Any Federal lands added to the Fort Jefferson National Monument pursuant to this section shall be administered by the Secretary in accordance with the purposes for which the monument was established. In furtherance of the purposes of the monument the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to accept gifts of funds which may be donated for any purpose, but particularly for stabilizing the historic structures within the monument.

Boundary map.

Excluded Federal lands.

43 USC 1701 note.
Added Federal lands.
Gifts of funds.

SEC. 202. Within three complete fiscal years from the effective date of this Act, the Secretary shall, after consultation with the Governor of the State of Florida, develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a comprehensive general management plan for the monument consistent with the provisions of this title and pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended (16 U.S.C. 1a-1 et seq.).

Management plan, submittal to congressional committees.

16 USC 1a-7.

SEC. 203. Within three complete fiscal years from the effective date of this Act, the Secretary shall review the area within the monument and shall report to the President and the Congress, in accordance with subsections 3 (c) and (d) of the Wilderness Act (78 Stat. 890), his recommendations as to the suitability or nonsuitability of any area within the monument for designation as wilderness. Any designation of any such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

Designation of wilderness areas, report to President and Congress.
16 USC 1132.

SEC. 204. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. Notwithstanding any other provisions of law, no fees shall be charged for entrance or admission to the monument.

Appropriation authorization.
Entrance fees, prohibition.

TITLE III—VALLEY FORGE NATIONAL HISTORICAL PARK

SEC. 301. The Act entitled "An Act to authorize the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, and for other purposes", approved July 4, 1976 (90 Stat. 796), is amended (1) in subsection 2(a) by changing "dated February 1976, and numbered VF-91,000," to "dated June 1979, and numbered VF-91,001,"; (2) in section 3 by adding the following sentence at the end thereof: "In furtherance of the purposes of this Act, the Secretary is authorized to provide technical assistance to public and private nonprofit entities in qualifying for appropriate historical designation and for such grants, other financial assistance, and other forms of aid as are available under Federal, State, or local law for the protection, rehabilitation, or preservation of properties in the vicinity of the park which are historically related to the purposes of the park."; and (3) in subsection 4(a) by changing "$8,622,000" to "$13,895,000".

16 USC 410aa-1.

16 USC 410aa-2.
Technical assistance to grant applicants.

16 USC 400aa-3.

TITLE IV

Effective date.
16 USC 410gg-5 note.

SEC. 401. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1980. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-693 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-665 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 10, considered and passed House.
Vol. 126 (1980): June 5, considered and passed Senate, amended.
June 17, House concurred in Senate amendments.

Public Law 96-288
96th Congress

An Act

To establish the Bogue Chitto National Wildlife Refuge.

June 28, 1980
[H.R. 6169]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Bogue Chitto National Wildlife Refuge, establishment.

16 USC 668dd note.

DECLARATION OF FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) thousands of acres of bottomland hardwoods are being cleared each year in the Mississippi River Delta;

(2) these forested wetlands represent one of the most valuable and productive wildlife habitat types in the United States and have extremely high recreational value for hunters, fishermen, birdwatchers, nature photographers, and others; and

(3) the Bogue Chitto area is a bottomland hardwood swamp which harbors over one hundred fifty species of birds and many types of other wildlife, including several species imperiled with extinction.

(b) The purpose of this Act is to establish the Bogue Chitto National Wildlife Refuge.

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) the term "refuge" means the Bogue Chitto National Wildlife Refuge;

(2) the term "Secretary" means the Secretary of the Interior; and

(3) the term "selection area" means those lands and waters near the juncture of the Pearl River and its tributary, the Bogue Chitto, in Saint Tammany and Washington Parishes, Louisiana, and Pearl River County, Mississippi, depicted on the map entitled "Bogue Chitto National Wildlife Refuge, Selection Area", dated and on file at the United States Fish and Wildlife Service.

ESTABLISHMENT OF REFUGE

SEC. 3. (a)(1) Within one year after the date of the enactment of this Act the Secretary shall—

(A) designate approximately forty thousand acres of land and water within the selection area as land which the Secretary considers appropriate for the refuge; and

(B) publish in the Federal Register a detailed map depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and available for public inspection at offices of the United States Fish and Wildlife Service.

Publication in Federal Register.

(2) The Secretary may make such minor revisions in the boundaries designated under paragraph (1)(B) of this subsection as may be

appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

(b) The Secretary is authorized to acquire (by donation, purchase with donated or appropriated funds, or exchange) lands, waters, or interests therein, within the boundaries designated under subsection (a)(1)(B).

Establishment, publication in Federal Register.

(c) The Secretary shall establish the Bogue Chitto National Wildlife Refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been acquired under this section to constitute an area that can be effectively managed as a refuge.

ADMINISTRATION

SEC. 4. The Secretary shall administer all lands, waters, and interests therein, acquired under this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. There are authorized to be appropriated beginning October 1, 1980—

(a) $13,000,000 for the acquisition of lands and interests therein, to remain available until September 30, 1985.

(b) $1,000,000 for construction of the refuge headquarters and boat launching facilities and the accomplishment of boundary surveys, to remain available until September 30, 1985.

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-892 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-674 accompanying S. 2115 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 5, considered and passed House.
May 13, considered and passed Senate, amended, in lieu of S. 2115.
June 16, House concurred in Senate amendment.

Public Law 96-289
96th Congress

An Act

To authorize appropriations to carry out the national sea grant program for fiscal years 1981, 1982, and 1983, and for other purposes.

June 28, 1980
[H.R. 6614]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.), as amended, is further amended—

National sea grant program, appropriation authorization. 33 USC 1121 note.

(1) in section 203(6) by inserting "Great Lakes and the" immediately before "territorial sea";

33 USC 1122. 33 USC 1123.

(2) in section 204(c) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) encourage cooperation and coordination with other Federal programs concerned with ocean and coastal resource conservation and usage;".

33 USC 1124.

(3) in section 205(d)(2) by inserting "may be applied to the short-term rental of buildings or facilities for meetings which are in direct support of any sea grant program or project and" immediately after "contract" the second time it appears therein;

33 USC 1125.

(4) in section 206(c) by inserting "out" immediately after "carrying", and by inserting the following new paragraph immediately after paragraph (2):

"(3) Not to exceed $5,000,000 for fiscal year 1981, not to exceed $6,000,000 for fiscal year 1982, and not to exceed $7,000,000 for fiscal year 1983.";

33 USC 1128.

(5) in section 209(c)(3) by striking the first two sentences and inserting in lieu thereof the following: "Any individual appointed to a partial or full term may be reappointed for one additional full term."; and

33 USC 1131.

(6) in section 212 by inserting the following new paragraph immediately after paragraph (2):

"(3) Not to exceed $50,000,000 for fiscal year 1981, not to exceed $58,000,000 for fiscal year 1982, and not to exceed $65,000,000 for fiscal year 1983.".

SEC. 2. Section 3(c) of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a(c)) is amended by inserting the following new paragraph immediately after paragraph (2):

"(3) Not to exceed $5,000,000 for fiscal year 1981, not to exceed $5,000,000 for fiscal year 1982, and not to exceed $5,000,000 for fiscal year 1983.".

SEC. 3. The section heading of section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a) is amended to read as follows:

"SEC. 3. SEA GRANT INTERNATIONAL PROGRAM.".

Applications for compensation. 22 USC 1980 note.

SEC. 4. (a) Notwithstanding the provisions of section 10(c)(1) of the Fishermens Protective Act of 1967 (22 U.S.C. 1980) applications for

compensation under such Act, filed within 90 days after the date of enactment of this subsection shall be deemed to be timely filed.

(b) Section 10(c)(1) of the Fishermens Protective Act of 1967 (22 U.S.C. 1980) is amended by striking "sixty" and substituting "90"

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-841 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-723 (Comm. on Commerce, Science, and Transportation and Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 17, considered and passed House.
May 22, considered and passed Senate, amended.
June 5, House concurred in Senate amendment with amendments.
June 9, Senate concurred in House amendments with an amendment.
June 16, House concurred in Senate amendment.

Public Law 96-290
96th Congress

An Act

To authorize appropriations for the San Francisco Bay National Wildlife Refuge, and for other purposes.

June 28, 1980
[H.R. 4887]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

San Francisco Bay National Wildlife Refuge, Calif. Appropriation authorizations.

SECTION 1. (a) That part of section 4 of the Act entitled "An Act to provide for the establishment of the San Francisco Bay National Wildlife Refuge", approved June 30, 1972 (86 Stat. 399; 16 U.S.C. 668ii), that precedes the proviso is amended to read as follows: "The Secretary may acquire lands and waters or interests therein, subject to the interest of the State of California in lands now or formerly flowed by the tide, including the public trust of the State, within the boundaries of the refuge by donation, purchase with donated or appropriated funds, or exchange:".

(b)(1) Section 5 of such Act of June 30, 1972 (16 U.S.C. 668jj) is amended to read as follows:

"SEC. 5. There are authorized to be appropriated not to exceed—

"(1) $13,200,000 for the acquisition of lands and interests therein as authorized by section 4 of this Act, to remain available until the close of September 30, 1983; and

"(2) $11,300,000 to carry out the other provisions of this Act, to remain available until expended.".

(2) The amendment made by subsection (b)(1) shall take effect October 1, 1980.

Effective date.

SEC. 2. Lands and waters and interests therein acquired by the Secretary of the Interior under the authority of the Migratory Bird Conservation Act (16 U.S.C. 718-718h; 48 Stat. 452), as amended, for inclusion in the Humboldt Bay National Wildlife Refuge, may be acquired subject to the interest of the State of California in lands now or formerly flowed by the tide, including the public trust of the State.

Humboldt Bay National Wildlife Refuge, Calif.

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-677 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-672 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 10, considered and passed House.
Vol. 126 (1980): May 6, considered and passed Senate, amended.
June 16, House concurred in Senate amendments.

79-194 O—81—pt. 1——42 : QL3

Public Law 96-291
96th Congress

An Act

June 28, 1980
[H.R. 4889]

To extend the authorization period for the Great Dismal Swamp National Wildlife Refuge.

Great Dismal Swamp National Wildlife Refuge, authorization period extension.
88 Stat. 802.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(4) of the Act entitled "An Act to establish the Great Dismal Swamp National Wildlife Refuge" (Public Law 93-402; 88 Stat. 801) is amended by striking the words "September 30, 1980," and inserting in lieu thereof the words "September 30, 1983,".

SEC. 2. The Fish and Wildlife Act of 1956 (70 Stat. 1119), as amended (16 U.S.C. 742a-742d, 742e-742j), is further amended by adding a new section 14 as follows:

Uniform allowance.
16 USC 742j-2.

"SEC. 14. Notwithstanding subsection 5901(a) of title 5, United States Code (80 Stat. 508) as amended, the uniform allowance for each uniformed employee of the United States Fish and Wildlife Service may be up to $400 annually.".

Nothing in this section shall be construed as authorizing the enactment of new budget authority in fiscal year 1980.

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-660 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-673 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 10, considered and passed House.
Vol. 126 (1980): May 6, considered and passed Senate, amended.
June 16, House concurred in Senate amendment.

Public Law 96-292
96th Congress

An Act

To name a certain Federal building in Santa Fe, New Mexico, the "Joseph M. Montoya Federal Building and U.S. Courthouse".

June 28, 1980
[H.R. 5259]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located on Federal Place, in Santa Fe, New Mexico, shall hereafter be known as, and is hereby designated as, the "Joseph M. Montoya Federal Building and U.S. Courthouse". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Joseph M. Montoya Federal Building and U.S. Courthouse.

Joseph M. Montoya Federal Building and U.S. Courthouse, designation.

SEC. 2. Section 181(a)(2) of the Act of October 22, 1976 (Public Law 94-587; 90 Stat. 2939, 2940), is amended by striking out "(A)" and by striking out ", and (B)" and all that follows down through and including the period at the end thereof and inserting in lieu thereof a period.

42 USC 1962d-11a.

Approved June 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-523 (Comm. on Public Works and Transportation).
SENATE REPORT No. 96-697 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 27, considered and passed House.
Vol. 126 (1980): May 16, considered and passed Senate, amended.
June 17, House concurred in Senate amendment.

Public Law 96-293
96th Congress

An Act

June 30, 1980
[H.R. 7685]

To amend title IV of the Employee Retirement Income Security Act of 1974 to postpone for one month the date on which the corporation must pay benefits under terminated multiemployer plans.

Employee Retirement Income Security Act of 1974, amendment.
29 USC 1381.
93 Stat. 70, *ante*, p. 341.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4082(c) of title IV of the Employee Retirement Income Security Act of 1974 (relating to effective dates; special rules) as amended by Public Law 95-214, Public Law 96-24, and Public Law 96-239 is further amended—

(1) by striking "July 1, 1980" in paragraphs (1), (2), and (4) and substituting "August 1, 1980" in each such paragraph; and

(2) by striking "June 30, 1980" in paragraphs 2(B) and 4(D) and substituting "July 31, 1980" in each such paragraph.

Approved June 30, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
June 27, considered and passed House.
June 28, considered and passed Senate.

Public Law 96-294
96th Congress

An Act

To extend the Defense Production Act of 1950, and for other purposes.

June 30, 1980
[S. 932]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Security Act".

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42 USC 8701 note.

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FINDINGS AND PURPOSE

42 USC 8701.

SEC. 100. (a) The Congress finds and declares that—

(1) the achievement of energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(2) dependence on foreign energy resources can be significantly reduced by the production from domestic resources of the equivalent of at least 500,000 barrels of crude oil per day of synthetic fuel by 1987 and of at least 2,000,000 barrels of crude oil per day of synthetic fuel by 1992;

(3) attainment of synthetic fuel production in the United States in a timely manner and in a manner consistent with the protection of the environment will require financial commitments beyond those expected to be forthcoming from nongovernmental capital sources and existing government incentives; and

(4) establishment of an independent Federal entity of limited duration which will provide additional financial assistance in conjunction with private sources of capital to assist the development of domestic nonnuclear energy resources for the production of synthetic fuel will facilitate the expeditious achievement of synthetic fuel production from domestic resources.

(b)(1) The purposes of this title, and the amendments made by this title, are to utilize to the fullest extent the constitutional powers of the Congress to improve the Nation's balance of payments, reduce the threat of economic disruption from oil supply interruptions and increase the Nation's security by reducing its dependence upon imported oil.

(2) Congress finds and declares that these purposes can be served by—

(A) demonstrating at the earliest feasible time the practicality of commercial production of synthetic fuel from domestic resources employing the widest diversity of feasible technologies;

(B) fostering the creation of commercial synthetic fuel production facilities of diverse types with the aggregate capability to produce from domestic resources in an environmentally accept-

able manner the equivalent of at least 500,000 barrels of crude oil per day by 1987 and of at least 2,000,000 barrels of crude oil per day by 1992;

(C) creating the United States Synthetic Fuels Corporation, a Federal entity of limited duration formed to provide financial assistance to undertake synthetic fuel projects;

(D) providing for financial assistance to encourage and assure the flow of capital funds to those sectors of the national economy which are important to the domestic production of synthetic fuel;

(E) encouraging private capital investment and activities in the development of domestic sources of synthetic fuel and to foster competition in the development of the Nation's synthetic fuel resources;

(F) encouraging and supplementing and not competing with or supplanting private capital investments in the development of domestic sources of synthetic fuel;

(G) fostering greater energy security and reducing the Nation's economic vulnerability to disruptions in imported energy supplies; and

(H) giving special consideration to the production of synthetic fuel which has national defense applications and expediting its initial development through the Defense Production Act of 1950. 50 USC app. 2061.

Part A—Development of Synthetic Fuel Under the Defense Production Act of 1950

Defense Production Act Amendments of 1980.

SHORT TITLE

SEC. 101. This part may be cited as the "Defense Production Act Amendments of 1980". 50 USC app. 2061 note.

DECLARATION OF POLICY

SEC. 102. The second sentence of section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended by striking out the period at the end thereof and inserting in lieu thereof "or to respond to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which would adversely affect the national defense preparedness of the United States. In order to insure the national defense preparedness which is essential to national security, it is also necessary and appropriate to assure domestic energy supplies for national defense needs.".

RESTRICTION ON RATIONING

SEC. 103. Title I of the Defense Production Act of 1950 (50 U.S.C. App. 2071 et seq.) is amended by adding at the end thereof the following:

"SEC. 105. Nothing in this Act shall be construed to authorize the President to institute, without the approval of the Congress, a program for the rationing of gasoline among classes of end-users. 50 USC app. 2075.

"SEC. 106. For purposes of this Act, 'energy' shall be designated as a 'strategic and critical material' after the date of the enactment of this section: *Provided,* That no provision of this Act shall, by virtue of such designation— 50 USC app. 2076.

"(1) grant any new direct or indirect authority to the President for the mandatory allocation or pricing of any fuel or feedstock

(including, but not limited to, crude oil, residual fuel oil, any refined petroleum product, natural gas, or coal) or electricity or any other form of energy; or

"(2) grant any new direct or indirect authority to the President to engage in the production of energy in any manner whatsoever (such as oil and gas exploration and development, or any energy facility construction), except as expressly provided in sections 305 and 306 for synthetic fuel production.".

Post, pp. 619, 623.

EXPANSION OF PRODUCTIVE CAPACITY AND SUPPLY

SEC. 104. (a)(1) Section 301(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(a)) is amended by inserting "(1)" after "(a)" and by striking out "the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Commerce," and inserting in lieu thereof "the Department of Defense, the Department of Energy, the Department of Commerce,".

(2) Section 301(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(a)) is amended by adding at the end thereof the following:

"(2) Except as provided in section 305 and section 306, no authority contained in sections 301, 302, or 303 may be used in any manner—

50 USC app. 2091-2093.

"(A) in the development, production, or distribution of synthetic fuel;

"(B) for any synthetic fuel project;

"(C) to assist any person for the purpose of providing goods or services to a synthetic fuel project; or

"(D) to provide any assistance to any person for the purchase of synthetic fuel.".

Guarantees, maximum obligations.

(b) Section 301(e)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(e)(1)) is amended—

(1) by striking out "Except with the approval of the Congress, the" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), the";

(2) by striking out "$20,000,000" and inserting in lieu thereof "$38,000,000"; and

(3) by adding at the end thereof the following:

Notification to congressional committees.

"(B) Guarantees which exceed the amount specified in subparagraph (A) may be entered into under this section only if the Committees on Armed Services of the Senate and the House of Representatives have been notified in writing of such proposed obligation and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to such committees and neither House of Congress has adopted, within such 60-day period, a resolution disapproving such obligation. For purposes of this subparagraph, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of such 60-day period.".

(c) The second sentence of section 302 of the Defense Production Act of 1950 (50 U.S.C. App. 2092) is amended by striking out "$25,000,000" and inserting in lieu thereof "$48,000,000".

(d)(1) Section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)) is amended by striking out "and metals" each place it appears therein and inserting in lieu thereof ", metals, and materials".

(2) Section 303(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(b)) is amended by striking out "September 30, 1985" and inserting in lieu thereof "September 30, 1995".

(3) Section 303(g) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(g)) is amended—

(A) by striking out "and upon a certification" and all that follows through "other national emergency,"; and

(B) by striking out "such" after "of substitutes for".

(e) Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) is amended by adding at the end thereof the following new sections:

Synthetic fuel, development. 50 USC app. 2095. 50 USC app. 2061, 2071, 2091–2093, *post*, p. 623.

"SEC. 305. (a)(1)(A) Subject to subsection (k)(1), in order to encourage and expedite the development of synthetic fuel for use for national defense purposes, the President, utilizing the provisions of this Act (other than sections 101(a), 101(b), 301, 302, 303, and 306), and any other applicable provision of law, shall take immediate action to achieve production of synthetic fuel to meet national defense needs.

"(B) The President shall exercise the authority granted by this section—

"(i) in consultation with the Secretary of Energy;

"(ii) through the Department of Defense and any other Federal department or agency designated by the President; and

"(iii) consistent with an orderly transition to the separate authorities established pursuant to the United States Synthetic Fuels Corporation Act of 1980.

Post, p. 633.

"(2) This section shall not affect the authority of the United States Synthetic Fuels Corporation.

"(b)(1)(A) To assist in carrying out the objectives of this section, the President, subject to subsections (c) and (d), shall—

Contracts.

"(i) contract for purchases of, or commitments to purchase, synthetic fuel for Government use for defense needs;

Loan guarantees.

"(ii) subject to paragraph (3), issue guarantees in accordance with the provisions of section 301, except that the provisions of section 301(e)(1)(B) shall not apply with respect to such guarantees; and

"(iii) subject to paragraph (3), make loans in accordance with the provisions of section 302, except that the provisions of section 302(2) shall not apply with respect to such loans.

"(2)(A) Except as provided in subparagraph (B) assistance authorized under this subsection may be provided only to persons who are participating in a synthetic fuel project.

"(B) For purposes of fabrication or manufacture of any component of a synthetic fuel project, assistance authorized under paragraph (1)(A)(ii) and paragraph (1)(A)(iii) may be provided to any fabricator or manufacturer of such component.

Proposed loan or guarantee, notification to Congress.

"(3) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 or section 302 in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan or guarantee in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to a proposed loan or guarantee, notice of which is transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action.

Post, p. 628.

"(c)(1) Subject to paragraph (2), purchases and commitments to purchase under subsection (b) may be made—

"(A) without regard to the limitations of existing law (other than the limitations contained in this Act) regarding the procurement of goods or services by the Government; and

50 USC app. 2166.

"(B) subject to section 717(a), for such quantities, on such terms and conditions (including advance payments subject to paragraph (3)), and for such periods as the President deems necessary.

"(2) Purchases or commitments to purchase under subsection (b) involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) shall not be made unless it is determined that supplies of synthetic fuel could not be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for use for national defense purposes.

"(3) Advance payments may not be made under this section unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met.

Competitive bids.

"(d)(1) Except as provided in paragraph (2), any purchase of or commitment to purchase synthetic fuel under subsection (b) shall be made by solicitation of sealed competitive bids.

"(2) In any case in which no such bids are submitted to the President or the President determines that no such bids which have been submitted to the President are acceptable, the President may negotiate contracts for such purchases and commitments to purchase.

"(3) Any contract for such purchases or commitments to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuel, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuel on the delivery date specified in such contract.

"(4)(A)(i) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President, subject to subparagraph (A)(ii), may not award contracts for the purchase of or commitment to purchase more than 100,000 barrels per day crude oil equivalent of synthetic fuel.

"(ii) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award any contract for the purchase or commitment to purchase of more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, shall be considered to be a synthetic fuel action.

Post, p. 628.

"(B) A contract for the purchase of or commitment to purchase synthetic fuel may be entered into only for synthetic fuel which is produced in a synthetic fuel project which is located in the United States.

"(C) Each contract entered into under this section for the purchase of or commitment to purchase synthetic fuel shall provide that all parties to such contract agree to review and to possibly renegotiate such contract within 10 years after the date of the initial production at the synthetic fuel project involved. At the time of such review, the President shall determine the need for continued financial assistance pursuant to such contract. Review.

"(5) In any case in which the President, under the provisions of this section, accepts delivery of any synthetic fuel, such synthetic fuel may be used by an appropriate Federal agency. Such Federal agency shall pay for such synthetic fuel the prevailing market price for the product which such synthetic fuel is replacing, as determined by the Secretary of Energy, from sums appropriated to such Federal agency for the purchase of fuel, and the President shall pay, from sums appropriated for such purpose pursuant to the authorizations contained in sections 711(a)(2) and 711(a)(3), an amount equal to the amount by which the contract price for such synthetic fuel as specified in the contract involved exceeds such prevailing market price. *Post*, p. 632.

"(6) In considering any proposed contract under this section, the President shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under such contract.

"(e) The procurement power granted to the President under this section shall include the power to transport and store and have processed and refined any product procured under this section.

"(f)(1) No authority contained in this section may be exercised to acquire any amount of synthetic fuel unless the President determines that such synthetic fuel is needed to meet national defense needs and that it is not anticipated that such synthetic fuel will be resold by the Government.

"(2) In any case in which synthetic fuel is acquired by the Government under this section, such synthetic fuel is no longer needed to meet national defense needs, and such synthetic fuel is not accepted by a Federal agency pursuant to subsection (d)(5), the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve.

"(3) Any synthetic fuel which is acquired by the Government under this section and which is not used by the Government or accepted by the Secretary of Energy pursuant to paragraph (2) shall be sold in accordance with applicable Federal law.

"(g)(1) Any contract under this section including any amendment or other modification of such contract, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under such contract as determined in accordance with paragraph (2).

"(2) For the purpose of determining the maximum liability under any contract under paragraph (1)— Contracts, maximum liability.

"(A) loans shall be valued at the initial face value of the loan;

"(B) guarantees shall be valued at the initial face value of such guarantee (including any amount of interest which is guaranteed under such guarantee);

"(C) purchase agreements shall be valued as of the date of each such contract based upon the President's estimate of the maximum liability under such contract; and

"(D) any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, or purchase agreement shall be valued in accordance with the applicable preceding subparagraph.

"(3) If more than one form of assistance is provided under this section to any synthetic fuel project, then the maximum liability under such contract for purposes of paragraphs (1) and (2) shall be valued at the maximum potential exposure on such project at any time during the life of such project.

"(4) Any such contract shall be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of such contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts pursuant to this section.

"(5) Any commitment made under this section which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of paragraph (4).

"(h) For purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), no action in providing any loan, guarantee, or purchase agreement under this section shall be deemed to be a major Federal action significantly affecting the quality of the human environment.

"(i) All laborers and mechanics employed for the construction, repair, or alteration of any synthetic fuel project funded, in whole or in part, by a guarantee or loan entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act. Guaranteeing agencies shall not extend guarantees and the President shall not make loans for the construction, repair or alteration of any synthetic fuel project unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for a loan or guarantee, if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276(c) of title 40.

5 USC app.

"(j)(1) Nothing in this section shall—

"(A) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource;

"(B) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States; or

"(C) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

"(2) No synthetic fuel project constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

"(k)(1) Subject to paragraph (2), the authority of the President to enter into any new contract or commitment under this section shall cease to be effective on the date on which the President determines that the United States Synthetic Fuels Corporation is established and fully operational consistent with the provisions of the United States Synthetic Fuels Corporation Act of 1980.

Post, p. 633.

"(2) Contracts entered into under this section before the date specified in paragraph (1) may be renewed and extended by the President after the date specified in paragraph (1) but only to the extent that Congress has specifically appropriated funds for such renewals and extensions.

"SEC. 306. (a)(1) At any time after the date of the enactment of this section, the President may, subject to paragraph (2), invoke the authorities provided under this section upon making all the following determinations and transmitting a report to the Congress regarding such determinations:

50 USC app. 2096.

"(A) a national energy supply shortage has resulted or is likely to result in a shortfall of petroleum supplies in the United States, and such shortage is expected to persist for a period of time sufficient to seriously threaten the adequacy of defense fuel supplies essential to direct defense and direct defense industrial base programs;

"(B) the continued adequacy of such supplies cannot be assured and requires expedited production of synthetic fuel to provide such defense fuel supplies;

"(C) the expedited production of synthetic fuel to provide such defense fuel supplies will not be accomplished in a timely manner by the United States Synthetic Fuels Corporation; and

"(D) the exercise of the authorities provided under subsection (c) is necessary to provide for the expedited production of synthetic fuel to provide such defense fuel supplies.

"(2)(A) Any transmittal under paragraph (1) shall contain a determination by the President regarding the extent of the anticipated shortage of petroleum supplies. If the President determines that such shortage is greater than 25 percent, the authorities invoked by the President under this section shall be effective on the date on which the report required under paragraph (1) is transmitted to the Congress.

"(B) If the President determines that such shortage is less than 25 percent, the transmittal under paragraph (1) shall be made in accordance with section 307 and the authorities under this section shall be effective only as provided under such section. For purposes of section 307, any determination to invoke authorities under this section, notice of which is transmitted to the Congress under this subsection, shall be considered to be a synthetic fuel action.

Post, p. 628.

"(3) No court shall have the authority to review any determination made by the President under this subsection.

"(b)(1)(A) Subject to the requirements of subsection (a), in order to encourage and expedite the development of synthetic fuel for use for national defense purposes, the President, utilizing the provisions of this Act (other than sections 101(a), 101(b), 301, 302, 303, and 305), and any other applicable provision of law, shall take immediate action to achieve production of synthetic fuel to meet national defense needs.

50 USC app. 2071, 2091–2093, *ante*, p. 619.

"(B) The President shall exercise the authority granted by this section—

"(i) in consultation with the Secretary of Energy; and

"(ii) through the Department of Defense and any other Federal department or agency designated by the President.

"(2) This section shall not affect the authority of the United States Synthetic Fuels Corporation.

"(c)(1)(A) To assist in carrying out the objectives of this section, the President, subject to subsections (d) and (e), shall—

"(i) contract for purchases of or commitments to purchase synthetic fuel for Government use for defense needs;

"(ii) subject to paragraph (4), issue guarantees in accordance with the provisions of section 301, except that the provisions of section 301(e)(1)(B) shall not apply with respect to such guarantees;

50 USC app. 2091.

"(iii) subject to paragraph (4), make loans in accordance with the provisions of section 302, except that the provisions of section 302(2) shall not apply with respect to such loans;

50 USC app. 2092.

"(iv) have the authority to require fuel suppliers to provide synthetic fuel in any case in which the President deems it practicable and necessary to meet the national defense needs of the United States. Nothing in this paragraph shall be intended to provide authority for the President to require fuel suppliers to produce synthetic fuel if such suppliers are not already producing synthetic fuel or do not intend to produce synthetic fuel;

"(v) have the authority to install additional equipment, facilities, processes, or improvements to plants, factories, and other industrial facilities owned by the Government, and to install Government-owned equipment in plants, factories, and other industrial facilities owned by private persons; and

"(vi) have the authority to undertake Government synthetic fuel projects in accordance with the provisions of paragraph (2).

"(B)(i) Except as provided in clause (ii), assistance authorized under this subsection may be provided only to persons who are participating in a synthetic fuel project.

"(ii) For purposes of fabrication or manufacture of any component of a synthetic fuel project, assistance authorized under paragraph (1)(A)(ii) and paragraph (1)(A)(iii) may be provided to any fabricator or manufacturer of such component.

Synthetic fuel projects, Government ownership.

"(2)(A) The Government, acting through the President, is authorized to own Government synthetic fuel projects. In any case in which the Government owns a Government synthetic fuel project, the Government shall contract for the construction and operation of such project.

"(B) The authority of the Government pursuant to subparagraph (A) to own and contract for the construction and operation of any Government synthetic fuel project shall include, among other things, the authority to—

"(i) subject to subparagraph (C), take delivery of synthetic fuel from such project; and

"(ii) transport and store and have processed and refined such synthetic fuel.

"(C) Any synthetic fuel which the Government takes delivery of from a Government synthetic fuel project shall be disposed of in accordance with subsection (g).

"(D) To the maximum extent feasible, the President shall utilize the private sector for the activities associated with this paragraph.

"(3)(A) Except as provided in subparagraph (B), any contract for the construction or operation of a Government synthetic fuel project shall be made by solicitation of sealed competitive bids.

"(B) In any case in which no such bids are submitted to the President or the President determines that no such bids have been submitted which are acceptable to the President, the President may negotiate contracts for such construction and operation.

"(4) The President may not utilize the authority under paragraph (1) to provide any loan or guarantee in accordance with the provisions of section 301 or section 302 in amounts which exceed the limitations established in such sections unless the President submits to the Congress notification of the proposed loan or guarantee in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to a proposed loan or guarantee, notice of which is transmitted to the Congress under this paragraph, shall be considered to be a synthetic fuel action.

50 USC app. 2091, 2092.

Post, p. 628.

"(5) Before the President may utilize any specific authority described under paragraph (1), the President shall transmit to the Congress a statement containing a certification that the determinations made by the President in the transmittal to the Congress under subsection (a)(1) are still valid at the time of the transmittal of such certification.

"(6)(A) No authority contained in paragraphs (1)(A)(i) through (1)(A)(iv) may be utilized by the President unless the use of such authority has been authorized by the Congress in an Act hereinafter enacted by the Congress.

"(B) The President may not utilize any authority under paragraph (1)(A)(v) or paragraph (1)(A)(vi) unless the proposed exercise of authority has been specifically authorized on a project-by-project basis in an Act hereinafter enacted by the Congress and funds have been specifically appropriated by the Congress for purposes of exercising such authority.

"(d)(1) Subject to paragraph (2), purchases and commitments to purchase under subsection (c) may be made—

"(A) without regard to the limitations of existing law (other than those limitations contained in this Act) regarding the procurement of goods or services by the Government; and

"(B) subject to section 717(a), for such quantities, on such terms and conditions (including advance payments subject to paragraph (3)), and for such periods as the President deems necessary.

50 USC app. 2166.

"(2) Purchases or commitments to purchase under subsection (c) involving higher than established ceiling prices (or if there are no established ceiling prices, currently prevailing market prices as determined by the Secretary of Energy) shall not be made unless it is determined that supplies of synthetic fuel could not be effectively increased at lower prices or on terms more favorable to the Government, or that such commitments or purchases are necessary to assure the availability to the United States of supplies overseas for use for national defense purposes.

"(3) Advance payments may not be made under this section unless construction has begun on the synthetic fuel project involved or the President determines that all conditions precedent to construction have been met.

"(e)(1) Except as provided in paragraph (2), any purchase or commitment to purchase synthetic fuel under subsection (c) shall be made by solicitation of sealed competitive bids.

"(2) In any case in which no such bids are submitted to the President or the President determines that no such bids which have been submitted to the President are acceptable, the President may

negotiate contracts for such purchases and commitments to purchase.

"(3) Any contract for such purchases or commitments to purchase shall provide that the President has the right to refuse delivery of the synthetic fuel involved and to pay the person involved an amount equal to the amount by which the price for such synthetic fuel, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Energy, for such synthetic fuel on the delivery date specified in such contract.

"(4)(A) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President, subject to subparagraph (B), may not award contracts for the purchase of or commitment to purchase more than 100,000 barrels per day crude oil equivalent of synthetic fuel.

"(B) With respect to any person, including any other person who is substantially controlled by such person (as determined by the Secretary of Energy), the President may not award any contract for the purchase of or commitment to purchase more than 75,000 barrels per day crude oil equivalent of synthetic fuel unless the President submits to the Congress notification of such proposed contract or commitment in the manner specified under section 307 and such proposed action is either approved or not disapproved by the Congress under such section. For purposes of section 307, any proposal pertaining to such a proposed contract or commitment, notice of which is transmitted to the Congress under this subparagraph, shall be considered to be a synthetic fuel action.

Post, p. 628.

"(5) A contract for the purchase of or commitment to purchase synthetic fuel may be entered into only for synthetic fuel which is produced in a synthetic fuel project which is located in the United States.

"(6) Each contract entered into under this section for the purchase of or commitment to purchase synthetic fuel shall provide that all parties to such contract agree to review and to possibly renegotiate such contract within 10 years after the date of the initial production at the synthetic fuel project involved. At the time of such review, the President shall determine the need for continued financial assistance pursuant to such contract.

"(7) In any case in which the President, under the provisions of this section, accepts delivery of any synthetic fuel, such synthetic fuel may be used by an appropriate Federal agency. Such Federal agency shall pay for such synthetic fuel the prevailing market price for the product which such synthetic fuel is replacing, as determined by the Secretary of Energy, from sums appropriated to such Federal agency for the purchase of fuel, and the President shall pay, from sums appropriated for such purpose, an amount equal to the amount by which the contract price for such synthetic fuel as specified in the contract involved exceeds such prevailing market price.

"(8) In considering any proposed contract under this section, the President shall take into account the socioeconomic impacts on communities which would be affected by any new or expanded facilities required for the production of the synthetic fuel under such contract.

"(f) The procurement power granted to the President under this section shall include the power to transport and store and have processed and refined any product procured under this section.

"(g)(1) No authority contained in this section may be exercised to acquire any amount of synthetic fuel unless the President determines that such synthetic fuel is needed to meet national defense needs and that it is not anticipated that such synthetic fuel will be resold by the Government.

"(2) In any case in which synthetic fuel is acquired by the Government under this section, such synthetic fuel is no longer needed to meet national defense needs, and such synthetic fuel is not accepted by a Federal agency pursuant to subsection (e)(7), the President shall offer such synthetic fuel to the Secretary of Energy for purposes of meeting the storage requirements of the Strategic Petroleum Reserve.

"(3) Any synthetic fuel which is acquired by the Government under this section and which is not used by the Government or accepted by the Secretary of Energy pursuant to paragraph (2), shall be sold in accordance with applicable Federal law.

"(h)(1) Any contract under this section, including any amendment or other modification of such contract, shall, subject to the availability of unencumbered appropriations in advance, specify in dollars the maximum liability of the Federal Government under such contract as determined in accordance with paragraph (2).

"(2) For the purpose of determining the maximum liability under any contract under paragraph (1)— Contracts, maximum liability.

"(A) loans shall be valued at the initial face value of the loan;

"(B) guarantees shall be valued at the initial face value of such guarantee (including any amount of interest which is guaranteed under such guarantee);

"(C) purchase agreements shall be valued as of the date of each such contract based upon the President's estimate of the maximum liability under such contract;

"(D) contracts for activities under subsection (c)(1)(A)(v) shall be valued at the initial face value of such contract;

"(E) Government synthetic fuel projects pursuant to subsection (c)(1)(A)(vi) shall be valued at the current estimated cost to the Government, as determined annually by the President; and

"(F) any increase in the liability of the Government pursuant to any amendment or other modification to a contract for a loan, guarantee, purchase agreement, contract for activities under subsection (c)(1)(A)(v), or Government synthetic fuel project pursuant to subsection (c)(1)(A)(vi) shall be valued in accordance with the applicable preceding subparagraph.

"(3) If more than one form of assistance is provided under this section to any synthetic fuel project then the maximum liability under such contract for purposes of paragraphs (1) and (2) shall be valued at the maximum potential exposure on such project at any time during the life of such project.

"(4) Any such contract shall be accompanied by a certification by the Director of the Office of Management and Budget that the necessary appropriations have been made for the purpose of such contract and are available. The remaining available and unencumbered appropriations shall equal the total aggregate appropriations less the aggregate maximum liability of the Federal Government under all contracts pursuant to this section.

"(5) Any commitment made under this section which is nullified or voided for any reason shall not be considered in the aggregate maximum liability for the purposes of paragraph (4).

"(i) For purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), no action in providing any loan, guarantee, or purchase agreement under this section, shall be deemed to be a major Federal action significantly affecting the quality of the human environment.

Wages.

"(j) All laborers and mechanics employed for the construction, repair, or alteration of any synthetic fuel project funded, in whole or in part, by a guarantee or loan entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act. Guaranteeing agencies shall not extend guarantees and the President shall not make loans for the construction, repair or alteration of any synthetic fuel project unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for a loan or guarantee, if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276(c) of title 40.

5 USC app.

"(k)(1) Nothing in this section shall—

"(A) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource;

"(B) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States; or

"(C) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

"(2) No synthetic fuel project constructed pursuant to the authorities of this section shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

"(l) Renewals and extensions of contracts entered into under this section shall be made only to the extent that Congress has specifically appropriated funds for such renewals and extensions, unless the President certifies that the determinations under section 306(a)(1) remain in effect for purposes of the use of such authority.

"Synthetic fuel action."
50 USC app. 2097.

"SEC. 307. (a) For purposes of this section, the term 'synthetic fuel action' means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

Transmittal to Congress.

"(b) The President shall transmit any synthetic fuel action (bearing an identification number) to both Houses of the Congress on the same day. If both Houses are not in session on the day on which any synthetic fuel action is received by the appropriate officers of each House, such synthetic fuel action shall be deemed to have been received on the first succeeding day on which both Houses are in session.

"(c)(1) Except as provided in paragraph (2) and in subsection (e), if a synthetic fuel action is transmitted to both Houses of Congress, such synthetic fuel action shall take effect at the end of the first period of 30 calendar days of continuous session of the Congress after the date on which such synthetic fuel action is received by such Houses, unless

between the date on which such synthetic fuel action is received and the end of such 30 calendar day period, either House passes a resolution stating in substance that such House does not favor such action.

"(2) A synthetic fuel action described in paragraph (1) may take effect prior to the expiration of the 30-calendar-day period after the date on which such action is received, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to such synthetic fuel action. Except as provided in subsection (e), in any such case, such synthetic fuel action shall take effect on the date on which such resolution is approved.

"(d) For purposes of subsection (c)—

"(1) continuity of session is broken only by an adjournment of the Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-calendar-day period.

"(e) Under provisions contained in a synthetic fuel action, any provision of such synthetic fuel action may take effect on a date later than the date on which such synthetic fuel action otherwise would take effect, if such action is not disapproved, pursuant to the provisions of this section.

"(f) This section is enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (g) of this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

"(g)(1) For purposes of subsection (b), the term 'resolution' means a resolution of either House of the Congress described in paragraph (2) or paragraph (3). "Resolution."

"(2) A resolution the matter after the resolving clause of which is as follows: 'That the _____ does not object to the synthetic fuel action numbered _____ received by the Congress on _____, 19__.', the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled. Any such resolution may only contain a reference to one synthetic fuel action.

"(3) A resolution the matter after the resolving clause of which is as follows: 'That the _____ does not favor the synthetic fuel action numbered _____ received by the Congress on _____, 19__.', the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled. Any such resolution may only contain a reference to one synthetic fuel action.

"(4) A resolution once introduced with respect to a synthetic fuel action shall immediately be referred to a committee (and all resolutions with respect to the same synthetic fuel action shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(5)(A) If the committee to which a resolution with respect to a synthetic fuel action has been referred has not reported it at the end of 20 calendar days after it was received by the House involved, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such synthetic fuel action which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same synthetic fuel action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same synthetic fuel action.

"(6)(A) When the committee has reported (or has been discharged from further consideration of) a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Debate, time limitation.

"(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 5 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to, except that it shall be in order—

"(i) to offer an amendment in the nature of a substitute, consisting of the text of the resolution described in paragraph (2) with respect to a synthetic fuel action, for a resolution described in paragraph (3) with respect to the same synthetic fuel action; or

"(ii) to offer an amendment in the nature of a substitute, consisting of the text of a resolution described in paragraph (3) with respect to a synthetic fuel action, for a resolution described in paragraph (2) with respect to the same such synthetic fuel action.

"(C) The amendments described in clauses (i) and (ii) of subparagraph (B) shall not be amendable and shall be debatable under the 5-minute rule in the House of Representatives by the offering of pro forma amendments.

"(7)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

Appeals.

"(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

"(8) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a synthetic fuel action, then a motion to recommit shall not be in order nor shall it be in order to consider in that House any other resolution with respect to the same synthetic fuel action.

"SEC. 308. (a) For purposes of this Act, the term 'Government synthetic fuel project' means a synthetic fuel project undertaken in accordance with the provisions of section 306(c). "Government synthetic fuel project." 50 USC app. 2098.

"(b)(1)(A) For purposes of this Act, the term 'synthetic fuel' means any solid, liquid, or gas, or combination thereof, which can be used as a substitute for petroleum or natural gas (or any derivatives thereof, including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking, or desulfurizing) of domestic sources of— *Ante*, p. 623. "Synthetic fuel."

"(i) coal, including lignite and peat;

"(ii) shale;

"(iii) tar sands, including those heavy oil resources where—

"(I) the cost and the technical and economic risks make extraction and processing of a heavy oil resource uneconomical under applicable pricing and tax policies; and

"(II) the costs and risks are comparable to those associated with shale, coal, and tar sand resources (other than heavy oil) qualifying for assistance under section 305 or section 306; and *Ante*, pp. 619, 623.

"(iv) water, as a source of hydrogen only through electrolysis.

"(B) Such term includes mixtures of coal and combustible liquids, including petroleum.

"(C) Such term does not include solids, liquids, or gases, or combinations thereof, derived from biomass, which includes timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter.

"(2)(A) For purposes of this Act, the term 'synthetic fuel project' means any facility using an integrated process or processes at a specific geographic location in the United States for the purpose of commercial production of synthetic fuel. The project may include only— "Synthetic fuel project."

"(i) the facility, including the equipment, plant, machinery, supplies, and other materials associated with the facility, which converts the domestic resource to synthetic fuel;

"(ii) the land and mineral rights required directly for use in connection with the facilities for the production of synthetic fuels;

"(iii) any facility or equipment to be used in the extraction of a mineral for use directly and exclusively in such conversion;

"(I) which—

"(aa) is co-located with the conversion facility or is located in the immediate vicinity of the conversion facility; or

"(bb) if not co-located or located in the immediate vicinity, is incidental to the project (except in the event of a coal mine where no other reasonable source of coal is available to the project); and

"(II) which is necessary to the project; and

"(iv) any transportation facility, electric powerplant, electric transmission line or other facility—

"(I) which is for the exclusive use of the project;

"(II) which is incidental to the project; and

"(III) which is necessary to the project, except that transportation facilities used to transport synthetic fuel away from the project shall be used exclusively to transport synthetic fuel to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

"(B)(i) Such term may also include a project which will result in the replacement of a significant amount of oil and is—

"(I) used solely for the production of a mixture of coal and combustible liquids, including petroleum, for direct use as a fuel, but shall not include—

"(aa) any mineral right; or

"(bb) any facility or equipment for extraction of any mineral;

"(II) used solely for the commercial production of hydrogen from water through electrolysis; and

"(III) a magnetohydrodynamic topping cycle used solely for the commercial production of electricity.

"(ii) Such a synthetic fuel project using magnetohydrodynamic technology shall only be eligible for guarantees under section 305 or section 306.

Definitions.

"(C) For purposes of this paragraph—

"(i) the term 'exclusive' means for the sole use of the project, except that an incidental by-product might be used for other purposes;

"(ii) the term 'incidental' means a relatively small portion of the total project cost; and

"(iii) the term 'necessary' means an integrated part of the project taking into account considerations of economy and efficiency of operation.

"United States." *Ante*, pp. 619, 623.

"(c) For purposes of section 305 and section 306, the term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States."

GENERAL PROVISIONS

SEC. 105. (a) Section 711(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)) is amended—

(1) by inserting ", but excluding sections 305 and 306" after "payment of interest under subsection (b) of this section";

(2) by inserting "pursuant to this paragraph" after "Funds made available";

(3) by striking out "There" and inserting in lieu thereof "(1) Except as provided in paragraph (2), there"; and

(4) by adding at the end thereof the following new paragraphs:

Appropriation authorization.

"(2)(A) There are hereby authorized to be appropriated without fiscal year limitation not to exceed $3,000,000,000 to carry out the provisions of section 305 until the date on which the authority of the President under such section ceases to be effective in accordance with section 305(k)(1). Subject to subparagraphs (B) and (C), all such funds shall remain available until expended.

Ante, p. 619.

"(B) Such funds may be expended to carry out section 305 after such date only if such funds were obligated by the President before such date, or are required to be retained as a reserve against a contingent obligation incurred before such date.

"(C) Any sums appropriated pursuant to this paragraph which have not been expended or obligated pursuant to subparagraph (B) as of the date determined under section 305(k)(1) or are not required to be retained as a reserve against a contingent obligation as specified in subparagraph (B), shall be transferred to the Energy Security Reserve and made available to the Secretary of the Treasury for the United States Synthetic Fuels Corporation pursuant to section 195 of the United States Synthetic Fuels Corporation Act of 1980.

Ante, p. 619.

Post, p. 682.

"(3) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of section 305(k)(2).".

(b) The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "August 27, 1980" and inserting in lieu thereof "September 30, 1981".

(c) Section 701(d) of the Defense Production Act of 1950 (50 U.S.C. App. 2151(d)) is amended by striking out "Defense Production Act Amendments of 1955" and inserting in lieu thereof "Defense Production Act Amendments of 1980"

REPORTS

SEC. 106. Beginning one year after the effective date of this part, and annually thereafter, the President shall submit a report to the Congress on actions taken under sections 305 and 306 of the Defense Production Act of 1950.

50 USC app. 2096a.

Ante, pp. 619, 623.

EFFECTIVE DATE

SEC. 107. The amendments made by this part shall take effect on the date of the enactment of this part.

50 USC app. 2062 note.

Part B—United States Synthetic Fuels Corporation

United States Synthetic Fuels Corporation Act of 1980.

SUBTITLE A—GENERAL PROVISIONS

SHORT TITLE

SEC. 111. This part may be cited as the "United States Synthetic Fuels Corporation Act of 1980"

42 USC 8701 note.

GENERAL DEFINITIONS

SEC. 112. For purposes of this part:

42 USC 8702.

(1) The term "Board of Directors" means the Board of Directors of the Corporation, including the Chairman and the six other Directors.

(2) The term "Chairman" means the Chairman of the Board of Directors of the Corporation.

(3) The term "concern" means any—

(A) person;

(B) State or political subdivision or governmental entity thereof, or an Indian tribe or tribal organization;

(C) multi-State entity which possesses legal powers necessary to carry out activities under this part;

(D) foreign government or agency thereof when participating in joint ventures with any entity described in subparagraph (A) or (B); or

(E) combination of the aforementioned, which is engaged, or proposes to engage, in a synthetic fuel project pursuant to this part.

(4) The term "Corporation" means the United States Synthetic Fuels Corporation.

(5) The term "Corporation construction project" means a synthetic fuel project undertaken in accordance with the provisions of subtitle E.

(6) The term "Director" means a member of the Board of Directors, including the Chairman.

(7)(A) The term "financial assistance" means any of the following forms of financial assistance, or combinations thereof, as provided in subtitle D—

(i) loans;

(ii) loan guarantees;

(iii) price guarantees;

(iv) purchase agreements;

(v) joint-ventures; and

(vi) acquisition and lease back of a synthetic fuel project pursuant to section 137(c);

Post, p. 663.

(B) Such term shall not include any form of grant, except cost-sharing agreements pursuant to section 131(u).

Post, p. 654.

(8) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(9) The term "joint venture" means a synthetic fuel project module undertaken in accordance with the provisions of section 136.

(10) The term "loan" means a loan, or commitment to loan, made under section 132;

Post, p. 658.

(11) The term "loan guarantee" means a guarantee of, or commitment to guarantee, indebtedness, which is made under section 133.

Post, p. 660.

(12) The term "person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose.

(13) The term "price guarantee" means a guarantee of, or commitment to guarantee, the price received or to be received by a concern from the sale of synthetic fuel. Such term includes only a guarantee, or commitment to guarantee, which is made under section 134.

Post, p. 661.

(14) The term "purchase agreement" means any contract to purchase synthetic fuel, any guarantee thereof, or a commitment thereof, which is made under section 135.

Post, p. 661.

(15) The term "qualified concern" means a concern which demonstrates to the satisfaction of the Board of Directors evidence of its capability directly or by contract to undertake and complete the design, construction, and operation of a proposed synthetic fuel project.

(16) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(17)(A) The term "synthetic fuel" means any solid, liquid, or gas, or combination thereof, which can be used as a substitute for

petroleum or natural gas (or any derivatives thereof, including chemical feedstocks) and which is produced by chemical or physical transformation (other than washing, coking, or desulfurizing) of domestic sources of—

(i) coal, including lignite and peat;

(ii) shale;

(iii) tar sands, including those heavy oil resources where—

(I) the cost and the technical and economic risks make extraction and processing of a heavy oil resource uneconomical under applicable pricing and tax policies; and

(II) the costs and risks are comparable to those associated with shale, coal and tar sand resources (other than heavy oil) qualifying for financial assistance under this part; and

(iv) water, as a source of hydrogen only through electrolysis.

(B) Such term includes mixtures of coal and combustible liquids, including petroleum.

(C) Such term does not include solids, liquids, or gases, or combinations thereof, derived from biomass, which includes timber, animal and timber waste, municipal and industrial waste, sewage, sludge, oceanic and terrestrial plants, and other organic matter.

(18)(A) The term "synthetic fuel project" means any facility using an integrated process or processes at a specific geographic location in the United States for the purpose of commercial production of synthetic fuel. The project may include only—

(i) the facility, including the equipment, plant, machinery, supplies, and other materials associated with the facility, which converts the domestic resource to synthetic fuel;

(ii) the land and mineral rights required directly for use in connection with the facilities for the production of synthetic fuels;

(iii) any facility or equipment to be used in the extraction of a mineral for use directly and exclusively in such conversion;

(I) which—

(aa) is co-located with the conversion facility or is located in the immediate vicinity of the conversion facility; or

(bb) if not co-located or located in the immediate vicinity, is incidental to the project (except in the event of a coal mine where no other reasonable source of coal is available to the project); and

(II) which is necessary to the project; and

(iv) any transportation facility, electric powerplant, electric transmission line or other facility—

(I) which is for the exclusive use of the project;

(II) which is incidental to the project; and

(III) which is necessary to the project, except that transportation facilities used to transport synthetic fuel away from the project shall be used exclusively to transport synthetic fuel to a storage facility or pipeline connecting to an existing pipeline or processing facility or area within close proximity of the project.

(B)(i) Such term may also include a project which will result in the replacement of a significant amount of oil and is—

(I) used solely for the production of a mixture of coal and combustible liquids, including petroleum, for direct use as a fuel, but shall not include—

(aa) any mineral right; or

(bb) any facility or equipment for extraction of any mineral;

(II) used solely for the commercial production of hydrogen from water through electrolysis; and

(III) a magnetohydrodynamic topping cycle used solely for the commercial production of electricity.

(ii) Such a synthetic fuel project using magnetohydrodynamic technology shall only be eligible for financial assistance pursuant to section 133 or section 136, but not both, and shall not be authorized for purposes of subtitle E.

Post, pp. 660, 662.
Post, p. 665.

(iii) Such a synthetic fuel project for commercial production of hydrogen from water shall not be eligible for financial assistance pursuant to section 136.

(C) For purposes of this paragraph—

(i) the term "exclusive" means for the sole use of the project, except that an incidental byproduct might be used for other purposes;

(ii) the term "incidental" means a relatively small portion of the total project cost; and

(iii) the term "necessary" means an integrated part of the project taking into account considerations of economy and efficiency of operation.

EFFECTIVE DATE

42 USC 8701 note.

SEC. 113. This part shall take effect on the date of the enactment of this part.

SUBTITLE B—ESTABLISHMENT OF CORPORATION

ESTABLISHMENT

United States Synthetic Fuels Corporation.
42 USC 8711.

SEC. 115. (a) There is hereby created the United States Synthetic Fuels Corporation.

(b) The principal office of the Corporation shall be located in the District of Columbia. The Corporation may establish offices elsewhere in the United States as determined by the Board of Directors of the Corporation. The Corporation is deemed to be a resident of the District of Columbia.

(c) The general powers of the Corporation are those powers specified in section 171.

Post, p. 673.

BOARD OF DIRECTORS

42 USC 8712.

SEC. 116. (a)(1) The powers of the Corporation shall be vested in the Board of Directors, except those functions, powers, and duties vested in the Chairman by or pursuant to this part.

Membership.

(2) The Board of Directors shall consist of a Chairman and six other Directors appointed by the President by and with the advice and consent of the Senate. Not more than four Directors shall be members of any one political party. The Chairman shall devote full working time to the affairs of the Corporation and shall hold no other salaried position.

Terms.

(b)(1) The Directors shall serve for seven-year terms. Of the Directors first appointed, the Chairman shall serve as Chairman for a seven-year term, one Director shall serve for a term of six years, one

shall serve for a term of five years, one shall serve for a term of four years, one shall serve for a term of three years, one shall serve for a term of two years, and one shall serve for a term of one year.

(2) Upon expiration of the initial term of each initial Director, each Director appointed thereafter shall serve for a term of seven years. Whenever a vacancy shall occur on the Board of Directors, the President shall appoint, by and with the advice and consent of the Senate, an individual to fill such vacancy for the remainder of the applicable term. Upon the expiration of a term, a Director may continue to serve for a maximum of one year or until a successor shall have been appointed and shall have taken office, whichever occurs first.

(3) Any Director may be removed from office by the President only for neglect of duty, or malfeasance in office. Removal.

(c) The President shall designate, at the time of appointment of a Director, whether such Director, other than the Chairman, will serve in either a full-time or part-time capacity. Directors serving in a part-time capacity may not hold any full-time salaried position in the Federal Government or in any State or local government. Directors serving in a full-time capacity shall hold no other salaried position.

(d) Before assuming office, each Director shall take an oath faithfully to discharge the duties thereof. All Directors shall be citizens of the United States. Oath.

(e) The Board of Directors shall meet at any time pursuant to the call of the Chairman and as may be provided by the bylaws of the Corporation, but not less than quarterly. A majority of the Board of Directors shall constitute a quorum, and any action by the Board of Directors shall be effected by majority vote of all members of the Board of Directors. The Board of Directors shall adopt, and may from time to time amend, such bylaws as are necessary for the proper management and functioning of the Corporation.

(f)(1) All meetings of the Board of Directors held to conduct official business of the Corporation shall be open to public observation, and shall be preceded by reasonable public notice. Pursuant to such bylaws as it may establish, the Board of Directors may close a meeting if the meeting is likely to disclose— Open meetings. Exceptions.

(A) information which is likely to adversely affect financial or securities markets or institutions;

(B) information the premature disclosure of which would be likely to—

(i) lead to speculation in securities, commodities, minerals, or land; or

(ii) impede—

(I) the ability of the Corporation to establish procurement or synthetic fuel project selection criteria; or

(II) its ability to negotiate a contract for financial assistance; or

(C) matters or information exempted from public disclosure pursuant to paragraph (1), (2), (4), (5), or (6) of subsection (c) of section 552b, title 5 of the United States Code.

(2) The determination to close any meeting of the Board of Directors for any of the purposes specified in subparagraphs (A) through (C) of paragraph (1) shall be made in a meeting of the Board of Directors open to public observation preceded by reasonable notice. The Board of Directors shall prepare minutes of any meeting which is closed to the public and such minutes shall be made promptly available to the public, except for those portions thereof which, in the

judgment of the Board of Directors, may be withheld under the provisions of subparagraphs (A) through (C) of paragraph (1).

(g) The levels of compensation of the Board of Directors shall be fixed initially by the President and may be adjusted from time to time upon recommendation by the Board of Directors and concurrence of the President.

OFFICERS AND EMPLOYEES

42 USC 8713.

SEC. 117. (a) The Chairman shall be the chief executive officer of the Corporation, and shall be responsible for the management and direction of the Corporation.

(b) The Board of Directors shall—

(1) establish the offices and appoint the officers of the Corporation (including a General Counsel and Treasurer) and define their duties;

(2) fix the compensation of individual officer positions and categories of other employees of the Corporation taking into consideration the rates of compensation in effect under the Executive Schedule and the General Schedule prescribed by subchapters II and III of chapter 53 of title 5, United States Code for comparable positions or categories. If the Board of Directors determines that it is necessary to fix the compensation of any officer position or category of other positions at a rate or rates in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, the Board of Directors may transmit to the President its recommendations with respect to the rates of compensation it deems advisable for such positions and categories. Such recommendations shall become effective at the beginning of the first pay period which begins after the thirtieth day following the transmittal of such recommendations unless the President has specifically disapproved such recommendation and notified the Board of Directors to such effect; and

5 USC 5311, 5331.

(3) provide a system of organization to fix responsibility and promote efficiency.

(c) Except as specifically provided herein, Directors, officers, and employees of the Corporation shall not be subject to any law of the United States relating to governmental employment.

(d) The Chairman shall appoint such employees as may be necessary for the transaction of the Corporation's business to, and may discharge such employees from, positions established in accordance with this section: *Provided, however,* That the Corporation shall not be authorized to employ more than three hundred individuals in full-time professional positions at any time: *And provided further,* That for purposes of the preceding limitation, individuals employed for Corporation construction projects under subtitle E shall not be counted.

Post, p. 665.

(e) No political test or qualification shall be used in selecting, appointing, promoting, or taking other personnel actions with respect to officers, agents, and employees of the Corporation, except as provided in section 116(a)(2).

CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE

42 USC 8714.
2 USC 701 note.

SEC. 118. (a) The financial disclosure provisions of the Ethics in Government Act of 1978 (92 Stat. 1824; Public Law 95-521) applicable to individuals occupying positions compensated under the Executive Schedule shall apply to the Directors and officers of the Corporation

and to employees of the Corporation whose position in the schedule established by the Board of Directors pursuant to section 117(b)(2) is compensated at a rate equivalent to that payable for grade GS-16 or above of the General Schedule established by chapter 53 of title 5, United States Code. The financial disclosure provisions of the Ethics in Government Act of 1978 shall apply to the Corporation as if it were a Federal agency.

5 USC 5332 note.
44 FR 58672.
2 USC 701 note.

(b) Any provision of law governing post-Federal employment activities shall not apply to former Federal employees who may be employed by the Corporation while acting on behalf of the Corporation.

(c)(1) Except as permitted by paragraph (3), no Director shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to his or her knowledge, he or she, his or her spouse, minor child, partner, or an organization (other than the Corporation) in which he or she is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(2) Action by a Director contrary to the prohibition contained in paragraph (1) shall be cause for removal of such Director pursuant to section 116(b)(3), but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which the Director or officer participated.

(3) The prohibition contained in paragraph (1) shall not apply if the Director first advises the Board of Directors of the nature of the particular matter in which he or she proposes to participate and makes full disclosure of such financial interest, and the Board of Directors determines by majority vote that the financial interest is too remote or too inconsequential to affect the integrity of such Director's services for the Corporation in that matter. The Director involved shall not participate in such determination.

(d) Section 207(a) of title 18, United States Code (and subsections (f), (h), and (j) of such section to the extent they relate to subsection (a)) shall apply to former Directors, officers, and employees of the Corporation as if they were former officers or employees of the executive branch of the United States Government. Such section shall apply to the Corporation as if it were an agency of the executive branch of the United States Government.

DELEGATION

SEC. 119. (a) The Board of Directors may, by resolution, delegate to the Chairman and the other Directors functions, powers, and duties assigned to the Corporation under this part other than those expressly vested in the Board of Directors pursuant to sections 116(f), 117(b), 118(c)(3), 126(a)(1)(D), 126(b), 127(c), (e), and (f), 131(a), (b), and (f), 132(a) and (d), 133(a) and (b), 134, 135(a), 136(a) and (b), 137(b) and (c), 141(a), 154, 171(a)(8) and (c), 173(a) and (b), 181(a) and (c), and 191(b). The Chairman may, only by written instrument, delegate such functions, powers, and duties as are assigned to the Chairman by or pursuant to the provisions of this part to such other full-time Directors, officers, or employees of the Corporation as the Chairman deems appropriate.

42 USC 8715.

Post, pp. 658, 660, 661, 662, 663, 665, 669, 673, 675, 680, 681.

(b)(1) Notwithstanding any other provision of law, the President and any other officer or employee of the United States shall not make any delegation to the Chairman, the Board of Directors, or the

Corporation of any power, function, or authority not expressly authorized by the provisions of this part, except where such delegation is pursuant to an authority in law which expressly makes reference to this section.

(2) Notwithstanding any other provision of law, the Reorganization Act of 1977 (5 U.S.C. 901 et seq.) shall not apply to authorize the transfer to the Corporation of any power, function, or authority.

AUTHORIZATION OF ADMINISTRATIVE EXPENSES

42 USC 8716.

SEC. 120. (a)(1)(A) The Corporation is authorized to expend during any fiscal year for—

(i) subject to paragraph (2), reasonable and necessary administrative expenses, not to exceed $35,000,000; and

(ii) subject to paragraph (4), generic studies and specific reviews of individual proposals for financial assistance, not to exceed $10,000,000.

(B) For purposes of section 122(e), and from the amount specified in subsection (a)(1)(A)(i), the Inspector General may expend not more than $2,000,000 during any fiscal year for reasonable and necessary administrative expenses.

(2) For purposes of this section, administrative expenses shall include all ordinary and necessary expenses, including all compensation for personnel and consultants, expenses for computer usage, for space needs of the Corporation and similar expenses. For each fiscal year commencing after September 30, 1980, the $35,000,000 limitation in subsection (a)(1)(A)(i) and the $2,000,000 limitation in subsection (a)(1)(B) shall be increased as of October 1 each year by an amount equal to the percentage increase in the Gross National Product implicit price deflator, as published by the Department of Commerce or its successor, for the year then ended over the level so established for the year ending September 30, 1979.

(3) Administrative expenses include reimbursement to Directors for reasonable expenses which are incurred in connection with their service as Directors of the Corporation.

(4) Expenditures authorized under subsection (a)(1)(A)(ii) shall not be available—

(A) for administrative expenses;

(B) for the reimbursement of governmental agencies for the salaries of personnel of such agencies detailed to the Corporation;

(C) to exceed the personnel limits established pursuant to section 117(d); or

(D) for operating expenses.

(b) Funds authorized for administrative expenses shall not be available for the acquisition of real property or for expenses related to Corporation construction projects pursuant to subtitle E.

Post, p. 665.

(c) The Corporation may make expenditures, without further appropriation, for reasonable and necessary administrative expenses not to exceed the limit provided in subsection (a) in any fiscal year and then only in accordance with a detailed statement of such expenditures which has been transmitted to the Congress, the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives in accordance with the provisions of section 153 along with the President's proposed budget for such fiscal year: *Provided,* That such expenditures for fiscal years 1980 and 1981 may be made without such prior statement. It is the intention of this section that the Corporation's

Post, p. 669.

expenditures for administrative expenses shall reflect due consideration for economy and efficiency.

PUBLIC ACCESS TO INFORMATION

SEC. 121. (a) The Corporation shall make available to the public, upon request, any information regarding its organization, procedures, requirements, and activities: *Provided,* That the Corporation is authorized to withhold information which is exempted from disclosure pursuant to subsection (b) of section 552 of title 5, United States Code, and section 116(f) of this part as it pertains to minutes of meetings of the Board of Directors. 42 USC 8717.

(b) The Corporation, upon receipt of any request for information, shall determine promptly whether to comply with such request and shall promptly notify the person making the request of such determination. In the event of an adverse determination, and if requested by the person requesting the information, such determination shall be reviewed by the General Counsel of the Corporation.

(c) Section 1905 of title 18, United States Code, shall apply—

(1) to Directors, officers, and employees of the Corporation as if they were officers or employees of the United States; and

(2) to the Corporation as if it were a Federal agency.

INSPECTOR GENERAL

SEC. 122. (a)(1) In addition to the officers provided for in section 117(b)(1), there shall be in the Corporation an officer with the title of "Inspector General" who shall be appointed for a term of seven years by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Inspector General shall report directly to, and be under the general supervision of, the Board of Directors, and shall not be under the control of, or subject to supervision by, any other officer of the Corporation. 42 USC 8718.

(2) Neither the Board of Directors nor any other officer or employee of the Corporation shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit, investigation, or inspection.

(3) There shall also be in the Corporation a Deputy Inspector General who shall be appointed for a term of seven years by the President, by and with the advice and consent of the Senate, solely on the basis of integrity and demonstrated ability and without regard to political affiliation. The Deputy Inspector General shall assist the Inspector General in carrying out his duties under this section and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that office, act as Inspector General. Deputy Inspector General.

(4) The Inspector General or the Deputy Inspector General may be removed from office by the President only for neglect of duty, or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress. Removal.

(5) The Inspector General and the Deputy Inspector General shall be compensated at a rate fixed by the Board of Directors in accordance with section 117(b)(2), which rate for the Inspector General shall be not less than the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code, and for the Deputy Inspector General not less than the rate provided for level IV of such schedule under section 5315 of title 5, United States Code. Compensation. 44 FR 58678.

Duties.

(b)(1) It shall be the duty and responsibility of the Inspector General—

(A) to supervise, coordinate, and provide policy direction for auditing, investigative, and inspection activities relating to the promotion of economy and efficiency in the administration of, or the prevention or detection of fraud and abuse in, programs and operations of the Corporation;

(B) to determine the extent to which such programs and operations are consonant with the purposes of this title, and in compliance with the provisions of this part;

(C) to make recommendations for correcting deficiencies in, or improving, the programs and operations of the Corporation; and

(D) to keep the Board of Directors and the Congress fully and currently informed, by means of the reports required by subsections (c), (d), and (h), and otherwise, concerning problems, abuses, and deficiencies relating to the administration of programs authorized by this part, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(2) In carrying out his duties and responsibilities, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States in relation to the Corporation, with a view toward avoiding duplication and insuring effective coordination and cooperation.

(3) In carrying out his duties and responsibilities, the Inspector General shall report expeditiously to the Attorney General whenever he has reasonable grounds to believe there has been a violation of Federal criminal law.

Annual reports.

(c) The Inspector General shall, not later than November 30 of each year, prepare an annual written report summarizing the activities of his office during the immediately preceding fiscal year. Each such report shall include—

(1) an identification and description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Corporation disclosed by such activities;

(2) a description of recommendations for corrective action with respect to significant problems, abuses, or deficiencies identified and described under paragraph (1); and

(3) a summary of matters referred to law enforcement authorities and the extent to which prosecutions and convictions have resulted.

(d) The annual report of the Inspector General shall be furnished to the Board of Directors not later than November 30 of each year and shall be transmitted by the Board of Directors to the President, the Committee on Energy and Natural Resources of the Senate, and the Speaker of the House of Representatives within thirty days after the receipt of the report, together with a report by the Board of Directors containing any comments it deems appropriate. The Board of Directors shall make copies of each annual report available to the public upon request and at a reasonable cost within sixty days after its transmittal to the Congress.

Public availability.

(e) In addition to the authority otherwise provided by this section, the Inspector General, in carrying out the provisions of this section, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material availa-

ble to the Corporation which relate to programs and operations with respect to which the Inspector General has responsibilities under this section;

(2) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal, State, or local governmental agency or unit thereof;

(3) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this section, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

(4) to have direct and prompt access to the Board of Directors when necessary for any purpose pertaining to the performance of functions and responsibilities under this section;

(5) to select, appoint, and employ such employees as may be necessary for carrying out the functions, powers, and duties of the Inspector General, which employees shall be compensated in accordance with salary schedules established pursuant to section 117(b)(2);

(6) to obtain services of consultants at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code; and 44 FR 58672.

(7) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this section.

(f)(1) Upon request of the Inspector General for information or assistance under subsection (e)(2), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (e)(1) or (e)(2) is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay.

(g) The Board of Directors shall make available to the Inspector General appropriate and adequate office space at offices of the Corporation.

(h) The Inspector General—

(1) may make such additional investigations and reports relating to the operations of the Corporation as are, in the judgment of the Inspector General, necessary or desirable; and

(2) shall provide such additional information or documents as may be requested by any committee or subcommittee of either House of Congress with respect to matters within their jurisdiction.

(i) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Board of Directors and to the Congress, or committees or subcommittees thereof, by the Inspector General without further clearance or approval.

ADVISORY COMMITTEE

Establishment.
42 USC 8719.

SEC. 123. (a) There is hereby established an Advisory Committee to the Board of Directors for the purpose of—

(1) reviewing the Corporation's solicitations of proposals for financial assistance proposed for issuance pursuant to section 127; and

(2) advising the Corporation in relation to other matters within the expertise of the Advisory Committee, or any member thereof, as the Board of Directors may request of the Advisory Committee from time to time.

Membership.

(b) The Advisory Committee is composed of the Secretary of the Treasury, the Secretary of Defense, the Secretary of the Interior, the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the Chairman of the Energy Mobilization Board. The Chairman of the Advisory Committee shall be designated by the President from among its members.

(c) The Advisory Committee shall meet with the Board of Directors not less than semiannually, and the Corporation shall furnish to the Advisory Committee such professional, secretarial, and other services as the Advisory Committee may request.

(d) During any meeting with the Board of Directors or in any communication with the Corporation, the members of the Advisory Committee shall be governed by the laws and regulations respecting conflicts of interest applicable to their respective departments and agencies as such laws and regulations relate to meetings with representatives of a private corporation.

SUBTITLE C—PRODUCTION GOAL OF THE CORPORATION

NATIONAL SYNTHETIC FUEL PRODUCTION GOAL

Establishment.
42 USC 8721.

SEC. 125. There is hereby established a national goal of achieving a synthetic fuel production capability equivalent to at least 500,000 barrels per day of crude oil by 1987 and of at least 2,000,000 barrels per day of crude oil by 1992, from domestic resources.

PRODUCTION STRATEGY

42 USC 8722.

SEC. 126. (a)(1) In order to assure achievement of the purposes of this title and the national synthetic fuel production goal set forth in section 125, the Corporation—

(A) shall, pursuant to section 127(a), solicit proposals for synthetic fuel projects;

(B) shall, pursuant to section 131(a), award financial assistance to those qualified concerns submitting proposals acceptable to the Board of Directors;

(C) shall, after soliciting proposals pursuant to subparagraph (A) and reviewing such proposals, if in the judgment of the Board of Directors, there are, or will be, insufficient acceptable proposals as necessary to achieve the purposes of this title, undertake to negotiate contracts pursuant to subtitle D as necessary to achieve the purposes of this title; and

(D) may, only after fulfilling the requirements of subparagraphs (A), (B), and (C), and paragraph (3), if in the judgment of the Board of Directors, there still are, or will be, insufficient acceptable proposals as necessary to achieve the purposes of this title, consistent with the objectives set forth in paragraph (2) and

subject to the limitations of subtitle E, undertake Corporation construction projects pursuant to subtitle E as necessary to achieve the purposes of this title. *Post*, p. 665.

(2)(A) Prior to the approval of a comprehensive strategy pursuant to subsection (c), the Corporation in discharging its responsibilities under paragraph (1) shall employ financial assistance pursuant to subtitle D or Corporation construction projects pursuant to subtitle E in such manner as will, in the judgment of the Board of Directors, (i) incorporate a technological diversity of processes, methods and techniques for each domestic resource that offers significant potential for use as a synthetic fuel feedstock as well as (ii) offer the potential for achieving the national synthetic fuel production goal set forth in section 125.

(B) For the purposes of this paragraph, the term "domestic resource" shall be construed so as to require the consideration of different types and qualities of coal (such as high- and low-sulphur coal, or Eastern and Western coal), shale, and tar sands, as different domestic resources. "Domestic resource."

(3) Prior to undertaking a Corporation construction project pursuant to subtitle E, the Corporation shall publish in the Federal Register its intent to undertake a Corporation construction project and the objectives of such a Corporation construction project, and shall solicit proposals to meet such objectives through the use of financial assistance mechanisms established under subtitle D. If the Corporation does not receive, within thirty days after the publication of the objectives pursuant to the preceding sentence, an acceptable notice of intent to submit a proposal, the Corporation may undertake such a Corporation construction project pursuant to subtitle E. Publication in Federal Register.

(b)(1) Subject to the requirements of paragraph (2), the Corporation shall, consistent with the purposes of this title, establish a comprehensive strategy to achieve the national synthetic fuel production goal established by section 125. In the formulation of such comprehensive strategy, the Corporation— Comprehensive strategy, establishment.

(A) shall consider all practicable means for the commercial production of synthetic fuel from domestic resources, employing the widest diversity of feasible technologies; and

(B) after consultation with the Secretary of Defense, shall consider the feasibility of meeting national defense fuel requirements utilizing synthetic fuel produced pursuant to the provisions of this part.

(2) Subject to the requirements of paragraph (3), not later than four years after the effective date of this part, the Board of Directors shall adopt and directly submit its proposed comprehensive strategy to the Congress. Such comprehensive strategy, when approved pursuant to subsection (c), shall become the comprehensive strategy of the Corporation to achieve the national synthetic fuel production goal established by section 125. Submittal to Congress.

(3) The proposed comprehensive strategy shall—

(A) to the extent feasible, set forth the recommendations of the Board of Directors on the Corporation's objectives and schedules for their achievement;

(B) directly address and give emphasis to private sector responsibilities in the efforts necessary to achieve the national synthetic fuel production goal established by section 125;

(C) specifically address how any Corporation involvement recommended in the comprehensive strategy will be expressly

limited and ultimately terminated upon a date or event certain in the future;

(D) include a financial or investment strategy prospectus which sets forth the justification for the requested authorization of appropriations;

(E) include findings, based upon accompanying comprehensive reports, regarding synthetic fuel projects which received financial assistance prior to submission of such comprehensive strategy to the Congress with respect to—

(i) the economic and technological feasibility of each such project including information on product quality, quantity, and cost per unit of production; and

(ii) the environmental effects associated with each such project as well as projected environmental effects and water requirements; and

(F) include recommendations based upon accompanying comprehensive reports concerning the specific mix of technologies and resource types which the Corporation proposes to support after approval pursuant to subsection (c) of the comprehensive strategy.

Additional authorizations.

(4) After the approval of the comprehensive strategy, the Board of Directors may request, pursuant to subsection (c)(10), additional authorizations of appropriations. Such requests shall include a financial or investment prospectus which sets forth the justification for the requested authorizations of appropriations.

Approval.

(c)(1)(A) The comprehensive strategy submitted by the Board of Directors to the Congress pursuant to subsection (b)(2) shall be deemed approved if a joint resolution of approval has been enacted into law during the same Congress in which such comprehensive strategy was submitted to the Congress. If either House of the Congress within ninety calendar days of continuous session after introduction fails to pass such a joint resolution or rejects such a joint resolution, the comprehensive strategy shall be deemed disapproved.

"Joint resolution."

For purposes of this subsection, the term "joint resolution" means only a joint resolution of either House of Congress as described in paragraph (5) or paragraph (10)(B).

(B) Ninety calendar days after receipt by the Congress of the comprehensive strategy, on the first day that both Houses of the Congress are in session after such ninety-day period, a joint resolution of approval containing the authorization of appropriations requested by the Corporation for the proposed comprehensive strategy shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives.

(C) The Corporation may withdraw the comprehensive strategy any time prior to the adoption of such joint resolution by either House of the Congress.

(2) Upon introduction, the joint resolution shall be referred immediately to the Committee on Energy and Natural Resources of the Senate and the appropriate committee or committees of the House of Representatives.

(3) For the purpose of subsection (c)(1)(A) of this section—

(A) continuity of session is broken only by an adjournment of Congress sine die at the end of the second session of a Congress; and

(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the calendar-day period involved.

(4) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (5) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the respective House.

(5) The joint resolution approving the comprehensive strategy under this part shall read as follows after the resolving clause: "That the Congress of the United States approves the comprehensive strategy submitted to the Congress by the United States Synthetic Fuels Corporation on _____ and _____ dollars are hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury to purchase and retain notes or other obligations of the United States Synthetic Fuels Corporation.", the first blank space therein being filled with the date and year, the second blank space therein being filled with the appropriate dollar figure.

(6)(A) If any committee to which such joint resolution with respect to the comprehensive strategy has been referred has not reported it at the end of 60 calendar days after its referral, it shall be in order to move either to discharge any such committee from further consideration of such joint resolution or to discharge any such committee from further consideration of any other joint resolution with respect to such comprehensive strategy which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring such joint resolution, shall be highly privileged (except that it may not be made after all committees to which such joint resolution has been referred have reported a joint resolution with respect to the comprehensive strategy), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution. Except to the extent provided in paragraph (9)(A), an amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other joint resolution with respect to the same comprehensive strategy.

(7)(A) When all such committees have reported, or have been discharged from further consideration of, a joint resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such a joint resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Debate, time limitation.

(B) Debate on the joint resolution and all amendments thereto pursuant to paragraph (9)(A) shall be limited to not more than 10 hours and final action on the joint resolution shall occur immediately following conclusion of such debate. A motion further to limit debate shall not be debatable. Except to the extent provided in paragraph (9)(B), an amendment to, or motion to recommit such a joint resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such a joint resolution was agreed to or disagreed to.

(8)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a joint resolution, shall be decided without debate.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a joint resolution shall be decided without debate.

(9) With respect to the comprehensive strategy—

(A) In the consideration of any such joint resolution on any such comprehensive strategy, it shall be in order to offer an amendment to the dollar figure in the second blank of the text of the joint resolution described in paragraph (5), and any amendments thereto only containing such a dollar figure. No other amendments except pro forma amendments shall be in order.

(B) If one House receives from the other House a joint resolution with respect to the comprehensive strategy, then the following procedure applies:

(i) the joint resolution of the other House with respect to such comprehensive strategy shall not be referred to a committee; and

(ii) in the case of a joint resolution of the first House with respect to such plan—

(I) the procedure with respect to that or other resolutions of such House with respect to such plan shall be the same as if no joint resolution from the other House with respect to such comprehensive strategy had been received; but

(II) on any vote on final passage of a resolution of the first House with respect to such plan a resolution from the other House with respect to such plan where the text is identical shall be automatically substituted for the joint resolution of the first House.

(10)(A) The Corporation at any time after the approval of the comprehensive strategy may submit requests pursuant to subsection (b)(4) for additional authorizations of appropriations each of which shall be in the form of a joint resolution of approval (bearing an identification number).

(B) Such joint resolution shall read as follows after the resolving clause: "That the Congress of the United States approves the request transmitted to the Congress by the United States Synthetic Fuels Corporation on _____ and there are hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury to purchase and retain notes or other obligations of the United States Synthetic Fuels Corporation the sum of _____ dollars.", the first blank space therein being filled with the day and year, and the second blank space therein being filled with the appropriate dollar figure.

(C) On the first day that both Houses of the Congress are in session after receipt of a joint resolution of approval containing the additional authorization of appropriations requested by the Corporation, the joint resolution described in subparagraph (B) shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives. Such resolution shall be considered in accordance with the procedures of this subsection.

(11) The aggregate of the authorizations of appropriations under paragraph (5) enacted into law and any subsequent requests by the Corporation for additional authorizations for appropriations under paragraph (10) enacted into law shall not exceed $68,000,000,000.

(d)(1) Notwithstanding the provisions of subsection (c), if at the expiration of such time as the Corporation is permitted for submission of its comprehensive strategy to the Congress, the Corporation determines that an adequate basis of knowledge has not yet been developed upon which to formulate and implement a comprehensive strategy for the achievement of the national synthetic fuel production goal established in section 125, the Corporation shall report the reasons for such determination to the Congress, and may request, in a Corporation synthetic fuel action pursuant to section 128, such additional time up to one year as the Corporation considers necessary for the formulation of its proposed comprehensive strategy.

(2) Such request shall be deemed approved unless disapproved by either House of Congress pursuant to section 128. If such request is disapproved pursuant to section 128, the Corporation shall submit its proposed comprehensive strategy to the Congress within ninety days of such disapproval.

(3) The Board of Directors may, consistent with the purposes of this title, amend the approved comprehensive strategy if, in their judgment, such amendment is necessary to achieve the national synthetic fuel production goal set forth in section 125. If such amendment would substantially alter the use of funds previously approved by the Congress pursuant to subsection (c), the Board of Directors may not implement such amendment unless such amendment has been submitted to the Congress and has been approved pursuant to section 129. Any such amendment and its justification shall be included in the subsequent quarterly report to the Congress pursuant to section 177(c).

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SOLICITATION OF PROPOSALS

SEC. 127. (a)(1) The Corporation is hereby directed to solicit proposals from time to time from concerns interested in the construction or operation, or both, of synthetic fuel projects. The Corporation shall provide notice of such solicitations in the Federal Register and by such other notice as is customarily used to inform the public of Federal assistance for major research and development undertakings. 42 USC 8723.

(2) All proposed solicitations under paragraph (1) shall be submitted to the Advisory Committee established under section 123. The Advisory Committee shall have 30 calendar days to review and comment on such solicitations prior to their initial issuance.

(3) Within six months after the date of the enactment of this part, the Corporation shall make an initial set of solicitations directed by paragraph (1). Such set of solicitations shall encompass a diversity of technologies (including differing processes, methods, and techniques)

for each potential domestic resource as well as all of the forms of financial assistance authorized in subtitle D.

(b) All solicitations of proposals for financial assistance shall be conducted in a manner so as to encourage maximum open and free competition.

(c) Any concern may request the Board of Directors to issue a solicitation pursuant to this section for proposals for a general type of synthetic fuel project and the Board of Directors, if it deems the action to be in accordance with the purposes of this title and the provisions of this part, may issue such a solicitation.

(d) Each solicitation for proposals pursuant to the authority of this section shall set forth general evaluation criteria, as determined by the Board of Directors, taking into account—

(1) the achievement of the national synthetic fuel production goal established in section 125; and

(2) the requirements of section 126(a), for a general type of synthetic fuel project concerning—

(A) the type of domestic resource to be used by the proposed synthetic fuel project;

(B) the type or types of technologies to be employed; and

(C) the type and amount of synthetic fuel to be produced.

(e) Thirty days after the date of the enactment of this part, the Secretary of Energy, on behalf of the Corporation and pursuant to the authorities in this part, may make a solicitation for commercial scale high-Btu coal gas plants which shall be reviewed and acted upon by the Corporation pursuant to this part.

(f) The Corporation shall give priority consideration to applications for financial assistance from any concern proposing a synthetic fuel project in any State which, in the judgment of the Board of Directors, indicates an intention to expedite all regulatory, licensing, and related government agency activities related to such project.

(g) The Corporation shall consult with the Governor of any State in which a proposed Corporation construction project or a proposed joint venture project under section 136 would be located with regard to (1) the manner in which the project would be developed and (2) regulatory, licensing, and related governmental activities pertaining to such project. The States shall have the opportunity to provide written response to the Corporation on all aspects of such project development, licensing, and operation.

CONGRESSIONAL DISAPPROVAL PROCEDURE

"Corporation synthetic fuel action."
42 USC 8724.

SEC. 128. (a) For purposes of this section, the term "Corporation synthetic fuel action" means any matter required to be transmitted, or submitted to the Congress in accordance with the procedures of this section.

(b) The Corporation shall transmit any Corporation synthetic fuel action (bearing an identification number) to both Houses of the Congress on the same day. If both Houses are not in session on the day on which any Corporation synthetic fuel action is transmitted to the appropriate officers of each House, for the purposes of this section such Corporation synthetic fuel action shall be deemed to have been received on the first succeeding day on which both Houses are in session.

(c) Except as provided in subsection (e), if a Corporation synthetic fuel action is transmitted to both Houses of Congress, such Corporation synthetic fuel action shall take effect at the end of the first

period of 30 calendar days of continuous session of the Congress after the date on which such Corporation synthetic fuel action is received by such Houses, unless between the date on which such Corporation synthetic fuel action is received and the end of such 30 calendar day period, either House passes a resolution stating in substance that such House does not favor such action.

(d) For purposes of subsection (c)—

(1) continuity of session is broken only by an adjournment of the Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-calendar-day period.

(e) Under provisions contained in a Corporation synthetic fuel action, any provision of such Corporation synthetic fuel action may take effect on a date later than the date on which such Corporation synthetic fuel action otherwise would take effect, if such action is not disapproved, pursuant to the provisions of this section.

(f) This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such, it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (g) of this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(g)(1) For purposes of subsection (b), the term "resolution" means only a resolution of either House of the Congress the matter after the resolving clause of which is as follows: "That the _____ does not favor the Corporation synthetic fuel action numbered ____ received by the Congress on _____, 19__.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled. Any such resolution may only contain a reference to one Corporation synthetic fuel action. "Resolution."

(2) A resolution once introduced with respect to a Corporation synthetic fuel action shall immediately be referred to the Committee on Energy and Natural Resources of the Senate and to the appropriate committee or committees of the House of Representatives (and all resolutions with respect to the same Corporation synthetic fuel action shall be referred to the same committee or committees).

(3)(A) If any committee to which a resolution with respect to a Corporation synthetic fuel action has been referred has not reported it at the end of 20 calendar days after it was received by the House involved, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from further consideration of any other resolution with respect to such Corporation synthetic fuel action which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same Corporation synthetic fuel action), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An

amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same Corporation synthetic fuel action.

(4)(A) When all committees to which the resolution was referred have reported (or have been discharged from further consideration of) a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Debate, time limitation.

(B) Debate on the resolution referred to in subparagraph (A) of this paragraph shall be limited to not more than 5 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

(5)(A) Motions to postpone made with respect to the discharge from committee or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

Appeals.

(B) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(6) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to a Corporation synthetic fuel action, then it shall not be in order to consider in that House any other resolution with respect to the same Corporation synthetic fuel action.

CONGRESSIONAL APPROVAL PROCEDURE

42 USC 8725.

SEC. 129. (a)(1) Any amendment to the comprehensive strategy submitted by the Board of Directors to the Congress pursuant to section 126(d) shall be deemed approved if a concurrent resolution of approval has been approved by the Congress during the same Congress in which such request was submitted. If the Congress, within 90 calendar days of continuous session after introduction, fails to approve such a concurrent resolution or either House of Congress rejects such a concurrent resolution, the request shall be deemed disapproved.

(2) On the first day that both Houses of Congress are in session after receipt of such amendment, a concurrent resolution of approval shall be introduced in their respective Houses by the Chairman of the Committee on Energy and Natural Resources of the Senate and the Majority Leader of the House of Representatives.

(3) The Corporation may withdraw the amendment any time prior to the adoption of such concurrent resolution by either House of the Congress.

(b) Upon introduction, the concurrent resolution shall be referred immediately to the Committee on Energy and Natural Resources of the Senate and the appropriate committee or committees of the House of Representatives.

(c) For the purpose of subsection (a)(1) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die at the end of the second session of a Congress; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the calendar day period involved.

(d) This subsection is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by subsection (e) of this section; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the respective House.

(e) The concurrent resolution approving the amendment under this part shall read as follows after the resolving clause: "That the Congress of the United States approves the amendment to the comprehensive strategy submitted to the Congress by the United States Synthetic Fuels Corporation on _____.", the blank space therein being filled with the date and the year.

(f)(1) If any committee to which such concurrent resolution with respect to the amendment to the comprehensive strategy has been referred has not reported it at the end of 60 calendar days after its referral, it shall be in order to move either to discharge any such committee from further consideration of such concurrent resolution or to discharge any such committee from further consideration of any other concurrent resolution with respect to such amendment to the comprehensive strategy which has been referred to such committee.

(2) A motion to discharge may be made only by an individual favoring such concurrent resolution, shall be highly privileged (except that it may not be made after all committees to which such joint resolution has been referred have reported a concurrent resolution with respect to the request), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the concurrent resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same amendment to the comprehensive strategy.

(g)(1) When all such committees have reported (or have been discharged from further consideration of) a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such a concurrent resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the

motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

Debate, time limitation.

(2) Debate on the concurrent resolution shall be limited to not more than 5 hours and final action on the concurrent resolution shall occur immediately following conclusion of such debate. The 5 hours shall be equally divided between supporters and opponents of such resolution. A motion further to limit debate shall not be debatable. Except to the extent provided in subsection (i), an amendment to, or motion to recommit such a concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such a concurrent resolution was agreed to or disagreed to.

(h)(1) Motions to postpone, made with respect to the discharge from committee, or the consideration of a concurrent resolution, shall be decided without debate.

Appeals.

(2) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedures relating to a concurrent resolution shall be decided without debate.

(i) With respect to a concurrent resolution related to an amendment to the comprehensive strategy, if one House receives from the other House a concurrent resolution with respect to such amendment, then the following procedure applies:

(1) the concurrent resolution of the other House with respect to such request shall not be referred to a committee; and

(2) in the case of a concurrent resolution of the first House with respect to such request—

(A) the procedure with respect to that or other concurrent resolutions of such House with respect to such amendment shall be the same as if no concurrent resolution from the other House with respect to such request had been received; but

(B) on any vote on final passage of a concurrent resolution of the first House with respect to such amendment a concurrent resolution from the other House with respect to such plan where the text is identical shall be automatically substituted for the concurrent resolution of the first House.

SUBTITLE D—FINANCIAL ASSISTANCE

AUTHORIZATION OF FINANCIAL ASSISTANCE

42 USC 8731.

SEC. 131. (a) Financial assistance shall be awarded to a qualified concern whose proposal is most responsive to a solicitation for proposals issued under the authority of section 127 and is most likely to advance the purposes of this title, including consideration of price and other factors. Whenever, in the judgment of the Board of Directors, it is practicable and provident to do so, the Corporation shall award financial assistance on the basis of competitive bids.

(b)(1) Subject to the limitations set forth in this part, the Corporation is authorized, upon such terms and conditions as the Board of Directors shall determine—

(A) to provide financial assistance to a qualified concern whose proposal is most responsive to a solicitation for proposals issued under the authority of section 127;

(B) with the consent of the recipient, to renew, modify, or extend such financial assistance; and

(C) in connection with the awarding of financial assistance, to require such security and collateral as the Corporation deems appropriate for the repayment of any fixed or contingent obligations to the Corporation.

(2) The proposal selected for financial assistance pursuant to any solicitation shall be that proposal which, in the judgment of the Board of Directors, is most advantageous in meeting the national synthetic fuel production goal established under section 125. Preference in such selection shall be given to—

(A) the proposal which represents the least commitment of financial assistance by the Corporation and the lowest unit production cost within a given technological process, taking into account the amount and value of the anticipated synthetic fuel products; and

(B) in determining the relative commitment of the Corporation, in decreasing order of priority—

(i) price guarantees, purchase agreements, or loan guarantees;

(ii) loans; and

(iii) joint-ventures.

(3) The Corporation shall also consider, in awarding financial assistance, among other relevant factors—

(A) the diversity of technologies (including differing processes, methods, and techniques); and

(B)(i) the potential cost per barrel or unit production of synthetic fuel from the proposed synthetic fuel project;

(ii) the overall production potential of the technology, considering the potential for replication, the extent of the resource and its geographic distribution, and the potential end use; and

(iii) the potential of the technology for complying with applicable regulatory requirements.

(4) If after a formal solicitation for competitive bids no bids are received during the period for response, or those received are not acceptable to the Board of Directors, and the Board of Directors makes a finding (A) that the synthetic fuel project is essential for the achievement of the national synthetic fuel production goal established under section 125 and the requirements of section 126(a) and (B) that competitive bids are not appropriate, the Board of Directors shall report such findings to the Committee on Energy and Natural Resources of the Senate and the Speaker of the House of Representatives and may then proceed to negotiate a contract of financial assistance for such project with a qualified concern.

Report to congressional committees.

(c) All contracts and instruments of the Corporation to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

(d) Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(e) Any contract for financial assistance shall require the development of a plan, acceptable to the Board of Directors, for the monitoring of environmental and health related emissions from the construction and operation of the synthetic fuel project. Such plan shall be developed by the recipient of financial assistance after consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, and appropriate State agencies.

(f) Notwithstanding the provisions of the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.) or any other provision of law

(except as may be specifically provided by reference to this subsection in any Act enacted after the effective date of this part), no debt obligation which is made or committed to be made, or which is guaranteed or committed to be guaranteed by the Corporation, or which is secured in whole or in part by financial assistance provided by the Corporation, shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency or department of the United States, except as provided in section 151.

Application.

(g) No financial assistance may be awarded unless an application therefor has been submitted to the Corporation in such manner and containing such information as the Corporation may require.

(h) The Corporation in awarding financial assistance shall give due consideration to promoting competition.

(i) Every applicant for financial assistance under this part shall, as a condition precedent thereto, consent to such examinations and reports thereon as the Corporation or its designee may require for the provisions of this part. The Corporation shall require such reports and records as it deems necessary from any recipient of financial assistance in connection with activities carried out pursuant to this part. The Corporation is authorized to prescribe the manner of keeping records by any recipient of financial assistance and the Corporation or its designee shall have access to such records at all reasonable times for the purpose of insuring compliance with the terms and conditions upon which financial assistance was awarded.

(j)(1) In no case shall the aggregate amount of financial assistance awarded or committed under this part exceed at any one time 15 per centum of the total obligational authority of the Corporation authorized under section 152—

(A) to any one synthetic fuel project, either directly or indirectly; or

(B) to any one person, including such person's affiliates and subsidiaries, either directly or indirectly.

(2) For the purpose of determining compliance with paragraph (1)(B), any financial assistance to a synthetic fuel project under this part shall be allocated among the project participants in direct proportion to each person's participation in such project.

(k)(1) Any contract for financial assistance shall specify in dollars the maximum amount of the liability of the Corporation under such contract, as computed in accordance with section 152.

Notification.

(2) The Corporation shall notify the Secretary of the Treasury of its intention to enter into a contract for financial assistance prior to the execution of such contract.

(3) Any such contract shall be accompanied by a certification by the Secretary of the Treasury pursuant to section 195(a)(3) that sufficient unencumbered appropriations are available in the Energy Security Reserve to satisfy the obligation of the contract.

Post, p. 682.

(l) With regard to a synthetic fuel project proposed by a concern whose rates are regulated, or with regard to a synthetic fuel project the management of which proposes to sell synthetic fuels to a person whose rates for the use or transportation of such fuels are regulated, the Corporation is authorized to consider as a factor in any decision to award financial assistance whether the regulatory body, or bodies, are likely to issue a ratemaking decision which will protect the financial interests of the investors and the Corporation.

(m) For the purposes of determining (1) the total costs of the synthetic fuel project for sections 132 and 133, and (2) the total costs of

the synthetic fuel project module for section 136, any real or personal property or services obtained for the facility in a transaction with any person or concern (including an affiliated company as defined in section 2(a)(2) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(2)) and an affiliated person as defined in section 2(a)(3) of such Act (15 U.S.C. 80a-2(a)(3))) who has, or will have, an ownership or profit interest in the facility shall be valued at the lower of the cost to the project or fair market value, disregarding any portion of such fair market value which is attributable to the prospect of receiving financial assistance under this part.

(n) The Corporation, as a condition to providing financial assistance, other than loans pursuant to section 132 and loan guarantees pursuant to section 133, may require that the Corporation share in profits from the operation of a synthetic fuel project on a fair basis.

(o) Whenever the Corporation, by one or more actions, awards a combination of two or more forms of financial assistance for a single synthetic fuel project, the Corporation shall insure that the recipient of such financial assistance shall bear a reasonable degree of risk in the construction and operation of such project: *Provided, however,* That any person who is solely in the position of a lender shall not be required to bear such risk. The Corporation shall not award more than a single form of financial assistance under this part unless the Board of Directors determines that multiple forms of financial assistance are required for the viability of the project, and further, that the project is necessary to achieve the purposes of this title and the provisions of this part.

(p) The Corporation shall not award financial assistance in the form of loans pursuant to section 132 or joint ventures pursuant to section 136 unless the Board of Directors determines that neither price guarantees, purchase agreements, nor loan guarantees will adequately support the construction and operation of the synthetic fuel project or will restrict the available participants for such project.

(q) The Corporation, in consultation with the Secretary of the Treasury, shall insure to the maximum extent feasible that the timing, interest rate, and substantial terms and conditions of any financial assistance will have the minimum possible impact on the capital markets of the United States, taking into account Federal activities which directly or indirectly influence such capital markets. Additionally, the Corporation shall impose such terms and conditions on any financial assistance (after evaluating the financing of the synthetic fuel project, the tax benefits which would be available to investors in the synthetic fuel project, and any regulatory actions associated with the synthetic fuel project) as may be necessary to assure that any investors having an ownership or profit interest in the synthetic fuel project bear a substantial risk of after tax loss in the event of any default or other cancellation of the synthetic fuel project.

(r) The Corporation shall insure that financial assistance awarded under this part for (1) loans pursuant to section 132, (2) loan guarantees pursuant to section 133, (3) joint ventures pursuant to section 136, or (4) any combination of forms of financial assistance including one or more of the aforementioned forms, in the judgment of the Board of Directors, encourages and supplements, but does not compete with or supplant, any private capital investment which otherwise would be available to a proposed synthetic fuel project on reasonable terms and conditions which would permit such project to be undertaken. To that end, the Corporation shall establish internal

procedures, standards and criteria for the timely review for compliance with such requirement of each new award of financial assistance for a specific proposed synthetic fuel project and, further, the Board of Directors shall determine, in its judgment, that any financial assistance by the Corporation for the project will not compete with nor supplant such available private capital investment and that adequate financing for the project would not otherwise be available to a proposed synthetic fuel project on reasonable terms and conditions which would permit such project to be undertaken.

(s) Any price guarantee pursuant to section 134 or purchase agreement pursuant to section 135 shall include an express provision to the effect that the price guarantee or purchase agreement shall be the subject of review and possible renegotiation, pursuant to section 131(b)(1)(B), within ten years from the date of initial production by the synthetic fuel project, at which point the Corporation shall specifically determine the need for continued financial assistance pursuant to such price guarantee or purchase agreement.

(t) The Corporation shall, in its determination of the need for financial assistance awarded pursuant to this part, take into consideration (1) any specific tax credit directly associated with a synthetic fuel project, (2) any financial assistance that has been or will be provided by Federal or State agencies, and (3) the potential revenues generated by the project from the production of non-synthetic fuel products.

Cost sharing agreements.

(u)(1) The Corporation is authorized to enter into cost-sharing agreements with applicants for financial assistance to refine the design of proposed synthetic fuel projects so as to improve the accuracy of the preliminary total estimated costs upon which financial assistance in the form of loans and loan guarantees will be based. In the event of an award of a loan or loan guarantee, the Corporation's share of any such cost-sharing agreement shall be incorporated in such loan or loan guarantee.

(2) Such cost-sharing agreements shall not exceed 1 percent of the preliminary total estimated cost of the applicant's proposed synthetic fuel project.

(3) The Corporation is authorized to expend not to exceed 1 percent of the aggregate obligational authority under section 151 for cost-sharing agreements under this subsection.

LOANS MADE BY THE CORPORATION

42 USC 8732.

SEC. 132. (a)(1) Subject to the limitations set forth in paragraphs (2) and (3), the Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into, loans to any concern for a synthetic fuel project.

(2)(A) Subject to the limitation contained in subparagraph (B), loans under this section shall not exceed 75 per centum of the initial total estimated cost of the synthetic fuel project, as estimated by the Corporation as of the date of the loan or commitment to loan.

(B) Any loan under this section shall be limited to the lesser of 49 per centum of the initial total estimated cost or not more than a minority financial position in the project, unless the Board of Directors determines that the borrower has satisfactorily demonstrated that the limits established in this subparagraph would prevent the financial viability of the proposed project and therefore additional loan assistance is necessary.

(3) In the event the total cost of the project are thereafter estimated by the Corporation to exceed the total cost estimated under paragraph (2), the Corporation may, upon application therefor, lend additional amounts as follows:

(A) up to 50 per centum of the difference between the revised total estimated cost and the initial total estimated cost under paragraph (2): *Provided,* That the revised total estimated cost does not exceed 200 per centum of the initial total estimated cost under paragraph (2); and

(B) if the revised total estimated cost exceeds 200 per centum of the initial total estimated cost, up to 40 per centum of the amount in excess of 200 per centum of the initial total estimated cost, except that if the revised total estimated cost exceeds 250 per centum of the initial total estimated cost the Corporation shall not award such additional amounts unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128, and such Corporation synthetic fuel action has not been disapproved.

(4) The per centum specified in the exception contained in paragraph (3)(B) shall be computed based upon the initial total estimated cost of the project adjusted to include any increase or decrease pursuant to an appropriate construction price index for the type of construction involved.

(b) Each loan made under this section shall bear interest at such rate as the Corporation may determine, giving consideration to the needs and capacities of the recipient and the prevailing rates of interest (public and private): *Provided,* That such rate shall not be less than a rate determined by the Secretary of the Treasury, for the Corporation, taking into consideration the current average yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the average maturities of such loans. No loan shall be made unless the Corporation shall have determined that there is a reasonable prospect of repayment or that successful completion and operation of the synthetic fuel project will have a substantial value in helping to meet the national synthetic fuel production goal established under section 125. Interest rate.

(c) Loans may be made either directly or in cooperation or participation with banks or other lenders. Loans may be made directly upon promissory notes or other evidence of indebtedness or by way of discount or rediscount of obligations tendered for the purpose.

(d) If the Board of Directors determines that the borrower is unable to meet payments under a loan agreement and is not in default, it is in the public interest to permit the borrower to continue to pursue the purposes of the synthetic fuel project, and the probable net benefit to the Corporation in forbearing from exercising its rights under a loan agreement will be greater than that which would result in the event of a default, and if the borrower agrees to make such payments to the Corporation on terms and conditions, including interest, which are satisfactory to the Corporation, then the Corporation may forbear from exercising its rights under the loan agreement.

(e) No loan under this section shall have a maturity date of more than 30 years or the useful life of the synthetic fuel project involved, whichever is less. Maturity date.

LOAN GUARANTEES MADE BY THE CORPORATION

42 USC 8733.

SEC. 133. (a)(1) Subject to the limitations set forth in paragraphs (2) and (3), the Corporation is authorized, on such terms and conditions (including the right of subrogation) as the Board of Directors may prescribe, to commit to, or enter into loan guarantees against loss of principal and interest on bonds, notes, or other obligations (including refinancing thereof) issued solely to provide funds to any concern for a synthetic fuel project.

(2) Loan guarantees under this section shall not exceed 75 per centum of the initial total estimated cost of the synthetic fuel project, as estimated by the Corporation as of the date of the guarantee or commitment to guarantee.

(3) In the event that the total cost of the project are thereafter estimated by the Corporation to exceed the total cost estimated under paragraph (2), by the Corporation, the Corporation may, upon application therefor, guarantee additional amounts as follows:

(A) up to 50 per centum of the difference between the revised total estimated cost and the initial total estimated cost under paragraph (2): *Provided,* That the revised total estimated cost does not exceed 200 per centum of the initial total estimated cost under paragraph (2); and

(B) if the revised total estimated cost exceeds 200 per centum of the initial total estimated cost, up to 40 per centum of the amount in excess of 200 per centum of the initial total estimated cost, except if the revised total estimated cost exceeds 250 per centum of the initial total estimated cost, the Corporation shall not award such additional amounts unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved pursuant to such section.

(C) The per centum specified in the exception contained in subparagraph (B) shall be computed based upon the initial total estimated cost of the project adjusted to include any increase or decrease pursuant to an appropriate construction price index for the type of construction involved.

(4) The Corporation, in reviewing the need for financial assistance pursuant to applications for loan guarantees, shall consider whether the concern or concerns making such application otherwise would be unable, exercising prudent business judgment, as determined by the Board of Directors, to finance the synthetic fuel project, taking into account among other factors, the availability of debt financing under normal lending criteria based on the assets associated with the project.

(5) Any loan guarantee made by the Corporation under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof, and shall be conclusive evidence that such loan guarantee complies fully with the provisions of this part and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

(6) The Corporation is authorized pursuant to paragraph (1) to award loan guarantees to any concern with a partial interest in a synthetic fuel project.

(b) If the Board of Directors determines that—

(1) the borrower is unable to meet payments and is not in default; it is in the public interest to permit the borrower to

continue to pursue the purposes of such project; and the probable net benefit to the Corporation in paying the principal and interest due under a loan guarantee agreement will be greater than that which would result in the event of a default;

(2) the amount of any payment which the Corporation would be required to pay shall be no greater than the amount of principal and interest which the borrower is obligated to pay at that time; and

(3) the borrower agrees to reimburse the Corporation for such payment on terms and conditions, including interest, which are satisfactory to the Corporation,

then the Corporation is authorized to pay the lender under a loan guarantee agreement, an amount not greater than the principal and interest which the borrower is obligated to pay and which the Corporation has guaranteed under such agreement.

(c) No loan guaranteed under this section shall have a maturity date of more than 30 years or the useful life of the synthetic fuel project involved, whichever is less. Maturity date.

PRICE GUARANTEES MADE BY THE CORPORATION

SEC. 134. The Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into, price guarantees providing that the price that a concern will receive for all or part of the production from a synthetic fuel project shall not be less than a specified sales price determined as of the date of execution of the commitment or the price guarantee: *Provided,* That no such price guarantee may be based upon a "cost plus" arrangement or variant thereof which guarantees a profit to the concern, except that the use of a "cost of service" pricing mechanism by a concern pursuant to law, or by a regulatory body establishing rates for a regulated concern, shall not be deemed to be a "cost plus" arrangement or variant thereof: *Provided further,* That if the Corporation determines in its sole discretion that such project would not otherwise be satisfactorily completed or continued and that completion or continuation of such project would be necessary to achieve the purposes of this title, the sales price set forth in the price guarantee may be renegotiated. In awarding financial assistance under this section, the Corporation shall establish such specified sales price at the level which will provide the minimum subsidy determined by the Board of Directors to be necessary to provide an adequate incentive, in light of projected prices of competing fuels and the requirements for economic and financial viability of the synthetic fuel project. 42 USC 8734.

PURCHASE AGREEMENTS MADE BY THE CORPORATION

SEC. 135. (a) The Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or enter into purchase agreements for all or part of the production from a synthetic fuel project. The sales price specified in a purchase agreement shall not exceed the estimated prevailing market price as of the date of delivery, as determined by the Secretary of Energy, unless the Corporation determines that such sales price must exceed such estimated prevailing market price in order to insure the production of synthetic fuel to achieve the purposes of this title. 42 USC 8735.

(b) The Corporation in entering into, or committing to enter into a purchase agreement shall require—

(1) assurance that the quality of the synthetic fuel purchased meets standards for the use for which such fuel is purchased;

(2) assurances that the ordered quantities of such fuels are delivered on a timely basis; and

(3) such other assurances as may reasonably be required.

(c) Each purchase agreement, or commitment to enter into a purchase agreement, shall provide that the Corporation retain the right to refuse delivery of the synthetic fuel involved upon such terms and conditions as shall be specified in the purchase agreement.

(d) The Corporation is authorized to take delivery of synthetic fuel pursuant to a purchase agreement and, subject to section 172(d), to sell such synthetic fuel. In any case in which the Corporation accepts delivery of and does not sell such synthetic fuel to a person, such synthetic fuel may be purchased by the Federal Government for use by an appropriate Federal agency. Such Federal agency shall pay the prevailing market price, as determined by the Secretary of Energy, for the product which such synthetic fuel is replacing from sums appropriated to such Federal agency for the purchase of fuel.

(e) The Corporation is authorized to transport and store and have processed and refined any synthetic fuel obtained pursuant to a purchase agreement under this section.

JOINT VENTURES BY THE CORPORATION

42 USC 8736.

SEC. 136. (a) Prior to the approval of a comprehensive strategy pursuant to section 126(c), the Corporation is authorized, on such terms and conditions as the Board of Directors may prescribe, to commit to, or to enter into joint ventures for synthetic fuel project modules. In the selection of a concern or concerns for a joint venture and in the negotiation of a joint venture agreement pursuant to this section, the Corporation may, to the extent that the Corporation does not have available sufficient capability for evaluation or management of the proposed joint venture, utilize personnel of the Department of Energy, pursuant to section 171(a)(9), to the extent that such personnel have technical expertise related to the technical matters associated with such selection and negotiation. In a joint venture the Corporation may undertake the construction and operation of a synthetic fuel project module only by contract: *Provided, however,* That the Corporation shall not finance more than 60 per centum of the total costs of the synthetic fuel project module, as estimated by the Corporation as of the date of execution of the joint venture agreement.

(b) Any joint venture shall be restricted to a synthetic fuel project module which, in the judgment of the Board of Directors, will—

(1) demonstrate the commercial feasibility of a technology for the production of synthetic fuel from a significant domestic resource which offers potential for achievement of the national synthetic fuel production goal set forth in section 125; and

(2) can, at the same site, be expanded into a synthetic fuel project.

(c) With regard to any joint venture, the initial contract may provide for purchase pursuant to such joint venture agreement of the equity interest of the Corporation in such joint venture by the participating concern, or concerns, after an appropriate interval, not to exceed five years after the date of operation of a synthetic fuel project module. The purchase price set forth in the joint venture agreement shall be established by the Board of Directors: *Provided,*

That if such purchase from the Corporation is not provided for in the initial joint venture agreement or is not exercised by such concern, or concerns, the Corporation, after an appropriate interval, not to exceed five years after the date of operation of a synthetic fuel project module pursuant to a joint venture agreement, shall dispose of its participation in such agreement pursuant to section 181.

(d)(1)(A) For the purposes of this section, the term "synthetic fuel project module" means any facility located in the United States which— "Synthetic fuel project module."

(i) is of a size smaller than a synthetic fuel project;

(ii) will, if successful, demonstrate the technical and economic feasibility of the commercial production of synthetic fuels; and

(iii) can eventually be expanded at the same site into a synthetic fuel project.

(B) Such term may include the necessarily related transportation or other facilities, equipment, plant, machinery, supplies, other materials, land, and mineral rights as described in section 112(18), (including all limitations and requirements in section 112(18)) associated with a synthetic fuel project module.

(2) For purposes of this section, the term "joint venture" means an agreement under which the Corporation and one or more persons participate in construction and operation of a synthetic fuel project module: *Provided,* That the interest of the Corporation in such joint venture shall be in proportion to the relative contribution of the Corporation to the joint venture. "Joint venture."

(e) The Corporation participation in any joint venture pursuant to this section shall be limited to financial participation only and shall not include any direct role in the construction or operation of the module, other than as provided in subsection (f). Additionally, the Corporation's participation in any joint venture shall, pursuant to partnership law applicable to such joint venture, be limited to limited partnership status.

(f)(1) Nothing in this section shall prohibit the Corporation from negotiating, as part of the joint venture agreement pursuant to this section, such participation of the Corporation in the management decisions of the joint venture as the Board of Directors deems appropriate and necessary pursuant to the Corporation's financial interest in the joint venture.

(2) In no event, however, shall the persons in the joint venture agreement be denied the primary responsibility for management of the joint venture. The Corporation shall be liable only to the extent of its contractual commitment to contribute capital to the venture. No additional liability shall ensue even if, and to the extent that, the Corporation were to assume a role which might be construed to constitute the role of a general partner.

CONTROL OF ASSETS

SEC. 137. (a) The Corporation may acquire or retain control of a synthetic fuel project only— 42 USC 8737.

(1) by foreclosure of a security interest or pursuant to a default under any financial assistance contract;

(2) pursuant to section 136 or subsection (b) of this section; or

(3) pursuant to subtitle E.

(b) The Corporation may acquire control of a synthetic fuel project which, prior to the approval of the comprehensive strategy pursuant

Ante, p. 644.

to section 126(c), is the subject of financial assistance under this part under the following circumstances:

(1) substantial progress has been made toward completion of the construction and operation of such project and the Board of Directors determines that such project will not commence operation, or will cease operation unless acquired by the Corporation;

(2) the operation of such project will make a significant contribution toward achieving the purposes of this title;

(3) such acquisition of control will not result in losses to the Corporation disproportionate to the benefits that operation of the project will produce in demonstrating a particular technology;

(4) failure of the Corporation to acquire such project would result in a greater financial liability of the Corporation than acquisition of the project by the Corporation; and

(5) with respect to projects subject to loans or loan guarantees, the Board of Directors determines that the concern is in default or immediately will go into default:

Provided, That the Corporation may not acquire any such control until it has submitted a plan for such acquisition to the President and the President approves such plan and transmits, with respect to such plan, a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved pursuant to such section: *Provided further,* That completion of the construction or operation of any such project, the control of which was acquired pursuant to this subsection, may only be undertaken by contract: *Provided additionally,* That authorities in this subsection shall not be available for synthetic fuel projects which are the subject of price guarantees or purchase agreements.

(c) With respect to a synthetic fuel project subject to a loan or loan guarantee where the Corporation acquires control pursuant to subsection (b), the Corporation, on such terms and conditions as the Board of Directors may prescribe, is authorized to lease back to the concern involved such synthetic fuel project where such lease will assure the production of synthetic fuels from such project consistent with the purposes of this title: *Provided,* That the Corporation may not lease back such a project until it has submitted a plan regarding such lease-back to the President and the President approves such plan and transmits, with respect to such plan, a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved pursuant to such section.

(d) For the purposes of this section, the term—

"Operating asset."

(1) "operating asset" means any real or personal property used in the synthetic fuel project; and

"Control."

(2) "control" means the power to direct the use or disposition of operating assets of the synthetic fuel project through (A) direct ownership; or (B) ownership of the majority of the voting securities of a corporation or other concern which (i) owns or (ii) leases a synthetic fuel project: *Provided,* That "control" shall not be deemed to result from the ownership of operating assets of a synthetic fuel project which are leased back in accordance with subsection (c).

(e) Any control of synthetic fuel projects obtained pursuant to subsection (b) or (c) must be disposed of within not more than five years after the date of the acquisition of such control.

UNLAWFUL CONTRACTS

SEC. 138. Sections 431 and 432 of title 18, United States Code, shall apply to all contracts, instruments, or agreements of the Corporation, other than those contracts, instruments, or agreements of the Corporation which are exempted from the application of such sections by section 433 of such title, as if the Corporation were an agency of the United States. Such contracts, instruments, or agreements include financial assistance, advances, discounts and rediscounts, acceptances, releases, and substitution of security, together with extensions or renewals thereof. 42 USC 8738.

FEES

SEC. 139. (a) The Corporation may charge and collect fees in connection with the financial assistance provided pursuant to this part: *Provided,* That such fees shall not exceed 1 per centum of the amount of such financial assistance. Fees received by the Corporation may be applied against the administrative expenses of the Corporation related to providing financial assistance and probable losses. 42 USC 8739.

(b) The Corporation shall prescribe and collect an annual fee in connection with each loan guarantee provided pursuant to this part of one-half of 1 per centum of the amount of such loan guarantee. Sums realized from such loan guarantee fees shall be deposited in the Energy Security Reserve and shall be used solely to meet obligations arising from default by a recipient of financial assistance under this part.

DISPOSITION OF SECURITIES

SEC. 140. The Corporation shall, as soon as practicable, sell in public or private transactions all or any part of the notes, bonds, or any other evidences of indebtedness (except for the instrument of indebtedness received by the Corporation for any loan pursuant to section 132) of any other person ownership of which is acquired by the Corporation pursuant to this part: *Provided,* That, in the case of joint ventures pursuant to section 136 and Corporation construction projects, any contract by the Corporation in connection therewith shall provide for the disposition, as soon as practicable, of any notes, bonds, or other evidences of ownership acquired by the Corporation pursuant to this part. 42 USC 8740.

SUBTITLE E—CORPORATION CONSTRUCTION PROJECTS

CORPORATION CONSTRUCTION AND CONTRACTOR OPERATION

SEC. 141. (a) Subject to the requirements of section 126(a)(1)(D), section 126(a)(3), and section 142, the Corporation is authorized to own synthetic fuel projects, and the Corporation shall contract for the construction and operation of any such synthetic fuel project (hereinafter referred to as a "Corporation construction project"): *Provided,* That, prior to the approval of a comprehensive strategy pursuant to section 126(c), the Corporation may undertake such projects only if, in the judgment of the Board of Directors, the Corporation construction project is necessary to meet the objectives of section 126(a)(2) and would not otherwise be constructed with financial assistance awarded under subtitle D. 42 USC 8741.

Ante, p. 644.

(b) The power of the Corporation to own and contract for the construction and operation of a Corporation construction project shall include, among other things, the authority to—

(1) take delivery of synthetic fuel from such project;

(2) transport and store and have processed and refined such synthetic fuel;

(3) subject to section 172(d), sell such synthetic fuel to a person; and

(4) take all actions reasonably necessary therewith: *Provided,* That to the maximum extent feasible, the Corporation shall utilize the private sector for the activities associated with this subsection.

(c) Contracts for Corporation construction projects shall be negotiated on the basis of solicited bids pursuant to section 127: *Provided,* That any such contracts shall be expressly contingent upon the availability of sufficient funds.

(d) If, after undertaking a Corporation construction project, the Board of Directors determines that the total revised estimated cost of such Corporation construction project will exceed the initial estimated cost specified in the contract pursuant to subsection (c), the Board of Directors may, in its sole discretion, amend, modify, or renegotiate such contract to cover such additional costs; except that, if the revised estimated cost exceeds 175 per centum of the initial estimated cost, the Corporation shall not make such amendment, modification, or renegotiation unless the Corporation has transmitted to the Congress a Corporation synthetic fuel action pursuant to section 128 and such Corporation synthetic fuel action has not been disapproved.

(e) The Corporation is authorized to undertake contractual agreements with, among others, any Federal department or agency (including the Department of Energy, the United States Army Corps of Engineers, and the Tennessee Valley Authority) to provide the design, the construction, or the management of the operation of Corporation construction projects: *Provided,* That in the case of a Federal department or agency, such department or agency has the available, experienced personnel to perform such project management function.

LIMITATIONS ON CORPORATION CONSTRUCTION PROJECTS

42 USC 8742.
Ante, p. 644.

SEC. 142. (a) Prior to the approval of a comprehensive strategy pursuant to section 126(c), the Corporation is authorized not more than three Corporation construction projects subject to the requirements of sections 126(a)(1)(D) and 141.

(b) After the approval of a comprehensive production strategy pursuant to section 126(c), the Corporation shall not undertake any new, or expand any existing, Corporation construction project.

ENVIRONMENTAL, LAND USE, AND SITING MATTERS

42 USC 8743.

SEC. 143. (a) Corporation construction projects and joint ventures by the Corporation pursuant to section 136 shall be subject to all Federal and nondiscriminatory State and local environmental, land use, and siting laws to the same extent as such laws apply to privately sponsored synthetic fuel projects receiving financial assistance under this part and other similarly situated and used property.

(b) Contracts for the construction or operation of any Corporation construction project shall provide for the monitoring of the environmental and health related emissions from the construction and operation of such project. Such monitoring shall be conducted in accordance with a plan developed by the contractor after consultation with the Administrator of the Environmental Protection Agency and the Secretary of Energy.

PROJECT REPORTS

SEC. 144. Within three years of the initial operation of each Corporation construction project, the Corporation shall publish a report providing detailed information including— Publication. 42 USC 8744.

(1) whether the synthetic fuel product can be sold at a price which is competitive with imported crude oil;

(2) whether such technology can be operated on a commercial scale in compliance with applicable environmental requirements, including the Federal Water Pollution Control Act (33 U.S.C. 1151-1175) and the Clean Air Act (42 U.S.C. 7400 et seq.);

(3) the effect on regional and local water supplies of the project and the commercial operation of such technology;

(4) the health effects on workers and other persons of the project including any carcinogenic effects; and

(5) the social and economic impacts on local communities which were most directly affected by such project.

FINANCIAL RECORDS

SEC. 145. Recipients of contracts under this subtitle shall keep such records and other pertinent documents as the Corporation shall prescribe, including records which fully disclose the disposition of the proceeds of such assistance, the cost of any Corporation construction project and such other records as the Corporation may require to facilitate an effective audit. The Corporation and the Comptroller General of the United States or their duly authorized representatives shall have access, for the purpose of audit, to such records and other directly pertinent documents. 42 USC 8745. Accessibility.

SUBTITLE F—CAPITALIZATION AND FINANCE

OBLIGATIONS OF THE CORPORATION

SEC. 151. (a)(1) Subject to the limitations in section 152 and to the extent provided in advance in appropriation Acts, the Corporation is authorized to issue, solely to the United States of America acting by and through the Secretary of the Treasury (who shall purchase within five days of each such issuance and retain), notes or other obligations of the Corporation in the aggregate principal amount of $20,000,000,000— 42 USC 8751.

(A) plus such sums as are authorized pursuant to section 126; and

(B) less such sums—

(i) as are obligated for purposes of carrying out the provisions of section 305 of the Defense Production Act of 1950 before the date determined under section 305(k)(1) of the Defense Production Act of 1950 or are required to be retained as a reserve against a contingent obligation in- *Ante*, p. 619.

curred before such date under such section, up to a maximum of $3,000,000,000; and

(ii) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-Nuclear Energy Research and Development Act of 1974 (Public Law 93-577; 42 U.S.C. 5901 et seq.), up to a maximum of $2,208,000,000.

(2) Such aggregate principal amounts shall become available to the Corporation upon the date of enactment of this part or under paragraph (1)(A) upon satisfying the requirements of section 126.

Ante, p. 644.

(b) The Corporation shall not issue any note or other obligation to the Secretary of the Treasury without prior consultation with the Secretary of the Treasury.

LIMITATIONS ON TOTAL AMOUNT OF OBLIGATIONAL AUTHORITY

42 USC 8752.

SEC. 152. (a) The Corporation may not incur obligations or make commitments, including administrative expenses pursuant to section 120 and operating expenses, in excess of the aggregate principal amount of $20,000,000,000—

(1) plus such sums, if any, as are authorized pursuant to section 126; and

(2) less such sums—

(A) as are obligated for purposes of carrying out section 305 of the Defense Production Act of 1950 before the date determined under section 305(k)(1) of the Defense Production Act of 1950 or are required to be retained as a reserve against a contingent obligation incurred before such date under such section, up to a maximum of $3,000,000,000; and

Ante, p. 619.

(B) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-Nuclear Energy Research and Development Act of 1974 (Public Law 93-577; 42 U.S.C. 5901 et seq.) up to a maximum of $2,208,000,000.

(b)(1) For purposes of determining the Corporation's compliance with this section—

(A) loans shall be counted at the initial face value of the loan plus such amounts as are subsequently obligated pursuant to section 132(a)(3);

(B) loan guarantees shall be counted at the initial face value of such loan guarantee (including any amount of interest which is guaranteed under such loan guarantee) plus such amounts as are subsequently obligated pursuant to section 133(a)(3);

(C) price guarantees and purchase agreements shall be valued by the Corporation as of the date of each such contract, based upon the Corporation's estimate of its maximum potential liability;

(D) joint ventures and Corporation construction projects shall be valued at the current estimated cost to the Corporation, as determined annually by the Corporation; and

(E) any increase in the liability of the Corporation pursuant to any amendment or other modification to a contract for a loan, loan guarantee, price guarantee, purchase agreement, joint venture, or Corporation construction project shall be counted.

(2) Determinations made under paragraph (1) shall be made in accordance with generally accepted accounting principles, consistently applied.

(3) If more than one form of financial assistance is to be provided to any one synthetic fuel project or if the financial assistance agreement provides a right to the Corporation to purchase the synthetic fuel project, then the obligations and commitments thereunder shall be valued at the maximum potential exposure on such project at any time during the life of such project.

(c) Any commitment by the Corporation to provide financial assistance or make capital expenditures which is nullified or voided for any reason shall not be considered in the aggregate for the purpose of subsection (a).

BUDGETARY TREATMENT

SEC. 153. The obligations and outlays incurred by the Secretary of the Treasury in connection with the purchase of notes and other obligations of the Corporation shall be included in the totals of the Budget of the United States Government. The receipts and disbursements of the Corporation in the discharge of its functions shall be presented annually in the Budget of the United States Government but shall not be included in the totals of the Budget. 42 USC 8753.

RECEIPTS OF THE CORPORATION

SEC. 154. (a) Subject to the limitations contained in section 152, moneys of the Corporation, other than those received pursuant to sections 139(b) and 151, shall be used to defray administrative expenses and, to the extent that surplus is available thereafter, to provide financial assistance pursuant to subtitle D. In the event that additional surplus is available thereafter such additional surplus shall, when authorized by the Board of Directors, be used in the purchase for redemption and retirement of any notes or other obligations of the Corporation. 42 USC 8754.

(b) Moneys of the Corporation not otherwise employed shall be—

(1) deposited with the Treasury of the United States subject to withdrawal by the Corporation by check drawn on the Treasury of the United States by a Treasury disbursing officer; or

(2) with approval of the Secretary of the Treasury, deposited in any Federal Reserve bank.

(c) In the event that moneys of the Corporation, including moneys received pursuant to sections 139(b) and 151, exceed the limitation set forth in section 152, such surplus shall be deposited as miscellaneous receipts in the general fund of the Treasury of the United States.

(d) Not later than 10 calendar days after the end of each fiscal quarter, the Corporation shall submit a written report to the Secretary of the Treasury detailing all moneys received by the Corporation during the previous fiscal quarter. Such reports shall be incorporated in the quarterly and annual reports required under section 177. Report.

TAX STATUS

SEC. 155. (a) The Corporation, its franchise, capital, reserves, surplus, income, and intangible property shall be exempt from all taxation now or hereafter imposed by the United States, or by any State, county, municipality, or local taxing authority, except that— 42 USC 8755.

(1) any real property owned in fee by the Corporation shall be subject to State, territorial, county, municipal, or other local taxation to the same extent, according to its value, as other

similarly situated and used real property, without discrimination in the valuation, classification, or assessment thereof;

(2) the Corporation and its employees shall be subject to any nondiscriminatory payroll and employment taxes intended to finance benefits based upon employment (such as social security and unemployment benefits) to the same extent as any privately owned corporation; and

(3) with respect to any Corporation construction project undertaken pursuant to subtitle E, the Corporation shall be subject to any nondiscriminatory tax levied or imposed by any State, county, municipality, or local taxing authority on—

(A) the extraction or severance of minerals owned or leased by the Corporation; and

(B) the purchase or lease of tangible personal property.

(b) With respect to any loan or debt obligation which is (1) issued after the enactment of this part by, or on behalf of, any State or any political subdivision or governmental entity thereof, (2) guaranteed or otherwise secured by the Corporation prior to the approval of a comprehensive strategy under section 126(c), and (3) not supported by the full faith and credit of the issuer as a general obligation of the issuer, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successors in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954: *Provided,* That with respect to the amount of such obligations that the issuer would have been able to issue as tax exempt obligations (other than obligations secured by the full faith and credit of the issuer as a general obligation of the issuer), the Corporation is authorized to pay only to the issuer any portion of the interest on such obligations, as determined by the Secretary of the Treasury after taking into account the interest rate which would have been paid on the obligations had they been issued as tax exempt obligations without being so guaranteed or otherwise secured by the Corporation and the interest rate actually paid on the obligations when issued as taxable obligations. Such payments shall be made in amounts determined by the Corporation, and in accordance with such terms and conditions as the Secretary of the Treasury shall require.

Ante, p. 644.

26 USC 1 *et seq.*

SUBTITLE G—UNLAWFUL ACTS, PENALTIES, AND SUITS AGAINST THE CORPORATION

FALSE STATEMENTS

42 USC 8761.

SEC. 161. Whoever makes any false statement, knowing or having reason to believe it to be false, or whoever knowingly overvalues any security, for the purpose of obtaining for himself or for any applicant any financial assistance under this part, extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Corporation or for the purpose of obtaining money, property, contract rights, or anything of value, under this part, shall be punished by a fine of not more than $5,000 or by imprisonment for not more than two years, or both.

FORGERY

42 USC 8762.

SEC. 162. Whoever—

(1) falsely makes, forges, or counterfeits any agreement, instrument, contract, or other obligation or thing of value, which purports to have been issued by the Corporation; or

(2) passes, utters, or publishes, or attempts to pass, utter, or publish, any false, forged, or counterfeited agreement, instrument, contract, or other obligation or thing of value, which purports to have been issued by the Corporation, knowing the same to be false, forged, or counterfeited; or

(3) falsely alters any agreement, instrument, contract, or other obligation or thing of value, issued by the Corporation; or

(4) passes, utters, or publishes, or attempts to pass, utter, or publish, as true, any falsely altered agreement, instrument, contract, or other obligation or thing of value, issued by the Corporation, knowing the same to be falsely altered,

shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both.

MISAPPROPRIATION OF FUNDS AND UNAUTHORIZED ACTIVITIES

SEC. 163. (a) Whoever— 42 USC 8763.

(1) embezzles, extracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to it or pledged or otherwise entrusted to the Corporation;

(2) makes any false entry in any book, report, or statement of or to the Corporation or, without being duly authorized, draws any bond, other obligation, draft, bill of exchange, mortgage, judgment, or decree thereof, with intent to defraud the Corporation, any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Corporation;

(3) participates in, shares in, or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, commission, contract, or any other act of the Corporation, with intent to defraud; or

(4) gives to any person any unauthorized information concerning any future action or plan of the Corporation, or having such knowledge invests or speculates, directly or indirectly, in the securities or property of any company, bank, or corporation, receiving financial assistance from the Corporation,

shall be punished by a fine of not more than $10,000 or by imprisonment for not more than five years, or both. With respect to paragraph (4), the Corporation is authorized to obtain injunctive relief against the threatened misuse of information.

(b) Whoever falsely assumes or pretends to be a Director, officer, or employee acting under authority of the Corporation, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined not more than $1,000 or imprisoned not more than three years, or both.

CONSPIRACY

SEC. 164. If two or more persons conspire to commit any of the acts made unlawful by section 161, 162, or 163, each such person shall be fined or imprisoned, or both, as if such person committed the unlawful acts. 42 USC 8764.

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INFRINGEMENT ON NAME

42 USC 8765.

SEC. 165. (a) No person or other government entity may use the words "United States Synthetic Fuels Corporation" or a combination of these words in a manner which is likely to mislead or deceive.

(b) A violation of this section may be enjoined at the suit of the Corporation.

ADDITIONAL PENALTIES

42 USC 8766.

SEC. 166. In addition to any penalties imposed as a result of a violation of any provision of this subtitle or section 138, the Corporation shall have the authority to bring an action to recover damages for losses incurred by the Corporation or any profit or gain acquired by the defendant as a result of a violation of any section of this subtitle.

SUITS BY THE ATTORNEY GENERAL

42 USC 8767.

SEC. 167. (a) If the Corporation shall engage in or adhere to any action, practices, or policies inconsistent with the the provisions of this part, or if the Corporation or any other person shall violate any provision of this part or shall obstruct or interfere with any activities authorized by this part, or shall refuse, fail, or neglect to discharge the duties and responsibilities under this part, or shall threaten any such violation, obstruction, interference, refusal, failure, or neglect, the district court of the United States for any district in which such Corporation or such other person resides or may be found shall have jurisdiction, except as otherwise prohibited by law, upon petition of the Attorney General of the United States, or upon petition of the Comptroller General of the United States, to grant such relief as may be necessary or appropriate to prevent or terminate such conduct or threat.

(b) Nothing contained in this section shall be construed as relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this part.

(c) Nothing in this section shall be deemed or construed to prevent the enforcement of the other provisions of this part by appropriate officers of the United States.

CIVIL ACTIONS AGAINST THE CORPORATION

42 USC 8768.

SEC. 168. District courts of the United States constituted under chapter 5 of title 28, United States Code, and courts constituted under section 22 of the Organic Act of Guam (48 U.S.C. 1424), section 21 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1611), section 1 of title 3 of the Canal Zone Code, and the first section of the Act entitled "An Act to create the District Court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America", approved November 8, 1977 (91 Stat. 1265), shall have original jurisdiction for all civil actions against the Corportion: *Provided, however,* That the Federal Tort Claims Act (28 U.S.C. 2671 et seq.) shall apply to the Corporation as if it were a Federal agency and any judgment or compromised claim resulting from any action thereunder shall be paid by the Corporation from its funds: *And provided further,* That the Corporation shall be liable for contract claims only if such claims are based

28 USC 81 *et seq.*

76A Stat. 51.

48 USC 1694.

upon a written contract to which the Corporation is an executing party. The liability of the Corporation shall be limited to the assets of the Corporation.

SUBTITLE H—GENERAL PROVISIONS

GENERAL POWERS

SEC. 171. (a) In carrying out the provisions of this part, the Corporation shall have the power, consistent with the provisions of this part— 42 USC 8771.

(1) to adopt, alter, and rescind bylaws and to adopt and alter a corporate seal, which shall be judicially noticed;

(2) to make agreements and contracts with persons and private or governmental entities: *Provided, however,* That the Corporation shall not provide any financial assistance except as specifically permitted under this part;

(3) to lease, purchase, accept gifts or donations of, or otherwise to acquire, and to own, hold, improve, use, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein;

(4) to sue and be sued, subject to the provisions of section 168, in its corporate name and to complain and defend in any court of competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings, except actions cognizable under the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), in which actions it will be represented by the Attorney General;

(6) subject to section 117, to select, employ, and fix the compensation (including, without limitation, pension plans, health benefits, incentive compensation plans, paid vacation, sick leave, and other fringe benefits) of such officers, employees, attorneys, and agents as shall be necessary for the transaction of the business of the Corporation; *Ante,* p. 638.

(7) to make provision for and designate such committees, and the functions thereof, as the Board of Directors may deem necessary or desirable;

(8) to indemnify Directors and officers of the Corporation, as the Board of Directors may deem necessary or desirable;

(9) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this part and to pay for such use, such payments to be credited to the applicable appropriation that incurred the expense;

(10) to determine and prescribe the manner in which obligations of the Corporation shall be incurred and its expenses allowed and paid;

(11) to obtain the services and fix the compensation of experts;

(12) to use the United States mails on the same terms and conditions as the executive departments of the United States Government; and

(13) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation, to carry out the provisions of this part and the exercise of its powers, purposes, functions, duties, and authorized activities.

(b) The foregoing powers shall only be exercised in connection with, as authorized by this part, administrative activities, financial assistance, and Corporation construction projects and, notwithstanding any other provision of law, the Corporation shall have no legal authority, power, or purpose pursuant to this part or any other law to engage in any other activities of a business, commercial, financial, or investment nature or perform any other governmental function; and any violation of this subsection shall be punished by—

(1) a fine of not more than $10,000 or by imprisonment for not more than five years, or both;

(2) additional penalties pursuant to section 166; and

(3) relief pursuant to section 167.

(c) In addition to the powers granted under subsections (a) and (b), and only in connection with Corporation construction projects, the Corporation is authorized to exercise the power of eminent domain in the United States district court for the district in which the real property is located to acquire interests in real property, including property owned by any State or local government body or entity or any Indian tribe, in the following cases: (1) when it is necessary to provide access to the site of a Corporation construction project for site-related transportation, power transmission, and other services, and (2) when it is necessary to construct a pipeline to transport synthetic fuel from a Corporation construction project to the nearest pipeline: *Provided,* That such power shall not be exercised to acquire property for the site of any Corporation construction project, or property for any coal slurry pipeline except within the immediate vicinity of the site of such a project: *Provided further,* That the Corporation may acquire property or interests in property by eminent domain only upon a finding by its Board of Directors that the property in question is necessary for a Corporation construction project and that no other alternative property is reasonably available. These findings of the Board of Directors shall not be subject to judicial review in any court.

COORDINATION WITH FEDERAL ENTITIES

42 USC 8772.

SEC. 172. (a) Prior to awarding, or making any commitment to award, financial assistance for any synthetic fuel project, the Corporation may seek the advice and recommendations of, or information or data maintained by, any Federal department or agency to assist the Corporation in determinations to be made hereunder. Any such advice, recommendation, information, or data, to the extent permitted by law, shall be provided to the Corporation within thirty days of its request: *Provided, however,* That where such information or data comprises a trade secret, or confidential or proprietary data, the Corporation shall agree to receive such data under the same terms of confidentiality agreed to by the agency involved.

(b) The Secretary of Energy is authorized to provide such technical assistance to the Corporation as is necessary to carry out the provisions of this part.

(c) The Corporation and the Secretary of Energy are authorized and directed, in accordance with applicable law, to exchange technical information relating to synthetic fuel development.

(d)(1) The Corporation is authorized and directed to consult with the Secretary of Defense in order to identify those national defense fuel supply requirements which may be achieved under this part. Such consultation shall include identification of the technical specifi-

cations for particular fuels and such other information as may be necessary to facilitate the production of synthetic fuel under this part for the purposes of national defense.

(2) With regard to any synthetic fuel which may be acquired by the Corporation through purchase agreements, joint ventures, or Corporation construction projects, the Corporation shall offer to sell such fuels first to the Department of Defense for national defense needs in accordance with such terms and conditions as the Corporation and the Secretary of Defense may provide by contract.

PATENTS

SEC. 173. (a) Any contract to provide financial assistance under subtitle D in the form of a loan, a loan guarantee, or a joint venture may, in the judgment of the Board of Directors, require that whenever any invention is made or conceived in the course of or under such contract, title to the patent for such invention shall vest in the Corporation. The Corporation shall have the right to license the patent on a nonexclusive basis.

42 USC 8773.
Ante, p. 654.

(b)(1) The Corporation may grant a nonexclusive license for the use of any invention for which it holds the patent but it may not grant an exclusive or partially exclusive license except as provided in paragraph (2).

(2) The Corporation is authorized to grant an exclusive or partially exclusive license for the use of any invention for which it holds the patent to a responsible applicant or applicants, upon terms reasonable under the circumstances, on the basis of competitive bids and following an opportunity for a hearing, upon notice in the Federal Register thereof to the public, only when, in the judgment of the Board of Directors, such exclusive or partially exclusive license is necessary to assure substantial utilization of such invention within a reasonable time.

(c) Each exclusive or partially exclusive license for the use of an invention granted under subsection (b) shall contain such terms and conditions as the Corporation may determine to be appropriate for the protection of the interests of the United States and the general public, including provision for the Corporation, commencing two years after the grant of a license pursuant to subsection (b), to terminate such license if (1) it has not been applied to the commercialization of domestic energy resources or (2) steps have not been taken as necessary to assure substantial utilization of such invention within a reasonable time.

(d) Loan or loan guarantee agreements entered into pursuant to sections 132 and 133, respectively, shall include such terms and conditions consistent with this subsection with respect to patents as the Corporation deems appropriate to protect the interests of the Corporation in the case of default. Such agreements shall require in the case of default that all patents, technology, and other proprietary rights resulting from the synthetic fuel project shall be available to the Corporation or its designee, to complete and operate the defaulting project. Such agreements shall contain a provision specifying that other patents, technology, and other proprietary rights owned by the borrower which are necessary for the purpose of completion and operation of the synthetic fuel project shall be licensed to the Corporation and its designees on equitable terms, including due consideration to the amount of the default payments due to the Corporation.

(e) Patents, technology, and proprietary rights vested in the Corporation as a result of default on a loan or loan guarantee agreement or vested in the Corporation pursuant to subsection (a) shall be transferred to the Secretary of Energy for administration under applicable law upon termination and liquidation of the Corporation.

(f)(1) Any contract entered into by the Corporation pursuant to subtitle E shall be subject to subsections (a) through (m) of section 9 of the Federal Non-Nuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908 (a) through (m)). In applying such subsections to subtitle E—

Definitions.
Ante, p. 665.

(A) the term "Administrator" in such subsections shall mean the Chairman of the Board of Directors;

(B) the term "Administration" in such subsections shall mean the Corporation;

(C) the term "United States" in such subsections shall mean the Corporation;

(D) the term "Government" in subsections (a) and (d) of such sections shall include the Corporation for purposes of such subsection; and

(E) the term "any Government agency" in subsection (h)(2) of such section shall mean the United States.

(2) Section 9 of the Federal Non-Nuclear Energy Research and Development Act of 1974 shall not apply to financial assistance granted pursuant to subtitle D.

42 USC 5908.
Ante, p. 654.

(g) The United States Government shall have a royalty-free, nonexclusive license to any invention in which the Corporation owns title or reserves a license pursuant to subsection (a). The Corporation may assign title to any invention in which it has the title to the United States Government.

SMALL AND DISADVANTAGED BUSINESS UTILIZATION

42 USC 8774.

SEC. 174. In providing financial assistance, the Corporation shall require the recipient thereof to provide for the fair and reasonable participation by small and disadvantaged businesses in the synthetic fuel project receiving financial assistance and the Corporation shall do so with respect to Corporation construction projects under subtitle E.

Ante, p. 665.

RELATIONSHIP TO OTHER LAWS

42 USC 8775.

SEC. 175. (a) No Federal law shall apply to the Corporation as if it were an agency or instrumentality of the United States, except as expressly provided in this part.

(b) No action of the Corporation except the construction and operation of synthetic fuel projects pursuant to subtitle E shall be deemed to be a "major Federal action significantly affecting the quality of the human environment" for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969, and with respect to Corporation construction projects, the Corporation shall be deemed to be a Federal agency for the purposes of such Act.

42 USC 4332.

(c) The provisions of the Act entitled "An Act Relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931 (40 U.S.C. 276a et seq.) and commonly known as the Davis-Bacon Act, and the provisions of the Service Contracts Act shall apply to the

41 USC 351 note.

Corporation as if it were an agency of the United States. All laborers and mechanics employed for the construction, repair, or alteration of synthetic fuel projects funded, in whole or in part, by the Corporation pursuant to section 132, 133, or 136 of this part shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act commonly known as the Davis-Bacon Act. The Corporation shall not extend any loan or loan guarantee for construction, repair or alteration of a synthetic fuel project unless a certification is provided to the Corporation prior to the commencement of construction, or at the time of filing an application for a loan or loan guarantee if construction has already commenced, that these labor standards will be maintained at the synthetic fuel project. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276c of title 40.

Ante, pp. 658, 660, 662.

40 USC 276a note.

5 USC app.

(d) The securities laws of the United States as defined in section 21(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(g)) shall apply to the Corporation as if it were an agency or instrumentality of the United States.

(e) The antitrust laws, as defined in section 12 of title 15, United States Code, shall apply to the Corporation as if it were an agency of the United States.

(f) The Government Corporation Control Act (31 U.S.C. 841 et seq.) shall not apply with respect to the Corporation.

(g) Except to the extent expressly provided herein, the Corporation shall not be deemed to be an agency of the United States or an instrumentality of the United States.

(h) The Longshoremen's and Harbor Workers' Compensation Act shall apply with respect to the injury and disability or death resulting from injury as defined in section 2(2) of such Act occurring to any Director, officer, or employee of the Corporation.

33 USC 902.

(i) Nothing in this part shall be deemed to limit the powers of the Energy Mobilization Board with respect to a synthetic fuel project or synthetic fuel project module receiving financial assistance under this part or Corporation construction projects.

(j)(1) For purposes of section 211(b) of the Powerplant and Industrial Fuel Use Act of 1978 (92 Stat. 3300), a petitioner under such section shall be deemed to have made the demonstrations required by section 211(b)(1) and section 211(b)(2) of such Act if he has entered into a legally valid agreement with a qualified producer of synthetic fuel for the future delivery of sufficient quantities of synthetic fuel to be used at the facility for which the exemption is sought. The submission to the Secretary of Energy of evidence of the existence of such a legally valid agreement also shall be deemed to satisfy the requirement of section 211(b) of such Act that the petitioner file and maintain a compliance plan satisfying the requirements of section 214(b) of such Act.

42 USC 8321.

(2) For purposes of paragraph (1), a person shall be deemed to be a "qualified producer of synthetic fuel" if he received financial assistance in the form of a loan, loan guarantee, purchase agreement, or price guarantee pursuant to subtitle D.

Ante, p. 654.

(3) In addition, in order to constitute a "legally valid agreement" for purposes of paragraph (1), the agreement with the qualified synthetic fuel producer must provide for the intitial delivery of synthetic fuel within the period of time during which such facility is exempted pursuant to section 211(e) of such Act.

42 USC 8321.

(4) For purposes of section 211(b) of such Act, an extension or renewal under section 211(e)(1) of such Act or section 211(e)(2)(B) of such Act may be granted at the time the original exemption is issued or at any subsequent date.

(5) Nothing in this subsection shall be construed to relieve the petitioner from compliance with subtitle A of title II of the Power-
42 USC 8311. plant and Industrial Fuel Use Act of 1978.

(k) This part shall not affect any authority contained in the Defense
50 USC app. 2061. Production Act of 1950.

SEVERABILITY

42 USC 8776.

SEC. 176. If any provision of this part, or the application of any such provision to any person or circumstance, shall for any reason be adjudged by any court of competent jurisdiction to be invalid, the remainder of this part, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

FISCAL YEAR, AUDITS AND REPORTS

42 USC 8777.

SEC. 177. (a) The fiscal year of the Corporation shall coincide with the fiscal year of the United States Government.

(b)(1) The Corporation shall retain a firm or firms of nationally recognized public accountants who shall prepare, in accordance with generally accepted accounting principles, and report an annual audit of the accounts of the Corporation including statements of the type required in section 106 of the Government Corporation Control Act (31 U.S.C. 851).

(2) The General Accounting Office is authorized to conduct such audits of the accounts of the Corporation and to report upon the same to the Congress, as the General Accounting Office shall deem necessary or as the Congress may request, but not less than every three years.

(3) All books, accounts, financial records, reports, files, papers, and property belonging to or in use by the Corporation shall be made available to the person or persons conducting the audit for verifying transactions.

(c)(1) The Corporation shall submit quarterly reports to the Congress and the President. Each report will state the aggregate sums then outstanding or committed for financial assistance under subtitle D and for Corporation construction projects under subtitle E, and a summary of any financial assistance retired or any synthetic fuel project liquidated by the Corporation pursuant to subtitle I. Each report shall contain a list of the concerns receiving financial assistance involved in Corporation construction projects.

(2) The quarterly report in which any expenditure or commitment to a concern or synthetic fuel project is first noted shall contain a brief description of the factors considered by the Corporation in making such expenditure or commitment. The report shall include (A) financial statements prepared in accordance with generally accepted accounting principles, consistently applied, as of the end of the Corporation's fiscal quarter preceding the date of the report and (B) compensation of persons employed or under contract by the Corporation at salary rates exceeding $2,500 per month.

(d)(1) Not later than 120 days after the end of each fiscal year, the Corporation shall submit to the Congress and the President an

annual report containing, in addition to the information required in the quarterly report required under subsection (c)(2), (A) a general description of the Corporation's operations during the year, (B) a specific description of each synthetic fuel project in which the Corporation is involved, (C) a status report on each such project, and (D) an evaluation of the contribution which the project has made and is expected to make in fulfilling the purposes of this title (including, where possible, a precise statement of the amount of domestic energy produced or to be produced thereby).

(2) The annual report shall describe progress made toward meeting the purposes (including the national synthetic fuel production goal established in section 125) of this title and contain specific recommendations on what actions the Congress could take in order to facilitate the work of the Corporation in achieving the purposes of this title. The annual report shall address the environmental impacts of the Corporation's generic programs and decisions. *Ante*, p. 644.

(3) The annual report shall contain financial statements prepared by the Corporation in accordance with generally accepted accounting principles, consistently applied, and certified by the accountants retained under section (b)(1).

(e) On or before September 30, 1990, the Corporation shall submit to the Congress and the President a report evaluating the overall impact made by the Corporation and describing the status of each then current synthetic fuel project. This report shall contain a liquidation plan. The liquidation plan shall describe how each synthetic fuel project, and every substantial asset or liability of the Corporation, will be liquidated, terminated, satisfied, sold, transferred, or otherwise disposed of. Each annual report thereafter made by the Corporation will describe the progress made in carrying out such liquidation plan.

WATER RIGHTS

SEC. 178. (a) Nothing in this part shall (1) affect the jurisdiction of the States and the United States over waters of any stream or over any ground water resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States, or (3) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource. 42 USC 8778.

(b) No project constructed pursuant to the authorities of this part shall be considered to be a Federal project for purposes of the application for or assignment of water rights.

WESTERN HEMISPHERE PROJECTS

SEC. 179. (a) The Corporation is authorized to transmit a Corporation synthetic fuel action under section 128 relating to an award of financial assistance pursuant to subtitle D for not to exceed two synthetic fuel projects located in the Western Hemisphere outside the United States. If such Corporation synthetic fuel action is not disapproved by either House during the period specified in section 128, the Corporation shall be authorized to award such financial assistance. 42 USC 8779. *Ante*, p. 650. *Ante*, p. 654.

(b) The Corporation may use the authority of subsection (a) if the Corporation determines that—

(1) the project will use a class of resource that is located in the United States but that such class of resource will not be subject to

timely commercial production in the United States even if the Corporation provided financial assistance;

(2) the project will receive financial assistance from the government of the country in which the project is located;

(3) the synthetic fuel produced by such project will be available to users in the United States in quantities the Corporation determines to be equitable considering the nature and amounts of financial assistance; and

(4) all technology, patents, and trade secrets developed in connection with such project shall be available to citizens of the United States through rights in the Corporation or through licensing at reasonable cost for use in the United States.

(c) There is authorized for the purpose of this section not to exceed 10 percent of the aggregate obligational authority under section 152(a). Such authorization shall terminate upon approval of the comprehensive production strategy pursuant to section 126(c).

Ante, p. 644.

COMPLETION GUARANTEE STUDY

42 USC 8780.

SEC. 180. The Corporation shall conduct a study of supplemental financial protection for lenders including completion guarantees and other mechanisms to ascertain the desirability of employing such mechanisms to enlarge the number of potential participants in the synthetic fuel development program. A report on such study and recommendations based thereon shall be included in the comprehensive strategy submitted under section 126(b).

Report and recommendations.

SUBTITLE I—DISPOSAL OF ASSETS

TANGIBLE ASSETS

42 USC 8781.

SEC. 181. (a)(1) The Corporation, by and through its Board of Directors, is authorized, from time to time, on the basis of the criteria of subsection (b), to dispose of any portion or all of the tangible assets of the Corporation when such disposal is in the best interests of the Corporation for purposes of carrying out the provisions of this part either—

(A) on the basis of competitive bids, by selling to any person or concern any portion of the assets of the Corporation; or

(B) by transferring to a Federal agency of any portion or all of the tangible assets of the Corporation; or

(C) on the basis of a negotiated contract, consistent with paragraph (2), by selling to a person or concern any portion or all of the tangible assets of the Corporation.

(2) With regard to the sale of tangible assets pursuant to subsection (a)(1)(C), the Corporation shall—

Notice. Publication in Federal Register.

(A) publish in the Federal Register notice of the proposed sale of such asset;

(B) convene a prospective bidders conference; and

(C) no earlier than thirty days after such notice and conference, undertake negotiations for the sale of such asset.

Notification to President, Senate committee and Speaker of the House.

(3) At least thirty days prior to the disposal of any tangible asset pursuant to paragraph (1), the Corporation shall notify the President, the Senate Committee on Energy and Natural Resources and the Speaker of the House of Representatives of the intended disposal of such tangible asset.

(b) For the purpose of this section, the term "tangible asset" means any single asset, or aggregation of assets, with a value of $1,000,000 or more. "Tangible asset."

(c) In establishing the acceptable terms and conditions of the sale or transfer of tangible assets constituting a synthetic fuel project, or portion thereof, or a Corporation construction project, or portion thereof, the Board of Directors shall make every reasonable effort—

(1) to recover the financial investment, if any, of the Corporation in such assets;

(2) to foster competition within the industry to which the assets are to be sold; and

(3) to assure that such assets will be productively utilized and, if possible, will continue in operation.

(d) With regard to the sale or transfer of tangible assets not included under subsection (c), the Corporation shall establish terms and conditions for the sale or transfer of such tangible assets in order to achieve the greatest financial return to the Corporation.

DISPOSAL OF OTHER ASSETS

SEC. 182. Except as provided for in section 181, the Corporation is authorized, from time to time, (1) consistent with the requirements of the Federal Property and Administrative Services Act, to sell to any person any portion of the assets of the Corporation, or (2) transfer to a Federal agency any portion or all of the assets of the Corporation. 42 USC 8782.

SUBTITLE J—TERMINATION OF CORPORATION

DATE OF TERMINATION

SEC. 191. Notwithstanding any other provision of this title— 42 USC 8791.

(1) the Corporation shall make no new awards or commitments for financial assistance under subtitle D for synthetic fuel projects after September 30, 1992; and *Ante*, p. 654.

(2) the Corporation shall terminate on September 30, 1997: *Provided, however,* That the President, on recommendation of the Board of Directors, may by Executive order terminate the Corporation at an earlier date, but in no event prior to September 30, 1992.

TERMINATION OF THE CORPORATION'S AFFAIRS

SEC. 192. (a) On and after the final commitment date under section 191(1), the Board of Directors shall diligently commence all practical and reasonable steps to achieve an orderly termination of the Corporation's affairs on or prior to its date of termination pursuant to section 191(2). 42 USC 8792.

(b) The steps taken pursuant to subsection (a) may include the disposal of the tangible assets of the Corporation pursuant to section 181 and the disposal of other assets pursuant to section 182.

(c) On termination of the Corporation, any contract or obligation for financial assistance pursuant to subtitle D shall be administered pursuant to section 193.

TRANSFER OF POWERS TO DEPARTMENT OF THE TREASURY

SEC. 193. (a) If, on the date of termination of the Corporation, its Board of Directors shall not have completed the termination of its 42 USC 8793.

affairs and the liquidation of its assets pursuant to subtitle I, the duty of completing such winding up of its affairs and liquidation shall be transferred to the Secretary of the Treasury, who for such purposes shall succeed to all the powers, duties, rights, and obligations of the Corporation, its Board of Directors and Chairman under this part and nothing herein shall be construed to affect any right or privilege accrued, any penalty or liability incurred, any criminal or civil proceeding commenced, or any authority conferred hereunder, except as herein specifically provided in connection with such termination of the affairs and liquidation of the remaining assets of the Corporation. Following such transfer, the Secretary of the Treasury may assign to any officer or officers of the United States in the Treasury Department the exercise and performance, under such Secretary's general supervision and direction, of any powers, duties, rights, and obligations so transferred from the Corporation to the Secretary.

(b) When the Secretary of the Treasury finds that the liquidation of any remaining assets will no longer be advantageous to the United States and that all of the legal obligations of the Corporation have been provided for, the Secretary shall pay into the general fund of the Treasury as miscellaneous receipts the unused balance of the moneys belonging to the Corporation and shall make a final report on the Corporation to the Congress. Thereupon the Corporation shall be deemed to be dissolved.

SUBTITLE K—DEPARTMENT OF THE TREASURY

AUTHORIZATIONS

42 USC 8795.

SEC. 195. (a)(1)(A) There is hereby authorized to be appropriated without fiscal year limitation to the Secretary of the Treasury to purchase and retain notes and other obligations of the Corporation, $20,000,000,000—

(i) plus such sums, if any, as are authorized pursuant to section 126; and

(ii) less such sums—

(I) as are obligated for purposes of carrying out the provisions of section 305 of the Defense Production Act of 1950 before the date determined under section 305(k)(1) of the Defense Production Act of 1950 or are required to be retained as a reserve against a contingent obligation incurred before such date under such section, up to a maximum of $3,000,000,000; and

Ante, p. 619.

(II) as are obligated from the Energy Security Reserve by the Department of Energy pursuant to the Federal Non-Nuclear Energy Research and Development Act of 1974 (Public Law 93-577, 42 U.S.C. 5901), up to a maximum of $2,208,000,000.

(B) Such moneys shall be deposited in the Energy Security Reserve established in the Treasury of the United States by the Department of the Interior and Related Agencies Appropriation Act, 1980 (93 Stat. 954; Public Law 96-126), which account, and the appropriations therefor, shall be available to the Secretary of the Treasury for the purpose of carrying out the purposes of this title. The appropriations and authorities provided for alternative fuels production in such appropriations Act are hereby authorized without fiscal year limitation.

(2) On the basis of each notification by the Corporation made pursuant to section 131(k)(2) to the Secretary of the Treasury of an award of financial assistance by the Corporation, and consistent with the provisions of section 152, the Secretary of the Treasury shall reserve within the Energy Security Reserve an amount equal to the amount determined pursuant to section 131(k)(1).

(3) Upon receipt of notification from the Corporation under section 131(k)(2), the Secretary of the Treasury, within 15 calendar days, shall certify to the Corporation that the amount required by paragraph (2) has been reserved within the Energy Security Reserve.

(b) For purposes of purchasing the obligations of the Corporation pursuant to subsection (a), the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act (31 U.S.C. 752 et seq.), and the purposes for which securities may be issued under such Act are extended to include such purchases.

(c) All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.

TITLE II—BIOMASS ENERGY AND ALCOHOL FUELS

Biomass Energy and Alcohol Fuels Act of 1980.

SHORT TITLE

SEC. 201. This title may be cited as the "Biomass Energy and Alcohol Fuels Act of 1980". 42 USC 8801 note.

FINDINGS

SEC. 202. The Congress finds that— 42 USC 8801.

(1) the dependence of the United States on imported petroleum and natural gas must be reduced by all economically and environmentally feasible means, including the use of biomass energy resources; and

(2) a national program for increased production and use of biomass energy that does not impair the Nation's ability to produce food and fiber on a sustainable basis for domestic and export use must be formulated and implemented within a multiple-use framework.

DEFINITIONS

SEC. 203. As used in this title— 42 USC 8802.

(1) The term "alcohol" means alcohol (including methanol and ethanol) which is produced from biomass and which is suitable for use by itself or in combination with other substances as a fuel or as a substitute for petroleum or petrochemical feedstocks.

(2)(A) The term "biomass" means any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, animal wastes, municipal wastes, and aquatic plants.

(B) For purposes of subtitle A, such term does not include municipal wastes; and for purposes of subtitle C, such term does not include aquatic plants and municipal wastes.

(3) The term "biomass fuel" means any gaseous, liquid, or solid fuel produced by conversion of biomass.

(4) The term "biomass energy" means—

(A) biomass fuel; or

(B) energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat.

(5) The term "biomass energy project" means any facility (or portion of a facility) located in the United States which is primarily for—

(A) the production of biomass fuel (and byproducts); or

(B) the combustion of biomass for the purpose of generating industrial process heat, mechanical power, or electricity (including cogeneration).

(6) The term "Btu" means British thermal unit.

(7) The term "cogeneration" means the combined generation by any facility of—

(A) electrical or mechanical power, and

(B) steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes.

(8) The term "cooperative" means any agricultural association, as that term is defined in section 15(a) of the Act of June 15, 1929, as amended (46 Stat. 18; 12 U.S.C. 1141j), commonly known as the Agricultural Marketing Act.

(9)(A) The term "construction" means—

(i) the construction or acquisition of any biomass energy project;

(ii) the conversion of any facility to a biomass energy project; or

(iii) the expansion or improvement of any biomass energy project which increases the capacity or efficiency of that facility to produce biomass energy.

(B) Such term includes—

(i) the acquisition of equipment and machinery for use in or at the site of a biomass energy project; and

(ii) the acquisition of land and improvements thereon for the construction, expansion, or improvement of such a project, or the conversion of a facility to such a project.

(C) Such term does not include the acquisition of any facility which was operated as a biomass energy project before the acquisition.

(10) The term "Federal agency" means any Executive agency, as defined in section 105 of title 5, United States Code.

(11)(A) The term "financial assistance" means any of the following forms of financial assistance provided under this title, or any combination of such forms:

(i) loans,

(ii) loan guarantees,

(iii) price guarantees, and

(iv) purchase agreements.

(B) Such term includes any commitment to provide such assistance.

(12) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(13) The term "motor fuel" means gasoline, kerosene, and middle distillates (including diesel fuel).

(14)(A) The term "municipal waste" means any organic matter, including sewage, sewage sludge, and industrial or commercial waste, and mixtures of such matter and inorganic refuse—

(i) from any publicly or privately operated municipal waste collection or similar disposal system, or

(ii) from similar waste flows (other than such flows which constitute agricultural wastes or residues, or wood wastes or residues from wood harvesting activities or production of forest products).

(B) Such term does not include any hazardous waste, as determined by the Secretary of Energy for purposes of this title.

(15)(A) The term "municipal waste energy project" means any facility (or portion of a facility) located in the United States primarily for—

(i) the production of biomass fuel (and byproducts) from municipal waste; or

(ii) the combustion of municipal waste for the purpose of generating steam or forms of useful energy, including industrial process heat, mechanical power, or electricity (including cogeneration).

(B) Such term includes any necessary transportation, preparation, and disposal equipment and machinery for use in or at the site of the facility involved.

(16) The term "Office of Alcohol Fuels" means the Office of Alcohol Fuels established under section 220.

(17) The term "person" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any State or local government (including any special purpose district or similar governmental unit) or any agency or instrumentality thereof, or any Indian tribe or tribal organization.

(18) The term "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(19) The term "small scale biomass energy project" means a biomass energy project with an anticipated annual production capacity of not more than 1,000,000 gallons of ethanol per year, or its energy equivalent of other forms of biomass energy.

FUNDING FOR SUBTITLES A AND B

SEC. 204. (a) To the extent provided in advance in appropriation Acts, for the two year period beginning October 1, 1980, there is authorized to be appropriated and transferred $1,450,000,000 from the Energy Security Reserve established in the Treasury of the United States under title II of the Act entitled "An Act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1980, and for other purposes" (Public Law 96-126; 93 Stat. 970) and made available for obligation by such Act only to the extent provided in advance in appropriation Acts, as follows:

Appropriation authorization.
42 USC 8803.

(1) $600,000,000 to the Secretary of Agriculture for carrying out activities under subtitle A, except of the amount of the financial assistance provided by the Secretary of Agriculture under subtitle A, up to one-third shall be for small-scale biomass energy projects;

(2) $600,000,000 to the Secretary of Energy for carrying out biomass energy activities under subtitle A, of which at least $500,000,000 shall be available to the Office of Alcohol Fuels for carrying out its activities, and any amount not made available to the Office of Alcohol Fuels shall be available to the Secretary to carry out the purposes of subtitle A under available authorities of the Secretary, including authorities under subtitle A; and

(3) $250,000,000 shall be available to the Secretary of Energy for carrying out activities under subtitle B.

(b) Funds made available under subsection (a) shall remain available until expended.

(c)(1) For purposes of determining the amount of such appropriations which remain available for purposes of this title—

(A) loans shall be counted at the initial face value of the loan;

(B) loan guarantees shall be counted at the initial face value of such loan guarantee;

(C) price guarantees and purchase agreements shall be counted at the value determined by the Secretary concerned as of the date of each such contract based upon the Secretary's determination of the maximum potential liability of the United States under the contract; and

(D) any increase in the liability of the United States pursuant to any amendment or other modification to a contract for a loan, loan guarantee, price guarantee, or purchase agreement, shall be counted to the extent of such increase.

(2) Determinations under paragraph (1) shall be made in accordance with generally accepted accounting principles, consistently applied.

(3) If more than one form of financial assistance is to be provided to any one project, the obligations and commitments thereunder shall be counted at the maximum potential exposure of the United States on such project at any time during the life of such project.

(4) Any commitment to provide financial assistance shall be treated the same as such assistance for purposes of this subsection; except that any such commitment which is nullified or voided for any reason shall not be considered for purposes of this subsection.

(d) Financial assistance may be provided under this title only to the extent provided in advance in appropriation Acts.

COORDINATION WITH OTHER AUTHORITIES AND PROGRAMS

42 USC 8804.

SEC. 205. The authorities in this title are in addition to and do not modify (except to the extent expressly provided for in this title) authorities and programs of the Department of Energy and of the Department of Agriculture under other provisions of law.

SUBTITLE A—GENERAL BIOMASS ENERGY DEVELOPMENT

BIOMASS ENERGY DEVELOPMENT PLANS

Transmittal to President and Congress.
42 USC 8811.

SEC. 211. (a) Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture and the Secretary of Energy

shall jointly prepare, and transmit to the President and the Congress, a plan for maximizing in accordance with this subtitle biomass energy production and use. Such plan shall be designed to achieve a total level of alcohol production and use within the United States of at least 60,000 barrels per day of alcohol by December 31, 1982.

(b)(1) Not later than January 1, 1982, the Secretary of Agriculture and the Secretary of Energy shall jointly prepare, and transmit to the President and the Congress, a comprehensive plan for maximizing in accordance with this subtitle biomass energy production and use, for the period beginning January 1, 1983, and ending December 31, 1990. Such plan shall be designed to achieve a level of alcohol production within the United States equal to at least 10 percent of the level of gasoline consumption within the United States as estimated by the Secretary of Energy for the calendar year 1990. Transmittal to President and Congress.

(2) The plan prepared under this subsection shall evaluate the feasibility of reaching the goals set forth in such subsection. Evaluation.

(c) The plans prepared under subsections (a) and (b) shall each include guidelines for use in awarding financial assistance under this subtitle which are designed to increase, during the period covered by the plan, the amount of motor fuel displaced by biomass energy. Guidelines for financial assistance.

PROGRAM RESPONSIBILITY AND ADMINISTRATION; EFFECT ON OTHER PROGRAMS

SEC. 212. (a)(1) Except as provided in paragraph (2), in the case of any financial assistance under this subtitle for a biomass energy project, the Secretary concerned shall be— 42 USC 8812.

(A) the Secretary of Agriculture, in the case of any biomass energy project which will have an anticipated annual production capacity of less than 15,000,000 gallons of ethanol (or the energy equivalent of other forms of biomass energy) and which will use feedstocks other than aquatic plants; and

(B) the Secretary of Energy, in the case of any biomass energy project which will use aquatic plants as feedstocks or which will have an anticipated annual production capacity of 15,000,000 gallons or more of ethanol (or the energy equivalent of other forms of biomass energy).

(2)(A) Either the Secretary of Agriculture or the Secretary of Energy may be the Secretary concerned in the case of any biomass energy project which will have an anticipated annual production capacity of 15,000,000 gallons or more of ethanol (or the energy equivalent of other forms of biomass energy) and—

(i) which will use wood or wood wastes or residue, or

(ii) which is owned and operated by a cooperative and will use feedstocks other than aquatic plants.

(B) Financial assistance may not be provided by either Secretary under subparagraph (A) without the written concurrence of the other Secretary. Such concurrence shall be granted or denied by such Secretary in accordance with subparagraph (C) and on the same standards as that Secretary applies in making his own awards of financial assistance under this paragraph.

(C)(i) In the case of a project described in subparagraph (A), the Secretary concerned shall provide the other Secretary a copy of the application and such supporting information as may be material, and shall provide the other Secretary at least 15 days to review the project. If during such 15-day period the reviewing Secretary provides written notification to the Secretary concerned specifying reasons Review of project.

why such project should not proceed, the Secretary concerned shall defer the final decision on the application for an additional 30 days. During such 30-day period, both Secretaries shall attempt to reach agreement regarding all issues raised in the written notice. Before the end of the 30-day period, the reviewing Secretary shall notify the Secretary concerned of his decision regarding concurrence. If the reviewing Secretary fails to provide such notice before the end of such period, concurrence shall be deemed to have been given.

Reapplication for financial assistance.

(ii) The project applicant may reapply for financial assistance for such project, after making such modifications to the project as may be necessary to address issues raised by the reviewing Secretary in the original notice of objection. The subsequent review of such project by the reviewing Secretary shall be limited to the issues originally raised by the reviewing Secretary and any issues raised by changed circumstances.

(D) Both Secretaries may jointly act as the Secretary concerned in accordance with such procedures as the Secretaries may jointly prescribe, in which case—

(i) subparagraphs (B) and (C) and subsection (c) shall not apply, and

(ii) the proportion of financial assistance provided by each Secretary shall be determined in accordance with the procedures jointly prescribed.

(b)(1) Each Secretary shall take such action as may be necessary to assure that—

(A) guidelines for soliciting and receiving applications for financial assistance are established within 90 days after the date of the enactment of this Act;

(B) applications for financial assistance for biomass energy projects are initially solicited within 30 days after such guidelines are established;

(C) additional applications for financial assistance are solicited within 1 year after the date of the initial solicitation;

(D) any application is evaluated and a decision made on such application within 120 days after the receipt of the application, including review under subsections (a)(2)(C), (a)(2)(D), or (c); and

(E) all interested persons are provided the easiest possible access to the application process, including procedures which assure that—

(i) information concerning financial assistance from either Secretary is available through all appropriate offices of the Department of Agriculture and the Department of Energy, and other regional and local offices of the Federal Government, as may be appropriate;

(ii) all such locations where such information is available will be able to accept and file applications, and will forward them to the Secretary concerned; and

(iii) the procedures established for accepting, evaluating, and awarding financial assistance will provide for categories of biomass energy projects, according to size and provide to the maximum extent practicable the simplest procedures for small producers.

(2) The procedural requirements of subparagraphs (A) through (D) of paragraph (1) shall not apply to either Secretary to the extent that the Secretary finds that other procedures are adopted for the solicitation, evaluation, and awarding of financial assistance which will result in applications being processed more expeditiously.

(c)(1) After evaluating any application and before awarding any financial assistance on the basis of that application, the Secretary concerned shall provide the other Secretary with—

(A) a copy of the application and such supporting material as may be appropriate, and

(B) an opportunity of not less than 15 days to review the application.

This subsection shall not apply in the case of a project subject to review under subsection (a)(2)(C).

(2) If the reviewing Secretary provides written notice specifying any issues regarding matters subject to the Secretary's review to the Secretary concerned before the end of the 15-day review period, the Secretary concerned shall defer a final decision on the application for an additional 30 days to provide an opportunity for both Secretaries to answer and resolve such issues. At the expiration of the 30-day period, the Secretary concerned may make a final decision with respect to the application, using the best judgment of the Secretary concerned to resolve any remaining issues.

(3) Reviews of projects under the provisions of subsection (a)(2)(C) or paragraph (1)(B) by the Secretary of Agriculture shall be for the purpose of considering the national, regional, and local agricultural policy impacts of such project on agricultural supply, production, and use, and reviews by the Secretary of Energy under such provisions shall be for the purpose of considering national energy policy impacts and the technical feasibility of the project.

(4) The Secretary of Agriculture and the Secretary of Energy may jointly establish categories of projects to which paragraphs (1) and (2) shall not apply. Within 90 days after the date of the enactment of this Act, the Secretaries shall identify potential categories and make an initial determination of exempted categories.

(d) If any application for financial assistance under this subtitle is disapproved, the applicant shall be provided written notice of the reasons for the disapproval.

Notice of disapproval.

(e)(1) The functions assigned under this subtitle to the Secretary of Agriculture may be carried out by any of the administrative entities in the Department of Agriculture which the Secretary of Agriculture may designate. Within 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall make such designations and notify the Congress of the administrative entity or entities so designated and the officials in such administrative entity or entities who are to be responsible for such functions.

Administrative entities.

Notification to Congress.

(2) The Secretary of Agriculture may issue such regulations as are necessary to carry out functions assigned to the Secretary of Agriculture under this subtitle.

Regulations.

(3) The entities or entity designated under paragraph (1) shall coordinate the administration of functions assigned to it under this subsection with any other biomass energy programs within the Department of Agriculture established under other provisions of law.

(f) The functions under this subtitle which are assigned to the Secretary of Energy and which relate to alcohol production shall be carried out by the Office of Alcohol Fuels.

(g) For purposes of this subtitle, the quantity of any biomass energy which is the energy equivalent to 15,000,000 gallons of ethanol shall be prescribed jointly by the Secretary of Agriculture and the Secretary of Energy within 30 days after the date of the enactment of this Act.

INSURED LOANS

42 USC 8813.

SEC. 213. (a) Subject to sections 212 and 217, the Secretary of Agriculture may commit to make, and make, insured loans in amounts not to exceed $1,000,000 per project for the construction of small-scale biomass energy projects.

(b)(1) Any insured loan under this section—

(A) may not exceed 90 per centum of the total estimated cost of construction of the biomass energy project involved, and

(B) shall bear interest at rates determined by the Secretary of Agriculture, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed one per centum, as determined by the Secretary of Agriculture, and adjusted to the nearest one-eighth of one per centum.

(2) In the event the total estimated costs of construction of the project thereafter exceed the total estimated costs initially determined by the Secretary of Agriculture, the Secretary may in addition, upon application therefor, make an insured loan for so much of the additional estimated total costs as does not exceed 10 per centum of the total costs initially estimated.

(c)(1) The Secretary of Agriculture shall make insured loans under this section using, to the extent provided in advance in appropriations Acts, the Agricultural Credit Insurance Fund in section 309 of the Consolidated Farm and Rural Development Act or the Rural Development Insurance Fund in section 309A of such Act (hereinafter in this section referred to as the "Funds"). The Secretary of Agriculture may not use an aggregate amount of funds to make or commit to make insured loans under this section in excess of the aggregate amount for insured loans and administrative costs appropriated and transferred under section 204. The terms, conditions, and requirements applicable to such insured loans shall be in accordance with this subtitle.

7 USC 1929.
7 USC 1929a.

Terms and conditions.

(2) There shall be reimbursed to the Funds, from appropriations made under section 204, amounts equal to the operating and administrative costs incurred by the Secretary of Agriculture in insuring loans under this section.

(3) Notwithstanding any provision of the Consolidated Farm and Rural Development Act, no funds made available to the Secretary of Agriculture under this section for insured loans shall be used for any other purpose.

7 USC 1921 note.

"Insured loan."

(4) For purposes of this section, the term "insured loan" means a loan which is made, sold, and insured.

(d) An insured loan may not be made under this section unless the applicant for such loan has established to the satisfaction of the Secretary that the applicant is unable without such a loan to obtain sufficient credit elsewhere at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms for loans for similar purposes and periods of time, to finance the construction of the biomass energy project for which such loan is sought.

LOAN GUARANTEES

42 USC 8814.

SEC. 214. (a) Subject to sections 212 and 217, the Secretary concerned may commit to guarantee, and guarantee, against loss of

principal and interest, loans which are made to provide funds for the construction of biomass energy projects.

(b)(1) Any guarantee of a loan under this section may not exceed 90 per centum of the cost of the construction of the biomass energy project involved, as estimated by the Secretary on the date of the guarantee or commitment to guarantee.

(2) In the event the construction costs of the project are thereafter estimated by the Secretary concerned to exceed the construction costs initially estimated by the Secretary, the Secretary may in addition, upon application therefor, guarantee, against loss of principal and interest, a loan for up to 60 per centum of the difference between the construction costs then estimated and the construction costs initially estimated.

(c) Notwithstanding the provisions of the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.) or any other provision of law (except as may be specifically provided by reference to this subsection in any Act enacted after the date of the enactment of this Act), no debt obligation which is guaranteed or committed to be guaranteed by the Secretary of Agriculture or the Secretary of Energy under this section shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency.

(d) The terms and conditions of loan guarantees under this section shall provide that, if the Secretary concerned makes a payment of principal or interest upon the default by a borrower, the Secretary shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the loan guarantee or related agreements). Terms and conditions.

(e) Any loan guarantee under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof and shall be conclusive evidence that such guarantee complies fully with the provisions of this title and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

(f) If the Secretary concerned determines that— Payment to lender, conditions.

(1) the borrower is unable to meet payments and is not in default,

(2) it is in the public interest to permit the borrower to continue with such project, and

(3) the probable net benefit to the United States in paying the principal and interest due under the loan will be greater than that which would result in the event of a default,

then the Secretary may pay to the lender under a loan guarantee agreement an amount not greater than the principal and interest which the borrower is obligated to pay to such lender, if the borrower agrees to reimburse the Secretary for such payment on terms and conditions, including interest, which the Secretary determines are sufficient to protect the financial interests of the United States.

(g)(1) A loan may not be guaranteed under this section unless the applicant for such loan has established to the satisfaction of the Secretary concerned that the lender is not willing without such a guarantee to extend credit to the applicant at reasonable rates and terms, taking into consideration prevailing rates and terms for loans for similar purposes and periods of time, to finance the construction of the biomass energy project for which such loan is sought.

(2) The Secretary concerned shall ensure that the lender bears a reasonable degree of risk in the financing of such project.

PRICE GUARANTEES

42 USC 8815.

SEC. 215. (a) Subject to sections 212 and 217, the Secretary concerned may commit to guarantee, and guarantee, that the price that the owner or operator of any biomass energy project will receive for all or part of the production from that project shall not be less than a specified sales price determined as of the date of execution of the price guarantee or commitment to guarantee.

(b)(1) No price guarantee under this section may be based upon a cost-plus arrangement, or variant thereof, which guarantees a profit to the owner or operator involved.

(2) The use of a cost-of-service pricing mechanism by a person pursuant to law, or by a regulatory body establishing rates for a regulated person, shall not be deemed to be a cost-plus arrangement, or variant thereof, for purposes of paragraph (1).

(c) Each price guarantee, or commitment to guarantee, which is made under this section shall specify the maximum dollar amount of liability of the United States under that guarantee.

(d) If the Secretary determines, in the discretion of the Secretary, that—

(1) a biomass energy project would not otherwise be satisfactorily completed or continued, and

(2) completion or continuation of such project would be necessary to achieve the purposes of this title,

the sales price set forth in the price guarantee, and maximum liability under such guarantee, may be renegotiated.

PURCHASE AGREEMENTS

Conditions.
42 USC 8816.

SEC. 216. (a) Subject to sections 212 and 217, the Secretary concerned may commit to make, and make, purchase agreements for all or part of the biomass energy production of any biomass energy project, if the Secretary determines—

(1) that such biomass energy is of a type, quantity, and quality that can be used by Federal agencies; and

(2) that the quantity of such biomass energy, if delivery is accepted, would not exceed the likely needs of Federal agencies.

Each Secretary concerned shall consult with the other Secretary before making any determination under paragraph (2).

(b) The sales price specified in a purchase agreement under this section may not exceed the estimated prevailing market price as of the date of delivery, as determined by the Secretary of Energy, unless the Secretary concerned determines that such sales price must exceed the estimated prevailing market price in order to ensure the production of biomass energy to achieve the purposes of this title.

Requirements.

(c) The Secretary concerned in entering into, or committing to enter into, a purchase agreement under this section shall require—

(1) assurances that the quality of the biomass energy purchased will meet standards for the use for which such energy is purchased;

(2) assurances that the ordered quantities of such energy will be delivered on a timely basis; and

(3) such other assurances as may reasonably be required.

(d) The Secretary concerned may take delivery of biomass energy pursuant to a purchase agreement under this section if appropriate arrangements have been made for its distribution to and use by one or more Federal agencies. Any Federal agency receiving such energy

shall be charged (in accordance with otherwise applicable law), from sums appropriated to such Federal agency, for the prevailing market price as of the date of delivery, as determined by the Secretary of Energy, for the product which the biomass energy is replacing.

(e) The Secretary concerned shall consult with the Secretary of Defense and the Administrator of the General Services Administration in carrying out this section. Consultation.

(f) Each purchase agreement, and commitment to enter into a purchase agreement, under this section shall provide that the Secretary concerned retains the right to refuse delivery of the biomass energy involved upon such terms and conditions as shall be specified in the purchase agreement. Terms and conditions.

(g) Each purchase agreement, or commitment to enter into a purchase agreement, which is made under this section shall specify the maximum dollar amount of liability of the United States under that agreement.

(h) If the Secretary concerned determines, in the discretion of the Secretary, that—

(1) a biomass energy project would not otherwise be satisfactorily completed or continued, and

(2) completion or continuation of such project would be necessary to achieve the purposes of this title,

the sales price set forth in the purchase agreement, and maximum liability under such agreement, may be renegotiated.

GENERAL REQUIREMENTS REGARDING FINANCIAL ASSISTANCE

SEC. 217. (a)(1) Priority for financial assistance under this subtitle, and the most favorable financial terms available, shall be provided to a person for any biomass energy project that— 42 USC 8817.

(A) uses a primary fuel other than petroleum or natural gas in the production of biomass fuel, such as geothermal energy resources, solar energy resources, or waste heat; or

(B) applies new technologies which expand the possible feedstocks, produces new forms of biomass energy, or produces biomass fuel using improved or new technologies.

Nothing in this paragraph shall be construed to exclude financial assistance for any project which does not use such a fuel or apply such a technology.

(2)(A) Financial assistance under this subtitle shall be available for a biomass energy project only if the Secretary concerned finds that the Btu content of the motor fuels to be used in the facility involved to produce the biomass fuel will not exceed the Btu content of the biomass fuel produced in the facility.

(B) In making the determination under subparagraph (A), the Secretary concerned shall take into account any displacement of motor fuel or other petroleum products which the applicant has demonstrated to the satisfaction of the Secretary would result from the use of the biomass fuel produced in the facility involved.

(3) No financial assistance may be provided under this subtitle to any person for any biomass energy project if the Secretary concerned finds that the process to be used by the project will not extract the protein content of the feedstock for utilization as food or feed for readily available markets in any case in which to do so would be technically and economically practicable.

(4) Financial assistance may not be provided under this subtitle to any person unless the Secretary concerned—

(A) finds that necessary feedstocks are available and it is reasonable to expect they will continue to be available in the future, and, for biomass energy projects using wood or wood wastes or residues from the National Forest System, there shall be taken into account current levels of use by then existing facilities;

(B) has obtained assurance that the person receiving such financial assistance will bear a reasonable degree of risk in the construction and operation of the project; and

(C) has determined that the amount of financial assistance provided for the project is not greater than is necessary to achieve the purposes of this title.

(5) In providing financial assistance under this subtitle, the Secretary concerned shall give due consideration to promoting competition.

Byproducts.

(6) In determining the amount of financial assistance for any biomass energy project which will yield byproducts in addition to biomass energy, the Secretary shall consider the potential value of such byproducts and the costs attributable to their production.

Loan repayments.

(b) An insured loan may not be made, and a loan guarantee may not be issued, under this subtitle unless the Secretary concerned determines that the terms, conditions, maturity, security, and schedule and amounts of repayments with respect to such loan are reasonable and meet such standards as the Secretary determines are sufficient to protect the financial interests of the United States.

Application for financial assistance.

(c)(1) No financial assistance may be provided to any person under this subtitle unless an application therefor—

(A) has been submitted to the Secretary concerned by that person in such form and under such procedures as the Secretary shall prescribe, consistent with the requirements of this subtitle, and

(B) has been approved by the Secretary in accordance with such procedures.

(2) Each such application shall include information regarding the construction costs of the biomass energy project involved, and estimates of operating costs and income relating to that project (including the sale of any byproducts from that project). In addition, each applicant shall provide—

(A) access at reasonable times to such other information, and

(B) such assurances,

as the Secretary concerned may require.

(d)(1) Every recipient of financial assistance under this subtitle shall, as a condition precedent thereto, consent to such examinations and reports regarding the biomass energy project involved as the Secretary concerned may require.

Reports; recordkeeping requirements.

(2) With respect to each biomass energy project for which financial assistance is provided under this subtitle, the Secretary shall—

(A) require from the recipient of financial assistance such reports and records relating to that project as the Secretary deems necessary;

(B) prescribe the manner in which such recipient shall keep such records; and

(C) have access to such records at reasonable times for the purpose of ensuring compliance with the terms and conditions upon which financial assistance is provided.

(e) All contracts and instruments of the Secretary concerned to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

(f) Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(g)(1) A fee or fees may be charged and collected by the Secretary concerned for any loan guarantee, price guarantee, or purchase agreement provided under this subtitle. Fees.

(2) The amount of such fee shall be based on the estimated administrative costs and risk of loss, except that such fee may not exceed 1 per centum of the amount of the financial assistance provided.

(h) All amounts received by the Secretary of Agriculture or the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by either Secretary from activities under this subtitle shall be deposited in the Treasury of the United States as miscellaneous receipts. The preceding sentence shall not apply to insured loans made under section 213.

REPORTS

SEC. 218. (a) The Secretary of Agriculture and the Secretary of Energy shall each prepare and submit to the President and the Congress quarterly reports on their activities under this subtitle. Submittal to Congress. 42 USC 8818.

(b) Within 120 days after the date of enactment of this Act, the Secretary of Energy and the Secretary of Agriculture shall submit to the Congress a comprehensive list of all the types of loans, grants, incentives, rebates, or any other such private, State, or Federal economic or financial benefits now in effect or proposed which can be or have been used for production of alcohol to be used as a motor fuel or petroleum substitute. List of loans or grants for alcohol production.

(c)(1)(A) The Office of Alcohol Fuels shall submit to the Congress and the President annual reports containing a general description of the Office's operations during the year and a description and evaluation of each biomass energy project for which financial assistance by the Office is then in effect.

(B) Each annual report shall describe progress made toward meeting the goals of this subtitle and contain specific recommendations on what actions the Congress could take in order to facilitate the work of the Office in achieving such goals.

(C) Each annual report under this subsection shall contain financial statements prepared by the Office.

(2) On or before September 30, 1990, the Office shall submit to the Congress and the President a report evaluating the overall impact made by the Office and describing the status of each biomass energy project which has received financial assistance under this subtitle from the Office. Such report shall contain a plan for the termination of the work of the Office. Termination plan.

REVIEW; REORGANIZATION

SEC. 219. (a) The President shall review periodically the progress of the Secretary of Agriculture and the Secretary of Energy in carrying out the purposes of this subtitle. 42 USC 8819.

(b) If the President determines it necessary in order to achieve such purposes the President may, in accordance with the provisions of

5 USC 901 *et seq.* chapter 9 of title 5, United States Code, provide for a reorganization, including any required realignment of the respective programs of the Secretaries under this subtitle.

ESTABLISHMENT OF OFFICE OF ALCOHOL FUELS IN DEPARTMENT OF ENERGY

42 USC 8820. SEC. 220. (a) There is hereby established within the Department of Energy an Office of Alcohol Fuels (hereinafter in this section referred to as the "Office") to be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

44 FR 58678.

Functions. (b)(1) The Director shall be responsible for carrying out the functions of the Secretary of Energy under this subtitle which relate to alcohol, including the terms and conditions of financial assistance and the selection of recipients for that assistance, subject to the general supervision of the Secretary of Energy.

(2) The Director shall be responsible directly to the Secretary of Energy.

(c) In each annual authorization and appropriation request, the Secretary shall identify the portion thereof intended for the support of the Office and include a statement by the Office (1) showing the amount requested by the Office in its budgetary presentation to the Secretary and the Office of Management and Budget and (2) an assessment of the budgetary needs of the Office. Whenever the Office submits to the Secretary, the President, or the Office of Management and Budget, any formal legislative recommendation or testimony, or comments on legislation, prepared for submission to Congress, the Office shall concurrently transmit a copy thereof to the appropriate committees of Congress.

Legislative recommendation or testimony, transmittal to congressional committees.

(d) The Secretary of Energy, after consultation with the Director, shall consult with the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Transportation, the Secretary of Commerce, the Administrator of the Community Services Administration, the Administrator of the Environmental Protection Agency, or their appointed representatives, in order to coordinate the programs under the Director's responsibility with other programs within the Department of Energy and in such Federal agencies, which are related to the production of alcohol.

TERMINATION

42 USC 8821. SEC. 221. No insured loan, loan guarantee, price guarantee, or purchase agreement may be committed to or made under this subtitle after September 30, 1984. This section shall not be construed to affect the authority of the Secretary concerned to spend funds after such date pursuant to any contract for financial assistance made on or before that date under this subtitle.

SUBTITLE B—MUNICIPAL WASTE BIOMASS ENERGY

MUNICIPAL WASTE ENERGY DEVELOPMENT PLAN

Plan preparation, consultation. 42 USC 8831. SEC. 231. (a) The Secretary of Energy shall prepare a comprehensive plan for carrying out this subtitle. In the preparation of such plan, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and

the head of such other Federal agencies as the Secretary deems appropriate.

(b) Not later than 90 days after the date of the enactment of this Act, the Secretary shall transmit the comprehensive plan to the President and the Congress. Transmittal to President and Congress.

(c) The comprehensive plan under this section shall include a statement setting forth— Statement.

(1) the anticipated research, development, demonstration, and commercialization objectives to be achieved;

(2) the management structure and approach to be adopted to carry out such plan;

(3) the program strategies, including detailed milestone goals to be achieved;

(4) the specific funding requirements for individual program elements and activities, including the total estimated construction costs of proposed projects; and

(5) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program.

(d) Not later than January 1, 1982, the Secretary shall prepare and submit to the President and the Congress a report containing a complete description of any financial, institutional, environmental, and social barriers to the development and application of technologies for the recovery of energy from municipal wastes. Report to President and Congress.

CONSTRUCTION LOANS

SEC. 232. (a) Subject to sections 235 and 236, the Secretary of Energy may commit to make, and make, loans for the construction of municipal waste energy projects. 42 USC 8832.

(b)(1) Any loan under this section—

(A) may not exceed 80 per centum of the total estimated cost of the construction of the municipal waste energy project involved, and

(B) shall bear interest at a rate determined by the Secretary of Energy (taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans) plus not to exceed one per centum, as determined by the Secretary of Energy, and adjusted to the nearest one-eighth of one per centum.

(2) In the event the total estimated costs of construction of the project thereafter exceed the total estimated costs initially determined by the Secretary of Energy, the Secretary may in addition, upon application therefor, make a loan for so much of the additional estimated costs as does not exceed 10 per centum of the initial total estimated costs of construction.

(c) A loan may not be made under this section unless the person applying for such loan has established to the satisfaction of the Secretary of Energy that the applicant is unable without such a loan to obtain sufficient credit elsewhere at reasonable rates and terms, taking into consideration prevailing market rates and terms for loans for similar periods of time, to finance the construction of the project for which such loan is sought.

GUARANTEED CONSTRUCTION LOANS

42 USC 8833.

SEC. 233. (a) Subject to sections 235 and 236, the Secretary of Energy may commit to guarantee, and guarantee, against loss on up to 90 per centum of the principal and interest, any loan which is made solely to provide funds for the construction of a municipal waste energy project and which does not exceed 90 per centum of the cost of the construction of the project involved, as estimated by the Secretary on the date of the guarantee or commitment to guarantee.

(b) In the event the total estimated costs of construction of the project thereafter exceed the total estimated costs initially determined by the Secretary of Energy, the Secretary may in addition, upon application therefor, guarantee, against loss on up to 90 per centum of the principal and interest, a loan for so much of the additional estimated total costs as does not exceed 10 per centum of the total estimated costs.

Terms and conditions.

(c) The terms and conditions of loan guarantees under this section shall provide that, if the Secretary of Energy makes a payment of principal or interest upon the default by a borrower, the Secretary shall be subrogated to the rights of the recipient of such payment (and such subrogation shall be expressly set forth in the loan guarantee or related agreements).

(d) Any loan guarantee under this section shall not be terminated, canceled, or otherwise revoked, except in accordance with the terms thereof and shall be conclusive evidence that such guarantee complies fully with the provisions of this title and of the approval and legality of the principal amount, interest rate, and all other terms of the securities, obligations, or loans and of the guarantee.

Payment to lender, conditions.

(e) If the Secretary of Energy determines that—

(1) the borrower is unable to meet payments and is not in default,

(2) it is in the public interest to permit the borrower to continue to pursue the purposes of such project, and

(3) the probable net benefit to the United States in paying the principal and interest due under a loan guarantee agreement will be greater than that which would result in the event of a default,

then the Secretary may pay to the lender under a loan guarantee agreement an amount not greater than the principal and interest which the borrower is obligated to pay to such lender, if the borrower agrees to reimburse the Secretary for such payment on terms and conditions, including interest, which the Secretary determines are sufficient to protect the financial interests of the United States.

(f) A loan may not be guaranteed under this section unless the applicant for such loan has established to the satisfaction of the Secretary of Energy that the lender is not willing without such a guarantee to extend credit to the applicant at reasonable rates and terms, taking into consideration prevailing market rates and terms for loans for similar periods of time, to finance the construction of the project for which such loan is sought.

(g)(1) With respect to any loan or debt obligation which is—

(A) issued after the date of the enactment of this Act by, or on behalf of, any State or any political subdivision or governmental entity thereof,

(B) guaranteed by the Secretary of Energy under this section, and

(C) not supported by the full faith and credit of the issuer as a general obligation of the issuer,

the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successors in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954. 26 USC 1 *et seq.*

(2) With respect to the amount of obligations described in paragraph (1) that the issuer would have been able to issue as tax exempt obligations (other than obligations secured by the full faith and credit of the issuer as a general obligation of the issuer), the Secretary of Energy is authorized to pay only to the issuer any portion of the interest on such obligations, as determined by the Secretary of the Treasury after taking into account the interest rate which would have been paid on the obligations had they been issued as tax exempt obligations without being so guaranteed by the Secretary of Energy and the interest rate actually paid on the obligations when issued as taxable obligations. Such payments shall be made in amounts determined by the Secretary of Energy, and in accordance with such terms and conditions as the Secretary of the Treasury shall require.

(h)(1) A fee or fees may be charged and collected by the Secretary of Energy for any loan guarantee under this section. Fee charge.

(2) The amount of such fee shall be based on the estimated administrative costs and risk of loss, except that such fee may not exceed 1 per centum of the maximum of the guarantee.

PRICE SUPPORT LOANS AND PRICE GUARANTEES

SEC. 234. (a)(1) In the case of any existing municipal waste energy project which produces and sells biomass energy, the Secretary of Energy may commit to make, and make, a price support loan in amounts determined under paragraph (3) for the operation of such project. Payments under any such loan shall be disbursed on an annual basis, as determined (in accordance with paragraph (3)) on the basis of the amount of biomass energy produced and sold by that project during the 12-month period involved and the type and cost of fuel displaced by the biomass energy sold. 42 USC 8834.

(2)(A) In the case of any support loan under this section for an existing municipal waste energy project—

(i) disbursements under such loan may not be made for more than 5 consecutive 12-month periods;

(ii) the amount of the disbursement for the second and any subsequent 12-month period for which disbursements are to be made under the support loan shall be reduced by an amount determined by multiplying the amount calculated under paragraph (3) by a factor determined by dividing the number of 12-month periods for which disbursements are made under the support loan into the number of such periods which have elapsed;

(iii) commencing at the end of the last of such 12-month periods, the support loan shall be repayable over a period equal to the then remaining useful life of the project (as determined by the Secretary) or 10 years, whichever is shorter; and

(iv) commencing at the end of such last 12-month period, such loan shall bear interest at a rate determined by the Secretary of Energy (taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans) plus not to exceed one per centum, as

determined by the Secretary of Energy, and adjusted to the nearest one-eighth of one per centum.

(3) The amount of the loan payment to be disbursed under this subsection for any year with respect to each type of biomass energy produced and sold by an existing municipal waste energy project shall be equal to—

(A)(i) the standard support price reduced by the cost of the fuel displaced by the biomass energy sold, or (ii) $2.00, whichever is lower, multiplied by

(B) the amount of such biomass energy sold (in millions of Btu's).

(b)(1) In the case of any new municipal waste energy project which produces and sells biomass energy, the Secretary of Energy may commit to make, and make, a price support loan in amounts determined in accordance with the provisions of subsection (a), except as provided in paragraph (2).

(2) In the case of any loan under this subsection for a new municipal waste energy project—

(A) disbursements under such loan may not be made for more than 7 consecutive 12-month periods (with reductions as provided in subsection (a)(2)(A)(ii));

(B) such loan shall bear interest at a rate not in excess of the rate prescribed under subsection (a); and

(C) the principal of or interest on such loan shall, in accordance with the support loan agreement, be repayable, commencing at the end of the last 12-month period covered by the support loan, over a period not in excess of the period equal to the then remaining useful life of the project (as determined by the Secretary) or 15 years, whichever is shorter.

(c)(1) In the case of any new municipal waste energy project which produces and sells biomass energy, the Secretary of Energy may commit to make, and make, a price guarantee for the operation of such project which guarantees that the price the owner or operator will receive for all or part of the production from that project shall not be less than a specified sales price determined as of the date of execution of the guarantee agreement.

(2)(A) No price guarantee under this section may be based upon a cost-plus arrangement, or variant thereof, which guarantees a profit to the owner or operator involved.

(B) The use of a cost-of-service pricing mechanism by a person pursuant to law, or by a regulatory body establishing rates for a regulated person, shall not be deemed to be a cost-plus arrangement, or variant thereof, for purposes of subparagraph (A).

(3) In the case of any price guarantee under this subsection for a new municipal waste energy project—

(A) disbursements under such guarantee may not be made for more than 7 consecutive 12-month periods; and

(B) amounts paid under this subsection may be required to be repaid to the Secretary of Energy under such terms and conditions as the Secretary may prescribe, including interest at a rate not in excess of the rate prescribed under subsection (a).

Definitions.

(d) For purposes of this section—

(1) The term "new municipal waste energy project" means any municipal waste energy project which—

(A) is initially placed in service after the date of the enactment of this Act; or

(B) if initially placed in service before such date, has an increased capacity by reason of additional construction, and as such is placed in service after such date.

(2) The term "existing municipal waste energy project" means any municipal waste energy project which is not a new municipal waste project.

(3) The term "placed in service" means operated at more than 50 percent of the estimated operational capacity.

(4)(A) Except as provided in subparagraphs (B) and (C), the term "standard support price" means the average price (per million Btu's) for No. 6 fuel oil imported into the United States on the date of the enactment of this Act, as determined, by rule, by the Secretary of Energy not later than 90 days after the date of the enactment of this Act.

(B) In any case in which the fuel displaced is No. 6 fuel oil or any higher grade of petroleum (as determined by the Secretary of Energy), the term "standard support price" means 125 per centum of the price determined by rule under subparagraph (A).

(C) In any case in which biomass energy produced and sold by a project is steam or electricity, the term "standard support price" means the price determined by rule under subparagraph (A), subject to such adjustments as the Secretary of Energy may authorize by rule.

(5) The term "cost of the fuel displaced" means the cost of the fuel (per million Btu's) which the purchaser of biomass energy would have purchased if the biomass energy had not been available for sale to that purchaser.

(6) Any biomass energy produced by a municipal waste energy project which may be retained for use by the owner or operator of such project shall be considered to be sold at such price as the Secretary of Energy determines.

(7) Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall prescribe, by rule, the manner of determining the fuel displaced by the sale of any biomass energy, and the price of the fuel displaced.

GENERAL REQUIREMENTS REGARDING FINANCIAL ASSISTANCE

SEC. 235. (a)(1) Priority for financial assistance under the provisions of sections 232, 233, and 234, and the most favorable financial terms available, shall be provided for any municipal waste energy project that will— 42 USC 8835.

(A) produce a liquid fuel from municipal waste; or

(B) will displace petroleum or natural gas as a fuel.

(2)(A) With respect to projects producing biomass energy other than biomass fuel, financial assistance under the provisions of sections 232, 233, and 234 shall be available only if the Secretary of Energy finds that the project does not use petroleum or natural gas except for flame stabilization or start-up. Biomass energy projects.

(B) With respect to projects producing biomass fuel, financial assistance under such provisions shall be available to such project only if the Secretary of Energy finds that the Btu content of the biomass fuel produced substantially exceeds the Btu content of any petroleum or natural gas used in the project to produce the biomass fuel. Btu content.

(3) Financial assistance may not be provided under section 232, 233, or 234 unless the Secretary of Energy finds that necessary municipal

waste feedstocks are available and it is reasonable to expect they will continue to be available for the expected economic life of the project.

(4) In providing financial assistance under section 232, 233, or 234, the Secretary of Energy shall give due consideration to promoting competition.

Byproducts, value and production costs.

(5) In determining the amount of financial assistance for any municipal waste energy project which will yield byproducts in addition to biomass energy, the Secretary shall consider the value of such byproducts and the costs attributable to their production.

(6) The Secretary of Energy shall not provide financial assistance under section 232, 233, or 234 for any municipal waste energy unless the Secretary determines—

(A) the project will be technically and economically viable;

(B) the financial assistance provided encourages and supplements, but does not compete with nor supplant, any private capital investment which otherwise would be available to the proposed municipal waste energy project on reasonable terms and conditions which would permit such project to be undertaken;

(C) assurances are provided that the project will not use, in any substantial quantities, waste paper which would otherwise be recycled for a use other than as a fuel and will not substantially compete with facilities in existence on the date of the financial assistance which are engaged in the separation or recovery of reuseable materials from municipal waste; and

(D) that the amount of financial assistance provided for the project is not greater than is necessary to achieve the purposes of this title.

(b) Financial assistance may not be provided under section 232, 233, or 234 unless the Secretary of Energy determines that—

(1) the terms, conditions, maturity, security and schedule and amounts of repayments with respect to such assistance are reasonable and meet such standards as the Secretary determines are sufficient to protect the financial interests of the United States; and

(2) the person receiving such financial assistance will bear a reasonable degree of risk with respect to the project.

Application.

(c)(1) No financial assistance may be provided to any person under section 232, 233, or 234 unless an application therefor—

(A) has been submitted to the Secretary of Energy by such person in such form and under such procedures as the Secretary shall prescribe, consistent with the requirements of this subtitle, and

(B) has been approved by the Secretary in accordance with such procedures.

(2) Each such application shall include information regarding the construction costs of the municipal waste energy project involved (if appropriate), and estimates of operating costs and income relating to that project (including the sale of any byproducts from that project). In addition, each applicant shall provide—

(A) access at reasonable times to such other information, and

(B) such assurances,

as the Secretary of Energy may require.

(d)(1) Every person receiving financial assistance under section 232, 233, or 234 shall, as a condition precedent thereto, consent to such examinations and reports thereon regarding the municipal waste energy project involved as the Secretary of Energy may require.

(2) With respect to each municipal waste energy project for which financial assistance is provided under section 232, 233, or 234, the Secretary shall—

(A) require from the recipient of financial assistance such reports and records relating to that project as the Secretary deems necessary;

(B) prescribe the manner in which such recipient shall keep such records; and

(C) have access to such records at reasonable times for the purpose of ensuring compliance with the terms and conditions upon which financial assistance is provided.

(e) All amounts received by the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by the Secretary from operations under section 232, 233, or 234 shall be deposited in the general fund of Treasury of the United States as miscellaneous receipts.

(f) All contracts and instruments of the Secretary of Energy to provide, or providing, for financial assistance shall be general obligations of the United States backed by its full faith and credit.

(g) Subject to the conditions of any contract for financial assistance, such contract shall be incontestable in the hands of the holder, except as to fraud or material misrepresentation on the part of the holder.

(h) Notwithstanding the provisions of the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.) or any other provision of law (except as may be specifically provided by reference to this subsection in any Act enacted after the date of the enactment of this Act), no debt obligation which is made or committed to be made, or which is guaranteed or committed to be guaranteed by the Secretary of Energy under section 232, 233, or 234 shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any Federal agency.

FINANCIAL ASSISTANCE PROGRAM ADMINISTRATION

SEC. 236. The Secretary of Energy shall establish procedures and take such other actions as may be necessary regarding the solicitation, review, and evaluation of applications, and awarding of financial assistance under section 232, 233, or 234 as may be necessary to carry out the plan established under section 231. 42 USC 8836.

COMMERCIALIZATION DEMONSTRATION PROGRAM PURSUANT TO FEDERAL NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT ACT OF 1974

SEC. 237. (a)(1) The Secretary of Energy shall establish and conduct, pursuant to the authorities contained in the Federal Nonnuclear Energy Research and Development Act of 1974, an accelerated research, development, and demonstration program for promoting the commercial viability of processes for the recovery of energy from municipal wastes. 42 USC 8837. 42 USC 5901 note.

(2) The provisions of subsections (d), (m), and (x)(2) of section 19 of such Act shall not apply with respect to the program established under this section. 42 USC 5919.

(3) As part of the program established under this section, the Secretary, after consulting with the Administrator of the Environmental Protection Agency and the Secretary of Commerce, shall undertake—

(A) the research, development, and demonstration of technologies to recover energy from municipal wastes;

(B) the development and application of new municipal waste-to-energy recovery technologies;

(C) the assessment, evaluation, demonstration, and improvement of the performance of existing municipal waste-to-energy recovery technologies with respect to capital costs, operating and maintenance costs, total project financing, recovery efficiency, and the quality of recovered energy and energy intensive materials;

(D) the evaluation of municipal waste energy projects for the purpose of developing a base of engineering data that can be used in the design of future municipal waste energy projects to recover energy from municipal wastes; and

(E) research studies on the size and other significant characteristics of potential markets for municipal waste-to-energy recovery technologies, and recovered energy, and energy intensive materials.

Financial assistance.

(b) Under such program, the Secretary of Energy may provide financial assistance consisting of price supports, loans, and loan guarantees, for the cost of planning, designing, constructing, operating, and maintaining demonstration facilities, and, in the case of existing facilities, modifications of such facilities solely for demonstration purposes, for the conversion of municipal wastes into energy or the recovery of materials.

Priority for funding.

(c) Priority for funding of activities under subsection (a) and financial assistance under subsection (b) shall be provided for any activity or project for the demonstration of technologies for the production of liquid fuels or biomass energy which substitute for petroleum or natural gas.

(d) The Secretary of Energy may not obligate or expend any funds authorized under this title in carrying out subsection (b) of this section until the plan required under section 231(a) has been prepared and submitted to the Congress.

(e) All amounts received by the Secretary of Energy as fees, interest, repayment of principal, and any other moneys received by the Secretary from operations under this section shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

JURISDICTION OF DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION AGENCY

42 USC 8838.
42 USC 5920.

SEC. 238. The provisions of section 20(c) of the Federal Nonnuclear Research and Development Act of 1974, relating to the responsibilities of the Environmental Protection Agency and the Department of Energy, shall apply with respect to actions under this subtitle to the same extent and in the same manner as such provisions apply to actions under section 20 of such Act.

ESTABLISHMENT OF OFFICE OF ENERGY FROM MUNICIPAL WASTE IN DEPARTMENT OF ENERGY

42 USC 8839.

SEC. 239. (a) There is hereby established within the Department of Energy an Office of Energy from Municipal Waste (hereinafter in this section referred to as the "Office") to be headed by a Director, who shall be appointed by the Secretary of Energy.

(b) It shall be the function of the Office to perform— Functions.

(1) the research, development, demonstration, and commercialization activities authorized under this subtitle (including those authorized under section 237), and

(2) such other duties relating to the production of energy from municipal waste as the Secretary of Energy may assign to the Office.

(c) In carrying out functions tranferred or assigned to the Office, the Secretary of Energy shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Commerce, and the heads of such other Federal agencies, as appropriate. Consultation with Federal agencies.

(d) The Secretary shall provide for the transfer to the Office of the functions relating to, and personnel of the Department who are responsible for the administration of, programs in existence on the date of the enactment of this Act which relate to the research, development, demonstration, and commercialization of technologies for the recovery of energy from municipal waste.

TERMINATION

SEC. 240. No financial assistance may be committed to or made under this subtitle after September 30, 1984. This section shall not be construed to affect the authority of the Secretary of Energy to spend funds after such date pursuant to any award of financial assistance made on or before that date. 42 USC 8840.

SUBTITLE C—RURAL, AGRICULTURAL, AND FORESTRY BIOMASS ENERGY

MODEL DEMONSTRATION BIOMASS ENERGY FACILITIES

SEC. 251. (a) The Secretary of Agriculture shall establish not more than ten model demonstration biomass energy facilities for purposes of exhibiting the most advanced technology available for producing biomass energy. Such facilities and information regarding the operation of such facilities shall be available for public inspection, and, to the extent practicable, such facilities shall be established in various regions in the United States. Such facilities may be established in cooperation with appropriate departments or agencies of the States, or appropriate departments, agencies, or other instrumentalities of the United States. 42 USC 8851. Public inspection, availability. Cooperation with State and Federal agencies.

(b) For purposes of carrying out subsection (a), there is authorized to be appropriated $5,000,000 for each of the fiscal years 1981, 1982, 1983, and 1984. Appropriation authorization.

BIOMASS ENERGY RESEARCH AND DEMONSTRATION PROJECTS

SEC. 252. Section 1419 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154) is amended—

(1) by striking out "colleges and universities" the first place it appears and inserting in lieu thereof "colleges, universities, and Government corporations";

(2) by striking out "(2) alcohol made from agricultural commodities and forest products as a substitute for alcohol made from petroleum products," and inserting in lieu thereof the following

new paragraph: "(2) alcohol and other forms of biomass energy as substitutes for petroleum or natural gas,";

(3) by inserting after the first sentence thereof the following: "The authority to conduct research under paragraph (2) does not include authority to conduct research with respect to technology demonstrations of integrated systems for commercialization of technologies for applications other than agricultural or uniquely rural applications. The Secretary may make grants under this subsection to such colleges, universities, and Government corporations for the purpose of conducting research relating to the development of the most economical and commercially feasible means of collecting and transporting wastes, residues, and by-products for use as feedstocks for the production of alcohol and other forms of biomass energy. At least 25 per centum of the amount appropriated in any fiscal year for research under paragraph (2) shall be made available for grants under this subsection for research, relating to the production of alcohol, to identify and develop agricultural commodities, including alfalfa, sweet sorghum, black locust, and cheese whey, which may be suitable for such production. At least 25 per centum of the amount appropriated in any fiscal year for research under paragraph (2) shall be made available for grants under this subsection for research relating to the development of technologies for increasing the energy efficiency and commercial feasibility of alcohol production, including processes of cellulose conversion and cell membrane technology.";

Grants for research.

(4) by striking out "section" each place it appears and inserting in lieu thereof "subsection";

(5) by inserting "(a)" after "SEC. 1419.";

(6) by adding at the end of subsection (a), as so designated, the following new sentence: "In addition to the authorization of appropriations provided in the preceding sentence, there is authorized to be appropriated for grants to conduct research described in paragraph (2) and in the third sentence of this subsection $12,000,000 for each of the fiscal years ending September 30, 1981; September 30, 1982; September 30, 1983; and September 30, 1984."; and

Appropriation authorization.

(7) by adding at the end thereof the following new subsection:

"(b) For purposes of subsection (a)—

Definitions.

"(1) the term 'biomass' means any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, and animal wastes, except that such term does not include aquatic plants and municipal wastes;

"(2) the term 'biomass energy' means any gaseous, liquid, or solid fuel produced by conversion of biomass, and energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat; and

"(3) the term 'municipal wastes' means any organic matter, including sewage, sewage sludge, and industrial or commercial waste, and mixtures of such matter and inorganic refuse—

"(i) from any publicly or privately operated municipal waste collection or similar disposal system; or

"(ii) from similar waste flows (other than such flows which constitute agricultural wastes or residues, or wood wastes or

residues from wood harvesting activities or production of forest products).".

APPLIED RESEARCH REGARDING ENERGY CONSERVATION AND BIOMASS ENERGY PRODUCTION AND USE

SEC. 253. The third sentence of section 1 of the Act of June 29, 1935 (49 Stat. 436; 7 U.S.C. 427), commonly known as the Bankhead-Jones Act, is amended by inserting "applied research to develop agricultural, forestry, and rural energy conservation and biomass energy production and use;" after "irrigation);".

FORESTRY ENERGY RESEARCH

SEC. 254. Section 3(a) of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642(a)) is amended—

(1) in paragraph (1) by inserting "energy production, activities related to energy conservation," after "wilderness,"; and

(2) in paragraph (4) by inserting "producing and conserving energy;" after "wood fiber;".

BIOMASS ENERGY EDUCATIONAL AND TECHNICAL ASSISTANCE

SEC. 255. (a) Subtitle B of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121-3128) is amended by adding at the end thereof the following new section:

"BIOMASS ENERGY EDUCATIONAL AND TECHNICAL ASSISTANCE PROGRAMS

"SEC. 1413A. (a) The Secretary, in cooperation with State directors of cooperative extension, administrators of extension for land-grant colleges and universities, State foresters or equivalent State officials, and the heads of other Federal departments and agencies, shall provide educational programs for producers of agricultural commodities, wood, and wood products to— 7 USC 3129.

"(1) inform such producers of the feasibility of using biomass for energy;

"(2) disseminate to such producers information regarding the results of research regarding the use of biomass for energy;

"(3) inform such producers of the best available technology for the use of biomass for energy;

"(4) provide technical assistance to such producers to improve their ability to efficiently use biomass for energy; and

"(5) disseminate to such producers the results of research on energy conservation techniques and encourage such producers to adopt such techniques.

"(b) All appropriate educational methods, including meetings, short courses, workshops, tours, demonstrations, publications, news releases, and radio and television programs, may be used to carry out subsection (a).

"(c) The State director of cooperative extension in each State shall develop a single, comprehensive, and coordinated plan which includes every biomass energy educational and technical assistance program in effect or proposed in such State, except that in those States which contain more than one land-grant college or university, such plan shall be jointly developed by the administrative heads of State plan.

extension of such institutions. Such plan shall be developed with the full participation of the State forester or the equivalent State official of such State. Each State's plan shall be submitted to the Secretary annually for approval. The Advisory Board shall review and make recommendations to the Secretary pertaining to programs conducted under this section. Each State shall submit an annual progress report on the operation of its plan to the Secretary before January 1 following the fiscal year for which such report is made.

Review.

Annual report.

"(d) Funds made available under this section shall be provided to the State director of cooperative extension and the administrators of extension for land-grant colleges and universities in each State in a manner consistent with the effective implementation of this section.

Definitions.

"(e) For purposes of this section—

"(1) the term 'biomass' means any organic matter which is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, and animal wastes, except that such term does not include aquatic plants and municipal wastes;

"(2) the term 'biomass energy' means any gaseous, liquid, or solid fuel produced by conversion of biomass, and energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat; and

"(3) the term 'municipal wastes' means any organic matter, including sewage, sewage sludge, and industrial or commercial waste, and mixtures of such matter and inorganic refuse—

"(i) from any publicly or privately operated municipal waste collection or similar disposal system; or

"(ii) from similar waste flows (other than such flows which constitute agricultural wastes or residues, or wood wastes or residues from wood harvesting activities or production of forest products).

Appropriation authorization.

"(f) There is authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 1981, 1982, 1983, and 1984.".

(b) The table of contents of the Food and Agriculture Act of 1977 (91 Stat. 913) is amended by inserting after the item relating to section 1413 the following new item:

"Sec. 1413A. Biomass energy educational and technical assistance programs.".

RURAL ENERGY EXTENSION WORK

SEC. 256. The Act of May 14, 1914 (38 Stat. 372; 7 U.S.C. 341-349), commonly known as the Smith-Lever Act, is amended—

7 USC 341.

(1) in section 1 by striking out "and home economics," and inserting in lieu thereof ", home economics, and rural energy,"; and

7 USC 342.

(2) in section 2 by striking out "and home economics" and inserting in lieu thereof ", home economics, and rural energy".

COORDINATION OF RESEARCH AND EXTENSION ACTIVITIES

42 USC 8852.

SEC. 257. (a) The Secretary of Agriculture shall coordinate the applied research and extension programs conducted under this subtitle and under the amendments made by this subtitle to section 1419 and subtitle B of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, section 1 of the Bankhead-Jones Act, section 3 of the Forest and Rangeland Renewable Resources Research

7 USC 3154, 3121-3128, 427.

Act of 1978, and sections 1 and 2 of the Smith-Lever Act with the programs of the Department of Energy. 16 USC 1642. 7 USC 341, 342.

(b) In carrying out this subtitle and the amendments made by this subtitle, the Secretary of Agriculture shall consult on a continuing basis with—

(1) the Subcommittee on Food and Renewable Resources of the Federal Coordinating Council for Science, Engineering, and Technology;

(2) the Joint Council on Food and Agricultural Sciences; and

(3) the National Agricultural Research and Extension Users Advisory Board;

for the purpose of coordinating research and extension activities.

LENDING FOR ENERGY PRODUCTION AND CONSERVATION PROJECTS BY PRODUCTION CREDIT ASSOCIATIONS, FEDERAL LAND BANKS, AND BANKS FOR COOPERATIVES

SEC. 258. The Farm Credit Administration shall encourage production credit associations, Federal land banks, and banks for cooperatives to use existing authorities to make loans to eligible persons for commercially feasible biomass energy projects. 42 USC 8853.

AGRICULTURAL CONSERVATION PROGRAM; ENERGY CONSERVATION COST SHARING

SEC. 259. Section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended—

(1) in the first sentence by inserting "(including energy conservation)" after "conservation"; and

(2) by inserting after the first undesignated paragraph the following new undesignated paragraph:

"The Secretary may provide financial assistance to agricultural producers for the purpose of encouraging energy conservation by sharing the costs of and providing technical assistance for (1) the establishment, restoration, and better use of shelter belts to conserve energy on farmsteads and feed lots, (2) the establishment and use of minimum tillage systems, (3) the efficient storage and application of manure and other suitable wastes to the land for land fertility and soil improvement, (4) the use of integrated pest management, (5) the use of energy-efficient irrigation water management, and (6) such other land, water, and related resource management practices as the Secretary may determine to have significant energy-conserving effects.".

PRODUCTION OF COMMODITIES ON SET-ASIDE ACREAGE

SEC. 260. (a) The Food and Agriculture Act of 1977 (91 Stat. 913) is amended by adding at the end thereof the following new title:

"TITLE XX—PRODUCTION OF COMMODITIES ON SET-ASIDE ACREAGE

"SEC. 2001. (a) The Secretary of Agriculture shall permit, subject to such terms and conditions as the Secretary shall prescribe, all or any part of the acreage set aside or diverted under the Agricultural Act of 1949 from the production of a commodity for any crop year to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuel, if the 7 USC 1435.

Secretary of Agriculture determines that such production is desirable in order to provide an adequate supply of commodities for such conversion, is not likely to increase the cost of price support programs, and will not adversely affect farm income.

Production of commodities for fuel, administration. 7 USC 1421 note.

"(b)(1) During any year in which no set-aside or diversion of acreage is in effect under the Agricultural Act of 1949, the Secretary of Agriculture may formulate and administer a program for the production, subject to such terms and conditions as he may prescribe, of commodities for conversion into alcohol or hydrocarbons for use as motor fuel or other fuel. Under such program, producers of wheat, feed grains, upland cotton, and rice shall be paid incentive payments to devote a portion of their acreage to such production.

Payment rates.

"(2) The payments under this subsection shall be made at such rate or rates as the Secretary of Agriculture determines to be fair and reasonable, taking into consideration the participation necessary to ensure an adequate supply of commodities for such conversion.

"(3) The Secretary may issue any regulations necessary to carry out the provisions of this subsection.

Appropriation authorization.

"(4) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.".

(b) The table of contents of the Food and Agriculture Act of 1977 (91 Stat. 913) is amended by adding at the end thereof the following new items:

"TITLE XX—PRODUCTION OF COMMODITIES ON SET-ASIDE ACREAGE

"Sec. 2001. Production of commodities on set-aside acreage.".

UTILIZATION OF NATIONAL FOREST SYSTEM IN WOOD ENERGY DEVELOPMENT PROJECTS

42 USC 8854.

SEC. 261. The Secretary of Agriculture may make available the timber resources of the National Forest System, in accordance with appropriate timber appraisal and sale procedures, for use by biomass energy projects.

FOREST SERVICE LEASES AND PERMITS

42 USC 8855.

SEC. 262. It is the intent of the Congress that the Secretary of Agriculture shall process applications for leases of National Forest System lands and for permits to explore, drill, and develop resources on land leased from the Forest Service, notwithstanding the current status of any plan being prepared under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

SUBTITLE D—MISCELLANEOUS BIOMASS PROVISIONS

USE OF GASOHOL IN FEDERAL MOTOR VEHICLES

42 USC 8871.

SEC. 271. (a) The President shall, by executive order, require that motor vehicles which are owned or leased by Federal agencies and are capable of operating on gasohol shall use gasohol where available at reasonable prices and in reasonable quantities.

Exceptions.

(b) The President may provide for exceptions to the requirement of subsection (a) where necessary, including to protect the national security.

(c) Such executive order shall specify the alcohol-gasoline mixture or mixtures which shall constitute "gasohol" for purposes of such order, as well as specifications for its use. Gasohol.

MOTOR VEHICLE ALCOHOL USAGE STUDY

SEC. 272. The Secretary of Energy shall, in consultation with the Secretary of Transportation, submit to the Congress within 9 months after the date of the enactment of this Act a report on— Report to Congress.

(1) the need for, and practicality of, mandating through legislation that any new motor vehicle sold in the United States shall be capable of using alcohol as a motor fuel in specified alcohol-gasoline mixtures, or using alcohol as the only fuel;

(2) the need for any other legislation to address technical or institutional barriers to the widespread marketing of alcohol, including requirements that would mandate specified proportions of alcohol in all motor gasoline sold; and

(3) any other aspects of the use of alcohol as a motor fuel, as the Secretary considers appropriate.

NATURAL GAS PRIORITIES

SEC. 273. For the purposes of section 401 of the Natural Gas Policy Act of 1978 (Public Law 95-621), the term "essential agricultural use" shall— Essential agricultural use. 15 USC 3391a.

(1) include use of natural gas in sugar refining for production of alcohol; 15 USC 3391.

(2) include use of natural gas for agricultural production on set-aside acreage or acreage diverted from the production of a commodity (as provided under the Agricultural Act of 1949) to be devoted to the production of any commodity for conversion into alcohol or hydrocarbons for use as motor fuel or other fuels; and 7 USC 1421 note.

(3) for the 5-year period beginning on the date of the enactment of this Act, include use of natural gas in the distillation of fuel-grade alcohol from food grains or other biomass by facilities in existence on the date of the enactment of this Act which do not have the installed capability to burn coal lawfully.

STANDBY AUTHORITY FOR ALLOCATION OF ALCOHOL FUEL

SEC. 274. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection: 15 USC 753.

"(f)(1) If the President finds that there are significant quantities of alcohol available for use in motor fuel that are not being used for that purpose because of an unavailability of crude oil with respect to a refiner or unavailability of gasoline with respect to persons engaged in marketing of petroleum products, the President shall, to the extent practicable and subject to the provisions of this Act, use the authorities under subsection (a) to provide for the allocation of—

"(A) crude oil to refineries engaged in the production of refined petroleum products to be mixed with alcohol, and

"(B) refined petroleum products to persons engaged in the marketing of petroleum products,

so as to result in the use of such quantities of alcohol in motor fuel.

"(2) In exercising such authorities pursuant to this subsection, the President shall—

"(A) seek to avoid disruption of crude oil and refined petroleum product markets and to avoid causing unreasonable increases in the price of alcohol, and

"(B) give due consideration to the adequacy of quality control in any refinery operations related to the receipt of an allocation of crude oil.

"Alcohol."

"(3) For the purposes of this subsection, 'alcohol' means methanol, ethanol, or any other alcohol which is produced from any source and which is suitable for use in combination with other fuels as a motor fuel.

"(4) Nothing in this subsection shall limit the allocation authorities under subsection (a).".

TITLE III—ENERGY TARGETS

PREPARATION OF ENERGY TARGETS

Transmittal to Congress.
42 USC 7361.

SEC. 301. (a) During the first calendar week beginning in February of 1981, and of every second year thereafter, the President shall transmit to the Congress energy targets for net imports, domestic production, and end-use consumption of energy for the calendar years 1985, 1990, 1995, and 2000. Such targets shall be transmitted in the form prescribed in section 303.

(b) In preparing energy targets under this section, the President shall take into account anticipated energy conservation and anticipated production of energy from new technologies, and shall transmit with the targets supporting data together with a statement of the assumptions on which the targets are based.

(c) During the first calendar week beginning in February of 1982, and of every second year thereafter, the President shall transmit to the Congress reports regarding the energy targets transmitted during the preceding year.

(d) The President shall not transmit any revised target (or supporting data) for any calendar year which has then elapsed.

CONGRESSIONAL CONSIDERATION

DOE authorization bills.
42 USC 7362.

SEC. 302. (a)(1) Any Department of Energy authorization bill for fiscal year 1982 and any such bill for fiscal year 1984 which is proposed in an executive communication to the Congress shall include the targets required by section 301(a) to be transmitted in February of the preceding fiscal year. Such targets shall be in the form prescribed in section 303 and shall be set forth as a separate title at the end of the proposed bill.

Transmittal to Congress.

(2) The energy targets transmitted to the Congress under section 301 shall be considered by any committee of the House of Representatives or the Senate in connection with any Department of Energy authorization bill for fiscal year 1982 or fiscal year 1984. This paragraph shall apply during the Ninety-seventh Congress and the Ninety-eighth Congress, and during any subsequent Congress (with respect to Department of Energy authorization bills for later fiscal years) to the extent expressly provided in any Act (other than an appropriation Act) approved after the date of the enactment of this Act.

Amendments.

(3)(A) During the Ninety-seventh Congress and the Ninety-eighth Congress, it shall be in order (notwithstanding any rule or provision of law) during the consideration in the House of Representatives, in

the Senate, or in any committee of either, of any Department of Energy authorization bill for fiscal year 1982 or fiscal year 1984, or a joint resolution (as defined in subsection (d)(1)(B)), to offer and consider, except as provided in subparagraph (B)—

(i) any amendment (or series of amendments) only changing the number of any energy target contained in such bill or resolution, or

(ii) in the case of any such authorization bill, any amendment only adding a title containing only energy targets in the form prescribed in section 303 if such bill does not contain such a title, or only deleting such a title contained in such bill.

(B) Any amendment (or series of amendments) referred to in subparagraph (A) shall not be in order unless it continues or achieves mathematical consistency within the targets.

(b)(1) If— Reporting dates.

(A) on or before May 15, 1981, no Department of Energy authorization bill for fiscal year 1982 has been reported to either House of the Congress by any of the respective authorizing committees, or

(B) no committee which has reported such an authorization bill in either House by such date has included energy targets in the form prescribed in section 303 as a separate title,

a joint resolution introduced in the Senate or the House of Representatives after such date shall be subject to the provisions of this section and shall immediately be referred to the appropriate authorizing committees, which shall have until July 15, 1981, to consider and report such resolution.

(2) If on or before July 15, 1981, the appropriate authorizing committees of the House of Representatives or the Senate have not reported such a joint resolution, such committees of that House may be discharged from further consideration of such joint resolution (or any other joint resolution) in accordance with paragraph (4) of section 552(d) of the Energy Policy and Conservation Act (as if it were a resolution relating to a contingency plan) if a motion for such a discharge is made during the period of 20 calendar days of continuous session of Congress which follows July 15, 1981. Joint resolutions. 42 USC 6422.

(3) The provisions of subsections (c) and (d)(5) and (6) of section 552 of such Act shall apply with respect to the consideration of such a joint resolution in either House, except that—

(A) debate on such joint resolution shall be limited to not more than 3 hours,

(B) it shall be in order (notwithstanding any rule or provision of law) to offer and consider any amendment (or series of amendments) permitted under subsection (a)(3), and

(C) the references in such provisions to any resolution relating to a contingency plan shall be considered to refer to a joint resolution under this section.

(c) In the consideration of any Department of Energy authorization bill containing a title setting forth energy targets, the question of whether any amendment (other than an amendment referred to in subsection (a)(3)) to any portion of such bill (including such title) is in order in the House of Representatives, in the Senate, or in any committee of either, shall be determined as if the title containing such targets were not in the bill.

(d)(1) For purposes of this section— Definitions.

(A) the term "Department of Energy authorization bill" means any general authorization of appropriations for the civilian programs and activities of the Department of Energy;

(B) the term "joint resolution" means only a joint resolution of either House of Congress (i) which is entitled "Joint resolution relating to energy targets.", (ii) which does not contain a preamble, and (iii) the matter after the resolving clause of which only contains energy targets in the form prescribed by section 303; and

(C) the term "energy target" means any number contained in the form prescribed in section 303.

Rulemaking powers.

(2) This section is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of Department of Energy authorization bills and joint resolutions described by paragraph (1) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

ENERGY TARGET FORM

42 USC 7363.

SEC. 303. (a) For purposes of this title, energy targets shall be set forth in the following form:

ENERGY TARGETS

[Quadrillion Btu's per year]

	1985	1990	1995	2000
Domestic production:				
Crude oil and NGL				
Natural gas				
Coal				
Nuclear				
Renewables and geothermal				
Other				
Subtotal				
Imports:				
Crude oil and refined petroleum				
Natural gas				
Coal				
Other				
Subtotal				
Total supply				
End-use consumption:				
Petroleum liquids				
Natural gas				
Direct coal				
Electricity				
Decentralized renewables				
Other				
Subtotal				
Conversion loss				
Total consumption				

(b) As used in subsection (a)— Definitions.

(1) the term "crude oil and NGL" includes liquid products obtained from lease operations, field facilities, and natural gas processing plants and liquid petroleum obtained from shale and tarsands;

(2) the term "coal", when used under the domestic production category, includes coal which is converted to gaseous or liquid fuels;

(3) the term "renewables" includes energy or fuel derived directly from sunlight or from biomass (as defined in section 203), and hydropower sources; *Ante*, p. 683.

(4) the term "end-use consumption" does not include exports of fuel or electricity;

(5) the term "decentralized renewables" does not include electricity produced for delivery to multiple points of end-use consumption; and

(6) the term "conversion loss" includes heat or other forms of energy not recovered in the conversion of raw energy resources, fuels, or electricity into alternate form prior to delivery for end-use consumption.

GENERAL PROVISIONS REGARDING TARGETS

SEC. 304. (a) The energy targets set forth pursuant to this title in any joint resolution or any Act authorizing appropriations for the Department of Energy shall be considered as an expression of national goals and shall not be considered to have any legal force or effect. 42 USC 7364.

(b) Expenses paid or incurred by the President for preparing the energy targets and reports under this title shall be from funds otherwise available to the Department of Energy, consistent with otherwise applicable law. Such targets and reports shall be prepared using the minimum extent of contracting assistance that is required for their preparation. If any assistance is required to be obtained by contract for the preparation of the targets and reports, that assistance shall be limited to the providing of supporting information and may not include the preparation or recommendation of any proposed or final energy target. Expenses.

(c) The preparation and transmission of such targets or reports shall not be considered a major Federal action for the purposes of the National Environmental Policy Act of 1969. 42 USC 4321 note.

TITLE IV—RENEWABLE ENERGY INITIATIVES

SHORT TITLE

SEC. 401. This title may be cited as the "Renewable Energy Resources Act of 1980". Renewable Energy Resources Act of 1980.

PURPOSE

SEC. 402. The purpose of this title is to establish incentives for the use of renewable energy resources, to improve and coordinate the 42 USC 7371 note. 42 USC 7371.

dissemination of information to the public with respect to renewable energy resources, to encourage the use of certain cost effective solar energy systems and conservation measures by the Federal Government, to establish a program for the promotion of local energy seif-sufficiency, to broaden the existing program for accelerating the procurement and use of photovoltaic systems, and to provide further encouragement for the development of small hydroelectric power projects.

DEFINITIONS

42 USC 7372.

SEC. 403. For purposes of this title—

(1) the term "Secretary" means the Secretary of Energy; and

(2) the term "renewable energy resource" means any energy resource which has recently originated in the sun, including direct and indirect solar radiation and intermediate solar energy forms such as wind, ocean thermal gradients, ocean currents and waves, hydropower, photovoltaic energy, products of photosynthetic processes, organic wastes, and others.

COORDINATED DISSEMINATION OF INFORMATION ON RENEWABLE ENERGY RESOURCES AND CONSERVATION

42 USC 7373.

SEC. 404. In order to improve the effectiveness of Federal information dissemination activities in the fields of renewable energy resources and energy conservation with the objective of developing and promoting better public understanding of these resources and their potential uses, the Secretary shall—

(1) take affirmative steps to coordinate all of the activities of the Department of Energy, whether conducted by the Department itself or by other public or private entities with assistance from the Department, which are aimed at or involve the dissemination of information with respect to renewable energy resources or energy conservation, and

Annual report to Congress.

(2) report annually to the Congress on the status of such activities, including a description of how the information dissemination activities and services of the Department of Energy in the fields of renewable energy resources and energy conservation are being coordinated with similar or related activities and services of other Federal agencies.

ESTABLISHMENT OF LIFE-CYCLE ENERGY COSTS FOR FEDERAL BUILDINGS

42 USC 8255.

SEC. 405. Section 545(a)(1) of the National Energy Conservation Policy Act is amended by inserting before the period at the end thereof the following: ", using the sum of all capital and operating expenses associated with the energy system of the building involved over the expected life of such system or during a period of 25 years, whichever is shorter, and using marginal fuel costs as determined by the Secretary and a discount rate of 7 per centum per year"

ENERGY SELF-SUFFICIENCY INITIATIVES

Program establishment. 42 USC 7374.

SEC. 406. (a) There is hereby established under the direction of the Secretary a 3-year pilot energy self-sufficiency program to demon-

strate energy self-sufficiency through the use of renewable energy resources in one or more States in the United States.

(b) As a part of the pilot program, the Secretary shall establish such subprograms as the Secretary determines are necessary to achieve the purpose of this section, including subprograms— Subprograms.

(1) to promote the development and utilization of synergistic combinations of different renewable energy resources in specific projects aimed at reducing fossil fuel importation;

(2) to initiate and encourage energy self-sufficiency at appropriate levels of government;

(3) to stimulate private industry participation in the realization of the objective stated in subsection (a); and

(4) to stimulate the utilization of abandoned or underutilized industrial facilities for the generation of energy from any locally available renewable resource, such as municipal solid waste, agricultural waste, or forest products waste.

(c) In carrying out the provisions of this section, the Secretary is authorized to assign to an existing office in the Department of Energy the responsibility of undertaking and carrying out the subprograms established under subsection (b). In addition, the Secretary shall prepare a detailed plan within one hundred eighty days of the enactment of this Act, setting forth (1) the 3-year pilot program itself, and (2) any additional Federal actions needed to encourage and promote the adoption of programs for energy self-sufficiency.

(d) The Secretary shall submit to the Congress, within one year after the date of the enactment of this Act, the plan prepared under the second sentence of subsection (c) along with a report suggesting the legislative initiatives needed to fully implement such plan. Plan, submittal to Congress.

PHOTOVOLTAIC AMENDMENTS

SEC. 407. The Federal Photovoltaic Utilization Act (42 U.S.C. 8271 et seq.) is amended—

(1) by adding at the end of section 562(1) the following new sentence: "Such term also applies to facilities related to programs administered by Federal agencies."; 42 USC 8271.

(2)(A) by inserting before the period at the end of the first sentence of section 565 the following: ", and for the acquisition of such systems and associated capability by Federal agencies for their own use in cases where the authority to make such acquisition has been delegated to the agency involved by the Secretary"; 42 USC 8274.

(B) by inserting "(or other Federal agency acting under delegation from the Secretary)" after "Secretary" in the third sentence of section 565;

(C) by inserting "(or other Federal agency acting under delegation from the Secretary)" after "Secretary" in the second sentence of section 567(a); 42 USC 8276.

(D) by inserting "and other Federal agencies acting under delegation from the Secretary" after "Secretary" in the third sentence of section 567(a);

(3) by striking out "rules and regulations" in section 566(2) and inserting in lieu thereof "requirements"; and 42 USC 8275.

42 USC 8275.

(4) by adding at the end of section 566 (after and below paragraph (3)) the following new sentence:

"Notwithstanding any other provision of law, the Secretary shall not be subject to the requirements of section 553 of title 5, United States Code, in the performance of his functions under this part.".

SMALL-SCALE HYDROPOWER INITIATIVES

SEC. 408. (a) Section 408(1) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2708(1)) is amended by striking out "15,000 kilowatts" and inserting in lieu thereof "30,000 kilowatts".

(b) Section 405 of such Act (16 U.S.C. 2705) is amended by adding at the end thereof the following new subsection:

"(d) EXEMPTIONS FROM LICENSING REQUIREMENTS IN CERTAIN CASES.—The Commission may in its discretion (by rule or order) grant an exemption in whole or in part from the requirements (including

16 USC 791a.

the licensing requirements) of part I of the Federal Power Act to small hydroelectric power projects having a proposed installed capacity of 5,000 kilowatts or less, on a case-by-case basis or on the basis of classes or categories of projects, subject to the same limitations (to ensure protection for fish and wildlife as well as other environmental concerns) as those which are set forth in subsections (c) and (d) of

16 USC 791.

section 30 of the Federal Power Act with respect to determinations made and exemptions granted under subsection (a) of such section 30; and subsections (c) and (d) of such section 30 shall apply with respect to actions taken and exemptions granted under this subsection. Except as specifically provided in this subsection, the granting of an exemption to a project under this subsection shall in no case have the effect of waiving or limiting the application (to such project) of the second sentence of subsection (b) of this section.".

16 USC 2708.

(c) Section 408 of such Act (as amended by subsection (a) of this section) is further amended—

(1) by inserting "(a)" before "For purposes of this title"; and

(2) by adding at the end thereof the following new subsection:

"(b) The requirement in subsection (a)(1) that a project be located at the site of an existing dam in order to qualify as a small hydroelectric power project, and the other provisions of this title which require that a project be at or in connection with an existing dam (or utilize the potential of such dam) in order to be assisted under or included within such provisions, shall not be construed to exclude—

"(1) from the definition contained in such subsection (a)(1), or

"(2) from any other provision of this title,

any project which utilizes or proposes to utilize natural water features for the generation of electricity, without the need for any dam or impoundment, in a manner which (as determined by the Commission) will achieve the purposes of this title and will do so without any adverse effect upon such natural water features.".

Rules and regulations, establishment. 16 USC 2701 note.

(d) The Secretary shall take such action as may be necessary to assure the establishment, as soon as possible after the date of the enactment of this Act (and in any event within six months after such date in the case of the amendments made by subsections (a) and (c) of this section and in the case of the loan program under section 403 of

16 USC 2703.

the Public Utility Regulatory Policies Act of 1978), of such rules and regulations as may be necessary to fully implement his responsibil-

16 USC 2701.

ities under title IV of the Public Utility Regulatory Policies Act of 1978 and the amendments thereto made by this section.

(e) Not later than three months after the date of the enactment of this Act, the Secretary shall complete a study of the existing Federal programs and policies relating to the development and commercialization of small-scale hydropower, including (1) a survey and description of such Federal programs and policies, (2) an assessment of the efficacy of such Federal programs and related policies, and (3) an identification of any need for consolidation, reorganization, or change in such programs and policies in order to improve and insure their effectiveness. Study.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 409. (a) There is authorized to be appropriated for each of the fiscal years 1981 and 1982 not to exceed $10,000,000 for loans under section 402 of the Public Utility Regulatory Policies Act of 1978, in addition to any amounts authorized for such loans by that Act; and the amounts appropriated pursuant to this subsection shall remain available until expended. 42 USC 7375. 16 USC 2702.

(b) There is authorized to be appropriated for each of the fiscal years 1981 and 1982 not to exceed $100,000,000 for loans under section 403 of the Public Utility Regulatory Policies Act of 1978; and the amounts appropriated pursuant to this subsection shall remain available until expended. 16 USC 2703.

(c) There is authorized to be appropriated for the fiscal year 1981 not to exceed $10,000,000 to carry out section 406 of this Act (relating to energy self-sufficiency initiatives). 16 USC 2706.

TITLE V—SOLAR ENERGY AND ENERGY CONSERVATION

Solar Energy and Energy Conservation Act of 1980.

SHORT TITLE

SEC. 501. This title may be cited as the "Solar Energy and Energy Conservation Act of 1980". 12 USC 3601 note.

SUBTITLE A—SOLAR ENERGY AND ENERGY CONSERVATION BANK

Solar Energy and Energy Conservation Bank Act.

SHORT TITLE

SEC. 502. This subtitle may be cited as the "Solar Energy and Energy Conservation Bank Act". 12 USC 3601 note.

PURPOSE

SEC. 503. It is the purpose of this subtitle to encourage energy conservation and the use of solar energy, and thereby reduce the Nation's dependence on foreign sources of energy supplies, by establishing a Solar Energy and Energy Conservation Bank (hereafter referred to as the "Bank"). 12 USC 3601.

DEFINITIONS

SEC. 504. For purposes of this subtitle— 12 USC 3602.

(1) the term "Board" means the Board of Directors of the Bank, which is established pursuant to section 506(a);

(2) the term "residential building" means any building used as a residence which contains not more than 4 dwelling units and has a system for heating or cooling, or both;

(3) the term "multifamily residential building" means any building used as a residence which contains 5 or more dwelling units and has a system for heating or cooling, or both;

(4) the term "commercial building" means any building other than a residential, or multifamily residential, building which is used primarily to carry on a business (including any nonprofit business) and is not used primarily for the manufacture or production of raw materials, products, or agricultural commodities;

(5) the term "agricultural building" means any building used exclusively in connection with the production, harvesting, storage, or drying of agricultural commodities;

(6) the term "residential energy conserving improvements" means, with respect to a residential, or multifamily residential, building—

(A) caulking and weatherstripping;

(B) furnace efficiency modifications including—

(i) replacement burners, furnaces, boilers, or any combination thereof which, as determined by the Board, substantially increases the energy efficiency of the heating system;

(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system; and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(C) clock thermostats;

(D) ceiling, attic, wall, floor, and duct insulation;

(E) water heater insulation;

(F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflecting window and door materials;

(G) devices associated with load management techniques;

(H) such other improvements (not including solar energy systems) as the Board by rule identifies for purposes of this subtitle; and

(I) planning and technical services, any residential energy audit, and any conversion from master utility meters to individual utility meters, which are directly related to and undertaken with the installation of any of the items specified in subparagraphs (B) through (H);

(7) the term "commercial energy conserving improvements" means the installation or the modification of an installation which is designed primarily to reduce the consumption of petroleum, natural gas, or electrical power in a commercial or agricultural building, including—

(A) caulking and weatherstripping;

(B) the insulation of the building structure and any systems within the building;

(C) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflecting window and door systems, glazing, reductions in glass area, and other window and door system modifications;

(D) automatic energy control systems;

(E) equipment, associated with automatic energy control systems, which is required to operate variable steam, hydraulic, and ventilating systems;

(F) furnace, or utility plant and distribution system, modifications including—

(i) replacement burners, furnaces, boilers, or any combination thereof, which (as determined by the Board) substantially increases the energy efficiency of the heating system;

(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system; and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(G) replacement or modification of a lighting system which increases the energy efficiency of the lighting system without increasing the overall illumination of the building (unless the increase in illumination is necessary to conform to any applicable State or local law or the increase is considered appropriate by the Board);

(H) energy recovery systems;

(I) cogeneration systems which produce electricity, as well as steam or other forms of thermal or mechanical energy, and which meet such fuel efficiency requirements as the Board may by rule prescribe;

(J) such other improvements (not including solar energy systems) as the Board identifies, by rule, for purposes of this subtitle; and

(K) planning and technical services, and any commercial energy audit, which are directly related to and undertaken with the installation, or the modification of an installation, which includes any of the items specified in subparagraphs (B) through (J).

(8) the term "solar energy system" means, with respect to a building, any addition, alteration, or improvement which is designed to utilize wind energy, energy produced by a wood-burning appliance, or solar energy, either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer (or some combination of these types), to reduce the energy requirements of the building, and which is in conformity with such criteria and standards as shall be prescribed by the Board in consultation with the Secretary of Housing and Urban Development, the Secretary of Energy, and the National Institute of Building Sciences, except that such term shall include solar process heat devices, solar electric devices, and any earth sheltered building where such sheltering substantially reduces the energy requirements of such building from nonrenewable energy sources and shall include only those fireplaces which are integral parts of a system which is designed to utilize passive type solar energy;

(9) the term "financial institution" means any lender (including any nonprofit entity and any State or local governmental entity) designated by the Board based on the qualifications established for the insurance of financial institutions under section 2 of title I of the National Housing Act, or any utility providing financing for the purchase and installation of residential energy conservation measures in accordance with the requirements of title II of the National Energy Conservation Policy Act; 12 USC 1703. 42 USC 8211.

(10) the term "residential energy audit" means—

(A) an inspection or energy audit of a residential, or multifamily residential, building, or a dwelling unit in such building, performed for purposes of title II or VII of the National Energy Conservation Policy Act; or

42 USC 8211, *post*, p. 752.

(B) an onsite inspection of a residential, or multifamily residential, building, or a dwelling unit in such building, which includes a determination of and provides information on—

Onsite inspection of residential or multifamily building.

(i) the type, quantity, and rate of energy consumption of such building or dwelling unit;

(ii) energy conserving maintenance and operating procedures which can be employed to significantly reduce the energy consumption of such building or dwelling unit;

(iii) in the case of a residential building, a multifamily residential building which does not contain a central heating or cooling system, or a dwelling unit in such building, the cost of purchasing and installing appropriate residential energy conserving improvements, a solar energy system, or both, and the savings in energy costs which are likely to result from the installation of such improvements or system; and

(iv) in the case of a multifamily residential building which contains a central heating or cooling system, or a dwelling unit in such building, the need if any, for the purchase and installation of appropriate residential energy conserving improvements, a solar energy system, or both; and

(11) the term "commercial energy audit" means—

(A) an energy audit performed for purposes of title VII of the National Energy Conservation Policy Act; or

(B) an onsite inspection of a commercial or agricultural building which includes a determination of, and provides information on—

(i) the type, quantity, and rate of energy consumption of such building;

(ii) appropriate energy conserving maintenance and operating procedures which can be employed to significantly reduce the energy consumption of such building; and

(iii) the need if any, for the purchase and installation of commercial energy conserving improvements, a solar energy system, or both, in such building.

Part 1—Establishment and Operation of the Bank

ESTABLISHMENT OF THE BANK

Solar Energy and Energy Conservation Bank.
12 USC 3603.
12 USC 1723a.

SEC. 505. (a) There is hereby created the Solar Energy and Energy Conservation Bank which shall be in the Department of Housing and Urban Development and shall have the same powers as those powers given to the Government National Mortgage Association by section 309(a) of the National Housing Act. The Bank shall not exist after September 30, 1987.

Audit.

(b) The General Accounting Office shall audit, not later than the date occurring 2 years after the date of the enactment of this subtitle, and not later than each date occurring 3 years after such audit, the

financial transactions of the Bank, and for this purpose shall have access to all of the books, records, and accounts of the Bank.

(c) The Bank may impose fees or charges for its services which shall be deposited into the miscellaneous receipts of the Treasury.

BOARD OF DIRECTORS

SEC. 506. (a) The Bank shall be governed by a Board of Directors. The Board shall consist of the Secretary of Housing and Urban Development, the Secretary of Energy, the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce. 12 USC 3604.

(b) Three members of the Board shall constitute a quorum.

(c) The Chairperson of the Board shall be the Secretary of Housing and Urban Development.

(d) The President of the Bank shall be the Secretary of the Board.

(e) The Board shall carry out the functions of the Bank as set forth in this subtitle and shall adopt such regulations, subject to the provisions of section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)), as the Board determines are necessary to carry out such functions.

(f) The Board shall provide to the Secretary of the Treasury such information as the Secretary of the Treasury determines is necessary to insure that no individual is allowed for the same expenditure both—

(1) a credit against taxes under section 38 or section 44C of the Internal Revenue Code of 1954; and 26 USC 38, 44C.

(2) financial assistance under this subtitle.

OFFICERS AND PERSONNEL

SEC. 507. (a) There is established in the Department of Housing and Urban Development the position of President of the Bank, which shall be filled by an individual appointed by the President of the United States with the advice and consent of the Senate and which shall be compensated at the rate now or thereafter prescribed for executive level V by section 5316 of title 5, United States Code. President of the Bank. 12 USC 3605. 44 FR 58678.

(b) The President of the Bank shall appoint an Executive Vice President for Energy Conservation, and an Executive Vice President for Solar Energy, who shall be paid at a rate set by the Board and shall have the functions, powers, and duties prescribed by the President of the Bank.

(c) Subject to the direction of the Board, the President of the Bank shall manage and supervise the affairs of the Bank with the assistance of the Executive Vice Presidents and shall perform any functions of the Bank which the Board may prescribe. Functions.

(d) The Secretary of Housing and Urban Development may permit the Bank to utilize the services or personnel of the Department of Housing and Urban Development, including the personnel of the Government National Mortgage Association, for the purpose of carrying out this subtitle.

ADVISORY COMMITTEES

SEC. 508. (a) As part of the Bank, there is established an Energy Conservation Advisory Committee composed of 5 members which shall provide advice to the Board for the purpose of assisting the Bank in carrying out the activities of the Bank which relate to residential and commercial energy conserving improvements. The Energy Conservation Advisory Committee. Establishment. 12 USC 3606.

members of the advisory committee shall be appointed by the Board, from among individuals who are not officers or employees of any governmental entity, as follows:

(1) One individual who is able to represent the views of consumers as a result of the individual's education, training, and experience.

(2) One individual who is able to represent the views of financial institutions as a result of the individual's education, training, and experience.

(3) One individual who is able to represent the views of builders as a result of the individual's education, training, and experience.

(4) One individual who is able to represent the views of architectural or engineering interests as a result of the individual's education, training, and experience.

(5) One individual who is able to represent the views of producers or installers of residential and commercial energy conserving improvements as a result of the individual's education, training, and experience.

Solar Energy Advisory Committee.

(b) As part of the Bank, there is established a Solar Energy Advisory Committee composed of 5 members which shall provide advice to the Board for the purpose of assisting the Bank in carrying out the activities of the Bank which relate to solar energy systems.

Membership.

The members of the advisory committee shall be appointed by the Board, from among individuals who are not officers or employees of any governmental entity, as follows:

(1) One individual who is able to represent the views of consumers as a result of the individual's education, training, and experience.

(2) One individual who is able to represent the views of financial institutions as a result of the individual's education, training, and experience.

(3) One individual who is able to represent the views of builders as a result of the individual's education, training, and experience.

(4) One individual who is able to represent the views of architectural or engineering interests as a result of the individual's education, training, and experience.

(5) One individual who is able to represent the views of the solar energy industry as a result of the individual's education, training, and experience.

Term of office.

(c)(1) Except as provided in paragraphs (2) and (3), members of the Energy Conservation Advisory Committee and the Solar Energy Advisory Committee shall be appointed for terms of 2 years,

(2) Of the members first appointed, those appointed pursuant to paragraphs (1) and (2) of subsections (a) and (b) shall be appointed for a term of 3 years and those appointed pursuant to paragraphs (3), (4), and (5) of subsections (a) and (b) shall be appointed for a term of 2 years.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until the member's successor has taken office.

(d) If any member of the Energy Conservation Advisory Committee or the Solar Energy Advisory Committee becomes an officer or employee of any governmental entity, the member may continue as a

member of such advisory committee for not longer than the 90-day period beginning on the date the member becomes such an officer or employee.

(e) Subject to the availability of appropriations, members of the Energy Conservation Advisory Committee and the Solar Energy Advisory Committee shall each be paid at a rate equal to the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-15 of the General Schedule (5 U.S.C. 5332(a)) for each day (including travel time) during which they are engaged in the actual performance of the duties vested in such advisory committee. 44 FR 58672.

(f) Three members of the Energy Conservation Advisory Committee shall constitute a quorum, and 3 members of the Solar Energy Advisory Committee shall constitute a quorum, but a lesser number of members of either advisory committee may hold hearings. Quorum.

(g) The Chairperson of the Energy Conservation Advisory Committee and the Chairperson of the Solar Energy Advisory Committee shall each be elected by the members of such advisory committee.

(h) The Energy Conservation Advisory Committee and the Solar Energy Advisory Committee shall not terminate until the Bank ceases to exist. Termination.

PROVISION OF FINANCIAL ASSISTANCE

SEC. 509. (a) Subject to the conditions contained in sections 513, 514, and 515 and the limitations contained in sections 516 and 517, the Bank may make payments to financial institutions to provide financial assistance in the form of— 12 USC 3607.

(1) reductions of the principal obligations of loans, or portions of loans, made—

(A)(i) to owners of, and tenants in, existing residential and multifamily residential buildings for the purchase and installation of residential energy conserving improvements in such buildings; and (ii) to owners who occupy, and tenants in, existing commercial and agricultural buildings for the purchase and installation of commercial energy conserving improvements in such buildings; and

(B)(i) to owners of existing residential, multifamily residential, commercial, and agricultural buildings for the purchase and installation of solar energy systems in such buildings; (ii) to builders of newly constructed or substantially rehabilitated residential buildings for the purchase and installation of solar energy systems in such buildings; and (iii) to purchasers of newly constructed or substantially rehabilitated residential, multifamily residential, commercial, and agricultural buildings which have such systems;

(2) prepayments of the interest which would otherwise be due with respect to such loans, or portions of loans; and

(3) grants to owners of, and tenants in, existing residential buildings and tenants in existing multifamily residential buildings for the purchase and installation of residential energy conserving improvements in such buildings.

(b) Financial assistance may be provided under subsection (a) only if— Conditions.

(1) the expenditures for residential and commercial energy conserving improvements and solar energy systems, made using financial assistance provided under this subtitle, are made after the date of the enactment of this subtitle; or

(2) the financial assistance is provided in the form described in paragraph (1) or (2) of subsection (a) and—

(A) the financial assistance is for the purchase and installation of residential or commercial energy conserving improvements;

(B) the purchase and installation of residential or commercial energy conserving improvements was financed by a loan made after January 1, 1980, and before the date of the enactment of this subtitle;

(C) the financial assistance is provided not later than 90 days after the date of the promulgation by the Board of regulations with respect to such financial assistance;

(D) the determination of the amount of the financial assistance pursuant to section 511 is made on the basis of the amount of the principal obligation of the loan outstanding on the date of the provision of such financial assistance; and

(E) the owner or tenant receiving such loan has not applied for or received any credit against taxes allowed by section 38 or section 44C of the Internal Revenue Code of 1954 for the expenditures made with the proceeds of such loan, or portion of a loan.

26 USC 38, 44C.

(c) The amount of any financial assistance provided under this subtitle shall not be included in the gross income of any person for purposes of the Internal Revenue Code of 1954, and such person shall not receive any increase in basis under the Internal Revenue Code of 1954 which is attributable to the amount of any financial assistance provided under this subtitle.

26 USC 1 *et seq.*

ESTABLISHING LEVELS OF FINANCIAL ASSISTANCE

12 USC 3608.

SEC. 510. (a) The Board shall establish, from time to time, the various levels of financial assistance which will be made under section 509, subject to the maximum amounts allowed under sections 511 and 512.

(b) In establishing such levels the Board shall consider at least—

(1) the prevailing market rates of interest for home mortgages, home improvement loans, commercial and agricultural building loans, and Federal Government and corporate bonds;

(2) the availability of other Federal incentives and subsidies for energy conservation expenditures and solar energy system expenditures, including Federal tax credits;

(3) the costs and efficiencies of nonrenewable energy resources and systems, residential and commercial energy conserving improvements, and solar energy systems; and

(4) the levels of financial assistance needed to induce owners and tenants from various income groups to purchase and install residential and commercial energy conserving improvements and solar energy systems in residential, multifamily residential, commercial, and agricultural buildings and to induce the purchase of newly constructed or substantially rehabilitated buildings which include solar energy systems.

MAXIMUM AMOUNTS OF FINANCIAL ASSISTANCE FOR RESIDENTIAL AND COMMERCIAL ENERGY CONSERVING IMPROVEMENTS

12 USC 3609.

SEC. 511. (a) The maximum amount of financial assistance which may be provided to an owner or tenant under this subtitle for the

purchase and installation of residential energy conserving improvements in a residential building may not exceed—

(1) in the case of an owner or tenant whose income does not exceed an amount equal to 80 percent of the median area income—

(A) an amount equal to 50 percent of the cost of the residential energy conserving improvements; or

(B) $1,250 in the case of a residential building with one dwelling unit, $2,000 in the case of a residential building with 2 dwelling units, $2,750 in the case of a residential building with 3 dwelling units, or $3,500 in the case of a residential building with 4 dwelling units,

whichever is less;

(2) in the case of an owner or tenant whose income exceeds an amount equal to 80 percent, but does not exceed an amount equal to 100 percent, of the median area income—

(A) an amount equal to 35 percent of the cost of the residential energy conserving improvements; or

(B) $875 in the case of a residential building with one dwelling unit, $1,400 in the case of a residential building with 2 dwelling units, $1,925 in the case of a residential building with 3 dwelling units, or $2,450 in the case of a residential building with 4 dwelling units,

whichever is less;

(3) in the case of an owner or tenant whose income exceeds an amount equal to 100 percent, but does not exceed an amount equal to 120 percent, of the median area income—

(A) an amount equal to 30 percent of the cost of the residential energy conserving improvements; or

(B) $750 in the case of a residential building with one dwelling unit, $1,200 in the case of a residential building with 2 dwelling units, $1,650 in the case of a residential building with 3 dwelling units, or $2,100 in the case of a residential building with 4 dwelling units,

whichever is less; and

(4) in the case of an owner or tenant whose income exceeds an amount equal to 120 percent, but does not exceed an amount equal to 150 percent, of the median area income—

(A) an amount equal to 20 percent of the cost of the residential energy conserving improvements; or

(B) $500 in the case of a residential building with one dwelling unit, $800 in the case of a residential building with 2 dwelling units, $1,100 in the case of a residential building with 3 dwelling units, or $1,440 in the case of a residential building with 4 dwelling units,

whichever is less.

(b) The maximum amount of financial assistance which may be provided to an owner or tenant under this subtitle for the purchase and installation of residential energy conserving improvements in a multifamily residential building may not exceed—

(1) an amount equal to 20 percent of the cost of such improvements; or

(2) the sum of $400 times the number of dwelling units in such building in the case of an owner, or $400 in the case of a tenant, whichever is less.

(c) The maximum amount of financial assistance which may be provided under this subtitle to an owner of, or tenant in, a commer-

cial or agricultural building for the purchase and installation of commercial energy conserving improvements may not exceed an amount equal to 20 percent of the cost of such improvements or $5,000, whichever is less.

MAXIMUM AMOUNTS OF FINANCIAL ASSISTANCE FOR SOLAR ENERGY SYSTEMS

12 USC 3610.

SEC. 512. (a) Subject to subsection (d)(2), the maximum amount of financial assistance which may be provided under this subtitle to an owner of an existing residential building for the purchase and installation of a solar energy system in such building, or to a purchaser or builder of a newly constructed or substantially rehabilitated residential building which has such a system, may not exceed—

(1) in the case of an owner or purchaser whose income does not exceed an amount equal to 80 percent of the median area income—

(A) an amount equal to 60 percent of the cost of the solar energy system; or

(B) $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, or $10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less;

(2) in the case of an owner or purchaser whose income exceeds an amount equal to 80 percent, but does not exceed an amount equal to 160 percent of the median area income—

(A) an amount equal to 50 percent of the cost of the solar energy system; or

(B) $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, or $10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less;

(3) in the case of an owner or purchaser whose income exceeds an amount equal to 160 percent of the median area income—

(A) an amount equal to 40 percent of the cost of the solar energy system; or

(B) $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, or $10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less; and

(4) in the case of a builder of a residential building—

(A) an amount equal to 40 percent of the cost of the solar energy system; or

(B) $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, or $10,000 in the case of a residential building with 3 or 4 dwelling units,

whichever is less.

(b) Subject to subsection (d)(2), the maximum amount of financial assistance which may be provided under this subtitle to an owner of an existing multifamily residential building for the purchase and installation of a solar energy system in such building, or to a purchaser of a newly constructed or substantially rehabilitated multifamily residential building which has such a system, either—

(1) may not exceed—

(A) an amount equal to 40 percent of the cost of the solar energy system; or

(B) the sum of $2,500 times the number of dwelling units in such building,

whichever is less; or

(2) if the owner or purchaser certifies pursuant to procedures established by the Board that a majority of the dwelling units in such building are occupied by tenants whose income does not exceed an amount equal to 80 percent of the median area income, may not exceed—

(A) an amount equal to 60 percent of the cost of the solar energy system; or

(B) the sum of $2,500 times the number of dwelling units in such building,

whichever is less.

(c) Subject to subsection (d)(2), the maximum amount of financial assistance which may be provided under this subtitle to an owner of an existing commercial or agricultural building for the purchase and installation of a solar energy system in such building, or to a purchaser of a newly constructed or substantially rehabilitated commercial or agricultural building which has such a system, may not exceed an amount equal to 40 percent of the cost of the solar energy system or $100,000, whichever is less.

(d) In the case of financial assistance provided under this subtitle for the purchase and installation of a solar energy system in a building or for the purchase of a building which has such a system—

(1) with respect to any active type solar energy system (subject to the limitations on the maximum amounts of such assistance contained in subsections (a), (b), and (c)) the amount of such assistance provided after January 1, 1983, shall vary by the estimated amount of energy to be saved by the use of such system, unless the Board determines that such variance is not practicable; and

Active type solar energy system.

(2) with respect to any passive type solar energy system, (despite the limitations on the maximum amounts of such assistance contained in subsections (a), (b), and (c)) the amount of such assistance shall vary (to the extent practicable) by the estimated amount of energy to be saved by the use of such system, except that the amount of such assistance may not exceed $5,000 in the case of a residential building with one dwelling unit, $7,500 in the case of a residential building with 2 dwelling units, $10,000 in the case of a residential building with 3 or 4 dwelling units, $100,000 in the case of a commercial or agricultural building, or the sum of $2,500 times the number of dwelling units in a multifamily residential building in the case of such a building.

Passive type solar energy system.

GENERAL CONDITIONS ON FINANCIAL ASSISTANCE FOR LOANS

SEC. 513. Financial assistance may be provided by a financial institution under this subtitle with respect to a loan only if— 12 USC 3611.

(1) the loan bears a rate of interest acceptable to the Board;

(2) the security for the loan meets the requirements of the Board;

(3) in the case of prepayment of interest by the Bank with respect to a loan, the financial institution agrees to repay to the Bank that portion of such prepayment which is in excess of the

Interest prepayment, waiver.

actual interest due on the loan at the time the borrower fails to meet his or her obligation under the loan, except that the Bank may waive the repayment where such excess is minimal; and

(4) the borrower agrees to certify to the financial institution that the borrower has used the proceeds of the loan to purchase and install a solar energy system or residential or commercial energy conserving improvements, or to purchase a building with such a system, immediately after such purchase and installation or purchase of a building, which certification shall be made available to the Bank by the financial institution upon the request of the Board.

CONDITIONS ON FINANCIAL ASSISTANCE FOR RESIDENTIAL AND COMMERCIAL ENERGY CONSERVING IMPROVEMENTS

12 USC 3612.

SEC. 514. (a) In addition to the conditions contained in section 513, financial assistance may be provided under this subtitle to an owner or tenant with respect to a loan made for the purchase and installation of residential or commercial energy conserving improvements in a building only if—

Term of repayment.

(1) the term of repayment of the loan is not less than 5 years and does not exceed 15 years, except that the financial institution may establish a shorter term of repayment at the request of the borrower and that there shall be no penalty imposed on the borrower if the loan is repaid before the end of the term of repayment;

Warranty.

(2)(A) the manufacturer of such residential or commercial energy conserving improvements shall, in connection with such improvements, warrant in writing that the owner or tenant receiving the proceeds of such loan, the installation contractor who installs the improvements, and the supplier of the improvements shall (for those improvements found within one year from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials, (B) the supplier of such residential or commercial energy conserving improvements shall, in connection with such improvements, provide, at a minimum, to the owner or tenant receiving the proceeds of such loan a warranty equivalent to that required under clause (A), and (C) the contractor for the installation of such residential or commercial energy conserving improvements shall, in connection with such improvements, warrant in writing that, at a minimum, any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time;

(3) the residential or commercial energy conserving improvements are installed in a building which was completed before January 1, 1980;

(4) in the case of a loan made to a tenant, the owner of such building agrees in writing to the installation of such residential or commercial energy conserving improvements before the making of the loan;

(5) in the case of a loan made for the purchase and installation of residential energy conserving improvements, the financial institution informs the borrower before the loan is made of the availability of residential energy audits;

(6) in the case of a loan made for the purchase and installation of commercial energy conserving improvements in a commercial or agricultural building, the borrower submits to the financial institution before the loan is made a copy of a commercial energy audit of such building; Commercial energy building audit.

(7) in the case of a loan made to an owner of, or tenant in, a residential building, or a tenant in a multifamily residential building, the income of such owner or tenant does not exceed 150 percent of the median area income; and

(8) in the case of a loan made to an owner who occupies or a tenant of a commercial or agricultural building, the gross annual sales of such owner or tenant are not more than $1,000,000 during the fiscal year of such owner or tenant preceding the fiscal year in which such loan is made.

(b) Financial assistance may be provided by a financial institution under this subtitle in the form of a grant to an owner or tenant only if— Owner or tenant grants.

(1) the owner or tenant has income which does not exceed 80 percent of the median area income;

(2) the owner or tenant certifies to the financial institution, as prescribed by the Board, that financial resources are available to the owner or tenant which when added to the financial assistance provided under this subtitle will be sufficient to pay the cost of the residential energy conserving improvements purchased and installed with such grant;

(3) the total cost of the residential energy conserving improvements to be purchased and installed with such grant exceeds $250;

(4) the supplier or contractor who sells or installs the residential energy conserving improvements purchased and installed with such grant is included on a list provided under section 213(a) of the National Energy Conservation Policy Act; *Post*, p. 742.

(5)(A) the manufacturer of the residential energy conserving improvements to be purchased and installed with such grant shall, in connection with such improvements, warrant in writing that the owner or tenant receiving such grant, the installation contractor who installs the improvements, and the supplier of the improvements shall (for those improvements found within one year from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials, (B) the supplier of such residential energy conserving improvements shall, in connection with such improvements, provide, at a minimum, to the owner or tenant receiving such grant a warranty equivalent to that required under clause (A), and (C) the contractor for the installation of such residential energy conserving improvements shall, in connection with such improvements, warrant in writing that, at a minimum, any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time; Warranty.

(6) the financial institution informs the owner or tenant of the availability of residential energy audits;

(7) in the case of a grant made to a tenant, the owner of the building in which the residential energy conserving improve-

ments are to be installed agrees in writing to the installation before the making of the grant;

(8) the owner or tenant agrees to certify to the financial institution, immediately after such installation, that such owner or tenant has purchased and installed with the grant residential energy conserving improvements, which certification shall be available to the Bank upon request; and

(9) any residential energy conserving improvements purchased and installed with such grant are purchased and installed in a residential, or multifamily residential, building which was completed before January 1, 1980.

CONDITIONS ON FINANCIAL ASSISTANCE FOR SOLAR ENERGY SYSTEMS

12 USC 3613.

SEC. 515. (a) In addition to the conditions contained in section 513, financial assistance may be provided under this subtitle to an owner or builder with respect to a loan made for the purchase and installation of a solar energy system, or to a purchaser for the purchase of a newly constructed or substantially rehabilitated building with such a system, only if—

Term of loan repayment.

(1) the term of repayment of the loan—

(A) in the case of a residential building, is not less than 5 years in the case of an owner or purchaser, and does not exceed 30 years; or

(B) in the case of a multifamily residential building, commercial building, or agricultural building, is not less than 5 years and does not exceed 40 years,

except that the financial institution may establish a shorter term of repayment at the request of the borrower and that there shall be no penalty imposed on the borrower if the loan is repaid before the end of the term of repayment;

Warranty.

(2)(A) the manufacturer of such solar energy system, shall, in connection with such system, warrant in writing that the owner, builder, or purchaser receiving the proceeds of the loan, the installation contractor who installs the system, and the supplier of the system shall (for those solar energy systems found within 3 years from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials, (B) the supplier of such solar energy system shall, in connection with such system, provide, at a minimum, to such owner, builder, or purchaser a warranty equivalent to that required under clause (A), (C) the contractor for the installation of such solar energy system shall, in connection with such system, warrant in writing that, at a minimum, any defect in materials, manufacture, design, or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time, and (D) the contractor for the installation of such solar energy system shall provide an onsite inspection of the system and its components for the purpose of discovering and remedying any defects during the 15 day period before the expiration of the warranty under clause (C), if the Board decides to require such an inspection;

(3) in the case of a loan made to a purchaser or builder of a newly constructed or substantially rehabilitated residential or multifamily residential building, the purchaser or builder pro-

vides certification that the building meets or exceeds the cost-effective energy conservation standards established by the Secretary of Housing and Urban Development, which are in effect on the date of the enactment of this subtitle and as such standards may be revised after such date by the Secretary after consultation with the Board, the Secretary of Energy, the Secretary of Agriculture, the National Institute of Building Sciences, the National Bureau of Standards, and any other Federal agency which is responsible for developing such standards; and

(4) in the case of a loan made to an owner of an existing residential building after December 31, 1985, the income of such owner does not exceed an amount equal to 250 percent of the median area income.

(b)(1) In addition to the conditions contained in section 513 and subsection (a), financial assistance may be provided by a financial institution to a builder under this subtitle for the purchase and installation of a solar energy system in a residential building only if—

(A) the Board determines that—

(i) in order to encourage the construction or substantial rehabilitation of a greater number of residential buildings containing solar energy systems it is necessary to provide financial assistance under this subtitle directly to builders;

(ii) providing any financial assistance under this subtitle directly to builders is a more effective expenditure of such assistance to encourage the construction or substantial rehabilitation of residential buildings containing solar energy systems than providing such assistance only to the purchasers of such buildings; and

(iii) the Board, in consultation with the Secretary of the Treasury, is able to establish a procedure which will prevent the purchaser (who buys the building from the builder) of a residential building for which a builder received financial assistance under this subtitle from receiving additional assistance under this subtitle for the same expenditures for which the builder received assistance and from being allowed a credit against taxes under section 38 or section 44C of the Internal Revenue Code of 1954 for such expenditures; Additional assistance, prohibition. 26 USC 38, 44C.

(B) the Board establishes a procedure which prevents the purchaser (who buys the building from the builder) of a residential building for which a builder received financial assistance under this subtitle from receiving additional assistance under this subtitle for the same expenditures for which the builder received assistance and from being allowed a credit against taxes under section 38 or section 44C of the Internal Revenue Code of 1954 for such expenditures; Additional assistance, prohibition.

(C) the builder agrees to, and does, disclose to the purchaser (who buys the building from the builder) in writing at the time of signing the sales contract for such building—

(i) the expenditures with respect to such building for which the builder received financial assistance under this subtitle; and

(ii) that the purchaser may not be allowed a credit against taxes for such expenditures under section 38 or section 44C of the Internal Revenue Code of 1954; and

(D) in addition to any other information required by this subtitle to be provided, the builder agrees to, and does, provide to

the Bank such information as the Board determines, in consultation with the Secretary of the Treasury, is necessary to assure that the purchaser (who buys the building from the builder) is not allowed a credit against taxes for such expenditures under section 38, or section 44C, of the Internal Revenue Code of 1954.

26 USC 38, 44C.

Subsidized energy financing.

(2) Any expenditures, made by a builder for the purchase and installation of a solar energy system in a building, for which the builder received financial assistance under this subtitle shall be considered expenditures from subsidized energy financing by the purchaser (who buys such building from the builder) for purposes of section 38 and section 44C of the Internal Revenue Code of 1954.

Payments to utility.

(c) Payments may be made to a utility for the provision of financial assistance under this subtitle for the purchase and installation of a solar energy system only if the financial assistance is used for such purchase and installation in existing buildings.

(d) In providing financial assistance with respect to loans for newly constructed and substantially rehabilitated residential buildings with solar energy systems, the Board shall establish a priority for residential buildings which contain at least a solar space heating or cooling system, except in areas or regions of the United States where it is impractical or inefficient to establish such a priority.

LIMITATIONS ON THE PROVISION OF FINANCIAL ASSISTANCE FOR RESIDENTIAL AND COMMERCIAL ENERGY CONSERVING IMPROVEMENTS

12 USC 3614.

SEC. 516. (a) An amount equal to not less than 80 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(a) shall be provided during such fiscal year for financial assistance under this subtitle for the purchase and installation of residential energy conserving improvements in residential and multifamily residential buildings.

(b)(1) An amount equal to not less than 15 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(a) shall be provided during such fiscal year for financial assistance for the purchase and installation of residential energy conserving improvements in residential buildings owned by individuals whose income is less than 80 percent of the median area income, or in multifamily residential buildings with a majority of the dwelling units occupied by such individuals.

(2) Funds made available during any fiscal year for the provision of financial assistance required by paragraph (1) which are not expended during such fiscal year shall be available during the following fiscal year for the provision of any financial assistance under this subtitle for residential and commercial energy conserving improvements.

(c) Any failure during any fiscal year to provide the amount of financial assistance required by subsection (a) or subsection (b) shall not delay the provision of other financial assistance under this subtitle.

LIMITATIONS ON THE PROVISION OF FINANCIAL ASSISTANCE FOR SOLAR ENERGY SYSTEMS

12 USC 3615.

SEC. 517. (a)(1) The total amount of all payments made to utilities in any fiscal year for the provision of financial assistance under this subtitle for the purchase and installation of solar energy systems shall not exceed 10 percent of the amount of funds appropriated for

such fiscal year under the authorization contained in section 522(b), except that the Board may allow the total amount of such payments to exceed 10 percent of the amount of such funds, but not to exceed 20 percent of the amount of such funds, if the Board determines that it would further the purpose of this subtitle of encouraging the use of solar energy.

(2) The total amount of any payments provided to utilities for the provision of financial assistance under this subtitle for the purchase and installation of solar energy systems shall be distributed regionally, among utilities throughout the United States, in a reasonable manner.

(b) An amount equal to not less than 70 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(b) shall be provided during such fiscal year for financial assistance under this subtitle for the purchase and installation of solar energy systems in residential and multifamily residential buildings and for the purchase of residential and multifamily residential buildings which have such systems.

(c)(1) An amount equal to not less than 5 percent of the funds appropriated for a fiscal year under the authorization contained in section 522(b) shall be provided during such fiscal year for financial assistance under this subtitle for the purchase and installation of solar energy systems in residential buildings owned by individuals whose income is less than 80 percent of the median area income, or in multifamily residential buildings with a majority of the dwelling units occupied by such individuals.

(2) Funds made available during any fiscal year for the provision of financial assistance required by paragraph (1) which are not expended during such fiscal year shall be available during the following fiscal year for the provision of any financial assistance under this subtitle for solar energy systems.

(d) Any failure during any fiscal year to provide the amount of financial assistance required by subsection (b) or subsection (c) shall not delay the provision of other financial assistance under this subtitle.

PROMOTION

SEC. 518. (a) The Bank shall promote the program established by this subtitle by informing financial institutions, builders, and consumers of the benefits of this program and by actively seeking their participation in the program. The Bank shall not duplicate any promotion or assistance activities undertaken by the Department of Energy, the Department of Housing and Urban Development, or other Federal agencies to encourage greater use of residential and commercial energy conserving improvements and solar energy systems, but shall cooperate with those agencies in— 12 USC 3616. Duplication of activities.

(1) the dissemination of information relating to residential and commercial energy conserving improvements and solar technology and their applicability to new and existing construction;

(2) the development and dissemination of reliable appraisal techniques with respect to residential and commercial energy conserving improvements and solar energy systems;

(3) the provision of technical assistance to nonprofit entities, low-income groups, and local governments in the use of financial assistance under this subtitle to undertake solar and conservation strategies; and

(4) the provision of such other assistance and information as the Board determines is necessary to encourage the use of residential and commercial energy conserving improvements and solar energy systems.

(b) The Bank shall seek the advice and assistance of the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association in coordinating the programs of the Bank with the secondary market for loans used to finance the purchase and installation of residential and commercial energy conserving improvements and solar energy systems.

(c) Where possible the Bank shall coordinate its promotional program with promotional and assistance programs undertaken by State, regional, and local governments.

(d) The Secretary is authorized to use any available means of communication to accomplish the goals of this section by using the electronic media, print media, and the United States Postal Service.

REPORTS

Submittal to Congress and President.
12 USC 3617.

SEC. 519. (a) The Board shall submit an annual report, to the Congress and to the President of the United States which includes, among other matters, the views of the President of the Bank, the Energy Conservation Advisory Committee, and the Solar Energy Advisory Committee, with respect to—

(1) the operation of the Bank during the previous year;

(2) the problems of the energy conservation and solar energy industries, the Federal Government, and financial institutions which may be inhibiting the operation of the Bank or the acceptance by the public of the use of residential and commerical energy conserving improvements and solar energy systems;

(3) the cost effectiveness of the program in terms of expenditure, specific residential and commercial energy conserving improvements, and energy savings, using statistically valid samples of the improvements assisted under this subtitle;

(4) the relative number of persons from various income groups who have received financial assistance under this subtitle;

(5) the total energy savings achieved because of the assistance provided under this subtitle, based on an estimate of such savings using a statistically valid sample; and

(6) recommendations for improvements in the operation of the Bank.

Submittal to Congress.

(b) The Board shall submit to the Congress not later than 2 years after the date of the enactment of this subtitle a report on the limitation on the amount of financial assistance provided to utilities pursuant to section 517(a), including the recommendations of the Board on the continuation of the limitation and the level of such limitation.

RULES AND REGULATIONS

12 USC 3618.

SEC. 520. As soon as practicable, but not later than 180 days after the date of the enactment of this subtitle, the Board shall issue such final rules and regulations as the Board determines are necessary to carry out this subtitle, including rules and regulations to assure that there will be no fraud in the provision of financial assistance through grants under this subtitle, except that any final rules and regulations with respect to multifamily residential, commercial, or agricultural

buildings may be issued later than 180 days after such date but not later than 270 days after such date.

PENALTIES

SEC. 521. Any person who knowingly makes any false statement or misrepresents any material fact with respect to any financial assistance provided under this subtitle, or fails to make any disclosure or statement required by this subtitle, shall be fined not more than $10,000 or imprisoned not more than one year, or both, for each offense. 12 USC 3619.

FUNDING

SEC. 522. (a) There is authorized to be appropriated to provide financial assistance under this subtitle for the purchase and installation of residential and commercial energy conserving improvements— Appropriation authorization. 12 USC 3620.

(1) the sum of $200,000,000 for the fiscal year ending on September 30, 1981, of which not more than $10,000,000 may be used to carry out section 518;

(2) the sum of $625,000,000 for the fiscal year ending on September 30, 1982, of which not more than $7,500,000 may be used to carry out section 518;

(3) the sum of $800,000,000 for the fiscal year ending on September 30, 1983, of which not more than $7,500,000 may be used to carry out section 518; and

(4) the sum of $875,000,000 for the fiscal year ending on September 30, 1984, of which not more than $7,500,000 may be used to carry out section 518.

(b) There is authorized to be appropriated to provide financial assistance under this subtitle for the purchase and installation of solar energy systems— Appropriation authorization.

(1) the sum of $100,000,000 for the fiscal year ending on September 30, 1981, of which not more than $10,000,000 may be used to carry out section 518;

(2) the sum of $200,000,000 for the fiscal year ending on September 30, 1982, of which not more than $7,500,000 may be used to carry out section 518; and

(3) the sum of $225,000,000 for the fiscal year ending on September 30, 1983, of which not more than $7,500,000 may be used to carry out section 518.

(c) Any funds appropriated under the authorizations contained in this section shall remain available until expended.

Part 2—Secondary Financing

AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE LOANS AND ADVANCES OF CREDIT FOR RESIDENTIAL ENERGY CONSERVING IMPROVEMENTS OR SOLAR ENERGY SYSTEMS

SEC. 531. (a) Section 315(a) of the Federal National Mortgage Association Charter Act is amended— 12 USC 1723g.

(1) by striking out "(1) Whenever" and all that follows through "direct the Association" and inserting in lieu thereof "Unless the Board of Directors of the Solar Energy and Energy Conservation Bank established in section 505 of the Solar Energy and Energy Conservation Bank Act finds it unnecessary to utilize this section *Ante*, p. 722.

in order to advance the national program of energy conservation in residential buildings, the Board shall direct the Bank"; and

(2) by striking out paragraph (2).

12 USC 1723g. (b) Section 315(b) of such Act is amended—

(1) by striking out "Secretary" and "Association" and inserting in lieu thereof "Board" and "Bank", respectively; and

(2) by striking out "which are insured under title I" and all that follows through the period at the end thereof and inserting in lieu thereof the following: ", including loans and advances made by public utilities in accordance with the requirements of title II of the National Energy Conservation Policy Act, which are made for the purpose of financing, in whole or in part, the purchase and installation of residential energy conserving improvements or solar energy systems in residential buildings.".

42 USC 8211.

12 USC 1723g. (c) Section 315(c) of such Act is amended by striking out "Association" and "Association's" each time they appear and inserting in lieu thereof "Bank" and "Bank's", respectively.

(d) Section 315(d) of such Act is amended—

(1) by inserting "or advance of credit" after "loan" each time it appears; and

(2) by striking out "Association" and inserting in lieu thereof "Bank".

(e) Section 315(e) of such Act is amended by striking out "Association" and inserting in lieu thereof "Bank".

(f) Section 315(f) of such Act is amended by striking out "Secretary" and inserting in lieu thereof "Board".

(g) Section 315(g) of such Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by inserting "residential" before "energy conserving" in paragraph (2);

(3) by inserting "or solar energy system" after "improvements" in paragraph (2);

(4) by inserting ", in whole or in part," after "financed" in paragraph (2);

(5) by striking out "of this section." in paragraph (2) and inserting in lieu thereof "of the Solar Energy and Energy Conservation Bank Act;" and;

Ante, p. 719.

(6) by adding the following new paragraphs after paragraph (2):

"(3) the term of repayment of such loan or advance of credit is not less than 5 years and not more than 15 years, except that there shall be no penalty imposed if the borrower repays the loan before the established repayment period;

"(4) the interest rate charged and the security required with respect to such loan or advance of credit is acceptable to the Board;

"(5) the amount of such loan or advance of credit does not exceed $15,000;

"(6) the entity from which such loan or advance of credit is purchased agrees to loan or advance credit for the purpose specified in subsection (b) in an amount equal to the amount of the loan or advance of credit which is purchased; and

"(7) such loan or advance of credit meets other requirements established by the Board as necessary to carry out this section in an efficient and effective manner.".

(h) Section 315 of such Act is amended by adding the following new subsection at the end thereof:

12 USC 1723h. "(h) For purposes of this section and section 316—

"(1) the term 'Bank' means the Solar Energy and Energy Conservation Bank established under section 505 of the Solar Energy and Energy Conservation Bank Act; Definitions. *Ante*, p. 722.

"(2) the term 'Board' means the Board of Directors of the Bank;

"(3) the term 'residential building' has the meaning given such term in section 504(2) of the Solar Energy and Energy Conservation Bank Act; *Ante*, p. 719.

"(4) the term 'residential energy conserving improvements' has the meaning given such term in section 504(6) of the Solar Energy and Energy Conservation Bank Act; and

"(5) the term 'solar energy system' has the meaning given such term in section 504(8) of the Solar Energy and Energy Conservation Bank Act.".

(i) The section heading of section 315 of such Act is amended to read as follows:

"AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE LOANS AND ADVANCES OF CREDIT FOR ENERGY CONSERVING IMPROVEMENTS OR SOLAR ENERGY SYSTEMS".

AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE MORTGAGES SECURED BY NEWLY CONSTRUCTED HOMES WITH SOLAR ENERGY SYSTEMS

SEC. 532. (a) Section 316(a) of the Federal National Mortgage Association Charter Act is amended— 12 USC 1723h.

(1) by striking out "The Secretary" and inserting in lieu thereof "Unless the Board of Directors of the Solar Energy and Energy Conservation Bank established in section 505 of the Solar Energy and Energy Conservation Bank Act finds it unnecessary to utilize this section in order to advance the national program of energy conservation through the use of solar energy systems in residential buildings, the Board";

(2) by striking out "Association" and inserting in lieu thereof "Bank"; and

(3) by striking out "loans and advances of credits" and inserting in lieu thereof "mortgages".

(b) Section 316(b) of such Act is amended—

(1) by striking out "Secretary", "Association", and "loans and advances of credit" in the first sentence and inserting in lieu thereof "Board", "Bank", and "mortgages", respectively;

(2) by striking out "which are made to owners" in the first sentence and all that follows through the period at the end of such sentence and inserting in lieu thereof "which are secured by newly constructed one- to four-family dwelling units with solar energy systems and residential energy conserving improvements meeting or exceeding cost-effective energy conservation standards established by the Secretary of Housing and Urban Development.";

(3) by striking out "loan or advance of credit" the first time it appears in the second sentence and inserting in lieu thereof "mortgage";

(4) by striking out "fifteen" in paragraph (1) and inserting in lieu thereof "thirty";

(5) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraphs:

"(2) the interest rate charged with respect to such mortgage is acceptable to the Board;

"(3) the principal amount of such mortgage does not exceed the principal amount which could be insured under section 203(b) of the National Housing Act with respect to the dwelling unit concerned;";

12 USC 1709.

(6) by striking out "loan or advance of credit" in paragraphs (1), (4), and (5) and inserting in lieu thereof "mortgage";

(7) by striking out "Secretary" in paragraph (4) and inserting in lieu thereof "Board";

(8) by striking out "and" at the end of paragraph (5); and

(9) by striking out paragraph (6) and inserting in lieu thereof the following new paragraphs:

"(6) the dwelling which secures such mortgage is purchased after the date of enactment of the Solar Energy and Energy Conservation Bank Act; and

Ante, p. 719.

"(7) such mortgage meets other requirements established by the Board as necessary to carry out this section in an efficient and effective manner.".

12 USC 1723h.

(c) Section 316(c) of such Act is amended by striking out "Association" and "Association's" each time they appear and inserting in lieu thereof "Bank" and "Bank's", respectively.

(d) Section 316(d) of such Act is amended by striking out "loan" and "Association" each time they appear and inserting in lieu thereof "mortgage" and "Bank", respectively.

(e) Section 316(e) of such act is amended by striking out "Association" and "loans and advances of credit" and inserting in lieu thereof "Bank" and "mortgages", respectively.

(f) Section 316(f) of such Act is amended by striking out "Secretary" and "$100,000,000" and inserting in lieu thereof "Board" and "$800,000,000", respectively.

(g) Section 316(g) of such Act is amended by striking out "Secretary", "Association", "loans and advances of credit", "loan or advance", and "loans and advances" and inserting in lieu thereof "Board", "Bank", "mortgages", "mortgage", and "mortgages", respectively.

(h) Section 316 of such Act is amended—

(1) by striking out subsections (h), (i), and (j); and

(2) by striking out the section heading and inserting in lieu thereof the following:

"AUTHORITY OF SOLAR ENERGY AND ENERGY CONSERVATION BANK TO PURCHASE MORTGAGES SECURED BY NEWLY CONSTRUCTED HOMES WITH SOLAR ENERGY SYSTEMS".

REPEAL

SEC. 533. Section 314 of the Federal National Mortgage Association Charter Act is repealed.

12 USC 1723f.

SECONDARY FINANCING BY FEDERAL HOME LOAN MORTGAGE CORPORATION AND BY FEDERAL NATIONAL MORTGAGE ASSOCIATION

12 USC 1454.

SEC. 534. (a)(1) Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act is amended by inserting the following before the period at the end of the first sentence: "or from any public utility

carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act if the residential mortgage to be purchased is a loan or advance of credit the original proceeds of which are applied for in order to finance the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in residential real estate". 42 USC 8211. *Infra.*

(2) Section 302(h) of such Act is amended by inserting ", or made by a public utility and purchased by the Corporation pursuant to the first sentence of section 305(a)(1)," after "credit for such purposes" in the third sentence. 12 USC 1451. *Ante*, p. 740.

(b) Section 302(b)(3) of the Federal National Mortgage Association Charter Act is amended by inserting the following before the period at the end of the first sentence: ", including loans or advances of credit made, by any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act, for the purpose of financing the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in a residential building". 12 USC 1717.

SUBTITLE B—UTILITY PROGRAM

DEFINITIONS

SEC. 541. Section 210 of the National Energy Conservation Policy Act is amended by striking out paragraph (9) and inserting in lieu thereof the following: 42 USC 8211.

"(9) The term 'residential building' means any building used for residential occupancy which—

"(A) is not a new building to which final standards under sections 304(a) and 305 of the Energy Conservation and Production Act apply, and 42 USC 6833, 6834.

"(B) contains at least one but not more than four dwelling units and has a system for heating or cooling, or both, except that, after January 1, 1982, such term shall also include any building which contains more than four dwelling units unless such building contains a heating or cooling system, or both, which is a central system.".

STATE LIST OF SUPPLIERS AND CONTRACTORS—REQUIRED WARRANTY

SEC. 542. (a) Section 210(11) of the National Energy Conservation Policy Act is amended by striking out the last sentence. 42 USC 8211.

(b) Section 212(b) of such Act is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting the following new paragraph after paragraph (2): 42 USC 8213.

"(3) shall include provisions requiring that—

"(A) the manufacturer of any residential energy conservation measure offered under a utility program shall, in connection with such measure, warrant in writing that the residential customer for whom the measure is installed, the installation contractor who installs the measure, and the supplier of the measure shall (for those measures found within one year from the date of installation to be defective due to materials, manufacture, or design), at a minimum, be

entitled to obtain, within a reasonable period of time and at no charge, appropriate replacement parts or materials;

"(B) the supplier of any residential energy conservation measure offered under a utility program shall, in connection with such measure, provide, at a minimum, to any person who purchases the measure from such supplier a warranty equivalent to that required under subparagraph (A); and

"(C) the contractor for the installation of any residential energy conservation measure offered under a utility program shall, in connection with such measure, warrant in writing that, at a minimum, any defect in materials, manufacture, design or installation found within one year from the date of installation shall be remedied without charge and within a reasonable period of time; and".

42 USC 8214. (c) Section 213(a)(2)(B) of such Act is amended by inserting "and who agrees to comply with the provisions promulgated under section 212(b)(3)" after "(E)".

Ante, p. 741.

42 USC 8221. (d) Section 220(d) of such Act is amended to read as follows:

"(d) WARRANTIES.—With respect to section 212(b)(3) concerning warranties, all Federal and State laws otherwise applicable to such warranties shall apply, except to the extent inconsistent with such section.".

STATE LIST OF FINANCIAL INSTITUTIONS

SEC. 543. Section 213(a)(3) of the National Energy Conservation 42 USC 8214. Policy Act is amended by inserting the following before the semicolon at the end thereof: ", and provides that such list shall include a notation informing customers that financial assistance under the *Ante*, p. 719. Solar Energy and Energy Conservation Bank Act may be available from such lending institutions".

TREATMENT OF UTILITY COSTS

SEC. 544. Section 215 of the National Energy Conservation Policy 42 USC 8216. Act is amended—

(1) by striking out everything that follows "subsection (b) to be" in subsection (c)(1)(C) and inserting in lieu thereof the following: "recovered in the manner specified by the State regulatory authority which has ratemaking authority over such utility (or in the case of a nonregulated utility in the manner specified by such nonregulated utility); except that the amount that may be recovered directly from a residential customer for whom the activities described in subsection (b) are performed shall not exceed a total of $15 per dwelling unit or the actual cost of such activities, whichever is less; in determining the amount to be recovered directly from customers as provided under this subparagraph, the State regulatory authority (in the case of a regulated utility) or the utility (in the case of a nonregulated utility) shall take into consideration, to the extent practicable, the customers' ability to pay and the likely levels of participation in the utility program which will result from such recovery.";

(2) by striking out subsection (c)(1)(D);

(3) by striking out subsection (c)(2)(A);

(4) by striking out "(B)" in subsection (c)(2)(B) and inserting in lieu thereof "(2)(A)";

(5) by striking out "(C)" in subsection (c)(2)(C) and inserting in lieu thereof "(B)"; and

(6) by striking out subsection (f) and inserting in lieu thereof the following:

"(f) LOANS.—In the case of a loan which is arranged by a public utility under subsection (b)(1)(C), the utility, at the request of the person making such loan, shall permit repayment of the loan as part of the periodic utility bill. The utility may recover from the person making such loan the cost incurred by the utility in carrying out such manner of repayment.".

TAX TREATMENT

SEC. 545. Section 216 of the National Energy Conservation Policy Act is amended by adding the following new subsection at the end thereof: 42 USC 8217.

"(i) TAX TREATMENT.—The value of any subsidy provided by a utility to any residential customer for the purchase and installation of residental energy conservation measures shall not be included in the gross income of such customer for purposes of the Internal Revenue Code of 1954, and such customer shall not receive any increase in basis under the Internal Revenue Code of 1954 which is attributable to any such subsidy.". 26 USC 1 *et seq.*

SUPPLY, INSTALLATION, AND FINANCING BY PUBLIC UTILITIES

SEC. 546. (a) Section 216 of the National Energy Conservation Policy Act is amended— 42 USC 8217.

(1) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 216. SUPPLY AND INSTALLATION BY PUBLIC UTILITIES.";

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PROHIBITION ON SUPPLY AND INSTALLATION BY PUBLIC UTILITIES.—Except as provided in this section, no public utility may supply or install a residential energy conservation measure for any residential customer.";

(3) by striking out "(1)" in subsection (b); and

(4) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) EXEMPTION FROM PROHIBITION ON SUPPLY AND INSTALLATION.—(1) The prohibition contained in subsection (a) shall not apply to any residential energy conservation measure supplied or installed by a public utility through contracts between such utility and independent suppliers or contractors where the customer requests such supply or installation and each such supplier or contractor—

"(A) is on the list of suppliers and contractors referred to in section 213(a)(2); *Ante*, p. 742.

"(B) is not subject to the control of the public utility, except as to the performance of such contract, and is not an affiliate or a subsidiary of such utility; and

"(C) if selected by the utility, is selected in a manner consistent with paragraph (2).

"(2) As provided under the provisions described in section 213(b)(2)(D), activities of a public utility under paragraph (1)—

"(A) may not involve unfair methods of competition;

"(B) may not have a substantial adverse effect on competition in the area in which such activities are undertaken nor result in providing to any supplier or contractor an unreasonably large share of contracts for the supply or installation of residential energy conservation measures;

"(C) shall be undertaken in a manner which provides, subject to reasonable conditions the utility may establish to insure the quality of supply and installation of residential energy conservation measures, that any financing by the utility of such measures shall be available to finance supply or installation by any contractor on the lists referred to in section 213(a)(2) or to finance the purchase of such measures to be installed by the customer;

Ante, p. 742.

"(D) to the extent practicable and consistent with subparagraphs (A), (B), and (C), shall be undertaken in a manner which minimizes the cost of residential energy conservation measures to such customers; and

"(E) shall include making available upon request a current estimate of the average price of supply and installation of residential energy conservation measures subject to the contracts entered into by the public utility under paragraph (1).".

42 USC 8214.

(b) Section 213(b)(2) of such Act is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new subparagraphs:

"(C) provisions to assure that, whenever any public utility undertakes to finance its lending program for residential energy conservation measures through financial institutions, the utility shall (to the extent such utility determines feasible, consistent with good business practice, and not disadvantageous to its customers) seek funds for such financing from financial institutions located throughout the area covered by the lending program; and

"(D) provisions to assure that, in the case of any residential energy conservation plan which permits or requires any such utility to supply or install any residential energy conservation measure, the procedures under which any such utility undertakes such supply or installation will be consistent with the requirements of section 216(c)."

Ante, p. 743.

(c) Section 213(a) of such Act is amended by striking out "and" at the end of paragraph (7), by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(9) requires any utility undertaking a program involving the supply or installation of any residential energy conservation measure as permitted under section 216(c) or providing financing for the purchase or installation of any such measure to notify the Secretary of Energy when such program becomes effective."

AUTHORITY TO MONITOR AND TERMINATE SUPPLY, INSTALLATION, AND FINANCING BY UTILITIES

SEC. 547. Section 216(g) of the National Energy Conservation Policy Act is amended to read as follows:

42 USC 8217.

"(g) AUTHORITY TO MONITOR AND TERMINATE SUPPLY, INSTALLATION, OR FINANCING BY UTILITIES.—(1) The Secretary, in consultation with the Federal Trade Commission, shall monitor financing, supply, and installation activities of public utilities in connection with

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residential energy conservation measures and shall report annually to Congress on such activities. Each such report shall contain the comments of the Federal Trade Commission.

"(2) After the date of the enactment of this subsection, no public utility may make any loan or finance the purchase or installation of, or supply or install, any residential energy conservation measure if the Secretary has determined, after notice and opportunity for public hearing, and after consultation with the Federal Trade Commission, that—

"(A) such loans are being made, or supply or installations carried out, by such utility at unreasonable rates or on unreasonable terms and conditions, or

"(B) such loans made, or supply or installations carried out, by such utility have a substantial adverse effect upon competition or involve the use of unfair, deceptive, or anticompetitive acts or practices or are being carried out in a manner which does not comply with subsection (c).".

UNFAIR COMPETITIVE PRACTICES

SEC. 548. Nothing in any amendment made by this subtitle shall be construed to— 42 USC 8211 note.

(1) bar any person from taking any action with respect to any anticompetitive act or practice related to activities conducted under any program established under this title; or

(2) convey to any person immunity from civil or criminal liability, create defenses to actions under antitrust laws, or modify or abridge any private right of action under such laws.

EFFECTIVE DATE

SEC. 549. (a) The amendments made by this subtitle shall become effective on the date of the enactment of this Act. 42 USC 8211 note.

(b) As soon as practicable, but in no event later than 120 days after such date of enactment, the Secretary shall promulgate rules amending the regulations under section 212 of the National Energy Conservation Policy Act so that the amendments made by this subtitle will be carried out. Rules. *Ante*, p. 741.

(c) The provisions of section 218 of the National Energy Conservation Policy Act shall apply with respect to temporary programs proposed under such section after the effective date of this subtitle; except that, for the purposes of the application described in the first sentence of such section, the phrase "180 days after the promulgation of rules pursuant to section 212" shall refer to 180 days after the promulgation of rules required by subsection (b). 42 USC 8219.

(d) Nothing in this Act shall have the effect of delaying the date required for submission and approval or disapproval of residential energy conservation plans meeting the requirements of the National Energy Conservation Policy Act in effect before the enactment of this Act. 42 USC 8201 note.

RELATIONSHIP TO OTHER LAWS

SEC. 550. Section 220 of the National Energy Conservation Policy Act is amended by adding the following new subsection at the end thereof: *Ante*, p. 742.

"(e) PUBLIC UTILITY HOLDING COMPANY ACT.—For purposes of section 11(b)(1) of the Public Utility Holding Company Act of 1935, any financing, supply, or installation of residential energy conserva- 15 USC 79k.

tion measures under this part by a public utility company or utility holding company system subject to such Act shall be construed as an activity or business which is reasonably incidental or economically necessary or appropriate to the operations of the public utility company or utility holding company system.".

SUBTITLE C—RESIDENTIAL ENERGY EFFICIENCY PROGRAM

PURPOSE

42 USC 8235 note.

SEC. 561. It is the purpose of this subtitle—

(1) to establish a program under which the Secretary of Energy may provide assistance to State and local governments to encourage up to four demonstration programs that make energy conservation measures available without charge to residential property owners and tenants under a plan designed to maximize the energy savings available in residential buildings in designated areas; and

(2) to demonstrate through such program prototype residential energy efficiency plans under which State and local governments, State regulatory authorities, and public utilities may participate in a cooperative manner with public or private entities to install energy conservation measures in the greatest possible number of residential buildings within their respective jurisdictions or service areas.

AMENDMENT TO THE NATIONAL ENERGY CONSERVATION POLICY ACT

SEC. 562. The National Energy Conservation Policy Act is amended by adding after section 255 the following new part:

"PART 5—RESIDENTIAL ENERGY EFFICIENCY PROGRAMS

42 USC 8235.

"SEC. 261. DEFINITION.

"As used in this part, the term 'residential building' means any building used as a residence which is not a new building to which final standards under sections 304(a) and 305 of the Energy Conservation and Production Act apply and which has a system for heating, cooling, or both.

42 USC 6833, 6834.

42 USC 8235a.

"SEC. 262. APPROVAL OF PLANS FOR PROTOTYPE RESIDENTIAL ENERGY EFFICIENCY PROGRAMS AND PROVISION OF FINANCIAL ASSISTANCE FOR SUCH PROGRAMS.

"(a) PLAN APPROVAL.—The Secretary may approve any plan developed by a State or local government, for the establishment of a prototype residential energy efficiency program, which is designed to demonstrate the feasibility, economics, and energy conserving potential of such program, if an application for such plan is submitted pursuant to section 263, the application is approved pursuant to section 264, and the plan provides for—

"(1) the entering into a contract by a public utility with one or more persons not under the control of, and not affiliates or subsidiaries of, such utility for the implementation of a program to encourage energy conservation, including the supply and installation of the energy conservation measures as specified in such contract in residential buildings located in the portion of

the utility's service area designated by the contract, which contract includes the provisions described in subsection (b);

"(2) the selection by the public utility in a fair, open, and nondiscriminatory manner of the person or persons to contract with pursuant to paragraph (1);

"(3) the payment by the public utility to the person or persons contracted with under paragraph (1) of a specified price for each unit of energy saved by such utility as a result of the program during the period the contract is in effect, which price is based on the value to the utility of the energy saved;

"(4) the determination, by a procedure established by the State or local government developing the plan, of the amount of energy saved by a public utility as a result of the program carried out under the plan, which procedure is described in the contract; Energy savings procedure.

"(5) in the case of a regulated public utility, the approval in writing by the State regulatory authority exercising ratemaking authority over such utility of the contract described in paragraph (1), the manner of selection described in paragraph (2), the payment described in paragraph (3), and the procedure described in paragraph (4); and

"(6) the enforcement of the provisions of the contract, entered into pursuant to paragraph (1), which are required to be included pursuant to subsection (b).

"(b) CONTRACT REQUIREMENTS.—Any contract entered into by a public utility under subsection (a)(1) shall require any person or persons entering into such contract with a public utility to offer to the owner or occupant of each residential building in the portion of the utility's service area designated in the contract, without charge—

"(1) an inspection of such building to determine and inform such owner or occupant of— Inspection.

"(A) the energy conservation measures which will be supplied and installed in such residential building pursuant to paragraph (2);

"(B) the savings in energy costs that are likely to result from the installation of such energy conservation measures;

"(C) suggestions (including suggestions developed by the Secretary) of energy conservation techniques, including adjustments in energy use patterns and modifications in household activities, which can be used by the owner or occupant of the building to save energy and which do not require the installation of energy conservation measures; and

"(D) the savings in energy costs that are likely to result from the adoption of such suggested energy conservation techniques;

"(2) the supply and installation, with the approval of the owner of the residential building, in such building in a timely manner of the energy conservation measures which are as specified in the contract and which the owner or occupant was informed (pursuant to the inspection under paragraph (1)) would be supplied and installed in such building; and

"(3) a written warranty that at a minimum any defect in materials, manufacture, design, or installation of any energy conservation measures supplied and installed pursuant to paragraph (2), found not later than one year after the date of installation, will be remedied without charge and within a reasonable period of time. Written warranty.

"(c) PROVISION OF FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to any State or local government to carry out any plan for the establishment of a prototype residential energy efficiency program if the plan is approved under subsection (a).

"(d) LIMITATION.—The Secretary may approve under subsection (a) not more than 4 plans for the establishment of prototype residential energy efficiency programs.

42 USC 8235b.

"SEC. 263. APPLICATIONS FOR APPROVAL OF PLANS FOR PROTOTYPE RESIDENTIAL ENERGY EFFICIENCY PROGRAMS.

"Each application for the approval of a plan under section 262(a) for the establishment of a prototype residential energy efficiency program shall be submitted by a State or local government and shall include, at least—

"(1) a description of the plan, including the provisions of the plan specified in section 262(a) and a description of the portion of the service area of the public utility proposing to enter into a contract under section 262(a)(1) which is designated under the contract;

"(2) a description of the manner in which the provisions of the plan specified in section 262(a) are to be met;

"(3) a description of the contract to be entered into pursuant to section 262(a)(1) and the manner in which the requirements of the contract contained in section 262(b) are to be met;

Public hearing record.

"(4) the record of the public hearing conducted pursuant to section 264(a)(2); and

"(5) any other information determined by the Secretary to be necessary to carry out this part.

42 USC 8235c.

"SEC. 264. APPROVAL OF APPLICATIONS FOR PLANS FOR PROTOTYPE RESIDENTIAL ENERGY EFFICIENCY PROGRAMS.

"(a) APPROVAL REQUIREMENTS.—The Secretary may approve an application submitted under section 263 for a plan establishing a prototype residential energy efficiency program only if—

"(1) the application is approved in writing—

"(A) by the public utility which is to enter into the contract under the plan;

"(B) by the State regulatory authority having ratemaking authority over such public utility, in the case of a regulated utility; and

"(C) by the Governor (or any State agency specifically authorized under State law to approve such plans) of the State whose government is submitting the application (if the application is submitted by a State government) or of the State in which the local government is located (if the application is submitted by a local government); and

"(2) the application has been published, a public hearing on the application has been conducted, after notice to the public, at which representatives of the public utility which is to enter into the contract under the plan, persons engaged in the supply or installation of residential energy conservation measures, and members of the public (including ratepayers of such public utility and other interested individuals) had an opportunity to provide comment on the application, and any amendments to the application, which may be made to take into account the proceedings of the hearing, are made.

"(b) FACTORS IN APPROVING APPLICATIONS.—The Secretary shall take into consideraton in approving an application under subsection (a) for a plan establishing a prototype residential energy efficiency program—

"(1) the potential for energy savings from the demonstration of the program;

"(2) the likelihood that the value of the energy saved by public utilities under the program will be sufficient to cover the estimated cost of the energy conservation measures to be supplied and installed under the program;

"(3) the anticipated effects of the program on competition in the portion of the service area of the public utility designated in the contract entered into under the plan; and

"(4) such other factors as the Secretary determines are appropriate.

"SEC. 265. RULES AND REGULATIONS. 42 USC 8235d.

"(a) PROPOSED RULES AND REGULATIONS.—The Secretary shall issue proposed rules and regulations to carry out this part not later than 120 days after the date of the enactment of this part.

"(b) FINAL RULES AND REGULATIONS.—The Secretary shall issue final rules and regulations to carry out this part not later than 90 days after the issuance of proposed rules and regulations under subsection (a).

"SEC. 266. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION TO EXEMPT APPLICATION OF CERTAIN LAWS. 42 USC 8235e.

"The Federal Energy Regulatory Commission may exempt from any provisions in sections 4, 5, and 7 of the Natural Gas Act (17 U.S.C. 717c, 717d, and 717f) and titles II and IV of the Natural Gas Policy Act of 1978 (15 U.S.C. 3341 through 3348 and 3391 through 3394) the sale or transportation, by any public utility, local distribution company, interstate or intrastate pipeline, or any other person, of any natural gas which is determined (in the case of a regulated utility, company, pipeline, or person) by the State regulatory authority having rate-making authority over such utility, company, pipeline, or person, or (in the case of a nonregulated utility, company, pipeline, or person) by such utility, company, pipeline, or person, to have been conserved because of a prototype residential energy efficiency program which is established under a plan approved under section 262(a), if the Commission determines that such exemption is necessary to make feasible the demonstration of such prototype residential energy efficiency program. 15 USC 717c, 711d, 717f.

"SEC. 267. APPLICATION OF OTHER LAWS. 42 USC 8235f.

"(a) LACK OF IMMUNITY.—No provision contained in this part—

"(1) shall restrict any agency of the United States or any State from exercising its powers under any law to prevent unfair methods of competition and unfair or deceptive acts or practices;

"(2) shall provide to any person any immunity from civil or criminal liability;

"(3) shall create any defenses to actions brought under the antitrust laws; or

"(4) shall modify or abridge any private right of action under the antitrust laws.

"(b) UTILITY PROGRAMS UNDER PART 1.—Any public utility entering into a contract under a plan for the establishment of a prototype residential energy efficiency program approved under section 262(a) 42 USC 8211.

shall not be required to carry out, with respect to any residential building located in the portion of the utility's service area designated in the contract, the actions required to be contained in such utility's program by subsections (a) and (b) of section 215, if the contract requires such actions (or equivalent actions as determined by the Secretary) to be taken.

42 USC 8216.

"(c) DEFINITION.—For purposes of this section, the term 'antitrust laws' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9); and

"(5) sections 2, 3, and 4 of the Act entitled 'An Act to amend section 2 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended (U.S.C., title 15, sec. 13), and for other purposes' approved June 19, 1936 (15 U.S.C. 21a, 13a, and 13b, commonly known as the Robinson-Patman Antidiscrimination Act).

42 USC 8235g.

"SEC. 268. RECORDS AND REPORTS.

"(a) RECORDS.—Each State and local government submitting any application for a plan which is approved under section 262(a), and each public utility and person or persons entering into a contract under such a plan, shall keep such records and make such reports as the Secretary may require. The Secretary and the Comptroller General of the United States shall have access, at reasonable times and under reasonable conditions, to any books, documents, papers, records, and reports of each such State and local government, utility, and person or persons which the Secretary determines, in consultation with the Comptroller General of the United States, are pertinent to this part.

Submittal to President and Congress.

"(b) REPORTS.—The Secretary shall make an annual report to the President on the activities carried out under this part which shall be submitted to the Congress with the annual report on the activities of the Department of Energy required by section 657 of the Department of Energy Organization Act (42 U.S.C. 7267) and which shall contain—

"(1) an estimate of the total amount of energy saved as a result of the activities carried out under this part;

"(2) an estimate of the annual savings in energy anticipated as a result of each prototype residential energy efficiency program established under a plan approved under section 262(a);

"(3) an analysis, developed in consultation with the Federal Trade Commission and the Department of Justice, of the impact on competition of each prototype residential energy efficiency program established under a plan approved under section 262(a); and

"(4) if the Secretary determines that it is appropriate, an analysis of the impact of expanding the approval of plans under section 262(a) to establish prototype residential energy efficiency programs, and the provision of financial assistance to such programs, on a national basis and an assessment of the alternative methods by which such an expansion could be accomplished.

"SEC. 269. REVOKING APPROVAL OF PLANS AND TERMINATING FINANCIAL ASSISTANCE. 42 USC 8235h.

"The Secretary shall revoke the approval of any plan under section 262(a) for the establishment of a prototype residential energy efficiency program, and shall terminate the provision of financial assistance under section 262(c) to carry out such plan, if the Secretary determines, in consultation with the Federal Trade Commission and after notice and the opportunity for a hearing, that carrying out such plan—

"(1) causes unfair methods of competition;

"(2) has a substantial adverse effect on competition in the portion of the service area of the public utility designated by the contract entered into under the plan; or

"(3) provides a supplier or contractor of energy conservation measures with an unreasonably large share of the contracts for the supply or installation of such measures under such plan in the service area of the public utility designated by the contract entered into under such plan.

"SEC. 270. AUTHORIZATION OF APPROPRIATIONS. 42 USC 8235i.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this part—

"(1) the sum of $10,000,000 for the fiscal year ending on September 30, 1981; and

"(2) the sum equal to $10,000,000 minus the amount appropriated for the fiscal year ending on September 30, 1981, under the authorization contained in this section, for the fiscal year ending on September 30, 1982.

"(b) AVAILABILITY.—Any funds appropriated under the authorization contained in this section shall remain available until expended.".

AMENDMENT TO THE TABLE OF CONTENTS

SEC. 563. The table of contents of the National Energy Conservation Policy Act is amended by inserting after the item relating to section 255 the following new items:

"PART 5—RESIDENTIAL ENERGY EFFICIENCY PROGRAMS

"Sec. 261. Definition.
"Sec. 262. Approval of plans for prototype residential energy efficiency programs and provision of financial assistance for such programs.
"Sec. 263. Applications for approval of plans for prototype residential energy efficiency programs.
"Sec. 264. Approval of applications for plans for prototype residential energy efficiency programs.
"Sec. 265. Rules and regulations.
"Sec. 266. Authority of the Federal Energy Regulatory Commission to exempt application of certain laws.
"Sec. 267. Application of other laws.
"Sec. 268. Records and reports.
"Sec. 269. Revoking approval of plans and terminating financial assistance.
"Sec. 270. Authorization of Appropriations.".

SUBTITLE D—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

AMENDMENT TO THE NATIONAL ENERGY CONSERVATION POLICY ACT

SEC. 565. The National Energy Conservation Policy Act is amended by adding at the end thereof the following new title:

"TITLE VII—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

"PART 1—GENERAL PROVISIONS

42 USC 8281.

"SEC. 710. DEFINITIONS.

"(a) APPLICABILITY OF TITLE II DEFINITIONS.—The definitions in section 210 are applicable to this title, except as otherwise provided in this section.

Ante, p. 741.

"(b) ADDITIONAL DEFINITIONS.—As used in this title—

"(1) The term 'building heating supplier' means any person engaged in the business of selling No. 2, No. 4, or No. 6 heating oil, kerosene, or propane to eligible customers.

"(2) The term 'commercial building' means a building—

"(A) which was completed on or before the date of enactment of this title,

"(B) which is used primarily for carrying out a business (including a nonprofit business) or for carrying out the activities or administration of a State or local government,

"(C) which is not used primarily for the manufacture or production of products, raw materials, or agricultural commodities, and

"(D) for which the average monthly use of energy for the calendar year 1980 is less than 4,000 kilowatt hours of electricity or 1,000 therms of natural gas or the Btu equivalent thereof of any other fuel;

except that such term does not include a Federal building as defined in section 521(2).

42 USC 8241.

"(3) The term 'multifamily dwelling' means a building which is used for residential occupancy, was completed on or before the date of enactment of this title, and contains five or more dwelling units and a central heating or central cooling system.

"(4) The term 'energy efficient improvements' means any change in the operation or maintenance of a commercial building or multifamily dwelling, which change is designed primarily to reduce energy consumption in such building or dwelling and which has been identified by the Secretary in the rules promulgated under section 712(a) or approved by the Secretary for consideration in the energy audits offered to eligible customers under section 731, 732, or 741.

"(5) The term 'commercial energy conservation measure' means an installation or modification of an installation which is primarily designed to reduce the consumption of petroleum, natural gas, or electrical power in a multifamily dwelling or commercial building, including—

"(A) caulking and weatherstripping;

"(B) the insulation of the building or dwelling structure and systems within the building or dwelling;

"(C) storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflecting window and door systems, glazing, reductions in glass area, and other window and door system modifications;

"(D) automatic energy control systems;

"(E) equipment, associated with automatic energy control systems, which is required to operate variable steam, hydraulic, or ventilating systems;

"(F) furnace, or utility plant and distribution system, modifications, including—

"(i) replacement burners, furnaces, boilers, or any combination thereof, which (as determined by the Secretary) substantially increases the energy efficiency of the heating system,

"(ii) devices for modifying flue openings which will increase the energy efficiency of the heating system, and

"(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(G) replacement or modification of a lighting system which increases the energy efficiency of the lighting system without increasing the overall illumination of the building or dwelling (unless such increase in illumination is necessary to conform to any applicable State or local building code or the increase is considered appropriate by the Secretary);

"(H) energy recovery systems;

"(I) cogeneration systems which produce electricity, as well as steam or other forms of thermal or mechanical energy, and which meet such fuel efficiency requirements as the Secretary may, by rule, prescribe;

"(J) a solar energy system, as defined in section 504(8) of the Solar Energy and Energy Conservation Bank Act; and

"(K) such other measures as the Secretary identifies, by rule, for purposes of this title.

"(6) The term 'eligible customer' means—

"(A) with respect to a public utility, the owner or tenant of a commercial building or the owner of a multifamily dwelling to whom that public utility sells natural gas or electricity for use in such building or dwelling, or

"(B) with respect to a building heating supplier, the owner or tenant of a commercial building or the owner of a multifamily dwelling to whom that building heating supplier sells No. 2, No. 4, or No. 6 heating oil, kerosene, or propane for use in such building or dwelling.

"(7) The term 'energy audit' means an onsite inspection of a commercial building or a multifamily dwelling which determines and informs the eligible customer of at least—

"(A) the type, quantity, and rate of energy consumption of such building or dwelling;

"(B) energy efficient improvements appropriate to such building or dwelling; and

"(C) the need, if any, for the purchase and installation of commercial energy conservation measures in such building or dwelling.

The Secretary, after consulting with appropriate State officials, may establish criteria for such audits on a regional basis to account for regional variations in energy use.

"(8) The term 'utility program' means a program meeting the requirements of section 731.

"(9) The term 'building heating supplier program' means a program meeting the requirements of section 732.

42 USC 8281a.

"SEC. 711. COVERAGE.

42 USC 8212.

"This title shall apply to any public utility for which coverage is provided under section 211.

42 USC 8281b.

"SEC. 712. RULES OF SECRETARY FOR SUBMISSION AND APPROVAL OF PLANS.

"(a) PROMULGATION OF RULES BY THE SECRETARY.—The Secretary shall, not later than 120 days after enactment of this title and after consultation with the Secretary of Housing and Urban Development and the heads of such other agencies as the Secretary deems appropriate, publish proposed rules on the content and implementation of State energy conservation plans for commercial buildings and multifamily dwellings which meet the requirements of this title. After publication of such proposed rules, the Secretary shall afford interested persons (including Federal and State agencies) an opportunity to present oral and written comments on such proposed rules. Rules prescribing the content and implementation of State energy conservation plans for commercial buildings and multifamily dwellings shall be published not earlier than forty-five days after publication of the proposed rules.

Oral and written comments.

"(b) ENERGY EFFICIENT IMPROVEMENTS OF DIFFERENT TYPES AND CATEGORIES.—The rules promulgated under subsection (a) may identify energy efficient improvements in different types of commercial buildings and multifamily dwellings by climatic region and by categories determined by the Secretary on the basis of type of construction and any other factors which the Secretary deems appropriate. Such improvements shall be considered in the energy audits offered to eligible customers under sections 731, 732, and 741.

"(c) COORDINATION.—The rules promulgated under subsection (a) shall, to the extent practicable, coordinate the requirements of this title with the provisions of section 367(b)(1) of the Energy Policy and Conservation Act and with the utility program established under title II, part 1 of this Act. Such rules shall not have the effect of delaying the submission, approval, or implementation of residential energy conservation plans under title II, part 1 of this Act.

42 USC 6327.
42 USC 8211.

"(d) OTHER RULES.—The Secretary may prescribe any other rules necessary to carry out the provisions of this title.

"PART 2—ENERGY CONSERVATION PLANS

42 USC 8282.

"SEC. 721. PROCEDURES FOR SUBMISSION AND APPROVAL OF STATE ENERGY CONSERVATION PLANS FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS.

"(a) SUBMISSION AND APPROVAL OF STATE PLANS.—Not later than 180 days after the promulgation of rules under section 712(a), the Governor of each State (or any State agency specifically authorized to do so under State law) may submit to the Secretary a proposed energy conservation plan for commercial buildings and multifamily dwellings which meets the requirements of the rules promulgated under section 712. Within such 180-day period, each nonregulated utility shall submit a proposed plan, which meets the requirements of the rules promulgated under section 712, to the Secretary unless a plan

submitted under the preceding sentence for the State in which the nonregulated utility provides utility service applies to nonregulated utilities as provided in subsection (b). The Secretary may, upon request of the Governor or State agency or nonregulated utility, extend for good cause shown, the time period for submission of a plan. Each plan submitted in accordance with this subsection shall be reviewed and approved or disapproved in accordance with the procedures of subparagraphs (B) and (C) of section 212(c)(1). 42 USC 8213.

"(b) NONREGULATED UTILITIES.—Any plan submitted by a Governor or State agency under subsection (a) may, in the discretion of the Governor if he notifies the Secretary within 30 days after promulgation of rules under section 712(a), apply to nonregulated utilities providing utility service in the State in the same manner as to regulated utilities. In any such case, reference elsewhere in this title to regulated utilities (including references to utilities with respect to which a State regulatory authority exercises ratemaking authority) shall, with respect to such State, be treated as references also to nonregulated utilities and references elsewhere in this title to nonregulated utilities shall not apply. For purposes of this subsection, the term 'nonregulated utility' shall not include any public utility which is a Federal agency. "Nonregulated utility."

"(c) PLAN FOR BUILDING HEATING SUPPLIERS.—A plan applicable to building heating suppliers may be submitted by the Governor in his discretion.

"(d) TENNESSEE VALLEY AUTHORITY.—In the case of the Tennessee Valley Authority or any public utility with respect to which the Tennessee Valley Authority has ratemaking authority, the authority otherwise vested in the Governor or State agency under this section shall be vested in the Tennessee Valley Authority.

"SEC. 722. REQUIREMENTS FOR STATE PLANS FOR REGULATED UTILITIES. 42 USC 8282a.

"No proposed energy conservation plan for commercial buildings and multifamily dwellings submitted for regulated utilities shall be approved by the Secretary unless such plan—

"(1) requires each regulated utility to implement a program which meets the requirements of section 731 and such other requirements as may be contained in the rules promulgated by the Secretary under section 712, except that no such program may be required to apply to all of the multifamily dwellings and commercial buildings located within such utility's service area if, within 6 months from the date on which the Secretary's rules are promulgated with respect to such program, the State regulatory authority which exercises ratemaking authority over such utility determines that the inclusion of such additional buildings or dwellings would significantly impair such utility's ability—

"(A) to fulfill the requirements of section 215, or *Ante*, p. 742.

"(B) to provide utility service to its customers.

"(2) provides adequate State procedures for implementing the enforcment of the plan;

"(3) provides procedures for insuring that effective coordination exists among various local, State, and Federal energy conserving programs within and affecting such State; and

"(4) is adopted after notice and public hearing. Hearing.

42 USC 8282b.

"SEC. 723. PLAN REQUIREMENTS FOR NONREGULATED UTILITIES AND BUILDING HEATING SUPPLIERS.

"(a) REQUIREMENTS FOR PLANS FOR NONREGULATED UTILITIES.—No plan proposed by a nonregulated utility shall be approved by the Secretary unless such plan meets the same requirements as provided under section 722 for regulated utilities. In applying the requirements of section 722 in the case of a plan for a nonregulated utility under this section, any reference to a regulated utility shall be treated as a reference to a nonregulated utility and the reference to the State regulatory authority shall be treated as a reference to the Governor.

"(b) REQUIREMENTS FOR PLANS FOR BUILDING HEATING SUPPLIERS.—No plan proposed for building heating suppliers shall be approved by the Secretary unless such plan meets the same requirements as provided under paragraphs (3) and (4) of section 722 and—

"(1) meets the requirements of section 732 and contains adequate enforcement procedures with respect to such requirements;

"(2) meets such requirements applicable to building heating suppliers as may be contained in the rules promulgated under section 712; and

"(3) takes into account the resources of small building heating suppliers.

"PART 3—UTILITY PROGRAMS

42 USC 8283.

"SEC. 731. UTILITY PROGRAMS.

"(a) GENERAL REQUIREMENTS.—Each utility program shall include procedures designed to provide that each public utility—

"(1) offers to each eligible customer, no later than 12 months after the approval of the applicable plan and every 24 months thereafter until 1990, an energy audit of the eligible customer's commercial building or multifamily dwelling;

"(2) conditions the availability of an energy audit in the case of a multifamily dwelling upon the agreement by the eligible customer to provide to the tenants of the customer's multifamily dwelling the information developed by such audit concerning energy efficient improvements and commercial energy conservation measures applicable to the individual dwelling units in such dwelling;

"(3) maintains a report of each audit performed pursuant to this subsection with respect to a commercial building or multifamily dwelling for not less than 10 years, which report shall be available to any subsequent eligible customer of such commercial building or multifamily dwelling; and

"(4) shall not be required to conduct an energy audit of a commercial building or multifamily dwelling which has been audited previously pursuant to this title or title III;

Ante, p. 752, 42 USC 6371 note.

except that any public utility may contract with one or more persons, including another utility, to carry out directly some or all of the responsibilities required by this subsection.

"(b) REQUIREMENTS CONCERNING ACCOUNTING AND PAYMENT OF COSTS.—Each State regulatory authority or nonregulated utility shall, within 180 days after promulgation of rules under section 712(a), or such longer period as the Secretary for good cause may allow, provide—

"(1) that all amounts expended or received by the utility which are attributable to the utility program (including any penalties paid by such utility under section 741) are accounted for on the books and records of the public utility separately from amounts attributable to all other activities of such utility;

"(2) that all amounts expended by a utility for providing information concerning the availability of the energy audit offered pursuant to subsection (a)(1) are to be treated for such purposes as a current expense of providing utility service and charged to all ratepayers of such utility in the same manner as current operating expenses of providing such utility service; and

"(3) that all other amounts expended by a public utility to carry out the provisions of this title, are recovered in the manner specified by the State regulatory authority which has rate-making authority over such utility (or in the case of a nonregulated utility in the manner specified by such nonregulated utility); except that, in the case of a multifamily dwelling, the amount which may be recovered directly from an eligible customer for whom the activities described in subsection (a) are performed shall not exceed a total of $15 per dwelling unit or the actual cost of such activities, whichever is less; in determining the amount to be recovered directly from customers as provided under this paragraph, the State regulatory authority (in the case of a regulated utility) or the utility (in the case of a nonregulated utility) shall take into consideration, to the extent practicable, the customers' ability to pay and the likely levels of participation in the utility program which will result from such recovery.

"(c) RATEPAYER.—For purposes of subsection (b), the term 'ratepayer' means any person, State agency, or Federal agency who purchases electric energy or natural gas from a utility for purposes other than for resale.

"SEC. 732. BUILDING HEATING SUPPLIER PROGRAM. 42 USC 8283a.

"(a) REQUIREMENTS.—Except as may be provided by the Secretary, the procedures for each building heating supplier program shall be identical to the procedures required for utilities in section 731(a).

"(b) WAIVER.—The Governor may waive, for any building heating supplier, any requirement established pursuant to this section, upon demonstration to the Governor's satisfaction that the resources of such supplier do not enable the supplier to comply with such requirement.

"PART 4—FEDERAL IMPLEMENTATION

"SEC. 741. FEDERAL STANDBY AUTHORITY. 42 USC 8284.

"(a) PROMULGATION OF PLAN BY THE SECRETARY.—If a State does not have a plan approved under section 721 within 270 days after promulgation of rules under section 712(a), or within such additional period as the Secretary may allow pursuant to section 721(a), or if the Secretary determines after notice and opportunity for a public hearing that an approved plan is not being adequately implemented in such State, the Secretary shall—

"(1) promulgate a plan which meets the requirements of section 722; and

"(2) under such plan, by order, require each regulated utility in the State to offer, no later than 90 days following the date of issuance of such order, to its eligible customers a utility program

prescribed in such order which meets the requirements specified in section 731.

"(b) NONREGULATED UTILITIES.—If a nonregulated utility which is not covered by an approved State plan under section 721 does not have a plan approved under such section within 270 days after promulgation of rules under section 712(a) or within such additional period as the Secretary may allow pursuant to section 721(a), or if the Secretary determines that such nonregulated utility has not adequately implemented an approved plan, the Secretary shall, by order, require such nonregulated utility—

"(1) to promulgate a plan which meets the requirements of section 723 and which applies to the commercial buildings and multifamily dwellings which would have been covered had such a plan been so approved or implemented; and

"(2) no later than 90 days following the date of issuance of such order, to offer to its customers a utility program prescribed in such plan which meets the requirements specified in section 731.

"(c) ENFORCEMENT.—If the Secretary determines that any person has violated any provision of this title, any plan approved or promulgated under this title, or any order issued pursuant thereto, the Secretary may file a petition in the appropriate United States district court to enjoin such person from violating such provision, plan, or order. The provisions of subsections (c) and (d) of section 219 shall apply to any violation of any order or plan promulgated by the Secretary under authority of subsections (a) and (b) of this section.". 42 USC 8220.

AMENDMENT TO THE TABLE OF CONTENTS

SEC. 566. The table of contents of the National Energy Conservation Policy Act is amended by adding the following new items at the end thereof:

"TITLE VII—ENERGY CONSERVATION FOR COMMERCIAL BUILDINGS AND MULTIFAMILY DWELLINGS

"PART 1—GENERAL PROVISIONS

"Sec. 710. Definitions.
"Sec. 711. Coverage.
"Sec. 712. Rules of Secretary for submission and approval of plans.

"PART 2—ENERGY CONSERVATION PLANS

"Sec. 721. Procedures for submission and approval of State energy conservation plans for commercial buildings and multifamily dwellings.
"Sec. 722. Requirements for State plans for regulated utilities.
"Sec. 723. Plan requirements for nonregulated utilities and building heating suppliers.

"PART 3—UTILITY PROGRAMS

"Sec. 731. Utility programs.
"Sec. 732. Building heating supplier program.

"PART 4—FEDERAL IMPLEMENTATION

"Sec. 741. Federal standby authority.".

SUBTITLE E—WEATHERIZATION PROGRAM

LIMITATIONS ON ADMINISTRATIVE EXPENDITURES

SEC. 571. Section 415(a) of the Energy Conservation in Existing Buildings Act of 1976 is amended by striking out ", except that" and all that follows through the period at the end thereof and inserting in lieu thereof the following: ". Not more than an amount equal to 10 percent of any grant made by the Secretary under this part may be used for administrative purposes in carrying out duties under this part, except that not more than one-half of such amount may be used by any State for such purposes." 42 USC 6865.

EXPENDITURES FOR LABOR

SEC. 572. Section 415(c) of the Energy Conservation in Existing Buildings Act of 1976 is amended—

(1) by striking out "paragraph (2)" in paragraph (1) and inserting in lieu thereof "paragraphs (2) and (3)"; and

(2) by inserting the following new paragraph at the end thereof:

"(3) In areas where the Secretary, after consultation with the Secretary of Labor, determines that there is an insufficient number of volunteers and training participants and public service employment workers, assisted pursuant to the Comprehensive Employment and Training Act of 1973, available to work on weatherization projects under the supervision of qualified supervisors and foremen, the Secretary may increase the limitation of $800 to not more than $1,600 to cover the costs of paying persons who will install the weatherization materials and, to the maximum extent practicable, who would otherwise be able to participate as training participants and public service employment workers pursuant to the Comprehensive Employment and Training Act of 1973." 29 USC 801 note.

SELECTION OF LOCAL AGENCIES

SEC. 573. (a) Section 415(b)(2) of the Energy Conservation in Existing Buildings Act of 1976 is amended— 42 USC 6865.

(1) by inserting "and" at the end of subparagraph (A);

(2) by striking out subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) Section 413(c) of such Act is amended by striking out the second sentence thereof. 42 USC 6863.

(c) Section 414(b) of the Energy Conservation in Existing Buildings Act of 1976 is amended— 42 USC 6864.

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding the following new paragraph at the end thereof:

"(4) selected on the basis of public comment received during a public hearing conducted pursuant to section 415(b)(1), and other appropriate findings, community action agencies or other public or nonprofit entities to undertake the weatherization activities authorized by this title: *Provided,* Such selection shall be based on the agency's experience and performance in weatherization or housing renovation activities, experience in assisting low-income persons in the area to be served, and the capacity to undertake a timely and effective weatherization program: *Provided further,*

That in making such selection preference shall be given to any community action agency or other public or nonprofit entity which has, or is currently administering, an effective program under this title or under title II of the Economic Opportunity Act of 1964.".

42 USC 6851, 2781.

STANDARDS AND PROCEDURES FOR THE WEATHERIZATION PROGRAM

SEC. 574. Section 413(b) of the Energy Conservation in Existing Buildings Act of 1976 is amended by adding the following new paragraph at the end thereof:

42 USC 6863.

"(4) In carrying out paragraphs (2)(A) and (3), the Secretary shall establish the standards and procedures described in such paragraphs so that weatherization efforts being carried out under this part and under programs described in the fourth sentence of paragraph (3) will accomplish uniform results among the States in any area with a similar climatic condition.".

LIMITATIONS ON EXPENDITURES

SEC. 575. Section 415(c)(1)(D) of the Energy Conservation in Existing Buildings Act of 1976 is amended by striking out "$100" and inserting in lieu thereof "$150".

Ante, p. 759.

AUTHORIZATION OF APPROPRIATIONS

SEC. 576. Section 422 of the Energy Conservation in Existing Buildings Act of 1976 is amended to read as follows:

42 USC 6872.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. There is authorized to be appropriated for purposes of carrying out the weatherization program under this part, the sum of $55,000,000 for the fiscal year ending on September 30, 1977, the sum of $130,000,000 for the fiscal year ending on September 30, 1978, the sum of $200,000,000 for the fiscal year ending on September 30, 1979, the sum of $200,000,000 for the fiscal year ending on September 30, 1980, and the sum of $200,000,000 for the fiscal year ending on September 30, 1981, such sums to remain available until expended.".

TECHNICAL AMENDMENTS

SEC. 577. Part A of the Energy Conservation in Existing Buildings Act of 1976 is amended—

42 USC 6862.

(1) by striking out section 412(1) and inserting in lieu thereof the following:

"(1) The term 'Secretary' means the Secretary of Energy.";

(2) by striking out "Administrator" each time it appears therein and inserting in lieu thereof "Secretary"; and

(3) by striking out "Administrator's" in the first sentence of section 419(a) and inserting in lieu thereof "Secretary's".

42 USC 6869.

SUBTITLE F—ENERGY AUDITOR TRAINING AND CERTIFICATION

PURPOSE

SEC. 581. It is the purpose of this subtitle to encourage the training and certification of individuals to conduct energy audits for residen-

42 USC 8285.

tial and commercial buildings in order to serve the various private and public needs of the Nation for energy audits.

DEFINITIONS

SEC. 582. For the purposes of this subtitle— 42 USC 8285a.

(1) the term "Governor" means the chief executive officer of each State, including the Mayor of the District of Columbia;

(2) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands;

(3) the term "energy audit" means an inspection as described in section 215(b)(1)(A) of the National Energy Conservation Policy Act, or an energy audit as defined in section 710(b)(7) of such Act, which in addition may provide information on the utilization of renewable resources and may make energy-related improvements in the building; and

(4) the term "Secretary" means the Secretary of Energy.

GRANTS

SEC. 583. (a) The Secretary may make grants to any Governor of a State for the training and certification of individuals to conduct energy audits. 42 USC 8285b.

(b) Before making a grant under subsection (a) to a Governor, the Secretary must receive from the Governor an application containing— Applications.

(A) any information which the Secretary deems is necessary to carry out this subtitle; and

(B) an assurance that the grant will supplement and not supplant other funds available for such training and certification and will be used to increase the total amount of funds available for such training and certification.

(c)(1) Before making any grant under subsection (a) the Secretary shall establish minimum standards for the training and certification of individuals to conduct energy audits.

(2) The Secretary shall require each Governor receiving any grant under this subtitle to agree to meet the standards established pursuant to paragraph (1) in any training and certification conducted using funds provided under this subtitle.

AUTHORIZATION OF APPROPRIATIONS

SEC. 584. (a) To carry out this subtitle there is authorized to be appropriated the sum of $10,000,000 for the fiscal year ending on September 30, 1981, and the sum of $15,000,000 for the fiscal year ending on September 30, 1982. 42 USC 8285c.

(b) Any funds appropriated under the authorization contained in this section shall remain available until expended.

SUBTITLE G—INDUSTRIAL ENERGY CONSERVATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 591. To accelerate the program of the Department of Energy involving the research, development, and demonstration of energy conserving activities designed to substantially increase productivity 42 USC 6347.

in industry, there is authorized to be appropriated to the Secretary of Energy for industrial energy conservation demonstration projects designed to substantially increase productivity in industry, in addition to any other sums which may be available for such purposes, the sum of $40,000,000 for each of the fiscal years ending on September 30, 1981, and on September 30, 1982.

SUBTITLE H—COORDINATION OF FEDERAL ENERGY CONSERVATION FACTORS AND DATA

CONSENSUS ON FACTORS AND DATA FOR ENERGY CONSERVATION STANDARDS

42 USC 8286.

SEC. 595. The Secretary of Energy shall assure that within 6 months after the date of the enactment of this Act, the Secretary of Energy, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of Health and Human Services, the Secretary of Defense, the Administrator of the General Services Administration, and the head of any other agency responsible for developing energy conservation standards for new or existing residential, commercial, or agricultural buildings shall reach a consensus regarding factors and data used to develop such standards. This consensus shall apply to, but not be limited to—

(1) fuel price projections;

(2) discount rates;

(3) inflation rates;

(4) climatic conditions and zones; and

(5) the cost and energy saving characteristics of construction materials.

USE OF FACTORS AND DATA

42 USC 8286a.

SEC. 596. Factors and data consented to pursuant to section 595 may be revised and agreed to by a consensus of the heads of the various Federal agencies involved. Such factors and data shall be used by all Federal agencies in establishing and revising various energy conservation standards used by such agencies, except that other factors and data may be used with respect to the standards applicable to any program if—

(1) the other factors and data are approved by the Secretary of Energy solely on the basis that such other factors and data are critical to meet the unique needs of the program concerned;

(2) using the consented to factors and data would cause a violation of an express provision of law; or

(3) statutory requirements or responsibilities require a modification of the consented to factors and data.

REPORT

Submittal to Congress.
42 USC 8286b.

SEC. 597. The President shall report to the Congress on January 1, 1981, and annually thereafter, with respect to—

(1) the activities which have been carried out under this subtitle; and

(2) other efforts which are being carried out to coordinate the various Federal energy conservation programs.

TITLE VI—GEOTHERMAL ENERGY

Geothermal Energy Act of 1980.

SHORT TITLE

SEC. 601. This title may be cited as the "Geothermal Energy Act of 1980". 30 USC 1501 note.

FINDINGS

SEC. 602. The Congress finds that— 30 USC 1501.

(1) domestic geothermal reserves can be developed into regionally significant energy sources promoting the economic health and national security of the Nation;

(2) there are institutional and economic barriers to the commercialization of geothermal technology; and

(3) Federal agencies should consider the use of geothermal energy in the Government's buildings.

SUBTITLE A

LOANS FOR GEOTHERMAL RESERVOIR CONFIRMATION

SEC. 611. (a) The Secretary of Energy (hereafter in this title referred to as the "Secretary") is authorized to make a loan to any person, from funds appropriated (pursuant to this subtitle) to the Geothermal Resources Development Fund established under section 204 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1144), to assist such person in undertaking and carrying out a project which (1) is designed to explore for or determine the economic viability of a geothermal reservoir and (2) consists of surface exploration and the drilling of one or more exploratory wells. 30 USC 1511.

(b) Subject to subsection (c) and to section 613(b), any loan under subsection (a) shall be repayable out of revenue from production of the geothermal energy reservoir with respect to which the loan was made, at a rate, in any year, not to exceed 20 per centum of the gross revenue from the reservoir in that year; except that if any disposition of the geothermal rights to the reservoir is made to one or more other persons by the borrower, the full amount of the loan balance outstanding, or so much of the loan balance outstanding as is equal to the full amount of the compensation realized by the borrower upon such disposition, whichever is less, shall be repaid immediately. In any case where the reservoir is confirmed (as determined by the Secretary), the Secretary may impute a reasonable revenue for purposes of determining repayment if— Repayment.

(1) reasonable efforts are not made to put such reservoir in commercial operation,

(2) the borrower (or any such other person) utilizes the resources of the reservoir without a sale of the energy or geothermal energy resources therefrom, or

(3) a sale of energy or geothermal energy resources from the reservoir is made for an unreasonably low price;

except that no such imputation of revenue shall be made during the three-year period immediately following such reservoir confirmation. In the event of failure to begin production of revenue (or, where no sale of energy or geothermal energy resources is made, to begin production of energy for commercial use) within five years after the date of such reservoir confirmation, the Secretary may take action to Production failure.

recover the value, not to exceed the amount of the unpaid balance of the loan plus any accrued interest thereon, of any assets of the project in question, including resource rights.

Cancellation.

(c) The Secretary may at any time cancel the unpaid balance and any accrued interest on any loan made under this section if he determines, on the basis of evidence presented by the loan recipient or otherwise, that the geothermal energy reservoir with respect to which the loan was made has characteristics which make that reservoir economically or technically unacceptable for commercial development.

"Person."

(d) As used in this subtitle, the term "person" includes municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and Indian tribes, as well as the entities included within such term under 1 U.S.C. 1.

LOAN SIZE LIMITATION

30 USC 1512.

SEC. 612. The amount of any loan made under section 611(a) with respect to a project described in that section shall not exceed 50 percent of the cost of such project; except that if the loan is made to a person proposing to make application of the resources of the reservoir involved primarily for space heating or cooling or process heat for one or more structures or facilities then existing or under construction, the loan may be in any amount up to 90 per centum of such cost. In any event no loan shall be made in an amount in excess of $3,000,000.

LOAN RATE AND REPAYMENT

30 USC 1513.

SEC. 613. (a) Each loan made under section 611 shall bear interest at a discount or interest rate equal to the rate in effect (at the time the loan is made) for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)-17(a)).

42 USC 1962d-17.

(b) Each such loan shall be for a term which the Secretary deems appropriate, except that no loan term shall exceed twenty years beyond the date on which production of energy or geothermal energy resources begins from the reservoir involved. If revenues are inadequate (as determined by the Secretary) to fully repay the principal and accrued interest within twenty years after production begins, any remaining unpaid amounts shall be forgiven.

PROGRAM TERMINATION

30 USC 1514.

SEC. 614. No new loans shall be made under this subtitle after September 30, 1986. Amounts repaid on or before September 30, 1986, on loans theretofore made under section 611 shall be deposited in the Geothermal Resources Development Fund for purposes of this subtitle. Amounts repaid after that date on loans theretofore made under section 611, and amounts deposited in the Fund for purposes of this subtitle which remain in the Fund after that date and are not required to secure outstanding obligations under this subtitle, shall be deposited into the United States Treasury as miscellaneous receipts.

REGULATIONS

30 USC 1515.

SEC. 615. The Secretary shall promulgate regulations to carry out this subtitle no later than six months after the date of the enactment of this Act.

AUTHORIZATIONS

SEC. 616. There are hereby authorized to be appropriated for loans under this subtitle not to exceed $5,000,000 for fiscal year 1981, and not to exceed $20,000,000 for each of the four succeeding fiscal years. Amounts so appropriated shall be deposited in the Geothermal Resources Development Fund for purposes of this subtitle, and shall remain available for such purposes until expended. 30 USC 1516.

SUBTITLE B

RESERVOIR INSURANCE PROGRAM STUDY

SEC. 621. The Secretary shall conduct a detailed study of the need for and feasibility of establishing a reservoir insurance and reinsurance program incorporating the terms, conditions, and provisions set forth in section 622, and shall submit to the Congress within one year after the date of the enactment of this Act a report on the results of such study including his findings and recommendations with respect thereto. Report to Congress. 30 USC 1521.

ESTABLISHMENT OF PROGRAM

SEC. 622. (a) If the report of the Secretary submitted pursuant to section 621 affirmatively recommends the establishment of the program and the Congress by law (after review of such recommendation) specifically authorizes the establishment of the program, the Secretary shall establish and implement within six months after the date of the enactment of such authorization a program, in cooperation with the insurance and reinsurance industry, to provide reservoir insurance to qualified eligible applicants in accordance with this section. 30 USC 1522.

(b) For the purpose of this section— Definitions.

(1) the term "investment" means the expenditure of, and any irrevocable legal obligation to expend, funds (together with the reasonable interest costs thereof) for the purchase or construction of machinery, equipment, and facilities manufactured, or for services contracted to be furnished, for the development and utilization of a geothermal resource in the United States to provide energy in the form of heat for direct use or for generation of electricity;

(2) the term "geothermal resource" means a resource in the United States including (A) all products of geothermal processes embracing indigenous steam, hot water, and hot brines; (B) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (C) heat or other associated energy found in geothermal formations; and (D) any byproducts derived from them, where "byproduct" means any mineral or minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with other geothermal resources and which have a value of less than 75 per centum of the value of the geothermal steam or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves;

(3) the term "risk" means the hazard that a reservoir of geothermal resources will cease to provide sufficient quantities of geothermal resources at minimum conditions required to

maintain an economically or technically viable operation for utilization of the geothermal resource;

(4) the term "reasonable premiums" means premium amounts determined by the Secretary to be reasonable in light of the amount of investment subject to the risk and premiums charged in similar or analogous situations by private insurers where private insurance is concerned and by insurers or guarantors, both public and private, where public insurance is concerned;

(5) the term "other insurance" means any combination of private or public insurance other than investment insurance provided by the Secretary under this section;

(6) the term "reservoir" means the physical subsurface geologic structure which forms the natural repository for the undisturbed geothermal resource; and

(7) the term "person" means any public or private agency, institution, association, partnership, corporation, political subdivision, or other legal entity which is a United States citizen as determined by application of the test for United States citizenship contained in section 2(a)-(c) of the Shipping Act, 1916 (46 U.S.C. 802), or in the first sentence of section 27A of the Merchant Marine Act, 1920 (46 U.S.C. 883-1(a)-(e)).

Investment insurance.

(c) Any person with a total direct investment of not less than $1,000,000 in the development and use, not including exploration and testing, of a geothermal resource associated with a reservoir, and unable to obtain other insurance at reasonable premiums for the amount of the investment subject to risk, as determined by the Secretary under this section, shall be eligible for investment insurance.

(d) Any eligible person seeking investment insurance under this section shall file an application with the Secretary setting forth (1) the total amount of the contemplated investment in a geothermal resource and associated reservoir; (2) the views of the applicant concerning the nature and extent of the risk, including a geologic, engineering, and financial assessment based on site specific results of exploration and testing of the geothermal resource and the reservoir, stated with as much specificity as is possible; (3) the status of all required Federal, State, and local approvals, permits, and leases for the proposed development and utilization operations at the site; (4) the extent to which the applicant has been able to obtain other insurance against the risk; and (5) such other information as the Secretary may require.

(e) Unless the Secretary determines the risk proposed by the applicant is unreasonable, the Secretary, within ninety days after receipt of a satisfactory application, shall determine in writing and submit to the applicant (1) the risk which may cause loss of investment for the applicant; (2) the total investment subject to the risk; (3) the amount of the other insurance which is available at reasonable premiums for the purpose of indemnifying the applicant against the risk; (4) the amount of investment insurance available pursuant to this section, which shall be the difference between the total investment subject to the risk and the total other insurance determined to be available at reasonable premiums, but not in excess of the lesser of 90 per centum of, or $50,000,000 of, the loss of investment subject to the risk; and (5) any reasonable terms and conditions necessary for the prudent administration of the program, including reasonable premiums for the insurance pursuant to this section (which shall be deposited in the Geothermal Resources Development Fund).

(f) The Secretary, within ninety days after making and submitting the determinations under subsection (e), and upon agreement of the applicant to such determinations, shall issue a certificate of insurance containing such terms and conditions as the Secretary shall specify, which shall not be transferrable without the express approval of the Secretary for good cause shown, and shall execute a contract with the applicant setting forth the terms and conditions of the investment insurance and such other provisions as may be necessary to protect the interests of the United States, including provisions with respect to the ownership, use, and disposition of any currency, credits, assets, or investments on account of which payment under such insurance is to be made and any right, title, claim, or course of action existing in relation thereto.

(g) Any holder of a certificate of insurance pursuant to subsection (f) who claims a loss of value of his investment by reason of the specified risk shall receive compensation, to the extent the Secretary determines that the holder is eligible to receive compensation pursuant to the certificate and the contract, in the amount of the loss incurred by the holder which is subject to insurance and for which the holder has not received and will not receive compensation from other insurance. Compensation.

(h) Any compensation received by the holder shall be withdrawn from the Geothermal Resources Development Fund. The full faith and credit of the United States is hereby pledged to the payment of any compensation under this section.

(i) A person shall not be denied insurance pursuant to this section solely because such person is the recipient of other Federal assistance under this or any other Act.

(j) There may be appropriated to the Geothermal Resources Development Fund (established pursuant to section 204 of the Geothermal Energy Research, Development and Demonstration Act of 1974 (30 U.S.C. 1144)), for purposes of this section, such amounts as are authorized for such purposes in the law referred to in subsection (a) or in other legislation hereafter enacted.

(k) The Secretary may enter into agreements to reinsure any private insurer for any risk associated with insurance for the development and utilization of a geothermal resource and associated reservoir, using the procedures set forth in subsections (c) through (i), to the extent that he deems it appropriate in order to provide an incentive for the participation of the private insurance industry in geothermal development; and he may also use any other available authority to obtain such participation. The Secretary shall submit a report to the Congress, within one year after the enactment of the law referred to in subsection (a), on the need for any additional authority to obtain such participation. Agreements. Report to Congress.

SUBTITLE C

FEASIBILITY STUDY LOAN PROGRAM

SEC. 631. (a) The Secretary is authorized and directed to establish a program of assistance for the accelerated development of geothermal resources for nonelectric applications by geothermal utility districts, geothermal industrial development districts, and other persons. 30 USC 1531.

(b)(1) In providing assistance under the program established pursuant to subsection (a), the Secretary is authorized to make a loan to any person to defray up to 90 per centum of the costs of (A) studies to

determine the feasibility of any geothermal development described in such subsection, and (B) preparing applications for any necessary licenses or other Federal, State, and local approvals respecting such development.

Cancellation.

(2) The Secretary may cancel the unpaid balance and any accrued interest on any loan granted for a study pursuant to clause (A) of paragraph (1) if he determines, on the basis of the study, that the geothermal development is not technically or economically feasible.

(c) In providing assistance under such program, the Secretary is also authorized to make a loan to any person to defray up to 75 per centum of the costs directly related to the construction of a system or systems for nonelectric geothermal development pursuant to such subsection, where the Secretary finds that—

(1) all necessary licenses and other required Federal, State, and local approvals for construction of such system or systems have been or will be issued,

(2) the project involved will comply with all applicable laws relating to protection of the environment, and

(3) the applicant requires such assistance to undertake and complete the project.

(d) Each loan made pursuant to this section shall bear interest at a discount or interest rate equal to the rate in effect (at the time the loan is made) for water resources planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)-17(a)). Each loan shall be for such term as the Secretary deems appropriate, but not in excess of ten years for loans under subsection (b) or thirty years for loans under subsection (c).

42 USC 1962d-17.

(e) Loans pursuant to this section shall be made from funds appropriated (pursuant to this subtitle) to the Geothermal Resources Development Fund established under section 204 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1144); and amounts repaid on such loans shall be deposited in the Geothermal Resources Development Fund for purposes of this subtitle.

(f) For loans under clause (A) of subsection (b)(1) for fiscal year 1981, there is authorized to be appropriated to the Geothermal Resources Development Fund not to exceed $5,000,000, which shall remain available until expended. For loans under such clause (A) for subsequent fiscal years, and for loans under clause (B) of subsection (b)(1) or under subsection (c) (for any such subsequent fiscal year), there may be appropriated to such Fund only such sums as are authorized by legislation hereafter enacted.

"Person."

(g) As used in this section, the term "person" includes municipalities, cooperatives, industrial development agencies, nonprofit organizations, and Indian tribes, as well as the districts referred to in subsection (a) and the other entities included within such term under 1 U.S.C. 1.

SUBTITLE D

AMENDMENTS TO GEOTHERMAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT

SEC. 641. Title II of the Geothermal Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1101 et seq.) is amended—

30 USC 1141.

(1) by striking out the period at the end of the first sentence in section 201(c) and inserting in lieu thereof the following: ", except that any guarantee made for a loan to an electric, housing, or

other cooperative, or to a municipality (as defined in section 3(7), part I, of the Federal Power Act), may apply to so much of the principal amount of the loan as does not exceed 90 percent of the aggregate cost of the project. In determining the aggregate cost of a project for purposes of the preceding sentence, there shall be excluded the cost of constructing electrical transmission lines to the extent that the cost of constructing such lines exceeds 25 percent of the aggregate cost of the project (as determined without regard to this sentence); except that the Secretary may waive or limit the application of this sentence with respect to any project located in the State of Hawaii upon a finding that such project is remote from the area of primary consumption, that a transmission line is required before the geothermal reservoir can be developed, and that the particular transmission line involved will be used for more than the plant which is the subject of the loan guarantee.";

16 USC 796.

(2) by striking out "the ten-calendar-year period following the date of enactment of this Act" in section 203 and inserting in lieu thereof "fiscal year 1990"; and

30 USC 1143.

(3) by adding at the end thereof the following new sections:

"APPROVAL OR DISAPPROVAL OF LOAN GUARANTEE APPLICATIONS

"SEC. 206. The Secretary, within sixty days after the enactment of this section, shall establish and implement procedures providing for a final decision on any loan guarantee application within four months of the date of filing. To the maximum extent practical, an applicant should be advised (prior to the submission of the application) of all information which will be required of the applicant in processing the application; and the date of filing shall be considered to be the date when all of such information has been submitted by the applicant. Any application proposed and filed as of the date of the enactment of this section shall be subject to final decision within not more than four months after such date.

30 USC 1146.

"APPLICATION OF NATIONAL ENVIRONMENTAL POLICY ACT

"SEC. 207. The Secretary shall ensure, to the maximum extent possible, that any action undertaken pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 which is associated with the granting of a loan guarantee under this title takes the maximum cognizance allowable under law of any other action theretofore undertaken pursuant to such section 102(2)(C) with respect to the project which is the subject of such loan guarantee, and that no such action associated with the loan guarantee shall duplicate any action theretofore undertaken under such section 102(2)(C) in connection with such project, so long as all of the requirements which are applicable to such project under such section 102(2)(C) will have been satisfied.".

30 USC 1147.

42 USC 4332.

USE OF GEOTHERMAL ENERGY IN FEDERAL FACILITIES

SEC. 642. The option of using geothermal energy or geothermal energy resources shall be considered fully in any new Federal building, facility, or installation which is located in a geothermal resource area as designated by the Secretary.

30 USC 1541.

AMENDMENTS TO FEDERAL POWER ACT AND PUBLIC UTILITY REGULATORY POLICIES ACT

SEC. 643. (a) The Federal Power Act is amended—

16 USC 796. (1) by inserting "geothermal resources," after "renewable resources," in section 3(17)(A)(i);

16 USC 824i. (2) by inserting "geothermal power producer (including a producer which is not an electric utility)," after "Federal power marketing agency," in section 210(a)(1); and

16 USC 824j. (3) by striking out "Any electric utility" at the beginning of section 211(a) and inserting in lieu thereof "Any electric utility, geothermal power producer (including a producer which is not an electric utility),".

16 USC 824a-3. (b) Section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617) is amended—

(1) by inserting ", and to encourage geothermal small power production facilities of not more than 80 megawatts capacity," after "to encourage cogeneration and small power production" in the first sentence of subsection (a);

(2) by striking out "qualifying cogeneration facilities" in subsection (e)(1) and inserting in lieu thereof "geothermal small power production facilities of not more than 80 megawatts capacity, qualifying cogeneration facilities,"; and

(3) by inserting ", or 80 megawatts for a qualifying small power production facility using geothermal energy as the primary energy source," after "30 megawatts" in subsection (e)(2).

REGULATIONS

30 USC 1542. SEC. 644. All regulations made with respect to this subtitle shall be promulgated no later than six months after the date of the enactment of this Act.

Acid Precipitation Act of 1980.

TITLE VII—ACID PRECIPITATION PROGRAM AND CARBON DIOXIDE STUDY

SUBTITLE A—ACID PRECIPITATION

SHORT TITLE

42 USC 8901 note. SEC. 701. This title may be cited as the "Acid Precipitation Act of 1980".

STATEMENT OF FINDINGS AND PURPOSE

42 USC 8901. SEC. 702. (a) The Congress finds and declares that acid precipitation resulting from other than natural sources—

(1) could contribute to the increasing pollution of natural and man-made water systems;

(2) could adversely affect agricultural and forest crops;

(3) could adversely affect fish and wildlife and natural ecosystems generally;

(4) could contribute to corrosion of metals, wood, paint, and masonry used in construction and ornamentation of buildings and public monuments;

(5) could adversely affect public health and welfare; and

(6) could affect areas distant from sources and thus involve issues of national and international policy.

(b) The Congress declares that it is the purpose of this subtitle—

(1) to identify the causes and sources of acid precipitation;

(2) to evaluate the environmental, social, and economic effects of acid precipitation; and

(3) based on the results of the research program established by this subtitle and to the extent consistent with existing law, to take action to the extent necessary and practicable (A) to limit or eliminate the identified emissions which are sources of acid precipitation, and (B) to remedy or otherwise ameliorate the harmful effects which may result from acid precipitation.

(c) For purposes of this subtitle the term "acid precipitation" means the wet or dry deposition from the atmosphere of acid chemical compounds. "Acid precipitation."

INTERAGENCY TASK FORCE; COMPREHENSIVE PROGRAM

SEC. 703. (a) There is hereby established a comprehensive ten-year program to carry out the provisions of this subtitle; and to implement this program there shall be formed an Acid Precipitation Task Force (hereafter in this subtitle referred to as the "Task Force"), of which the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Administrator of the National Oceanic and Atmospheric Administration shall be joint chairmen. The remaining membership of the Task Force shall consist of— Acid Precipitation Task Force. 42 USC 8902.

(1) one representative each from the Department of the Interior, the Department of Health and Human Services, the Department of Commerce, the Department of Energy, the Department of State, the National Aeronautics and Space Administration, the Council on Environmental Quality, the National Science Foundation, and the Tennessee Valley Authority;

(2) the director of the Argonne National Laboratory, the director of the Brookhaven National Laboratory, the director of the Oak Ridge National Laboratory, and the director of the Pacific Northwest National Laboratory; and

(3) four additional members to be appointed by the President.

(b) The four National Laboratories (referred to in subsection (a)(2)) shall constitute a research management consortium having the responsibilities described in section 704(b)(13) as well as the general responsibilities required by their representation on the Task Force. In carrying out these responsibilities the consortium shall report to, and act pursuant to direction from, the joint chairmen of the Task Force. Research management consortium.

(c) The Administrator of the National Oceanic and Atmospheric Administration shall serve as the director of the research program established by this subtitle. Director.

COMPREHENSIVE RESEARCH PLAN

SEC. 704. (a) The Task Force shall prepare a comprehensive research plan for the ten-year program (hereafter in this subtitle referred to as the "comprehensive plan"), setting forth a coordinated program (1) to identify the causes and effects of acid precipitation and (2) to identify actions to limit or ameliorate the harmful effects of acid precipitation. 42 USC 8903.

(b) The comprehensive plan shall include programs for—

(1) identifying the sources of atmospheric emissions contributing to acid precipitation;

(2) establishing and operating a nationwide long-term monitoring network to detect and measure levels of acid precipitation;

(3) research in atmospheric physics and chemistry to facilitate understanding of the processes by which atmospheric emissions are transformed into acid precipitation;

(4) development and application of atmospheric transport models to enable prediction of long-range transport of substances causing acid precipitation;

(5) defining geographic areas of impact through deposition monitoring, identification of sensitive areas, and identification of areas at risk;

(6) broadening of impact data bases through collection of existing data on water and soil chemistry and through temporal trend analysis;

(7) development of dose-response functions with respect to soils, soil organisms, aquatic and amphibious organisms, crop plants, and forest plants;

(8) establishing and carrying out system studies with respect to plant physiology, aquatic ecosystems, soil chemistry systems, soil microbial systems, and forest ecosystems;

(9) economic assessments of (A) the environmental impacts caused by acid precipitation on crops, forests, fisheries, and recreational and aesthetic resources and structures, and (B) alternative technologies to remedy or otherwise ameliorate the harmful effects which may result from acid precipitation;

(10) documenting all current Federal activities related to research on acid precipitation and ensuring that such activities are coordinated in ways that prevent needless duplication and waste of financial and technical resources;

(11) effecting cooperation in acid precipitation research and development programs, ongoing and planned, with the affected and contributing States and with other sovereign nations having a commonality of interest;

(12) subject to subsection (f)(1), management by the Task Force of financial resources committed to Federal acid precipitation research and development;

(13) subject to subsection (f)(2), management of the technical aspects of Federal acid precipitation research and development programs, including but not limited to (A) the planning and management of research and development programs and projects, (B) the selection of contractors and grantees to carry out such programs and projects, and (C) the establishment of peer review procedures to assure the quality of research and development programs and their products; and

(14) analyzing the information available regarding acid precipitation in order to formulate and present periodic recommendations to the Congress and the appropriate agencies about actions to be taken by these bodies to alleviate acid precipitation and its effects.

Submittal to Congress; public review.

(c) The comprehensive plan—

(1) shall be submitted in draft form to the Congress, and for public review, within six months after the date of the enactment of this Act;

(2) shall be available for public comment for a period of sixty days after its submission in draft form under paragraph (1);

(3) shall be submitted in final form, incorporating such needed revisions as arise from comments received during the review

period, to the President and the Congress within forty-five days after the close of the period allowed for comments on the draft comprehensive plan under paragraph (2); and

(4) shall constitute the basis on which requests for authorizations and appropriations are to be made for the nine fiscal years following the fiscal year in which the comprehensive plan is submitted in final form under paragraph (3).

(d) The Task Force shall convene as necessary, but no less than twice during each fiscal year of the ten-year period covered by the comprehensive plan.

(e) The Task Force shall submit to the President and the Congress by January 15 of each year an annual report which shall detail the progress of the research program under this subtitle and which shall contain such recommendations as are developed under subsection (b)(14). Annual report to President and Congress.

(f)(1) Subsection (b)(12) shall not be construed as modifying, or as authorizing the Task Force or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) which specifies (A) the department or agency to which funds are appropriated, or (B) the obligations of such department or agency with respect to the use of such funds.

(2) Subsection (b)(13) shall not be construed as modifying, or as authorizing the Task Force or the comprehensive plan to modify, any provision of law (relating to or involving a department or agency) which specifies (A) procurement practices for the selection, award, or management of contracts or grants by such department or agency, or (B) program activities, limitations, obligations, or responsibilities of such department or agency.

IMPLEMENTATION OF COMPREHENSIVE PLAN

SEC. 705. (a) The comprehensive plan shall be carried out during the nine fiscal years following the fiscal year in which the comprehensive plan is submitted in its final form under section 704(c)(3); and— 42 USC 8904.

(1) shall be carried out in accord with, and meet the program objectives specified in, paragraphs (1) through (11) of section 704(b);

(2) shall be managed in accord with paragraphs (12) through (14) of such section; and

(3) shall be funded by annual appropriations, subject to annual authorizations which shall be made for each fiscal year of the program (as provided in section 706) after the submission of the Task Force progress report which under section 704(e) is required to be submitted by January 15 of the calendar year in which such fiscal year begins.

(b) Nothing in this subtitle shall be deemed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

AUTHORIZATION OF APPROPRIATIONS

SEC. 706. (a) For the purpose of establishing the Task Force and developing the comprehensive plan under section 704 there is authorized to be appropriated to the National Oceanic and Atmospheric 42 USC 8905.

Administration for fiscal year 1981 the sum of $5,000,000, to remain available until expended.

(b) Authorizations of appropriations for the nine fiscal years following the fiscal year in which the comprehensive plan is submitted in final form under section 704(c)(3), for purposes of carrying out the comprehensive ten-year program established by section 703(a) and implementing the comprehensive plan under sections 704 and 705, shall be provided on an annual basis in authorization Acts hereafter enacted; but the total sum of dollars authorized for such purposes for such nine fiscal years shall not exceed $45,000,000 except as may be specifically provided by reference to this paragraph in the authorization Acts involved.

SUBTITLE B—CARBON DIOXIDE

STUDY

42 USC 8911.

SEC. 711. (a)(1) The Director of the Office of Science and Technology Policy shall enter into an agreement with the National Academy of Sciences to carry out a comprehensive study of the projected impact, on the level of carbon dioxide in the atmosphere, of fossil fuel combustion, coal-conversion and related synthetic fuels activities authorized in this Act, and other sources. Such study should also include an assessment of the economic, physical, climatic, and social effects of such impacts. In conducting such study the Office and the Academy are encouraged to work with domestic and foreign governmental and non-governmental entities, and international entities, so as to develop an international, worldwide assessment of the problems involved and to suggest such original research on any aspect of such problems as the Academy deems necessary.

Report to Congress.

(2) The President shall report to the Congress within six months after the date of the enactment of this Act regarding the status of the Office's negotiations to implement the study required under this section.

Results, report to Congress.

(b) A report including the major findings and recommendations resulting from the study required under this section shall be submitted to the Congress by the Office and the Academy not later than three years after the date of the enactment of this Act. The Academy contribution to such report shall not be subject to any prior clearance or review, nor shall any prior clearance or conditions be imposed on the Academy as part of the agreement made by the Office with the Academy under this section. Such report shall in any event include recommendations regarding—

Recommendations.

(1) how a long-term program of domestic and international research, monitoring, modeling, and assessment of the causes and effects of varying levels of atmospheric carbon dioxide should be structured, including comments by the Office on the interagency requirements of such a program and comments by the Secretary of State on the international agreements required to carry out such a program;

(2) how the United States can best play a role in the development of such a long-term program on an international basis;

(3) what domestic resources should be made available to such a program;

(4) how the ongoing United States Government carbon dioxide assessment program should be modified so as to be of increased

utility in providing information and recommendations of the highest possible value to government policy makers; and

(5) the need for periodic reports to the Congress in conjunction with any long-term program the Office and the Academy may recommend under this section.

(c) The Secretary of Energy, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the Director of the National Science Foundation shall furnish to the Office or the Academy upon request any information which the Office or the Academy determines to be necessary for purposes of conducting the study required by this section.

(d) The Office shall provide a separate assessment of the interagency requirements to implement a comprehensive program of the type described in the third sentence of subsection (b).

AUTHORIZATION OF APPROPRIATIONS

SEC. 712. For the expenses of carrying out the carbon dioxide study authorized by section 711 (as determined by the Office of Science and Technology Policy) there are authorized to be appropriated such sums, not exceeding $3,000,000 in the aggregate, as may be necessary. At least 80 percent of any amounts appropriated pursuant to the preceding sentence shall be provided to the National Academy of Sciences. 42 USC 8912.

TITLE VIII—STRATEGIC PETROLEUM RESERVE

PRESIDENT REQUIRED TO RESUME FILL OPERATIONS

SEC. 801. (a) Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by adding at the end thereof the following new subsection:

"(c)(1) Notwithstanding subsection (b) and the requirements of section 159, the President shall immediately undertake, and thereafter continue (subject to paragraph (2)), crude oil acquisition, transportation, and injection activities at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average rate of at least 100,000 barrels per day for fiscal year 1981 and for each fiscal year thereafter.

"(2) The requirement in paragraph (1) shall cease to apply when storage in the Strategic Petroleum Reserve equals or exceeds the final storage level set forth in the Strategic Petroleum Reserve Plan.".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to the entirety of fiscal year 1981 (and each fiscal year thereafter). 42 USC 6240 note.

USE OF CRUDE OIL FROM ELK HILLS RESERVE

SEC. 802. (a) Section 160 of such Act (42 U.S.C. 6240), as amended by section 801, is further amended by adding at the end thereof the following:

"(d)(1) Notwithstanding any other provision of law, no portion of the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of other than to the Strategic Petroleum Reserve (either directly or by exchange) during any fiscal year, except as provided in paragraph (2), unless—

"(A) the quantity of crude oil in storage within the Strategic Petroleum Reserve is at least 500,000,000 barrels; or

"(B) acquisition, transportation, and injection activities for the Reserve are being undertaken for that fiscal year at a level sufficient to assure that crude oil in storage in the Strategic Petroleum Reserve will be increased at an average rate of at least 100,000 barrels per day for that fiscal year.

"(2)(A) The requirements of paragraph (1) shall not apply to the United States share of crude oil in the Naval Petroleum Reserve Numbered 1 which is—

"(i) sold to small refiners under section 7430(d) of title 10, United States Code;

"(ii) produced, consistent with sound engineering practices, for the purpose of preventing a reduction in the total quantity of crude oil available for ultimate recovery from the Naval Petroleum Reserve Numbered 1, and the amount produced is the minimum necessary to prevent such reduction; or

"(iii) produced for national defense purposes under section 7422(b)(2) of title 10, United States Code, pursuant to an authorization of Congress under that section during the preceding 9-month period.".

Effective date. 42 USC 6240 note.

(b) The amendments made by subsection (a) shall take effect October 1, 1980.

SUSPENSION DURING EMERGENCY SITUATIONS

SEC. 803. Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240), as amended by sections 801 and 802, is further amended by adding at the end thereof the following new subsection:

"(e)(1) The provisions of subsections (c) and (d) shall not apply (A) if there is in effect an order of the President directing drawdown and distribution pursuant to section 161 or (B) if—

"(i) the President has found in his discretion that compliance with such provisions significantly impairs the ability of the United States to respond to a severe energy supply interruption or to meet the obligations of the United States under the international energy program;

"(ii) the President has transmitted such finding to the Congress in accordance with section 552, together with a request for a suspension of such provisions; and

42 USC 6422.

"(iii) such request has been approved by a resolution by each House of the Congress within 60 days of continuous session after the date of its transmittal, in accordance with the provisions of section 552 applicable to energy conservation contingency plans.

"(2) The suspension of application of subsections (c) and (d) under paragraph (1)(B) shall take effect on the date on which a resolution approving that request is adopted by the second House to have so approved that request and shall terminate 9 months thereafter, or such earlier date as is specified in the request transmitted under paragraph (1)(B)(ii).

"(3) In applying the provisions of section 552 for purposes of paragraph (1)(B)—

"(A) subsections (d)(2) and (d)(7) shall not apply; and

"(B) the references to any energy conservation contingency plan shall be considered to refer to a request under this subsection.

"(4) The period of any suspension of subsections (c) and (d) under this subsection, and the quantity of any crude oil involved, shall be disregarded in applying the provisions of such subsections for periods following such suspension.".

NAVAL PETROLEUM RESERVES

SEC. 804. (a) Section 7430(b) of title 10, United States Code, is amended by striking out "for periods of not more than one year," and inserting at the end thereof the following: "Each sale of the United States share of petroleum shall be for periods of not more than one year, except that a sale of natural gas may be made for a period of more than one year.".

(b) Section 7430(k) of title 10, United States Code, is amended to read as follows:

"(k)(1) With respect to all or any part of the United States share of petroleum produced from the naval petroleum reserves, the President may direct that the Secretary—

"(A) place that petroleum in the Strategic Petroleum Reserve as authorized by sections 151 through 166 of the Energy Policy and Conservation Act (42 U.S.C. 6231-6246); or

"(B) exchange, directly or indirectly, that petroleum for other petroleum to be placed in the Strategic Petroleum Reserve under such terms and conditions and by such methods as the Secretary determines to be appropriate, without regard to otherwise applicable Federal procurement statutes and regulations.

"(2) The requirements of section 159 of the Energy Policy and Conservation Act (42 U.S.C. 6239) do not apply to actions taken under this subsection.".

(c) Section 7430 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(l)(1) Notwithstanding any other provision of this chapter (but subject to paragraph (2)), during any period in which the production of petroleum is authorized from Naval Petroleum Reserves Numbered 1, 2, or 3, the Secretary, at the request of the Secretary of Defense, may provide any portion of the United States share of petroleum so produced to the Department of Defense for its use, exchange, or sale in order to meet petroleum product requirements of the Department of Defense.

"(2) Petroleum may be provided to the Department of Defense under paragraph (1) either directly or by such exchange as the Secretary deems appropriate. Appropriate reimbursement reasonably reflecting the fair market value shall be provided by the Secretary of Defense for petroleum provided under this subsection.

"(3) Any exchange made pursuant to this subsection may be made without regard to otherwise applicable Federal procurement statutes and regulations.

"(4) Paragraph (1) does not apply to any petroleum set aside for small refiners under subsection (d) of this section or placed in the Strategic Petroleum Reserve under subsection (k) of this section.".

ALLOCATION TO STRATEGIC PETROLEUM RESERVE OF LOWER TIER CRUDE OIL; USE OF FEDERAL ROYALTY OIL

SEC. 805. (a)(1) In order to carry out the requirement of the amendment made by section 801 of this Act and to carry out the policies and objectives established in sections 151 and 160(b)(1) of the

42 USC 6240 note.

Energy Policy and Conservation Act (42 U.S.C. 6231 and 6240(b)(1)), the President shall, within 60 days after the date of the enactment of this Act, promulgate and make effective an amendment to the provisions of the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 relating to entitlements, which has the same effect as allocating lower tier crude oil to the Government for storage in the Strategic Petroleum Reserve. Such amendment shall not apply with respect to crude oil purchased after September 30, 1981, for storage in such reserve.

15 USC 753.

(2) The authority provided by this subsection shall be in addition to, and shall not be deemed to limit, any other authority available to the President under the Emergency Petroleum Allocation Act of 1973 or any other law.

(3) The President or his delegate may promulgate and make effective rules or orders to implement this subsection without regard to the requirements of section 501 of the Department of Energy Organization Act or any other law or regulation specifying procedural requirements.

42 USC 7191.

(b) In addition to the requirement under subsection (a), the President may direct that—

(1) all or any portion of Federal royalty oil be placed in storage in the Reserve,

(2) all or any portion of Federal royalty oil be exchanged, directly or indirectly, for other crude oil for storage in the Reserve, or

(3) all or any portion of the proceeds from the sales of Federal royalty oil be transferred to the account established under subsection (c) for use for the purchase of crude oil for the Reserve, as provided in subsection (c).

(c)(1) Any proceeds—

(A) from the sale of entitlements received by the Government under the amendment to the regulation made under subsection (a), and

(B) to the extent provided in subsection (b), from the sale of Federal royalty oil,

shall be deposited in a special account which the Secretary of the Treasury shall establish on the books of the Treasury of the United States.

(2)(A) Subject to the provisions of any Act enacted pursuant to section 660 of the Department of Energy Organization Act, such account shall be available (except as provided in subparagraph (B)) for use by the Secretary of Energy, without fiscal year limitation, for the purchase of crude oil for the Strategic Petroleum Reserve, to the extent provided in advance in appropriation Acts.

42 USC 7270.

(B) Amounts in such account attributable to the proceeds from the sale of entitlements under the amendment to the regulation under subsection (a) are hereby appropriated for fiscal year 1981 for acquisition of crude oil for the Strategic Petroleum Reserve pursuant to subsection (a).

Definitions.

(d) For purposes of this section—

(1) the terms "entitlements", "crude oil", and "allocation" shall have the same meaning as those terms have as used in the Emergency Petroleum Allocation Act of 1973 (and the regulation thereunder);

15 USC 751 note.

(2) the term "lower tier crude oil" means crude oil which is subject to the price ceiling established under section 212.73 of title 10, Code of Federal Regulations;

(3) the term "Federal royalty oil" means crude oil which the United States is entitled to receive in kind as royalties from production on Federal land (as such term is defined in section 3(10) of the Energy Policy and Conservation Act (42 U.S.C. 6202(10)); and

(4) the term "proceeds from the sale of Federal royalty oil" means that portion of the amounts deposited into the Treasury of the United States from the sale of Federal royalty oil which is not otherwise required to be disposed of (other than as miscellaneous receipts) pursuant to (A) the provisions of section 35 of the Act of February 25, 1920, as amended (41 Stat. 450; 30 U.S.C. 191), commonly known as the Mineral Lands Leasing Act, or (B) the provisions of any other law.

Approved June 30, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-165 accompanying H.R. 3930 (Comm. on Banking, Finance, and Urban Affairs) and No. 96-1104 (Comm. of Conference).

SENATE REPORTS: No. 96-166 (Comm. on Banking, Housing, and Urban Affairs), No. 96-387 (Comm. on Energy and Natural Resources and Comm. on Banking, Housing, and Urban Affairs), and No. 96-824 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 125 (1979): June 20, considered and passed Senate.
June 26, H.R. 3930 considered and passed House; passage vacated and S. 932, amended, passed in lieu.
Nov. 5, 7, 8, Senate concurred in House amendments with amendments.

Vol. 126 (1980): June 19, Senate agreed to conference report.
June 26, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 27 (1980): June 30, Presidential statement.

Public Law 96-295
96th Congress

An Act

June 30, 1980
[S. 562]

To authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Nuclear Regulatory Commission. Appropriation authorization.

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1980

SEC. 101. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal year 1980, the sum of $426,821,000, to remain available until expended. Of such total amount authorized to be appropriated:

(1) not more than $66,510,000, may be used for "Nuclear Reactor Regulation", of which an amount not to exceed $1,000,000 is authorized to accelerate the effort in gas-cooled thermal reactor preapplication review;

(2) not more than $42,440,000, may be used for "Inspection and Enforcement"; of the total amount appropriated for this purpose, $4,684,000 shall be available for support for 146 additional inspectors for the Resident Inspector program;

(3) not more than $15,953,000, may be used for "Standards Development";

(4) not more than $32,380,000, may be used for "Nuclear Material Safety and Safeguards"; of the total amount appropriated for this purpose—

(A) not less than $60,000 shall be available only for the employment by the Commission of two qualified individuals to be assigned by the Commission for implementation of the United States International Atomic Energy Agency Safeguards Treaty, following ratification of such treaty by the United States Senate;

(B) not less than $180,000 and six additional positions shall be included in the Division of Safeguards for the regulatory improvement of material control and accounting safeguards and the development of improved regulatory requirements for safeguarding the transportation of spent fuel; and

(C) not less than $9,675,000 shall be available for Nuclear Waste Disposal and Management activities, including support for five additional positions in the Division of Waste Management for implementation of the Uranium Mill Tailings Radiation Control Act of 1978 (Public Law 95-604; 42 U.S.C. 7901 and following);

(5) not more than $213,005,000, may be used for "Nuclear Regulatory Research", of which—

(A) an amount not to exceed $3,700,000 shall be available to accelerate the effort in gas-cooled thermal reactor safety research;

(B) an amount not to exceed $4,400,000 shall be available for implementation of the Improved Safety Systems Research plan required by section 205(f) of the Energy Reorganization Act of 1974, as amended; and 42 USC 5845.

(C) an amount not to exceed $6,700,000 shall be available for Nuclear Waste Research activities;

(6) not more than $18,125,000, may be used for "Program Technical Support"; of the total amount appropriated for this purpose, $4,238,000 shall be available to the Office of State Programs, including support for eight additional positions for training and assistance to State and local governments in radiological emergency response planning and operations and for review of State plans; and

(7) not more than $38,408,000 may be used for "Program Direction and Administration"; of the total amount appropriated for this purpose, $400,000 shall be available for support of eight additional positions in the Division of Contracts, Office of Administration.

(b) No amount appropriated to the Nuclear Regulatory Commission pursuant to subsection (a) may be used for any purpose in excess of the amount expressly authorized to be appropriated therefore by paragraphs (1) through (7) of such subsection if such excess amount is greater than $500,000, nor may the amount available from any appropriation for any purpose specified in such paragraphs be reduced by more than $500,000, unless—

(1) a period of 45 calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) has passed after the receipt by the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate of notice given by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or

(2) each such Committee has, before the expiration of such period, transmitted to the Commission a written notification that there is no objection to the proposed action.

(c) No amount authorized to be appropriated by this Act may be used by the Nuclear Regulatory Commission to enter into any contract providing funds in excess of $50,000 encompassing research, study, or technical assistance on domestic safeguards matters except as directed by the Commission, by majority vote, following receipt by the Commission of a recommendation from the Executive Director for Operations supporting the need for such contract.

(d) No amount authorized to be appropriated by this Act may be used by the Nuclear Regulatory Commission to—

(1) place any new work or substantial modification to existing work with another Federal agency, or

(2) contract for research services or modify such contract

in an amount greater than $500,000, unless such placement of work, contract or modification is approved by a Senior Contract Review Board, to be appointed by the Commission within sixty days of the

date of enactment of this Act. Such Board shall be accountable to and under the direction of the Commission. If the amount of such placement, contract, or modification is $1,000,000 or more, approval thereof shall be by majority vote of the Commission. Prior to affording any approval in accordance with the subsection, the reviewing body designated hereunder shall determine that the placement, contract, or modification contains a detailed description of work to be performed, and that alternative methods of obtaining performance including competitive procurement have been considered.

SEC. 102. During the fiscal year 1980, moneys received by the Nuclear Regulatory Commission for the cooperative nuclear research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484). Such moneys shall remain available until expended.

Transfers of sums.

SEC. 103. During the fiscal year 1980, transfers of sums from salaries and expenses of the Nuclear Regulatory Commission may be made to other agencies of the United States Government for the performance of the work for which the appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

SEC. 104. Notwithstanding any other provision of this Act, no authority to make payments hereunder shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 105. No amount authorized to be appropriated pursuant to this Act may be used to grant any license, permit or other authorization, or permission to any person for the transportation to, or the interim, long-term, or permanent storage of, spent nuclear fuel or high-level radioactive waste on any territory or insular possession of the United States or the Trust Territory of the Pacific Islands unless—

(1) the President submits to the Congress a report on the transfer at least 30 days before such transfer and on a day during which—

(A) both Houses of the Congress are in session, or

(B) either or both Houses are not in session because of an adjournment of three days or less to a day certain; or

(2) the President determines that an emergency situation exists with respect to such transfer and that it is in the national interest to make such transfer and the President notifies the Speaker of the House of Representatives and the President of the Senate as soon as possible of such transfer.

The provisions of this section shall not apply to the cleanup and rehabilitation of Bikini and Eniwetok Atolls.

SEC. 106. Of the amounts authorized to be appropriated pursuant to this Act, the Nuclear Regulatory Commission is authorized and directed to use such sums as may be necessary to develop a plan for agency response to accidents at a utilization facility licensed under section 103 or section 104(b) of the Atomic Energy Act of 1954. The plan required to be developed by this section shall be forwarded to the Congress on or before September 30, 1980.

42 USC 2133, 2134.

SEC. 107. No funds appropriated pursuant to this Act may be used for the purpose of providing for the licensing or approval of any disposal of nuclear wastes in the oceans.

Regulations.

SEC. 108. (a) Of the amounts authorized to be appropriated pursuant to this Act, the Nuclear Regulatory Commission is authorized and directed to use such sums as may be necessary to develop and

promulgate regulations establishing demographic requirements for the siting of utilization facilities. Such regulations shall be promulgated by the Commission after notice and opportunity for hearing in accordance with section 553 of title 5 of the United States Code. For purposes of this section, the term "utilization facility" means a facility licensed under section 103 or 104(b) of the Atomic Energy Act of 1954.

Notice and hearing.

"Utilization facility."

42 USC 2133, 2134.

(b) The regulations promulgated pursuant to this section shall provide that no construction permit may be issued for a utilization facility to which this section applies after the date of such promulgation unless the facility complies with the requirements set forth in such regulations, except that regulations promulgated under this section shall not apply to any facility for which an application for a construction permit was filed on or before October 1, 1979.

(c) The regulations promulgated pursuant to this section shall specify demographic criteria for facility siting, including maximum population density and population distribution for zones surrounding the facility without regard to any design, engineering, or other differences among such facilities.

(d) The regulations promulgated pursuant to this section shall take into account the feasibility of all actions outside the facility which may be necessary to protect public health and safety in the event of any accidental release of radioactive material from the facility which may endanger public health or safety. For purposes of this subsection, the term "accidental release" includes, but is not limited to, each potential accidental release of radioactive material which is required by the Commission to be taken into account for purposes of facility design.

"Accidental release."

(e) The Commission shall provide information and recommendations to State and local land use planning authorities having jurisdiction over the zones established under the regulations promulgated pursuant to this section and over areas beyond the zones which may be affected by a radiological emergency. The information and recommendations provided under this subsection shall be designed to assist such authorities in making State and local land use decisions which may affect emergency planning in relation to utilization facilities.

Information and recommendations.

(f) Nothing in this section shall be construed to provide that the Commission shall have any authority to preempt any State requirement relating to land use or respecting the siting of any utilization facility, except that no State or local land use or facility siting requirement relating to the same aspect of facility siting as a requirement established pursuant to this section shall have any force and effect unless such State or local requirement is identical to, or more stringent than, the requirement promulgated pursuant to this section.

SEC. 109. (a) Funds authorized to be appropriated pursuant to this Act may be used by the Nuclear Regulatory Commission to conduct proceedings, and take other actions, with respect to the issuance of an operating license for a utilization facility only if the Commission determines that—

(1) there exists a State or local emergency preparedness plan which—

(A) provides for responding to accidents at the facility concerned, and

(B) as it applies to the facility concerned only, complies with the Commission's guidelines for such plans, or

(2) in the absence of a plan which satisfies the requirements of paragraph (1), there exists a State, local, or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned.

A determination by the Commission under paragraph (1) may be made only in consultation with the Director of the Federal Emergency Management Agency. If, in any proceeding for the issuance of an operating license for a utilization facility to which this subsection applies, the Commission determines that there exists a reasonable assurance that public health and safety is endangered by operation of the facility, the Commission shall identify the risk to public health and safety and provide the applicant with a detailed statement of the reasons for such determination. For purposes of this section, the term "utilization facility" means a facility required to be licensed under section 103 or 104(b) of the Atomic Energy Act of 1954.

"Utilization facility."

42 USC 2133, 2134.

(b) Of the amounts authorized to be appropriated under section 101(a), such sums as may be necessary shall be used by the Nuclear Regulatory Commission to—

Rules.

(1) establish by rule—

(A) standards for State radiological emergency response plans, developed in consultation with the Director of the Federal Emergency Management Agency, and other appropriate agencies, which provide for the response to a radiological emergency involving any utilization facility,

(B) a requirement that—

(i) the Commission will issue operating licenses for utilization facilities only if the Commission determines that—

(I) there exists a State or local radiological emergency response plan which provides for responding to any radiological emergency at the facility concerned and which complies with the Commission's standards for such plans under subparagraph (A), or

(II) in the absence of a plan which satisfies the requirements of subclause (I), there exists a State, local, or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned, and

(ii) any determination by the Commission under subclause (I) may be made only in consultation with the Director of the Federal Emergency Management Agency and other appropriate agencies, and

(C) a mechanism to encourage and assist States to comply as expeditiously as practicable with the standards promulgated under subparagraph (A) of this paragraph,

Review of plans.

(2) review all plans and other preparations respecting such an emergency which have been made by each State in which there is located a utilization facility or in which construction of such a facility has been commenced and by each State which may be affected (as determined by the Commission) by any such emergency,

Report to congressional committees.

(3) assess the adequacy of the plans and other preparations reviewed under paragraph (2) and the ability of the States involved to carry out emergency evacuations during an emergency referred to in paragraph (1) and submit a report of such

assessment to the appropriate committees of the Congress within 6 months of the date of the enactment of this Act,

(4) identify which, if any, of the States described in paragraph (2) do not have adequate plans and preparations for such an emergency and notify the Governor and other appropriate authorities in each such State of the respects in which such plans and preparations, if any, do not conform to the guidelines promulgated under paragraph (1), and

(5) submit a report to Congress containing (A) the results of its actions under the preceding paragraphs and (B) its recommendations respecting any additional Federal statutory authority which the Commission deems necessary to provide that adequate plans and preparations for such radiological emergencies are in effect for each State described in paragraph (2).

(c) In carrying out its review and assessment under subsection (b) (2) and (3) and in submitting its report under subsection (a)(5), the Commission shall include a review and assessment, with respect to each utilization facility and each site for which a construction permit has been issued for such a facility, of the emergency response capability of State and local authorities and of the owner or operator (or proposed owner or operator) of such facility. Such review and assessment shall include a determination by the Commission of the maximum zone in the vicinity of each such facility for which evacuation of individuals is feasible at various different times corresponding to the representative warning times for various different types of accidents.

SEC. 110. (a) Of the amounts authorized to be appropriated pursuant to section 101(a), such sums as may be necessary shall be used by the Nuclear Regulatory Commission to develop, submit to the Congress, and implement, as soon as practicable after notice and opportunity for public comment, a comprehensive plan for the systematic safety evaluation of all currently operating utilization facilities required to be licensed under section 103 or section 104(b) of the Atomic Energy Act of 1954. 42 USC 2133, 2134.

(b) The plan referred to in subsection (a) shall include—

(1) the identification of each current rule and regulation compliance with which the Commission specifically determines to be of particular significance to the protection of the public health and safety;

(2) a determination by the Commission of the extent to which each operating facility complies with each rule and regulation identified under paragraph (1) of this subsection, including an indication of where such compliance was achieved by use of Division 1 regulatory guides and staff technical positions and where compliance was achieved by equivalent means;

(3) a list of the generic safety issues set forth in NUREG 0410 (including categories A, B, C, and D) for which technical solutions have been developed;

(4) a determination by the Commission of which technical solutions for generic safety issues identified in paragraph (3) of this subsection should be incorporated into the Commission's rules and regulations; and

(5) a schedule for developing a technical solution to those generic safety issues listed in NUREG 0410 which have not yet been technically resolved.

(c) Not later than 90 days from the date of enactment of this Act, the Commission shall report to the Congress on the status of efforts to carry out subsection (a).

TITLE II—AMENDMENTS TO THE ATOMIC ENERGY ACT OF 1954

42 USC 2133.

SEC. 201. (a) Section 103 of the Atomic Energy Act of 1954 is amended by adding at the end thereof the following new subsection:

"f. Each license issued for a utilization facility under this section or section 104 b. shall require as a condition thereof that in case of any accident which could result in an unplanned release of quantities of fission products in excess of allowable limits for normal operation established by the Commission, the licensee shall immediately so notify the Commission. Violation of the condition prescribed by this subsection may, in the Commission's discretion, constitute grounds for license revocation. In accordance with section 187 of this Act, the Commission shall promptly amend each license for a utilization facility issued under this section or section 104 b. which is in effect on the date of enactment of this subsection to include the provisions required under this subsection.".

42 USC 2134.

42 USC 2237.

SEC. 202. (a) Chapter 18 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

42 USC 2283.

"SEC. 235. PROTECTION OF NUCLEAR INSPECTORS.—

"a. Whoever kills any person who performs any inspections which—

"(1) are related to any activity or facility licensed by the Commission, and

"(2) are carried out to satisfy requirements under this Act or under any other Federal law governing the safety of utilization facilities required to be licensed under section 103 or 104 b., or the safety of radioactive materials,

42 USC 2133, 2134.

shall be punished as provided under sections 1111 and 1112 of title 18, United States Code. The preceding sentence shall be applicable only if such person is killed while engaged in the performance of such inspection duties or on account of the performance of such duties.

"b. Whoever forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person who performs inspections as described under subsection a. of this section, while such person is engaged in such inspection duties or on account of the performance of such duties, shall be punished as provided under section 111 of title 18, United States Code.".

(b) The table of contents for chapter 18 of the Atomic Energy Act of 1954 is amended by adding the following new item at the end thereof:

"Sec. 235. Protection of nuclear inspectors.".

42 USC 2273.

SEC. 203. Section 223 of the Atomic Energy Act of 1954 is amended by striking out "Whoever" and substituting:

"a. Whoever"

and by adding at the end thereof the following:

"b. Any individual director, officer, or employee of a firm constructing, or supplying the components of any utilization facility required to be licensed under section 103 or 104 b. of this Act who by act or omission, in connection with such construction or supply, knowingly and willfully violates or causes to be violated, any section of this Act, any rule, regulation, or order issued thereunder, or any license condition, which violation results, or if undetected could have resulted, in a significant impairment of a basic component of such a

facility shall, upon conviction, be subject to a fine of not more than $25,000 for each day of violation, or to imprisonment not to exceed two years, or both. If the conviction is for a violation committed after a first conviction under this subsection, punishment shall be a fine of not more than $50,000 per day of violation, or imprisonment for not more than two years, or both. For the purposes of this subsection, the term 'basic component' means a facility structure, system, component or part thereof necessary to assure— "Basic component."

"(1) the integrity of the reactor coolant pressure boundary,

"(2) the capability to shut-down the facility and maintain it in a safe shut-down condition, or

"(3) the capability to prevent or mitigate the consequences of accidents which could result in an unplanned offsite release of quantities of fission products in excess of the limits established by the Commission.

The provisions of this subsection shall be prominently posted at each site where a utilization facility required to be licensed under section 103 or 104 b. of this Act is under construction and on the premises of each plant where components for such a facility are fabricated.". 42 USC 2133, 2134.

SEC. 204. (a) The Atomic Energy Act of 1954 is amended by adding the following new section after section 234:

"SEC. 236. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to— 42 USC 2284.

"(1) any production facility or utilization facility licensed under this Act,

"(2) any nuclear waste storage facility licensed under this Act,

"(3) any nuclear fuel for such a utilization facility, or any spent nuclear fuel from such a facility,

shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.".

(b) The table of contents for such Act is amended by inserting the following new item after the item relating to section 234:

"Sec. 236. Sabotage of nuclear facilities or fuel.".

SEC. 205. Section 274 j. of the Atomic Energy Act of 1954 is amended by inserting "(1)" after "j." and by adding the following at the end thereof: 42 USC 2021.

"(2) The Commission, upon its own motion or upon request of the Governor of any State, may, after notifying the Governor, temporarily suspend all or part of its agreement with the State without notice or hearing if, in the judgment of the Commission:

"(A) an emergency situation exists with respect to any material covered by such an agreement creating danger which requires immediate action to protect the health or safety of persons either within or outside the State, and

"(B) the State has failed to take steps necessary to contain or eliminate the cause of the danger within a reasonable time after the situation arose.

A temporary suspension under this paragraph shall remain in effect only for such time as the emergency situation exists and shall authorize the Commission to exercise its authority only to the extent necessary to contain or eliminate the danger.".

SEC. 206. The first sentence of section 234 a. of the Atomic Energy Act of 1954 is amended by striking all that follows "exceed" the first time it appears and inserting in lieu thereof the following: "$100,000 for each such violation.". 42 USC 2282.

SEC. 207. (a)(1) The Atomic Energy Act of 1954 is amended by inserting the following new section immediately after section 146:

42 USC 2167.

"SEC. 147. SAFEGUARDS INFORMATION.—

Regulations.

"a. In addition to any other authority or requirement regarding protection from disclosure of information, and subject to subsection (b)(3) of section 552 of title 5 of the United States Code, the Commission shall prescribe such regulations, after notice and opportunity for public comment, or issue such orders, as necessary to prohibit the unauthorized disclosure of safeguards information which specifically identifies a licensee's or applicant's detailed—

"(1) control and accounting procedures or security measures (including security plans, procedures, and equipment) for the physical protection of special nuclear material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security;

"(2) security measures (including security plans, procedures, and equipment) for the physical protection of source material or byproduct material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security; or

"(3) security measures (including security plans, procedures, and equipment) for the physical protection of and the location of certain plant equipment vital to the safety of production or utilization facilities involving nuclear materials covered by paragraphs (1) and (2)

if the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility. The Commission shall exercise the authority of this subsection—

"(A) so as to apply the minimum restrictions needed to protect the health and safety of the public or the common defense and security, and

"(B) upon a determination that the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility.

Nothing in this Act shall authorize the Commission to prohibit the public disclosure of information pertaining to the routes and quantities of shipments of source material, by-product material, high level nuclear waste, or irradiated nuclear reactor fuel. Any person, whether or not a licensee of the Commission, who violates any regulation adopted under this section shall be subject to the civil monetary penalties of section 234 of this Act. Nothing in this section shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

42 USC 2282.

42 USC 2273.

"b. For the purposes of section 223 of this Act, any regulations or orders prescribed or issued by the Commission under this section shall also be deemed to be prescribed or issued under section 161 b. of this Act.

"c. Any determination by the Commission concerning the applicability of this section shall be subject to judicial review pursuant to subsection (a)(4)(B) of section 552 of title 5 of the United States Code.

"d. Upon prescribing or issuing any regulation or order under subsection a. of this section, the Commission shall submit to Congress a report that:

"(1) specifically identifies the type of information the Commission intends to protect from disclosure under the regulation or order;

"(2) specifically states the Commission's justification for determining that unauthorized disclosure of the information to be protected from disclosure under the regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of such material or such facility, as specified under subsection (a) of this section; and

"(3) provides justification, including proposed alternative regulations or orders, that the regulation or order applies only the minimum restrictions needed to protect the health and safety of the public or the common defense and security.

"e. In addition to the reports required under subsection d. of this section, the Commission shall submit to Congress on a quarterly basis a report detailing the Commission's application during that period of every regulation or order prescribed or issued under this section. In particular, the report shall:

"(1) identify any information protected from disclosure pursuant to such regulation or order;

"(2) specifically state the Commission's justification for determining that unauthorized disclosure of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion or sabotage of such material or such facility, as specified under subsection a. of this section; and

"(3) provide justification that the Commission has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.".

(2) The table of contents for such Act is amended by inserting the following new item after the item relating to section 146:

"Sec. 147. Safeguards information.".

(b) Section 181 of the Atomic Energy Act of 1954 is amended— 42 USC 2231.

(1) by striking out "or defense information" the first time it appears and substituting ", defense information, or safeguards information protected from disclosure under the authority of section 147"; and *Ante*, p. 788.

(2) by striking out "or defense information" in each other place it appears in such section and substituting ", defense information, or such safeguards information,".

TITLE III—OTHER PROVISIONS

SEC. 301. (a) The Nuclear Regulatory Commission, within 90 days of enactment of this Act, shall promulgate regulations providing for timely notification to the Governor of any State prior to the transport Regulations. 42 USC 5841 note.

of nuclear waste, including spent nuclear fuel, to, through, or across the boundaries of such State. Such notification requirement shall not apply to nuclear waste in such quantities and of such types as the Commission specifically determines do not pose a potentially significant hazard to the health and safety of the public.

"State."

(b) As used in this section, the term "State" includes the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

Contract authorization.

SEC. 302. The Nuclear Regulatory Commission is authorized and directed to enter into a contract for an independent review of the Commission's management structure, processes, procedures, and operations. The review shall include an assessment of the effectiveness of all levels of agency management in carrying out the Commission's statutory responsibilities, in developing and implementing policies and programs, and in using the personnel and funding available to it. The contract shall provide for submission of a report of the findings and recommendations of the review to the Commission not later than one year from the date of enactment of this Act, and the Commission shall promptly transmit such report to the Congress.

Report.

42 USC 2016 note.

SEC. 303. The Nuclear Regulatory Commission shall include in its annual report to Congress under section 251 of the Atomic Energy Act of 1954 a statement of—

42 USC 2016.

(1) the direct and indirect costs to the Commission for the issuance of any license or permit and for the inspection of any facility; and

(2) the fees paid to the Commission for the issuance of any license or permit and for the inspection of any facility.

National Contingency Plan, publication.

SEC. 304. On or before September 30, 1980, the President shall prepare and publish a National Contingency Plan to provide for expeditious, efficient, and coordinated action by appropriate Federal agencies to protect the public health and safety in the case of accidents at any utilization facility licensed under section 103 or 104 b. of the Atomic Energy Act of 1954.

42 USC 2133, 2134.

42 USC 5842 note.

SEC. 305. (a) As expeditiously as practicable, the Nuclear Regulatory Commission shall establish a mechanism for instantaneous and uninterrupted verbal communication between each utilization facility licensed to operate under section 103 or section 104 b. of the Atomic Energy Act of 1954 on the date of enactment of this Act, or thereafter, and

(1) Commission headquarters, and

(2) the appropriate Commission regional office.

Study, transmittal to Congress.

(b) Within ninety days after the date of the enactment of this Act, the Commission shall prepare and transmit to the Congress a study of alternate plans for instantaneous and otherwise timely transmission to the Commission of data indicating the status of principal system parameters at utilization facilities licensed to operate under section 103 or section 104 b. of the Atomic Energy Act of 1954. For each alternative, the study shall present procedures for transmitting and analyzing such data and a Commission statement regarding the advantages, disadvantages and desirability.

Investigation and study.

SEC. 306. (a) The Nuclear Regulatory Commission is authorized and directed to undertake a comprehensive investigation and study of the impediments to expeditious and reliable communication among Commission headquarters, the Commission regional office, Commission representatives at the facility site, senior management officials and

operator personnel of the licensee, and the Governor of Pennsylvania and other State officials, in the thirty day period immediately following the accident of March 28, 1979, at unit two of the Three Mile Island Nuclear Station in Pennsylvania. Such investigation and study shall include, but not be limited to, a determination of the need for improved communications procedures and the need for advanced communications technology.

(b) The Commission shall report to the Congress by September 30, 1980, on the findings of the investigation and study required by subsection (a), including recommendations on administrative or legislative measures necessary to facilitate expeditious and reliable communications in case of an accident which could result in an unplanned release of quantities of fission products in excess of the allowable limits for normal operation established by the Commission at a utilization facility licensed under section 103 or 104 b. of the Atomic Energy Act of 1954. The Commission shall implement, as soon as practicable, each such recommendation not requiring legislative enactment, and shall incorporate the recommendation in the plan for agency response promulgated pursuant to section 304 of this Act.

Report to Congress.

42 USC 2133, 2134.

SEC. 307. (a) The Commission is authorized and directed to prepare a plan for improving the technical capability of licensee personnel to safely operate utilization facilities licensed under section 103 or 104 b. of the Atomic Energy Act of 1954. In proposing such plan, the Commission shall consider the feasibility of requiring standard mandatory training programs for nuclear facility operators, including classroom study, apprenticeships at the facility, and emergency simulator training. Such plan shall include specific criteria for more intensive training and retraining of operator personnel licensed under section 107 of the Atomic Energy Act of 1954, and for the licensing of such personnel, to assure—

Plan, development.

42 USC 2137 note.

42 USC 2137.

(1) conformity with all conditions and requirements of the operating license;

(2) early identification of accidents, events, or event sequences which may significantly increase the likelihood of an accident; and

(3) effective response to any such event or sequence.

Such plan shall include provision for Commission review and approval of the qualifications of personnel conducting any required training and retraining program. The plan shall also include requirements for the renewal of operator licenses including, to the extent practicable, requirements that the operator—

(A) has been actively and extensively engaged in the duties listed in such license,

(B) has discharged such duties safely to the satisfaction of the Commission,

(C) is capable of continuing such duties, and

(D) has participated in a requalification training program. Such plan shall include criteria for suspending or revoking operator licenses. In addition, the Commission shall also consider the feasibility of requiring such licensed operator to pass a requalification test every six months including—

(i) written questions, and

(ii) emergency simulator exams.

The Commission shall transmit to the Congress the plan required by this subsection within six months after the date of the enactment of this Act, and shall implement as expeditiously as practicable each element thereof not requiring legislative enactment.

Plan, transmittal to Congress.

Study.

42 USC 2137.

Report to Congress.

(b) The Nuclear Regulatory Commission is authorized and directed to undertake a study of the feasibility and value of licensing, under section 107 of the Atomic Energy Act of 1954, plant managers of utilization facilities and senior licensee officers responsible for operation of such facilities. The Commission shall report to the Congress within six months of the date of enactment of this Act on the findings and recommendations of the study required by this subsection, and shall expeditiously implement each such recommendation not requiring legislative enactment.

SEC. 308. (a) In the conduct of the study required by section 5(d) of the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1979 (Public Law 95-601), the Nuclear Regulatory Commission and the Environmental Protection Agency, in consultation with the Secretary of Health and Human Services, shall evaluate the feasibility of epidemiological research on the health effects of low-level ionizing radiation exposure to licensee, contractor, and subcontractor employees as a result of—

42 USC 2051 note.

(1) the accident of March 28, 1979, at unit two of the Three Mile Island Nuclear Station in Pennsylvania;

(2) efforts to stabilize such facility or reduce or prevent radioactive unplanned offsite releases in excess of allowable limits for normal operation established by the Commission; or

(3) efforts to decontaminate, decommission, or repair such facility.

The report required by such section 5(d) shall include the results of the evaluation required under this subsection.

42 USC 2051 note.

(b) Section 5(d) of the Nuclear Regulatory Commission Authorization Act for Fiscal Year 1979 (Public Law 95-601), is amended by striking "September 30, 1979" and inserting in lieu thereof "September 30, 1980".

Approved June 30, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-194, pt. 1 (Comm. on Interior and Insular Affairs), No. 96-194, pt. 2 (Comm. on Interstate and Foreign Commerce), both accompanying H.R. 2608, and No. 96-1070 (Comm. of Conference).

SENATE REPORT No. 96-176 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:

Vol. 125 (1979): July 16, 17, considered and passed Senate.
Nov. 29, Dec. 4, H.R. 2608 considered and passed House; passage vacated and S. 562, amended, passed in lieu.

Vol. 126 (1980): June 10, House agreed to conference report.
June 16, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 27 (1980): June 30, Presidential statement.

Public Law 96-296
96th Congress

An Act

To amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of property, and for other purposes.

July 1, 1980
[S. 2245]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Motor Carrier Act of 1980".

Motor Carrier Act of 1980.
49 USC 10101 note.

PURPOSE OF THE ACT

SEC. 2. This Act is part of the continuing effort by Congress to reduce unnecessary regulation by the Federal Government.

49 USC 10101 note.

CONGRESSIONAL FINDINGS

SEC. 3. (a) The Congress hereby finds that a safe, sound, competitive, and fuel efficient motor carrier system is vital to the maintenance of a strong national economy and a strong national defense; that the statutes governing Federal regulation of the motor carrier industry are outdated and must be revised to reflect the transportation needs and realities of the 1980's; that historically the existing regulatory structure has tended in certain circumstances to inhibit market entry, carrier growth, maximum utilization of equipment and energy resources, and opportunities for minorities and others to enter the trucking industry; that protective regulation has resulted in some operating inefficiencies and some anticompetitive pricing; that in order to reduce the uncertainty felt by the Nation's transportation industry, the Interstate Commerce Commission should be given explicit direction for regulation of the motor carrier industry and well-defined parameters within which it may act pursuant to congressional policy; that the Interstate Commerce Commission should not attempt to go beyond the powers vested in it by the Interstate Commerce Act and other legislation enacted by Congress; and that legislative and resulting changes should be implemented with the least amount of disruption to the transportation system consistent with the scope of the reforms enacted.

49 USC 10101 note.

49 USC prec. 1 note.

(b) The appropriate authorizing committees of Congress shall conduct periodic oversight hearings on the effects of this legislation, no less than annually for the first 5 years following the date of enactment of this Act, to ensure that this Act is being implemented according to congressional intent and purpose.

Periodic oversight hearings.

NATIONAL TRANSPORTATION POLICY

SEC. 4. Section 10101(a) of title 49, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) with respect to transportation of property by motor carrier, to promote competitive and efficient transportation services in order to (A) meet the needs of shippers, receivers, and consumers; (B) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping public; (C) allow the most productive use of equipment and energy resources; (D) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; (E) provide and maintain service to small communities and small shippers; (F) improve and maintain a sound, safe, and competitive privately-owned motor carrier system; (G) promote greater participation by minorities in the motor carrier system; and (H) promote intermodal transportation."

MOTOR CARRIER ENTRY POLICY

SEC. 5. (a) Section 10922 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting "of passengers" after "motor common carrier";

(2) by redesignating subsections (b), (c), (d), (e), and (f), and all references thereto, as subsections (c), (d), (e), (f), and (g), respectively; and

(3) by inserting after subsection (a) the following new subsection:

Certificate issuance.

"(b)(1) Except as provided in this section, the Interstate Commerce Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of property if the Commission finds—

49 USC 10521.

"(A) that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission; and

"(B) on the basis of evidence presented by persons supporting the issuance of the certificate, that the service proposed will serve a useful public purpose, responsive to a public demand or need;

unless the Commission finds, on the basis of evidence presented by persons objecting to the issuance of a certificate, that the transportation to be authorized by the certificate is inconsistent with the public convenience and necessity.

"(2) In making a finding under paragraph (1) of this subsection, the Commission shall consider and, to the extent applicable, make findings on at least the following:

Ante, p. 793.

"(A) the transportation policy of section 10101(a) of this title; and

"(B) the effect of issuance of the certificate on existing carriers, except that the Commission shall not find diversion of revenue or traffic from an existing carrier to be in and of itself inconsistent with the public convenience and necessity.

Commission finding, limitation.

"(3) The Commission may not make a finding relating to public convenience and necessity under paragraph (1) of this subsection which is based upon general findings developed in rulemaking proceedings.

"(4) The provisions of paragraph (1) of this subsection (other than subparagraph (A)) shall not apply to applications under this subsection for authority to provide— Transportation authority applications.

"(A) transportation to any community not regularly served by a motor common carrier of property certificated under this section;

"(B) transportation services which will be a direct substitute for abandoned rail service to a community if such abandonment results in such community not having any rail service and if such application is filed within 120 days after such abandonment has been approved by the Commission;

"(C) transportation for the United States Government of property other than used household goods, hazardous or secret materials, and sensitive weapons and munitions;

"(D) transportation of shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds; and

"(E) transportation by motor vehicle of food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers if—

"(i) such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations; and

"(ii) after issuance of the certificate, such transportation (measured by tonnage) does not exceed, on an annual basis, the transportation provided by the motor vehicle (measured by tonnage) which is exempt from the jurisdiction of the Commission under section 10526(a)(6) of this title and the owner of the motor vehicle certifies to the Commission annually that he is complying with the provisions of this clause and provides to the Commission such information and records as the Commission may require. *Post*, p. 797.

"(5) Notwithstanding any other provision of law, any carrier holding authority under paragraph (4)(D) of this subsection operating one or more commercial motor vehicles with a gross vehicle weight rating of 10,000 pounds or more shall be subject to commercial motor vehicle safety regulations promulgated by the Secretary of Transportation pursuant to this title with respect to its entire operations, including the operations of commercial motor vehicles with gross vehicle weight ratings less than 10,000 pounds.

"(6) The Commission shall streamline and simplify, to the maximum extent practicable, the process for issuance of certificates to which the provisions of paragraph (4)(E) of this subsection apply.

"(7) No motor common carrier of property may protest an application to provide transportation filed under this subsection unless— Application protest by carrier.

"(A)(i) it possesses authority to handle, in whole or in part, the traffic for which authority is applied;

"(ii) it is willing and able to provide service that meets the reasonable needs of the shippers involved; and

"(iii) it has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

"(B) it has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

"(C) the Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

Ante, p. 793.

"(8) No motor contract carrier of property may protest an application to provide transportation filed under this subsection.".

(b) Section 11145 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

Reporting requirements, simplification.

"(c) The Commission shall streamline and simplify, to the maximum extent practicable, the reporting requirements applicable under this subchapter to motor common carriers of property with respect to transportation provided under certificates to which the provisions of section 10922(b)(4)(E) of this title apply and to motor contract carriers of property with respect to transportation provided under permits to which the provisions of section 10923(b)(5) of this title apply.".

Ante, p. 794.

Post, p. 799.

(c)(1) Section 10762(a)(1) of title 49, United States Code, is amended by striking out the last sentence and inserting in lieu thereof the following: "A motor contract carrier that serves only one shipper and has provided continuous transportation to that shipper for at least one year or a motor carrier of property providing transportation under a certificate to which the provisions of section 10922(b)(4)(E) of this title apply or under a permit to which the provisions of section 10923(b)(5) of this title apply may file only its minimum rates unless the Commission finds that filing of actual rates is required in the public interest.".

(2) Section 10762 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

Filing requirements, simplification.

"(g) The Commission shall streamline and simplify, to the maximum extent practicable, the filing requirements applicable under this section to motor common carriers of property with respect to transportation provided under certificates to which the provisions of section 10922(b)(4)(E) of this title apply and to motor contract carriers of property with respect to transportation provided under permits to which the provisions of section 10923(b)(5) of this title apply.".

REMOVAL OF CERTAIN RESTRICTIONS ON MOTOR CARRIER OPERATION

SEC. 6. Section 10922 of title 49, United States Code, is further amended by adding at the end thereof the following new subsections:

"(h)(1) Not later than 180 days after the date of enactment of this subsection, the Commission shall—

"(A) eliminate gateway restrictions and circuitous route limitations imposed upon motor common carriers of property; and

"(B) implement, by regulation, procedures to process expeditiously applications of individual motor carriers of property seeking removal of operating restrictions in order to—

"(i) reasonably broaden the categories of property authorized by the carrier's certificate or permit;

"(ii) authorize transportation or service to intermediate points on the carrier's routes;

"(iii) provide round-trip authority where only one-way authority exists;

"(iv) eliminate unreasonable or excessively narrow territorial limitations; or

"(v) eliminate any other unreasonable restriction that the Commission deems to be wasteful of fuel, inefficient, or contrary to the public interest.

"(2) The regulations promulgated by the Commission pursuant to paragraph (1)(B) of this subsection shall provide for final Commission action upon an application not later than 120 days after the date the application is filed with the Commission, except that in extraordinary circumstances, the Commission may extend such deadline for a period of not to exceed 90 additional days. Such regulations shall also provide for notice and the opportunity for interested parties to comment, but need not provide for oral evidentiary hearings. In granting or denying applications under paragraph (1)(B) of this subsection, the Commission shall (A) consider, among other things, the impact of the proposed restriction removal upon the consumption of energy resources, potential cost savings and improved efficiency, and the transportation policy set forth in section 10101(a) of this title, and (B) give special consideration to providing and maintaining service to small and rural communities and small shippers.

Regulations.

Notice and comment period.

Ante, p. 793.

"(i) A person holding (1) a certificate issued under subsection (b) of this section to provide transportation as a motor common carrier of property, and (2) a permit issued under section 10923 of this subchapter to provide transportation as a motor contract carrier of property, may transport property under the certificate in the same motor vehicle and at the same time as property under the permit.".

Post, p. 799.

EXEMPTIONS

SEC. 7. (a) Section 10526(a)(6) of title 49, United States Code, is amended—

(1) by inserting "or by-products thereof not intended for human consumption," after "fresh shellfish," in subparagraph (D);

(2) by striking out "and" at the end of subparagraph (C);

(3) by inserting "and" after the semicolon at the end of subparagraph (D); and

(4) by adding at the end of such section the following new subparagraph:

"(E) livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production;".

Agricultural products.

(b) Section 10526(a)(8) of title 49, United States Code, is amended to read as follows:

"(8)(A) transportation of passengers by motor vehicle incidental to transportation by aircraft;

"(B) transportation of property (including baggage) by motor vehicle as part of a continuous movement which, prior or subsequent to such part of the continuous movement, has been or will be transported by an air carrier or (to the extent so agreed by the United States and approved by the Civil Aeronautics Board or its successor agency) by a foreign air carrier; or

"(C) transportation of property by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure of the aircraft or other causes due to circumstances beyond the control of the carrier or shipper;".

Aircraft passengers and baggage, transportation.

(c) Section 10526(a) of title 49, United States Code, is further amended by (1) striking the period at the end thereof and substituting a semicolon, and (2) adding at the end thereof the following new paragraphs:

"(10) transportation of used pallets and used empty shipping containers (including intermodal cargo containers), and other used shipping devices (other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles);

"(11) transportation of natural, crushed, vesicular rock to be used for decorative purposes; or

"(12) transportation of wood chips.".

FOOD TRANSPORTATION

SEC. 8. (a) Subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

49 USC 10732.

"§ 10732. Food and grocery transportation

Customer compensation.

"(a) Notwithstanding any other provision of law, it shall not be unlawful for a seller of food and grocery products using a uniform zone delivered pricing system to compensate a customer who picks up purchased food and grocery products at the shipping point of the seller if such compensation is available to all customers of the seller on a nondiscriminatory basis and does not exceed the actual cost to the seller of delivery to such customer.

Consumer savings.

Report to Congress.

"(b) It is the sense of the Congress that any savings accruing to a customer by reason of compensation permitted by subsection (a) of this section should be passed on to the ultimate consumer. The Interstate Commerce Commission shall monitor the extent to which such savings are being passed on and shall report its findings to the Congress not later than one year after the date of enactment of the Motor Carrier Act of 1980 and not less often than once a year thereafter. For purposes of this subsection, the Interstate Commerce Commission may exercise its powers to obtain relevant papers, books, documents, and other materials.".

Ante, p. 793.

(b) The index for subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following:

"10732. Food and grocery transportation.".

PRIVATE CARRIAGE

SEC. 9. Section 10524 of title 49, United States Code, is amended by inserting "(a)" before "The" and by adding at the end of such section the following new subsections:

Transportation of property, jurisdiction.

"(b) The Commission does not have jurisdiction under this subchapter over transportation of property by motor vehicle for compensation provided by a person who is a member of a corporate family for other members of such corporate family if—

"(1) the parent corporation notifies the Commission of its intent or one of its subsidiaries' intent to provide the transportation;

"(2) the notice contains a list of participating subsidiaries and an affidavit that the parent corporation owns directly or indirectly a 100 percent interest in each of the subsidiaries;

Publication in Federal Register.

"(3) the Commission publishes the notice in the Federal Register within 30 days of receipt; and

"(4) a copy of the notice is carried in the cab of all vehicles conducting the transportation.

"(c) In this section, 'corporate family' means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100 percent interest.". "Corporate family."

MOTOR CONTRACT CARRIERS

SEC. 10. (a)(1) Section 10102(12) of title 49, United States Code, is amended to read as follows:

"(12) 'motor contract carrier' means— "Motor contract carrier."

"(A) a person, other than a motor common carrier, providing motor vehicle transportation of passengers for compensation under continuing agreements with a person or a limited number of persons—

"(i) by assigning motor vehicles for a continuing period of time for the exclusive use of each such person; or

"(ii) designed to meet the distinct needs of each such person; and

"(B) a person providing motor vehicle transportation of property for compensation under continuing agreements with one or more persons—

"(i) by assigning motor vehicles for a continuing period of time for the exclusive use of each such person; or

"(ii) designed to meet the distinct needs of each such person.".

(2) Section 10923(b) of title 49, United States Code, is amended by—

(A) inserting in paragraph (2) "of passengers" after "motor contract carrier"; and

(B) redesignating paragraph (3) (and any references thereto) as paragraph (7) and inserting after paragraph (2) the following new paragraphs:

"(3) In deciding whether to approve the application of a person for a permit as a motor contract carrier of property, the Commission shall consider— Permits, application approval.

"(A) the nature of the transportation proposed to be provided;

"(B) the effect that granting the permit would have on the protesting carriers if such grant would endanger or impair their operations to an extent contrary to the public interest;

"(C) the effect that denying the permit would have on the person applying for the permit, its shippers, or both; and

"(D) the changing character of the requirements of those shippers.

"(4) No motor carrier of property may protest an application to provide transportation as a motor contract carrier of property filed under this section unless— Application protest by carrier.

"(A)(i) it possesses authority to handle, in whole or in part, the traffic for which authority is applied;

"(ii) it is willing and able to provide service that meets the reasonable needs of the shippers involved; and

"(iii) it has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

"(B) it has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

"(C) the Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

Ante, p. 793.

"(5)(A) The provisions of paragraph (2) of subsection (a) of this section and paragraph (3) of this subsection shall not apply to applications under this section for authority to provide transportation by motor vehicle of food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers if—

"(i) such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations; and

"(ii) after issuance of the permit, such transportation (measured by tonnage) does not exceed, on an annual basis, the transportation provided by the motor vehicle (measured by tonnage) which is exempt from the jurisdiction of the Commission under section 10526(a)(6) of this title and the owner of the motor vehicle certifies to the Commission annually that he is complying with the provisions of this subparagraph and provides to the Commission such information and records as the Commission may require.

Ante, p. 797.

Permit issuance process, simplification.

"(B) The Commission shall streamline and simplify, to the maximum extent practicable, the process for issuance of permits to which the provisions of subparagraph (A) of this paragraph apply.

Commission finding, limitation.

"(6) With respect to applications of persons for permits as motor contract carriers of property, the Commission may not make a finding relating to the public interest under subsection (a)(2) of this section which is based upon general findings developed in rulemaking proceedings.".

(3) Section 10923(d) of title 49, United States Code, is amended—

(A) in the first sentence of paragraph (1) by inserting the following immediately before the period at the end thereof: ", except that in the case of a motor contract carrier of property, the Commission may not require such carrier to limit its operations to carriage for a particular industry or within a particular geographic area"; and

(B) in paragraph (2) by striking "including each person or number or class of persons" and substituting "including each person or class of persons (and, in the case of a motor contract carrier of passengers, the number of persons)".

Certificates and permits, limitations.

(b) Section 10930(a) of title 49, United States Code, is amended—

(1) in paragraph (1) by striking "both a certificate of a motor common carrier and a permit of a motor contract carrier issued under this subchapter, or"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) if a person controls, is controlled by, or is under common control with, another person, one of them may not hold a certificate of a water common carrier, while the other holds a permit of a water contract carrier, to transport property over the same route or in the same area.".

(c) Section 10749 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting ", or a motor contract carrier of property," after "carrier"; and

(2) in subsection (b)(1) by inserting ", or motor contract carrier of property," after "water common carrier".

(d) Section 10766(b) of title 49, United States Code, is amended—

(1) by inserting ", and motor contract carriers of property," after "carriers" in the first sentence;

(2) by inserting "or the motor contract carrier of property" after "carrier" in the third sentence; and

(3) by striking the fifth sentence.

(e) Section 10925 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) On application of a motor contract carrier of property who holds a permit issued under section 10923 of this title, or on complaint of a competing motor common carrier of property who holds a certificate under section 10922(b) of this title, or on its own initiative, if the Commission, after notice and an opportunity for a proceeding, determines that the operations under the permit or any part thereof— Permit revocation, conditions. *Ante*, p. 799. *Ante*, p. 794.

"(A) do not conform with the operations of a motor contract carrier of property; and

"(B) are those of a motor common carrier of property;

the Commission may amend or revoke such permit or part thereof to conform the operations under such permit or part thereof to the operations of a motor contract carrier of property.

"(2) The Commission may issue in place of any permit or part thereof revoked under this subsection a certificate under section 10922(b) of this title which authorizes the holder of such certificate to provide transportation as a motor common carrier of property of the same property between the same points or within the same territory as authorized in the permit or part thereof.". Certificate.

ZONE OF RATE FREEDOM FOR MOTOR CARRIERS OF PROPERTY AND FREIGHT FORWARDERS

SEC. 11. Section 10708 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor common carrier of property or freight forwarder on the grounds that such rate is unreasonable on the basis that it is too high or too low if— Rate changes, conditions.

"(A) the carrier notifies the Commission that it wishes to have the rate considered pursuant to this subsection; and

"(B) the aggregate of increases and decreases in any such rate is not more than 10 percent above the rate in effect one year prior to the effective date of the proposed rate, nor more than 10 percent below the lesser of the rate in effect on July 1, 1980 (or, in the case of any rate which a carrier first establishes after July 1, 1980, for a service not provided by such carrier on such date, such rate on the date such rate first becomes effective), or the rate in effect one year prior to the effective date of the proposed rate.

"(2) The Commission, by rule, may increase the percentages specified in paragraph (1)(B) of this subsection for any group of motor common carriers of property or freight forwarders if it finds that— Increase of percentages, conditions.

"(A) there is sufficient actual and potential competition to regulate rates; and

"(B) there are benefits to (i) carriers or freight forwarders, (ii) shippers, and (iii) the public from further rate flexibility;

except that the Commission may not increase such percentages by more than 5 percentage points during any one-year period.

"(3)(A) In determining, pursuant to paragraph (1)(B) of this subsection, whether the aggregate of increases and decreases in a proposed rate that is to take effect on or before the 730th day following the date of enactment of this paragraph is more than 10 percent (or such other percentage as the Commission may establish under paragraph (2) of this subsection) above the rate in effect one year prior to the effective date of the proposed rate, general rate increases obtained in the one-year period prior to the effective date of the proposed rate shall not be included in such aggregate, except to the extent that such general rate increases exceed 5 percent of the rate in effect one year prior to the effective date of the proposed rate.

Rate change according to Producers Price Index.

"(B) In the case of a proposed rate that is to take effect after the 730th day following the date of enactment of this paragraph, the percentage which first appears in paragraph (1)(B) of this subsection (relating to the upper limit of the zone of ratemaking freedom), or such other percentage as the Commission may establish under paragraph (2) of this subsection in lieu of such percentage, shall be increased or decreased, as the case may be, by the percentage change in the Producers Price Index, as published by the Department of Labor, that has occurred during the one-year period prior to the effective date of the proposed rate.

Antitrust laws.

"(4) Any rate implemented by a carrier pursuant to this subsection shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), except that the docketing and publication of such rate by the carrier under section 10706(b) of this title shall not be construed as a violation of the antitrust laws. Nothing in this subsection shall limit the Commission's authority to suspend and investigate proposed rates on the basis that such rates may violate the provisions of section 10741 of this title or constitute predatory practices in contravention of the transportation policy set forth in section 10101(a) of this title.".

Post, p. 803.

49 USC 10741.

Ante, p. 793.

RATES AND LIABILITY BASED ON VALUE

SEC. 12. Section 10730 of title 49, United States Code, is amended by inserting "(a)" before "The Interstate Commerce Commission", by inserting "(including a motor common carrier of household goods but excluding any other motor common carrier of property)" after "authorize a carrier", and by adding at the end thereof the following new subsection:

"(b)(1) Subject to the provisions of paragraph (2) of this subsection, a motor common carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may, subject to the provisions of this chapter (including the general tariff requirements of section 10762 of this title), establish rates for the transportation of property (other than household goods) under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by written agreement between the carrier and shipper if that value would be reasonable under the circumstances surrounding the transportation.

49 USC 10521.

Ante, p. 796.

"(2) Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Commission may require such

carrier to have in effect and keep in effect, during any period such rate is in effect under such paragraph, a rate for such service which does not limit the liability of the carrier.".

RULE OF RATEMAKING

SEC. 13. (a) Section 10701 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) In proceedings to determine the reasonableness of rate levels for a motor carrier of property or group of motor carriers of property, or in proceedings to determine the reasonableness of a territorial rate structure where rates are proposed through agreements authorized by section 10706(b) of this title, the Commission shall authorize revenue levels that are adequate under honest, economical, and efficient management to cover total operating expenses, including the operation of leased equipment and depreciation, plus a reasonable profit. The standards and procedures adopted by the Commission under this subsection shall allow the carriers to achieve revenue levels that will provide a flow of net income, plus depreciation, adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, attract and retain capital in amounts adequate to provide a sound motor carrier transportation system in the United States, and take into account reasonable estimated or foreseeable future costs.". *Infra.*

(b) Section 10704(b)(2) of title 49, United States Code, is amended to read as follows:

"(2)(A) When prescribing a rate, classification, rule, or practice for transportation or service by common carriers other than by rail carrier, the Commission shall consider, among other factors, the effect of the prescribed rate, classification, rule, or practice on the movement of traffic by that carrier.

"(B) When prescribing a rate, classification, rule, or practice for transportation or service by common carriers other than by rail carrier or motor carrier of property, the Commission shall consider, among other factors, the need for revenues that are sufficient, under honest, economical, and efficient management, to let the carrier provide that transportation or service.".

RATE BUREAUS

SEC. 14. (a) Section 10706 of title 49, United States Code, is amended by redesignating subsections (b), (c), (d), (e), (f), (g), and (h) (and any references thereto) as subsections (c), (d), (e), (f), (g), (h), and (i), respectively, and by inserting the following new subsection after subsection (a):

"(b)(1) In this subsection, 'single-line rate' refers to a rate, charge, or allowance proposed by a single motor common carrier of property that is applicable only over its line and for which the transportation can be provided by that carrier. "Single-line rate."

"(2) As provided by this subsection, a motor common carrier of property providing transportation or service subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may enter into an agreement with one or more such carriers concerning rates (including charges between carriers and compensation paid or received for the use of facilities and equipment), allowances, classifications, divisions, or rules related to them, or procedures for joint consideration, initiation, or establishment of 49 USC 10521.

them. Such agreement may be submitted to the Commission for approval by any carrier or carriers which are parties to such agreement and shall be approved by the Commission upon a finding that the agreement fulfills each requirement of this subsection, unless the Commission finds that such agreement is inconsistent with the transportation policy set forth in section 10101(a) of this title. The Commission may require compliance with reasonable conditions consistent with this subtitle to assure that the agreement furthers such transportation policy. If the Commission approves the agreement, it may be made and carried out under its terms and under the conditions required by the Commission, and the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to parties and other persons with respect to making or carrying out the agreement.

Ante, p. 793.

Agreements, approval conditions.

"(3) Agreements submitted to the Commission under this subsection may be approved by the Commission only if each of the following conditions are met:

"(A) Each carrier which is a party to an agreement must file with the Commission a verified statement that specifies its name, mailing address, and telephone number of its main office; the names of each of its affiliates; the names, addresses, and affiliates of each of its officers and directors; the names, addresses, and affiliates of each person, together with an affiliate, owning or controlling any debt, equity, or security interest in it having a value of at least $1,000,000. In this subparagraph, 'affiliate' means a person controlling, controlled by, or under common control or ownership with another person and 'ownership' means equity holdings in a business entity of at least 5 percent.

"Affiliate."
"Ownership."

Compliance requirements.

"(B) Any organization established or continued under an agreement approved under this subsection must comply with the following requirements:

"(i) subject to the provisions of subparagraphs (C) and (D) of this paragraph, (I) the organization may allow any member carrier to discuss any rate proposal docketed, but (II) after January 1, 1981, only those carriers with authority to participate in the transportation to which the rate proposal applies may vote upon such rate proposal;

"(ii) the organization may not interfere with each carrier's right of independent action and may not change or cancel any rate established by independent action after the date of enactment of this subsection, other than a general increase or broad rate restructuring, except that changes in such rates may be effected, with the consent of the carrier or carriers that initiated the independent action, for the purpose of tariff simplification, removal of discrimination, or elimination of obsolete items;

"(iii) the organization may not file a protest or complaint with the Commission against any tariff item published by or for the account of any motor carrier of property;

"(iv) the organization may not permit one of its employees or any employee committee to docket or act upon any proposal effecting a change in any tariff item published by or for the account of any of its member carriers;

"(v) upon request, the organization must divulge to any person the name of the proponent of a rule or rate docketed with it, must admit any person to any meeting at which rates or rules will be discussed or voted upon, and must divulge to

any person the vote cast by any member carrier on any proposal before the organization;

"(vi) the organization may not allow a carrier to vote for one or more other carriers without specific written authority from the carrier being represented; and

"(vii) the organization shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed, except that if unusual circumstances require, the organization may extend such period, subject to review by the Commission.

"(C) No agreement approved under this subsection may provide for discussion of or voting on rates to which the provisions of section 10708(d) or 10730(b) of this title apply, except that rates established or filed under section 10730 of this title before the date of enactment of the Motor Carrier Act of 1980 or changes with respect to such rates may be discussed or voted on under agreements approved under this subsection until January 1, 1984.

Ante, pp. 801, 802.

Ante, p. 793.

"(D) No agreement approved under this subsection may provide for discussion of or voting upon single-line rates on or after January 1, 1984, except that such date shall be July 1, 1984, if the Motor Carrier Ratemaking Study Commission does not submit its final report under section 14(b)(4) of the Motor Carrier Act of 1980 on or before January 1, 1983. This subparagraph and subparagraph (B)(i)(II) of this paragraph shall not apply to the following:

Single-line rates.

Ante, p. 803.

"(i) general rate increases or decreases if the agreement gives shippers, under specified procedures, at least 15 days' notice of the proposal and an opportunity to present comments on it before a tariff containing the increases or decreases is filed with the Commission and if discussion of such increases or decreases is limited to industry average carrier costs and, after the date of elimination of the antitrust immunity by this subparagraph, does not include discussion of individual markets or particular single-line rates;

"(ii) changes in commodity classifications;

"(iii) changes in tariff structures if discussion of such changes is limited to industry average carrier costs and, after the date of elimination of antitrust immunity by this subparagraph, does not include discussion of individual markets or particular single-line rates;

"(iv) publishing of tariffs, filing of independent actions for individual members carriers, providing of support services for members, and changes in rules or regulations which are of at least substantially general application throughout the area in which such changes will apply.

"(E) In any proceeding in which a party to such proceeding alleges that a carrier voted, discussed, or agreed on a rate or allowance in violation of this subsection, that party has the burden of showing that the vote, discussion, or agreement occurred. A showing of parallel behavior does not satisfy that burden by itself.

"(F) The Commission shall, by regulation, determine reasonable quorum standards to be applied for meetings of organizations established or continued under an agreement approved under this subsection.

Quorum standards.

"(4) Notwithstanding any other provision of this subtitle, before the date on which the antitrust immunity is eliminated for discussion of or voting on single-line rates by paragraph (3)(D) of this subsection, the Commission may not take any action which would, on the basis of the type of carrier service involved (including service by carriers singly or in combination with other carriers), result in the exclusion of one or more motor common carriers of property from discussion or voting under agreements authorized by this subsection on matters concerning rates, allowances, classifications, or divisions, except that before such date, the Commission may issue regulations which take effect on or after such date to carry out the provisions of such paragraph.".

Motor Carrier Ratemaking Study Commission. Establishment.

(b)(1) There is hereby established a Study Commission to be known as the Motor Carrier Ratemaking Study Commission, hereinafter in this section referred to as the "Study Commission".

(2) The Study Commission shall make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers and upon the need or lack of need for continued antitrust immunity therefor. Such study shall estimate the impact of the elimination of such immunity upon rate levels and rate structures and describe the impact of the elimination of such immunity upon the Interstate Commerce Commission and its staff. The study shall give special consideration to the effect of the elimination of such immunity upon rural areas and small communities.

Membership.

(3) The Study Commission shall be comprised of ten members as follows:

(A) three members appointed by the President of the Senate, two from the membership of the Committee on Commerce, Science, and Transportation and one from the membership of the Committee on the Judiciary;

(B) three members appointed by the Speaker of the House of Representatives, two from the membership of the Committee on Public Works and Transportation and one from the membership of the Committee on the Judiciary; and

(C) four members of the public appointed by the President, two from the membership of national trade associations of shippers, one who is a motor common carrier of property from the membership of the national trade association of motor carriers, and one who is a motor common carrier of property from the membership of a major regional motor common carrier rate bureau.

Report to President and Congress. Termination. Records and papers.

(4) The Study Commission shall, not later than January 1, 1983, submit to the President and the Congress its final report including its findings and recommendations. The Study Commission shall cease to exist 6 months after submission of such report. All records and papers of the Study Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

Liaison officer, appointment.

(5) The Chairman of the Study Commission, who shall be elected by the Commission from among its members, shall request the head of each Federal department or agency which has an interest in or a responsibility with respect to motor carrier collective ratemaking to appoint, and the head of such department or agency shall appoint, a liaison officer who shall work closely with the Study Commission and its staff in matters pertaining to this subsection. Such departments and agencies shall include, but not be limited to, the Department of

Transportation, the Interstate Commerce Commission, the Federal Trade Commission, and the Department of Justice.

(6) In carrying out its duties, the Study Commission shall seek the advice of various groups interested in motor carrier collective ratemaking including, but not limited to, State and local governments and public and private organizations working in the field of transportation.

(7)(A) The Study Commission or, on authorization of the Study Commission, any committee of two or more members may, for the purpose of carrying out the provisions of this subsection, hold such hearings and sit and act at such times and places as the Study Commission or such authorized committee may deem advisable. Hearings.

(B) The Study Commission is authorized to secure from any department, agency, or instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this subsection and each department, agency, and instrumentality is authorized and directed to furnish such information to the Study Commission upon request made by the Chairman. Information from Federal agencies.

(8)(A) Members of Congress who are members of the Study Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Study Commission. Members of Congress, travel expenses.

(B) Members of the Study Commission, except Members of Congress, shall each receive compensation at a rate not in excess of the maximum rate of pay for GS-18, as provided in the General Schedule under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel expenses, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in performance of duties while serving as a Study Commission member. Compensation and expenses. 44 FR 58671.

(9)(A) The Study Commission is authorized to appoint and fix the compensation of a staff director and such additional personnel as may be necessary to enable it to carry out its functions. The Director and personnel may be appointed without regard to the provisions of title 5, United States Code, covering appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employees subject to the civil service laws and regulations who may be employed by the Study Commission shall retain civil service status without interruption or loss of status or privilege. In no event shall an employee other than the staff director receive as compensation an amount in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code. In addition, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5, United States Code. Staff director and personnel, compensation. 5 USC 5101 *et seq.*, 5331. 44 FR 58671.

(B) The staff director shall be compensated at the rate of pay for a position at Level 2 of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code. 5 USC 5313.

(10) The Study Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organiza- Functions.

tions and, if necessary, to transfer funds to Federal agencies from sums appropriated pursuant to this subsection to carry out such of its duties as the Study Commission determines can best be carried out in that manner.

(11) Any vacancy which may occur on the Study Commission shall not effect its powers or functions but shall be filled in the same manner in which the original appointment was made.

Appropriation authorization.

(12) There are hereby authorized to be appropriated, for fiscal years commencing on or after October 1, 1980, an amount not to exceed $3,000,000 to carry out this subsection. Funds appropriated under this subsection shall be available to the Study Commission until expended, except that any such funds which remain unobligated on the date that the Study Commission ceases to exist shall be forwarded to the Treasurer of the United States for deposit in the general fund of the United States Treasury.

(c) Section 10706(c) of title 49, United States Code, as redesignated by subsection (a) of this section, is amended by striking "(except a rail carrier)" and substituting "(except a rail carrier or a motor common carrier of property)".

(d) Section 10706 of title 49, United States Code, is further amended—

(1) in subsections (d), (f), and (g), as redesignated by subsection (a) of this section, by striking "subsection (a) or (b)" and substituting "subsection (a), (b), or (c)"; and

(2) in subsection (f), as redesignated by subsection (a) of this section, by inserting "or (c)" immediately before the period at the end of the first sentence.

49 USC 10706 note.

Ante, p. 803.

(e) Any organization established pursuant to an agreement approved by the Commission prior to the date of enactment of this Act under section 10706(b) of title 49, United States Code, may continue to function pursuant to such agreement until a new or amended agreement is finally disposed of by the Commission under section 10706 of title 49, United States Code, as amended by this section, so long as (1) such new or amended agreement is submitted to the Commission for approval within 120 days of such date of enactment, and (2) such organization complies with this section (including amendments made by this section and regulations issued under such amendments) during the period such new or amended agreement is being prepared, submitted to, and considered by the Commission.

LUMPING

SEC. 15. (a)(1) Subchapter I of chapter 111 of subtitle IV of title 49, United States Code, is amended by inserting the following new section immediately after section 11108:

49 USC 11109.

"§ 11109. Loading and unloading motor vehicles

"(a) Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

49 USC 10521.

"(b) It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title) to load or unload any part of such property onto or from such vehicle or to employ or pay one or more persons to load or unload any part of such property onto or from such vehicle, except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act or the Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101 et seq.), commonly known as the Norris-LaGuardia Act.". Coercion. 49 USC 10521.

(2) The analysis for subchapter I of chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following:

"11109. Loading and unloading motor vehicles.".

(b)(1) Chapter 119 of title 49, United States Code, is amended by inserting the following new section immediately after section 11902:

"§ 11902a. Penalties for violations of rules relating to loading and unloading motor vehicles 49 USC 11902a.

"(a) Any person who knowingly authorizes, consents to, or permits a violation of subsection (a) or (b) of section 11109 of this title or who knowingly violates subsection (a) of such section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation. *Ante*, p. 808.

"(b) Any person who knowingly violates section 11109(b) of this title shall be fined not more than $10,000, imprisoned for not more than 2 years, or both.".

(2) The analysis for chapter 119 of title 49, United States Code, is amended by inserting the following immediately after item 11902:

"11902a. Penalties for violations of rules relating to loading and unloading motor vehicles.".

(c) Section 11702(a)(2) of title 49, United States Code, is amended by inserting "or 11109" after "10930".

(d) Section 11107 of title 49, United States Code, is amended by inserting "(a)" before "Except" and by adding at the end thereof the following new subsection:

"(b) The Commission shall require, by regulation, that any arrangement, between a motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and any other person, under which such other person is to provide any portion of such transportation by a motor vehicle not owned by the carrier shall specify, in writing, who is responsible for loading and unloading the property onto and from the motor vehicle.". Responsibility for loading and unloading.

(e) The Interstate Commerce Commission, in consultation with the Secretary of Transportation, the Secretary of Labor, the Secretary of Agriculture, and representatives of independent owner-operators, the motor carrier industry, shippers, receivers, consumers, and other interested persons, shall study, and report to the Congress, not later than 18 months after the date of enactment of this Act on loading and unloading practices in the motor carrier of property industry. Such report shall include (1) such recommendations for legislative and other changes in such practices as the Commission considers appropriate, and (2) any changes in such practices which the Commission is making by regulation. Loading and unloading practices. Study, report to Congress.

WRITTEN CONTRACTS PERTAINING TO CERTAIN INTERSTATE MOVEMENTS BY MOTOR CARRIER

SEC. 16. (a) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

49 USC 10527.

"§ 10527. Written contracts pertaining to certain interstate movements by motor vehicle

Ante, p. 797.

"(a) Notwithstanding the provisions of section 10526(a)(6) of this subchapter, the Interstate Commerce Commission, in cooperation with the Secretary of Agriculture, shall, where appropriate, require by regulation the use of written contracts for the interstate movement by motor vehicle of property described in such section and for brokerage services to be provided in connection with the interstate movement of such property.

"(b) A written contract between an owner or operator of a motor vehicle and a broker, shipper of property, or receiver of property which is required to be used by the Commission under this section shall specify the arrangements, including compensation, with respect to loading and unloading of the property transported under such contract. Whenever the shipper or receiver of the property transported under such contract requires that the operator of the vehicle load or unload any part of the property onto or from the vehicle contrary to any provision of such contract, the shipper or receiver shall compensate the owner or operator of the vehicle for all costs associated with loading or unloading that part of the property. Any person who knowingly violates the preceding sentence is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

Violation, penalty.

Minimum requirements.

"(c) The Commission shall prescribe, by regulation, the minimum requirements and conditions of written contracts required to be used under this section.".

(b) The analysis of subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

"10527. Written contracts pertaining to certain interstate movements by motor vehicle.".

Ante, p. 809.

(c) Section 11702(a)(2) of title 49, United States Code, is amended by inserting "10527 or" before "10930".

49 USC 10527 note.

(d) The Interstate Commerce Commission and the Secretary of Agriculture may enter into agreements (including, but not limited to, memorandums of understanding) in carrying out the provisions of section 10527(a) of title 49, United States Code.

Supra.

MOTOR CARRIER BROKERS OF PROPERTY

SEC. 17. (a) Section 10924 of title 49, United States Code, is amended—

(1) in subsection (a) by inserting "of passengers or household goods" after "transportation" the first place such term appears; and

(2) by redesignating subsections (b), (c), and (d) (and any references thereto) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

Licenses.
49 USC 10927.

"(b) The Interstate Commerce Commission shall issue, subject to section 10927(b) of this title, a license to a person authorizing the

person to be a broker for transportation of property (other than household goods) subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, if the Commission finds that the person is fit, willing, and able— 49 USC 10521.

"(1) to be a broker for transportation to be authorized by the license; and

"(2) to comply with this subtitle and regulations of the Commission.".

(b) Section 10925(d)(1)(A) of title 49, United States Code, is amended by striking out "10924(d)" and inserting in lieu thereof "10924(e)".

FINANCE EXEMPTIONS

SEC. 18. (a) Section 11302(b) of title 49, United States Code, is amended by—

(1) striking "more than $1,000,000" and substituting "more than $5,000,000"; and

(2) striking "more than $200,000" and substituting "more than $1,000,000".

(b) Section 11343(d)(1) of title 49, United States Code, is amended by striking "more than $300,000" and substituting "more than $2,000,000".

UNIFORM STATE REGULATION

SEC. 19. Congress hereby declares and finds that the individual State regulations and requirements imposed upon interstate motor carriers regarding licensing, registration, and filings are in many instances confusing, lacking in uniformity, unnecessarily duplicative, and burdensome and that it is in the national interest to minimize the burdens of such regulations while at the same time preserving the legitimate interests of the State in such regulation. Therefore, the Congress directs the Secretary of Transportation and the Interstate Commerce Commission, in consultation with the States and the various State agencies which administer such requirements and regulations and with the motor carrier industry, including both the regulated and unregulated segments, to develop legislative or other recommendations to provide a more efficient and equitable system of State regulations for interstate motor carriers. Such recommendations shall be made to the Congress not later than 18 months after the date of enactment of this Act. Recommendations. Submittal to Congress.

POOLING ARRANGEMENTS

SEC. 20. (a) Section 11342(a) of title 49, United States Code, is amended by striking out "The Commission may" and inserting in lieu thereof "Except as provided in subsection (b) for agreements or combinations between or among motor common carriers of property, the Commission may".

(b) Section 11342 of title 49, United States Code, is amended by redesignating subsections (b), (c), and (d) (and any references thereto) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) Any motor common carrier of property may apply to the Commission for approval of an agreement or combination with another motor common carrier of property to pool or divide traffic or any services or any part of their earnings by filing such agreement or combination with the Commission not less than 50 days before its effective date. Prior to the effective date of the agreement or

combination, the Commission shall determine whether the agreement or combination is of major transportation importance and whether there is substantial likelihood that the agreement or combination will unduly restrain competition. If the Commission determines that neither of these two factors exists, it shall, prior to such effective date and without a hearing, approve and authorize the agreement or combination, under such rules and regulations as the Commission may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Commission to be just and reasonable. If the Commission determines either that the agreement or combination is of major transportation importance or that there is a substantial likelihood that the agreement or combination will unduly restrain competition, the Commission shall hold a hearing concerning whether the agreement or combination will be in the interest of better service to the public or of economy in operation and whether it will unduly restrain competition and shall suspend operation of such agreement or combination pending such hearing and final decision thereon. After such hearing, the Commission shall indicate to what extent it finds that the agreement or combination will be in the interest of better service to the public or of economy in operation and will not unduly restrain competition and if assented to by all the carriers involved, shall, to that extent, approve and authorize the agreement or combination, under such rules and regulations as the Commission may issue, and for such consideration between such carriers and upon such terms and conditions as shall be found by the Commission to be just and reasonable.".

Hearing.

MIXED LOADS

Ante, p. 797.

SEC. 21. (a) Section 10526(a)(6) of title 49, United States Code, is amended by striking out "a motor vehicle carrying, for compensation, only property and that property consists" and inserting in lieu thereof "transportation by motor vehicle".

(b)(1) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

49 USC 10528.

"§ 10528. Mixed loads of regulated and unregulated property

"A motor carrier of property providing transportation exempt from the jurisdiction of the Commission under paragraph (6), (8), (10), (11), or (12) of section 10526(a) of this subchapter may transport property under such paragraph in the same vehicle and at the same time as property which the carrier is authorized to transport under a certificate issued under section 10922(b) of this subtitle or under a permit issued under section 10923 of this subtitle. Such transportation shall not affect the unregulated status of such exempt property or the regulated status of the property which the carrier is authorized to transport under such certificate or permit.".

Ante, pp. 797, 798.

Ante, p. 794.

Ante, pp. 799, 800.

(2) The analysis for subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

"10528. Mixed loads of regulated and unregulated property.".

JOINT RATES AND THROUGH ROUTES

SEC. 22. (a) Section 10703(b) of title 49, United States Code, is amended by inserting ", II (insofar as motor carriers of property are concerned)," immediately after "subchapter I".

(b) Section 10705 of title 49, United States Code, is amended by redesignating subsections (b), (c), (d), (e), and (f) (and any references thereto) as subsections (c), (d), (e), (f), and (g), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) The Interstate Commerce Commission may, and shall when it considers it desirable in the public interest, prescribe through routes, joint classifications, joint rates (including maximum or minimum rates or both), the division of joint rates, and the conditions under which those routes must be operated, for a motor common carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title with another such carrier or with a water common carrier of property. 49 USC 10521.

"(2) The Commission may not require a motor common carrier of property, without its consent, to include in a through route substantially less than the entire length of its route and the route of any intermediate carrier which is operated in conjunction and under common management or control with such motor common carrier of property which lies between the termini of such proposed through routes (A) unless inclusion of such routes would make the through route unreasonably circuitous as compared with another practicable through route which could otherwise be established, or (B) unless the Commission finds that the through route proposed to be established is needed in order to provide adequate, more efficient, or more economic transportation. In prescribing through routes the Commission shall, so far as is consistent with the public interest, and subject to the preceding sentence, give reasonable preference to the carrier which originates the traffic.". Preference to carrier.

(c) Section 10705(c) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by inserting "or (b)" after "subsection (a)" in the first sentence and by striking out "or water carrier" in the second sentence and inserting in lieu thereof "carrier, water carrier, or motor common carrier of property".

(d) The first sentence of section 10705(e) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by striking out "a rail or water common carrier tariff" and inserting in lieu thereof "a tariff of a rail carrier, water common carrier, or motor common carrier of property".

(e) Subsection (f)(1) of section 10705 of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by striking out "subsection (a) or (b)" and inserting in lieu thereof "subsection (a), (b), or (c)".

(f) Section 10705 of title 49, United States Code, is further amended by adding at the end thereof the following new subsection:

"(h) Any motor common carrier of property who is a party to a through route and joint rate, whether established by such carrier under section 10703 of this title or prescribed by the Commission under subsection (b) of this section, shall promptly pay divisions or make interline settlements, as the case may be, with other carriers which are parties to such through route and joint rate. In the event of undue delinquency in the settlement of such divisions or interline settlements, such through routes and joint rates may be suspended or canceled under rules prescribed by the Commission.". Division payments or interline settlements. 49 USC 10703.

(g) Section 10705(g) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (f)".

(h) Section 10703(a)(4) of title 49, United States Code, is amended by adding at the end thereof the following new subparagraph:

Contracts.

"(E) A freight forwarder may enter into contracts with a rail carrier or with a water common carrier providing transportation subject to the Shipping Act, 1916 (46 U.S.C. 801 et seq.) or the Intercoastal Shipping Act, 1933 (46 U.S.C. 843-848). Not later than 180 days after the date of enactment of this subparagraph, the Commission shall promulgate regulations implementing the provisions of this subparagraph.".

Regulations.

TEMPORARY AUTHORITIES AND EMERGENCY TEMPORARY AUTHORITIES

SEC. 23. Section 10928 of title 49, United States Code, is amended by—

(1) inserting "(a)" before "Without";

(2) inserting "of passengers" after "motor carrier" each place such term appears; and

(3) adding at the end thereof the following new subsections:

49 USC 10321.
5 USC 551.

"(b)(1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission, pursuant to such regulations as the Commission may issue, may grant a motor carrier of property temporary authority to provide transportation to a place or in an area having no motor carrier of property capable of meeting the immediate needs of the place or area. Unless suspended or revoked, the Commission may grant the temporary authority for not more than 270 days. A grant of temporary authority does not establish a presumption that permanent authority to provide transportation will be granted under this subchapter.

"(2) The Commission shall take final action upon an application filed under this subsection no later than 90 days after the date the application is filed with the Commission.

"(c)(1) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, the Commission, pursuant to such regulations as the Commission may issue, may grant a motor carrier of property emergency temporary authority to provide transportation to a place or in an area having no motor carrier of property capable of meeting the immediate needs of the place or area if the Commission determines that, due to emergency conditions, there is not sufficient time to process an application for temporary authority under subsection (b) of this section. Unless suspended or revoked, the Commission may grant the emergency temporary authority for not more than 30 days, and the Commission may extend such authority for a period of not more than 90 days. A grant of emergency temporary authority does not establish a presumption that permanent authority to provide transportation will be granted under this subchapter.

Time extension.

"(2) The Commission shall take final action upon an application filed under this subsection not later than 15 days after the date the application is filed with the Commission.".

COOPERATIVE ASSOCIATIONS

SEC. 24. (a) Section 10526(a)(5)(A)(ii) of title 49, United States Code, is amended by striking out "15 percent" and inserting in lieu thereof "25 percent".

(b)(1) Subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10529. Limited authority over cooperative associations 49 USC 10529.

"(a) Notwithstanding section 10526(a)(5) of this title, any cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) or a federation of cooperative associations which is required to notify the Commission under such section 10526(a)(5) shall prepare and maintain such records relating to transportation provided by such association or federation, in such form, as the Commission may require by regulation to carry out the provisions of such section 10526(a)(5). The Commission or an employee designated by the Commission, may on demand and display of proper credentials— Notification; recordkeeping. 49 USC 10526. Inspection rights.

"(1) inspect and examine the lands, buildings, and equipment of such association or federation; and

"(2) inspect and copy any record of such association or federation.

"(b) Notwithstanding section 10526(a)(5) of this title, the Commission may require a cooperative association or federation of cooperative associations described in subsection (a) of this section to file reports with the Commission containing answers to questions about transportation provided by such association or federation. Filing of reports.

"(c) The Commission may bring a civil action to enforce subsections (a) and (b) of this section or a regulation or order of the Commission issued under this section, when violated by a cooperative association or federation of cooperative associations described in subsection (a). Civil action.

"(d)(1) A person required to make a report to the Commission, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that (A) does not make the report, (B) does not specifically, completely, and truthfully answer the question, or (C) does not maintain the record in the form and manner prescribed by the Commission, is liable to the United States Government for a civil penalty of not more than $500 for each violation and for not more than $250 for each additional day the violation continues. Noncompliance penalty.

"(2) Trial in a civil action under paragraph (1) of this subsection shall be in the judicial district in which (A) the cooperative association or federation of cooperative associations has its principal office, (B) the violation occurred, or (C) the offender is found. Process in the action may be served in the judicial district of which the offender is an inhabitant or in which the offender may be found.

"(e) A person, or an officer, employee, or agent of that person, that by any means knowingly and willfully tries to evade compliance with the provisions of this section shall be fined at least $200 but not more than $500 for the first violation and at least $250 but not more than $2,000 for a subsequent violation.

"(f) A person required to make a report to the Commission, answer a question, or maintain a record under this section, or an officer, agent, or employee of that person, that (1) willfully does not make that report, (2) willfully does not specifically, completely, and truthfully answer that question in 30 days from the date the Commission requires the question to be answered, (3) willfully does not maintain that record in the form and manner prescribed by the Commission, (4) knowingly and willfully falsifies, destroys, mutilates, or changes that report or record, (5) knowingly and willfully files a false report or record with the Commission under this section, (6) knowingly and willfully makes a false or incomplete entry in that record about a business-related fact or transaction, or (7) knowingly and willfully maintains a record in violation of a regulation or order of the Violations, penalties.

Commission issued under this section, shall be fined not more than $5,000.".

(2) The analysis for subchapter II of chapter 105 of title 49, United States Code, is amended by adding at the end thereof the following:

"10529. Limited authority over cooperative associations.".

Repeal.

(c) Subsection (c) of section 11144 of title 49, United States Code, is hereby repealed.

PROCEDURAL REFORM

SEC. 25. (a) Section 10322 of title 49, United States Code, is amended to read as follows:

"§ 10322. Commission action and appellate procedure in non-rail proceedings

"(a) This section applies to a matter before the Interstate Commerce Commission over which the Commission has jurisdiction under chapter 105 of this title, other than a matter involving a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of such chapter. The deadlines set forth in this section do not apply to the following sections of this subtitle: 10525(c), 10708(b), 10922(h)(2), 10928, 11345a, and 11701(c).

49 USC 10501.

49 USC 10525, 10708, *ante*, pp. 796, 814, *post*, pp. 819, 818.

"(b)(1) Except as provided in paragraph (2) of this subsection, a division, individual commissioner, employee board, or an employee delegated under section 10305 of this title to make an initial decision in a matter related to a carrier (other than a rail carrier), or, in the case of a matter referred to a joint board under section 10341 of this title, such joint board—

Oral hearing; decisions.

49 USC 10305.

49 USC 10341.

"(A) shall, in any case in which an oral hearing is held or the Commission has found that an issue of general transportation importance is involved, complete all evidentiary proceedings related to the matter not later than the 180th day following institution of the proceeding and shall issue in writing the initial decision not later than the 270th day following institution of the proceeding; and

"(B) shall, in the case of all other proceedings subject to this section, issue in writing the initial decision by the 180th day following institution of the proceeding.

If evidence is submitted in writing or testimony is taken at an oral hearing, the initial decision shall include specific findings of fact, specific and separate conclusions of law, an order, and justification for the findings of fact, conclusions of law, and order.

"(2) In any case involving an application for authority to provide motor carrier transportation incidental to trailer-on-flatcar or container-on-flatcar service by rail under subchapter II of chapter 109 of this subtitle, a final decision on such application shall be issued in writing not later than the 180th day following the date such application is filed with the Commission.

49 USC 10921.

Publication in Federal Register.

"(3) At the earliest practicable time after the filing of an application for authority under subchapter II of chapter 109 of this title, the Commission shall publish in the Federal Register notice of the filing of such application.

Waiver.

"(c) The Commission, or a division designated by the Commission, may waive the requirement for an initial decision under subsection (b) of this section and may require the matter to be considered by the Commission or such division on finding that the matter involves a question of Commission policy, a new or novel issue of law, or an issue of general transportation importance or that waiver of the initial

decision is required for the timely execution of the Commission's functions. If the requirement for an initial decision is waived, a final decision shall be issued in writing within the time limit established for the issuance of the initial decision under subsection (b) of this section.

"(d) In a proceeding under this section in which the parties have had at least an opportunity to submit evidence in written form, such parties shall have an opportunity to present arguments to the initial decisionmaker. The decisionmaker shall determine whether the arguments should be presented orally or in writing and may require that written arguments be submitted simultaneously with written submissions of evidence and that oral arguments be presented at an oral hearing. Upon issuance of an initial decision under this section, copies of such decision shall be served on the parties and submitted to the Commission.

Initial decisions.

"(e) An initial decision under this section becomes a final decision on the 20th day after it is served on the interested parties, unless—

"(1) an interested party files an appeal during the 20-day period or, if authorized by the Commission or division designated by the Commission, by the end of an additional period of not more than 20 days; or

"(2) the Commission stays or postpones under subsection (f)(1) of this section the initial decision not later than the 20th day following the date it is served on the parties.

Final decision review.

"(f)(1) Before an initial decision under this section becomes a final decision, the Commission or a division or an employee board designated by the Commission, may review the initial decision on its own initiative and shall review an initial decision if a timely appeal is filed under subsection (e) of this section.

"(2) An initial decision may be reviewed on the record on which it is based or by a further hearing. If an initial decision is reviewed, it shall be stayed pending final determination of the matter and it becomes a final decision only after the final determination is made. If a timely appeal is filed under subsection (e) of this section, the final determination shall be made not later than the 50th day after the appeal is filed. If an initial decision under this section is reviewed by the Commission or a division or an employee board designated by the Commission on its own initiative, the final decision shall be made not later than the 50th day after initiation of such review.

Appeals.

"(3) Notwithstanding the provisions of paragraph (2) of this subsection, if an initial decision under this section is reviewed by further hearing, such review shall be completed, and a final decision made, not later than the 120th day following the date the further hearing is granted.

"(4) Review of, or appeal from, an initial decision under this section shall be conducted under section 557 of title 5. The Commission may prescribe rules limiting and defining the issues and pleadings on review under subsection (b) of such section.

Commission action, proceeding reopening and reconsideration.

"(g)(1) The Commission may, at any time on its own initiative because of material error, new evidence, or substantially changed circumstances—

"(A) reopen a proceeding;

"(B) grant rehearing, reargument, or reconsideration of an action of the Commission; and

"(C) change an action of the Commission.

An interested party may petition to reopen and reconsider an action of the Commission under this paragraph under regulations of the Commission.

"(2) The Commission may grant a rehearing, reargument, or reconsideration of an action of the Commission that was taken by a division or an employee board designated by the Commission if it finds that—

"(A) the action involved a matter of general transportation importance; or

"(B) the action would be affected materially because of clear and convincing new evidence or changed circumstances.

An interested party may petition for rehearing, reargument, or reconsideration of an action of the Commission under this paragraph under regulations of the Commission. The Commission may stay an action pending a final determination under this paragraph. The Commission shall complete reconsideration and take final action by the 120th day after the petition is granted.

Stay of Commission action.

"(3) If the Commission initiates any action under paragraph (1) of this subsection, final disposition under such paragraph shall be made not later than the 120th day following the date action is initiated.

Effective date.

"(h) A final decision under this section shall be effective on the date it is served on the parties, and a civil action to enforce, enjoin, suspend, or set aside the decision may be filed after that date.

Time period, extension.

"(i) In extraordinary circumstances, the Commission may extend a time period established by this section, except that the total of all such extensions with respect to any matter subject to the provisions of this section shall not exceed 90 days.".

Repeal.

(b) Section 10323 of title 49, United States Code, is hereby repealed.

(c)(1) Section 10324(a) of title 49, United States Code, is amended by striking out the last sentence.

(2) Section 10324(c) of title 49, United States Code, is amended to read as follows:

49 USC 10327.

"(c) An action of the Commission under section 10327 of this title is enforceable, unless the Commission stays or postpones such action.".

Repeal.

(d) Section 10325 of title 49, United States Code, is hereby repealed.

(e) Section 10327(a) of title 49, United States Code, is amended by striking out "Notwithstanding sections 10322, 10323, and 10324(c) of this title, this" and inserting in lieu thereof "This".

(f) The index for subchapter II of chapter 103 of title 49, United States Code, is amended by striking out the items relating to sections 10322, 10323, 10324, and 10325 and inserting in lieu thereof the following:

"10322. Commission action and appellate procedure in non-rail proceedings.
"10323. Repealed.
"10324. Commission action.
"10325. Repealed.".

ENFORCEMENT

SEC. 26. (a) Section 11701(c) of title 49, United States Code, is amended by striking "related to a rail carrier".

(b) Section 11707(e) of title 49, United States Code, is amended by adding the following at the end thereof: "For the purposes of this subsection—

"(1) an offer of compromise shall not constitute a disallowance of any part of the claim unless the carrier, in writing, informs the claimant that such part of the claim is disallowed and provides reasons for such disallowance; and

"(2) communications received from a carrier's insurer shall not constitute a disallowance of any part of the claim unless the insurer, in writing, informs the claimant that such part of the claim is disallowed, provides reasons for such disallowance, and informs the claimant that the insurer is acting on behalf of the carrier.".

(c) Section 1114 of title 18, United States Code, is amended by inserting "Interstate Commerce Commission," after "Consumer Product Safety Commission,".

MERGER PROCEDURE

SEC. 27. (a) Subchapter III of chapter 113 of title 49, United States Code, is amended by inserting after section 11345 the following new section:

"§ 11345a. Consolidation, merger, and acquisition of control: motor carrier of property procedure 49 USC 11345a.

"(a) If a motor carrier of property providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title is involved in a proposed transaction under section 11343 of this title, this section and section 11344 of this title also apply to the transaction. The Commission shall publish notice of the application in the Federal Register by the end of the 30th day after the application is filed with the Commission. However, if the application is incomplete, the Commission shall reject it by the end of that period. The order of rejection is a final decision of the Commission under section 10322 of this title. 49 USC 10521. 49 USC 11343, 11344. Publication in Federal Register. *Ante*, p. 816.

"(b) Written comments about an application may be filed with the Commission within 45 days after notice of the application is published under subsection (a) of this section.

"(c) The Commission must conclude evidentiary proceedings by the 240th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 180th day after the date it concludes the evidentiary proceedings. In extraordinary circumstances, the Commission may extend a time period established by this section, except that the total of all such extensions with respect to any application shall not exceed 90 days.

"(d) The Commission may waive the requirement that an initial decision be made under section 10322 of this title and make a final decision itself when it determines that action is required for the timely execution of its functions under this subchapter or that an application governed by this section is of major transportation importance. The decision of the Commission under this subsection is a final decision under section 10322 of this title.". Waiver.

(b) The analysis of subchapter III of chapter 113 of title 49, United States Code, is amended by inserting after

"11345. Consolidation, merger, and acquisition of control: rail carrier procedure."

the following:

"11345a. Consolidation, merger, and acquisition of control: motor carrier of property procedure.".

SMALL COMMUNITY SERVICE STUDY

SEC. 28. (a) The Interstate Commerce Commission shall make a full investigation and study of motor carrier service to small communities (with emphasis on communities of population 5,000 and under), and Report to President and Congress.

shall submit a report, including legislative or other recommendations, to the President and the Congress not later than September 1, 1982.

Contents of report.

(b) The report shall include an analysis of the common carrier obligation to provide service to small community shippers and an assessment of whether the Commission is enforcing such obligation. If the Commission determines that it is not fully enforcing such obligation, then it shall explain why not, and detail what steps it would need to take and what resources it would have to have in order to enforce such obligation. The report shall also describe the extent to which motor carriers were providing service to small communities prior to the date of enactment of this Act, and evaluate the effect of this Act on such service. The report shall include specific recommendations regarding ways to ensure the provision and maintenance of motor carrier service to small communities.

Data for report.

(c)(1) To develop data for its report, the Commission shall monitor—

(A) complaints to determine the number and kinds of complaints by small community shippers; and

(B) applications for new and expanded service to determine whether motor carriers are seeking to serve small community shippers.

Additional data.

(2) The Commission may develop additional data by any other means, including surveys of small community shippers and motor carriers providing service to such communities to determine the reliability of such service and the availability of quality and price options. The Commission is authorized to enter into contracts or agreements with public and private organizations to carry out such surveys of shippers and motor carriers.

Contracts.

Appropriation authorization.

(d) There is hereby authorized to be appropriated for fiscal years 1981 and 1982 such sums as are necessary to carry out the provisions of this section.

INSURANCE

SEC. 29. Section 10927(a)(1) of title 49, United States Code, is amended by striking out "approved by the Commission." and inserting in lieu thereof "approved by the Commission, in an amount not less than such amount as the Secretary of Transportation prescribes pursuant to, or as is required by, the provisions of section 30 the Motor Carrier Act of 1980.".

Infra.

MINIMUM FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

Regulations. 49 USC 10927 note.

SEC. 30. (a)(1) The Secretary of Transportation shall establish regulations to require minimal levels of financial responsibility sufficient to satisfy liability amounts to be determined by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property for hire by motor vehicle in the United States from a place in one State to a place in another State, from a place in a State to another place in such State through a place outside of such State, or between a place in a State and a place outside the United States.

(2) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle shall not be less than $750,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $500,000) for any class of vehicles or operations for the two-year period beginning on the effective date of the regulations issued under such

paragraph or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

(3) If, at the end of the one-year period beginning on the date of enactment of this Act, the Secretary has not established regulations to require minimal levels of financial responsibility as required by paragraph (1) of this subsection for any class of transportation of property for hire by motor vehicle from a place in a State to a place in another State or from a place in a State to another place in such State through another State, the levels of financial responsibility for such class of transportation shall be the $750,000 amount set forth in paragraph (2) of this subsection, until such time as the Secretary, by regulation, changes such amount under this subsection. Notwithstanding the provisions of such paragraph, the Secretary may only make reductions in such amount under such paragraph for the two-year period beginning on the 366th day following the date of enactment of this Act or any part of such period.

Amount reductions.

(b)(1) The Secretary shall establish regulations to require minimal levels of financial responsibility sufficient to satisfy liability amounts to be determined by the Secretary covering public liability, property damage, and environmental restoration for the transportation of hazardous materials (as defined by the Secretary), oil or hazardous substances (as defined by the Administrator of the Environmental Protection Agency), or hazardous wastes (as defined by the Administrator of the Environmental Protection Agency) by motor vehicle in interstate or intrastate commerce.

Regulations.

(2) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate or intrastate commerce—

Hazardous substances.

(A) hazardous substances (as defined by the Administrator of the Environmental Protection Agency) in cargo tanks, portable tanks, or hopper-type vehicles, with capacities in excess of 3,500 water gallons,

(B) in bulk class A explosives, poison gas, liquefied gas, or compressed gas, or

(C) large quantities of radioactive materials,

shall not be less than $5,000,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $1,000,000) for any class of vehicles or operations for the two-year period beginning on the effective date of the regulations issued under this subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

Amounts, limitation.

(3) The minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate or intrastate commerce any material, oil, substance, or waste not subject to the provisions of paragraph (2) of this subsection shall not be less than $1,000,000, except that (A) the Secretary, by regulation, may reduce such amount (but not to an amount less than $500,000) for any class of vehicles or operations for the two-year period beginning on the effective date of the regulations issued under this subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service, and (B) in the case of any class of vehicles transporting any such material, oil, substance, or waste in intrastate commerce other than in bulk, the Secretary, by regulation, may reduce such amount if the

Secretary finds that such reduction will not adversely affect public safety.

(4) If, at the end of the one-year period beginning on the date of enactment of this Act, the Secretary has not established regulations to require minimal levels of financial responsibility as required by paragraph (1) of this subsection for any class of transportation of hazardous materials, oil, hazardous substances, or hazardous wastes by motor vehicle in interstate or intrastate commerce, the levels of financial responsibility for such class of transportation shall be the $5,000,000 amount set forth in paragraph (2) of this subsection or the $1,000,000 amount set forth in paragraph (3) of this subsection, as the case may be, until such time as the Secretary, by regulation, changes such amount under this subsection. Notwithstanding the provisions of paragraph (2) or (3)(A) of this subsection, the Secretary may only make reductions in such amount under such paragraph for the two-year period beginning on the 366th day following the date of enactment of this Act or any part of such period.

Amount reductions.

(c) Financial responsibility may be established under this section by any one or any combination of the following methods acceptable to the Secretary: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. The Secretary shall establish, by regulation, methods and procedures to assure compliance with this section.

Violation, determination of penalty amount.

(d)(1) Any person (except an employee who acts without knowledge) who is determined by the Secretary, after notice and opportunity for a hearing, to have knowingly violated this section or a regulation issued under this section shall be liable to the United States for civil penalty of not more than $10,000 for each violation, and if any such violation is a continuing one each day of violation constitutes a separate offense. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

Civil penalty, recovery.

(2) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

Report to Congress.

(e) Not later than one year after the date of enactment of this Act, the Secretary shall report to Congress upon the regulations issued under this section. The Secretary shall describe the various levels of financial responsibility mandated and the rationale for selecting the final limits. The Secretary shall also include an estimate of the impact of the regulations upon the safety of motor vehicle transportation, the economic condition of the motor carrier industry (including, but not limited to, small and minority motor carriers and independent owner-operators), and the ability of the insurance industry to provide the designated coverage. The Secretary shall make recom-

Recommendations for further legislation.

mendations with respect to the need for further legislation related to levels of financial responsibility, including to what extent, if any, minimum statutory levels should be modified.

(f) This section shall only apply to motor vehicles having a gross vehicle weight rating of 10,000 pounds or more.

(g) For purposes of this section, the term—

(1) "Secretary" means the Secretary of Transportation; and "Secretary."

(2) "State" (including its use in the terms "interstate" and "intrastate") means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Marianas. "State."

IMPOSITION OF STATE TAX ON MOTOR CARRIER TRANSPORTATION PROPERTY

SEC. 31. (a)(1) Chapter 115 of title 49, United States Code, is amended by inserting after section 11503 the following new section:

"§ 11503a. Tax discrimination against motor carrier transportation property 49 USC 11503a.

"(a) In this section— Definitions.

"(1) 'assessment' means valuation for a property tax levied by a taxing district;

"(2) 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

"(3) 'motor carrier transportation property' means property, as defined by the Interstate Commerce Commission, owned or used by a motor carrier of property providing transportation in interstate commerce whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title; and 49 USC 10521.

"(4) 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy.

"(b) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them: Prohibited discriminatory acts.

"(1) assess motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property;

"(2) levy or collect a tax on an assessment that may not be made under paragraph (1) of this subsection;

"(3) levy or collect an ad valorem property tax on motor carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

"(c) Notwithstanding section 1341 of title 28 and without regard to the amount in controversy or citizenship of the parties, a district court of the United States has jurisdiction, concurrent with other jurisdiction of courts of the United States and the States, to prevent a

Granting of relief, conditions.

violation of subsection (b) of this section. Relief may be granted under this subsection only if the ratio of assessed value to true market value of motor carrier transportation property exceeds by at least 5 percent, the ratio of assessed value to true market value of other commercial and industrial property in the same assessment jurisdiction. The burden of proof in determining assessed value and true market value is governed by State law. If the ratio of the assessed value of other commercial and industrial property in the assessment jurisdiction to the true market value of all other commercial and industrial property cannot be determined to the satisfaction of the district court through the random-sampling method known as a sales assessment ratio study (to be carried out under statistical principles applicable to such a study), the court shall find, as a violation of this section—

Violations.

"(1) an assessment of the motor carrier transportation property at a value that has a higher ratio to the true market value of the motor carrier transportation property than the assessment value of all other property subject to a property tax levy in the assessment jurisdiction has to the true market value of all other commercial and industrial property; and

"(2) the collection of ad valorem property tax on the motor carrier transportation property at a tax rate that exceeds the tax ratio rate applicable to taxable property in the taxing district.".

(2) The chapter analysis of chapter 115 of title 49, United States Code, is amended by inserting after

"11503. Tax discrimination against rail transportation property."

the following:

"11503a. Tax discrimination against motor carrier transportation property.".

(b) Section 10521(b)(4) of title 49, United States Code, is amended by inserting "section 11503a and" after "in".

RATES FOR TRANSPORTATION OF RECYCLABLE MATERIALS

SEC. 32. (a) Subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

49 USC 10733.

"§ 10733. Rates for transportation of recyclable materials

"(a) A motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may provide transportation of recyclable materials without charge or at a reduced rate.

49 USC 10521.

"Recyclable materials."

"(b) In this section, 'recyclable materials' means waste products for recycling or reuse in the furtherance of recognized pollution control programs.".

(b) The analysis for subchapter II of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following:

"10733. Rates for transportation of recyclable materials.".

BUSINESS ENTERTAINMENT EXPENSES

SEC. 33. (a) Subchapter III of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10751. Business entertainment expenses

49 USC 10751.

"(a) Any business entertainment expense incurred by a person providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title (other than transportation by rail) shall not constitute a violation of section 10741 or 10761 of this title if such expense would not be unlawful if incurred by a person or corporation not subject to such jurisdiction of the Commission.

49 USC 10501 *et seq.* *Infra.*

"(b) Any business entertainment expense authorized under this section that is paid or incurred by a person providing transportation subject to the jurisdiction of the Commission under chapter 105 of this title (other than transportation by rail) shall not be taken into account in determining the cost of service or the rate base for purposes of this title.

"(c) Within 180 days after the date of enactment of the Motor Carrier Act of 1980, the Commission shall institute a rulemaking proceeding pursuant to which it shall issue rules establishing appropriate standards and guidelines for authorized business entertainment expenses under this section. Such standards and guidelines shall be consistent with standards and guidelines applicable under existing law to persons not subject to this subtitle, including competing unregulated surface transportation carriers.".

Standards and guidelines. *Ante,* p. 793.

(b) The analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10750 the following new item:

"10751. Business entertainment expenses.".

(c) Section 10761 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) This section shall not apply to expenses authorized under section 10751 of this title.".

(d) Section 10741 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) This section shall not apply to expenses authorized under section 10751 of this title.".

COORDINATED TRANSPORTATION SERVICES

SEC. 34. (a) Section 10922 of title 49, United States Code, is amended by adding the following new subsection:

Ante, p. 796.

"(j) A motor common carrier of property may deliver to or receive from a rail carrier a trailer moving in trailer-on-flat-car service at any point on the route of the rail carrier if the motor carrier is authorized to serve the origin and destination points of the traffic.".

(b) Section 10923 of title 49, United States Code, is amended by adding the following new subsection:

Ante, p. 800.

"(e) A motor contract carrier of property may deliver to or receive from a rail carrier a trailer moving in trailer-on-flat-car service at any point on the route of the rail carrier if the motor carrier is authorized to serve the origin and destination points of the traffic.".

JOB REFERRAL

SEC. 35. The Secretary of Labor shall establish, maintain, and periodically publish a comprehensive list of jobs available with motor carriers of property holding certificates or permits issued by the Interstate Commerce Commission under subchapter II of chapter 109 of title 49, United States Code. Such list shall include that information and detail, such as job descriptions and required skills, as the

List of available jobs, publication. 49 USC 10921 note. 49 USC 10921.

Employment aid.

Secretary deems relevant and necessary. In addition to publishing the list, the Secretary shall assist a person previously employed by any such carrier in finding other employment. In order to carry out this section, the Secretary may require regulated motor carriers of property to file reports, data, and other information.

ADMINISTRATION

Rent payment.

SEC. 36. Section 10344(f) of title 49, United States Code, is amended by adding at the end thereof the following new sentence: "The Commission shall pay the rent for any space or facilities assigned under this subsection at rates determined in accordance with section 210(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(j))."

Approved July 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1069 accompanying H.R. 6418 (Comm. on Public Works and Transportation).
SENATE REPORT No. 96-641 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 15, considered and passed Senate.
June 19, H.R. 6418 considered and passed House; passage vacated and S. 2245, amended, passed in lieu.
June 20, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 27:
July 1, Presidential statement.

Public Law 96-297
96th Congress

Joint Resolution

To authorize the Vietnam Veterans Memorial Fund, Inc., to establish a memorial.

July 1, 1980
[S.J. Res. 119]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Vietnam Veterans Memorial Fund, Inc., a nonprofit corporation organized and existing under the laws of the District of Columbia, is authorized to establish a memorial on public grounds in West Potomac Park in the District of Columbia, in honor and recognition of the men and women of the Armed Forces of the United States who served in the Vietnam war.

Vietnam Veterans Memorial Fund, Inc., establishment.
16 USC 431 note.

SEC. 2. (a) The Secretary of the Interior, in consultation with the Vietnam Veterans Memorial Fund, Inc., is authorized and directed to select with the approval of the Commission of Fine Arts and the National Capital Planning Commission a suitable site of approximately two acres in size located in the area of West Potomac Park known as Constitution Gardens in the District of Columbia: *Provided,* That if subsurface soil conditions prevent the engineering of a feasible foundation system for the memorial in a location in that area, then the Secretary of the Interior, in consultation with the Vietnam Veterans Memorial Fund, Inc., is authorized and directed to select a suitable site of approximately two acres in size located in an area of West Potomac Park north of Independence Avenue other than Constitution Gardens.

Site selection.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission: *Provided,* That if the Secretary of the Interior, the Commission of Fine Arts, or the National Capital Planning Commission fails to report his or its approval of or specific objection to such design and plans within ninety days of their submission, his or its approval shall be deemed to be given.

Design plans.

(c) Neither the United States nor the District of Columbia shall be put to any expense in the establishment of the memorial.

Expenses.

SEC. 3. The authority conferred pursuant to this resolution shall lapse unless (1) the establishment of such memorial is commenced within five years from the date of enactment of this resolution, and (2) prior to groundbreaking for actual construction on the site, funds are certified available in an amount sufficient, in the judgment of the Secretary of the Interior based upon the approved design and plans for the memorial, to insure completion of the memorial.

Termination of authority.

Memorial maintenance.

SEC. 4. The maintenance and care of the memorial established under the provisions of this resolution shall be the responsibility of the Secretary of the Interior.

Approved July 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1129 (Comm. of Conference).
SENATE REPORTS: No. 96-663 (Comm. on Energy and Natural Resources) and No. 96-832 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 30, considered and passed Senate.
May 20, considered and passed House, amended.
June 27, House agreed to conference report.
June 30, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 27:
July 1, Presidential statement.

Public Law 96-298
96th Congress

An Act

To amend the Internal Revenue Code of 1954 to provide a three-month extension of the taxes which are transferred to the Airport and Airway Trust Fund.

July 1, 1980
[H.R. 7477]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Airport and Airway Trust Fund.
Taxes, three-month extension.
26 USC 4041.

SECTION 1. EXTENSION OF TAXES.

(a) TAX ON FUEL USED IN NONCOMMERCIAL AVIATION.—Paragraph (5) of section 4041(c) of the Internal Revenue Code of 1954 (relating to termination of tax on fuel for noncommercial aviation) is amended by striking out "July 1, 1980" and inserting in lieu thereof "October 1, 1980".

(b) TAX ON TRANSPORTATION BY AIR.—Sections 4261(e) and 4271(d) of such Code are each amended by striking out "June 30, 1980" and inserting in lieu thereof "September 30, 1980".

26 USC 4261, 4271.

(c) TAX ON USE OF AIRCRAFT.—

26 USC 4491.

(1) IN GENERAL.—Subsection (e) of section 4491 of such Code (relating to termination of tax on use of aircraft) is amended by striking out "July 1, 1980" and inserting in lieu thereof "October 1, 1980".

26 USC 4491 note.

(2) TRANSITIONAL RULE.—For the period beginning on July 1, 1980, and ending on October 1, 1980—

(A) subsection (a) of section 4491 of such Code shall be applied by substituting "$6.25" for "$25", "½ cent" for "2 cents", and "⅞ cent" for "3½ cents", and

(B) such section 4491 shall be applied by treating such period as a year.

26 USC 4491 note.

(3) POSTPONEMENT OF DUE DATE FOR FILING RETURN.—The due date for filing any return of the tax imposed by section 4491 of the Internal Revenue Code of 1954 with respect to any use after June 30, 1980, shall not be earlier than October 31, 1980.

(d) EXTENSION OF AIRPORT AND AIRWAY TRUST FUND.—Subsection (b) of section 208 of the Airport and Airway Revenue Act of 1970 is amended by striking out "July 1, 1980" each place it appears and inserting in lieu thereof "October 1, 1980".

49 USC 1742.

Approved July 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1077 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 16, 17, considered and passed House.
June 28, 30, considered and passed Senate.

Public Law 96-299
96th Congress

Joint Resolution

July 2, 1980
[S.J. Res. 115]

Designating July 1980 as "National Porcelain Art Month".

Whereas the art of painting on porcelain requires great skill, intensive training, and great artistic ability, and produces works of beauty; and

Whereas throughout history, the art of porcelain painting has provided a medium for the preservation of history and culture, and further, has been recognized as a fine art by all of the world's great civilization; and

Whereas growing thousands of American artists have studied, explored, and enhanced the historic skills of porcelain painting, adding immeasurably to the cultural enrichment of our Nation; and

Whereas the efforts of these artists bring rich beauty and expanded dimensions to our national culture for the benefit and enrichment of the lives of all citizens: Now, therefore, be it

National Porcelain Art Month. Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 1980 is designated as "National Porcelain Art Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved July 2, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
June 25, considered and passed Senate.
June 27, considered and passed House.

Public Law 96-300
96th Congress

Joint Resolution

Extending the reporting date of the National Commission on Air Quality.

July 2, 1980
[S.J. Res. 188]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 323 of the Clean Air Act is amended by—

National Commission on Air Quality, reporting date, extension. 42 USC 7623.

(1) striking out the first two sentences of subsection (f) (relating to certain interim reporting dates for the National Commission on Air Quality);

(2) striking out the words "at the same time as required for the report of the Commission concerning such subsection" in the next to last sentence of subsection (f);

(3) striking out the first two sentences of subsection (g) and inserting in lieu thereof the following: "Not later than March 1, 1981, a report shall be submitted containing the results of all Commission studies and investigations under this section, together with any appropriate recommendations. The Commission shall cease to exist—

"(1) on March 1, 1981, if the report is not submitted in accordance with the preceding sentence on the date specified in the preceding sentence; or

"(2) on such date (but not later than May 1, 1981) as may be determined by the Commission, by order if the report is submitted in accordance with the preceding sentence on the date specified in such preceding sentence."; and

(4) redesignating subsection (j) as (h) and by adding the following new subsection at the end thereof:

"(i) The Commission may appoint and fix the pay of such staff as it deems necessary.". Staff's pay.

(b) Section 324 of such Act is amended by striking out the last sentence thereof. 42 USC 7624.

(c) Effective on the date on which the National Commission on Air Quality ceases to exist pursuant to section 323(g) of the Clean Air Act, section 323 of the Clean Air Act is repealed and sections 324, 325, 326, and 327 of such Act are redesignated as sections 323, 324, 325, and 326 respectively. Repeal. 42 USC 7623. 42 USC 7624, 7625, 7625a, 7626.

(d) Nothing in any other authority of law shall be construed to authorize or permit the extension of the National Commission on Air Quality pursuant to any Executive order or other Executive or agency action. Extension of Commission, prohibition. 42 USC 7623 note.

Approved July 2, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-836 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 26, considered and passed Senate.
June 27, considered and passed House.

79-194 O—81—pt. 1——56 : QL3

Public Law 96-301
96th Congress

An Act

July 2, 1980
[H.R. 5751]

To more adequately protect archeological resources in southwestern Colorado.

Archeological resources in southwestern Colorado, protection.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the limitation on appropriations contained in section 7 of the Act of June 27, 1960, as amended (74 Stat. 220; 16 U.S.C. 469-469c), effective October 1, 1980, the Secretary of the Interior is authorized to expend from funds appropriated pursuant to the authorizations contained in the Act of September 30, 1968 (82 Stat. 897; 43 U.S.C. 620a-1), entitled "The Colorado River Basin Project Act", such sums as are necessary for the survey, recovery, protection, preservation, and display of archeological resources in the area of the Animas-LaPlata and Dolores projects of the United States Water and Power Resources Service: *Provided,* That such expenditures shall not exceed 4 per centum of the total amount authorized to be appropriated for such projects, and shall be considered nonreimbursable project costs.

Approved July 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-826 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 18, considered and passed House.
June 26, considered and passed Senate.

Public Law 96-302
96th Congress

An Act

To provide authorizations for the Small Business Administration, and for other purposes.

July 2, 1980
[S. 2698]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small Business Administration, authorizations.

TITLE I—AUTHORIZATIONS AND MISCELLANEOUS AMENDMENTS

PART A—PROGRAM LEVELS AND AUTHORIZATIONS

SEC. 101. Section 20 of the Small Business Act is amended by adding at the end thereof the following new subsections: 15 USC 631 note.

"(h) The following program levels are authorized for fiscal year 1981:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $300,000,000 in direct and immediate participation loans, and $4,000,000,000 in deferred participation loans. 15 USC 636, *post*, p. 852.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $25,000,000 in direct and immediate participation loans and $12,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $76,000,000 in direct and immediate participation loans and $90,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $45,000,000 in direct and immediate participation loans and $33,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $55,000,000 in direct and immediate participation loans and $115,000,000 in guaranteed loans and guarantees of debentures. 15 USC 695, 696, *post*, p. 837.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $42,000,000 in direct purchase of debentures and preferred securities, and to make $228,000,000 in guarantees of debentures. 15 USC 681.

"(7) For the programs authorized in part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,530,000,000. 15 USC 694a.

"(8) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $110,000,000 in loans, guarantees, and other obligations or commitments. 15 USC 636, *post*, p. 843.

15 USC 694-1, 694-2.

"(9) For the programs authorized by sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $110,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b) and 7(g) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

93 Stat. 118.
15 USC 636, *post*, p. 843.

Salaries and expenses.

"(i) There are authorized to be appropriated to the Administration for fiscal year 1981, $1,187,000,000. Of such sum, $865,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (h), paragraphs (1) through (6); $76,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $242,000,000 shall be available for salaries and expenses of the Administration of which amount—

15 USC 694c, *post*, p. 837.

15 USC 694.

"(1) $13,200,000 shall be available for procurement and technical assistance; of which amount not less than $2,000,000 shall be available for technical assistance, and of this amount not less than $629,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $825,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain, and interpret the appropriate technology for such small businesses and not more than $200,000 shall be available for a study the purpose of which shall be to define and describe the forest products industry and, in particular, to define and describe that portion of the forest products industry which consists of small businesses, to identify the trends and conditions affecting the survival of small businesses as a viable portion of the forest products industry, and to propose actions and programs to assist and promote a broadly based, nonconcentrated, healthy forest products industry.

"(2) $23,100,000 shall be available for management assistance, of which amount not less than $880,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists, with each of the Administration's regional offices being assigned one such specialist.

"(3) $8,800,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,200,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than $1,650,000 shall be used to develop an external small

90 Stat. 663.

business data bank and small business index; and not less than $1,650,000 shall be used for research.

"(4) $27,500,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $12,414,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act. 15 USC 636.

"(5) $9,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,100,000 shall be used to pay for development of such indicative small business data base.

"(6) $20,000,000 shall be available for matching grants to small business development centers, and an additional $550,000 shall be available for the administration of the small business development center program.

"(j) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (6) of section 20(i) of this Act: *Provided, however,* That no level authorized in such paragraphs may be increased more than 20 percent by any such transfers. Funding transfers.

"(k) The following program levels are authorized for each of fiscal years 1982, 1983, and 1984:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $330,000,000 in direct and immediate participation loans, and $4,400,000,000 in deferred participation loans. 15 USC 636, *post,* p. 852.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $28,000,000 in direct and immediate participation loans, and $14,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $83,000,000 in direct and immediate participation loans, and $99,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $45,000,000 in direct and immediate participation loans, and $37,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $61,000,000 in direct and immediate participation loans, and $125,000,000 in guaranteed loans and guarantees of debentures. 15 USC 695, 696, *post,* p. 837.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $47,000,000 in direct purchases of debentures and preferred securities and to make $251,000,000 in guarantees of debentures. 15 USC 681.

"(7) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,780,000,000. 15 USC 694a.

"(8) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $121,000,000 in loans, guarantees, and other obligations or commitments.

15 USC 636, *post*, p. 843.

"(9) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $125,000,000.

15 USC 694-1, 694-2.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses of sections 7(b) and 7(g), of this Act; and there are authorized to be transferred from the disaster loan revolving funds such sums as may be necessary and appropriate for such administrative expenses.

93 Stat. 118. 15 USC 636, *post*, p. 843.

"(l) There are authorized to be appropriated to the Administration for fiscal year 1982, $1,375,000,000, and an identical amount for each of fiscal years 1983 and 1984. Of such sum, $1,022,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (k), paragraph (1) through (6); $83,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $266,000,000 shall be available for salaries and expenses of the Administration of which amount—

15 USC 694c, *post*, p. 837.

15 USC 694.

"(1) $14,520,000 shall be available for procurement and technical assistance; of which amount not less than $2,100,000 shall be available for technical assistance, and of this amount not less than $692,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $907,500 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses.

"(2) $25,400,000 shall be available for management assistance of which amount not less than $968,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $9,680,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,420,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than $1,815,000 shall be used to develop an external small business data bank and small business index; and not less than $1,815,000 shall be used for research.

90 Stat. 663.

"(4) $30,250,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $13,655,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

15 USC 636.

"(5) $10,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,210,000 shall be used to pay for development of such indicative small business data base.

"(m) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(l) of this Act: *Provided, however,* That no level authorized in such paragraphs may be increased more than 20 percent by any such transfers.".

PART B—MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 110. Section 20(a) of the Small Business Act is amended to read as follows: "For fiscal years 1981, 1982, 1983 and 1984 there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. For fiscal year 1985 and every year thereafter, there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. All appropriations whether specifically or generally authorized shall remain available until expended.". 15 USC 631 note.

INVESTMENT OF IDLE FUNDS

SEC. 111. The last sentence of section 412 of the Small Business Investment Act of 1958 is repealed. 15 USC 694c.

SEC. 112. Section 405 of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following: "Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.". 15 USC 694-2.

DEVELOPMENT COMPANY DEBENTURES

SEC. 113. (a) Title V of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"DEVELOPMENT COMPANY DEBENTURES

"SEC. 503. (a)(1) Except as provided in subsection (b), the Administration may guarantee the timely payment of all principal and interest as scheduled on any debenture issued by any qualified State or local development company. Guarantees. 15 USC 697.

"(2) Such guarantees may be made on such terms and conditions as the Administration may by regulation determine to be appropriate.

"(3) The full faith and credit of the United States is pledged to the payment of all amounts guaranteed under this subsection.

"(4) Any debenture issued by any State or local development company with respect to which a guarantee is made under this

subsection, may be subordinated by the Administration to any other debenture, promissory note, or other debt or obligation of such company.

"(b) No guarantee may be made with respect to any debenture under subsection (a) unless—

"(1) such debenture is issued for the purpose of making one or more loans to small business concerns, the proceeds of which shall be used by such concern for the purposes set forth in section 502;

15 USC 696.

"(2) necessary funds for making such loans are not available to such company from private sources on reasonable terms;

"(3) the interest rate on such debenture is not less than the rate of interest determined by the Secretary of the Treasury for purposes of section 303(b);

15 USC 683.

"(4) the aggregate amount of such debenture does not exceed the amount of loans to be made from the proceeds of such debenture (other than any excess attributable to the administrative costs of such loans);

"(5) the amount of any loan to be made from such proceeds does not exceed an amount equal to 50 percent of the cost of the project with respect to which such loan is made; and

"(6) the Administration approves each loan to be made from such proceeds.

Administrative expenses, additional charge.

"(c) The Administration may impose an additional charge for administrative expenses with respect to each debenture for which payment of principal and interest is guaranteed under subsection (a).

"Qualified State or local development company."

"(d) For purposes of this section, the term 'qualified State or local development company' means any State or local development company which, as determined by the Administration, has—

"(1) a full-time professional staff;

"(2) professional management ability (including adequate accounting, legal, and business-servicing abilities); and

"(3) a board of directors, or membership, which meets on a regular basis to make management decisions for such company, including decisions relating to the making and servicing of loans by such company.".

(b) The table of contents of the Small Business Investment Act of 1958 is amended by inserting after the item relating to section 502 the following new item:

"Sec. 503. Development company debentures.".

REGULAR BUSINESS LOAN REFORM

15 USC 634.

SEC. 114. Section 5(b)(7) of the Small Business Act is amended to read as follows:

"(7) in addition to any powers, functions, privileges and immunities otherwise vested in him, take any and all actions (including the procurement of the services of attorneys by contract in any office where an attorney or attorneys are not or cannot be economically employed full time to render such services) when he determines such actions are necessary or desirable in making, servicing, compromising, modifying, liquidating, or otherwise dealing with or realizing on loans made under the provisions of this Act: *Provided,* That nothing herein shall be construed as authorizing the Administrator to contract or otherwise delegate his responsibility for loan servicing to other than Administration personnel, but with respect to deferred participation loans he

may authorize participating lending institutions, in his discretion pursuant to regulations promulgated by him, to take such actions on his behalf, including, but not limited to the determination of eligibility and creditworthiness, and loan monitoring, collection and liquidation;".

SURETY BOND GUARANTEE

SEC. 115. Section 411(c) of the Small Business Investment Act of 1958 is amended to read as follows: 15 USC 694b.

"(c) Any guarantee or agreement to indemnify under this section shall obligate the Administration to pay to the surety a sum not to exceed (1) in the case of a breach of contract, 90 percent of the loss incurred and paid by the surety as the result of the breach; or (2) in a case in which (b) applies, the amount determined under (b).".

PROCUREMENT SYSTEMS

SEC. 116. Section 15(c) of the Small Business Act is amended to read as follows: 15 USC 644.

"(c)(1) During fiscal years 1981, 1982, and 1983, public and private not-for-profit organizations eligible for assistance under section 7(h) of this Act shall be eligible to participate in programs authorized under this section in an aggregate amount not to exceed $100,000,000 for each such year: *Provided,* That the Administrator shall monitor and evaluate such participation and in any case where the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped find that the participation of such organizations has or may cause severe economic injury to for-profit small businesses, the Administrator shall and is hereby authorized to direct and require every agency and department having procurement powers to take such actions as the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped may deem appropriate to alleviate the economic injury sustained or likely to be sustained by such for-profit small businesses. 15 USC 636. Participating organizations, monitoring and evaluation.

"(2) The Administration shall, not later than January 1, 1982, prepare and transmit to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives, a report on the impact of contracts awarded to such organizations on for-profit small businesses.". Contract impact, report to congressional committees.

SEC. 117. (a) The first sentence of section 15(d) of the Small Business Act is amended by inserting "small business" before "concerns". 15 USC 644.

(b) Subsections (e) and (f) of section 15 of such Act are amended to read as follows:

"(e) In carrying out small business set-aside programs, departments, agencies, and instrumentalities of the executive branch shall award contracts, and encourage the placement of subcontracts for procurement to the following in the manner and in the order stated: Contract award, priorities.

"(1) concerns which are small business concerns and which are located in labor surplus areas, on the basis of a total set-aside;

"(2) concerns which are small business concerns, on the basis of a total set-aside;

"(3) concerns which are small business concerns and which are located in a labor surplus area, on the basis of a partial set-aside;

"(4) concerns which are small business concerns, on the basis of a partial set-aside.

"(f) After priority is given to the small business concerns specified in subsection (e), priority shall also be given to the awarding of contracts and the placement of subcontracts, on the basis of a total set-aside, to concerns which—

"(1) are not eligible under subsection (e);

"(2) are not small business concerns; and

"(3) will perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas.".

ASIAN PACIFIC AMERICANS

15 USC 631.

SEC. 118. (a) Section 2(e)(1)(C) of the Small Business Act is amended by inserting "Asian Pacific Americans," after "Native Americans,".

15 USC 637.

(b) The last sentence of subparagraph (C) of the clause contained in section 8(d)(3) of the Small Business Act is amended by inserting "Asian Pacific Americans," after "Native Americans,".

Applicability.
15 USC 631 note.

(c)(1) The amendment made by subsection (a) shall apply as if included in the amendment made by section 201 of the Act entitled "An Act to amend the Small Business Act and the Small Business Investment Act of 1958", approved October 24, 1978 (Public Law 95-507).

15 USC 631.

Applicability.
15 USC 637 note.
15 USC 637.

(2) The amendment made by subsection (b) shall apply as if included in the amendment made by section 211 of the Act so entitled.

DISASTER LOAN INTEREST RATES

93 Stat. 118
15 USC 636.

SEC. 119. (a) Section 7(c) of the Small Business Act is amended by striking the period at the end and inserting in lieu thereof "; and" and by adding the following new paragraph:

"(C) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is able to obtain sufficient credit elsewhere, the interest rate shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 percent, and an additional amount as determined by the Administration, but not to exceed 1 percent: *Provided,* That three years after such loan is fully disbursed and every two years thereafter for the term of the loan, if the Administration determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Administration, apply for and accept such a loan in sufficient amount to repay the Administration: *Provided further,* That no loan under subsection (b)(1) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under such subsection would exceed $500,000 for each disaster, unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the $500,000 limitation.".

(b) Section 7(c) of the Small Business Act is further amended by striking "October 1, 1982" and inserting in lieu thereof "October 1, 1983". 93 Stat. 118. 15 USC 636.

(c) Section 18 of the Small Business Act is amended by— 93 Stat. 119. 15 USC 647.

(1) striking the comma after the phrase "agricultural related industries" and inserting the following: ": *Provided,* That prior to October 1, 1983, an agricultural enterprise shall not be eligible for loan assistance under paragraph (1) of section 7(b) to repair or replace property other than residences and/or personal property unless it is declined for, or would be declined for, emergency loan assistance at substantially similar interest rates from the Farmers Home Administration under subchapter III of the Consolidated Farm and Rural Development Act," and 7 USC 1961.

(2) striking subsection (b) and inserting in lieu thereof the following:

"(b) As used in this Act—

"(1) 'agricultural enterprises' means those businesses engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries; and "Agricultural enterprises."

"(2) 'credit elsewhere' means the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the concern transacts business for similar purposes and periods of time.". "Credit elsewhere."

(d) The amendments made by this section to sections 7(c)(3)(C) and 18 of the Small Business Act shall not apply to any disaster which commenced on or before the effective date of this Act. Applicability. 15 USC 636 note. *Ante,* p. 840.

AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

SEC. 120. (a) Section 321 of the Consolidated Farm and Rural Development Act is amended by striking out in the first sentence all that follows after "with the assistance of such loan" through the end of the sentence and inserting in lieu thereof a period. 7 USC 1961.

(b) Section 324(a) of the Consolidated Farm and Rural Development Act is amended by— Loan interest rates. 7 USC 1964.

(1) striking out the first sentence and inserting in lieu thereof the following: "Loans made or insured under this subtitle shall be at rates of interest as follows:

"(1) with respect to loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster, (A) if the applicant is unable to obtain sufficient credit elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time, the interest rate shall be a rate prescribed by the Secretary not in excess of 5 percent per annum, and (B) if the applicant is able to obtain sufficient credit elsewhere, the interest rate shall be the rate prescribed by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 percent, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 percent: *Provided,* That the total

amount outstanding and committed to the borrower under this paragraph (1) shall not exceed $500,000 for each disaster; and

"(2) with respect to loans or portions of loans exceeding the amount of actual loss caused by the disaster, the interest rate shall be that prevailing in the private market for similar loans, as determined by the Secretary."; and

(2) inserting in the second sentence after *"Provided,* That" the following: "for loans approved under subsection (a)(1)(B), three years after such loan is made or insured and every two years thereafter for the term of the loan, if the Secretary determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Secretary, apply for and accept such loan in sufficient amount to repay the Secretary: *Provided further,* That".

BORROWING AUTHORITY FOR SMALL BUSINESS ADMINISTRATION REVOLVING FUNDS

15 USC 633.

SEC. 121. Section 4(c)(5) of the Small Business Act is amended to read as follows:

"(5)(A) The Administration is authorized to make and issue notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations under the revolving funds created by section 4(c)(1) of this Act and for authorized expenditures out of the funds. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be prescribed by the Administration with the approval of the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Administration under this paragraph. The Secretary of the Treasury is authorized and directed to purchase any notes of the Administration issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act, as amended, are extended to include the purchase of notes issued by the Administration. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States. All borrowing authority contained herein shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

31 USC 774.

"(B)(i) Moneys in the funds established in subsection (c)(1) not needed for current operations may be paid into miscellaneous receipts of the Treasury.

"(ii) The Administration shall pay into miscellaneous receipts of the Treasury, following the close of each fiscal year, interest on the average of loan disbursements outstanding throughout the year providing such disbursements are made from amounts appropriated after October 1, 1980 or are made from repayments of principal of loans made from appropriated funds. This interest shall be calculated solely on the amount of loan disbursements net of losses at the rate provided under subsection (c)(5)(A).

"(C) Except on those loan disbursements on which interest is paid under subsection (B)(ii), the Administration shall pay into miscellaneous receipts of the Treasury, following the close of each fiscal year, interest received by the Administration on financing functions performed under this Act and titles III and V of the Small Business Investment Act of 1958 providing the capital used to perform such functions originated from appropriated funds. Such payments shall be treated by the Department of the Treasury as interest income, not as retirement of indebtedness. 15 USC 681, 695.

"(D) There are authorized to be appropriated, in any fiscal year, such sums as may be necessary for losses and interest subsidies incurred by the funds established by subsection (c)(1), but not previously reimbursed.". Appropriation authorization.

ENERGY SHORTAGE LOANS

SEC. 122. Section 7(b)(8) of the Small Business Act is amended by inserting after "energy-producing resources," the following: "including, but not limited to, a shortage of coal or other energy-producing resource caused by a strike, boycott, or embargo, unless such strike, boycott, or embargo is directly against such small business concern,". 93 Stat. 118. 15 USC 636.

PRODUCT DISASTER LOANS

SEC. 123. Section 7(b)(4) of the Small Business Act is amended by striking "undetermined causes" and inserting in lieu thereof "other causes: *Provided,* That any small business which intentionally adulterates its product in order to attempt to establish eligibility under this program shall not be eligible for loan assistance hereunder".

DUPLICATION OF DISASTER BENEFITS

SEC. 124. Section 7(b) of the Small Business Act is amended by adding at the end thereof the following: "(E) A State grant made on or prior to July 1, 1979, shall not be considered compensation for the purpose of applying the provisions of subsection (b) of section 315 of Public Law 93-288 (42 U.S.C. 5155) to a disaster loan under paragraph (1), (2), or (4) of this subsection.".

TITLE II—SMALL BUSINESS DEVELOPMENT CENTERS

Small Business Development Center Act of 1980.

SHORT TITLE

SEC. 201. This title may be cited as the "Small Business Development Center Act of 1980". 15 USC 631 note.

PROGRAM AUTHORIZATION

SEC. 202. The Small Business Act is amended by redesignating section 21 as section 30 and by inserting the following new section: 15 USC 631 note.

"SEC. 21. (a)(1) The Administration is authorized to make grants (including contracts and cooperative agreements) to any State government or any agency thereof, any regional entity, any State-chartered development, credit or finance corporation, any public or private institution of higher education, including but not limited to any land-grant college or university, any college or school of business, engineering, commerce, or agriculture, community college or junior college, or to any entity formed by two or more of the above entities (herein referred to as 'applicants') to assist in establishing small Grants, recipients and purposes. 15 USC 648.

business development centers and to any such body for: small business oriented employment or natural resources development programs; studies, research, and counseling concerning the managing, financing, and operation of small business enterprises; delivery or distribution of such services and information; and providing access to business analysts who can refer small business concerns to available experts.

Non-Federal additional amount.

"(2) The Administration shall require, as a condition to any grant (or amendment or modification thereof) made to an applicant under this section, that an additional amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government: *Provided,* That the additional amount shall not include any amount of indirect costs or in-kind contributions paid for under any Federal program, nor shall such indirect costs or in-kind contributions exceed 50 percent of the non-Federal additional amount: *Provided further,* That no recipient of funds under this section shall receive a grant which would exceed its pro-rata share of a $65,000,000 program based upon the population to be served by the small business development center as compared to the total population in the United States, or $200,000, whichever is greater.

"(b)(1) During fiscal years 1981, 1982, and 1983, financial assistance shall not be made available to any applicant if approving such assistance would be inconsistent with a plan for the area involved which has been adopted by an agency recognized by the State government as authorized to do so and approved by the Administration in accordance with the standards and requirements established pursuant to this section.

Plan, submittal to SBA.

"(2) An applicant may apply to participate in the program by submitting to the Administration for approval a plan naming those authorized in subsection (a) to participate in the program, the geographic area to be served, the services that it would provide, the method for delivering services, a budget, and any other information and assurances the Administration may require to insure that the applicant will carry out the activities eligible for assistance. The Administration is authorized to approve, conditionally approve or

Review.

reject a plan or combination of plans submitted. In all cases, the Administration shall review plans for conformity with the plan submitted pursuant to paragraph (1) of this subsection, and with a view toward providing small business with the most comprehensive and coordinated assistance in the State or part thereof to be served.

Assistance to out-of-State businesses.

"(3) At the discretion of the Administration, the Administration is authorized to permit a small business development center to provide advice, information and assistance, as described in subsection (c), to small businesses located outside the State, but only to the extent such businesses are located within close geographical proximity to the small business development center, as determined by the Administration.

Problem-solving assistance.

"(c)(1) Applicants receiving grants under this section shall assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, and other disciplines required for small business growth and expansion, innovation, increased productivity, and management improvement, and for decreasing industry economic concentrations.

"(2) A small business development center shall provide services as close as possible to small businesses by providing extension services and utilizing satellite locations when necessary. To the extent possible, it also shall make full use of other Federal and State government programs that are concerned with aiding small business. A small business development center shall have— Development center extension services. Staff and access requirements.

"(A) a full-time staff, including a staff director to manage the program activities;

"(B) access to business analysts to counsel, assist, and inform small business clients;

"(C) access to technology transfer agents to provide state of art technology to small businesses through coupling with national and regional technology data sources;

"(D) access to information specialists to assist in providing information searches and referrals to small business;

"(E) access to part-time professional specialists to conduct research or to provide counseling assistance whenever the need arises; and

"(F) access to laboratory and adaptive engineering facilities.

"(3) Services provided by a small business development center shall include, but shall not be limited to— Assistance services.

"(A) furnishing one-to-one individual counseling to small businesses;

"(B) assisting in technology transfer, research, and coupling from existing sources to small businesses;

"(C) maintaining current information concerning Federal, State, and local regulations that affect small businesses and counsel small businesses on methods of compliance. Counseling and technology development shall be provided when necessary to help small businesses find solutions for complying with environmental, energy, health, safety, and other Federal, State, and local regulations;

"(D) coordinating and conducting research into technical and general small business problems for which there are no ready solutions;

"(E) providing and maintaining a comprehensive library that contains current information and statistical data needed by small businesses;

"(F) maintaining a working relationship and open communications with the financial and investment communities, legal associations, local and regional private consultants, and local and regional small business groups and associations in order to help address the various needs of the small business community;

"(G) conducting in-depth surveys for local small business groups in order to develop general information regarding the local economy and general small business strengths and weaknesses in the locality; and

"(H) maintaining lists of local and regional private consultants to whom small businesses can be referred.

A small business development center shall continue to upgrade and modify its services, as needed, in order to meet the changing and evolving needs of the small business community.

"(4) In addition to the methods prescribed in section 21(c)(2), a small business development center shall utilize and compensate as one of its resources qualified small business vendors, including but not limited to, private management consultants, private consulting engineers and private testing laboratories, to provide services as Qualified small business vendors.

described in this subsection to small businesses on behalf of such small business development center.

Laboratory assistance.

"(d) Laboratories operated and funded by the Federal Government are authorized and directed to cooperate with the Administration in developing and establishing programs to support small business development centers by making facilities and equipment available; providing experiment station capabilities in adaptive engineering; providing library and technical information processing capabilities; and providing professional staff for consulting. The Administration is authorized to reimburse the laboratories for such services.

National Science Foundation and innovation centers. Report to SBA and Congress.

"(e) The National Science Foundation and innovation centers supported by the National Science Foundation are authorized and directed to cooperate with small business development centers participating in this program. The National Science Foundation shall report annually on the performance of such innovation centers with recommendations to the Administration and the Congress on how such innovation centers can be strengthened and expanded. The National Science Foundation shall include in its report to Congress information on the ability of innovation centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

NASA and industrial application centers.

Report to SBA and Congress.

"(f) The National Aeronautics and Space Administration and industrial application centers supported by the National Aeronautics and Space Administration are authorized and directed to cooperate with small business development centers participating in this program. The National Aeronautics and Space Administration shall report annually on the performance of such industrial application centers with recommendations to the Administration and the Congress on how such industrial application centers can be strengthened and expanded. The National Aeronautics and Space Administration shall include in its report to Congress information on the ability of industrial application centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

Deputy Associate Administrator for Management Assistance. 5 USC 5101 *et seq.*, 5331.

44 FR 58671.

"(g)(1) The Administrator shall appoint a Deputy Associate Administrator for Management Assistance who shall report to the Associate Administrator for Management Assistance and who shall serve without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not less than the rate of GS-17 of the General Schedule.

Duties.

"(2) The sole responsibility of the Deputy Associate Administrator for Management Assistance shall be to administer the small business development center program. Duties of the position shall include, but are not limited to, recommending the annual program budget, reviewing the annual budgets submitted by each applicant, establishing appropriate funding levels therefore, selecting applicants to participate in this program, implementing the provisions of this section, maintaining a clearinghouse to provide for the dissemination and exchange of information between small business development centers and conducting audits of recipients of grants under this section. The Deputy Associate Administrator for Management Assistance shall confer with and seek the advice and counsel of the Board in carrying out the responsibilities described in this subsection.

National Small Business Development Center Advisory Board, establishment.

"(h)(1) There is established a National Small Business Development Center Advisory Board (herein referred to as 'Board') which

shall consist of nine members appointed from civilian life by the Administrator and who shall be persons of outstanding qualifications known to be familiar and sympathetic with small business needs and problems. No more than three members shall be from universities or their affiliates and six shall be from small businesses or associations representing small businesses. At the time of the appointment of the Board, the Administrator shall designate one-third of the members and at least one from each category whose term shall end in two years from the date of appointment, a second third whose term shall end in three years from the date of appointment, and the final third whose term shall end in four years from the date of appointment. Succeeding Boards shall have three-year terms, with one-third of the Board changing each year.

"(2) The Board shall elect a Chairman and advise, counsel, and confer with the Deputy Associate Administrator for Management Assistance in carrying out the duties described in this section. The Board shall meet at least quarterly and at the call of the Chairman of the Board. Each member of the Board shall be entitled to be compensated at the rate not in excess of the per diem equivalent of the highest rate of pay for individuals occupying the position under GS-18 of the General Schedule for each day engaged in activities of the Board and shall be entitled to be reimbursed for expenses as a member of the Board.

Chairman.

Meetings.

Compensation.

44 FR 58671.

"(i)(1) Each small business development center may establish an advisory board.

Advisory board.

"(2) Each small business development center advisory board shall elect a chairman and advise, counsel, and confer with the director of the small business development center on all policy matters pertaining to the operation of the small business development center, including who may be eligible to receive assistance from, and how local and regional private consultants may participate with the small business development center.

"(j) The Administration, with the advice of the Board, shall establish a plan for evaluation of the small business development center program which may include the retaining of an independent concern to conduct such an evaluation. The evaluation shall be both quantitative and qualitative and shall determine—

Program evaluation plan.

"(1) the impact of the small business development center program on small businesses, including private consultants, and the socio-economic base of the area served;

"(2) the multidisciplinary resources the small business development center program was able to coordinate to assist small businesses; and

"(3) the extent to which various types of small businesses engaged in areas such as manufacturing, retailing, wholesaling and services have been assisted by the small business development center program.

For the purpose of this evaluation, the Administration is authorized to require any small business development center or party receiving assistance under this section to furnish it with such information annually or otherwise as it deems appropriate. Such evaluation shall be completed and submitted to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives by January 31, 1983.

Submittal to congressional committees.

"(k) The authority to enter into contracts shall be in effect for each fiscal year only to the extent or in the amounts as are provided in advance in appropriations Acts.".

Contract authority.

15 USC 636.

SEC. 203. Section 7(d)(1) of the Small Business Act is amended to read as follows:

"(d)(1) On or after October 1, 1980, the Administration shall not fund any small business development center or any variation thereof, except as authorized in section 21 of this Act: *Provided,* That in fiscal year 1980 nothing in this section or in section 21 shall be deemed to affect the operation of any small business development center which was funded by the Administration prior to October 1, 1979: *Provided further,* That no small business development center which was funded in fiscal year 1979 may be funded in excess of $300,000 in fiscal year 1980.".

Ante, p. 843.

Repeal.
Ante, p. 843.
15 USC 648 note.

SEC. 204. Sections 201 and 202 of this title are repealed effective October 1, 1984.

Small Business Economic Policy Act of 1980.

TITLE III—SMALL BUSINESS ECONOMIC POLICY

SHORT TITLE

15 USC 631 note.

SEC. 301. This title may be cited as the "Small Business Economic Policy Act of 1980".

DECLARATION OF SMALL BUSINESS ECONOMIC POLICY

15 USC 631a.

SEC. 302. (a) For the purpose of preserving and promoting a competitive free enterprise economic system, Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practical means and to take such actions as are necessary, consistent with its needs and obligations and other essential considerations of national policy, to implement and coordinate all Federal department, agency, and instrumentality policies, programs, and activities in order to: foster the economic interests of small businesses; insure a competitive economic climate conducive to the development, growth and expansion of small businesses; establish incentives to assure that adequate capital and other resources at competitive prices are available to small businesses; reduce the concentration of economic resources and expand competition; and provide an opportunity for entrepreneurship, inventiveness, and the creation and growth of small businesses.

(b) Congress further declares that the Federal Government is committed to a policy of utilizing all reasonable means, consistent with the overall economic policy goals of the Nation and the preservation of the competitive free enterprise system of the Nation, to establish private sector incentives that will help assure that adequate capital at competitive prices is available to small businesses. To fulfill this policy, departments, agencies, and instrumentalities of the Federal Government shall use all reasonable means to coordinate, create, and sustain policies and programs which promote investment in small businesses, including those investments which expand employment opportunities and which foster the effective and efficient use of human and natural resources in the economy of the Nation.

STATE OF SMALL BUSINESS

Report to Congress.
15 USC 631b.

SEC. 303. (a) The President shall transmit to the Congress not later than January 20 of each year a Report on Small Business and Competition which shall—

(1) examine the current role of small business in the economy on an industry-by-industry basis;

(2) present current and historical data on production, employment, investment, and other economic variables for small business in the economy as a whole and for small business in each sector of the economy;

(3) identify economic trends which will or may affect the small business sector and the state of competition;

(4) examine the effects on small business and competition of policies, programs, and activities, including, but not limited to the Internal Revenue Code, the Employee Retirement Income Security Act, the Securities Act of 1933, and the Securities Exchange Act of 1934, and regulations promulgated thereunder; identify problems generated by such policies, programs, and activities; and recommend legislative and administrative solutions to such problems; and

26 USC 1 *et seq.*
29 USC 1001 note,
15 USC 77a.
15 USC 78a.

(5) recommend a program for carrying out the policy declared in section 302 of this Act, together with such recommendations for legislation as he may deem necessary or desirable.

(b) The President also shall transmit simultaneously as an appendix to such annual report, a report, by agency and department, on the total dollar value of all Federal contracts exceeding $10,000 in amount and the dollar amount (including the subcontracts thereunder in excess of $10,000) awarded to small, minority-owned and female-owned businesses.

Appendix to report, transmittal to Congress.

(c) The President may transmit from time to time to the Congress reports supplementary to the Report on Small Business and Competition, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 302 of this Act.

Supplementary reports, transmittal to Congress.

(d) The Report on Small Business and Competition and all supplementary reports transmitted under subsections (b) and (c) of this section shall, when transmitted to Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

Referral to congressional committees.

TITLE IV—SMALL BUSINESS ECONOMIC RESEARCH AND ANALYSIS

SEC. 401. The Small Business Act is amended by redesignating subsection 4(b) as subsection 4(b)(1) and inserting thereafter the following:

15 USC 633.

"(2) The Administrator also shall be responsible for—

"(A) establishing and maintaining an external small business economic data base for the purpose of providing the Congress and the Administration information on the economic condition and the expansion or contraction of the small business sector. To that end, the Administrator shall publish on a regular basis national small business economic indices and, to the extent feasible, regional small business economic indices, which shall include, but need not be limited to, data on—

Data base.

Economic indices, publication.

"(i) employment, layoffs, and new hires;

"(ii) number of business establishments and the types of such establishments such as sole proprietorships, corporations, and partnerships;

"(iii) number of business formations and failures;

"(iv) sales and new orders;

"(v) back orders;
"(vi) investment in plant and equipment;
"(vii) changes in inventory and rate of inventory turnover;
"(viii) sources and amounts of capital investment, including debt, equity, and internally generated funds;
"(ix) debt to equity ratios;
"(x) exports;
"(xi) number and dollar amount of mergers and acquisitions by size of acquiring and acquired firm; and
"(xii) concentration ratios; and

Annual report, publication.

"(B) publishing annually a report giving a comparative analysis and interpretation of the historical trends of the small business sector as reflected by the data acquired pursuant to subparagraph (A) of this subsection.".

SEC. 402. Section 634d(1) of title 15, United States Code, is amended by striking the word "Schedule;" and inserting in lieu thereof "Schedule: *Provided, however,* That not more than ten staff personnel at any one time may be employed and compensated at a rate not in excess of GS–15, step 10, of the General Schedule;".

44 FR 58671.

5 USC 5315.

SEC. 403. Section 5315 of title 5 of the United States Code is amended by adding the following new paragraph:

"(128) Chief Counsel for Advocacy, Small Business Administration.".

Credit-need studies, report to Congress.

SEC. 404. In consultation with the Administrator of the Small Business Administration and the Bureau of the Census, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation shall conduct such studies of the credit needs of small business as may be appropriate to determine the extent to which such needs are being met by commercial banks and shall report the results of such studies to the Congress by January 1, 1982, together with their views and recommendations as to the feasibility and cost of conducting periodic sample surveys, by region and nationwide, of the number and dollar amount of commercial and industrial loans extended by commercial banks to small business. Reports shall, when transmitted to the Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

Referral to congressional committees.

TITLE V—EMPLOYEE OWNERSHIP

Small Business Employee Ownership Act of 1980.
15 USC 631 note.

SEC. 501. This title may be cited as the "Small Business Employee Ownership Act of 1980".

Findings and declaration.
15 USC 636 note.

SEC. 502. The Congress hereby finds and declares that—

(1) employee ownership of firms provides a means for preserving jobs and business activity;

(2) employee ownership of firms provides a means for keeping a small business small when it might otherwise be sold to a conglomerate or other large enterprise;

(3) employee ownership of firms provides a means for creating a new small business from the sale of a subsidiary of a large enterprise;

(4) unemployment insurance programs, welfare payments, and job creation programs are less desirable and more costly for both the Government and program beneficiaries than loan guarantee programs to maintain employment in firms that would otherwise be closed, liquidated, or relocated; and

(5) by guaranteeing loans to qualified employee trusts and similar employee organizations, the Small Business Administration can provide feasible and desirable methods for the transfer of all or part of the ownership of a small business concern to its employees.

Purposes.
15 USC 636 note.

SEC. 503. (a) The purposes of this title are—

(1) to provide that a qualified employee trust shall be eligible for loan guarantees under section 7(a) of the Small Business Act with respect to a small business concern, regardless of the percentage of stock of the concern held by the trust, and

15 USC 636, *post*, p. 852.

(2) to provide in section 505 of this Act authority to address the specific case in which the Small Business Administration guarantees loans under section 7(a) of the Small Business Act for purposes of providing funds to a qualified employee trust (and other employee organizations which are treated as qualified employee trusts) for the purchase, by at least 51 percent of the employees, of at least 51 percent of the stock of a business which is operated for profit and which is—

(A) a small business concern, or

(B) a corporation which is controlled by another person if, after the plan for the purchase of such corporation is carried out, such corporation would be a small business concern.

(b) Nothing in this title shall be construed to prohibit the Small Business Administration from making loan guarantees under section 7(a) of the Small Business Act to qualified employee trusts which own less than 51 percent of the stock of a continuing business.

15 USC 632.

SEC. 504. Section 3 of the Small Business Act is amended by adding at the end thereof the following new subsection:

Loan guarantee eligibility.
15 USC 636, *post*, p. 852.

"(c)(1) For purposes of this Act, a qualified employee trust shall be eligible for any loan guarantee under section 7(a) with respect to a small business concern on the same basis as if such trust were the same legal entity as such concern.

"Qualified employee trust."

"(2) For purposes of this Act, the term 'qualified employee trust' means, with respect to a small business concern, a trust—

"(A) which forms part of an employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1954)—

26 USC 4975.

"(i) which is maintained by such concern, and

"(ii) which provides that each participant in the plan is entitled to direct the plan as to the manner in which voting rights under qualifying employer securities (as defined in section 4975(e)(8) of such Code) which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by a majority vote of outstanding common shares voted; and

"(B) in the case of any loan guarantee under section 7(a), the trustee of which enters into an agreement with the Administrator which is binding on the trust and on such small business concern and which provides that—

"(i) the loan guaranteed under section 7(a) shall be used solely for the purchase of qualifying employer securities of such concern,

"(ii) all funds acquired by the concern in such purchase shall be used by such concern solely for the purposes for which such loan was guaranteed,

"(iii) such concern will provide such funds as may be necessary for the timely repayment of such loan, and the property of such concern shall be available as security for repayment of such loan, and

"(iv) all qualifying employer securities acquired by such trust in such purchase shall be allocated to the accounts of participants in such plan who are entitled to share in such allocation, and each participant has a nonforfeitable right, not later than the date such loan is repaid, to all such qualifying employer securities which are so allocated to the participant's account.

"(3) Under regulations which may be prescribed by the Administrator, a trust may be treated as a qualified employee trust with respect to a small business concern if—

"(A) the trust is maintained by an employee organization which represents at least 51 percent of the employees of such concern, and

"(B) such concern maintains a plan—

"(i) which is an employee benefit plan which is designed to invest primarily in qualifying employer securities (as defined in section 4975(e)(8) of the Internal Revenue Code of 1954),

26 USC 4975.

"(ii) which provides that each participant in the plan is entitled to direct the plan as to the manner in which voting rights under qualifying employer securities which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by a majority vote of the outstanding common shares voted,

"(iii) which provides that each participant who is entitled to distribution from the plan has a right, in the case of qualifying employer securities which are not readily tradable on an established market, to require that the concern repurchase such securities under a fair valuation formula, and

"(iv) which meets such other requirements (similar to requirements applicable to employee stock ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954) as the Administrator may prescribe, and

15 USC 636.

"(C) in the case of a loan guarantee under section 7(a), such organization enters into an agreement with the Administration which is described in paragraph (2)(B).".

SEC. 505. Section 7(a) of the Small Business Act is amended by adding at the end thereof the following new paragraph:

Loan guarantee.

"(8)(A) The Administration may guarantee under subsection (a) a loan to a qualified employee trust with respect to a small business concern for the purpose of purchasing stock of the concern under a plan approved by the Administrator which, when carried out, results in the qualified employee trust owning at least 51 percent of the stock of the concern.

"(B) The plan requiring the Administrator's approval under subparagraph (A) shall be submitted to the Administration by the trustee of such trust with its application for the guarantee. Such plan shall include an agreement with the Administrator which is binding on such trust and on the small business concern and which provides that— Plan, submittal to SBA.

"(i) not later than the date the loan guaranteed under subparagraph (A) is repaid (or as soon thereafter as is consistent with the requirements of section 401(a) of the Internal Revenue Code of 1954), at least 51 percent of the total stock of such concern shall be allocated to the accounts of at least 51 percent of the employees of such concern who are entitled to share in such allocation, 26 USC 401.

"(ii) there will be periodic reviews of the role in the management of such concern of employees to whose accounts stock is allocated, and Periodic review.

"(iii) there will be adequate management to assure management expertise and continuity.

"(C) In determining whether to guarantee any loan under this paragraph, the individual business experience or personal assets of employee-owners shall not be used as criteria, except inasmuch as certain employee-owners may assume managerial responsibilities, in which case business experience may be considered. Loan guarantee criteria, restriction.

"(D) For purposes of this paragraph, a corporation which is controlled by any other person shall be treated as a small business concern if such corporation would, after the plan described in subparagraph (B) is carried out, be treated as a small business concern.

"(E) The Administrator shall compile a separate list of applications for assistance under this paragraph, indicating which applications were accepted and which were denied, and shall report periodically to the Congress on the status of employee-owned firms assisted by the Administration.". Applications list; report to Congress.

SEC. 506. (a) The Administrator of the Small Business Administration shall enter into a contract with an independent consultant which provides for a study by such consultant of the feasibility of making loan guarantees under section 7(a) of the Small Business Act directly to the seller of a small business concern in connection with the installment sale of such concern. Such study shall include an analysis of at least the following: Feasibility study by independent consultant.

(1) the extent and nature of the use of installment sales for the sale of small business concerns,

(2) the ability of the Small Business Administration to make credit judgments in connection with installment sales,

(3) the need for Small Business Administration loan guarantees to facilitate installment sales,

(4) the willingness of banks and other financial institutions to participate in the evaluation of installment sales, and

(5) the anticipated cost of such a guarantee program in comparison to other loan guarantee programs of the Small Business Administration.

Nothing in this section shall be construed as authorizing the Administrator to enter into contracts or incur obligations except to such extent and in such amounts as are provided in appropriations Acts.

Feasibility study, transmittal to congressional committees.

(b) Not later than April 1, 1981, the Administrator of the Small Business Administration shall transmit the findings of such study, along with his recommendations, to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

Effective date. 15 USC 631 note.

SEC. 507. This Act shall take effect October 1, 1980.

Approved July 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-998 accompanying H.R. 7297 (Comm. on Small Business) and No. 96-1087 (Comm. of Conference).
SENATE REPORT No. 96-703 (Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 28, considered and passed Senate.
June 3, H.R. 7297 considered and passed House; passage vacated and S. 2698, amended, passed in lieu.
June 17, Senate agreed to conference report.
June 19, House agreed to conference report; receded from its amendment to title of bill.
[See also the following bills and their accompanying reports: H.R. 7250, H.R. 7259, H.R. 7288, H.R. 7289, H.R. 7298]
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 27:
July 2, Presidential statement.

Public Law 96-303
96th Congress

An Act

To provide for the display of the Code of Ethics for Government Service.

July 3, 1980
[H.R. 5997]

Code of Ethics for Government Service.
Display in Federal buildings; GSA regulations
5 USC 7301 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, under such regulations as the Administrator shall prescribe, each agency shall display in appropriate areas of Federal buildings copies of the Code of Ethics for Government Service.

Publication and distribution.
5 USC 7301 note.

SEC. 2. (a) The Administrator shall provide for the publication of copies of such Code of Ethics and for their distribution to agencies for use under the first section of this Act.

Gifts.

(b) The Administrator may accept on behalf of the United States any unconditional gift made for purposes of this Act.

Definitions.
5 USC 7301 note.

SEC. 3. For purposes of this Act—

(1) the term "agency" means an Executive agency (as defined by section 105 of title 5, United States Code), the United States Postal Service, and the Postal Rate Commission;

(2) the term "Administrator" means the Administrator of the General Services Administration;

(3) the Code of Ethics for Government Service shall read as follows—

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

I. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

II. Uphold the Constitution, laws, and regulations of the United States and of all governments therein and never be a party to their evasion.

III. Give a full day's labor for a full day's pay; giving earnest effort and best thought to the performance of duties.

IV. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

V. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or herself or for family members, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

VI. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

VII. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of governmental duties.

VIII. Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.

IX. Expose corruption wherever discovered.

X. Uphold these principles, ever conscious that public office is a public trust.

Your agency ethics official and the Office of Government Ethics are available to answer questions on conflicts of interest; and

"Federal building."

(4) the term "Federal building" means any building in which at least 20 individuals are regularly employed by an agency as civilian employees.

Effective date.
5 USC 7301 note.
Costs.

SEC. 4. The provisions of this Act shall take effect October 1, 1980. There shall be no costs imposed on the Federal Government for the printing, framing or other preparation of the Code of Ethics for Government Service under this Act.

Approved July 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1073 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 9, 10, considered and passed House.
June 13, considered and passed Senate, amended.
July 27, House agreed to Senate amendments.

Public Law 96-304
96th Congress

An Act

Making supplemental appropriations for the fiscal year ending September 30, 1980, rescinding certain budget authority, and for other purposes.

July 8, 1980
[H.R. 7542]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to supply supplemental appropriations (this Act may be cited as the "Supplemental Appropriations and Rescission Act, 1980") for the fiscal year ending September 30, 1980, that the following rescissions of budget authority are made, and for other purposes, namely:

Supplemental Appropriations and Rescission Act, 1980.

TITLE I

CHAPTER I

DEPARTMENT OF AGRICULTURE

SCIENCE AND EDUCATION ADMINISTRATION

SCIENTIFIC ACTIVITIES OVERSEAS

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-108, making appropriations for fiscal year 1980, $1,200,000 are rescinded. 93 Stat. 822.

COOPERATIVE RESEARCH

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-108, making appropriations for special research grants for fiscal year 1980, $2,500,000 are rescinded.

Of the funds appropriated under this head in Public Law 96-108, making appropriations for competitive research grants for fiscal year 1980, $500,000 are rescinded.

FARMERS HOME ADMINISTRATION

AGRICULTURAL CREDIT INSURANCE FUND

For an additional amount for "farm ownership loans", $100,000,000.

WATER AND WASTE DISPOSAL GRANTS

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-108, making appropriations for fiscal year 1980, $10,000,000 are rescinded.

MUTUAL AND SELF-HELP HOUSING

(RESCISSION)

92 Stat. 1083.
93 Stat. 831.

Of the funds appropriated under this head in Public Laws 95-448 and 96-108, making appropriations for fiscal years 1979 and 1980, $10,000,000 are rescinded.

RURAL DEVELOPMENT PLANNING GRANTS

(RESCISSION)

93 Stat. 832.

Of the funds appropriated under this head in Public Law 96-108, making appropriations for fiscal year 1980, $1,000,000 are rescinded.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For an additional amount for "Conservation Operations", $3,000,000, to remain available until September 30, 1981.

WATERSHED AND FLOOD PREVENTION OPERATIONS

16 USC 2203-2205.

For an additional amount for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978, $20,000,000, to remain available until expended: *Provided,* That these funds shall be available to pay for up to 90 percent of the costs of the emergency measures.

WATERSHED AND FLOOD PREVENTION OPERATIONS

(RESCISSION)

93 Stat. 834.

Of the funds appropriated under this head in Public Law 96-108, making appropriations available for fiscal year 1980, $2,000,000 are rescinded.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

For an additional amount for "Emergency Conservation Program", $20,000,000, to remain available until expended.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Child Nutrition Programs", $312,400,000, of which up to $243,000,000 may be transferred to and merged with the Food Stamp Program Appropriation.

SPECIAL MILK PROGRAM

For an additional amount for the "Special Milk Program", $14,800,000: *Provided,* That none of the funds appropriated in this Act may be used for payments which exceed five cents per half-pint of milk served after September 1, 1980, which is served to children who are not eligible for free milk and which is served in schools, child care institutions, and summer camps participating in meal service programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966. 42 USC 1751 note. 42 USC 1771 note.

SPECIAL SUPPLEMENTAL FOOD PROGRAMS (WIC)

For an additional amount for the "Commodity Supplemental Food Program", $250,000.

FOOD STAMP PROGRAM

For an additional amount for the "Food Stamp Program", $203,226,000.

FOOD DONATIONS PROGRAMS

For an additional amount for the "Food Donations Programs", $16,044,000.

FOOD PROGRAM ADMINISTRATION

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-108, making appropriations available for fiscal year 1980, $500,000 are rescinded. 93 Stat. 839.

PUBLIC LAW 480

For an additional amount for "Public Law 480", $142,860,000. The authorized program level and the amount appropriated for titles I and III shall be increased by $20,000,000, and the authorized program level and the amount appropriated for title II shall be increased by $122,860,000. 93 Stat. 839. 7 USC 1701, 1727. 7 USC 1721.

CHAPTER II

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Military personnel, Army", $43,073,000, and in addition, $46,919,000, of which $849,000 shall be derived by transfer from "Aircraft procurement, Army, 1978/1980"; $357,000 shall be derived by transfer from "Missile procurement, Army, 1978/1980"; $1,161,000 shall be derived by transfer from "Procurement of weapons and tracked combat vehicles, Army, 1978/1980"; $15,104,000 shall be derived by transfer from "Procurement of ammunition, Army, 1978/1980"; $10,048,000 shall be derived by transfer from "Other procurement, Army, 1978/1980"; $2,000,000 shall be derived by transfer from "Research, development, test, and evaluation, Army, 1979/1980"; $497,000 shall be derived by transfer from "Aircraft procurement, Army, 1979/1981"; $91,000 shall be derived by transfer from "Missile procurement, Army, 1979/1981"; $655,000 shall be derived by transfer from "Procurement of weapons and tracked combat vehicles, Army, 1979/1981"; $1,557,000 shall be derived by transfer from "Procurement of ammunition, Army, 1979/1981"; and $14,600,000 shall be derived by transfer from "Other procurement, Army, 1980/1982".

MILITARY PERSONNEL, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Military personnel, Navy", $24,500,000, and in addition, $24,572,000 which shall be derived by transfer from "Weapons procurement, Navy, 1978/1980".

MILITARY PERSONNEL, MARINE CORPS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Military personnel, Marine Corps", $6,200,000, and in addition, $8,121,000 which shall be derived by transfer from "Weapons procurement, Navy, 1978/1980".

MILITARY PERSONNEL, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Military personnel, Air Force", $32,680,000, and in addition, $26,646,000, of which $16,000,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1978/1980"; $7,500,000 shall be derived by transfer from "Missile procurement, Air Force, 1978/1980"; and $3,146,000 shall be derived by transfer from "Other procurement, Air Force, 1978/1980".

RESERVE PERSONNEL, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Reserve personnel, Navy", $2,329,000, and in addition, $1,775,000 which shall be derived by transfer from "Weapons procurement, Navy, 1978/1980": *Provided,* That the funds available from this appropriation may be used to reimburse Navy Reservists travelling under permissive orders to active duty for training.

RESERVE PERSONNEL, MARINE CORPS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Reserve personnel, Marine Corps", $1,000,000, and in addition, $1,108,000 which shall be derived by transfer from "Aircraft procurement, Navy, 1978/1980".

RETIRED MILITARY PERSONNEL

RETIRED PAY, DEFENSE

For an additional amount for "Retired pay, Defense", $513,200,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and maintenance, Army, $410,200,000, and in addition, $67,856,000, of which $397,000 shall be derived by transfer from "Procurement of ammunition, Army, 1979/1981"; $2,562,000 shall be derived by transfer from "Operation and maintenance, Defense Agencies, 1980"; $1,100,000 shall be derived by transfer from "Aircraft procurement, Army, 1980/1982"; $26,600,000 shall be derived by transfer from "Procurement of weapons and tracked combat vehicles, Army, 1980/1982"; $3,000,000 shall be derived by transfer from "Missile procurement, Army, 1980/1982"; and $34,197,000 shall be derived by transfer from the subdivision "FFG-7 guided missile frigate program" of "Shipbuilding and conversion, Navy, 1980/1984".

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and maintenance, Navy", $1,010,218,000, and in addition, $245,600,000, of which $58,609,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1978/1980"; $6,892,000 shall be derived by transfer from "Aircraft procurement, Navy, 1978/1980"; $532,000 shall be derived by transfer from "Weapons procurement, Navy, 1978/1980"; $5,900,000 shall be derived by transfer from "Other procurement, Navy, 1978/1980"; $6,700,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1979/1981"; $14,600,000 shall be derived by transfer from "Missile procurement, Air Force, 1979/1981"; $20,000,000 shall be

derived by transfer from "Other procurement, Air Force, 1979/1981"; $8,167,000 shall be derived by transfer from "Research, development, test, and evaluation, Navy, 1979/1980"; $12,000,000 shall be derived by transfer from "Aircraft procurement, Navy, 1979/1981"; $19,000,000 shall be derived by transfer from "Weapons procurement, Navy, 1979/1981"; $5,200,000 shall be derived by transfer from "Other procurement, Navy, 1979/1981"; $10,400,000 shall be derived by transfer from "Procurement of weapons and tracked combat vehicles, Army, 1980/1982"; $40,900,000 shall be derived by transfer from "Aircraft procurement, Navy, 1980/1982"; $6,000,000 shall be derived by transfer from the subdivision "FFG-7 guided missile frigate program" of "Shipbuilding and conversion, Navy, 1980/1984"; $7,300,000 shall be derived by transfer from "Other procurement, Navy, 1980/1982"; $8,400,000 shall be derived by transfer from "Research, development, test and evaluation, Navy, 1980/1981"; and $15,000,000 shall be derived by transfer from "Operation and maintenance, Navy Reserve, 1980".

OPERATION AND MAINTENANCE, MARINE CORPS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and maintenance, Marine Corps", $30,844,000, and in addition, $27,100,000 which shall be derived by transfer from "Aircraft procurement, Air Force, 1978/1980".

OPERATION AND MAINTENANCE, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and maintenance, Air Force", $1,255,209,000, and in addition, $62,445,000, of which $4,100,000 shall be derived by transfer from "Missile procurement, Air Force, 1978/1980"; $31,754,000 shall be derived by transfer from "Other procurement, Air Force, 1978/1980"; $6,891,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1978/1980"; and $9,500,000 shall be derived by transfer from "Missile procurement, Air Force, 1980/1982", $600,000 shall be derived by transfer from "Procurement, Defense Agencies, 1980/1982", and $9,600,000 shall be derived by transfer from "Research, development, test and evaluation, Air Force, 1980/1981".

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and maintenance, Army Reserve", $6,920,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and maintenance, Navy Reserve", $44,977,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For an additional amount for "Operation and maintenance, Marine Corps Reserve", $372,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and maintenance, Air Force Reserve", $58,285,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and maintenance, Army National Guard", $13,483,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and maintenance, Air National Guard", $126,990,000.

PROCUREMENT

MISSILE PROCUREMENT, ARMY

(TRANSFER OF FUNDS)

For an additional amount for "Missile procurement, Army, 1980/1982", $2,400,000, which shall be derived by transfer from "Research, development, test and evaluation, Defense Agencies, 1980/1981", to remain available for obligation until September 30, 1982.

PROCUREMENT OF AMMUNITION, ARMY

(TRANSFER OF FUNDS)

For an additional amount for "Procurement of ammunition, Army, 1980/1982", $14,500,000, of which $2,400,000 shall be derived by transfer from "Procurement of weapons and tracked combat vehicles, Army, 1980/1982", and $12,100,000 shall be derived by transfer from "Aircraft procurement, Navy, 1980/1982", to remain available for obligation until September 30, 1982.

OTHER PROCUREMENT, ARMY

(TRANSFER OF FUNDS)

For an additional amount for "Other procurement, Army, 1980/1982", $4,400,000, which shall be derived by transfer from "Procurement of weapons and tracked combat vehicles, Army, 1980/1982", to remain available for obligation until September 30, 1982.

WEAPONS PROCUREMENT, NAVY

(TRANSFER OF FUNDS)

For an additional amount for "Weapons procurement, Navy, 1980/1982", $3,700,000, which shall be derived by transfer from "Procurement of weapons and tracked combat vehicles, Army, 1980/1982", to remain available for obligation until September 30, 1982.

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SHIPBUILDING AND CONVERSION, NAVY

(TRANSFER OF FUNDS)

For an additional amount for "Shipbuilding and conversion, Navy, 1980/1984", $9,920,000, as follows: $600,000 for the Trident submarine program; $9,000,000 for the SSN-688 nuclear attack submarine program; $200,000 for the T-AGOS SURTASS ship program; and $120,000 for craft, outfitting, post delivery, cost growth, and escalation on prior year programs; to be derived by transfer from the subdivision "FFG-7 guided missile frigate program" of "Shipbuilding and conversion, Navy, 1980/1984", to remain available until September 30, 1984.

AIRCRAFT PROCUREMENT, AIR FORCE

(TRANSFER OF FUNDS)

For an additional amount for "Aircraft procurement, Air Force, 1980/1982", $17,000,000, which shall be derived by transfer from the subdivision "FFG-7 guided missile frigate program" of "Shipbuilding and conversion, Navy, 1980/1984", to remain available until September 30, 1982.

OTHER PROCUREMENT, AIR FORCE

(TRANSFER OF FUNDS)

For an additional amount for "Other procurement, Air Force, 1980/1982", $68,000,000, of which $18,517,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1980/1982"; $33,383,000 shall be derived by transfer from the subdivision "FFG-7 guided missile frigate program" of "Shipbuilding and conversion, Navy, 1980/1984"; $10,100,000 shall be derived by transfer from "Research, development, test and evaluation, Air Force, 1979/1980", and $6,000,000 shall be derived by transfer from "Other procurement, Air Force, 1978/1980", to remain available for obligation until September 30, 1982.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

(TRANSFER OF FUNDS)

For an additional amount for "Research, development, test, and evaluation, Army, 1980/1981", $1,200,000, which shall be derived by transfer from "Procurement of weapons and tracked combat vehicles, Army, 1980/1982", to remain available for obligation until September 30, 1981.

GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

The limitation contained in section 749 of the Department of Defense Appropriation Act, 1980, is increased to $27,000,000. 93 Stat. 1160.

Of the amount appropriated in the appropriation, "Shipbuilding and conversion, Navy", $96,800,000 which would expire for obligation on September 30, 1980 shall remain available for obligation until September 30, 1982. Funds provided in a Department of Defense Appropriation Act for "Shipbuilding and conversion, Navy", currently available for obligation, may hereafter be transferred within the same appropriation contained in such an Act between the subdivisions thereof, subject to the notification and approval procedures specified in section 734 of the Department of Defense Appropriation Act, 1980. 93 Stat. 1147. 93 Stat. 1158.

The amount that may be transferred pursuant to section 734 of the Department of Defense Appropriation Act, 1980, is hereby increased to $1,000,000,000.

Appropriations or funds available to the Department of Defense may be transferred to fiscal year 1980 Department of Defense appropriations for Research, development, test, and evaluation to the extent necessary to meet increased pay costs authorized by or pursuant to law.

CHAPTER III

FUNDS APPROPRIATED TO THE PRESIDENT

Special Migration and Refugee Assistance

For expenses necessary for the President to provide resettlement assistance pursuant to section 405(c)(2) of the International Security and Development Assistance Act of 1980, or pursuant to the Refugee Act of 1980, or pursuant to the Immigration and Nationality Act, not to exceed $100,000,000, to remain available until expended. Of the foregoing amount $50,000,000 shall become available on October 1, 1980. Funds appropriated in this paragraph shall be available solely for reimbursement to State and local governments for fiscal years 1980 and 1981 for cash and medical assistance and social services costs related to Cuban/Haitian entrants (status pending) only to the extent that such assistance shall become authorized under the Immigration and Nationality Act, the Refugee Act of 1980 or the International Security Act of 1980. *Ante*, p. 102. 8 USC 1101 note.

CHAPTER IV

TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $6,500,000, to remain available until expended.

DISTRICT OF COLUMBIA

Federal Funds

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For an additional amount for "Federal payment to the District of Columbia", for the fiscal year ending September 30, 1980, $38,300,000,

as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code 47-2501d), of which $12,464,100 shall be solely for the District of Columbia contribution to the Police Officers and Firefighters', Teachers', and Judges' Retirement Funds as authorized by Public Law 96-122, approved November 17, 1979 (93 Stat. 866).

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds as authorized by Public Law 96-122, approved November 17, 1979 (93 Stat. 866), $52,070,000.

LOANS TO THE DISTRICT OF COLUMBIA FOR CAPITAL OUTLAY

(RESCISSION)

Loan authority provided under this head in the District of Columbia Appropriation Act, 1980 (Public Law 96-93, approved October 30, 1979), is hereby rescinded in the amount of $21,129,700.

93 Stat. 713.

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

For an additional amount for "Governmental direction and support", $6,610,900: *Provided,* That $6,500,000 of this appropriation, to remain available until expended, together with previous appropriations for this purpose shall be for the District of Columbia's contribution toward the expenses of the Temporary Commission on Financial Oversight of the District of Columbia, as authorized by Public Law 94-399, approved September 4, 1976, as amended, and shall be transferred to the Commission upon request of the Executive Director and the General Accounting Office.

D.C. Code 47-101 note.

PUBLIC SAFETY AND JUSTICE

For an additional amount for "Public safety and justice", $3,278,600, of which $1,400,000 shall be available solely for payment to the Federal Bureau of Prisons.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $2,903,300 for the District of Columbia Public Schools: *Provided,* That $6,177,400 in budget authority for the District of Columbia Public Schools appropriated under this head in the District of Columbia Appropriation Act, 1980 (Public Law 96-93, approved October 30, 1979), is hereby rescinded.

93 Stat. 715.

HUMAN SUPPORT SERVICES

For an additional amount for "Human support services", $9,500,000: *Provided,* That $2,227,700 of this appropriation shall be available solely for reimbursements to Saint Elizabeths Hospital: *Provided further,* That total reimbursements to Saint Elizabeths Hospital, including funds from title XIX of the Social Security Act, shall not exceed $20,919,500.

42 USC 1396.

ENVIRONMENTAL SERVICES AND SUPPLY

For an additional amount for "Environmental services and supply", $3,710,100.

PERSONAL SERVICES

For an additional amount for "Personal services", $5,167,000.

PENSION FUNDS

For payment to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds as authorized by Public Law 96-122, approved November 17, 1979 (93 Stat. 866), $16,997,900.

CAPITAL OUTLAY

For an additional amount for "Capital outlay", to remain available until expended, $6,816,200: *Provided*, That $260,000 shall be available for construction services by the Director of the Department of General Services or by contract for architectural engineering services, as may be determined by the Mayor, and the funds for the use of the Director of the Department of General Services shall be advanced to the appropriation account "Construction services, Department of General Services".

DIVISION OF EXPENSES

The sums appropriated herein for the District of Columbia shall be paid out of the general fund of the District of Columbia, except as otherwise specifically provided.

CHAPTER V

DEPARTMENT OF ENERGY

Operating Expenses

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For an additional amount for "Operating Expenses, Energy Supply, Research and Development Activities", $13,000,000, to remain available until expended.

(RESCISSION AND DEFERRAL)

Of the funds appropriated for "Operating Expenses, Energy Supply, Research and Development Activities" in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $44,350,000 are rescinded, and $50,500,000 are deferred for obligation until October 1, 1980. 93 Stat. 437.

OPERATING EXPENSES

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operating Expenses, Uranium Supply and Enrichment Activities", $235,600,000, to remain available until expended, of which $50,000,000 shall be derived from funds previously appropriated for contract prefinancing accounts for uranium enrichment activities and which sum is to be restored to the contract prefinancing accounts from anticipated fiscal year 1981 revenues from enriching services.

(RESCISSION)

93 Stat. 437.

Of the funds appropriated for "Operating Expenses, Uranium Supply and Enrichment Activities" in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $4,000,000 are rescinded.

OPERATING EXPENSES

GENERAL SCIENCE AND RESEARCH ACTIVITIES

(RESCISSION)

Of the funds appropriated for "Operating Expenses, General Science and Research Activities", in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $2,000,000 are rescinded.

OPERATING EXPENSES

ATOMIC ENERGY DEFENSE ACTIVITIES

For an additional amount for "Operating Expenses, Atomic Energy Defense Activities", $31,400,000, to remain available until expended.

(RESCISSION AND DEFERRAL)

Of the funds appropriated for "Operating Expenses, Atomic Energy Defense Activities" in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $6,400,000 are rescinded, and $1,000,000 are deferred for obligation until October 1, 1980.

OPERATING EXPENSES

DEPARTMENTAL ADMINISTRATION

Notwithstanding the provisions of Public Law 96-69 appropriating $6,165,000 for the Office of the Inspector General, those funds determined by that Office to be in excess of the amount required to pay for the salaries and expenses of that Office shall be made available for obligation for the salaries and expenses of other organizations funded by this appropriation.

(RESCISSION)

Of the funds appropriated for "Operating Expenses, Departmental Administration" in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $31,725,000 are rescinded. 93 Stat. 438.

PLANT AND CAPITAL EQUIPMENT

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(RESCISSION AND DEFERRAL)

Of the funds appropriated for "Plant and Capital Equipment, Energy Supply, Research and Development Activities" in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $5,150,000 are rescinded, and $8,000,000 are deferred pending submission to and approval by the cognizant committees of Congress of an appropriate plan for utilization of Project 76-2-b, Ten Megawatt Central Receiver Solar Thermal Power Plant, as a solar repowering test facility to meet repowering objectives for the solar central receiver concept.

PLANT AND CAPITAL EQUIPMENT

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

(DEFERRAL)

Of the funds appropriated and the Uranium Enrichment Revenues Applied for "Plant and Capital Equipment, Uranium Supply and Enrichment Activities" as provided in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $185,000,000 are deferred for obligation until October 1, 1980.

PLANT AND CAPITAL EQUIPMENT

GENERAL SCIENCE AND RESEARCH ACTIVITIES

(DEFERRAL)

Of the funds appropriated for "Plant and Capital Equipment, General Science and Research Activities" in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $5,000,000 are deferred for obligation until October 1, 1980.

PLANT AND CAPITAL EQUIPMENT

ATOMIC ENERGY DEFENSE ACTIVITIES

For an additional amount for "Plant and Capital Equipment, Atomic Energy Defense Activities", $6,600,000, to remain available until expended.

(DEFERRAL)

Of the funds appropriated for "Plant and Capital Equipment, Atomic Energy Defense Activities" in Public Law 96-69 and other

Acts making appropriations for Energy and Water Development, $30,000,000 are deferred for obligation until October 1, 1980.

PLANT AND CAPITAL EQUIPMENT

DEPARTMENTAL ADMINISTRATION

For an additional amount for "Plant and Capital Equipment, Departmental Administration", $1,550,000, to remain available until expended.

(DEFERRAL)

93 Stat. 438.

Of the funds appropriated for "Plant and Capital Equipment, Departmental Administration" in Public Law 96-69 and other Acts making appropriations for Energy and Water Development, $6,000,000 are deferred for obligation until October 1, 1980.

FEDERAL ENERGY REGULATORY COMMISSION

For an additional amount for "Federal Energy Regulatory Commission", $1,200,000.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

CONSTRUCTION, GENERAL

For an additional amount for "Construction, General", $180,000,000, to remain available until expended: *Provided,* That funds are included in this Act for the Twenty Mile Creek, Mississippi, project which shall be used for the design and construction of grade stabilization structures along Twenty Mile Creek, in Lee, Itawamba, and Prentiss Counties, Mississippi, between mile 11.7 and mile 22.0: *Provided further,* That funds are included in this Act for the site 3 Hollywood-Ardmore Beach Area in Chicago, Illinois, which shall be used for the design and construction of a retaining wall and related backfill and grading in accordance with the Reconnaissance Report on Chicago Lakefront prepared by the Chicago District Corps of Engineers, of January 1980, and Supplemental Report, March 1980, and section 3 of the Flood Control Act of June 22, 1936.

33 USC 701c.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

Appropriations available to "Flood Control, Mississippi River and Tributaries", to the extent required, are to be made available for the Grenada Lake Project, Mississippi, which shall be used, upon concurrence of community officials, for construction and/or implementation of a plan selected by the Corps of Engineers for providing protection to the community of Coffeeville, Mississippi, from high stages, to a level of two hundred thirty-six feet plus three feet of freeboard, on Grenada Lake.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for flood control and coastal emergencies, $170,000,000, to remain available until expended. Any activity undertaken by virtue of funds appropriated herein for the relief of the emergency situation created by the eruptions of the volcano at Mount Saint Helens in Washington State is not prohibited by or otherwise subject to regulation under section 301, 402, or 404 of the Federal Water Pollution Control Act of 1972, as amended, or section 10 of the River and Harbor Act of 1899: *Provided,* That as expeditiously as possible, consistent with the protection of the public interests through the continuation of the emergency dredging, disposal, and related activities neccessary, the Corps of Engineers shall initiate accelerated and abbreviated procedures, including as is appropriate, public notices and opportunities for public hearings, for such activities under section 404 of the Federal Water Pollution Control Act of 1972, as amended, and section 10 of the River and Harbor Act of 1899.

33 USC 1311, 1342, 1344. 33 USC 403.

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for "Operation and Maintenance, General", $70,000,000, to remain available until expended. Any activity undertaken by virtue of funds appropriated herein for the relief of the emergency situation created by the eruptions of the volcano at Mount Saint Helens in Washington State is not prohibited by or otherwise subject to regulation under section 301, 402, or 404 of the Federal Water Pollution Control Act of 1972, as amended, or section 10 of the River and Harbor Act of 1899: *Provided,* That as expeditiously as possible, consistent with the protection of the public interests through the continuation of the emergency dredging, disposal, and related activities necessary, the Corps of Engineers shall initiate accelerated and abbreviated procedures, including as is appropriate, public notices and opportunities for public hearings, for such activities under section 404 of the Federal Water Pollution Control Act of 1972, as amended and section 10 of the River and Harbor Act of 1899.

ALASKA HYDROELECTRIC POWER DEVELOPMENT FUND

(RESCISSION)

Of the funds appropriated for "Alaska Hydroelectric Power Development Fund" in Public Law 95-240, making supplemental appropriations, $5,450,000 are rescinded.

92 Stat. 113.

ADMINISTRATIVE PROVISIONS

The limitation under this head in Public Law 96-69, the Energy and Water Development Appropriation Act, 1980, for expenditures of the capital investment program of the revolving fund is increased to $140,000,000.

93 Stat. 443.

DEPARTMENT OF THE INTERIOR

WATER AND POWER RESOURCES SERVICE

CONSTRUCTION AND REHABILITATION

(TRANSFER OF FUNDS)

For an additional amount for "Construction and Rehabilitation", $32,450,000 and, in addition, $9,700,000 for continuing construction of the authorized Garrison Diversion Unit, North Dakota, to remain available until expended, of which $6,750,000 is to be derived by transfer from appropriations available for the "Upper Colorado River Basin Fund", $3,000,000 is to be derived by transfer from advances available to the "Lower Colorado River Basin Development Fund", $4,600,000 is to be derived by transfer from appropriations available to the "Colorado River Basin Salinity Control Projects", $500,000 is to be derived by transfer from appropriations available for "General Investigations", and $17,600,000 is to be derived by transfer from appropriations available to the "Loan Program". None of the funds appropriated in this Act for the Garrison Diversion Unit may be used for the acquisition of mitigation lands by condemnation nor shall such funds be used on features affecting waters flowing into Canada.

LOAN PROGRAM

(RESCISSION)

93 Stat. 445.

Of the funds appropriated for "Loan Program" in Public Law 96-69 making appropriations for Energy and Water Development, $3,000,000 are rescinded.

INDEPENDENT AGENCIES

FUNDS APPROPRIATED TO THE PRESIDENT

APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS

(DEFERRAL)

Of the funds appropriated for "Funds Appropriated to the President, Appalachian Regional Development Programs" in Public Law 96-69, $29,300,000, are hereby deferred for obligation until October 1, 1980.

93 Stat. 448.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $31,950,000, to remain available until expended.

TENNESSEE VALLEY AUTHORITY

PAYMENT TO TENNESSEE VALLEY AUTHORITY FUND

For an additional amount for "Payment to Tennessee Valley Authority Fund", $74,353,000, to remain available until expended.

WATER RESOURCES COUNCIL

WATER RESOURCES PLANNING

(RESCISSIONS)

Of the funds appropriated for grants to States under title III of the Act (42 U.S.C. 1962c(a)) in Public Law 96-69, making appropriations for Energy and Water and Power Development, $11,000,000 are rescinded. 93 Stat. 450.

Of the funds appropriated for administration and coordination in Public Law 95-96, making appropriations for Public Works for Water and Power Development and Energy Research, $431,000 are rescinded. 91 Stat. 808.

CHAPTER VI

FOREIGN OPERATIONS

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount to carry out the provisions of section 491 of the Foreign Assistance Act of 1961, as amended, $43,000,000, to remain available until expended. 22 USC 2292.

DISABILITY FUND

For an additional amount for "Payment to the Foreign Service Retirement and Disability Fund", $1,020,000.

OPERATING EXPENSES

For an additional amount for "Operating Expenses of the Agency for International Development", $2,000,000, to remain available until expended.

ECONOMIC SUPPORT FUND

For an additional amount of $80,000,000 for necessary expenses to carry out the provisions of sections 531 through 535: *Provided,* That these funds shall not be available for obligation or expenditure until October 1, 1980. 22 USC 2346-2346d.

CHAPTER VII

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

Title I of the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, under this head is amended by deleting the following: "of which not less than nor more than $50,000,000 shall be for the modernization of existing low-income housing projects". 93 Stat. 771.

HOUSING PAYMENTS

For an additional amount for "Housing payments", $745,037,000.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For an additional amount for "Payments for operation of low-income housing projects", $13,800,000.

LOW-RENT PUBLIC HOUSING—LOANS AND OTHER EXPENSES, PAYMENTS TO THE FEDERAL FINANCING BANK

(INCLUDING TRANSFER OF FUNDS)

Unobligated balances of authority in the amount of $1,995,325,000 to be transferred from the amounts provided in prior appropriation Acts for section 5(c) of the United States Housing Act of 1937, as
42 USC 1437c. amended (42 U.S.C. 1437(c)) shall be available for contracts for periodic payments to the Federal Financing Bank, as authorized by section 16(b) of Federal Financing Bank Act of 1973 (12 U.S.C. 2294(b)), to offset the cost to the Bank of purchasing obligations of local public housing authorities issued for purposes of financing public housing projects as authorized under section 5(c). $1,995,325,000 shall be available until expended for liquidation of obligations incurred pursuant to these contracts.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SPECIAL ASSISTANCE FUNCTIONS FUND

The amount of purchases and commitments authorized under this head for fiscal year 1980 is further increased by $150,000,000.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

(RESCISSIONS)

Of the funds appropriated under this head as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1978, $213,152
91 Stat. 1075. appropriated pursuant to section 103(a) of the 1974 Act and available
42 USC 5303. for commitment under section 107(a) of the 1974 Act are rescinded.
42 USC 5307. Of the funds appropriated under this head as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1979, $28,480,303
92 Stat. 793. are rescinded, of which $11,303,122 shall be from funds appropriated pursuant to section 103(a) of the 1974 Act and available for reallocation
42 USC 5306. pursuant to section 106(e) of the 1974 Act, $14,286,848 shall be from funds appropriated pursuant to section 103(a) of the 1974 Act and available for commitment under section 107(a) of the 1974 Act and $2,890,333 shall be from funds appropriated pursuant to section 103(b) of the 1974 Act.

Of the funds appropriated under this head as authorized by title I of the Housing and Community Development Act of 1974, as amended

(42 U.S.C. 5301), in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $95,809,667 are rescinded, of which $10,700,000 shall be from funds appropriated pursuant to section 103(a) of the 1974 Act and available for commitment under section 107(a) of the 1974 Act and $85,109,667 shall be from funds appropriated pursuant to section 103(b) of the 1974 Act. In addition, all funds up to $28,696,878 appropriated pursuant to section 103(a) of the 1974 Act, and available for reallocation pursuant to section 106(e) of the 1974 Act prior to October 1, 1980, are rescinded. 93 Stat. 771. 42 USC 5303. 42 USC 5307. 42 USC 5306.

COMPREHENSIVE PLANNING GRANTS

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $5,000,000 are rescinded. 93 Stat. 774.

REHABILITATION LOAN FUND

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $25,500,000 are rescinded.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $5,000,000 are rescinded.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

RESEARCH AND DEVELOPMENT

For an additional amount for "Research and development", $4,000,000, to remain available until September 30, 1981.

ABATEMENT, CONTROL AND COMPLIANCE

For an additional amount for "Abatement, control and compliance", $4,000,000, to remain available until September 30, 1981.

CONSTRUCTION GRANTS

Of the unobligated funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $400,000,000 shall be made available for obligation on the date of enactment of this Act, notwithstanding section 205(c) of the Clean Water Act, based on the most efficient and effective use of these funds. 93 Stat. 777. 33 USC 1285.

UNITED STATES REGULATORY COUNCIL

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $500,000 are rescinded.

93 Stat. 777.

FEDERAL EMERGENCY MANAGEMENT AGENCY

FUNDS APPROPRIATED TO THE PRESIDENT

DISASTER RELIEF

For an additional amount for "Disaster relief", $870,000,000, to remain available until expended.

Section 401 of the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, is amended by adding after the second semicolon in the first proviso, the following: "to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974: *Provided, however,* That the President is authorized, from funds appropriated to the President, to provide relocation for the families residing within the boundaries defined in the emergency declared by the President on May 21, 1980, at the Love Canal, in the State of New York: *Provided further,* That the Federal share shall not exceed 75 percent of the cost of such relocation. This shall not include the construction of any permanent housing.".

93 Stat. 787.

42 USC 5121 note.

EMERGENCY PLANNING, PREPAREDNESS AND MOBILIZATION

For an additional amount for "Emergency planning, preparedness and mobilization", $1,900,000.

The limitation on travel expenses in the current fiscal year for "Emergency planning, preparedness, and mobilization" is increased by $812,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For an additional amount for "Research and development", $285,000,000, to remain available until September 30, 1981.

NATIONAL CONSUMER COOPERATIVE BANK

SALARIES AND EXPENSES

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $555,000 are rescinded.

93 Stat. 780.

SELF-HELP DEVELOPMENT

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $6,500,000 are rescinded. 93 Stat. 780.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $2,000,000 are rescinded.

SCIENCE EDUCATION ACTIVITIES

(RESCISSION)

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1980, $2,500,000 are rescinded. 93 Stat. 781.

NEIGHBORHOOD REINVESTMENT CORPORATION

SALARIES AND EXPENSES

The limitation on travel expenses in the current fiscal year for the Neighborhood Reinvestment Corporation is increased by $300,000.

VETERANS ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for "General operating expenses", $5,638,000.

CONSTRUCTION, MAJOR PROJECTS

For an additional amount for "Construction, major projects", $4,000,000, to remain available until expended, of which $1,000,000 is for the advance planning of projects funded through the Advance Planning Fund, and, notwithstanding any other provision of law, $3,000,000 is for construction of facilities in support of the new State medical school at East Tennessee State University.

CHAPTER VIII

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For an additional amount for "Management of lands and resources", $46,800,000: *Provided,* That not to exceed $5,000,000 available under this head for fire suppression may be transferred to the Oregon and California Grant Lands appropriation: *Provided further,* That funds so transferred shall be reimbursed to fire suppression from amounts deposited to the Oregon and California Land Grant Fund at such time as available receipts exceed amounts necessary for western Oregon timber management.

PAYMENTS IN LIEU OF TAXES

(DEFERRAL)

93 Stat. 954. Of the funds appropriated under this head in the Interior and Related Agencies Appropriation Act, 1980 (Public Law 96-126) $5,000,000 shall not become available for obligation until October 1, 1980, and shall remain available for obligation until September 30, 1981.

OFFICE OF WATER RESEARCH AND TECHNOLOGY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $2,000,000, to remain available until expended.

HERITAGE CONSERVATION AND RECREATION SERVICE

URBAN PARK AND RECREATION FUND

(DEFERRAL AND RESCISSION)

93 Stat. 957. Of the funds appropriated under this head in the Interior and Related Agencies Appropriation Act, 1980 (Public Law 96-126) $45,000,000 shall not become available for obligation until October 1, 1980, and $15,000,000 are rescinded.

LAND AND WATER CONSERVATION FUND

(DEFERRAL)

Of the funds appropriated under this head in the Interior and Related Agencies Appropriation Act, 1980 (Public Law 96-126) and previous Interior Department Appropriations Acts $165,000,000 shall not become available for obligation until October 1, 1980, of which $75,000,000 is available for payments to the States; $18,200,000 is available to the Forest Service; $13,775,000 is available to the United States Fish and Wildlife Service; $52,025,000 is available to the National Park Service; and $6,000,000 is available for land acquisition at Pinelands National Reserve: *Provided,* That $2,250,000 of the

amount set aside for contingencies shall not become available for obligation until October 1, 1980.

HISTORIC PRESERVATION FUND

(DEFERRAL)

Of the funds appropriated under this head in the Interior and Related Agencies Appropriation Act, 1980 (Public Law 96-126), $10,000,000 shall not become available for obligation until October 1, 1980. 93 Stat. 958.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource management", $350,000.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to carry out the provisions of Public Law 95-469 (16 U.S.C. 715s), $1,950,000.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the National Park System", $1,373,000: *Provided,* That appropriations for maintenance and improvement of roads within the boundary of Indiana Dunes National Lakeshore, made under this head in Public Law 96-126, shall be available for such purposes without regard to whether title to such road rights-of-way is in the United States. 93 Stat. 959.

CONSTRUCTION

(RESCISSION)

Appropriations provided under this head are rescinded in the amount of $3,000,000.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, investigations, and research", $8,600,000.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian programs", $7,000,000.

TERRITORIAL AFFAIRS

OFFICE OF TERRITORIAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For an additional amount for "Administration of Territories", $3,318,000, to remain available until expended.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For an additional amount for "Trust Territory of the Pacific Islands", $6,117,000, to remain available until expended.

RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST MANAGEMENT, PROTECTION AND UTILIZATION

For an additional amount for "Forest Management, Protection and Utilization", $113,000,000.

DEPARTMENT OF ENERGY

ALTERNATIVE FUELS PRODUCTION

42 USC 5915 note.
93 Stat. 970.

From the appropriation of $19,000,000,000, made to the "Energy Security Reserve" under this head in Public Law 96-126, an additional amount of $3,310,000,000 shall be immediately available to the Secretary of Energy for obligation to stimulate domestic commercial production of alternative fuels, of which (1) $3,000,000,000 shall be available until expended for (a) the purchase or production of alternative fuels by way of purchase commitments or price guarantees, and (b) a reserve to cover any defaults from loan guarantees issued to finance the construction of alternative fuels production facilities according to the provisions of the Defense Production Act of 1950, as amended (50 U.S.C. 2061 et seq.) and (2) $310,000,000 shall be available until expended to support preliminary alternative fuels commercialization activities, to be apportioned as follows:

•50 USC app. 2061.

(a) not to exceed $100,000,000 shall be available for project development feasibility studies, such individual awards not to exceed $10,000,000: *Provided,* That the Secretary may require repayment of such funds where studies determine such project proposals have economic or technical feasibility;

(b) not to exceed $200,000,000 shall be available for cooperative agreements with non-Federal entities, such individual agreements not to exceed $25,000,000, to support commercial scale development of alternative fuels facilities: *Provided,* That the Secretary may require repayment of such funds when such facilities achieve commercial scale alternative fuels production; and

(c) not to exceed $10,000,000 shall be available for program management.

For the purposes of carrying out the activities provided herein and activities provided under this head in Public Law 96-126 the provisions of 5 U.S.C. 553 and 42 U.S.C. 7191 shall not apply.

None of the funds provided under this head in this Act and in Public Law 96-126 for purchase, price guarantees, or loan guarantees shall be available for biomass energy projects as defined by section 203(2)(A) of S. 932, 96th Congress, except that of the $1,500,000,000 made available to the Department by Public Law 96-126 for purchase commitments or price guarantees, not to exceed $150,000,000 may be available only for such purposes to the extent authorized under title II, subtitle B, of the Energy Security Act (S. 932).

93 Stat. 970.

Ante, p. 683.

Ante, p. 696.

All provisions of Public Law 96-126 with regard to "Alternative fuels production" not expressly modified in this appropriation remain in effect and are applicable to activities provided for in this appropriation.

Upon the establishment of a "United States Synthetic Fuels Corporation" (the Corporation) projects or actions initiated by the Department of Energy with appropriations under this head shall transfer to the Corporation upon a Presidential determination that the Corporation is fully operational and upon a majority vote of the Board of Directors of the Corporation, except that funds obligated for feasibility studies, cooperative agreements, program management, and projects which do not meet the definitions of eligibility for funding as synthetic fuels projects in the Corporation shall remain with the Department of Energy: *Provided,* That (1) projects meeting the eligibility criteria for funding by the Corporation for which funding has been obligated or committed by the Department of Energy may be adopted by the Corporation as if they had been entered into by the Corporation (for the purposes of such transfers only, the Corporation shall adopt the terms of such projects, established by the Department of Energy, using the authorities of the Department of Energy regardless of whether the Corporation would otherwise have authority to do so); and (2) accepted proposals for loan guarantees, price supports, and/or purchase commitments for which financial assistance is not provided by the Department of Energy shall be considered as responses to a solicitation of the Corporation to the extent they meet the eligibility criteria for funding by the Corporation.

United States Synthetic Fuels Corporation.

Unexpended balances of funds obligated for projects shall transfer to the Corporation to the extent such projects and activities are transferred to the Corporation as provided herein.

DEPARTMENT OF THE TREASURY

ENERGY SECURITY RESERVE

To carry out the provisions of title I of the Energy Security Act (S. 932, 96th Congress) and for other purposes authorized by title II of S. 932, not to exceed $18,792,000,000, to remain available until expended, of which (1) $13,482,000,000 shall be derived from amounts in the Energy Security Reserve established pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126), and (2) not to exceed $5,310,000,000 shall be derived by transfer of the balance of the amounts not committed or not conditionally committed which are appropriated by this Act and by Public Law 96-126 from the Energy Security Reserve to the Department of Energy, such transfer to occur on June 30, 1981, to permit the Department to pursue an aggressive interim program of loan and price guarantees and purchase commitments.

42 USC 5915 note.

Ante, p. 611.

Ante, p. 683.

93 Stat. 954.

The total available funding (including funds committed or conditionally committed under authority of Public Law 96-126) shall be apportioned so as to provide $17,522,000,000 for purposes of title I, of which $6,000,000,000 shall be immediately available, $6,212,000,000 shall be available for obligation after June 30, 1982, and up to $5,310,000,000 shall be derived by transfer as provided above; and to provide $1,270,000,000 for purposes of title II, to be immediately available and to be apportioned as follows:

93 Stat. 954.
Ante, p. 611.
Ante, p. 683.

(i) not to exceed $525,000,000 to the Secretary of Agriculture for the purposes of subtitle A;

Ante, p. 686.

(ii) not to exceed $525,000,000 to the Secretary of Energy for the purpose of subtitle A: *Provided,* That no funds shall be available to the Secretary of Energy for projects as defined by section 212(a)(1)(A) of S. 932; and

Ante, p. 687.

(iii) not to exceed $220,000,000 to the Secretary of Energy for purposes of subtitle B.

Ante, p. 696.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For an additional amount for "Fossil energy research and development", $4,000,000, to remain available until expended.

(RESCISSION)

Appropriations provided under this head in the Department of Interior and Related Agencies Appropriation Act, 1980 (Public Law 96-126) are rescinded in the amount of $17,600,000.

93 Stat. 972.

ENERGY CONSERVATION

For an additional amount for "Energy Conservation", $2,600,000, to remain available until expended.

(RESCISSION)

Appropriations provided under this head in the Department of Interior and Related Agencies Appropriation Act, 1980 (Public Law 96-126) are rescinded in the amount of $10,000,000.

(DEFERRAL)

Of the funds appropriated under this head in the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126), $1,000,000 shall not become available for obligation until October 1, 1980.

ECONOMIC REGULATORY ADMINISTRATION

(RESCISSION)

Appropriations provided under this head in the Department of Interior and Related Agencies Appropriation Act, 1980 (Public Law 96-126) are rescinded in the amount of $1,000,000.

STRATEGIC PETROLEUM RESERVE

(RESCISSION)

Of the funds appropriated under this head in Public Law 95-465 and other Acts making appropriations for the Department of Interior and Related Agencies, $2,000,000,000 are rescinded. 92 Stat. 1295.

ENERGY INFORMATION ADMINISTRATION

For an additional amount for "Energy Information Administration", $3,500,000.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

PUBLIC DEVELOPMENT

For an additional amount for "Public Development", $500,000, to remain available until expended.

FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE

PERMITTING AND ENFORCEMENT

Of the funds appropriated under this head in the Department of the Interior and Related Agencies Appropriations Act, 1980 (Public Law 96-126), $2,700,000 are rescinded. 93 Stat. 978.

CHAPTER IX

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For an additional amount for "Advances to the unemployment trust fund and other funds", $1,841,000,000, to remain available until September 30, 1981 and for "Federal unemployment benefits and allowances", such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to August 1 of the current year: *Provided,* That of this amount, $400,000,000 shall become available on October 1, 1980.

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For an additional amount for "Grants to States for unemployment insurance and employment services", from the Employment Security Administration Account in the Unemployment Trust Fund, $147,610,000 to remain available until September 30, 1981, which shall be available for necessary administrative expenses for carrying out section 43 of the Airline Deregulation Act of 1978, and to the extent necessary to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the 49 USC 1552.

State's basic grant was based, which cannot be provided for by normal budgetary adjustments.

EMPLOYMENT STANDARDS ADMINISTRATION

BLACK LUNG DISABILITY TRUST FUND

For an additional amount for payments from the "Black Lung Disability Trust Fund", $392,347,000, to remain available until September 30, 1981.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH SERVICES ADMINISTRATION

HEALTH SERVICES

Aliens in Florida.

For an additional amount for the National Health Service Corps, $2,400,000.

For an additional amount for "Health services", $36,000,000, for the medical examination and care of aliens who have recently arrived in south Florida, to remain available through September 30, 1981. The amounts appropriated may be used to reimburse other Department of Health and Human Services accounts for related expenses, including administrative and support costs.

(RESCISSION)

93 Stat. 923.

Of the funds provided for "Health services" for fiscal year 1980 in Public Law 96-123, making further continuing appropriations for the fiscal year 1980, $18,500,000 are rescinded.

CENTER FOR DISEASE CONTROL

PREVENTIVE HEALTH SERVICES

For an additional amount for Epidemic Services, $600,000.

(RESCISSION)

90 Stat. 363.

Of the funds appropriated under this head in Public Law 94-266, making supplemental appropriations for fiscal year 1976, $18,318,000 are rescinded.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

(RESCISSION)

93 Stat. 923.

Of the funds provided for "Alcohol, drug abuse, and mental health" for fiscal year 1980 in Public Law 96-123, making further continuing appropriations for the fiscal year 1980, $4,000,000 are rescinded.

HEALTH RESOURCES ADMINISTRATION

HEALTH RESOURCES

(RESCISSION)

Of the funds provided for "Health resources" for fiscal year 1980 in Public Law 96-123, making further continuing appropriations for the fiscal year 1980, $19,300,000 are rescinded. 93 Stat. 923.

ASSISTANT SECRETARY FOR HEALTH

SALARIES AND EXPENSES

(RESCISSION)

Of the funds provided for "Salaries and expenses" for fiscal year 1980 in Public Law 96-123, making further continuing appropriations for the fiscal year 1980, $18,500,000 are rescinded.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For an additional amount for "Grants to States for Medicaid", $2,159,000,000, to remain available until expended. Notwithstanding any other provision of law, no payment shall be made from this appropriation to reimburse State or local expenditures made prior to October 1, 1977 unless a request for reimbursement had been officially transmitted to the Federal government by the State within two years after the fiscal year in which the expenditure occurred. The provisions of Section 109 of Public Law 96-123 shall continue to apply to appropriations previously made for fiscal year 1980 under this heading and to appropriations contained in this paragraph. 93 Stat. 926.

(RESCISSION)

Of the funds provided for "Grants to States for Medicaid" for fiscal year 1980 in Public Law 96-123, Making Further Continuing Appropriations for fiscal year 1980, $30,000,000 are rescinded. 93 Stat. 923.

SOCIAL SECURITY ADMINISTRATION

ASSISTANCE PAYMENTS PROGRAM

For an additional amount for "Assistance payments program", $74,000,000.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

GRANTS TO STATES FOR SOCIAL AND CHILD WELFARE SERVICES

For an additional amount for "Grants to States for social and child welfare services", $242,000,000.

For a further additional amount for "Grants to States for Social and Child Welfare Services", $225,750,000: *Provided,* That of this amount, $9,650,000 for activities authorized under title IV-B of the Social Security Act shall remain available until September 30, 1981: 42 USC 620.

Provided further, That notwithstanding any other provision of law, not to exceed $75,000,000 shall be used for training activities under this heading for fiscal year 1980.

DEPARTMENTAL MANAGEMENT

REFUGEE ASSISTANCE

For expenses necessary to carry out the provisions of the Refugee Act of 1980, $516,900,000, including $23,168,000 for educational assistance for children which shall remain available through March 31, 1981.

Ante, p. 102.

DEPARTMENT OF EDUCATION

ELEMENTARY AND SECONDARY EDUCATION

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-123 for fiscal year 1980, $15,000,000 appropriated for the purpose of title I, part A, section 116; $100,000,000 of the amount appropriated for title I, part A, section 117, and $14,750,000 of the amount appropriated for the purposes of part B of the Headstart-Follow Through Act are rescinded.

93 Stat. 923.

42 USC 2929.

Of the funds appropriated under this head in Public Law 95-482 for fiscal year 1979, $1,000,000 appropriated for the purposes of the Communications Act of 1934, as amended, are rescinded.

92 Stat. 1603.

47 USC 609.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

(SUPPLEMENTAL)

For an additional amount for "School Assistance in Federally Affected Areas," to carry out section 7 of the Act of September 30, 1950, $20,000,000, to remain available until September 30, 1981. In addition, in accordance with section 7(c) of that Act, any funds appropriated under that Act and remaining available after payments in accordance with Public Law 96-123 under the heading "School Assistance in Federally Affected Areas" for fiscal year 1980 under sections 2 and 3 of that Act shall be available for payments under section 7.

20 USC 241-1.

93 Stat. 923.

20 USC 237, 238.

EMERGENCY SCHOOL AID

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-123, making appropriations for Emergency School Aid for fiscal year 1980, $21,052,000 are rescinded.

93 Stat. 923.

LIBRARY RESOURCES

(RESCISSION)

Of the funds provided for "Library resources" for fiscal year 1980 in Public Law 96-123, $18,000,000 appropriated for the purpose of title

IV, part D of the Elementary and Secondary Education Act are rescinded.

OCCUPATIONAL, VOCATIONAL, AND ADULT EDUCATION

(SUPPLEMENTAL)

For an additional amount for section 318 of the Adult Education Act, $17,600,000 to remain available until September 30, 1981. 20 USC 1211c.

STUDENT ASSISTANCE

(RESCISSION)

Of the funds provided for "Student assistance" for fiscal year 1980 in Public Law 96-123, $140,000,000 appropriated for Basic Opportunity Grants under subpart 1 of Part A of title IV of the Higher Education Act are rescinded: *Provided,* That each Basic Grant award for the 1980-81 award year shall be reduced by $50 below the entitlement amounts, notwithstanding section 411(b)(3)(B)(i) of title IV of the Higher Education Act. 93 Stat. 923. 20 USC 1070a. 20 USC 1070a note. 20 USC 1070a.

STUDENT LOAN INSURANCE FUND

For an additional amount for the "Student Loan Insurance Fund", $649,723,000, to remain available until expended.

HIGHER AND CONTINUING EDUCATION

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-123 for fiscal year 1980, under the Higher Education Act, $1,000,000 appropriated for Title I, part A, and $15,000,000 appropriated for title VII, part E are rescinded: *Provided,* That the funds made available for fiscal year 1980 for architectural barrier removal shall remain available until September 30, 1981. 93 Stat. 923. 20 USC 1001. 20 USC 1132d-11.

SPECIAL PROJECTS AND TRAINING

(RESCISSION)

Of the funds provided for "Special projects and training" for fiscal year 1980 in Public Law 96-123, $5,000,000 appropriated for the purpose of the Career Education Incentive Act (Public Law 95-207) are rescinded. 93 Stat. 923. 20 USC 2601 note.

SCHOOL IMPROVEMENT

(SUPPLEMENTAL)

For an additional amount for title III, part A, section 303 of the Elementary and Secondary Education Act, $7,700,000 to remain available until September 30, 1981. 20 USC 843.

NATIONAL INSTITUTE OF EDUCATION

(RESCISSION)

Of the funds provided for "National Institute of Education", section 405 of the General Education Provisions Act, $3,000,000 are rescinded.

20 USC 1221e.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses," $605,000.

REHABILITATION SERVICES

For an additional amount under section 311 of the Rehabilitation Act of 1973, $1,500,855.

29 USC 777a.

RELATED AGENCIES

ACTION

OPERATING EXPENSES, DOMESTIC PROGRAMS

For an additional amount for "Operating expenses, domestic programs", $4,000,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

(RESCISSION)

Of the amount provided for "Federal Mine Safety and Health Review Commission, Salaries and Expenses" for fiscal year 1980 in Public Law 96-123, making further continuing appropriations for fiscal year 1980, $188,000 are rescinded.

93 Stat. 923.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

(RESCISSION)

Of the amount provided for "Occupational Safety and Health Review Commission, Salaries and Expenses" for fiscal year 1980 in Public Law 96-123, making further continuing appropriations for fiscal year 1980, $100,000 are rescinded.

RAILROAD RETIREMENT BOARD

MILWAUKEE RAILROAD RESTRUCTURING ADMINISTRATION

For administrative expenses authorized by Section 14(c) of the Milwaukee Railroad Restructuring Act, $300,000, to remain available until expended.

45 USC 913.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For an additional amount for "Operation and maintenance", $300,000.

CHAPTER X

LEGISLATIVE BRANCH

SENATE

CONTINGENT EXPENSES OF THE SENATE

MISCELLANEOUS ITEMS

Of the funds appropriated under this head in Public Law 96-86, $1,000,000 are rescinded. 93 Stat. 656.

ADMINISTRATIVE PROVISIONS

SEC. 101. Effective October 1, 1979, section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58), is amended by redesignating subsections (i) through (k) as (j) through (l), respectively, and by inserting after subsection (h) the following new subsection: 86 Stat. 1505. 2 USC 46a-1 note, 58 note.

"(i) Whenever a Senator or an employee in his office has incurred an expense for which reimbursement may be made under this section, the Secretary of the Senate is authorized to make payment to that Senator or employee for the expense incurred, subject to the same terms and conditions as apply to reimbursement of the expense under this section." Reimbursable expenses.

SEC. 102. (a) Section 506(e) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(e)) is amended by striking out "in effect under section 5702 of title 5, United States Code, for employees of agencies" in the next to last sentence and inserting in lieu thereof "prescribed by the Committee on Rules and Administration".

(b) The seventh paragraph under the heading "Administrative Provisions" in the appropriation for the Senate in the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 68b) is amended by striking out "in effect under section 5702 of title 5, United States Code, for employees of agencies" each place it appears and inserting in lieu thereof "prescribed by the Committee on Rules and Administration".

SEC. 103. Effective February 1, 1980, section 506(a) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)), is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) reimbursement to each Senator for costs incurred in the mailing or delivery of matters relating to official business;"

SEC. 104. Effective January 1, 1980, section 506(h)(1) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(h)(1)) is amended by striking out "under subsection (a)(9) when such expenses are incurred by or on behalf of a Senator" and inserting in lieu thereof "to an employee in the office of a Senator when traveling on business of a committee of which that Senator is a member".

SEC. 105. Effective October 1, 1979, the allowance for administrative and clerical assistance of each Senator from the State of Louisiana is increased to that allowed Senators from States having a 2 USC 61-1 note.

population of four million but less than five million, the population of said State having exceeded four million inhabitants.

SEC. 106. Any funds appropriated or made available under the heading "SENATE" in any appropriation Act for the fiscal year ending September 30, 1980, and any funds appropriated by section 101(c) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1980, and for other purposes", approved October 12, 1979 (Public Law 96-86), for disbursement by the Secretary of the Senate which for the fiscal year ending September 30, 1979, were appropriated under the heading "SENATE", shall remain available until expended for the same purpose for which appropriated or made available.

93 Stat. 656.

SEC. 107. (a) Section 105(a)(1) of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61-1(a)(1)) is amended to read as follows:

"(a)(1) Whenever the rate of compensation of any employee whose compensation is disbursed by the Secretary of the Senate is fixed or adjusted on or after October 1, 1980, such rate as so fixed or adjusted shall be at a single whole dollar per annum gross rate and may not include a fractional part of a dollar."

(b) Section 106(b)(1) of the Legislative Branch Appropriation Act, 1963 (2 U.S.C. 60j(b)(1)) is amended by striking out "two times the multiple contained in section 1(a) of the applicable Order of the President Pro Tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970" and inserting in lieu thereof "$404".

2 USC 60a-1.

(c) Section 109(d)(1) of the Legislative Branch Appropriation Act, 1979 (2 U.S.C. 60j-3(d)(1)) is amended by striking out "next highest multiple contained in section 1(a) of the applicable Order of the President Pro Tempore of the Senate issued under authority of section 4 of the Federal Pay Comparability Act of 1970" and inserting in lieu thereof "next higher dollar".

Effective date.
2 USC 60j note.

(d) The amendments made by this section shall take effect on October 1, 1980.

Senate Recording and Photographic Studios.
2 USC 123b-1.

SEC. 108. (a) The Senate Recording Studio hereafter shall be known as the Senate Recording and Photographic Studios. Subject to subsection (b), all references to the Senate Recording Studio (including the revolving fund) in any law, resolution, or regulation shall be considered as referring to the Senate Recording and Photographic Studios, and any provision of any law, resolution, or regulation which is applicable to the Senate Recording Studio shall be deemed to apply to the Senate Recording and Photographic Studios.

Rules and regulations; fees.

(b)(1) The Sergeant at Arms and Doorkeeper of the Senate shall, subject to the approval of the majority and minority leaders, promulgate rules and regulations, and establish fees, for the provision of photographs and photographic services to be furnished by the Photographic Studio.

Staffing.

(2) Subject to the approval of the majority and minority leaders, the Sergeant at Arms and Doorkeeper of the Senate is authorized to appoint not more than fifteen employees with such titles, and at such annual rates of compensation, as he deems appropriate, to carry out the functions of the Photographic Studio. Payments of compensation (including agency contributions and longevity compensation as authorized) for personnel employed pursuant to the preceding sentence shall be made by the Secretary of the Senate from funds appropriated for "Salaries, Officers and Employees" under the heading "SENATE".

SEC. 109. Effective January 1, 1980, section 3 under the heading "ADMINISTRATIVE PROVISIONS" in the appropriation for the Senate in

the Legislative Branch Appropriation Act, 1975 (2 U.S.C. 59), is amended—

(1) by striking out "not in excess of one year." in subsection (a)(2) and inserting in lieu thereof "not extending beyond the term of office which he is serving on the first day of such lease, except that, in the case of a Senator whose term of office is expiring and who has been elected for another term, such lease may extend until the end of the term for which he has been so elected. Each such lease shall contain a provision permitting its cancellation upon sixty days written notice by the Sergeant at Arms and Doorkeeper of the Senate, in the event of the death or resignation of the Senator."; and

(2) by striking out "shall not at any time exceed the applicable rate per square foot charged Federal agencies" in subsection (c)(1) and inserting in lieu thereof "shall not exceed the highest rate per square foot charged Federal agencies on the first day of the lease of such office".

SEC. 110. Effective on the first day of the first month following the date of enactment of this Act, the Sergeant at Arms and Doorkeeper of the Senate may appoint and fix the compensation of a Shift Supervisor at not to exceed $14,140 per annum and two Shift Supervisors at not to exceed $12,928 per annum each in lieu of three Mail Carriers at not to exceed $10,302 per annum each; a Deputy Director, Service Department, at not to exceed $35,956 per annum; a Supervisor, Typewriter Repair Section, at not to exceed $26,260 per annum in lieu of not to exceed $24,038 per annum; a Receiving Clerk at not to exceed $12,928 per annum in lieu of a Supervisor, Supply Section, at not to exceed $18,382 per annum; a Power Cutter Operator at not to exceed $13,534 per annum; a Senior Folding Machine Operator at not to exceed $15,554 per annum in lieu of a Laborer at not to exceed $11,716 per annum; an Automatic Typewriter Repairman at not to exceed $19,796 per annum in lieu of a Repairman at not to exceed $18,584 per annum; two Laborers at not to exceed $6,060 per annum each in lieu of a Laborer at not to exceed $11,716 per annum; a Manager, Member and Committee Support, at not to exceed $38,784 per annum in lieu of a Senior Applications Analyst at not to exceed $36,360 per annum; a Manager, Text Processing Applications Development, at not to exceed $38,784 per annum in lieu of a Senior Applications Analyst at not to exceed $36,360 per annum; a Junior Operations Clerk at not to exceed $13,332 per annum; a Manager, Office Administration, at not to exceed $31,512 per annum in lieu of an Office Manager at not to exceed $22,624 per annum; a Special Assistant to the Sergeant at Arms and Doorkeeper at not to exceed $38,784 per annum in lieu of a Manager, User Training and Liaison, at not to exceed $38,784 per annum; a Manager, Educational Services, at not to exceed $38,784 per annum in lieu of an Office Systems Supervisor at not to exceed $32,522 per annum; a Manager, Micrographics Systems, at not to exceed $36,360 per annum in lieu of a Micrographics Supervisor at not to exceed $27,270 per annum; a Computer Output Microfilm Operator at not to exceed $14,948 per annum; a Camera Operator at not to exceed $14,544 per annum; a Senior Network Technician at not to exceed $29,896 per annum; a Network Technician at not to exceed $26,260 per annum; a Quality Control Specialist at not to exceed $15,352 per annum; a Communications Software Specialist at not to exceed $35,148 per annum; and an Office Manager at not to exceed $17,776 per annum: *Provided,* That, effective on the first day of the first month following the date of

enactment of this Act, the position of Mail Supervisor at not to exceed $15,756 per annum, the position of Audio Engineer at not to exceed $16,968 per annum, and two positions of Teletype Operator at not to exceed $14,140 per annum each, are hereby abolished: *Provided further,* That the Sergeant at Arms and Doorkeeper is authorized to undertake minor reorganizations and make associated position, title, and compensation changes with respect to not more than ten positions, if and to the extent that such reorganizations do not result in any additional number of positions funded from amounts appropriated for the "Office of Sergeant at Arms and Doorkeeper,": *Provided further,* That not to exceed $45,000 of the amount appropriated for the Office of Sergeant at Arms and Doorkeeper may be used to employ special deputies.

Inaugural ceremonies.

SEC. 111. There shall be available for construction of platform and seating stands, for refurbishing the Capitol Building, and for salaries and expenses of conducting the inaugural ceremonies of the President and Vice President of the United States, January 20, 1981, in accordance with such program as may be adopted by the joint committee authorized by concurrent resolution of the Senate and House of Representatives, $463,000, to be paid from the contingent fund of the Senate from funds appropriated or otherwise made available under the heading "Miscellaneous Items", and to remain available through September 30, 1981. Such moneys as may be received by donation or otherwise for use in the preparations for such inaugural ceremonies shall be deposited in the Treasury, shall be credited to the appropriation for "Miscellaneous Items", and shall be available for expenditure in like manner and for the same purposes as funds which are appropriated under the preceding sentence.

SEC. 112. (a) The unexpended balance on February 28, 1981, of the funds appropriated under the heading "Committee Employees" in the appropriations for the Senate in any appropriation Act for any fiscal year shall be transferred to and merged with the funds appropriated under the heading "Inquiries and Investigations" in the contingent fund of the Senate.

(b) Effective as of the close of February 28, 1981—

(1) paragraphs (1) and (2) of section 105(e) of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61-1(e)), are repealed, and paragraph (2) of section 105(d) of such Act is amended by striking out "subsection (e)(1)" in the second sentence and inserting in lieu thereof "that portion of subsection (e)(3) preceding subparagraph (A)";

(2) the first proviso under the heading "Committee Employees" in the appropriations for the Senate in the Legislative Branch Appropriation Act, 1974 (87 Stat. 529), is repealed; and

(3) clause (2) of the last paragraph under the heading "Contingent Expenses of the Senate" appearing under the heading "SENATE" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 46a-1), is amended by striking out "committees and officers of the Senate" and inserting in lieu thereof "officers of the Senate and the Conference of the Majority and the Conference of the Minority of the Senate".

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Frances Reid Slack, widow of John M. Slack, late a Representative from the State of West Virginia, $60,663.

CONTINGENT EXPENSES OF THE HOUSE

ALLOWANCES AND EXPENSES

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-86, $1,000,000 are rescinded. 93 Stat. 656.

ARCHITECT OF THE CAPITOL

CAPITOL BUILDINGS AND GROUNDS

CAPITOL GROUNDS

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-86, made available until expended, $1,792,000 are rescinded.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For an additional amount for "Congressional printing and binding," $4,578,000, fiscal year 1980: *Provided,* That this appropriation shall not be available for printing and binding part 2 of the Annual Report of the Secretary of Agriculture (known as the Yearbook of Agriculture): *Provided further,* That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

PRINTING AND BINDING

For an additional amount for "Printing and binding," $5,295,000, fiscal year 1980: *Provided,* That this appropriation shall not be available for printing and binding part 2 of the Annual Report of the Secretary of Agriculture (known as the Yearbook of Agriculture): *Provided further,* That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-86, $500,000 are rescinded.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

93 Stat. 656.

Of the amounts appropriated in Public Law 96-86 for the United States House of Representatives for "Committee employees", such amounts as are deemed necessary for the payment of salaries under this head may be transferred among "Special and select committees" and "Allowances and expenses", upon the approval of the Committee on Appropriations of the House of Representatives.

Of the amounts appropriated in Public Law 96-86 for the United States House of Representatives for "Allowances and expenses", such amounts as are deemed necessary for the payment of salaries and expenses under this head may be transferred among "Special and select committees" and "Committee employees", upon the approval of the Committee on Appropriations of the House of Representatives.

Of the amounts appropriated in Public Law 96-86 for the United States House of Representatives for "Special and select committees", such amounts as are deemed necessary for the payment of salaries and expenses under this head may be transferred among "Committee employees" and "Allowances and expenses", upon the approval of the Committee on Appropriations of the House of Representatives.

Not to exceed $750,000 of the unobligated balance of that part of the appropriation "Salaries and expenses, Library of Congress" for the fiscal year 1980, for moving costs to the James Madison Memorial Building, is hereby continued available until September 30, 1981.

CHAPTER XI

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

(TRANSFER OF FUNDS)

For an additional amount for "Military construction, Army, 1980/1984", $1,000,000, which shall be derived by transfer from funds provided for NATO infrastructure, "Military construction, Defense Agencies, 1980/1984", to remain available until September 30, 1984: *Provided,* That the limitation on the amount available for study, planning, design, architect and engineer services is increased by $1,000,000.

MILITARY CONSTRUCTION, NAVY

(TRANSFER OF FUNDS)

For an additional amount for "Military construction, Navy, 1980/1984", $21,500,000, of which $12,000,000 shall be derived by transfer from funds appropriated for the Culebra Weapons Range by Public Law 93-194 (87 Stat. 766), to remain available until September 30, 1984: *Provided,* That the limitation on the amount available for study, planning, design, architect and engineer services is increased by $14,000,000.

MILITARY CONSTRUCTION, AIR FORCE

(TRANSFER OF FUNDS)

For an additional amount for "Military construction, Air Force, 1980/1984", $7,000,000, of which $4,000,000 shall be derived by transfer from funds provided for NATO infrastructure, "Military construction, Defense Agencies, 1980/1984"; and $3,000,000 from funds appropriated for the high energy laser research facility at White Sands, New Mexico, to remain available until September 30, 1984: *Provided,* That the limitation on the amount available for study, planning, design, architect and engineer services is increased by $7,000,000.

FAMILY HOUSING, DEFENSE

(TRANSFER OF FUNDS)

For an additional amount for "Family housing, Defense", $14,000,000, which shall be derived by transfer from "Aircraft procurement, Air Force, 1978/1980". The limitation for Department of Defense, operation, maintenance, is increased by $14,000,000.

ADMINISTRATIVE PROVISIONS

None of the funds available to the Department of Defense for military construction during the current fiscal year may be obligated for projects under the authority of section 402 of the Military Construction Authorization Act, 1980 or similar provisions in prior-year military construction authorization acts until twenty-one days have passed after the Secretary of Defense has notified the Committees on Appropriations of the Senate and the House of Representatives of the purpose, the estimated cost of construction for which these funds are to be used under such authorities, and the justification for invoking the section 402 or similar authority. 93 Stat. 939.

Funds appropriated for "Military construction, Defense Agencies", in the Military Construction Appropriation Act, 1980, shall remain available until September 30, 1984.

CHAPTER XII

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $11,534,000.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For an additional amount for "Emergencies in the Diplomatic and Consular Service", $4,300,000, of which not to exceed $1,800,000 may be used to liquidate obligations incurred in prior years: *Provided,* That all obligations incurred in anticipation of this appropriation are hereby ratified and confirmed if otherwise in accordance with provisions of law.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For an additional amount for "Payment to the Foreign Service retirement and disability fund", $4,177,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Contributions to international organizations", $7,600,000.

MISSIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Missions to international organizations", $418,000.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses, general legal activities", $825,000, of which $745,000 shall be derived by transfer from Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

SALARIES AND EXPENSES, ANTITRUST DIVISION

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses, Antitrust Division", $4,233,000 of which $233,000 shall be derived by transfer from Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS AND MARSHALS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses, United States Attorneys and Marshals", $16,680,000 of which $2,008,000 shall be derived by transfer from Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

FEES AND EXPENSES OF WITNESSES

(TRANSFER OF FUNDS)

For an additional amount for "Fees and expenses of witnesses", $846,000 to be derived by transfer from Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $8,336,000, of which $7,648,000 shall be derived by transfer from the appropriation under the heading Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $15,000,000, of which $3,000,000 shall be derived by transfer from the appropriation under the heading Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance". The number of vehicles which may be purchased for police-type use is increased to four hundred sixty-one, of which three hundred fifty-eight shall be for replacement only.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $2,362,000, to be derived by transfer from the appropriation under the heading Office of Justice Assistance, Research, and Statistics, "Law enforcement assistance".

OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

LAW ENFORCEMENT ASSISTANCE

(TRANSFER OF FUNDS)

For an additional amount for "Law enforcement assistance", $7,000,000, to be derived by transfer from Federal Prison System, "Salaries and expenses": *Provided,* That such sum shall be available only for the Technical Assistance Program in order to fund additional security necessary for the National Political Conventions.

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-68, making appropriations for the Department of Justice for fiscal year 1980, and other appropriations Acts in previous years, $4,439,446 are rescinded. 93 Stat. 422.

GENERAL PROVISION—DEPARTMENT OF JUSTICE

SEC. 203. Sums appropriated by this Act for the Department of Justice may be used for expenses for travel and transportation of persons, and for transportation of things, as may be necessary for the investigation and prosecution of cases, the apprehension and retention of prisoners, and deportation activities, without regard to any restriction or limitation on the availability of sums for such expenses, unless legislation containing such a restriction or limitation is enacted after the date of enactment of this Act which specifically refers to this section.

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

U.S. Olympic Committee.
19 USC 2171 note.
36 USC 371 note.
92 Stat. 1603.

For expenses necessary to carry out the provisions of Reorganization Plan No. 3 of 1979, $200,000. For expenses necessary to carry out the provisions of Public Law 95-606 and Public Law 95-482, $4,000,000, to be available immediately for grants to the United States Olympic Committee and $6,000,000 to become available upon a determination by the Secretary of Commerce that the United States Olympic Committee has collected $8,000,000 from non-Federal sources after May 15, 1980, and to remain available until expended: *Provided,* That any grant from the $6,000,000 provided above which is made to the Committee after the Secretary's determination shall not exceed one-half of additional funds collected from non-Federal sources. For the purpose of determining the amount of funds collected from non-Federal sources with respect to any grant pursuant to this appropriation, the Secretary may consider pledges of funds to be collected if pledged in accordance with procedures established by the Secretary. No portion of the funds appropriated hereunder shall be used (except as determined by the Secretary to be in the national interest) for the financing of programs conducted by, and none of the national governing body authority specified in section 203 of Public Law 95-606 as hereby amended shall be exercised by, a national governing body member of the Committee for a particular sport, when another amateur sports organization has been declared (pursuant to binding arbitration proceedings prescribed by the organic documents of the Committee) entitled to replace such national governing body as the member of the Committee for that sport.

36 USC 393.

PARTICIPATION IN UNITED STATES EXPOSITIONS

For necessary expenses for designing, constructing, and operating a Federal Pavilion in the Knoxville International Energy Exposition, $20,800,000, to remain available through September 30, 1984, including not to exceed $12,000 for entertainment of officials of other countries when specifically authorized by the Commissioner General during the period ending November 15, 1982: *Provided,* That no additional Federal funds shall be made available for this purpose.

ECONOMIC DEVELOPMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $40,000,000: *Provided,* That not to exceed $300,000 may be advanced to the Small Business Administration for processing of loan applications: *Provided further,* That these funds may also be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976. 42 USC 6701.

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic development assistance programs", $5,000,000, to remain available until September 30, 1981, notwithstanding the provisions of section 105 of Public Law 96-86 and section 105 of Public Law 96-123. 93 Stat. 660. 93 Stat. 926.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For an additional amount for "Operations and administration", $1,200,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $1,500,000, to remain available until expended.

COASTAL ZONE MANAGEMENT

For an additional amount for "Coastal zone management", $5,250,000, to remain available until expended.

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $930,000, to be derived from the receipts collected pursuant to that Act, to remain available until expended. 22 USC 1971 note.

COASTAL ENERGY IMPACT FUND

(RESCISSION)

Of the funds appropriated under this head in Public Law 95-86, making appropriations for the Department of Commerce for fiscal year 1978, $35,400,000 are rescinded. 93 Stat. 656.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,000,000.

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES (LIQUIDATION OF CONTRACT AUTHORITY)

For an additional amount for "Operating-differential subsidies", $44,307,000, to remain available until expended.

OPERATIONS AND TRAINING

For an additional amount for "Operations and training", $1,174,000, to remain available until expended.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

PRETRIAL SERVICES AGENCIES

For an additional amount for salaries and expenses of Pretrial Services Agencies established pursuant to title II of the Speedy Trial Act of 1974, including support of services to defendants released pending trial, $900,000, to be derived by a transfer from the appropriation "Space and facilities, the Judiciary".

18 USC 3152.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-68, making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for fiscal year 1980, $720,000 are rescinded.

93 Stat. 430.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For an additional amount for "Board for International Broadcasting", including grants to RFE/RL, Inc., $5,000,000, to remain available until expended, all of which shall be available for fluctuations in foreign currency exchange rates in accordance with the provisions of section 8 of the Board for International Broadcasting Act of 1973, as amended.

22 USC 2877.

DEPARTMENT OF THE TREASURY

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

CHRYSLER CORPORATION LOAN GUARANTEE PROGRAM

There are appropriated such sums as may be necessary for payment of principal and interest on loans guaranteed pursuant to the Chrysler Corporation Loan Guarantee Act of 1979 and in default, to be available immediately and to remain available until December 31, 1991. 15 USC 1861 note.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

The limitation on land and structures under this heading in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1980 is increased to $1,125,000; and the limitation on improvement and care of grounds and repair to buildings under this heading in said Act is increased to $100,000. 93 Stat. 431.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,000,000.

INTERNATIONAL COMMUNICATION AGENCY

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $6,000,000.

SMALL BUSINESS ADMINISTRATION

DISASTER LOAN FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the "Disaster Loan Fund", $1,177,000,000: *Provided,* That $1,163,000,000 of such amount shall be available without fiscal year limitation and $14,000,000 of such amount shall be available without fiscal year limitation and may be transferred to "Salaries and expenses".

CHAPTER XIII

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

TRANSPORTATION PLANNING, RESEARCH AND DEVELOPMENT

For an additional amount for "Transportation Planning, Research and Development," to remain available until expended, $350,000.

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating Expenses", $45,100,000.

RETIRED PAY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Retired Pay", $7,500,000, and, in addition, the Secretary of Transportation, subject to the prior approval of the House and Senate Committees on Appropriations, is authorized to transfer an amount not to exceed $1,500,000 to the U.S. Coast Guard appropriation Retired Pay from any available appropriation to meet additional Retired Pay costs which may be increased in fiscal year 1980.

POLLUTION FUND

For an additional amount for the "Pollution Fund", $20,500,000, to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

OPERATION AND MAINTENANCE, METROPOLITAN WASHINGTON AIRPORTS

For an additional amount for "Operation and Maintenance, Metropolitan Washington Airports," $1,162,000: *Provided,* That there may be credited to this appropriation, funds received from air carriers, concessionaires and non-Federal tenants to cover utility and fuel costs in excess of $5,673,000.

FEDERAL HIGHWAY ADMINISTRATION

HIGHWAY BEAUTIFICATION

The appropriation "Surface Transportation, energy and safety" contained in the Department of Transportation and Related Appropriation Act, 1980, is amended by deleting "section 131(j) of title 23, U.S.C., $8,500,000" and inserting in lieu thereof "section 131 of title 23 U.S.C. and section 104(a)(11) of the Surface Transportation Assistance Act of 1978, to remain available until expended, $8,500,000, of which not to exceed $6,500,000 shall be available for section 131(j)".

93 Stat. 1027.

92 Stat. 2690.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION) (TRUST FUND)

For an additional amount for Federal-aid highways, $1,400,000,000, or so much as may be available in and derived from the Highway Trust Fund, to remain available until expended: *Provided,* That (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for fiscal year 1980 shall not exceed $7,800,000,000. This limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code.

(b) For fiscal year 1980, immediately upon enactment of this Act, the Secretary of Transportation shall control the obligation of such limitation by distribution of amounts of such limitation not obligated on the date of enactment of this Act in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to a State in fiscal year 1980 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States in such fiscal year; except that no State shall receive a distribution such that the total of amounts so distributed to such State and amounts obligated by such State on or before the date of enactment of this Act would exceed a distribution of such limitation made in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to such State in fiscal year 1980 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States in such fiscal year and the Secretary of Transportation shall not be required to cancel any obligations incurred on or before the date of enactment of this Act.

(c) Notwithstanding subsection (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State has indicated prior to April 2, 1980, its intention to lapse sums apportioned under subsection 104(b)(5)(A), title 23, United States Code; 23 USC 104.

(2) after August 15, 1980, revise a distribution made under subsection (b) in the event a State will not obligate the amount distributed during fiscal year 1980 and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during fiscal year 1980; and

(3) not distribute funds for administrative expenses and forest highways under such limitation.

(d) Notwithstanding any other provision of law, obligations authorized for carrying out the provisions of 23 U.S.C. 125 for the fiscal year ending September 30, 1980, are increased to $350,000,000. Such obligational authority is to remain available until September 30, 1982.

(e) The Congress disapproves the proposed deferral D80-61, relating to the Federal Highway Administration, Federal-aid highways, as set forth in the message of April 16, 1980, which was transmitted to the Congress by the President. This disapproval shall be effective upon the enactment into law of this bill.

CARPOOL/VANPOOL SUPPORT PROGRAM

For an additional amount for carrying out section 126(e) of Public Law 95-599, $3,000,000, to be derived from the Highway Trust Fund, and to remain available until expended. Grants and loans. 92 Stat. 2705.

FEDERAL RAILROAD ADMINISTRATION

RAIL LABOR ASSISTANCE

For payment to provide supplemental unemployment insurance, $5,000,000 under section 10; and for new career training assistance, $1,500,000, under section 12, of the Milwaukee Railroad Restructuring Act; together with $61,600,000 to become available for obligation on October 1, 1980, for payment of benefits under section 509 of the Regional Rail Reorganization Act of 1973 as amended: *Provided,* That notwithstanding any other provision of law none of the funds appropriated in this or any previous Act may be made available to Conrail or any of it subsidiaries for any employee protection payments, other than those specified in title VI of H.R. 7235 as reported by the Subcommittee on Transportation and Commerce of the Interstate and Foreign Commerce Committee, which are identical or similar to those previously authorized by title V of the Regional Rail Reorganization Act of 1973 to be paid by Conrail to current Conrail employees and Conrail shall not be liable to make any such employee protection payments other than those specified in title VI of H.R. 7235 as reported by the Subcommittee on Transportation and Commerce of the Interstate and Foreign Commerce Committee: *Provided further,* That this limitation shall not apply to those payments made to employees in accordance with the terms of title VI of H.R. 7235 as reported by the Subcommittee on Transportation and Commerce of the Interstate and Foreign Commerce Committee: *Provided further,* That the effective date of this limitation is the first day of the month following enactment of this bill.

45 USC 909.
45 USC 911.
45 USC 779.
45 USC 771.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Provided, That notwithstanding any other provision of law the funds appropriated to the National Railroad Passenger Corporation for Capital Improvements shall become available only as they are required to make payments to vendors for capital equipment deliveries and services delivered during the balance of fiscal year 1980.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

(RESCISSION)

Of the funds authorized to be expended under this head by the Department of Transportation and Related Agencies Appropriation Act, 1980, $60,000,000 are rescinded: *Provided,* That of the funds appropriated under section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976, an additional $15,000,000 may be used for transaction assistance in accordance with section 505(h)(1)(A) and (B), as amended by the Rock Island Railroad Transition and Employee Assistance Act, except that the dollar limitations contained in those subsections shall not apply to the $15,000,000: *Provided further,* That the $15,000,000 shall be available only upon the enactment of authorizing legislation and shall not be expended prior to October 1, 1980.

93 Stat. 1031.
45 USC 825.
Ante, p. 404.

URBAN MASS TRANSPORTATION ADMINISTRATION

URBAN DISCRETIONARY GRANTS

For an additional amount for "Urban discretionary grants", $330,000,000, to remain available until September 30, 1983.

RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS AND UNIVERSITY RESEARCH AND TRAINING

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves the proposed deferral D80-64 relating to the Urban Mass Transportation Administration, Research, Development, and Demonstrations and University Research and Training, as set forth in the message of April 16, 1980, which was transmitted to the Congress by the President. This disapproval shall be effective upon the enactment into law of this bill.

INTERSTATE TRANSFER GRANTS

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves the proposed deferral D80-72 relating to Urban Mass Transportation Administration, Interstate Transfer Grants, as set forth in the message of June 18, 1980, which was transmitted to the Congress by the President. This disapproval shall be effective upon the enactment into law of this bill.

TRANSPORTATION RESEARCH AND DEVELOPMENT

(LIMITATION ON OBLIGATIONS)

None of the funds provided in this Act or any previous Appropriation Act shall be available for the execution of research and development programs the obligations in fiscal year 1980 for which are in excess of 95 per centum of the amounts estimated to be obligated for research and development in fiscal year 1980 as reflected in the January, 1980 budget document for "Coast Guard, research, development, test, and evaluation; Federal Aviation Administration, facilities, engineering and development and research, engineering and development; Federal Highway Administration, Limitation on general operating expenses, highway safety research and development and motor carrier safety; National Highway Traffic Safety Administration, operations and research; Federal Railroad Administration, railroad research and development; Urban Mass Transportation Administration, research, development, and demonstrations and university research and training (including service and methods demonstrations); Research and Special Programs Administration, research and special programs."

RELATED AGENCIES

CIVIL AERONAUTICS BOARD

PAYMENTS TO AIR CARRIERS

For an additional amount for payments to air carriers of so much of the compensation fixed and determined by the Civil Aeronautics Board under section 406 and section 419 of the Federal Aviation Act of 1958, as amended, and the Airline Deregulation Act of 1978, as is payable by the Board, $19,669,000, to remain available until expended.

49 USC 1376, 1389. 49 USC 1301 note.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

INVESTMENT IN FUND ANTICIPATION NOTES

(RESCISSION)

Of the funds appropriated under this head in the Department of Transportation and Related Agencies Appropriation Act, 1980, $60,000,000 are rescinded.

93 Stat. 1035.

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

For an additional amount for "Administrative expenses," $4,100,000, to remain available through September 30, 1981.

CHAPTER XIV

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-74, making appropriations for the Treasury Department for fiscal year 1980, $250,000 are rescinded.

93 Stat. 559.

INTERNATIONAL AFFAIRS

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-74, making appropriations for the Treasury Department for fiscal year 1980, $250,000 are rescinded.

BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

SALARIES AND EXPENSES

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-74, making appropriations for the Treasury Department for fiscal year 1980, $322,000 are rescinded. 93 Stat. 560.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $650,000 to be used for processing Cuban refugees: *Provided further,* That funds expended for overtime pay to Customs officers resulting from the situation involving aliens attempting to reach the United States from Cuba shall not be counted against the overtime pay limitation included in Public Law 96-74. Notwithstanding any other provision of law, the proceeds of customs duties collected in the Virgin Islands less the cost of collecting all said duties shall, effective for fiscal years beginning after September 30, 1979, be covered into the Treasury of the Virgin Islands, and shall be available for expenditure as the Legislator of the Virgin Islands may provide. 48 USC 1642a.

BUREAU OF THE MINT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds appropriated under this head in Public Law 96-74, making appropriations for the Treasury Department for fiscal year 1980, $800,000 are rescinded.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For an additional amount for "Administering the public debt", $22,000,000.

INTERNAL REVENUE SERVICE

PAYMENT WHERE ENERGY CREDIT EXCEEDS LIABILITY FOR TAX

For an additional amount for "Payment where energy credit exceeds liability for tax", $1,000,000.

GENERAL PROVISION

(INCLUDING TRANSFER OF FUNDS)

SEC. 1. Any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation only to the extent necessary for increased pay costs authorized by or pursuant to law:

Provided, however, That no funds may be transferred into or out of the account entitled "Payment where energy credit exceeds liability for tax": *Provided further,* That none of the funds made available pursuant to the provisions of this Act shall be used to formulate or carry out any rule, policy, procedure, guideline, regulation, standard, or measure which would cause the loss of tax-exempt status to private, religious, or church-operated schools under section 501(c)(3) of the Internal Revenue Code of 1954 unless in effect prior to August 22, 1978.

26 USC 501.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For additional amount for "Salaries and expenses", $9,725,000.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON WAGE AND PRICE STABILITY

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $500,000.

INDEPENDENT AGENCIES

COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES

SALARIES AND EXPENSES

For necessary expenses of the Commission on Executive, Legislative, and Judicial Salaries, authorized by section 225 of the Postal Revenue and Federal Salary Act of 1967 (81 Stat. 642-645), $160,000, to remain available until expended. This appropriation shall be made available only upon enactment into law of authorizing legislation.

2 USC 351-361.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

In addition to the aggregate amount heretofore made available for real property management and related activities in fiscal year 1980, $109,660,000 shall be available for such purposes in the aggregate amount of $1,521,928,000, of which (1) not to exceed $100,589,000 shall remain available until expended for construction as follows:

New construction:

Illinois: Chicago, Social Security Administration Program Center (claim), $600,000;

Louisiana: New Orleans, Customhouse, $914,000;

New York: Queens-Jamaica Federal Office Building, $92,765,000;

Florida: Miami, Courthouse Annex, $6,310,000;

Provided, That the immediately foregoing limits of costs may be exceeded to the extent that savings are effected in such other projects, but by not more than 10 per centum: *Provided further,* That all funds for direct construction projects shall expire on September

30, 1981, except funds for projects as to which funds have been obligated in whole or in part prior to such date; (2) not to exceed $9,071,000, which shall remain available until expended, for alterations and major repairs as follows:

Arizona: Phoenix, Federal building and court house, $630,000;

Illinois: Chicago, Federal office building, $3,220,000;

West Virginia: Huntington, Federal Building and courthouse, $2,305,000;

California: Laguna Niguel, Federal office building, $2,916,000: *Provided,* That funds in the Federal Buildings Fund for Alterations and Major Repairs shall, for prospectus projects, be limited to the amount by project shown in the budget justification therefor, except each project may be increased by an amount not to exceed 10 per centum: *Provided further,* That all funds for Alterations and Major Repair prospectus projects shall expire on September 30, 1981, except funds for projects as to which funds have been obligated in whole or in part prior to such date: *Provided,* That any revenues and collections and any other sums accruing to this fund during fiscal year 1980, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6), in excess of $1,521,928,000 shall remain in the Fund and shall not be available for expenditure except as authorized in Appropriation Acts.

NATIONAL ARCHIVES AND RECORDS SERVICE

OPERATING EXPENSES

For an additional amount for "Operating expenses", $750,000.

REFUNDS UNDER RENEGOTIATION ACT

For necessary expenses to carry out section 201(f) of the Renegotiation Act of 1951, 50 U.S.C. App. 1231(f), for fiscal year 1980, $2,500,000 to remain available until expended.

GENERAL PROVISIONS—GENERAL SERVICES ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

SEC. 1. Notwithstanding section 322 of the Act of June 30, 1932, as amended (U.S.C. 40 278a), funds made available by this or any other Act to the General Services Administration for the payment of rent shall be available for the purpose of leasing space at fair rental value after August 1, 1978, at 555 West 57th Street, New York City, New York, upon a determination by the Administrator of General Services that execution of a lease is advantageous to the Government in terms of economy and efficiency; and that the total cost to the Government for the expected life of the lease is less than the cost of alternative space. 40 USC 278a.

SEC. 2. Appropriations made available for fiscal year 1980 for General Services Administration activities (excluding the new obligational authority limitation for the Federal Buildings Fund) may be transferred between such appropriations only to the extent necessary for increased pay costs authorized by or pursuant to law, notwithstanding the provision in the appropriation language for Indian Trust Accounting "That none of these funds shall be available for transfer to any other account".

SEC. 3. Funds in the Federal Buildings Fund made available for fiscal year 1980 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for increased pay costs authorized by or pursuant to law and to the extent necessary for mandatory program requirements.

OFFICE OF PERSONNEL MANAGEMENT

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For an additional amount for "Payment to Civil Service Retirement and Disability Fund", $376,754,000.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $500,000.

OFFICE OF THE SPECIAL COUNSEL

SALARIES AND EXPENSES

(RESCISSION)

93 Stat. 572. Of the funds appropriated under this head in Public Law 96-74, the Treasury, Postal Service, and General Government Appropriations Act, 1980, $2,000,000 are rescinded.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

The limitation on obligations for travel and transportation of persons under the salaries and expenses fund is increased to $750,000.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

In addition to the amount made available in the appropriation under this head in the Independent Agencies Appropriations Act, 1980, for expenses of travel, $46,000 shall be available in that appropriation for such expenses. 93 Stat. 572.

TITLE II—INCREASED PAY COSTS FOR THE FISCAL YEAR 1980

For additional amounts for appropriation for the fiscal year 1980 for increased pay costs authorized or pursuant to law as follows:

LEGISLATIVE BRANCH

SENATE

"Salaries, officers and employess", $6,700,000;
"Office of the Legislative Counsel of the Senate", $36,000;
"Senate policy committees", $100,000;

"Inquiries and investigations", $1,000,000;
"Folding documents", $8,000;

HOUSE OF REPRESENTATIVES

"Compensation of Members", $1,523,000;
"House leadership offices", $142,800;
"Salaries officers and employees", $1,949,600;
"Committee employees", $1,700,000;
"Committee on Appropriations (studies and investigations)", $136,000;
"Office of the Law Revision Counsel", $28,000;
"Office of the Legislative Counsel", $99,000;
"Members' clerk hire", $8,500,000;
"Allowances and expenses", $1,029,000;
"Special and select committees", $2,055,000;

JOINT ITEMS

"Joint Committee on Taxation", $64,000;
"Capitol Guide Service", $42,000;

OFFICE OF TECHNOLOGY ASSESSMENT

"Salaries and expenses", $199,000;

CONGRESSIONAL BUDGET OFFICE

"Salaries and expenses", $269,000: *Provided,* That none of the funds provided or made available herein shall be available for salaries and expenses of any employee of the Congressional Budget Office in excess of two hundred and eighteen staff employees;

ARCHITECT OF THE CAPITOL

(TRANSFER OF FUNDS)

Office of the Architect of the Capitol: "Salaries", $172,000, to be derived by transfer from the appropriation "House office buildings" by release of that amount withheld from obligation by the Architect of the Capitol pursuant to section 311 of Public Law 95-391; 92 Stat. 790.
"Capitol buildings", $308,000, to be derived by transfer from the appropriation "House office buildings" by release of that amount withheld from obligation by the Architect of the Capitol pursuant to section 311 of Public Law 95-391;
"Capitol grounds", $107,000, to be derived by transfer from the appropriation "House office buildings" by release of that amount withheld from obligation by the Architect of the Capitol pursuant to section 311 of Public Law 95-391;
"Senate office buildings", $450,000;
"Senate garage", $10,000;
"House office buildings", $632,000, to be derived by release of that amount withheld from obligation by the Architect of the Capitol pursuant to section 311 of Public Law 95-391;

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BOTANIC GARDEN

(TRANSFER OF FUNDS)

Botanic Garden: "Salaries and expenses", $70,000, to be derived by transfer from the appropriation "House office buildings" by release of that amount withheld from obligation by the Architect of the Capitol pursuant to section 311 of Public Law 95-391;

92 Stat. 790.

LIBRARY OF CONGRESS

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses", $1,182,000, and in addition, $447,000 to be derived by release of that amount withheld from obligation by the Librarian of Congress pursuant to section 311 of Public Law 95-391; and $800,000 to be derived by transfer from the appropriation "Furniture and furnishings" by release of that amount withheld from obligation by the Librarian of Congress pursuant to section 311 of Public Law 95-391;

Copyright Office: "Salaries and expenses", $381,000, provided that an additional amount of $400,000, to be derived from the funds credited to this appropriation during fiscal year 1980 under section 708(c) of title 17, United States Code, shall be available for obligation during such fiscal year;

Congressional Research Service: "Salaries and expenses", $800,000;

Books for the blind and physically handicapped: "Salaries and expenses", $163,000;

GENERAL ACCOUNTING OFFICE

"Salaries and expenses", $4,000,000;

GOVERNMENT PRINTING OFFICE

Office of the Superintendent of Documents, "Salaries and expenses", $219,000;

THE JUDICIARY

(TRANSFERS OF FUNDS)

SUPREME COURT OF THE UNITED STATES

"Salaries and expenses", $113,000, to be derived by transfer from Courts of Appeals, District Courts, and Other Judicial Services, "Space and facilities";

"Care of building and grounds", $25,000, to be derived by transfer from Courts of Appeals, District Courts, and Other Judicial Services, "Space and facilities";

COURT OF CUSTOMS AND PATENT APPEALS

"Salaries and expenses", $91,000, to be derived by transfer from Courts of Appeals, District Courts, and Other Judicial Services, "Bankruptcy Courts, Salaries and Expenses";

CUSTOMS COURT

"Salaries and expenses", $91,000, to be derived by transfer from Courts of Appeals, District Courts, and Other Judicial Services, "Bankruptcy Courts, Salaries and Expenses";

COURT OF CLAIMS

"Salaries and expenses", $239,000, to be derived by transfer from Courts of Appeals, District Courts, and Other Judicial Services, "Bankruptcy Courts, Salaries and Expenses";

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

"Salaries of Judges", $3,600,000, to be derived by transfer from "Space and facilities";

"Salaries of supporting personnel", $8,000,000, to be derived by transfer from "Space and facilities";

"Salaries and expenses of Magistrates", $800,000, to be derived by transfer from "Bankruptcy Courts, Salaries and Expenses";

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

"Salaries and expenses", $650,000, to be derived by transfer from Courts of Appeals, District Courts, and Other Judicial Services, "Bankruptcy Courts, Salaries and Expenses";

FEDERAL JUDICIAL CENTER

"Salaries and expenses", $117,000, to be derived by transfer from Courts of Appeals, District Courts, and Other Judicial Services, "Bankruptcy Courts, Salaries and Expenses";

EXECUTIVE OFFICE OF THE PRESIDENT

WHITE HOUSE OFFICE

"Salaries and expenses", $731,000;

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

"Operating expenses", $126,000;

SPECIAL ASSISTANCE TO THE PRESIDENT

"Salaries and expenses", $58,000;

COUNCIL OF ECONOMIC ADVISERS

"Salaries and expenses", $27,000;

COUNCIL ON WAGE AND PRICE STABILITY

"Salaries and expenses", $464,000;

DOMESTIC POLICY STAFF

"Salaries and expenses", $111,000;

NATIONAL SECURITY COUNCIL

"Salaries and expenses", $88,000;

OFFICE OF ADMINISTRATION

"Salaries and expenses", $142,000;

OFFICE OF MANAGEMENT AND BUDGET

"Salaries and expenses", $1,073,000;

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

"Salaries and expenses", $226,000;

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL DEVELOPMENT ASSISTANCE

"Operating expenses of the International Development Cooperation Agency," $8,587,000; of which not to exceed $4,594,000 shall be for operating expenses, Agency for International Development-Washington, and $106,000 shall be for operating, administrative expenses, International Development Cooperation Agency;

PEACE CORPS

"Operating expenses", $745,000;

DEPARTMENT OF AGRICULTURE

(INCLUDING TRANSFERS OF FUNDS)

"Office of the Secretary", $200,000;
"Departmental Administration", $800,000;
"Working Capital Fund", for an additional amount for obligations chargeable against the working capital fund, $983,000;
"Office of the Inspector General", $1,000,000 and in addition $477,000 shall be derived by transfer from the appropriation "Food stamp program" and merged with this appropriation;
"Office of the General Counsel", $500,000;

SCIENCE AND EDUCATION ADMINISTRATION

"Agricultural research", $2,750,000;
"Technical information systems", $150,000;
"Economics, Statistics, and Cooperatives Service", $1,875,000;

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses", $5,000,000: In addition, not to exceed an additional $3,534,000 may be transferred to and merged with this appropriation from the Commodity Credit Corporation fund;

FEDERAL CROP INSURANCE CORPORATION

"Federal Crop Insurance Corporation", $1,012,000 for administrative and operating expenses which may be paid from premium income;

RURAL ELECTRIFICATION ADMINISTRATION

"Salaries and expenses", $600,000;

FARMERS HOME ADMINISTRATION

"Salaries and expenses", $5,500,000;

SOIL CONSERVATION SERVICE

"Conservation operations", $7,200,000;
"Watershed planning", $500,000;
"Animal and Plant Health Inspection Service", $4,000,000;
"Federal Grain Inspection Service", $900,000;

AGRICULTURAL MARKETING SERVICE

"Marketing services", $1,700,000;

FOOD SAFETY AND QUALITY SERVICE

"Food Safety and Quality Service", $12,950,000;
"Funds for strengthening markets, income and supply (section 32)", (increase of $259,000 in the limitation, "marketing agreements and orders");

FOREST SERVICE

"Forest Management, protection and utilization", $23,487,000 of which $325,000 for forest insect and disease activities, $38,000 for cooperative law enforcement, $1,742,000 for maintenance of forest development roads and trails, and $1,731,000 for reforestation and timber stand improvement shall remain available for obligations until September 30, 1981;
"Construction and land acquisition", $5,382,000, to remain available until expended;
"Youth Conservation Corps", $797,000;

DEPARTMENT OF COMMERCE

GENERAL ADMINISTRATION

"Salaries and expenses", $900,000;

BUREAU OF THE CENSUS

"Salaries and expenses", $1,600,000;
"Periodic censuses and programs", $34,400,000, to remain available until expended;

ECONOMIC AND STATISTICAL ANALYSIS

"Salaries and expenses", $550,000;

ECONOMIC DEVELOPMENT ADMINISTRATION

"Salaries and expenses", $900,000;

REGIONAL ACTION PLANNING COMMISSIONS

"Regional development programs", $25,000, to remain available until expended;

INTERNATIONAL TRADE ADMINISTRATION

"Operations and administration", $2,600,000, to remain available until expended;

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

"Operations, research, and facilities", $18,500,000, to remain available until expended;

"Coastal zone management", $200,000, to remain available until expended;

PATENT AND TRADEMARK OFFICE

"Salaries and expenses", $4,331,000;

SCIENCE AND TECHNICAL RESEARCH

"Scientific and technical research and services", $2,700,000, to remain available until expended, of which not to exceed $20,000 may be transferred to the "Working Capital Fund", National Bureau of Standards, for additional capital;

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

"Salaries and expenses", $361,000, to remain available until expended;

MARITIME ADMINISTRATION

"Operations and training", $1,133,000, to remain available until expended;

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

"Military personnel, Army", $597,100,000;
"Military personnel, Navy", $413,837,000;
"Military personnel, Marine Corps", $128,824,000;
"Military personnel, Air Force", $489,398,000;
"Reserve personnel, Army", $35,941,000;
"Reserve personnel, Navy", $17,377,000;
"Reserve personnel, Marine Corps", $4,949,000;
"Reserve personnel, Air Force", $11,853,000;
"National Guard personnel, Army", $52,800,000;
"National Guard personnel, Air Force", $19,760,000;

OPERATION AND MAINTENANCE

"Operation and maintenance, Army", $276,900,000;
"Operation and maintenance, Navy", $302,000,000;
"Operation and maintenance, Marine Corps", $15,700,000;
"Operation and maintenance, Air Force", $210,300,000;
"Operation and maintenance, Defense Agencies", $144,700,000;
"Operation and maintenance, Army Reserve", $12,800,000;
"Operation and maintenance, Navy Reserve", $3,100,000;
"Operation and maintenance, Marine Corps Reserve", $117,000;
"Operation and maintenance, Air Force Reserve", $9,200,000;
"Operation and maintenance, Army National Guard", $25,300,000;
"Operation and maintenance, Air National Guard", $23,700,000;
"National Board for the Promotion of Rifle Practice, Army", $14,000;
"Court of Military Appeals, Defense", $69,000;

DEPARTMENT OF DEFENSE—CIVIL

SOLDIERS' AND AIRMEN'S HOME

"Operation and maintenance", $745,000;

CORPS OF ENGINEERS—CIVIL

"Construction, general", $13,400,000, to remain available until expended;
"Operation and maintenance, general", $23,600,000, to remain available until expended;
"General expenses", $3,600,000;

DEPARTMENT OF EDUCATION

OFFICE OF CIVIL RIGHTS

"Salaries and expenses", $625,000;

DEPARTMENTAL MANAGEMENT

"Salaries and expenses", $5,200,000;

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

"Salaries and expenses", $8,500,000;

HEALTH SERVICES ADMINISTRATION

"Health services", $7,824,000;
"Indian health services", $8,335,000;

CENTER FOR DISEASE CONTROL

(TRANSFER OF FUNDS)

"Preventive health services", $4,333,000, to be derived from unobligated swine flu funds provided under Public Law 94-266; 90 Stat. 363.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

(TRANSFER OF FUNDS)

"Saint Elizabeth's Hospital", $4,000,000, to be derived by transfer from "Alcohol, Drug Abuse and Mental Health";

ASSISTANT SECRETARY FOR HEALTH

"Salaries and expenses", $1,161,000;

HEALTH CARE FINANCING ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

"Program management", $2,000,000, together with $3,000,000 to be derived by transfer from the "Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds";

SOCIAL SECURITY ADMINISTRATION

"Limitation on administrative expenses" (increase of $93,000,000 in the limitation on salaries and expenses paid from the trust funds);

OFFICE OF HUMAN DEVELOPMENT SERVICES

"Human development services", $1,877,000;

DEPARTMENTAL MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

"General departmental management", $3,785,000, of which $200,000 is to be derived by transfer from "Office for Civil Rights";
"Office of the Inspector General", $1,254,000;
"Office of Consumer Affairs", $43,000;

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MANAGEMENT AND ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses", $14,853,000, of which $11,845,000 shall be derived by transfer from various funds of the Federal Housing Administration;

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

"Management of lands and resources", $5,700,000;

WATER AND POWER RESOURCES SERVICE

"Operation and maintenance", $700,000: *Provided,* That funds in Public Law 96-69 for "Operation and maintenance" derived from the Colorado River Dam fund shall be reduced by $500,000 and funds derived from the Reclamation fund shall be increased by $500,000;

93 Stat. 444.

"General administrative expenses", $1,200,000;

HERITAGE CONSERVATION AND RECREATION SERVICE

"Salaries and expenses", $350,000;
"Land and water conservation fund", of the amount heretofore appropriated under this heading, an additional amount of $297,000 shall be available for administrative expenses of the Heritage Conservation and Recreation Service;

U.S. FISH AND WILDLIFE SERVICE

"Resource management", $5,000,000;

NATIONAL PARK SERVICE

"Operation of the National Park System", $7,000,000;
"John F. Kennedy Center for the Performing Arts", $100,000;

GEOLOGICAL SURVEY

"Surveys, investigations, and research", $10,500,000: *Provided*, That the amount which may be made available for cooperation with States and municipalities for water resources investigations is increased to $40,084,000;

BUREAU OF MINES

"Mines and minerals", $1,750,000;

BUREAU OF INDIAN AFFAIRS

"Operation of Indian programs", $10,500,000;

OFFICE OF TERRITORIAL AFFAIRS

"Administration of territories", $100,000;
"Trust Territory of the Pacific Islands", $100,000;

OFFICE OF THE SOLICITOR

"Salaries and expenses", $500,000;

OFFICE OF THE SECRETARY

"Departmental management", $1,500,000;

DEPARTMENT OF JUSTICE

(INCLUDING TRANSFERS OF FUNDS)

GENERAL ADMINISTRATION

"Salaries and expenses", $950,000, to be derived by transfer from Federal Prison System, "Buildings and facilities";

UNITED STATES PAROLE COMMISSION

"Salaries and expenses", $260,000, to be derived by transfer from Federal Prison System, "Buildings and facilities";

LEGAL ACTIVITIES

"Salaries and expenses, general legal activities", $5,528,000, to be derived by transfer from Federal Prison System, "Buildings and facilities";

"Salaries and expenses, Antitrust Division", $1,704,000, to be derived by transfer from Federal Prison System, "Buildings and facilities";

"Salaries and expenses, United States Attorneys and Marshals", $11,003,000, of which $4,899,000 shall be derived by transfer from Federal Prison System, "Buildings and facilities";

"Salaries and expenses, Community Relations Service", $220,000, to be derived by transfer from Federal Prison System, "Buildings and facilities";

FEDERAL BUREAU OF INVESTIGATION

"Salaries and expenses", $29,498,000;

IMMIGRATION AND NATURALIZATION SERVICE

"Salaries and expenses", $16,416,000, of which $5,389,000 shall be derived by transfer from Federal Prison System, "Buildings and facilities";

DRUG ENFORCEMENT ADMINISTRATION

"Salaries and expenses", $7,881,000, of which $1,077,000 shall be derived by transfer from Federal Prison System, "Buildings and facilities";

FEDERAL PRISON SYSTEM

"Salaries and expenses", $3,300,000, to be derived by transfer from "Buildings and facilities";

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

"Program administration", $3,787,000, together with not to exceed $1,465,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which $330,000 shall be for carrying into effect the provisions of 38 U.S.C. 2001-2003;

LABOR-MANAGEMENT SERVICES ADMINISTRATION

"Salaries and expenses", $2,223,000;

EMPLOYMENT STANDARDS ADMINISTRATION

"Salaries and expenses", $4,882,000, together with not to exceed $11,000 to be derived from the Special Fund in accordance with

sections 39(c) and 44(j) of the Longshoremen's and Harbor Workers' Compensation Act; 33 USC 939, 944.

"Black lung disability trust fund", $599,000 shall be available for transfer to Employment Standards Administration, Salaries and expenses, of which $290,000 shall be derived from amounts made available for transfer to Departmental Management, Salaries and expenses provided under this head in Public Law 96-123; 93 Stat. 923.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

"Salaries and expenses", $3,230,000;

MINE SAFETY AND HEALTH ADMINISTRATION

"Salaries and expenses", $2,890,000;

BUREAU OF LABOR STATISTICS

"Salaries and expenses", $862,000;

DEPARTMENTAL MANAGEMENT

"Salaries and expenses", $1,689,000, together with not to exceed $60,000 to be derived by transfer from the Employment Security Administration account, Unemployment Trust Fund;

DEPARTMENT OF STATE

(INCLUDING TRANSFERS OF FUNDS)

ADMINISTRATION OF FOREIGN AFFAIRS

"Salaries and expenses", $14,547,000, of which $11,349,000 shall be derived by transfer from "Contributions for international peacekeeping activities";

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

"Missions to international organizations", $356,000, to be derived by transfer from "Contributions for international peacekeeping activities";

INTERNATIONAL COMMISSIONS

"International Boundary and Water Commission, United States and Mexico: Salaries and expenses", $224,000, to be derived by transfer from "Contributions for international peacekeeping activities";

"American sections, international commissions", $71,000, to be derived by transfer from "Contributions for international peacekeeping activities";

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

"Salaries and expenses", $1,320,000;

"Limitation on Working Capital Fund" (increase of $650,000 in the limitation on Working Capital Fund);

COAST GUARD

"Operating expenses", $29,900,000;
"Reserve training", $1,600,000;

FEDERAL AVIATION ADMINISTRATION

"Operations", $88,000,000;
"Operation and maintenance, Metropolitan Washington Airports", $700,000;

FEDERAL HIGHWAY ADMINISTRATION

"Motor carrier safety", $400,000;
"Limitation on general operating expenses" (increase of $4,700,000 in the limitation on general operating expenses);

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

"Operations and research", $500,000 of which $200,000 shall be derived from the Highway Trust Fund;

FEDERAL RAILROAD ADMINISTRATION

"Office of the Administrator", $450,000;

URBAN MASS TRANSPORTATION ADMINISTRATION

"Administrative expenses", $740,000;

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

"Limitation on administrative expenses, Saint Lawrence Seaway Development Corporation" (increase of $30,000 in the limitation on administrative expenses);

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

"Research and special programs", $200,000;

OFFICE OF INSPECTOR GENERAL

"Salaries and expenses", $600,000 together with $300,000 derived from funds available under 23 U.S.C. 104(a) for payment of obligations;

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

"Salaries and expenses", $1,000,000;

FEDERAL LAW ENFORCEMENT TRAINING CENTER

"Salaries and expenses", $264,000;

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

"Salaries and expenses", $4,409,000;

UNITED STATES CUSTOMS SERVICE

"Salaries and expenses", $16,000,000;

BUREAU OF THE PUBLIC DEBT

"Administering the public debt", $2,616,000;

INTERNAL REVENUE SERVICE

"Salaries and expenses", $6,500,000;
"Taxpayer service and returns processing", $28,000,000;
"Examinations and appeals", $37,000,000;
"Investigation and collection", $24,710,000;

UNITED STATES SECRET SERVICE

"Salaries and expenses", $7,100,000;

ENVIRONMENTAL PROTECTION AGENCY

"Salaries and expenses", $2,800,000;

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

"Research and program management", $36,286,000;

VETERANS ADMINISTRATION

"Medical care", $151,270,000;
"Medical and prosthetic research", $3,000,000, to remain available until September 30, 1981;
"Medical administration and miscellaneous operating expenses", $599,000;
"General operating expenses", $23,579,000;
"Construction, minor projects", $600,000, to remain available until expended (and an increase of $1,110,000 in the limitation on the Office of Construction);

OTHER INDEPENDENT AGENCIES

ACTION

"Operating expenses, domestic programs", $1,092,000;

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

"Salaries and expenses", $40,000;

ADVISORY COUNCIL ON HISTORIC PRESERVATION

"Salaries and expenses", $25,000;

AMERICAN BATTLE MONUMENTS COMMISSION

"Salaries and expenses", $597,000;

CIVIL AERONAUTICS BOARD

"Salaries and expenses", $1,267,000;

COMMISSION ON CIVIL RIGHTS

"Salaries and expenses", $489,000;

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

"Salaries and expenses", $9,000;

COMMODITY FUTURES TRADING COMMISSION

"Salaries and expenses", $251,000;

COMMUNITY SERVICES ADMINISTRATION

"Community services program", $1,500,000;

CONSUMER PRODUCT SAFETY COMMISSION

"Salaries and expenses", $760,000;

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"Salaries and expenses", $5,562,000;

EXPORT-IMPORT BANK OF THE UNITED STATES

"Limitation on administrative expenses", (increase of $400,000 in the limitation on administrative expenses);

FARM CREDIT ADMINISTRATION

"Limitation on administrative expenses", (increase of $531,000 in the limitation on administrative expenses);

FEDERAL COMMUNICATIONS COMMISSION

"Salaries and expenses", $3,512,000;

FEDERAL ELECTION COMMISSION

"Salaries and expenses", $300,000;

FEDERAL LABOR RELATIONS AUTHORITY

"Salaries and expenses", $500,000;

FEDERAL MARITIME COMMISSION

"Salaries and expenses", $125,000;

FEDERAL MEDIATION AND CONCILIATION SERVICE

"Salaries and expenses", $745,000;

GENERAL SERVICES ADMINISTRATION

FEDERAL SUPPLY SERVICE

"Operating expenses", $5,854,000;

TRANSPORTATION AND PUBLIC UTILITIES SERVICE

"Operating expenses", $429,000;

NATIONAL ARCHIVES AND RECORDS SERVICE

"Operating expenses", $1,300,000;

AUTOMATED DATA AND TELECOMMUNICATIONS SERVICE

"Operating expenses", $371,000;

ADMINISTRATIVE AND STAFF SUPPORT SERVICES

"Salaries and expenses", $4,200,000;

INTELLIGENCE COMMUNITY STAFF

"Intelligence Community Staff", $396,000;

INTERGOVERNMENTAL AGENCIES

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

"Salaries and expenses", $50,000;

APPALACHIAN REGIONAL COMMISSION

"Salaries and expenses", $115,000;

DELAWARE RIVER BASIN COMMISSION

"Salaries and expenses", $4,000;

SUSQUEHANNA RIVER BASIN COMMISSION

"Salaries and expenses", $3,000;

INTERNATIONAL COMMUNICATION AGENCY

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses", $6,993,000 and, in addition, $113,673 shall be derived by transfer of the unobligated balance in the appropriation "Special International Exhibitions, (Special Foreign Currency Program)";

INTERNATIONAL TRADE COMMISSION

"Salaries and expenses", $400,000;

INTERSTATE COMMERCE COMMISSION

"Salaries and expenses", $2,700,000;

NATIONAL CAPITAL PLANNING COMMISSION

"Salaries and expenses", $175,000;

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

"Salaries and expenses", $18,000;

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

"Salaries and expenses", $210,000;

NATIONAL LABOR RELATIONS BOARD

"Salaries and expenses", $4,567,000;

NATIONAL MEDIATION BOARD

"Salaries and expenses", $51,000;

NATIONAL TRANSPORTATION SAFETY BOARD

"Salaries and expenses", $540,000;

NUCLEAR REGULATORY COMMISSION

"Salaries and expenses", $4,810,000;

OFFICE OF PERSONNEL MANAGEMENT

(INCLUDING TRANSFER OF FUNDS)

"Salaries and expenses", $4,000,000 together with an additional amount of $1,495,000 for current fiscal year administration expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Office of Personnel Management in amounts to be determined by the Office of Personnel Management without regard to other statutes;

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

"Salaries and expenses", $50,000;

SECURITIES AND EXCHANGE COMMISSION

"Salaries and expenses", $3,879,000;

SELECTIVE SERVICE SYSTEM

"Salaries and expenses", $350,000;

SMALL BUSINESS ADMINISTRATION

"Salaries and expenses", $8,300,000;

SMITHSONIAN INSTITUTION

"Salaries and expenses", $4,000,000;

"Salaries and expenses, Woodrow Wilson International Center for Scholars", $10,000;

UNITED STATES TAX COURT

"Salaries and expenses", $360,000;

OTHER TEMPORARY COMMISSIONS

Navajo and Hopi Indian Relocation Commission, "Salaries and expenses", $35,000;

UNITED STATES METRIC BOARD

"Salaries and expenses", $73,000.

TITLE III

GENERAL PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 301. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 302. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during the fiscal year 1980, limiting the amounts which may be expended for personal services, or for purposes involving personal services, or amounts which may be transferred between appropriations or authorizations available for or involving such services, are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

Career appointees.
5 USC 5384 note.

SEC. 303. Notwithstanding any other provision of law, the number of career appointees in any agency paid performance awards during fiscal year 1980 under 5 U.S.C. 5384, or any comparable personnel system established on or after October 13, 1978, may not exceed 25 percent of the number of Senior Executive Service or comparable personnel system positions in any such agency.

41 USC 46-48b.

SEC. 304. (a) Out of the total moneys appropriated for the operation of the departments and agencies of the Federal Government for fiscal year 1980, $220,000,000 of this total appropriated for the purchase of furniture is hereby rescinded. Excluded from this rescission are furniture items produced by Federal Prison Industries, Inc., or by sheltered workshops for the blind and other severely handicapped under the auspices of Public Law 92-28: *Provided,* That such items are fully justified by agency needs. The Director of the Office of Management and Budget is directed to allocate this rescission total among the departments and agencies of the Federal Government and report back to the House and Senate Committees on Appropriations within 30 days following the date of the enactment of this Act as to the allocation made: *Provided further,* That no allocation shall exceed 25 percent of said amount.

93 Stat. 566.

(b) With respect to the provisions of the Treasury, Postal Service, and General Government Appropriations Act, 1980, under the heading General Services Administration, Federal Buildings Fund, Limitations on Availability of Revenue, the aggregate amount made

available from the revenues and collections deposited into the Federal Buildings Fund pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 4901(f)), for the purposes set forth in the provisions contained under such heading is reduced by $15,000,000, which reduction shall apply specifically to the limitation on rental of space under clause (4) of such provisions.

40 USC 490.

Unresolved and new audits.

SEC. 305. All unresolved audits currently pending within agencies and departments, for which appropriations are made under this Act, shall be resolved not later than September 30, 1981. Any new audits, involving questioned costs, arising after the enactment of this Act shall be resolved within 6 months.

Delinquent debts.

SEC. 306. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible.

Funds for consulting services, submittal to congressional committees.
31 USC 28.

SEC. 307. (a) Effective October 1, 1981, for application in fiscal year 1982, a department, agency, or establishment, as defined by section 2, subchapter I, chapter 1, title 31, United States Code, shall submit annually to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which these funds are located; and a brief description of the need for these services, including a list of those major programs that require consulting services.

Agency budget controls and progress, submittal to Congress.

(b) Effective October 1, 1981, for application in fiscal year 1982, the Inspector General of such department, agency, or establishment, or comparable official, or if the agency has no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the agency's budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements.

Approved July 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1086 (Comm. on Appropriations), No. 96-1149 (Comm. of Conference) and No. 96-934 accompanying H.R. 7325 (Comm. on Appropriations).

SENATE REPORT No. 96-829 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 126 (1980):

June 17-19, considered and passed House in lieu of H.R. 7325.

June 26-28, considered and passed Senate, amended.

July 1, House disagreed to Senate amendments, and agreed to a conference.

July 2, House and Senate agreed to conference report and resolved amendments in disagreement.

Public Law 96-305
96th Congress

An Act

Relating to the relocation of the Navajo Indians and the Hopi Indians, and for other purposes.

July 8, 1980
[S. 751]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Navajo and Hopi Indian Relocation Amendments Act of 1980".

Navajo and Hopi Indian Relocation Amendments Act of 1980.
25 USC 640d note.

SEC. 2. Section 8 of the Act of December 22, 1974 (88 Stat. 1712; 25 U.S.C. 640d), hereinafter referred to as the "Act of December 22, 1974", is amended by striking all of subsection (c) and inserting, in lieu thereof, the following:

25 USC 640d-7.

"(c)(1) Either as a part of or in a proceeding supplementary to the action authorized in subsection (a) of this section, either tribe, through the chairman of its tribal council for and on behalf of the tribe, including all villages, clans, and individual members thereof, may prosecute or defend an action for the types of relief, including interest, specified in section 18 of this Act, including all subsections thereof, against the other tribe, through its tribal chairman in a like representative capacity, and against the United States as to the types of recovery specified in subsection (a)(3) of such section 18 and subject to the same provisions as contained in said subsection, such action to apply to the lands in issue in the reservation established by the Act of June 14, 1934 (48 Stat. 960).

Tribal lands in issue, determination of rights.

25 USC 640d-17.

"(2) In the event the Hopi Tribe or Navajo Tribe is determined to have any interest in the lands in issue, the right of either tribe to recover hereunder shall be based upon that percentage of the total sums collected, use made, waste committed, and other amounts of recovery, which is equal to the percentage of lands in issue in which either tribe is determined to have such interest.

"(3) Neither laches nor the statute of limitations shall constitute a defense to such proceedings if they are either prosecuted as a part of the action authorized by this section or in a proceeding supplemental thereto, if instituted not later than twenty-four months following a final order of partition and exhaustion of appeals in an action filed pursuant to this section.".

Defense.

SEC. 3. Section 10 of the Act of December 22, 1974, is amended by adding at the end thereof the following new subsections:

25 USC 640d-9.

"(c) The Secretary shall take such action as may be necessary in order to assure the protection, until relocation, of the rights and property of individuals subject to relocation pursuant to this Act, or any judgment of partition pursuant thereto, including any individual authorized to reside on land covered by a life estate conferred pursuant to section 30 of this Act.

"(d) With respect to any individual subject to relocation, the Secretary shall take such action as may be necessary to assure that such individuals are not deprived of benefits or services by reason of their status as an individual subject to relocation.

Partitioned lands, tribal jurisdiction.

"(e)(1) Lands partitioned pursuant to this Act, whether or not the partition order is subject to appeal, shall be subject to the jurisdiction of the tribe to whom partitioned and the laws of such tribe shall apply to such partitioned lands under the following schedule:

"(A) Effective ninety days after the date of enactment of this subsection, all conservation practices, including grazing control and range restoration activities, shall be coordinated and executed with the concurrence of the tribe to whom the particular lands in question have been partitioned, and all such grazing and range restoration matters on the Navajo Reservation lands shall be administered by the Bureau of Indian Affairs Navajo Area Office and on the Hopi Reservation lands by the Bureau of Indian Affairs Phoenix Area Office, under applicable laws and regulations.

"(B) Notwithstanding any provision of law to the contrary, each tribe shall have such jurisdiction and authority over any lands partitioned to it and all persons located thereon, not in conflict with the laws and regulations referred to in paragraph (A) above, to the same extent as is applicable to those other portions of its reservation. Such jurisdiction and authority over partitioned lands shall become effective April 18, 1981.

Effective date.

The provisions of this subsection shall be subject to the responsibility of the Secretary to protect the rights and property of life tenants and persons awaiting relocation as provided in subsections (c) and (d) of this section.

"(f) Any development of lands in litigation pursuant to section 8 of this Act and further defined as 'that portion of the Navajo Reservation lying west of the Executive Order Reservation of 1882 and bounded on the north and south by westerly extensions, to the reservation line, of the northern and southern boundaries of said Executive Order Reservation,' shall be carried out only upon the written consent of each tribe except for the limited areas around the village of Moenkopi and around Tuba City. Each such area has been heretofore designated by the Secretary. 'Development' as used herein shall mean any new construction or improvement to the property and further includes public work projects, power and water lines, public agency improvements, and associated rights-of-way.".

Ante, p. 929.

"Development."

25 USC 640d-10.

SEC. 4. Section 11 of the Act of December 22, 1974, is amended to read as follows:

Land transfer to Navajo Tribe.

"SEC. 11. (a) The Secretary is authorized and directed to—

"(1) transfer not to exceed two hundred and fifty thousand acres of lands under the jurisdiction of the Bureau of Land Management within the State of Arizona and New Mexico to the Navajo Tribe: *Provided*, That, in order to facilitate such transfer, the Secretary is authorized to exchange such lands for State or private lands of equal value or, if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require so long as payment does not exceed 25 per centum of the total value of the lands transferred out of Federal ownership. The Secretary shall try to reduce the payment to as small an amount as possible. Such lands will be transferred without cost to the Navajo Tribe and title thereto shall be taken by the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo Reservation;

"(2) on behalf of the United States, accept title to not to exceed one hundred and fifty thousand acres of private lands acquired by the Navajo Tribe. Title thereto shall be taken in the name of

the United States in trust for the benefit of the Navajo Tribe as a part of the Navajo Reservation.

"(b) A border of any parcel of land so transferred or acquired shall be within eighteen miles of the present boundary of the Navajo Reservation: *Provided,* That, except as limited by subsection (g) hereof, Bureau of Land Management lands anywhere within the States of Arizona and New Mexico may be used for the purpose of exchanging for lands within eighteen miles of the present boundary of the reservation.

"(c) Lands to be so transferred or acquired shall, for a period of three years after the date of enactment of this subsection, be selected by the Navajo Tribe after consultation with the Commission: *Provided,* That, at the end of such period, the Commission shall have the authority to select such lands after consultation with the Navajo Tribe: *Provided further,* That not to exceed thirty-five thousand acres of lands so transferred or acquired shall be selected within the State of New Mexico.

Navajo and Hopi Indian Relocation Commission, selection authority.

"(d) The Commission, in consultation with the Secretary, shall within sixty days following the first year of enactment of this subsection report to the House Committee on Interior and Insular Affairs and the Senate Select Committee on Indian Affairs, on the progress of the land transfer program authorized in subsection (a) of this section. Sixty days following the second year of enactment of this subsection the Commission, in consultation with the Secretary, shall submit a report to the House Committee on Interior and Insular Affairs and the Senate Select Committee on Indian Affairs giving the status of the land transfer program authorized in subsection (a) of this section, making any recommendations that the Commission deems necessary to complete the land transfer program.

Report to congressional committees.

"(e) Payments being made to any State or local government pursuant to the provisions of the Act of October 20, 1976 (90 Stat. 2662; 31 U.S.C. 1601 et seq.), on any lands transferred pursuant to subsection (a)(1) of this section shall continue to be paid as if such transfer had not occurred.

"(f)(1) For a period of three years after the date of enactment of this subsection, the Secretary shall not accept title to lands acquired pursuant to subsection (a)(2) of this section unless fee title to both surface and subsurface has been acquired or the owner of the subsurface interest consents to the acceptance of the surface interest in trust by the Secretary.

"(2) If, ninety days prior to the expiration of such three year period, the full entitlement of private lands has not been acquired by the Navajo Tribe and accepted by the Secretary in trust for the Navajo Tribe under the restrictions of paragraph (1) of this subsection, the Commission, after public notice, shall, within thirty days, make a report thereon to the House Committee on Interior and Insular Affairs and the Senate Select Committee on Indian Affairs.

Public notice. Report to congressional committees.

"(3) In any case where the Secretary accepts, in trust, title to the surface of lands acquired pursuant to subsection (a)(2) of this section where the subsurface interest is owned by third parties, the trust status of such surface ownership and the inclusion of the land within the Navajo Reservation shall not impair any existing right of the subsurface owner to develop the subsurface interest and to have access to the surface for the purpose of such development.

"(g) No public lands lying north and west of the Colorado River in the State of Arizona shall be available for transfer under this section.

Selection authority.

"(h) The lands transferred or acquired pursuant to this section shall be administered by the Commission until relocation under the Commission's plan is complete and such lands shall be used solely for the benefit of Navajo families residing on Hopi-partitioned lands as of the date of this subsection who are awaiting relocation under this Act.

Negotiation authority.

"(i) The Commission shall have authority to enter into negotiations with the Navajo and Hopi Tribes with a view to arranging and carrying out land exchanges or leases, or both, between such tribes; and lands which may be acquired or transferred pursuant to this section may, with the approval of the Commission, be included in any land exchange between the tribes authorized under section 23 of this Act.".

25 USC 640d-22.

25 USC 640d-11.

SEC. 5. Section 12 of the Act of December 22, 1974, is amended by—

(1) inserting, in paragraph (1) of subsection (g), the phrase "an independent legal counsel," after the phrase "Executive Director,";

(2) amending subsection (h) to read as follows:

"(h) The Commission is authorized to provide for its own administrative, fiscal, and housekeeping services.";

(3) redesignating subsection (i) as subsection (j) and inserting new subsection (i) as follows:

Federal agencies, assistance to Commission.

"(i)(1) The Commission is authorized to call upon any department or agency of the United States to assist the Commission in implementing its relocation plan and completing relocation within the time required by law, except that the control over and responsibility for completing relocation shall remain in the Commission. In any case in which the Commission calls upon any such department or agency for assistance under this section, such department or agency shall provide reasonable assistance so requested.

Report to Congress.

"(2) On failure of any agency to provide reasonable assistance as required under paragraph (1) of this subsection, the Commission shall report such failure to the Congress.".

25 USC 640d-12.

SEC. 6. Clause (5) of section 13(c) of the Act of December 22, 1974, is amended by striking the word "thirty" and inserting, in lieu thereof, the word "ninety".

25 USC 640d-14.

SEC. 7. Section 15 of the Act of December 22, 1974, is amended by adding at the end thereof a new subsection (f) as follows:

Replacement housing.

"(f) Notwithstanding any other provision of law to the contrary, the Commission shall on a preferential basis provide relocation assistance and relocation housing under subsections (b), (c), and (d) of this section to the head of each household of members of the Navajo Tribe who were evicted from the Hopi Indian Reservation as a consequence of the decision in the case of United States v. Kabinto (456 F. 2d 1087 (1972)): *Provided,* That such heads of households have not already received equivalent assistance from Federal agencies.".

25 USC 640d-18.

SEC. 8. Section 19 of the Act of December 22, 1974, is amended by adding a new subsection (c) as follows:

"(c)(1) Surveying, monumenting, and fencing as required by subsection (b) of this section shall be completed within twelve months after the date of enactment of this subsection with respect to lands

25 USC 640d-3.

partitioned pursuant to section 4 of this Act and within twelve months after a final order of partition with respect to any lands

Ante, p. 929.

partitioned pursuant to section 8 of this Act.

"(2) The livestock reduction program required under subsection (a) of this section shall be completed within eighteen months after the date of enactment of this subsection.".

SEC. 9. Section 23 of the Act of December 22, 1974, is amended by adding the following sentence at the end thereof: "In the event that the tribes should negotiate and agree on an exchange of lands pursuant to authority granted herein the Commission shall make available 125 per centum of the relocation benefits provided in sections 14 and 15 of this Act to members of either tribe living on land to be exchanged to other than his or her own tribe, except that such benefits shall be available only if, within one hundred and eighty days of the agreement, a majority of the adult members of the tribe who would be eligible to relocate from exchanged lands sign a contract with the Commission to relocate within twelve months of the agreement or such later time as determined by the Commission and such additional benefits shall only be paid to those who actually relocate within such period.". 25 USC 640d-22. Relocation benefits. 25 USC 640d-13, *ante*, p. 932.

SEC. 10. (a) Section 25(a)(5) of the Act of December 22, 1974, as amended by the Act of July 30, 1979 (Public Law 96-40), is further amended by striking the figure "$1,000,000" and inserting, in lieu thereof, the figure "$4,000,000": *Provided,* That no new budget authority for fiscal year 1980 is authorized to be appropriated. 93 Stat. 318. 25 USC 640d-24.

(b) Section 25(a) of the Act of December 22, 1974, is further amended by adding at the end thereof the following new paragraph:

"(7) For the purpose of carrying out the provisions of subsection (i) of section 30 of this Act, as amended, there is authorized to be appropriated, effective in fiscal year 1981, not to exceed $1,000,000 annually.". *Post*, p. 934.

SEC. 11. The Act of December 22, 1974, is amended by adding at the end thereof the following new sections:

"SEC. 27. (a) To facilitate and expedite the relocation efforts of the Commission, there is hereby authorized to be appropriated annually, effective in fiscal year 1981, not to exceed $6,000,000 as a discretionary fund. Appropriation authorization. 25 USC 640d-25.

"(b) Such funds may only be used by the Commission to— Funds, use.

"(1) match or pay not to exceed 30 per centum of any grant, contract, or other expenditure of the Federal Government, State or local government, tribal government or chapter, or private organization for the benefit of the Navajo or Hopi Tribe, if such grant, contract, or expenditure would significantly assist the Commission in carrying out its responsibilities or assist either tribe in meeting the burdens imposed by this Act;

"(2) engage or participate, either directly or by contract, in demonstration efforts to employ innovative energy or other technologies in providing housing and related facilities and services in the relocation and resettlement of individuals under this Act.

Not to exceed 5 per centum of such funds may be used for the administrative expenses of the Commission in carrying out this section.

"(c) The Secretary of the Interior and the Secretary of Health and Human Services, as appropriate, shall assign the highest priority, in the next fiscal year after the date of enactment of this subsection to the funding and construction of the Hopi high school and Hopi medical center consistent with any plans already completed and approved by appropriate agencies of the respective departments.

"SEC. 28. (a) No action taken pursuant to, in furtherance of, or as authorized by this Act, as amended, shall be deemed a major Federal action for purposes of the National Environmental Policy Act of 1969, as amended. 25 USC 640d-26. 42 USC 4321 note.

"(b) Any transfer of public lands pursuant to this Act shall be made notwithstanding the provisions of sections 603 and 402(g) of the Federal Land Policy and Management Act (Public Law 94-579; 40 U.S.C. 1701 et seq.).

43 USC 1782, 1752.

Litigation or court action.

25 USC 640d-27.

"SEC. 29. (a) In any litigation or court action between or among the Hopi Tribe, the Navajo Tribe and the United States or any of its officials, departments, agencies, or instrumentalities, arising out of the interpretation or implementation of this Act, as amended, the Secretary shall pay, subject to the availability of appropriations, attorney's fees, costs and expenses as determined by the Secretary to be reasonable. For each tribe, there is hereby authorized to be appropriated not to exceed $120,000 in fiscal year 1981, $130,000 in fiscal year 1982, $140,000 in fiscal year 1983, $150,000 in fiscal year 1984, and $160,000 in fiscal year 1985, and each succeeding year thereafter until such litigation or court action is finally completed.

Appropriation authorization.

"(b) Upon the entry of a final judgment in any such litigation or court action, the court shall award reasonable attorney's fees, costs and expenses to the party, other than the United States or its officials, departments, agencies, or instrumentalities, which prevails or substantially prevails, where it finds that any opposing party has unreasonably initiated or contested such litigation. Any party to whom such an award has been made shall reimburse the United States out of such award to the extent that it has received payments pursuant to subsection (a) of this section.

"(c) To the extent that any award made to a party against the United States pursuant to subsection (b) of this section exceeds the amount paid to such party by the United States pursuant to subsection (a) of this section, such difference shall be treated as if it were a final judgment of the Court of Claims under section 2517 of title 28, United States Code.

"(d) This section shall apply to any litigation or court action pending upon the date of enactment of this section in which a final order, decree, judgment has not been entered, but shall not apply to any action authorized by section 8 or 18(a) of this Act.

Ante, p. 929, 25 USC 640d-17.

Repeal.

25 USC 640d-4.

"SEC. 30. (a) Paragraph (4) of section 5(a) of the Act of December 22, 1974, is repealed.

Life estate leases, application.

25 USC 640d-28.

"(b) Any Navajo head of household who desires to do so may submit an application for a life estate lease to the Commission. Such application shall contain such information as the Commission may prescribe by regulation, such regulation to be promulgated by the Commission within ninety days of enactment of this subsection. To be considered, such application must by filed with the Commission on or before April 1, 1981: *Provided,* That the Commission may, for good cause, grant an extension of one hundred and eighty days.

Priority ranking.

"(c) Upon receipt of applications filed pursuant to this section, the Commission shall group them in the following order:

"(A) Applicants who are determined to be at least 50 per centum disabled as certified by a physician approved by the Commission. Such applicants shall be ranked in the order of the severity of their disability.

"(B) Applicants who are not at least 50 per centum disabled shall be ranked in order of their age with oldest listed first and the youngest listed last: *Provided,* That, if any applicant physically resides in quarter quad Nos. 78 NW, 77 NE, 77 NW, 55 SW, or 54 SE as designated on the Mediator's partition map, such applicant shall be given priority over another applicant of equal age.

"(C) Applicants who did not, as of December 22, 1974, and continuously thereafter, maintain a separate place of abode and actually remain domiciled on Hopi partitioned lands, and who, but for this subsection would be required to relocate, shall be rejected by the Commission.

"(D) Applicants who were not at least forty-nine years of age on December 22, 1974, or are not at least 50 per centum disabled, shall also be rejected by the Commission.

Awarding of leases.

"(d) The Commission shall have authority to award life estate leases to not more than one hundred and twenty applicants with first priority being given to applicants listed pursuant to subsection (c)(A) and the next priority being given to the applicants listed pursuant to subsection (c)(B), in order of such listing.

"(e) Each life estate lease shall consist of a fenced area not exceeding ninety acres of land which shall include the life tenant's present residence and may be used by the life tenant to feed not to exceed twenty-five sheep units per year or equivalent livestock. The Secretary, under existing authority, shall make available to life estate tenants such assistance during that tenure, as may be necessary to enable such tenant to feed such livestock at an adequate nutritional level.

Residents.

"(f) No person may reside on a life estate other than the life tenant, his or her spouse, and minor dependents, and/or such persons who are necessarily present to provide for the care of the life tenant. The Commission shall promulgate regulations to carry out the intent of this subsection.

Tenant's death.

"(g) The life estate tenure shall end by voluntary relinquishment, or at the death of the life tenant or the death of his or her spouse, whichever occurs last: *Provided,* That each survivorship right shall apply only to those persons who were lawfully married to each other on or before the date of enactment of this subsection.

Voluntary estate relinquishment.

"(h) Nothing in this section shall be construed as prohibiting any such applicant who receives a life estate lease under this section from relinquishing, prior to its termination, such estate at any time and voluntarily relocating. Upon voluntary relinquishment of such estate, by such means or instrument as the Secretary shall prescribe, such applicant shall be entitled to relocation benefits from the Secretary comparable to those provided by section 15 of this Act. For life estates terminated by the death of the life tenant or his or her surviving spouse, compensation shall be paid to the estate of the deceased life tenant or surviving spouse based on the fair market value of the habitation and improvements at the time of the expiration of such tenure and not before. Such payment shall be in lieu of any other payment pursuant to subsection (a) of section 15 of this Act. Assistance provided pursuant to section 15(b) of this Act, as amended, shall be paid to any head of household lawfully residing on such life estate pursuant to subsection (f) of this subsection who is required to move by the termination of such life estate by the death of the life tenant and his or her surviving spouse and who does not maintain a residence elsewhere. Compensation under section 15(a) shall be paid and distributed in accordance with the last will and testament of the life tenant or surviving spouse or, in the event no valid last will and testament is left, compensation shall be paid and distributed to his or her heirs in accordance with existing Federal law. Upon termination of a life estate by whatever means, the dependents residing with the individuals having such life estate so terminated shall have ninety days following such termination within which to relocate.

Ante, p. 932.

"(i) The Secretary shall pay, on an annual basis, the fair market rental value of such life estate leases to the tribe to whom the lands leased were partitioned.

"(j) Nothing in this Act or any other law shall be construed to prevent a life tenant from making reasonable improvements on the life estate which are related to the residence and agricultural purposes of the life tenancy.

Additional leases.

"(k) The Commission is authorized to grant not to exceed ten additional life estate leases to Hopi heads of household residing on Navajo-partitioned lands under such terms of this section as may be appropriate.".

Approved July 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-544 accompanying H.R. 5262 (Comm. on Interior and Insular Affairs) and No. 96-1094 (Comm. of Conference).

SENATE REPORT No. 96-373 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Oct. 24, considered and passed Senate.
Oct. 29, H.R. 5262 considered and passed House; passage vacated and S. 751, amended, passed in lieu.

Vol. 126 (1980): June 25, House agreed to conference report and receded from its amendment to the title.
June 26, Senate agreed to conference report.

Public Law 96-306
96th Congress

An Act

To authorize the President of the United States to present on behalf of Congress a specially struck gold-plated medal to the United States Summer Olympic Team of 1980.

July 8, 1980
[H.R. 7482]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President of the United States is authorized to present a gold-plated medal of appropriate design, on behalf of the Congress, to those athletes selected through the Olympic trial process to represent the United States in the summer Olympics of 1980, in recognition of their outstanding athletic achievements and of their determination in the pursuit of excellence. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be stricken six hundred and fifty gold-plated medals with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury.

United States Summer Olympic Team of 1980.
Commemorative medal.

(b) The medals provided for in this Act are national medals for the purpose of section 3551 of the Revised Statutes (31 U.S.C. 368).

(c) Funds to carry out the provisions of this Act, which shall not exceed $50,000, shall be available from amounts currently appropriated for the operation of the Bureau of the Mint. Such funds shall be fully reimbursed from funds appropriated under the Amateur Sports Act of 1978.

Appropriation authorization.

36 USC 371 note.

Approved July 8, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
June 30, July 1, considered and passed House.
July 2, considered and passed Senate.

Public Law 96-307
96th Congress

Joint Resolution

July 8, 1980
[S.J. Res. 168]

Designating July 18, 1980, as "National POW-MIA Recognition Day".

Whereas the United States has fought in many wars;
Whereas thousands of Americans who served in such wars were captured by the enemy or are missing in action;
Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war and many such prisoners of war died from such treatment;
Whereas it is uncertain whether those Americans missing in action are alive or dead and such uncertainty has caused their families to suffer acute hardship; and
Whereas the sacrifices of American prisoners of war and Americans missing in action and their families is deserving of national recognition: Now, therefore, be it

National POW-MIA Recognition Day. Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 18, 1980, is designated as "National POW-MIA Recognition Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved July 8, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
June 25, considered and passed Senate.
June 26, H.J. Res. 507 considered and passed House.
July 2, S.J. Res. 168 considered and passed House.

Public Law 96-308
96th Congress

An Act

To clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws.

July 9, 1980
[S. 598]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Soft Drink Interbrand Competition Act.
15 USC 3501 note.

SECTION 1. This Act may be cited as the "Soft Drink Interbrand Competition Act".

Trademark licensing contract.
15 USC 3501.

SEC. 2. Nothing contained in any antitrust law shall render unlawful the inclusion and enforcement in any trademark licensing contract or agreement, pursuant to which the licensee engages in the manufacture (including manufacture by a sublicensee, agent, or subcontractor), distribution, and sale of a trademarked soft drink product, of provisions granting the licensee the sole and exclusive right to manufacture, distribute, and sell such product in a defined geographic area or limiting the licensee, directly or indirectly, to the manufacture, distribution, and sale of such product only for ultimate resale to consumers within a defined geographic area: *Provided,* That such product is in substantial and effective competition with other products of the same general class in the relevant market or markets.

15 USC 3502.

SEC. 3. Nothing in this Act shall be construed to legalize the enforcement of provisions described in section 2 of this Act in trademark licensing contracts or agreements described in that section by means of price fixing agreements, horizontal restraints of trade, or group boycotts, if such agreements, restraints, or boycotts would otherwise be unlawful.

15 USC 3501 note.

SEC. 4. In the case of any proceeding instituted by the United States described in subsection (i) of section 5 of the Clayton Act (relating to suspension of the statute of limitations on the institution of proceedings by the United States) (15 U.S.C. 16(i)) which is pending on the date of the enactment of this Act, that subsection shall not apply with respect to any right of action referred to in that subsection based in whole or in part on any matter complained of in that proceeding consisting of the existence or enforcement of any provision described in section 2 of this Act in any trademark licensing contract or agreement described in that section.

"Antitrust law."
15 USC 3503.

SEC. 5. As used in this Act, the term "antitrust law" means the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), and the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

Approved July 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1118 accompanying H.R. 3567 (Comm. on the Judiciary).
SENATE REPORT No. 96-645 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 12-15, considered and passed Senate.
June 24, H.R. 3567 considered and passed House; passage vacated and S. 598, amended, passed in lieu.
June 28, Senate agreed to House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 28:
July 10, Presidential statement.

Public Law 96-309
96th Congress

An Act

July 9, 1980
[S. 2546]

To authorize the Secretary of the Interior to design and construct a gunite lining on certain reaches of the Bessemer Ditch in the vicinity of Pueblo, Colorado, to prevent or reduce seepage damage on adjacent properties, and for other purposes.

Bessemer Ditch, Pueblo, Colo., gunite lining.

Liability for damages.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to design and construct a gunite lining on approximately eight thousand feet of the Bessemer Ditch in the vicinity of Pueblo, Colorado, to prevent or reduce seepage damage on adjacent properties. Nothing in this Act shall be construed in any administrative or judicial proceeding as establishing congressional acquiesence or approval of any theory of Federal liability for damages or as establishing a precedent for Federal liability or responsibility in any situation similar to that addressed by this Act.

Design and construction costs.

SEC. 2. The design and construction costs of the works authorized by this Act shall be included as capital costs of Pueblo Dam and Reservoir, Fryingpan-Arkansas Project, Colorado, and shall be allocated to the purposes served by Pueblo Dam and Reservoir in accordance with procedures established pursuant to Federal Reclamation Law. The Bessemer Irrigating Ditch Company, which owns, operates, and maintains the Bessemer Ditch, shall be responsible for maintaining or replacing the completed gunite lining authorized by this Act.

Maintenance and replacement.

Appropriation authorization.

SEC. 3. There is hereby authorized to be appropriated for fiscal year 1981 for the design and construction of approximately eight thousand feet of gunite lining on the Bessemer Ditch in the vicinity of Pueblo, Colorado, the sum of $1,500,000 (based on October 1979 prices), plus or minus such amounts, if any, as may be justified by reason of changes of construction costs as indicated by engineering cost indices applicable to the type of construction involved.

Approved July 9, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-750 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 22, considered and passed Senate.
June 27, considered and passed House.

Public Law 96-310
96th Congress

An Act

To provide for a research, development, and demonstration program to achieve early technology applications for ocean thermal energy conversion systems, and for other purposes.

July 17, 1980
[H.R. 7474]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ocean Thermal Energy Conversion Research, Development, and Demonstration Act".

Ocean Thermal Energy Conversion Research, Development, and Demonstration Act.
42 USC 9001 note.
42 USC 9001.

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) the supply of nonrenewable fuels in the United States is slowly being depleted;

(2) alternative sources of energy must be developed;

(3) ocean thermal energy is a renewable energy resource that can make a significant contribution to the energy needs of the United States;

(4) the technology base for ocean thermal energy conversion has improved over the past two years, and has consequently lowered the technical risk involved in constructing moderate-sized pilot plants with an electrical generating capacity of about ten to forty megawatts;

(5) while the Federal ocean thermal energy conversion program has grown in size and scope over the past several years, it is in the national interest to accelerate efforts to commercialize ocean thermal energy conversion by building pilot and demonstration facilities and to begin planning for the commercial demonstration of ocean thermal energy conversion technology;

(6) a strong and innovative domestic industry committed to the commercialization of ocean thermal energy conversion must be established, and many competent domestic industrial groups are already involved in ocean thermal energy conversion research and development activity; and

(7) consistent with the findings of the Domestic Policy Review on Solar Energy, ocean thermal energy conversion energy can potentially contribute at least one-tenth of quad of energy per year by the year 2000.

(b) Therefore, the purpose of this Act is to accelerate ocean thermal energy conversion technology development to provide a technical base for meeting the following goals:

(1) demonstration by 1986 of at least one hundred megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems;

(2) demonstration by 1989 of at least five hundred megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems;

(3) achievement in the mid-1990's, for the gulf coast region of the continental United States and for islands in the United

States, its possessions and its territories, an average cost of electricity or energy product equivalent produced by installed ocean thermal energy conversion systems that is competitive with conventional energy sources; and

(4) establish as a national goal ten thousand megawatts of electrical capacity or energy product equivalent from ocean thermal energy conversion systems by the year 1999.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

42 USC 9002.

SEC. 3. (a)(1) The Secretary is authorized and directed to prepare a comprehensive program management plan for the conduct under this Act of research, development, and demonstration activities consistent with the provisions of sections 4, 5, and 6.

Consultation.

(2) In the preparation of such plan, the Secretary shall consult with the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Maritime Administration, the Administrator of the National Aeronautics and Space Administration, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate.

Transmittal to congressional committees.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within nine months after the date of the enactment of this Act.

(c) The detailed description of the comprehensive plan under this section shall include, but need not be limited to—

(1) the anticipated research, development, and demonstration objectives to be achieved by the program;

(2) the program strategies and technology application and market development plans, including detailed milestone goals to be achieved during the next fiscal year for all major activities and projects;

(3) a five-year implementation schedule for program elements with associated budget and program management resources requirements;

(4) a detailed description of the functional organization of the program management including identification of permanent test facilities and of a lead center responsible for technology support and project management;

(5) the estimated relative financial contributions of the Federal Government and non-Federal participants in the pilot and demonstration projects;

(6) supporting research needed to solve problems which may inhibit or limit development of ocean thermal energy conversion systems; and

(7) an analysis of the environmental, economic, and societal impacts of ocean thermal energy conversion facilities.

Modifications, transmittal to Congress.

(d)(1) Concurrently with the submission of the President's annual budget for each subsequent year, the Secretary shall transmit to the Congress a detailed description of modifications which may be necessary to revise appropriately the comprehensive plan as then in effect, setting forth any changes in circumstances which may have occurred since the plan or the last previous modification thereof was transmitted in accordance with this section.

(2) Such description shall also include a detailed justification of any such changes, a detailed description of the progress made toward achieving the goals of this Act, a statement on the status of inter-

agency cooperation in meeting such goals, any comments on and recommendations for improvements in the comprehensive program management plan made by the Technical Panel established under section 8, and any legislative or other recommendations which the Secretary may have to help attain such goals.

RESEARCH AND DEVELOPMENT

SEC. 4. (a) The Secretary shall initiate research or accelerate existing research in areas in which the lack of knowledge limits development of ocean thermal energy conversion systems in order to achieve the purposes of this Act. 42 USC 9003.

(b) The Secretary shall conduct evaluations, arrange for tests, and disseminate to developers information, data, and materials necessary to support the design efforts undertaken pursuant to section 5. Specific technical areas to be addressed shall include, but not be limited to—

(1) interface requirements between the platform and cold water pipe;

(2) cold water pipe deployment techniques;

(3) heat exchangers;

(4) control system simulation;

(5) stationkeeping requirements; and

(6) energy delivery systems, such as electric cable or energy product transport.

(c) The Secretary shall, for the purpose of performing his reponsibilities pursuant to this Act, solicit proposals and evaluate any reasonable new or improved technology, a description of which is submitted to the Secretary in writing, which could lead or contribute to the development of ocean thermal energy conversion system technology.

PILOT AND DEMONSTRATION PLANTS

SEC. 5. (a) The Secretary is authorized to initiate a program to design, construct, and operate well instrumented ocean thermal energy conversion facilities of sufficient size to demonstrate the technical feasibility and potential economic feasibility of utilizing the various forms of ocean thermal energy conversion to displace non-renewable fuels. To achieve the goals of this section and to facilitate development of a strong industrial basis for the application of ocean thermal energy conversion system technology, at least two independent parallel demonstration projects shall be competitively selected. 42 USC 9004.

(b) The specific goals of the demonstration program shall include at a minimum—

(1) the demonstration of ocean thermal energy conversion technical feasibility through multiple pilot and demonstration plants with a combined capacity of at least one hundred megawatts of electrical capacity or energy product equivalent by the year 1986;

(2) the delivery of baseload electricity to utilities located on land or the production of commercially attractive quantities of energy product; and

(3) the continuous operation of each pilot and demonstration facility for a sufficient period of time to collect and analyze system performance and reliability data.

(c) In providing any financial assistance under this section, the Secretary shall (1) give full consideration to those projects which will

provide energy to United States offshore States, its territories, and its possessions and (2) seek satisfactory cost-sharing arrangements when he deems such arrangements to be appropriate.

TECHNOLOGY APPLICATION

Consultation.
42 USC 9005.

SEC. 6 (a) The Secretary shall, in consultation with the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Maritime Administration, the Administrator of the National Aeronautics and Space Administration, and the Technical Panel established under section 8, prepare a comprehensive technology application and market development plan that will permit realization of the ten-thousand-megawatt national goal by the year 1999. Such plans shall include at a minimum—

(1) an assessment of those Government actions required to achieve a two-hundred- to four-hundred-megawatt electrical-commercial demonstration of ocean thermal energy conversion systems in time to have industry meet the goal contained in section 2(b)(2) including a listing of those financial, property, and patent right packages most likely to lead to early commercial demonstration at minimum cost to the Federal Government;

(2) an assessment of further Government actions required to permit expansion of the domestic ocean thermal energy conversion industry to meet the goal contained in section 2(b)(3);

(3) an analysis of further Government actions necessary to aid the industry in minimizing and removing any legal and institutional barriers such as the designation of a lead agency; and

(4) an assessment of the necessary Government actions to assist in eliminating economic uncertainties through financial incentives, such as loan guarantees, price supports, or other inducements.

Transmittal to Congress.

(b) The Secretary shall transmit such comprehensive technology application and market development plan to the Congress within three years after the date of enactment of this Act, and update the plan on an annual basis thereafter.

(c) As part of the competitive procurement initiative for design and construction of the pilot and demonstration projects authorized in section 10(c), each respondent shall include in its proposal (1) a plan leading to a full-scale, first-of-a-kind facility based on a proposed demonstration system; and (2) the financial and other contributions the respondent will make toward meeting the national goals.

PROGRAM SELECTION CRITERIA

42 USC 9006.

SEC. 7. The Secretary shall, in fulfilling his responsibilities under this Act, select program activities and set priorities which are consistent with the following criteria:

(1) realization of energy production costs for ocean thermal energy conversion systems that are competitive with costs from conventional energy production systems;

(2) encouragement of projects for which contributions to project costs are forthcoming from private, industrial, utility, or governmental entities for the purpose of sharing with the Federal Government the costs of purchasing and installing ocean thermal energy conversion systems;

(3) promotion of ocean thermal energy conversion facilities for coastal areas, islands, and isolated military institutions which are vulnerable to interruption in the fossil fuel supply;

(4) preference for and priority to persons and domestic firms whose base of operations is in the United States as will assure that the program under this Act promotes the development of a United States domestic technology for ocean thermal energy conversion; and

(5) preference for proposals for pilot and demonstration projects in which the respondents certify their intent to become an integral part of the industrial infrastructure necessary to meet the goals of this Act.

TECHNICAL PANEL

SEC. 8. (a) A Technical Panel of the Energy Research Advisory Board shall be established to advise the Board on the conduct of the ocean thermal energy conversion program. 42 USC 9007.

(b)(1) The Technical Panel shall be comprised of such representatives from domestic industry, universities, Government laboratories, financial, environmental and other organizations as the Chairman of the Energy Research Advisory Board deems appropriate based on his assessment of the technical and other qualifications of such representative. Membership.

(2) Members of the Technical Panel need not be members of the full Energy Research Advisory Board.

(c) The activities of the Technical Panel shall be in compliance with any laws and regulations guiding the activities of technical and fact-finding groups reporting to the Energy Research Advisory Board.

(d) The Technical Panel shall review and may make recommendations on the following items, among others: Review and recommendations.

(1) implementation and conduct of the programs established by this Act;

(2) definition of ocean thermal energy conversion system performance requirements for various user applications; and

(3) economic, technological, and environmental consequences of the deployment of ocean thermal energy conversion systems.

(e) The Technical Panel shall submit to the Energy Research Advisory Board on at least an annual basis a written report of its findings and recommendations with regard to the program. Such report, shall include at a minimum— Report, submittal to Board.

(1) a summary of the Panel's activities for the preceding year;

(2) an assessment and evaluation of the status of the programs mandated by this Act; and

(3) comments on and recommendations for improvements in the comprehensive program management plan required under section 3.

(f) After consideration of the Technical Panel report, the Energy Research Advisory Board shall submit such report, together with any comments such Board deems appropriate, to the Secretary. Submittal to Secretary.

(g) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Technical Panel in carrying out the requirements of this section and shall furnish to the Technical Panel such information as the Technical Panel deems necessary to carry out this section. Cooperation by agency heads.

(h) The Secretary shall provide sufficient staff, funds, and other support as necessary to enable the Technical Panel to carry out the functions described in this section.

DEFINITIONS

42 USC 9008.

SEC. 9. As used in this Act, the term—

(1) "ocean thermal energy conversion" means a method of converting part of the heat from the Sun which is stored in the surface layers of a body of water into electrical energy or energy product equivalent;

(2) "energy product equivalent" means an energy carrier including, but not limited to, ammonia, hydrogen, or molten salts or an energy-intensive commodity, including, but not limited to, electrometals, fresh water, or nutrients for aquaculture; and

(3) "Secretary" means the Secretary of Energy.

AUTHORIZATION FOR APPROPRIATION

42 USC 9009.

SEC. 10. (a) There is hereby authorized to be appropriated to carry out the purposes of this Act the sum of $20,000,000 for operating expenses for the fiscal year ending September 30, 1981, in addition to any amounts authorized to be appropriated in the fiscal year 1981 Authorization Act pursuant to section 660 of Public Law 95-91.

42 USC 7270.

(b) There is hereby authorized to be appropriated to carry out the purposes of this Act the sum of $60,000,000 for operating expenses for the fiscal year ending September 30, 1982.

(c) Funds are hereby authorized to be appropriated for fiscal year 1981 to carry out the purposes of section 5 of this Act for plant and capital equipment as follows:

Project 81-ES-1, ocean thermal energy conversion demostration plants with a combined capacity of at least one hundred megawatts electrical or the energy product equivalent, sites to be determined, conceptual and preliminary design activities only $5,000,000.

(d) Funds are hereby authorized to be appropriated for fiscal year 1982 to carry out the purposes of section 5 of this Act for plant and capital equipment as follows:

Project 81-ES-1, ocean thermal energy conversion demonstration plants with a combined capacity of at least one hundred megawatts electrical or the energy product equivalent, sites to be determined, conceptual and preliminary design activities only $25,000,000.

Approved July 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1092 (Comm. on Science and Technology).
SENATE REPORT No. 96-501 accompanying S. 1830 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Jan. 25, S. 1830 considered and passed Senate.
June 16, 17, H.R. 7474 considered and passed House.
June 28, considered and passed Senate, amended.
July 2, House concurred in Senate amendment to the title and concurred in Senate amendment to the text with an amendment; Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 29:
July 18, *Presidential statement.*

Public Law 96-311
96th Congress

An Act

To provide an extension of the time frame for nomination of a selection pool under the Cook Inlet land exchange.

July 17, 1980
[H.R. 7573]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, **That the Act of August 14, 1979 (93 Stat. 386), is hereby amended to strike "twelve" and insert in lieu thereof "thirty-six".**

Cook Inlet land exchange, time extension.
43 USC 1611 note.

Approved July 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1135 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 26, considered and passed House.
July 2, considered and passed Senate.

Public Law 96-312
96th Congress

An Act

July 23, 1980
[S. 2009]

To designate certain public lands in central Idaho as the River of No Return Wilderness, to designate a segment of the Salmon River as a component of the National Wild and Scenic Rivers System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Central Idaho Wilderness Act of 1980".

Central Idaho Wilderness Act of 1980.

SEC. 2. (a) The Congress finds that—

(1) certain wildlands in central Idaho lying within the watershed of the Salmon River—the famous "River of No Return"—constitute the largest block of primitive and undeveloped land in the conterminous United States and are of immense national significance;

(2) these wildlands and a segment of the Salmon River should be incorporated within the National Wilderness Preservation System and the National Wild and Scenic Rivers System in order to provide statutory protection for the lands and waters and the wilderness-dependent wildlife and the resident and anadromous fish which thrive within this undisturbed ecosystem; and

(3) such protection can be provided without conflicting with established uses.

(b) The purposes of this Act are to—

(1) provide a comprehensive, statutory framework for the protection, administration, and management of the wildlands of the central Idaho region and a portion of the Salmon River through—

(A) the designation of the River of No Return Wilderness;

(B) the addition of certain lands in the "Magruder Corridor" to the existing Selway-Bitterroot Wilderness; and

(C) the incorporation of one hundred and twenty-five miles of the Salmon River as a component of the National Wild and Scenic Rivers System;

(2) end the controversy over which lands within the central Idaho region will be designated wilderness—thereby assuring that certain adjacent lands better suited for multiple uses other than wilderness will be managed by the Forest Service under existing laws and applicable land management plans; and

(3) make a comprehensive land allocation decision for the national forest roadless areas of the central Idaho region.

River of No Return Wilderness, area description and designation. 16 USC 1132 note.

SEC. 3. In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890; 16 U.S.C. 1131), certain lands in the Boise, Challis, Payette, Salmon, Bitterroot, and Nezperce National Forests, Idaho, situated north and south of the Salmon River which comprise approximately two million two hundred and thirty-nine thousand acres, as generally depicted on a map entitled "River of No Return Wilderness, Proposed", dated June 1980, are hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System, and shall be known as the River of No Return

Wilderness. The previous classifications of the Idaho and Salmon River Breaks Primitive Areas are hereby abolished. Abolishments.

SEC. 4. In furtherance of the purposes of the Wilderness Act, certain lands in the Bitterroot National Forest, Idaho, which comprise approximately one hundred and five thousand six hundred acres as generally depicted on a map entitled "Magruder Corridor Proposed Additions, Selway-Bitterroot Wilderness", dated November 1979, are hereby incorporated in, and shall be deemed to be a part of, the Selway-Bitterroot Wilderness as designated by Public Law 88-577, and, therefore a component of the National Wilderness Preservation System. Selway-Bitterroot Wilderness, incorporated lands. 16 USC 1131.

SEC. 5. (a)(1) Within three years of the date of enactment of this Act, the Secretary of Agriculture (hereinafter referred to as "the Secretary") shall develop and submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives a comprehensive wilderness management plan (hereinafter referred to as "the management plan") for the River of No Return Wilderness which shall consider a broad range of land uses and recreation opportunities. Comprehensive management plan, submittal to congressional committees.

(2) The management plan shall be prepared in coordination with the relevant national forest plans required by section 6 of the National Forest Management Act of 1976 (Public Law 94-588). 16 USC 1604.

(3) The management plan shall include the cultural resources management plan required by section 8(a)(3) of this Act. 16 USC 1608.

(4) In preparing the management plan, the Secretary shall provide for full public participation as required under section 6 of the National Forest Management Act. 16 USC 1604.

(5) The management plan shall, among other things, address the need for, and alternative means of, access to the wilderness.

(b) In administering the River of No Return Wilderness, the Secretary shall, to the maximum extent practicable, consistent with the management plan required by this section, clear obstructions from all of the national forest trails within or adjacent to the wilderness on at least an annual basis.

(c) Subject to valid existing rights, the River of No Return Wilderness designated by this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act: *Provided,* That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act. Effective date. 16 USC 1131 note.

(d)(1) Notwithstanding the provisions of the Wilderness Act of 1964 (78 Stat. 890; 16 U.S.C. 1131), including section 4(d)(3), closing wilderness areas after December 31, 1983, to the United States mining laws, and the designation of the River of No Return Wilderness by this Act, within that portion of the wilderness depicted on a map entitled "Special Mining Management Zone—Clear Creek", (hereinafter referred to in this section as the "Special Management Zone"), dated June 1980, all prospecting and exploration for, and development or mining of cobalt and associated minerals shall be considered a dominant use of such land and shall be subject to such laws and regulations as are generally applicable to National Forest System lands not designated as wilderness or other special management areas, including such laws and regulations which relate to the right of access to valid mining claims and private property: *Provided,* That: Special Management Zone, mining. 16 USC 1133.

(A) all mining locations and associated access roads shall be held and used solely for mining or mineral processing operations and uses reasonably incident thereto, except that the Secretary

may permit such access roads to be utilized by the State of Idaho to facilitate the management of the bighorn sheep in the Special Management Zone;

Mineral deposits, patents.

(B) after the date of enactment of this Act, subject to valid existing rights, all patents issued under the mining laws of the United States for claims within the Special Management Zone shall convey title to the mineral deposits within such claims, but each such patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining and prospecting shall be allowed: *Provided,* That the patentee shall have the right to cut and use as much of the mature timber therefrom as may be needed in the extraction, removal and beneficiation of the mineral deposits, if such needed timber is not otherwise reasonably available, and if such timber is cut under sound principles of forest management as defined by National Forest System rules and regulations: *Provided further,* That the patentee shall have the right to use as much of the surface as reasonably necessary for the mining, removal, extraction, or beneficiation of the mineral deposits located therein; and

(C) consistent with the other provisions of this subsection the Secretary may take all reasonable measures to see that the mining or processing of cobalt and associated minerals within the Special Management Zone does not significantly impair the overall habitat of the bighorn sheep located within, or adjacent to, such Zone.

Report to Congress.

(2) Within three years from the date of enactment of this Act, the Secretary of Defense, after consultation with the Secretaries of the Interior, Agriculture, Commerce, Transportation, and State and the Federal Emergency Management Agency, shall report to Congress on the strategic significance of the materials and minerals found in the Special Management Zone.

Map and legal description, filing with congressional committees.

SEC. 6. As soon as practicable after enactment of this Act, a map and legal description of the River of No Return Wilderness and a map and legal description of the Selway-Bitterroot Wilderness additions shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided,* That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Permitted land uses, continuation. Aircraft landing.

SEC. 7. (a) Within the River of No Return Wilderness and the Selway-Bitterroot Wilderness additions designated by this Act—

(1) the landing of aircraft, where this use has become established prior to the date of enactment of this Act shall be permitted to continue subject to such restrictions as the Secretary deems desirable: *Provided,* That the Secretary shall not permanently close or render unserviceable any aircraft landing strip in regular use on national forest lands on the date of enactment of this Act for reasons other than extreme danger to aircraft, and in any case not without the express written concurrence of the agency of the State of Idaho charged with evaluating the safety of backcountry airstrips;

(2) the grazing of livestock were established prior to the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations as the Secretary deems necessary, as provided in paragraph 4(d)(4) of the Wilderness Act; 16 USC 1133.

(3) commercial services may be performed to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas as provided in paragraph 4(d)(6) of the Wilderness Act; and

(4) the future construction and maintenance of small hydroelectric generators, domestic water facilities, and related facilities shall be permitted in the Threemile and Jersey Creek drainages along the Salmon River upstream from Mackay Bar.

(b) As provided in paragraph 4(d)(7) of the Wilderness Act, nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(c) As provided in paragraph 4(d)(8) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Idaho with respect to wildlife and fish in the national forests in Idaho.

SEC. 8. (a)(1) In furtherance of the purposes of the Wilderness Act, the Wild and Scenic Rivers Act, section 6 of the National Forest Management Act, the Archaeological Resources Protection Act, and the Historic Preservation Act, the Secretary shall cooperate with the Secretary of the Interior and with agencies and institutions of the State of Idaho, in conducting a cultural resource management program within the River of No Return Wilderness and within the Salmon River component of the National Wild and Scenic Rivers System as designated in section 9 of this Act. Cultural resource management program. 16 USC 1131 note. 16 USC 1271 note. 16 USC 1604. 16 USC 470aa note.

(2) Such program shall have as its purposes the protection of archaeological sites and interpretation of such sites for the public benefit and knowledge insofar as these activities are compatible with the preservation of the values for which the wilderness and wild and scenic river were designated to protect. 16 USC 470 note.

(3) To carry out the cultural resource management program required by paragraph (1) of this section, the Secretary shall, as part of the comprehensive management plan required under subsection 5 (a) of this Act, develop a cultural resources management plan for the wilderness and the river. Such plan shall—

(A) encourage scientific research into man's past use of the River of No Return Wilderness and the Salmon River corridor;

(B) provide an outline for the protection of significant cultural resources, including protection from vandalism and looting as well as destruction from natural deterioration;

(C) be based on adequate inventory data, supplemented by test excavation data where appropriate;

(D) include a public interpretation program; and

(E) comply with all Federal and State historic and cultural preservation statutes, regulations, guidelines, and standards.

(b)(1) Within two years from the date of enactment of this Act, the Secretary shall cooperate with the Secretary of the Interior and with agencies and institutions of the State of Idaho in conducting an inventory of the ranch, homestead, trapper and other cabins, and structures within the River of No Return Wilderness and within the Salmon River component of the National Wild and Scenic Rivers System designated by section 9 of this Act and submit to the Committee on Energy and Natural Resources of the United States Inventory, report to congressional committees.

Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives a report on—

(A) the location of these structures;

(B) their historic significance, if any;

(C) their present condition;

(D) recommendations as to which of these structures should be:

(i) stabilized;

(ii) restored;

(iii) maintained; or

(iv) removed;

(E) the estimated cost of such stabilization, restoration, maintenance, or removal; and

(F) the suitability of any of these structures for inclusion in the National Register of Historic Places.

(2) Until such time as the study under this subsection is completed and the required report submitted to the Committees, the Secretary shall not knowingly permit the destruction or significant alteration of any historic cabin or other structure on national forest land within the River of No Return Wilderness or the Salmon River component of the National Wild and Scenic Rivers System designated in section 9 of this Act.

16 USC 1274.

SEC. 9. (a) The Wild and Scenic Rivers Act (82 Stat. 906, as amended; 16 U.S.C. 1271 et seq.), is further amended as follows: In section 3(a) after paragraph (23) insert the following new paragraph:

River designation.

"(24)(A) SALMON, IDAHO.—The segment of the main river from the mouth of the North Fork of the Salmon River downstream to Long Tom Bar in the following classes:

"(i) the forty-six-mile segment from the mouth of the North Fork of the Salmon River to Corn Creek as a recreational river; and

"(ii) the seventy-nine-mile segment from Corn Creek to Long Tom Bar as a wild river; all as generally depicted on a map entitled "Salmon River" dated November 1979, which is on file and available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture.

Administration.

"(B) This segment shall be administered by the Secretary of Agriculture: *Provided,* That after consultation with State and local governments and the interested public, the Secretary shall take such action as is required by subsection (b) of this section within one year from the date of enactment of this paragraph.

"(C) The use of motorboats (including motorized jetboats) within this segment of the Salmon River shall be permitted to continue at a level not less than the level of use which occurred during calendar year 1978.

Mining, prohibition.

"(D) Subject to existing rights of the State of Idaho, including the right of access, with respect to the beds of navigable streams, tributaries or rivers, dredge and placer mining in any form including any use of machinery for the removal of sand and gravel for mining purposes shall be prohibited within the segment of the Salmon River designated as a component of the Wild and Scenic Rivers System by this paragraph; within the fifty-three-mile segment of the Salmon River from Hammer Creek downstream to the confluence of the Snake River; and within the Middle Fork of the Salmon River; and its tributary streams in their entirety: *Provided,* That nothing in this paragraph shall be deemed to prohibit the removal of sand and gravel, outside the boundaries of the River of No Return Wilderness or the Gospel-Hump Wilderness, above the high water mark of the Salmon River or the Middle Fork and its tributaries for the purposes

of construction or maintenance of public roads: *Provided further,* That this paragraph shall not apply to any written mineral leases approved by the Board of Land Commissioners of the State of Idaho prior to January 1, 1980.

"(E) The provisions of section 7(a) of this Act with respect to the licensing of dams, water conduits, reservoirs, powerhouses, transmission lines or other project works, shall apply to the fifty-three-mile segment of the Salmon River from Hammer Creek downstream to the confluence of the Snake River.

"(F) For the purposes of the segment of the Salmon River designated as a component of the Wild and Scenic Rivers System by this paragraph, there is hereby authorized to be appropriated from the Land and Water Conservation Fund, after October 1, 1980, not more than $6,200,000 for the acquisition of lands and interests in lands.". Appropriation authorization.

(b) That segment of the main Salmon River designated as a component of the Wild and Scenic Rivers System by this Act, which lies within the River of No Return Wilderness or the Gospel-Hump Wilderness designated by Public Law 95-237, shall be managed under the provisions of the Wild and Scenic Rivers Act, as amended, and the regulations promulgated pursuant thereto, notwithstanding section 10(b) of the Wild and Scenic Rivers Act or any provisions of the Wilderness Act to the contrary. 16 USC 1281 note. 16 USC 1132 note. 16 USC 1271 note. 16 USC 1281. 16 USC 1131 note.

SEC. 10. (a) Notwithstanding any other provision of law, the Secretary shall render, within 30 days from the date of enactment of this Act, a final administrative decision on any and all administrative appeals pending before him or any other official of the Department of Agriculture on the date of enactment of this Act with regard to the following land management plans and corresponding environmental statements (hereinafter referred to in this section as "the plans and environmental statements"): Administration.

(1) The Warren Planning Unit Land Management Plan and Final Environmental Statement, Payette National Forest, Idaho, dated May 9, 1979; and

(2) The Landmark Planning Unit Land Management Plan and Final Environmental Statement, Boise National Forest, Idaho, dated May 17, 1979.

(b)(1) Any petition for review of the decision of the Secretary with regard to any of the plans and environmental statements referenced in this section, shall be filed in the United States District Court for the District of Idaho (hereinafter referred to as "the court") within thirty days after the final administrative decision of the Secretary required by this section, or the petition shall be barred. Such court shall have exclusive jurisdiction to determine such proceeding in accordance with standard procedures as supplemented by procedures hereinafter provided and no other district court of the United States shall have jurisdiction over any such challenge in any proceeding instituted prior to, on, or after the date of enactment of this Act. Review, petition filing.

(2) Notwithstanding any other provision of law, the court may set rules governing the procedures of any such proceeding which set page limits on briefs and time limits for filing briefs and motions and other actions which are shorter than the limits specified in the Federal Rules of Civil or Appellate Procedure. Court procedures.

(3) Any such proceeding before the court shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way. The court shall render its final decision relative to any challenge within one hundred and eighty days from the date such challenge is brought unless the court determines that a

longer period of time is required to satisfy the requirements of the United States Constitution.

Review.

(c) Any review of any decision of the United States District Court for the District of Idaho shall be made by the Ninth Circuit Court of Appeals of the United States and shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every possible way.

Approved July 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-838, Pt. 1 (Comm. on Interior and Insular Affairs) and No. 96-1126 (Comm. of Conference).
SENATE REPORT No. 96-414 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 20, considered and passed Senate.
Vol. 126 (1980): Apr. 16, considered and passed House, amended.
June 26, Senate agreed to conference report.
June 30, July 1, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 30 (1980): July 23, Presidential statement.

Public Law 96-313
96th Congress

Joint Resolution

To provide for the reappointment of William A. M. Burden as a citizen regent of the Board of Regents of the Smithsonian Institution.

July 25, 1980
[S.J. Res. 180]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of William A. M. Burden of New York on August 30, 1980, be filled by the reappointment of the present incumbent for the statutory term of six years.

Smithsonian Institution.

Approved July 25, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-819 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 26, considered and passed Senate.
July 22, considered and passed House.

Public Law 96-314
96th Congress

Joint Resolution

July 25, 1980
[S.J. Res. 181]

To provide for the reappointment of Murray Gell-Mann as a citizen regent of the Board of Regents of the Smithsonian Institution.

Smithsonian Institution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, which will occur by the expiration of the term of Murray Gell-Mann of California on August 30, 1980, be filled by the reappointment of the present incumbent for the statutory term of six years.

Approved July 25, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-820 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 25, considered and passed Senate.
July 22, considered and passed House.

Public Law 96-315
96th Congress

An Act

July 25, 1980
[S. 2382]

To provide for additional authorization for appropriations for the Tinicum National Environmental Center.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tinicum National Environmental Center, appropriation authorization. 86 Stat. 391. 16 USC 668dd note. 86 Stat. 392.

SECTION 1. The Act of June 30, 1972, entitled "An Act to provide for the establishment of the Tinicum National Environmental Center in the Commonwealth of Pennsylvania, and for other purposes" is amended—

(1) by amending section 7 to read as follows:

"SEC. 7. There are authorized to be appropriated, $19,500,000 (of which $8,400,000 shall be available beginning October 1, 1980) for acquisition of the Tinicum National Environmental Center, for construction of environmental educational center facilities, and for other development projects on the Center, to remain available until September 30, 1985."; and

(2) by adding at the end thereof the following new section:

Folcroft landfill, environmental hazards.

"SEC. 8. The Administrator of the Environmental Protection Agency, in consultation and cooperation with the Fish and Wildlife Service, is directed to investigate potential environmental health hazards resulting from the Folcroft landfill, within the authorized boundary of the Tinicum National Environmental Center, and to develop alternative recommendations as to how such hazards, if any, might best be addressed in order to protect the refuge and the general public.".

16 USC 668dd note. Sailors' Snug Harbor.

SEC. 2. (a) If—

(1) the property known as Sailors' Snug Harbor, consisting of approximately eighty acres and located in the city of New York, is donated to the Secretary of the Interior (hereinafter referred to as the "Secretary") by the city of New York; and

Management as National Wildlife Refuge.

(2) the Secretary and the city of New York and the Snug Harbor Cultural Center, Incorporated, enter into mutually satisfactory cooperative agreements of the kind described in subsection (c) of this section, the Secretary shall manage Sailors' Snug Harbor as a National Wildlife Refuge until the completion of the study required by subsection (e) of this section.

(b) Except as may be provided for in cooperative agreements referred to in paragraph (2) of subsection (a) and in subsection (c) of this section, the property acquired under paragraph (1) of subsection (a) of this section shall be administered in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966.

16 USC 668dd note. Cooperative agreements.

(c)(1) The Secretary and the city of New York and the Snug Harbor Cultural Center, Incorporated, shall endeavor to enter into cooperative agreements regarding the respective functions each such party will undertake with respect to the property acquired under paragraph (1) of subsection (a) of this section, except that the Secretary shall only be responsible for the protection of such property and the

costs for normal operation and maintenance of such property as a refuge.

Additional statutory authority.

(2) In addition, the Secretary may, if he deems appropriate, utilize any additional statutory authority that he may have for the conservation and development of wildlife and natural resources on such property and interpretative environmental education at such property.

Eligibility for funds.

(3) Nothing in this Act or cooperative agreements negotiated pursuant to this Act may be construed as affecting in any manner, or to any extent, the eligibility (as in effect on the day before the date of the enactment of this Act) of the city of New York, the Snug Harbor Cultural Center, Incorporated, or the State of New York, under any Federal law for funds or other assistance for use in the restoration or preservation of historic buildings, or in the carrying out of developmental and recreational projects and programs, within the area included in such property.

Fee area.
16 USC 715s.

(d) For purposes of section 401 of the Act of June 15, 1935 (commonly known as the "Refuge Revenue Sharing Act"), the property acquired under paragraph (1) of subsection (a) of this section may not be considered to be, nor treated as, a fee area within the meaning of subsection (g)(2) of such section 401.

Study.

(e) Within two years after the date of enactment of this Act, the Secretary shall complete a study of the property acquired under paragraph (1) of subsection (a) of this section to determine how the resources and facilities could best be protected and managed under other statutory authorities available to him. Notwithstanding the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee) and pursuant to Reorganization Plan No. 3 of 1950, such property shall upon completion of such study, either be placed permanently in the National Wildlife Refuge System by the Secretary or transferred by the Secretary to any more appropriate agency of the Department of the Interior to be managed as, and become a part of, that agency consistent with its general statutory responsibilities. Notwithstanding the provisions of this Act, subsequent to such transfer, if any, the resources and facilities identified in the study shall be managed consistent with the findings of the study and that agency's authorized programs using the funding authorized under this section.

5 USC app.

Appropriation authorization.

(f) There are authorized to be appropriated to the Department of the Interior not to exceed $1,750,000 for purposes of carrying out this section during the period covering fiscal years 1981, 1982, and 1983; except that no part of any funds appropriated pursuant to this section may be expended for the restoration or preservation of any building within the property acquired under paragraph (1) of subsection (a) of this section or for activities other than those enumerated in subsections (b) and (c) of this section.

Back Bay National Wildlife Refuge, vehicular access.

SEC. 3. (a) During any period in which the Secretary of the Interior, by regulation, limits vehicular access to Back Bay National Wildlife Refuge, the Secretary of the Interior shall issue to any eligible applicant, a renewable annual permit to enable, the applicant to commute across the Back Bay National Wildlife Refuge. For purposes of this section, the term "eligible applicant" shall include all full-time residents who can furnish to the Refuge Manager, Back Bay National Wildlife Refuge, adequate proof of residence commencing prior to December 31, 1979, on the Outer Banks from the refuge boundary south to and including the village of Corolla, North Carolina, as long as they remain full-time residents. The south boundary of the area for access consideration is defined as a straight east-west line extending

"Eligibile applicant."

from Currituck Sound to the Atlantic Ocean and passing through a point one thousand and six hundred feet due south of the Currituck Lighthouse.

(b) As used in this section, the terms— Definitions.

(1) "residence" means a place of general abode;

(2) "place of general abode" means a principal, actual dwelling place in fact, without regard to intent; and

(3) "dwelling" means a residential structure occupied on year-round basis by the permit applicant and shall not include seasonal or part-time dwelling units such as beach houses, vacation cabins, or structures which are intermittently occupied.

(c) Any permit issued pursuant to this section shall assure that eligible applicants shall be allowed at least two round trips per day. Travel pursuant to such permits may be restricted to between the hours of 5:00 a.m. and 12:00 p.m. (midnight). In addition the Refuge Manager may make exceptions to access restrictions for qualified permittees who have demonstrated to the satisfaction of the Refuge Manager a need for additional access relating to health or livelihood.

(d) Permits pursuant to this section shall be renewed upon the submission of a signed, notarized statement by an eligible applicant that conditions of the previous permit have not changed. Permit renewal.

(e) The Secretary of the Interior, may, subject to the foregoing provisions of this section, issue such regulations as are necessary to protect the resources of the refuge.

Approved July 25, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-890 accompanying H.R. 5679 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-675 (Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 6, considered and passed Senate.
May 19, H.R. 5679 considered and passed House; passage vacated and S. 2382, amended, passed in lieu.
July 2, Senate concurred in House amendment with amendments; House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 31:
July 26, Presidential statement.

79-194 O—81—pt. 1——64 : QL3

Public Law 96-316
96th Congress

An Act

July 30, 1980
[S. 2240]

To authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

National Aeronautics and Space Administration Authorization Act, 1981.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1980:

(a) For "Research and development", for the following programs:

(1) Space Shuttle, $1,873,000,000;

(2) Space flight operations, $779,500,000;

(3) Expendable launch vehicles, $55,700,000;

(4) Physics and astronomy, $352,700,000;

(5) Planetary exploration, $179,600,000;

(6) Life sciences, $45,200,000;

(7) Space applications, $378,700,000;

(8) Technology utilization, $12,600,000;

(9) Aeronautical research and technology, $290,800,000;

(10) Space research and technology, $115,200,000;

(11) Energy technology, $4,000,000; and

(12) Tracking and data acquisition, $349,750,000.

Facilities, construction.

(b) For "Construction of facilities", including land acquisition, as follows:

(1) Construction of man-vehicle systems research facility, Ames Research Center, $7,480,000;

(2) Modification of steam ejector system and thermal protection laboratory, Ames Research Center, $2,300,000;

(3) Modification of the unitary plan wind tunnel, Ames Research Center, $3,400,000;

(4) Modifications to various buildings for energy conservation, Jet Propulsion Laboratory, $1,500,000;

(5) Modifications to various buildings for seismic protection, Jet Propulsion Laboratory, $2,000,000;

(6) Rehabilitation of high temperature hot water system, zone 2, industrial area, John F. Kennedy Space Center, $760,000;

(7) Modifications for avionics integration research laboratory, Langley Research Center, $5,756,000;

(8) Modifications to aircraft landing dynamics facility, Langley Research Center, $15,000,000;

(9) Rehabilitation and modification of gas dynamics laboratory, Langley Research Center, $2,000,000;

(10) Decommissioning of Plum Brook Station reactor facility, Lewis Research Center, $1,000,000;

(11) Modifications to central air system, various buildings, Lewis Research Center, $7,655,000;

(12) Rehabilitation of electrical switchgear, engine research building, Lewis Research Center, $1,700,000;

(13) Rehabilitation of roof, Phase II, Building 103, Michoud Assembly Facility, $3,800,000;

(14) Rehabilitation of chilled water system, Michoud Assembly Facility, $782,000;

(15) Modification of 26-meter antenna, DSS-44, Canberra, Australia, $1,200,000;

(16) Replacement of azimuth radial bearing, DSS-14, Goldstone, California, $950,000;

(17) Space Shuttle facilities at various locations as follows:

(A) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $5,400,000;

(B) Modifications to solid rocket motor manufacturing and assembly facilities, Thiokol plant, Wasatch, Utah, $2,700,000;

(C) Minor Shuttle-unique projects, various locations, $2,000,000;

(18) Space Shuttle payload facility: Rehabilitation and modification for payload ground support operations, John F. Kennedy Space Center, $1,617,000;

(19) Repair of facilities at various locations, not in excess of $500,000 per project, $15,000,000;

(20) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $20,000,000;

(21) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $4,000,000; and

(22) Facility planning and design not otherwise provided for, $10,000,000.

(c) For "Research and program management", $1,033,154,000 and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

Research and program management.

(d) Notwithstanding the provisions of subsection 1(g), appropriations hereby authorized for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and

Research and development.

Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

Scientific consultations or extraordinary expenses.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $25,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of $75,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided,* That, of the funds appropriated pursuant to subsection 1(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (21), inclusive, of subsection 1(b)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 percent, or

Report to congressional committees.

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 percent,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

Transfer of funds.

SEC. 3. Not to exceed one-half of 1 percent of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (22) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of

Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (1) the nature of such construction, expansion, or modification, (2) the cost thereof including the cost of any real estate action pertaining thereto, and (3) the reason why such construction, expansion, or modification is neccessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

SEC. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Federal research funds, geographical distribution. 42 USC 2459 note.

SEC. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

Short title.

SEC. 6. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1981".

Approved July 30, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-899 accompanying H.R. 6413 (Comm. on Science and Technology) and No. 96-1142 (Comm. of Conference).
SENATE REPORT No. 96-719 (Comm. on Commerce, Science and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 3, considered and passed Senate.
June 13, H.R. 6413 considered and passed House; passage vacated and S. 2240, amended, passed in lieu.
July 2, House agreed to conference report.
July 21, Senate agreed to conference report.

Public Law 96-317
96th Congress

An Act

July 31, 1980
[S. 1647]

To establish a Commission to gather facts to determine whether any wrong was committed against those American citizens and permanent resident aliens affected by Executive Order Numbered 9066, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Commission on Wartime Relocation and Internment of Civilians Act.
50 USC app. 1981 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Commission on Wartime Relocation and Internment of Civilians Act".

FINDINGS AND PURPOSE

50 USC app. 1981 note

SEC. 2. (a) The Congress finds that—

(1) approximately one hundred and twenty thousand civilians were relocated and detained in internment camps pursuant to Executive Order Numbered 9066, issued February 19, 1942, and other associated actions of the Federal Government;

3 CFR, 1938-1943 Comp., p. 1092.

(2) approximately one thousand Aleut civilian American citizens were relocated and, in some cases, detained in internment camps pursuant to directives of United States military forces during World War II and other associated actions of the Federal Government; and

(3) no sufficient inquiry has been made into the matters described in paragraphs (1) and (2).

(b) It is the purpose of this Act to establish a commission to—

(1) review the facts and circumstances surrounding Executive Order Numbered 9066, issued February 19, 1942, and the impact of such Executive order on American citizens and permanent resident aliens;

(2) review directives of United States military forces requiring the relocation and, in some cases, detention in internment camps of American citizens, including Aleut civilians, and permanent resident aliens of the Aleutian and Pribilof Islands; and

(3) recommend appropriate remedies.

ESTABLISHMENT OF COMMISSION

50 USC app. 1981 note.

SEC. 3. (a) There is established the Commission on Wartime Relocation and Internment of Civilians (hereinafter referred to as the "Commission").

Membership.

(b) The Commission shall be composed of seven members, who shall be appointed within ninety days after the date of enactment of this Act as follows:

(1) Three members shall be appointed by the President.

(2) Two members shall be appointed by the Speaker of the House of Representatives.

(3) Two members shall be appointed by the President pro tempore of the Senate.

(c) The term of office for members shall be for the life of the Commission. A vacancy in the Commission shall not affect its powers, and shall be filled in the same manner in which the original appointment was made. Term.

(d) The first meeting of the Commission shall be called by the President within one hundred and twenty days after the date of enactment of this Act, or within thirty days after the date on which legislation is enacted making appropriations to carry out this Act, whichever date is later. Meetings.

(e) Four members of the Commission shall constitute a quorum, but a lesser number may hold hearings. Quorum.

(f) The Commission shall elect a Chairman and Vice Chairman from among its members. The term of office of each shall be for the life of the Commission.

(g) Each member of the Commission who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 under the General Schedule contained in section 5332 of title 5, United States Code, for each day, including traveltime, he or she is engaged in the actual performance of his or her duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties. Compensation.

DUTIES OF THE COMMISSION

SEC. 4. (a) It shall be the duty of the Commission to— 50 USC app. 1981 note.

(1) review the facts and circumstances surrounding Executive Order Numbered 9066, issued February 19, 1942, and the impact of such Executive order on American citizens and permanent resident aliens; Review. 3 CFR 1938-1943. Comp., p. 1092.

(2) review directives of United States military forces requiring the relocation and, in some cases, detention in internment camps of American citizens, including Aleut civilians, and permanent resident aliens of the Aleutian and Pribilof Islands; and

(3) recommend appropriate remedies.

(b) The Commission shall hold public hearings in such cities of the United States that it finds appropriate. Hearings.

(c) The Commission shall submit a written report of its findings and recommendations to Congress not later than the date which is one year after the date of the first meeting called pursuant to section 3(d) of this Act. Report to Congress.

POWERS OF THE COMMISSION

SEC. 5. (a) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandum, papers, and documents as the Commission or such subcommittee or member may deem advisable. The Commission may request the Attorney General to invoke the aid of an appropriate United States district court to require, by subpoena or otherwise, such attendance, testimony, or production. 50 USC app. 1981 note.

(b) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

ADMINISTRATIVE PROVISIONS

50 USC app. 1981 note.

SEC. 6. The Commission is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the rate payable under GS-18 of the General Schedule under section 5332 of such title;

5 USC 5101 *et seq.*, 5331.

5 USC 5332.

(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of such title;

5 USC 3109.

(3) enter into agreements with the Administrator of General Services for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator;

(4) procure supplies, services, and property by contract in accordance with applicable laws and regulations and to the extent or in such amounts as are provided in appropriation Acts; and

(5) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of the duties of the Commission, to the extent or in such amounts as are provided in appropriation Acts.

TERMINATION

SEC. 7. The Commission shall terminate ninety days after the date on which the report of the Commission is submitted to Congress pursuant to section 4(c) of this Act. 50 USC app. 1981 note.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. To carry out the provisions of this Act, there are authorized to be appropriated $1,500,000. 50 USC app. 1981 note.

Approved July 31, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1146 accompanying H.R. 5499 (Comm. on the Judiciary).
SENATE REPORT No. 96-751 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 22, considered and passed Senate.
July 21, H.R. 5499 passed House; passage vacated and S. 1647, amended, passed in lieu.
July 24, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 31:
July 31, Presidential statement.

Public Law 96-318
96th Congress

An Act

Aug. 1, 1980
[S. 1466]

To provide for the distribution of certain funds appropriated to pay judgments in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma in Indian Claims Commission dockets 27-A and 241, 289, and 27-B and 338, and for other purposes.

Delaware Tribe of Indians; judgment funds, distribution
25 USC 1401.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466), or any other law, or any regulation or plan promulgated pursuant thereto, the funds appropriated by the Act of December 15, 1971 (85 Stat. 627) for the award in docket 289; by the Act of March 21, 1972 (86 Stat. 86) for the award in dockets 27-A and 241; by the Act of March 7, 1978 (92 Stat. 107) for the award in dockets 27-B and 338; on October 31, 1978, in accordance with section 1302 of the Act of July 27, 1956 (70 Stat. 694), as amended (31 U.S.C. 724a), for the award in dockets 27-E and 202; and on August 6, 1979, in accordance with section 1302 of such Act of July 27, 1956, for the award in docket 27; including all interest and investment income accrued thereon, less attorney fees and litigation expenses incurred in connection with such awards, shall be used and distributed as provided in this Act.

SEC. 2. The Secretary of the Interior (hereinafter the "Secretary") shall prepare a roll of all persons who were born on or prior to October 3, 1972, and who are living on the date of the enactment of this Act who are citizens of the United States and who are descended from a lineal ancestor whose name appears on the "Registry" filed in the Office of the Commissioner of Indian Affairs pursuant to article 9 of the treaty with the Delaware Indians of July 4, 1866 (14 Stat. 793) or who are descended from a lineal ancestor whose name appears on the "Register" prepared pursuant to the agreement dated April 8, 1867, between the Delaware Tribe of Indians and the Cherokee Nation. No person shall be eligible for enrollment under this section who was paid, or was eligible to be paid, pursuant to the Act of October 3, 1972 (82 Stat. 762).
25 USC 1291.

Separate fund.

SEC. 3. (a) Upon completion of the roll provided for in section 2 of this Act, the Secretary shall segregate and establish a separate fund from the funds described in the first section of this Act. Such separate fund shall be in an amount equal to $1,488.22 multiplied by the number of persons whose names appear on the roll prepared in accordance with section 2 of this Act: *Provided,* That said separate fund shall not in any event exceed the maximum amount of $1,488,220 regardless of the number of such enrollees.

Attorneys' fees.

(b) The Secretary shall pay 10 per centum of the fund established by subsection (a) of this section to the Kansas Delaware Tribe of Indians, Incorporated, and to the Delawares of Idaho, Incorporated, in a ratio proportionate to their respective number of members enrolled under section 2 of this Act, for the sole purpose of enabling such corporations to pay attorneys' fees for the representation of such members in connection with their efforts to achieve participation in the distribution of funds under the Act of October 3, 1972, and in addition thereto,

shall pay to such corporations from the fund established by subsection (a) of this section all expenses in connection therewith which the Secretary finds to be reasonable.

(c) After payments made pursuant to subsection (b) of this section, the Secretary shall distribute the balance of the separate fund established pursuant to subsection (a) of this section on a per capita basis to those who have been enrolled by the Secretary under section 2 of this Act.

SEC. 4. After the establishment of the separate fund prescribed in section 3(a) of this Act, 17 per centum of all of the then remaining funds described in the first section of this Act shall be apportioned by the Secretary to the Delaware Tribe of Western Oklahoma. The Secretary shall prepare a roll of all persons born on or before, and living on, the date of the enactment of this Act who are citizens of the United States and whose names appear on the membership roll of the Delaware Tribe of Western Oklahoma, brought current as of the date of the enactment of this Act. No more than 60 per centum of the funds apportioned to the Delaware Tribe of Western Oklahoma shall be distributed on a per capita basis, in amounts as equal as possible, to all tribal members enrolled in accordance with this section. No less than 40 per centum of said funds, including any amounts remaining from the aforementioned per capita distribution, shall be invested by the Secretary for tribal social and economic programing purposes, including periodic dividend payments: *Provided,* That the voting membership of the tribe may elect to designate more than 40 per centum of the total funds apportioned to the tribe for such programing purposes. Said programing funds, including all interest and investment income accrued, shall be utilized by the tribal governing body on an annual budgetary basis, subject to the approval of the Secretary.

SEC. 5. (a) After the establishment of the fund prescribed in section 3(a) and the apportionment of funds to the Delaware Tribe of Western Oklahoma as prescribed in section 4 of this Act, the remaining balance of the funds described in the first section of this Act shall be divided and distributed per capita, in accordance with the provisions of this section, among all persons whose names appear on a roll prepared by the Secretary, which roll shall include all persons born on or prior to and living on the date of the enactment of this Act who are citizens of the United States and whose names or whose lineal ancestors' names appear on any of the following rolls or records:

(1) the "Registry", filed in the Office of the Commissioner of Indian Affairs pursuant to article 9 of the treaty with the Delaware Indians of July 4, 1866 (14 Stat. 793);

(2) the Delaware (Cherokee Delaware) Indian per capita payroll approved by the Secretary of the Interior on April 20, 1906; or

(3) the "Register" prepared pursuant to the agreement of April 8, 1867, between the Delaware Tribe of Indians and the Cherokee Nation.

(b) The per capita amount determined pursuant to subsection (a) of this section with respect to any person (except a person enrolled pursuant to section 2 of this Act) who was born after October 3, 1972, shall not be less than the amount of per capita payment such person would otherwise receive if no separate fund had been established pursuant to section 3(a) and if the total funds described in the first section of this Act were reduced only by the amount of funds apportioned to the Delaware Tribe of Western Oklahoma pursuant to section 4 of this Act.

(c) The Secretary shall identify those persons who qualify and are enrolled under section 5(a) (1) and (3) of this Act exclusive of those persons who qualify under section 5(a)(2) of this Act. The amount of their individual shares shall be multiplied by the number of such enrollees. The Secretary shall pay 10 per centum of this total amount to the Kansas Delaware Tribe of Indians, Incorporated, and to the Delawares of Idaho, Incorporated, in a ratio proportionate to their respective number of members enrolled under subsection (a) of this section for the sole purpose of the payment of their attorneys' fees in connection with their efforts to achieve participation in the funds set forth in subsection (a) of this section. The Secretary shall distribute the balance of said total amount on a per capita basis to those persons enrolled under section 5(a) (1) and (3) of this Act subject to the requirement of section 5(b) of this Act.

(d) No person shall be entitled to more than one per capita share under subsection (a) of this section, nor shall any person who received a per capita share under section 4 of this Act be eligible to receive any share under this section.

SEC. 6. The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined and distributed pursuant to regulations prescribed by the Secretary. Per capita shares of legal incompetents and per capita shares of persons under age eighteen shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines to be necessary to protect the interests of such persons.

SEC. 7. (a) Except for funds to be held in escrow as provided hereinafter in this section, the Secretary shall pay and distribute all funds, as provided in this Act, forthwith upon completion of the enrollment process to be established by the rules and regulations to be promulgated under section 10 of this Act, which enrollment process period shall not be deemed to include the period of time for action upon enrollment appeals.

Escrow account.

(b) The Secretary, in arranging for the per capita payments under sections 3, 4, and 5 of this Act, shall hold at interest in an escrow account the apportioned shares, including any attorneys fees applicable thereto as provided in sections 3 and 5, of all applicants whose entitlements are the subjects of enrollment appeals, pending determinations of all enrollment appeals.

(c) The aggregate amount of any apportioned shares applicable to unsuccessful applicants for enrollment under section 3 of this Act, including the attorneys fees attributable to such apportioned shares as provided in such section, shall be paid and distributed by the Secretary, 17 per centum to the Delaware Tribe of Western Oklahoma for programing purposes as provided in section 4 of this Act, and the remaining 83 per centum shall be paid and distributed as provided in section 5 of this Act: *Provided,* That per capita payments which would be payable under section 5 of this Act of less than $5 shall be aggregated and paid 19 per centum to the Delaware Tribe of Western Oklahoma and 81 per centum to the Delaware Tribe of Indians, both for programing purposes.

(d) The amount of any apportioned shares applicable to unsuccessful applicants for enrollment who claimed entitlement through membership in the Delaware Tribe of Western Oklahoma shall be added to the programing portion of that tribe's share of these awards.

(e) The amount of any apportioned shares applicable to unsuccessful applicants who claimed entitlement under section 5(a)(2) of this Act shall be added to the programing portion of the Delaware Tribe of

Indians' share of awards provided for in the Act of October 3, 1972 (86 Stat. 762). 25 USC 1291.

(f) The total amount of any apportioned shares applicable to unsuccessful applicants who claimed entitlement through section 5(a)(1) or section 5(a)(3) shall be paid and distributed as provided in section 5(c): *Provided,* That per capita payments which would be payable under section 5(c) of this Act of less than $5 shall be aggregated and paid 19 per centum to the Delaware Tribe of Western Oklahoma and 81 per centum to the Delaware Tribe of Indians, both for the programing purposes of said tribes.

Tax exemption.

SEC. 8. None of the funds distributed per capita or made available for programing purposes under this Act shall be subject to Federal or State income taxes or be considered income or resources in determining eligibility for assistance under Federal, State, or local programs.

SEC. 9. Nothing contained in this Act shall be construed as recognizing the Kansas Delaware Indians, the Kansas Delaware Tribe of Indians, Incorporated, the Idaho Delaware Indians or the Delawares of Idaho, Incorporated, as federally recognized Indian tribes.

Rules and regulations.

SEC. 10. The Secretary is authorized and directed, within sixty days from the date of enactment of this Act, to promulgate rules and regulations to implement this Act, including the establishment of enrollment procedures and a deadline for the filing of enrollment applications on a date not more than one hundred and twenty days after publication of said regulations.

Approved August 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1136 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-628 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 18, considered and passed Senate.
July 21, considered and passed House.

Public Law 96-319
96th Congress

An Act

Aug. 1, 1980
[S. 2508]

To provide for the disposition of the Gila River Pima-Maricopa Indian Community judgment funds awarded in dockets 236-A, 236-B, and 236-E before the Indian Claims Commission and the United States Court of Claims, and for other purposes.

Gila River Pima-Maricopa Indian Community; judgment funds, distribution.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the funds appropriated on May 4, 1977 (91 Stat. 61), in satisfaction of the judgment granted to the Gila River Pima-Maricopa Indian Community in dockets 236-A and 236-B before the Indian Claims Commission and on April 23, 1979, in docket 236-E before the United States Court of Claims, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used and distributed as provided herein.

Investment of funds.

SEC. 2. (a) The Secretary of the Interior shall invest the principal sum of funds in all dockets pursuant to the provisions of the first section of the Act of June 24, 1938 (25 U.S.C. 162a). The interest and investment income accrued shall be immediately available to the Gila River Indian Community upon the approval by the Secretary of the Interior of the community's plan of operation and budget as set forth in Gila River Indian Community Resolution Numbered GR-100-79, adopted August 1, 1979, as follows:

(1) 50 per centum of such interest and income resulting from dockets 236-A and 236-B shall be used as operational costs of the Gila River Indian Community; and

(2) 50 per centum of such interest and income resulting from dockets 236-A and 236-B shall be distributed to the seven community districts, prorated on the basis of current population at the time such distributions are made and shall be used for the general district government operations and programs.

(b) All of the accrued interest and income from docket 236-E shall be used as operational costs of the Gila River Indian Community. After the date of enactment of this Act all interest and investment income accrued from dockets 236-A, 236-B, and 236-E shall be advanced quarterly and utilized as provided in this subsection and paragraphs (1) and (2) of subsection (a) of this section.

SEC. 3. The Gila River Indian Community may utilize portions of the principal funds referred to in section 2 of this Act in connection with programs proposed by the Gila River tribal governing body on a budgetary basis which has been approved by the Secretary of the Interior.

Approved August 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1137 accompanying H.R. 7249 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-690 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 15, considered and passed Senate.
July 21, H.R. 7249 considered and passed House; passage vacated and S. 2508 passed in lieu.

Public Law 96-320
96th Congress

An Act

Aug. 3, 1980
[S. 2492]

To regulate commerce, promote energy self-sufficiency, and protect the environment, by establishing procedures for the location, construction, and operation of ocean thermal energy conversion facilities and plantships to produce electricity and energy-intensive products off the coasts of the United States; to amend the Merchant Marine Act, 1936, to make available certain financial assistance for construction and operation of such facilities and plantships; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ocean Thermal Energy Conversion Act of 1980".

Ocean Thermal Energy Conversion Act of 1980.
42 USC 9101 note.

SEC. 2. DECLARATION OF POLICY.

42 USC 9101.

(a) It is declared to be the purposes of the Congress in this Act to—

(1) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion facilities connected to the United States by pipeline or cable, or located in the territorial sea of the United States consistent with the Convention on the High Seas, and general principles of international law;

(2) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion plantships documented under the laws of the United States, consistent with the Convention on the High Seas and general principles of international law;

(3) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion plantships by United States citizens, consistent with the Convention on the High Seas and general principles of international law;

(4) establish a legal regime which will permit and encourage the development of ocean thermal energy conversion as a commercial energy technology;

(5) provide for the protection of the marine and coastal environment, and consideration of the interests of ocean users, to prevent or minimize any adverse impact which might occur as a consequence of the development of such ocean thermal energy conversion facilities or plantships;

(6) make applicable certain provisions of the Merchant Marine Act, 1936 (46 U.S.C. 1177 et seq.) to assist in financing of ocean thermal energy conversion facilities and plantships;

(7) protect the interests of the United States in the location, construction, and operation of ocean thermal energy conversion facilities and plantships; and

(8) protect the rights and responsibilities of adjacent coastal States in ensuring that Federal actions are consistent with approved State coastal zone management programs and other applicable State and local laws.

(b) The Congress declares that nothing in this Act shall be construed to affect the legal status of the high seas, the superjacent airspace, or the seabed and subsoil, including the Continental Shelf.

SEC. 3. DEFINITIONS. 42 USC 9102.

As used in this Act, unless the context otherwise requires, the term—

(1) "adjacent coastal State" means any coastal State which is required to be designated as such by section 105(a)(1) of this Act or is designated as such by the Administrator in accordance with section 105(a)(2) of this Act;

(2) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration;

(3) "antitrust laws" includes the Act of July 2, 1890, as amended, the Act of October 15, 1914, as amended, and sections 73 and 74 of the Act of August 27, 1894, as amended; 15 USC 1, 12, 8, 9.

(4) "application" means any application submitted under this Act (A) for issuance of a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship; (B) for transfer or renewal of any such license; or (C) for any substantial change in any of the conditions and provisions of any such license;

(5) "coastal State" means a State in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes;

(6) "construction" means any activities conducted at sea to supervise, inspect, actually build, or perform other functions incidental to the building, repairing, or expanding of an ocean thermal energy conversion facility or plantship or any of its components, including but not limited to, piledriving, emplacement of mooring devices, emplacement of cables and pipelines, and deployment of the cold water pipe, and alterations, modifications, or additions to an ocean thermal energy conversion facility or plantship;

(7) "facility" means an ocean thermal energy conversion facility;

(8) "Governor" means the Governor of a State or the person designated by law to exercise the powers granted to the Governor pursuant to this Act;

(9) "high seas" means that part of the oceans lying seaward of the territorial sea of the United States and outside the territorial sea, as recognized by the United States, of any other nation;

(10) "licensee" means the holder of a valid license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship that was issued, transferred, or renewed pursuant to this Act;

(11) "ocean thermal energy conversion facility" means any facility which is standing or moored in or beyond the territorial sea of the United States and which is designed to use temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such facility to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any cable or pipeline used to deliver such electricity, freshwater, or product to shore, and all other associated equipment and appurtenances of such facility, to the extent they are located seaward of the highwater mark;

(12) "ocean thermal energy conversion plantship" means any vessel which is designed to use temperature differences in ocean water while floating unmoored or moving through such water, to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment

installed on such vessel to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any equipment used to transfer such product to other vessels for transportation to users, and all other associated equipment and appurtenances of such vessel;

(13) "plantship" means an ocean thermal energy conversion plantship;

(14) "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, or other entity organized or existing under the laws of any nation, and any Federal, State, local or foreign government or any entity of any such government;

(15) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and any other Commonwealth, territory, or possession over which the United States has jurisdiction;

(16) "test platform" means any floating or moored platform, barge, ship, or other vessel which is designed for limited-scale, at sea operation in order to test or evaluate the operation of components or all of an ocean thermal energy conversion system and which will not operate as an ocean thermal energy conversion facility or plantship after the conclusion of such tests or evaluation;

(17) "thermal plume" means the area of the ocean in which a significant difference in temperature, as defined in regulations by the Administrator, occurs as a result of the operation of an ocean thermal energy conversion facility or plantship; and

(18) "United States citizen" means (A) any individual who is a citizen of the United States by law, birth, or naturalization; (B) any Federal, State, or local government in the United States, or any entity of any such government; or (C) any corporation, partnership, association, or other entity, organized or existing under the laws of the United States, or of any State, which has as its president or other executive officer and as its chairman of the board of directors, or holder of similar office, an individual who is a United States citizen and which has no more of its directors who are not United States citizens than constitute a minority of the number required for a quorum necessary to conduct the business of the board.

TITLE I—REGULATION OF OCEAN THERMAL ENERGY CONVERSION FACILITIES AND PLANTSHIPS

42 USC 9111.

SEC. 101. LICENSE FOR THE OWNERSHIP, CONSTRUCTION, AND OPERATION OF AN OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP.

(a) No person may engage in the ownership, construction, or operation of an ocean thermal energy conversion facility which is documented under the laws of the United States, which is located in the territorial sea of the United States, or which is connected to the United States by pipeline or cable, except in accordance with a license issued pursuant to this Act. No citizen of the United States may engage in the ownership, construction or operation of an ocean thermal energy conversion plantship except in accordance with a license issued pursuant to this Act, or in accordance with a license issued by a foreign nation whose licenses are found by the Adminis-

trator, after consultation with the Secretary of State, to be compatible with licenses issued pursuant to this Act.

(b) The Administrator shall, upon application and in accordance with the provisions of this Act, issue, transfer, amend, or renew licenses for the ownership, construction, and operation of—

(1) ocean thermal energy conversion plantships documented under the laws of the United States, and

(2) ocean thermal energy conversion facilities documented under the laws of the United States, located in the territorial sea of the United States, or connected to the United States by pipeline or cable.

License issuance, prerequisites.

(c) The Administrator may issue a license to a citizen of the United States in accordance with the provisions of this Act unless—

(1) he determines that the applicant cannot and will not comply with applicable laws, regulations, and license conditions;

(2) he determines that the construction and operation of the ocean thermal energy conversion facility or plantship will not be in the national interest and consistent with national security and other national policy goals and objectives, including energy self-sufficiency and environmental quality;

(3) he determines, after consultation with the Secretary of the department in which the Coast Guard is operating, that the ocean thermal energy conversion facility or plantship will not be operated with reasonable regard to the freedom of navigation or other reasonable uses of the high seas and authorized uses of the Continental Shelf, as defined by United States law, treaty, convention, or customary international law;

(4) he has been informed, within 45 days after the conclusion of public hearings on that application, or on proposed licenses for the designated application area, by the Administrator of the Environmental Protection Agency that the ocean thermal energy conversion facility or plantship will not conform with all applicable provisions of any law for which he has enforcement authority;

(5) he has received the opinion of the Attorney General, pursuant to section 104 of this Act, stating that issuance of the license would create a situation in violation of the antitrust laws, or the 90-day period provided in section 104 has expired;

(6) he has consulted with the Secretary of Energy, the Secretary of Transportation, the Secretary of State, the Secretary of the Interior, and the Secretary of Defense, to determine their views on the adequacy of the application, and its effect on programs within their respective jurisdictions and determines on the basis thereof, that the application for license is inadequate;

(7) the proposed ocean thermal energy conversion facility or plantship will not be documented under the laws of the United States;

(8) the applicant has not agreed to the condition that no vessel may be used for the transportation to the United States of things produced, processed, refined, or manufactured at the ocean thermal energy conversion facility or plantship unless such vessel is documented under the laws of the United States;

(9) when the license is for an ocean thermal energy conversion facility, he determines that the facility, including any submarine electric transmission cables and equipment or pipelines which are components of the facility, will not be located and designed so as to minimize interference with other uses of the high seas or

the Continental Shelf, including cables or pipelines already in position on or in the seabed and the possibility of their repair;

(10) the Governor of each adjacent coastal State with an approved coastal zone management program in good standing pursuant to the Coastal Zone Management Act of 1972 (33 U.S.C. 1451 et seq.) determines that, in his or her view, the application is inadequate or inconsistent with respect to programs within his or her jurisdiction;

16 USC 1451 *et seq.*

(11) when the license is for an ocean thermal energy conversion facility, he determines that the thermal plume of the facility is expected to impinge on so as to degrade the thermal gradient used by any other ocean thermal energy conversion facility already licensed or operating, without the consent of its owner;

(12) when the license is for an ocean thermal energy conversion facility, he determines that the thermal plume of the facility is expected to impinge on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation, unless the Secretary of State approves such impingement after consultation with such nation;

(13) when the license is for an ocean thermal energy conversion plantship, he determines that the applicant has not provided adequate assurance that the plantship will be operated in such a way as to prevent its thermal plume from impinging on so as to degrade the thermal gradient used by any other ocean thermal energy conversion facility or plantship without the consent of its owner, and from impinging on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation unless the Secretary of State approves such impingement after consultation with such nation; and

(14) when a regulation has been adopted which places an upper limit on the number or total capacity of ocean thermal energy conversion facilities or plantships to be licensed under this Act for simultaneous operation, either overall or within specific geographic areas, pursuant to a determination under the provisions of section 107(b)(4) of this Act, issuance of the license will cause such upper limit to be exceeded.

Issuance conditions.

(d)(1) In issuing a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship, the Administrator shall prescribe conditions which he deems necessary to carry out the provisions of this Act, or which are otherwise required by any Federal department or agency pursuant to the terms of this Act.

Written *agreement of* compliance.

(2) No license shall be issued, transferred, or renewed under this Act unless the licensee or transferee first agrees in writing that (A) there will be no substantial change from the plans, operational systems, and methods, procedures, and safeguards set forth in his application, as approved, without prior approval in writing from the Administrator, and (B) he will comply with conditions the Administrator may prescribe in accordance with the provisions of this Act.

Disposal *or* removal requirements.

(3) The Administrator shall establish such bonding requirements or other assurances as he deems necessary to assure that, upon the revocation, termination, relinquishment, or surrender of a license, the licensee will dispose of or remove all components of the ocean thermal energy conversion facility or plantship as directed by the Administrator. In the case of components which another applicant or licensee desires to use, the Administrator may waive the disposal or removal requirements until he has reached a decision on the applica-

Waiver.

tion. In the case of components lying on or below the seabed, the Administrator may waive the disposal or removal requirements if he finds that such removal is not otherwise necessary and that the remaining components do not constitute any threat to the environment, navigation, fishing, or other uses of the seabed.

(e) Upon application, a license issued under this Act may be transferred if the Administrator determines that such transfer is in the public interest and that the transferee meets the requirements of this Act and the prerequisites to issuance under subsection (c) of this section. License transfer.

(f) Any United States citizen who otherwise qualifies under the terms of this Act shall be eligible to be issued a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship.

(g) Licenses issued under this Act shall be for a term of not to exceed 25 years. Each licensee shall have a preferential right to renew his license subject to the requirements of subsection (c) of this section, upon such conditions and for such term, not to exceed an additional 10 years upon each renewal, as the Administrator determines to be reasonable and appropriate. License term and renewal.

SEC. 102. PROCEDURE. 42 USC. 9112.

(a) The Administrator shall, after consultation with the Secretary of Energy and the heads of other Federal agencies, issue regulations to carry out the purposes and provisions of this Act, in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection (a) thereof. Such regulations shall pertain to, but need not be limited to, application for issuance, transfer, renewal, suspension, and termination of licenses. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments and with any potentially affected coastal State, and for consideration of the views of any interested members of the general public. The Administrator is further authorized, consistent with the purposes and provisions of this Act, to amend or rescind any such regulation. The Administrator shall complete issuance of final regulations to implement this Act within 1 year of the date of its enactment. Regulations.

(b) The Administrator, in consultation with the Secretary of the Interior and the Secretary of the department in which the Coast Guard is operating may, if he determines it to be necessary, prescribe regulations consistent with the purposes of this Act, relating to those activities in site evaluation and preconstruction testing at potential ocean thermal energy conversion facility or plantship locations that may (1) adversely affect the environment; (2) interfere with other reasonable uses of the high seas or with authorized uses of the Outer Continental Shelf; or (3) pose a threat to human health and safety. If the Administrator prescribes regulations relating to such activities, such activities may not be undertaken after the effective date of such regulations except in accordance therewith. Consultation.

(c) Not later than 60 days after the date of enactment of this Act, the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, the Secretary of the Interior, the Chief of Engineers of the United States Army Corps of Engineers, and the heads of any other Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the construction or operation of ocean thermal energy conversion facilities or plantships, shall transmit to the Administrator written description of their Expertise or statutory responsibility descriptions.

expertise or statutory responsibilities pursuant to this Act or any other Federal law.

Application receipt and notice.

(d)(1) Within 21 days after the receipt of an application, the Administrator shall determine whether the application appears to contain all of the information required by paragraph (2) of this subsection. If the Administrator determines that such information appears to be contained in the application, the Administrator shall, no later than 5 days after making such a determination, publish notice of the application and a summary of the plans in the Federal Register. If the Administrator determines that all of the required information does not appear to be contained in the application, the Administrator shall notify the applicant and take no further action with respect to the application until such deficiencies have been remedied.

Publication in Federal Register.

(2) Each application shall include such financial, technical, and other information as the Administrator determines by regulation to be necessary or appropriate to process the license pursuant to section 101.

Area description, publication in Federal Register.

(e)(1) At the time notice of an application for an ocean thermal energy conversion facility is published pursuant to subsection (d) of this section, the Administrator shall publish a description in the Federal Register of an application area encompassing the site proposed in the application for such facility and within which the thermal plume of one ocean thermal energy conversion facility might be expected to impinge on so as to degrade the thermal gradient used by another ocean thermal energy conversion facility, unless the application is for a license for an ocean thermal energy conversion facility to be located within an application area which has already been designated.

Additional license applications.

(2) The Administrator shall accompany such publication with a call for submission of any other applications for licenses for the ownership, construction, and operation of an ocean thermal energy conversion facility within the designated application area. Any person intending to file such an application shall submit a notice of intent to file an application to the Administrator not later than 60 days after the publication of notice pursuant to subsection (d) of this section, and shall submit the completed application no later than 90 days after publication of such notice. The Administrator shall publish notice of any such application received in accordance with subsection (d) of this section. No application for a license for the ownership, construction, and operation of an ocean thermal energy conversion facility within the designated application area for which a notice of intent to file was received after such 60-day period, or which is received after such 90-day period has elapsed, shall be considered until action has been completed on all timely filed applications pending with respect to such application area.

(f) An application filed with the Administrator shall constitute an application for all Federal authorizations required for ownership, construction, and operation of an ocean thermal energy conversion facility or plantship, except for authorizations required by documentation, inspection, certification, construction, and manning laws and regulations administered by the Secretary of the department in which the Coast Guard is operating. At the time notice of any application is published pursuant to subsection (d) of this section, the Administrator shall forward a copy of such application to those Federal agencies and departments with jurisdiction over any aspect of such ownership, construction, or operation for comment, review, or recommendation as to conditions and for such other action as may be

Application copies.

required by law. Each agency or department involved shall review the application and, based upon legal considerations within its area of responsibility, recommend to the Administrator the approval or disapproval of the application not later than 45 days after public hearings are concluded pursuant to subsection (g) of this section. In any case in which an agency or department recommends disapproval, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall notify the Administrator of the manner in which the application may be amended or the license conditioned so as to bring it into compliance with the law or regulation involved.

Application review.

(g) A license may be issued, transferred, or renewed only after public notice, opportunity for comment, and public hearings in accordance with this subsection. At least one such public hearing shall be held in the District of Columbia and in any adjacent coastal State to which a facility is proposed to be directly connected by pipeline or electric transmission cable. Any interested person may present relevant material at any such hearing. After the hearings required by this subsection are concluded, if the Administrator determines that there exist one or more specific and material factual issues which may be resolved by a formal evidentiary hearing, at least one adjudicatory hearing shall be held in the District of Columbia in accordance with the provisions of section 554 of title 5, United States Code. The record developed in any such adjudicatory hearing shall be part of the basis for the Administrator's decision to approve or deny a license. Hearings held pursuant to this subsection shall be consolidated insofar as practicable with hearings held by other agencies. All public hearings on all applications with respect to facilities for any designated application area shall be consolidated and shall be concluded not later than 240 days after notice of the initial application has been published pursuant to subsection (d) of this section. All public hearings on applications with respect to ocean thermal energy conversion plantships shall be concluded not later than 240 days after notice of the application has been published pursuant to subsection (d) of this section.

Notice, comments, and hearings.

Record.

Consolidation of hearings.

(h) Each person applying for a license pursuant to this Act shall remit to the Administrator at the time the application is filed a nonrefundable application fee, which shall be deposited into miscellaneous receipts of the Treasury. The amount of the fee shall be established by regulation by the Administrator, and shall reflect the reasonable administrative costs incurred in reviewing and processing the application.

Application fee.

(i)(1) The Administrator shall approve or deny any timely filed application with respect to a facility for a designated application area submitted in accordance with the provision of this Act not later than 90 days after public hearings on proposed licenses for that area are concluded pursuant to subsection (g) of this section. The Administrator shall approve or deny an application for a license for ownership, construction, and operation of an ocean thermal energy conversion plantship submitted pursuant to this Act no later than 90 days after the public hearings on that application are concluded pursuant to subsection (g) of this section.

Application approval or denial.

(2) In the event more than one application for a license for ownership, construction, and operation of an ocean thermal energy conversion facility is submitted pursuant to this Act for the same designated application area, the Administrator, unless one or a specific combination of the proposed facilities clearly best serves the

Applications for same area.

national interest, shall make decisions on license applications in the order in which they were submitted to him.

Facility selection, determination factors.

(3) In determining whether any one or a specific combination of the proposed ocean thermal energy conversion facilities clearly best serves the national interest, the Administrator, in consultation with the Secretary of Energy, shall consider the following factors:

(A) the goal of making the greatest possible use of ocean thermal energy conversion by installing the largest capacity practicable in each application area;

(B) the amount of net energy impact of each of the proposed ocean thermal energy conversion facilities;

(C) the degree to which the proposed ocean thermal energy conversion facilities will affect the environment;

(D) any significant differences between anticipated dates and commencement of operation of the proposed ocean thermal energy conversion facilities; and

(E) any differences in costs of construction and operation of the proposed ocean thermal energy conversion facilities, to the extent that such differentials may significantly affect the ultimate cost of energy or products to the consumer.

42 USC 9113.

SEC. 103. PROTECTION OF SUBMARINE ELECTRIC TRANSMISSION CABLES AND EQUIPMENT.

Penalties and fines.

(a) Any person who shall willfully and wrongfully break or injure, or attempt to break or injure, or who shall in any manner procure, counsel, aid, abet, or be accessory to such breaking or injury, or attempt to break or injure, any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act shall be guilty of a misdemeanor and, on conviction thereof, shall be liable to imprisonment for a term not exceeding 2 years, or to a fine not exceeding $5,000, or to both fine and imprisonment, at the discretion of the court.

(b) Any person who by culpable negligence shall break or injure any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act shall be guilty of a misdemeanor and, on conviction thereof, shall be liable to imprisonment for a term not exceeding 3 months, or to a fine not exceeding $500, or to both fine and imprisonment, at the discretion of the court.

(c) The provisions of subsections (a) and (b) of this section shall not apply to any person who, after having taken all necessary precautions to avoid such breaking or injury, breaks or injures any submarine electric transmission cable or equipment in an effort to save the life or limb of himself or of any other person, or to save his own or any other vessel.

Suit for damages.

(d) The penalties provided in subsections (a) and (b) of this section for the breaking or injury of any submarine electric transmission cable or equipment shall not be a bar to a suit for damages on account of such breaking or injury.

Indemnity.

(e) Whenever any vessel sacrifices any anchor, fishing net, or other fishing gear to avoid injuring any submarine electric transmission cable or equipment being constructed or operated under a license issued pursuant to this Act, the licensee shall indemnify the owner of such vessel for the items sacrificed: *Provided,* That the owner of the vessel had taken all reasonable precautionary measures beforehand.

Repair cost.

(f) Any licensee who causes any break in or injury to any submarine cable or pipeline of any type shall bear the cost of the repairs.

SEC. 104. ANTITRUST REVIEW. 42 USC 9114.

(a) Whenever any application for issuance, transfer, or renewal of any license is received, the Administrator shall transmit promptly to the Attorney General a complete copy of such application. Within 90 days of the receipt of the application, the Attorney General shall conduct such antitrust review of the application as he deems appropriate, and submit to the Administrator any advice or recommendations he deems advisable to avoid any action upon such application by the Administrator which would create a situation inconsistent with the antitrust laws. If the Attorney General fails to file such views within the 90-day period, the Administrator shall proceed as if such views had been received. The Administrator shall not issue, transfer, or renew the license during the 90-day period, except upon written confirmation by the Attorney General that he does not intend to submit any further advice or recommendation on the application during such period. Application copy, transmittal to Attorney General.

(b) The issuance of a license under this Act shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or abridge any private right of action under such laws. Nothing in this section shall be construed to bar the Attorney General or the Federal Trade Commission from challenging any anticompetitive situation involved in the ownership, construction, or operation of an ocean thermal energy conversion facility or plantship.

SEC. 105. ADJACENT COASTAL STATES. 42 USC 9115.

(a)(1) The Administrator, in issuing notice of application pursuant to section 102(d) of this title, shall designate as an "adjacent coastal State" any coastal State which (A) would be directly connected by electric transmission cable or pipeline to an ocean thermal energy conversion facility as proposed in an application, or (B) in whose waters any part of such proposed ocean thermal energy conversion facility would be located, or (C) in whose waters an ocean thermal energy conversion plantship would be operated as proposed in an application.

(2) The Administrator shall, upon request of a State, designate such State as an "adjacent coastal State" if he determines that (A) there is a risk of damage to the coastal environment of such State equal to or greater than the risk posed to a State required to be designated as an "adjacent coastal State" by paragraph (1) of this subsection or (B) that the thermal plume of the proposed ocean thermal energy conversion facility or plantship is likely to impinge on so as to degrade the thermal gradient at possible locations for ocean thermal energy conversion facilities which could reasonably be expected to be directly connected by electric transmission cable or pipeline to such State. This paragraph shall apply only with respect to requests made by a State not later than the 14th day after the date of publication of notice of application for a proposed ocean thermal energy conversion facility in the Federal Register in accordance with section 102(d) of this title. The Administrator shall make any designation required by this paragraph not later than the 45th day after the date he receives such a request from a State.

(b)(1) Not later than 5 days after the designation of adjacent coastal State pursuant to this section, the Administrator shall transmit a complete copy of the application to the Governor of such State. The Administrator shall not issue a license without consultation with the Governor of each adjacent coastal State which has an approved coastal zone management program in good standing pursuant to the Application copy, transmittal to State Governor.

Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.). If the Governor of such a State has not transmitted his approval or disapproval to the Administrator by the 45th day after public hearings on the application is concluded pursuant to section 102(g) of this title, such approval shall be conclusively presumed. If the Governor of such a State notifies the Administrator that an application which the Governor would otherwise approve pursuant to this paragraph is inconsistent in some respect with the State's coastal zone management program, the Administrator shall condition the license granted so as to make it consistent with such State program.

(2) Any adjacent coastal State which does not have an approved coastal zone management program in good standing, and any other interested State, shall have the opportunity to make its views known to, and to have them given full consideration by, the Administrator regarding the location, construction, and operation of an ocean thermal energy conversion facility or plantship.

Agreement or compact between States.

(c) The consent of Congress is given to 2 or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, (1) to apply for a license for the ownership, construction, and operation of an ocean thermal energy conversion facility or plantship or for the transfer of such a license, and (2) to establish such agencies, joint or otherwise, as are deemed necessary or appropriate for implementing and carrying out the provisions of any such agreement or compact. Such agreement or compact shall be binding and obligatory upon any State or other party thereto without further approval by the Congress.

42 USC 9116.

SEC. 106. DILIGENCE REQUIREMENTS.

Regulations.

(a) The Administrator shall promulgate regulations requiring each licensee to pursue diligently the construction and operation of the ocean thermal energy conversion facility or plantship to which the license applies.

License termination.

(b) If the Administrator determines that a licensee is not pursuing diligently the construction and operation of the ocean thermal energy conversion facility or plantship to which the license applies, or that the project has apparently been abandoned, the Administrator shall cause proceedings to be instituted under section 111 of this title to terminate the license.

42 USC 9117.

SEC. 107. PROTECTION OF THE ENVIRONMENT.

Environmental assessment program.

(a) The Administrator shall initiate a program to assess the effects on the environment of ocean thermal energy conversion facilities and plantships. The program shall include baseline studies of locations where ocean thermal energy conversion facilities or plantships are likely to be sited or operated; and research; and monitoring of the effects of ocean thermal energy conversion facilities and plantships in actual operation. The purpose of the program shall be to assess the environmental effects of individual ocean thermal energy facilities and plantships, and to assess the magnitude of any cumulative environmental effects of large numbers of ocean thermal energy facilities and plantships.

(b) The program shall be designed to determine, among other things—

(1) any short-term and long-term effects on the environment which may occur as a result of the operation of ocean thermal energy conversion facilities and plantships;

(2) the nature and magnitude of any oceanographic, atmospheric, weather, climatic, or biological changes in the environ-

ment which may occur as a result of deployment and operation of large numbers of ocean thermal energy conversion facilities and plantships;

(3) the nature and magnitude of any oceanographic, biological or other changes in the environment which may occur as a result of the operation of electric transmission cables and equipment located in the water column or on or in the seabed, including the hazards of accidentally severed transmission cables; and

(4) whether the magnitude of one or more of the cumulative environmental effects of deployment and operation of large numbers of ocean thermal energy conversion facilities and plantships requires that an upper limit be placed on the number or total capacity of such facilities or plantships to be licensed under this Act for simultaneous operation, either overall or within specific geographic areas.

Plan submittal to Congress.

(c) Within 180 days after enactment of this Act, the Administrator shall prepare a plan to carry out the program described in subsections (a) and (b) of this section, including necessary funding levels for the next 5 fiscal years, and submit the plan to the Congress.

(d) The program established by subsections (a) and (b) of this section shall be reduced to the minimum necessary to perform baseline studies and to analyze monitoring data, when the Administrator determines that the program has resulted in sufficient knowledge to make the determinations enumerated in subsection (b) of this section with an acceptable level of confidence.

Environmental impact statement.

(e) The issuance of any license for ownership, construction, and operation of an ocean thermal energy conversion facility or plantship shall be deemed to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). For all timely applications covering proposed facilities in a single application area, and for each application relating to a proposed plantship, the Administrator shall, pursuant to such section 102(2)(C) and in cooperation with other involved Federal agencies and departments, prepare a single environmental impact statement, which shall fulfill the requirement of all Federal agencies in carrying out their responsibilities pursuant to this Act to prepare an environmental impact statement. Each such draft environmental impact statement relating to proposed facilities shall be prepared and published within 180 days after notice of the initial application has been published pursuant to section 102(d) of this title. Each such draft environmental impact statement relating to a proposed plantship shall be prepared and published within 180 days after notice of the application has been published pursuant to section 102(d) of this title. Each final environmental impact statement shall be published not later than 90 days following the date on which public hearings are concluded pursuant to section 102(g) of this title. The Administrator may extend the deadline for publication of a specific draft or final environmental impact statement to a later specified time for good cause shown in writing.

Ante, p. 979.

Hearings.

Vessel or floating craft.

(f) An ocean thermal energy conversion facility or plantship licensed under this title shall be deemed not to be a "vessel or other floating craft" for the purposes of section 502(12)(B) of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1362(12)(B)).

42 USC 9118.

SEC. 108. MARINE ENVIRONMENTAL PROTECTION AND SAFETY OF LIFE AND PROPERTY AT SEA.

(a) The Secretary of the department in which the Coast Guard is operating shall, subject to recognized principles of international law, prescribe by regulation and enforce procedures with respect to any ocean thermal energy conversion facility or plantship licensed under this Act, including, but not limited to, rules governing vessel movement, procedures for transfer of materials between such a facility or plantship and transport vessels, designation and marking of anchorage areas, maintenance, law enforcement, and the equipment, training, and maintenance required (1) to promote the safety of life and property at sea, (2) to prevent pollution of the marine environment, (3) to clean up any pollutants which may be discharged, and (4) to otherwise prevent or minimize any adverse impact from the construction and operation of such ocean thermal energy conversion facility or plantship.

Regulations.

(b) The Secretary of the department in which the Coast Guard is operating shall issue and enforce regulations, subject to recognized principles of international law, with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on any ocean thermal energy conversion facility or plantship licensed under this Act.

(c) Whenever a licensee fails to mark any component of such an ocean thermal energy conversion facility or plantship in accordance with applicable regulations, the Secretary of the department in which the Coast Guard is operating shall mark such components for the protection of navigation, and the licensee shall pay the cost of such marking.

Safety zone.

(d)(1) Subject to recognized principles of international law and after consultation with the Secretary of Commerce, the Secretary of the Interior, the Secretary of State, and the Secretary of Defense, the Secretary of the department in which the Coast Guard is operating shall designate a zone of appropriate size around and including any ocean thermal energy conversion facility licensed under this Act and may designate such a zone around and including any ocean thermal energy conversion plantship licensed under this Act for the purposes of reorganizational safety and protection of the facility or plantship. The Secretary of the department in which the Coast Guard is operating shall by regulation define permitted activities within such zone consistent with the purpose for which it was designated. The Secretary of the department in which the Coast Guard is operating shall, not later than 30 days after publication of notice pursuant to section 102(d) of this title, designate such safety zone with respect to any proposed ocean thermal energy conversion facility or plantship.

Rules and regulations.

(2) In addition to any other regulations, the Secretary of the department in which the Coast Guard is operating is authorized, in accordance with this subsection, to establish a safety zone to be effective during the period of construction of an ocean thermal energy conversion facility or plantship licensed under this Act, and to issue rules and regulations relating thereto.

Regulations, enforcement and compliance.

(e)(1) The Secretary of the department in which the Coast Guard is operating shall promulgate and enforce regulations specified in paragraph (2) of this subsection and such other regulations as he deems necessary concerning the documentation, design, construction, alteration, equipment, maintenance, repair, inspection, certification, and manning of ocean thermal energy conversion facilities and plantships. In addition to other requirements prescribed under those regulations, the Secretary of the department in which the Coast

Guard is operating may require compliance with those vessel documentation, inspection, and manning laws which he determines to be appropriate.

(2) Within 1 year after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall promulgate regulations under paragraph (1) of this subsection which require that any ocean thermal energy conversion facility or plantship— Facility or plantship requirements. Regulations.

(A) be documented;

(B) comply with minimum standards of design, construction, alteration, and repair; and

(C) be manned or crewed by United States citizens or aliens lawfully admitted to the United States for permanent residence, unless—

(i) there is not a sufficient number of United States citizens, or aliens lawfully admitted to the United States for permanent residence, qualified and available for such work, or

(ii) the President makes a specific finding, with respect to the particular vessel, platform, or moored or standing structure, that application of this requirement would not be consistent with the national interest.

(3) For the purposes of the documentation laws, for which compliance is required under paragraph (1) of this subsection, ocean thermal energy conversion facilities and plantships shall be deemed to be vessels and, if documented, vessels of the United States for the purposes of the Ship Mortgage Act, 1920 (46 U.S.C. 911-984).

(f) Subject to recognized principles of international law, the Secretary of the department in which the Coast Guard is operating shall promulgate and enforce such regulations as he deems necessary to protect navigation in the vicinity of a vessel engaged in the installation, repair, or maintenance of any submarine electric transmission cable or equipment, and to govern the markings and signals used by such a vessel.

SEC. 109. PREVENTION OF INTERFERENCE WITH OTHER USES OF THE HIGH SEAS. 42 USC 9119.

(a) Each license shall include such conditions as may be necessary and appropriate to ensure that construction and operation of the ocean thermal energy conversion facility or plantship are conducted with reasonable regard for navigation, fishing, energy production, scientific research, or other uses of the high seas, either by citizens of the United States or by other nations in their exercise of the freedoms of the high seas as recognized under the Convention of the High Seas and the general principles of international law.

(b) The Administrator shall promulgate regulations specifying under what conditions and in what circumstances the thermal plume of an ocean thermal energy conversion facility or plantship licensed under this Act will be deemed— Regulations.

(1) to impinge on so as to degrade the thermal gradient used by another ocean thermal energy conversion facility or plantship, or

(2) to impinge on so as to adversely affect the territorial sea or area of natural resource jurisdiction, as recognized by the United States, of any other nation.

Such regulations shall also provide for the Administrator to mediate or arbitrate any disputes among licensees regarding the extent to which the thermal plume of one licensee's facility or plantship impinges on the operation of another licensee's facility or plantship.

(3) Except in a situation involving force majeure, a licensee of an ocean thermal energy conversion facility or plantship shall not permit a vessel, registered in or flying the flag of a foreign state, to call at, load or unload cargo at, or otherwise utilize such a facility or plantship licensed under this Act unless (A) the foreign state involved has agreed, by specific agreement with the United States, to recognize the jurisdiction of the United States over the vessel and its personnel, in accordance with the provisions of this Act, while the vessel is located within the safety zone, and (B) the vessel owner or operator has designated an agent in the United States for receipt of service of process in the event of any claim or legal proceeding resulting from activities of the vessel or its personnel while located within such a safety zone.

Regulations, enforcement.

(c) The Secretary of the department in which the Coast Guard is operating shall promulgate, after consultation with the Administrator, and shall enforce, regulations governing the movement and navigation of ocean thermal energy conversion plantships licensed under this Act to ensure that the thermal plume of such an ocean thermal energy conversion plantship does not unreasonably impinge on so as to degrade the thermal gradient used by the operation of any other ocean thermal energy conversion plantship or facility except in case of force majeure or with the consent of owner of the other such plantship or facility, and to ensure that the thermal plume such of an ocean thermal energy conversion plantship does not impinge on so as to adversely affect the territorial sea or area of national resource jurisdiction, as recognized by the United States, of any other nation unless the Secretary of State has approved such impingment after consultation with such nation.

42 USC 9120.

SEC. 110. MONITORING OF LICENSEES' ACTIVITIES.

Each license shall require the licensee—

(1) to allow the Administrator to place appropriate Federal officers or employees aboard the ocean thermal energy conversion facility or plantship to which the license applies, at such times and to such extent as the Administrator deems reasonable and necessary to assess compliance with any condition or regulation applicable to the license, and to report to the Administrator whenever such officers or employees have reason to believe there is a failure to comply;

(2) to cooperate with such officers and employees in the performance of monitoring functions; and

(3) to monitor the environmental effects, if any, of the operation of the ocean thermal energy conversion facility or plantship in accordance with regulations issued by the Administrator, and to submit such information as the Administrator finds to be necessary and appropriate to assess environmental impacts and to develop and evaluate mitigation methods and possibilities.

42 USC 9121.

SEC. 111. SUSPENSION, REVOCATION, OR TERMINATION OF LICENSE.

(a) Whenever a licensee fails to comply with any applicable provision of this Act or any applicable rule, regulation, restriction, or condition issued or imposed by the Administrator under the authority of this Act, the Attorney General, at the request of the Administrator, shall file an action in the appropriate United States district court to—

(1) suspend the license; or

(2) if such failure is knowing and continues for a period of 30 days after the Administrator mails notification of such failure by registered letter to the licensee at his record post office address, revoke such license.

No proceeding under this section is necessary if the license, by its terms, provides for automatic suspension or termination upon the occurrence of a fixed or agreed upon condition, event, or time.

(b) If the Administrator determines that immediate suspension of the construction or operation of an ocean thermal energy conversion facility or plantship or any component thereof is necessary to protect public health and safety or to eliminate imminent and substantial danger to the environment established by any treaty or convention, the Administrator may order the licensee to cease or alter such construction or operation pending the completion of a judicial proceeding pursuant to subsection (a) of this section.

SEC. 112. RECORDKEEPING AND PUBLIC ACCESS TO INFORMATION. 42 USC 9122.

(a) Each licensee shall establish and maintain such records, make such reports, and provide such information as the Administrator, after consultation with other interested Federal departments and agencies, shall by regulation prescribe to carry out the provisions of this Act. Each licensee shall submit such reports and shall make available such records and information as the Administrator may request. Reports.

(b) Any information reported to or collected by the Administrator under this Act which is exempt from disclosure pursuant to section 552(b)(4) of title 5, United States Code (relating to trade secrets and confidential commercial and financial information), shall not— Confidential information.

(1) be publicly disclosed by the Administrator or by any other officer or employee of the United States, unless the Administrator has—

(A) determined that the disclosure is necessary to protect the public health or safety or the environment against an unreasonable risk of injury, and

(B) notified the person who submitted the information 10 days before the disclosure is to be made, unless the delay resulting from such notice would be detrimental to the public health or safety or the environment, or

(2) be otherwise disclosed except—

(A)(i) to other Federal and adjacent coastal State government departments and agencies for official use,

(ii) to any committee of the Congress of appropriate jurisdiction, or

(iii) pursuant to court order, and

(B) when the administrator has taken appropriate steps to inform the recipient of the confidential nature of the information.

SEC. 113. RELINQUISHMENT OR SURRENDER OF LICENSE. 42 USC 9123.

(a) Any licensee may at any time, without penalty, surrender to the Administrator a license issued to him, or relinquish to the Administrator, in whole or in part, any right to conduct construction or operation of an ocean thermal energy conversion facility or plantship, including part or all of any right of way which may have been granted in conjunction with such license: *Provided,* That such surrender or relinquishment shall not relieve the licensee of any obligation or liability established by this or any other Act, or of any obligation or liability for actions taken by him prior to such surrender or relin- Liability.

quishment, or during disposal or removal of any components required to be disposed of or removed pursuant to this Act.

Right of way.

(b) If part or all of a right of way which is relinquished, or for which the license is surrendered, to the Administrator pursuant to subsection (a) of this section contains an electric transmission cable or pipeline which is used in conjunction with another license for an ocean thermal energy conversion facility, the Administrator shall allow the other licensee an opportunity to add such right of way to his license before informing the Secretary of the Interior that the right of way has been vacated.

42 USC 9124.

SEC. 114. CIVIL ACTIONS.

(a) Except as provided in subsection (b) of this section, any person having a valid legal interest which is or may be adversely affected may commence a civil action for equitable relief on his own behalf in the United States District Court for the District of Columbia whenever such action constitutes a case or controversy—

(1) against any person who is alleged to be in violation of any provision of this Act or any regulation or condition of a license issued pursuant to this Act; or

(2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary.

Suits.

In suits brought under this Act, the district courts of the United States shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any provision of this Act or any regulation or term or condition of a license issued pursuant to this Act, or to order the Administrator to perform such act or duty, as the case may be.

(b) No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 60 days after the plaintiff has given notice of the violation to the Administrator and to any alleged violator; or

(B) if the Administrator or the Attorney General has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States, but in any such action any person may intervene as a matter of right; or

(2) under subsection (a)(2) of this section prior to 60 days after the plaintiff has given notice of such action to the Administrator.

Notice.

Notice under this subsection shall be given in such a manner as the Administrator shall prescribe by regulation.

(c) In any action under this section, the Administrator or the Attorney General, if not a party, may intervene as a matter of right.

Litigation costs.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines that such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person or class of persons may have under any statute or common law to seek enforcement or to seek any other relief.

42 USC 9125.

SEC. 115. JUDICIAL REVIEW.

Any person suffering legal wrong, or who is adversely affected or aggrieved by the Administrator's decision to issue, transfer, modify, renew, suspend, or terminate a license may, not later than 60 days

after such decision is made, seek judicial review of such decision in the United States Court of Appeals for the District of Columbia. A person shall be deemed to be aggrieved by the Administrator's decision within the meaning of this Act if he—

(1) has participated in the administrative proceedings before the Administrator (or if he did not so participate, he can show that his failure to do so was caused by the Administrator's failure to provide the required notice); and

(2) is adversely affected by the Administrator's action.

SEC. 116. TEST PLATFORMS AND COMMERCIAL DEMONSTRATION OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP. 42 USC 9126.

(a) The provisions of this title shall not apply to any test platform which will not operate as an ocean thermal energy conversion facility or platform after conclusion of the testing period.

(b) The provisions of this title shall not apply to ownership, construction, or operation of any ocean thermal energy conversion facility or plantship which the Secretary of Energy has designated in writing as a demonstration project for the development of alternative energy sources for the United States which is conducted by, participated in, or approved by the Department of Energy. The Secretary of Energy, after consultation with the Administrator, shall require such demonstration projects to abide by as many of the substantive requirements of this title as he deems to be practicable without damaging the nature of or unduly delaying such projects.

SEC. 117. PERIODIC REVIEW AND REVISION OF REGULATIONS. 42 USC 9127.

The Administrator and the Secretary of the department in which the Coast Guard is operating shall periodically, at intervals of not more than every 3 years, and in consultation with the Secretary of Energy, review any regulations promulgated pursuant to the provisions of this title to determine the status and impact of such regulations on the continued development, evolution, and commercialization of ocean thermal energy conversion technology. The results of each such review shall be included in the next annual report required by section 405. The Administrator and such Secretary are authorized and directed to promulgate any revisions to the then effective regulations as are deemed necessary and appropriate based on such review, to ensure that any regulations promulgated pursuant to the provisions of this title do not impede such development, evolution, and commercialization of such technology. Additionally, the Secretary of Energy is authorized to propose, based on such review, such revisions for the same purpose. The Administrator or such Secretary, as appropriate, shall have exclusive jurisdiction with respect to any such proposal by the Secretary of Energy and, pursuant to applicable procedures, shall consider and take final action on any such proposal in an expeditious manner. Such consideration shall include at least one informal hearing pursuant to the procedures in section 553 of title 5, United States Code.

Review results.

Post, p. 999.

Proposals by Secretary of Energy.

Hearing.

TITLE II—MARITIME FINANCING FOR OCEAN THERMAL ENERGY CONVERSION

SEC. 201. DETERMINATIONS UNDER THE MERCHANT MARINE ACT, 1936. 42 USC 9141.

(a)(1) For the purposes of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), any ocean thermal energy conversion facility or plantship licensed pursuant to this Act, and any vessel providing shipping service to or from such an ocean thermal energy conversion

facility or plantship, shall be deemed to be a vessel operated in the foreign commerce of the United States.

(2) The provisions of paragraph (1) of this subsection shall apply for taxable years beginning after December 31, 1981.

(b) For the purposes of the Merchant Marine Act, 1936 (46 U.S.C. 1177 et seq.) any vessel documented under the laws of the United States and used in providing shipping service to or from any ocean thermal energy conversion facility or plantship licensed pursuant to the provisions of this Act shall be deemed to be used in, and used in an essential service in, the foreign commerce or foreign trade of the United States, as defined in section 905(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1244(a)).

SEC. 202. AMENDMENTS TO TITLE XI OF THE MERCHANT MARINE ACT, 1936.

(a) Section 1101 of the Merchant Marine Act, 1936 (46 U.S.C. 1271), is amended—

(1) in subsection (b) by striking "and" immediately before "dredges" and inserting in lieu thereof a comma, and by inserting immediately after "dredges" the following: "and ocean thermal energy conversion facilities or plantships",

(2) in subsection (g) by striking "and" after the semicolon,

(3) in subsection (h) by striking "equipping" and inserting in lieu thereof "equipping and", and

(4) by adding at the end thereof a new subsection (i) to read as follows:

Definition.

"(i) The term 'ocean thermal energy conversion facility or plantship' means any at-sea facility or vessel, whether mobile, floating unmoored, moored, or standing on the seabed, which uses temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes any equipment installed on such facility or vessel to use such electricity or other form of energy to produce, process, refine, or manufacture a product, and any cable or pipeline used to deliver such electricity, freshwater, or product to shore, and all other associated equipment and appurtenances of such facility or vessel, to the extent they are located seaward of the highwater mark.".

(b) Section 1104(a)(1) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)(1)), is amended by striking "or (E)" and inserting in lieu thereof "(E) as an ocean thermal energy conversion facility or plantship; or (F)".

(c) Section 1104(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(b)(2)), is amended by striking "vessel;" and inserting in lieu thereof "vessel: *Provided further,* That in the case of an ocean thermal energy conversion facility or plantship which is constructed without the aid of construction-differential subsidy, such obligations may be in an aggregate principal amount which does not exceed 87½ percent of the actual cost or depreciated actual cost of the facility or plantship;".

SEC. 203. OTEC DEMONSTRATION FUND.

(a) Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271-1279b) is further amended by adding at the end thereof a new section 1110 to read as follows:

Guarantees.
46 USC 1279c.
46 USC 1273.

"SEC. 1110. (a) Pursuant to the authority granted under section 1103(a) of this title, the Secretary of Commerce, upon such terms as he shall prescribe, may guarantee or make a commitment to guarantee, payment of the principal of and interest on an obligation which

aids in financing, including reimbursement of an obligor for expenditures previously made for, construction, reconstruction, or reconditioning of a commercial demonstration ocean thermal energy conversion facility or plantship owned by citizens of the United States. Guarantees or commitments to guarantee under this subsection shall be subject to all the provisos, requirements, regulations, and procedures which apply to guarantees or commitments to guarantee made pursuant to section 1104(a)(1) of this title, except that— 46 USC 1274.

"(1) no guarantees or commitments to guarantee may be made by the Secretary of Commerce under this subsection before October 1, 1981; Exceptions.

"(2) the provisions of subsection (d) of section 1104 of this title shall apply to guarantees or commitments to guarantee for that portion of a commercial demonstration ocean thermal energy conversion facility or plantship not to be supported with appropriated Federal funds;

"(3) guarantees or commitments to guarantee made pursuant to this section may be in an aggregate principal amount which does not exceed 87½ percent of the actual cost or depreciated actual cost of the commercial demonstration ocean thermal energy conversion facility or plantship: *Provided,* That, if the commercial demonstration ocean thermal energy conversion facility or plantship is supported with appropriated Federal funds, such guarantees or commitments to guarantee may not exceed 87½ percent of the aggregate principal amount of that portion of the actual cost or depreciated actual cost for which the obligor has an obligation to secure financing in accordance with the terms of the agreement between the obligor and the Department of Energy or other Federal agency; and

"(4) the provisions of this section may be used to guarantee obligations for a total of not more than 5 separate commercial demonstration ocean thermal energy conversion facilities and plantships or a demonstrated 400 megawatt capacity, whichever comes first.

"(b) A guarantee or commitment to guarantee shall not be made under this section unless the Secretary of Energy, in consultation with the Secretary of Commerce, certifies to the Secretary of Commerce that, for the ocean thermal energy conversion facility or plantship for which the guarantee or commitment to guarantee is sought, there is sufficient guarantee of performance and payment to lower the risk to the Federal Government to a level which is reasonable. The Secretary of Energy must base his considerations on the following: (1) the successful demonstration of the technology to be used in such facility at a scale sufficient to establish the likelihood of technical and economic viability in the proposed market; and (2) the need of the United States to develop new and renewable sources of energy and the benefits to be realized from the construction and successful operation of such facility or plantship.

"(c) A special subaccount in the Federal Ship Financing Fund, to be known as the OTEC Demonstration Fund, shall be established on October 1, 1981. The OTEC Demonstration Fund shall be used for obligation guarantees authorized under this section which do not qualify under other sections of this title. Except as specified otherwise in this section, the operation of the OTEC Demonstration Fund shall be identical with that of the parent Federal Ship Financing Fund: except that, notwithstanding the provisions of section 1104(g), (1) all moneys received by the Secretary pursuant to sections 1101 through 1107 of this title with respect to guarantees or commitments 46 USC 1271–1279.

OTEC Demonstration Fund.

46 USC 1274.

Notes or obligations.
46 USC 1275.

46 USC 1271-1279.

Transfer of assets.

to guarantee made pursuant to this section shall be deposited only in the OTEC Demonstration Fund, and (2) whenever there shall be outstanding any notes or other obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund, all moneys received by the Secretary of Commerce pursuant to sections 1101 through 1107 of this title with respect to ocean thermal energy conversional facilities or plantships shall be deposited in the OTEC Demonstration Fund. Assets in the OTEC Demonstration Fund may at any time be transferred to the parent fund whenever and to the extent that the balance thereof exceeds the total guarantees or commitments to guarantee made pursuant to this section then outstanding, plus any notes or other obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund. The Federal Ship Financing Fund shall not be liable for any guarantees or commitments to guarantee issued pursuant to this section. The aggregate unpaid principal amount of the obligations guaranteed with the backing of the OTEC Demonstration Fund and outstanding at any one time shall not exceed $2,000,000,000.

Notes or obligations.
46 USC 1275.

"(d) The provisions of section 1105(d) of this title shall apply specifically to the OTEC Demonstration Fund as well as to the Fund: *Provided, however,* That any notes or obligations issued by the Secretary of Commerce pursuant to section 1105(d) of this title with respect to the OTEC Demonstration Fund shall be payable solely from proceeds realized by the OTEC Demonstration Fund.

Interest.

"(e) The interest on any obligation guaranteed under this section shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1954.".

26 USC 1 *et seq.*

(b)(1) Section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(f)) is amended by striking out "$10,000,000,000." and inserting in lieu thereof "$12,000,000,000, of which $2,000,000,000 shall be limited to obligations pertaining to commercial demonstration ocean thermal energy conversion facilities or plantships guaranteed pursuant to section 1110 of this title.".

Ante, p. 992.

Effective date.
46 USC 1273 note.

(2) The amendment made by paragraph (1) of this subsection shall take effect October 1, 1981.

TITLE III—ENFORCEMENT

42 USC 9151.

SEC. 301. PROHIBITED ACTS.

It is unlawful for any person who is a United States citizen or national, or a foreign national on board an ocean thermal energy conversion facility or plantship or other vessel documented or numbered under the laws of the United States, or who is subject to the jurisdiction of the United States by an international agreement to which the United States is a party—

(1) to violate any provision of this Act, or any rule, regulation, or order issued pursuant to this Act, or any term or condition of any license issued to such person pursuant to this Act;

(2) to refuse to permit any Federal officer or employee authorized to monitor or enforce the provisions of sections 110 and 303 of this Act to board an ocean thermal energy conversion facility or plantship or any vessel documented or numbered under the laws of the United States, for purposes of conducting any search or inspection in connection with the monitoring or enforcement of this Act or any rule, regulation, order, term, or condition referred to in paragraph (1) of this section;

(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer or employee in the conduct of any search or inspection described in paragraph (2) of this section;

(4) to resist a lawful arrest for any act prohibited by this section; or

(5) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person subject to this section knowing that the other person has committed any act prohibited by this section.

SEC. 302. REMEDIES AND PENALTIES. 42 USC 9152.

(a)(1) The Administrator or his delegate shall have the authority to issue and enforce orders during proceedings brought under this Act. Such authority shall include the authority to issue subpenas, administer oaths, compel the attendance and testimony of witnesses and the production of books, papers, documents, and other evidence, to take depositions before any designated individual competent to administer oaths, and to examine witnesses. Orders, issuance and enforcement.

(2) Whenever on the basis of any information available to him the Administrator finds that any person subject to section 301 of this title is in violation of any provision of this Act or any rule, regulation, order, license, or term or condition thereof, or other requirements under this Act, he may issue an order requiring such person to comply with such provision or requirement, or bring a civil action in accordance with subsection (b) of this section.

(3) Any compliance order issued under this subsection shall state with reasonable specificity the nature of the violation and a time for compliance, not to exceed 30 days, which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(b)(1) Upon a request by the Administrator, the Attorney General shall commence a civil action for appropriate relief, including a permanent or temporary injunction, any violation for which the Administrator is authorized to issue a compliance order under subsection (a)(2) of this section.

(2) Upon a request by the Administrator, the Attorney General shall bring an action in an appropriate district court of the United States for equitable relief to redress a violation, by any person subject to section 301 of this title, of any provision of this Act, any regulation issued pursuant to this Act, or any license condition.

(c)(1) Any person who is found by the Administrator, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 301 of this title shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Administrator, or his designee, by written notice. In determining the amount of such penalty, the Administrator shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require. Liability.

(2) Any person against whom a civil penalty is assessed under paragraph (1) of this subsection may obtain a review thereof in the appropriate court of the United States by filing a notice of appeal in Review.

such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator. The Administrator shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Administrator shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

Filing of certified copy.

Assessment, failure to pay.

(3) If any person subject to section 301 fails to pay an assessment of a civil penalty against him after it has become final, or after the appropriate court has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

Review.

(4) The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection.

(d)(1) Any person subject to section 301 of this title is guilty of an offense if he willfully commits any act prohibited by such section.

(2) Any offense, other than an offense for which the punishment is prescribed by section 103 of this Act, is punishable by a fine of not more than $75,000 for each day during which the violation continues. Any offense described in paragraphs (2), (3), (4), and (5) of section 301 is punishable by the fine or imprisonment for not more than 6 months, or both. If, in the commission of any offense, the person subject to section 301 uses a dangerous weapon, engages in conduct that causes bodily injury to any Federal officer or employee, or places any Federal officer or employee in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 or imprisonment for not more than 10 years, or both.

(e) Any ocean thermal energy conversion facility or plantship licensed pursuant to this Act and any other vessel documented or numbered under the laws of the United States, except a public vessel engaged in noncommercial activities, used in any violation of this Act or of any rule, regulation, order, license, or term or condition thereof, or other requirements of this Act, shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof, whenever it shall appear that one or more of the owners, or bareboat charterers, was at the time of the violation a consenting party or privy to such violation.

42 USC 9153.

SEC. 303. ENFORCEMENT.

Responsibility of NOAA Administrator.

(a) Except where a specific section of this Act designates enforcement responsibility, the provisions of this Act shall be enforced by the Administrator. The Secretary of the department in which the Coast Guard is operating shall have exclusive responsibility for enforcement measures which affect the safety of life and property at sea, shall exercise such other enforcement responsibilities with respect to vessels subject to the provisions of this Act as are authorized under other provisions of law, and may, upon the specific request of the Administrator, assist the Administrator in the enforcement of any provision of this Act. The Administrator and the Secretary of the department in which the Coast Guard is operating may, by agreement, on a reimbursable basis or otherwise, utilize the personnel,

services, equipment, including aircraft and vessels, and facilities of any other Federal agency or department, and may authorize officers or employees of other departments or agencies to provide assistance as necessary in carrying out subsection (b) of this section. The Administrator and the Secretary of the department in which the Coast Guard is operating may issue regulations jointly or severally as may be necessary and appropriate to carry out their duties under this section.

(b) To enforce the provisions of this Act on board any ocean thermal energy conversion facility or plantship or other vessel subject to the provisions of this Act, any officer who is authorized by the Administrator or the Secretary of the department in which the Coast Guard is operating may—

(1) board and inspect any vessel which is subject to the provisions of this Act;

(2) search the vessel if the officer has reasonable cause to believe that the vessel has been used or employed in the violation of any provision of this Act;

(3) arrest any person subject to section 301 of this title if the officer has reasonable cause to believe that the person has committed a criminal act prohibited by sections 301 and 302(d) of this title;

(4) seize the vessel together with its gear, furniture, appurtenances, stores, and cargo, used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act if such seizure is necessary to prevent evasion of the enforcement of this Act;

(5) seize any evidence related to any violation of any provision of this Act;

(6) execute any warrant or other process issued by any court of competent jurisdiction; and

(7) exercise any other lawful authority.

(c) Except as otherwise specified in section 115 of this Act, the district courts of the United States shall have exclusive original jurisdiction over any case or controversy arising under the provisions of this Act. Except as otherwise specified in this Act, venue shall lie in any district wherein, or nearest to which, the cause of action arose, or wherein any defendant resides, may be found, or has his principal office. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii. Any such court may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

(d) For the purposes of this section, the term "vessel" includes an ocean thermal energy conversion facility or plantship, and the term "provisions of this Act" or "provision of this Act" includes any rule, regulation, or order issued pursuant to this Act and any term or condition of any license issued pursuant to this Act. Definitions.

TITLE IV—MISCELLANEOUS PROVISIONS

42 USC 9161.

SEC. 401. EFFECT OF LAW OF THE SEA TREATY.

If the United States ratifies a treaty, which includes provisions with respect to jurisdiction over ocean thermal energy conversion activities, resulting from any United Nations Conference on the Law of the Sea, the Administrator, after consultation with the Secretary of State, shall promulgate any amendment to the regulations promulgated under this Act which is necessary and appropriate to conform such regulations to the provisions of such treaty, in anticipation of the date when such treaty shall come into force and effect for, or otherwise be applicable to, the United States.

42 USC 9162.

SEC. 402. INTERNATIONAL NEGOTIATIONS.

The Secretary of State, in cooperation with the Administrator and the Secretary of the department in which the Coast Guard is operating, shall seek effective international action and cooperation in support of the policy and purposes of this Act and may initiate and conduct negotiations for the purpose of entering into international agreements designed to guarantee noninterference of ocean thermal energy conversion facilities and plantships with the thermal gradients used by other such facilities and plantships, to assure protection of such facilities and plantships and of navigational safety in the vicinity thereof, and to resolve such other matters relating to ocean thermal energy conversion facilities and plantships as need to be resolved in international agreements.

42 USC 9163.

SEC. 403. RELATIONSHIP TO OTHER LAWS.

(a)(1) The Constitution, laws, and treaties of the United States shall apply to an ocean thermal energy conversion facility or plantship licensed under this Act and to activities connected, associated, or potentially interfering with the use or operation of any such facility or plantship, in the same manner as if such facility or plantship were an area of exclusive Federal jurisdiction located within a State. Nothing in this Act shall be construed to relieve, exempt, or immunize any person from any other requirement imposed by Federal law, regulation, or treaty.

(2) Ocean thermal energy conversion facilities and plantships licensed under this Act do not possess the status of islands and have no territorial seas of their own.

(b)(1) Except as may otherwise be provided by this Act, nothing in this Act shall in any way alter the responsibilities and authorities of a State or the United States within the territorial seas of the United States.

(2) The law of the nearest adjacent coastal State to which an ocean thermal energy conversion facility located beyond the territorial sea and licensed under this Act is connected by electric transmission cable or pipeline, now in effect or hereafter adopted, amended, or repealed, is declared to be the law of the United States, and shall apply to such facility, to the extent applicable and not inconsistent with any provision or regulation under this Act or other Federal laws and regulations now in effect or hereafter adopted, amended, or repealed: *Provided, however,* That the application of State taxation laws is not extended hereby outside the seaward boundary of any State. All such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States outside the seaward boundary of any State.

Enforcement.

(c)(1) For the purposes of the customs laws administered by the Secretary of the Treasury, ocean thermal energy conversion facilities and plantships documented under the laws of the United States and licensed under this Act shall be deemed to be vessels.

(2) Except insofar as they apply to vessels documented under the laws of the United States, the customs laws administered by the Secretary of the Treasury shall not apply to any ocean thermal energy conversion facility or plantship licensed under the provisions of this Act, but all foreign articles to be used in the construction of any such facility or plantship, including any component thereof, shall first be made subject to all applicable duties and taxes which would be imposed upon or by reason of their importation if they were imported for consumption in the United States. Duties and taxes shall be paid thereon in accordance with laws applicable to merchandise imported into the customs territory of the United States.

SEC. 404. SUBMARINE ELECTRIC TRANSMISSION CABLE AND EQUIPMENT SAFETY. 42 USC 9164.

(a) The Secretary of Energy, in cooperation with other interested Federal agencies and departments, shall establish and enforce such standards and regulations as may be necessary to assure the safe construction and operation of submarine electric transmission cables and equipment subject to the jurisdiction of the United States. Such standards and regulations shall include, but not be limited to, requirements for the use of the safest and best available technology for submarine electric transmission cable shielding, and for the use of automatic switches to shut off electric current in the event of a break in such a cable. Safety standards and regulations.

(b) The Secretary of Energy, in cooperation with other interested Federal agencies and departments, is authorized and directed to report to the Congress within 60 days after the date of enactment of this Act on appropriations and staffing needed to monitor submarine electric transmission cables and equipment subject to the jurisdiction of the United States so as to assure that they meet all applicable standards for construction, operation, and maintenance. Report to Congress.

SEC. 405. ANNUAL REPORT. 42 USC 9165.

Within 6 months after the end of each of the first 3 fiscal years after the date of enactment of this Act, the Administrator shall submit to the President of the Senate and the Speaker of the House of Representatives a report on the administration of this Act during such fiscal year. Such report shall include, with respect to the fiscal year covered by the report— Submittal to President of Senate and Speaker of House.

(1) a description of progress in implementing this Act;

(2) a list of all licenses issued, suspended, revoked, relinquished, surrendered, terminated, renewed, or transferred; denials of issuance of licenses; and required suspensions and modifications of activities under licenses;

(3) a description of ocean thermal energy conversion activities undertaken pursuant to licenses;

(4) the number and description of all civil and criminal proceedings instituted under title III of this Act, and the current status of such proceedings; and

(5) such recommendations as the Administrator deems appropriate for amending this Act.

42 USC 9166.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Commerce, for the use of the Administrator in carrying out the provisions of this Act, not to exceed $3,000,000 for the fiscal year ending September 30, 1981, not to exceed $3,500,000 for the fiscal year ending September 30, 1982, and not to exceed $3,500,000 for the fiscal year ending September 30, 1983.

42 USC 9167.

SEC. 407. SEVERABILITY.

If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act, or any other application, shall not be affected thereby.

Approved August 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-994 accompanying H.R. 6154 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-721 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 2, considered and passed Senate.
July 21, H.R. 6154 considered and passed House; passage vacated and S. 2492 passed in lieu.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 32:
Aug. 4, Presidential statement.

Public Law 96-321
96th Congress

An Act

To allow the transfer of certain funds to fund the heat crisis program.

Aug. 4, 1980
[S. 2995]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Community Services Administration is authorized to transfer such funds as may be necessary from its Rural Development Loan Fund, which has been established pursuant to section 731 of the Economic Opportunity Act to its ongoing heat crisis program which program is carried out under the authority of title II of such Act.

Heat crisis program, fund transfer.

42 USC 2984.
42 USC 2781.

(b) From unexpended funds appropriated for energy crisis activities in Public Laws 96-86, October 12, 1979, 96-123, November 12, 1979, and 96-126, November 27, 1979, there shall be reimbursed to the Rural Development Loan Fund an amount equal to the amount of funds transferred to the heat crisis program.

93 Stat. 656, 923.
93 Stat. 954.

SEC. 2. To the extent that the Community Services Administration has awarded or will award heat crisis program funds to its grantees, and to the extent that such funds were or will be transferred out of the appropriations cited in section 1 of this Act, and to the extent that the award of such funds are prohibited after June 30, 1980, such prohibition shall not apply.

SEC. 3. To the extent that the funds described in sections 1 and 2 of this Act are available, assistance may be provided to States or areas within States which—

Criteria for assistance.

(a) have experienced extreme heat conditions for a significant period of time according to criteria developed for the Community Services Administration by the National Oceanic and Atmospheric Administration; and

(b) contains significant numbers of low-income individuals whose health is threatened due to such extended heat conditions.

Approved August 4, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
July 30, considered and passed Senate.
July 31, considered and passed House.

Public Law 96-322
96th Congress

An Act

Aug. 4, 1980
[H.R. 6666]

To revise the laws relating to the Coast Guard Reserve.

Coast Guard Reserve.
Law revisions.
14 USC 701 *et seq.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 21 of title 14, United States Code, is amended to read as follows:

"CHAPTER 21—COAST GUARD RESERVE

"SUBCHAPTER A

"GENERAL

"Sec.
"701. Organization.
"702. Authorized strength.
"703. Coast Guard Reserve Boards.
"704. Grades and ratings; military authority.
"705. Benefits.
"706. Temporary members of the Reserve; eligibility and compensation.
"707. Temporary members of the Reserve; disability or death benefits.
"708. Temporary members of the Reserve; certificate of honorable service.
"709. Reserve student aviation pilots; reserve aviation pilots; appointments in commissioned grade.
"710. Appointment or wartime promotion; retention of grade upon release from active duty.
"711. Exemption from military training and draft; exclusiveness of service.
"712. Active duty for emergency augmentation of regular forces.
"713. Enlistment of members engaged in schooling.

"SUBCHAPTER B

"COMMISSIONED OFFICERS

"720. Definitions.
"721. Applicability of this subchapter.
"722. Suspension of this subchapter in time of war or national emergency.
"723. Effect of this subchapter on retirement and retired pay.
"724. Authorized number of officers.
"725. Precedence.
"726. Running mates.
"727. Constructive credit upon initial appointment.
"728. Promotion of Reserve officers on active duty.
"729. Promotion; recommendations of selection boards.
"730. Selection boards; appointment.
"731. Placement in promotion zone; consideration for promotion.
"732. Eligibility for promotion.
"733. Recommendation for promotion of an officer.
"734. Qualifications for promotion.
"735. Promotion; acceptance; oath of office.
"736. Date of rank upon promotion; entitlement to pay.
"737. Type of promotion; temporary.
"738. Effect of removal by the President or failure of consent of the Senate.
"739. Failure of selection for promotion.
"740. Failure of selection and removal from active status.
"741. Retention boards; removal from an active status to provide a flow of promotion.
"742. Maximum ages for retention in an active status.
"743. Rear admiral; maximum service in grade.

"744. Appointment of a former Navy or Coast Guard officer.
"745. Grade on entry upon active duty.
"746. Recall of a retired officer; grade upon release.

"SUBCHAPTER A

"GENERAL

"§701. Organization 14 USC 701.

"The Coast Guard Reserve is a component of the Coast Guard. It shall be organized, administered, trained, and supplied under the direction of the Commandant.

"§702. Authorized strength 14 USC 702.

"(a) The President shall prescribe the authorized strength of the Coast Guard Reserve if not otherwise prescribed by law.

"(b) Subject to the authorized strength of the Coast Guard Reserve, the Secretary shall determine, at least annually, the authorized strength in numbers in each grade necessary to provide for mobilization requirements. Without the consent of the member concerned, a member of the Reserve may not be reduced in grade because of the Secretary's determination.

"§703. Coast Guard Reserve Boards 14 USC 703.

"(a) The Secretary shall convene a Coast Guard Reserve Policy Board at least annually to consider, recommend, and report to the Secretary on Reserve policy matters. At least one-half of the members of the Board shall be Reserve officers. Report. Membership.

"(b) The Secretary may convene any other Reserve Board the Secretary considers necessary.

"§704. Grades and ratings; military authority 14 USC 704.

"The grades and ratings in the Reserve, including cadets but not grades above rear admiral, are those prescribed by law or regulation for the Coast Guard. A member of the Reserve on active duty or inactive-duty training has the same authority, rights, and privileges in the performance of that duty as a member of the Regular Coast Guard of corresponding grade or rating.

"§705. Benefits 14 USC 705.

"(a) A member of the Reserve on active duty, on inactive-duty training, or engaged in authorized travel to or from that duty, is entitled to the same benefits as a member of the Naval Reserve of corresponding grade, rating, and length of service. In determining length of service for the purpose of this section, there shall be included all service for which credit is given by law to members of the Regular Coast Guard.

"(b) Chapter 13 of this title applies to a member of the Reserve under the same conditions and limitations as it applies to a member of the Regular Coast Guard. 14 USC 461.

"(c) A member of the Reserve who suffers sickness, disease, disability, or death is entitled to the same benefits as prescribed by law for a member of the Naval Reserve who suffers sickness, disease, disability, or death under similar conditions.

"(d) A member of the Reserve on active duty or when retired for disability is entitled to the benefits of section 253(a) of title 42. A member of the Reserve when on active duty (other than for training)

or when retired for disability is entitled to the benefits of chapter 55 of title 10.

10 USC 1071 *et seq.*

"(e) A member of the Reserve, except an enlisted member retiring on the basis of years of active service, is entitled to the same retirement rights, benefits, and privileges as prescribed by law for a member of the Naval Reserve, and wherever a law confers authority upon the Secretary of the Navy, similar authority is given to the Secretary to be exercised with respect to the Coast Guard when the Coast Guard is not operating as a service in the Navy. An enlisted member of the Reserve who retires on the basis of years of active service is entitled to the same retirement rights, benefits, and privileges as prescribed by law for an enlisted member of the Regular Coast Guard.

14 USC 706.

"§706. Temporary members of the Reserve; eligibility and compensation

"A citizen of the United States, its territories, or possessions who is a member of the Auxiliary, an officer or member of the crew of a motorboat or yacht placed at the disposal of the Coast Guard, or a person (including a Government employee without pay other than the compensation of that person's civilian position) who by reason of special training and experience is considered by the Commandant to be qualified for duty, may be enrolled by the Commandant as a temporary member of the Reserve, for duty under conditions the Commandant may prescribe, including part-time and intermittent active duty with or without pay, without regard to age. The Commandant is authorized to define the powers and duties of temporary members of the Reserve, and to confer upon them, appropriate to their qualifications and experience, the same grades and ratings as provided for members of the Reserve. When performing active duty with pay as authorized by this section, temporary members of the Reserve are entitled to receive the pay and allowances of their rank, grade, or rating.

14 USC 707.

"§707. Temporary members of the Reserve; disability or death benefits

"(a) If a temporary member of the Reserve is physically injured, or dies as a result of physical injury, and the injury is incurred incident to service while performing active duty, or engaged in authorized travel to or from that duty, the law authorizing compensation for employees of the United States suffering injuries while in the performance of their duties, applies, subject to this section. That law shall be administered by the Secretary of Labor to the same extent as if the member was a civil employee of the United States and was injured in the performance of that duty. For benefit computation, regardless of pay or pay status, the member is considered to have had monthly pay of $600.

"(b) This section does not apply if the workmen's compensation law of a State, a territory, or another jurisdiction provides coverage because of a concurrent employment status of the temporary member. When the temporary member or a dependent is entitled to a benefit under this section and also to a concurrent benefit from the United States on account of the same disability or death, the temporary member or dependent, as appropriate, shall elect which benefit to receive.

Investigation.

"(c) If a claim is filed under this section with the Secretary of Labor for benefits because of an alleged injury or death, the Secretary of Labor shall notify the Commandant who shall direct an investigation

into the facts surrounding the alleged injury or death. The Commandant shall then certify to the Secretary of Labor whether or not the injured or deceased person was a temporary member of the Reserve, the person's military status, and whether or not the injury or death was incurred incident to military service.

"(d) A temporary member of the Reserve, who incurs a physical disability or contracts sickness or disease while performing a duty to which the member has been assigned by competent authority, is entitled to the same hospital treatment afforded a member of the Regular Coast Guard.

"(e) In administering section 8133 of title 5, for a person covered by this section—

"(1) the percentages applicable to payments under that section are—

"(A) 45 per centum under subsection (a)(2) of that section, where the member died fully or currently insured under title II of the Social Security Act, with no additional payments for a child or children so long as the widow or widower remains eligible for payments under that subsection; 42 USC 401.

"(B) 20 per centum under subsection (a)(3) of that section, for one child, and 10 per centum additional for each additional child, not to exceed a total of 75 per centum, where the member died fully or currently insured under title II of the Social Security Act; and

"(C) 25 per centum under subsection (a)(4) of that section, if one parent was wholly dependent for support upon the deceased member at the time of the member's death and the other was not dependent to any extent; 16 per centum to each if both were wholly dependent; and if one was, or both were, partly dependent, a proportionate amount in the discretion of the Secretary of Labor;

"(2) payments may not be made under subsection (a)(5) of that section; and

"(3) the Secretary of Labor shall inform the Secretary of Health and Human Services whenever a claim is filed and eligibility for compensation is established under subsection (a)(2) or (a)(3) of section 8133 of title 5. The Secretary of Health and Human Services shall then certify to the Secretary of Labor whether or not the member concerned was fully or currently insured under title II of the Social Security Act at the time of the member's death.

"§708. Temporary members of the Reserve; certificate of honorable service 14 USC 708.

"In recognition of the service of temporary members of the Reserve, the Secretary may upon request issue an appropriate certificate of honorable service in lieu of a certificate of disenrollment issued to any person following disenrollment under honorable conditions from service as a temporary member. Issuance of a certificate of honorable service to any person under this section does not entitle that person to any rights, privileges, or benefits under any law of the United States.

"§709. Reserve student aviation pilots; Reserve aviation pilots; appointments in commissioned grade 14 USC 709.

"(a) Under regulations prescribed by the Secretary an enlisted member of the Reserve may be designated as a student aviation pilot.

"(b) A member who is not a qualified aviator may not be designated as a student aviation pilot unless the member agrees in writing to serve on active duty for a period of two years after successful completion of flight training, unless sooner released. A student aviation pilot may be released from active duty or discharged at any time as provided for in the regulations prescribed by the Secretary.

"(c) A student aviation pilot who is a qualified civilian aviator may be given a brief refresher course in flight training.

"(d) A student aviation pilot undergoing flight training is entitled to have uniforms and equipment provided at Government expense.

"(e) Under regulations prescribed by the Secretary, a student aviation pilot may be designated an aviation pilot upon the successful completion of flight training.

"(f) In time of peace, an aviation pilot obligated under subsection (b) to serve on active duty for two years may serve for an additional period of not more than two years.

"(g) An aviation pilot may be released from active duty or discharged at any time as provided for in the regulations prescribed by the Secretary.

"(h) If qualified under regulations prescribed by the Secretary, an aviation pilot may be appointed as an ensign in the Reserve.

14 USC 710.

"§710. Appointment or wartime promotion; retention of grade upon release from active duty

"(a) A member of the Reserve on active duty, who is appointed or promoted under section 214 or 275 of this title, is entitled upon release from that duty to the highest grade satisfactorily held by reason of that appointment or promotion. The Secretary shall determine the highest grade satisfactorily held.

14 USC 214, 275.

"(b) Unless otherwise entitled to a higher grade, a member recalled to active duty shall be recalled in the grade in which released under subsection (a).

14 USC 711.

"§711. Exemption from military training and draft; exclusiveness of service

"A member of the Reserve, other than a temporary member, is exempt from registration and liability for military training and service under any other law. No member of the Reserve, other than a temporary member, may be a member of another military organization. A temporary member of the Reserve who is a member of another military component shall, if ordered to active duty therein, be disenrolled as a temporary member of the Reserve.

14 USC 712.

"§712. Active duty for emergency augmentation of regular forces

"(a) Notwithstanding any other law, and for the emergency augmentation of the Regular Coast Guard forces during a time of serious natural or manmade disaster, accident, or catastrophe the Secretary may, subject to approval by the President and without the consent of the member affected, order to active duty of not more than fourteen days in any four-month period and not more than thirty days in any one-year period from the Coast Guard Ready Reserve an organized training unit, a member thereof, or a member not assigned to a unit organized to serve as a unit.

"(b) Under the circumstances of the domestic emergency involved, a reasonable time shall be allowed between the date when a Reserve member ordered to active duty under this section is alerted for that duty and the date when the member is required to enter upon that

duty. Unless the Secretary determines that the nature of the domestic emergency does not allow it, this period shall be at least two days.

"(c) Active duty served under this section—

"(1) satisfies on a day-for-day basis all or a part of the annual active duty for training requirement of section 270 of title 10;

"(2) does not satisfy any part of the active duty obligation of a member whose statutory Reserve obligation is not already terminated; and

"(3) entitles a member while engaged therein, or while engaged in authorized travel to or from that duty, to all rights and benefits, including pay and allowances and time creditable for pay and retirement purposes, to which the member would be entitled while performing other active duty.

"§713. Enlistment of members engaged in schooling 14 USC 713.

"The initial period of active duty for training required by section 511(d) of title 10, may be divided into two successive annual periods of not less than six weeks each, to permit the enlistment of a Reserve member without interrupting any full-time schooling in which the member is engaged.

"SUBCHAPTER B

"COMMISSIONED OFFICERS

"§720. Definitions 14 USC 720.

"As used in this subchapter—

"(1) 'Reserve officer' means a commissioned officer in the Reserve, except an officer excluded by section 721 of this title or a commissioned warrant officer; and *Infra.*

"(2) 'discharged' means released from an appointment as a Reserve officer.

"§721. Applicability of this subchapter 14 USC 721.

"This subchapter applies only to the Reserve; except that it does not apply to a temporary member of the Reserve.

"§722. Suspension of this subchapter in time of war or national emergency 14 USC 722.

"In time of war or national emergency declared by Congress, the President may suspend the operation of this subchapter or any part hereof. If this subchapter or any part hereof is suspended by the President, prior to placing the suspended provision in operation, the President shall by regulation, in so far as practicable, adjust the grades of Reserve officers in the same manner as adjustments in grade are made for Regular officers.

"§723. Effect of this subchapter on retirement and retired pay 14 USC 723.

"Except as provided in subsection 746(b) of this title, nothing in this subchapter authorizes the retirement of a Reserve officer or the payment of retired, retainer, or severance pay to a Reserve officer; or affects in any manner the law relating to the retirement of, or the granting of retired or retainer pay or other benefits to a Reserve officer. *Post,* p. 1015.

"§724. Authorized number of officers 14 USC 724.

"(a) The authorized number of officers in the Reserve in an active status is 5,000. The actual number of Reserve officers in an active status at any time shall not exceed the authorized number unless the

Secretary determines that a greater number is necessary for planned mobilization requirements, or unless the excess results directly from the operation of law.

"(b) The authorized number of Reserve officers in an active status below the grade of rear admiral shall be distributed in grade in the following percentages, respectively: captain, 1.5; commander, 7.0; lieutenant commander, 22.0; lieutenant, 37.0; and in the combined grades of lieutenant (junior grade) and ensign, 32.5. When the actual number of Reserve officers in an active status in a grade is less than the number authorized, the difference may be applied to increase the authorized number in a lower grade. A Reserve officer may not be reduced in rank or grade solely because of a reduction in an authorized number as provided for in this subsection, or because an excess results directly from the operation of law. The authorized number of Reserve officers in an active status not on active duty in the grade of rear admiral is two.

14 USC 725.

"§725. Precedence

"(a) Reserve officers rank and take precedence in their respective grades among themselves and with officers of the same grade on the active duty promotion list and the permanent commissioned teaching staff in accordance with their dates of rank. When Reserve officers and officers on the active duty promotion list or the permanent commissioned teaching staff have the same date of rank in a grade, they take precedence as determined by the Secretary.

"(b) Notwithstanding any other law, a Reserve officer shall not lose precedence when transferred to or from the active duty promotion list, nor shall that officer's date of rank be changed due to the transfer.

"(c) A Reserve officer shall, when on the active duty promotion list, be promoted in the same manner as any other officer on the active duty promotion list regardless of the length of active duty service of the Reserve officer.

14 USC 726.

"§726. Running mates

"(a) The Secretary shall assign a running mate to each Reserve officer in an active status not on the active duty promotion list. The officer initially assigned as a running mate under this section shall be that officer on the active duty promotion list of the same grade who is next senior in precedence to the Reserve officer concerned. An officer who has twice failed of selection or who has been considered but has not been recommended for continuation under section 289 of this title shall not be assigned as a running mate under this section.

14 USC 289.

"(b) A Reserve officer in an active status not on the active duty promotion list shall be assigned a new running mate as follows:

"(1) If a previously assigned running mate is promoted from below the promotion zone, is removed from the active duty promotion list, suffers a loss of numbers, fails of selection, fails to qualify for promotion, or declines an appointment after being selected for promotion, the new running mate shall be that officer on the active duty promotion list, of the same grade, who is next senior to the previous running mate and who is, or may become, eligible for consideration for promotion. If the previous running mate was on a list of selectees for promotion, the new running mate shall be that officer on the active duty promotion list, of the same grade, who is on a list of selectees for promotion and who is next senior to the previous running mate.

"(2) If a Reserve officer suffers a loss of numbers, the new running mate shall be that officer on the active duty promotion list who, after the loss of numbers has been effected, is the running mate of the Reserve officer next senior to the Reserve officer concerned.

"(3) If a Reserve officer is considered for promotion and fails of selection, fails to qualify for promotion, declines an appointment after being selected for promotion, or has his or her name removed from a list of selectees for promotion, and that officer's running mate is promoted, the new running mate shall be that officer on the active duty promotion list, of the same grade, who, at the time the previous running mate was considered for promotion, was next senior to the previous running mate, was eligible for consideration for promotion, and whose name was not included on a list of selectees for promotion.

"(4) In a situation not expressly covered by this subsection, the Secretary may assign a new running mate as necessary to effect the intent of this section that inequitable changes of precedence do not occur.

"(c) A Reserve officer on the active duty promotion list shall, to the extent practicable and consistent with the limitations imposed by this section, be assigned as the running mate of all Reserve officers junior to the officer, who are in an active status not on the active duty promotion list, and who had a running mate in common with the officer just prior to the time the officer was placed on the active duty promotion list.

"(d) The Secretary may adjust, as necessary, the date of rank of a Reserve officer not on active duty so that the date will correspond with that of the running mate assigned to the officer in accordance with this section. If an overpayment of pay or allowances results from adjusting the date of rank, the overpayment is not subject to recoupment.

"§727. Constructive credit upon initial appointment 14 USC 727.

"Under regulations prescribed by the Secretary, a person, appointed as a Reserve officer, may be assigned a date of rank and precedence which reflects that person's experience, education, or other qualifications. For the purpose of this subchapter only, a person appointed for the purpose of assignment or designation as a law specialist in the Reserve shall be credited with a minimum of three years service in an active status. A person holding a doctor of philosophy, or a comparable degree, in medicine or in a science allied to medicine as determined by the Secretary, may be credited with a minimum of three years service in an active status if appointed for an assignment comparable to that of an officer in the Navy Medical Department.

"§728. Promotion of Reserve officers on active duty 14 USC 728.

"(a) A Reserve officer on active duty, other than for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status, shall not be eligible for consideration for promotion under this subchapter; but shall be considered for promotion under chapter 11 of this title. If promoted while serving on active duty the officer shall be considered as having been promoted under this subchapter and shall be an extra number in the grade to which promoted for the purpose of grade distribution as prescribed in this subchapter. Upon release from active duty the 14 USC 211 *et seq.*

officer shall be included in the grade distribution authorized by this subchapter.

"(b) Notwithstanding subsection (a) of this section, a Reserve officer who has been selected for promotion to the next higher grade under this subchapter at the time the officer reports for active duty, shall be promoted to that grade under chapter 11 of this title.

14 USC 211 *et seq.*

"(c) A Reserve officer who, at the time the officer is released from active duty, has been selected for promotion to the next higher grade under chapter 11 of this title, shall be promoted to that grade as though selected under this subchapter.

"(d) A failure of selection for promotion to the next higher grade occurring under this subchapter or under chapter 11 of this title shall count for all purposes.

14 USC 729.

"§729. Promotion; recommendations of selection boards

"(a) Except as otherwise provided by law, a Reserve officer shall only be promoted pursuant to the recommendation of a selection board.

"(b) The Secretary shall convene selection boards from time to time to recommend Reserve officers for promotion to the next higher grade. A board may be convened to consider officers in one or more grades.

"(c) A selection board shall, from among the names of those eligible Reserve officers submitted to it, recommend for promotion to the next higher grade:

"(1) those officers serving in the grade of lieutenant (junior grade) or above whom it considers to be best qualified; and

"(2) those officers serving in the grade of ensign whom it considers to be fully qualified.

"(d) Before convening a selection board to recommend Reserve officers for promotion to a grade above lieutenant (junior grade), the Secretary shall determine the total number of Reserve officers to be selected for promotion to that grade. The number to be selected shall normally be equal to the number of vacancies existing in that grade, plus the number of vacancies anticipated over the next twelve months, minus the number of officers on the list of selectees for that grade. The Secretary may, however, prescribe regulations that provide for the establishment of promotion opportunity percentages for each grade to ensure that equitable promotion opportunities exist among successive groups of Reserve officers being considered for promotion. The number so determined may not cause the number of Reserve officers in an active status in a grade to exceed that authorized for the grade concerned.

"(e) The law and regulations relating to the selection for promotion of a commissioned officer of the Regular Coast Guard to the grade of rear admiral apply to a Reserve officer, except that to be eligible for consideration an officer shall have completed at least ten years commissioned service, of which the last five years shall have been served in the Coast Guard Reserve.

14 USC 260.

"(f) The provisions of section 260 of this title apply to boards convened under this section. The Secretary shall determine the procedure to be used by a selection board.

Report to President. Review.

"(g) The report of a selection board shall be submitted to the Secretary for review and transmission to the President for approval. When an officer recommended by a board for promotion is not acceptable to the President, the President may remove the name of that officer from the report of the board.

"(h) The recommendations of a selection board, as approved by the President, constitute a list of selectees from which the promotions of Reserve officers shall be made. An officer on a list of selectees remains thereon until promoted unless removed by the President under section 738 of this title. If an existing list of selectees has not been exhausted by the time a later list has been approved, all officers remaining on the older list shall be tendered appointments prior to those on the later list. List of selectees.

Post, p. 1013.

"(i) A Reserve officer whose name is on a list of selectees for promotion shall, unless that officer's promotion is lawfully withheld, be tendered an appointment in the next higher grade at the same time, or as soon thereafter as practicable, as that officer's running mate is tendered a similar appointment.

"§730. Selection boards; appointment

14 USC 730.

"(a) A selection board shall (1) be appointed and convened by the Secretary; (2) consist of at least 50 per centum Reserve officer membership, except in the case of a flag officer selection board where, to the extent practicable, it shall consist of at least 50 per centum Reserve officer membership; (3) consist only of members, Reserve or Regular, senior in grade to any officer being considered by that board; and (4) be composed of not less than five members, which number constitutes a quorum. Membership.

"(b) A selection board serves for the length of time prescribed by the Secretary, but no board may serve longer than one year. No officer may serve on two consecutive selection boards for the same grade when the second of those boards considers an officer who was considered, but not recommended for promotion, by the first selection board.

"(c) Each member of a selection board shall swear that he will, without prejudice or partiality, and having in view both the special fitness required of officers and the efficiency of the Coast Guard, perform the duties imposed upon him. Not less than a majority of the total membership of a selection board shall concur in each recommendation made by the board.

"(d) An officer eligible for consideration for promotion by a selection board may forward, through official channels, a written communication inviting the attention of the board to any matter in the officer's record in the armed forces that, in the opinion of the officer concerned, is important to the board's consideration. A communication forwarded under this subsection shall arrive in time to allow delivery to the board prior to its convening, and may not criticize or reflect upon the character, conduct, or motive of any officer. Written communication to board.

"§731. Placement in promotion zone; consideration for promotion

14 USC 731.

"Subject to the eligibility requirements of this subchapter, a Reserve officer shall be placed in a promotion zone when that officer's running mate is placed in a promotion zone and shall, in accordance with the provisions of this subchapter, be considered for promotion at approximately the same time as that officer's running mate or as soon thereafter as practicable.

"§732. Eligibility for promotion

14 USC 732.

"A Reserve officer is eligible for consideration for promotion and for promotion under this subchapter, if that officer is in an active status. A Reserve officer who has been considered but not recommended for retention in an active status by a board convened under

Post, p. 1014.

subsection 741(a) of this title, is not eligible for consideration for promotion.

14 USC 733.

"§733. Recommendation for promotion of an officer previously removed from an active status

Recommended list of selectees.

"A Reserve officer recommended for promotion by a selection board but not promoted because of removal from an active status shall be reconsidered by a selection board after returning to an active status and if selected shall be placed on a recommended list of selectees for promotion. A Reserve officer to whom this section applies is not considered to have failed of selection when eliminated from a list of selectees for promotion solely as a result of being removed from an active status.

14 USC 734.

"§734. Qualifications for promotion

"(a) A Reserve officer shall not be promoted to a higher grade unless the officer has been found to be physically qualified and the character of the officer's service subsequent to the convening of the selection board which recommended the officer for promotion has been verified as satisfactory.

"(b) Subsection (a) of this section does not exclude from promotion a Reserve officer physically disqualified by a medical board for duty at sea or in the field, if the disqualification results from wounds received in the line of duty, and those wounds do not incapacitate the officer for other duties in the grade to which the officer is to be promoted.

14 USC 735.

"§735. Promotion; acceptance; oath of office

"(a) A Reserve officer who has been appointed under this subchapter is considered to have accepted the appointment unless delivery thereof cannot be effected.

"(b) A Reserve officer who has served continuously since taking the oath of office prescribed in section 3331 of title 5, is not required to take a new oath of office upon appointment in a higher grade.

14 USC 736.

"§736. Date of rank upon promotion; entitlement to pay

"(a) When a Reserve officer is promoted to the next higher grade under this subchapter, the same date of rank shall be assigned as that assigned to the officer's running mate. A Reserve officer so promoted shall be allowed the pay and allowances of the higher grade for duty performed from the date of the officer's appointment thereto.

"(b) Notwithstanding any other law and when a Reserve officer's running mate is so entitled, a Reserve officer in the grade of rear admiral is entitled to the pay and allowances of the upper half for duty performed.

Appointment date.

"(c) For the purposes of subsection (a) of this section, the date of appointment shall be that date when promotion authority is exercised by the Secretary.

14 USC 737.

"§737. Type of promotion; temporary

"Notwithstanding any other law, if a Reserve officer is promoted when the officer's running mate is promoted and the promotion of the running mate is on a temporary basis, the promotion of the Reserve officer is also on a temporary basis. If subsequently the running mate is reverted to a lower grade, other than for reasons of discipline, incompetence, or at the running mate's request, the Reserve officer shall likewise revert to the same lower grade with corresponding precedence.

"§738. Effect of removal by the President or failure of consent of the Senate 14 USC 738.

"(a) The President may, for cause, remove the name of any officer from a list of selectees established under section 729 of this title. *Ante*, p. 1010.

"(b) If the Senate, where required, does not consent to the appointment of an officer whose name is on a list of selectees established under section 729 of this title, that officer's name shall be removed from the list.

"(c) An officer whose name is removed from a list of selectees under subsection (a) or (b) continues to be eligible for consideration for promotion. If selected for promotion by the next selection board and promoted, that officer shall be assigned the date of rank and precedence that would have been assigned if the officer's name had not been previously removed. However, if the officer is not selected by the next selection board, or if the officer's name is again removed from the list of selectees, the officer shall be considered for all purposes as having twice failed of selection for promotion.

"§739. Failure of selection for promotion 14 USC 739.

"(a) A Reserve officer, other than one serving in the grade of captain, who is, or is senior to, the junior officer in the promotion zone established for the officer's grade, fails of selection if not selected for promotion by the selection board that considered the officer, or if having been selected for promotion by the board, the officer's name is thereafter removed from the report of the board by the President.

"(b) A Reserve officer is not considered to have failed of selection if the officer was not considered by a selection board because of administrative error. If that officer is selected by the next appropriate selection board after the error is discovered, and is promoted, the same date of rank and precedence shall be assigned that would have been assigned if the officer had been recommended for promotion by the selection board that originally would have considered the officer but for the error.

"§740. Failure of selection and removal from an active status 14 USC 740.

"(a) The Secretary—

"(1) may remove from an active status a Reserve officer who has twice failed of selection to the next higher grade; and

"(2) shall remove from an active status a Reserve officer serving in the grade of captain who has completed thirty years of total commissioned service and whose name is not carried on an approved list of selectees for promotion to the grade of rear admiral.

"(b) A Reserve officer who has twice failed of selection to the next higher grade and who is not removed from an active status under subsection (a)(1) of this section shall be retained for the period prescribed by the Secretary.

"(c) Subject to section 1006 of title 10, a Reserve officer who is removed from an active status under subsection (a) of this section shall be given an opportunity to transfer to the Retired Reserve, if qualified, but unless so transferred shall, in the discretion of the Secretary, be transferred to the inactive status list or discharged as follows:

"(1) if removed from an active status under subsection (a)(1) of this section, on June 30 next following the approval date of the board report by virtue of which the officer's second failure of selection occurs; or

"(2) if removed from an active status under subsection (a)(2) of this section, on June 30 next following the date on which the officer completes thirty years of total commissioned service as computed under this section.

"(d) For the purpose of this section, the total commissioned service of an officer who has served continuously in the Reserve following appointment in the grade of ensign shall be computed from the date on which that appointment was accepted. A Reserve officer initially appointed in a grade above ensign is considered to have the actual total commissioned service performed in a grade above commissioned warrant officer or the same total commissioned service as an officer of the Regular Coast Guard who has served continuously from an original appointment as ensign, who has not lost numbers or precedence, and who is, or was, junior to the Reserve officer, whichever is greater.

14 USC 741.

"§741. Retention boards; removal from an active status to provide a flow of promotion

"(a) Notwithstanding any other provision of this title, whenever the Secretary determines that it is necessary to reduce the number of Reserve officers in an active status in any grade to provide a steady flow of promotion, or that there is an excessive number of Reserve officers in an active status in any grade, the Secretary may appoint and convene a retention board to consider all of the Reserve officers in that grade in an active status not on active duty and not on an approved list of selectees for promotion to the next higher grade. The retention board shall select and recommend a specified number of the officers under consideration for retention in an active status. This board shall—

Membership.

"(1) to the extent practicable, consist of at least 50 per centum Reserve officers;

"(2) consist only of officers who are senior in rank to any officers being considered by that board; and

"(3) to the extent practicable, consist of officers who have not served on the last previous retention board which considered officers of the same grade.

"(b) Subject to section 1006 of title 10, a Reserve officer who is not recommended for retention in an active status under this section shall be given an opportunity to transfer to the Retired Reserve, if qualified, but unless so transferred shall, in the discretion of the Secretary, be transferred to the inactive status list or discharged on June 30 next following the date on which the report of the retention board is approved.

14 USC 260.

"(c) The provisions of section 260 of this title shall, to the extent that they are not inconsistent with this subchapter, apply to boards convened under this section.

14 USC 742.

"§742. Maximum ages for retention in an active status

Reserve officer.

"(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes sixty-two years of age.

Reserve rear admiral.

"(b) Notwithstanding subsection (a) of this section, the Secretary may authorize the retention of a Reserve rear admiral in an active status not longer than the day on which the officer concerned becomes sixty-four years of age.

"(c) Except as provided for in subsections (a) and (b) of this section, a Reserve officer shall be discharged effective upon the day the officer becomes sixty-two years of age.

"§743. Rear admiral; maximum service in grade 14 USC 743.

"Unless retained in or removed from an active status under any other law, a Reserve rear admiral shall be removed from an active status on the day that officer completes four years of service in that grade.

"§744. Appointment of a former Navy or Coast Guard officer 14 USC 744.

"A former officer of the Regular Navy or Coast Guard who applies for a Reserve commission within one year of resigning the officer's Regular commission, and who is appointed in the same grade previously held in the Regular Navy or Coast Guard, shall be given the same date of rank in that grade as that previously assigned to the officer while a member of the Regular Navy or Coast Guard.

"§745. Grade on entry upon active duty 14 USC 745.

"A Reserve officer ordered to active duty or active duty for training shall be ordered in the grade held; except that the Secretary may authorize a higher grade.

"§746. Recall of a retired officer; grade upon release 14 USC 746.

"(a) When an officer in the Retired Reserve or an officer on a Reserve retired list is recalled to active duty, that officer shall be recalled in a manner similar to the recall of a Regular retired officer.

"(b) An officer in the Retired Reserve or an officer on a Reserve retired list recalled to active duty shall upon release therefrom be advanced in the Retired Reserve or on the Reserve retired list to the highest grade held on active duty, if: (1) appointed to a higher grade while on that duty, and (2) the officer's performance has been satisfactory in the higher grade.".

CONFORMING AMENDMENT

SEC. 2. Subsection 1006(e) of title 10, United States Code is amended by striking out "787" in the first sentence and substituting "740".

Approved August 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1011 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 9, considered and passed House.
July 23, considered and passed Senate.

Public Law 96-323
96th Congress

An Act

Aug. 4, 1980
[H.R. 5580]

To amend title 10, United States Code, to authorize the Secretary of Defense to enter into certain agreements to further the readiness of the military forces of the North Atlantic Treaty Organization.

North Atlantic Treaty Organization Mutual Support Act of 1979.
10 USC 2321 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "North Atlantic Treaty Organization Mutual Support Act of 1979".

SEC. 2. (a) Title 10, United States Code, is amended by inserting after chapter 137 the following new chapter:

"CHAPTER 138—NORTH ATLANTIC TREATY ORGANIZATION ACQUISITION AND CROSS-SERVICING AGREEMENTS

"Sec.
"2321. Authority to acquire logistic support, supplies, and services for United States armed forces in Europe.
"2322. Cross-servicing agreements.
"2323. Law applicable to acquisition and cross-servicing agreements.
"2324. Methods of payment for acquisitions and transfers by the United States.
"2325. Liquidation of accrued credits and liabilities.
"2326. Crediting of receipts.
"2327. Limitation on amounts that may be obligated or accrued by the United States.
"2328. Inventories of supplies not to be increased.
"2329. Regulations.
"2330. Annual reports.
"2331. Definitions.

10 USC 2321.

"§ 2321. Authority to acquire logistic support, supplies, and services for United States armed forces in Europe

"Subject to section 2323 of this title and subject to the availability of appropriations, the Secretary of Defense may acquire from the Governments of North Atlantic Treaty Organization countries and from North Atlantic Treaty Organization subsidiary bodies logistic support, supplies, and services for elements of the armed forces deployed in Europe and adjacent waters.

10 USC 2322.

"§ 2322. Cross-servicing agreements

"Subject to section 2323 of this title and to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into agreements with the Government of any North Atlantic Treaty Organization country and with any North Atlantic Treaty Organization subsidiary body under which the United States agrees to provide logistic support, supplies, and services to military forces of such country or subsidiary body deployed in Europe and adjacent waters in return for the reciprocal provision of logistic support, supplies, and services by such country or subsidiary body to elements of the armed forces deployed in Europe and adjacent waters.

"§ 2323. Law applicable to acquisition and cross-servicing agreements 10 USC 2323.

"(a) Except as provided in subsection (b), acquisition of logistic support, supplies, and services under section 2321 of this title and agreements entered into under section 2322 of this title shall be made in accordance with chapter 137 of this title and the provisions of this chapter. 10 USC 2301 *et seq.*

"(b) Sections 2207, 2304(g), 2306(a), 2306(b), 2306(e), 2306(f), and 2313 of this title, section 3741 of the Revised Statutes (41 U.S.C. 22), and section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) shall not apply to acquisitions made under the authority of section 2321 of this title or to agreements entered into under section 2322 of this title. 10 USC 2207, 2304, 2306, 2313.

"§ 2324. Methods of payment for acquisitions and transfers by the United States 10 USC 2324.

"(a) Logistics support, supplies, and services may be acquired or transferred by the United States under the authority of this chapter on a reimbursement basis or by replacement-in-kind or exchange of supplies or services of an identical or substantially identical nature.

"(b)(1) In entering into agreements with the Government of another North Atlantic Treaty Organization country for the acquisition or transfer of logistic support, supplies, and services on a reimbursement basis, the Secretary of Defense shall negotiate for adoption of the following pricing principles for reciprocal application: Reciprocal pricing principles.

"(A) The price charged by a supplying country for logistics support, supplies, and services specifically procured by the supplying country from its contractors for a recipient country shall be no less favorable than the price for identical items or services charged by such contractors to the armed forces of the supplying country, taking into account price differentials due to delivery schedules, points of delivery, and other similar considerations.

"(B) The price charged a recipient country for supplies furnished by a supplying country from its inventory, and the price charged a recipient country for logistics support and services furnished by the officers, employees, or governmental agencies of a supplying country, shall be the same as the price charged for identical supplies, support, or services acquired by an armed force of the supplying country from such governmental sources.

"(2) To the extent that the Secretary of Defense is unable to obtain mutual acceptance by the other country involved of the reciprocal pricing principles for reimbursable transactions set forth in paragraph (1)—

"(A) the United States may not acquire from such country any logistic support, supply, or service not governed by such reciprocal pricing principles unless the United States forces commander acquiring such support, supply, or service determines (after price analysis) that the price thereof is fair and reasonable; and

"(B) transfers by the United States to such country under this Act of any logistic support, supply, or service that is not governed by such reciprocal pricing principles shall be subject to the pricing provisions of the Arms Export Control Act (22 U.S.C. 2751 et seq.).

"(3) To the extent that indirect costs (including charges for plant and production equipment), administrative surcharges, and contract administration costs with respect to any North Atlantic Treaty Organization country are not waived by operation of the reciprocal Waiver.

pricing principles of paragraph (1), the Secretary of Defense may, on a reciprocal basis, agree to waive such costs.

"(4) The pricing principles set forth in paragraph (2) and the waiver authority provided in paragraph (3) shall also apply to agreements with North Atlantic Treaty Organization subsidiary bodies under this chapter.

10 USC 2325.

"§ 2325. Liquidation of accrued credits and liabilities

"Credits and liabilities of the United States accrued as a result of acquisitions and transfers of logistic support, supplies, and services under the authority of this chapter shall be liquidated not less often than once every three months by direct payment to the entity supplying such support, supplies, or services by the entity receiving such support, supplies, or services.

10 USC 2326.

"§ 2326. Crediting of receipts

"Any receipt of the United States as a result of an agreement entered into under this chapter shall be credited to applicable appropriations, accounts, and funds of the Department of Defense.

10 USC 2327.

"§ 2327. Limitation on amounts that may be obligated or accrued by the United States

Liabilities.

"(a) Except during a period of active hostilities involving the North Atlantic Treaty Organization, the total amount of reimbursable liabilities that the United States may accrue under this chapter (before the computation of offsetting balances) may not exceed $100,000,000 in any fiscal year, and of such amount not more than $25,000,000 in liabilities may be accrued for the acquisition of supplies (other than petroleum, oils, and lubricants).

Credits.

"(b) Except during a period of active hostilities involving the North Atlantic Treaty Organization, the total amount of reimbursable credits that the United States may accrue under this chapter (before the computation of offsetting balances) may not exceed $100,000,000 in any fiscal year.

10 USC 2328.

"§ 2328. Inventories of supplies not to be increased

"Inventories of supplies for elements of the armed forces may not be increased for the purpose of transferring supplies under the authority of this Act to military forces of any North Atlantic Treaty Organization country or any North Atlantic Treaty Organization subsidiary body.

10 USC 2329.

"§ 2329. Regulations

Copies, transmittal to Congress.

"The Secretary of Defense shall prescribe regulations to implement this chapter and shall, not later than sixty days before the effective date of such regulations, transmit copies of such regulations to the Congress. No agreement to make an acquisition or transfer under the authority provided by this chapter may be entered into until such regulations take effect.

10 USC 2330.

"§ 2330. Annual reports

Submittal to Congress.

"The Secretary of Defense shall submit to the Congress not later than February 1 of each year a report containing—

"(1) a description of each agreement entered into under the authority of this chapter that was in effect during the fiscal year preceding the fiscal year in which such report is submitted;

"(2) a report of the dollar value of each reimbursable acquisition or transfer of logistic support, supplies, or services by the

United States (by appropriation, account, or fund) during such fiscal year under each such agreement;

"(3) a report of nonreimbursable acquisitions and transfers of logistic support and services by the United States (by appropriation, account, and fund) during such fiscal year under each such agreement; and

"(4) a description of each agreement entered into (or expected to be entered into) under the authority of this chapter that is expected to be in effect during the fiscal year in which such report is submitted, together with a report of the estimated total dollar value of acquisitions and transfers by the United States (by appropriation, account, or fund) expected to be made during such fiscal year under each such agreement.

"§ 2331. Definitions 10 USC 2331.

"In this chapter:

"(1) 'Logistic support, supplies, and services' means food, billeting, transportation, petroleum, oils, lubricants, clothing, communications services, medical services, ammunition, base operations support (and construction incident to base operations support), storage services, use of facilities, training services, spare parts and components, repair and maintenance services, and port services.

"(2) 'North Atlantic Treaty Organization subsidiary bodies' means—

"(A) any organization within the meaning of the term 'subsidiary bodies' in article I of the multilateral treaty on the Status of the North Atlantic Treaty Organisation, National Representatives and International Staff, signed at Ottawa on September 20, 1951 (TIAS 2992; 5 UST 1087); and

"(B) any international military headquarters or organization to which the Protocol on the Status of International Military Headquarters Set Up Pursuant to the North Atlantic Treaty, signed at Paris on August 28, 1952 (TIAS 2978; 5 UST 870), applies.".

(b) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of title 10, United States Code, are amended by inserting after the item relating to chapter 137 the following new item:

"138. North Atlantic Treaty Organization Acquisition and Cross-Servicing Agreements..... 2321".

Approved August 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-612, Pt. 1 (Comm. on Armed Services) and Pt. 2 (Comm. on Foreign Affairs).

SENATE REPORTS: No. 96-795 (Comm. on Armed Services) and No. 96-842 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Dec. 3, considered and passed House.

Vol. 126 (1980): July 21, considered and passed Senate.

Public Law 96-324
96th Congress

An Act

Aug. 8, 1980
[H.R. 1198]

To clarify the authority to establish lines of demarcation dividing the high seas and inland waters.

High seas and inland waters demarcation lines.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended (33 U.S.C. 151), is amended to read as follows:

"SEC. 2. (a) The Secretary of the department in which the Coast Guard is operating shall establish appropriate identifiable demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States, for the purpose of determining the applicability of special navigational rules in lieu of the International Regulations for Preventing Collisions at Sea.

"(b) The Secretary shall also establish appropriate identifiable lines dividing inland waters of the United States from the high seas for the purpose of determining the applicability of each statute that refers to this section or this section, as amended. These lines may not be located more than twelve nautical miles seaward of the base line from which the territorial sea is measured. These lines may differ in position for the purposes of different statutes.

"United States."

"(c) For the purposes of this section, the term 'United States' includes the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other Commonwealth, territory, or possession of the United States.".

SEC. 2. Section 10 of the Act of May 28, 1908 (35 Stat. 428), as amended (46 U.S.C. 395), is further amended by adding a new subsection to read as follows:

Seagoing barge.

"(d) A seagoing barge means a barge which in the usual course of its employment proceeds outside the line dividing the inland waters from the high seas, as defined in section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended (33 U.S.C. 151).".

Approved August 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-427 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-853 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 17, considered and passed House.
Vol. 126 (1980): July 24, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 32 (1980): Aug. 8, Presidential statement.

Public Law 96-325
96th Congress

An Act

To amend the Shipping Act, 1916, to exempt collective bargaining and related agreements from regulation by the Federal Maritime Commission.

Aug. 8, 1980
[H.R. 6613]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Maritime Labor Agreements Act of 1980.
46 USC 842 note.

SECTION 1. That this Act may be cited as the "Maritime Labor Agreements Act of 1980".

"Maritime labor agreement."

SEC. 2. Section 1 of the Shipping Act, 1916 (46 U.S.C. 801) is amended by adding, at the end of that section, the following:

"The term 'maritime labor agreement' means any collective bargaining agreement between an employer subject to this Act, or group of such employers and a labor organization representing employees in the maritime or stevedoring industry, or any agreement preparatory to such a collective bargaining agreement among members of a multiemployer bargaining group, or any agreement specifically implementing provisions of such a collective bargaining agreement or providing for the formation, financing, or administration of a multiemployer bargaining group.".

Filing of common carrier contracts.

SEC. 3. The first paragraph of section 15 of the Shipping Act, 1916 (46 U.S.C. 814) is amended to read as follows:

"SEC. 15. Every common carrier by water, or other person subject to this Act, shall file immediately with the Commission a true copy, or, if oral, a true and complete memorandum, of every agreement with another such carrier or other person subject to this Act, or modification or cancellation thereof, to which it may be a party or conform in whole or in part, fixing or regulating transportation rates or fares; giving or receiving special rates, accommodations, or other special privileges or advantages; controlling, regulating, preventing, or destroying competition; pooling or apportioning earnings, losses, or traffic; allotting ports or restricting or otherwise regulating the number and character of sailings between ports; limiting or regulating in any way the volume or character of freight or passenger traffic to be carried; or in any manner providing for an exclusive, preferential, or cooperative working arrangement. The term 'agreement' in this section includes understandings, conferences, and other arrangements, but does not include maritime labor agreements or any provisions of such agreements, unless such provisions provide for an assessment agreement described in the fifth paragraph of this section.".

"Agreement."

Assessment agreements.
46 USC 814.

SEC. 4. Section 15 of the Shipping Act, 1916, as amended, is further amended by inserting between the fourth and fifth paragraphs thereof, the following new paragraph:

"Assessment agreements, whether part of a collective bargaining agreement or negotiated separately, to the extent they provide for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized, shall be deemed approved upon filing with the Commission. The Commission shall thereafter, upon complaint filed within 2 years of the date of filing of the agreement, disapprove, cancel, or modify any such agreement, or charge or

Complaint filing.

assessment pursuant thereto, that it finds, after notice and hearing, to be unjustly discriminatory or unfair as between carriers, shippers, or ports, or to operate to the detriment of the commerce of the United States. The Commission shall issue its final decision in any such complaint proceeding within 1 year of the date of filing of the complaint. To the extent that any assessment or charge is found, in such a complaint proceeding, to be unjustly discriminatory or unfair as between carriers, shippers, or ports, the Commission shall remedy the unjust discrimination or unfairness for the period of time between the filing of the complaint and the final decision by means of assessment adjustments. Such adjustments shall be implemented by prospective credits or debits to future assessments or charges, except in the case of a complainant who has ceased activities subject to the assessment or charge, in which case reparation may be awarded. To the extent that any provision of this paragraph conflicts with the language of section 22 or any other section of this Act, or of the Intercoastal Shipping Act, 1933, the provisions of this paragraph shall control in any matter involving assessment agreements described herein.".

Decision.
Complaint proceeding.

46 USC 821.
46 USC 848.

SEC. 5. Section 45 of the Shipping Act, 1916 (46 U.S.C. 842), and all references thereto, is redesignated section 46 and a new section is added as follows:

"SEC. 45. The provisions of this Act and of the Intercoastal Shipping Act, 1933, shall not apply to maritime labor agreements and all provisions of such agreements except to the extent that such provisions provide for the funding of collectively bargained fringe benefit obligations on other than a uniform man-hour basis, regardless of the cargo handled or type of vessel or equipment utilized. Notwithstanding the preceding sentence, nothing in this section shall be construed as providing an exemption from the provisions of this Act or of the Intercoastal Shipping Act, 1933, for any rates, charges, regulations, or practices of a common carrier by water or other person subject to this Act which are required to be set forth in a tariff, whether or not such rates, charges, regulations, or practices arise out of, or are otherwise related to a maritime labor agreement.".

46 USC 841c.
46 USC 848.

Exemptions.

SEC. 6. The changes made to existing laws by the provisions of this Act shall not affect any claims for reparation, if any, based upon conduct occurring prior to the date of enactment of this Act or formal Commission proceedings commenced prior to the date of enactment of this Act.

Reparation claims.
46 USC 841c note.

Approved August 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-876 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-854 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 15, considered and passed House.
July 24, considered and passed Senate, amended.
July 30, House concurred in Senate amendments.

Public Law 96-326
96th Congress

An Act

To establish dispute resolution procedures to settle disputes between supervisors and the United States Postal Service.

Aug. 8, 1980
[H.R. 827]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1004 of title 39, United States Code, is amended by adding at the end thereof the following new subsections:

Postal Service dispute resolution.

"(c)(1) The Postal Service and the supervisors' organization shall, unless otherwise mutually agreed to, meet at least once each month to implement the consultation and direct participation procedures of subsection (b) of this section.

Supervisory organization.

"(2)(A) At least 7 days before each meeting, each party shall—

"(i) provide notice of agenda items, and

"(ii) describe in detail the proposals such party will make with respect to each such item.

"(B) Grievances of individual employees shall not be matters which may be included as agenda items under this paragraph.

"(d)(1) In order to facilitate consultation and direct participation by the supervisors' organization in the planning and development of programs under subsection (b) of this section which affect members of the supervisors' organization, the Postal Service shall—

"(A) provide in writing a description of any proposed program and the reasons for it;

"(B) give the organization at least 60 days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the program; and

"(C) give any recommendation from the organization full and fair consideration in deciding whether or how to proceed with the program.

"(2) If the Postal Service decides to implement a program described in paragraph (1) of this subsection, the Postal Service shall before such implementation—

"(A) give the supervisors' organization details of its decision to implement the program, together with the information upon which the decision is based;

"(B) give the organization an opportunity to make recommendations with respect to the program; and

"(C) give such recommendations full and fair consideration, including the providing of reasons to the organization if any of such recommendations are rejected.

"(3) If a program described in paragraph (1) of this subsection is implemented, the Postal Service shall—

"(A) develop a method for the supervisors' organization to participate in further planning and development of the program, and

"(B) give the organization adequate access to information to make that participation productive.

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"(4) The Postal Service and the supervisors' organization may, by agreement, adopt procedures different from those provided by this subsection.

Pay policy proposals.

"(e)(1) The Postal Service shall, within 45 days of each date on which an agreement is reached on a collective bargaining agreement between the Postal Service and the bargaining representative recognized under section 1203 of this title which represents the largest number of employees, make a proposal for any changes in pay policies and schedules and fringe benefit programs for members of the supervisors' organization which are to be in effect during the same period as covered by such agreement.

39 USC 1203.

"(2) The Postal Service and the supervisors' organization shall strive to resolve any differences concerning the proposal described in paragraph (1) of this subsection under the procedures provided for, or adopted under, subsection (d) of this section.

"(3) The Postal Service shall provide its decision concerning changes proposed under paragraph (1) of this subsection to the supervisors' organization within 90 days following the submission of the proposal.

Federal Mediation and Conciliation Service, factfinding panel.

"(f)(1) If, notwithstanding the mutual efforts required by subsection (e) of this section, the supervisors' organization believes that the decision of the Postal Service is not in accordance with the provisions of this title, the organization may, within 10 days following its receipt of such decision, request the Federal Mediation and Conciliation Service to convene a factfinding panel (hereinafter referred to as the 'panel') concerning such matter.

Panel selection.

"(2) Within 15 days after receiving a request under paragraph (1) of this subsection, the Federal Mediation and Conciliation Service shall provide a list of 7 individuals recognized as experts in supervisory and managerial pay policies. Each party shall designate one individual from the list to serve on the panel. If, within 10 days after the list is provided, either of the parties has not designated an individual from the list, the Director of the Federal Mediation and Conciliation Service shall make the designation. The first two individuals designated from the list shall meet within 5 days and shall designate a third individual from the list. The third individual shall chair the panel. If the two individuals designated from the list are unable to designate a third individual within 5 days after their first meeting, the Director shall designate the third individual.

"(3)(A) The panel shall recommend standards for pay policies and schedules and fringe benefit programs affecting the members of the supervisors' organization for the period covered by the collective bargaining agreement specified in subsection (e)(1) of this section. The standards shall be consistent with the policies of this title, including sections 1003(a) and 1004(a) of this title.

39 USC 1003, 1004.

"(B) The panel shall, consistent with such standards, make appropriate recommendations concerning the differences between the parties on such policies, schedules, and programs.

"(4) The panel shall make its recommendation no more than 30 days after its appointment, unless the Postal Service and the supervisors' organization agree to a longer period. The panel shall hear from the Postal Service and the supervisors' organization in such a manner as it shall direct. The cost of the panel shall be borne equally by the Postal Service and the supervisors' organization.

Cost of panel.

"(5) Not more than 15 days after the panel has made its recommendation, the Postal Service shall provide the supervisors' organization its final decision on the matters covered by factfinding under this subsection. The Postal Service shall give full and fair consideration to

the panel's recommendation and shall explain in writing any differences between its final decision and the panel's recommendation.

"(g) Not earlier than 3 years after the date of the enactment of this subsection, and from time to time thereafter, the Postal Service or the supervisors' organization may request, by written notice to the Federal Mediation and Conciliation Service and to the other party, the creation of a panel to review the effectiveness of the procedures and the other provisions of this section and the provisions of section 1003 of this title. The panel shall be designated in accordance with the procedure established in subsection (f)(2) of this section. The panel shall make recommendations to the Congress for changes in this title as it finds appropriate. Review panel. 39 USC 1003. Recommendations to Congress.

"(h) For purposes of this section— Definitions.

"(1) 'supervisors' organization' means the organization recognized by the Postal Service under subsection (b) of this section as representing a majority of supervisors; and

"(2) 'members of the supervisors' organization' means employees of the Postal Service who are recognized under an agreement between the Postal Service and the supervisors' organization as represented by such organization.".

Approved August 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-234 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 96-856 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): July 9, 10, considered and passed House.
Vol. 126 (1980): July 25, considered and passed Senate, amended.
July 31, House concurred in Senate amendments.

Public Law 96-327
96th Congress

An Act

Aug. 8, 1980
[S. 1916]

To authorize operations by the Overseas Private Investment Corporation (OPIC) in the People's Republic of China.

Overseas Private Investment Corporation.
22 USC 2199.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 239 of the Foreign Assistance Act of 1961, as amended, is further amended by striking out "or" before "Romania" and inserting in lieu thereof a comma, and by inserting "or the People's Republic of China" following "Romania".

Approved August 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1152 accompanying H.R. 7531 (Comm. on Foreign Affairs).
SENATE REPORT No. 96-840 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 21, considered and passed Senate.
July 28, considered and passed House, in lieu of H.R. 7531.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 32:
Aug. 8, Presidential statement.

Public Law 96-328
96th Congress

An Act

To amend title 32, United States Code, to modify the system of accountability and responsibility for property of the United States issued to the National Guard.

Aug. 8, 1980
[H.R. 5748]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsections (b) and (c) of section 710 of title 32, United States Code, are amended to read as follows:

U.S. property, issuance to National Guard.

"(b) The Secretary of the Army shall prescribe regulations for accounting for property issued by the United States to the Army National Guard and for the fixing of responsibility for that property. The Secretary of the Air Force shall prescribe regulations for accounting for property issued by the United States to the Air National Guard and for the fixing of responsibility for that property. So far as practicable, regulations prescribed under this section shall be uniform among the components of each service.

Regulations.

"(c) Under regulations prescribed by the Secretary concerned under subsection (b), liability for the value of property issued by the United States to the National Guard that is lost, damaged, or destroyed may be charged (1) to a member of the Army National Guard or the Air National Guard when in similar circumstances a member of the Army or Air Force serving on active duty would be so charged, or (2) to a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia when the property is lost, damaged, or destroyed incident to duty directed pursuant to the laws of, and in support of the authorities of, such jurisdiction. Liability charged to a member of the Army National Guard or the Air National Guard shall be paid out of pay due to the member for duties performed as a member of the National Guard, unless the Secretary concerned shall for good cause remit or cancel that liability. Liability charged to a State or Territory, Puerto Rico, the Canal Zone, or the District of Columbia shall be paid from its funds or from any other non-Federal funds.".

Liability.

(b)(1) The section heading for such section is amended to read as follows:

"§710. Accountability for property issued to the National Guard".

(2) The item relating to such section in the table of sections at the beginning of chapter 7 of title 32, United States Code, is amended to read as follows:

"710. Accountability for property issued to the National Guard.".

Effective date.
32 USC 710 note.

SEC. 2. The amendment made by subsection (a) of the first section of this Act shall apply to liability for property issued by the United States to the National Guard that is lost, damaged, or destroyed on or after October 1, 1980. Liability for such property that is lost, damaged, or destroyed before such date shall be governed by the provisions of section 710 of title 32, United States Code, as in effect on the day before the date of the enactment of this Act.

Approved August 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-627 (Comm. on Armed Services).
SENATE REPORT No. 96-849 (Comm. on Armed Services).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 27, considered and passed House.
Vol. 126 (1980): July 25, considered and passed Senate.

Public Law 96-329
96th Congress

An Act

To amend Public Law 90-331 to provide for personal protection of the spouses of major Presidential and Vice Presidential candidates during the 120-day period before a general Presidential election.

Aug. 11, 1980
[H.R. 7786]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of subsection (a) of the first section of the Joint Resolution entitled "Joint Resolution to authorize the United States Secret Service to furnish protection to major presidential and vice presidential candidates", approved June 6, 1968 (82 Stat. 170; 18 U.S.C. 3056 note), is amended to read as follows: "Upon the request of a major presidential or vice presidential candidate, as determined by the Secretary after consultation with the advisory committee, the Secretary may authorize the United States Secret Service to furnish protection to the spouse of such major presidential or vice presidential candidate, except that such protection shall not commence more than 120 days before the general Presidential election.".

Presidential and Vice Presidential candidates' spouses, personal protection.

Approved August 11, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1196 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 28, considered and passed House.
Aug. 1, considered and passed Senate.

Public Law 96-330
96th Congress

An Act

Aug. 26, 1980
[H.R. 7102]

To amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes.

Veterans' Administration Health-Care Amendments of 1980.
38 USC 101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Administration Health-Care Amendments of 1980".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—HEALTH-CARE PERSONNEL AMENDMENTS

PART A—PHYSICIANS AND DENTISTS SPECIAL PAY

PERMANENT AUTHORITY FOR PHYSICIANS' AND DENTISTS' COMPARABILITY PAY

38 USC 4104 note.

SEC. 101. Section 6 of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94-123; 38 U.S.C. 4118 note) is amended by striking out "(1)" the first and third places it appears and by striking out paragraph (2) of subsection (a).

REVISION OF SPECIAL PAY FOR PHYSICIANS AND DENTISTS

38 USC 4118.

SEC. 102. (a)(1) Paragraph (1) of subsection (a) of section 4118 is amended—

(A) by striking out "hereunder" and inserting in lieu thereof "to carry out this section";

(B) by inserting "that (except as provided under subsection (d) of this section) is" after "in an amount";

(C) by striking out "$13,500 per annum" and "$6,750 per annum" and inserting in lieu thereof "$22,500 per annum" and "$10,000 per annum", respectively;

(D) by inserting after "Department of Medicine and Surgery" the second place it appears the following: "on a full-time basis (or in the case of a physician employed on a part-time basis, a proportional amount of the maximum amount that would be paid under this section to such physician if such physician were employed on a full-time basis, calculated on the basis of the proportion which the part-time employment of such physician in the Department of Medicine and Surgery bears to full-time employment)"; and

(E) by inserting after "so employed" the following: "on a full-time basis (or in the case of a dentist employed on a part-time basis, a proportional amount of the maximum amount that

would be paid under this section to such dentist if such dentist were employed on a full-time basis, calculated on the basis of the proportion which the part-time employment of such dentist in the Department of Medicine and Surgery bears to full-time employment)".

(2) Notwithstanding subsection (a)(2)(C) of section 4118 of title 38, United States Code, special pay may be paid under such section to a physician or dentist employed by the Department of Medicine and Surgery of the Veterans' Administration who is a reemployed annuitant if such physician or dentist was automatically separated before September 30, 1978, under section 8335(a) of title 5, United States Code, as in effect before such date, for having become 70 years of age. 38 USC 4118 note.

(b) Subsection (b) of such section is amended by striking out "$5,000" both places it appears and inserting in lieu thereof "$7,000". 38 USC 4118.

(c) Subsections (c) and (d) of such section are amended to read as follows:

"(c)(1) In the case of eligible full-time physicians appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(2) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $15,500 to any eligible physician. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time physician eligible therefor: Incentive special pay for full-time physicians.

"(A)(i) For full-time status, $6,000.

"(ii) For tenure of service within the Department of Medicine and Surgery—

"(I) of two years but less than five years, $1,000;

"(II) of five years but less than eight years, $2,000; and

"(III) of eight years or more, $3,000.

"(iii) For service in a medical specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $4,000 nor more than $15,500.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $9,900;

"(ii) as a Chief of Staff or in an Executive Grade, $12,600;

"(iii) as a Deputy Service Director or in a Director Grade, $13,000;

"(iv) as a Service Director, $13,500;

"(v) as a Deputy Assistant Chief Medical Director, $14,440; or

"(vi) as an Associate Deputy Chief Medical Director or Assistant Chief Medical Director, $15,300.

"(C) For—

"(i) specialty or first board certification, $2,000; or

"(ii) subspecialty or secondary board certification, $2,500.

"(D) For service (i) in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians in the specific category of physicians, or (ii) in the Central Office of the Department of Medicine and Surgery, an amount (to

be determined by the Chief Medical Director pursuant to such regulations) of not less than $2,000 nor more than $5,000.

Incentive special pay for dentists.

"(2) In the case of eligible full-time dentists appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(2) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $7,500 to any eligible dentist. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than the following per annum amounts of incentive special pay to any full-time dentist eligible therefor:

"(A)(i) For full-time status, $1,000.

"(ii) For tenure of service within the Department of Medicine and Surgery—

"(I) of two years but less than seven years, $500; and

"(II) of seven years or more, $1,000.

"(iii) For service in a dental specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $2,000 nor more than $7,500.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $2,750;

"(ii) as a Chief of Staff or in an Executive Grade, $3,500;

"(iii) as a Deputy Service Director or in a Director Grade, $3,625;

"(iv) as a Service Director, $3,750;

"(v) as a Deputy Assistant Chief Medical Director, $4,000, or

"(vi) as an Assistant Chief Medical Director, $4,250.

"(C) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists in the specific category of dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,750 nor more than $2,500.

Incentive special pay for part-time physicians.

"(3) In the case of eligible part-time physicians appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(3) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $15,500 to any eligible physician. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than a proportional amount of the following per annum amounts of incentive special pay to any part-time physician eligible therefor, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such physician bears to full-time employment:

"(A)(i) For tenure of service within the Department of Medicine and Surgery—

"(I) of more than two years but less than five years, $750;

"(II) of five years but less than eight years, $1,500; and

"(III) of eight years or more, $2,250.

"(ii) For service in a medical specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $3,000 nor more than $12,375.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $7,220; or

"(ii) as a Chief of Staff or in an Executive Grade, $9,190.

"(C) For—

"(i) specialty or first board certification, $1,500; or

"(ii) subspecialty or secondary board certification, $1,875.

"(D) For service (i) in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified physicians in the specific category of physicians, or (ii) in the Central Office of the Department of Medicine and Surgery, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,500 nor more than $4,000.

"(4) In the case of eligible part-time dentists appointed under this chapter, the Administrator shall provide, in addition to the primary special pay provided for in subsection (b)(3) of this section and in accordance with regulations prescribed to carry out this section, incentive special pay of not more than $7,500 to any eligible dentist. In prescribing such regulations to carry out this paragraph, the Administrator shall take into account only the following factors and may pay no more than a proportional amount of the following per annum amounts of incentive special pay to any dentist eligible therefor, which proportional amount shall be calculated on the basis of the proportion which the part-time employment in the Department of Medicine and Surgery of such dentist bears to full-time employment:

Incentive special pay for part-time dentists.

"(A)(i) For tenure of service within the Department of Medicine and Surgery—

"(I) of more than two years but less than seven years, $500; and

"(II) of seven years or more, $1,000.

"(ii) For service in a dental specialty with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,500 nor more than $5,625.

"(B) For service—

"(i) as a Service Chief (or in a comparable position as determined by the Chief Medical Director), $2,750; or

"(ii) as a Chief of Staff or in an Executive Grade, $3,500.

"(C) For service in a specific geographic location with respect to which the Chief Medical Director has determined, pursuant to such regulations, that there are extraordinary difficulties in the recruitment or retention of qualified dentists in a specific category of dentists, an amount (to be determined by the Chief Medical Director pursuant to such regulations) of not less than $1,310 nor more than $1,875.

"(5)(A) Except as provided in subparagraph (B) of this paragraph, a physician or dentist may not be provided incentive special pay under

Exceptions.

both clauses (A) and (B) of paragraph (1), (2), (3), or (4) (whichever is applicable) of this subsection.

"(B)(i) A physician or dentist serving as a Service Chief (or in a comparable position as determined by the Chief Medical Director) on a full-time basis may be provided incentive special pay under subclauses (i) and (iii) of clause (A) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

"(ii) A physician or dentist serving as a Chief of Staff on a full-time basis may be provided incentive special pay under clause (A)(i) as well as under clause (B) of paragraph (1) or (2) (whichever is applicable) of this subsection.

"(d) In determining—

"(1) the total amount of special pay provided under this section to any physician or dentist for the purpose of determining the applicability to the special pay of such physician or dentist of the limitation specified in subsection (a) of this section on the total amount of such special pay; and

"(2) the total amount of incentive special pay provided under subsection (c) of this section to any physician or dentist for the purpose of determining the applicability to the incentive special pay of such physician or dentist of the limitation specified in such subsection on the total amount of such incentive special pay,

there shall be excluded any special pay provided to such physician or dentist under subsection (c)(1)(D), (c)(2)(C), (c)(3)(D), or (c)(4)(C) of this section for service in certain geographic locations.".

38 USC 4118.

(d) Subsection (e)(1) of such section is amended by striking out the third sentence thereof.

Effective date. 38 USC 4118 note.

(e) The amendments made by this section shall apply with respect to pay periods beginning after December 31, 1980.

CREDITING OF SPECIAL PAY FOR RETIREMENT AND INSURANCE PURPOSES

38 USC 4118.

SEC. 103. (a) Section 4118(f) is amended—

(1) by striking out "Any" and inserting in lieu thereof "(1) Except as provided in paragraph (2) of this subsection, any";

(2) by striking out "81, 83, or 87" and inserting in lieu thereof "81 or 83"; and

(3) by adding at the end thereof the following new paragraphs:

Annuity computation.

"(2) Additional compensation paid as special pay under this section after September 30, 1980, to any full-time employee shall be included in basic pay for purposes of chapter 83 of title 5. Notwithstanding the preceding sentence, special pay paid to any full-time employee after September 30, 1980, shall be included in average pay, as defined in section 8331(4) of such title, for the purposes of computing an annuity under such chapter only if—

5 USC 8301 *et seq.*

5 USC 8331.

5 USC 8341.

"(A) the annuity is paid under section 8337 of title 5 or under subsection (d) or (e) of section 8341 of such title; or

"(B) the employee has completed not less than 15 years of full-time service in the Department of Medicine and Surgery (except that, regardless of the length of such employee's service, no special pay may be included in average pay in computing an annuity that commences before October 1, 1985, and only one-half of any special pay paid after September 30, 1980, may be included in average pay in computing an annuity that commences on or after October 1, 1985, but before October 1, 1990).

"(3) Any additional compensation provided as special pay under this section shall be considered as annual pay for the purposes of

chapter 87 of title 5, relating to life insurance for Federal employees.". 5 USC 8701 *et seq.*

(b)(1) Not later than January 1, 1981, the Administrator of Veterans' Affairs shall notify each employee of the Veterans' Administration who on October 1, 1980, was a full-time physician or dentist in the Department of Medicine and Surgery of the provisions of paragraph (2) of section 4118(f) of title 38, United States Code, as added by subsection (a), and include in such notice an explanation of the provisions of such paragraph and of the right of such employee to make an election under paragraph (2). Election of additional compensation, notification. 38 USC 4118 note.

(2) Each employee described in paragraph (1) may elect not to have additional compensation provided such employee as special pay under section 4118 of such title included as basic pay (as provided for under paragraph (2) of section 4118(f) of such title, as added by subsection (a)) for purposes of chapter 83 of title 5, United States Code. Any such election shall be in writing and shall be transmitted to the Administrator of Veterans' Affairs not later than April 1, 1981. 38 USC 4118. 5 USC 8301 *et seq.* Transmittal to VA Administrator.

REPORTS ON ADEQUACY OF SPECIAL PAY FOR PHYSICIANS AND DENTISTS

SEC. 104. (a) Section 4118 (as amended by sections 102 and 103) is further amended by adding at the end the following new subsection: 38 USC 4118.

"(g)(1) It is the policy of Congress to assure that the levels of total pay for Veterans' Administration physicians and dentists are fixed at levels reasonably comparable (A) with the levels of total pay of physicians and dentists employed by or serving in other departments and agencies of the Federal Government, and (B) with the income of non-Federal physicians and dentists, so as to make possible the recruitment and retention of a well-qualified employee work force of physicians and dentists capable of providing quality care for eligible veterans.

"(2) To assist the Congress and the President in carrying out the policy stated in paragraph (1) of this subsection, the Administrator shall—

"(A) define the bases for pay distinctions, if any, among various categories of physicians and dentists, including between physicians and dentists employed by the Veterans' Administration and physicians and dentists employed by other departments and agencies of the Federal Government and between all Federal sector and non-Federal sector physicians and dentists;

"(B) obtain measures of income from the employment or practice of physicians and dentists in the non-Veterans' Administration sector, including Federal and non-Federal sectors, for use as guidelines for setting and periodically adjusting the amounts of special pay for Veterans' Administration physicians and dentists;

"(C) submit a report to the President, on such date as the President may designate but not later than December 31, 1982, and once every two years thereafter, recommending appropriate amounts of special pay to carry out the policy set forth in paragraph (1) of this subsection with respect to the pay of Veterans' Administration physicians and dentists; and Report to President.

"(D) include in such recommendations, when considered appropriate and necessary by the Administrator, modifications of the special pay levels set forth in this section (i) whenever the Veterans' Administration is unable to recruit or retain a sufficient work force of well-qualified physicians and dentists because the incomes of non-Veterans' Administration physicians and

dentists performing comparable types of duties are significantly in excess of the levels of total pay (including basic pay and special pay) of Veterans' Administration physicians and dentists, or (ii) whenever other extraordinary circumstances are such that special pay levels are needed to recruit or retain a sufficient number of well-qualified physicians and dentists.

Presidential pay recommendations.

"(3) The President shall include in the Budget next transmitted to the Congress under section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), after the submission of each report of the Administrator under paragraph (2)(C) of this subsection recommendations with respect to the exact rates of special pay for physicians and dentists under this section.

Report to congressional committees.

"(4) Not later than April 30 of each year, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the implementation of this section. Each such report shall include—

"(A) a review of the implementation of this section (including the Administrator's and Chief Medical Director's actions, findings, recommendations, and other activities under this section) to date for the fiscal year during which the report is submitted and for such portion of the preceding fiscal year as was not included in the previous annual report; and

"(B) a plan in connection with the implementation of this section for the remainder of the fiscal year during which the report is submitted and for the succeeding fiscal year.".

Repeal.
38 USC 4118 note.

(b) Section 3 of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94-123; 89 Stat. 673) is repealed.

HEALTH-CARE PROFESSIONALS AND DIRECTORS OF MEDICAL FACILITIES EXEMPTED FROM SENIOR EXECUTIVE SERVICE

38 USC 4101.

SEC. 105. (a) Section 4101 is amended by adding at the end thereof the following new subsection:

"(e) Physicians, dentists, nurses, and other health-care professionals employed by the Department of Medicine and Surgery and appointed under section 4103, 4104(1), or 4114 of this chapter and persons appointed under section 4103(a)(8) of this chapter are not subject to the provisions of section 413 of the Civil Service Reform Act of 1978 or the following provisions of title 5: subchapter II of chapter 31, subchapter VIII of chapter 33, subchapter V of chapter 35, subchapter II of chapter 43, section 4507, subchapter VIII of chapter 53, and subchapter V of chapter 75.".

38 USC 4103, 4104, 4114.
5 USC 3133 note.
5 USC 3131, 3391, 3591, 4311, 4507, 5381, 7541.

(b) Section 4103(a) is amended by redesignating clause (8) as clause (9) and by inserting after clause (7) the following new clause (8):

38 USC 4103.

"(8) Such directors of hospitals, domiciliary facilities, medical centers, and outpatient facilities as may be appointed by the Administrator upon the recommendation of the Chief Medical Director.".

38 USC 4107.

(c) Section 4107(c) is amended by inserting "(1)" after "(c)" and by adding at the end the following new paragraphs:

"(2) Notwithstanding any other provision of this title, the terms and conditions of employment of any person to whom paragraph (1) of this subsection applies shall (except as provided in paragraph (3) of this subsection) be the same as those applicable under this title to a physician serving as a director of a hospital, domiciliary facility, medical center, or outpatient facility.

"(3) Notwithstanding the provisions of section 4101(e) of this title, any person to whom paragraph (1) of this subsection applies shall be deemed to be a career appointee for the purposes of section 4507 of title 5.". *Ante*, p. 1036.

PART B—MISCELLANEOUS IMPROVEMENTS IN PERSONNEL ADMINISTRATION

RATES OF PAY FOR TRAVEL AND OVERTIME FOR NURSES

SEC. 111. Section 4107(e) is amended— 38 USC 4107.

(1) by adding at the end of paragraph (5) the following new sentence: "For the purposes of this paragraph, the period of a nurse's officially ordered or approved travel away from such nurse's duty station may not be considered to be hours of service unless—

"(A) such travel occurs during such nurse's tour of duty; or

"(B) such travel (i) involves the performance of services while traveling, (ii) is incident to travel that involves the performance of services while traveling, (iii) is carried out under arduous conditions as determined by the Administrator, or (iv) results from an event which could not be scheduled or controlled administratively.";

(2) by inserting "or on a holiday designated by Federal statute or Executive order" in paragraph (8) after "regular hours"; and

(3) by adding at the end the following new paragraph:

"(10) Notwithstanding any other provision of law, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses entitled to additional pay under this subsection, the Administrator may increase the amount of additional pay authorized under this subsection to be paid to nurses at any specific Veterans' Administration health-care facility in order to provide additional pay in an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Veterans' Administration health-care facility (as determined by a reasonably representative sampling of such non-Federal facilities).".

ADMINISTRATIVE ADJUSTMENTS IN RATES OF BASIC PAY

SEC. 112. Section 4107 is amended by adding at the end the following new subsection:

"(g)(1) Notwithstanding any other provision of law but subject to paragraphs (2), (3), and (4) of this subsection, when the Administrator determines it to be necessary in order to obtain or retain the services—

"(A) of physicians, dentists, podiatrists, optometrists, nurses, physician assistants, or expanded-function dental auxiliaries appointed under this subchapter; or

"(B) of health-care personnel who—

"(i) are employed in the Department of Medicine and Surgery (other than administrative, clerical, and physical plant maintenance and protective services employees);

"(ii) are paid under the General Schedule pursuant to section 5332 of title 5;

"(iii) are determined by the Administrator to be providing either direct patient-care services or services incident to direct patient-care services; and

"(iv) would not otherwise be available to provide medical care and treatment for veterans,

Basic pay rate increase.

the Administrator may increase the minimum, intermediate, or maximum rates of basic pay authorized under applicable statutes and regulations. Any increase in such rates of basic pay may be made on a nationwide, local, or other geographic basis, for one or more of the grades listed in the schedules in subsection (b)(1) of this section, for one or more of the health personnel fields within such grades, or for one or more of the grades of the General Schedule under section 5332 of such title.

5 USC 5332.

"(2) Increases in rates of basic pay may be made under paragraph (1) of this subsection only in order—

"(A) to provide pay in an amount competitive with, but not exceeding, the amount of the same type of pay paid to the same category of health-care personnel at non-Federal health-care facilities in the same labor market;

"(B) to achieve adequate staffing at particular facilities; or

"(C) to recruit personnel with specialized skills, especially those with skills which are especially difficult or demanding.

"(3) The amount of any increase under paragraph (1) of this subsection in the maximum rate for any grade may not (except in the case of nurse anesthetists) exceed the amount by which the maximum for such grade (under applicable provisions of law other than this subsection) exceeds the minimum for such grade (under applicable provisions of law other than this subsection), and the maximum rate as so increased may not exceed the rate paid for individuals serving as Assistant Chief Medical Director.

Increase denial.

"(4) In the exercise of the authority provided in paragraph (1) of this subsection to increase the rates of basic pay for any category of personnel not appointed under this subchapter, the Administrator shall, not less than ninety days prior to the effective date of a proposed increase, notify the President of the Administrator's intention to provide such an increase. If, prior to such effective date, the President disapproves such increase and provides the appropriate committees of the Congress with a written statement of the President's reasons for such disapproval, such proposed increase shall not take effect.".

CHIEFS OF STAFF REQUIRED TO BE EMPLOYED ON A FULL-TIME BASIS

38 USC 4108.

SEC. 113. (a) Section 4108 is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) Any person serving as a Chief of Staff of a Veterans' Administration health-care facility shall be appointed on a full-time basis.

"(c) As used in this section:

"Affiliated institution."

"(1) The term 'affiliated institution' means any medical school or other institution of higher learning with which the Administrator has a contract or agreement as referred to in section 4112(b) of this title for the training or education of health personnel.

Post, p. 1039.

"Remuneration."

"(2) The term 'remuneration' means the receipt of any amount of monetary benefit from any non-Veterans' Administration source in payment for carrying out any professional responsibilities.".

38 USC 4108 note.

(b) Any individual who on the date of the enactment of this Act is serving as a Chief of Staff of a Veterans' Administration health-care facility on less than full-time basis may continue to serve in that capacity on a part-time basis so long as such individual's proportion

of full-time service is not less than the proportion of full-time service in which such individual was serving on such date of enactment.

RETIREMENT CREDIT FOR PART-TIME EMPLOYEES

SEC. 114. The text of section 4109 is amended to read as follows: 38 USC 4109.

"(a) Except as provided in subsection (b) of this section, persons appointed to the Department of Medicine and Surgery shall be subject to the provisions of and entitled to benefits under chapter 83 of title 5. 5 USC 8301 *et seq.*

"(b) Notwithstanding any other provision of law, an individual retiring on or after October 1, 1981, who served at any time in a position in the Department of Medicine and Surgery to which such individual was appointed under this subchapter shall receive service credit for purposes of section 8339 of title 5 for any period of service in such Department served on less than a full-time basis on a proportionate basis equal to the fraction that such service bears to full-time service. In computing the annuity of any individual whose service is so credited, the full annual rate of basic pay shall be deemed to be the individual's rate of basic pay for the purpose of determining average pay, as defined by section 8331(4) of title 5.".

VETERANS' ADMINISTRATION REPRESENTATIVES ON DEANS' COMMITTEES

SEC. 115. Section 4112(b) is amended by inserting "(including appropriate representation from the full-time staff)" after "Veterans' Administration". 38 USC 4112.

RELATIONSHIP BETWEEN TITLE 38 MEDICAL PERSONNEL SYSTEM PROVISIONS AND OTHER PROVISIONS OF LAW

SEC. 116. (a)(1) Subchapter I of chapter 73, as amended by section 116, is amended by adding at the end thereof the following new section:

"§ 4119. Relationship between this subchapter and other provisions of law 38 USC 4119.

"Notwithstanding any other provision of law, no provision of title 5 or any other law pertaining to the civil service system which is inconsistent with any provision of this subchapter shall be considered to supersede, override, or otherwise modify such provision of this subchapter except to the extent that such provision of title 5 or of such other law specifically provides, by specific reference to a provision of this subchapter, for such provision to be superseded, overridden, or otherwise modified.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4118 the following new item:

"4119. Relationship between this subchapter and other provisions of law.".

(b) Section 4114 is amended by adding at the end thereof the following new subsection: 38 USC 4114.

"(g) In accordance with the provisions of section 4119 of this title, the provisions of chapter 34 of title 5 shall not apply to part-time appointments under this section.". *Supra.* 5 USC 3401 *et seq.*

STUDY OF PERSONNEL NEEDS OF VETERANS' ADMINISTRATION HEALTH-CARE SYSTEM

SEC. 117. (a) In order to evaluate the need for, and the likely impact on the ability of the Veterans' Administration to meet most effectively the personnel needs of the Veterans' Administration health-care program of, the conversion or non-conversion of employees of the Veterans' Administration's Department of Medicine and Surgery who are providing direct patient-care services or services incident to direct patient-care services (as determined by the Administrator of Veterans' Affairs for the purposes of paragraph (1) of section 4107(g) of title 38, United States Code, as added by section 112) to the pay schedules and other administrative provisions of chapter 73 of title 38, United States Code, the Administrator of Veterans' Affairs shall conduct a study to determine (1) which, if any, of the categories of such employees should be so converted in order to improve patient care, alleviate recruitment and retention problems regarding such personnel, and improve employee morale, and (2) the desirability of making any such categories of personnel which are not so converted eligible for premium pay under the new paragraph (10) which would have been added to section 4107(e) of such title by the amendment of the Senate to the bill H.R. 7102, Ninety-sixth Congress, agreed to by the Senate on June 5, 1980, and the impact of making such categories of personnel eligible for such pay under such paragraph.

38 USC 4101 *et seq.*

Ante, p. 1030.

(b) Not later than the end of the eighteen-month period beginning on the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of such study, together with any recommendations for administrative or legislative action, or both, that the Administrator considers appropriate based on the results of such study and other pertinent information.

Report to congressional committees.

STUDY AND PILOT PROGRAM ON NURSE RECRUITMENT AND RETENTION

SEC. 118. (a) In order to evaluate the effectiveness of various actions in enabling the Veterans' Administration to recruit and retain sufficient qualified nursing personnel (including licensed practical or vocational nurses and nursing assistants) capable of providing quality care for eligible veterans in Veterans' Administration health-care facilities, the Administrator of Veterans' Affairs, in consultation with the Chief Medical Director of the Veterans' Administration, shall conduct a pilot program and study for a period of not less than twenty-four and not more than thirty-six months, in not less than six geographic areas in which the Veterans' Administration has experienced difficulties in recruiting and retaining such sufficient qualified personnel. In the course of such study, the Administrator shall take various administrative actions to overcome such difficulties.

38 USC 4104 note.

(b) Not later than the end of the forty-two-month period beginning on the date of the enactment of this Act, the Administrator of Veterans' Affairs shall submit to the Congress a report on the results of such program and study, including an evaluation of the cost factors associated with each alternative administrative action on an annual basis and the impact on the recruitment and retention of nursing personnel at each facility involved, together with any recommendations for administrative or legislative action, or both, that the Administrator considers appropriate based on the results of such program and study and other pertinent information.

Report to Congress.

(c) The Administrator of Veterans' Affairs shall submit a report on the implementation of such program and the progress of such study to the Committees on Veterans' Affairs of the Senate and House of Representatives not later than six months after the date of the enactment of this Act. Such report shall include a report on the formulation of regulations to carry out such program and on the status of the implementation of such program. Report to congressional committees.

TITLE II—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

ESTABLISHMENT OF HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

SEC. 201. (a)(1) Chapter 73 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER IV—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

"§ 4141. Establishment of program; purpose; duration 38 USC 4141.

"(a) There is hereby established a program to be known as the Veterans' Administration Health Professional Scholarship Program (hereinafter in this subchapter referred to as the 'Scholarship Program'). The purpose of the Scholarship Program is to assist in providing an adequate supply of trained physicians and nurses for the Veterans' Administration and for the Nation and, if needed by the Veterans' Administration, other health-care professionals appointed under subchapter I of this chapter. 38 USC 4101.

"(b) The Administrator may not furnish scholarships to new participants in the Scholarship Program after the last day of the tenth fiscal year beginning after the first such scholarship is approved by the Administrator.

"§ 4142. Eligibility; application; written contract 38 USC 4142.

"(a) To be eligible to participate in the Scholarship Program, an individual must—

"(1) be accepted for enrollment, or be enrolled, as a full-time student (A) in an accredited (as determined by the Administrator) educational institution in a State, and (B) in a course of training offered by such institution and approved by the Administrator, leading to a degree in medicine, osteopathy, dentistry, podiatry, optometry, or nursing or a course of training to become a physician assistant or expanded-function dental auxiliary;

"(2) submit an application to the Administrator for participation in the Scholarship Program;

"(3) sign and submit to the Administrator, at the time of submission of such application, a written contract (described in subsection (e) of this section) to accept payment of a scholarship and to serve a period of obligated service as provided in section 4143 of this title; and

"(4) at the time of submission of such application, not be obligated under any other Federal program to perform service after completion of the course of study or program of such individual referred to in clause (1) of this subsection.

"(b)(1) In distributing application forms and contract forms to individuals desiring to participate in the Scholarship Program, the Administrator shall include with such forms— Application and contract forms.

"(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Administrator, including in the summary a clear explanation of the damages to which the United States is entitled under section 4144 of this title if the individual breaches the contract; and

"(B) a full description of the terms and conditions that would apply to the individual's participation in the Scholarship Program and service in the Department of Medicine and Surgery.

"(2) The Administrator shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Scholarship Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

Selections.

"(c)(1) In selecting applicants for acceptance in the Scholarship Program, the Administrator shall give priority to the applications of individuals who have previously received scholarships under the Scholarship Program.

Scholarship award, notification of congressional committees.

"(2) Before awarding the initial scholarship in any course of training other than in medicine or nursing, the Administrator, not less than 60 days before awarding such scholarship, shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of training and of the reasons why the award of scholarships in such course of training is necessary to assist in providing for the Veterans' Administration an adequate supply of personnel in the health profession concerned.

"(d)(1) An individual becomes a participant in the Scholarship Program only upon the Administrator's approval of the individual's application submitted under subsection (a)(2) of this section and the Administrator's acceptance of the contract signed by the individual under subsection (a)(3) of this section.

"(2) The Administrator shall provide written notice to an individual promptly upon the Administrator's approval under paragraph (1) of this subsection of the individual's participation in the Scholarship Program.

Written contract, contents.

"(e) The written contract (referred to in this subchapter) between the Administrator and a participant in the Scholarship Program shall contain—

"(1) an agreement that—

"(A) subject to clause (2) of this subsection, the Administrator agrees (i) to provide the participant with a scholarship (described in subsection (f) of this section) for from one to four school years during which period the participant is pursuing a course of training described in subsection (a)(1)(B) of this section, and (ii) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title); and

38 USC 4105.

Participant agreement.

"(B) subject to clause (2) of this subsection, the participant agrees—

"(i) to accept such a scholarship;

"(ii) to maintain enrollment and attendance in a course of training described in subsection (a)(1)(B) of this section until the participant completes the course of training;

"(iii) while enrolled in such course of training, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator);

"(iv) to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the 'period of obligated service') equal to the greater of—

"(I) one calendar year for each school year for which the participant was provided a scholarship under the Scholarship Program, or

"(II) two calendar years; and

"(v) if the participant's period of obligated service is deferred under section 4143(b)(3)(A) of this title, to serve any additional period of obligated service prescribed by the Administrator under section 4143(b)(4)(B) of this title;

"(2) a provision that any financial obligation of the United States arising out of a contract entered into under this subchapter, and any obligation of the participant which is conditioned thereon, is contingent upon funds being appropriated for scholarships under this subchapter;

"(3) a statement of the damages to which the United States is entitled under section 4144 of this title for the participant's breach of the contract; and

"(4) such other statements of the rights and liabilities of the Administrator and of the participant as may be appropriate and consistent with the provisions of this subchapter.

Scholarships.

"(f)(1) A scholarship provided to a participant in the Scholarship Program for a school year under a written contract under the Scholarship Program shall consist of—

"(A) payment to, or (in accordance with paragraph (2) of this subsection) on behalf of, the participant of the amount of—

"(i) the tuition of the participant in such school year; and

"(ii) other reasonable educational expenses, including fees, books, and laboratory expenses; and

Monthly stipend.

"(B) payment to the participant of a stipend of not in excess of $485 per month (adjusted in accordance with paragraph (3) of this subsection) for each of the 12 consecutive months beginning with the first month of such school year.

"(2) The Administrator may contract with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1)(A) of this subsection. Payment to such an educational institution may be made without regard to section 3648 of the Revised Statutes of the United States (31 U.S.C. 529).

Stipend increases.

"(3) The amount of the monthly stipend, specified in paragraph (1)(B) of this subsection and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Administrator for each school year ending in a fiscal year beginning after September 30, 1980, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5305 of title 5) of the adjustment (if such adjustment is an increase) in the rates of pay under the General

Schedule made effective in the fiscal year in which such school year ends.

"(g) Notwithstanding any other provision of law, participants in the Scholarship Program shall not be considered to be employees of the Federal Government and shall not be counted against any employment ceiling affecting the Department of Medicine and Surgery while they are undergoing a course of training prior to engaging in deferred internship, residency, or other advanced clinical training.

Report to Congress.

"(h) The Administrator shall report to Congress not later than March 1 of each year—

"(1) the number of students receiving scholarships under the Scholarship Program and the number of students enrolled in each type of health profession training;

"(2) the educational institutions providing such training;

"(3) the number of applications filed, by health profession category, under this section during the school year beginning in such year and the total number of such applications so filed for all years in which the Scholarship Program has been in existence;

"(4) the number of scholarships accepted, by health profession category, during such school year and the number, by health profession category, which were offered and not accepted, together with a summary of the reasons that such scholarships were not accepted; and

"(5) the amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

Regulations.

"(i) The Administrator shall prescribe regulations to carry out the Scholarship Program.

38 USC 4143.

"§ 4143. Obligated service

"(a) Each participant in the Scholarship Program shall provide service in the full-time clinical practice of such participant's profession or in another health-care position, in an assignment or location as determined by the Administrator, as a full-time employee of the Veterans' Administration for the period of obligated service provided in the contract of such participant entered into under section 4142 of this title.

"(b)(1) Not later than 60 days prior to the date described in paragraph (3) of this subsection with respect to a participant in the Scholarship Program, the Administrator shall notify the participant of the date described in such paragraph for the beginning of such participant's period of obligated service.

"(2) The Administrator shall appoint each participant in the Department of Medicine and Surgery as soon as possible after the date described in paragraph (3) of this subsection.

Deferral.

"(3)(A)(i) With respect to a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the date for the beginning of the participant's period of obligated service is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State, except that the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such

deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

"(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

"(B) With respect to a participant receiving a degree from a school of nursing, the date for the beginning of the participant's period of obligated service is the date upon which the participant becomes registered as a graduate nurse in a State.

"(C) With respect to a participant receiving a degree from an institution other than a school of medicine, osteopathy, dentistry, optometry, podiatry, or nursing, the date for the beginning of the participant's period of obligated service is the date upon which the participant completes the course of training leading to such degree.

"(4) Any participant whose period of obligated service is deferred under paragraph (3)(A) of this subsection—

"(A) shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108(c)(1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veterans' Administration health-care facility; and

Ante, p. 1038.

"(B) may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

"(i) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

"(ii) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

"(c) A participant in the Scholarship Program shall be considered to have begun serving a period of obligated service on the date such participant, in accordance with subsection (a) of this section, is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery.

"§ 4144. Breach of contract; liability; waiver

38 USC 4144.

"(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the contract entered into under section 4142 of this title, shall, in addition to any period of obligated service or other obligation or liability under the contract, be liable to the United States for the amount of $1,500 as liquidated damages.

"(b) A participant in the Scholarship Program who—

"(1) fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (such level determined by the educational institution under regulations prescribed by the Administrator);

"(2) is dismissed from such educational institution for disciplinary reasons;

"(3) voluntarily terminates the course of training in such educational institution before the completion of such course of training; or

"(4) fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become registered as a graduate nurse in a State, or fails to meet any applicable licensure requirement in the case of a physician assistant or expanded-function dental auxiliary, during a period of time determined under regulations prescribed by the Administrator;

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the contract.

Payment of damages.

"(c) If a participant in the Scholarship Program breaches the written contract by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A = 3\phi \left(\frac{t-s}{t}\right)$$

in which 'A' is the amount the United States is entitled to recover; 'ϕ' is the sum of the amounts paid under this subchapter or on behalf of the participant and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; 't' is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4143(b)(4)(B) of this subchapter; and 's' is the number of months of such period served by the participant in accordance with section 4143 of this title. Any amount of damages which the United States is entitled to recover under this section will, within the one-year period beginning on the date of the breach of the written contract, be paid to the United States.

Death of participant.

"(d)(1) Any obligation under the Scholarship Program (or a written contract thereunder) of a participant in the Scholarship Program for service or payment of damages shall be canceled upon the death of the participant.

Regulations.

"(2) The Administrator shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under such Program (or a contract thereunder) whenever compliance by the participant is impossible due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance would be in the best interest of the Veterans' Administration.

Contract release.

"(3) Any obligation of a participant under such Program (or a contract thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date that payment of such damages is due.

11 USC 101.

"(e) The Administrator, in cooperation with and with the consent of the heads of other relevant departments and agencies and with the consent of the participant or individual involved, may permit—

"(1) any period of obligated service required to be performed under this subchapter to be performed in another Federal department or agency or in the Armed Forces; and

"(2) any period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel scholarship program to be performed in the Department of Medicine and Surgery.

"§ 4145. Exemption of scholarship payments from taxation 38 USC 4145.

"Notwithstanding any other law, any payment to, or on behalf of, a participant in the Scholarship Program for tuition, education expenses, or a stipend under this subchapter shall be exempt from taxation.

"§ 4146. Program subject to availability of appropriations 38 USC 4146.

"The authority of the Administrator to make payments under this subchapter is effective for any fiscal year only to the extent that appropriated funds are available for such purposes.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following:

"SUBCHAPTER IV—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

"Sec.
"4141. Establishment of program; purpose; duration.
"4142. Eligibility; application; written contract.
"4143. Obligated service.
"4144. Breach of contract; liability; waiver.
"4145. Exemption of scholarship payments from taxation.
"4146. Program subject to availability of appropriations.".

(b) Effective October 1, 1980, there are authorized to be appropriated such sums as may be necessary to carry out the program established by the amendments made by subsection (a). Effective date. 38 USC 4146 note.

LIMITATION ON SPECIAL PAY TO PERSONS SERVING OBLIGATED SERVICE UNDER THE SCHOLARSHIP PROGRAM

SEC. 202. Section 4118 (as amended by sections 102, 103, and 104) is further amended by adding at the end thereof the following new subsection: *Ante*, p. 1035.

"(h) A physician or dentist serving a period of obligated service pursuant to subchapter IV of this chapter is not eligible for incentive special pay under this section during the first three years of such obligated service and may only be paid primary special pay under this section at the discretion of the Administrator upon the recommendation of the Chief Medical Director.". *Ante*, p. 1041.

REPORT ON IMPLEMENTATION OF SCHOLARSHIP PROGRAM

SEC. 203. The Administrator of Veterans' Affairs shall submit a report on the implementation of the Veterans' Administration Health Professional Scholarship Program to the Committees on Veterans' Affairs of the Senate and House of Representatives not later than six months after the date of the enactment of this Act. Such report shall include a report on the formulation of regulations Report to congressional committees.

to carry out such program and on the status of the implementation of such program.

TITLE III—GERIATIC RESEARCH AND CARE

PURPOSE

38 USC 4101 note.

SEC. 301. The purposes of this title are (1) to improve and expand the capability of Veterans' Administration health-care facilities to respond with the most effective and appropriate services possible to the medical, psychological and social needs of the increasing number of older veterans, and (2) to advance scientific knowledge regarding such needs and the methods of meeting them by facilitating higher quality geriatric care for eligible older veterans through geriatric and gerontological research, the training of health personnel in the provision of health care to older individuals, and the development of improved models of clinical services for eligible older veterans.

CENTERS OF GERIATRIC RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES

Ante, p. 1036.

SEC. 302. Section 4101, as amended by section 105(a), is amended by adding at the end the following new subsection:

"(f)(1)(A) The Administrator, upon the recommendation of the Chief Medical Director and pursuant to the provisions of this subsection, shall designate not more than fifteen Veterans' Administration health-care facilities as the locations for centers of geriatric research, education, and clinical activities and (subject to the appropriation of sufficient funds for such purpose) shall establish and operate such centers at such locations in accordance with this subsection.

"(B) In designating locations for centers under subparagraph (A) of this paragraph, the Administrator, upon the recommendation of the Chief Medical Director, shall—

"(i) designate each Veterans' Administration health-care facility that on the date of the enactment of the Veterans' Administration Health-Care Amendments of 1980 is operating a geriatric research, education, and clinical center unless, on the recommendation of the Chief Medical Director, the Administrator determines that such facility does not meet the requirements of subparagraph (C) of this paragraph or has not demonstrated effectiveness in carrying out the established purposes of such center or the purposes of title III of the Veterans' Administration Health-Care Amendments of 1980 or the potential to carry out such purposes effectively in the reasonably foreseeable future; and

Supra.

"(ii) assure appropriate geographic distribution of such facilities.

"(C) The Administrator may not designate any health-care facility as a location for a center under subparagraph (A) of this paragraph unless the Administrator, upon the recommendation of the Chief Medical Director, determines that the facility has (or may reasonably be anticipated to develop)—

"(i) an arrangement with an accredited medical school which provides education and training in geriatrics and with which such facility is affiliated under which residents receive education and training in geriatrics through regular rotation through such center and through nursing home, extended care, or domiciliary units of such facility so as to provide such residents with training

in the diagnosis and treatment of chronic diseases of older individuals, including cardiopulmonary conditions, senile dementia, and neurological disorders;

"(ii) an arrangement under which nursing or allied health personnel receive training and education in geriatrics through regular rotation through nursing home, extended care, or domiciliary units of such facility;

"(iii) the ability to attract the participation of scientists who are capable of ingenuity and creativity in health-care research efforts;

"(iv) a policymaking advisory committee composed of appropriate health-care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center; and

"(v) the capability to conduct effectively evaluations of the activities of such center.

"(D) Prior to providing funds for the operation of any such center at a health-care facility other than a health-care facility designated under subparagraph (B)(i) of this paragraph, the Administrator shall assure that the center at each facility designated under such subparagraph is receiving adequate funding to enable such center to function effectively in the areas of geriatric research, education, and clinical activities.

Geriatrics and Gerontology Advisory Committee. Membership.

"(2)(A) The Administrator shall establish in the Department of Medicine and Surgery a Geriatrics and Gerontology Advisory Committee (hereinafter in this subsection referred to as the 'Committee'). The membership of the Committee shall be appointed by the Administrator, upon the recommendation of the Chief Medical Director, and shall include individuals who are not employees of the Federal Government and who have demonstrated interest and expertise in research, education, and clinical activities related to aging and at least one representative of a national veterans' service organization. The Administrator, upon the recommendation of the Chief Medical Director, shall invite representatives of other appropriate departments and agencies of the United States to participate in the activities of the Committee and shall provide the Committee with such staff and other support as may be necessary for the Committee to carry out effectively its functions under this paragraph.

Functions.

"(B) The Committee shall—

"(i) advise the Chief Medical Director on all matters pertaining to geriatrics and gerontology;

"(ii) assess, through an evaluation process (including a site visit conducted not later than three years after the date of the establishment of each new center and not later than two years after the date of the last evaluation of those centers in operation on the date of the enactment of this subsection), the ability of each center established under paragraph (1) of this subsection to achieve its established purposes and the purposes of title III of the Veterans' Administration Health-Care Amendments of 1980;

Ante, p. 1048.

"(iii) assess the capability of the Veterans' Administration to provide high quality geriatric, extended, and other health-care services to eligible older veterans, taking into consideration the likely demand for such services from such veterans;

"(iv) assess the current and projected needs of eligible older veterans for geriatric, extended-care, and other health-care serv-

ices from the Veterans' Administration and its activities and plans designed to meet such needs; and

"(v) perform such additional functions as the Administrator or Chief Medical Director may direct.

Report. "(C)(i) Not later than April 1, 1983, the Committee shall submit to the Administrator, through the Chief Medical Director, a report with respect to its findings and conclusions under subparagraph (B) of this paragraph. Such report shall include—

"(I) descriptions of the operations of the centers of geriatric research, education, and clinical activities established pursuant to paragraph (1) of this subsection;

"(II) assessments of the quality of the operations of such centers;

"(III) an assessment of the extent to which the Veterans' Administration, through the operation of such centers and other health-care facilities and programs, is meeting the needs of eligible older veterans for geriatric and extended-care and other health-care services;

"(IV) assessments of and recommendations for correcting any deficiencies in the operations of such centers; and

"(V) recommendations for such other geriatric, extended-care, and other health-care services as may be needed to meet the needs of older veterans.

Reports. Following the submission of such report, the Committee shall also submit to the Administrator, through the Chief Medical Director, such further reports as the Committee considers appropriate with respect to the matters described in clauses (I) through (V) of the preceding sentence.

Report to congressional committees. "(ii) Not later than ninety days after receipt of a report submitted under division (i) of this subparagraph, the Administrator shall transmit such report, together with the Administrator's comments and recommendations thereon, to the appropriate committees of the Congress.

Appropriation authorization. "(3) There are hereby authorized to be appropriated for the basic support of the research and education activities of the centers of geriatric research, education, and clinical activities established pursuant to paragraph (1) of this subsection $10,000,000 for fiscal year 1981 and $25,000,000 for each of the next three fiscal years. The Chief Medical Director shall allocate to such centers from other funds appropriated generally for the Veterans' Administration medical care account and medical and prosthetics research account, as appropriate, such amounts as the Chief Medical Director determines appropriate, and, with respect to fiscal year 1984, as the Chief Medical Director determines appropriate after taking into account the report submitted by the Committee under paragraph (2) of this subsection.

Funding. "(4) Activities of clinical and scientific investigation at each center established under paragraph (1) of this subsection shall be eligible to compete for the award of funding from funds appropriated for the Veterans' Administration medical and prosthetics research account and shall receive priority in the award of funding from such account insofar as funds are awarded to projects for research in geriatrics and gerontology.".

ASSISTANT CHIEF MEDICAL DIRECTOR

38 USC 4103. SEC. 303. Section 4103(a)(4) is amended by adding at the end the following new sentence: "One Assistant Chief Medical Director shall

be a qualified physician trained in, or having suitable extensive experience in, geriatrics who shall be responsible to the Chief Medical Director for evaluating all research, educational, and clinical health-care programs carried out in the Department in the field of geriatrics and who shall serve as the principal advisor to the Chief Medical Director with respect to such programs.".

EFFECTIVE DATE

SEC. 304. (a) The amendments made by sections 302 and 303 shall take effect on October 1, 1980. 38 USC 4101 note.

(b) The Geriatrics and Gerontology Advisory Committee required to be established by the Administrator in the Department of Medicine and Surgery of the Veterans' Administration pursuant to subsection (f)(2)(A) of section 4101 of title 38, United States Code, as added by section 302, shall be established not later than January 1, 1981. 38 USC 4101 note.

TITLE IV—MISCELLANEOUS AMENDMENTS

STANDARDS FOR PRESUMPTION OF INABILITY TO DEFRAY MEDICAL EXPENSES

SEC. 401. (a) Section 622 is amended to read as follows:

"§ 622. Evidence of inability to defray necessary expenses 38 USC 622.

"For the purposes of sections 610(a)(1)(B), 610(b)(2), 624(c), and 632(a)(2) of this title, the fact that an individual is— 38 USC 610, 624, 632.

"(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(2) a veteran with a service-connected disability; or

"(3) in receipt of pension under any law administered by the Veterans' Administration;

shall be accepted as sufficient evidence of such individual's inability to defray necessary expenses.".

(b) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"622. Evidence of inability to defray necessary expenses.".

REVOLVING SUPPLY FUND

SEC. 402. (a) Section 5021(a) is amended— 93 Stat. 61. 38 USC 5021.

(1) by inserting after "direct" in clause (2) "cost (which may be based on the cost of recent significant purchases of the equipment or supply item involved)"; and

(2) by striking out the second sentence in such section and inserting in lieu thereof the following:

"At the end of each fiscal year, there shall be covered into the Treasury of the United States as miscellaneous receipts such amounts as the Administrator determines to be in excess of the requirements necessary for the maintenance of adequate inventory levels and for the effective financial management of the revolving supply fund.".

(b) The amendments made by subsection (a) shall take effect as of October 1, 1979. Effective date. 38 USC 5021 note.

MANAGEMENT OF REAL PROPERTY

38 USC 5022.

SEC. 403. (a) Section 5022(a) is amended by inserting "(1)" after "(a)" and by adding at the end thereof the following new paragraph:

Report to congressional committees.

"(2)(A) Before entering into a transaction described in subparagraph (B) of this paragraph with respect to any real property owned by the United States and administered by the Veterans' Administration which has an estimated value in excess of $50,000, the Administrator shall submit a report of the facts concerning the proposed transaction to the Committees on Veterans' Affairs of the Senate and House of Representatives, and such transaction may not then be entered into until after the expiration of 30 days from the date upon which the report is submitted.

Transfer of interest.

"(B) Subparagraph (A) of this paragraph applies to (i) any transfer of an interest in real property to another Federal agency or to a State (or any political subdivision of a State), and (ii) any report to a Federal disposal agency of excess real property.

"(C) A statement in an instrument of conveyance, including a lease, that the requirements of this paragraph have been met, or that the conveyance is not subject to this paragraph, is conclusive for the purposes of all matters pertaining to the ownership of any right or interest in the property conveyed by such instrument.".

38 USC 5070.

(b) Section 5070(e) is amended by inserting a comma and "but no such lease may be for a period of more than 50 years" before the period at the end of the second sentence of such section.

NUMBER OF BEDS REQUIRED TO PROVIDE ADEQUATE NURSING HOME CARE IN STATE HOME FACILITIES

38 USC 5034.

SEC. 404. Section 5034(1) is amended by striking out the comma and "which number" and all that follows in such section and inserting in lieu thereof a period.

REPEAL OF REQUIREMENT THAT RECIPIENTS OF HEALTH-CARE PERSONNEL TRAINING GRANTS MUST INCREASE NUMBER OF INDIVIDUALS RECEIVING TRAINING

38 USC 5093.

SEC. 405. Section 5093(b)(1) is amended by striking out "and will result" and all that follows through "training at such institution".

AVAILABILITY OF FUNDS FOR BENEFICIARY TRAVEL

38 USC 111 note.

SEC. 406. No provision of law enacted after the date of the enactment of this Act which imposes any restriction or limitation on the availability of funds for the travel and transportation of officers and employees of the executive branch of the Government and their dependents, or on the transportation of things of such officers and employees and their dependents, shall be applicable to the travel of eligible veterans, dependents, or survivors, for which reimbursement is authorized under title 38, United States Code, pursuant to the terms and conditions of section 111 of such title, unless such provision is expressly made applicable to the travel of such veterans, dependents, or survivors.

38 USC 101.
38 USC 111.

EXTENSION OF TIME FOR SUBMISSION OF REPORT ON HOSPITAL CARE AND MEDICAL SERVICES FURNISHED IN THE COMMONWEALTH OF PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 407. Section 8(a) of the Veterans' Administration Programs Extension Act of 1978 (Public Law 95-520; 92 Stat. 1822) is amended by striking out "February 1, 1980" and inserting in lieu thereof "February 1, 1981". 38 USC 601 note.

TECHNICAL AMENDMENTS

SEC. 408. Section 4101(b) is amended by striking out "manpower" both places it appears and inserting in lieu thereof "personnel". 38 USC 4101.

THOMAS P. O'NEILL, JR.
Speaker of the House of Representatives.

WALTER F. MONDALE
Vice President of the United States and President of the Senate.

IN THE HOUSE OF REPRESENTATIVES, U.S.,
August 26, 1980.

The House of Representatives having proceeded to reconsider the bill (H.R. 7102) entitled "An Act to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

EDMUND L. HENSHAW, JR.
Clerk.

By Thomas E. Ladd
Assistant to the Clerk.

I certify that this Act originated in the House of Representatives.

EDMUND L. HENSHAW, JR.
Clerk.

By W. Raymond Colley
Deputy Clerk.

IN THE SENATE OF THE UNITED STATES,
August 26 (legislative day, June 12), 1980.

The Senate having proceeded to reconsider the bill (H.R. 7102) entitled "An Act to amend title 38, United States Code, to promote the recruitment and retention of physicians, dentists, nurses, and other health-care personnel in the Department of Medicine and Surgery of the Veterans' Administration, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, and passed by the House of Representatives on reconsideration of the same, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

J. S. KIMMITT
Secretary.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-958 (Comm. on Veterans' Affairs).
SENATE REPORT No. 96-747 accompanying S. 2534 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 19, 20, considered and passed House.
June 5, considered and passed Senate, amended, in lieu of S. 2534.
July 31, House concurred in Senate amendment with an amendment.
Aug. 1, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 34:
Aug. 22, vetoed; Presidential message.
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 26, House and Senate overrode veto.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 35:
Aug. 26, Presidential statement.

Public Law 96-331
96th Congress

An Act

To authorize the Secretary of Commerce to charter the nuclear ship Savannah to Patriots Point Development Authority, an agency of the State of South Carolina.

Aug. 28, 1980
[S. 1863]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Commerce is authorized within one year after enactment of this Act, to charter the nuclear ship Savannah to Patriots Point Development Authority, without monetary consideration, for a minimum of five years and a maximum of thirty years, with options to renew for five-year periods thereafter, for use as a museum ship and for other public purposes, but not for transportation, together with such of her fixtures, tackle, apparel, furnishings, and equipment as the Secretary of Commerce, in the Secretary's discretion, determines.

Savannah, charter to Patriots Point Development Authority.

SEC. 2. The charter authorized by section 1 shall include a provision that—

(a) the Secretary of Commerce shall be responsible for inspection and maintenance of the hull below the waterline and that Patriots Point Development Authority shall be responsible for all other maintenance, including the paying for the electrical power for the cathodic hull protection system;

Inspection and maintenance.

(b) the Patriots Point Development Authority shall save the United States harmless from all liability with respect to the vessel;

Liability.

(c) the Patriots Point Development Authority shall return the vessel to the Secretary of Commerce at the termination of the charter or any renewal thereof in the same condition, fair wear and tear excepted, as when the charter was entered into; and

Termination.

(d) the Patriots Point Development Authority shall obtain such insurance and provide such other assurances as the Secretary of Commerce may require to carry out its obligations under this Act.

Insurance.

SEC. 3. The Secretary of Commerce, acting for the United States Government as owner of the vessel, and Patriots Point Development Authority shall apply to the Nuclear Regulatory Commission for a license to possess but not to operate the nuclear utilization facility under which the sole liability of the Secretary of Commerce shall be that the Secretary will bear the financial responsibility for the ultimate disposal of the reactor and other nuclear systems and radioactive contaminated components in the vessel in accordance with a plan which the Secretary of Commerce will submit at the time the reactor, nuclear systems, and radioactive components are to be disposed of and which is then approved by the Nuclear Regulatory Commission as required by the Atomic Energy Act of 1954. The Authority shall be responsible for compliance with the license for the monitoring and security of the reactor and all nuclear systems and radioactive components in the vessel and for filing all reports that may be required as the licensee.

License. Nuclear disposal.

42 USC 2011 note.

Reports.

Appropriation authorizations.

SEC. 4. Any funds appropriated pursuant to authorizations contained in the Acts of October 21, 1975 (89 Stat. 611; Public Law 94-121), July 14, 1976 (90 Stat. 937; Public Law 94-362), August 2, 1977 (91 Stat. 419; Public Law 95-86), and October 10, 1978 (92 Stat. 1021; Public Law 95-431) are authorized to be used for preservation work on the nuclear ship Savannah. Expenditures authorized by the preceding sentence for the preservation of the nuclear ship Savannah shall not exceed that amount which the Secretary of Commerce, in the Secretary's discretion, determines to be necessary to make the vessel suitable for use by the Patriots Point Development Authority pursuant to section 1 of this Act. No part of any funds authorized to be expended by this section shall be obligated or expended except in connection with work which the Secretary of Commerce determines would otherwise be performed on the nuclear ship Savannah if the vessel were to be laid up in the National Defense Reserve Fleet pursuant to section 11 of the Merchant Ship Sales Act of 1946 (60 Stat. 49).

50 USC app. 1744.

Appropriation authorization.

SEC. 5. Funds appropriated pursuant to authorizations contained in title III of the Act of September 24, 1979 (93 Stat. 416; Public Law 96-68), are authorized to be expended to tow the nuclear ship Savannah to a site at Patriots Point at Mount Pleasant, South Carolina. Beginning in fiscal year 1981 there are authorized to be appropriated such sums as may be necessary to inspect and maintain the hull of the nuclear ship Savannah below the waterline during the term of the charter and any renewals thereof.

Approved August 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1220 accompanying H.R. 5867 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-478 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 18, considered and passed Senate.
Vol. 126 (1980): Aug. 18, considered and passed House, in lieu of H.R. 5867.

Public Law 96-332
96th Congress

An Act

To amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for such title for fiscal years 1980 and 1981, and for other purposes.

Aug. 29, 1980
[S. 1140]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 301 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431) is amended by adding at the end thereof a new sentence to read as follows: "The term 'State', when used in this title, means any of the several States or any territory or possession of the United States which has a popularly elected Governor.".

Marine Protection, Research, and Sanctuaries Act of 1972, appropriation authorization.
"State."

SEC. 2. Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432) is amended—

(1) in subsection (b), by inserting "(1)" after "(b)", by striking out the second sentence thereof, and by inserting at the end thereof the following new paragraph:

"(2) A designation under this section shall become effective unless—

Designation.

"(A) the Governor of any State described in paragraph (1) certifies to the Secretary, before the end of the sixty-day period beginning on the date of the publication of the designation, that the designation or any of its terms described in subsection (f)(1), are unacceptable to his State, in which case those terms certified as unacceptable will not be effective in the waters described in paragraph (1) in such State until the Governor withdraws his certification of unacceptability; or

"(B) both Houses of Congress adopt a concurrent resolution in accordance with subsection (h) which disapproves the designation or any of its terms described in subsection (f)(1).

The Secretary may withdraw the designation after any such certification or resolution of disapproval. If the Secretary does not withdraw the designation, only those portions of the designation not certified as unacceptable under subparagraph (A) or not disapproved under subparagraph (B) shall take effect.";

Designation withdrawal.

(2) by amending subsection (f) to read as follows:

"(f)(1) The terms of the designation shall include the geographic area included within the sanctuary; the characteristics of the area that give it conservation, recreational, ecological or esthetic value; and the types of activities that will be subject to regulation by the Secretary in order to protect those characteristics. The terms of the designation may be modified only by the same procedures through which an original designation is made.

Designation terms.

"(2) The Secretary, after consultation with other interested Federal and State agencies, shall issue necessary and reasonable regulations to implement the terms of the designation and control the activities described in it, except that all permits, licenses, and other authorizations issued pursuant to any other authority shall be valid unless such regulations otherwise provide.

Regulations.

Research. "(3) The Secretary shall conduct such research as is necessary and reasonable to carry out the purposes of this title.

Enforcement. "(4) The Secretary and the Secretary of the department in which the Coast Guard is operating shall conduct such enforcement activities as are necessary and reasonable to carry out the purposes of this title. The Secretary shall, whenever appropriate and in consultation with the Secretary of the department in which the Coast Guard is operating, utilize by agreement the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities, or State agencies or instrumentalities, whether on a reimbursable or a nonreimbursable basis in carrying out his responsibilities under this title."; and

(3) by inserting at the end thereof the following new subsection:

Transmittal to Congress. "(h)(1) For purposes of subsection (b)(2)(B), the Secretary shall transmit to the Congress a designation of a marine sanctuary at the time of its publication. The concurrent resolution described in subsection (b)(2)(B) is a concurrent resolution which is adopted by both Houses of Congress before the end of the first period of sixty calendar days of continuous session of Congress after the date on which the designation is transmitted, the matter after the resolving clause of which is as follows: 'That the Congress does not favor the taking of effect of the following terms of the marine sanctuary designation numbered transmitted to Congress by the Secretary of Commerce on : .', the blank space being filled with the number of the designation, the second blank space being filled with the date of the transmittal, and the third blank space being filled with the terms of the designation which are disapproved (or the phrase 'the entire designation' if the entire designation is disapproved).

"(2) For the purpose of paragraph (1) of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period.

Publication in Federal Register. "(3) A designation which becomes effective, or that portion of a designation which takes effect under subsection (b), shall be printed in the Federal Register.".

SEC. 3. Section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434) is amended—

(1) by striking out "and" immediately after "fiscal year 1977,"; and

(2) by adding immediately after "fiscal year 1978" the following: "and not to exceed $2,250,000 for fiscal year 1981".

Approved August 29, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-894, pt. 1 (Comm. on Merchant Marine and Fisheries) and pt. 2 (Comm. on Science and Technology), both accompanying H.R. 6616.

SENATE REPORT No. 96-148 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 125 (1979): May 22, considered and passed Senate.

Vol. 126 (1980): May 12, 13, H.R. 6616 considered and passed House; passage vacated and S. 1140, amended, passed in lieu.

Aug. 18, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 35 (1980): Aug. 29, Presidential statement.

Public Law 96-333
96th Congress

An Act

Aug. 29, 1980
[S. 1730]

To declare that title to certain lands in the State of New Mexico are held in trust by the United States for the Ramah Band of the Navajo Tribe.

Ramah Band, Navajo Tribe. Lands in trust.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the date of the enactment of this Act, title to the following described lands shall be held by the United States in trust for the Ramah Band of the Navajo Tribe:

Township 7 north, range 15 west, New Mexico principal meridian: sections 7, 19, and 31.

Township 7 north, range 16 west, New Mexico principal meridian: sections 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35.

Approved August 29, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1209 accompanying H.R. 5003 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-468 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Jan. 22, considered and passed Senate.
Aug. 18, H.R. 5003 considered and passed House.
Aug. 19, passage of H.R. 5003 vacated by House; S. 1730, passed in lieu.

Public Law 96-334
96th Congress

Joint Resolution

Providing additional program authority for the Export-Import Bank.

Aug. 29, 1980
[H.J. Res. 589]

Export-Import Bank, additional authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the limitation on program activity of the Export-Import Bank is increased as follows:

EXPORT-IMPORT BANK OF THE UNITED STATES

LIMITATION ON PROGRAM ACTIVITY

In addition to amounts otherwise authorized for such purposes for the fiscal year 1980, not to exceed $525,750,000 (of which not to exceed $251,000,000 shall be for direct loans) is authorized for the fiscal year 1980 for other than administrative expenses.

Approved August 29, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1191 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 30, considered and passed House.
July 31, considered and passed Senate, amended, in lieu of S.J. Res. 191.
Aug. 18, House disagreed to Senate amendment; Senate receded from its amendment.

Public Law 96-335
96th Congress

An Act

Sept. 4, 1980
[H.R. 507]

To authorize Federal participation in stream rectification, Trinity River Division, Central Valley project, California, and for other purposes.

Trinity River Division, Central Valley project. Stream rectification.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, acting through the Commissioner of Reclamation, is authorized to design, construct, operate, and maintain, or to contract with the State of California for the design, construction, operation, or maintenance of, a sand dredging system on the Trinity River immediately downstream from Grass Valley Creek, a tributary of the Trinity River, and a debris dam and associated facilities on Grass Valley Creek, in Trinity County, California, in general conformity to the plan of development described and set forth in the Grass Valley Creek Sediment Control Study, April 1978, prepared for the Trinity River Basin Fish and Wildlife Task Force: *Provided,* That any such contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

Matching funds.

SEC. 2. The contract authorized by section 1 of this Act shall provide that the State of California, on a dollar-for-dollar basis, will match the funds provided by the Water and Power Resources Service for constructing, operating, and maintaining the sand dredging system.

Appropriation authorization.

SEC. 3. There is authorized to be appropriated for fiscal year 1982 and thereafter, to remain available until expended the sum of $3,500,000 (April 1978 price levels), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs indexes applicable to the type of construction involved herein. There are also authorized to be appropriated such sums as may be required for the Federal share of operation and maintenance. All costs incurred pursuant to this Act shall be nonreimbursable and nonreturnable. No funds shall be expended hereunder until the Board of Supervisors of Trinity County adopts adequate timber road and subdivision standards to protect the Grass Valley Creek watershed, and until an agreement has been executed with the State of California which shall provide that the State of California, on a dollar-for-dollar basis, will match the funds provided by the Water and Power Resources Service for constructing, operating, and maintaining the sand dredging system.

Funding conditions.

Approved September 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-514 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-893 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 22, considered and passed House.
Vol. 126 (1980): Aug. 18, considered and passed Senate, amended.
Aug. 21, House concurred in Senate amendments.

Public Law 96-336
96th Congress

An Act

To increase the appropriations ceiling for title I of the Colorado River Basin Salinity Control Act (the Act of June 24, 1974; 88 Stat. 266), to increase the appropriations authorization for the Small Reclamation Projects Act of 1956 (70 Stat. 1044), and for other purposes.

Sept. 4, 1980
[S. 496]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of June 24, 1974 (hereafter referred to as the "Act"), is hereby amended as follows:

Colorado River Basin Salinity Control Act and Small Reclamation Projects Act of 1956, amendments.

SECTION 1. Section 101(b)(2) is amended, by inserting "(A)" after "(2)", by deleting the last sentence of the paragraph, and by adding thereafter the following:

"(B) The Secretary is authorized to use electrical power and energy available from the Navajo Generating Station which is in excess of the Central Arizona Project pumping requirements for the purpose of supplying power and energy requirements of the desalting plant and protective pumping well field constructed pursuant to title I of the Act: *Provided,* That revenues credited to the Lower Colorado River Basin Development Fund shall not be diminished below those amounts which would have accrued had the power been marketed at the rate determined by the Secretary of Energy for the sale of power from the Navajo Generating Station to utilities and public entities, as a result of the use of power and energy for the desalting, protective pumping works, and other uses authorized by law, and that power and energy from the Navajo Generating Station shall be used first to meet the pumping requirements of the Central Arizona Project and after those needs have been met, for the desalting and protective pumping facilities constructed pursuant to title I of the Act, and finally for other uses: *Provided further,* That prior to obtaining power from the Navajo Generating Station under the authority of this subsection, the Secretary shall complete an analysis of alternative sources of supply, including but not limited to the possibility of developing an agreement with the Republic of Mexico whereby the United States (or a non-Federal entity) would enter into contractual arrangements with Mexico for a sufficient supply of power to operate the desalting plant, the regulatory pumping fields and appurtenant facilities.

43 USC 1571 note.
43 USC 422k.
43 USC 1571.

43 USC 1571.

"(C) Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriation Acts, the Secretary of the Interior is authorized to purchase supplemental power and energy as required for the purposes of supplying the power and energy requirements of the desalting plant and protective pumping well field.".

Supplemental power and energy purchase. Effective date.

SEC. 2. Section 101(c) is amended by inserting ", Colorado River waters used for the mitigation of fish and wildlife habitat losses" after "from the desalting plant" in two places.

SEC. 3. Section 103(a) of the Act is amended by adding a new subsection (4) as follows:

43 USC 1573.

Contracts.
Effective date.

"(4) Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriation Acts, enter into contracts under the terms and conditions of the Act of June 17, 1902 (43 U.S.C. 371 et seq.) as amended and supplemented for the delivery of water from said well field to entities within the United States for municipal and industrial or irrigation purposes: *Provided,* That such contracts for municipal and industrial purposes shall contain terms and conditions as substantially provided in section 9(c)(1) of the Reclamation Project Act of 1939, and that contracts for replacement irrigation water supplies to prevent damage to existing water users on privately developed lands include water charges no greater than if such water users had continued to pump their own wells without the United States lowering the water table and that the acreage limitation and related provisions of the Reclamation Law will not be applicable to such privately developed lands: *Provided further,* That no contract shall be entered which will impair the ability of the United States to continue to deliver to Mexico on the land boundary at San Luis and in the Limitrophe Section of the Colorado River downstream from Morelos Dam approximately one hundred and forty thousand acre-feet annually, consistent with the terms contained in Minute No. 242 of the IBWC.".

43 USC 485h.

43 USC 1576, 1577.

SEC. 4. A new section 106 shall be added to the Act, as follows, and succeeding sections shall be renumbered accordingly:

Administration and disposal of lands.
43 USC 1575a.

"SEC. 106. The Secretary is hereby authorized to administer and dispose of lands and interests in lands acquired, and facilities constructed under this title, and revenues received in connection with this authority shall be credited to the general fund of the Treasury.".

43 USC 1578.

SEC. 5. Section 108 of the Act is changed to section 109 and effective October 1, 1979, is amended by striking the first sentence and inserting in lieu thereof: "There is hereby authorized to be appropriated the sum of $356,400,000 for the construction of the works and accomplishment of the purposes authorized in sections 101, 102, 103, and 110, of which $3,579,000 is authorized for mitigation of fish and wildlife losses associated with replacement of the Coachella Canal in California, and $6,960,000 is authorized for mitigation of fish and wildlife losses associated with the Desalting Complex Unit and the Protective and Regulatory Pumping Unit in Arizona, based on January 1979, prices plus or minus such amounts as may be justified by reason of ordinary fluctuation in construction costs involved therein, and such sums as may be required to operate and maintain such works and to provide for such modifications as may be made pursuant to section 104. In order to provide for the utilization of significant improvements in desalinization technologies which may have been developed since the Bureau's evaluation, the Secretary is directed to evaluate such cost effective improvements and implement such improved designs into the plant operations when the evaluation indicates that cost savings will result: *Provided, however,* That no more than five percent of the amount authorized to be appropriated is used for these purposes.".

Appropriation authorization.

43 USC 1571-1573, *infra.*

43 USC 1574.

Effective date.
43 USC 1579.

SEC. 6. A new section 110 shall be added to the Act, as follows:

"SEC. 110. Effective October 1, 1979, and to such extent and in such amounts as are provided in advance in appropriate Acts, in order to provide measures determined by the Secretary of the Interior to be appropriate to mitigate loss of fish and wildlife habitat associated with other measures taken under this title:

Land acquisition and disposal.

"(a) The Secretary is authorized to—

"(1) acquire lands by purchase, eminent domain, or exchange;

"(2) dispose of land, facilities, and equipment;

"(3) construct, operate, maintain, and make replacements of facilities: *Provided, however,* That no funds will be provided for operation, maintenance, or replacement of non-Federal facilities. Facility construction.

"(b) All costs authorized by this section are nonreimbursable.".

SEC. 7. A new section 111 shall be added to the Act, as follows:

"SEC. 111. As used in this title: 43 USC 1580.

"(a) Navajo Generating Station means— Navajo Generating Station.

"(1) the United States entitlement to a portion of the output of power and energy from the Navajo Generating Station, Page, Arizona, pursuant to United States participation in that generating station;

"(2) in the event that said United States entitlement is integrated with other generating facilities, then Navajo Generating Station means that amount of power and energy from the integrated system which is attributable to the United States Navajo entitlement;

"(3) when the Navajo Generating Station is replaced at the end of its useful life or an alternative resource is established, then Navajo Generating Station means an amount of power and energy equivalent to the present United States entitlement from Navajo, from the replacement resource.

"(b) All terms used herein that are defined in the Colorado River Compact shall have the meanings therein defined.".

SEC. 8. The Small Reclamation Projects Act of 1956 (70 Stat. 1044) as amended, is further amended as follows: 43 USC 422k.

(a) Effective October 1, 1980, section 10, as amended, is further amended by deleting "$400,000,000" and inserting in lieu thereof the amount of "$600,000,000". Appropriation authorization. 43 USC 422j.

(b) Subsection (c) of section 5, as amended, is further amended by adding the following: "Except that portion of said allocation attributable to furnishing benefits to a facility operated by an agency of the United States, which portion shall bear no interest;". 43 USC 422e.

Approved September 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-177 accompanying H.R. 2609 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 96-181 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 125 (1979): June 4, considered and passed Senate.

Vol. 126 (1980): Feb. 7, H.R. 2609 considered and passed House; passage vacated and S. 496, amended, passed in lieu.

June 24, Senate concurred in House amendments with amendments.

Aug. 21, House concurred in Senate amendments.

Public Law 96-337
96th Congress

Joint Resolution

Sept. 4, 1980
[S.J. Res. 83]

To authorize the Camp Fire Girls of Cundys Harbor, Maine, to erect a memorial in the District of Columbia.

The Maine Lobsterman, statue in D.C.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Camp Fire Girls of Cundys Harbor, Maine, is authorized to erect a memorial on public grounds in the District of Columbia, subject to authorization by the Secretary of the Interior as provided in section 2, in commemoration of the State of Maine. This memorial shall be in the form of a statue, and shall be entitled "The Maine Lobsterman".

SEC. 2. (a) The Secretary of the Interior is authorized to select, with the approval of the National Commission of Fine Arts and the National Capital Planning Commission, a suitable site on public grounds in the District of Columbia, upon which may be erected the memorial authorized in the first section of this resolution. If the site selected is on public grounds belonging to or under the jurisdiction of the District of Columbia, the approval of the Mayor of the District of Columbia shall also be obtained.

Design and plans.

(b) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the National Commission of Fine Arts and the National Capital Planning Commission.

(c) Other than as to the land authorized for the erection of the memorial in the first section, neither the United States nor the District of Columbia shall be put to any expense in the erection of this memorial.

SEC. 3. The authority conferred pursuant to this resolution shall lapse unless (1) the erection of such memorial is commenced within five years from the date of enactment of this resolution, and (2) prior to its commencement funds are certified available in an amount sufficient, in the judgment of the Secretary of the Interior to insure completion of the memorial.

Maintenance and care.

SEC. 4. The maintenance and care of the memorial erected under the provisions of this resolution shall be the responsibility of the Secretary of the Interior.

Approved September 4, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-361 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 15, considered and passed Senate.
Vol. 126 (1980): Aug. 22, considered and passed House.

Public Law 96-338
96th Congress

An Act

To provide for the United States to hold in trust for the Tule River Indian Tribe certain public domain lands formerly removed from the Tule River Indian Reservation.

Sept. 4, 1980
[S. 1998]

Indians.
Tule River Tribe.
Lands in trust.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest in lands owned by the United States and administered by the United States Forest Service, as described in section 2, which were removed from the Tule River Indian Reservation pursuant to the Act of May 17, 1928 (45 Stat. 600-601) are declared to be held in trust by the United States for the Tule River Indian Tribe and to be part of the Tule River Indian Reservation.

Description.

SEC. 2. The lands referred to in section 1 are the following:

MOUNT DIABLO MERIDIAN, CALIFORNIA

TOWNSHIP 21 SOUTH, RANGE 31 EAST

Section 16:
That portion lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River and westerly of a northerly prolongation of the eastern boundary of the Tule River Indian Reservation.
Section 17:
That portion lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River.
Section 18:
That portion of the northeast quarter northeast quarter lying south of the hydrographic divide between the South Fork of the Middle Fork of the Tule River and the South Fork of the Tule River.
South half northeast quarter.
Southeast quarter northwest quarter.
Section 20:
East half northeast quarter.
Southwest quarter northeast quarter.
South half northeast quarter.
Section 21:
Northwest quarter northwest quarter.
Section 28:
Tract 48.

Right-of-way.

SEC. 3. (a) Nothing in this Act shall deprive any person of any valid existing right-of-way, lease, permit, or other right or interest which such person may have in any of the lands described in section 2.

(b) The transfer under the first section of this Act shall be subject to such right-of-way through lands in section 16 as the Secretary of Agriculture considers necessary to provide access to United States

Forest Service lands located east of section 16. Such right-of-way shall be located and used in such manner as the Secretary of Agriculture determines to be appropriate.

Publication in Federal Register.

SEC. 4. The Secretary of the Interior shall promptly cause to be published in the Federal Register a description of the lands transferred pursuant to this Act and a description of the boundaries of the Tule River Indian Reservation, as modified by the transfer made pursuant to this Act.

Approved September 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1160 accompanying H.R. 4124 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-627 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 18, considered and passed Senate.
Aug. 18, H.R. 4124 considered and passed House; passage vacated and S. 1998, amended, passed in lieu.
Aug. 20, Senate concurred in House amendment.

Public Law 96-339
96th Congress

An Act

To authorize appropriations for fiscal years 1981, 1982, and 1983 for the Atlantic Tunas Convention Act of 1975, and for other purposes.

Sept. 4, 1980
[S. 2549]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Atlantic Tunas Convention Act of 1975, appropriation authorization.

SECTION 1. AMENDMENTS TO ATLANTIC TUNAS CONVENTION ACT OF 1975.

The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended as follows:

(1) Section 4 is amended—

Advisory committee. 16 USC 971b.

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking out "paragraph (1)" in subparagraph (B) (as so redesignated) and inserting in lieu thereof "subparagraph (A)"; and

(C) by amending the first and second sentences to read as follows:

"There is established an advisory committee which shall be composed of— Membership.

"(1) not less than five nor more than twenty individuals appointed by the United States Commissioners who shall select such individuals from the various groups concerned with the fisheries covered by the Convention; and

"(2) the chairmen (or their designees) of the New England, Mid-Atlantic, South Atlantic, Caribbean, and Gulf Fishery Management Councils established under section 302(a) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852(a)).

Each member of the advisory committee appointed under paragraph (1) shall serve for a term of two years and shall be eligible for reappointment.". Term of office.

(2) Section 10 is amended by striking out "and 1980" and inserting in lieu thereof "1980, 1981, 1982, and 1983". 16 USC 971h.

SEC. 2. OBSERVER PROGRAM REGARDING CERTAIN FOREIGN FISHING. 16 USC 1827.

(a) DEFINITIONS.—As used in this section—

(1) The term "Act of 1976" means the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.).

(2) The term "billfish" means any species of marlin, spearfish, sailfish or swordfish.

(3) The term "Secretary" means the Secretary of Commerce.

(b) OBSERVER PROGRAM.—The Secretary shall establish a program under which a United States observer will be stationed aboard each foreign fishing vessel while that vessel—

(1) is in waters that are within—

(A) the fishery conservation zone established under section 101 of the Act of 1976, and 16 USC 1811.

(B) the Convention area as defined in Article I of the International Convention for the Conservation of Atlantic Tunas; and

20 UST 2887.

(2) is taking or attempting to take any species of fish if such taking or attempting to take may result in the incidental taking of billfish.

The Secretary may acquire observers for such program through contract with qualified private persons.

(c) FUNCTIONS OF OBSERVERS.—United States observers, while aboard foreign fishing vessels as required under subsection (b), shall carry out such scientific and other functions as the Secretary deems necessary or appropriate to carry out this section.

(d) FEES.—There is imposed for each year after 1980 on the owner or operator of each foreign fishing vessel that, in the judgment of the Secretary, will engage in fishing in waters described in subsection (b)(1) during that year which may result in the incidental taking of billfish a fee in an amount sufficient to cover all of the costs of providing an observer aboard that vessel under the program established under subsection (a). The fees imposed under this subsection for any year shall be paid to the Secretary before that year begins. All fees collected by the Secretary under this subsection shall be deposited in the Fund established by subsection (e).

Foreign Fishing Observer Fund, establishment.

(e) FUND.—There is established in the Treasury of the United States the Foreign Fishing Observer Fund. The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out this section. The Fund shall consist of the fees deposited into it as required under subsection (d). All payments made by the Secretary to carry out this section shall be paid from the Fund, only to the extent and in the amounts provided for in advance in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(f) PROHIBITED ACTS.—(1) It is unlawful for any person who is the owner or operator of a foreign fishing vessel to which this section applies—

(A) to violate any regulation issued under subsection (g);

(B) to refuse to pay the fee imposed under subsection (d) after being requested to do so by the Secretary; or

(C) to refuse to permit an individual who is authorized to act as an observer under this section with respect to that vessel to board the vessel for purposes of carrying out observer functions.

16 USC 1858.

(2) Section 308 of the Act of 1976 (relating to civil penalties) applies to any act that is unlawful under paragraph (1), and for purposes of such application the commission of any such act shall be treated as an act the commission of which is unlawful under section 307 of the Act of 1976.

16 USC 1857.

(g) REGULATIONS.—The Secretary shall issue such regulations as are necessary or appropriate to carry out this section.

16 USC 971i.

SEC. 3. REPORTS REGARDING BLUEFIN TUNA.

Submittal to Congress.

The Secretary of Commerce shall prepare, for each biennial period commencing with the period covering calendar years 1981 and 1982, and submit to the Congress a report setting forth, with respect to such biennial period—

(1) the level of taking of bluefin tuna by United States fishermen in the Convention area as defined in Article I of the International Convention for the Conservation of Atlantic Tunas;

20 UST 2887.

(2) the status of bluefin tuna stocks within such Convention area and the trends in their population level; and

(3) related information resulting from the implementation of the observer program under section 2 of this Act.

The report required under this section shall be submitted to the Congress within sixty days after the close of the biennial period covered by the report. There are authorized to be appropriated such sums as may be necessary to carry out this section.

Appropriation authorization.

Approved September 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1017 accompanying H.R. 6310 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-708 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 20, considered and passed Senate.
June 3, H.R. 6310 considered and passed House; passage vacated and S. 2549, amended, passed in lieu.
July 28, Senate concurred in House amendments with amendments.
Aug. 22, House concurred in Senate amendments.

79-194 O—81—pt. 1——71 : QL3

Public Law 96-340
96th Congress

An Act

Sept. 4, 1980
[S. 2055]

To establish a reservation for the Confederated Tribes of Siletz Indians of Oregon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Confederated Tribes of Siletz Indians of Oregon. Reservation establishment. 25 USC 711e note.

SECTION 1. Subject to all valid liens, rights-of-way, reciprocal road rights-of-way agreements, licenses, leases, permits, and easements existing on the date of the enactment of this Act, all right, title, and interest of the United States in the following parcel of land (consisting of approximately three thousand six hundred and thirty acres and located in the State of Oregon) is held in trust for the Confederated Tribes of Siletz Indians of Oregon:

(1) In township 9 south, range 9 west, Willamette meridian—

(A) in section 13 the southeast quarter of the northwest quarter;

(B) in section 14 the northeast quarter of the northeast quarter;

(C) in section 15 lot 2;

(D) in section 20 the east half of the east half of northeast quarter and the east half of the northeast quarter of the southeast quarter;

(E) in section 21 the south half of the northeast quarter, southeast quarter of the northwest quarter, and the northeast quarter of the southwest quarter;

(F) in section 22 the north half of the northwest quarter of the northeast quarter, the northeast quarter of the northwest quarter, and the south half of the northwest quarter;

(G) in section 23 lots 3, 4, and 5, the southwest quarter of the northeast quarter, and the northwest quarter of the southeast quarter;

(H) in section 24 the northeast quarter of the southwest quarter;

(I) in section 25 lots 3 and 7, the southeast quarter of the northeast quarter, the southeast quarter of the northwest quarter, the east half of the southwest quarter, and the southeast quarter;

(J) in section 26 the southeast quarter;

(K) in section 27 the south half of the northeast quarter of the northeast quarter, the south half of the northeast quarter, the south half of the southwest quarter of the northwest quarter, the southeast quarter of the northwest quarter, and the north half of the southeast quarter;

(L) in section 31 lot 20 and the southeast quarter of the northeast quarter;

(M) in section 32 the north half of lot 21;

(N) in section 34 the east half of the west half of the northwest quarter, the east half of the northeast quarter of the southeast quarter, the east half of the southwest quarter

of the southeast quarter, and the southeast quarter of the southeast quarter;

(O) in section 35 the north half of the southwest quarter, the southwest quarter of the southwest quarter, the northwest quarter of the southeast quarter, and the southeast quarter of the southeast quarter; and

(P) in section 36 the southwest quarter of the southeast quarter.

(2) In township 10 south, range 9 west, Willamette meridian—

(A) in section 2 the north half of lot 7 and the north half of lot 8;

(B) section 3 lots 1, 2, 3, and 14;

(C) in section 4 the east half of the east half of the southwest quarter, the east half of the southeast quarter, the east half of the northwest quarter of the southeast quarter, the southwest quarter of the northwest quarter of the southeast quarter, and the southwest quarter of the southeast quarter;

(D) in section 6 the east half of the southwest quarter of the southwest quarter;

(E) in section 8 lot 3;

(F) in section 9 lots 1, 2, and 3 and the east half of lot 4;

(G) in section 13 the southwest quarter of the southeast quarter;

(H) in section 15 lot 1;

(I) in section 16 the southeast quarter of the southeast quarter;

(J) in section 17 lot 4;

(K) in section 18 lot 1;

(L) in section 20 lot 11;

(M) in section 21 lots 5 and 8;

(N) in section 22 lots 4, 5, and 17;

(O) in section 24 lots 1, 2, and 12;

(P) in section 25 the west half of the northeast quarter; and

(Q) in section 26 the southwest quarter of the southeast quarter.

(3) In township 10 south, range 10 west, Willamette meridian—

(A) in section 13 the east half of the northwest quarter;

(B) in section 14 the southeast quarter of the southwest quarter;

(C) in section 15 the south half of the northeast quarter and the east half of the southeast quarter of the northwest quarter;

(D) in section 20 of lot 1 lying south of the southern boundary of the former Siletz Indian Reservation;

(E) in section 23 lots 6 and 7; and

(F) in section 24 lot 8.

(4) In township 10 south, range 8 west, Willamette meridian—

(A) in section 18 the southeast quarter of the northwest quarter and the southeast quarter of the southeast quarter;

(B) in section 20 the south half of the southeast quarter;

(C) in section 22 the southwest quarter of the northeast quarter; and

(D) in section 30 lot 1.

Land conveyance.

SEC. 2. The Secretary of the Interior, acting at the request of the Confederated Tribes of Siletz Indians of Oregon, shall accept (subject to all valid liens, rights-of-way, licenses, leases, permits, and easements existing on the date of the enactment of this Act) any deed or

other instrument conveying to the United States the following parcel of land (consisting of approximately thirty-eight and forty-four one hundredths acres and located in the State of Oregon in the northeast quarter of section 9 and the southeast quarter of section 4 in township 10 south, range 10 west, Willamette meridian) conveyed to the city of Siletz on July 27, 1956 (known as Government Hill), and hold such land in trust for the Confederated Tribes of Siletz Indians of Oregon:

Beginning at a ¾-inch iron pipe at the northeast corner of section 9, township 10 south, range 10 west, Willamette meridian, in Lincoln County, Oregon. Said point being the true point of beginning; thence north 0 degrees 36 minutes 9 seconds east, 658.81 feet to a found 2-inch iron pipe; thence north 88 degrees 41 minutes 18 seconds west, 653.16 feet; thence south 1 degree 30 minutes 45 seconds west, 681.49 feet to a found ¾-inch iron pipe, thence south 89 degrees 17 minutes 43 seconds west, 564.83 feet to a stone marked with an "X", said point lying north 89 degrees 47 minutes east, 100.26 feet from a stone marked with an "X" at the northwest corner of the northeast quarter northeast quarter of section 9, township 10 south, range 10 west, Willamette meridian; thence south 0 degrees 6 minutes east, 660.48 feet to a 2-inch iron pipe; thence south 89 degrees 31 minutes west, 100.00 feet; thence south 59 degrees 43 minutes 18 seconds east, 1,298.82 feet; thence north 89 degrees 45 minutes east, 54.20 feet, to a point lying south 89 degrees 45 minutes west, 165.00 feet from a 1-inch pipe at the southeast corner of the northeast quarter northeast quarter of section 9, township 10 south range 10 west, Willamette meridian; thence north 0 degrees 34 minutes west, 598.98 feet; thence north 89 degrees 45 minutes east, 165.00 feet; thence north 0 degrees 34 minutes west, 730.79 feet to the point of beginning.

Payment.

The Secretary of the Interior is directed to pay to the city of Siletz, Oregon, upon adequate documentation, an amount equal to the costs and expenses, not to exceed $5,000, incurred by the city of Siletz, Oregon, in connection with its consideration of, and planning for, the conveyance of said parcel, and in conveying said parcel to the United States.

SEC. 3. The parcel of land described in section 1 and any land described in section 2 conveyed to the Secretary of the Interior shall constitute the reservation of the Confederated Tribes of Siletz Indians of Oregon and shall be subject to the Act of June 18, 1934 (25 U.S.C. 461 et seq.), and the provisions reapplied to such tribes pursuant to section 3 of the Siletz Indian Tribe Restoration Act (25 U.S.C. 711 et seq.). Such lands shall be subject to the right of the Secretary of the Interior to establish, without compensation to such tribes, such reasonable rights-of-way and easements as are necessary to provide access to or to serve adjacent or nearby Federal lands.

Rights-of-way and easements, establishment.

Hunting, fishing, or trapping rights.

SEC. 4. The establishment of the Siletz Reservation or the addition of lands to the reservation in the future, shall not grant or restore to the tribe or any member of the tribe any new or additional hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, on such reservation beyond the rights which are declared and set forth in the final judgment and decree of the United States District Court for the District of Oregon, in the action entitled Confederated Tribes of Siletz Indians of Oregon against State of Oregon, entered on May 2, 1980. Those rights as declared and set forth in the May 2, 1980, final judgment and decree shall constitute the exclusive and final determination of all tribal

rights to hunt, fish, or trap that the Siletz Tribe or its members possess.

SEC. 5. The State of Oregon shall have civil and criminal jurisdiction with respect to the reservation constituted pursuant to section 3 and to any individual on the reservation, in accordance with section 1360 of title 28, United States Code, and section 1162 of title 18, United States Code. Jurisdiction.

Approved September 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1159 accompanying H.R. 7267 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-626 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 19, considered and passed Senate.
Aug. 18, H.R. 7267 considered and passed House; passage vacated and S. 2055, amended, passed in lieu.
Aug. 20, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 36:
Sept. 5, Presidential statement.

Public Law 96-341
96th Congress

An Act

Sept. 8, 1980
[H.R. 8010]

To amend the Comprehensive Employment and Training Act to designate a Job Corps Center as the "Earle C. Clements Job Corps Center".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Comprehensive Employment and Training Act (29 U.S.C. 801 et seq.) is amended by inserting after section 468 the following new section:

Earle C. Clements Job Corps Center. Designation.

"EARLE C. CLEMENTS JOB CORPS CENTER

29 USC 941a.

"SEC. 469. The Secretary shall designate the Job Corps facilities located in the State of Kentucky in Union County and Muhlenburg County as the 'Earle C. Clements Job Corps Center'. Any reference in law, map, regulation, document, record, or other paper of the United States to the Job Corps facilities specified in the first sentence of this section shall be held to be a reference to the 'Earle C. Clements Job Corps Center'.".

SEC. 2. The table of contents of the Comprehensive Employment and Training Act is amended by inserting after the item relating to section 468 the following new item:

"Sec. 469. Earle C. Clements Job Corps Center.".

Approved September 8, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 26, considered and passed House and Senate.

Public Law 96-342
96th Congress

An Act

Sept. 8, 1980
[H.R. 6974]

To authorize appropriations for fiscal year 1981 for procurement of aircraft, missiles, naval vessels, track combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for fiscal year 1981 for civil defense, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Authorization Act, 1981".

Department of Defense Authorization Act, 1981.

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces of the United States for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, as authorized by law, in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $1,076,400,000; for the Navy and the Marine Corps, $6,150,600,000, of which $33,600,000 shall be available only for procurement of aircraft for the Navy Undergraduate Helicopter Pilot Training Program; for the Air Force, $9,365,143,000, of which $518,800,000 shall be available only for procurement of War Reserve Materiel spares.

MISSILES

For missiles: for the Army, $1,580,500,000; for the Navy, $2,236,400,000; for the Marine Corps, $94,043,000; for the Air Force, $3,176,184,000.

NAVAL VESSELS

For naval vessels: for the Navy, $8,363,200,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $2,313,500,000; for the Marine Corps, $45,825,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy $386,600,000.

OTHER WEAPONS

For other weapons: for the Army, $334,500,000; for the Navy, $195,500,000; for the Marine Corps, $69,490,000.

AUTHORIZATION OF APPROPRIATIONS FOR CONTRIBUTION TO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) FOR NATO

SEC. 102. There is authorized to be appropriated for fiscal year 1981 the sum of $382,000,000 to be available only for contribution by the United States of its share of the cost for such fiscal year of the acquisition by the North Atlantic Treaty Organization of the Airborne Warning and Control System (AWACS).

CERTAIN AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

Waiver.

SEC. 103. (a) During fiscal year 1981, the Secretary of Defense, in carrying out the Multilateral Memorandum of Understanding Between the North Atlantic Treaty Organization (NATO) Ministers of Defence on the NATO E-3A Cooperative Programme, signed by the Secretary of Defense on December 6, 1978, may—

(1) waive reimbursement for the cost of the following functions performed by personnel other than personnel employed in the United States Air Force Airborne Warning and Control System (AWACS) program office:

(A) auditing;
(B) quality assurance;
(C) codification;
(D) inspection;
(E) contract administration;
(F) acceptance testing;
(G) certification services; and
(H) planning, programming, and management services;

(2) waive any surcharge for administrative services otherwise chargeable; and

(3) in connection with the NATO E-3A Cooperative Programme for fiscal year 1981, assume contingent liability for—

(A) program losses resulting from the gross negligence of any contracting officer of the United States;
(B) identifiable taxes, customs duties, and other charges levied within the United States on the program; and
(C) the United States share of the unfunded termination liability.

Contract authority.

(b) Authority under this section to enter into contracts shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

PATRIOT MISSILE SYSTEM

SEC. 104. Not more than $494,100,000 of the funds authorized to be appropriated by this title for the Army may be used for procurement of the PATRIOT missile system, and no funds authorized to be appropriated by this title for the Army may be obligated or expended for the procurement of PATRIOT missile system end-items unless and until the Secretary of Defense certifies to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives that, based upon operational and development test-

ing conducted by the Army, the PATRIOT missile system is suitable for hardware production.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Funds are hereby authorized to be appropriated for fiscal year 1981 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $3,248,005,000.

For the Navy (including the Marine Corps), $5,112,775,000, of which $45,251,000 is authorized only for the research, development, test, and evaluation of Lightweight Armored Vehicles.

For the Air Force, $7,159,857,000.

For the Defense Agencies, $1,367,802,000, of which $42,100,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1981 such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in this title.

MX MISSILE AND BASING MODE

Congressional findings.
10 USC 139 note.

SEC. 202. (a) The Congress finds that a survivable land-based intercontinental ballistic missile (ICBM) system is vital to the security of the United States and to a stable strategic balance between the United States and the Soviet Union and that timely deployment of a new basing mode is essential to the survivability of this Nation's land-based intercontinental ballistic missiles. It is, therefore, the purpose of this section to commit the Congress to the development and deployment of the MX missile system, consisting of 200 missiles and 4,600 hardened shelters, and to insure that deployment of the entire MX system is carried out as soon as practicable.

(b) The Secretary of Defense shall proceed immediately with the full-scale engineering development of the MX missile and a Multiple Protective Structure (MPS) basing mode and shall continue such development in a manner that will achieve an Initial Operational Capability of such missile and basing mode not later than December 31, 1986.

(c) Notwithstanding any other provision of law, the initial phase of construction shall be limited to 2,300 protective shelters for the MX missile in the initial deployment area.

Study.

(d) In accordance with the finding of the Congress expressed in subsection (a), a full system of at least 4,600 protective shelters may be deployed in the initial deployment area if, after completion of a study to be conducted by the Secretary of Defense of an alternate site for a portion of the system, it is determined by the Congress that adverse cost, military considerations, or other reasons preclude split basing.

C-X AIRCRAFT PROGRAM

SEC. 203. (a) None of the funds authorized to be appropriated by this title may be obligated or expended for the full-scale engineering development or procurement of the C-X or any other new transport aircraft until the Secretary of Defense has certified in writing to the Congress—

(1) that the national security requirements of the United States for additional military airlift capability merit initiation of the C-X aircraft program;

(2) that the magnitude and nature of the military cargo and material to be airlifted to the Indian Ocean area and other areas of potential conflict are sufficiently well defined to permit identification of a deficiency in military airlift capability;

(3) that the magnitude and characteristics of military cargo and material to be transported by air to such areas are sufficiently well defined to provide clear justification and design parameters for such aircraft; and

(4) that plans for such aircraft are sufficiently well developed to make such full-scale engineering development both economical and technically feasible.

Study.

(b) The Secretary of Defense shall conduct a study to determine overall United States military mobility requirements. Such study shall include an analysis of the total mix of airlift, sealift, and prepositioning of war materials required for the United States to respond to military contingencies in the Indian Ocean area and other areas of potential conflict during the decade of the 1980's. The Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives not later than February 1, 1981, on the results of such study, together with such comments and recommendations as the Secretary considers appropriate, including recommendations for specific programs to provide an adequate overall military transportation capacity for the United States.

Report to congressional committees.

(c) Not more than $35,000,000 of the funds authorized to be appropriated by this title may be obligated or expended for the C-X aircraft program. Of such amount, not more than $15,000,000 may be obligated or expended before February 1, 1981, and the remainder of such amount may be obligated or expended only after the expiration of 60 days following the submission to the Congress of the report required by subsection (b).

Expiration date.

MULTI-ROLE STRATEGIC BOMBER

SEC. 204. (a) The Secretary of Defense shall vigorously pursue full-scale engineering development of a strategic multi-role bomber which maximizes range, payload, and ability to perform the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system in both the tactical and strategic role.

(b) Of the funds authorized to be appropriated for the Air Force under this title, $300,000,000 may be obligated or expended for full-scale development, following compliance with subsection (c), of a multi-role bomber aircraft to achieve an Initial Operational Capability as soon as practicable, consistent with the aircraft selected, but not later than 1987. Such aircraft shall have the capability of performing the missions of conventional bomber, cruise missile launch platform, and nuclear weapons delivery system.

Status report to congressional committees.

(c) The Secretary of Defense shall submit a status report to the Committees on Armed Services of the Senate and House of Repre-

sentatives by March 15, 1981, on the results of the development effort to date. The Secretary shall include in such report comparisons of the various candidate aircraft in terms of cost and military effectiveness. Candidate aircraft shall include, but not be limited to, advanced technology aircraft, the B-1 bomber aircraft and derivatives of the B-1 aircraft, and the FB-111B/C aircraft.

EXTREMELY LOW FREQUENCY (ELF) COMMUNICATIONS SYSTEM

SEC. 205. (a) Notwithstanding the provisions of section 202 of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95-485; 92 Stat. 1612), and section 203 of the Department of Defense Authorization Act, 1980 (Public Law 96-107; 93 Stat. 805), the Secretary of the Navy shall resume research and development work on the Extremely Low Frequency (ELF) Communications System. Notwithstanding any provision of law restricting the availability of such funds, the Secretary of the Navy shall use any unobligated funds previously appropriated for such system for fiscal year 1979 for the purpose of resuming such work.

(b) Not later than April 1, 1981, the President shall submit to the Congress a plan for the deployment of an operational Extremely Low Frequency (ELF) Communications System. Plan, submittal to Congress.

RESTRICTION ON FUNDS FOR DEVELOPMENT OF THE 120-MILLIMETER TANK GUN

SEC. 206. Of the amount authorized to be appropriated for the Army by this title, not more than $62,061,000 is authorized for development of the 120-millimeter tank gun. However, none of such funds may be obligated or expended for development of such gun until (1) the Secretary of the Army prepares a plan on how the life-cycle costs for incorporating the 120-millimeter gun into the tank force of the Army can be reduced by $600,000,000 through efficient training practices, (2) the Secretary of Defense approves such plan, and (3) such plan is submitted to the Congress. Plan, submittal to Congress.

STUDY OF FAST LOGISTIC SURFACE EFFECT SHIP

SEC. 207. Of the funds appropriated to the Department of Defense for fiscal year 1980 which have not previously been obligated or expended, not more than $6,000,000 are available for study of a logistic surface effect ship weighing between 5,000 and 7,000 tons and capable of a speed of not less than 70 knots.

INCREASES IN DOLLAR CEILINGS FOR INDEPENDENT RESEARCH AND DEVELOPMENT COSTS AND BID AND PROPOSAL COSTS

SEC. 208. Section 203 of Public Law 91-441 (84 Stat. 906; 10 U.S.C. 2358 note) is amended—

(1) by striking out "$2,000,000" and "$250,000" in subsection (a)(1) and inserting in lieu thereof "$4,000,000" and "$500,000", respectively; and

(2) by adding at the end of such section the following new subsection:

"(f) On October 1, 1983, and once every three years thereafter, the Secretary of Defense may, based upon economic indices that the Secretary has selected, adjust the amounts in subsection (a)(1) of this section in accordance with economic changes reflected in those indices.".

TITLE III—ACTIVE FORCES

AUTHORIZATION OF END STRENGTHS

SEC. 301. The Armed Forces are authorized strengths for active duty personnel as of September 30, 1981, as follows:

(1) The Army, 775,300.
(2) The Navy, 537,456.
(3) The Marine Corps, 188,100.
(4) The Air Force, 564,500.

LIMITATION ON ENLISTMENT AND INDUCTION OF PERSONS INTO THE ARMED FORCES WHOSE SCORE ON THE ARMED FORCES QUALIFICATION TEST IS BELOW A PRESCRIBED LEVEL

10 USC 520 note.

SEC. 302. (a) The number of male individuals (with no prior military service) enlisted or inducted into the Army during the fiscal year beginning on October 1, 1980, who are not high school graduates may not exceed, as of September 30, 1981, 35 percent of all male individuals (with no prior military service) enlisted or inducted into the Army during such fiscal year.

(b)(1) Chapter 31 of title 10, United States Code, relating to enlistments in the Armed Forces, is amended by adding at the end thereof the following new section:

10 USC 520.

"§ 520. Limitation on enlistment and induction of persons whose score on the Armed Forces Qualification Test is below a prescribed level

"(a) For the fiscal year beginning on October 1, 1980, the total number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in the armed forces during such fiscal year whose score on the Armed Forces Qualification Test is at or above the tenth percentile and below the thirty-first percentile may not exceed 25 percent of the number of such persons enlisted or inducted into the armed forces during such fiscal year. For the fiscal year beginning on October 1, 1981, the number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in any armed force during such fiscal year whose score on the Armed Forces Qualification Test is at or above the tenth percentile and below the thirty-first percentile may not exceed 25 percent of the number of such persons enlisted or inducted into such armed force during such fiscal year. For any fiscal year beginning after September 30, 1982, the number of persons originally enlisted or inducted to serve on active duty (other than active duty for training) in any armed force during such fiscal year whose score on the Armed Forces Qualification Test is at or above the tenth percentile and below the thirty-first percentile may not exceed 20 percent of the number of such persons enlisted or inducted into such armed force during such fiscal year.

Waiver.

"(b) When the Secretary of Defense determines that, because of national security reasons, the limitation contained in subsection (a) should not be effective for any fiscal year, the Secretary may waive such limitation for such fiscal year to the extent he considers necessary, but any such waiver shall be effective only if—

"(1) the Secretary notifies the Congress in writing of such determination, of the reasons therefor, and the extent to which he proposes to waive such limitation; and

"(2) the Congress adopts a concurrent resolution stating in substance that it approves the proposed waiver.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"520. Limitation on enlistment and induction of persons whose score on the Armed Forces Qualification Test is below a prescribed level.".

(c) The Secretary of Defense shall report to the Committees on Armed Services of the Senate and House of Representatives at the end of each quarter of fiscal year 1981 whether the requirements of section 520 of title 10, United States Code, as added by subsection (b), have a negative impact on combat readiness.

Report to congressional committees.

(d) It is the sense of the Congress—

(1) that secondary educational institutions in the United States, the Commonwealth of Puerto Rico, and the territories of the United States should cooperate with the Armed Forces by allowing recruiting personnel access to such institutions; and

(2) that it is appropriate for such institutions to release to the Armed Forces information regarding students at such institutions (including such data as names, addresses, and education levels) which is relevant to recruiting individuals for service in the Armed Forces.

Recruitment in secondary educational institutions. 10 USC 503 note.

COMPREHENSIVE MANPOWER MOBILIZATION PLAN

SEC. 303. (a) The Secretary of Defense, in conjunction with the Director of Selective Service, shall prepare and submit to the Congress, not later than April 2, 1981, a comprehensive plan for the effective management during peacetime of the potential military manpower of the United States and for the effective mobilization during a war or national emergency of the military manpower and defense-related manpower of the United States. Such plan shall include—

Plan, submittal to Congress.

(1) any new and improved procedures for the registration and classification of persons under the Military Selective Service Act, placing special emphasis on administrative and medical procedures that will result in more efficient and cost-effective screening of registrants;

Registration procedures. 50 USC app. 451.

(2) new categories and equitable standards for the deferment and exemption of persons from training and service under the Military Selective Service Act; and

Deferment.

(3) such other administrative changes considered necessary or appropriate to manage effectively during peacetime the potential military manpower of the United States and to mobilize effectively during a war or national emergency the military manpower and defense-related manpower of the United States.

(b) The Secretary of Defense and the Director of Selective Service shall conduct a study of the impact, if any, of the reinstatement of registration under the Military Selective Service Act, and the impact of implementing the plan described in subsection (a), on the recruitment and retention of personnel for the active duty and reserve forces of the United States. The Secretary of Defense shall submit the results of such study to the Congress not later than April 2, 1981.

Study.

Submittal to Congress.

(c) The Secretary of Defense shall submit a report to the Congress not later than January 31, 1981, containing the Secretary's projections for each of the five fiscal years 1981 through 1985 with respect to (1) the total manpower needs of each active duty and reserve component of the Armed Forces, and (2) the desired and planned characteristics (including educational attainment, mental ability,

Report to Congress.

marital status, sex, and other pertinent personal characteristics) for the personnel of each such component.

Study. Report to Congress.

(d) The Secretary of Defense shall conduct a study to identify the number of military personnel in each of the several skill categories needed to respond effectively in situations in which a military conflict is most likely to occur and shall submit a report to the Congress not later than April 2, 1981, containing the results of such study. Such report shall include (1) the estimated shortages in each skill category in each of the situations in which a military conflict is most likely to occur, (2) recommendations for the procedures necessary for locating and obtaining such additional skilled personnel as may be needed by the Armed Forces to respond effectively in such situations, and (3) such recommendations for changes in existing law as may be necessary to facilitate the compilation and maintenance of a current list of personnel who possess the skills required by the Armed Forces to respond effectively in such situations.

TITLE IV—RESERVE FORCES

AUTHORIZATION OF AVERAGE STRENGTHS

SEC. 401. (a) For fiscal year 1981, the Selected Reserve of the reserve components of the Armed Forces shall be programmed to attain average strengths of not less than the following:

(1) The Army National Guard of the United States, 371,300.
(2) The Army Reserve, 204,500.
(3) The Naval Reserve, 87,400.
(4) The Marine Corps Reserve, 33,700.
(5) The Air National Guard of the United States, 94,300.
(6) The Air Force Reserve, 58,800.
(7) The Coast Guard Reserve, 11,700.

(b) Within the average strengths prescribed in subsection (a), the reserve components of the Armed Forces are authorized, as of September 30, 1981, the following number of reserve component members to be serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 10,159.
(2) The Army Reserve, 5,400.
(3) The Naval Reserve, 708.
(4) The Marine Corps Reserve, 67.
(5) The Air National Guard of the United States, 3,207.
(6) The Air Force Reserve, 698.

(c) The average strength prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

TITLE V—CIVILIAN PERSONNEL

AUTHORIZATION OF END STRENGTH

SEC. 501. (a) The Department of Defense is authorized a strength in civilian personnel, as of September 30, 1981, of 986,000.

(b) The strength for civilian personnel prescribed in subsection (a) shall be apportioned among the Department of the Army, the Department of the Navy (including the Marine Corps), the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of the enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

Report to Congress.

(c) In computing the strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Personnel employed under a part-time career employment program established under section 3402 of title 5, United States Code, shall be counted as prescribed by section 3404 of that title. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

Employment.

5 USC 3404.

Transfer of functions.

(d) When the Secretary of Defense determines that such action is necessary in the national interest or if any conversion of commercial and industrial type functions from performance by Department of Defense personnel to performance by private contractors which was anticipated to be made during fiscal year 1981 in the Budget of the President submitted for such fiscal year is not determined to be appropriate for such conversion under established administrative criteria, the Secretary of Defense may authorize the employment of civilian personnel in excess of the number authorized by subsection (a), but such additional number may not exceed 2 percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a). The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under this subsection.

Excess employees.

Notification of Congress.

(e) During fiscal year 1981, the Secretary of Defense shall manage the manpower resources of the Department of Defense in a manner that will insure that functions of the Department of Defense involving maintenance, construction, engineering acquisition, or repair activities will be provided civilian manpower resources sufficient to fulfill the work requirements for which funds have been appropri-

Manpower resources, management.

ated, on a schedule consistent with the requirements of national security and military readiness.

STRENGTHENING OF RESTRICTIONS ON CONVERSION OF PERFORMANCE OF COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS FROM DEPARTMENT OF DEFENSE PERSONNEL TO PRIVATE CONTRACTORS

10 USC 2304 note.

SEC. 502. (a) No commercial or industrial type function of the Department of Defense that on October 1, 1980, is being performed by Department of Defense personnel may be converted to performance by a private contractor—

(1) to circumvent any civilian personnel ceiling; or

(2) unless the Secretary of Defense provides to the Congress in a timely manner—

Notification of Congress.

(A) notification of any decision to study such commercial or industrial type function for possible performance by a private contractor;

Cost comparison.

(B) a detailed summary of a comparison of the cost of performance of such function by Department of Defense personnel and by private contractor which demonstrates that the performance of such function by a private contractor will result in a cost savings to the Government over the life of the contract and a certification that the entire cost comparison is available;

Certification of calculation.

(C) a certification that the Government calculation for the cost of performance of such function by Department of Defense personnel is based on an estimate of the most efficient and cost effective organization for performance of such function by Department of Defense personnel; and

Report.

(D) a report, to be submitted with the certification required by subparagraph (C), showing—

(i) the potential economic effect on employees affected, and the potential economic effect on the local community and Federal Government if more than 50 employees are involved, of contracting for performance of such function;

(ii) the effect of contracting for performance of such function on the military mission of such function; and

(iii) the amount of the bid accepted for the performance of such function by the private contractor whose bid is accepted and the cost of performance of such function by Department of Defense personnel, together with costs and expenditures which the Government will incur because of the contract.

Notification of Congress.

(b) If, after completion of the studies required for completion of the certification and report required by subparagraphs (C) and (D) of subsection (a)(2), a decision is made to convert to contractor performance, the Secretary of Defense shall notify Congress of such decision.

Report to Congress.

(c) The Secretary of Defense shall submit a written report to the Congress by February 1 of each fiscal year describing the extent to which commercial and industrial type functions were performed by Department of Defense contractors during the preceding fiscal year. The Secretary shall include in each such report an estimate of the percentage of commercial and industrial type functions of the Department of Defense that will be performed by Department of Defense personnel, and the percentage of such functions that will be performed by private contractors, during the fiscal year during which the report is submitted.

(d) This section shall take effect on October 1, 1980. Effective date.

TITLE VI—MILITARY TRAINING STUDENT LOADS

AUTHORIZATION OF TRAINING STUDENT LOADS

SEC. 601. (a) For fiscal year 1981, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 53,128.
(2) The Navy, 64,545.
(3) The Marine Corps, 21,393.
(4) The Air Force, 46,238.
(5) The Army National Guard of the United States, 7,177.
(6) The Army Reserve, 6,880.
(7) The Naval Reserve, 953.
(8) The Marine Corps Reserve, 3,144.
(9) The Air National Guard of the United States, 1,930.
(10) The Air Force Reserve, 1,139.

(b) In addition to the number authorized in subsection (a), the following components of the Armed Forces are authorized a military training student load to be utilized solely for one station unit training of not less than the following:

(1) The Army, 18,890.
(2) The Army National Guard of the United States, 6,839.
(3) The Army Reserve, 2,468.

(c) The average military training student loads for the Army, the Navy, the Marine Corps, and the Air Force and the reserve components authorized in subsection (a) for fiscal year 1981 shall be adjusted consistent with the manpower strengths authorized in titles III, IV, and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

TEMPORARY REDUCTION IN THE NUMBER OF STUDENTS REQUIRED TO BE IN A UNIT OF THE JUNIOR RESERVE OFFICERS' TRAINING CORPS FOR THE UNIT TO BE MAINTAINED

SEC. 602. Notwithstanding the provisions of section 2031(b) of title 10, United States Code, relating to the establishment and maintenance of units of the Junior Reserve Officers' Training Corps, during the period beginning on September 1, 1980, and ending on August 31, 1981, the Secretary of any military department may maintain a unit of the Junior Reserve Officers' Training Corps at any public or private secondary educational institution if— 10 USC 2031 note.

(1) the number of physically fit students in such unit who are at least 14 years of age and are citizens or nationals of the United States is not less than (A) 10 percent of the number of students enrolled in the institution who are at least 14 years of age, or (B) 100, whichever is less; and

(2) the unit meets such other requirements (in addition to the requirements prescribed by section 2031(b) of title 10, United States Code) as may be established by the Secretary of the military department concerned.

TITLE VII—ATTACK-RELATED CIVIL DEFENSE

AUTHORIZATION OF APPROPRIATIONS

SEC. 701. There is hereby authorized to be appropriated for fiscal year 1981 to carry out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251-2297) the sum of $120,000,000.

IMPROVED CIVIL DEFENSE PROGRAM

SEC. 702. (a) The Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251-2297) is amended by adding after title IV the following new title:

"TITLE V—IMPROVED CIVIL DEFENSE PROGRAM

"SENSE OF CONGRESS

50 USC app. 2301.

"SEC. 501. (a) It is the sense of Congress that—

"(1) a civil defense program providing for the relocation of the population of risk areas, including the larger United States cities, during a period of strategic warning resulting from an international crisis may be effective in protecting the population;

"(2) the present civil defense program should be improved; and

"(3) an improved civil defense program can be developed which could enhance the civil defense capability of the United States.

"(b) It is further the sense of Congress that an improved civil defense program should be implemented which—

"(1) enhances the survivability of the American people and its leadership in the event of nuclear war and thereby improves the basis for eventual recovery and reduces the Nation's vulnerability to a major attack;

"(2) enhances deterrence, contributes to perceptions of the United States-Soviet strategic balance and crisis stability, and reduces the possibility that the United States might be susceptible to coercion by an enemy in times of increased tension;

"(3) does not suggest any change in the United States policy of relying on strategic nuclear forces as the preponderant factor in maintaining deterrence;

"(4) includes planning for the relocation of certain segments of the population during times of international crisis; and

"(5) is adaptable to help deal with natural disasters and other peacetime emergencies.

"ELEMENTS OF AN IMPROVED CIVIL DEFENSE PROGRAM

50 USC app. 2302.

"SEC. 502. (a) In order to carry out the sense of Congress expressed in section 501, the President shall, to the extent practicable, develop and implement an improved civil defense program which includes—

Attack- and disaster-related defense programs.

"(1) a program structure for the resources to be used for attack-related civil defense;

"(2) a program structure for the resources to be used for disaster-related civil defense; and

"(3) criteria and procedures under which those resources planned for attack-related civil defense and those planned for disaster-related civil defense can be used interchangeably.

"(b) In developing a program structure for attack-related civil defense pursuant to subsection (a), the President shall give consideration to including in such program structure the following elements:

"(1) Nuclear civil protection planning for more rapid population relocation during times of international crisis.

"(2) Nuclear civil protection planning for improved inplace population protection during times of international crisis in the event circumstances preclude population relocation.

"(3) A survey of the shelters inherent in existing facilities.

"(4) Planning for the development during times of crisis of additional shelter.

"(5) Development of capabilities for shelter management.

"(6) Marking and stocking of shelters.

"(7) Development and procurement of ventilation kits for shelters.

"(8) The development of emergency evacuation plans for areas in which nuclear powerplants are located.

"(9) The improvement of civil defense warning systems.

"(10) The improvement of systems and capabilities for direction and control of emergency operations by civil governments at all levels, including further development of a network of emergency operating centers.

"(11) The improvement of radiological defense capabilities.

"(12) The improvement of emergency public information and training programs and capabilities.

"(13) The development of plans for postattack economic recovery and the development of plans for postdisaster economic recovery to the extent that planning for postdisaster economic recovery planning does not detract from planning for postattack economic recovery.

"(14) The improvement of and training in self-help nuclear war survival skills.

"(15) Civil defense-related research and development.

"(16) The development of other appropriate systems and capabilities to increase the lifesaving potential of the civil defense program.

"ADMINISTRATIVE PROVISIONS

"SEC. 503. The powers contained in titles II and IV of this Act shall be used in developing and implementing the program required by section 502.". 50 USC app. 2303. 50 USC app. 2281, 2253.

(b) The table of contents at the beginning of such Act is amended by adding at the end thereof the following:

"TITLE V—IMPROVED CIVIL DEFENSE PROGRAM

"Sec. 501. Sense of Congress.
"Sec. 502. Elements of an improved civil defense program.
"Sec. 503. Administrative provisions.".

REQUIREMENT FOR MATCHING FUNDS FOR CONSTRUCTION OF EMERGENCY OPERATING CENTERS

SEC. 703. (a)(1) Title II of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281-2286) is amended by adding at the end thereof the following new section:

"REQUIREMENT FOR STATE MATCHING FUNDS FOR CONSTRUCTION OF EMERGENCY OPERATING CENTERS

"SEC. 206. Notwithstanding any other provision of this Act, funds appropriated to carry out this Act may not be used for the purpose of 50 USC app. 2288.

constructing emergency operating centers (or similar facilities) in any State unless such State matches in an equal amount the amount made available to such State under this Act for such purpose.".

(2) The table of contents at the beginning of such Act is amended by adding below the item relating to section 205 the following new item:

"206. Requirement for State matching funds for construction of emergency operating centers.".

Effective date. 50 USC app. 2288 note.

(b) The amendments made by subsection (a) shall take effect on October 1, 1980.

PILOT PROGRAM TO STUDY DESIGN AND CONSTRUCTION OF BUILDINGS TO MINIMIZE EFFECTS OF NUCLEAR EXPLOSIONS

50 USC app. 2281 note.

SEC. 704. (a) The Director of the Federal Emergency Management Agency shall establish a pilot program of designing and constructing buildings to enhance the ability of the buildings to withstand nuclear explosions and to minimize the damage to such buildings caused by a nuclear explosion. Such program shall include the designing and constructing of at least two building projects chosen by the Director so that the buildings in the projects will be able to better withstand nuclear explosions and so that any damage to the buildings in the project caused by a nuclear explosion will be minimized.

Report to Congress.

(b) The Director of the Federal Emergency Management Agency shall submit a report to the Senate and the House of Representatives not later than April 1, 1981, on the establishment under subsection (a) of the pilot program.

Appropriation authorization.

(c) Of the sums authorized to be appropriated under section 701, $400,000 shall be available to carry out the pilot program established pursuant to subsection (a).

Effective date.

(d) This section shall take effect on October 1, 1980.

AUTHORIZATION TO ACQUIRE CERTAIN LEASED REAL PROPERTY AT THE FEDERAL EMERGENCY MANAGEMENT AGENCY FACILITY AT OLNEY, MARYLAND

Effective date.

SEC. 705. Effective October 1, 1980, the Director of the Federal Emergency Management Agency is authorized to acquire, in accordance with the provisions of section 201(h) of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281(h)), fee title to those parcels of real property which are currently leased by such agency at the facility of such agency in Olney, Maryland, which (1) are used as a site for a communications antenna, or (2) contain the water wells for such facility.

TITLE VIII—COMPENSATION AND RELATED BENEFITS

PAY INCREASE OF 11.7 PERCENT FOR MEMBERS OF THE UNIFORMED SERVICES

37 USC 1009 note.

SEC. 801. (a) Any adjustment required under the provisions of section 1009 of title 37, United States Code, relating to adjustments in the compensation of members of the uniformed services, which would otherwise first become effective beginning with any pay period in fiscal year 1981 shall not become effective.

Effective date.

(b)(1) Subject to the provisions of paragraph (2), each element of compensation specified in section 1009(a) of title 37, United States Code, shall be increased for members of the uniformed services by

11.7 percent effective with the first pay period beginning after September 30, 1980.

(2) The President may allocate the percentage increase specified under paragraph (1) in the same manner and to the same extent the President is authorized under subsections (c) and (d) of section 1009 of title 37, United States Code, as amended by section 803 of this Act, to allocate any percentage increase described in subsection (b)(3) of section 1009 of such title, except that— *Infra.*

37 USC 1009.

(A) the provisions of subsection (d)(2)(B) of such section shall not apply to this subsection or any action of the President under this subsection; and

(B) the overall average percentage increase in the elements of compensation specified in subsection (a) of such section in the case of any member of the uniformed services with four years or less service may not exceed 11.7 percent.

RECOMMENDATIONS WITH RESPECT TO METHOD OF ADJUSTMENT OF MILITARY PAY

SEC. 802. The President shall submit to the Congress not later than April 1, 1981, such recommendations as he considers necessary or appropriate to improve the method for determining adjustments in the pay and allowances for members of the uniformed services. Submittal to Congress.

AUTHORITY TO ALLOCATE PAY INCREASES AMONG PAY GRADES AND YEARS-OF-SERVICE CATEGORIES

SEC. 803. Section 1009 of title 37, United States Code, relating to adjustments in compensation, is amended—

(1) by striking out "subsection (c)" in clause (3) of subsection (b) and inserting in lieu thereof "subsections (c) and (d) of this section,";

(2) in subsection (c)—

(A) by inserting "(1)" before "Whenever";

(B) by inserting "of this section" after "subsection (b)(3)" both places it appears and after "subsection (a)"; and

(C) by striking out "per centum" and inserting in lieu thereof "percent";

(3) by redesignating subsection (d) as paragraph (2) and in such paragraph (as so redesignated)—

(A) by striking out "under subsection (c)" both places it appears and inserting in lieu thereof "under paragraph (1) of this subsection";

(B) by inserting "of this section" after "subsection (a)" and after "subsection (b)(3)"; and

(C) by inserting "of this title" after "section 403 (b) or (c)" both places it appears;

(4) by inserting after subsection (c) the following new subsection (d):

"(d)(1) Subject to paragraph (2) of this subsection, whenever the President determines such action to be in the best interest of the Government, he may allocate the overall percentage increase in the element of basic pay that would otherwise be effective after any allocation made under subsection (c) of this section among such pay grade and years-of-service categories as he considers appropriate.

"(2) In making any allocation of an overall percentage increase in basic pay under paragraph (1) of this subsection—

"(A) the amount of the increase in basic pay for any given pay grade and years-of-service category after any allocation made under this subsection or under subsection (c) of this section (or under both such subsections) may not be less than 75 percent of the amount of the increase in the element of basic pay that would otherwise have been effective with respect to such pay grade and years-of-service category under subsection (b)(3) of this section; and

"(B) the overall percentage increase in the elements of compensation specified in subsection (a) of this section in the case of any member of the uniformed services with four years or less service may not exceed the overall percentage increase in the General Schedule rates of basic pay for civilian employees.";

(5) in subsection (e)—

(A) by inserting "or (d) of this section" after "subsection (c)"; and

(B) by striking out "among the different elements of compensation"; and

(6) in subsection (f)—

(A) by striking out "among the three elements of compensation"; and

37 USC 1008. (B) by inserting "of this title" after "section 1008(b)".

ENLISTMENT AND REENLISTMENT BONUSES FOR ACTIVE FORCES

SEC. 804. (a)(1) Subsection (a) of section 308 of title 37, United States Code, relating to reenlistment bonuses, is amended—

(A) by striking out "ten years" in clause (A) and inserting in lieu thereof "fourteen years";

(B) by striking out "$15,000" and inserting in lieu thereof "$20,000"; and

(C) by striking out "twelve years" and inserting in lieu thereof "sixteen years".

(2) Subsection (f) of such section is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1982".

37 USC 308a. (b)(1) Subsection (a) of section 308a of such title, relating to enlistment bonuses, is amended by striking out "$3,000" and inserting in lieu thereof "$5,000".

(2) Subsection (c) of such section is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1982".

Effective date. 37 USC 308 note. (c) The amendments made by this section shall only apply to enlistments, reenlistments, and extensions of enlistments made after September 30, 1980.

ENLISTMENT AND REENLISTMENT BONUSES FOR RESERVE FORCES

SEC. 805. (a)(1) Chapter 5 of title 37, United States Code, relating to special and incentive pays, is amended by inserting after section 308c the following new sections:

37 USC 308d. **"§ 308d. Special pay: bonus for enlistment, reenlistment, or extension of enlistment in elements of the Ready Reserve other than the Selected Reserve**

"(a)(1) Except as provided in paragraph (2) of this subsection, any person who enlists or reenlists, or voluntarily extends an enlistment, in an element (other than the Selected Reserve) of the Ready Reserve

of an armed force for a period of not less than three years may be paid a bonus as provided in subsection (b) of this section.

"(2) A bonus may not be paid under this section to any person who failed to complete satisfactorily any original term of enlistment in the armed forces.

"(b) Eligibility for a bonus under this section, and the amount and method of payment of such a bonus, shall be determined in accordance with regulations prescribed under subsection (c) of this section, except that the amount of such a bonus may not exceed $600. Eligibility.

"(c) This section shall be administered under regulations prescribed by the Secretary of Defense for the armed forces under his jurisdiction and by the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy. Regulations.

"(d)(1) A member who receives a bonus payment under this section and who fails during the period for which the bonus was paid to serve satisfactorily in the element of the Ready Reserve with respect to which the bonus was paid shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid to such member as the period which such member failed to satisfactorily serve bears to the total period for which the bonus was paid. Refund to U.S.

"(2) An obligation to reimburse the United States imposed under paragraph (1) of this subsection is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1) of this subsection. This paragraph applies to any case commenced under title 11 after September 30, 1980. Discharge in bankruptcy. 11 USC 101.

"(e) No bonus may be paid under this section to any person for an enlistment, reenlistment, or voluntary extension of an enlistment after September 30, 1981. Restriction.

"§ 308e. Special pay: bonus for reserve affiliation agreement 37 USC 308e.

"(a) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department may pay a bonus for reserve affiliation to any person—

"(1) who—

"(A) is serving on active duty, has 180 days or less remaining of his active duty obligation, and upon discharge or release from active duty upon the completion of such active duty obligation will have a reserve service obligation under section 651 of title 10 or under section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1)); or

"(B) has served on active duty for any period of time, was discharged or released from such active duty under honorable conditions, and is serving a period of reserve service obligation under section 651 of title 10 or section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1)); and

"(2) who meets the requirements of subsection (b) of this section.

"(b) To be eligible to receive a bonus for reserve affiliation under this section, a person must— Eligibility.

"(1) be eligible for reenlistment or for an extension of his active duty service;

"(2) have completed satisfactorily any term of enlistment or period of obligated active duty service;

"(3) hold and be qualified in a military specialty designated by the Secretary of Defense for the purposes of this section;

"(4) have a grade for which there is a vacancy in the reserve component in which the person is to become a member;

"(5) not be affiliating in a reserve component to become a Reserve, Army National Guard, or Air National Guard technician;

"(6) enter into a written agreement with the Secretary concerned to serve as a member of the Selected Reserve of the Ready Reserve of an armed force for the period of obligated reserve service such person has remaining or, if such person is on active duty, will have remaining at the time of his discharge or release from active duty; and

"(7) meet all the other requirements for becoming a member of the Selected Reserve of the Ready Reserve of an armed force.

Determination of amount.

"(c)(1) The amount of the bonus paid to any person under this section shall be an amount determined by multiplying $25 times the number of months of reserve obligation such person has remaining or, if such person is on active duty, will have remaining at the time of his discharge or release from active duty.

"(2) In the case of a person who has, or at the time of discharge or release from active duty will have, eighteen months or less reserve service obligation remaining, the Secretary concerned may pay the total amount of the bonus at the time such person signs a reserve affiliation agreement under this section. In the case of a person who has, or at the time of discharge or release from active duty will have, more than eighteen months of such service remaining, the Secretary concerned may pay one-half of the bonus at the time such person signs a reserve affiliation agreement under this section and the remaining one-half on the date of the fifth anniversary of such person's original enlistment or call to active duty.

Refund to U.S.

"(d)(1) A person who signs a reserve affiliation agreement under this section and who fails during the period covered by such agreement to serve satisfactorily in the Selected Reserve in which such person agrees to serve shall refund to the United States an amount which bears the same ratio to the amount of the bonus paid to such person as the period which such person failed to satisfactorily serve bears to the total period for which the bonus was paid.

"(2) An obligation to reimburse the United States imposed under paragraph (1) of this subsection is for all purposes a debt owed to the United States.

Discharge in bankruptcy. 11 USC 101.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the person signing such agreement from a debt arising under such agreement or under paragraph (1) of this subsection. This paragraph applies to any case commenced under title 11 after September 30, 1980.

Restriction.

"(e) No bonus may be paid under this section to any person for a reserve obligation agreement entered into after September 30, 1981.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 308c the following new items:

"308d. Special pay: bonus for enlistment, reenlistment, or extension of enlistment in elements of the Ready Reserve other than the Selected Reserve.
"308e. Special pay: bonus for reserve affiliation agreement.".

Effective date. 37 USC 308d note. *Ante*, p. 1092.

(3) Section 308d of title 37, United States Code, as added by paragraph (1), shall apply only to enlistments, reenlistments, and extensions of enlistments made after September 30, 1980. Agree-

ments may not be entered into under section 308e of such title, as added by such paragraph, before October 1, 1980.

Ante, p. 1093.

(b) Sections 308b(g) and 308c(f) of such title, relating to reenlistment and enlistment bonuses for members of the Selected Reserve of the Ready Reserve, are amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1985".

37 USC 308b, 308c.

CONTINUATION BONUS FOR AVIATION CAREER OFFICERS

SEC. 806. (a)(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 301a the following new section:

"§ 301b. Special pay: aviation career officers extending period of active duty

37 USC 301b.

"(a) Under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, an officer of a uniformed service who—

"(1) is entitled to aviation career incentive pay under section 301a of this title;

"(2) is in a pay grade below the pay grade of O-7;

"(3) is qualified to perform operational flying duty (as such term is defined in clause (6) of section 301a(a) of this title);

"(4) has at least 6 but less than 18 years of aviation service as an officer;

"(5) executes a written agreement to remain on active duty in aviation service for at least one year; and

"(6) is in an aviation specialty designated as critical;

may, upon the acceptance of the written agreement by the Secretary of Defense or the Secretary of Transportation, as applicable, be paid an amount not to exceed the product of four months' basic pay (computed at the rate applicable to the officer at the time the agreement is executed) and the number of years (or the monthly fractions thereof) that the officer agrees to remain on active duty under the agreement. An agreement under this section may not extend beyond the date on which the officer would complete 19 years of aviation service. Upon acceptance of the agreement by the Secretary of Defense or the Secretary of Transportation, as appropriate, and subject to subsection (d) of this section, the total amount payable becomes fixed and may be paid in either a lump sum or in installments.

"(b) Special pay under this section is in addition to any other pay and allowances to which an officer is entitled.

"(c) For the purpose of this section, the term 'aviation service' means the service performed by an officer holding an aeronautical rating or designation (except a flight surgeon or other medical officer) under regulations prescribed by the Secretary of Defense or the Secretary of Transportation. The years of aviation service are computed beginning with the effective date of the initial order to perform aviation service.

"Aviation service."

"(d)(1) Under regulations prescribed by the Secretary of Defense or by the Secretary of Transportation, as appropriate, refunds shall be required, on a pro-rata basis, of sums paid under this section if the officer who has received the payment fails to complete the total period of active duty in aviation service specified in the agreement. Nothing in this section shall alter or modify the obligation of a regular officer to perform active service at the pleasure of the President. Completion of the agreed-upon period of active duty in

Refund to U.S.

aviation service under this section shall not obligate the President to accept a resignation submitted by a regular officer.

"(2) An obligation to reimburse the United States imposed under paragraph (1) of this subsection is for all purposes a debt owed to the United States.

Discharge in bankruptcy. 11 USC 101.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1) of this subsection. This paragraph applies to any case commenced under title 11 after September 30, 1980.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 301a the following new item:

"301b. Special pay: aviation career officers extending period of active duty.".

Effective date. 37 USC 301b note.

(b) Agreements may not be entered into under section 301b of title 37, United States Code, as added by subsection (a), before October 1, 1980.

PER DIEM ALLOWANCE FOR MEMBERS TRAVELING ON OFFICIAL BUSINESS

SEC. 807. (a) Section 404(d) of title 37, United States Code, relating to per diem travel and transportation expenses, is amended by striking out "$35" and "$50" and inserting in lieu thereof "$50" and "$75", respectively.

Effective date. 37 USC 404 note.

(b) The amendments made by subsection (a) shall only apply to travel and transportation expenses incurred after September 30, 1980.

EXPENSES FOR TRANSPORTATION OF HOUSE TRAILERS AND MOBILE HOMES

SEC. 808. (a)(1) Section 409 of title 37, United States Code, is amended to read as follows:

"§ 409. Travel and transportation allowances: house trailers and mobile homes

"(a)(1) A member, or in the case of a member's death, the member's dependent, who would otherwise be entitled to transportation of baggage and household effects under section 406 of this title, may be provided transportation of a house trailer or mobile home dwelling within the continental United States, within Alaska, or between the continental United States and Alaska (or reimbursement for such transportation), if the house trailer or mobile home dwelling is intended for use as a residence by such member or dependent. Such transportation may be limited to such modes and maximum costs as may be prescribed by regulations under subsection (d) of this section.

37 USC 406.

"(2) Except as provided in subsection (c) of this section, transportation of a house trailer or mobile home dwelling under paragraph (1) of this subsection is in place of the transportation of baggage and household effects the member or member's dependent would otherwise be entitled to have provided.

"(3) The cost of transportation of a house trailer or mobile home dwelling under paragraph (1) of this subsection may not be more than the total cost of transportation (including packing, pick-up, line-haul or drayage, delivery, and unpacking) of baggage and household effects of the member or dependent having the maximum weight

authorized for the member or dependent under regulations prescribed by the Secretary concerned.

"(4) A house trailer or mobile home dwelling in transit under this section may be stored up to 180 days in accordance with regulations prescribed by the Secretary concerned.

"(b) Any payment authorized by this section may be made in advance of the transportation concerned.

"(c) A member or member's dependent who is entitled to the transportation of baggage and household effects from a place inside the continental United States or Alaska to a place outside the continental United States or Alaska, or from a place outside the continental United States or Alaska to a place inside the continental United States or Alaska, may be provided the transportation of a house trailer or mobile home dwelling under this section, but the total cost to the Government of the transportation of baggage and household effects and the transport of a house trailer or mobile home dwelling may not exceed the cost of transporting baggage and household effects of the member or dependent having the maximum weight authorized for the member or dependent under regulations prescribed by the Secretary concerned.

"(d) The Secretaries concerned shall prescribe regulations to carry out this section. Regulations.

"(e) In this section, 'continental United States' means the 48 contiguous States and the District of Columbia.". "Continental United States."

(2) The item relating to section 409 in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"409. Travel and transportation allowances: house trailers and mobile homes.".

(b) The amendments made by subsection (a) shall only apply to transportation of house trailers and mobile home dwellings which is completed after September 30, 1980. Effective date. 37 USC 409 note.

FAMILY SEPARATION ALLOWANCE FOR JUNIOR ENLISTED MEMBERS

SEC. 809. (a) Section 427(b) of title 37, United States Code, relating to family separation allowance, is amended by striking out "(other than a member in pay grade E-1, E-2, E-3, or E-4 (4 years' or less service))".

(b) The amendment made by subsection (a) shall take effect with respect to months after September 1980. Effective date. 37 USC 427 note.

IMPROVEMENT IN CERTAIN BENEFITS UNDER THE CHAMPUS PROGRAM

SEC. 810. (a) Subsection (a) of section 1079 of title 10, United States Code, relating to contracts for medical care for dependents of members on active duty, is amended—

(1) by inserting "of dependents over two years of age" in clause (2) after "immunizations"; and

(2) by striking out "routine care of the newborn, well-baby care, and" in clause (3).

(b) Subsection (e)(2) of such section is amended by striking out "$350" and inserting in lieu thereof "$1,000".

(c) The amendments made by this section shall apply to medical care provided after September 30, 1980. Effective date. 10 USC 1079 note.

SUBSISTENCE ALLOWANCES FOR MEMBERS OF MARINE CORPS OFFICER CANDIDATE PROGRAMS

SEC. 811. (a) Section 209 of title 37, United States Code, relating to members of precommissioning programs, is amended by adding at the end thereof the following new subsection:

"(d)(1) Except when serving on active duty, a member who is enrolled in a Marine Corps officer candidate program which requires a baccalaureate degree as a prerequisite to being commissioned as an officer and who is not enrolled in a program established under chapter 103 of title 10 or an academy established under chapter 403, 603, or 903 of title 10 may be paid a subsistence allowance at the same rate as that prescribed by subsection (a) of this section for a member of the Senior Reserve Officers' Training Corps who is selected for advanced training under section 2104 of title 10.

10 USC 2101 *et seq.*
10 USC 4331 *et seq.*, 6951 *et seq.*, 9331 *et seq.*

Restriction.

"(2) No subsistence allowance may be paid under paragraph (1) of this subsection for any period after September 30, 1982.".

Repeal.

(b) The Act entitled "An Act to provide subsistence allowances for members of the Marine Corps officer candidate programs", approved November 24, 1971 (37 U.S.C. 209 note), is repealed.

CONTINGENT ONCE-A-YEAR ADJUSTMENT OF RETIRED AND RETAINER PAY

10 USC 1401a note.

SEC. 812. (a)(1) The increase in the retired and retainer pay of members and former members of the uniformed services which but for this section would be made effective September 1, 1980, under the provisions of paragraph (2)(B) of section 1401a(b) of title 10, United States Code, shall not be made.

(2)(A) In making the determination required by the provisions of paragraph (1)(A) of section 1401a(b) of title 10, United States Code, to be made on January 1, 1981, or within a reasonable time thereafter, the Secretary of Defense shall determine the percent change in the index (as such term is defined in section 1401a(a) of title 10, United States Code) published for December 1980 over the index published for December 1979 (rather than over the index published for June 1980).

(B) The increase in the retired and retainer pay of members and former members of the uniformed services to be made effective March 1, 1981, under the provisions of paragraph (2)(A) of such section shall, in lieu of the increase prescribed by such paragraph, be the percent change computed under subparagraph (A), adjusted to the nearest $\frac{1}{10}$ of one percent.

Executive order.

(3) The President shall by Executive order provide for only one cost-of-living adjustment in the annuities paid under the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note) during the period beginning on September 1, 1980, and ending on August 31, 1981. Such adjustment shall be effective March 1, 1981, and shall be made in the same manner and percentage as the adjustment provided for in paragraphs (1) and (2) for the retired and retainer pay of members and former members of the uniformed services.

Restriction.

(4) Paragraphs (1), (2), and (3) shall not take effect unless similar legislation is enacted which provides for only one cost-of-living increase in annuities paid under subchapter III of chapter 83 of title 5, United States Code, during the period beginning on September 1, 1980, and ending on August 31, 1981.

5 USC 8331.

Effective date.

(b)(1) Effective August 31, 1981, but subject to paragraph (3), section 1401a(b) of title 10, United States Code, relating to adjustment of

retired pay and retainer pay to reflect changes in the Consumer Price Index, is amended to read as follows:

"(b) Each time that an increase is made under section 8340(b) of title 5 in annuities paid under subchapter III of chapter 83 of such title, the Secretary of Defense shall at the same time increase the retired and retainer pay of members and former members of the armed forces by the same percent as the percentage by which annuities are increased under such section.". 5 USC 8331.

(2) The amendment made by paragraph (1) shall not take effect unless legislation is enacted which provides for the adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, on a once-a-year basis. In the event such legislation is enacted, such amendment shall become effective with respect to adjustments in the retired pay and retainer pay of members and former members of the uniformed services at the same time that the legislation providing for such a once-a-year adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, becomes effective. Restriction. 10 USC 1401a note.

(3) If legislation described in paragraph (2) is enacted to provide for the adjustment of annuities paid under subchapter III of chapter 83 of title 5, United States Code, on a once-a-year basis, the President shall exercise the authority vested in him under section 292 of the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note) to provide for cost-of-living adjustments in the annuities paid under such Act on an identical basis.

(4) If at the time the first adjustment in retired and retainer pay is made under section 1401a(b) of title 10, United States Code, as amended by paragraph (1) of this subsection, the period upon which the most recent adjustment in such retired and retainer pay was computed is not identical to the period upon which the most recent adjustment in annuities under subchapter III of chapter 83 of title 5, United States Code, was computed, then the percentage increase to be made under such section 1401a(b) at the time of the first such adjustment shall be computed in the same manner as the percentage increase made at the same time in annuities under subchapter III of chapter 83 of title 5, United States Code, is computed, but shall be based on the period beginning on the last day of the period upon which the most recent adjustment in such retired and retainer pay was computed and ending on the last day of the period upon which the adjustment being made at the same time in annuities under such subchapter III is computed. The President shall by Executive order provide for a similar computation of the adjustment in annuities paid under the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note) which is made at the same time as the increase in retired and retainer pay to which the preceeding sentence is applicable. Executive order.

(c) For the purposes of this section, the term "uniformed services" means— "Uniformed services."

(1) the Armed Forces; and

(2) the commissioned corps of the National Oceanic and Atmospheric Administration and of the Public Health Service.

CHANGE IN METHOD OF COMPUTATION OF RETIRED PAY FOR PERSONS BECOMING MEMBERS OF THE UNIFORMED SERVICES AFTER THE ENACTMENT OF THIS ACT

SEC. 813. (a)(1) Chapter 71 of title 10, United States Code, relating to computation of retired pay, is amended by adding at the end thereof the following new section:

10 USC 1407.

"§ 1407. Retired pay base

"(a)(1) The retired pay or retainer pay of any person who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, is determined using the monthly retired pay base or monthly retainer pay base computed under this section. In making any computation under this section, the rates of basic pay to be used are those most favorable to the member.

Ante, p. 1077.

"Uniformed service."

"(2) In this section, 'uniformed service' means—

"(A) any of the armed forces;

"(B) the commissioned corps of the Public Health Service; or

"(C) the commissioned corps of the National Oceanic and Atmospheric Administration.

"(b)(1) In the case of a member who is retired under section 1201 or 1202 of this title, the monthly retired pay base is—

10 USC 1201, 1202.

"(A) one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service; or

"(B) in the case of a member who served on active duty for less than 36 months, the amount equal to the total amount of basic pay which the member received during the period he served on active duty as a member of a uniformed service divided by the number of months (including any fraction thereof) which he served on active duty.

"(2) In the case of a member who is retired under section 1204 or 1205 of this title, the monthly retired pay base is—

10 USC 1204, 1205.

"(A) one thirty-sixth of the total amount of monthly basic pay which the member would have received if he had served on active duty as a member of a uniformed service during any 36 months (whether or not consecutive) during the period he was a member of a uniformed service preceding the date on which he became entitled to retired pay; or

"(B) in the case of a member who was a member for less than 36 months, the amount equal to the total amount of basic pay which he would have received if he had served on active duty during the period he was a member of a uniformed service divided by the number of months (including any fraction thereof) he was such a member.

"(3) In the case of a member who is retired under section 1331 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay to which the member would have been entitled during any 36 months (whether or not consecutive) during the period he was a member of a uniformed service had he served on active duty during such months.

10 USC 1331.

"(4) In the case of a member who is retired under section 564, 1263, 1293, or 1305 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.

10 USC 564, 1263, 1293, 1305.

"(5) In the case of a member whose retired or retainer pay is recomputed under section 1402a(d) of this title, the monthly retired

Post, p. 1102.

pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.

"(c)(1) In the case of a member whose retired pay is computed under section 3991 of this title (other than a member who is retired under section 3914 of this title) or who is entitled to retired pay under section 3992 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service. 10 USC 3991. 10 USC 3914. 10 USC 3992.

"(2) In the case of a member who is retired under section 3914 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as an enlisted member. 10 USC 3914.

"(d)(1) In the case of a member whose retired pay is computed under section 6322, 6323, 6325, 6326, 6381, 6383, 6390, 6394, 6396, 6398, or 6400 of this title or who is advanced on the retired list under section 6151 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service. 10 USC 6322, 6323, 6325, 6326, 6381, 6383, 6390, 6394, 6396, 6398, 6400. 10 USC 6151.

"(2) In the case of a member transferred to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the monthly retainer pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as an enlisted member. 10 USC 6330.

"(e)(1) In the case of a member whose retired pay is computed under section 8991 of this title (other than a member who is retired under section 8914 of this title) or who is entitled to retired pay under section 8992 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service. 10 USC 8991. 10 USC 8914. 10 USC 8992.

"(2) In the case of a member who is retired under section 8914 of this title, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as an enlisted member. 10 USC 8914.

"(f) In the case of a member who is retired under any section of title 14, the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service. 14 USC 1.

"(g) In the case of a member whose retired pay is computed under section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o), the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.

"(h) In the case of a member who is retired under section 210(g) or 211(a) of the Public Health Service Act (42 U.S.C. 211(g) and 212(a)), the monthly retired pay base is one thirty-sixth of the total amount of monthly basic pay which the member received for any 36 months (whether or not consecutive) of active duty as a member of a uniformed service.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"Sec. 1407. Retired pay base.".

(b)(1) The table contained in section 1401 of title 10, United States Code, is amended by striking out "Take" in the heading in column 1 and inserting in lieu thereof the following: "For a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, take the monthly retired pay base as computed under section 1407(b). For all others, take".

Ante, p. 1100.

Ante, p. 1077.

10 USC 1402.

(2) Section 1402 of such title is amended by inserting "who first became a member of the armed forces before the date of the enactment of the Department of Defense Authorization Act, 1981, and" in subsections (a), (b), and (c) after "of an armed force".

(3)(A) Chapter 71 of such title is amended by inserting after section 1402 the following new section:

10 USC 1402a.

"§ 1402a. Recomputation of retired or retainer pay to reflect later active duty in case of members who first became members after the enactment of the Department of Defense Authorization Act, 1981

"(a) A member of an armed force who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, who has become entitled to retired pay or retainer pay, and who thereafter serves on active duty (other than for training), is entitled to recompute his retired pay or retainer pay upon his release from that duty as follows:

Ante, p. 1100.

Ante, p. 1077.

Column 1 Take	Column 2 Multiply by	Column 3 Subtract
Monthly retired or retainer pay base under section 1407 of this title which he would be entitled to use if— (1) he were retiring upon release from that active duty; or (2) he were transferring to the Fleet Reserve or Fleet Marine Corps Reserve upon that release from active duty.	2½ percent of the sum of— (1) the years of service that may be credited to him in computing retired pay or retainer pay; and (2) his years of active service after becoming entitled to retired pay or retainer pay.[1]	Excess over 75 percent of monthly retired or retainer pay base upon which computation is based.

[1] Before applying the percentage factor, credit a part of a year that is six months or more as a whole year, and disregard a part of a year that is less than six months.

"(b) A member of an armed force who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, who has been retired other than for physical disability and who while on active duty incurs a physical disability of at least 30 percent for which he would otherwise be eligible for retired pay under chapter 61 of this title, is entitled, upon his release from active duty, to retired pay under subsection (d).

10 USC 1201 *et seq.*

10 USC 1402. (B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1402 the following new item:

"Sec. 1402a. Recomputation of retired or retainer pay to reflect later active duty in case of members who first became members after the enactment of the Department of Defense Authorization Act, 1981.".

10 USC 1373, 1403. (C) Sections 1373 and 1403 of such title are amended by inserting "or 1402a(d)" after "1402(d)".

(D) The second sentence of section 205(a) of title 37, United States Code, is amended by inserting "and section 1402a(a)-(d)" after "1402(a)-(d)".

(c) The tables contained in sections 3991 and 3992 of title 10, United States Code, are amended by striking out "Take" in the heading in column 1 and inserting in lieu thereof the following: "For a person who first became a member of uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, take the monthly retired pay base as computed under section 1407(c). For all others, take".

Ante, p. 1100.
Ante, p. 1077.

(d)(1) Subsection (c) of section 6322 of title 10, United States Code, is amended to read as follows:

"(c) Each officer who is retired under this section is entitled to retired pay—

"(1) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 75 percent of the highest basic pay of the grade in which retired; or

"(2) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 75 percent of the monthly retired pay base computed under section 1407(d) of this title.".

10 USC 6323. (2) Subsection (e) of section 6323 of such title is amended to read as follows:

"(e) Unless otherwise entitled to higher pay, an officer retired under this section is entitled to retired pay—

"(1) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which retired; or

"(2) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay so computed may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

10 USC 1405.

10 USC 6325. (3)(A) Subsection (a)(2) of section 6325 of such title is amended to read as follows:

"(2) unless otherwise entitled to higher pay, is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of

Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which he retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

Ante, p. 1100.

Ante, p. 1077.

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay so computed may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

10 USC 1405.

(B) Subsection (b)(2) of such section is amended to read as follows:

"(2) unless otherwise entitled to higher pay, is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade he would hold if he had not received such an appointment; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay so computed may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

(4) Clause (2) of section 6326(c) of such title is amended to read as follows:

10 USC 6326.

"(2) unless otherwise entitled to higher pay, is entitled to retired pay—

"(A) in the case of a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 75 percent of the basic pay of the pay grade in which he was serving on the day before retirement or, if he has served as senior enlisted advisor of the Navy or as sergeant major of the Marine Corps, 75 percent of the highest basic pay to which he was entitled while so serving, if that rate is higher; or

"(B) in the case of a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, computed by multiplying the monthly retired pay base computed under section 1407(d) of this title by 75 percent.".

(5) Subsection (c) of section 6330 of such title is amended to read as follows:

10 USC 6330.

"(c)(1) Each member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section is entitled, when not on active duty, to retainer pay—

"(A) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay that he received at the time of transfer or, in the case of a member who has served as senior enlisted advisor of the Navy or sergeant major of the Marine Corps, of the highest basic pay to which he was entitled while so serving, if that basic pay is higher than the basic pay received at the time of transfer; or

Ante, p. 1100.

Ante, p. 1077.

"(B) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retainer pay base computed under section 1407(d) of this title;

multiplied by the number of years of active service in the armed forces.

"(2) A member may recompute his retainer pay under section 1402 or 1402a of this title, as appropriate, to reflect active duty after transfer.

10 USC 1402, *ante*, p. 1102.

Extraordinary heroism.

"(3) If the member has been credited by the Secretary of the Navy with extraordinary heroism in the line of duty, which determination by the Secretary is final and conclusive for all purposes, his retainer pay shall be increased by 10 percent.

"(4) In no case may a member's retainer pay be more than 75 percent of the basic pay or monthly retainer pay base upon which the computation of retainer pay is based.".

10 USC 6381.

(6)(A) Subsection (a)(2) of section 6381 of such title is amended to read as follows:

"(2) is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which she retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

10 USC 1405.

(B) Subsections (b) and (c) of such section are amended by inserting "or monthly retired pay base, as the case may be," after "basic pay".

10 USC 6383.

(7) Section 6383(c)(2) of such title is amended to read as follows:

"(2) is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay to which he would be entitled if serving on active duty in the grade in which he retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½

percent of the monthly retired pay base computed under section 1407(d) of this title; *Ante*, p. 1100.

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.". 10 USC 1405.

(8) Section 6390(b)(2) of such title is amended to read as follows: 10 USC 6390.

"(2) to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which he retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title; *Ante*, p. 1077.

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

(9) Subsection (h) of section 6394 of such title is amended to read as follows: 10 USC 6394.

"(h) Unless otherwise entitled to higher pay, an officer retired under this section is entitled to retired pay—

"(1) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which he retired; or

"(2) in the case of a officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title; multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

(10) Clause (2) of section 6396(b) of such title is amended to read as follows: 10 USC 6396.

"(2) with retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which she retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to her under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay

base upon which the computation of retired pay is based and, in the case of retired pay computed under clause (A), may not be less than 50 percent of the basic pay upon which the computation of retired pay is based.".

10 USC 6398. (11) Clause (2) of section 6398(c)(2) of such title is amended to read as follows:

"(2) is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which she retired; or

Ante, p. 1100.
Ante, p. 1077.

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to her under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based and, in the case of retired pay computed under clause (A), may not be less than 50 percent of the basic pay upon which the computation of retired pay is based.".

10 USC 1405.

10 USC 6400. (12) Clause (2) of section 6400(b) of such title is amended to read as follows:

"(2) is entitled to retired pay—

"(A) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade in which she retired; or

"(B) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title;

multiplied by the number of years of service that may be credited to her under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based.".

10 USC 6151. (13) Subsections (b) and (c) of section 6151 of such title are amended to read as follows:

"(b)(1) Each member, other than a former member of the Fleet Reserve or the Fleet Marine Corps Reserve, who is advanced on the retired list under this section is, unless otherwise entitled to higher retired pay, entitled to retired pay—

"(A) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the grade to which advanced; or

"(B) in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense

Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title; *Ante*, p. 1100.

multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the retired pay may not be more than 75 percent of the basic pay or monthly retired pay base upon which the computation of retired pay is based. 10 USC 1405.

"(2) In determining the number of years to be used as a multiplier under this subsection, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded.

Former Fleet Reserve or Fleet Marine Corps Reserve members. *Ante*, p. 1077.

"(c)(1) Each former member of the Fleet Reserve or the Fleet Marine Corps Reserve who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Department of Defense Authorization Act, 1981, who is advanced on the retired list under this section is entitled to retired pay based upon the grade to which advanced. Such retired pay shall be at the rate of 2½ percent of the basic pay of the grade to which advanced, determined by the same period of service used to determine the basic pay of the grade upon which his retainer pay is based, multiplied by the number of years of service creditable for his retainer pay at the time of retirement, but the retired pay may not be more than 75 percent of the basic pay upon which the computation of retired pay is based.

"(2) Each former member of the Fleet Reserve or the Fleet Marine Corps Reserve who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, who is advanced on the retired list under this section is entitled to retired pay at the rate of 2½ percent of the monthly retired pay base computed under section 1407(d) of this title, multiplied by the number of years of service creditable for his retainer pay at the time of retirement, but the retired pay may not be more than 75 percent of the monthly retired pay base upon which the computation of retired pay is based.".

(e) The tables contained in sections 8991 and 8992 of title 10, United States Code, are amended by striking out "Take" in the heading in column 1 and inserting in lieu thereof the following: "For a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, take the monthly retired pay base as computed under section 1407(e). For all others, take".

(f)(1) Subsection (b) of section 288 of title 14, United States Code, is amended to read as follows:

"(b) Except as provided in section 423(b) of this title, the retired pay of an officer retired under this section shall not be less than 50 percent of the basic pay upon which the computation of his retired pay is based.". *Infra.*

(2) Section 423 of such title is amended— 14 USC 423.

(A) by striking out "The" at the beginning of such section and inserting in lieu thereof "(a) Except as provided in subsection (b), the"; and

(B) by adding at the end thereof the following new subsection:

Coast Guard officers or enlisted men.

"(b) Notwithstanding any other provision of this title, the retired pay of each officer or enlisted member of the Coast Guard who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, is computed at the

rate of 2½ percent of the monthly retired pay base (computed under section 1407(f) of title 10) multiplied by the number of years of service that may be credited to him under section 1405 of title 10, but the retired pay so computed may not be more than 75 percent of such monthly retired pay base.".

Ante, p. 1100.
10 USC 1405.

(g) Section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o) is amended to read as follows:

Commissioned officers, retired pay computation.

"SEC. 16. (a) Each commissioned officer on the retired list shall receive retired pay—

"(1) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10, United States Code) before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the basic pay of the rank with which retired; or

Ante, p. 1077.

"(2) in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10, United States Code) on or after the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ percent of the monthly retired pay base computed under section 1407(g) of title 10, United States Code;

multiplied by the number of years of service that may be credited to him under section 1405 of title 10, United States Code, as if his service were service as a member of the Armed Forces, but the retired pay so computed may not exceed 75 percent of the basic pay of the rank with which retired or 75 percent of the monthly retired pay base, as the case may be.

"(b) A fractional part of a year of six months or more shall be considered a full year in computing the number of years of service for the purposes of subsection (a).".

Commissioned officers, retired pay computation.

(h)(1) Paragraph (3) of section 210(g) of the Public Health Service Act (42 U.S.C. 211(g)(3)) is amended by striking out "law)" and all that follows in such paragraph and inserting in lieu thereof "law)—

"(A) in the case of an officer who first became a member of a uniformed service before the date of the enactment of the Department of Defense Authorization Act, 1981, at the rate of 2½ per centum of basic pay of the permanent grade held by him at the time of retirement for each year, not in excess of thirty, of his active commissioned service in the Service; or

"(B) in the case of an officer who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, 2½ per centum of the monthly retired pay base computed under section 1407(h) of title 10, United States Code, for each year, not in excess of thirty, of his active commissioned service in the Service.".

(2) Section 211(a) of such Act (42 U.S.C. 212(a)) is amended—

(A) by striking out "A commissioned officer" in paragraph (4) and inserting in lieu thereof "Except as provided in paragraph (6), a commissioned officer";

(B) by striking out "and his" in paragraph (5) and inserting in lieu thereof "and except as provided in paragraph (6), his"; and

(C) by adding at the end thereof the following new paragraph:

"(6) In computing retired pay under paragraph (4) or (5) in the case of any commissioned officer who first became a member of a uniformed service on or after the date of the enactment of the Department of Defense Authorization Act, 1981, the monthly retired pay base computed under section 1407(h) of title 10, United States Code, shall be used in lieu of using the basic pay of the highest grade held by him as such officer.".

TITLE IX—ARMED FORCES EDUCATIONAL ASSISTANCE PROGRAMS

DEPARTMENT OF DEFENSE EDUCATIONAL ASSISTANCE PROGRAM FOR PERSONS ENLISTING OR REENLISTING FOR SERVICE ON ACTIVE DUTY

SEC. 901. (a) Subtitle A of title 10, United States Code, is amended by inserting after chapter 106 the following new chapter:

"CHAPTER 107—EDUCATIONAL ASSISTANCE FOR PERSONS ENLISTING FOR ACTIVE DUTY

"Sec.
"2141. Educational assistance program: establishment.
"2142. Educational assistance program: eligibility.
"2143. Educational assistance: amount.
"2144. Subsistence allowance.
"2145. Adjustments of amount of educational assistance and of subsistence allowance.
"2146. Right of member upon subsequent reenlistment to lump-sum payment in lieu of educational assistance.
"2147. Right of member after reenlisting to transfer entitlement to spouse or dependent children.
"2148. Duration of entitlement.
"2149. Applications for educational assistance.

"§ 2141. Educational assistance program: establishment

10 USC 2141.

"(a) To encourage enlistments and reenlistments for service on active duty in the armed forces, the Secretary of each military department may establish a program in accordance with this chapter to provide educational assistance to persons enlisting or reenlisting in an armed force under his jurisdiction. The costs of any such program shall be borne by the Department of Defense, and a person participating in any such program may not be required to make any contribution to the program.

Costs.

"(b) The Secretary of Defense shall prescribe regulations for the administration of this chapter. Such regulations shall take account of the differences among the several armed forces.

Regulations.

"(c) In this chapter, 'enlistment' means original enlistment or reenlistment.

"Enlistment."

"§ 2142. Educational assistance program: eligibility

10 USC 2142.

"(a)(1) A program of educational assistance established under this chapter shall provide that any person enlisting or reenlisting in an armed force under the jurisdiction of the Secretary of the military department concerned who meets the eligibility requirements established by the Secretary in accordance with subsection (b) shall, subject to paragraph (3), become entitled to educational assistance under section 2143 of this title at the time of such enlistment.

"(2) The period of educational assistance to which such a person becomes entitled is one standard academic year (or the equivalent) for each year of the enlistment of such person, up to a maximum of four years. However, if the person is discharged or otherwise released from active duty after completing two years of the term of such enlistment but before completing the full term of such enlistment (or before completing four years of such term, in the case of an enlistment of more than four years), then the period of educational assistance to which the person is entitled is one standard academic year (or the equivalent) for each year of active service of such person during such term. For the purposes of the preceding sentence, a

portion of a year of active service shall be rounded to the nearest month and shall be prorated to a standard academic year.

"(3)(A) A member who is discharged or otherwise released from active duty before completing two years of active service of an enlistment which is the basis for entitlement to educational assistance under this chapter or who is discharged or otherwise released from active duty under other than honorable conditions is not entitled to educational assistance under this chapter.

"(B) Entitlement to educational assistance under this chapter may not be used until a member has completed two years of active service of the enlistment which is the basis for entitlement to such educational assistance.

"(b) In establishing requirements for eligibility for an educational assistance program under this chapter, the Secretary concerned shall limit eligibility to persons who—

"(1) enlist or reenlist for service on active duty as a member of the Army, Navy, Air Force, or Marine Corps after September 30, 1980, and before October 1, 1981;

"(2) are graduates from a secondary school; and

"(3) meet such other requirements as the Secretary may consider appropriate for the purposes of this chapter and the needs of the armed forces.

10 USC 2143.

"§ 2143. Educational assistance: amount

"(a) Subject to subsection (b), an educational assistance program established under section 2141 of this title shall provide for payment by the Secretary concerned of educational expenses incurred for instruction at an accredited institution by a person entitled to such assistance under this chapter. Expenses for which payment may be made under this section include tuition, fees, books, laboratory fees, and shop fees for consumable materials used as part of classroom or laboratory instruction. Payments under this section shall be limited to those educational expenses normally incurred by students at the institution involved.

"(b)(1) The Secretary concerned shall establish the amount of educational assistance for a standard academic year (or the equivalent) to which a person becomes entitled under this chapter at the time of an enlistment described in section 2142 of this title. Depending on the needs of the service, different amounts may be established for different categories of persons or enlistments. The amount of educational assistance to which any person is entitled shall be adjusted in accordance with section 2145 of this title.

"(2) The amount of educational assistance which may be provided to any person for a standard academic year (or the equivalent) may not exceed $1,200, adjusted in accordance with section 2145 of this title.

"Accredited institution."

"(c) In this section, 'accredited institution' means a civilian college or university or a trade, technical, or vocational school in the United States (including the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands) that provides education at the postsecondary level and that is accredited by a nationally recognized accrediting agency or association or by an accrediting agency or association recognized by the Secretary of Education.

10 USC 2144.

"§ 2144. Subsistence allowance

"(a) Subject to subsection (b), a person entitled to educational assistance under this chapter is entitled to receive a monthly subsistence allowance during any period for which educational assistance is

provided such person. The amount of a subsistence allowance under this section is $300 per month, adjusted in accordance with section 2145 of this title, in the case of a person pursuing a course of instruction on a full-time basis and is one-half of such amount (as so adjusted) in the case of a person pursuing a course of instruction on less than a full-time basis.

"(b) The number of months for which a subsistence allowance may be provided to any person under this section is computed on the basis of nine months for each standard academic year of educational assistance to which such person is entitled.

"(c) For purposes of subsection (a), a person shall be considered to be pursuing a course of instruction on a full-time basis if the person is enrolled in twelve or more semester hours of instruction (or the equivalent, as determined by the Secretary concerned). Full-time basis.

"§ 2145. Adjustments of amount of educational assistance and of subsistence allowance 10 USC 2145.

"(a) Once each year, the Secretary of Defense shall adjust the amount of educational assistance which may be provided to any person in any standard academic year under section 2143 of this title, and the amount of the subsistence allowance authorized under section 2144 of this title for pursuit of a course of instruction on a full-time basis, in a manner consistent with the change over the preceding twelve-month period in the average actual cost of attendance at public institutions of higher education.

"(b) In this section, 'actual cost of attendance' means the actual cost of attendance as determined by the Secretary of Education pursuant to section 411(a)(2)(B)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1070a(a)(2)(B)(iv)). "Actual cost of attendance."

"§ 2146. Right of member upon subsequent reenlistment to lump-sum payment in lieu of educational assistance 10 USC 2146.

"(a) A member who is entitled to educational assistance under this chapter and who reenlists at the end of the enlistment which established such entitlement may, at the time of such reenlistment, elect to receive a lump-sum payment computed under subsection (b) in lieu of receiving such educational assistance. An election to receive such a lump-sum payment is irrevocable.

"(b) The amount of a lump-sum payment under subsection (a) is 60 percent of the sum of—

"(1) the product of (A) the rate for educational assistance under section 2143(b) of this title applicable to such member which is in effect at the time of such reenlistment, and (B) the number of standard academic years of entitlement of such member to such assistance; and

"(2) the product of (A) the rate for the subsistence allowance authorized under section 2144 of this title for pursuit of a course of instruction on a full-time basis at the time of such reenlistment, and (B) the number of months of entitlement of such member to such allowance.

"§ 2147. Right of member after reenlisting to transfer entitlement to spouse or dependent children 10 USC 2147.

"(a)(1) A person who is entitled to educational assistance under section 2142 of this title and who reenlisted in an armed force at any time after the end of the enlistment which established such entitlement may at any time after such reenlistment elect to transfer all or any part of such entitlement to the spouse or dependent child of such

person. Any transfer under the preceding sentence may be revoked at any time by the person making the transfer.

"(2) If a person described in paragraph (1) dies before making an election authorized by such paragraph but has never made an election not to transfer such entitlement, any unused entitlement of such person shall be automatically transferred to such person's surviving spouse or (if there is no eligible surviving spouse) to such person's dependent children. A surviving spouse to whom entitlement to educational assistance is transferred under this paragraph may elect to transfer such entitlement to the dependent children of the person whose service established such entitlement.

"(3) Any transfer of entitlement under this subsection shall be made in accordance with regulations prescribed by the Secretary of the military department concerned.

"(b) A spouse or surviving spouse or a dependent child to whom entitlement is transferred under subsection (a) is entitled to educational assistance under this chapter in the same manner and at the same rate as the person from whom the entitlement was transferred.

"(c) The total amount of educational assistance available to a person entitled to educational assistance under section 2142 of this title and to the person's spouse, surviving spouse, and dependent children is the amount of educational assistance to which the person is entitled. If more than one person is being provided educational assistance for the same period by virtue of the entitlement of the same person, the subsistence allowance authorized by section 2144 of this title shall be divided in such manner as the person may specify or (if the person fails to specify) as the Secretary concerned may prescribe.

Definitions.

"(d) In this section:

"(1) 'Dependent child' has the meaning given the term 'dependent' in section 1072(2)(E) of this title.

10 USC 1072.

"(2) 'Surviving spouse' means a widow or widower who is not remarried.

10 USC 2148.

"§ 2148. Duration of entitlement

"The entitlement of any person to educational assistance under this chapter expires at the end of the ten-year period beginning on the date of the retirement or discharge or other separation from active duty of the person upon whose service such entitlement is based. In the case of a member entitled to educational assistance under this chapter who dies while on active duty and whose entitlement is transferred to a spouse or dependent child, such entitlement expires at the end of the ten-year period beginning on the date of such member's death.

10 USC 2149.

"§ 2149. Applications for educational assistance

"To receive educational assistance benefits under this chapter, a person entitled to such assistance under section 2142 or 2147 of this title shall submit an application for such assistance to the Secretary concerned in such form and manner as the Secretary concerned may prescribe.".

(b) The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part III of such subtitle are amended by inserting after the item relating to chapter 106 the following new item:

"107. Educational assistance for persons enlisting for active duty..... 2141"

AUTHORIZATION TO REPAY LOANS FOR SERVICE IN THE ARMED FORCES

SEC. 902. (a)(1) Subject to the provisions of this section, the Secretary of Defense may repay any loan made, insured, or guaranteed under part B of the Higher Education Act of 1965, or any loan made under part E of such Act, after October 1, 1975. Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower. 10 USC 2141 note.

(2) The Secretary of Defense may repay loans described in paragraph (1) in the case of any person for— Loan repayment criteria.

(A) service performed (i) as an enlisted member of the Selected Reserve of the Ready Reserve of an Armed Force after September 30, 1980, and (ii) in a Reserve component and military specialty specified by the Secretary of Defense; or

(B) service performed on active duty as an enlisted member of the Armed Forces after September 30, 1980, in a military specialty specified by the Secretary of Defense.

In the case of service described in clause (A) of the first sentence of this paragraph, the Secretary of Defense may repay a loan described in paragraph (1) only if the person to whom the loan was made performed such service after the loan was made.

(b) The portion or amount of a loan that may be repaid under subsection (a) is— Percentage.

(1) 15 percent or $500, whichever is greater, for each year of service, in the case of service described in subsection (a)(2)(A); or

(2) 33⅓ percent or $1,500, whichever is greater, for each year of service, in the case of service described in subsection (a)(2)(B).

(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

(e) Any individual who transfers from service described in clause (A) or (B) of subsection (a)(1) of this section to service described in the other clause of such subsection during a year shall be eligible to have repaid a portion of such loan determined by giving appropriate fractional credit for each portion of the year so served, in accordance with regulations of the Secretary concerned.

(f) The Secretary of Defense shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out the provisions of this section during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a). Fund allocation schedule.

(g) The authority provided under this section shall apply only in the case of persons who enlist or reenlist in the Selected Reserve of the Ready Reserve of an Armed Force or enlist or reenlist for service on active duty after September 30, 1980, and before October 1, 1981.

EDUCATIONAL ASSISTANCE PILOT PROGRAM

SEC. 903. (a)(1) As a means of encouraging enlistments and reenlistments in the Armed Forces, the Secretary of Defense, on behalf of any person who enlists or reenlists in the Armed Forces after September 30, 1980, and before October 1, 1981, and who elects or has elected to participate in the Post-Vietnam Era Veterans' Educational Assistance Program provided for under chapter 32 of title 38, United States Code, may pay the monthly contribution otherwise deducted from the military pay of such person. No deduction may be made under section 10 USC 2141 note. 38 USC 1601 *et seq.*

1622 of title 38, United States Code, from the military pay of any person for any month to the extent that the contribution otherwise required to be made by such person under such section for such month is paid by the Secretary of Defense.

(2) No payment may be made under this section on behalf of any person for any month before the month in which such person enlisted or reenlisted in the Armed Forces or for any month before October 1980.

(b) The amount paid by the Secretary of Defense under this section on behalf of any person shall be deposited to the credit of such person in the Post-Vietnam Era Veterans Education Account established under section 1622(a) of title 38, United States Code.

38 USC 1601 *et seq.*

(c)(1) Except as provided in paragraph (2), the provisions of chapter 32 of title 38, United States Code, shall be applicable to payments made by the Secretary of Defense under this section.

Monthly payments to spouse or child.

(2) Notwithstanding the provisions of section 1631(a)(4) of title 38, United States Code, the Secretary of Defense, in the case of any person who enlists or reenlists in the Armed Forces or any officer who is ordered to active duty with the Armed Forces after September 30, 1980, and before October 1, 1981, or whose active duty obligation with the Armed Forces is extended after September 30, 1980, and before October 1, 1981, and who is a participant in the educational assistance program described in subsection (a), may make monthly payments out of the Post-Vietnam Era Veterans Education Account to the spouse or child of such person to assist such spouse or child in the pursuit of a program of education. Payments under this subsection may be made to the spouse or child of a person participating in such educational assistance program only upon the request of such person and only for such period of time as may be specified by such person. The total amount paid under this subsection in the case of any spouse or child may not exceed the amount credited to such person in the Post-Vietnam Era Veterans Education Account.

(d)(1) The authority conferred on the Secretary of Defense under this section shall be used by the Secretary only for the purpose of encouraging persons who possess critical military specialties (as determined by the Secretary of Defense) to enter or to remain in the Armed Forces.

(2) Except as otherwise provided in this section, the Secretary of Defense may offer the benefits of this section to persons eligible therefor for such period as the Secretary determines necessary or appropriate to achieve the purpose of this section.

Definitions.

(f) As used in this section:

(1) The term "program of education" shall have the same meaning as provided in chapter 32 of title 38, United States Code.

(2) The term "child" shall have the same meaning as provided in section 101(4) of title 38, United States Code.

(3) The term "Armed Forces" means the Army, Navy, Air Force, and Marine Corps.

AUTHORIZATION OF APPROPRIATIONS

10 USC 2141 note.

SEC. 904. (a) There is hereby authorized to be appropriated to carry out chapter 107 of title 10, United States Code (as added by section 901), and sections 902 and 903 a total of $75,000,000.

(b) The Secretary of Defense shall equitably allocate the amount appropriated under this section among the educational assistance program provided for under chapter 107 of title 10, United States Code (as added by section 901), the repayment as authorized by

section 902 of loans made, insured, or guaranteed under part B of the Higher Education Act of 1965 and of loans made under part E of such Act, and the educational assistance program provided for under section 903.

REPORT ON EDUCATIONAL BENEFITS INCENTIVE PROGRAMS

SEC. 905. (a) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives, within 30 days after the end of each quarter of fiscal year 1981, a report on the implementation and operation of the educational assistance program provided for under chapter 107 of title 10, United States Code (as added by section 901), and of the programs provided for under sections 902 and 903.

Submittal to congressional committees. 10 USC 2141 note.

(b) The Secretary of Defense shall also submit to such committees, not later than December 31, 1981, a report on the extent to which the educational assistance program provided for under chapter 107 of title 10, United States Code (as added by section 901), the Post-Vietnam Era Veterans' Educational Assistance Program provided for under chapter 32 of title 38, United States Code, and the program established under section 902 have encouraged persons to enter or remain in the Armed Forces. The Secretary shall include in such report—

38 USC 1601 *et seq.* Contents.

(1) an evaluation of contributory and noncontributory educational assistance programs as incentives for individuals to enter or remain in the Armed Forces;

(2) an analysis of the costs and benefits of various educational assistance incentive programs designed to encourage persons to enter and remain in the Armed Forces; and

(3) recommendations for such new programs or revision of existing programs as the Secretary determines necessary or appropriate to successfully encourage persons to enter and remain in the Armed Forces.

IMPROVEMENT AND EXTENSION OF EDUCATIONAL ASSISTANCE PROGRAM FOR ENLISTED MEMBERS OF THE SELECTED RESERVE OF THE READY RESERVE

SEC. 906. (a)(1) Section 2131(c) of title 10, United States Code, relating to educational assistance for enlisted members of the Selected Reserve of the Ready Reserve, is amended by striking out "$500" and "$2,000" and inserting in lieu thereof "$1,000" and "$4,000", respectively.

(2) The amendments made by paragraph (1) shall take effect on October 1, 1980.

Effective date. 10 USC 2131 note.

(b) Section 2135 of such title 10, United States Code, is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1985".

TITLE X—GENERAL PROVISIONS

REQUIREMENT OF ANNUAL AUTHORIZATION OF APPROPRIATIONS FOR OPERATION AND MAINTENANCE

SEC. 1001. (a)(1) Section 138(a) of title 10, United States Code, relating to annual authorization of appropriations, is amended—

(A) by striking out "or" at the end of clause (5);

(B) by inserting "or" at the end of clause (6); and

(C) by inserting after clause (6) the following new clause:
"(7) the operation and maintenance of any armed force or of the activities and agencies of the Department of Defense (other than the military departments);".

10 USC 138 note.

(2) The amendments made by paragraph (1) shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1981.

10 USC 138.

(b) Section 138 of such title is further amended—

(1) by striking out "subsection (e) of this section" in subsection (a)(6) and inserting in lieu thereof "subsection (f)";

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following new subsection (e):

Report to Congress.

"(e)(1) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, with respect to the operations and maintenance of the Army, Navy, Air Force, and Marine Corps for the next fiscal year. The Secretary shall include in each such report recommendations for—

Contents.

"(A) the number of aircraft flying hours for the Army, Navy, Air Force, and Marine Corps for the next fiscal year, the number of ship steaming hours for the Navy for the next fiscal year, and the number of field training days for the combat arms battalions of the Army and Marine Corps for the next fiscal year;

"(B) the number of ships over 3,000 tons (full load displacement) in each Navy ship classification on which major repair work should be performed during the next fiscal year; and

"(C) the number of airframe reworks, aircraft engine reworks, and vehicle overhauls which should be performed by the Army, Navy, Air Force, and Marine Corps during the next fiscal year.

Funding level recommendation.

"(2) The Secretary shall also include in each such report the justification for and an explanation of the level of funding recommended in the Budget of the President for the next fiscal year for aircraft flying hours, ship steaming hours, field training days for the combat arms battalions, major repair work to be performed on ships of the Navy, airframe reworks, aircraft engine reworks, and vehicle overhauls.

Combat readiness projection.

"(3) The Secretary shall also include in each such report a projection (made in accordance with paragraph (4)) of the combat readiness proposed to be maintained during the next fiscal year of—

"(A) each Army and Marine Corps division, brigade, and regiment;

"(B) each Navy, Air Force, and Marine Corps air wing and squadron;

"(C) each Navy aircraft carrier, other major surface combatant, general purpose submarine, ballistic missile submarine, and amphibious ship;

"(D) each Air Force strategic and tactical airlift squadron; and

"(E) such other units as the Secretary considers appropriate.

"(4) Each projection made pursuant to paragraph (3) shall be made—

"(A) using the overall readiness ratings and the four resource-related readiness ratings of the Unit Status and Identity Report of the Department of Defense; and

"(B) using the levels of funding proposed in the Budget of the President for the next fiscal year.".

(c) Subsection (f) of such section, as redesignated by subsection (b)(2), is amended—

(1) by striking out "For purposes of subsection (a)(6) of this section" and inserting in lieu thereof "(1) In subsection (a)(6)"; and

(2) by adding at the end of such subsection the following new paragraph:

"(2) In subsection (f): Definitions.

"(A) 'Combat arms battalions' means armor, infantry, mechanized infantry, air assault infantry, airborne infantry, ranger, artillery, and combat engineer battalions and armored cavalry and air cavalry squadrons.

"(B) 'Major repair work' means, in the case of any ship to which such subsection is applicable, any overhaul, modification, alteration, or conversion work which will result in a total cost to the United States of more than $10,000,000.".

(d)(1) The heading of such section is amended to read as follows:

"§ 138. Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports".

(2) The item relating to such section in the table of sections at the beginning of chapter 4 of such title is amended to read as follows:

"138. Annual authorization of appropriations and personnel strengths for the armed forces; annual manpower requirements and operations and maintenance reports.".

DENIAL OF CERTAIN BENEFITS TO PERSONS WHO FAIL TO COMPLETE AT LEAST TWO YEARS OF AN ORIGINAL ENLISTMENT

SEC. 1002. (a) Chapter 49 of title 10, United States Code, relating to prohibitions and penalties, is amended by adding at the end thereof the following new section:

"§ 977. Denial of certain benefits to persons who fail to complete at least two years of an original enlistment 10 USC 977.

"(a) Notwithstanding any other provision of law and except as provided in subsection (b), any person who originally enlists in a regular component of the armed forces on or after the date of the enactment of the Department of Defense Authorization Act, 1981, and who fails to complete at least twenty-four months of such person's period of original enlistment shall not be eligible for any right, privilege, or benefit for which persons become eligible under any Federal program by reason of serving on active duty in the armed forces if the claim for the eligibility of such person for such right, privilege, or benefit is based upon any period of service performed by such person under such enlistment. *Ante*, p. 1077.

"(b) Subsection (a) shall not apply to any person (1) who was discharged under section 1173 or chapter 61 of this title, or (2) if it is later established that such person is suffering from a disability which resulted from an injury or disease incurred in or aggravated during the period of the enlistment completed by such person and is not the result of the person's intentional misconduct and was not incurred during a period of unauthorized absence.". 10 USC 1173, 1201 *et seq.*

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"977. Denial of certain benefits to persons who fail to complete at least two years of an original enlistment.".

DELAY OF EFFECTIVE DATE FOR CEILING ON NUMBER OF GENERAL AND FLAG OFFICERS ON ACTIVE DUTY AND OF REDUCTION IN NUMBER OF SENIOR-GRADE CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE

SEC. 1003. Section 811(a) of the Department of Defense Appropriation Authorization Act, 1978 (10 U.S.C. 131 note), is amended—

(1) by striking out "October 1, 1980" in paragraph (1) and inserting in lieu thereof "October 1, 1981"; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) After September 30, 1981, the total number of civilian employees of the Department of Defense in grades GS-13 through GS-18 (including positions authorized under section 1581 of title 10, United States Code) may not exceed the number equal to 96 percent of the number of such employees employed by the Department of Defense on July 30, 1977. After September 30, 1982, the total number of such employees may not exceed the number equal to 94 percent of the number of such employees employed by the Department of Defense on July 30, 1977.".

5 USC 5332 note.

BASIC PAY OF WOMEN OFFICERS OF THE NAVY SERVING IN THE GRADE OF REAR ADMIRAL

SEC. 1004. (a) Subsection (k) of section 202 of title 37, United States Code, relating to assignment of certain officers to the pay grade of rear admiral of the upper half, is amended to read as follows:

"(k) When initially appointed as a rear admiral under section 5767(c) of title 10, a woman officer of the Navy is entitled to the pay of a rear admiral of the lower half. A woman officer serving as a rear admiral under such an appointment or a subsequent appointment under that section is entitled to the basic pay of a rear admiral of the upper half when any officer who is junior to her is entitled to the basic pay of a rear admiral of the upper half as determined under subsection (a) of this section.".

Effective date.
37 USC 202 note.

(b) The amendment made by subsection (a) shall apply with respect to basic pay payable for periods beginning on or after the date of the enactment of this Act.

EXEMPTION OF CERTAIN CONTRACTS FROM CERTAIN PROFIT LIMITATIONS

10 USC 2382 note.

SEC. 1005. (a) The provisions of sections 2382 and 7300 of title 10, United States Code, relating to profit limitation on contracts for the construction or manufacture of aircraft and naval vessels and parts thereof, shall not apply with respect to any contract for the construction or manufacture of all or any part of any aircraft or naval vessel, or to any subcontract of such a contract, for which final payment is made before October 1, 1981.

(b) Neither the Secretary of Defense nor the Secretary of the Treasury may require that any report be submitted under section 2382 or 7300 of title 10, United States Code, before October 1, 1981, and neither such Secretary may prescribe regulations to implement such sections (or either of such sections) to take effect before October 1, 1981.

REPORT ON ALLIED COMMITMENTS TO DEFENSE SPENDING

22 USC 1928 note.

SEC. 1006. (a) In recognition of the growth, relative to the United States, in the economic strength of Japan, Canada, and Western

European countries which has occurred since the signing of the North Atlantic Treaty on April 4, 1949, and the Mutual Cooperation and Security Treaty between Japan and the United States on January 19, 1960, it is the sense of Congress that— 63 Stat. 2241. 11 UST 1632.

(1) the burdens of mutual defense now assumed by the countries allied with the United States under those agreements are not commensurate with their economic resources; and

(2) the continued unwillingness of those countries to increase their contributions to the common defense to more appropriate levels would endanger the vitality, effectiveness, and cohesiveness of the alliances between those countries and the United States.

(b) It is further the sense of Congress that the President should seek from each signatory country (other than the United States) of the two treaties referred to in subsection (a) acceptance of international security responsibilities and agreement to make contributions to the common defense which are commensurate with the economic resources of such country, including, when appropriate, an increase in host nation support.

(c) The Secretary of Defense shall submit to the Congress not later than March 1, 1981, a report providing— Report to Congress.

(1) a comparison of the fair and equitable shares of the mutual defense burdens of these alliances that should be borne by the United States, by other member nations of the North Atlantic Treaty Organization (NATO), and by Japan, based upon economic strength and other relevant factors, and the actual defense efforts of each nation together with an explanation of disparities that currently exist;

(2) a description of efforts by the United States and of other efforts to eliminate existing disparities;

(3) estimates of the real growth in defense spending in fiscal year 1981 projected for each NATO member nation compared to the annual real growth goal in the range of 3 percent set in May 1978;

(4) a description of the defense-related initiatives undertaken by each NATO member nation within the real growth in defense spending of such nation in fiscal year 1981; and

(5) an explanation of those instances in which the commitments to real growth in defense spending and to the Long-Term Defense Program have not been realized and a description of efforts being made by the United States to ensure fulfillment of these important NATO commitments.

CIVIL AIR PATROL

SEC. 1007. (a) Subsection (b) of section 9441 of title 10, United States Code, relating to support of the Civil Air Patrol by the Air Force, is amended—

(1) by striking out the semicolon at the end of clause (3) and inserting in lieu thereof ", including unit capability testing missions and training missions;";

(2) by striking out "and" at the end of clause (6);

(3) by striking out the period at the end of clause (7) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new clause:

"(8) authorize the payment of aircraft maintenance expenses relating to operational missions, unit capability testing missions, and training missions.".

(b)(1) Subsection (c) of such section is amended by striking out the period and inserting in lieu thereof ", and for purposes of determining the civil liability of the Civil Air Patrol (or any member thereof) with respect to any act or omission committed by the Civil Air Patrol (or any member thereof) in fulfilling such mission, the Civil Air Patrol shall be deemed to be an instrumentality of the United States.".

Effective date.
10 USC 9441 note.

(2) The amendment made by paragraph (1) shall be effective with respect to services of the Civil Air Patrol provided to the Department of the Air Force before the date of the enactment of this Act as well as to such services provided on or after such date, but such amendment shall not be construed (A) to revive any cause of action barred by an applicable statute of limitation, or (B) to serve as grounds for the reopening or appeal of any case which became final before the date of the enactment of this Act.

ADHERENCE TO THE WAR POWERS RESOLUTION

50 USC 1541 note.

SEC. 1008. Whereas, the National Command Authority must have the capacity to carry out any military mission which is essential to the national security of the United States having in its hands in the Rapid Deployment Force an increased capability to extend the reach of our military power in an expedited manner; and whereas, without the significant safeguard of the War Powers Resolution (Public Law 93-148), United States foreign and defense policies could be subject to misinterpretation; it is therefore the sense of the Congress that the provisions of the War Powers Resolution be strictly adhered to and that the congressional consultation process specified by such Resolution be utilized strictly according to the terms of the War Powers Resolution.

50 USC 1541 note.

Approved September 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-916 (Comm. on Armed Services) and No. 96-1222 (Comm. of Conference).
SENATE REPORTS: No. 96-826 (Comm. on Armed Services) and No. 96-895 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 13-15, 21, considered and passed House.
June 28, 30, July 1, 2, considered and passed Senate, amended.
Aug. 26, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 37:
Sept. 8, Presidential statement.

VARIABLE HOUSING ALLOWANCE

SEC. 4. (a)(1) Section 403(a) of title 37, United States Code, relating to basic allowance for quarters, is amended—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end thereof the following new paragraph:

"(2)(A) A member of a uniformed service entitled to basic allowance for quarters is entitled to a variable housing allowance under this paragraph whenever assigned to duty in an area of the United States (other than Alaska or Hawaii) which is a high housing cost area with respect to such member. A member with dependents who is assigned to an unaccompanied tour of duty outside the United States is entitled to a variable housing allowance while serving such tour of duty for any period during which the member's dependents reside in an area of the United States which would qualify the member to receive a variable housing allowance under this paragraph if assigned to duty in that area.

"(B) The monthly amount of a variable housing allowance under this paragraph for any member is the difference between (i) the average monthly cost of housing in that area for members of the uniformed services serving in the same pay grade as that member (as determined under regulations prescribed under subsection (j) of this section), and (ii) 115 percent of the amount of the basic allowance for quarters to which that member is entitled.

"(C) For the purposes of this paragraph, an area shall be considered to be a high housing cost area with respect to a member of a uniformed service whenever the average monthly cost of housing in that area for members serving in the same pay grade as that member (as determined under regulations prescribed under subsection (j) of this section) exceeds 115 percent of the amount of the basic allowance for quarters of that member.".

(2) The heading of section 403 of such title is amended to read as follows: 37 USC 403.

"§ 403. Basic allowance for quarters; variable housing allowance".

(3) The item relating to such section in the table of sections at the beginning of chapter 7 of such title is amended to read as follows:

"403. Basic allowance for quarters; variable housing allowance.".

(b) Paragraph (2) of section 403(a) of title 37, United States Code, as added by subsection (a), shall take effect on September 30, 1981. Effective date. 37 USC 403 note.

(c)(1) During fiscal year 1981, a member of a uniformed service entitled to basic allowance for quarters under section 403 of title 37, United States Code, may be paid a variable housing allowance under this subsection whenever assigned to duty in an area of the United States (other than Alaska or Hawaii) which is a high housing cost area with respect to such member. A member with dependents who is assigned to an unaccompanied tour of duty outside the United States may be paid a variable housing allowance under this subsection while serving such tour of duty for any period during which the member's dependents reside in an area of the United States which would qualify the member to receive a variable housing allowance under this subsection if assigned to duty in that area. 37 USC 403 note.

(2) The monthly amount of a variable housing allowance under this subsection for any member may not exceed the difference between (A)

the average monthly cost of housing in that area for members of the uniformed services serving in the same pay grade as that member (as determined under regulations prescribed under paragraph (4)), and (B) 115 percent of the amount of the basic allowance for quarters to which that member is entitled.

(3) For the purposes of this subsection, an area shall be considered to be a high housing cost area with respect to a member of a uniformed service whenever the average monthly cost of housing in that area for members serving in the same pay grade as that member (as determined under regulations prescribed under paragraph (4)) exceeds 115 percent of the amount of the basic allowance for quarters of that member.

Regulations.

(4) Regulations shall be prescribed for the administration of this subsection in the same manner that regulations are prescribed under subsection (j) of section 403 of title 37, United States Code, for the administration of such section.

TRAVEL AND TRANSPORTATION ALLOWANCES

SEC. 5. (a) Section 404(d) of title 37, United States Code, relating to travel and transportation allowances, is amended—

(1) by striking out "that is not more than 7 cents a mile" in clause (1) and inserting in lieu thereof "per mile prescribed by the Secretaries concerned and"; and

(2) by striking out "of not more than 10 cents a mile" in clause (3) and inserting in lieu thereof "at a rate per mile prescribed by the Secretaries concerned and".

37 USC 411.

(b) Section 411(b) of such title, relating to travel and transportation allowances, is amended—

(1) by striking out "first-class transportation, including sleeping accommodations," in clause (1) and inserting in lieu thereof "common carrier transportation";

(2) by inserting "and designating areas as high cost areas" after "rates" in clause (2); and

(3) by striking out "first-class transportation" and all that follows in clause (3) and inserting in lieu thereof "transportation and current economic data on the cost of subsistence, including lodging and other necessary incidental expenses relating thereto, when prescribing mileage allowances.".

Effective date.
37 USC 404 note.

(c) The amendments made by this section shall be effective with respect to travel and transportation performed after August 31, 1980.

STABILIZATION OF PAY AND ALLOWANCES OF COMMISSIONED OFFICERS WHO PREVIOUSLY SERVED AS ENLISTED MEMBERS OR WARRANT OFFICERS

SEC. 6. (a)(1) Section 907 of title 37, United States Code, relating to the pay and allowances of enlisted members appointed as officers, is amended to read as follows:

"§ 907. Enlisted members and warrant officers appointed as officers: pay and allowances stabilized

"(a) An enlisted member who accepts an appointment as an officer shall, for service as an officer, be paid the greater of—

"(1) the pay and allowances to which he is entitled as an officer; or

"(2) the pay and allowances to which he would be entitled if he were in the last enlisted grade he held before his appointment as an officer.

"(b) A warrant officer who accepts an appointment as a commissioned officer in a pay grade above W-4 shall, for service as such a commissioned officer, be paid the greater of—

"(1) the pay and allowances to which he is entitled as such a commissioned officer;

"(2) the pay and allowances to which he would be entitled if he were in the last warrant officer grade he held before his appointment as such a commissioned officer; or

"(3) in the case of an officer who was formerly an enlisted member, the pay and allowances to which he would be entitled if he were in the last enlisted grade he held before his appointment as an officer.

"(c) For the purposes of this section—

"(1) the pay and allowances of a grade formerly held by an officer include—

"(A) subject to subsection (d) of this section, special and incentive pays under chapter 5 of this title; and

"(B) subject to subsection (e) of this section, allowances under chapter 7 of this title; and

"(2) the rates of pay and allowances of a grade which an officer formerly held are those to which the officer would have been entitled had he remained in that grade and continued to receive the increases in pay and allowances authorized for that grade, as otherwise provided in this title.

"(d) In determining the amount of the pay and allowances of a grade formerly held by an officer, incentive pay for hazardous duty under section 301 of this title, special pay for diving duty under section 304 of this title, for duty at certain places under section 305 of this title, and for sea duty under section 305a of this title, and proficiency pay under section 307 of this title may be considered only so long as the officer continues to perform the duty creating the entitlement to or eligibility for that pay and would otherwise be eligible to receive that pay in his former grade. 37 USC 301. 37 USC 304. 37 USC 305a, *ante*, p. 1124. 37 USC 307.

"(e) The clothing allowance under section 418 of this title may not be considered in determining the amount of the pay and allowances of a grade formerly held by an officer if the officer is entitled to a uniform allowance under section 415 of this title.". 37 USC 418. 37 USC 415.

(2) The table of sections at the beginning of chapter 17 of such title is amended by striking out the item relating to section 907 and inserting in lieu thereof the following: 37 USC 907.

"907. Enlisted members and warrant officers appointed as officers: pay and allowances stabilized.".

(b) Section 203 of such title, relating to rates of pay for members of the uniformed services, is amended by adding at the end thereof the following new subsection: 37 USC 203.

"(d) The basic pay of commissioned officers who are in pay grades O-1, O-2, and O-3 and who are credited with over four years' active service as warrant officers shall be computed in the same manner as the basic pay of commissioned officers in the same pay grades who have been credited with over four years' active service as enlisted members.".

(c) The amendments made by this section shall be effective with respect to periods for which pay and allowances are payable which begin after August 31, 1980. Effective date. 37 USC 907 note.

INCREASE IN BASIC ALLOWANCE FOR SUBSISTENCE

Effective date.
37 USC 402 note.

SEC. 7. Effective September 1, 1980, the rates of basic allowance for subsistence authorized by section 402 of title 37, United States Code, as in effect on the day before the date of the enactment of this Act (as prescribed by the President under section 1009 of such title), are increased by 10 percent.

37 USC 1009.

EXPANSION OF AUTHORITY TO MAKE ADVANCE PAYMENTS

SEC. 8. Subsection (a) of section 1006 of title 37, United States Code, relating to advance payments, is amended to read as follows:

"(a) Under regulations prescribed by the Secretary concerned, a member of a uniformed service may be paid in advance—

"(1) not more than three months' pay of such member upon such member's change of permanent station; or

"(2) the amount of an allotment made from such member's pay to a dependent if such member is assigned or scheduled for assignment to sea duty or other duty with a unit or command deployed or to be deployed outside the United States and the allotment is made by such member not more than sixty days before the scheduled date of the assignment of such member to such duty.".

AMENDMENTS TO MAKE CERTAIN RETIREMENT PROVISIONS RELATING TO REGULAR ENLISTED MEMBERS OF THE ARMY AND AIR FORCE APPLICABLE TO RESERVE ENLISTED MEMBERS

SEC. 9. (a)(1) Section 3914 of title 10, United States Code, relating to the retirement of regular enlisted members, is amended to read as follows:

"§ 3914. Twenty to thirty years: enlisted members

"Under regulations to be prescribed by the Secretary of the Army, an enlisted member of the Army who has at least 20, but less than 30, years of service computed under section 3925 of this title may, upon his request, be retired. A regular enlisted member then becomes a member of the Army Reserve. A member retired under this section shall perform such active duty as may be prescribed by law until his service computed under section 3925 of this title, plus his inactive service as a member of the Army Reserve, equals 30 years.".

10 USC 3925.

(2) Section 3925 of such title, relating to the computation of years of service of enlisted members of the Army in determining eligibility for voluntary retirement, is amended—

(A) by striking out "a regular" in subsection (a) and inserting in lieu thereof "an"; and

(B) by striking out "**regular**" in the catchline.

(3) The table of sections at the beginning of chapter 367 of such title is amended by striking out "regular" in the items relating to sections 3914 and 3925.

10 USC 3914, 3925.

(b)(1) Section 8914 of such title is amended to read as follows:

10 USC 8914.

"§ 8914. Twenty to thirty years: enlisted members

"Under regulations to be prescribed by the Secretary of the Air Force, an enlisted member of the Air Force who has at least 20, but less than 30, years of service computed under section 8925 of this title may, upon his request, be retired. A regular enlisted member then becomes a member of the Air Force Reserve. A member retired under

this section shall perform such active duty as may be prescribed by law until his service computed under section 8925 of this title, plus his inactive service as a member of the Air Force Reserve, equals 30 years.". 10 USC 8925.

(2) Section 8925 of such title, relating to the computation of years of service of enlisted members of the Air Force in determining eligibility for voluntary retirement, is amended—

(A) by striking out "a regular" in subsection (a) and inserting in lieu thereof "an"; and

(B) by striking out "**regular**" in the catchline.

(3) The table of sections at the beginning of chapter 867 of such title is amended by striking out "regular" in the items relating to sections 8914 and 8925.

10 USC 8914, 8925.

(c) The amendments made by this section shall apply with respect to retired pay payable for months beginning after the date of the enactment of this Act.

Effective date. 10 USC 3914 note.

EXTENSION OF CERTAIN PROVISIONS OF LAW RELATING TO PERSONNEL MANAGEMENT OF THE ARMED FORCES

SEC. 10. (a) Public Law 93-397 (10 U.S.C. 8202 note) is amended by striking out "beginning with October 1, 1974, through September 30, 1979" and inserting in lieu thereof "through September 30, 1982".

(b) Subsections (a) and (b) of section 2 of Public Law 95-377 (92 Stat. 719) are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1982". 10 USC 5707 note.

(c)(1) Section 1201(3) of title 10, United States Code, is amended—

(A) by striking out "or" at the end of subclause (B)(ii);

(B) by striking out the period at the end of subclause (B)(iii) and inserting in lieu thereof "; or"; and

(C) by adding at the end of subclause (B) a new item as follows:

"(iv) the disability was incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect.".

(2) Section 1203(4)(A) of such title is amended— 10 USC 1203.

(A) by striking out "or" at the end of item (i); and

(B) by striking out the semicolon at the end of item (ii) and inserting in lieu thereof ", or (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect;".

(3) Section 1203(4)(C) of such title is amended by striking out "the proximate result of performing active duty nor incurred in line of duty in time of war or national emergency" and inserting in lieu thereof "(i) the proximate result of performing active duty, (ii) incurred in line of duty in time of war or national emergency, nor (iii) incurred in line of duty during the period beginning on September 15, 1978, and ending on September 30, 1982, except that the condition provided for in this item shall not be effective during such period unless the President determines that such condition should be effective during such period and issues an Executive order to that effect".

(d) Section 5703(a)(1) of title 10, United States Code, is amended to read as follows:

"(1) A board to recommend brigadier generals for promotion to the grade of major general, consisting of nine officers holding permanent appointments in the grade of major general or above, except that before October 1, 1982, such a board may consist of nine officers serving in the grade of major general or above.".

(e) Sections 5787c(b)(2) and 5787d(g) of title 10, United States Code, are amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1982".

ESTABLISHMENT OF NAVY CHAPLAIN CORPS AS A STAFF CORPS OF THE NAVY

SEC. 11. (a) Chapter 513 of title 10, United States Code, relating to Bureaus of the Navy, is amended by striking out section 5142 and inserting in lieu thereof the following:

10 USC 5142.

"§ 5142. Chaplain Corps and Chief of Chaplains

"(a) The Chaplain Corps is a staff corps of the Navy and shall be organized in accordance with regulations prescribed by the Secretary of the Navy.

Appointment.

"(b) There is in the executive part of the Department of the Navy the office of the Chief of Chaplains of the Navy. The Chief of Chaplains shall be appointed by the President, by and with the advice and consent of the Senate, from officers of the Chaplain Corps in the grade of commander or above who are serving on active duty, who are not on the retired list, and who have served on active duty in the Chaplain Corps for at least eight years.

Term of office.

"(c) An officer appointed as the Chief of Chaplains shall be appointed for a term of four years. However, the President may terminate or extend the appointment at any time.

"(d)(1) The Chief of Chaplains shall perform such duties as may be prescribed by the Secretary of the Navy and by law.

"(2) The Chief of Chaplains shall, with respect to all duties pertaining to the procurement, distribution, and support of personnel of the Chaplain Corps, report to and be supported by the Chief of Naval Personnel.

"(e) The Chief of Chaplains of the Navy is entitled to the same rank and privileges of retirement as provided for chiefs of bureaus in section 5133 of this title.

10 USC 5133.

10 USC 5142a.

"§ 5142a. Deputy Chief of Chaplains

"The Secretary of the Navy may detail as the Deputy Chief of Chaplains an officer of the Chaplain Corps in the grade of commander or above who is on active duty, who is not on the retired list, and who has served on active duty in the Chaplain Corps for at least eight years.".

(b) The table of sections at the beginning of chapter 513 of such title is amended by striking out the item relating to section 5142 and inserting in lieu thereof the following:

10 USC 5142.

"5142. Chaplain Corps and Chief of Chaplains.
"5142a. Deputy Chief of Chaplains.".

DEPUTY JUDGE ADVOCATE GENERAL, AIR FORCE

SEC. 12. (a) Section 8072 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(d)(1) There is a Deputy Judge Advocate General in the Air Force, who is appointed by the President, by and with the advice and consent of the Senate, from officers of the Air Force who have the qualifications prescribed in subsection (b) for the Judge Advocate General. The term of office of the Deputy Judge Advocate General is two years, but may be sooner terminated or extended by the President. An officer appointed as Deputy Judge Advocate General shall be appointed in a regular grade to be determined by the Secretary of Defense. Appointment. Term of office.

"(2) When there is a vacancy in the office of the Judge Advocate General, or during the absence or disability of the Judge Advocate General, the Deputy Judge Advocate General shall perform the duties of the Judge Advocate General until a successor is appointed or the absence or disability ceases. Vacancy.

"(3) When paragraph (2) cannot be complied with because of the absence or disability of the Deputy Judge Advocate General, the heads of the major divisions of the Office of the Judge Advocate General, in the order directed by the Secretary of the Air Force, shall perform the duties of the Judge Advocate General, unless otherwise directed by the President.".

(b)(1) The heading of such section is amended to read as follows:

"§ 8072. Judge Advocate General, Deputy Judge Advocate General: appointment; duties". 10 USC 8072.

(2) The item relating to such section in the table of sections at the beginning of chapter 807 of such title is amended to read as follows:

"8072. Judge Advocate General, Deputy Judge Advocate General: appointment; duties.".

AUTHORITY TO RETIRE IN A HIGHER GRADE RESERVE OFFICERS WHO HAVE SERVED IN SPECIAL POSITIONS

SEC. 13. (a)(1) Section 3962(a) of title 10, United States Code, relating to retirement in a higher grade for service in special positions, is amended by striking out "Regular" and by striking out "held by him at any time on the active list" and inserting in lieu thereof "in which he served on active duty".

(2) Section 3962(b) of such title is amended by striking out "Regular". 10 USC 3962

(3) The heading of section 3962 of such title is amended to read as follows:

"§ 3962. Higher grade for service in special positions".

(4) The item relating to section 3962 in the table of sections at the beginning of chapter 369 of such title is amended to read as follows:

"3962. Higher grade for service in special positions.".

(b)(1) Section 8962(a) of title 10, United States Code, relating to retirement in a higher grade for service in special positions, is amended by striking out "Regular" and by striking out "held by him at any time on the active list" and inserting in lieu thereof "in which he served on active duty".

(2) The heading of section 8962 of such title is amended to read as follows: 10 USC 8962.

"§ 8962. Higher grade for service in special positions".

(3) The item relating to section 8962 in the table of sections at the beginning of chapter 869 of such title is amended to read as follows:

"8962. Higher grade for service in special positions.".

Appointment to retired grade. 10 USC 3962 note.

(c)(1) The President may, by and with the advice and consent of the Senate, appoint any commissioned officer of a reserve component of the Armed Forces who retired after December 31, 1967, to the retired grade in which such officer could have been retired had such officer retired on or after the date of the enactment of this Act.

Applicability.

(2) The retired pay of any retired officer who is appointed to a higher retired grade under paragraph (1) shall be recalculated as if such officer had retired in the grade to which appointed, but any increase in such retired pay by virtue of such appointment or this subsection shall be effective only with respect to periods beginning on or after the date on which such appointment is made.

Approved September 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-440 (Comm. on Armed Services) and No. 96-1233 (Comm. of Conference).
SENATE REPORT No. 96-424 (Comm. on Armed Services).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 24, 25, considered and passed House.
Vol. 126 (1980): Feb 1, 4, considered and passed Senate, amended.
June 17, House agreed to Senate amendments with amendments.
Aug. 20, Senate agreed to conference report.
Aug. 26, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 37 (1980): Sept. 8, Presidential statement.

Public Law 96-344
96th Congress

An Act

To improve the administration of the Historic Sites, Buildings and Antiquities Act of 1935 (49 Stat. 666).

Sept. 8, 1980
[S. 2680]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in furtherance of the purposes of subsection 2(e) of the Act of August 21, 1935 (49 Stat. 666), the Secretary of the Interior may provide financial assistance for the maintenance and protection of the Folger Library and the Corcoran Gallery of Art.

Historic Sites, Buildings and Antiquities Act, administration improvement.
16 USC 462 note.
16 USC 462.

(b) Authority to enter into contracts or cooperative agreements, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

National Colonial Farm, operation and maintenance.

SEC. 2. Section 2 of the Joint Resolution entitled, "To provide for the preservation and protection of certain lands in Prince Georges and Charles Counties, Maryland, and for other purposes", approved October 4, 1961 (75 Stat. 780, 781), as amended, is further amended by adding the following after the final period in subsection (c): "The Secretary is authorized to cooperate with the Accokeek Foundation in the operation and maintenance of the National Colonial Farm, and funds appropriated to the Secretary for operation and maintenance of the farm may be made available to the Foundation for such purposes, subject to such terms and conditions as the Secretary may prescribe in furtherance of the purpose of this Act.".

Donation of land.
16 USC 461 note.

SEC. 3. (a) In order to preserve for the benefit and enjoyment of present and future generations significant properties associated with the life and cultural achievements of Georgia O'Keeffe, the Secretary may acquire—

(1) by donation, the site and structures comprising the home and studio situated in Abiquiu, New Mexico, and

(2) by purchase, donation, or exchange not to exceed one acre of detached land for off-site support facilities which the Secretary of the Interior deems necessary for the purposes of this section.

The Secretary may also accept the donation of furnishings and other personal property in connection with the site.

Georgia O'Keeffe National Historic Site.
Publication in Federal Register.

(b) When the site, structures, and other properties authorized for acquisition under subsection (a) have been transferred to the United States, the Secretary shall establish the Georgia O'Keeffe National Historic Site by publication of notice to that effect in the Federal Register. The national historic site established pursuant to this section shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to the administration of units of the national park system, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-7).

16 USC 461-467.

Appropriation authorization.

(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, not to exceed $40,000 for acquisition and $100,000 for development.

Plan, transmittal to congressional committees.

(d) Within three complete fiscal years from the effective date of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive general management plan for the historic site, pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 et seq.).

SEC. 4. The Act of October 27, 1972 (86 Stat. 1299; 16 U.S.C. 460bb) is amended as follows:

16 USC 460bb-1.

(1) in subsection 2(a), at the end thereof, add the following: "For the purposes of this Act, the southern end of the town of Marshall shall be considered to be the Marshall Boat Works. The following additional lands are also hereby included within the boundaries of the recreation area: Marin County Assessor's parcel numbered 119-040-04, 119-040-05, 119-040-18, 166-202-03, 166-010-06, 166-010-07, 166-010-24, 166-010-25, 119-240-19, 166-010-10, 166-010-22, 119-240-03, 119-240-51, 119-240-52, 119-240-54, 166-010-12, 166-010-13, and 119-235-10.".

16 USC 460bb-4.

(2) in subsection 5(b), change "three" to "five" and add at the end thereof: "*Provided,* That the terms of those members who have been either appointed or reappointed subsequent to January 1, 1979, shall be extended so as to expire not before June 1, 1985."; and

(3) in subsection 5(g), change "ten" to "twenty".

16 USC 410z note.
16 USC 410z.

SEC. 5. The Boston National Historical Park Act of 1974 (88 Stat. 1184) is amended by inserting the following after the first sentence of subsection 2(d): "As used in this section, the Charlestown Navy Yard shall also include the properties known as the Ropewalk and Tar House and the Chain Forge and Round House, designated on such map as buildings numbered 58, 60, and 105.".

SEC. 6. Subsection 4(b) of the Act entitled "An Act to designate certain lands within units of the National Park System as wilderness; to revise the boundaries of certain of those units; and for other purposes", approved October 20, 1976 (90 Stat. 2692, 2694), is amended by revising the proviso to the first sentence in paragraph (2) to read as follows: "*Provided, however,* That, except for not more than approximately three and thirty-five one-hundredths acres designated herein as wilderness and approximately eleven and thirteen one-hundredths acres designated herein as potential wilderness additions, which may be excluded pursuant to an exchange consummated in accordance with paragraph (3) of this subsection, lands designated as wilderness pursuant to this Act may not be excluded from the monument.".

Golden Spike National Historic Site.
16 USC 461 note.

SEC. 7. (a) Section 1 of the Act entitled "An Act to authorize the Secretary of the Interior to acquire lands for, and to develop, operate, and maintain, the Golden Spike National Historic Site", approved July 30, 1965 (79 Stat. 426) is amended by striking out "Proposed Golden Spike National Historic Site, Utah, prepared by the National Park Service, Southwest Region, dated February 1963" and inserting in lieu thereof "Boundary Map, Golden Spike National Historic Site, Utah, numbered 431-80,026, and dated December 6, 1978".

79 Stat. 426.

(b) Section 3 of such Act is amended by striking out "$5,422,000, as may be necessary for the acquisition of land and interests in land and for the development" and inserting in lieu thereof "$348,000 for the acquisition of land and interests in land and $5,324,000 for development".

Report to congressional committees.

(c) Within two years from the effective date of this section, the Secretary shall complete and submit, in writing, to the Committee on

Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a report on the feasibility of providing passenger rail service from the city of Ogden, Utah, to the Golden Spike National Historic Site. Said report shall include an assessment of existing rail facilities and rolling stock, additional development as might be required, as well as alternatives with respective costs for the operation of passenger rail service. There is hereby authorized to be appropriated not to exceed $100,000 to carry out the provisions of this subsection.

Appropriation authorization.

SEC. 8. Section 8 of the Act entitled "An Act to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes", approved August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 et seq.), is amended as follows—

16 USC 1a-5.

(1) at the end of the second sentence, insert the following new sentence: "Each such report shall indicate and elaborate on the theme(s) which the area represents as indicated in the National Park System Plan."; and

(2) at the end of the fifth sentence, insert the following new sentence: "Accompanying the annual listing of areas shall be a synopsis, for each report previously submitted, of the current and changed condition of the resource integrity of the area and other relevant factors, compiled as a result of continual periodic monitoring and embracing the period since the previous such submission or initial report submission one year earlier.".

SEC. 9. The Land and Water Conservation Fund Act of 1965 (78 Stat. 987; 16 U.S.C. 4601), is amended—

78 Stat. 897; 16 USC 460*l*-4. "Single visit." 16 USC 460*l*-6a.

(1) in subsection 4(a) by deleting the second sentence of paragraph (2) and substituting the following: "A 'single visit' means a more or less continuous stay within a designated area. Payment of a single visit admission fee shall authorize exits from and reentries to a single designated area for a period of from one to fifteen days, such period to be defined for each designated area by the administering Secretary based upon a determination of the period of time reasonably and ordinarily necessary for such a single visit.";

(2) by adding at the end of section 4(a) the following new paragraph:

Lifetime admission permit.

"(5) The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit to any citizen of, or person domiciled in, the United States, if such citizen or person applies for such permit, and is blind or permanently disabled. Such procedures shall assure that such permit shall be issued only to persons who have been medically determined to be blind or permanently disabled for purposes of receiving benefits under Federal law as a result of said blindness or permanent disability as determined by the Secretaries. Such permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and any person accompanying him in a single, private, noncommercial vehicle, or alternatively, the permittee and his spouse and children accompanying him where entry to the area is by any means other than private, noncommercial vehicle, to general admission into any area designated pursuant to this subsection."; and

(3) by amending the last sentence of section 4(b) to read as follows: "Any Golden Age Passport permittee, or permittee

16 USC 460*l*-6a.

under paragraph (5) of subsection (a) of this section, shall be entitled upon presentation of such permit to utilize such special recreation facilities at a rate of 50 per centum of the established use fee.".

SEC. 10. Title III of the Act entitled "An Act to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes", approved June 5, 1978 (92 Stat. 290; 16 U.S.C. 410cc et seq.), is amended by adding at the end thereof the following new section:

"USE OF FUNDS

16 USC 410cc-37.

"SEC. 307. (a) Any revenues or other assets acquired by the Commission by donation, the lease or sale of property or fees for services shall be available to the Commission, without fiscal year limitation, to be used for any function of the Commission authorized under this Act. The Commission shall keep financial records fully disclosing the amount and source of revenues and other assets acquired by the Commission, and shall keep such other financial records as the Secretary may prescribe.

Retention of records.

Audits.

"(b) The Secretary shall require audits of the financial records of the Commission to be conducted not less frequently than once each year in order to ensure that revenues and other assets of the Commission are being used in a manner authorized under this Act.".

SEC. 11. The Act of October 27, 1972 (86 Stat. 1308), is amended—

16 USC 460cc-2.

(1) in subsection 3(b) by deleting the word "constructed" and by adding at the end thereof: "To inform the public of the contributions of Representative Ryan to the creation of the recreation area, the Secretary shall provide such signs, markers, maps, interpretive materials, literature, and programs as he deems appropriate. Not later than December 31, 1980, the Secretary shall take such additional actions as he deems appropriate to recognize and commemorate the contributions of Representative Ryan to the recreation area."; and

16 USC 460cc-3.

(2) in subsection 4(b), by changing "eleven members" in the first sentence to "fifteen members" and by changing "three members" in paragraph (5) to "seven members".

Moores Creek National Battlefield.

SEC. 12. The area formerly known as "Moores Creek National Military Park", established pursuant to the Act of June 2, 1926 (44 Stat. 684), shall henceforth be known as the "Moores Creek National Battlefield".

16 USC 422, 422a, 422a-1, 422b, 422c.

SEC. 13. Section 201(e)(1) of the Act entitled "An Act to amend the Pennsylvania Avenue Development Corporation Act of 1972; to provide for the establishment of the San Antonio Missions National Historical Park; and for other purposes", approved November 10, 1978 (92 Stat. 3635), is amended—

16 USC 410ee.

(1) by changing "seven members" in the first sentence to "eleven members", and

(2) by changing "two members" in paragraph (F) to "six members".

SEC. 14. The National Trails System Act (82 Stat. 919; 16 U.S.C. 1241) is amended by inserting the following new paragraph at the end of section 5(a):

16 USC 1244.

Overmountain Victory National Historic Trail.

"(9) The Overmountain Victory National Historic Trail, a system totaling approximately two hundred seventy-two miles of trail with routes from the mustering point near Abingdon, Virginia, to Sycamore Shoals (near Elizabethton, Tennessee); from Sycamore Shoals to Quaker Meadows (near Morganton, North Carolina); from the mus-

tering point in Surry County, North Carolina, to Quaker Meadows; and from Quaker Meadows to Kings Mountain, South Carolina, as depicted on the map identified as Map 3—Historic Features—1780 in the draft study report entitled 'Overmountain Victory Trail' dated December 1979. The map shall be on file and available for public inspection in the Office of the Director, National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior.".

Map, public inspection.

SEC. 15. The Secretary shall conduct a study to determine appropriate measures to protect and interpret for the benefit and education of the public the Falls of the Ohio, including a three-hundred-million-year-old fossilized coral reef which is exposed along the Ohio River in the vicinity of Louisville, Kentucky, and Jeffersonville, Indiana. The Secretary shall, in the course of the study, consult with and seek the advice of, appropriate scientific organizations and representatives of interested municipal, State, and other Federal agencies. Not later than two complete fiscal years from the effective date of this section, the Secretary shall transmit a report of the study, including the estimated costs of alternative measures that may be undertaken to protect and interpret the resources of the area for the public, to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, together with his recommendations for such further legislation as may be appropriate.

Study.

Report to congressional committees.

SEC. 16. Section 3(a) of the Wild and Scenic Rivers Act is amended in paragraph (22) by changing "which may be established" in the eighth sentence to "which shall be established".

16 USC 1274.

SEC. 17. In order to provide for the appropriate commemoration of George Meany, past president of the American Federation of Labor and Congress of Industrial Organizations, and his contributions on behalf of the working people of the United States, the Secretary is authorized to investigate sites associated with the life and work of George Meany and to submit, within two complete fiscal years from the effective date of this Act, a report thereon to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The Secretary shall consult with representatives of the family of George Meany and the President of the American Federation of Labor and Congress of Industrial Organizations as a part of his investigation.

George Meany commemoration. Report to congressional committees.

SEC. 18. The Secretary shall conduct, in consultation with the National Aeronautics and Space Administration, the Department of Defense, and any other entities considered by the Secretary to be appropriate, a study of locations and events associated with the historical theme of Man in Space. The purpose of such study shall be to identify the possible locations, components, and features of a new unit of the national park system commemorative to this theme, with special emphasis to be placed on the internationally historic event of the first human contact with the surface of the moon. The study shall investigate practical methodologies to permanently safeguard from change the locations, structures, and at least symbolic instrumentation features associated with this theme, and to display and interpret these for visitor appreciation. Governmental entities controlling these locations, structures, and features are hereby requested to preserve them from destruction or change during the study and congressional review period insofar as is possible. A comprehensive report derived from this study, including potential action alternatives, shall be submitted to the Committee on Interior and Insular

Man in Space commemoration. Study.

Report to congressional committees.

Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate no later than one complete fiscal year after the effective date of this section.

"Secretary."

SEC. 19. As used in this Act, except as otherwise specifically provided, the term "Secretary" means the Secretary of the Interior.

Effective date.

SEC. 20. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1980. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

Approved September 8, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-754 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 22, considered and passed Senate.
July 31, considered and passed House, amended.
Aug. 18, Senate concurred in House amendment.

Public Law 96-345
96th Congress

An Act

To provide for an accelerated program of wind energy research, development, and demonstration, to be carried out by the Department of Energy with the support of the National Aeronautics and Space Administration and other Federal agencies, and for other purposes.

Sept. 8, 1980
[H.R. 5892]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wind Energy Systems Act of 1980".

Wind Energy Systems Act of 1980.
42 USC 9201 note.

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that— 42 USC 9201.

(1) the United States is faced with a finite and diminishing resource base of native fossil fuels and, as a consequence, must develop as quickly as possible a diversified, pluralistic national energy capability and posture;

(2) the current imbalance between supply and demand for fuels and energy in the United States is likely to grow for many years;

(3) it is in the Nation's interest to provide opportunities for the increased production of electricity from renewable energy sources;

(4) the early wide-spread utilization of wind energy for the generation of electricity and for mechanical power could lead to relief on the demand for existing non-renewable fuel and energy supplies;

(5) the use of large wind energy systems for certain limited applications is already economically feasible;

(6) the use of small wind energy systems for certain applications is already economically feasible, and therefore, the Federal Government should not undertake any financial incentive or financial initiative which may detrimentally affect commercial markets for small wind energy systems;

(7) an aggressive research, development and demonstration program to accelerate widespread utilization of wind energy should solve existing technical problems of converting wind energy into electricity and mechanical energy and, supported by an assured and growing market for wind energy systems during the next decade, should maximize the future contribution of wind energy to the Nation's future energy production;

(8) it is the proper and appropriate role of the Federal Government to undertake research and development, to participate in demonstration programs for wind energy systems, and to assist private industry, other entities, and the general public in hastening the widespread utilization of such systems;

(9) the widespread use of wind energy systems to supplement and replace conventional methods for the generation of electricity and mechanical power would have a beneficial effect upon the environment;

(10) the evaluation of the performance and reliability of wind energy technologies can be expedited by the testing of prototypes under carefully controlled conditions;

(11) innovation and creativity in the development of components and systems for converting wind energy into electricity and mechanical energy can be fostered through encouraging direct contact between the manufacturers of such components and systems and utilities and other persons interested in utilizing such components and systems; and

(12) consistent with the findings of the Domestic Policy Review on Solar Energy, wind energy can potentially contribute 1.7 quads of energy per year by the year 2000.

(b) It is declared to be the policy of the United States and the purpose of this Act to establish during the next eight years an aggressive research, development, demonstration, and technology applications program for converting wind energy into electricity and mechanical energy. It is declared to be the further policy of the United States and the purpose of this Act that the objectives of such program are—

(1) to reduce the average cost of electricity produced by installed wind energy systems, by the end of fiscal year 1988, to a level competitive with conventional energy sources;

(2) to reach a total megawatt capacity in the United States from wind energy systems, by the end of fiscal year 1988, of at least eight hundred megawatts, of which at least one hundred megawatts are provided by small wind energy systems; and

(3) to accelerate the growth of a commercially viable and competitive industry to make wind energy systems available to the general public as an option in order to reduce national consumption of fossil fuel.

DEFINITIONS

42 USC 9202.

SEC. 3. For purposes of this Act—

(1) the term "wind energy system" means a system of components which converts the kinetic energy of the wind into electricity or mechanical power, and which comprises all necessary components, including energy storage, power conditioning, control systems, and transmission systems, where appropriate, to provide electricity or mechanical power for individual, residential, agricultural, commercial, industrial, utility, or governmental use;

(2) the term "small wind energy system" means a wind energy system having a maximum rated capacity of one hundred kilowatts or less;

(3) the term "large wind energy system" means a wind energy system which is not a small wind energy system;

(4) the term "public and private entity" means any individual, corporation, partnership, firm, association, agricultural cooperative, public- or investor-owned utility, public or private institution or group, any State or local government agency, or any other domestic entity;

(5) the term "known wind resource" means a site with an estimated average annual wind velocity of at least twelve miles per hour;

(6) the term "conventional energy source" means energy produced from oil, gas, coal, and nuclear fuels; and

(7) the term "Secretary" means the Secretary of Energy.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

SEC. 4. (a) The Secretary shall prepare a comprehensive program management plan for the research, development, demonstration, and technology application activities to carry out the purposes of this Act. The program activities shall be conducted in accordance with such comprehensive plan which shall include— 42 USC 9203.

(1) a five-year program for small wind energy systems,

(2) an eight-year program for large wind energy systems, and

(3) a three-year program for wind resource assessment

which shall be consistent with the provisions of sections 5, 6, and 7. In the preparation of such plan, the Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Secretary of the Interior, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate. Consultation.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within nine months after the date of the enactment of this Act. Transmittal to congessional committees.

(c) Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive plan is initially transmitted under subsection (b), the Secretary shall transmit to the Congress a detailed description of the comprehensive plan as then in effect, setting forth the modifications which may be necessary to appropriately revise such plan and any changes in circumstances which may have occurred since the plan or the last previous modification thereof was transmitted in accordance with this section. The detailed description of the comprehensive plan under this subsection shall include but need not be limited to a statement setting forth with respect to each of the programs under this Act any changes in— Detailed description of plan, transmittal to Congress.

(1) the anticipated research, development, demonstration, and technology application objectives to be achieved by the program;

(2) the program elements, management structure, and activities, including any regional aspects and field responsibilities thereof;

(3) the program strategies and technology applications plans, including detailed milestone goals to be achieved during the next fiscal year for all major activities and projects;

(4) any significant economic, environmental, and societal effects which the program may have;

(5) the total estimated cost of individual program items; and

(6) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program.

Such description shall also include a detailed justification of any such changes, a detailed description of the progress made toward achieving the goals of this Act, a statement on the status of interagency cooperation in meeting such goals, and any legislative or other recommendations which the Secretary may have to help attain such goals.

RESEARCH, DEVELOPMENT, AND DEMONSTRATION

SEC. 5. (a) The Secretary shall initiate research and development or accelerate existing research and development in areas in which the 42 USC 9204.

lack of knowledge limits the widespread utilization of wind energy systems in order to achieve the purposes of this Act.

Advanced wind energy systems.

(b)(1) The Secretary shall continue an aggressive program for the development of prototypes of advanced wind energy systems.

New or improved technology proposals.

(2) As often as he deems appropriate, the Secretary shall solicit and evaluate proposals for the research and development of any new or improved technologies, which, in the Secretary's opinion, will contribute to the development of improvements in current wind energy systems.

(c) The Secretary is authorized to enter into contracts, grants, and cooperative agreements with public and private entities for the purchase, fabrication, installation, and testing to obtain scientific, technological, and economic information from the demonstration of a variety of prototypes of advanced wind energy systems under a variety of circumstances and conditions.

(d) In carrying out the responsibilities under this section, the Secretary is not subject to the requirements of section 553 of title 5, United States Code, or section 501 of the Department of Energy Organization Act (42 U.S.C. 7191).

TECHNOLOGY APPLICATION PROGRAMS

42 USC 9205.

SEC. 6. (a) The Secretary shall establish a technology application program for wind energy systems to achieve the purposes of this Act by reduction in unit costs of wind energy systems through mass production and by determination of operating and maintenance costs through broad operational systems experience.

Federal assistance proposals.

(b) In achieving the objectives of this section, the Secretary shall solicit and evaluate proposals for Federal assistance pursuant to paragraphs (1), (2), and (3) of subsection (c) for investigating, purchasing, and installing such wind energy systems from public or private entities wishing to utilize wind energy systems.

(c) In achieving the objectives of this section, the Secretary is authorized to use various forms of Federal assistance including, but not limited to—

(1) contracts and cooperative agreements;
(2) grants;
(3) loans; and
(4) direct Federal procurement.

(d) In carrying out his duties under this Act, the Secretary is authorized to enter into such contracts and cooperative agreements with any public or private entity as may be necessary or appropriate for the production and utilization of large and small wind energy systems in quantities sufficient to achieve the objectives of this section.

Grants.

(e) In carrying out his duties under this Act, the Secretary shall, within six months of the date of enactment of this Act, establish procedures to allow any public or private entity wishing to install a large wind energy system to apply for and, upon meeting such terms and conditions as the Secretary may prescribe, to receive a direct grant for a portion of the total purchase and installation cost of such wind energy system: *Provided,* That grants for the portion of such cost in the case of large wind energy systems shall not exceed (A) 50 per centum of such cost during the first six years of the program under this subsection, and (B) 25 per centum of such cost during the seventh or eighth year of the program.

Loans.

(f)(1) In carrying out his duties under this Act, the Secretary shall, within six months of the date of enactment of this Act, establish

procedures to allow public or private entities wishing to install a small or large wind energy system to apply for and, upon meeting such terms and conditions as the Secretary may prescribe, to receive loans for up to 75 per centum of the total purchase and installation costs of wind energy systems providing in the aggregate up to three hundred and twenty megawatts peak generating capacity involving at a minimum four projects: *Provided,* That no such loan in any fiscal year shall be for more than 50 per centum of the amount appropriated under this Act for such fiscal year.

(2) Each loan shall be for a term which the Secretary deems appropriate, but no loan shall exceed twenty years beyond the date the wind energy system becomes operational.

Interest rate.

(3) Each loan made pursuant to this section shall bear interest at the discount or interest rate used at the time the loan is made for water resource planning projects under section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962(d)-17(a)). Such loan can be prepaid at any time without prepayment penalty and shall be contingent upon such other terms and conditions prescribed by the Secretary.

42 USC 1962d-17.

(g)(1) In carrying out his duties under this Act, the Secretary is authorized to provide funds for the accelerated procurement and installation of small and large wind energy systems by Federal agencies.

Arrangements with appropriate Federal agencies.

(2) The Secretary is authorized to enter into arrangements with appropriate Federal agencies, including the Water and Power Resources Services and the Federal power marketing agencies for large wind energy systems, to carry out such projects and activities as may be appropriate for the broad technology applications of small and large wind energy systems which are suitable and effective for use by such Federal agencies.

Terms and conditions.

(h) The terms and conditions prescribed by the Secretary under this subsection shall require such observation, monitoring, and reporting requirements as the Secretary deems necessary for a period of five years and shall provide for members of the public to view and inspect the system under reasonable conditions.

Terminations.

(i) New Federal assistance for technology applications systems shall terminate upon the appropriate determination by the Secretary, in the annual update of the comprehensive program management plan pursuant to section 4. Termination of the small wind energy systems program shall occur when the Secretary finds that such systems have become economically competitive with conventional energy sources, or on September 30, 1985, whichever occurs first. Termination of the large wind energy systems program shall occur when the Secretary finds that such systems have become economically competitive with conventional energy sources, or on September 30, 1988, whichever occurs first.

WIND RESOURCE ASSESSMENT

42 USC 9206.

SEC. 7. The Secretary shall initiate a three-year national wind resource assessment program. As part of such program, the Secretary shall—

(1) conduct activities to validate existing assessments of known wind resources;

(2) perform wind resource assessments in regions of the United States where the use of wind energy may prove feasible;

(3) initiate a general site prospecting program;

(4) establish standard wind data collection and siting techniques; and

National wind data center.

(5) establish, in consultation with the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the National Aeronautics and Space Administration, and the Administrator of the Environmental Protection Agency, a national wind data center which shall make public information available on the known wind energy resources of various regions throughout the United States.

CRITERIA FOR PROGRAM SELECTION

42 USC 9207.

SEC. 8. The Secretary shall set priorities which are, as far as possible, consistent with the intent and purposes of this Act and which are set in accordance with the following criteria:

(1) the construction, operation, and maintenance costs of wind energy systems shall be minimized;

(2) programs established under this Act shall be conducted with the express intent of bringing wind energy system costs down to a level competitive with energy costs from conventional energy systems;

(3) priority shall be given in the conduct of programs established under this Act to those projects in which cost-sharing funds are provided by private, industrial, agricultural, or governmental entities or utilities; and

(4) to the extent that the Secretary is limited by the availability of funds to carry out the objectives of this Act, priority, but not exclusive emphasis, should be given in the early years of the programs to activities under sections 5 and 7 and in the later years of the programs to activities under section 6.

MONITORING, INFORMATION GATHERING, AND LIAISON

42 USC 9208.

SEC. 9. (a) The Secretary, in coordination with such Government agencies as may be appropriate, shall—

(1) monitor the performance and operation of wind energy systems installed under this Act;

(2) collect and evaluate data and information on the performance and operation of wind energy systems installed under this Act; and

Reports to Congress.

(3) from time to time carry out such studies and investigations and take such other actions, including the submission of special reports to the Congress when appropriate, as may be necessary to assure that the programs for which the Secretary is responsible under this Act effectively carry out the purposes of this Act.

(b) The Secretary shall also maintain continuing liaison with related industries and interests and with the scientific and technical community in order to assure that the benefits of programs under this Act are and will continue to be realized to the maximum extent feasible.

(c) The Secretary shall assure, subject to section 552 of title 5, United States Code, and section 1905 of title 18, United States Code, that full and complete information with respect to any program, project, or other activity conducted under this Act is made available to Federal, State, and local authorities, relevant segments of the economy, the scientific community, and the public so that the early, widespread, and practical use of wind energy throughout the United States is promoted to the maximum extent feasible.

UTILIZATION OF CAPABILITIES AND FACILITIES

SEC. 10. The Secretary shall utilize the technological and management capabilities, equipment, and facilities of the National Aeronautics and Space Administration to the maximum extent practicable in carrying out his duties under this Act, and shall enter into such additional agreements with the Administrator of such Administration as may be necessary for this purpose. 42 USC 9209.

ANALYSIS OF APPLICATIONS OF WIND ENERGY SYSTEMS

SEC. 11. The Secretary shall— Federal applications study. 42 USC 9210.

(1) initiate and conduct a federal applications study for wind energy systems, cooperatively with appropriate Federal agencies to determine the potential for the use of wind systems at specific Federal facilities; and this study shall—

(A) include an analysis which determines those sites at which wind energy systems are economically competitive with the marginal costs of new conventional energy sources in the areas;

(B) identify potential sites and uses of wind energy systems at the following agencies as well as any others which the Secretary deems necessary:

(i) the Department of Defense;

(ii) the Department of Transportation (including the United States Coast Guard, the Federal Aviation Administration, and the Federal Highway Administration);

(iii) the Department of Commerce;

(iv) the Department of Agriculture; and

(v) the Department of the Interior;

(C) provide a preliminary report to the Congress within nine months after the date of enactment of this Act; and Report to Congress.

(D) include the presentation of a detailed plan for the use of wind energy systems for power generation at specific sites in Federal Government agencies to the Congress within twelve months after the date of enactment of this Act; Detailed plan, presentation to Congress.

(2) study the effects, at varying levels of market penetration, of the widespread utilization of wind energy systems on the existing electrical utility system;

(3) determine the necessity for, and make recommendations to the Committee on Energy and Natural Resources of the Senate and the Committee on Science and Technology of the House of Representatives within eighteen months after the date of enactment of this Act on, the need for any additional incentives for either users or manufacturers, in each of the potential markets for wind energy systems, to accelerate the widespread utilization of wind energy technologies; Recommendations to congressional committees.

(4) evaluate the actual performance of wind energy systems in various applications, including but not limited to residential, agricultural, large and small scale irrigation pumping, industrial, commercial, remote nonnetwork utility, and other applications, and report thereon to the Congress within two years after the date of enactment of this Act; Evaluation; report to Congress.

(5) initiate and conduct a study involving the prospects for applications of wind energy systems for power generation in foreign countries, particularly lesser developed countries and the potential for the exploration of these energy systems. This study Study.

shall involve the cooperation of the Department of State and the Department of Commerce, as well as other Federal agencies which the Secretary deems appropriate. A final report shall be submitted to the Congress, as well as a preliminary report within twelve months of the date of enactment of this Act; and

Reports to Congress.

(6) in carrying out his functions under this section, consult with the appropriate government agencies, industry representatives, and members of the scientific and technical community having expertise and interest in this subject.

Merging of studies.

The Secretary, as appropriate, may merge any continuing or on-going studies within the Department of Energy or any other Federal agency with those required under this section to avoid any unnecessary duplication of effort or funding.

ENCOURAGEMENT AND PROTECTION OF SMALL BUSINESS

42 USC 9211.

SEC. 12. (a) In carrying out his functions under this Act, the Secretary shall take steps to assure that small business concerns will have realistic and adequate opportunities to participate in the programs under this Act to the maximum extent practicable.

(b) The Secretary shall, to the maximum extent practicable, use all authority provided by law to protect trade secrets and other proprietary information submitted by small business under this Act and to avoid the unnecessary disclosure of such information.

Compliance with antitrust laws.

(c) The Secretary shall take such steps as may be necessary to assure compliance with the antitrust laws in the conduct of activities related to the manufacture or sale of wind energy systems directly or indirectly assisted under this Act, and shall implement this Act in a manner which will protect against the creation of noncompetitive market situations in the conduct of such activities.

GENERAL PROVISIONS

42 USC 9212.

SEC. 13. (a) Nothing in this Act shall be construed as preventing the Secretary from undertaking projects or activities in addition to those specified in this Act if such projects or activities appropriately further the purposes set forth in this subsection.

(b) This Act applies to each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands and the territories and possessions of the United States including the Trust Territory of the Pacific Islands.

AUTHORIZATION OF APPROPRIATIONS

42 USC 9213.

SEC. 14. (a) There is authorized to be appropriated to the Secretary to carry out this Act (1) for the fiscal year ending September 30, 1981, the sum of $100,000,000 (of which $10,000,000 shall be available exclusively for purposes of section 7), and (2) for each fiscal year beginning after that date, such sum as may be authorized by legislation hereafter enacted.

(b) In each of the five years of the small wind energy systems program, at least 25 per centum of the total authorization for appropriations under subsection (a) shall be for small wind energy systems activities, including supporting activities.

Approved September 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-662 (Comm. on Science and Technology) and No. 96-1217 (Comm. of Conference).
SENATE REPORT No. 96-753 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 3, 4, considered and passed House.
Vol. 126 (1980): June 16, considered and passed Senate, amended.
June 20, House concurred in Senate amendment to the text with an amendment, and concurred in the Senate amendment to the title.
Aug. 6, Senate agreed to conference report.
Aug. 26, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 37 (1980): Sept. 8, Presidential statement.

Public Law 96-346
96th Congress

An Act

Sept. 10, 1980
[H.R. 7072]

To amend sections 5702 and 5704 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses and mileage allowances of Government employees on official travel, and for other purposes.

Government travel expense allowances, increase.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5702 of title 5, United States Code, is amended—

(1) by striking out "$35" in subsection (a) and inserting in lieu thereof "$50";

(2) by striking out "$50" in subsection (c) and inserting in lieu thereof "$75"; and

(3) by striking out "$21" in subsection (d) and inserting in lieu thereof "$33".

SEC. 2. Section 5704 of title 5, United States Code, is amended—

(1) by striking out "11 cents" in subsection (a)(1) and inserting in lieu thereof "20 cents";

(2) by striking out "20 cents" in subsection (a)(2) and inserting in lieu thereof "25 cents"; and

(3) by striking out "24 cents" in subsection (a)(3) and inserting in lieu thereof "45 cents".

5 USC 5702 note.

SEC. 3. To make available to Congress information in order that it may evaluate and reduce excessive per diem and mileage allowance payments:

GSA-conducted travel survey.

(a) The Administrator of General Services shall, based upon a sampling survey, collect by fiscal year the following information (compiled separately for payments made under sections 5702 and 5704 of title 5, United States Code, and for each agency evaluated) with respect to agencies spending more than $5,000,000 annually on transportation of people:

(1) identification of the general causes and purposes of travel, both foreign and domestic, estimates of total payments, average cost and duration of trip, and an explanation of how these estimates were determined; and

(2) identification by specific agency of travel practices which appear to be inefficient from a travel management or program management standpoint and recommendations to the Congress on the applicability of alternatives to travel as well as other techniques to improve the use of travel in carrying out program objectives by relating travel to mission.

Report to Congress.

(b)(1) The Administrator shall report the information required by subsection (a) to the Congress for fiscal year 1979 by February 1, 1981; for fiscal year 1980 by June 1, 1981; and for fiscal year 1981 by June 1, 1982.

(2) The Administrator is empowered to issue such rules and regulations as are necessary to ensure that the information is submitted by the various agencies to him in a manner that permits comparisons among the agencies and to permit him to compile the information required to be included in the annual report. Rules and regulations.

Approved September 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1021 (Comm. on Government Operations).
SENATE REPORT No. 96-904 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 9, considered and passed House.
Aug. 27, considered and passed Senate.

Public Law 96-347
96th Congress

An Act

Sept. 12, 1980
[H.R. 1781]

To amend title 5, United States Code, to provide that civilian air traffic controllers of the Department of Defense shall be treated the same as air traffic controllers of the Department of Transportation for purposes of retirement, and for other purposes.

Air traffic controllers, retirement provisions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2109 of title 5, United States Code, is amended to read as follows:

"§ 2109. Air traffic controller; Secretary

Definitions.

"For the purpose of this title—

"(1) 'air traffic controller' or 'controller' means an employee of the Department of Transportation or the Department of Defense who, as determined under regulations prescribed by the Secretary, is actively engaged in the separation and control of air traffic, or is the immediate supervisor of an employee actively engaged in the separation and control of air traffic, in an air traffic control facility; and

"(2) 'Secretary', when used in connection with 'air traffic controller' or 'controller', means the Secretary of Transportation with respect to controllers in the Department of Transportation, and the Secretary of Defense with respect to controllers in the Department of Defense.".

(b) Sections 3307(b), 3381(a), 3382, 3383(a), 3384, 3385, and 8335(a) of title 5, United States Code, are each amended by striking out "Secretary of Transportation" each place it appears and inserting in lieu thereof "Secretary".

(c)(1) Section 3381(c)(1) of title 5, United States Code, is amended by striking out "in the Department of Transportation" and inserting in lieu thereof "in the Executive agency in which the controller is employed".

(2) Section 3383(b)(2) of title 5, United States Code, is amended by striking out "the Department of Transportation" and inserting in lieu thereof "the Executive agency in which the controller is employed".

(3) Section 3383(d) of title 5, United States Code, is amended by striking out "within the Department of Transportation" and inserting in lieu thereof "within the Executive agency in which such controller is employed".

(d) The analysis of chapter 21, of title 5, United States Code, is amended by striking out the item relating to section 2109 and inserting in lieu thereof the following:

"2109. Air traffic controller; Secretary.".

SEC. 2. Section 8335(a) of title 5, United States Code, shall not apply to an individual appointed as an air traffic controller in the Department of Defense before the date of the enactment of this Act. 5 USC 8335 note.

SEC. 3. This Act shall take effect on the later of— Effective date. 5 USC 2109 note.

(1) October 1, 1980, or

(2) the ninetieth day after the date of the enactment of this Act.

Approved September 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1076 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 96-902 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 9, considered and passed House.
Aug. 27, considered and passed Senate.

79-194 O—81—pt. 1——76 : QL3

Public Law 96-348
96th Congress

An Act

Sept. 12, 1980
[H.R. 1967]

To modify the boundary of the White River National Forest in the State of Colorado.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

White River National Forest, Colo., boundary modification.

SECTION 1. The exterior boundary of the White River National Forest in the State of Colorado is hereby modified to include additional areas of approximately thirty-two thousand three hundred and seven (32,307) acres and three thousand eight hundred and forty-one (3,841) acres, in Eagle and Pitkin Counties, respectively, as generally depicted on the maps entitled "Boundary Modification, White River National Forest, Colorado" (Minturn Addition and Aspen Addition), dated July 1980.

SEC. 2. Except as provided in section 3 of this Act, all lands owned by the United States in the areas described in section 1 of this Act are hereby added to the White River National Forest, and except as provided in section 4 hereof, shall be administered in accordance with the laws, rules, and regulations applicable thereto.

SEC. 3. The tracts of land identified in sales applications, Bureau of Land Management, serial numbers C-14117 and C-28389, shall not become a part of the White River National Forest unless such applications are denied, and if they are denied in accordance with the laws, rules, and regulations applicable thereto, such lands shall become part of the national forest and be administered in accordance with section 2 of the date of issuance of the denial.

Permits or grazing authorizations.

SEC. 4. Except as provided in this section, nothing in this Act shall affect the validity or term of any existing withdrawal, right-of-way, license, lease, easement, or prospecting permit issued pursuant to the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.) covering lands transferred by this Act. Any other existing permit or grazing authorization covering lands transferred by this Act is hereby canceled effective December 31 of the year following enactment of this Act. During the period between enactment of this Act and said December 31, such permit or grazing authorization shall continue to be administered by the agency which initially issued the permit or grazing authorization. On or before said December 31, the holders of such permit or grazing authorization may apply for a new permit or grazing authorization to the agency which acquires administrative jurisdiction of the land which such prior authorizations cover. The provisions of section 402(g) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752(g)) shall not apply to the termination of any grazing authorization pursuant to this section.

SEC. 5. For the purpose of section 6 (renumbered section 7 by the Act of July 11, 1972, 86 Stat. 459) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903, as amended; 16 U.S.C. 4601-9) the boundary of the White River National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that forest on January 1, 1965. 16 USC 460*l*-9.

SEC. 6. The provisions of this Act shall take effect on the date of enactment of this Act. Effective date.

Approved September 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-599 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-664 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 14, considered and passed House.
Vol. 126 (1980): June 5, considered and passed Senate, amended.
Aug. 21, House concurred in Senate amendment with an amendment.
Aug. 27, Senate agreed to House amendment.

Public Law 96-349
96th Congress

An Act

Sept. 12, 1980
[S. 390]

To expedite and reduce the cost of antitrust litigation, and for other purposes.

Antitrust Procedural Improvements Act of 1980. 15 USC 1311 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antitrust Procedural Improvements Act of 1980".

CIVIL INVESTIGATIVE DEMANDS FOR PRODUCTS OF DISCOVERY

SEC. 2. (a) Section 2 of the Antitrust Civil Process Act (15 U.S.C. 1311; 76 Stat. 548) is amended—

(1) in subsection (g), by striking out "; and" at the end thereof and inserting in lieu thereof the following: ", and any product of discovery;";

(2) in subsection (h), by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraph:

"Product of discovery."

"(i) The term 'product of discovery' includes without limitation the original or duplicate of any deposition, interrogatory, document, thing, result of the inspection of land or other property, examination, or admission obtained by any method of discovery in any judicial litigation or in any administrative litigation of an adversarial nature; any digest, analysis, selection, compilation, or any derivation thereof; and any index or manner of access thereto; and".

Civil investigative demands.

(b)(1) Section 3(a) of the Antitrust Civil Process Act (15 U.S.C. 1312(a)) is amended by adding at the end thereof the following new sentence: "Whenever a civil investigative demand is an express demand for any product of discovery, the Attorney General or the Assistant Attorney General in charge of the Antitrust Division shall cause to be served, in any manner authorized by this section, a copy of such demand upon the person from whom the discovery was obtained and notify the person to whom such demand is issued of the date on which such copy was served.".

(2) Section 3(b) of that Act (15 U.S.C. 1312(b)) is amended by adding at the end thereof the following new sentence:
"Any such demand which is an express demand for any product of discovery shall not be returned or returnable until twenty days after a copy of such demand has been served upon the person from whom the discovery was obtained.".

(3) Section 3(c) of that Act (15 U.S.C. 1312(c)) is amended—

(A) by inserting "(1)" immediately after "(c)";

(B) by striking out "(1)" and inserting in lieu thereof "(A)";

(C) by striking out "(2)" and inserting in lieu thereof "(B)"; and

(D) by adding at the end thereof the following new paragraph:

Disclosure or restrain.

"(2) Any such demand which is an express demand for any product of discovery supersedes any inconsistent order, rule, or provision of law (other than this Act) preventing or restraining disclosure of such product of discovery to any person. Disclosure of any product of discovery pursuant to any such express demand does not constitute a

waiver of any right or privilege, including without limitation any right or privilege which may be invoked to resist discovery of trial preparation materials, to which the person making such disclosure may be entitled.".

(4) Paragraph (3) of section 4(c) of that Act (15 U.S.C. 1313(c)(3)) is amended by inserting immediately after "transcripts" the second place it appears the following: ", and, in the case of any product of discovery produced pursuant to an express demand for such material, of the person from whom the discovery was obtained". Responsibility for materials, disclosure.

(5) Section 5 of that Act (15 U.S.C. 1314) is amended— Judicial proceedings.

(A) by amending subsection (b) to read as follows:

"(b)(1) Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding twenty days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any antitrust investigator named in the demand, such person may file and serve upon such antitrust investigator, and in the case of an express demand for any product of discovery upon the person from whom such discovery was obtained, a petition for an order modifying or setting aside such demand— Demand for material, petition; modification.

"(A) in the district court of the United States for the judicial district within which such person resides, is found, or transacts business; or

"(B) in the case of a petition addressed to an express demand for any product of discovery, only in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending.

"(2) The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court, except that such person shall comply with any portions of the demand not sought to be modified or set aside. Such petition shall specify each ground upon which the petitioner relies in seeking such relief and may be based upon any failure of such demand to comply with the provisions of this Act, or upon any constitutional or other legal right or privilege of such person."; Compliance.

(B) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(C) by inserting immediately after subsection (b) the following new subsection:

"(c) Whenever any such demand is an express demand for any product of discovery, the person from whom such discovery was obtained may file, at any time prior to compliance with such express demand, in the district court of the United States for the judicial district in which the proceeding in which such discovery was obtained is or was last pending, and serve upon any antitrust investigator named in the demand and upon the recipient of the demand, a petition for an order of such court modifying or setting aside those portions of the demand requiring production of any such product of discovery. Such petition shall specify each ground upon which the petitioner relies in seeking such relief and may be based upon any failure of such portions of the demand to comply with the provisions of this Act, or upon any constitutional or other legal right or privilege of the petitioner. During the pendency of such petition, the court may stay, as it deems proper, compliance with the demand and the running of the time allowed for compliance with the demand."; and Portions of demand, petition; modification.

(D) in subsection (d), as that subsection has been redesignated by subparagraph (B), by inserting immediately after "such person" the following: ", and, in the case of an express demand for any product of discovery, the person from whom such discovery was obtained,".

SANCTIONS FOR ATTORNEY DELAY

SEC. 3. Section 1927 of title 28, United States Code, is amended—

(1) by striking out "as to increase costs"; and

(2) by striking out "such excess costs" and inserting in lieu thereof "the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct".

PREJUDGMENT INTEREST

Suits by persons injured.

SEC. 4. (a)(1) Section 4 of the Clayton Act (15 U.S.C. 15) is amended by adding at the end thereof the following new sentences: "The court may award under this section, pursuant to a motion by such person promptly made, simple interest on actual damages for the period beginning on the date of service of such person's pleading setting forth a claim under the antitrust laws and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this section for any period is just in the circumstances, the court shall consider only—

Award of interest, eligibility.

"(1) whether such person or the opposing party, or either party's representative, made motions or asserted claims or defenses so lacking in merit as to show that such party or representative acted intentionally for delay, or otherwise acted in bad faith;

"(2) whether, in the course of the action involved, such person or the opposing party, or either party's representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

"(3) whether such person or the opposing party, or either party's representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.".

Suits by U.S.

(2) Section 4A of the Clayton Act (15 U.S.C. 15a) is amended by adding at the end thereof the following new sentences: "The court may award under this section, pursuant to a motion by the United States promptly made, simple interest on actual damages for the period beginning on the date of service of the pleading of the United States setting forth a claim under the antitrust laws and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this section for any period is just in the circumstances, the court shall consider only—

Award of interest, eligibility.

"(1) whether the United States or the opposing party, or either party's representative, made motions or asserted claims or defenses so lacking in merit as to show that such party or representative acted intentionally for delay or otherwise acted in bad faith;

"(2) whether, in the course of the action involved, the United States or the opposing party, or either party's representative, violated any applicable rule, statute, or court order providing for

sanctions for dilatory behavior or otherwise providing for expeditious proceedings;

"(3) whether the United States or the opposing party, or either party's representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof; and

"(4) whether the award of such interest is necessary to compensate the United States adequately for the injury sustained by the United States.".

(3) Section 4C(a)(2) of the Clayton Act (15 U.S.C. 15c(a)(2)) is amended by adding at the end thereof the following new sentences: "The court may award under this paragraph, pursuant to a motion by such State promptly made, simple interest on the total damage for the period beginning on the date of service of such State's pleading setting forth a claim under the antitrust laws and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this paragraph for any period is just in the circumstances, the court shall consider only— Award to States. Eligibility.

"(A) whether such State or the opposing party, or either party's representative, made motions or asserted claims or defenses so lacking in merit as to show that such party or representative acted intentionally for delay or otherwise acted in bad faith;

"(B) whether, in the course of the action involved, such State or the opposing party, or either party's representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

"(C) whether such State or the opposing party, or either party's representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.".

(b) The amendments made by this section shall apply only with respect to actions commenced after the date of the enactment of this Act. Effective date. 15 USC 15 note.

APPLICATION OF COLLATERAL ESTOPPEL

SEC. 5. (a) Section 5(a) of the Clayton Act (15 U.S.C. 16(a)) is amended—

(1) by striking out "or by the United States under section 4A,";

(2) by striking out "or to judgments or decrees entered in actions under section 4A"; and

(3) by inserting at the end thereof the following new sentence: "Nothing contained in this section shall be construed to impose any limitation on the application of collateral estoppel, except that, in any action or proceeding brought under the antitrust laws, collateral estoppel effect shall not be given to any finding made by the Federal Trade Commission under the antitrust laws or under section 5 of the Federal Trade Commission Act which could give rise to a claim for relief under the antitrust laws.". 15 USC 45.

(b) The amendments made by this section shall not apply with respect to any actions brought by or on behalf of the United States under the antitrust laws before the date of the enactment of this Act. 15 USC 16 note.

MERGER JURISDICTION

SEC. 6. (a) Section 7 of the Clayton Act (15 U.S.C. 18) is amended—

(1) by striking out "corporation" each place it appears in the first and second paragraphs and inserting in lieu thereof "person" in each such place;

(2) by striking out "corporations" in the second paragraph and in the first sentence of the third paragraph and inserting in lieu thereof "persons"; and

(3) by inserting "or in any activity affecting commerce" after "commerce" each place it appears in the first three paragraphs.

Effective date. 15 USC 18 note.

(b) The amendments made by this section shall apply only with respect to acquisitions made after the date of the enactment of this Act.

USE OF AGENTS BY THE DEPARTMENT OF JUSTICE

SEC. 7. (a)(1) Section 2 of the Antitrust Civil Process Act (15 U.S.C. 1311), as amended by section 2 of this Act, is further amended by adding at the end thereof the following new paragraph:

"Agent."

"(j) The term 'agent' includes any person retained by the Department of Justice in connection with the enforcement of the antitrust laws.".

(2) Paragraphs (2) and (3) of section 4(c) of the Antitrust Civil Process Act (15 U.S.C. 1313(c) (2) and (3)) are amended by striking out "official or employee" each place it appears and inserting in lieu thereof "official, employee, or agent" in each such place.

Ante, p. 1155.

(b) Section 1905 of title 18, United States Code, is amended by inserting after "thereof," the first place it appears the following: "or agent of the Department of Justice as defined in the Antitrust Civil Process Act (15 U.S.C. 1311-1314),".

Approved September 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-875 (Comm. on the Judiciary) accompanying H.R. 4048 and No. 96-1234 (Comm of Conference).

SENATE REPORT No. 96-238 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 125 (1979): July 20, considered and passed Senate.

Vol. 126 (1980): June 12, H.R. 4048 considered and passed House; passage vacated and S. 390, amended, passed in lieu.

Aug. 18, Senate agreed to conference report.

Aug. 28, House agreed to conference report.

[See also the following bills and their accompanying reports: H.R. 4046, H.R. 4049, H.R. 4050, and H.R. 5949.]

Public Law 96-350
96th Congress

An Act

To facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes.

Sept. 15, 1980
[H.R. 2538]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) it is unlawful for any person on board a vessel of the United States, or on board a vessel subject to the jurisdiction of the United States on the high seas, to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

Coast Guard.
Enforcement of importation laws.
21 USC 955a.

(b) It is unlawful for a citizen of the United States on board any vessel to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

(c) It is unlawful for any person on board any vessel within the customs waters of the United States to knowingly or intentionally manufacture or distribute, or to possess with intent to manufacture or distribute, a controlled substance.

(d) It is unlawful for any person to possess, manufacture, or distribute a controlled substance—

(1) intending that it be unlawfully imported into the United States; or

(2) knowing that it will be unlawfully imported into the United States.

(e) Subsections (a), (b), and (c) do not apply to a common or contract carrier, or an employee thereof, who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business or to a public vessel of the United States, or any person on board such a vessel who possesses or distributes a controlled substance in the lawful course of his duties, if the controlled substance is a part of the cargo entered in the vessel's manifest and is intended to be lawfully imported into the country of destination for scientific, medical, or other legitimate purposes. It shall not be necessary for the United States to negative the exception set forth in this subsection in any complaint, information, indictment, or other pleading or in any trial or other proceeding. The burden of going forward with the evidence with respect to this exception is upon the person claiming its benefit.

Lawful distribution of controlled substances.

(f) Any person who violates this section shall be tried in the United States district court at the point of entry where that person enters the United States, or in the United States District Court for the District of Columbia.

Violations.

(g)(1) Any person who commits an offense defined in subsection (a), (b), (c) or (d) of this section shall be punished in accordance with the penalties set forth in section 1010 of the Comprehensive Act.

Penalties.
21 USC 960.

(2) Notwithstanding paragraph (1) of this subsection, any person convicted of an offense under this Act shall be punished in accordance with the penalties set forth in section 1012 of the Comprehensive

21 USC 962.

Act if such offense is a second or subsequent offense as defined in section 1012(b) of that Act.

(h) This section is intended to reach acts of possession, manufacture, or distribution committed outside the territorial jurisdiction of the United States.

Definitions.
21 USC 955b.

SEC. 2. As used in this Act—

(a) "Customs waters" means those waters as defined in section 401(j) of the Tariff Act of 1930 (19 U.S.C. 1401(j)).

(b) "High seas" means all waters beyond the territorial seas of the United States and beyond the territorial seas of any foreign nation.

(c) "Vessel of the United States" means any vessel documented under the laws of the United States, or numbered as provided by the Federal Boat Safety Act of 1971, as amended, or owned in whole or in part by the United States or a citizen of the United States, or a corporation created under the laws of the United States, or any State, Territory, District, Commonwealth, or possession thereof, unless the vessel has been granted nationality by a foreign nation in accordance with article 5 of the Convention on the High Seas, 1958.

46 USC 1451 note.

13 UST 2315.

(d) "Vessel subject to the jurisdiction of the United States" includes a vessel without nationality or a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of article 6 of the Convention on the High Seas, 1958.

(e) "Comprehensive Act" means the Comprehensive Drug Abuse Control and Prevention Act of 1970 (21 U.S.C. 801-966). All terms used in this Act that are defined in the Comprehensive Act have the meanings assigned to them by that Act.

Offense.
21 USC 955c.

SEC. 3. Any person who attempts or conspires to commit any offense defined in this Act is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

21 USC 955d.
21 USC 881.

SEC. 4. Any property described in section 511(a) of the Comprehensive Act that is used or intended for use to commit, or to facilitate the commission of, an offense under this Act shall be subject to seizure and forfeiture in the same manner as similar property seized or forfeited under section 511 of the Comprehensive Act.

Approved September 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-323 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-855 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 125 (1979): July 23, considered and passed House.
Vol. 126 (1980): July 24, considered and passed Senate, amended.
July 31, House concurred in certain Senate amendments, in others with amendments.
Sept. 3, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 38 (1980): Sept. 15, Presidential statement.

Public Law 96-351
96th Congress

An Act

To authorize the enlistment of citizens of the Northern Mariana Islands in the Armed Forces of the United States of America.

Sept. 15, 1980
[H.R. 4627]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of sections 3253 and 8253 of title 10, United States Code, and in accordance with a Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (approved on March 24, 1976, by Public Law 94-241), a citizen of the Northern Mariana Islands who indicates in writing to a commissioned officer of the Armed Forces of the United States of America an intent to become a citizen, and not a national, of the United States upon full implementation of such Covenant, and who is otherwise qualified for military service under applicable laws and regulations, may enlist in the Armed Forces of the United States of America.

Northern Mariana Islands. Enlistment of citizens in U.S. Armed Forces. 10 USC 3253 note.

SEC. 2. This Act shall expire upon the establishment of the Commonwealth of the Northern Mariana Islands.

Expiration date. 10 USC 3253 note.

Approved September 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-468 (Comm. on Armed Services).
SENATE REPORT No. 96-851 (Comm. on Armed Services).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 15, considered and passed House.
Vol. 126 (1980): July 25, considered and passed Senate, amended.
Aug. 28, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 38 (1980): Sept. 15, Presidential statement.

Public Law 96-352
96th Congress

Joint Resolution

Sept. 17, 1980
[H.J. Res. 607]

Making an urgent supplemental appropriation for the Veterans Administration for the fiscal year ending September 30, 1980.

Veterans Administration, Census Bureau, supplemental appropriation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1980, namely:

VETERANS ADMINISTRATION

READJUSTMENT BENEFITS

For an additional amount for "Readjustment benefits", $40,000,000, to remain available until expended.

DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

For an additional amount for "Periodic censuses and programs", $27,000,000, to remain available until expended.

Approved September 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1311 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 15, considered and passed House.
Sept. 16, considered and passed Senate, amended; House concurred in Senate amendment.

Public Law 96-353
96th Congress

Joint Resolution

To authorize and request the President to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day".

Sept. 19, 1980
[H.J. Res. 594]

Whereas Constantino Brumidi, born in Rome, Italy, on July 26, 1805, landed at New York Harbor on September 18, 1852, as a political exile, making his flight from Italy to the United States because of his love for liberty; and

Whereas Brumidi's love for his adopted country led him to seek citizenship two years after his arrival; and

Whereas the artist's love for liberty joined his love for art and his love of country as he spent the last twenty-five years of his life embellishing the United States Capitol, including the corridors of the Senate wing, the formal offices of the President and the Vice President, the Senate reception room, the present House and Senate Appropriations Committee rooms, and the rotunda; and

Whereas in 1877, at the age of seventy-two, Brumidi began his last work, the fresco frieze encircling the top of the rotunda, and fell from a slipped scaffolding three years later while attempting to complete part of the work, and though not injured, suffered a shock so great that he was never able to return to work; and

Whereas Brumidi died as a result of this experience three months later in February 1880; and

Whereas the Congress recognizes the artist's devotion and talent which earned him the nickname of the "Michelangelo of the Capitol of the United States"; and

Whereas the year 1980 marks the one hundred and seventy-fifth anniversary of the birth, and the one hundredth anniversary of the death of Constantino Brumidi: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating September 18, 1980, as "Constantino Brumidi Day" and calling upon the people of the United States, State and local government agencies, and interested organizations to observe that week with appropriate ceremonies, activities, and programs.

Constantino Brumidi Day. Designation authorization.

Approved September 19, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 3, considered and passed House.
Sept. 17, considered and passed Senate, in lieu of S.J. Res. 197.

Public Law 96-354
96th Congress

An Act

Sept. 19, 1980
[S. 299]

To amend title 5, United States Code, to improve Federal rulemaking by creating procedures to analyze the availability of more flexible regulatory approaches for small entities, and for other purposes.

Regulatory Flexibility Act.
5 USC 601 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regulatory Flexibility Act".

FINDINGS AND PURPOSES

5 USC 601 note.

SEC. 2. (a) The Congress finds and declares that—

(1) when adopting regulations to protect the health, safety and economic welfare of the Nation, Federal agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public;

(2) laws and regulations designed for application to large scale entities have been applied uniformly to small businesses, small organizations, and small governmental jurisdictions even though the problems that gave rise to government action may not have been caused by those smaller entities;

(3) uniform Federal regulatory and reporting requirements have in numerous instances imposed unnecessary and disproportionately burdensome demands including legal, accounting and consulting costs upon small businesses, small organizations, and small governmental jurisdictions with limited resources;

(4) the failure to recognize differences in the scale and resources of regulated entities has in numerous instances adversely affected competition in the marketplace, discouraged innovation and restricted improvements in productivity;

(5) unnecessary regulations create entry barriers in many industries and discourage potential entrepreneurs from introducing beneficial products and processes;

(6) the practice of treating all regulated businesses, organizations, and governmental jurisdictions as equivalent may lead to inefficient use of regulatory agency resources, enforcement problems, and, in some cases, to actions inconsistent with the legislative intent of health, safety, environmental and economic welfare legislation;

(7) alternative regulatory approaches which do not conflict with the stated objectives of applicable statutes may be available which minimize the significant economic impact of rules on small businesses, small organizations, and small governmental jurisdictions;

(8) the process by which Federal regulations are developed and adopted should be reformed to require agencies to solicit the ideas and comments of small businesses, small organizations, and small governmental jurisdictions to examine the impact of proposed and existing rules on such entities, and to review the continued need for existing rules.

(b) It is the purpose of this Act to establish as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.

ANALYSIS OF REGULATORY FUNCTIONS

SEC. 3. (a) Title 5, United States Code, is amended by adding immediately after chapter 5 the following new chapter:

"CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

"Sec. 601. Definitions.
"Sec. 602. Regulatory agenda.
"Sec. 603. Initial regulatory flexibility analysis.
"Sec. 604. Final regulatory flexibility analysis.
"Sec. 605. Avoidance of duplicative or unnecessary analyses.
"Sec. 606. Effect on other law.
"Sec. 607. Preparation of analyses.
"Sec. 608. Procedure for waiver or delay of completion.
"Sec. 609. Procedures for gathering comments.
"Sec. 610. Periodic review of rules.
"Sec. 611. Judicial review.
"Sec. 612. Reports and intervention rights.

"§ 601. Definitions

5 USC 601.

"For purposes of this chapter—

"(1) the term 'agency' means an agency as defined in section 551(1) of this title; 5 USC 551.

"(2) the term 'rule' means any rule for which the agency publishes a general notice of proposed rulemaking pursuant to section 553(b) of this title, or any other law, including any rule of general applicability governing Federal grants to State and local governments for which the agency provides an opportunity for notice and public comment, except that the term 'rule' does not include a rule of particular applicability relating to rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services, or allowances therefor or to valuations, costs or accounting, or practices relating to such rates, wages, structures, prices, appliances, services, or allowances; 5 USC 553.

"(3) the term 'small business' has the same meaning as the term 'small business concern' under section 3 of the Small Business Act, unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register; 15 USC 632.

"(4) the term 'small organization' means any not-for-profit enterprise which is independently owned and operated and is not dominant in its field, unless an agency establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register;

"(5) the term 'small governmental jurisdiction' means governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand, unless an agency establishes, after opportunity for public comment, one or more definitions of such term which are appropriate to the activities of the agency and which are based on such factors as location in rural or sparsely populated areas or limited revenues due to the population of such jurisdiction, and publishes such definition(s) in the Federal Register; and

"(6) the term 'small entity' shall have the same meaning as the terms 'small business', 'small organization' and 'small governmental jurisdiction' defined in paragraphs (3), (4) and (5) of this section.

5 USC 602.

"§ 602. Regulatory agenda

Publication in Federal Register.

"(a) During the months of October and April of each year, each agency shall publish in the Federal Register a regulatory flexibility agenda which shall contain—

"(1) a brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

"(2) a summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking, and

"(3) the name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

Transmittal to SBA.

"(b) Each regulatory flexibility agenda shall be transmitted to the Chief Counsel for Advocacy of the Small Business Administration for comment, if any.

Notice.

"(c) Each agency shall endeavor to provide notice of each regulatory flexibility agenda to small entities or their representatives through direct notification or publication of the agenda in publications likely to be obtained by such small entities and shall invite comments upon each subject area on the agenda.

"(d) Nothing in this section precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda, or requires an agency to consider or act on any matter listed in such agenda.

5 USC 603.

"§ 603. Initial regulatory flexibility analysis

Public comment. 5 USC 553.

"(a) Whenever an agency is required by section 553 of this title, or any other law, to publish general notice of proposed rulemaking for any proposed rule, the agency shall prepare and make available for public comment an initial regulatory flexibility analysis. Such analysis shall describe the impact of the proposed rule on small entities.

Publication in Federal Register. Transmittal to SBA.

The initial regulatory flexibility analysis or a summary shall be published in the Federal Register at the time of the publication of general notice of proposed rulemaking for the rule. The agency shall transmit a copy of the initial regulatory flexibility analysis to the Chief Counsel for Advocacy of the Small Business Administration.

"(b) Each initial regulatory flexibility analysis required under this section shall contain—

"(1) a description of the reasons why action by the agency is being considered;

"(2) a succinct statement of the objectives of, and legal basis for, the proposed rule;

"(3) a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply;

"(4) a description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

"(5) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule.

"(c) Each initial regulatory flexibility analysis shall also contain a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. Consistent with the stated objectives of applicable statutes, the analysis shall discuss significant alternatives such as—

"(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

"(2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;

"(3) the use of performance rather than design standards; and

"(4) an exemption from coverage of the rule, or any part thereof, for such small entities.

"§ 604. Final regulatory flexibility analysis 5 USC 604.

"(a) When an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency shall prepare a final regulatory flexibility analysis. Each final regulatory flexibility analysis shall contain— 5 USC 553.

"(1) a succinct statement of the need for, and the objectives of, the rule;

"(2) a summary of the issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; and

"(3) a description of each of the significant alternatives to the rule consistent with the stated objectives of applicable statutes and designed to minimize any significant economic impact of the rule on small entities which was considered by the agency, and a statement of the reasons why each one of such alternatives was rejected.

"(b) The agency shall make copies of the final regulatory flexibility analysis available to members of the public and shall publish in the Federal Register at the time of publication of the final rule under section 553 of this title a statement describing how the public may obtain such copies. Public availability; publication in Federal Register. 5 USC 553.

"§ 605. Avoidance of duplicative or unnecessary analyses 5 USC 605.

"(a) Any Federal agency may perform the analyses required by sections 602, 603, and 604 of this title in conjunction with or as a part of any other agenda or analysis required by any other law if such other analysis satisfies the provisions of such sections.

"(b) Sections 603 and 604 of this title shall not apply to any proposed or final rule if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If the head of the agency makes a certification under the preceding sentence, the agency shall publish such certification in the Federal Register, at the time of publication of general notice of proposed rulemaking for the rule or at the time of publication of the final rule, along with a succinct statement explaining the reasons for such certification, and provide such certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.

Certification, publication in Federal Register and transmittal to SBA.

"(c) In order to avoid duplicative action, an agency may consider a series of closely related rules as one rule for the purposes of sections 602, 603, 604 and 610 of this title.

5 USC 606.

"§ 606. Effect on other law

"The requirements of sections 603 and 604 of this title do not alter in any manner standards otherwise applicable by law to agency action.

5 USC 607.

"§ 607. Preparation of analyses

"In complying with the provisions of sections 603 and 604 of this title, an agency may provide either a quantifiable or numerical description of the effects of a proposed rule or alternatives to the proposed rule, or more general descriptive statements if quantification is not practicable or reliable.

5 USC 608.

"§ 608. Procedure for waiver or delay of completion

Publication in Federal Register.

"(a) An agency head may waive or delay the completion of some or all of the requirements of section 603 of this title by publishing in the Federal Register, not later than the date of publication of the final rule, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes compliance or timely compliance with the provisions of section 603 of this title impracticable.

Publication in Federal Register.

"(b) Except as provided in section 605(b), an agency head may not waive the requirements of section 604 of this title. An agency head may delay the completion of the requirements of section 604 of this title for a period of not more than one hundred and eighty days after the date of publication in the Federal Register of a final rule by publishing in the Federal Register, not later than such date of publication, a written finding, with reasons therefor, that the final rule is being promulgated in response to an emergency that makes timely compliance with the provisions of section 604 of this title impracticable. If the agency has not prepared a final regulatory analysis pursuant to section 604 of this title within one hundred and eighty days from the date of publication of the final rule, such rule shall lapse and have no effect. Such rule shall not be repromulgated until a final regulatory flexibility analysis has been completed by the agency.

5 USC 609.

"§ 609. Procedures for gathering comments

"When any rule is promulgated which will have a significant economic impact on a substantial number of small entities, the head of the agency promulgating the rule or the official of the agency with statutory responsibility for the promulgation of the rule shall assure that small entities have been given an opportunity to participate in the rulemaking for the rule through techniques such as—

"(1) the inclusion in an advanced notice of proposed rulemaking, if issued, of a statement that the proposed rule may have a significant economic effect on a substantial number of small entities;

"(2) the publication of general notice of proposed rulemaking in publications likely to be obtained by small entities;

"(3) the direct notification of interested small entities;

"(4) the conduct of open conferences or public hearings concerning the rule for small entities; and

"(5) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in the rulemaking by small entities.

"§ 610. Periodic review of rules

5 USC 610.

"(a) Within one hundred and eighty days after the effective date of this chapter, each agency shall publish in the Federal Register a plan for the periodic review of the rules issued by the agency which have or will have a significant economic impact upon a substantial number of small entities. Such plan may be amended by the agency at any time by publishing the revision in the Federal Register. The purpose of the review shall be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities. The plan shall provide for the review of all such agency rules existing on the effective date of this chapter within ten years of that date and for the review of such rules adopted after the effective date of this chapter within ten years of the publication of such rules as the final rule. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date, he shall so certify in a statement published in the Federal Register and may extend the completion date by one year at a time for a total of not more than five years.

Plan, publication in Federal Register.

"(b) In reviewing rules to minimize any significant economic impact of the rule on a substantial number of small entities in a manner consistent with the stated objectives of applicable statutes, the agency shall consider the following factors—

Consideration factors.

"(1) the continued need for the rule;

"(2) the nature of complaints or comments received concerning the rule from the public;

"(3) the complexity of the rule;

"(4) the extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and

"(5) the length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

"(c) Each year, each agency shall publish in the Federal Register a list of the rules which have a significant economic impact on a substantial number of small entities, which are to be reviewed pursuant to this section during the succeeding twelve months. The list shall include a brief description of each rule and the need for and legal basis of such rule and shall invite public comment upon the rule.

Publication in Federal Register.

"§ 611. Judicial review

5 USC 611.

"(a) Except as otherwise provided in subsection (b), any determination by an agency concerning the applicability of any of the provi-

sions of this chapter to any action of the agency shall not be subject to judicial review.

"(b) Any regulatory flexibility analysis prepared under sections 603 and 604 of this title and the compliance or noncompliance of the agency with the provisions of this chapter shall not be subject to judicial review. When an action for judicial review of a rule is instituted, any regulatory flexibility analysis for such rule shall constitute part of the whole record of agency action in connection with the review.

"(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.

Submittal to President and congressional committees. 5 USC 612.

"§ 612. Reports and intervention rights

"(a) The Chief Counsel for Advocacy of the Small Business Administration shall monitor agency compliance with this chapter and shall report at least annually thereon to the President and to the Committees on the Judiciary of the Senate and House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives.

"(b) The Chief Counsel for Advocacy of the Small Business Administration is authorized to appear as amicus curiae in any action brought in a court of the United States to review a rule. In any such action, the Chief Counsel is authorized to present his views with respect to the effect of the rule on small entities.

"(c) A court of the United States shall grant the application of the Chief Counsel for Advocacy of the Small Business Administration to appear in any such action for the purposes described in subsection (b).".

EFFECTIVE DATE

5 USC 601 note.

SEC. 4. The provisions of this Act shall take effect January 1, 1981, except that the requirements of sections 603 and 604 of title 5, United States Code (as added by section 3 of this Act) shall apply only to rules for which a notice of proposed rulemaking is issued on or after January 1, 1981.

Approved September 19, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-878 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 6, considered and passed Senate.
Sept. 8, 9, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 38:
Sept. 19, Presidential statement.

Public Law 96-355
96th Congress

An Act

Sept. 24, 1980
[S. 670]

To provide for the establishment and coordination of rural development policy, to extend until September 30, 1981, the authorizations for appropriations for title V of the Rural Development Act of 1972, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Rural Development Policy Act of 1980.

SECTION 1. This Act may be cited as the "Rural Development Policy Act of 1980". 7 USC 2201 note.

RURAL DEVELOPMENT POLICY

SEC. 2. The Rural Development Act of 1972 (Public Law 92-419; 86 Stat. 657) is amended by adding at the end thereof a new section as follows: 7 USC 1921 note.

"SEC. 607. RURAL DEVELOPMENT POLICY.—(a) The Secretary of Agriculture shall provide leadership within the executive branch for, and shall assume responsibility for coordinating, a nationwide rural development program using the services of executive branch departments and agencies, including, but not limited to, the agencies, bureaus, offices, and services of the Department of Agriculture, in coordination with rural development programs of State and local governments. 7 USC 2204b.

"(b) POLICY DEVELOPMENT.—(1) The Secretary shall conduct a systematic review of Federal programs affecting rural areas to (A) determine whether such areas are benefiting from such programs in an equitable proportion to the benefits received by urban areas and (B) identify any factors that may restrict accessibility to such programs in rural areas or limit participation in such programs. Review.

"(2) Subject to the Privacy Act of 1974, the Secretary may secure directly from any Federal department or agency information necessary to carry out the Secretary's duties under this section. Upon request of the Secretary under this paragraph, the head of any such Federal department or agency shall furnish such information to the Secretary. Information gathering. 5 USC 552a note.

"(3) The Secretary shall develop a process through which multistate, State, substate, and local rural development needs, goals, objectives, plans, and recommendations can be received and assessed on a continuing basis. Such process may include the use of those rural development experts, advisors, and consultants that the Secretary deems appropriate, as well as the establishment of temporary advisory committees under the terms of the Federal Advisory Committee Act. Assessment process. 5 USC app.

"(4) The Secretary may undertake cooperative efforts with other Federal departments and agencies to improve the coordination and effectiveness of Federal programs, services, and actions affecting rural areas. The Secretary may request the heads of other Federal Cooperation with Federal agencies.

departments and agencies to participate in any working groups that the Secretary deems necessary to carry out the purposes of this section.

Hearings and comments.

"(5) The Secretary may hold public hearings and receive comments on any matter that the Secretary determines may have a significant impact on rural development or the economic development of rural communities.

"(c) RURAL DEVELOPMENT STRATEGY.—(1) The Secretary shall prepare a comprehensive rural development strategy based on the needs, goals, objectives, plans, and recommendations of local communities, substate areas, States, and multistate regions, which is designed to—

"(A) maximize the effectiveness, increase the responsiveness, and improve the delivery of Federal programs to rural areas;

"(B) increase the coordination of Federal programs with the development needs, objectives, and resources of local communities, substate areas, States, and multistate regions; and

"(C) achieve the most effective combinations of Federal, State, and local resources to meet the needs of rural areas for orderly growth and development.

"(2) The rural development strategy shall take into account the need to—

"(A) improve the economic well-being of all rural residents and alleviate the problems of low income, elderly, minority, and otherwise disadvantaged rural residents;

"(B) improve the business and employment opportunities, occupational training and employment services, health care services, educational opportunities, energy utilization and availability, housing, transportation, community services, community facilities, water supplies, sewage and solid waste management systems, credit availability, and accessibility to and delivery of private and public financial resources in the maintenance and creation of jobs in rural areas;

"(C) improve State and local government management capabilities, institutions, and programs related to rural development and expand educational and training opportunities for State and local officials, particularly in small rural communities;

"(D) strengthen the family farm system; and

"(E) maintain and protect the environment and natural resources of rural areas.

"(3) The rural development strategy developed under this subsection shall be for the fiscal year ending September 30, 1982, and updated for each fiscal year thereafter.

Hearings and suggestions.

"(4) The Secretary shall hold public hearings and receive such suggestions and recommendations as the Secretary deems appropriate during the preparation of the rural development strategy and the annual updates to the strategy.

Updates, transmittal to congressional committees.

"(5) The rural development strategy and the annual updates to the strategy shall be transmitted to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry by January 31 of the calendar year immediately preceding the beginning of the appropriate fiscal year.

Budget recommendations and projections.

"(6) The rural development strategy and each annual update of the strategy shall contain an analysis of the budget recommendations of the President for the fiscal year following the transmittal of the strategy or update of the strategy and of all the available budget projections of the President for subsequent fiscal years, and projections regarding the budget that are relevant or essential to the rural development policy and the rural development strategy developed

under this subsection. Each annual update shall also contain a detailed statement of the findings and conclusions of the Secretary regarding the implementation during the preceding fiscal year of the rural development strategy, including any revisions of the strategy, any recommended legislation to improve the rural development effort of the Federal Government, and an evaluation of and recommendations regarding the rural development information system required under section 306(a)(12) of the Consolidated Farm and Rural Development Act. 7 USC 1926.

"(d) STRATEGY IMPLEMENTATION.—The Secretary shall ensure the effective implementation of the rural development strategy and maximize coordination of Federal programs affecting rural areas through a systematic effort to—

"(1) improve communication and encourage cooperation among Federal departments and agencies in the administration of rural development programs;

"(2) eliminate conflicts, duplication, and gaps in program coverage, and resolve contradictions and inconsistencies in the objectives, administration, and effects of rural development programs;

"(3) facilitate the sharing or common location of field offices of Federal agencies administering similar or complementary programs and unification of delivery systems, where feasible, to maximize convenience and accessibility of such agencies and programs to rural residents;

"(4) facilitate and expedite joint funding of rural projects through Federal programs;

"(5) correct administrative problems in Federal programs that delay or hinder the effective delivery of services, assistance, or benefits to rural areas; and

"(6) simplify, standardize, and reduce the complexity of applications, reports, and other forms required under Federal rural development programs.".

UNDER SECRETARY OF AGRICULTURE FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

SEC. 3. (a) There is hereby established in the Department of Agriculture the position of Under Secretary of Agriculture for Small Community and Rural Development to be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary of Agriculture for Small Community and Rural Development may exercise such functions and perform such duties related to small community and rural development, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture. Appointment. 7 USC 2211b.

(b) Section 5314 of title 5, United States Code, is amended by adding at the end thereof a new paragraph as follows:

"Under Secretary of Agriculture for Small Community and Rural Development.".

RURAL DEVELOPMENT ACT REAUTHORIZATION AND AMENDMENTS

SEC. 4. The Rural Development Act of 1972 is amended by—

(1) in section 503(a) (7 U.S.C. 2663(a)), striking out "three" and "1979" and inserting in lieu thereof "five" and "1981", respectively;

(2) in section 503(c) (7 U.S.C. 2663(c)), striking out "and September 30, 1979" and inserting in lieu thereof "September 30, 1979, September 30, 1980, and September 30, 1981";

(3) in section 503(f) (7 U.S.C. 2663(f)), inserting immediately after the first sentence a new sentence as follows: "In those States that contain more than one institution or university accepting the benefits of the Morrill Act of 1862 or 1890 (or both), including Tuskegee Institute, such annual plan and budget shall be jointly developed by mutual agreement of the chief adminstrative officers of all such institutions or universities.";

7 USC 301 note, 321 note.

(4) in section 507(b) (7 U.S.C. 2667(b)), inserting ", Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands of the United States," after "several States"; and

7 USC 2204a.

(5) in section 603(c), repealing paragraph (2); in paragraph (1), striking out "(1)" after the subsection designation; and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

REVISED STATUTES AMENDMENTS

SEC. 5. Section 526(b) of the Revised Statutes (7 U.S.C. 2204(b)) is amended by—

(1) striking out the first and second sentences thereof;

(2) in the third sentence striking out "and" before "rural industrialization" and inserting before the period at the end thereof the following: ", and technology appropriate to small- and moderate-sized family farming operations, and any other problem that the Secretary may determine has an effect upon the economic development or the quality of life in rural areas".

ELIMINATION OF REPORTS

SEC. 6. Section 901 of the Agricultural Act of 1970 (Public Law 91-524, 84 Stat. 1303; 42 U.S.C. 3122) is amended by striking out the last sentence of subsection (b) and repealing subsections (c) through (f).

84 Stat. 1383.

TECHNICAL ASSISTANCE AND INFORMATION SYSTEM

SEC. 7. Section 306(a) of the Consolidated Farm and Rural Development Act (Public Law 87-128, 75 Stat. 307; 7 U.S.C. 1926(a)) is amended by—

(1) amending paragraph (11) to read as follows:

"(11) The Secretary may make grants, not to exceed $15,000,000 annually, to public bodies or such other agencies as the Secretary may select to provide rural development technical assistance, rural community leadership development, and community and areawide rural development planning.";

(2) redesignating paragraphs (12), (13), and (14) as paragraphs (13), (14), and (15), respectively; and

(3) inserting immediately after paragraph (11) a new paragraph (12) as follows:

"(12)(A) The Secretary shall, in cooperation with institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503-505, as amended; 7 U.S.C. 301-305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute and State,

7 USC 321-326a, 328.

substate, and regional planning bodies, establish a system for the dissemination of information and technical assistance on federally sponsored or funded programs. The system shall be for the use of institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503-505, as amended; 7 U.S.C. 301-305, 307, and 308), or the Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326 and 328), including the Tuskegee Institute and State, substate, and regional planning bodies, and other persons concerned with rural development. 7 USC 321-326a, 328.

"(B) The informational system developed under this paragraph shall contain all pertinent information, including, but not limited to, information contained in the Federal Procurement Data System, Federal Assistance Program Retrieval System, Catalogue of Federal Domestic Assistance, Geographic Distribution of Federal Funds, United States Census, and Code of Federal Regulations.

"(C) The Secretary shall obtain from all other Federal departments and agencies comprehensive, relevant, and applicable information on programs under their jurisdiction that are operated in rural areas.

"(D) Of the sums authorized to be appropriated to carry out the provisions of this Act, not more than $1,000,000 per year may be expended to carry out the provisions of this paragraph.". Appropriation authorization.

LIMITATIONS

SEC. 8. No funds are authorized to be appropriated pursuant to sections 4 and 7 of this Act and the amendments made by those sections for the fiscal year ending September 30, 1980, in excess of such amounts as have been appropriated on or before the date of enactment of this Act for such fiscal year.

WEB RURAL WATER DEVELOPMENT PROJECT

SEC. 9. (a) There are authorized to be appropriated to the Secretary of the Interior for the fiscal year ending September 30, 1981, $1,900,000, which shall be used for initial planning and construction of a rural water treatment and distribution system in portions of, but not limited to, Walworth, Edmunds, Brown, Campbell, Potter, McPherson, Faulk, Hand, Spink, and Day Counties in South Dakota that will furnish water for domestic and other purposes, hereafter referred to in this section as "the WEB Rural Water Development Project", as generally proposed by the WEB Water Development Association, Incorporated, and as described in the special report by the Association of January 1980. Appropriation authorization.

(b) Effective October 1, 1981, there are authorized to be appropriated to the Secretary of the Interior for the further planning and construction of the WEB Rural Water Development Project $68,100,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in development costs incurred after January 1, 1980, as indicated by the engineering cost indices applicable to the types of construction involved herein: *Provided,* That such authorization for appropriations shall not become effective until such time as legislation has been enacted deauthorizing the Oahe Unit, initially authorized by the Act of August 3, 1968 (Public Law 90-435; 82 Stat. 624): *Provided further,* That if such legislation has not been enacted by September 30, 1981, the authorization for appropriations provided for in this subsection shall terminate.

(c) Any funds appropriated under this section shall remain available until expended.

Transfer of funds.

(d) Any funds appropriated under this section shall be transferred by the Secretary of the Interior to the Secretary of Agriculture when such funds are appropriated. The Secretary of the Interior may enter into cooperative memoranda of understanding with the Secretary of Agriculture as may be required to provide services to carry out the purposes of this section.

(e) The Secretary of Agriculture shall use any funds transferred under subsection (d) for necessary administrative expenses, and to provide financial assistance to plan and develop the WEB Rural Water Development Project under the terms and conditions of the Consolidated Farm and Rural Development Act and the rules and regulations promulgated by the Department of Agriculture under that Act, except to the extent such Act or rules or regulations promulgated thereunder are inconsistent with the provisions of this section. Such funds shall be made available in a combination of grants and loans that will provide grants for not less than 75 per centum of eligible development costs and such loans as may be necessary to plan and construct the WEB Rural Water Development Project.

7 USC 1921 note.

Grants and loans.

EFFECTIVE DATE

7 USC 2204b note.

SEC. 10. The provisions of this Act shall become effective October 1, 1980.

Approved September 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-259 accompanying H.R. 3580 (Comm. on Agriculture).
SENATE REPORT No. 96-187 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD:
Vol. 125 (1979): June 14, considered and passed Senate.
Vol. 126 (1980): Sept. 15, H.R. 3580 considered and passed House; passage vacated and S. 670, amended, passed in lieu.
Sept. 16, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 39 (1980): Sept. 24, Presidential statement.

Public Law 96-356
96th Congress

An Act

To amend the Act of December 20, 1944, as amended.

Sept. 24, 1980
[S. 1625]

Farm loans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of December 20, 1944 (58 Stat. 836; 12 U.S.C. 1150), is amended by adding at the end thereof a new section 4 as follows:

Hay transportation assistance program, payments.
12 USC 1150c.

"SEC. 4. Notwithstanding any other provision of law, no persons who have received or have owing to them, prior to the date of enactment of this section, payments at rates announced by the Secretary of Agriculture for self-hauling of hay or other roughages under the hay transportation assistance program shall be liable for, or be obligated to refund, any amount that is determined by the Secretary to be in excess of the payment computed in accordance with the maximum rate provided by section 8 of the Farmer-to-Consumer Direct Marketing Act of 1976: *Provided,* That the Secretary determines that such persons have otherwise complied with the terms and conditions of, and are otherwise entitled to payments under, the hay transportation assistance program. Any payments made pursuant to this Act shall be made out of funds appropriated or otherwise available on the date of enactment of this Act for disaster relief.".

42 USC 5145 note.

Approved September 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1120 accompanying H.R. 5208 (Comm. on Agriculture).
SENATE REPORT No. 96-763 (Comm. on Agriculture, Nutrition and Forestry).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 22, considered and passed Senate.
Aug. 19, H.R. 5208 considered and passed House; passage vacated and S. 1625, amended, passed in lieu.
Sept. 8, Senate concurred in House amendment.

Public Law 96-357
96th Congress

An Act

Sept. 24, 1980
[H.R. 5766]

To authorize additional Reserve Officers' Training Corps scholarships for the Army, to authorize the Secretary of the Army to provide that cadets awarded such scholarships may serve their obligated period of service in the Army Reserve or Army National Guard of the United States, to authorize the Secretary concerned to require an individual furnished post-secondary education by an Armed Force to reimburse the United States for the cost of such education in the event such individual fails to comply with such individual's active-duty obligation, to provide that certain full-time training duty of members of the National Guard shall be considered as active duty for training in Federal service for certain purposes, and for other purposes.

Reserve Officers' Training Corps scholarships.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2107(a) of title 10, United States Code, relating to financial assistance for specially selected members of the Reserve Officers' Training Corps, is amended by striking out the period at the end of the first sentence and all of the second sentence and inserting in lieu thereof a comma and the following: "except that the age of any such member who has served on active duty in the armed forces may exceed such age limitation on such date by a period equal to the period such member served on active duty, but only if such member will be under 29 years of age on such date.".

(b) Section 2107 of such title is further amended—

(1) by inserting "and" at the end of clause (4) of subsection (b);

(2) by striking out clauses (5) and (6) of subsection (b) and inserting in lieu thereof the following:

"(5) agree in writing that, at the discretion of the Secretary of the military department concerned, he will either—

"(A)(i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be, and that, if he is commissioned as a regular officer and his regular commission is terminated before the sixth anniversary of his date of rank, he will accept an appointment, if offered, in the reserve component of that armed force and not resign before that anniversary; and

"(ii) serve on active duty for four or more years; or

"(B)(i) accept an appointment, if offered, as a commissioned officer in the Army, Navy, Air Force, or Marine Corps, as the case may be; and

"(ii) serve in a reserve component of that armed force until the eighth anniversary of the receipt of such appointment, unless otherwise extended by subsection (d) of section 2108 of this title, under such terms and conditions as shall be prescribed by the Secretary of the military department concerned.

10 USC 2108.

The performance of service under clause (5)(B) may include periods of active duty, active duty for training, and other service in an active or inactive status in the reserve component in which appointed."; and

(3) by striking out "6,500" the first place it appears in subsection (h) and inserting in lieu thereof "12,000".

(c)(1) Chapter 103 of such title, relating to Senior Reserve Officers' Training Corps, is amended by inserting after section 2107 the following new section:

"§ 2107a. Financial assistance program for specially selected members: military junior colleges 10 USC 2107a.

"(a)(1) The Secretary of the Army may appoint as a cadet in the Army Reserve or Army National Guard of the United States any eligible member of the program who is a student at a military junior college and who will be under 25 years of age on June 30 of the calendar year in which he is eligible under this section for appointment as a second lieutenant in the Army, except that the age of any such member who has served on active duty in the armed forces may exceed such age limitation on such date by a period equal to the period such member served on active duty, but only if such member will be under 29 years of age on such date.

"(2) To be considered a military junior college for the purposes of this section, a school must be a civilian postsecondary educational institution essentially military in nature that does not confer baccalaureate degrees and that meets such other requirements as the Secretary of the Army may prescribe.

"(b) To be eligible for appointment as a cadet under this section, a member of the program must— Appointment, eligibility.

"(1) be a citizen of the United States;

"(2) be specially selected for the financial assistance program under this section under procedures prescribed by the Secretary of the Army;

"(3) enlist in a reserve component of the Army for the period prescribed by the Secretary of the Army;

"(4) contract, with the consent of his parent or guardian if he is a minor, with the Secretary of the Army to serve for the period required by the program;

"(5) agree in writing that he will accept an appointment, if offered, as a commissioned officer in the Army Reserve or the Army National Guard of the United States; and

"(6) agree in writing that he will serve in such reserve component for not less than eight years.

Performance of duty under an agreement under this subsection shall be under such terms and conditions as the Secretary of the Army may prescribe and may include periods of active duty, active duty for training, and other service in an active or inactive status in the reserve component in which appointed.

"(c) The Secretary of the Army shall provide for the payment of all expenses of the Department of the Army in administering the financial assistance program under this section, including the cost of tuition, fees, books, and laboratory expenses which are incurred by members of the program appointed as cadets under this section while such members are students at a military junior college. Payment of expenses.

"(d) Upon satisfactorily completing the academic and military requirements of the program, a cadet may be appointed as a reserve officer in the Army in the grade of second lieutenant, even though he is under 21 years of age.

"(e) The date of rank of officers appointed under this section in May or June of any year is the date of graduation of cadets from the United States Military Academy in that year. The Secretary of the Date of rank.

Army shall establish the date of rank of all other officers appointed under this section.

"(f) A cadet who does not complete the course of instruction, or who completes the course but declines to accept a commission when offered, may be ordered to active duty by the Secretary of the Army to serve in his enlisted grade for such period of time as the Secretary prescribes but not for more than four years.

"(g) In computing length of service for any purpose, an officer appointed under this section may not be credited with service as a cadet or with concurrent enlisted service.

Number of appointments.

"(h)(1) The Secretary of the Army shall appoint not less than 10 cadets under this section each year at each military junior college at which there are not less than 10 members of the program eligible under subsection (b) for such an appointment. At any military college at which in any year there are fewer than 10 such members, the Secretary shall appoint each such member as a cadet under this section.

Additional appointments.

"(2) If the level of participation in the program at any military junior college meets criteria for such participation established by the Secretary of the Army by regulation, the Secretary shall appoint additional cadets under this section from among members of the program at such military junior college who are eligible under subsection (b) for such an appointment.

"(i) Cadets appointed under this section are in addition to the number appointed under section 2107 of this title.".

Ante, p. 1178.

(2) The table of sections at the beginning of chapter 103 of such title is amended by inserting after the item relating to section 2107 the following new item:

"2107a. Financial assistance program for specially selected members: military junior colleges.".

Obligated service, delay.
10 USC 2108.

(d) Section 2108(d) of such title, relating to advanced training after receiving a baccalaureate degree or completing preprofessional studies, is amended by striking out the second sentence and inserting in lieu thereof the following: "If a member of the program has been accepted for resident graduate or professional study, the Secretary of the military department concerned may delay the commencement of that member's obligated period of active duty, and any obligated period of active duty for training or other service in an active or inactive status in a reserve component, until the member has completed that study. If a cadet appointed under section 2107a of this title has been accepted for a course of study at an accredited civilian educational institution authorized to grant baccalaureate degrees, the Secretary of the Army may delay the beginning of that member's obligated period of service in a reserve component until the member has completed such course of study.".

Ante, p. 1179.

Effective date.
10 USC 2107a note.

(e) The amendments made by this section shall take effect on October 1, 1980.

SEC. 2. (a) Chapter 101 of title 10, United States Code, relating to training, is amended by adding at the end of such chapter the following new section:

10 USC 2005.

"§ 2005. Advanced education assistance: active duty agreement; reimbursement requirements

"(a) The Secretary concerned may require, as a condition to the Secretary providing advanced education assistance to any person, that such person enter into a written agreement with the Secretary concerned under the terms of which such person shall agree—

"(1) to complete the educational requirements specified in the agreement and to serve on active duty for a period specified in the agreement;

"(2) that if such person fails to complete the education requirements specified in the agreement, such person will serve on active duty for a period specified in the agreement;

"(3) that if such person, voluntarily or because of misconduct, fails to complete the period of active duty specified in the agreement, such person will reimburse the United States in an amount that bears the same ratio to the total cost of advanced education provided such person as the unserved portion of active duty bears to the total period of active duty such person agreed to serve; and Reimbursement to U.S.

"(4) to such other terms and conditions as the Secretary concerned may prescribe to protect the interest of the United States.

"(b) The Secretary concerned shall determine the period of active duty to be served by any person for advanced education assistance to be provided such person by an armed force, except that if the period of active duty required to be served is specified under another provision of law with respect to the advanced education assistance to be provided, the period specified in the agreement referred to in subsection (a) shall be the same as the period specified in such other provision of law.

"(c) Subject to the provisions of subsection (d) of this section, the obligation to reimburse the United States under an agreement described in subsection (a) of this section is, for all purposes, a debt owing the United States.

"(d) A discharge in bankruptcy under title 11 shall not release a person from an obligation to reimburse the United States required under the terms of an agreement described in subsection (a) of this section if the final decree of the discharge in bankruptcy was issued within a period of five years after the last day of a period which such person had agreed to serve on active duty. This subsection applies to a discharge in bankruptcy in any proceeding which begins after September 30, 1978. Discharge in bankruptcy. 11 USC 101.

"(e) In this section— Definitions.

"(1) 'Advanced education' means education or training above the secondary school level but does not include technical training provided to a member of the armed forces to qualify such member to perform a specified military function, to workshops, or to short-term training programs.

"(2) 'Assistance' means the direct provision of any course of advanced education by the Secretary concerned, reimbursement by the Secretary concerned for any course of advanced education provided by another department or agency of the Federal Government, or the payment, in whole or in part, by the Secretary concerned for any course of advanced education provided by any public or private educational institution or other entity, but such term does not include the payment for any course of advanced education which is paid for under chapter 106 or 107 of this title. 10 USC 2131 *et seq.*, *ante*, p. 1111.

"(3) 'Cost of advanced education' means those costs which are, under regulations prescribed by the Secretary concerned, directly attributable to the education of the person to whom a course of advanced education is provided, including the cost of tuition and other fees (or, if none is charged, an amount determined by the Secretary concerned to be a reasonable charge for the education provided), the cost of books, supplies, transporta-

37 USC 101.
10 USC 2121.

tion, and miscellaneous expenses, and the cost of room and board, but such term does not include pay or allowances under title 37 or a stipend under section 2121 of this title.".

(b) The table of sections at the beginning of chapter 101 of such title is amended by adding at the end thereof the following new item:

"2005. Advanced education assistance: active duty agreement; reimbursement requirements.".

Effective date.

SEC. 3. Effective only for the period beginning October 1, 1980, and ending September 30, 1981, section 7572(b) of title 10, United States Code, relating to accommodations in place of quarters for members on sea duty, is amended to read as follows:

Alternate quarters, reimbursement.

"(b) Under such regulations as the Secretary prescribes, any member of the uniformed services on sea duty who is deprived of quarters on board ship because of repairs or because of other conditions that make the member's quarters uninhabitable, may be reimbursed for expenses incurred in obtaining quarters, in an amount not more than the basic allowance for quarters of a member of the same grade without dependents, if it is impracticable to furnish accommodations under subsection (a). A member entitled to receipt of basic allowance for quarters may not be reimbursed for expenses under this subsection when deprived of quarters aboard ship at a location at which the member can reside with such member's dependents. The total amount of such reimbursements for fiscal year 1981 may not exceed $9,000,000.".

Exception.

Limitation.

Ante, p. 123.

SEC. 4. Section 3(a) of the Act of August 10, 1956 (33 U.S.C. 857a(a)), relating to the applicability of certain laws to the National Oceanic and Atmospheric Administration, is amended by adding at the end thereof the following new paragraph:

"(14) Section 7572(b), Quarters: accommodations in place of for members on sea duty.".

Service credit.

SEC. 5. (a) Sections 3686(2) and 8686(2) of title 10, United States Code, relating to service credit for service as members of the Army and Air Force National Guard, are each amended by striking out "sections 316 and 503-505 of title 32" and inserting in lieu thereof "sections 316 and 502 through 505 of title 32".

10 USC 3686 note.

(b) The amendments made by subsection (a) shall apply with respect to full-time training or other full-time duty performed under section 502 of title 32, United States Code, on and after the date of the enactment of this Act.

SEC. 6. The second sentence of section 672(a) of title 10, United States Code, relating to authority to order members of the Standby Reserve to active duty, is amended to read as follows: "However a member on an inactive status list or in a retired status may not be ordered to active duty under this subsection unless the Secretary concerned, with the approval of the Secretary of Defense in the case of the Secretary of a military department, determines that there are not enough qualified Reserves in an active status or in the inactive National Guard in the required category who are readily available.".

Inactive duty list or retired status.

SEC. 7. (a) Section 4818 of the Revised Statutes of the United States (24 U.S.C. 44), relating to funds for the support of the Soldiers' and Airmen's Home, is amended by inserting "or under authority of section 815 of title 10, United States Code" after "courts-martial".

(b) The amendment made by subsection (a) shall become effective on October 1, 1981.

Effective date.
24 USC 44 note.

Approved September 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-607 (Comm. on Armed Services).
SENATE REPORT No. 96-850 (Comm. on Armed Services).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 26, considered and passed House.
Vol. 126 (1980): Aug. 4, considered and passed Senate, amended.
Aug. 28, House concurred in Senate amendments with amendments.
Sept. 10, Senate concurred in House amendments.

79-194 O—81—pt. 1——78 : QL3

Public Law 96-358
96th Congress

An Act

Sept. 25, 1980
[S. 261]

To provide for the development of State plans for the construction and improvement of subterminal storage and transportation facilities for certain types of agricultural commodities within the State or within a group of States acting together on a regional basis, and to amend the Consolidated Farm and Rural Development Act to authorize loans for the construction and improvement of such facilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Subterminal Facilities Act of 1980".

Agricultural Subterminal Facilities Act of 1980.
7 USC 3701 note.

FINDINGS

7 USC 3701.

SEC. 2. Congress finds and declares that—

(1) an adequate system for the efficient transient storage and movement of bulk agricultural commodities is essential to the overall success of the agricultural industry of the Nation, the development of rural areas of the Nation, and the economic stability of the Nation;

(2) the movement and storage of bulk agricultural commodities has been seriously and repeatedly impeded by shortages of transient storage facilities, adequate rail rolling stock, and the deterioration of many railroad track beds and rural highways throughout the United States;

(3) the efficient movement and storage of bulk agricultural commodities may be achieved and facilitated by the joint location at strategic points throughout the United States of transient storage facilities and multimodal terminal facilities constructed especially for the efficient shipment and receipt of agricultural commodities; and

(4) the location of such facilities must be carefully planned to assure maximum benefits to producers of agricultural commodities and unprocessed agricultural products and utilization of the most efficient means of transporting bulk agricultural commodities for domestic and export markets.

DEFINITIONS

7 USC 3702.

SEC. 3. As used in this Act, the term—

(1) "bulk agricultural commodity" means any agricultural commodity that can be transported in bulk and can be temporarily stored in bulk quantities without undergoing processing or packaging. Such term also includes any commodity or product that is used by producers in the production of agricultural commodities and that can be stored or shipped in bulk, such as fertilizer and fuel;

(2) "unprocessed agricultural products" means food, fiber, and other agricultural products that have not been packaged or otherwise prepared for retail sale, including animal products and

unfinished cotton, wool, leather, or any other unfinished natural material;

(3) "Secretary" means Secretary of Agriculture;

(4) "subterminal facility" means any facility that is located in the area of production or consumption of agricultural commodities or any major storage or major export point for such commodities and is located at a place that conveniently serves the needs of producers, purchasers, and consumers of bulk agricultural commodities, and is—

(A) used for the transient storage of bulk agricultural commodities and may include equipment or structures necessary for the transportation, upgrading, receiving, drying, or loading out of such commodities; or

(B) any rail siding, loading, or unloading facility that can accommodate unit railroad trains or multiple car trains and other appropriate transportation modes designed for the transport of bulk agricultural commodities and production materials; and

(5) "region" means two or more States acting together to develop a coordinated regional subterminal facilities plan.

STATE AND REGIONAL PLANS; PLANNING GRANTS

SEC. 4. (a)(1) The Secretary shall, beginning not more than one hundred and eighty days after the effective date of this Act, make financial assistance available to any State that makes application therefor, and that otherwise meets the requirements of this section, for the purpose of assisting such State in the development of a subterminal facilities plan (hereinafter in this Act referred to as the "State plan") for such State. Assistance under this section shall be made available in the form of a grant. No grant may be made to any State unless the Governor of such State or the appropriate agency of such State makes an application therefor as provided in this section. To the maximum extent practicable, the personnel and resources of the colleges or universities in the State which are eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301-305, 307, and 308), or the Act of August 30, 1890 (7 U.S.C. 321-326 and 328), including Tuskegee Institute, shall be utilized in developing the subterminal facilities plan for that State pursuant to this section. 7 USC 3703.

(2) The Secretary may also make grants under this section available to two or more States acting together to develop a coordinated regional subterminal facilities plan (hereinafter in this Act referred to as the "regional plan") for such region.

(3) Grants made under this section to any State or region may not exceed 80 per centum of the cost of preparing the State or regional plan.

(4) The State or regional plan shall prescribe in detail the actions such State or region proposes to take in order to (A) facilitate the efficient and competitive movement of bulk agricultural commodities from the points of production within such State or region to major market or export points, (B) provide adequate storage facilities for such commodities between points of production and market, (C) provide adequate receiving, storage, and loading facilities for any bulk agricultural commodity, and (D) assure that such facilities will be located at sites that will result in maximum benefits to local producers.

(5) Each State or regional plan shall include the following:

(A) an analysis of the marketing, shipping, storage, and production of bulk agricultural commodities produced in that State or region and the short- and long-range projections with respect to the marketing, shipping, storage, and production of such commodities in that State or region;

(B) a determination, on the basis of the analysis and projections required under clause (A) of this paragraph, of the needs of the State or region for subterminal facilities;

(C) an assessment of the use of existing on-farm storage facilities located within the State or region and an assessment of the ways in which subterminal facilities can benefit the continued use of on-farm storage facilities;

(D) an evaluation of the effect of the development of new subterminal facilities on small capacity rural shipping and storage facilities within the State or region;

(E) an evaluation of ways to ensure adequate rail service for subterminal facilities described in clause (D) of this paragraph, including an evaluation of the use and feasibility of contract rates;

(F) an assessment of the ways that subterminal facilities can enhance the operation of small capacity shipping and storage facilities within the State or region;

(G) an assessment of other actions being taken or considered in such State or region for the improvement of agricultural transportation, including an evaluation of the use being made of shuttle or collector trains and combinations of rail and barge service;

(H) an evaluation of the potential benefits of subterminal ownership and leasing arrangements for rail rolling stock (including locomotive power), motor trucks, barge equipment, and other bulk agricultural commodity transport equipment that may help achieve maximum benefits from the operation of subterminal facilities within the State or region;

(I) an assessment of the overall transportation system in the State or region and future plans for that overall system, including the adequacy of highways and bridges; and

(J) consideration of the feasibility and advisability of the ownership and operation of rail branch lines by farmer-owned cooperatives, and the role that such cooperatives might play in any overall planning for the restructuring and rehabilitation of rail service and marketing facilities within the State or region.

Plan review commission.

(b) Funds made available to a State or region under this Act for the purposes of assisting such State or region to develop a plan shall be subject to the condition that the State or region establish a plan review commission composed of local producers, local elevator operators, representatives of affected motor and rail carriers, other interested individuals, and, when appropriate in the judgment of the Secretary, consumers of bulk agricultural commodities used in the production of unprocessed agricultural products. A majority of the members of any plan review commission must be local producers or, when appropriate in the judgment of the Secretary, consumers of bulk agricultural commodities used in the production of unprocessed agricultural products. The plan review commission shall consider the information and analyses developed by the State or region in the development of a State or regional plan and make appropriate recommendations regarding the State or regional plan. The plan review commission shall also make recommendations, based on

information developed in the plan, for the most beneficial location of subterminal facilities.

(c) No application for planning assistance authorized pursuant to this section may be submitted by a State or region until the appropriate plan review commission established in accordance with this Act has had the opportunity to make recommendations to the Governor or Governors that a need exists for the development of a State or regional plan, and a majority of the members of such plan review commission concur that such application should be submitted. Applications.

(d) No State or region may receive a grant under this section unless— Grants.

(1) an application therefor has been submitted that complies with the provisions of this Act;

(2) the average annual production of bulk agricultural commodities produced within such State or region, or shipments of such commodities transported into such State or region, meets minimum levels established by the Secretary for a period the Secretary considers appropriate preceding the year in which application for such grant is made;

(3) the Governor of such State or the Governors of the States in such region certify to the Secretary that producers of agricultural commodities have experienced serious storage and transportation problems within such State or region during the three years preceding the year in which application for such grant is made; and

(4) such State or each State within such region has established an adequate plan, as described in section 5(j) of the Department of Transportation Act (49 U.S.C. 1654(j)), for rail service in such State or States, or such State or each State in such region is actively developing such a plan.

(e) Whenever any State or region has submitted a State or regional plan under this section, the Secretary shall approve such plan only if it has been approved by a majority of the members of the appropriate plan review commission established pursuant to this Act, and it meets the other conditions specified in this Act and those prescribed in regulations issued by the Secretary to carry out this Act. When a plan is approved by the Secretary, such plan shall be known as an "approved State plan" or an "approved regional plan", as appropriate.

(f) To carry out the purposes of this section, there are authorized to be appropriated not to exceed $3,300,000 for each of the fiscal years ending September 30, 1981, September 30, 1982, and September 30, 1983. Appropriation authorization.

LOANS UNDER THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

SEC. 5. Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding at the end thereof a new subsection (e) as follows:

"(e)(1) The Secretary may also insure and guarantee loans under this section to public, private, or cooperative organizations organized for profit or nonprofit, or to individuals for the purpose of constructing or improving subterminal facilities if—

"(A) the construction or improvement of such facilities is consistent with the appropriate approved State or regional plans and the recommendations of the local plan review commission established pursuant to the Agricultural Subterminal Facilities Act of 1980; *Ante*, p. 1184.

"(B) the Secretary determines that the ownership and operation of such subterminal facilities will result in the efficient and competitive movement of bulk agricultural commodities and will return increased benefits to the local producers served by such facilities; and

"(C) the Secretary determines that the rail carrier designated to provide service to any such facility will be able to provide adequate service.

Stock purchase.

Such loans may be made available for purchase of rail rolling stock (including locomotives), motor trucks, barges, and other bulk agricultural commodities transport equipment to be used in conjunction with the operation of subterminal facilities.

"(2) The Secretary may only insure or guarantee loans under this subsection if the Secretary finds that applicants are unable to obtain credit from commercial lending institutions (including specialized lending institutions established to provide credit to agricultural producers) on reasonable terms and conditions.

"(3) In order to preserve local ownership and control of agricultural transportation facilities, the Secretary shall give preference under this subsection to existing agricultural elevator operators and local producers in areas in which subterminal facilities are proposed to be located.

Allocations.

"(4)(A) The total amount of loan authority made available for use for the purpose of this subsection for any fiscal year shall be allocated by the Secretary on the basis of need among those States that have approved State or regional plans as defined in the Agricultural Subterminal Facilities Act of 1980. Such allocation shall be based on such formula as the Secretary shall prescribe by regulation.

Ante, p. 1184.

"(B) Any loan authority available for use in any State in any fiscal year that is not used by such State shall be reallocated, to the extent practicable, among other States eligible for the assistance provided under this section, in accordance with the same formula developed by the Secretary for the initial allocation of loan authority under this subsection.

"Subterminal facility."

"(5) As used in this subsection, the term 'subterminal facility' has the same meaning as provided in the Agricultural Subterminal Facilities Act of 1980.

"(6) Within one hundred and eighty days after the effective date of the Agricultural Subterminal Facilities Act of 1980, the Secretary shall establish such rules and regulations as may be necessary to implement the provisions of this subsection.". Regulations. *Ante*, p. 1184.

EFFECTIVE DATE

SEC. 6. The provisions of this Act shall become effective October 1, 1980. 7 USC 3701 note.

Approved September 25, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-995 accompanying H.R. 7141 (Comm. on Agriculture).
SENATE REPORT No. 96-159 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 125 (1979):
May 23, considered and passed Senate.
June 3, H.R. 7141 considered and passed House; passage vacated and S. 261, amended, passed in lieu.
Sept. 11, Senate concurred in House amendments.

Public Law 96-359
96th Congress

An Act

Sept. 26, 1980
[H.R. 6940]

To amend the Federal Food, Drug, and Cosmetic Act to strengthen the authority under that Act to assure the safety and nutrition of infant formulas, and for other purposes.

Infant Formula Act of 1980.
21 USC 301 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Infant Formula Act of 1980".

SEC. 2. Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding after section 411 the following new section:

"REQUIREMENTS FOR INFANT FORMULAS

Adulterated formulas.
21 USC 350a.

"SEC. 412. (a)(1) An infant formula shall be deemed to be adulterated if—

"(A) such infant formula does not provide nutrients as required by subsection (g);

"(B) such infant formula does not meet the quality factor requirements prescribed by the Secretary under this section; or

"(C) the processing of such infant formula is not in compliance with the quality control requirements prescribed by the Secretary under this section.

"(2) The Secretary may by regulation—

"(A) revise the list of nutrients in the table in subsection (g);

"(B) revise the required level for any nutrient required by subsection (g);

"(C) establish requirements for quality factors for such nutrients; and

Quality control procedures.

"(D) establish such quality control procedures as the Secretary determines necessary to assure that an infant formula provides nutrients in accordance with this section and establish requirements respecting the retention of records of procedures required under this clause (including maintaining necessary nutrient testing records).

Testing.

Quality control procedures prescribed by the Secretary shall include the periodic testing of infant formulas to determine whether they are in compliance with this section.

Notification to Secretary.

"(b)(1) On the 90th day after the date of the enactment of this section, and on each 90th day thereafter, a manufacturer of infant formula shall notify the Secretary that each infant formula manufactured by such manufacturer provides the nutrients required under subsection (g). Such notification requirement shall expire upon the effective date of regulations relating to quality control procedures prescribed by the Secretary under subsection (a)(2)(D).

"(2) Not later than the 90th day before the first processing of any infant formula for commercial or charitable distribution for human consumption, the manufacturer shall notify the Secretary whether—

"(A) such infant formula provides nutrients in accordance with subsection (g) and meets the quality factor requirements prescribed by the Secretary; and

"(B) the processing of such infant formula meets the quality control procedure requirements prescribed by the Secretary.

"(3) Before the first processing of any infant formula for commercial or charitable distribution for human consumption—

"(A) after a change in its formulation, or

"(B) after a change in its processing,

which the manufacturer reasonably determines may affect whether the formula is adulterated as determined under subsection (a)(1), the manufacturer shall notify the Secretary of such changes and that the formula provides nutrients in accordance with subsection (g) and meets the quality factor requirements prescribed by the Secretary and that the processing of such infant formula is in compliance with the quality control procedures prescribed by the Secretary.

"(c)(1) If the manufacturer of an infant formula has knowledge which reasonably supports the conclusion that an infant formula which has been processed by the manufacturer and which has left an establishment subject to the control of the manufacturer—

"(A) may not provide the nutrients required by subsection (g); or

"(B)(i) may be otherwise adulterated or misbranded, and

"(ii) if so adulterated or misbranded presents a risk to human health,

the manufacturer shall promptly notify the Secretary of such noncompliance or risk to health.

"(2) For purposes of paragraph (1), the term 'knowledge' as applied to a manufacturer means (A) the actual knowledge that the manufacturer had, or (B) the knowledge which a reasonable person would have had under like circumstances or which would have been obtained upon the exercise of due care. "Knowledge."

"(d)(1) If a recall of an infant formula is begun by a manufacturer, the recall shall be carried out in accordance with such requirements as the Secretary may prescribe under paragraph (2), and— Recall.

"(A) the Secretary shall, not later than the 15th day after the beginning of such recall and at least once every 15 days thereafter until the recall is terminated, review the actions taken under the recall to determine whether the recall meets the requirements prescribed under paragraph (2); and Review.

"(B) the manufacturer shall, not later than the 14th day after the beginning of such recall and at least once every 14 days thereafter until the recall is terminated, report to the Secretary the actions taken to implement the recall. Report to Secretary.

"(2) The Secretary shall by regulation prescribe the scope and extent of recalls of infant formulas necessary and appropriate for the degree of risk to human health presented by the formula subject to the recall. Regulations.

"(e)(1) Each manufacturer of an infant formula shall make and retain such records respecting the distribution of the infant formula through any establishment owned or operated by such manufacturer as may be necessary to effect and monitor recalls of the formula. No manufacturer shall be required under this subsection to retain any record respecting the distribution of an infant formula for a period of longer than 2 years from the date the record was made. Records.

"(2) To the extent that the Secretary determines that records are not being made or maintained in accordance with paragraph (1), the Secretary may by regulation prescribe the records required to be made under paragraph (1) and requirements respecting the retention of such records under such paragraph. Such regulations shall take effect on such date as the Secretary prescribes but not sooner than the 180th day after the date such regulations are promulgated. Such regulations shall apply only with respect to distributions of infant formulas made after such effective date.

SEC. 3. Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(aa) The term 'infant formula' means a food which purports to be or is represented for special dietary use solely as a food for infants by reason of its simulation of human milk or its suitability as a complete or partial substitute for human milk." "Infant formula."

SEC. 4. Section 704(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(a)) is amended—

(1) in the first sentence, by inserting "(1)" before "For purposes" and by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(2) in the third sentence, by inserting "or by paragraph (3)" after "preceding sentence";

(3) in the sixth sentence, (A) by striking out "The provisions of the second sentence of this subsection" and inserting in lieu thereof the following:

"(2) The provisions of the second sentence of paragraph (1)", and (B) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively; and

(4) by adding at the end the following:

"(3) An officer or employee making an inspection under paragraph (1) for purposes of enforcing the requirements of section 412 applicable to infant formulas shall be permitted, at all reasonable times, to have access to and to copy and verify any records— *Ante*, p. 1190.

"(A) bearing on whether the infant formula manufactured or held in the facility inspected meets the requirements of section 412, or

"(B) required to be maintained under section 412.".

SEC. 5. (a) Section 301 of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following new paragraph: 21 USC 331.

"(s) The failure to provide the notice required by section 412(b) or 412(c), the failure to make the reports required by section 412(d)(1)(B), or the failure to meet the requirements prescribed under section 412(d)(2).".

(b) Section 301(e) of such Act is amended (1) by striking out "section 703" and inserting in lieu thereof "section 412 or 703", and (2) by striking out "section 505" and inserting in lieu thereof "section 412, 505".

(c) Section 301(j) of such Act is amended by inserting "412," before "505".

SEC. 6. Section 412 of the Federal Food, Drug, and Cosmetic Act (added by section 2) shall apply with respect to infant formulas manufactured on or after the 90th day after the date of the enactment of this Act. Effective date. 21 USC 350a note.

SEC. 7. (a) The Secretary of Health and Human Services shall conduct a study to determine the long-term effect on infants of hypochloremic metabolic alkalosis resulting from infant formulas deficient in chloride. The Secretary shall report the results of such study to the Congress. Health study. Report to Congress.

(b) The Secretary of Health and Human Services shall conduct a review of existing Federal requirements for the labeling of infant formula to determine the effect of such requirements on infant nutrition and proper use of infant formula. Not later than the 180th day after the date of the enactment of this Act, the Secretary shall Federal labeling requirements, review. Submittal to congressional committees.

submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives containing the results of the review and including recommendations for any legislative or administrative action with respect to the labeling of infant formula as the Secretary determines appropriate.

Export issues, review.

(c) The Secretary of Health and Human Services shall conduct a review of issues concerning the export of infant formula that, if marketed in the United States, would be in violation of section 412 of the Federal Food, Drug, and Cosmetic Act. Not later than the 180th day after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives, containing the results of the review and including recommendations regarding appropriate legislative or administrative action to improve current export policies, as the Secretary determines appropriate.

Ante, p. 1190. Submittal to congressional committees.

SEC. 8. (a) Section 503 of the Controlled Substances Act (21 U.S.C. 873) is amended by adding at the end the following new subsection:

Controlled substance with highest abuse rate.

"(c) The Attorney General shall annually (1) select the controlled substance (or controlled substances) contained in schedule II which, in the Attorney General's discretion, is determined to have the highest rate of abuse, and (2) prepare and make available to regulatory, licensing, and law enforcement agencies of States descriptive and analytic reports on the actual distribution patterns in such States of each such controlled substance.".

21 USC 830, 841, 842, 843.

(b) Section 203 of the Psychotropic Substances Act of 1978 (Public Law 95-633) is amended by striking out subsection (d).

(c) Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended—

(1) by striking out "except as provided in paragraphs (4) and (5) of this subsection" in the first sentence of subsection (b)(1)(B) and inserting in lieu thereof "except as provided in paragraphs (4), (5), and (6) of this subsection"; and

(2) by adding after paragraph (5) of subsection (b) the following new paragraph:

Penalties.

"(6) In the case of a violation of subsection (a) involving a quantity of marihuana exceeding 1,000 pounds, such person shall be sentenced to a term of imprisonment of not more than 15 years, and in addition, may be fined not more than $125,000. If any person commits such a violation after one or more prior convictions of such person for an offense punishable under paragraph (1) of this paragraph, or for a

felony under any other provision of this title, title III, or other law of the United States relating to narcotic drugs, marihuana, or depressant or stimulant substances, have become final, such person shall be sentenced to a term of imprisonment of not more than 30 years, and in addition, may be fined not more than $250,000.". 21 USC 801, 951.

Approved September 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-936 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 96-916 accompanying S. 2490 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 20, considered and passed House.
Sept. 8, considered and passed Senate, amended, in lieu of S. 2490.
Sept. 9, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 39:
Sept. 26, Presidential remarks and statement.

Public Law 96-360
96th Congress

An Act

Sept 26, 1980
[H.R. 3210]

To terminate the authority to make grants to the Las Vegas Valley Water District under the Act of August 27, 1954.

Las Vegas Valley Water District, termination of grant authority. Repeal.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective on the date of enactment of this Act, the Act of August 27, 1954, entitled "An Act granting to the Las Vegas Valley Water District, a public corporation organized under the laws of the State of Nevada, certain public lands of the United States in the State of Nevada" (68 Stat. 864) is hereby repealed.

SEC. 2. Nothing in this Act shall in any manner affect any grant made under the authority of the Act of August 27, 1954, prior to the effective date of this Act.

Approved September 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1065 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 16, considered and passed House.
Sept 16, considered and passed Senate.

Public Law 96-361
96th Congress

An Act

To designate the building known as the Federal Building in Morgantown, West Virginia, as the "Harley O. Staggers Federal Building".

Sept. 26, 1980
[H.R. 6511]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 75 High Street, Morgantown, West Virginia (commonly known as the Federal Building), shall hereafter be known, called, and designated as the "Harley O. Staggers Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Harley O. Staggers Federal Building".

Harley O. Staggers Federal Building. Designation.

SEC. 2. The authorization contained in section 1 of this Act shall become effective on January 15, 1981.

Effective date.

Approved September 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-901 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 5, considered and passed House.
Sept. 9, considered and passed Senate, amended.
Sept. 16, House concurred in Senate amendment.

Public Law 96-362
96th Congress

An Act

Sept. 26, 1980
[S. 1650]

To provide for the development of aquaculture in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Aquaculture Act of 1980".

National Aquaculture Act of 1980.
16 USC 2801 note.

FINDINGS, PURPOSE, AND POLICY

16 USC 2801.

SEC. 2. (a) FINDINGS.—Congress finds the following:

(1) The harvest of certain species of fish and shellfish exceeds levels of optimum sustainable yield, thereby making it more difficult to meet the increasing demand for aquatic food.

(2) To satisfy the domestic market for aquatic food, the United States imports more than 50 per centum of its fish and shellfish, but this dependence on imports adversely affects the national balance of payments and contributes to the uncertainty of supplies.

(3) Although aquaculture currently contributes approximately 10 per centum of world seafood production, less than 3 per centum of current United States seafood production results from aquaculture. Domestic aquacultural production, therefore, has the potential for significant growth.

(4) Aquacultural production of aquatic plants can provide sources of food, industrial materials, pharmaceuticals, and energy, and can assist in the control and abatement of pollution.

(5) The rehabilitation and enhancement of fish and shellfish resources are desirable applications of aquacultural technology.

(6) The principal responsibility for the development of aquaculture in the United States must rest with the private sector.

(7) Despite its potential, the development of aquaculture in the United States has been inhibited by many economic, legal, and production factors, such as inadequate credit, diffused legal jurisdiction, the lack of management information, and the lack of reliable supplies of seed stock.

(8) Many areas of the United States are suitable for aquaculture, but are subject to land-use or water-use management policies that do not adequately consider the potential for aquaculture and may inhibit the development of aquaculture.

(b) PURPOSE.—It is the purpose of this Act to promote aquaculture in the United States by—

(1) declaring a national aquaculture policy;

(2) establishing and implementing a national aquaculture development plan; and

(3) encouraging aquaculture activities and programs in both the public and private sectors of the economy;

that will result in increased aquacultural production, the coordination of domestic aquaculture efforts, the conservation and enhance-

ment of aquatic resources, the creation of new industries and job opportunities, and other national benefits.

(c) POLICY.—Congress declares that aquaculture has the potential for augmenting existing commercial and recreational fisheries and for producing other renewable resources, thereby assisting the United States in meeting its future food needs and contributing to the solution of world resource problems. It is, therefore, in the national interest, and it is the national policy, to encourage the development of aquaculture in the United States.

DEFINITIONS

SEC. 3. As used in this Act, unless the context otherwise requires— 16 USC 2802.

(1) The term "aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching (except private ocean ranching of Pacific salmon for profit in those States where such ranching is prohibited by law).

(2) The term "aquaculture facility" means any land, structure, or other appurtenance that is used for aquaculture and is located in any State. Such term includes, but is not limited to, any laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment used in aquaculture.

(3) The term "aquatic species" means any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant.

(4) The term "coordinating group" means the interagency aquaculture coordinating group established by section 6.

(5) The term "person" means any individual who is a citizen or national of the United States or of any State, any Indian tribe, any institution of higher education, and any corporation, partnership, association or other entity (including, but not limited to, any community development corporation, producer cooperative, or fishermen's cooperative) organized or existing under the laws of any State.

(6) The term "Plan" means the National Aquaculture Development Plan required to be established under section 4.

(7) The term "Secretaries" means the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior.

(8) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

NATIONAL AQUACULTURE DEVELOPMENT PLAN

SEC. 4. (a) IN GENERAL.—(1) Within eighteen months after the date of the enactment of this Act, the Secretaries shall establish the National Aquaculture Development Plan. 16 USC 2803.

(2) In developing the Plan, and revisions thereto under subsection (d), beginning not later than six months after the date of enactment of this Act, the Secretaries shall consult with other appropriate Federal officers, States, regional fishery management councils established under section 302 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852), and representatives of the aquaculture industry. In addition, the Secretaries shall give interested persons Comments.

and organizations an opportunity to comment during the development of the Plan.

Advisory committee membership.

(3) If the Secretaries deem it to be appropriate, they may establish, and appoint the members of, an advisory committee to assist in the initial development of the Plan. Individuals appointed to the advisory committee shall be knowledgeable or experienced in the principles and practices of aquaculture. The members of the advisory committee (other than officers or employees of the Federal Government), while away from their homes or regular places of business in the performance of services for the advisory committee, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

Travel expenses.

(b) CONTENTS OF PLAN.—The Plan shall—

(1) identify aquatic species that the Secretaries determine have significant potential for culturing on a commercial or other basis;

(2) recommend actions to be taken by the public and private sectors (which may include, but are not limited to, research and development, technical assistance, demonstration, extension education, and training activities) that are necessary to achieve such potential;

(3) address, after taking into account the status of aquaculture regarding the aquatic species concerned—

(A) aquaculture facility design and operation,

(B) water quality management,

(C) use of waste products (including thermal effluents),

(D) nutrition and the development of economical feeds, including natural food sources,

(E) life history, genetics, physiology, pathology, and disease control (including research regarding organisms that may not be harmful to fish and shellfish, but are injurious to humans),

(F) processing and market development,

(G) production management and quality control, and

(H) the development of adequate supplies of seed stock;

(4) include, where appropriate, research programs on the effect of aquaculture on estuarine and other water areas and on the management of such areas for aquaculture;

(5) include, where appropriate, programs to analyze, and formulate proposed resolutions of, the legal or regulatory constraints that may affect aquaculture; and

(6) include such other research and development, technical assistance, demonstration, extension education, and training programs as the Secretaries deem necessary or appropriate to carry out this Act.

In formulating the Plan, the Secretaries shall, to the extent practicable, take into account any significant action that (i) has been, or is proposed to be, undertaken by any other Federal department or agency, any State agency, or any person, and (ii) may affect the implementation of the Plan.

(c) ACTIONS AND IMPLEMENTATION.—The Plan shall specify—

(1) with respect to those actions that the Secretaries determine should be undertaken, the period of time within which each such action should be completed, in order to implement the Plan; and

(2) with respect to each such action which of the Secretaries, acting individually, jointly, or collectively, has the responsibility for implementing the action.

The specifications of Secretarial responsibilities under paragraph (2) for implementing actions shall be determined on the basis of—

(A) the responsibilities conferred on the respective Secretaries by law or by any executive action having the effect of law (including, but not limited to, Reorganization Plan Numbered 4 of 1970); and

(B) the experience, expertise, and other appropriate resources that the department of each such Secretary may have with respect to the action required under the activity concerned.

15 USC 1511 note.

(d) REVISION OF PLAN.—The Secretaries shall undertake periodic reviews of the operation and effectiveness of the Plan. If as a result of any such review, or the aquaculture assessment required under subsection (e), the Secretaries determine that—

Periodic reviews.

(1) any aquatic species not currently identified in the Plan has significant potential for aquaculture;

(2) any action specified in the Plan is not being accomplished on a successful and timely basis; or

(3) any action specified in the Plan should be terminated because its objectives have been achieved or its projected benefits do not warrant further support;

the Secretaries shall appropriately amend the Plan.

(e) CONTINUING AQUACULTURE ASSESSMENT.—The Secretaries, through the coordinating group, shall undertake a continuing assessment of aquaculture in the United States for the purpose of maintaining, on a continuing basis—

(1) a complete profile of the aquacultural industry with respect to the incidence, size, and status of commercial aquacultural enterprises;

(2) the identification of the private and public institutions and organizations involved in aquacultural research, extension, credit, and market development;

(3) the identification of the various aquatic species being cultured and a description of the status of commercial development of each of those species;

(4) to the extent practicable, the identification of aquacultural production regions, species, and markets that have significant potential for development;

(5) a catalog describing all Federal programs and activities that directly or indirectly encourage, support, or assist aquaculture; and

(6) the identification of the economic, physical, legal, institutional, and social constraints that inhibit the development of aquaculture in the United States.

FUNCTIONS AND POWERS OF SECRETARIES

SEC. 5. (a) MANDATORY FUNCTIONS.—In implementing the Plan, the Secretaries shall— 16 USC 2804.

(1) provide advisory, educational, and technical assistance (including training) with respect to aquaculture to interested persons, and in providing such assistance, shall, to the maximum extent practicable, avoid duplication of similar assistance provided by other Federal departments and agencies and by State agencies;

(2) consult and cooperate with interested persons, Federal departments and agencies, State agencies, and regional fishery management councils established under section 302 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852);

(3) encourage the implementation of aquacultural technology in the rehabilitation and enhancement of publicly owned fish and shellfish stocks (including rehabilitation and enhancement by private nonprofit enterprises), and in the development of private commercial aquacultural enterprises; and

(4) prescribe such regulations as may be necessary to carry out the Plan.

(b) DISCRETIONARY FUNCTIONS.—In implementing the Plan, the Secretaries may—

(1) for the purposes of assessing the biological, technical, and economic feasibility of any aquacultural system—

(A) conduct tests of the system, and, if necessary to demonstrate its feasibility, construct, operate, and maintain developmental aquaculture facilities for testing laboratory results, and

(B) conduct such other tests or analyses as may be necessary;

(2) develop methods to enhance seed stocks of aquatic species; and

(3) conduct such other tests or analyses or take such other actions as the Secretaries deem necessary or appropriate.

(c) INFORMATION SERVICES.—(1) In addition to performing such other required functions under this Act, the Secretaries shall—

(A) establish and maintain an information service for the collection, analysis, and dissemination of scientific, technical, legal, and economic information relating to aquaculture;

(B) conduct appropriate surveys, in coordination with other Federal departments and agencies, of public and private aquacultural activities being conducted in the United States for the purpose of acquiring information on acreages, water use, production, culture techniques, and other relevant matters;

(C) arrange with foreign nations for the exchange of information relating to aquaculture and support a translation service;

(D) conduct a continuing study to determine whether existing capture fisheries could be adversely affected by competition from products produced by commercial aquacultural enterprises and include in such study—

(i) an assessment of any adverse effect, by species and by geographical region, on such fisheries, and

(ii) recommended measures to ameliorate any such effect; and

Report to Congress.

(E) report to Congress on the findings of the study conducted under subparagraph (D) in the biennial status report required under subsection (d).

Confidential information, disclosure.

(2) Any production information submitted to the Secretaries under paragraph (1)(B) shall be confidential and may only be disclosed if required under court order. The Secretaries shall prescribe such procedures as may be necessary to preserve such confidentiality. The Secretaries may release or make public any information in any aggregate or summary form that does not directly or indirectly disclose the identity, business transactions, or trade secrets of any person who submits such information.

Submittal to Congress.

(d) BIENNIAL REPORT.—The Secretaries, through the coordinating group, shall prepare on a biennial basis, and submit to Congress, a report on the status of aquaculture in the United States. Each such report shall contain a description and evaluation of the actions undertaken with respect to the Plan during the reporting period, an explanation of any revisions made to the Plan under section 4(d)

during the reporting period, and such other comments and recommendations as the Secretaries deem appropriate. The first report required under this subsection shall be submitted to Congress by September 30, 1981.

COORDINATION OF NATIONAL ACTIVITIES REGARDING AQUACULTURE

Interagency aquaculture coordinating group. 16 USC 2805.

SEC. 6. (a) ESTABLISHMENT.—There is established within the Office of Science and Technology Policy an interagency aquaculture coordinating group that shall, subject to subsection (f), operate as a Joint Subcommittee on Aquaculture of the Federal Coordinating Council on Science, Engineering, and Technology (hereinafter in this section referred to as the "Federal Council") established by Executive Order 12039, dated February 24, 1978. The coordinating group shall be composed of the following members or their designees:

42 USC 6601 note. Membership.

(1) The Secretary of Agriculture.
(2) The Secretary of Commerce.
(3) The Secretary of the Interior.
(4) The Secretary of Energy.
(5) The Secretary of Health and Human Services.
(6) The Administrator of the Environmental Protection Agency.
(7) The Chief of Engineers.
(8) The Administrator of the Small Business Administration.
(9) The Administrator of the Agency for International Development.
(10) The Chairman of the Tennessee Valley Authority.
(11) The Director of the National Science Foundation.
(12) The Governor of the Farm Credit Administration.
(13) The heads of such other Federal agencies as are deemed appropriate by the Director of the Office of Science and Technology Policy (hereinafter in this section referred to as the "Director"), after consultation with the coordinating group.

(b) PURPOSE AND FUNCTIONS.—The purpose of the coordinating group is to increase the overall effectiveness and productivity of Federal aquaculture research, transfer, and assistance programs. In fulfilling this purpose the coordinating group shall—

(1) review the national needs for aquaculture research, transfer, and assistance;
(2) assess the effectiveness and adequacy of Federal efforts to meet those national needs;
(3) undertake planning, coordination, and communication among Federal agencies engaged in the science, engineering, and technology of aquaculture;
(4) collect, compile, and disseminate information on aquaculture;
(5) encourage joint programs among Federal agencies in areas of mutual interest; and
(6) recommend to the Federal Council specific actions on issues, problems, plans, and programs in aquaculture.

(c) CHAIRMAN.—Each of the Secretaries or their designees, on such rotating basis as shall be determined by the Director, shall serve as the chairman of the coordinating group. The term of office of the chairman is two years.

(d) REPORTS.—The coordinating group shall regularly report to the Chairman of the Federal Council on the coordinating group's activities and on recommendations concerning Federal policies and programs related to aquaculture.

(e) FEDERAL CONSISTENCY.—Each Federal department and agency that has functions or responsibilities with respect to aquaculture or has jurisdiction over any activity that affects, or that may affect, the achievement of the purpose and policy of this Act, shall, in consultation with the coordinating group and to the maximum extent practicable, perform such function, responsibility, or activity in a manner that is consistent with the purpose and policy of this Act.

(f) FUNCTIONS IF FEDERAL COUNCIL TERMINATED.—If at any time after the date of the enactment of this Act, the functions of the Federal Council are by executive action terminated or transferred to an agency other than the Office of Science and Technology Policy, the coordinating group shall carry out its purpose under the direction of the Director. In that event, the recommendations of the coordinating group referred to in subsection (b)(6) and the reports required under subsection (d) shall be made to the Director.

CONTRACTS AND GRANTS

16 USC 2806.

SEC. 7. (a) IN GENERAL.—The Secretaries may each carry out any action that such Secretary is responsible for implementing under the Plan through grants to, or contracts with, any person, any other Federal department or agency, any State agency, or any regional commission.

(b) TERMS AND CONDITIONS.—Any contract entered into, or any grant made, under subsection (a) shall contain such terms and conditions as the Secretary concerned shall by regulation prescribe as being necessary or appropriate to protect the interests of the United States. No contract may be entered into, and no grant may be made under subsection (a), for any purpose that is in violation of any applicable State or local law.

(c) LIMITATION.—The amount of any grant made under subsection (a) may not exceed an amount equal to one-half the estimated cost of the project for which the grant is made.

(d) AUDIT.—Each recipient of a grant or contract under this section shall make available to the Secretary concerned and to the Comptroller General of the United States, for purposes of audit and examination, any book, document, paper, or record that is pertinent to the funds received under such grant or contract.

CAPITAL REQUIREMENTS FOR AQUACULTURE

16 USC 2807.

SEC. 8. (a) CAPITAL REQUIREMENTS STUDY.—The Secretaries, through the coordinating group, shall conduct within twelve months after the date of enactment of this Act, a study of the capital requirements of the United States aquaculture industry. The study shall—

(1) document and analyze any capital constraints that affect the development of aquaculture in the United States; and

(2) evaluate the role that appropriate Federal financial assistance does or could play in filling gaps in the normal credit market with respect to aquaculture.

The study will identify the capital needs of the United States aquaculture industry, with emphasis on the needs that are not being filled either in normal credit channels or through government programs for direct loans, loan guarantees, disaster loans, and insurance. Upon its completion, the Secretaries shall submit the results of the study to Congress.

Submittal to Congress.

(b) CAPITAL REQUIREMENTS PLAN.—Based on the results of the Capital Requirements Study conducted under subsection (a), and within six months of the completion of the study, the Secretaries shall formulate a plan for acting on the study's findings. The plan shall include: (1) those Federal actions, if any, found to be necessary to meet financial needs unmet through normal credit channels and existing Federal programs; and (2) recommendations, if any, for legislative actions. Upon completion, the plan shall be submitted to Congress. Submittal to Congress.

REGULATORY CONSTRAINTS ON AQUACULTURE

SEC. 9. (a) REGULATORY CONSTRAINTS STUDY.—The Secretaries, through the coordinating group, shall conduct, within twelve months after the date of enactment of this Act, a study of the State and Federal regulatory restrictions to aquaculture development in the United States. The study shall— 16 USC 2808.

(1) include a literature review and a descriptive list identifying the parameters of the issue;

(2) identify and list relevant current and pending Federal regulations restricting the development of commercial aquaculture operations;

(3) identify and list relevant current State regulations restricting the development of commercial aquaculture operations in five States selected randomly in five separate geographic regions of the United States;

(4) conduct case studies of ten commercial aquaculture operations in the United States representing a wide range of marine and fresh water species to determine the practical effects of regulatory restrictions on aquaculture; and

(5) develop a flow-chart time line using the information obtained by means of paragraphs (1) through (4) to identify those regulations and restrictions that could have the most detrimental effect in establishing commercial aquaculture operations in the United States.

Upon completion of the study, the Secretaries shall submit its results to Congress. Submittal to Congress.

(b) REGULATORY CONSTRAINTS PLAN.—Based on the results of the Regulatory Constraints Study conducted under subsection (a), and within six months of the study's completion, the Secretaries shall formulate a plan for acting on the study's findings. The plan will contain specific steps the Federal Government can take to remove unnecessarily burdensome regulatory barriers to the initiation and operation of commercial aquaculture ventures. Upon its completion, the Secretaries shall submit the plan to Congress. Submittal to Congress.

AUTHORIZATIONS FOR APPROPRIATIONS

SEC. 10. For purposes of carrying out the provisions of this Act, there are authorized to be appropriated— 16 USC 2809.

(1) to the Department of Agriculture—
  (A) $7,000,000 for fiscal year 1981,
  (B) $10,000,000 for fiscal year 1982, and
  (C) $12,000,000 for fiscal year 1983;

(2) to the Department of Commerce—
  (A) $7,000,000 for fiscal year 1981,
  (B) $10,000,000 for fiscal year 1982, and
  (C) $12,000,000 for fiscal year 1983; and

(3) to the Department of the Interior—
(A) $3,000,000 for fiscal year 1981,
(B) $4,000,000 for fiscal year 1982, and
(C) $5,000,000 for fiscal year 1983.

Funds authorized by this section shall be in addition to, and not in lieu of, funds authorized by any other Act.

DISCLAIMER

16 USC 2810.

SEC. 11. Nothing in this Act shall be construed to amend, repeal, or otherwise modify the authority of any Federal officer, department, or agency to perform any function, responsibility, or activity authorized under any other provision of law.

Approved September 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-198, Pt. 1 (Comm. on Merchant Marine and Fisheries) and No. 96-198, Pt. 2, (Comm. on Agriculture) both accompanying H.R. 20.

SENATE REPORT No. 96-660 (Comm. on Commerce, Science, and Transportation) and (Comm. on Agriculture, Nutrition and Forestry).

CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 30, considered and passed Senate.
Sept. 8, H.R. 20 considered and passed House; passage vacated and S. 1650, amended, passed in lieu.
Sept. 11, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 39:
Sept. 26, Presidential statement.

Public Law 96-363
96th Congress

An Act

To permit any Indian to transfer by will restricted lands of such Indian to his or her heirs or lineal descendants, and other Indian persons.

Sept. 26, 1980
[S. 2223]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first proviso of section 4 of the Act of June 18, 1934 (48 Stat. 984, 985; 25 U.S.C. 464), is amended by striking the phrase "or any heirs of such members" and inserting in lieu thereof, the phrase "or any heirs or lineal descendants of such member or any other Indian person for whom the Secretary of the Interior determines that the United States may hold land in trust".

Indians.
Restricted lands, transfer.

SEC. 2. (a) The second and third provisos contained in the paragraph entitled "Determining Heirs" in the Act of January 24, 1923 (42 Stat. 1185; 25 U.S.C. 377), as amended, and section 2 of the Act of December 24, 1942 (56 Stat. 1080, 1081; 25 U.S.C. 375b), are hereby repealed.

Repeals.

(b) The Secretary of the Interior may cancel any unpaid fees assessed under the provisions repealed by this section.

Unpaid fees.
25 USC 377 note.

Approved September 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1285 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-760 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 22, considered and passed Senate.
Sept. 15, considered and passed House, amended.
Sept. 16, Senate concurred in House amendment.

Public Law 96-364
96th Congress

An Act

Sept. 26, 1980
[H.R. 3904]

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve retirement income security under private multiemployer pension plans by strengthening the funding requirements for those plans, to authorize plan preservation measures for financially troubled multiemployer pension plans, and to revise the manner in which the pension plan termination insurance provisions apply to multiemployer plans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Multiemployer Pension Plan Amendments Act of 1980.
29 USC 1001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multiemployer Pension Plan Amendments Act of 1980".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

TABLE OF CONTENTS

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TITLE I—AMENDMENTS TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 101. Amendment of the Employee Retirement Income Security Act of 1974.
Sec. 102. Multiemployer guarantees; aggregate limit on guarantees.
Sec. 103. Termination for multiemployer plans.
Sec. 104. Employer withdrawals; merger or transfer of plan assets or liabilities; reorganization; minimum contribution requirement for multiemployer plans; financial assistance; benefits after termination; enforcement.
Sec. 105. Premiums.
Sec. 106. Annual report of plan administrator.
Sec. 107. Contingent employer liability insurance.
Sec. 108. Transition rules and effective dates.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

Sec. 201. Amendment of the Internal Revenue Code of 1954.
Sec. 202. Multiemployer plans in reorganization.
Sec. 203. Minimum funding requirements.
Sec. 204. Excise taxes.
Sec. 205. Deductibility of employer liability payments.
Sec. 206. Minimum vesting requirements.
Sec. 207. Definition of multiemployer plan.
Sec. 208. Related technical amendments.
Sec. 209. Withdrawal liability payments funds.
Sec. 210. Effective date.

TITLE III—AMENDMENTS TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Amendment of the Employee Retirement Income Security Act of 1974.
Sec. 302. Definition of multiemployer plan.
Sec. 303. Minimum vesting requirements.

Sec. 304. Minimum funding requirements.
Sec. 305. Application of interested party rules to withdrawal liability payment funds.
Sec. 306. Liquidated damages with respect to delinquent contributions.
Sec. 307. Actuarial standards.
Sec. 308. Exemptions from prohibited transactions.
Sec. 309. Fiduciary duties.
Sec. 310. Refund of certain withdrawal liability payments.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Amendment of the Employee Retirement Income Security Act of 1974.
Sec. 402. Related technical amendments.
Sec. 403. Conforming amendments.
Sec. 404. Clerical amendments.
Sec. 405. Action taken before regulations are prescribed.
Sec. 406. Pension Benefit Guaranty Corporation put on budget.
Sec. 407. Church plans.
Sec. 408. Deductibility of payments to plan by a corporation operating public transportation system acquired by a State.
Sec. 409. Treatment of certain severance pay arrangements and supplemental retirement income payments as welfare plans.
Sec. 410. Refund of mistaken contributions.
Sec. 411. Definition of employee pension benefit plan.
Sec. 412. Studies by Pension Benefit Guaranty Corporation and Secretary of Labor.
Sec. 413. Study by General Accounting Office; hearings required.
Sec. 414. Treatment of certain retirement benefits.
Sec. 415. Increase in length of service in Armed Forces required for ex-servicemen to be eligible for unemployment benefits.
Sec. 416. Cessation of extended benefits when paid under an interstate plan in a State where extended benefit period is not in effect.

SEC. 3. FINDINGS AND DECLARATION OF POLICY. 29 USC 1001a.

(a) The Congress finds that—

(1) multiemployer pension plans have a substantial impact on interstate commerce and are affected with a national public interest;

(2) multiemployer pension plans have accounted for a substantial portion of the increase in private pension plan coverage over the past three decades;

(3) the continued well-being and security of millions of employees, retirees, and their dependents are directly affected by multiemployer pension plans; and

(4)(A) withdrawals of contributing employers from a multiemployer pension plan frequently result in substantially increased funding obligations for employers who continue to contribute to the plan, adversely affecting the plan, its participants and beneficiaries, and labor-management relations, and

(B) in a declining industry, the incidence of employer withdrawals is higher and the adverse effects described in subparagraph (A) are exacerbated.

(b) The Congress further finds that—

(1) it is desirable to modify the current multiemployer plan termination insurance provisions in order to increase the likelihood of protecting plan participants against benefit losses; and

(2) it is desirable to replace the termination insurance program for multiemployer pension plans with an insolvency-based benefit protection program that will enhance the financial soundness of such plans, place primary emphasis on plan continuation, and contain program costs within reasonable limits.

(c) It is hereby declared to be the policy of this Act—

(1) to foster and facilitate interstate commerce,

(2) to alleviate certain problems which tend to discourage the maintenance and growth of multiemployer pension plans,

(3) to provide reasonable protection for the interests of participants and beneficiaries of financially distressed multiemployer pension plans, and

(4) to provide a financially self-sufficient program for the guarantee of employee benefits under multiemployer plans.

TITLE I—AMENDMENTS TO TITLE IV OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 101. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974.

29 USC 1001 note.

SEC. 102. MULTIEMPLOYER GUARANTEES; AGGREGATE LIMIT ON GUARANTEES.

Subtitle B of title IV is amended by inserting at the end thereof the following new sections:

"MULTIEMPLOYER PLAN BENEFITS GUARANTEED

29 USC 1322a.

"SEC. 4022A. (a) The corporation shall guarantee, in accordance with this section, the payment of all nonforfeitable benefits (other than benefits becoming nonforfeitable solely on account of the termination of a plan) under a multiemployer plan—

29 USC 1321.

"(1) to which section 4021 applies, and

Post, pp. 1259, 1261.

"(2) which is insolvent under section 4245(b) or 4281(d)(2).

"(b)(1)(A) For purposes of this section, a benefit or benefit increase which has been in effect under a plan for less than 60 months is not eligible for the corporation's guarantee. For purposes of this paragraph, any month of any plan year during which the plan was insolvent or terminated (within the meaning of section 4041A(a)(2)) shall not be taken into account.

Post, p. 1216.

"(B) For purposes of this section, a benefit or benefit increase which has been in effect under a plan for less than 60 months before the first day of the plan year for which an amendment reducing the benefit or the benefit increase is taken into account under section 4244A(a)(2) in determining the minimum contribution requirement for the plan year under section 4243(b) is not eligible for the corporation's guarantee.

Post, p. 1257.

Post, p. 1252.

"(2) For purposes of this section—

"(A) the date on which a benefit or a benefit increase under a plan is first in effect is the later of—

"(i) the date on which the documents establishing or increasing the benefit were executed, or

"(ii) the effective date of the benefit or benefit increase;

"(B) the period of time for which a benefit or a benefit increase has been in effect under a successor plan includes the period of time for which the benefit or benefit increase was in effect under a previously established plan; and

29 USC 1321.

"(C) in the case of a plan to which section 4021 did not apply on September 3, 1974, the time periods referred to in this section are computed beginning on the date on which section 4021 first applies to the plan.

"(c)(1) Except as provided in subsection (g), the monthly benefit of a participant or a beneficiary which is guaranteed under this section by the corporation with respect to a plan is the product of—

"(A) 100 percent of the accrual rate up to $5, plus 75 percent of the lesser of—

"(i) $15, or

"(ii) the accrual rate, if any, in excess of $5, and

"(B) the number of the participant's years of credited service.

"(2) Except as provided in paragraph (6) of this subsection and in subsection (g), in applying paragraph (1) with respect to a plan described in paragraph (5)(A), the term '65 percent' shall be substituted in paragraph (1)(A) for the term '75 percent'.

"(3) For purposes of this section, the accrual rate is— Accrual rate.

"(A) the monthly benefit of the participant or beneficiary which is described in subsection (a) and which is eligible for the corporation's guarantee under subsection (b), except that such benefit shall be—

"(i) no greater than the monthly benefit which would be payable under the plan at normal retirement age in the form of a single life annuity, and

"(ii) determined without regard to any reduction under section 411(a)(3)(E) of the Internal Revenue Code of 1954; *Post*, p. 1287. divided by

"(B) the participant's years of credited service.

"(4) For purposes of this subsection— Credited service.

"(A) a year of credited service is a year in which the participant completed—

"(i) a full year of participation in the plan, or

"(ii) any period of service before participation which is credited for purposes of benefit accrual as the equivalent of a full year of participation;

"(B) any year for which the participant is credited for purposes of benefit accrual with a fraction of the equivalent of a full year of participation shall be counted as such a fraction of a year of credited service; and

"(C) years of credited service shall be determined by including service which may otherwise be disregarded by the plan under section 411(a)(3)(E) of the Internal Revenue Code of 1954.

"(5)(A) A plan is described in this subparagraph if—

"(i) the first plan year—

"(I) in which the plan is insolvent under section 4245(b) or 4281(d)(2), and *Post*, p. 1259. *Post*, p. 1261.

"(II) for which benefits are required to be suspended under section 4245, or reduced or suspended under section 4281, until they do not exceed the levels provided in this subsection,

begins before the year 2000; and

"(ii) the plan sponsor has not established to the satisfaction of the corporation that, during the period of 10 consecutive plan years (or of such lesser number of plan years for which the plan was maintained) immediately preceding the first plan year to which the minimum funding standards of section 412 of the Internal Revenue Code of 1954 apply, the total amount of the contributions required under the plan for each plan year was at least equal to the sum of— 26 USC 412.

"(I) the normal cost for that plan year, and

"(II) the interest for the plan year (determined under the plan) on the unfunded past service liability for that plan year, determined as of the beginning of that plan year.

"(B) A plan shall not be considered to be described in subparagraph (A) if—

"(i) it is established to the satisfaction of the corporation that—

"(I) the total amount of the contributions received under the plan for the plan years for which the actuarial valuations (performed during the period described in subparagraph (A)(ii)) were performed was at least equal to the sum described in subparagraph (A)(ii); or

"(II) the rates of contribution to the plan under the collective bargaining agreements negotiated when the findings of such valuations were available were reasonably expected to provide such contributions;

"(ii) the number of actuarial valuations performed during the period described in subparagraph (A)(ii) is—

"(I) at least 2, in any case in which such period consists of more than 6 plan years, and

"(II) at least 1, in any case in which such period consists of 6 or fewer plan years; and

"(iii) if the proposition described in clause (i)(I) is to be established, the plan sponsor certifies that to the best of the plan sponsor's knowledge there is no information available which establishes that the total amount of the contributions received under the plan for any plan year during the period described in subparagraph (A)(ii) for which no valuation was performed is less than the sum described in subparagraph (A)(ii).

"(6) Notwithstanding paragraph (2), in the case of a plan described in paragraph (5)(A), if for any period of 3 consecutive plan years beginning with the first plan year to which the minimum funding standards of section 412 of the Internal Revenue Code of 1954 apply, the value of the assets of the plan for each such plan year is an amount equal to at least 8 times the benefit payments for such plan year—

26 USC 412.

"(A) paragraph (2) shall not apply to such plan; and

"(B) the benefit of a participant or beneficiary guaranteed by the corporation with respect to the plan shall be an amount determined under paragraph (1).

"(d) In the case of a benefit which has been reduced under section 411(a)(3)(E) of the Internal Revenue Code of 1954, the corporation shall guarantee the lesser of—

Post, p. 1287.

"(1) the reduced benefit, or

"(2) the amount determined under subsection (c).

"(e) The corporation shall not guarantee benefits under a multiemployer plan which, under section 4022(b)(6), would not be guaranteed under a single-employer plan.

29 USC 1322.

Study.

"(f)(1) No later than 5 years after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, and at least every fifth year thereafter, the corporation shall—

Ante, p. 1208.

"(A) conduct a study to determine—

"(i) the premiums needed to maintain the basic-benefit guarantee levels for multiemployer plans described in subsection (c), and

"(ii) whether the basic-benefit guarantee levels for multiemployer plans may be increased without increasing the basic-benefit premiums for multiemployer plans under this title; and

"(B) report such determinations to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate. Report to congressional committees.

"(2)(A) If the last report described in paragraph (1) indicates that a premium increase is necessary to support the existing basic-benefit guarantee levels for multiemployer plans, the corporation shall transmit to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of any calendar year in which congressional action under this subsection is requested— Revised schedules, transmittal to congressional committees.

"(i) a revised schedule of basic-benefit guarantees for multiemployer plans which would be necessary in the absence of an increase in premiums approved in accordance with section 4006(b), *Post*, p. 1266.

"(ii) a revised schedule of basic-benefit premiums for multiemployer plans which is necessary to support the existing basic-benefit guarantees for such plans, and

"(iii) a revised schedule of basic-benefit guarantees for multiemployer plans for which the schedule of premiums necessary is higher than the existing premium schedule for such plans but lower than the revised schedule of premiums for such plans specified in clause (ii), together with such schedule of premiums.

"(B) The revised schedule of increased premiums referred to in subparagraph (A)(ii) or (A)(iii) shall go into effect as approved by the Congress by concurrent resolution.

"(C) If an increase in premiums is not approved, the revised guarantee schedule described in subparagraph (A)(i) shall go into effect on the first day of the second calendar year following the year in which such revised guarantee schedule was submitted to the Congress.

"(3)(A) If the last report described in paragraph (1) indicates that basic-benefit guarantees for multiemployer plans can be increased without increasing the basic-benefit premiums for multiemployer plans under this title, the corporation shall submit to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate by March 31 of the calendar year in which congressional action under this paragraph is requested— Revised schedules, submittal to congressional committees.

"(i) a revised schedule of increases in the basic-benefit guarantees which can be supported by the existing schedule of basic-benefit premiums for multiemployer plans, and

"(ii) a revised schedule of basic-benefit premiums sufficient to support the existing basic-benefit guarantees.

"(B) The revised schedules referred to in subparagraph (A)(i) or subparagraph (A)(ii) shall go into effect as approved by the Congress by a concurrent resolution. Congressional approval.

"(4)(A) The succeeding subparagraphs of this paragraph are enacted by the Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions (as defined in subparagraph (B)). Such subparagraphs shall supersede other rules only to the extent that they are inconsistent therewith. They are enacted with full recognition of the constitutional right of either Congressional rulemaking power.

House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any rule of that House.

"Concurrent resolution."

"(B) For purposes of this subsection, 'concurrent resolution' means only a concurrent resolution, the matter after the resolving clause of which is as follows: 'That the Congress favors the proposed schedule described in transmitted to the Congress by the Pension Benefit Guaranty Corporation on .', the first blank space therein being filled with 'section 4022A(f)(2)(A)(ii) of the Employee Retirement Income Security Act of 1974', 'section 4022A(f)(2)(A)(iii) of the Employee Retirement Income Security Act of 1974', 'section 4022A(f)(3)(A)(i) of the Employee Retirement Income Security Act of 1974', or 'section 4022A(f)(3)(A)(ii) of the Employee Retirement Income Security Act of 1974' (whichever is applicable), and the second blank space therein being filled with the date on which the corporation's message proposing the revision was submitted.

"(C) The procedure for disposition of a concurrent resolution shall be the procedure described in section 4006(b) (4) through (7).

Post, p. 1266.

"(g)(1) The corporation may guarantee the payment of such other classes of benefits under multiemployer plans, and establish the terms and conditions under which those other classes of benefits are guaranteed, as it determines to be appropriate.

Regulations.

"(2)(A) The corporation shall prescribe regulations to establish a supplemental program to guarantee benefits under multiemployer plans which would be guaranteed under this section but for the limitations in subsection (c). Such regulations shall be proposed by the corporation no later than the end of the 18th calendar month following the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980. The regulations shall make coverage under the supplemental program available no later than January 1, 1983. Any election to participate in the supplemental program shall be on a voluntary basis, and a plan electing such coverage shall continue to pay the premiums required under section 4006(a)(2)(B) to the revolving fund used pursuant to section 4005 in connection with benefits otherwise guaranteed under this section. Any such election shall be irrevocable, except to the extent otherwise provided by regulations prescribed by the corporation.

Ante, p. 1208.

Post, p. 1264.
29 USC 1305.

"(B) The regulations prescribed under this paragraph shall provide—

"(i) that a plan must elect coverage under the supplemental program within the time permitted by the regulations;

"(ii) unless the corporation determines otherwise, that a plan may not elect supplemental coverage unless the value of the assets of the plan as of the end of the plan year preceding the plan year in which the election must be made is an amount equal to 15 times the total amount of the benefit payments made under the plan for that year; and

"(iii) such other reasonable terms and conditions for supplemental coverage, including funding standards and any other reasonable limitations with respect to plans or benefits covered or to means of program financing, as the corporation determines are necessary and appropriate for a feasible supplemental program consistent with the purposes of this title.

"(3) Any benefits guaranteed under this subsection shall be considered nonbasic benefits for purposes of this title.

Revised schedule, submittal to Congress.

"(4)(A) No revised schedule of premiums under this subsection, after the initial schedule, shall go into effect unless—

"(i) the revised schedule is submitted to the Congress, and

"(ii) a concurrent resolution described in subparagraph (B) is not adopted before the close of the 60th legislative day after such schedule is submitted to the Congress.

"(B) For purposes of subparagraph (A), a concurrent resolution described in this subparagraph is a concurrent resolution the matter after the resolving clause of which is as follows: 'That the Congress disapproves the revised premium schedule transmitted to the Congress by the Pension Benefit Guaranty Corporation under section 4022A(g)(4) of the Employee Retirement Income Security Act of 1974 on .', the blank space therein being filled with the date on which the revised schedule was submitted. Concurrent resolution.

"(C) For purposes of subparagraph (A), the term 'legislative day' means any calendar day other than a day on which either House is not in session because of a sine die adjournment or an adjournment of more than 3 days to a day certain. "Legislative day."

"(D) The procedure for disposition of a concurrent resolution described in subparagraph (B) shall be the procedure described in paragraphs (4) through (7) of section 4006(b). *Post*, p. 1266.

"(5) Regulations prescribed by the corporation to carry out the provisions of this subsection, may, to the extent provided therein, supersede the requirements of sections 4245, 4261, and 4281, and the requirements of section 418E of the Internal Revenue Code of 1954, but only with respect to benefits guaranteed under this subsection. *Post*, pp. 1259, 1261. *Post*, p. 1282.

"(h)(1) Except as provided in paragraph (3), subsections (b) and (c) shall not apply with respect to the nonforfeitable benefits accrued as of July 29, 1980, with respect to a participant or beneficiary under a multiemployer plan—

"(1) who is in pay status on July 29, 1980, or

"(2) who is within 36 months of the normal retirement age and has a nonforfeitable right to a pension as of that date.

"(2) The benefits described in paragraph (1) shall be guaranteed by the corporation in the same manner and to the same extent as benefits are guaranteed by the corporation under section 4022 (without regard to this section). 29 USC 1322.

"(3) This subsection does not apply with respect to a plan for plan years following a plan year—

"(A) in which the plan has terminated within the meaning of section 4041A(a)(2), or *Post*, p. 1216.

"(B) in which it is determined by the corporation that substantially all the employers have withdrawn from the plan pursuant to an agreement or arrangement to withdraw.

"AGGREGATE LIMIT ON BENEFITS GUARANTEED

"SEC. 4022B. (a) Notwithstanding sections 4022 and 4022A, no person shall receive from the corporation pursuant to a guarantee by the corporation of basic benefits with respect to a participant under all multiemployer and single employer plans an amount, or amounts, with an actuarial value which exceeds the actuarial value of a monthly benefit in the form of a life annuity commencing at age 65 equal to the amount determined under section 4022(b)(3)(B) as of the date of the last plan termination. 29 USC 1322b. 29 USC 1322.

"(b) For purposes of this section—

"(1) the receipt of benefits under a multiemployer plan receiving financial assistance from the corporation shall be considered the receipt of amounts from the corporation pursuant to a guarantee by the corporation of basic benefits except to the extent provided in regulations prescribed by the corporation, and

Plan termination.

"(2) the date on which a multiemployer plan, whether or not terminated, begins receiving financial assistance from the corporation shall be considered a date of plan termination.".

SEC. 103. TERMINATION FOR MULTIEMPLOYER PLANS.

Subtitle C of title IV is amended by inserting after section 4041 the following new section:

"TERMINATION OF MULTIEMPLOYER PLANS

29 USC 1341a.

"SEC. 4041A. (a) Termination of a multiemployer plan under this section occurs as a result of—

"(1) the adoption after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 of a plan amendment which provides that participants will receive no credit for any purpose under the plan for service with any employer after the date specified by such amendment;

Ante, p. 1208.

"(2) the withdrawal of every employer from the plan, within the meaning of section 4203, or the cessation of the obligation of all employers to contribute under the plan; or

Post, p. 1218.

"(3) the adoption of an amendment to the plan which causes the plan to become a plan described in section 4021(b)(1).

29 USC 1321.

"(b)(1) The date on which a plan terminates under paragraph (1) or (3) of subsection (a) is the later of—

"(A) the date on which the amendment is adopted, or

"(B) the date on which the amendment takes effect.

"(2) The date on which a plan terminates under paragraph (2) of subsection (a) is the earlier of—

"(A) the date on which the last employer withdraws, or

"(B) the first day of the first plan year for which no employer contributions were required under the plan.

"(c) Except as provided in subsection (f)(1), the plan sponsor of a plan which terminates under paragraph (2) of subsection (a) shall—

"(1) limit the payment of benefits to benefits which are nonforfeitable under the plan as of the date of the termination, and

"(2) pay benefits attributable to employer contributions, other than death benefits, only in the form of an annuity, unless the plan assets are distributed in full satisfaction of all nonforfeitable benefits under the plan.

"(d) The plan sponsor of a plan which terminates under paragraph (2) of subsection (a) shall reduce benefits and suspend benefit payments in accordance with section 4281.

Post, p. 1261.

"(e) In the case of a plan which terminates under paragraph (1) or (3) of subsection (a), the rate of an employer's contributions under the plan for each plan year beginning on or after the plan termination date shall equal or exceed the highest rate of employer contributions at which the employer had an obligation to contribute under the plan in the 5 preceding plan years ending on or before the plan termination date, unless the corporation approves a reduction in the rate based on a finding that the plan is or soon will be fully funded.

Benefits, payment.

"(f)(1) The plan sponsor of a terminated plan may authorize the payment other than in the form of an annuity of a participant's entire nonforfeitable benefit attributable to employer contributions, other than a death benefit, if the value of the entire nonforfeitable benefit does not exceed $1,750. The corporation may authorize the payment of benefits under the terms of a terminated plan other than nonforfeitable benefits, or the payment other than in the form of an

annuity of benefits having a value greater than $1,750, if the corporation determines that such payment is not adverse to the interest of the plan's participants and beneficiaries generally and does not unreasonably increase the corporation's risk of loss with respect to the plan.

"(2) The corporation may prescribe reporting requirements for terminated plans, and rules and standards for the administration of such plans, which the corporation considers appropriate to protect the interests of plan participants and beneficiaries or to prevent unreasonable loss to the corporation.". Reporting requirements.

SEC. 104. EMPLOYER WITHDRAWALS; MERGER OR TRANSFER OF PLAN ASSETS OR LIABILITIES; REORGANIZATION; MINIMUM CONTRIBUTION REQUIREMENT FOR MULTIEMPLOYER PLANS; FINANCIAL ASSISTANCE; BENEFITS AFTER TERMINATION; ENFORCEMENT.

Title IV is amended—

(1) by striking out the heading for subtitle E and inserting in lieu thereof the following:

"Subtitle F—Transition Rules and Effective Dates";

and

(2) by inserting after subtitle D the following new subtitle:

"Subtitle E—Special Provisions for Multiemployer Plans

"PART 1—EMPLOYER WITHDRAWALS

"WITHDRAWAL LIABILITY ESTABLISHED

"SEC. 4201. (a) If an employer withdraws from a multiemployer plan in a complete withdrawal or a partial withdrawal, then the employer is liable to the plan in the amount determined under this part to be the withdrawal liability. 29 USC 1381.

"(b) For purposes of subsection (a)—

"(1) The withdrawal liability of an employer to a plan is the amount determined under section 4211 to be the allocable amount of unfunded vested benefits, adjusted—

"(A) first, by any de minimis reduction applicable under section 4209,

"(B) next, in the case of a partial withdrawal, in accordance with section 4206,

"(C) then, to the extent necessary to reflect the limitation on annual payments under section 4219(c)(1)(B), and

"(D) finally, in accordance with section 4225. *Post*, p. 1243.

"(2) The term 'complete withdrawal' means a complete withdrawal described in section 4203. "Complete withdrawal."

"(3) The term 'partial withdrawal' means a partial withdrawal described in section 4205. "Partial withdrawal."

"DETERMINATION AND COLLECTION OF LIABILITY; NOTIFICATION OF EMPLOYER

29 USC 1382. "SEC. 4202. When an employer withdraws from a multiemployer plan, the plan sponsor, in accordance with this part, shall—

"(1) determine the amount of the employer's withdrawal liability,

"(2) notify the employer of the amount of the withdrawal liability, and

"(3) collect the amount of the withdrawal liability from the employer.

"COMPLETE WITHDRAWAL

29 USC 1383. "SEC. 4203. (a) For purposes of this part, a complete withdrawal from a multiemployer plan occurs when an employer—

"(1) permanently ceases to have an obligation to contribute under the plan, or

"(2) permanently ceases all covered operations under the plan.

"(b)(1) Notwithstanding subsection (a), in the case of an employer that has an obligation to contribute under a plan for work performed in the building and construction industry, a complete withdrawal occurs only as described in paragraph (2), if—

"(A) substantially all the employees with respect to whom the employer has an obligation to contribute under the plan perform work in the building and construction industry, and

"(B) the plan—

"(i) primarily covers employees in the building and construction industry, or

"(ii) is amended to provide that this subsection applies to employers described in this paragraph.

"(2) A withdrawal occurs under this paragraph if—

"(A) an employer ceases to have an obligation to contribute under the plan, and

"(B) the employer—

"(i) continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required, or

"(ii) resumes such work within 5 years after the date on which the obligation to contribute under the plan ceases, and does not renew the obligation at the time of the resumption.

"(3) In the case of a plan terminated by mass withdrawal (within the meaning of section 4041A(a)(2)), paragraph (2) shall be applied by substituting '3 years' for '5 years' in subparagraph (B)(ii).

Ante, p. 1216.

"(c)(1) Notwithstanding subsection (a), in the case of an employer that has an obligation to contribute under a plan for work performed in the entertainment industry, primarily on a temporary or project-by-project basis, if the plan primarily covers employees in the entertainment industry, a complete withdrawal occurs only as described in subsection (b)(2) applied by substituting 'plan' for 'collective bargaining agreement' in subparagraph (B)(i) thereof.

"Entertainment industry."

"(2) For purposes of this subsection, the term 'entertainment industry' means—

"(A) theater, motion picture (except to the extent provided in regulations prescribed by the corporation), radio, television, sound or visual recording, music, and dance, and

"(B) such other entertainment activities as the corporation may determine to be appropriate.

"(3) The corporation may by regulation exclude a group or class of employers described in the preceding sentence from the application of this subsection if the corporation determines that such exclusion is necessary—

"(A) to protect the interest of the plan's participants and beneficiaries, or

"(B) to prevent a significant risk of loss to the corporation with respect to the plan.

"(4) A plan may be amended to provide that this subsection shall not apply to a group or class of employers under the plan.

"(d)(1) Notwithstanding subsection (a), in the case of an employer who—

"(A) has an obligation to contribute under a plan described in paragraph (2) primarily for work described in such paragraph, and

"(B) does not continue to perform work within the jurisdiction of the plan,

a complete withdrawal occurs only as described in paragraph (3).

"(2) A plan is described in this paragraph if substantially all of the contributions required under the plan are made by employers primarily engaged in the long and short haul trucking industry, the household goods moving industry, or the public warehousing industry.

"(3) A withdrawal occurs under this paragraph if—

"(A) an employer permanently ceases to have an obligation to contribute under the plan or permanently ceases all covered operations under the plan, and

"(B) either—

"(i) the corporation determines that the plan has suffered substantial damage to its contribution base as a result of such cessation, or

"(ii) the employer fails to furnish a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412, or an amount held in escrow by a bank or similar financial institution satisfactory to the plan, in an amount equal to 50 percent of the withdrawal liability of the employer. 29 USC 1112.

"(4) If, after an employer furnishes a bond or escrow to a plan under paragraph (3)(B)(ii), the corporation determines that the cessation of the employer's obligation to contribute under the plan (considered together with any cessations by other employers), or cessation of covered operations under the plan, has resulted in substantial damage to the contribution base of the plan, the employer shall be treated as having withdrawn from the plan on the date on which the obligation to contribute or covered operations ceased, and such bond or escrow shall be paid to the plan. The corporation shall not make a determination under this paragraph more than 60 months after the date on which such obligation to contribute or covered operations ceased. Bond or escrow.

"(5) If the corporation determines that the employer has no further liability under the plan either—

"(A) because it determines that the contribution base of the plan has not suffered substantial damage as a result of the cessation of the employer's obligation to contribute or cessation of covered operations (considered together with any cessation of contribution obligation, or of covered operations, with respect to other employers), or

"(B) because it may not make a determination under paragraph (4) because of the last sentence thereof,

then the bond shall be cancelled or the escrow refunded.

"(6) Nothing in this subsection shall be construed as a limitation on the amount of the withdrawal liability of any employer.

"(e) For purposes of this part, the date of a complete withdrawal is the date of the cessation of the obligation to contribute or the cessation of covered operations.

"(f)(1) The corporation may prescribe regulations under which plans in industries other than the construction or entertainment industries may be amended to provide for special withdrawal liability rules similar to the rules described in subsections (b) and (c).

"(2) Regulations under paragraph (1) shall permit use of special withdrawal liability rules—

"(A) only in industries (or portions thereof) in which, as determined by the corporation, the characteristics that would make use of such rules appropriate are clearly shown, and

"(B) only if the corporation determines, in each instance in which special withdrawal liability rules are permitted, that use of such rules will not pose a significant risk to the corporation under this title.

"SALE OF ASSETS

29 USC 1384.

"SEC. 4204. (a)(1) A complete or partial withdrawal of an employer (hereinafter in this section referred to as the 'seller') under this section does not occur solely because, as a result of a bona fide, arm's-length sale of assets to an unrelated party (hereinafter in this section referred to as the 'purchaser'), the seller ceases covered operations or ceases to have an obligation to contribute for such operations, if—

"(A) the purchaser has an obligation to contribute to the plan with respect to the operations for substantially the same number of contribution base units for which the seller had an obligation to contribute to the plan;

Bond or escrow.

"(B) the purchaser provides to the plan for a period of 5 plan years commencing with the first plan year beginning after the sale of assets, a bond issued by a corporate surety company that is

29 USC 1112.

an acceptable surety for purposes of section 412 of this Act, or an amount held in escrow by a bank or similar financial institution satisfactory to the plan, in an amount equal to the greater of—

"(i) the average annual contribution required to be made by the seller with respect to the operations under the plan for the 3 plan years preceding the plan year in which the sale of the employer's assets occurs, or

"(ii) the annual contribution that the seller was required to make with respect to the operations under the plan for the last plan year before the plan year in which the sale of the assets occurs,

which bond or escrow shall be paid to the plan if the purchaser withdraws from the plan, or fails to make a contribution to the plan when due, at any time during the first 5 plan years beginning after the sale; and

Withdrawal liability.

"(C) the contract for sale provides that, if the purchaser withdraws in a complete withdrawal, or a partial withdrawal with respect to operations, during such first 5 plan years, the seller is secondarily liable for any withdrawal liability it would have had to the plan with respect to the operations (but for this section) if the liability of the purchaser with respect to the plan is not paid.

"(2) If the purchaser—

"(A) withdraws before the last day of the fifth plan year beginning after the sale, and

"(B) fails to make any withdrawal liability payment when due, then the seller shall pay to the plan an amount equal to the payment that would have been due from the seller but for this section.

Distribution or liquidation.

"(3)(A) If all, or substantially all, of the seller's assets are distributed, or if the seller is liquidated before the end of the 5 plan year period described in paragraph (1)(C), then the seller shall provide a bond or amount in escrow equal to the present value of the withdrawal liability the seller would have had but for this subsection.

"(B) If only a portion of the seller's assets are distributed during such period, then a bond or escrow shall be required, in accordance with regulations prescribed by the corporation, in a manner consistent with subparagraph (A).

"(4) The liability of the party furnishing a bond or escrow under this subsection shall be reduced, upon payment of the bond or escrow to the plan, by the amount thereof.

Purchaser liability.

"(b)(1) For the purposes of this part, the liability of the purchaser shall be determined as if the purchaser had been required to contribute to the plan in the year of the sale and the 4 plan years preceding the sale the amount the seller was required to contribute for such operations for such 5 plan years.

"(2) If the plan is in reorganization in the plan year in which the sale of assets occurs, the purchaser shall furnish a bond or escrow in an amount equal to 200 percent of the amount described in subsection (a)(1)(B).

Individual or class variances.

"(c) The corporation may by regulation vary the standards in subparagraphs (B) and (C) of subsection (a)(1) if the variance would more effectively or equitably carry out the purposes of this title. Before it promulgates such regulations, the corporation may grant individual or class variances or exemptions from the requirements of such subparagraphs if the particular case warrants it. Before granting such an individual or class variance or exemption, the corporation—

Publication in Federal Register.

"(1) shall publish notice in the Federal Register of the pendency of the variance or exemption,

"(2) shall require that adequate notice be given to interested persons, and

"(3) shall afford interested persons an opportunity to present their views.

"Unrelated party."

"(d) For purposes of this section, the term 'unrelated party' means a purchaser or seller who does not bear a relationship to the seller or purchaser, as the case may be, that is described in section 267(b) of the Internal Revenue Code of 1954, or that is described in regulations prescribed by the corporation applying principles similar to the principles of such section.

26 USC 267.

"PARTIAL WITHDRAWALS

29 USC 1385.

"SEC. 4205. (a) Except as otherwise provided in this section, there is a partial withdrawal by an employer from a plan on the last day of a plan year if for such plan year—

"(1) there is a 70-percent contribution decline, or

"(2) there is a partial cessation of the employer's contribution obligation.

"(b) For purposes of subsection (a)—

"(1)(A) There is a 70-percent contribution decline for any plan year if during each plan year in the 3-year testing period the employer's contribution base units do not exceed 30 percent of the employer's contribution base units for the high base year.

"3-year testing period."

"(B) For purposes of subparagraph (A)—

"(i) The term '3-year testing period' means the period consisting of the plan year and the immediately preceding 2 plan years.

"(ii) The number of contribution base units for the high base year is the average number of such units for the 2 plan years for which the employer's contribution base units were the highest within the 5 plan years immediately preceding the beginning of the 3-year testing period.

Employer's contribution obligation, partial cessation.

"(2)(A) There is a partial cessation of the employer's contribution obligation for the plan year if, during such year—

"(i) the employer permanently ceases to have an obligation to contribute under one or more but fewer than all collective bargaining agreements under which the employer has been obligated to contribute under the plan but continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required or transfers such work to another location, or

"(ii) an employer permanently ceases to have an obligation to contribute under the plan with respect to work performed at one or more but fewer than all of its facilities, but continues to perform work at the facility of the type for which the obligation to contribute ceased.

"(B) For purposes of subparagraph (A), a cessation of obligations under a collective bargaining agreement shall not be considered to have occurred solely because, with respect to the same plan, one agreement that requires contributions to the plan has been substituted for another agreement.

Retail food industry employees.

"(c)(1) In the case of a plan in which a majority of the covered employees are employed in the retail food industry, the plan may be amended to provide that this section shall be applied with respect to such plan—

"(A) by substituting '35 percent' for '70 percent' in subsections (a) and (b), and

"(B) by substituting '65 percent' for '30 percent' in subsection (b).

"(2) Any amendment adopted under paragraph (1) shall provide rules for the equitable reduction of withdrawal liability in any case in which the number of the plan's contribution base units, in the 2 plan years following the plan year of withdrawal of the employer, is higher than such number immediately after the withdrawal.

"(3) Section 4208 shall not apply to a plan which has been amended under paragraph (1).

"(d) In the case of a plan described in section 404(c) of the Internal Revenue Code of 1954, or a continuation thereof, the plan may be amended to provide rules setting forth other conditions consistent with the purposes of this Act under which an employer has liability for partial withdrawal.

26 USC 404.

"ADJUSTMENT FOR PARTIAL WITHDRAWAL

29 USC 1386.

"SEC. 4206. (a) The amount of an employer's liability for a partial withdrawal, before the application of sections 4219(c)(1) and 4225, is equal to the product of—

"(1) the amount determined under section 4211, and adjusted under section 4209 if appropriate, determined as if the employer had withdrawn from the plan in a complete withdrawal—

"(A) on the date of the partial withdrawal, or

"(B) in the case of a partial withdrawal described in section 4205(a)(1) (relating to 70-percent contribution decline), on the last day of the first plan year in the 3-year testing period,

multiplied by

"(2) a fraction which is 1 minus a fraction—

"(A) the numerator of which is the employer's contribution base units for the plan year following the plan year in which the partial withdrawal occurs, and

"(B) the denominator of which is the average of the employer's contribution base units for—

"(i) except as provided in clause (ii), the 5 plan years immediately preceding the plan year in which the partial withdrawal occurs, or

"(ii) in the case of a partial withdrawal described in section 4205(a)(1) (relating to 70-percent contribution decline), the 5 plan years immediately preceding the beginning of the 3-year testing period.

"(b)(1) In the case of an employer that has withdrawal liability for a partial withdrawal from a plan, any withdrawal liability of that employer for a partial or complete withdrawal from that plan in a subsequent plan year shall be reduced by the amount of any partial withdrawal liability (reduced by any abatement or reduction of such liability) of the employer with respect to the plan for a previous plan year.

"(2) The corporation shall prescribe such regulations as may be necessary to provide for proper adjustments in the reduction provided by paragraph (1) for— Regulations.

"(A) changes in unfunded vested benefits arising after the close of the prior year for which partial withdrawal liability was determined,

"(B) changes in contribution base units occurring after the close of the prior year for which partial withdrawal liability was determined, and

"(C) any other factors for which it determines adjustment to be appropriate,

so that the liability for any complete or partial withdrawal in any subsequent year (after the application of the reduction) properly reflects the employer's share of liability with respect to the plan.

"REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

"SEC. 4207. (a) The corporation shall provide by regulation for the reduction or waiver of liability for a complete withdrawal in the event that an employer who has withdrawn from a plan subsequently resumes covered operations under the plan or renews an obligation to contribute under the plan, to the extent that the corporation determines that reduction or waiver of withdrawal liability is consistent with the purposes of this Act. Regulations. 29 USC 1387.

"(b) The corporation shall prescribe by regulation a procedure and standards for the amendment of plans to provide alternative rules for the reduction or waiver of liability for a complete withdrawal in the event that an employer who has withdrawn from the plan subsequently resumes covered operations or renews an obligation to

contribute under the plan. The rules may apply only to the extent that the rules are consistent with the purposes of this Act.

"REDUCTION OF PARTIAL WITHDRAWAL LIABILITY

29 USC 1388.

"SEC. 4208. (a)(1) If, for any 2 consecutive plan years following the plan year in which an employer has partially withdrawn from a plan under section 4205(a)(1) (referred to elsewhere in this section as the 'partial withdrawal year'), the number of contribution base units with respect to which the employer has an obligation to contribute under the plan for each such year is not less than 90 percent of the total number of contribution base units with respect to which the employer had an obligation to contribute under the plan for the high base year (within the meaning of section 4205(b)(1)(B)(ii)), then the employer shall have no obligation to make payments with respect to such partial withdrawal (other than delinquent payments) for plan years beginning after the second consecutive plan year following the partial withdrawal year.

Bonds.

"(2)(A) For any plan year for which the number of contribution base units with respect to which an employer who has partially withdrawn under section 4205(a)(1) has an obligation to contribute under the plan equals or exceeds the number of units for the highest year determined under paragraph (1) without regard to '90 percent of', the employer may furnish (in lieu of payment of the partial withdrawal liability determined under section 4206) a bond to the plan in the amount determined by the plan sponsor (not exceeding 50 percent of the annual payment otherwise required).

"(B) If the plan sponsor determines under paragraph (1) that the employer has no further liability to the plan for the partial withdrawal, then the bond shall be cancelled.

"(C) If the plan sponsor determines under paragraph (1) that the employer continues to have liability to the plan for the partial withdrawal, then—

"(i) the bond shall be paid to the plan,

"(ii) the employer shall immediately be liable for the outstanding amount of liability due with respect to the plan year for which the bond was posted, and

"(iii) the employer shall continue to make the partial withdrawal liability payments as they are due.

"(b) If—

"(1) for any 2 consecutive plan years following a partial withdrawal under section 4205(a)(1), the number of contribution base units with respect to which the employer has an obligation to contribute for each such year exceeds 30 percent of the total number of contribution base units with respect to which the employer had an obligation to contribute for the high base year (within the meaning of section 4205(b)(1)(B)(ii), and

"(2) the total number of contribution base units with respect to which all employers under the plan have obligations to contribute in each of such 2 consecutive years is not less than 90 percent of the total number of contribution base units for which all employers had obligations to contribute in the partial withdrawal plan year;

then, the employer shall have no obligation to make payments with respect to such partial withdrawal (other than delinquent payments) for plan years beginning after the second such consecutive plan year.

"(c) In any case in which, in any plan year following a partial withdrawal under section 4205(a)(1), the number of contribution base

units with respect to which the employer has an obligation to contribute for such year equals or exceeds 110 percent (or such other percentage as the plan may provide by amendment and which is not prohibited under regulations prescribed by the corporation) of the number of contribution base units with respect to which the employer had an obligation to contribute in the partial withdrawal year, then the amount of the employer's partial withdrawal liability payment for such year shall be reduced pro rata, in accordance with regulations prescribed by the corporation.

"(d)(1) An employer to whom section 4202(b) (relating to the building and construction industry) applies is liable for a partial withdrawal only if the employer's obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required.

"(2) An employer to whom section 4202(c) (relating to the entertainment industry) applies shall have no liability for a partial withdrawal except under the conditions and to the extent prescribed by the corporation by regulation.

"(e)(1) The corporation may prescribe regulations providing for the reduction or elimination of partial withdrawal liability under any conditions with respect to which the corporation determines that reduction or elimination of partial withdrawal liability is consistent with the purposes of this Act.

"(2) Under such regulations, reduction of withdrawal liability shall be provided only with respect to subsequent changes in the employer's contributions for the same operations, or under the same collective bargaining agreement, that gave rise to the partial withdrawal, and changes in the employer's contribution base units with respect to other facilities or other collective bargaining agreements shall not be taken into account.

"(3) The corporation shall prescribe by regulation a procedure by which a plan may by amendment adopt rules for the reduction or elimination of partial withdrawal liability under any other conditions, subject to the approval of the corporation based on its determination that adoption of such rules by the plan is consistent with the purposes of this Act. Regulations.

"DE MINIMIS RULE

"SEC. 4209. (a) Except in the case of a plan amended under subsection (b), the amount of the unfunded vested benefits allocable under section 4211 to an employer who withdraws from a plan shall be reduced by the smaller of— Unfunded vested benefits. 29 USC 1389.

"(1) ¾ of 1 percent of the plan's unfunded vested obligations (determined as of the end of the plan year ending before the date of withdrawal), or

"(2) $50,000,

reduced by the amount, if any, by which the unfunded vested benefits allowable to the employer, determined without regard to this subsection, exceeds $100,000.

"(b) A plan may be amended to provide for the reduction of the amount determined under section 4211 by not more than the greater of—

"(1) the amount determined under subsection (a), or

"(2) the lesser of—

"(A) the amount determined under subsection (a)(1), or

"(B) $100,000,

reduced by the amount, if any, by which the amount determined under section 4211 for the employer, determined without regard to this subsection, exceeds $150,000.

"(c) This section does not apply—

"(1) to an employer who withdraws in a plan year in which substantially all employers withdraw from the plan, or

"(2) in any case in which substantially all employers withdraw from the plan during a period of one or more plan years pursuant to an agreement or arrangement to withdraw, to an employer who withdraws pursuant to such agreement or arrangement.

"(d) In any action or proceeding to determine or collect withdrawal liability, if substantially all employers have withdrawn from a plan within a period of 3 plan years, an employer who has withdrawn from such plan during such period shall be presumed to have withdrawn from the plan pursuant to an agreement or arrangement, unless the employer proves otherwise by a preponderance of the evidence.

"NO WITHDRAWAL LIABILITY FOR CERTAIN TEMPORARY CONTRIBUTION OBLIGATION PERIODS

29 USC 1390.

"SEC. 4210. (a) An employer who withdraws from a plan in complete or partial withdrawal is not liable to the plan if the employer—

"(1) first had an obligation to contribute to the plan after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980,

Ante, p. 1208.

"(2) had an obligation to contribute to the plan for no more than the lesser of—

"(A) 6 consecutive plan years preceding the date on which the employer withdraws, or

"(B) the number of years required for vesting under the plan,

"(3) was required to make contributions to the plan for each such plan year in an amount equal to less than 2 percent of the sum of all employer contributions made to the plan for each such year, and

"(4) has never avoided withdrawal liability because of the application of this section with respect to the plan.

"(b) Subsection (a) shall apply to an employer with respect to a plan only if—

"(1) the plan is not a plan which primarily covers employees in the building and construction industry;

"(2) the plan is amended to provide that subsection (a) applies;

"(3) the plan provides, or is amended to provide, that the reduction under section 411(a)(3)(E) of the Internal Revenue Code of 1954 applies with respect to the employees of the employer; and

Post, p. 1287.

"(4) the ratio of the assets of the plan for the plan year preceding the first plan year for which the employer was required to contribute to the plan to the benefit payments made during that plan year was at least 8 to 1.

"METHODS FOR COMPUTING WITHDRAWAL LIABILITY

Unfunded vested benefits.
29 USC 1391.

"SEC. 4211. (a) The amount of the unfunded vested benefits allocable to an employer that withdraws from a plan shall be determined in accordance with subsection (b), (c), or (d) of this section.

Allocation determination.

"(b)(1) Except as provided in subsections (c) and (d), the amount of unfunded vested benefits allocable to an employer that withdraws is the sum of—

"(A) the employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for plan years ending after April 28, 1980, as determined under paragraph (2),

"(B) the employer's proportional share, if any, of the unamortized amount of the plan's unfunded vested benefits at the end of the plan year ending before April 29, 1980, as determined under paragraph (3); and

"(C) the employer's proportional share of the unamortized amounts of the reallocated unfunded vested benefits (if any) as determined under paragraph (4).

If the sum of the amounts determined with respect to an employer under paragraphs (2), (3), and (4) is negative, the unfunded vested benefits allocable to the employer shall be zero.

"(2)(A) An employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for plan years ending after April 28, 1980, is the sum of the employer's proportional shares of the unamortized amount of the change in unfunded vested benefits for each plan year in which the employer has an obligation to contribute under the plan ending—

"(i) after such date, and

"(ii) before the plan year in which the withdrawal of the employer occurs.

"(B) The change in a plan's unfunded vested benefits for a plan year is the amount by which—

"(i) the unfunded vested benefits at the end of the plan year; exceeds

"(ii) the sum of—

"(I) the unamortized amount of the unfunded vested benefits for the last plan year ending before April 29, 1980, and

"(II) the sum of the unamortized amounts of the change in unfunded vested benefits for each plan year ending after April 28, 1980, and preceding the plan year for which the change is determined.

"(C) The unamortized amount of the change in a plan's unfunded vested benefits with respect to a plan year is the change in unfunded vested benefits for the plan year, reduced by 5 percent of such change for each succeeding plan year.

"(D) The unamortized amount of the unfunded vested benefits for the last plan year ending before April 29, 1980, is the amount of the unfunded vested benefits as of the end of that plan year reduced by 5 percent of such amount for each succeeding plan year.

"(E) An employer's proportional share of the unamortized amount of a change in unfunded vested benefits is the product of—

"(i) the unamortized amount of such change (as of the end of the plan year preceding the plan year in which the employer withdraws); multiplied by

"(ii) a fraction—

"(I) the numerator of which is the sum of the contributions required to be made under the plan by the employer for the year in which such change arose and for the 4 preceding plan years, and

"(II) the denominator of which is the sum for the plan year in which such change arose and the 4 preceding plan years of all contributions made by employers who had an obligation

to contribute under the plan for the plan year in which such change arose reduced by the contributions made in such years by employers who had withdrawn from the plan in the year in which the change arose.

"(3) An employer's proportional share of the unamortized amount of the plan's unfunded vested benefits for the last plan year ending before April 29, 1980, is the product of—

"(A) such unamortized amount; multiplied by—

"(B) a fraction—

"(i) the numerator of which is the sum of all contributions required to be made by the employer under the plan for the most recent 5 plan years ending before April 29, 1980, and

"(ii) the denominator of which is the sum of all contributions made for the most recent 5 plan years ending before April 29, 1980, by all employers—

"(I) who had an obligation to contribute under the plan for the first plan year ending on or after such date, and

"(II) who had not withdrawn from the plan before such date.

"(4)(A) An employer's proportional share of the unamortized amount of the reallocated unfunded vested benefits is the sum of the employer's proportional shares of the unamortized amount of the reallocated unfunded vested benefits for each plan year ending before the plan year in which the employer withdrew from the plan.

"(B) Except as otherwise provided in regulations prescribed by the corporation, the reallocated unfunded vested benefits for a plan year is the sum of—

"(i) any amount which the plan sponsor determines in that plan year to be uncollectible for reasons arising out of cases or proceedings under title 11, United States Code, or similar proceedings.

11 USC 101.

"(ii) any amount which the plan sponsor determines in that plan year will not be assessed as a result of the operation of section 4209, 4219(c)(1)(B), or section 4225 against an employer to whom a notice described in section 4219 has been sent, and

"(iii) any amount which the plan sponsor determines to be uncollectible or unassessable in that plan year for other reasons under standards not inconsistent with regulations prescribed by the corporation.

"(C) The unamortized amount of the reallocated unfunded vested benefits with respect to a plan year is the reallocated unfunded vested benefits for the plan year, reduced by 5 percent of such reallocated unfunded vested benefits for each succeeding plan year.

"(D) An employer's proportional share of the unamortized amount of the reallocated unfunded vested benefits with respect to a plan year is the product of—

"(i) the unamortized amount of the reallocated unfunded vested benefits (as of the end of the plan year preceding the plan year in which the employer withdraws); multiplied by

"(ii) the fraction defined in paragraph (2)(E)(ii).

Multiemployer plan, amendment procedures.

"(c)(1) A multiemployer plan, other than a plan which primarily covers employees in the building and construction industry, may be amended to provide that the amount of unfunded vested benefits allocable to an employer that withdraws from the plan is an amount determined under paragraph (2), (3), (4), or (5) of this subsection, rather than under subsection (b) or (d). A plan described in section 4203(b)(1)(B)(i) (relating to the building and construction industry)

may be amended, to the extent provided in regulations prescribed by the corporation, to provide that the amount of the unfunded vested benefits allocable to an employer not described in section 4203(b)(1)(A) shall be determined in a manner different from that provided in subsection (b).

"(2)(A) The amount of the unfunded vested benefits allocable to any employer under this paragraph is the sum of the amounts determined under subparagraphs (B) and (C).

"(B) The amount determined under this subparagraph is the product of—

"(i) the plan's unfunded vested benefits as of the end of the last plan year ending before April 29, 1980, reduced as if those obligations were being fully amortized in level annual installments over 15 years beginning with the first plan year ending on or after such date; multiplied by

"(ii) a fraction—

"(I) the numerator of which is the sum of all contributions required to be made by the employer under the plan for the last 5 plan years ending before April 29, 1980, and

"(II) the denominator of which is the sum of all contributions made for the last 5 plan years ending before April 29, 1980, by all employers who had an obligation to contribute under the plan for the first plan year ending after April 28, 1980, and who had not withdrawn from the plan before such date.

"(C) The amount determined under this subparagraph is the product of—

"(i) an amount equal to—

"(I) the plan's unfunded vested benefits as of the end of the plan year preceding the plan year in which the employer withdraws, less

"(II) the sum of the value as of such date of all outstanding claims for withdrawal liability which can reasonably be expected to be collected, with respect to employers withdrawing before such plan year, and that portion of the amount determined under subparagraph (B)(i) which is allocable to employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which the employer withdraws and who also had an obligation to contribute under the plan for the first plan year ending after April 28, 1980; multiplied by

"(ii) a fraction—

"(I) the numerator of which is the total amount required to be contributed under the plan by the employer for the last 5 plan years ending before the date on which the employer withdraws, and

"(II) the denominator of which is the total amount contributed under the plan by all employers for the last 5 plan years ending before the date on which the employer withdraws, increased by the amount of any employer contributions owed with respect to earlier periods which were collected in those plan years, and decreased by any amount contributed by an employer who withdrew from the plan under this part during those plan years.

"(D) The corporation may by regulation permit adjustments in any denominator under this section, consistent with the purposes of this title, where such adjustment would be appropriate to ease administrative burdens of plan sponsors in calculating such denominators.

"(3) The amount of the unfunded vested benefits allocable to an employer under this paragraph is the product of—

"(A) the plan's unfunded vested benefits as of the end of the plan year preceding the plan year in which the employer withdraws, less the value as of the end of such year of all outstanding claims for withdrawal liability which can reasonably be expected to be collected from employers withdrawing before such year; multiplied by

"(B) a fraction—

"(i) the numerator of which is the total amount required to be contributed by the employer under the plan for the last 5 plan years ending before the withdrawal, and

"(ii) the denominator of which is the total amount contributed under the plan by all employers for the last 5 plan years ending before the withdrawal, increased by any employer contributions owed with respect to earlier periods which were collected in those plan years, and decreased by any amount contributed to the plan during those plan years by employers who withdrew from the plan under this section during those plan years.

"(4)(A) The amount of the unfunded vested benefits allocable to an employer under this paragraph is equal to the sum of—

"(i) the plan's unfunded vested benefits which are attributable to participants' service with the employer (determined as of the end of the plan year preceding the plan year in which the employer withdraws), and

"(ii) the employer's proportional share of any unfunded vested benefits which are not attributable to service with the employer or other employers who are obligated to contribute under the plan in the plan year preceding the plan year in which the employer withdraws (determined as of the end of the plan year preceding the plan year in which the employer withdraws).

"(B) The plan's unfunded vested benefits which are attributable to participants' service with the employer is the amount equal to the value of nonforfeitable benefits under the plan which are attributable to participants' service with such employer (determined under plan rules not inconsistent with regulations of the corporation) decreased by the share of plan assets determined under subparagraph (C) which is allocated to the employer as provided under subparagraph (D).

Plan assets, value.

"(C) The value of plan assets determined under this subparagraph is the value of plan assets allocated to nonforfeitable benefits which are attributable to service with the employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which the employer withdraws, which is determined by multiplying—

"(i) the value of the plan assets as of the end of the plan year preceding the plan year in which the employer withdraws, by

"(ii) a fraction—

"(I) the numerator of which is the value of nonforfeitable benefits which are attributable to service with such employers, and

"(II) the denominator of which is the value of all nonforfeitable benefits under the plan

as of the end of the plan year.

"(D) The share of plan assets, determined under subparagraph (C), which is allocated to the employer shall be determined in accordance

with one of the following methods which shall be adopted by the plan by amendment:

"(i) by multiplying the value of plan assets determined under subparagraph (C) by a fraction—

"(I) the numerator of which is the value of the nonforfeitable benefits which are attributable to service with the employer, and

"(II) the denominator of which is the value of the nonforfeitable benefits which are attributable to service with all employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which the employer withdraws;

"(ii) by multiplying the value of plan assets determined under subparagraph (C) by a fraction—

"(I) the numerator of which is the sum of all contributions (accumulated with interest) which have been made to the plan by the employer for the plan year preceding the plan year in which the employer withdraws and all preceding plan years; and

"(II) the denominator of which is the sum of all contributions (accumulated with interest) which have been made to the plan (for the plan year preceding the plan year in which the employer withdraws and all preceding plan years) by all employers who have an obligation to contribute to the plan for the plan year preceding the plan year in which the employer withdraws; or

"(iii) by multiplying the value of plan assets under subparagraph (C) by a fraction—

"(I) the numerator of which is the amount determined under clause (ii)(I) of this subparagraph, less the sum of benefit payments (accumulated with interest) made to participants (and their beneficiaries) for the plan years described in such clause (ii)(I) which are attributable to service with the employer; and

"(II) the denominator of which is the amount determined under clause (ii)(II) of this subparagraph, reduced by the sum of benefit payments (accumulated with interest) made to participants (and their beneficiaries) for the plan years described in such clause (ii)(II) which are attributable to service with respect to the employers described in such clause (ii)(II).

"(E) The amount of the plan's unfunded vested benefits for a plan year preceding the plan year in which an employer withdraws, which is not attributable to service with employers who have an obligation to contribute under the plan in the plan year preceding the plan year in which such employer withdraws, is equal to—

"(i) an amount equal to—

"(I) the value of all nonforfeitable benefits under the plan at the end of such plan year, reduced by

"(II) the value of nonforfeitable benefits under the plan at the end of such plan year which are attributable to participants' service with employers who have an obligation to contribute under the plan for such plan year; reduced by

"(ii) an amount equal to—

"(I) the value of the plan assets as of the end of such plan year, reduced by

"(II) the value of plan assets as of the end of such plan year as determined under subparagraph (C); reduced by

"(iii) the value of all outstanding claims for withdrawal liability which can reasonably be expected to be collected with respect to employers withdrawing before the year preceding the plan year in which the employer withdraws.

"(F) The employer's proportional share described in subparagraph (A)(ii) for a plan year is the amount determined under subparagraph (E) for the employer, but not in excess of an amount which bears the same ratio to the sum of the amounts determined under subparagraph (E) for all employers under the plan as the amount determined under subparagraph (C) for the employer bears to the sum of the amounts determined under subparagraph (C) for all employers under the plan.

"(G) The corporation may prescribe by regulation other methods which a plan may adopt for allocating assets to determine the amount of the unfunded vested benefits attributable to service with the employer and to determine the employer's share of unfunded vested benefits not attributable to service with employers who have an obligation to contribute under the plan in the plan year in which the employer withdraws.

Regulations.

"(5)(A) The corporation shall prescribe by regulation a procedure by which a plan may, by amendment, adopt any other alternative method for determining an employer's allocable share of unfunded vested benefits under this section, subject to the approval of the corporation based on its determination that adoption of the method by the plan would not significantly increase the risk of loss to plan participants and beneficiaries or to the corporation.

"(B) The corporation may prescribe by regulation standard approaches for alternative methods, other than those set forth in the preceding paragraphs of this subsection, which a plan may adopt under subparagraph (A), for which the corporation may waive or modify the approval requirements of subparagraph (A). Any alternative method shall provide for the allocation of substantially all of a plan's unfunded vested benefits among employers who have an obligation to contribute under the plan.

"(C) Unless the corporation by regulation provides otherwise, a plan may be amended to provide that a period of more than 5 but not more than 10 plan years may be used for determining the numerator and denominator of any fraction which is used under any method authorized under this section for determining an employer's allocable share of unfunded vested benefits under this section.

"(D) The corporation may by regulation permit adjustments in any denominator under this section, consistent with the purposes of this title, where such adjustment would be appropriate to ease administrative burdens of plan sponsors in calculating such denominators.

"(d)(1) The method of calculating an employer's allocable share of unfunded vested benefits set forth in subsection (c)(3) shall be the method for calculating an employer's allocable share of unfunded vested benefits under a plan to which section 404(c) of the Internal Revenue Code of 1954, or a continuation of such a plan, applies, unless the plan is amended to adopt another method authorized under subsection (b) or (c).

26 USC 404.

"(2) Sections 4204, 4209, 4219(c)(1)(B), and 4225 shall not apply with respect to the withdrawal of an employer from a plan described in paragraph (1) unless the plan is amended to provide that any of such sections apply.

Liabilities, transfer.

"(e) In the case of a transfer of liabilities to another plan incident to an employer's withdrawal or partial withdrawal, the withdrawn employer's liability under this part shall be reduced in an amount

equal to the value, as of the end of the last plan year ending on or before the date of the withdrawal, of the transferred unfunded vested benefits.

"(f) In the case of a withdrawal following a merger of multiemployer plans, subsection (b), (c), or (d) shall be applied in accordance with regulations prescribed by the corporation; except that, if a withdrawal occurs in the first plan year beginning after a merger of multiemployer plans, the determination under this section shall be made as if each of the multiemployer plans had remained separate plans.

"OBLIGATION TO CONTRIBUTE; SPECIAL RULES

"SEC. 4212. (a) For purposes of this part, the term 'obligation to contribute' means an obligation to contribute arising— 29 USC 1392.

"(1) under one or more collective bargaining (or related) agreements, or

"(2) as a result of a duty under applicable labor-management relations law, but

does not include an obligation to pay withdrawal liability under this section or to pay delinquent contributions.

"(b) Payments of withdrawal liability under this part shall not be considered contributions for purposes of this part.

"(c) If a principal purpose of any transaction is to evade or avoid liability under this part, this part shall be applied (and liability shall be determined and collected) without regard to such transaction.

"ACTUARIAL ASSUMPTIONS, ETC.

"SEC. 4213. (a) The corporation may prescribe by regulation actuarial assumptions which may be used by a plan actuary in determining the unfunded vested benefits of a plan for purposes of determining an employer's withdrawal liability under this part. Withdrawal liability under this part shall be determined by each plan on the basis of— 29 USC 1393.

"(1) actuarial assumptions and methods which, in the aggregate, are reasonable (taking into account the experience of the plan and reasonable expectations) and which, in combination, offer the actuary's best estimate of anticipated experience under the plan, or

"(2) actuarial assumptions and methods set forth in the corporation's regulations for purposes of determining an employer's withdrawal liability.

"(b) In determining the unfunded vested benefits of a plan for purposes of determining an employer's withdrawal liability under this part, the plan actuary may—

"(1) rely on the most recent complete actuarial valuation used for purposes of section 412 of the Internal Revenue Code of 1954 and reasonable estimates for the interim years of the unfunded vested benefits, and 26 USC 412.

"(2) in the absence of complete data, rely on the data available or on data secured by a sampling which can reasonably be expected to be representative of the status of the entire plan.

"(c) For purposes of this part, the term 'unfunded vested benefits' means with respect to a plan, an amount equal to— "Unfunded vested benefits."

"(A) the value of nonforfeitable benefits under the plan, less

"(B) the value of the assets of the plan.

"APPLICATION OF PLAN AMENDMENTS

29 USC 1394. "SEC. 4214. (a) No plan rule or amendment adopted after January 31, 1981, under section 4209 or 4211(c) may be applied without the employer's consent with respect to liability for a withdrawal or partial withdrawal which occurred before the date on which the rule or amendment was adopted.

"(b) All plan rules and amendments authorized under this part shall operate and be applied uniformly with respect to each employer, except that special provisions may be made to take into account the creditworthiness of an employer. The plan sponsor shall give notice to all employers who have an obligation to contribute under the plan and to all employee organizations representing employees covered under the plan of any plan rules or amendments adopted pursuant to this section.

"PLAN NOTIFICATION TO CORPORATION OF POTENTIALLY SIGNIFICANT WITHDRAWALS

29 USC 1395. "SEC. 4215. The corporation may, by regulation, require the plan sponsor of a multiemployer plan to provide notice to the corporation when the withdrawal from the plan by any employer has resulted, or will result, in a significant reduction in the amount of aggregate contributions under the plan made by employers.

"SPECIAL RULES FOR SECTION 404(C) PLANS

29 USC 1396. "SEC. 4216. (a) In the case of a plan described in subsection (b)—

"(1) if an employer withdraws prior to a termination described *Ante*, p. 1216. in section 4041A(a)(2), the amount of withdrawal liability to be paid in any year by such employer shall be an amount equal to the greater of—

"(A) the amount determined under section 4219(c)(1)(C)(i), or

"(B) the product of—

"(i) the number of contribution base units for which the employer would have been required to make contributions for the prior plan year if the employer had not withdrawn, multiplied by

"(ii) the contribution rate for the plan year which would be required to meet the amortization schedules *Post*, p. 1252. contained in section 4243(d)(3)(B)(ii) (determined without regard to any limitation on such rate otherwise provided by this title)

except that an employer shall not be required to pay an amount in excess of the withdrawal liability computed with interest; and

"(2) the withdrawal liability of an employer who withdraws after December 31, 1983, as a result of a termination described in section 4041A(a)(2) which is agreed to by the labor organization that appoints the employee representative on the joint board of trustees which sponsors the plan, shall be determined under subsection (c) if—

"(A) as a result of prior employer withdrawals in any plan year commencing after January 1, 1980, the number of contribution base units is reduced to less than 67 percent of the average number of such units for the calendar years 1974 through 1979; and

"(B) at least 50 percent of the withdrawal liability attributable to the first 33 percent decline described in subparagraph (A) has been determined by the plan sponsor to be uncollectible within the meaning of regulations of the corporation of general applicability; and

"(C) the rate of employer contributions under the plan for each plan year following the first plan year beginning after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 and preceding the termination date equals or exceeds the rate described in section 4243(d)(3).

Ante, p. 1208.

Post, p. 1252.

"(b) A plan is described in this subsection if—

"(1) it is a plan described in section 404(c) of the Internal Revenue Code of 1954 or a continuation thereof; and

26 USC 404.

"(2) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976.

"(c)(1) The amount of an employer's liability under this paragraph is the product of—

Employer's liability.

"(A) the amount of the employer's withdrawal liability determined without regard to this section, and

"(B) the greater of 90 percent, or a fraction—

"(i) the numerator of which is an amount equal to the portion of the plan's unfunded vested benefits that is attributable to plan participants who have a total of 10 or more years of signatory service, and

"(ii) the denominator of which is an amount equal to the total unfunded vested benefits of the plan.

"(2) For purposes of paragraph (1), the term 'a year of signatory service' means a year during any portion of which a participant was employed for an employer who was obligated to contribute in that year, or who was subsequently obligated to contribute.

"A year of signatory service."

"APPLICATION OF PART IN CASE OF CERTAIN PRE-1980 WITHDRAWALS

"SEC. 4217. (a) For the purpose of determining the amount of unfunded vested benefits allocable to an employer for a partial or complete withdrawal from a plan which occurs after April 28, 1980, and for the purpose of determining whether there has been a partial withdrawal after such date, the amount of contributions, and the number of contribution base units, of such employer properly allocable—

29 USC 1397.

"(1) to work performed under a collective bargaining agreement for which there was a permanent cessation of the obligation to contribute before April 29, 1980, or

"(2) to work performed at a facility at which all covered operations permanently ceased before April 29, 1980, or for which there was a permanent cessation of the obligation to contribute before that date,

shall not be taken into account.

"(b) A plan may, in a manner not inconsistent with regulations, which shall be prescribed by the corporation, adjust the amount of unfunded vested benefits allocable to other employers under a plan maintained by an employer described in subsection (a).

"WITHDRAWAL NOT TO OCCUR MERELY BECAUSE OF CHANGE IN BUSINESS FORM OR SUSPENSION OF CONTRIBUTIONS DURING LABOR DISPUTE

29 USC 1398. "SEC. 4218. Notwithstanding any other provision of this part, an employer shall not be considered to have withdrawn from a plan solely because—

"(1) an employer ceases to exist by reason of—

"(A) a change in corporate structure described in section 4062(d), or

29 USC 1362. "(B) a change to an unincorporated form of business enterprise,

if the change causes no interruption in employer contributions or obligations to contribute under the plan, or

"(2) an employer suspends contributions under the plan during a labor dispute involving its employees.

For purposes of this part, a successor or parent corporation or other entity resulting from any such change shall be considered the original employer.

"NOTICE, COLLECTION, ETC., OF WITHDRAWAL LIABILITY

29 USC 1399. "SEC. 4219. (a) An employer shall, within 30 days after a written request from the plan sponsor, furnish such information as the plan sponsor reasonably determines to be necessary to enable the plan sponsor to comply with the requirements of this part.

Plan sponsor, responsibilities. "(b)(1) As soon as practicable after an employer's complete or partial withdrawal, the plan sponsor shall—

"(A) notify the employer of—

"(i) the amount of the liability, and

"(ii) the schedule for liability payments, and

"(B) demand payment in accordance with the schedule.

"(2)(A) No later than 90 days after the employer receives the notice described in paragraph (1), the employer—

"(i) may ask the plan sponsor to review any specific matter relating to the determination of the employer's liability and the schedule of payments,

"(ii) may identify any inaccuracy in the determination of the amount of the unfunded vested benefits allocable to the employer, and

"(iii) may furnish any additional relevant information to the plan sponsor.

"(B) After a reasonable review of any matter raised, the plan sponsor shall notify the employer of—

"(i) the plan sponsor's decision,

"(ii) the basis for the decision, and

"(iii) the reason for any change in the determination of the employer's liability or schedule of liability payments.

"(c)(1)(A)(i) Except as provided in subparagraphs (B) and (D) of this paragraph and in paragraphs (4) and (5), an employer shall pay the amount determined under section 4211, adjusted if appropriate first under section 4209 and then under section 4206 over the period of years necessary to amortize the amount in level annual payments determined under subparagraph (C), calculated as if the first payment were made on the first day of the plan year following the plan year in which the withdrawal occurs and as if each subsequent payment were made on the first day of each subsequent plan year. Actual payment shall commence in accordance with paragraph (2).

"(ii) The determination of the amortization period described in clause (i) shall be based on the assumptions used for the most recent actuarial valuation for the plan.

"(B) In any case in which the amortization period described in subparagraph (A) exceeds 20 years, the employer's liability shall be limited to the first 20 annual payments determined under subparagraph (C).

"(C)(i) Except as provided in subparagraph (E), the amount of each annual payment shall be the product of— Annual payment.

"(I) the average annual number of contribution base units for the period of 3 consecutive plan years, during the period of 10 consecutive plan years ending before the plan year in which the withdrawal occurs, in which the number of contribution base units for which the employer had an obligation to contribute under the plan is the highest, and

"(II) the highest contribution rate at which the employer had an obligation to contribute under the plan during the 10 plan years ending with the plan year in which the withdrawal occurs.

For purposes of the preceding sentence, a partial withdrawal described in section 4205(a)(1) shall be deemed to occur on the last day of the first year of the 3-year testing period described in section 4205(b)(1)(B)(i).

"(ii)(I) A plan may be amended to provide that for any plan year ending before 1986 the amount of each annual payment shall be (in lieu of the amount determined under clause (i)) the average of the required employer contributions under the plan for the period of 3 consecutive plan years (during the period of 10 consecutive plan years ending with the plan year preceding the plan year in which the withdrawal occurs) for which such required contributions were the highest.

"(II) Subparagraph (B) shall not apply to any plan year to which this clause applies.

"(III) This clause shall not apply in the case of any withdrawal described in subparagraph (D).

"(IV) If under a plan this clause applies to any plan year but does not apply to the next plan year, this clause shall not apply to any plan year after such next plan year.

"(V) For purposes of this clause, the term 'required contributions' means, for any period, the amounts which the employer was obligated to contribute for such period (not taking into account any delinquent contribution for any other period). "Required contributions."

"(iii) A plan may be amended to provide that for the first plan year ending on or after April 29, 1980, the number '5' shall be substituted for the number '10' each place it appears in clause (i) or clause (ii) (whichever is appropriate). If the plan is so amended, the number '5' shall be increased by one for each succeeding plan year until the number '10' is reached.

"(D) In any case in which a multiemployer plan terminates by the withdrawal of every employer from the plan, or in which substantially all the employers withdraw from a plan pursuant to an agreement or arrangement to withdraw from the plan—

"(i) the liability of each such employer who has withdrawn shall be determined (or redetermined) under this paragraph without regard to subparagraph (B), and

"(ii) notwithstanding any other provision of this part, the total unfunded vested benefits of the plan shall be fully allocated among all such employers in a manner not inconsistent with regulations which shall be prescribed by the corporation.

Withdrawal by an employer from a plan, during a period of 3 consecutive plan years within which substantially all the employers who have an obligation to contribute under the plan withdraw, shall be presumed to be a withdrawal pursuant to an agreement or arrangement, unless the employer proves otherwise by a preponderance of the evidence.

"(E) In the case of a partial withdrawal described in section 4205(a), the amount of each annual payment shall be the product of—

"(i) the amount determined under subparagraph (C) (determined without regard to this subparagraph), multiplied by

"(ii) the fraction determined under section 4206 (a)(2).

"(2) Withdrawal liability shall be payable in accordance with the schedule set forth by the plan sponsor under subsection (b)(1) beginning no later than 60 days after the date of the demand notwithstanding any request for review or appeal of determinations of the amount of such liability or of the schedule.

Annual payment.

"(3) Each annual payment determined under paragraph (1)(C) shall be payable in 4 equal installments due quarterly, or at other intervals specified by plan rules. If a payment is not made when due, interest on the payment shall accrue from the due date until the date on which the payment is made.

"(4) The employer shall be entitled to prepay the outstanding amount of the unpaid annual withdrawal liability payments determined under paragraph (1)(C), plus accrued interest, if any, in whole or in part, without penalty. If the prepayment is made pursuant to a withdrawal which is later determined to be part of a withdrawal described in paragraph (1)(D), the withdrawal liability of the employer shall not be limited to the amount of the prepayment.

Default.

"(5) In the event of a default, a plan sponsor may require immediate payment of the outstanding amount of an employer's withdrawal liability, plus accrued interest on the total outstanding liability from the due date of the first payment which was not timely made. For purposes of this section, the term 'default' means—

"(A) the failure of an employer to make, when due, any payment under this section, if the failure is not cured within 60 days after the employer receives written notification from the plan sponsor of such failure, and

"(B) any other event defined in rules adopted by the plan which indicates a substantial likelihood that an employer will be unable to pay its withdrawal liability.

"(6) Except as provided in paragraph (1)(A)(ii), interest under this subsection shall be charged at rates based on prevailing market rates for comparable obligations, in accordance with regulations prescribed by the corporation.

"(7) A multiemployer plan may adopt rules for other terms and conditions for the satisfaction of an employer's withdrawal liability if such rules—

"(A) are consistent with this Act, and

"(B) are not inconsistent with regulations of the corporation.

"(8) In the case of a terminated multiemployer plan, an employer's obligation to make payments under this section ceases at the end of the plan year in which the assets of the plan (exclusive of withdrawal liability claims) are sufficient to meet all obligations of the plan, as determined by the corporation.

29 USC 1106.

"(d) The prohibitions provided in section 406(a) do not apply to any action required or permitted under this part.

"APPROVAL OF AMENDMENTS

"SEC. 4220. (a) Except as provided in subsection (b), if an amendment to a multiemployer plan authorized by any preceding section of this part is adopted more than 36 months after the effective date of this section, the amendment shall be effective only if the corporation approves the amendment, or, within 90 days after the corporation receives notice and a copy of the amendment from the plan sponsor, fails to disapprove the amendment. 29 USC 1400.

"(b) An amendment permitted by section 4211(c)(5) may be adopted only in accordance with that section.

"(c) The corporation shall disapprove an amendment referred to in subsection (a) or (b) only if the corporation determines that the amendment creates an unreasonable risk of loss to plan participants and beneficiaries or to the corporation.

"RESOLUTION OF DISPUTES

"SEC. 4221. (a)(1) Any dispute between an employer and the plan sponsor of a multiemployer plan concerning a determination made under sections 4201 through 4219 shall be resolved through arbitration. Either party may initiate the arbitration proceeding within a 60-day period after the earlier of— 29 USC 1401.

Ante, p. 1217.

"(A) the date of notification to the employer under section 4219(b)(2)(B), or

"(B) 120 days after the date of the employer's request under section 4219(b)(2)(A).

The parties may jointly initiate arbitration within the 180-day period after the date of the plan sponsor's demand under section 4219(b)(1).

"(2) An arbitration proceeding under this section shall be conducted in accordance with fair and equitable procedures to be promulgated by the corporation. The plan sponsor may purchase insurance to cover potential liability of the arbitrator. If the parties have not provided for the costs of the arbitration, including arbitrator's fees, by agreement, the arbitrator shall assess such fees. The arbitrator may also award reasonable attorney's fees. Arbitration, proceedings.

"(3)(A) For purposes of any proceeding under this section, any determination made by a plan sponsor under sections 4201 through 4219 and section 4225 is presumed correct unless the party contesting the determination shows by a preponderance of the evidence that the determination was unreasonable or clearly erroneous.

"(B) In the case of the determination of a plan's unfunded vested benefits for a plan year, the determination is presumed correct unless a party contesting the determination shows by a preponderance of evidence that—

"(i) the actuarial assumptions and methods used in the determination were, in the aggregate, unreasonable (taking into account the experience of the plan and reasonable expectations), or

"(ii) the plan's actuary made a significant error in applying the actuarial assumptions or methods.

"(b)(1) If no arbitration proceeding has been initiated pursuant to subsection (a), the amounts demanded by the plan sponsor under section 4219(b)(1) shall be due and owing on the schedule set forth by the plan sponsor. The plan sponsor may bring an action in a State or Federal court of competent jurisdiction for collection.

"(2) Upon completion of the arbitration proceedings in favor of one of the parties, any party thereto may bring an action, no later than 30

days after the issuance of an arbitrator's award, in an appropriate United States district court in accordance with section 4301 to enforce, vacate, or modify the arbitrator's award.

Post, p. 1263.

"(3) Any arbitration proceedings under this section shall, to the extent consistent with this title, be conducted in the same manner, subject to the same limitations, carried out with the same powers (including subpena power), and enforced in United States courts as an arbitration proceeding carried out under title 9, United States Code.

9 USC 1.

"(c) In any proceeding under subsection (b), there shall be a presumption, rebuttable only by a clear preponderance of the evidence, that the findings of fact made by the arbitrator were correct.

Employer payments.

"(d) Payments shall be made by an employer in accordance with the determinations made under this part until the arbitrator issues a final decision with respect to the determination submitted for arbitration, with any necessary adjustments in subsequent payments for overpayments or underpayments arising out of the decision of the arbitrator with respect to the determination. If the employer fails to make timely payment in accordance with such final decision, the employer shall be treated as being delinquent in the making of a contribution required under the plan (within the meaning of section 515).

Post, p. 1295.

Information request.

"(e) If any employer requests in writing that the plan sponsor make available to the employer general information necessary for the employer to compute its withdrawal liability with respect to the plan (other than information which is unique to that employer), the plan sponsor shall furnish the information to the employer without charge. If any employer requests in writing that the plan sponsor make an estimate of such employer's potential withdrawal liability with respect to the plan or to provide information unique to that employer, the plan sponsor may require the employer to pay the reasonable cost of making such estimate or providing such information.

"REIMBURSEMENTS FOR UNCOLLECTIBLE WITHDRAWAL LIABILITY

Supplemental reimbursement program.

29 USC 1402.

"SEC. 4222. (a) By May 1, 1982, the corporation shall establish by regulation a supplemental program to reimburse multiemployer plans for withdrawal liability payments which are due from employers and which are determined to be uncollectible for reasons arising out of cases or proceedings involving the employers under title 11, United States Code, or similar cases or proceedings. Participation in the supplemental program shall be on a voluntary basis, and a plan which elects coverage under the program shall pay premiums to the corporation in accordance with a premium schedule which shall be prescribed from time to time by the corporation. The premium schedule shall contain such rates and bases for the application of such rates as the corporation considers to be appropriate.

11 USC 101.

"(b) The corporation may provide under the program for reimbursement of amounts of withdrawal liability determined to be uncollectible for any other reasons the corporation considers appropriate.

Cost.

"(c) The cost of the program (including such administrative and legal costs as the corporation considers appropriate) may be paid only out of premiums collected under such program.

"(d) The supplemental program may be offered to eligible plans on such terms and conditions, and with such limitations with respect to the payment of reimbursements (including the exclusion of de minimis amounts of uncollectible employer liability, and the reduction or

elimination of reimbursements which cannot be paid from collected premiums) and such restrictions on withdrawal from the program, as the corporation considers necessary and appropriate.

"(e) The corporation may enter into arrangements with private insurers to carry out in whole or in part the program authorized by this section and may require plans which elect coverage under the program to elect coverage by those private insurers.

"WITHDRAWAL LIABILITY PAYMENT FUND

"SEC. 4223. (a) The plan sponsors of multiemployer plans may establish or participate in a withdrawal liability payment fund. 29 USC 1403.

"(b) For purposes of this section, the term 'withdrawal liability payment fund', and the term 'fund', mean a trust which— Definitions.

"(1) is established and maintained under section 501(c)(22) of the Internal Revenue Code of 1954, *Post*, p. 1290.

"(2) maintains agreements which cover a substantial portion of the participants who are in multiemployer plans which (under the rules of the trust instrument) are eligible to participate in the fund,

"(3) is funded by amounts paid by the plans which participate in the fund, and

"(4) is administered by a Board of Trustees, and in the administration of the fund there is equal representation of—

"(A) trustees representing employers who are obligated to contribute to the plans participating in the fund, and

"(B) trustees representing employees who are participants in plans which participate in the fund.

"(c)(1) If an employer withdraws from a plan which participates in a withdrawal liability payment fund, then, to the extent provided in the trust, the fund shall pay to that plan—

"(A) the employer's unattributable liability,

"(B) the employer's withdrawal liability payments which would have been due but for section 4208, 4209, 4219, or 4225,

"(C) the employer's withdrawal liability payments to the extent they are uncollectible.

"(2) The fund may provide for the payment of the employer's attributable liability if the fund—

"(A) provides for the payment of both the attributable and the unattributable liability of the employer in a single payment, and

"(B) is subrogated to all rights of the plan against the employer.

"(3) For purposes of this section, the term—

"(A) 'attributable liability' means the excess, if any, determined under the provisions of a plan not inconsistent with regulations of the corporation, of— "Attributable liability."

"(i) the value of vested benefits accrued as a result of service with the employer, over

"(ii) the value of plan assets attributed to the employer, and

"(B) 'unattributable liability' means the excess of withdrawal liability over attributable liability. "Unattributable liability."

Such terms may be further defined, and the manner in which they shall be applied may be prescribed, by the corporation by regulation.

"(4)(A) The trust of a fund shall be maintained for the exclusive purpose of paying—

"(i) any amount described in paragraph (1) and paragraph (2), and

"(ii) reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the fund.

"(B) The amounts paid by a plan to a fund shall be deemed a reasonable expense of administering the plan under sections 403(c)(1) and 404(a)(1)(A)(ii), and the payments made by a fund to a participating plan shall be deemed services necessary for the operation of the plan within the meaning of section 408(b)(2) or within the meaning of section 4975(d)(2) of the Internal Revenue Code of 1954.

29 USC 1103, 1104.
29 USC 1108.
26 USC 4975.

"(d)(1) For purposes of this part—

"(A) only amounts paid by the fund to a plan under subsection (c)(1)(A) shall be credited to withdrawal liability otherwise payable by the employer, unless the plan otherwise provides, and

"(B) any amounts paid by the fund under subsection (c) to a plan shall be treated by the plan as a payment of withdrawal liability to such plan.

"(2) For purposes of applying provisions relating to the funding standard accounts (and minimum contribution requirements), amounts paid from the plan to the fund shall be applied to reduce the amount treated as contributed to the plan.

"(e) The fund shall be subrogated to the rights of the plan against the employer that has withdrawn from the plan for amounts paid by a fund to a plan under—

"(1) subsection (c)(1)(A), to the extent not credited under subsection (d)(1)(A), and

"(2) subsection (c)(1)(C).

Fiduciary.

"(f) Notwithstanding any other provision of this Act, a fiduciary of the fund shall discharge the fiduciary's duties with respect to the fund in accordance with the standards for fiduciaries prescribed by this Act (to the extent not inconsistent with the purposes of this section), and in accordance with the documents and instruments governing the fund insofar as such documents and instruments are consistent with the provisions of this Act (to the extent not inconsistent with the purposes of this section). The provisions of the preceding sentence shall supersede any and all State laws relating to fiduciaries insofar as they may now or hereafter relate to a fund to which this section applies.

"(g) No payments shall be made from a fund to a plan on the occasion of a withdrawal or partial withdrawal of an employer from such plan if the employees representing the withdrawn contribution base units continue, after such withdrawal, to be represented under section 9 of the National Labor Relations Act (or other applicable labor laws) in negotiations with such employer by the labor organization which represented such employees immediately preceding such withdrawal.

29 USC 159.

Insurance purchase.

"(h) Nothing in this section shall be construed to prohibit the purchase of insurance by an employer from any other person, to limit the circumstances under which such insurance would be payable, or to limit in any way the terms and conditions of such insurance.

"(i) The corporation may provide by regulation rules not inconsistent with this section governing the establishment and maintenance of funds, but only to the extent necessary to carry out the purposes of this part (other than section 4222).

"ALTERNATIVE METHOD OF WITHDRAWAL LIABILITY PAYMENTS

29 USC 1404.

"SEC. 4224. A multiemployer plan may adopt rules providing for other terms and conditions for the satisfaction of an employer's

withdrawal liability if such rules are consistent with this Act and with such regulations as may be prescribed by the corporation.

"LIMITATION ON WITHDRAWAL LIABILITY

"SEC. 4225. (a)(1) In the case of bona fide sale of all or substantially all of the employer's assets in an arm's-length transaction to an unrelated party (within the meaning of section 4204(d)), the unfunded vested benefits allocable to an employer (after the application of all sections of this part having a lower number designation than this section), other than an employer undergoing reorganization under title 11, United States Code, or similar provisions of State law, shall not exceed the greater of— 29 USC 1405. *Ante*, p. 1220. 11 USC 101.

"(A) a portion (determined under paragraph (2)) of the liquidation or dissolution value of the employer (determined after the sale or exchange of such assets), or

"(B) the unfunded vested benefits attributable to employees of the employer.

"(2) For purposes of paragraph (1), the portion shall be determined in accordance with the following table:

"If the liquidation or dissolution value of the employer after the sale or exchange is—	The portion is—
Not more than $2,000,000	30 percent of the amount.
More than $2,000,000, but not more than $4,000,000.	$600,000, plus 35 percent of the amount in excess of $2,000,000.
More than $4,000,000, but not more than $6,000,000.	$1,300,000, plus 40 percent of the amount in excess of $4,000,000.
More than $6,000,000, but not more than $7,000,000.	$2,100,000, plus 45 percent of the amount in excess of $6,000,000.
More than $7,000,000, but not more than $8,000,000.	$2,550,000, plus 50 percent of the amount in excess of $7,000,000.
More than $8,000,000, but not more than $9,000,000.	$3,050,000, plus 60 percent of the amount in excess of $8,000,000.
More than $9,000,000, but not more than $10,000,000.	$3,650,000, plus 70 percent of the amount in excess of $9,000,000.
More than $10,000,000	$4,350,000, plus 80 percent of the amount in excess of $10,000,000.

"(b) In the case of an insolvent employer undergoing liquidation or dissolution, the unfunded vested benefits allocable to that employer shall not exceed an amount equal to the sum of— Insolvent employer.

"(1) 50 percent of the unfunded vested benefits allocable to the employer (determined without regard to this section), and

"(2) that portion of 50 percent of the unfunded vested benefits allocable to the employer (as determined under paragraph (1)) which does not exceed the liquidation or dissolution value of the employer determined—

"(A) as of the commencement of liquidation or dissolution, and

"(B) after reducing the liquidation or dissolution value of the employer by the amount determined under paragraph (1).

"(c) To the extent that the withdrawal liability of an employer is attributable to his obligation to contribute to or under a plan as an individual (whether as a sole proprietor or as a member of a partnership), property which may be exempt from the estate under section 522 of title 11, United States Code, or under similar provisions of law, shall not be subject to enforcement of such liability.

"(d) For purposes of this section—

Insolvency.

"(1) an employer is insolvent if the liabilities of the employer, including withdrawal liability under the plan (determined without regard to subsection (b)), exceed the assets of the employer (determined as of the commencement of the liquidation or dissolution), and

"(2) the liquidation or dissolution value of the employer shall be determined without regard to such withdrawal liability.

"(e) In the case of one or more withdrawals of an employer attributable to the same sale, liquidation, or dissolution, under regulations prescribed by the corporation—

"(1) all such withdrawals shall be treated as a single withdrawal for the purpose of applying this section, and

"(2) the withdrawal liability of the employer to each plan shall be an amount which bears the same ratio to the present value of the withdrawal liability payments to all plans (after the application of the preceding provisions of this section) as the withdrawal liability of the employer to such plan (determined without regard to this section) bears to the withdrawal liability of the employer to all such plans (determined without regard to this section).

"PART 2—MERGER OR TRANSFER OF PLAN ASSETS OR LIABILITIES

"MERGERS AND TRANSFERS BETWEEN MULTIEMPLOYER PLANS

29 USC 1411.

"SEC. 4231. (a) Unless otherwise provided in regulations prescribed by the corporation, a plan sponsor may not cause a multiemployer plan to merge with one or more multiemployer plans, or engage in a transfer of assets and liabilities to or from another multiemployer plan, unless such merger or transfer satisfies the requirements of subsection (b).

Conditions.

"(b) A merger or transfer satisfies the requirements of this section if—

"(1) in accordance with regulations of the corporation, the plan sponsor of a multiemployer plan notifies the corporation of a merger with or transfer of plan assets or liabilities to another multiemployer plan at least 120 days before the effective date of the merger or transfer;

"(2) no participant's or beneficiary's accrued benefit will be lower immediately after the effective date of the merger or transfer than the benefit immediately before that date;

"(3) the benefits of participants and beneficiaries are not reasonably expected to be subject to suspension under section 4245; and

"(4) an actuarial valuation of the assets and liabilities of each of the affected plans has been performed during the plan year preceding the effective date of the merger or transfer, based upon the most recent data available as of the day before the start of that plan year, or other valuation of such assets and liabilities performed under such standards and procedures as the corporation may prescribe by regulation.

"(c) The merger of multiemployer plans or the transfer of assets or liabilities between multiemployer plans, shall be deemed not to constitute a violation of the provisions of section 406(a) or section 406(b)(2) if the corporation determines that the merger or transfer otherwise satisfies the requirements of this section.

29 USC 1106.

Successor plan.

"(d) A plan to which liabilities are transferred under this section is a successor plan for purposes of section 4022A(b)(2)(B).

Ante, p. 1210.

"TRANSFERS BETWEEN A MULTIEMPLOYER PLAN AND A SINGLE-EMPLOYER PLAN

"SEC. 4232. (a) A transfer of assets or liabilities between, or a merger of, a multiemployer plan and a single-employer plan shall satisfy the requirements of this section. 29 USC 1412.

"(b) No accrued benefit of a participant or beneficiary may be lower immediately after the effective date of a transfer or merger described in subsection (a) than the benefit immediately before that date.

"(c)(1) Except as provided in paragraphs (2) and (3), a multiemployer plan which transfers liabilities to a single-employer plan shall be liable to the corporation if the single-employer plan terminates within 60 months after the effective date of the transfer. The amount of liability shall be the lesser of—

"(A) the amount of the plan asset insufficiency of the terminated single-employer plan, less 30 percent of the net worth of the employer who maintained the single-employer plan, determined in accordance with section 4062 or 4064, or 29 USC 1362, 1364.

"(B) the value, on the effective date of the transfer, of the unfunded benefits transferred to the single-employer plan which are guaranteed under section 4022. 29 USC 1322.

"(2) A multiemployer plan shall be liable to the corporation as provided in paragraph (1) unless, within 180 days after the corporation receives an application (together with such information as the corporation may reasonably require for purposes of such application) from the multiemployer plan sponsor for a determination under this paragraph—

"(A) the corporation determines that the interests of the plan participants and beneficiaries and of the corporation are adequately protected, or

"(B) fails to make any determination regarding the adequacy with which such interests are protected with respect to such transfer of liabilities.

If, after the receipt of such application, the corporation requests from the plan sponsor additional information necessary for the determination, the running of the 180-day period shall be suspended from the date of such request until the receipt by the corporation of the additional information requested. The corporation may by regulation prescribe procedures and standards for the issuance of determinations under this paragraph. This paragraph shall not apply to any application submitted less than 180 days after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980. Procedures and standards. *Ante*, p. 1208.

"(3) A multiemployer plan shall not be liable to the corporation as provided in paragraph (1) in the case of a transfer from the multiemployer plan to a single-employer plan of liabilities which accrued under a single-employer plan which merged with the multiemployer plan, if, the value of liabilities transferred to the single-employer plan does not exceed the value of the liabilities for benefits which accrued before the merger, and the value of the assets transferred to the single-employer plan is substantially equal to the value of the assets which would have been in the single-employer plan if the employer had maintained and funded it as a separate plan under which no benefits accrued after the date of the merger.

"(4) The corporation may make equitable arrangements with multiemployer plans which are liable under this subsection for satisfaction of their liability.

"(d) Benefits under a single-employer plan to which liabilities are transferred in accordance with this section are guaranteed under Guaranteed benefits.

29 USC 1322. section 4022 to the extent provided in that section as of the effective date of the transfer and the plan is a successor plan.

Transfer agreement. "(e)(1) Except as provided in paragraph (2), a multiemployer plan may not transfer liabilities to a single-employer plan unless the plan sponsor of the plan to which the liabilities would be transferred agrees to the transfer.

"(2) In the case of a transfer described in subsection (c)(3), paragraph (1) of this subsection is satisfied by the advance agreement to the transfer by the employer who will be obligated to contribute to the single-employer plan.

Additional requirements. "(f)(1) The corporation may prescribe by regulation such additional requirements with respect to the transfer of assets or liabilities as may be necessary to protect the interests of plan participants and beneficiaries and the corporation.

Transfer approval. "(2) Except as otherwise determined by the corporation, a transfer of assets or liabilities to a single-employer plan from a plan in reorganization under section 4241 is not effective unless the corporation approves such transfer.

Ante, p. 1216. "(3) No transfer to which this section applies, in connection with a termination described in section 4041A(a)(2) shall be effective unless the transfer meets such requirements as may be established by the corporation to prevent an increase in the risk of loss to the corporation.

"PARTITION

29 USC 1413. "SEC. 4233. (a) The corporation may order the partition of a multiemployer plan in accordance with this section.

Notice and findings. "(b) A plan sponsor may apply to the corporation for an order partitioning a plan. The corporation may not order the partition of a plan except upon notice to the plan sponsor and the participants and beneficiaries whose vested benefits will be affected by the partition of the plan, and upon finding that—

"(1) a substantial reduction in the amount of aggregate contributions under the plan has resulted or will result from a case or proceeding under title 11, United States Code, with respect to an employer;

11 USC 101.

"(2) the plan is likely to become insolvent;

"(3) contributions will have to be increased significantly in reorganization to meet the minimum contribution requirement and prevent insolvency; and

"(4) partition would significantly reduce the likelihood that the plan will become insolvent.

"(c) The corporation may order the partition of a plan notwithstanding the pendency of a proceeding described in subsection (b)(1).

"(d) The corporation's partition order shall provide for a transfer of no more than the nonforfeitable benefits directly attributable to service with the employer referred to in subsection (b)(1) and an equitable share of assets.

"(e) The plan created by the partition is—

Ante, p. 1210. "(1) a successor plan to which section 4022A applies, and

"(2) a terminated multiemployer plan to which section 4041A(d) applies, with respect to which only the employer described in subsection (b)(1) has withdrawal liability, and to which section 4068 applies.

29 USC 1368.

29 USC 1342. "(f) The corporation may proceed under section 4042 (c) through (h) for a decree partitioning a plan and appointing a trustee for the terminated portion of a partitioned plan. The court may order the partition of a plan upon making the findings described in subsection

(b) (1) through (4), and subject to the conditions set forth in subsections (c) through (e).

"ASSET TRANSFER RULES

"SEC. 4234. (a) A transfer of assets from a multiemployer plan to another plan shall comply with asset-transfer rules which shall be adopted by the multiemployer plan and which— 29 USC 1414.

"(1) do not unreasonably restrict the transfer of plan assets in connection with the transfer of plan liabilities, and

"(2) operate and are applied uniformly with respect to each proposed transfer, except that the rules may provide for reasonable variations taking into account the potential financial impact of a proposed transfer on the multiemployer plan.

Plan rules authorizing asset transfers consistent with the requirements of section 4232(c)(3) shall be considered to satisfy the requirements of this subsection.

"(b) The corporation shall prescribe regulations which exempt de minimis transfers of assets from the requirements of this part. Regulations.

"(c) This part shall not apply to transfers of assets pursuant to written reciprocity agreements, except to the extent provided in regulations prescribed by the corporation.

"TRANSFERS PURSUANT TO CHANGE IN BARGAINING REPRESENTATIVE

"SEC. 4235. (a) In any case in which an employer has completely or partially withdrawn from a multiemployer plan (hereafter in this section referred to as the 'old plan') as a result of a certified change of collective bargaining representative occurring after April 28, 1980, if participants of the old plan who are employed by the employer will, as a result of that change, participate in another multiemployer plan (hereafter in this section referred to as the 'new plan'), the old plan shall transfer assets and liabilities to the new plan in accordance with this section. New plan assets and liabilities. 29 USC 1415.

"(b)(1) The employer shall notify the plan sponsor of the old plan of a change in multiemployer plan participation described in subsection (a) no later than 30 days after the employer determines that the change will occur. Notification.

"(2) The plan sponsor of the old plan shall— Plan sponsor, functions.

"(A) notify the employer of—

"(i) the amount of the employer's withdrawal liability determined under part 1 with respect to the withdrawal,

"(ii) the old plan's intent to transfer to the new plan the nonforfeitable benefits of the employees who are no longer working in covered service under the old plan as a result of the change of bargaining representative, and

"(iii) the amount of assets and liabilities which are to be transferred to the new plan, and

"(B) notify the plan sponsor of the new plan of the benefits, assets, and liabilities which will be transferred to the new plan.

"(3) Within 60 days after receipt of the notice described in paragraph (2)(B), the new plan may file an appeal with the corporation to prevent the transfer. The transfer shall not be made if the corporation determines that the new plan would suffer substantial financial harm as a result of the transfer. Upon notification described in paragraph (2), if— Transfer prevention, appeal.

"(A) the employer fails to object to the transfer within 60 days after receipt of the notice described in paragraph (2)(A), or

"(B) the new plan either—

"(i) fails to file such an appeal, or

"(ii) the corporation, pursuant to such an appeal, fails to find that the new plan would suffer substantial financial harm as a result of the transfer described in the notice under paragraph (2)(B) within 180 days after the date on which the appeal is filed,

then the plan sponsor of the old plan shall transfer the appropriate amount of assets and liabilities to the new plan.

Employer's withdrawal liability amount, reduction.
Ante, p. 1217.

"(c) If the plan sponsor of the old plan transfers the appropriate amount of assets and liabilities under this section to the new plan, then the amount of the employer's withdrawal liability (as determined under section 4201(b) without regard to such transfer and this section) with respect to the old plan shall be reduced by the amount by which—

"(1) the value of the unfunded vested benefits allocable to the employer which were transferred by the plan sponsor of the old plan to the new plan, exceeds

"(2) the value of the assets transferred.

"(d) In any case in which there is a complete or partial withdrawal described in subsection (a), if—

"(1) the new plan files an appeal with the corporation under subsection (b)(3), and

"(2) the employer is required by section 4219 to begin making payments of withdrawal liability before the earlier of—

"(A) the date on which the corporation finds that the new plan would not suffer substantial financial harm as a result of the transfer, or

"(B) the last day of the 180-day period beginning on the date on which the new plan files its appeal,

Escrow payments.

then the employer shall make such payments into an escrow held by a bank or similar financial institution satisfactory to the old plan. If the transfer is made, the amounts paid into the escrow shall be returned to the employer. If the transfer is not made, the amounts paid into the escrow shall be paid to the old plan and credited against the employer's withdrawal liability.

"(e)(1) Notwithstanding subsection (b), the plan sponsor shall not transfer any assets to the new plan if—

"(A) the old plan is in reorganization (within the meaning of section 4241(a)), or

"(B) the transfer of assets would cause the old plan to go into reorganization (within the meaning of section 4241(a)).

"(2) In any case in which a transfer of assets from the old plan to the new plan is prohibited by paragraph (1), the plan sponsor of the old plan shall transfer—

"(A) all nonforfeitable benefits described in subsection (b)(2), if the value of such benefits does not exceed the withdrawal liability of the employer with respect to such withdrawal, or

"(B) such nonforfeitable benefits having a value equal to the withdrawal liability of the employer, if the value of such benefits exceeds the withdrawal liability of the employer.

"(f)(1) Notwithstanding subsections (b) and (e), the plan sponsors of the old plan and the new plan may agree to a transfer of assets and liabilities that complies with sections 4231 and 4234, rather than this section, except that the employer's liability with respect to the withdrawal from the old plan shall be reduced under subsection (c) as if assets and liabilities had been transferred in accordance with this section.

"(2) If the employer withdraws from the new plan within 240 months after the effective date of a transfer of assets and liabilities described in this section, the amount of the employer's withdrawal liability to the new plan shall be the greater of—

"(A) the employer's withdrawal liability determined under part 1 with respect to the new plan, or

"(B) the amount by which the employer's withdrawal liability to the old plan was reduced under subsection (c), reduced by 5 percent for each 12-month period following the effective date of the transfer and ending before the date of the withdrawal from the new plan.

"(g) For purposes of this section— Definitions.

"(1) 'appropriate amount of assets' means the amount by which the value of the nonforfeitable benefits to be transferred exceeds the amount of the employer's withdrawal liability to the old plan (determined under part 1 without regard to section 4211(e)), and *Ante*, p. 1226.

"(2) 'certified change of collective bargaining representative' means a change of collective bargaining representative certified under the Labor-Management Relations Act, 1947, or the Railway Labor Act. 29 USC 141. 45 USC 151.

"PART 3—REORGANIZATION; MINIMUM CONTRIBUTION REQUIREMENT FOR MULTIEMPLOYER PLANS

"REORGANIZATION STATUS

"SEC. 4241. (a) A multiemployer plan is in reorganization for a plan year if the plan's reorganization index for that year is greater than zero. 29 USC 1421.

"(b)(1) A plan's reorganization index for any plan year is the excess of— Reorganization index.

"(A) the vested benefits charge for such year, over

"(B) the net charge to the funding standard account for such year.

"(2) For purposes of this part, the net charge to the funding standard account for any plan year is the excess (if any) of— Funding standard account.

"(A) the charges to the funding standard account for such year under section 412(b)(2) of the Internal Revenue Code of 1954, over 26 USC 412.

"(B) the credits to the funding standard account under section 412(b)(3)(B) of such Code.

"(3) For purposes of this part, the vested benefits charge for any plan year is the amount which would be necessary to amortize the plan's unfunded vested benefits as of the end of the base plan year in equal annual installments— Vested benefits charge.

"(A) over 10 years, to the extent such benefits are attributable to persons in pay status, and

"(B) over 25 years, to the extent such benefits are attributable to other participants.

"(4)(A) The vested benefits charge for a plan year shall be based on an actuarial valuation of the plan as of the end of the base plan year, adjusted to reflect— Actuarial valuation.

"(i) any—

"(I) decrease of 5 percent or more in the value of plan assets, or increase of 5 percent or more in the number of persons in pay status, during the period beginning on the first day of the plan year following the base plan year and ending on the adjustment date, or

"(II) at the election of the plan sponsor, actuarial valuation of the plan as of the adjustment date or any later date not later than the last day of the plan year for which the determination is being made,

"(ii) any change in benefits under the plan which is not otherwise taken into account under this subparagraph and which is pursuant to any amendment—

"(I) adopted before the end of the plan year for which the determination is being made, and

"(II) effective after the end of the base plan year and on or before the end of the plan year referred to in subclause (I), and

"(iii) any other event (including an event described in subparagraph (B)(i)(I)) which, as determined in accordance with regulations prescribed by the Secretary, would substantially increase the plan's vested benefit charge.

"(B)(i) In determining the vested benefits charge for a plan year following a plan year in which the plan was not in reorganization, any change in benefits which—

"(I) results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits as a result of changes in a collective bargaining agreement, or

"(II) results from any other change in a collective bargaining agreement,

shall not be taken into account except to the extent provided in regulations prescribed by the Secretary of the Treasury.

"(ii) Except as otherwise determined by the Secretary of the Treasury, in determining the vested benefits charge for any plan year following any plan year in which the plan was in reorganization, any change in benefits—

"(I) described in clause (i)(I), or

"(II) described in clause (i)(II) as determined under regulations prescribed by the Secretary of the Treasury,

shall, for purposes of subparagraph (A)(ii), be treated as a change in benefits pursuant to an amendment to a plan.

Base plan year.

"(5)(A) For purposes of this part, the base plan year for any plan year is—

"(i) if there is a relevant collective bargaining agreement, the last plan year ending at least 6 months before the relevant effective date, or

"(ii) if there is no relevant collective bargaining agreement, the last plan year ending at least 12 months before the beginning of the plan year.

Relevant collective bargaining agreement.

"(B) For purposes of this part, a relevant collective bargaining agreement is a collective bargaining agreement—

"(i) which is in effect for at least 6 months during the plan year, and

"(ii) which has not been in effect for more than 36 months as of the end of the plan year.

Relevant effective date.

"(C) For purposes of this part, the relevant effective date is the earliest of the effective dates for the relevant collective bargaining agreements.

Adjustment date.

"(D) For purposes of this part, the adjustment date is the date which is—

"(i) 90 days before the relevant effective date, or

"(ii) if there is no relevant effective date, 90 days before the beginning of the plan year.

"(6) For purposes of this part, the term 'person in pay status' means— "Person in pay status."

"(A) a participant or beneficiary on the last day of the base plan year who, at any time during such year, was paid an early, late, normal, or disability retirement benefit (or a death benefit related to a retirement benefit), and

"(B) to the extent provided in regulations prescribed by the Secretary of the Treasury, any other person who is entitled to such a benefit under the plan.

"(7) For purposes of paragraph (3)—

"(A) in determining the plan's unfunded vested benefits, plan assets shall first be allocated to the vested benefits attributable to persons in pay status, and

"(B) the vested benefits charge shall be determined without regard to reductions in accrued benefits under section 4244A which are first effective in the plan year.

"(8) For purposes of this part, any outstanding claim for withdrawal liability shall not be considered a plan asset, except as otherwise provided in regulations prescribed by the Secretary of the Treasury.

"(9) For purposes of this part, the term 'unfunded vested benefits' means with respect to a plan, an amount (determined in accordance with regulations prescribed by the Secretary of the Treasury) equal to— "Unfunded vested benefits."

"(A) the value of nonforfeitable benefits under the plan, less

"(B) the value of assets of the plan.

"(c) Except as provided in regulations prescribed by the corporation, while a plan is in reorganization a benefit with respect to a participant (other than a death benefit) which is attributable to employer contributions and which has a value of more than $1,750 may not be paid in a form other than an annuity which (by itself or in combination with social security, railroad retirement, or workers' compensation benefits) provides substantially level payments over the life of the participant.

"(d) Any multiemployer plan which terminates under section 4041A(a)(2) shall not be considered in reorganization after the last day of the plan year in which the plan is treated as having terminated. *Ante*, p. 1216.

"NOTICE OF REORGANIZATION AND FUNDING REQUIREMENTS

"SEC. 4242. (a)(1) If— 29 USC 1422.

"(A) a multiemployer plan is in reorganization for a plan year, and

"(B) section 4243 would require an increase in contributions for such plan year,

the plan sponsor shall notify the persons described in paragraph (2) that the plan is in reorganization and that, if contributions to the plan are not increased, accrued benefits under the plan may be reduced or an excise tax may be imposed (or both such reduction and imposition may occur).

"(2) The persons described in this paragraph are—

"(A) each employer who has an obligation to contribute under the plan (within the meaning of section 4201(h)(5)), and *Ante*, p. 1217.

"(B) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(3) The determination under paragraph (1)(B) shall be made without regard to the overburden credit provided by section 4244.

Additional or alternative requirements.

"(b) The corporation may prescribe additional or alternative requirements for assuring, in the case of a plan with respect to which notice is required by subsection (a)(1), that the persons described in subsection (a)(2)—

"(1) receive appropriate notice that the plan is in reorganization,

"(2) are adequately informed of the implications of reorganization status, and

"(3) have reasonable access to information relevant to the plan's reorganization status.

"MINIMUM CONTRIBUTION REQUIREMENT

29 USC 1423.

"SEC. 4243. (a)(1) For any plan year for which a plan is in reorganization—

"(A) the plan shall continue to maintain its funding standard account while it is in reorganization, and

Accumulated funding deficiency.

"(B) the plan's accumulated funding deficiency under section 302(a) for such plan year shall be equal to the excess (if any) of—

"(i) the sum of the minimum contribution requirement for such plan year (taking into account any overburden credit under section 4244(a)) plus the plan's accumulated funding deficiency for the preceding plan year (determined under this section if the plan was in reorganization during such year or under section 302(a) if the plan was not in reorganization), over

29 USC 1082.

"(ii) amounts considered contributed by employers to or under the plan for the plan year (increased by any amount waived under subsection (f) for the plan year).

Withdrawal liability payments.

"(2) For purposes of paragraph (1), withdrawal liability payments (whether or not received) which are due with respect to withdrawals before the end of the base plan year shall be considered amounts contributed by the employer to or under the plan if, as of the adjustment date, it was reasonable for the plan sponsor to anticipate that such payments would be made during the plan year.

"(b)(1) Except as otherwise provided in this section, for purposes of this part the minimum contribution requirement for a plan year in which a plan is in reorganization is an amount equal to the excess of—

"(A) the sum of—

"(i) the plan's vested benefits charge for the plan year, and

"(ii) the increase in normal cost for the plan year determined under the entry age normal funding method which is attributable to plan amendments adopted while the plan was in reorganization, over

"(B) the amount of the overburden credit (if any) determined under section 4244 for the plan year.

"(2) If the plan's current contribution base for the plan year is less than the plan's valuation contribution base for the plan year, the minimum contribution requirement for such plan year shall be equal to the product of the amount determined under paragraph (1) (after any adjustment required by this part other than this paragraph) and a fraction—

"(A) the numerator of which is the plan's current contribution base for the plan year, and

"(B) the denominator of which is the plan's valuation contribution base for the plan year.

"(3)(A) If the vested benefits charge for a plan year of a plan in reorganization is less than the plan's cash-flow amount for the plan year, the plan's minimum contribution requirement for the plan year is the amount determined under paragraph (1) (determined before the application of paragraph (2)) after substituting the term 'cash-flow amount' for the term 'vested benefits charge' in paragraph (1)(A).

Cash-flow amount.

"(B) For purposes of subparagraph (A), a plan's cash-flow amount for a plan year is an amount equal to—

"(i) the amount of the benefits payable under the plan for the base plan year, plus the amount of the plan's administrative expenses for the base plan year, reduced by

"(ii) the value of the available plan assets for the base plan year determined under regulations prescribed by the Secretary of the Treasury,

adjusted in a manner consistent with section 4241(b)(4).

Current contribution base.

"(c)(1) For purposes of this part, a plan's current contribution base for a plan year is the number of contribution base units with respect to which contributions are required to be made under the plan for that plan year, determined in accordance with regulations prescribed by the Secretary of the Treasury.

Valuation countribution base.

"(2)(A) Except as provided in subparagraph (B), for purposes of this part a plan's valuation contribution base is the number of contribution base units for which contributions were received for the base plan year—

"(i) adjusted to reflect declines in the contribution base which have occurred (or could reasonably be anticipated) as of the adjustment date for the plan year referred to in paragraph (1),

"(ii) adjusted upward (in accordance with regulations prescribed by the Secretary of the Treasury) for any contribution base reduction in the base plan year caused by a strike or lockout or by unusual events, such as fire, earthquake, or severe weather conditions, and

"(iii) adjusted (in accordance with regulations prescribed by the Secretary of the Treasury) for reductions in the contribution base resulting from transfers of liabilities.

"(B) For any plan year—

"(i) in which the plan is insolvent (within the meaning of section 4245(b)(1)), and

"(ii) beginning with the first plan year beginning after the expiration of all relevant collective bargaining agreements which were in effect in the plan year in which the plan became insolvent,

the plan's valuation contribution base is the greater of the number of contribution base units for which contributions were received for the first or second plan year preceding the first plan year in which the plan is insolvent, adjusted as provided in clause (ii) or (iii) of subparagraph (A).

"(d)(1) Under regulations prescribed by the Secretary of the Treasury, the minimum contribution requirement applicable to any plan for any plan year which is determined under subsection (b) (without regard to subsection (b)(2)) shall not exceed an amount which is equal to the sum of—

"(A) the greater of—

"(i) the funding standard requirement for such plan year, or

"(ii) 107 percent of—

"(I) if the plan was not in reorganization in the preceding plan year, the funding standard requirement for such preceding plan year, or

"(II) if the plan was in reorganization in the preceding plan year, the sum of the amount determined under this subparagraph for the preceding plan year and the amount (if any) determined under subparagraph (B) for the preceding plan year, plus

"(B) if for the plan year a change in benefits is first required to be considered in computing the charges under section 412(b)(2) (A) or (B) of the Internal Revenue Code of 1954, the sum of—

26 USC 412.

"(i) the increase in normal cost for a plan year determined under the entry age normal funding method due to increases in benefits described in section 4241(b)(4)(A)(ii) (determined without regard to section 4241(b)(4)(B)(i)), and

"(ii) the amount necessary to amortize in equal annual installments the increase in the value of vested benefits under the plan due to increases in benefits described in clause (i) over—

"(I) 10 years, to the extent such increase in value is attributable to persons in pay status, or

"(II) 25 years, to the extent such increase in value is attributable to other participants.

Funding standard requirement.

"(2) For purposes of paragraph (1), the funding standard requirement for any plan year is an amount equal to the net charge to the funding standard account for such plan year (as defined in section 4241(b)(2)).

Ante, p. 1234.

"(3)(A) In the case of a plan described in section 4216(b), if a plan amendment which increases benefits is adopted after January 1, 1980—

"(i) paragraph (1) shall apply only if the plan is a plan described in subparagraph (B), and

"(ii) the amount under paragraph (1) shall be determined without regard to paragraph (1)(B).

"(B) A plan is described in this subparagraph if—

"(i) the rate of employer contributions under the plan for the first plan year beginning on or after the date on which an amendment increasing benefits is adopted, multiplied by the valuation contribution base for that plan year, equals or exceeds the sum of—

"(I) the amount that would be necessary to amortize fully, in equal annual installments, by July 1, 1986, the unfunded vested benefits attributable to plan provisions in effect on July 1, 1977 (determined as of the last day of the base plan year); and

"(II) the amount that would be necessary to amortize fully, in equal annual installments, over the period described in subparagraph (C), beginning with the first day of the first plan year beginning on or after the date on which the amendment is adopted, the unfunded vested benefits (determined as of the last day of the base plan year) attributable to each plan amendment after July 1, 1977; and

"(ii) the rate of employer contributions for each subsequent plan year is not less than the lesser of—

"(I) the rate which when multiplied by the valuation contribution base for that subsequent plan year produces the

annual amount that would be necessary to complete the amortization schedule described in clause (i), or

"(II) the rate for the plan year immediately preceding such subsequent plan year, plus 5 percent of such rate.

"(C) The period determined under this subparagraph is the lesser of—

"(i) 12 years, or

"(ii) a period equal in length to the average of the remaining expected lives of all persons receiving benefits under the plan.

"(4) Paragraph (1) shall not apply with respect to a plan, other than a plan described in paragraph (3), for the period of consecutive plan years in each of which the plan is in reorganization, beginning with a plan year in which occurs the earlier of the date of the adoption or the effective date of any amendment of the plan which increases benefits with respect to service performed before the plan year in which the adoption of the amendment occurred.

"(e) In determining the minimum contribution requirement with respect to a plan for a plan year under subsection (b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under section 412(c)(8) of the Internal Revenue Code of 1954. 26 USC 412.

"(f)(1) The Secretary of the Treasury may waive any accumulated funding deficiency under this section in accordance with the provisions of section 303(a). 29 USC 1083.

"(2) Any waiver under paragraph (1) shall not be treated as a waived funding deficiency (within the meaning of section 303(c)).

"(g) For purposes of making any determination under this part, the requirements of section 302(c)(3) shall apply. 29 USC 1082.

"OVERBURDEN CREDIT AGAINST MINIMUM CONTRIBUTION REQUIREMENT

"SEC. 4244. (a) For purposes of determining the minimum contribution requirement under section 4243 (before the application of section 4243 (b)(2) or (d)) the plan sponsor of a plan which is overburdened for the plan year shall apply an overburden credit against the plan's minimum contribution requirement for the plan year (determined without regard to section 4243 (b)(2) or (d) and without regard to this section). 29 USC 1424.

"(b) A plan is overburdened for a plan year if—

"(1) the average number of pay status participants under the plan in the base plan year exceeds the average of the number of active participants in the base plan year and the 2 plan years preceding the base plan year, and

"(2) the rate of employer contributions under the plan equals or exceeds the greater of—

"(A) such rate for the preceding plan year, or

"(B) such rate for the plan year preceding the first year in which the plan is in reorganization.

"(c) The amount of the overburden credit for a plan year is the product of— Amount, determination factors.

"(1) one-half of the average guaranteed benefit paid for the base plan year, and

"(2) the overburden factor for the plan year.

The amount of the overburden credit for a plan year shall not exceed the amount of the minimum contribution requirement for such year (determined without regard to this section).

"(d) For purposes of this section, the overburden factor of a plan for the plan year is an amount equal to—

"(1) the average number of pay status participants for the base plan year, reduced by

"(2) the average of the number of active participants for the base plan year and for each of the 2 plan years preceding the base plan year.

"(e) For purposes of this section—

"Pay status participant."

"(1) The term 'pay status participant' means, with respect to a plan, a participant receiving retirement benefits under the plan.

Active participants, numerical determination.

"(2) The number of active participants for a plan year shall be the sum of—

"(A) the number of active employees who are participants in the plan and on whose behalf contributions are required to be made during the plan year;

"(B) the number of active employees who are not participants in the plan but who are in an employment unit covered by a collective bargaining agreement which requires the employees' employer to contribute to the plan, unless service in such employment unit was never covered under the plan or a predecessor thereof, and

"(C) the total number of active employees attributed to employers who made payments to the plan for the plan year of withdrawal liability pursuant to part 1, determined by dividing—

"(i) the total amount of such payments, by

"(ii) the amount equal to the total contributions received by the plan during the plan year divided by the average number of active employees who were participants in the plan during the plan year.

Alternate methods.

The Secretary of the Treasury shall by regulation provide alternative methods of determining active participants where (by reason of irregular employment, contributions on a unit basis, or otherwise) this paragraph does not yield a representative basis for determining the credit.

"Average number."

"(3) The term 'average number' means, with respect to pay status participants for a plan year, a number equal to one-half the sum of—

"(A) the number with respect to the plan as of the beginning of the plan year, and

"(B) the number with respect to the plan as of the end of the plan year.

Average guaranteed benefit.

"(4) The average guaranteed benefit paid is 12 times the average monthly pension payment guaranteed under section 4022A(c)(1) determined under the provisions of the plan in effect at the beginning of the first plan year in which the plan is in reorganization and without regard to section 4022A(c)(2).

Ante, p. 1210.

"(5) The first year in which the plan is in reorganization is the first of a period of 1 or more consecutive plan years in which the plan has been in reorganization not taking into account any plan years the plan was in reorganization prior to any period of 3 or more consecutive plan years in which the plan was not in reorganization.

"(f)(1) Notwithstanding any other provision of this section, a plan is not eligible for an overburden credit for a plan year if the Secretary of the Treasury finds that the plan's current contribution base for the plan year was reduced, without a corresponding reduction in the plan's unfunded vested benefits attributable to pay status partici-

pants, as a result of a change in an agreement providing for employer contributions under the plan.

"(2) For purposes of paragraph (1), a complete or partial withdrawal of an employer (within the meaning of part 1) does not impair a plan's eligibility for an overburden credit, unless the Secretary of the Treasury finds that a contribution base reduction described in paragraph (1) resulted from a transfer of liabilities to another plan in connection with the withdrawal.

"(g) Notwithstanding any other provision of this section, if 2 or more multiemployer plans merge, the amount of the overburden credit which may be applied under this section with respect to the plan resulting from the merger for any of the 3 plan years ending after the effective date of the merger shall not exceed the sum of the used overburden credit for each of the merging plans for its last plan year ending before the effective date of the merger. For purposes of the preceding sentence, the used overburden credit is that portion of the credit which does not exceed the excess of the minimum contribution requirement (determined without regard to any overburden requirement under this section) over the employer contributions required under the plan.

Used overburden credit.

"ADJUSTMENTS IN ACCRUED BENEFITS

"SEC. 4244A. (a)(1) Notwithstanding sections 203 and 204, a multiemployer plan in reorganization may be amended in accordance with this section, to reduce or eliminate accrued benefits attributable to employer contributions which, under section 4022A(b), are not eligible for the corporation's guarantee. The preceding sentence shall only apply to accrued benefits under plan amendments (or plans) adopted after March 26, 1980, or under collective bargaining agreements entered into after March 26, 1980.

29 USC 1425.
29 USC 1053, 1054.

"(2) In determining the minimum contribution requirement with respect to a plan for a plan year under section 4243(b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under this section or section 412(c)(8) of the Internal Revenue Code of 1954, but only if the amendment is adopted and effective no later than 2½ months after the end of the plan year, or within such extended period as the Secretary of the Treasury may prescribe by regulation under section 412(c)(10) of such Code.

26 USC 412.

"(b)(1) Accrued benefits may not be reduced under this section unless—

Reduction conditions.

"(A) notice has been given, at least 6 months before the first day of the plan year in which the amendment reducing benefits is adopted, to—

"(i) plan participants and beneficiaries,

"(ii) each employer who has an obligation to contribute (within the meaning of section 4212(a)) under the plan, and

Ante, p. 1233.

"(iii) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer,

that the plan is in reorganization and that, if contributions under the plan are not increased, accrued benefits under the plan will be reduced or an excise tax will be imposed on employers;

"(B) in accordance with regulations prescribed by the Secretary of the Treasury—

"(i) any category of accrued benefits is not reduced with respect to inactive participants to a greater extent propor-

tionally than such category of accrued benefits is reduced with respect to active participants,

"(ii) benefits attributable to employer contributions other than accrued benefits and the rate of future benefit accruals are reduced at least to an extent equal to the reduction in accrued benefits of inactive participants, and

"(iii) in any case in which the accrued benefit of a participant or beneficiary is reduced by changing the benefit form or the requirements which the participant or beneficiary must satisfy to be entitled to the benefit, such reduction is not applicable to—

"(I) any participant or beneficiary in pay status on the effective date of the amendment, or the beneficiary of such a participant, or

"(II) any participant who has attained normal retirement age, or who is within 5 years of attaining normal retirement age, on the effective date of the amendment, or the beneficiary of any such participant; and

"(C) the rate of employer contributions for the plan year in which the amendment becomes effective and for all succeeding plan years in which the plan is in reorganization equals or exceeds the greater of—

"(i) the rate of employer contributions, calculated without regard to the amendment, for the plan year in which the amendment becomes effective, or

"(ii) the rate of employer contributions for the plan year preceding the plan year in which the amendment becomes effective.

"(2) The plan sponsors shall include in any notice required to be sent to plan participants and beneficiaries under paragraph (1) information as to the rights and remedies of plan participants and beneficiaries as well as how to contact the Department of Labor for further information and assistance where appropriate.

"(c) A plan may not recoup a benefit payment which is in excess of the amount payable under the plan because of an amendment retroactively reducing accrued benefits under this section.

Amended plans.

"(d)(1)(A) A plan which has been amended to reduce accrued benefits under this section may be amended to increase or restore accrued benefits, or the rate of future benefit accruals, only if the plan is amended to restore levels of previously reduced accrued benefits of inactive participants and of participants who are within 5 years of attaining normal retirement age to at least the same extent as any such increase in accrued benefits or in the rate of future benefit accruals.

"(B) For purposes of this subsection, in the case of a plan which has been amended under this section to reduce accrued benefits—

"(i) an increase in a benefit, or in the rate of future benefit accruals, shall be considered a benefit increase to the extent that the benefit, or the accrual rate, is thereby increased above the highest benefit level, or accrual rate, which was in effect under the terms of the plan before the effective date of the amendment reducing accrued benefits, and

"(ii) an increase in a benefit, or in the rate of future benefit accruals, shall be considered a benefit restoration to the extent that the benefit, or the accrual rate, is not thereby increased above the highest benefit level, or accrual rate, which was in effect under the terms of the plan immediately before the effective date of the amendment reducing accrued benefits.

"(2) If a plan is amended to partially restore previously reduced accrued benefit levels, or the rate of future benefit accruals, the benefits of inactive participants shall be restored in at least the same proportions as other accrued benefits which are restored.

"(3) No benefit increase under a plan may take effect in a plan year in which an amendment reducing accrued benefits under the plan, in accordance with this section, is adopted or first becomes effective.

"(4) A plan is not required to make retroactive benefit payments with respect to that portion of an accrued benefit which was reduced and subsequently restored under this section.

"(e) For purposes of this section, 'inactive participant' means a person not in covered service under the plan who is in pay status under the plan or who has a nonforfeitable benefit under the plan. "Inactive participant."

"(f) The Secretary of the Treasury may prescribe rules under which, notwithstanding any other provision of this section, accrued benefit reductions or benefit increases for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors reflecting differences in negotiated levels of financial support for plan benefit obligations.

"INSOLVENT PLANS

"SEC. 4245. (a) Notwithstanding sections 203 and 204, in any case in which benefit payments under an insolvent multiemployer plan exceed the resource benefit level, any such payments of benefits which are not basic benefits shall be suspended, in accordance with this section, to the extent necessary to reduce the sum of such payments and the payments of such basic benefits to the greater of the resource benefit level or the level of basic benefits, unless an alternative procedure is prescribed by the corporation under section 4022A(g)(5). Non-basic benefits, payment suspension. 29 USC 1426. 29 USC 1053, 1054. *Ante*, p. 1210.

"(b) For purposes of this section, for a plan year— Definitions.

"(1) a multiemployer plan is insolvent if the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year, or if the plan is determined to be insolvent under subsection (d);

"(2) 'resource benefit level' means the level of monthly benefits determined under subsections (c) (1) and (3) and (d)(3) to be the highest level which can be paid out of the plan's available resources;

"(3) 'available resources' means the plan's cash, marketable assets, contributions, withdrawal liability payments, and earnings, less reasonable administrative expenses and amounts owed for such plan year to the corporation under section 4261(b)(2); and

"(4) 'insolvency year' means a plan year in which a plan is insolvent.

"(c)(1) The plan sponsor of a plan in reorganization shall determine in writing the plan's resource benefit level for each insolvency year, based on the plan sponsor's reasonable projection of the plan's available resources and the benefits payable under the plan. Resource benefit level.

"(2) The suspension of benefit payments under this section shall, in accordance with regulations prescribed by the Secretary of the Treasury, apply in substantially uniform proportions to the benefits of all persons in pay status (within the meaning of section 4241(b)(6)) under the plan, except that the Secretary of the Treasury may prescribe rules under which benefit suspensions for different participant groups may be varied equitably to reflect variations in contribu- Benefit payments, suspension.

tion rates and other relevant factors including differences in negotiated levels of financial support for plan benefit obligations.

Benefit payments, suspension.

"(3) Notwithstanding paragraph (2), if a plan sponsor determines in writing a resource benefit level for a plan year which is below the level of basic benefits, the payment of all benefits other than basic benefits must be suspended for that plan year.

Excess resources, distribution.

"(4)(A) If, by the end of an insolvency year, the plan sponsor determines in writing that the plan's available resources in that insolvency year could have supported benefit payments above the resource benefit level for that insolvency year, the plan sponsor shall distribute the excess resources to the participants and beneficiaries who received benefit payments from the plan in that insolvency year, in accordance with regulations prescribed by the Secretary of the Treasury.

"Excess resources."

"(B) For purposes of this paragraph, the term 'excess resources' means available resources above the amount necessary to support the resource benefit level, but no greater than the amount necessary to pay benefits for the plan year at the benefit levels under the plan.

"(5) If, by the end of an insolvency year, any benefit has not been paid at the resource benefit level, amounts up to the resource benefit level which were unpaid shall be distributed to the participants and beneficiaries, in accordance with regulations prescribed by the Secretary of the Treasury, to the extent possible taking into account the plan's total available resources in that insolvency year.

"(6) Except as provided in paragraph (4) or (5), a plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this section.

"(d)(1) As of the end of the first plan year in which a plan is in reorganization, and at least every 3 plan years thereafter (unless the plan is no longer in reorganization), the plan sponsor shall compare the value of plan assets (determined in accordance with section 4243(b)(3)(B)(ii)) for that plan year with the total amount of benefit payments made under the plan for that plan year. Unless the plan sponsor determines that the value of plan assets exceeds 3 times the total amount of benefit payments, the plan sponsor shall determine whether the plan will be insolvent in any of the next 3 plan years.

"(2) If, at any time, the plan sponsor of a plan in reorganization reasonably determines, taking into account the plan's recent and anticipated financial experience, that the plan's available resources are not sufficient to pay benefits under the plan when due for the next plan year, the plan sponsor shall make such determination available to interested parties.

Benefit levels.

"(3) The plan sponsor of a plan in reorganization shall determine in writing for each insolvency year the resource benefit level and the level of basic benefits no later than 3 months before the insolvency year.

Reorganization plan sponsor, duties.

"(e)(1) If the plan sponsor of a plan in reorganization determines under subsection (d) (1) or (2) that the plan may become insolvent (within the meaning of subsection (b)(1)), the plan sponsor shall—

"(A) notify the Secretary of the Treasury, the corporation, the parties described in section 4242(a)(2), and the plan participants and beneficiaries of that determination, and

"(B) inform the parties described in section 4242(a)(2) and the plan participants and beneficiaries that if insolvency occurs certain benefit payments will be suspended, but that basic benefits will continue to be paid.

"(2) No later than 2 months before the first day of each insolvency year, the plan sponsor of a plan in reorganization shall notify the

Secretary of the Treasury, the corporation, and the parties described in paragraph (1)(B) of the resource benefit level determined in writing for that insolvency year.

"(3) In any case in which the plan sponsor anticipates that the resource benefit level for an insolvency year may not exceed the level of basic benefits, the plan sponsor shall notify the corporation.

"(4) Notice required by this subsection shall be given in accordance with regulations prescribed by the corporation, except that notice to the Secretary of the Treasury shall be given in accordance with regulations prescribed by the Secretary of the Treasury.

"(5) The corporation may prescribe a time other than the time prescribed by this section for the making of a determination or the filing of a notice under this section.

Financial assistance.

"(f)(1) If the plan sponsor of an insolvent plan, for which the resource benefit level is above the level of basic benefits, anticipates that, for any month in an insolvency year, the plan will not have funds sufficient to pay basic benefits, the plan sponsor may apply for financial assistance from the corporation under section 4261.

Infra.

"(2) A plan sponsor who has determined a resource benefit level for an insolvency year which is below the level of basic benefits shall apply for financial assistance from the corporation under section 4261.

"PART 4—FINANCIAL ASSISTANCE

"FINANCIAL ASSISTANCE

29 USC 1431.
Infra.

"SEC. 4261. (a) If, upon receipt of an application for financial assistance under section 4245(f) or section 4281(d), the corporation verifies that the plan is or will be insolvent and unable to pay basic benefits when due, the corporation shall provide the plan financial assistance in an amount sufficient to enable the plan to pay basic benefits under the plan.

"(b)(1) Financial assistance shall be provided under such conditions as the corporation determines are equitable and are appropriate to prevent unreasonable loss to the corporation with respect to the plan.

"(2) A plan which has received financial assistance shall repay the amount of such assistance to the corporation on reasonable terms consistent with regulations prescribed by the corporation.

"(c) Pending determination of the amount described in subsection (a), the corporation may provide financial assistance in such amounts as it considers appropriate in order to avoid undue hardship to plan participants and beneficiaries.

"PART 5—BENEFITS AFTER TERMINATION

"BENEFITS UNDER CERTAIN TERMINATED PLANS

Payment reduction and suspension.
29 USC 1441.
29 USC 1053, 1054.

"SEC. 4281. (a) Notwithstanding sections 203 and 204, the plan sponsor of a terminated multiemployer plan to which section 4041A(d) applies shall amend the plan to reduce benefits, and shall suspend benefit payments, as required by this section.

"(b)(1) The value of nonforfeitable benefits under a terminated plan referred to in subsection (a), and the value of the plan's assets, shall be determined in writing, in accordance with regulations prescribed by the corporation, as of the end of the plan year during which section 4041A(d) becomes applicable to the plan, and each plan year thereafter.

Ante, p. 1216.

Plan assets.

"(2) For purposes of this section, plan assets include outstanding claims for withdrawal liability (within the meaning of section 4001(a)(12)).

Post, p. 1296.

"(c)(1) If, according to the determination made under subsection (b), the value of nonforfeitable benefits exceeds the value of the plan's assets, the plan sponsor shall amend the plan to reduce benefits under the plan to the extent necessary to ensure that the plan's assets are sufficient, as determined and certified in accordance with regulations prescribed by the corporation, to discharge when due all of the plan's obligations with respect to nonforfeitable benefits.

"(2) Any plan amendment required by this subsection shall, in accordance with regulations prescribed by the Secretary of the Treasury—

"(A) reduce benefits only to the extent necessary to comply with paragraph (1);

"(B) reduce accrued benefits only to the extent that those benefits are not eligible for the corporation's guarantee under section 4022A(b);

Ante, p. 1210.

"(C) comply with the rules for and limitations on benefit reductions under a plan in reorganization, as prescribed in section 4244A, except to the extent that the corporation prescribes other rules and limitations in regulations under this section; and

"(D) take effect no later than 6 months after the end of the plan year for which it is determined that the value of nonforfeitable benefits exceeds the value of the plan's assets.

"(d)(1) In any case in which benefit payments under a plan which is insolvent under paragraph (2)(A) exceed the resource benefit level, any such payments which are not basic benefits shall be suspended, in accordance with this subsection, to the extent necessary to reduce the sum of such payments and such basic benefits to the greater of the resource benefit level or the level of basic benefits, unless an alternative procedure is prescribed by the corporation in connection with a supplemental guarantee program established under section 4022A(g)(2).

Ante, p. 1210.

Insolvent plan.

"(2) For purposes of this subsection, for a plan year—

"(A) a plan is insolvent if—

"(i) the plan has been amended to reduce benefits to the extent permitted by subsection (c), and

"(ii) the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year; and

"(B) 'resource benefit level' and 'available resources' have the meanings set forth in paragraphs (2) and (3), respectively, of section 4245(b).

"(3) The plan sponsor of a plan which is insolvent (within the meaning of paragraph (2)(A)) shall have the powers and duties of the plan sponsor of a plan in reorganization which is insolvent (within the meaning of section 4245(b)(1)), except that regulations governing the plan sponsor's exercise of those powers and duties under this section shall be prescribed by the corporation, and the corporation shall prescribe by regulation notice requirements which assure that plan participants and beneficiaries receive adequate notice of benefit suspensions.

"(4) A plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this subsection, except that the provisions of section 4245(c) (4) and (5) shall apply in the case of plans which are insolvent under paragraph (2)(A), in connection with the plan year during which such section

4041A(d) first became applicable to the plan and every year thereafter, in the same manner and to the same extent as such provisions apply to insolvent plans in reorganization under section 4245, in connection with insolvency years under such section 4245. *Ante*, p. 1216.

"PART 6—ENFORCEMENT

"CIVIL ACTIONS

"SEC. 4301. (a)(1) A plan fiduciary, employer, plan participant, or beneficiary, who is adversely affected by the act or omission of any party under this subtitle with respect to a multiemployer plan, or an employee organization which represents such a plan participant or beneficiary for purposes of collective bargaining, may bring an action for appropriate legal or equitable relief, or both. 29 USC 1451.

"(2) Notwithstanding paragraph (1), this section does not authorize an action against the Secretary of the Treasury, the Secretary of Labor, or the corporation.

"(b) In any action under this section to compel an employer to pay withdrawal liability, any failure of the employer to make any withdrawal liability payment within the time prescribed shall be treated in the same manner as a delinquent contribution (within the meaning of section 515). Withdrawal liability payment. *Post*, p. 1295.

"(c) The district courts of the United States shall have exclusive jurisdiction of an action under this section without regard to the amount in controversy, except that State courts of competent jurisdiction shall have concurrent jurisdiction over an action brought by a plan fiduciary to collect withdrawal liability. Concurrent jurisdiction.

"(d) An action under this section may be brought in the district where the plan is administered or where a defendant resides or does business, and process may be served in any district where a defendant resides, does business, or may be found.

"(e) In any action under this section, the court may award all or a portion of the costs and expenses incurred in connection with such action, including reasonable attorney's fees, to the prevailing party. Costs and expenses.

"(f) An action under this section may not be brought after the later of—

"(1) 6 years after the date on which the cause of action arose, or

"(2) 3 years after the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action; except that in the case of fraud or concealment, such action may be brought not later than 6 years after the date of discovery of the existence of such cause of action.

"(g) A copy of the complaint in any action under this section or section 4221 shall be served upon the corporation by certified mail. The corporation may intervene in any such action. *Ante*, p. 1239.

"PENALTY FOR FAILURE TO PROVIDE NOTICE

"SEC. 4302. Any person who fails, without reasonable cause, to provide a notice required under this subtitle or any implementing regulations shall be liable to the corporation in an amount up to $100 for each day for which such failure continues. The corporation may bring a civil action against any such person in the United States District Court for the District of Columbia or in any district court of the United States within the jurisdiction of which the plan assets are located, the plan is administered, or a defendant resides or does 29 USC 1452. Civil action.

business, and process may be served in any district where a defendant resides, does business, or may be found.".

SEC. 105. PREMIUMS.

Rates and bases, schedules. 29 USC 1306.

(a) Section 4006(a) is amended to read as follows:

"(a)(1) The corporation shall prescribe such schedules of premium rates and bases for the application of those rates as may be necessary to provide sufficient revenue to the fund for the corporation to carry out its functions under this title. The premium rates charged by the corporation for any period shall be uniform for all plans, other than multiemployer plans, insured by the corporation with respect to basic benefits guaranteed by it under section 4022, and shall be uniform for all multiemployer plans with respect to basic benefits guaranteed by it under section 4022A. In establishing annual premiums with respect to plans, other than multiemployer plans, paragraphs (5) and (6) of this subsection (as in effect before the enactment of the Multiemployer Pension Plan Amendments Act of 1980) shall continue to apply.

29 USC 1322.

Ante, p. 1210.

Ante, p. 1208.

Separate schedules.

"(2) The corporation shall maintain separate schedules of premium rates, and bases for the application of those rates, for—

"(A) basic benefits guaranteed by it under section 4022 for single-employer plans,

"(B) basic benefits guaranteed by it under section 4022A for multiemployer plans,

"(C) nonbasic benefits guaranteed by it under section 4022 for single-employer plans,

"(D) nonbasic benefits guaranteed by it under section 4022A for multiemployer plans, and

"(E) reimbursements of uncollectible withdrawal liability under section 4222.

Ante, p. 1240.

Revised schedules.

The corporation may revise such schedules whenever it determines that revised schedules are necessary. Except as provided in section 4022A(f), in order to place a revised schedule described in subparagraph (A) or (B) in effect, the corporation shall proceed in accordance with subsection (b)(1), and such schedule shall apply only to plan years beginning more than 30 days after the date on which the Congress approves such revised schedule by a concurrent resolution.

Annual rates payable to Pension Benefit Guaranty Corporation.

"(3)(A) Except as provided in subparagraph (C), the annual premium rate payable to the corporation by all plans for basic benefits guaranteed under this title is—

"(i) in the case of a single-employer plan, for plan years beginning after December 31, 1977, an amount equal to $2.60 for each individual who is a participant in such plan during the plan year;

"(ii) in the case of a multiemployer plan, for the plan year within which the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980 falls, an amount for each individual who is a participant in such plan for such plan year equal to the sum of—

"(I) 50 cents, multiplied by a fraction the numerator of which is the number of months in such year ending on or before such date and the denominator of which is 12, and

"(II) $1.00, multiplied by a fraction equal to 1 minus the fraction determined under clause (i),

"(iii) in the case of a multiemployer plan, for plan years beginning after the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980, an amount equal to—

"(I) $1.40 for each participant, for the first, second, third, and fourth plan years,

"(II) $1.80 for each participant, for the fifth and sixth plan years,

"(III) $2.20 for each participant, for the seventh and eighth plan years, and

"(IV) $2.60 for each participant, for the ninth plan year, and for each succeeding plan year.

"(B) The corporation may prescribe by regulation the extent to which the rate described in subparagraph (A)(i) applies more than once for any plan year to an individual participating in more than one plan maintained by the same employer, and the corporation may prescribe regulations under which the rate described in subparagraph (A)(iii) will not apply to the same participant in any multiemployer plan more than once for any plan year.

"(C)(i) If the sum of—

"(I) the amounts in any fund for basic benefits guaranteed for multiemployer plans, and

"(II) the value of any assets held by the corporation for payment of basic benefits guaranteed for multiemployer plans, is for any calendar year less than 2 times the amount of basic benefits guaranteed by the corporation under this title for multiemployer plans which were paid out of any such fund or assets during the preceding calendar year, the annual premium rates under subparagraph (A) shall be increased to the next highest premium level necessary to insure that such sum will be at least 2 times greater than such amount during the following calendar year.

"(ii) If the board of directors of the corporation determines that an increase in the premium rates under subparagraph (A) is necessary to provide assistance to plans which are receiving assistance under section 4261 and to plans the board finds are reasonably likely to require such assistance, the board may order such increase in the premium rates.

"(iii) The maximum annual premium rate which may be established under this subparagraph is $2.60 for each participant.

"(iv) The provisions of this subparagraph shall not apply if the annual premium rate is increased to a level in excess of $2.60 per participant under any other provisions of this title.

"(D)(i) Not later than 120 days before the date on which an increase under subparagraph (C)(ii) is to become effective, the corporation shall publish in the Federal Register a notice of the determination described in subparagraph (C)(ii), the basis for the determination, the amount of the increase in the premium, and the anticipated increase in premium income that would result from the increase in the premium rate. The notice shall invite public comment, and shall provide for a public hearing if one is requested. Any such hearing shall be commenced not later than 60 days before the date on which the increase is to become effective. Publication in Federal Register. Hearing.

"(ii) The board of directors shall review the hearing record established under clause (i) and shall, not later than 30 days before the date on which the increase is to become effective, determine (after consideration of the comments received) whether the amount of the increase should be changed and shall publish its determination in the Federal Register. Publication in Federal Register.

"(4) The corporation may prescribe, subject to approval by the Congress in accordance with this section or section 4022A(f), alternative schedules of premium rates, and bases for the application of those rates, for basic benefits guaranteed by it under sections 4022 *Ante*, p. 1210. 29 USC 1322.

Ante, p. 1210.

and 4022A based, in whole or in part, on the risks insured by the corporation in each plan.

"(5)(A) In carrying out its authority under paragraph (1) to establish schedules of premium rates, and bases for the application of those rates, for nonbasic benefits guaranteed under sections 4022 and 4022A, the premium rates charged by the corporation for any period for nonbasic benefits guaranteed shall—

29 USC 1322.

"(i) be uniform by category of nonbasic benefits guaranteed,

"(ii) be based on the risks insured in each category, and

"(iii) reflect the experience of the corporation (including experience which may be reasonably anticipated) in guaranteeing such benefits.

"(B) Notwithstanding subparagraph (A), premium rates charged to any multiemployer plan by the corporation for any period for supplemental guarantees under section 4022A(g)(2) may reflect any reasonable considerations which the corporation determines to be appropriate.".

29 USC 1306.

(b) Section 4006(b) is amended—

(1) by striking out "Committee on Labor and Public Welfare" each place it appears and inserting in lieu thereof "Committee on Labor and Human Resources";

(2) in paragraph (1)—

(A) by striking out "coverage"; and

(B) by striking out "(B) or (C)" and inserting in lieu thereof "(C), (D), or (E)"; and

(3) in paragraph (3), by striking out "coverage".

(c) Section 4006 is further amended by adding at the end thereof the following new subsection:

"(c)(1) Except as provided in subsection (a)(3), and subject to paragraph (2), the rate for all plans for basic benefits guaranteed under this title with respect to plan years ending after September 2, 1974, is—

"(A) in the case of each plan which was not a multiemployer plan in a plan year, an amount equal to $1 for each individual who was a participant in such plan during the plan year, and

"(B) in the case of each plan which was a multiemployer plan in a plan year, an amount equal to 50 cents for each individual who was a participant in such plan during the plan year.

"(2) The rate applicable under this subsection for the plan year preceding September 1, 1975, is the product of—

"(A) the rate described in the preceding sentence; and

"(B) a fraction—

"(i) the numerator of which is the number of calendar months in the plan year which ends after September 2, 1974, and before the date on which the new plan year commences, and

"(ii) the denominator of which is 12.".

SEC. 106. ANNUAL REPORT OF PLAN ADMINISTRATOR.

29 USC 1365.

Section 4065 is amended—

(1) in paragraph (1), by striking out "and";

(2) in paragraph (2), by striking out the period and inserting in lieu thereof "except to the extent the corporation waives such requirement, and"; and

(3) by adding after paragraph (2) the following new paragraph:

"(3) in the case of a multiemployer plan, information with respect to such plan which the corporation determines is neces-

sary for the enforcement of subtitle E and requires by regulation, which may include— *Ante*, p. 1217.

"(A) a statement certified by the plan's enrolled actuary of—

"(i) the value of all vested benefits under the plan as of the end of the plan year, and

"(ii) the value of the plan's assets as of the end of the plan year;

"(B) a statement certified by the plan sponsor of each claim for outstanding withdrawal liability (within the meaning of section 4001(a)(12)) and its value as of the end of that plan year and as of the end of the preceding plan year; and *Post*, p. 1296.

"(C) the number of employers having an obligation to contribute to the plan and the number of employers required to make withdrawal liability payments.".

SEC. 107. CONTINGENT EMPLOYER LIABILITY INSURANCE.

Section 4023 (as in effect immediately before the date of the enactment of this Act) is repealed. Repeal. 29 USC 1323.

SEC. 108. TRANSITION RULES AND EFFECTIVE DATES.

(a) Sections 4081 and 4082 are redesignated as sections 4401 and 4402, respectively. 26 USC 404, 6511; 29 USC 1461.

(b) Section 4402 (as redesignated) is amended by striking out subsection (d) and inserting in lieu thereof the following new subsection: 29 USC 1461.

"(d) Notwithstanding any other provision of this title, guaranteed benefits payable by the corporation pursuant to its discretionary authority under this section shall continue to be paid at the level guaranteed under section 4022, without regard to any limitation on payment under subparagraph (C) or (D) of subsection (c)(4).". 29 USC 1322.

(c)(1) Section 4402 (as redesignated) is further amended by striking out subsection (e) and adding in lieu thereof the following new subsections:

"(e)(1) Except as provided in paragraphs (2), (3), and (4), the amendments to this Act made by the Multiemployer Pension Plan Amendments Act of 1980 shall take effect on the date of the enactment of that Act. *Ante*, p. 1208.

"(2)(A) Except as provided in this paragraph, part 1 of subtitle E, relating to withdrawal liability, takes effect on April 29, 1980. *Ante*, p. 1217.

"(B) For purposes of determining withdrawal liability under part 1 of subtitle E, an employer who has withdrawn from a plan shall be considered to have withdrawn from a multiemployer plan if, at the time of the withdrawal, the plan was a multiemployer plan as defined in section 4001(a)(3) as in effect at the time of the withdrawal. *Post*, p. 1296.

"(3) Sections 4241 through 4245, relating to multiemployer plan reorganization, shall take effect, with respect to each plan, on the first day of the first plan year beginning on or after the earlier of— *Ante*, p. 1249.

"(A) the date on which the last collective bargaining agreement providing for employer contributions under the plan, which was in effect on the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, expires, without regard to extensions agreed to on or after the date of the enactment of that Act, or

"(B) 3 years after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980.

"(4) Section 4235 shall take effect on April 29, 1980. Effective date. *Ante*, p. 1247.

"(f)(1) In the event that before the date of enactment of the Multiemployer Pension Plan Amendments Act of 1980, the corporation has determined that—

"(A) an employer has withdrawn from a multiemployer plan under section 4063, and

"(B) the employer is liable to the corporation under such section,

the corporation shall retain the amount of liability paid to it or furnished in the form of a bond and shall pay such liability to the plan in the event the plan terminates in accordance with section 4041A(a)(2) before the earlier of April 29, 1985, or the day after the 5-year period commencing on the date of such withdrawal.

"(2) In any case in which the plan is not so terminated within the period described in paragraph (1), the liability of the employer is abated and any payment held in escrow shall be refunded without interest to the employer or the employer's bond shall be cancelled.

"(g)(1) In any case in which an employer or employers withdrew from a multiemployer plan before the effective date of part 1 of subtitle E, the corporation may—

"(A) apply section 4063(d), as in effect before the amendments made by the Multiemployer Pension Plan Amendments Act of 1980, to such plan,

"(B) assess liability against the withdrawn employer with respect to the resulting terminated plan,

"(C) guarantee benefits under the terminated plan under section 4022, as in effect before such amendments, and

"(D) if necessary, enforce such action through suit brought under section 4003.

"(2) The corporation shall use the revolving fund used by the corporation with respect to basic benefits guaranteed under section 4022A in guaranteeing benefits under a terminated plan described in this subsection.".

(2)(A) For the purpose of applying section 4205 of the Employee Retirement Income Security Act of 1974 in the case of an employer described in subparagraph (B)—

(i) "more than 75 percent" shall be substituted for "70 percent" in subsections (a) and (b) of such section,

(ii) "25 percent or less" shall be substituted for "30 percent" in subsection (b) of such section, and

(iii) the number of contribution units for the high base year shall be the average annual number of such units for calendar years 1970 and 1971.

(B) An employer is described in this subparagraph if—

(i) the employer is engaged in the trade or business of shipping bulk cargoes in the Great Lakes Maritime Industry, and whose fleet consists of vessels the gross registered tonnage of which was at least 7,800, as stated in the American Bureau of Shipping Record, and

(ii) whose fleet during any 5 years from the period 1970 through and including 1979 has experienced a 33 percent or more increase in the contribution units as measured from the average annual contribution units for the calendar years 1970 and 1971.

(3)(A) For the purpose of determining the withdrawal liability of an employer under title IV of the Employee Retirement Income Security Act of 1974 from a plan that terminates while the plan is insolvent (within the meaning of section 4245 of such Act), the plan's unfunded vested benefits shall be reduced by an amount equal to the sum of all overburden credits that were applied in determining the plan's

Ante, p. 1208.
Ante, p. 1216.
Ante, p. 1217.
29 USC 1322.
29 USC 1303.
Ante, p. 1210.
29 USC 1385 note.
Ante, p. 1221.
29 USC 1426 note.
29 USC 1301.
Ante, p. 1259.

accumulated funding deficiency for all plan years preceding the first plan year in which the plan is insolvent, plus interest thereon.

(B) The provisions of subparagraph (A) apply only if—

(i) the plan would have been eligible for the overburden credit in the last plan year beginning before the date of the enactment of this Act, if section 4243 of the Employee Retirement Income Security Act of 1974 had been in effect for that plan year, and

(ii) the Pension Benefit Guaranty Corporation determines that the reduction of unfunded vested benefits under subparagraph (A) would not significantly increase the risk of loss to the corporation.

(4) In the case of an employer who withdrew before the date of enactment of this Act from a multiemployer plan covering employees in the seagoing industry (as determined by the corporation), sections 4201 through 4219 of the Employee Retirement Income Security Act of 1974, as added by this Act, are effective as of May 3, 1979. For the purpose of applying section 4217 for purposes of the preceding sentence, the date "May 2, 1979," shall be substituted for "April 28, 1980," and the date "May 3, 1979" shall be substituted for "April 29, 1980". For purposes of this paragraph, terms which are used in title IV of the Employee Retirement Income Security Act of 1974, or in regulations prescribed under that title, and which are used in the preceding sentence have the same meaning as when used in that Act or those regulations. For purposes of this paragraph, the term "employer" includes only a substantial employer covering employees in the seagoing industry (as so determined) in connection with ports on the West Coast of the United States, but does not include an employer who withdrew from a plan because of a change in the collective bargaining representative.

29 USC 1381 note.

Ante, p. 1217.

Ante, p. 1235.

29 USC 1301.

(d) For purposes of section 4205 of the Employee Retirement Income Security Act of 1974—

29 USC 1385 note.

Ante, p. 1221.

(1) subsection (a)(1) of such section shall not apply to any plan year beginning before April 29, 1982,

(2) subsection (a)(2) of such section shall not apply with respect to any cessation of contribution obligations occurring before April 29, 1980, and

(3) in applying subsection (b) of such section, the employer's contribution base units for any plan year ending before April 29, 1980, shall be deemed to be equal to the employer's contribution base units for the last plan year ending before such date.

(e)(1) In the case of a partial withdrawal under section 4205 of the Employee Retirement Income Security Act of 1974, an employer who—

29 USC 1385 note.

(A) before December 13, 1979, had publicly announced the total cessation of covered operations at a facility in a State (and such cessation occurred within 12 months after the announcement),

(B) had not been obligated to make contributions to the plan on behalf of the employees at such facility for more than 8 years before the discontinuance of contributions, and

(C) after the discontinuance of contributions does not within 1 year after the date of the partial withdrawal perform work in the same State of the type for which contributions were previously required,

shall be liable under such section with respect to such partial withdrawal in an amount not greater than the amount determined under paragraph (2).

(2) The amount determined under this paragraph is the excess (if any) of—

(A) the present value (on the withdrawal date) of the benefits under the plan which—

(i) were vested on the withdrawal date (or, if earlier, at the time of separation from service with the employer at the facility),

(ii) were accrued by employees who on December 13, 1979 (or, if earlier, at the time of separation from service with the employer at the facility), were employed at the facility, and

(iii) are attributable to service with the withdrawing employer, over

(B)(i) the sum of—

(I) all employer contributions to the plan on behalf of employees at the facility before the withdrawal date,

(II) interest (to the withdrawal date) on amounts described in subclause (I), and

(III) $100,000, reduced by

(ii) the sum of—

(I) the benefits paid under the plan on or before the withdrawal date with respect to former employees who separated from employment at the facility, and

(II) interest (to the withdrawal date) on amounts described in subclause (I).

(3) For purposes of paragraph (2)—

(A) actuarial assumptions shall be those used in the last actuarial report completed before December 13, 1979,

"Withdrawal date." (B) the term "withdrawal date" means the date on which the employer ceased work at the facility of the type for which contributions were previously required, and

"Facility." (C) the term "facility" means the facility referred to in paragraph (1).

Ante, p. 1263. (f) Title IV is amended by adding at the end thereof the following new section:

"ELECTION OF PLAN STATUS

29 USC 1453. *Ante*, p. 1208. "SEC. 4303. (a) Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the corporation, that the plan shall not be treated as a multiemployer plan for any purpose under this Act or the Internal Revenue Code of 1954, if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

26 USC 1.

Post, p. 1291. *Post*, p. 1288. "(1) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37)(A)(iii) of this Act and section 414(f)(1)(C) of the Internal Revenue Code of 1954 (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and

"(2) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the corporation, the Secretary of Labor and the Secretary of the Treasury.

Conditions. "(b) An election described in subsection (a) shall be effective only if—

"(1) the plan is amended to provide that it shall not be treated as a multiemployer plan for all purposes under this Act and the Internal Revenue Code of 1954, and

"(2) written notice of the amendment is provided to the corporation within 60 days after the amendment is adopted.

"(c) An election described in subsection (a) shall be treated as being effective as of the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980."

Ante, p. 1208.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

SEC. 201. AMENDMENT OF THE INTERNAL REVENUE CODE OF 1954.

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1.

SEC. 202. MULTIEMPLOYER PLANS IN REORGANIZATION.

(a) GENERAL RULE.—Part I of subchapter D of chapter 1 (relating to pension, profit sharing, stock bonus plans, etc.) is amended by inserting at the end thereof the following new subpart:

"Subpart C—Special Rules for Multiemployer Plans

"Sec. 418. Reorganization status.
"Sec. 418A. Notice of reorganization and funding requirements.
"Sec. 418B. Minimum contribution requirement.
"Sec. 418C. Overburden credit against minimum contribution requirement.
"Sec. 418D. Adjustments in accrued benefits.
"Sec. 418E. Insolvent plans.

"SEC. 418. REORGANIZATION STATUS.

26 USC 418.

"(a) GENERAL RULE.—A multiemployer plan is in reorganization for a plan year if the plan's reorganization index for that year is greater than zero.

"(b) REORGANIZATION INDEX.—For purposes of this subpart—

"(1) IN GENERAL.—A plan's reorganization index for any plan year is the excess of—

"(A) the vested benefits charge for such year, over

"(B) the net charge to the funding standard account for such year.

"(2) NET CHARGE TO FUNDING STANDARD ACCOUNT.—The net charge to the funding standard account for any plan year is the excess (if any) of—

"(A) the charges to the funding standard account for such year under section 412(b)(2), over

26 USC 412.

"(B) the credits to the funding standard account under section 412(b)(3)(B).

"(3) VESTED BENEFITS CHARGE.—The vested benefits charge for any plan year is the amount which would be necessary to amortize the plan's unfunded vested benefits as of the end of the base plan year in equal annual installments—

"(A) over 10 years, to the extent such benefits are attributable to persons in pay status, and

"(B) over 25 years, to the extent such benefits are attributable to other participants.

"(4) DETERMINATION OF VESTED BENEFITS CHARGE.—

"(A) IN GENERAL.—The vested benefits charge for a plan year shall be based on an actuarial valuation of the plan as of the end of the base plan year, adjusted to reflect—

"(i) any—

"(I) decrease of 5 percent or more in the value of plan assets, or increase of 5 percent or more in the number of persons in pay status, during the period beginning on the first day of the plan year following the base plan year and ending on the adjustment date, or

"(II) at the election of the plan sponsor, actuarial valuation of the plan as of the adjustment date or any later date not later than the last day of the plan year for which the determination is being made,

"(ii) any change in benefits under the plan which is not otherwise taken into account under this subparagraph and which is pursuant to any amendment—

"(I) adopted before the end of the plan year for which the determination is being made, and

"(II) effective after the end of the base plan year and on or before the end of the plan year referred to in subclause (I), and

"(iii) any other event (including an event described in subparagraph (B)(i)(I)) which, as determined in accordance with regulations prescribed by the Secretary, would substantially increase the plan's vested benefit charge.

"(B) CERTAIN CHANGES IN BENEFIT LEVELS.—

"(i) IN GENERAL.—In determining the vested benefits charge for a plan year following a plan year in which the plan was not in reorganization, any change in benefits which—

"(I) results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits as a result of changes in a collective bargaining agreement, or

"(II) results from any other change in a collective bargaining agreement,

shall not be taken into account except to the extent provided in regulations prescribed by the Secretary.

"(ii) PLAN IN REORGANIZATION.—Except as otherwise determined by the Secretary, in determining the vested benefits charge for any plan year following any plan year in which the plan was in reorganization, any change in benefits—

"(I) described in clause (i)(I), or

"(II) described in clause (i)(II) as determined under regulations prescribed by the Secretary,

shall, for purposes of subparagraph (A)(ii), be treated as a change in benefits pursuant to an amendment to a plan.

"(5) BASE PLAN YEAR.—

"(A) IN GENERAL.—The base plan year for any plan year is—

"(i) if there is a relevant collective bargaining agreement, the last plan year ending at least 6 months before the relevant effective date, or

"(ii) if there is no relevant collective bargaining agreement, the last plan year ending at least 12 months before the beginning of the plan year.

"(B) RELEVANT COLLECTIVE BARGAINING AGREEMENT.—A relevant collective bargaining agreement is a collective bargaining agreement—

"(i) which is in effect for at least 6 months during the plan year, and

"(ii) which has not been in effect for more than 36 months as of the end of the plan year.

"(C) RELEVANT EFFECTIVE DATE.—The relevant effective date is the earliest of the effective dates for the relevant collective bargaining agreements.

"(D) ADJUSTMENT DATE.—The adjustment date is the date which is—

"(i) 90 days before the relevant effective date, or

"(ii) if there is no relevant effective date, 90 days before the beginning of the plan year.

"(6) PERSON IN PAY STATUS.—The term 'person in pay status' means—

"(A) a participant or beneficiary on the last day of the base plan year who, at any time during such year, was paid an early, late, normal, or disability retirement benefit (or a death benefit related to a retirement benefit), and

"(B) to the extent provided in regulations prescribed by the Secretary, any other person who is entitled to such a benefit under the plan.

"(7) OTHER DEFINITIONS AND SPECIAL RULES.—

"(A) UNFUNDED VESTED BENEFITS.—The term 'unfunded vested benefits' means, in connection with a plan, an amount (determined in accordance with regulations prescribed by the Secretary) equal to—

"(i) the value of vested benefits under the plan, less

"(ii) the value of the assets of the plan.

"(B) VESTED BENEFITS.—The term 'vested benefits' means any nonforfeitable benefit (within the meaning of section 4001(a)(8) of the Employee Retirement Income Security Act of 1974).

"(C) ALLOCATION OF ASSETS.—In determining the plan's unfunded vested benefits, plan assets shall first be allocated to the vested benefits attributable to persons in pay status.

"(D) TREATMENT OF CERTAIN BENEFIT REDUCTIONS.—The vested benefits charge shall be determined without regard to reductions in accrued benefits under section 418D which are first effective in the plan year.

"(E) WITHDRAWAL LIABILITY.—For purposes of this part, any outstanding claim for withdrawal liability shall not be considered a plan asset, except as otherwise provided in regulations prescribed by the Secretary.

"(c) PROHIBITION OF NONANNUITY PAYMENTS.—Except as provided in regulations prescribed by the Pension Benefit Guaranty Corporation, while a plan is in reorganization a benefit with respect to a participant (other than a death benefit) which is attributable to employer contributions and which has a value of more than $1,750 may not be paid in a form other than an annuity which (by itself or in combination with social security, railroad retirement, or workers' compensation benefits) provides substantially level payments over the life of the participant.

"(d) TERMINATED PLANS.—Any multiemployer plan which terminates under section 4041A(a)(2) of the Employee Retirement Income Security Act of 1974 shall not be considered in reorganization after

Ante, p. 1216.

the last day of the plan year in which the plan is treated as having terminated.

26 USC 418A.

"SEC. 418A. NOTICE OF REORGANIZATION AND FUNDING REQUIREMENTS.

"(a) NOTICE REQUIREMENT.—

"(1) IN GENERAL.—If—

"(A) a multiemployer plan is in reorganization for a plan year, and

Infra.

"(B) section 418B would require an increase in contributions for such plan year,

the plan sponsor shall notify the persons described in paragraph (2) that the plan is in reorganization and that, if contributions to the plan are not increased, accrued benefits under the plan may be reduced or an excise tax may be imposed (or both such reduction and imposition may occur).

"(2) PERSONS TO WHOM NOTICE IS TO BE GIVEN.—The persons described in this paragraph are—

"(A) each employer who has an obligation to contribute under the plan (within the meaning of section 4212(a) of the Employee Retirement Income Security Act of 1974), and

Ante, p. 1233.

"(B) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(3) OVERBURDEN CREDIT NOT TAKEN INTO ACCOUNT.—The determination under paragraph (1)(B) shall be made without regard to the overburden credit provided by section 418C.

"(b) ADDITIONAL REQUIREMENTS.—The Pension Benefit Guaranty Corporation may prescribe additional or alternative requirements for assuring, in the case of a plan with respect to which notice is required by subsection (a)(1), that the persons described in subsection (a)(2)—

"(1) receive appropriate notice that the plan is in reorganization,

"(2) are adequately informed of the implications of reorganization status, and

"(3) have reasonable access to information relevant to the plan's reorganization status.

26 USC 418B.

"SEC. 418B. MINIMUM CONTRIBUTION REQUIREMENT.

"(a) ACCUMULATED FUNDING DEFICIENCY IN REORGANIZATION.—

"(1) IN GENERAL.—For any plan year in which a multiemployer plan is in reorganization—

"(A) the plan shall continue to maintain its funding standard account, and

"(B) the plan's accumulated funding deficiency under section 412(a) for such plan year shall be equal to the excess (if any) of—

26 USC 412.

"(i) the sum of the minimum contribution requirement for such plan year (taking into account any overburden credit under section 418C(a)) plus the plan's accumulated funding deficiency for the preceding plan year (determined under this section if the plan was in reorganization during such plan year or under section 412(a) if the plan was not in reorganization), over

"(ii) amounts considered contributed by employers to or under the plan for the plan year (increased by any amount waived under subsection (f) for the plan year).

"(2) TREATMENT OF WITHDRAWAL LIABILITY PAYMENTS.—For purposes of paragraph (1), withdrawal liability payments

(whether or not received) which are due with respect to withdrawals before the end of the base plan year shall be considered amounts contributed by the employer to or under the plan if, as of the adjustment date, it was reasonable for the plan sponsor to anticipate that such payments would be made during the plan year.

"(b) MINIMUM CONTRIBUTION REQUIREMENT.—

"(1) IN GENERAL.—Except as otherwise provided in this section for purposes of this subpart the minimum contribution requirement for a plan year in which a plan is in reorganization is an amount equal to the excess of—

"(A) the sum of—

"(i) the plan's vested benefits charge for the plan year; and

"(ii) the increase in normal cost for the plan year determined under the entry age normal funding method which is attributable to plan amendments adopted while the plan was in reorganization, over

"(B) the amount of the overburden credit (if any) determined under section 418C for the plan year.

"(2) ADJUSTMENT FOR REDUCTIONS IN CONTRIBUTION BASE UNITS.—If the plan's current contribution base for the plan year is less than the plan's valuation contribution base for the plan year, the minimum contribution requirement for such plan year shall be equal to the product of the amount determined under paragraph (1) (after any adjustment required by this subpart other than this paragraph) multiplied by a fraction—

"(A) the numerator of which is the plan's current contribution base for the plan year, and

"(B) the denominator of which is the plan's valuation contribution base for the plan year.

"(3) SPECIAL RULE WHERE CASH-FLOW AMOUNT EXCEEDS VESTED BENEFITS CHARGE.—

"(A) IN GENERAL.—If the vested benefits charge for a plan year of a plan in reorganization is less than the plan's cash-flow amount for the plan year, the plan's minimum contribution requirement for the plan year is the amount determined under paragraph (1) (determined before the application of paragraph (2)) after substituting the term 'cash-flow amount' for the term 'vested benefits charge' in paragraph (1)(A).

"(B) CASH-FLOW AMOUNT.—For purposes of subparagraph (A), a plan's cash-flow amount for a plan year is an amount equal to—

"(i) the amount of the benefits payable under the plan for the base plan year, plus the amount of the plan's administrative expenses for the base plan year, reduced by

"(ii) the value of the available plan assets for the base plan year determined under regulations prescribed by the Secretary,

adjusted in a manner consistent with section 418(b)(4).

"(c) CURRENT CONTRIBUTION BASE; VALUATION CONTRIBUTION BASE.—

"(1) CURRENT CONTRIBUTION BASE.—For purposes of this subpart, a plan's current contribution base for a plan year is the number of contribution base units with respect to which contributions are required to be made under the plan for that plan

year, determined in accordance with regulations prescribed by the Secretary.

"(2) VALUATION CONTRIBUTION BASE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of this subpart a plan's valuation contribution base is the number of contribution base units for which contributions were received for the base plan year—

"(i) adjusted to reflect declines in the contribution base which have occurred (or could reasonably be anticipated) as of the adjustment date for the plan year referred to in paragraph (1),

"(ii) adjusted upward (in accordance with regulations prescribed by the Secretary) for any contribution base reduction in the base plan year caused by a strike or lockout or by unusual events, such as fire, earthquake, or severe weather conditions, and

"(iii) adjusted (in accordance with regulations prescribed by the Secretary) for reductions in the contribution base resulting from transfers of liabilities.

"(B) INSOLVENT PLANS.—For any plan year—

"(i) in which the plan is insolvent (within the meaning of section 418E(b)(1)), and

"(ii) beginning with the first plan year beginning after the expiration of all relevant collective bargaining agreements which were in effect in the plan year in which the plan became insolvent,

the plan's valuation contribution base is the greater of the number of contribution base units for which contributions were received for the first or second plan year preceding the first plan year in which the plan is insolvent, adjusted as provided in clause (ii) or (iii) of subparagraph (A).

"(3) CONTRIBUTION BASE UNIT.—For purposes of this subpart, the term 'contribution base unit' means a unit with respect to which an employer has an obligation to contribute under a multiemployer plan (as defined in regulations prescribed by the Secretary).

"(d) LIMITATION ON REQUIRED INCREASES IN RATE OF EMPLOYER CONTRIBUTIONS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, the minimum contribution requirement applicable to any plan for any plan year which is determined under subsection (b) (without regard to subsection (b)(2)) shall not exceed an amount which is equal to the sum of—

"(A) the greater of—

"(i) the funding standard requirement for such plan year, or

"(ii) 107 percent of—

"(I) if the plan was not in reorganization in the preceding plan year, the funding standard requirement for such preceding plan year, or

"(II) if the plan was in reorganization in the preceding plan year, the sum of the amount determined under this subparagraph for the preceding plan year and the amount (if any) determined under subparagraph (B) for the preceding plan year, plus

"(B) if for the plan year a change in benefits is first required to be considered in computing the charges under section 412(b)(2) (A) or (B), the sum of—

26 USC 412.

"(i) the increase in normal cost for a plan year determined under the entry age normal funding method due to increases in benefits described in section 418(b)(4)(A)(ii) (determined without regard to section 418(b)(4)(B)(ii)), and

"(ii) the amount necessary to amortize in equal annual installments the increase in the value of vested benefits under the plan due to increases in benefits described in clause (i) over—

"(I) 10 years, to the extent such increase in value is attributable to persons in pay status, or

"(II) 25 years, to the extent such increase in value is attributable to other participants.

"(2) FUNDING STANDARD REQUIREMENT.—For purposes of paragraph (1), the funding standard requirement for any plan year is an amount equal to the net charge to the funding standard account for such plan year (as defined in section 418(b)(2)).

"(3) SPECIAL RULE FOR CERTAIN PLANS.—

"(A) IN GENERAL.—In the case of a plan described in section 4216(b) of the Employee Retirement Income Security Act of 1974, if a plan amendment which increases benefits is adopted after January 1, 1980— *Ante*, p. 1234.

"(i) paragraph (1) shall apply only if the plan is a plan described in subparagraph (B), and

"(ii) the amount under paragraph (1) shall be determined without regard to subparagraph (1)(B).

"(B) ELIGIBLE PLANS.—A plan is described in this subparagraph if—

"(i) the rate of employer contributions under the plan for the first plan year beginning on or after the date on which an amendment increasing benefits is adopted, multiplied by the valuation contribution base for that plan year, equals or exceeds the sum of—

"(I) the amount that would be necessary to amortize fully, in equal annual installments, by July 1, 1986, the unfunded vested benefits attributable to plan provisions in effect on July 1, 1977 (determined as of the last day of the base plan year); and

"(II) the amount that would be necessary to amortize fully, in equal annual installments, over the period described in subparagraph (C), beginning with the first day of the first plan year beginning on or after the date on which the amendment is adopted, the unfunded vested benefits (determined as of the last day of the base plan year) attributable to each plan amendment after July 1, 1977; and

"(ii) the rate of employer contributions for each subsequent plan year is not less than the lesser of—

"(I) the rate which when multiplied by the valuation contribution base for that subsequent plan year produces the annual amount that would be necessary to complete the amortization schedule described in clause (i), or

"(II) the rate for the plan year immediately preceding such subsequent plan year, plus 5 percent of such rate.

"(C) PERIOD.—The period determined under this subparagraph is the lesser of—

"(i) 12 years, or

"(ii) a period equal in length to the average of the remaining expected lives of all persons receiving benefits under the plan.

"(4) EXCEPTION IN CASE OF CERTAIN BENEFIT INCREASES.—Paragraph (1) shall not apply with respect to a plan, other than a plan described in paragraph (3), for the period of consecutive plan years in each of which the plan is in reorganization, beginning with a plan year in which occurs the earlier of the date of the adoption or the effective date of any amendment of the plan which increases benefits with respect to service performed before the plan year in which the adoption of the amendment occurred.

"(e) CERTAIN RETROACTIVE PLAN AMENDMENTS.—In determining the minimum contribution requirement with respect to a plan for a plan year under subsection (b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under section 412(c)(8).

26 USC 412.

"(f) WAIVER OF ACCUMULATED FUNDING DEFICIENCY.—

"(1) IN GENERAL.—The Secretary may waive any accumulated funding deficiency under this section in accordance with the provisions of section 412(d)(1).

"(2) TREATMENT OF WAIVER.—Any waiver under paragraph (1) shall not be treated as a waived funding deficiency (within the meaning of section 412(d)(3)).

"(g) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of making any determination under this subpart, the requirements of section 412(c)(3) shall apply.

26 USC 418C.

"SEC. 418C. OVERBURDEN CREDIT AGAINST MINIMUM CONTRIBUTION REQUIREMENT.

"(a) GENERAL RULE.—For purposes of determining the contribution under section 418B (before the application of section 418B (b)(2) or (d)), the plan sponsor of a plan which is overburdened for the plan year shall apply an overburden credit against the plan's minimum contribution requirement for the plan year (determined without regard to section 418B (b)(2) or (d) and without regard to this section).

"(b) DEFINITION OF OVERBURDENED PLAN.—A plan is overburdened for a plan year if—

"(1) the average number of pay status participants under the plan in the base plan year exceeds the average of the number of active participants in the base plan year and the 2 plan years preceding the base plan year, and

"(2) the rate of employer contributions under the plan equals or exceeds the greater of—

"(A) such rate for the preceding plan year, or

"(B) such rate for the plan year preceding the first year in which the plan is in reorganization.

"(c) AMOUNT OF OVERBURDEN CREDIT.—The amount of the overburden credit for a plan year is the product of—

"(1) one-half of the average guaranteed benefit paid for the base plan year, and

"(2) the overburden factor for the plan year.

The amount of the overburden credit for a plan year shall not exceed the amount of the minimum contribution requirement for such year (determined without regard to this section).

"(d) OVERBURDEN FACTOR.—For purposes of this section, the overburden factor of a plan for the plan year is an amount equal to—

"(1) the average number of pay status participants for the base plan year, reduced by

"(2) the average of the number of active participants for the base plan year and for each of the 2 plan years preceding the base plan year.

"(e) DEFINITIONS.—For purposes of this section—

"(1) PAY STATUS PARTICIPANT.—The term 'pay status participant' means, with respect to a plan, a participant receiving retirement benefits under the plan.

"(2) NUMBER OF ACTIVE PARTICIPANTS.—The number of active participants for a plan year shall be the sum of—

"(A) the number of active employees who are participants in the plan and on whose behalf contributions are required to be made during the plan year;

"(B) the number of active employees who are not participants in the plan but who are in an employment unit covered by a collective bargaining agreement which requires the employees' employer to contribute to the plan unless service in such employment unit was never covered under the plan or a predecessor thereof, and

"(C) the total number of active employees attributed to employers who made payments to the plan for the plan year of withdrawal liability pursuant to part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974, determined by dividing— *Ante*, p. 1217.

"(i) the total amount of such payments, by

"(ii) the amount equal to the total contributions received by the plan during the plan year divided by the average number of active employees who were participants in the plan during the plan year.

The Secretary shall by regulations provide alternative methods of determining active participants where (by reason of irregular employment, contributions on a unit basis, or otherwise) this paragraph does not yield a representative basis for determining the credit.

"(3) AVERAGE NUMBER.—The term 'average number' means, with respect to pay status participants for a plan year, a number equal to one-half the sum of—

"(A) the number with respect to the plan as of the beginning of the plan year, and

"(B) the number with respect to the plan as of the end of the plan year.

"(4) AVERAGE GUARANTEED BENEFIT.—The average guaranteed benefit paid is 12 times the average monthly pension payment guaranteed under section 4022A(c)(1) of the Employee Retirement Income Security Act of 1974 determined under the provisions of the plan in effect at the beginning of the first plan year in which the plan is in reorganization and without regard to section 4022A(c)(2). *Ante*, p. 1210.

"(5) FIRST YEAR IN REORGANIZATION.—The first year in which the plan is in reorganization is the first of a period of 1 or more consecutive plan years in which the plan has been in reorganization not taking into account any plan years the plan was in reorganization prior to any period of 3 or more consecutive plan years in which the plan was not in reorganization.

"(f) NO OVERBURDEN CREDIT IN CASE OF CERTAIN REDUCTIONS IN CONTRIBUTIONS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section, a plan is not eligible for an overburden credit for a plan year if the Secretary finds that the plan's current contribution base for any plan year was reduced, without a corresponding reduction in the plan's unfunded vested benefits attributable to pay status participants, as a result of a change in an agreement providing for employer contributions under the plan.

"(2) TREATMENT OF CERTAIN WITHDRAWALS.—For purposes of paragraph (1), a complete or partial withdrawal of an employer (within the meaning of part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974) does not impair a plan's eligibility for an overburden credit, unless the Secretary finds that a contribution base reduction described in paragraph (1) resulted from a transfer of liabilities to another plan in connection with the withdrawal.

Ante, p. 1217.

"(g) MERGERS.—Notwithstanding any other provision of this section, if 2 or more multiemployer plans merge, the amount of the overburden credit which may be applied under this section with respect to the plan resulting from the merger for any of the 3 plan years ending after the effective date of the merger shall not exceed the sum of the used overburden credit for each of the merging plans for its last plan year ending before the effective date of the merger. For purposes of the preceding sentence, the used overburden credit is that portion of the credit which does not exceed the excess of the minimum contribution requirement determined without regard to any overburden credit under this section over the employer contributions required under the plan.

26 USC 418D.

"SEC. 418D. ADJUSTMENTS IN ACCRUED BENEFITS.

"(a) ADJUSTMENTS IN ACCRUED BENEFITS.—

26 USC 411.

"(1) IN GENERAL.—Notwithstanding section 411, a multiemployer plan in reorganization may be amended, in accordance with this section, to reduce or eliminate accrued benefits attributable to employer contributions which, under section 4022A(b) of the Employee Retirement Income Security Act of 1974, are not eligible for the Pension Benefit Guaranty Corporation's guarantee. The preceding sentence shall only apply to accrued benefits under plan amendments (or plans) adopted after March 26, 1980, or under collective bargaining agreement entered into after March 26, 1980.

Ante, p. 1210.

"(2) ADJUSTMENT OF VESTED BENEFITS CHARGE.—In determining the minimum contribution requirement with respect to a plan for a plan year under section 418B(b), the vested benefits charge may be adjusted to reflect a plan amendment reducing benefits under this section or section 412(c)(8), but only if the amendment is adopted and effective no later than 2½ months after the end of the plan year, or within such extended period as the Secretary may prescribe by regulations under section 412(c)(10).

Ante, p. 1274.

26 USC 412.

"(b) LIMITATION ON REDUCTION.—

"(1) IN GENERAL.—Accrued benefits may not be reduced under this section unless—

"(A) notice has been given, at least 6 months before the first day of the plan year in which the amendment reducing benefits is adopted, to—

"(i) plan participants and beneficiaries,

"(ii) each employer who has an obligation to contribute (within the meaning of section 4212(a) of the Em-

ployee Retirement Income Security Act of 1974) under the plan, and *Ante*, p. 1233.

"(iii) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer,

that the plan is in reorganization and that, if contributions under the plan are not increased, accrued benefits under the plan will be reduced or an excise tax will be imposed on employers;

"(B) in accordance with regulations prescribed by the Secretary—

"(i) any category of accrued benefits is not reduced with respect to inactive participants to a greater extent proportionally that such category of accrued benefits is reduced with respect to active participants,

"(ii) benefits attributable to employer contributions other than accrued benefits and the rate of future benefit accruals are reduced at least to an extent equal to the reduction in accrued benefits of inactive participants, and

"(iii) in any case in which the accrued benefit of a participant or beneficiary is reduced by changing the benefit form or the requirements which the participant or beneficiary must satisfy to be entitled to the benefit, such reduction is not applicable to—

"(I) any participant or beneficiary in pay status on the effective date of the amendment, or the beneficiary of such a participant, or

"(II) any participant who has attained normal retirement age, or who is within 5 years of attaining normal retirement age, on the effective date of the amendment, or the beneficiary of any such participant; and

"(C) the rate of employer contributions for the plan year in which the amendment becomes effective and for all succeeding plan years in which the plan is in reorganization equals or exceeds the greater of—

"(i) the rate of employer contributions, calculated without regard to the amendment, for the plan year in which the amendment becomes effective, or

"(ii) the rate of employer contributions for the plan year preceding the plan year in which the amendment becomes effective.

"(2) INFORMATION REQUIRED TO BE INCLUDED IN NOTICE.—The plan sponsors shall include in any notice required to be sent to plan participants and beneficiaries under paragraph (1) information as to the rights and remedies of plan participants and beneficiaries as well as how to contact the Department of Labor for further information and assistance where appropriate.

"(c) NO RECOUPMENT.—A plan may not recoup a benefit payment which is in excess of the amount payable under the plan because of an amendment retroactively reducing accrued benefits under this section.

"(d) BENEFIT INCREASES UNDER MULTIEMPLOYER PLAN IN REORGANIZATION.—

"(1) RESTORATION OF PREVIOUSLY REDUCED BENEFITS.—

"(A) IN GENERAL.—A plan which has been amended to reduce accrued benefits under this section may be amended

to increase or restore accrued benefits, or the rate of future benefit accruals, only if the plan is amended to restore levels of previously reduced accrued benefits of inactive participants and of participants who are within 5 years of attaining normal retirement age to at least the same extent as any such increase in accrued benefits or in the rate of future benefit accruals.

"(B) BENEFIT INCREASES AND BENEFIT RESTORATIONS.—For purposes of this subsection, in the case of a plan which has been amended under this section to reduce accrued benefits—

"(i) an increase in a benefit, or in the rate of future benefit accruals, shall be considered a benefit increase to the extent that the benefit, or the accrual rate, is thereby increased above the highest benefit level, or accrual rate, which was in effect under the terms of the plan before the effective date of the amendment reducing accrued benefits, and

"(ii) an increase in a benefit, or in the rate of future benefit accruals, shall be considered a benefit restoration to the extent that the benefit, or the accrual rate, is not thereby increased above the highest benefit level, or accrual rate, which was in effect under the terms of the plan immediately before the effective date of the amendment reducing accrued benefits.

"(2) UNIFORMITY IN BENEFIT RESTORATION.—If a plan is amended to partially restore previously reduced accrued benefit levels, or the rate of future benefit accruals, the benefits of inactive participants shall be restored in at least the same proportions as other accrued benefits which are restored.

"(3) NO BENEFIT INCREASES IN YEAR OF BENEFIT REDUCTION.—No benefit increase under a plan may take effect in a plan year in which an amendment reducing accrued benefits under the plan, in accordance with this section, is adopted or first becomes effective.

"(4) RETROACTIVE PAYMENTS.—A plan is not required to make retroactive benefit payments with respect to that portion of an accrued benefit which was reduced and subsequently restored under this section.

"(e) INACTIVE PARTICIPANT.—For purposes of this section, the term 'inactive participant' means a person not in covered service under the plan who is in pay status under the plan or who has a nonforfeitable benefit under the plan.

"(f) REGULATIONS.—The Secretary may prescribe rules under which, notwithstanding any other provision of this section, accrued benefit reductions or benefit increases for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors reflecting differences in negotiated levels of financial support for plan benefit obligations.

26 USC 418E.

"SEC. 418E. INSOLVENT PLANS.

"(a) SUSPENSION OF CERTAIN BENEFIT PAYMENTS.—Notwithstanding section 411, in any case in which benefit payments under an insolvent multiemployer plan exceed the resource benefit level, any such payments of benefits which are not basic benefits shall be suspended, in accordance with this section, to the extent necessary to reduce the sum of such payments and the payments of such basic benefits to the greater of the resource benefit level or the level of

26 USC 411.

basic benefits, unless an alternative procedure is prescribed by the Pension Benefit Guaranty Corporation under section 4022A(g)(5) of the Employee Retirement Income Security Act of 1974. *Ante*, p. 1210.

"(b) DEFINITIONS.—For purposes of this section, for a plan year—

"(1) INSOLVENCY.—A multiemployer plan is insolvent if the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year, or if the plan is determined to be insolvent under subsection (d).

"(2) RESOURCE BENEFIT LEVEL.—The term 'resource benefit level' means the level of monthly benefits determined under subsections (c) (1) and (3) and (d)(3) to be the highest level which can be paid out of the plan's available resources.

"(3) AVAILABLE RESOURCES.—The term 'available resources' means the plan's cash, marketable assets, contributions, withdrawal liability payments, and earnings, less reasonable administrative expenses and amounts owed for such plan year to the Pension Benefit Guaranty Corporation under section 4261(b)(2) of the Employee Retirement Income Security Act of 1974. *Ante*, p. 1261.

"(4) INSOLVENCY YEAR.—The term 'insolvency year' means a plan year in which a plan is insolvent.

"(c) BENEFIT PAYMENTS UNDER INSOLVENT PLANS.—

"(1) DETERMINATION OF RESOURCE BENEFIT LEVEL.—The plan sponsor of a plan in reorganization shall determine in writing the plan's resource benefit level for each insolvency year, based on the plan sponsor's reasonable projection of the plan's available resources and the benefits payable under the plan.

"(2) UNIFORMITY OF THE BENEFIT SUSPENSION.—The suspension of benefit payments under this section shall, in accordance with regulations prescribed by the Secretary, apply in substantially uniform proportions to the benefits of all persons in pay status (within the meaning of section 418(b)(6)) under the plan, except that the Secretary may prescribe rules under which benefit suspensions for different participant groups may be varied equitably to reflect variations in contribution rates and other relevant factors including differences in negotiated levels of financial support for plan benefit obligations.

"(3) RESOURCE BENEFIT LEVEL BELOW LEVEL OF BASIC BENEFITS.—Notwithstanding paragraph (2), if a plan sponsor determines in writing a resource benefit level for a plan year which is below the level of basic benefits, the payment of all benefits other than basic benefits shall be suspended for that plan year.

"(4) EXCESS RESOURCES.—

"(A) IN GENERAL.—If, by the end of an insolvency year, the plan sponsor determines in writing that the plan's available resources in that insolvency year could have supported benefit payments above the resource benefit level for that insolvency year, the plan sponsor shall distribute the excess resources to the participants and beneficiaries who received benefit payments from the plan in that insolvency year, in accordance with regulations prescribed by the Secretary.

"(B) EXCESS RESOURCES.—For purposes of this paragraph, the term 'excess resources' means available resources above the amount necessary to support the resource benefit level, but no greater than the amount necessary to pay benefits for the plan year at the benefit levels under the plan.

"(5) UNPAID BENEFITS.—If, by the end of an insolvency year, any benefit has not been paid at the resource benefit level, amounts up to the resource benefit level which were unpaid shall

be distributed to the participants and beneficiaries, in accordance with regulations prescribed by the Secretary, to the extent possible taking into account the plan's total available resources in that insolvency year.

"(6) RETROACTIVE PAYMENTS.—Except as provided in paragraph (4) or (5), a plan is not required to make retroactive benefit payments with respect to that portion of a benefit which was suspended under this section.

"(d) PLAN SPONSOR DETERMINATION.—

"(1) TRIENNIAL TEST.—As of the end of the first plan year in which a plan is in reorganization, and at least every 3 plan years thereafter (unless the plan is no longer in reorganization), the plan sponsor shall compare the value of plan assets (determined in accordance with section 418B(b)(3)(B)(ii)) for that plan year with the total amount of benefit payments made under the plan for that plan year. Unless the plan sponsor determines that the value of plan assets exceeds 3 times the total amount of benefit payments, the plan sponsor shall determine whether the plan will be insolvent in any of the next 3 plan years.

"(2) DETERMINATION OF INSOLVENCY.—If, at any time, the plan sponsor of a plan in reorganization reasonably determines, taking into account the plan's recent and anticipated financial experience, that the plan's available resources are not sufficient to pay benefits under the plan when due for the next plan year, the plan sponsor shall make such determination available to interested parties.

"(3) DETERMINATION OF RESOURCE BENEFIT LEVEL.—The plan sponsor of a plan in reorganization shall determine in writing for each insolvency year the resource benefit level and the level of basic benefits no later than 3 months before the insolvency year.

"(e) NOTICE REQUIREMENTS.—

"(1) IMPENDING INSOLVENCY.—If the plan sponsor of a plan in reorganization determines under subsection (d) (1) or (2) that the plan may become insolvent (within the meaning of subsection (b)(1)), the plan sponsor shall—

"(A) notify the Secretary, the Pension Benefit Guaranty Corporation, the parties described in section 418A(a)(2), and the plan participants and beneficiaries of that determination, and

"(B) inform the parties described in section 418A(a)(2) and the plan participants and beneficiaries that if insolvency occurs certain benefit payments will be suspended, but that basic benefits will continue to be paid.

"(2) RESOURCE BENEFIT LEVEL.—No later than 2 months before the first day of each insolvency year, the plan sponsor of a plan in reorganization shall notify the Secretary, the Pension Benefit Guaranty Corporation, the parties described in section 418A(a)(2), and the plan participants and beneficiaries of the resource benefit level determined in writing for that insolvency year.

"(3) POTENTIAL NEED FOR FINANCIAL ASSISTANCE.—In any case in which the plan sponsor anticipates that the resource benefit level for an insolvency year may not exceed the level of basic benefits, the plan sponsor shall notify the Pension Benefit Guaranty Corporation.

"(4) REGULATIONS.—Notice required by this subsection shall be given in accordance with regulations prescribed by the Pension Benefit Guaranty Corporation, except that notice to the Secre-

tary shall be given in accordance with regulations prescribed by the Secretary.

"(5) CORPORATION MAY PRESCRIBE TIME.—The Pension Benefit Guaranty Corporation may prescribe a time other than the time prescribed by this section for the making of a determination or the filing of a notice under this section.

"(f) FINANCIAL ASSISTANCE.—

"(1) PERMISSIVE APPLICATION.—If the plan sponsor of an insolvent plan for which the resource benefit level is above the level of basic benefits anticipates that, for any month in an insolvency year, the plan will not have funds sufficient to pay basic benefits, the plan sponsor may apply for financial assistance from the Pension Benefit Guaranty Corporation under section 4261 of the Employee Retirement Income Security Act of 1974. *Ante*, p. 1261.

"(2) MANDATORY APPLICATION.—A plan sponsor who has determined a resource benefit level for an insolvency year which is below the level of basic benefits shall apply for financial assistance from the Pension Benefit Guaranty Corporation under section 4261 of the Employee Retirement Income Security Act of 1974.

"(g) FINANCIAL ASSISTANCE.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this subpart in such manner as determined by the Secretary.".

(b) CLERICAL AMENDMENT.—The table of subparts for part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new subpart:

"Subpart C. Special rules for multiemployer plans.".

SEC. 203. MINIMUM FUNDING REQUIREMENTS.

Section 412 (relating to minimum funding standards) is amended— 26 USC 412.

(1) in subsection (b), by striking out "(40 plan years in the case of a multiemployer plan)" and "(20 plan years in the case of a multiemployer plan)" each place they appear;

(2) by adding at the end of subsection (b) the following new paragraphs:

"(6) CERTAIN AMORTIZATION CHARGES AND CREDITS.—In the case of a plan which, immediately before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, was a multiemployer plan (within the meaning of section 414(f) as in effect immediately before such date)— *Ante*, p. 1208. *Post*, p. 1288.

"(A) any amount described in paragraph (2)(B)(ii), (2)(B)(iii), or (3)(B)(i) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the amount arose;

"(B) any amount described in paragraph (2)(B)(iv) or (3)(B)(ii) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 20 plan years, beginning with the plan year in which the amount arose;

"(C) any change in past service liability which arises during the period of 3 plan years beginning on or after such date, and results from a plan amendment adopted before such date, shall be amortized in equal annual installments

(until fully amortized) over 40 plan years, beginning with the plan year in which the change arises; and

"(D) any change in past service liability which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which—

"(i) was adopted before such date, and

"(ii) was effective for any plan participant before the beginning of the first plan year beginning on or after such date,

shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises.

"(7) SPECIAL RULES FOR MULTIEMPLOYER PLANS.—For purposes of this section—

"(A) WITHDRAWAL LIABILITY.—Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be considered an amount contributed by the employer to or under the plan. The Secretary may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

Ante, p. 1217.

"(B) ADJUSTMENTS WHEN A MULTIEMPLOYER PLAN LEAVES REORGANIZATION.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 418B(a) as of the end of the last plan year that the plan was in reorganization.

Ante, p. 1274.

"(C) PLAN PAYMENTS TO SUPPLEMENTAL PROGRAM OR WITHDRAWAL LIABILITY PAYMENT FUND.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of such Act or to a fund exempt under section 501(c)(22) pursuant to section 4223 of such Act shall reduce the amount of contributions considered received by the plan for the plan year.

Ante, p. 1240.
Post, p. 1290.
Ante, p. 1241.

"(D) INTERIM WITHDRAWAL LIABILITY PAYMENTS.—Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV of such Act and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary.

Ante, p. 1217.

"(E) For purposes of the full funding limitation under subsection (c)(7), unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not

include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3))."; and 26 USC 411.

(3) by adding at the end thereof the following new subsection:

"(j) CERTAIN TERMINATED MULTIEMPLOYER PLANS.—This section applies with respect to a terminated multiemployer plan to which section 4021 of the Employee Retirement Income Security Act of 1974 29 USC 1321. applies, until the last day of the plan year in which the plan terminates, within the meaning of section 4041A(a)(2) of that Act. *Ante*, p. 1216.

"(k) FINANCIAL ASSISTANCE.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section in such manner as determined by the Secretary.".

SEC. 204. EXCISE TAXES.

Section 4971 (relating to taxes on failure to meet minimum funding standard) is amended— 26 USC 4971.

(1) by striking out "last sentence" in subsection (c) and inserting in lieu thereof "last two sentences"; and

(2) by adding at the end of subsection (d) the following new sentence: "In the case of a multiemployer plan which is in reorganization under section 418, the same notice and opportunity shall be provided to the Pension Benefit Guaranty Corporation.". *Ante*, p. 1271.

SEC. 205. DEDUCTIBILITY OF EMPLOYER LIABILITY PAYMENTS.

Subsection (g) of section 404 (relating to certain employer liability payments considered as contributions) is amended to read as follows: 26 USC 404.

"(g) CERTAIN EMPLOYER LIABILITY PAYMENTS CONSIDERED AS CONTRIBUTIONS.—

"(1) IN GENERAL.—For purposes of this section, any amount paid by an employer under section 4062, 4063, or 4064, or part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be treated as a contribution to which this section applies by such employer to or under a stock bonus, pension, profit-sharing, or annuity plan. 29 USC 1362-1364, *ante*, p. 1217.

"(2) CONTROLLED GROUP DEDUCTIONS.—In the case of a payment described in paragraph (1) made by an entity which is liable because it is a member of a commonly controlled group of corporations, trades, or businesses, within the meaning of subsection (b) or (c) of section 414, the fact that the entity did not directly employ participants of the plan with respect to which the liability payment was made shall not affect the deductibility of a payment which otherwise satisfies the conditions of section 162 (relating to trade or business expenses) or section 212 (relating to expenses for the production of income). 26 USC 414. 26 USC 162. 26 USC 212.

"(3) COORDINATION WITH SUBSECTION (a).—Any payment described in paragraph (1) shall (subject to the last sentence of subsection (a)(1)(A)) be deductible under this section when paid.".

SEC. 206. MINIMUM VESTING REQUIREMENTS.

Section 411 (relating to minimum vesting standards) is amended— 26 USC 411.

(1) by adding at the end of subsection (a)(3) the following new subparagraphs:

"(E) CESSATION OF CONTRIBUTIONS UNDER A MULTIEMPLOYER PLAN.—A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because the plan provides

that benefits accrued as a result of service with the participant's employer before the employer had an obligation to contribute under the plan may not be payable if the employer ceases contributions to the multiemployer plan.

"(F) REDUCTION AND SUSPENSION OF BENEFITS BY A MULTIEMPLOYER PLAN.—A participant's right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because—

"(i) the plan is amended to reduce benefits under section 418D or under section 4281 of the Employee Retirement Income Security Act of 1974, or

Ante, p. 1280.

Ante, p. 1261.

"(ii) benefit payments under the plan may be suspended under section 418E or under section 4281 of the Employee Retirement Income Security Act of 1974.";

Ante, p. 1282.

(2) in subsection (a)(4)(E), by striking out "and";

(3) in subsection (a)(4)(F), by striking out the period and inserting in lieu thereof "; and";

(4) by adding at the end of subsection (a)(4) the following new subparagraph:

"(G) in the case of a multiemployer plan, years of service—

"(i) with an employer after—

"(I) a complete withdrawal of that employer from the plan (within the meaning of section 4203 of the Employee Retirement Income Security Act of 1974), or

Ante, p. 1218.

"(II) to the extent permitted in regulations prescribed by the Secretary, a partial withdrawal described in section 4205(b)(2)(A)(i) of such Act in conjunction with the decertification of the collective bargaining representative, and

Ante, p. 1221.

"(ii) with any employer under the plan after the termination date of the plan under section 4048 of such Act."; and

(5) in subsection (d)(6), by striking out "section 412(c)(8)" and inserting in lieu thereof "section 412(c)(8), or section 4281 of the Employee Retirement Income Security Act of 1974".

26 USC 412.

Ante, p. 1261.

SEC. 207. DEFINITION OF MULTIEMPLOYER PLAN.

(a) Section 414 (relating to definitions and special rules) is amended by striking out subsection (f) and inserting in lieu thereof the following:

26 USC 414.

"(f) MULTIEMPLOYER PLAN.—

"(1) DEFINITION.—For purposes of this part, the term 'multiemployer plan' means a plan—

"(A) to which more than one employer is required to contribute,

"(B) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and

"(C) which satisfies such other requirements as the Secretary of Labor may prescribe by regulation.

"(2) CASES OF COMMON CONTROL.—For purposes of this subsection, all trades or businesses (whether or not incorporated) which are under common control within the meaning of subsection (c) are considered a single employer.

"(3) CONTINUATION OF STATUS AFTER TERMINATION.—Notwithstanding paragraph (1), a plan is a multiemployer plan on and

after its termination date under title IV of the Employee Retirement Income Security Act of 1974 if the plan was a multiemployer plan under this subsection for the plan year preceding its termination date. 29 USC 1301.

"(4) TRANSITIONAL RULE.—For any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in this subsection as in effect immediately before that date. "Multiemployer plan." *Ante*, p. 1208.

"(5) SPECIAL ELECTION.—Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the Pension Benefit Guaranty Corporation and subject to the provisions of section 4403 (b) and (c) of the Employee Retirement Income Security Act of 1974, that the plan shall not be treated as a multiemployer plan for any purpose under such Act or this title, if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

"(A) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37)(A)(iii) of the Employee Retirement Income Security Act of 1974 and section 414(f)(1)(C) (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and *Post*, p. 1291.

"(B) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the Pension Benefit Guaranty Corporation, the Secretary of Labor and the Secretary.".

SEC. 208. RELATED TECHNICAL AMENDMENTS.

(a) Sections 401(a)(12) and 414(l) are each amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence does not apply to any multiemployer plan with respect to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of the Employee Retirement Income Security Act of 1974 applies." 26 USC 401, 414. 29 USC 1301.

(b) Subsection (d) of section 4975 is amended— 26 USC 4975.

(1) by striking out "or" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (13) the following new paragraphs:

"(14) any transaction required or permitted under part 1 of subtitle E of title IV or section 4223 of the Employee Retirement Income Security Act of 1974, but this paragraph shall not apply with respect to the application of subsection (c)(1) (E) or (F); or *Ante*, pp. 1217, 1241.

"(15) a merger of multiemployer plans, or the transfer of assets or liabilities between multiemployer plans, determined by the Pension Benefit Guaranty Corporation to meet the requirements of section 4231 of such Act, but this paragraph shall not apply with respect to the application of subsection (c)(1) (E) or (F).". *Ante*, p. 1244.

(c) Section 412(a) is amended by adding at the end thereof the following new sentence: "In any plan year in which a multiemployer plan is in reorganization, the accumulated funding deficiency of the plan shall be determined under section 418B.". 26 USC 412. *Ante*, p. 1274.

26 USC 413.

(d) Section 413(b)(6) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection and the last sentence of section 4971(a), an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall not be treated as a liability for contributions under the plan.".

26 USC 4971.

Ante, p. 1217.

26 USC 401.

(e) Section 401(a)(2), as amended by section 411(b) of this Act, is amended by inserting ", or the return of any withdrawal liability payment determined to be an overpayment within 6 months of such determination" after "501(a)".

Post, p. 1308.

SEC. 209. WITHDRAWAL LIABILITY PAYMENT FUNDS.

26 USC 501.

(a) Subsection (c) of section 501 (relating to list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(22) A trust created or organized in the United States and established in writing by the plan sponsors of multiemployer plans if—

"(A) the purpose of such trust is exclusively—

"(i) to pay any amount described in section 4223 (c) or (h) of the Employee Retirement Income Security Act of 1974, and

Ante, p. 1241.

"(ii) to pay reasonable and necessary administrative expenses in connection with the establishment and operation of the trust and the processing of claims against the trust,

"(B) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(i) the purposes described in subparagraph (A), or

"(ii) the investment in securities, obligations, or time or demand deposits described in clause (ii) of paragraph (21)(B),

"(C) such trust meets the requirements of paragraphs (2), (3), and (4) of section 4223(b), 4223(h), or, if applicable, section 4223(c) of the Employee Retirement Income Security Act of 1974, and

"(D) the trust instrument provides that, on dissolution of the trust, assets of the trust may not be paid other than to plans which have participated in the plan or, in the case of a trust established under section 4223(h) of such Act, to plans with respect to which employers have participated in the fund.".

26 USC 4975.

(b) Subsection (e) of section 4975 (relating to tax on prohibited transactions) is amended by adding at the end thereof the following new paragraph:

"(9) SECTION MADE APPLICABLE TO WITHDRAWAL LIABILITY PAYMENT FUNDS.—For purposes of this section—

"Plan."

"(A) IN GENERAL.—The term 'plan' includes a trust described in section 501(c)(22).

Supra.

"(B) DISQUALIFIED PERSON.—In the case of any trust to which this section applies by reason of subparagraph (A), the term 'disqualified person' includes any person who is a disqualified person with respect to any plan to which such trust is permitted to make payments under section 4223 of the Employee Retirement Income Security Act of 1974.".

Ante, p. 1241.

(c)(1) Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 194. CONTRIBUTIONS TO EMPLOYER LIABILITY TRUSTS. 26 USC 194.

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction for the taxable year an amount equal to the amount—

"(1) which is contributed by an employer to a trust described in section 501(c)(22) (relating to withdrawal liability payment fund) which meets the requirements of section 4223(h) of the Employee Retirement Income Security Act of 1974, and *Ante*, p. 1290. *Ante*, p. 1241.

"(2) which is properly allocable to such taxable year.

"(b) ALLOCATION TO TAXABLE YEAR.—In the case of a contribution described in subsection (a) which relates to any specified period of time which includes more than one taxable year, the amount properly allocable to any taxable year in such period shall be determined by prorating such amounts to such taxable years under regulations prescribed by the Secretary.

"(c) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed under subsection (a) with respect to any contribution described in subsection (a) which does not relate to any specified period of time.".

(2) The table of sections for such part VI is amended by adding at the end thereof the following new item:

"Sec. 194. Contributions to employer liability trusts.".

SEC. 210. EFFECTIVE DATE. 26 USC 418 note.

(a) Except as otherwise provided in this section, the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) Subpart C of part I of subchapter D of chapter 1 of such Code (as added by this Act) shall take effect, with respect to each plan, on the first day of the first plan year beginning on or after the earlier of— *Ante*, p. 1271.

(1) the date on which the last collective-bargaining agreement providing for employer contributions under the plan, which was in effect on the date of the enactment of this Act, expires, without regard to extensions agreed to after such date of enactment, or

(2) 3 years after the date of the enactment of this Act.

(c) The amendments made by section 209 shall apply to taxable years ending after the date of the enactment of this Act.

TITLE III—AMENDMENTS TO TITLE I OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974. 29 USC 1001 note.

SEC. 302. DEFINITION OF MULTIEMPLOYER PLAN.

(a) Section 3 is amended by striking out paragraph (37) and inserting in lieu thereof the following: 29 USC 1002.

"(37)(A) The term 'multiemployer plan' means a plan—

"(i) to which more than one employer is required to contribute,

"(ii) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and

"(iii) which satisfies such other requirements as the Secretary may prescribe by regulation.

"(B) For purposes of this paragraph, all trades or businesses (whether or not incorporated) which are under common control within the meaning of section 4001(c)(1) are considered a single employer.

29 USC 1301.

"(C) Notwithstanding subparagraph (A), a plan is a multiemployer plan on and after its termination date if the plan was a multiemployer plan under this paragraph for the plan year preceding its termination date.

"Multiemployer plan."

"(D) For purposes of this title, notwithstanding the preceding provisions of this paragraph, for any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in section 3(37) of this Act as in effect immediately before such date.

Ante, p. 1208.

"(E) Within one year after the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, a multiemployer plan may irrevocably elect, pursuant to procedures established by the corporation and subject to the provisions of sections 4403 (b) and (c), that the plan shall not be treated as a multiemployer plan for all purposes under this Act or the Internal Revenue Code of 1954 if for each of the last 3 plan years ending prior to the effective date of the Multiemployer Pension Plan Amendments Act of 1980—

26 USC 1.

"(i) the plan was not a multiemployer plan because the plan was not a plan described in section 3(37)(A)(iii) of this Act and section 414(f)(1)(C) of the Internal Revenue Code of 1954 (as such provisions were in effect on the day before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980); and

Ante, p. 1288.

"(ii) the plan had been identified as a plan that was not a multiemployer plan in substantially all its filings with the corporation, the Secretary of Labor and the Secretary of the Treasury.".

SEC. 303. MINIMUM VESTING REQUIREMENTS.

29 USC 1053.

Section 203 is amended—

(1) by inserting after subsection (a)(3)(D) the following new subparagraph:

"(E)(i) A right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because the plan provides that benefits accrued as a result of service with the participant's employer before the employer had an obligation to contribute under the plan may not be payable if the employer ceases contributions to the multiemployer plan.

"(ii) A participant's right to an accrued benefit derived from employer contributions under a multiemployer plan shall not be treated as forfeitable solely because—

"(I) the plan is amended to reduce benefits under section 4244A or 4281, or

Ante, pp. 1257, 1261.

"(II) benefit payments under the plan may be suspended under section 4245 or 4281.";

Ante, p. 1259.

(2) in subsection (b)(1)(E), by striking out "and";

(3) in subsection (b)(1)(F), by striking out the period and inserting in lieu thereof "; and"; and

(4) by inserting after subsection (b)(1)(F) the following new subparagraph:

"(G) in the case of a multiemployer plan, years of service—

"(i) with an employer after—

"(I) a complete withdrawal of such employer from the plan (within the meaning of section 4203), or

Ante, p. 1218.

"(II) to the extent permitted by regulations prescribed by the Secretary of the Treasury, a partial withdrawal described in section 4205(b)(2)(A)(i) in connection with the decertification of the collective bargaining representative; and

Ante, p. 1221.

"(ii) with any employer under the plan after the termination date of the plan under section 4048.".

29 USC 1348.

SEC. 304. MINIMUM FUNDING REQUIREMENTS.

(a) Section 301 is amended by adding at the end thereof the following new subsections:

29 USC 1081.

"(c) This part applies, with respect to a terminated multiemployer plan to which section 4021 applies, until the last day of the plan year in which the plan terminates, within the meaning of section 4041A(a)(2).

29 USC 1321.

Ante, p. 1216.

"(d) Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section in such manner as determined by the Secretary of the Treasury.".

(b) Section 302 is amended—

29 USC 1082.

(1) in subsection (b), by striking out "(40 plan years in the case of a multiemployer plan)" and "(20 plan years in the case of a multiemployer plan)" each place they appear;

(2) by inserting at the end of subsection (b) the following new paragraphs:

"(6) In the case of a plan which, immediately before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, was a multiemployer plan (within the meaning of section 3(37) as in effect immediately before such date)—

Ante, p. 1208.

Ante, p. 1291.

"(A) any amount described in paragraph (2)(B)(ii), (2)(B)(iii), or (3)(B)(i) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the amount arose;

"(B) any amount described in paragraph (2)(B)(iv) or (3)(B)(ii) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 20 plan years, beginning with the plan year in which the amount arose;

"(C) any change in past service liability which arises during the period of 3 plan years beginning on or after such date, and results from a plan amendment adopted before such date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises; and

"(D) any change in past service liability which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which—

"(i) was adopted before such date, and

"(ii) was effective for any plan participant before the beginning of the first plan year beginning on or after such date,

shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the increase arises.

"(7) For purposes of this part—

"(A) Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV shall be considered an amount contributed by the employer to or under the plan. The Secretary of the Treasury may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

Ante, p. 1217.

"(B) If a plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 418B(a) of the Internal Revenue Code of 1954 as of the end of the last plan year that the plan was in reorganization.

Ante, p. 1274.

"(C) Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 or to a fund exempt under section 501(c)(22) of such Code pursuant to section 4223 shall reduce the amount of contributions considered received by the plan for the plan year.

Ante, p. 1240.
Ante, p. 1290.
Ante, p. 1241.

"(D) Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary.

"(E) For purposes of the full funding limitation under subsection (c)(7), unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3) of the Internal Revenue Code of 1954).".

26 USC 411.

(3) by adding at the end of subsection (a) the following new paragraph:

"(3) In any plan year in which a multiemployer plan is in reorganization, the accumulated funding deficiency of the plan shall be determined under section 4243.".

Ante, p. 1252.

SEC. 305. APPLICATION OF INTERESTED PARTY RULES TO WITHDRAWAL LIABILITY PAYMENT FUNDS.

29 USC 1002.

Paragraph (14) of section 3 is amended by adding at the end thereof the following new sentence: "Any person who is a party in interest with respect to a plan to which a trust described in section 501(c)(22) of the Internal Revenue Code of 1954 is permitted to make payments under section 4223 shall be treated as a party in interest with respect to such trust.".

Ante, p. 1290.
Ante, p. 1241.

SEC. 306. LIQUIDATED DAMAGES WITH RESPECT TO DELINQUENT CONTRIBUTIONS.

(a) Part 5 of subtitle B of title I is amended by adding after section 514 the following new section:

"DELINQUENT CONTRIBUTIONS

"SEC. 515. Every employer who is obligated to make contributions to a multiemployer plan under the terms of the plan or under the terms of a collectively bargained agreement shall, to the extent not inconsistent with law, make such contributions in accordance with the terms and conditions of such plan or such agreement.". 29 USC 1145.

(b) Section 502 is amended by— 29 USC 1132.

(1) redesignating subsection (b) (1) and (2) as subsection (b)(1) (A) and (B), and adding at the end thereof the following new paragraph:

"(2) The Secretary shall not initiate an action to enforce section 515.";

(2) redesignating subsection (g) as paragraph (1) of such subsection and inserting "(other than an action described in paragraph (2))" between "title" and "by" in such redesignated paragraph (1), and adding at the end thereof the following new paragraph:

"(2) In any action under this title by a fiduciary for or on behalf of a plan to enforce section 515 in which a judgment in favor of the plan is awarded, the court shall award the plan—

"(A) the unpaid contributions,

"(B) interest on the unpaid contributions,

"(C) an amount equal to the greater of—

"(i) interest on the unpaid contributions, or

"(ii) liquidated damages provided for under the plan in an amount not in excess of 20 percent (or such higher percentage as may be permitted under Federal or State law) of the amount determined by the court under subparagraph (A),

"(D) reasonable attorney's fees and costs of the action, to be paid by the defendant, and

"(E) such other legal or equitable relief as the court deems appropriate.

For purposes of this paragraph, interest on unpaid contributions shall be determined by using the rate provided under the plan, or, if none, the rate prescribed under section 6621 of the Internal Revenue Code of 1954.". 26 USC 6621.

SEC. 307. ACTUARIAL STANDARDS.

Section 103(d) is amended by redesignating paragraphs (10) and (11) as paragraphs (11) and (12) and by adding after paragraph (9) the following new paragraph: 29 USC 1023.

"(10) A statement by the actuary which discloses—

"(A) any event which the actuary has not taken into account, and

"(B) any trend which, for purposes of the actuarial assumptions used, was not assumed to continue in the future,

but only if, to the best of the actuary's knowledge, such event or trend may require a material increase in plan costs or required contribution rates.".

SEC. 308. EXEMPTIONS FROM PROHIBITED TRANSACTIONS.

(a) Section 408(b) is amended by adding at the end thereof the following: 29 USC 1108.

"(10) Any transaction required or permitted under part 1 of subtitle E of title IV.

Ante, p. 1217.

"(11) A merger of multiemployer plans, or the transfer of assets or liabilities between multiemployer plans, determined by the Pension Benefit Guaranty Corporation to meet the requirements of section 4231.".

Ante, p. 1244.

29 USC 1108.

(b) Section 408 is amended by adding at the end thereof the following new subsection:

29 USC 1106.

"(f) Section 406(b)(2) shall not apply to any merger or transfer described in subsection (b)(11).".

SEC. 309. FIDUCIARY DUTIES.

29 USC 1104.

Section 404(a)(1)(D) is amended by inserting "or title IV" after "this title".

SEC. 310. REFUND OF CERTAIN WITHDRAWAL LIABILITY PAYMENTS.

29 USC 1103.

Section 403(c) is amended—

(1) by striking out "or (3)" in paragraph (1) and inserting in lieu thereof ", (3), or (4)"; and

(2) by adding at the end thereof the following new paragraph:

"(4) In the case of a withdrawal liability payment which has been determined to be an overpayment, paragraph (1) shall not prohibit the return of such payment to the employer within 6 months after the date of such determination.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. AMENDMENT OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Employee Retirement Income Security Act of 1974.

29 USC 1001 note.

SEC. 402. RELATED TECHNICAL AMENDMENTS.

29 USC 1301.

(a)(1) Section 4001 is amended—

(A) in subsection (a)(2), by inserting "(other than a multiemployer plan)" after "more than one employer";

(B) by striking out subsection (a)(3) and inserting in lieu thereof the following:

"Multiemployer plan."

"(3) 'multiemployer plan' means a plan—

"(A) to which more than one employer is required to contribute,

"(B) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and

"(C) which satisfies such other requirements as the Secretary of Labor may prescribe by regulation,

except that, in applying this paragraph—

"(i) a plan shall be considered a multiemployer plan on and after its termination date if the plan was a multiemployer plan under this paragraph for the plan year preceding such termination, and

"(ii) for any plan year which began before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, the term 'multiemployer plan' means a plan described in section 414(f) of the Internal Revenue Code of 1954 as in effect immediately before such date;";

Ante, p. 1208.

Ante, p. 1288.

(C) by striking out subsection (a)(6) and inserting in lieu thereof the following:

"(6) 'basic benefits' means benefits guaranteed under section 4022 (other than under section 4022(c)), or under section 4022A (other than under section 4022A(g));"; "Basic benefits." 29 USC 1322. *Ante*, p. 1210.

(D) in subsection (a)(7), by striking out the period and inserting in lieu thereof "or 4022A(g);";

(E) by inserting at the end of subsection (a) the following new paragraphs: Definitions.

"(8) 'nonforfeitable benefit' means, with respect to a plan, a benefit for which a participant has satisfied the conditions for entitlement under the plan or the requirements of this Act (other than submission of a formal application, retirement, completion of a required waiting period, or death in the case of a benefit which returns all or a portion of a participant's accumulated mandatory employee contributions upon the participant's death), whether or not the benefit may subsequently be reduced or suspended by a plan amendment, an occurrence of any condition, or operation of this Act or the Internal Revenue Code of 1954; 26 USC 1.

"(9) 'reorganization index' means the amount determined under section 4241(b); *Ante*, p. 1249.

"(10) 'plan sponsor' means, with respect to a multiemployer plan—

"(A) the plan's joint board of trustees, or

"(B) if the plan has no joint board of trustees, the plan administrator;

"(11) 'contribution base unit' means a unit with respect to which an employer has an obligation to contribute under a multiemployer plan, as defined in regulations prescribed by the Secretary of the Treasury; and

"(12) 'outstanding claim for withdrawal liability' means a plan's claim for the unpaid balance of the liability determined under part 1 of subtitle E for which demand has been made, valued in accordance with regulations prescribed by the corporation."; *Ante*, p. 1217.

(F) by adding the following new paragraphs at the end of subsection (c)(1) (as redesignated):

"(2) For purposes of this title, 'single-employer plan' means, except as otherwise specifically provided in this title, any plan which is not a multiemployer plan. "Single-employer plan."

"(3) For purposes of this title, except as otherwise provided in this title, contributions or other payments shall be considered made under a plan for a plan year if they are made within the period prescribed under section 412(c)(10) of the Internal Revenue Code of 1954. 26 USC 412.

"(4) For purposes of subtitle E, 'Secretary of the Treasury' means the Secretary of the Treasury or such Secretary's delegate.". "Secretary of the Treasury." *Ante*, p. 1217.

(2) Section 4003 is amended— 29 USC 1303.

(A) in subsection (a), by striking out "determine whether any person has violated or is about to violate" and inserting in lieu thereof "enforce";

(B) in subsection (e)(1), by striking out "redress violations of" and inserting in lieu thereof "enforce", and

(C) in subsection (f) by inserting at the end thereof the following new sentence: "In any suit, action, or proceeding in which the corporation is a party, or intervenes under section 4301, in any State court, the corporation may, without bond or security, *Ante*, p. 1263.

remove such suit, action, or proceeding from the State court to the United States District Court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect."

29 USC 1307. (3) Section 4007(a) is amended by inserting at the end thereof the following new sentence: "The corporation may waive or reduce premiums for a multiemployer plan for any plan year during which such plan receives financial assistance from the corporation under section 4261, except that any amount so waived or reduced shall be treated as financial assistance under such section.".

Ante, p. 1261.

29 USC 1321. (4) Section 4021(a) is amended by inserting in the last sentence "unless otherwise specifically indicated in this title," before "a successor plan".

(5) Subtitle B of title IV is amended by inserting after section 4022B (as added by section 102 of this Act) the following new section:

"PLAN FIDUCIARIES

29 USC 1323. 29 USC 1321. "SEC. 4023. Notwithstanding any other provision of this Act, a fiduciary of a plan to which section 4021 applies is not in violation of the fiduciary's duties as a result of any act or of any withholding of action required by this title.".

29 USC 1342. (6) Section 4042 is amended—

(A) in the last sentence of subsection (a), by striking out "such small" and inserting in lieu thereof "terminated";

(B) by redesignating subsection (b) as subsection (b)(1) and inserting at the end thereof the following new paragraphs:

"(2) Notwithstanding any other provision of this title—

"(A) upon the petition of a plan administrator or the corporation, the appropriate United States district court may appoint a trustee in accordance with the provisions of this section if the interests of the plan participants would be better served by the appointment of the trustee, and

"(B) upon the petition of the corporation, the appropriate United States district court shall appoint a trustee proposed by the corporation for a multiemployer plan which is in reorganization or to which section 4041A(d) applies, unless such appointment would be adverse to the interests of the plan participants and beneficiaries in the aggregate.

Ante, p. 1216.

"(3) The corporation and plan administrator may agree to the appointment of a trustee without proceeding in accordance with the requirements of paragraphs (1) and (2).";

(C) in the first sentence of subsection (c), by striking out "and" after "interests of the participants" and inserting in lieu thereof "or";

(D) in subsection (c), by striking out "further" each place it appears and inserting in lieu thereof "unreasonable";

(E) in subsection (d)(1)(A)—

(i) by striking out "and" in clause (iv);

(ii) by redesignating clause (v) as clause (vi) and by striking out the period at the end of such clause and inserting in lieu thereof "; and";

(iii) by inserting after clause (iv) the following new clause:

"(v) in the case of a multiemployer plan, to reduce benefits or suspend benefit payments under the plan, give appropriate notices, amend the plan, and perform other acts required or authorized by subtitle (E) to be performed by the plan sponsor or administrator;"; and

Ante, p. 1217.

(iv) by inserting after clause (vi) (as redesignated) the following new clause:

"(vii) to require the plan sponsor, the plan administrator, any contributing or withdrawn employer, and any employee organization representing plan participants to furnish any information with respect to the plan which the trustee may reasonably need in order to administer the plan.";

(F) in subsection (d)(1)(B)(i), by striking out "allocation requirements of section 4044" and inserting in lieu thereof "requirements of this title"; 29 USC 1344.

(G) in subsection (d)(1)(B)(iv), by striking out ", except to the extent that the corporation is an adverse party in a suit or proceeding";

(H) in subsection (d)(2)(B), by striking out "and";

(I) in subsection (d)(2)(C), by striking out the period and inserting in lieu thereof a comma; and

(J) by inserting after subsection (d)(2)(C) the following new subparagraphs;

"(D) each employer who is or may be liable to the plan under section part 1 of subtitle E, *Ante*, p. 1217.

"(E) each employer who has an obligation to contribute, within the meaning of section 4212(a), under a multiemployer plan, and *Ante*, p. 1233.

"(F) each employee organization which, for purposes of collective bargaining, represents plan participants employed by an employer described in subparagraph (C), (D), or (E).".

(7) Section 4044 is amended— 29 USC 1344.

(A) in subsection (a), by inserting "single-employer" before "defined benefit plan";

(B) in subsection (c), by inserting "single-employer" before "plan occurring during" and before "plan occurring after"; and

(C) in subsection (d)(1), by inserting "single-employer" before "plan may be distributed".

(8) Section 4048 is amended— 29 USC 1348.

(A) by inserting "(a)" before "For";

(B) by inserting "of a single-employer plan" after "date of termination"; and

(C) by adding at the end thereof the following new subsection:

"(b) For purposes of this title, the date of termination of a multiemployer plan is—

"(1) in the case of a plan terminated in accordance with the provisions of section 4041A, the date determined under subsection (b) of that section; or *Ante*, p. 1216.

"(2) in the case of a plan terminated in accordance with the provisions of section 4042, the date agreed to between the plan administrator and the corporation (or the trustee appointed under section 4042(b)(2), if any), or, if no agreement is reached, the date established by the court.". 29 USC 1342.

(b)(1) Section 208 is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of this Act applies.". 29 USC 1058. 29 USC 1301.

(2) Section 403(a)(1) is amended by striking out "title" and inserting in lieu thereof "Act". 29 USC 1103.

(3) Section 3002 is amended by adding at the end thereof the following new subsection: 29 USC 1202.

"(e) The Secretary of the Treasury shall consult with the Pension Benefit Guaranty Corporation with respect to any proposed or final Consultation.

regulation authorized by subpart C of part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954, or by sections 4241 through 4245 of this Act, before publishing any such proposed or final regulation.".

Ante, p. 1271.
Ante, p. 1249.

SEC. 403. CONFORMING AMENDMENTS.

29 USC 1305.

(a) Section 4005 is amended—

(1) by striking out the second sentence of subsection (a) and inserting in lieu thereof the following: "One of the funds shall be used with respect to basic benefits guaranteed under section 4022, one of the funds shall be used with respect to basic benefits guaranteed under section 4022A, one of the funds shall be used with respect to nonbasic benefits guaranteed under section 4022 (if any), and the remaining fund shall be used with respect to nonbasic benefits guaranteed under section 4022A (if any), other than subsection (g)(2) thereof (if any).";

29 USC 1322.
Ante, p. 1210.

(2) in subsection (b)(2)(A), by inserting "or 4022A" after "4022";

(3) by striking out subparagraph (B) of subsection (b)(2) and redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively; and

(4) by adding at the end thereof the following new subsections:

"(d)(1) A fifth fund shall be established for the reimbursement of uncollectible withdrawal liability under section 4222, and shall be credited with the appropriate—

"(A) premiums, penalties, and interest charges collected under this title, and

"(B) earnings on investments of the fund or on assets credited to the fund.

The fund shall be available to make payments pursuant to the supplemental program established under section 4222, including those expenses and other charges determined to be appropriate by the corporation.

"(2) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate.

"(e)(1) A sixth fund shall be established for the supplemental benefit guarantee program provided under section 4022A(g)(2).

"(2) Such fund shall be credited with the appropriate—

"(A) premiums, penalties, and interest charges collected under section 4022A(g)(2), and

"(B) earnings on investments of the fund or on assets credited to the fund.

The fund shall be available for making payments pursuant to the supplemental benefit guarantee program established under section 4022A(g)(2), including those expenses and other charges determined to be appropriate by the corporation.

"(3) The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate.

"(f)(1) Amounts in any fund established under this section may be used only for the purposes for which such fund was established and may not be used to make loans to (or on behalf of) any other fund or to finance any other activity of the corporation.

"(2) None of the funds borrowed under subsection (c) may be used to make loans to (or on behalf of) any fund other than a fund described in the second sentence of subsection (a).

"(3) Any repayment to the corporation of any amount paid out of any fund in connection with a multiemployer plan shall be deposited in such fund.".

29 USC 1307.

(b) Section 4007(a) is amended by striking out the second sentence.

(c) Section 4022 is amended— 29 USC 1322.

(1) in the section heading, by inserting "SINGLE-EMPLOYER PLAN" before "BENEFITS GUARANTEED";

(2) in subsection (a)—

(A) by inserting ", in accordance with this section," after "guarantee"; and

(B) by inserting "single-employer" before "plan which terminates"; and

(C) by striking out the words "the terms of";

(3) in subsection (b)(1), by striking out "(8)" and inserting in lieu thereof "(7)"; and

(4) by striking out paragraph (5) of subsection (b) and redesignating paragraphs (6), (7), and (8) of such subsection as paragraphs (5), (6), and (7), respectively.

(d) Section 4041 is amended— 29 USC 1341.

(1) in the section heading, by striking out "TERMINATION BY PLAN ADMINISTRATOR" and inserting in lieu thereof "TERMINATION OF SINGLE-EMPLOYER PLANS";

(2) in subsection (a), by inserting "single-employer" after "termination of a"; and

(3) by striking out subsection (g).

(e) Section 4046 is amended— 29 USC 1346.

(1) in paragraphs (2) and (3)—

(A) by inserting "or 4022A" after "4022"; and

(B) by inserting "basic" before "benefits"; and

(2) in paragraph (3), by striking out "4022(b)(5)" and inserting in lieu thereof "4022B".

(f) Section 4061 is amended to read as follows:

"AMOUNTS PAYABLE BY THE CORPORATION

"SEC. 4061. The corporation shall pay benefits under a single-employer plan terminated under this title subject to the limitations and requirements of subtitle B of this title. The corporation shall provide financial assistance to pay benefits under a multiemployer plan which is insolvent under section 4245 or 4281(d)(2)(A), subject to the limitations and requirements of subtitles B, C, and E of this title. Amounts guaranteed by the corporation under sections 4022 and 4022A shall be paid by the corporation only out of the appropriate fund. The corporation shall make payments under the supplemental program to reimburse multiemployer plans for uncollectible withdrawal liability only out of the fund established under section 4005(e).". 29 USC 1361. 29 USC 1321. *Ante*, pp. 1259, 1261. 29 USC 1321, 1341, *ante*, p. 1217. *Ante*, p. 1210. *Ante*, p. 1300.

(g) Section 4062(a) is amended by striking out "plan (other than a multiemployer plan)" and inserting in lieu thereof "single-employer plan". 29 USC 1362.

(h) Section 4063 is amended— 29 USC 1363.

(1) in the first sentence of subsection (a), by inserting "(other than a multiemployer plan)" after "makes contributions"; and

(2) in the second sentence of subsection (d), by inserting "(other than a multiemployer plan)" after "of a plan".

(i) Section 4064(a) is amended by inserting "(other than a multiemployer plan)" after "plan under which more than one employer makes contributions". 29 USC 1364.

(j) Section 4066 is amended by inserting "(other than a multiemployer plan)" after "more than one employer". 29 USC 1366.

29 USC 1303.

(k) Subsection (f) of section 4003 is amended by striking out "Any" and inserting in lieu thereof "Except as provided in section 4301(a)(2), any".

29 USC 1302.

(l) Section 4002(b)(3) is amended by inserting "and such other bylaws, rules, and regulations as may be necessary to carry out the purposes of this title" after "Act".

SEC. 404. CLERICAL AMENDMENTS.

The table of contents in section 1 is amended—

(1) by striking out the items relating to sections 4022 and 4023 and inserting in lieu thereof the following new items:

"Sec. 4022. Single-employer plan benefits guaranteed.
"Sec. 4022A. Multiemployer plan benefits guaranteed.
"Sec. 4022B. Aggregate limit on benefits guaranteed.
"Sec. 4023. Plan fiduciaries.";

(2) by striking out the item relating to section 4041 and inserting in lieu thereof the following new items:

"Sec. 4041. Termination of single-employer plans.
"Sec. 4041A. Termination of multiemployer plans.";

and

(3) by striking out all after the item relating to section 4068 and inserting in lieu thereof the following new items:

"Subtitle E—Special Provisions for Multiemployer Plans

"PART 1—EMPLOYER WITHDRAWALS

"Sec. 4201. Withdrawal liability established.
"Sec. 4202. Determination and collection of liability; notification of employer.
"Sec. 4203. Complete withdrawal.
"Sec. 4204. Sale of assets.
"Sec. 4205. Partial withdrawals.
"Sec. 4206. Adjustment for partial withdrawal.
"Sec. 4207. Reduction or waiver of complete withdrawal liability.
"Sec. 4208. Reduction or abatement of partial withdrawal liability.
"Sec. 4209. De minimis rule.
"Sec. 4210. No withdrawal liability for certain temporary contribution obligation periods.
"Sec. 4211. Methods for computing withdrawal liability.
"Sec. 4212. Obligation to contribute; special rules.
"Sec. 4213. Actuarial assumptions, etc.
"Sec. 4214. Application of plan amendments.
"Sec. 4215. Plan notification to corporation of potentially significant withdrawals.
"Sec. 4216. Special rules for section 404(c) plans.
"Sec. 4217. Application of part in case of certain pre-1980 withdrawals.
"Sec. 4218. Withdrawal not to occur merely because of change in business form or suspension of contributions during labor dispute.
"Sec. 4219. Notice, collection, etc., of withdrawal liability.
"Sec. 4220. Approval of amendments.
"Sec. 4221. Resolution of disputes.
"Sec. 4222. Reimbursements for uncollectible withdrawal liability.
"Sec. 4223. Withdrawal liability payment fund.
"Sec. 4224. Alternative method of withdrawal liability payments.
"Sec. 4225. Limitation on withdrawal liability.

"PART 2—MERGER OR TRANSFER OF PLAN ASSETS OR LIABILITIES

"Sec. 4231. Mergers and transfers between multiemployer plans.
"Sec. 4232. Transfers between a multiemployer plan and a single-employer plan.
"Sec. 4233. Partition.
"Sec. 4234. Asset transfer rules.
"Sec. 4235. Transfers pursuant to change in bargaining representative.

"PART 3—REORGANIZATION; MINIMUM CONTRIBUTION REQUIREMENT FOR MULTIEMPLOYER PLANS

"Sec. 4241. Reorganization status.
"Sec. 4242. Notice of reorganization and funding requirements.
"Sec. 4243. Minimum contribution requirement.
"Sec. 4244. Overburden credit against minimum contribution requirement.
"Sec. 4244A. Adjustments in accrued benefits.
"Sec. 4245. Insolvent plans.

"PART 4—FINANCIAL ASSISTANCE

"Sec. 4261. Financial assistance.

"PART 5—BENEFITS AFTER TERMINATION

"Sec. 4281. Benefits under certain terminated plans.

"PART 6—ENFORCEMENT

"Sec. 4301. Civil actions.
"Sec. 4302. Penalty for failure to provide notice.
"Sec. 4303. Election of plan status.

"Subtitle F—Transition Rules and Effective Dates

"Sec. 4401. Amendment to Internal Revenue Code of 1954.
"Sec. 4402. Transition rules and effective dates.
"Sec. 4403. Election of plan status.".

SEC. 405. ACTION TAKEN BEFORE REGULATIONS ARE PRESCRIBED. 29 USC 1461 note.

(a) Except as otherwise provided in the amendments made by this Act and in subsection (b), if the way in which any such amendment will apply to a particular circumstance is to be set forth in regulations, any reasonable action during the period before such regulations take effect shall be treated as complying with such regulations for such period.

(b) Subsection (a) shall not apply to any action which violates any instruction issued, or temporary rule prescribed, by the agency having jurisdiction but only if such instruction or rule was published, or furnished to the party taking the action, before such action was taken.

SEC. 406. PENSION BENEFIT GUARANTY CORPORATION PUT ON BUDGET.

(a) Paragraph (2) of section 4002(g) is amended to read as follows: 29 USC 1302.

"(2) The receipts and disbursements of the corporation in the discharge of its functions shall be included in the totals of the budget of the United States Government. The United States is not liable for any obligation or liability incurred by the corporation.".

(b) The amendment made by subsection (a) shall apply to fiscal years beginning after September 30, 1980. Effective date. 29 USC 1302 note.

SEC. 407. CHURCH PLANS. 29 USC 1002.

(a) Section 3(33) is amended to read as follows:

"(33)(A) The term 'church plan' means a plan established and maintained (to the extent required in clause (ii) of subparagraph (B)) for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954. "Church plan." 26 USC 501.

"(B) The term 'church plan' does not include a plan—

"(i) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in

connection with one or more unrelated trades or businesses (within the meaning of section 513 of the Internal Revenue Code of 1954), or

26 USC 513.

"(ii) if less than substantially all of the individuals included in the plan are individuals described in subparagraph (A) or in clause (ii) of subparagraph (C) (or their beneficiaries).

"(C) For purposes of this paragraph—

"(i) A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

"(ii) The term employee of a church or a convention or association of churches includes—

"(I) a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation;

"(II) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Internal Revenue Code of 1954 and which is controlled by or associated with a church or a convention or association of churches; and

26 USC 501.

"(III) an individual described in clause (v).

"(iii) A church or a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954 shall be deemed the employer of any individual included as an employee under clause (ii).

"(iv) An organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

"(v) If an employee who is included in a church plan separates from the service of a church or a convention or association of churches or an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of the Internal Revenue Code of 1954 and which is controlled by or associated with a church or a convention or association of churches, the church plan shall not fail to meet the requirements of this paragraph merely because the plan—

"(I) retains the employee's accrued benefit or account for the payment of benefits to the employee or his beneficiaries pursuant to the terms of the plan; or

"(II) receives contributions on the employee's behalf after the employee's separation from such service, but only for a period of 5 years after such separation, unless the employee is disabled (within the meaning of the disability provisions of the church plan or, if there are no such provisions in the church plan, within the meaning of section 72(m)(7) of the Internal Revenue Code of 1954) at the time of such separation from service.

26 USC 72.

"(D)(i) If a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of

churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954 fails to meet one or more of the requirements of this paragraph and corrects its failure to meet such requirements within the correction period, the plan shall be deemed to meet the requirements of this paragraph for the year in which the correction was made and for all prior years. 26 USC 501.

"(ii) If a correction is not made within the correction period, the plan shall be deemed not to meet the requirements of this paragraph beginning with the date on which the earliest failure to meet one or more of such requirements occurred.

"(iii) For purposes of this subparagraph, the term 'correction period' means— "Correction period."

"(I) the period ending 270 days after the date of mailing by the Secretary of a notice of default with respect to the plan's failure to meet one or more of the requirements of this paragraph; or

"(II) any period set by a court of competent jurisdiction after a final determination that the plan fails to meet such requirements, or, if the court does not specify such period, any reasonable period determined by the Secretary on the basis of all the facts and circumstances, but in any event not less than 270 days after the determination has become final; or

"(III) any additional period which the Secretary determines is reasonable or necessary for the correction of the default,

whichever has the latest ending date.".

(b) Section 414(e) of the Internal Revenue Code of 1954 (defining church plan) is amended to read as follows: 26 USC 414.

"(e) CHURCH PLAN.—

"(1) IN GENERAL.—For purposes of this part, the term 'church plan' means a plan established and maintained (to the extent required in paragraph (2)(B)) for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501.

"(2) CERTAIN PLANS EXCLUDED.—The term 'church plan' does not include a plan—

"(A) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513); or 26 USC 513.

"(B) if less than substantially all of the individuals included in the plan are individuals described in paragraph (1) or (3)(B) (or their beneficiaries).

"(3) DEFINITIONS AND OTHER PROVISIONS.—For purposes of this subsection—

"(A) TREATMENT AS CHURCH PLAN.—A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

"(B) EMPLOYEE DEFINED.—The term employee of a church or a convention or association of churches shall include—

"(i) a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation;

"(ii) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 and which is controlled by or associated with a church or a convention or association of churches; and

26 USC 501.

"(iii) an individual described in subparagraph (E).

"(C) CHURCH TREATED AS EMPLOYER.—A church or a convention or association of churches which is exempt from tax under section 501 shall be deemed the employer of any individual included as an employee under subparagraph (B).

"(D) ASSOCIATION WITH CHURCH.—An organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

"(E) SPECIAL RULE IN CASE OF SEPARATION FROM PLAN.—If an employee who is included in a church plan separates from the service of a church or a convention or association of churches or an organization described in clause (ii) of paragraph (3)(B), the church plan shall not fail to meet the requirements of this subsection merely because the plan—

"(i) retains the employee's accrued benefit or account for the payment of benefits to the employee or his beneficiaries pursuant to the terms of the plan; or

"(ii) receives contributions on the employee's behalf after the employee's separation from such service, but only for a period of 5 years after such separation, unless the employee is disabled (within the meaning of the disability provisions of the church plan or, if there are no such provisions in the church plan, within the meaning of section 72(m)(7)) at the time of such separation from service.

26 USC 72.

"(4) CORRECTION OF FAILURE TO MEET CHURCH PLAN REQUIREMENTS.—

"(A) IN GENERAL.—If a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 fails to meet one or more of the requirements of this subsection and corrects its failure to meet such requirements within the correction period, the plan shall be deemed to meet the requirements of this subsection for the year in which the correction was made and for all prior years.

"(B) FAILURE TO CORRECT.—If a correction is not made within the correction period, the plan shall be deemed not to meet the requirements of this subsection beginning with the date on which the earliest failure to meet one or more of such requirements occurred.

"(C) CORRECTION PERIOD DEFINED.—The term 'correction period' means—

"(i) the period ending 270 days after the date of mailing by the Secretary of a notice of default with respect to the plan's failure to meet one or more of the requirements of this subsection;

"(ii) any period set by a court of competent jurisdiction after a final determination that the plan fails to meet such requirements, or, if the court does not specify such period, any reasonable period determined by the Secretary on the basis of all the facts and circumstances, but in any event not less than 270 days after the determination has become final; or

"(iii) any additional period which the Secretary determines is reasonable or necessary for the correction of the default,

whichever has the latest ending date.".

(c) The amendments made by this section shall be effective as of January 1, 1974. Effective date. 26 USC 414 note.

SEC. 408. DEDUCTIBILITY OF PAYMENTS TO PLAN BY A CORPORATION OPERATING PUBLIC TRANSPORTATION SYSTEM ACQUIRED BY A STATE. 26 USC 404 note.

(a) For purposes of subsection (g) of section 404 of the Internal Revenue Code of 1954 (relating to certain employer liability payments considered as contributions), as amended by section 205 of this Act, any payment made to a plan covering employees of a corporation operating a public transportation system shall be treated as a payment described in paragraph (1) of such subsection if—

(1) such payment is made to fund accrued benefits under the plan in conjunction with an acquisition by a State (or agency or instrumentality thereof) of the stock or assets of such corporation, and

(2) such acquisition is pursuant to a State public transportation law enacted after June 30, 1979, and before January 1, 1980.

(b) The provisions of this section shall apply to payments made after June 29, 1980.

SEC. 409. TREATMENT OF CERTAIN SEVERANCE PAY ARRANGEMENTS AND SUPPLEMENTAL RETIREMENT INCOME PAYMENTS AS WELFARE PLANS.

Paragraph (2) of section 3 is amended— 29 USC 1002.

(1) by striking out "The" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), the",

(2) by striking out "(A)" and inserting in lieu thereof "(i)",

(3) by striking out "(B)" and inserting in lieu thereof "(ii)", and

(4) by adding at the end thereof the following new subparagraph:

"(B) The Secretary may by regulation prescribe rules consistent with the standards and purposes of this Act providing one or more exempt categories under which—

"(i) severance pay arrangements, and

"(ii) supplemental retirement income payments, under which the pension benefits of retirees or their beneficiaries are supplemented to take into account some portion or all of the increases in the cost of living (as determined by the Secretary of Labor) since retirement,

shall, for purposes of this title, be treated as welfare plans rather than pension plans. In the case of any arrangement or payment a principal effect of which is the evasion of the standards or purposes of this Act applicable to pension plans, such arrangement or payment shall be treated as a pension plan.".

29 USC 1103.

SEC. 410. REFUND OF MISTAKEN CONTRIBUTIONS.

(a) Paragraph (2)(A) of section 403(c) is amended to read as follows:

"(2)(A) In the case of a contribution, or a payment of withdrawal liability under part 1 of subtitle E of part iv—

Ante, p. 1217.

"(i) made by an employer to a plan (other than a multiemployer plan) by a mistake of fact, paragraph (1) shall not prohibit the return of such contribution to the employer within one year after the payment of the contribution, and

"(ii) made by an employer to a multiemployer plan by a mistake of fact or law (other than a mistake relating to whether the plan is described in section 401(a) of the Internal Revenue Code of 1954 or the trust which is part of such plan is exempt from taxation under section 501(a) of such Code), paragraph (1) shall not prohibit the return of such contribution or payment to the employer within 6 months after the plan administrator determines that the contribution was made by such a mistake.".

26 USC 401.

26 USC 501.

(b) Paragraph (2) of section 401(a) of the Internal Revenue Code of 1954 (relating to exclusive benefit of employees and beneficiaries) is amended by inserting before the semicolon at the end thereof the following: "(but this paragraph shall not be construed, in the case of a multiemployer plan, to prohibit the return of a contribution within 6 months after the plan administrator determines that the contribution was made by a mistake of fact or law (other than a mistake relating to whether the plan is described in section 401(a) or the trust which is part of such plan is exempt from taxation under section 501(a))".

26 USC 401.

Effective date.
26 USC 401 note.

(c) The amendment made by this section shall take effect on January 1, 1975, except that in the case of contributions received by a collectively bargained plan maintained by more than one employer before the date of enactment of this Act, any determination by the plan administrator that any such contribution was made by mistake of fact or law before such date shall be deemed to have been made on such date of enactment.

SEC. 411. DEFINITION OF EMPLOYEE PENSION BENEFIT PLAN.

(a) Section 201 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new subsection:

29 USC 1051.

"(8) Any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act.".

(b) Section 301(a) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new paragraph:

29 USC 1081.

"(10) Any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act.".

29 USC 1103.

(c) Section 403(b) of ERISA is amended by adding at the end thereof the following new paragraph (6):

"(6) Any plan, fund or program under which an employer, all of whose stock is directly or indirectly owned by employees, former employees or their beneficiaries, proposes through an unfunded arrangement to compensate retired employees for benefits which were forfeited by such employees under a pension plan maintained by a former employer prior to the date such pension plan became subject to this Act.".

SEC. 412. STUDIES BY PENSION BENEFIT GUARANTY CORPORATION AND SECRETARY OF LABOR.

29 USC 1306 note.

(a)(1) The Pension Benefit Guaranty Corporation shall conduct a separate study with respect to—

(A) the advantages and disadvantages of establishing a graduated premium rate schedule under section 4006 of the Employee Retirement Income and Security Act of 1974 which is based on risk, and *Ante*, p. 1264.

(B) the necessity of adopting special rules in cases of union-mandated withdrawal from multiemployer pension plans.

Report to Congress.

(2) The Corporation shall report to the Congress the results of the studies conducted under paragraph (1), including its recommendations with respect thereto.

29 USC 1001a note.

(b)(1) The Secretary of Labor shall study the feasibility of requiring collective bargaining on both the issues of contributions to, and benefits from, multiemployer plans.

Report to Congress.

(2) The Secretary shall submit a report on the study conducted under paragraph (1) to the Congress within 3 years of the date of the enactment of this Act.

SEC. 413. STUDY BY GENERAL ACCOUNTING OFFICE; HEARINGS REQUIRED.

29 USC 1001 note.

(a)(1) The Comptroller General of the United States shall conduct a study of the effects of the amendments made by, and the provisions of, this Act on—

(A) participants, beneficiaries, employers, employee organizations, and other parties affected by this Act, and

(B) the self-sufficiency of the fund established under section 4005 of the Employee Retirement Income Security Act of 1974 with respect to benefits guaranteed under section 4022A of such Act, taking into account the financial conditions of multiemployer plans and employers. *Ante*, p. 1300. *Ante*, p. 1210.

Report to Congress.

(2)(A) The Comptroller General shall report to the Congress no later than June 30, 1985, the results of the study conducted under paragraph (1), including his recommendations with respect thereto.

Public availability.

(B) The report submitted under subparagraph (A) shall be made available to the public.

Consultation with congressional committees.

(b) In conducting the study under subsection (a)(1), the Comptroller General shall consult with the Committees on Finance and Labor and Human Resources of the Senate and the Committees on Education and Labor and Ways and Means of the House of Representatives.

(c) The committees described in subsection (b) shall conduct hearings on the report and recommendations submitted under subsection (a)(2).

Information accessibility.

(d) For purposes of conducting the study required by this section, the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine and copy any books, documents, papers, records, or other recorded information—

(1) within the possession or control of the administrator or the sponsor of any plan, and

(2) which the Comptroller General or his representative finds, in his own judgment, pertinent to such study.

Confidentiality.

The Comptroller General shall not disclose the identity of any individual in making any information obtained under this subsection available to the public.

SEC. 414. TREATMENT OF CERTAIN RETIREMENT BENEFITS.

26 USC 3304.

(a) GENERAL RULE.—Paragraph (15) of section 3304(a) of the Internal Revenue Code of 1954 (relating to requirements for approval of State laws) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof the following:

"except that—

"(A) the requirements of this paragraph shall apply to any pension, retirement or retired pay, annuity, or other similar periodic payment only if—

"(i) such pension, retirement or retired pay, annuity, or similar payment is under a plan maintained (or contributed to) by a base period employer or chargeable employer (as determined under applicable law), and

"(ii) in the case of such a payment not made under the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding provisions of prior law), services performed for such employer by the individual after the beginning of the base period (or remuneration for such services) affect eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or similar payment, and

42 USC 1305.
45 USC 231t.

"(B) the State law may provide for limitations on the amount of any such a reduction to take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment;".

26 USC 3304 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to certifications of States for 1981 and subsequent years.

SEC. 415. INCREASE IN LENGTH OF SERVICE IN ARMED FORCES REQUIRED FOR EX-SERVICEMEN TO BE ELIGIBLE FOR UNEMPLOYMENT BENEFITS.

(a) GENERAL RULE.—Subparagraph (A) of section 8521(a)(1) of title 5 of the United States Code is amended by striking out "90 days or more" and inserting in lieu thereof "365 days or more".

5 USC 8521 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to determinations of Federal service in the case of individuals filing claims for unemployment compensation on or after October 1, 1980.

SEC. 416. CESSATION OF EXTENDED BENEFITS WHEN PAID UNDER AN INTERSTATE CLAIM IN A STATE WHERE EXTENDED BENEFIT PERIOD IS NOT IN EFFECT.

26 USC 3304 note.

(a) GENERAL RULE.—Section 202 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new subsection:

"Cessation of Extended Benefits When Paid Under an Interstate Claim in a State Where Extended Benefit Period Is Not in Effect

"(c)(1) Except as provided in paragraph (2), payment of extended compensation shall not be made to any individual for any week if—

"(A) extended compensation would (but for this subsection) have been payable for such week pursuant to an interstate claim filed in any State under the interstate benefit payment plan, and

"(B) an extended benefit period is not in effect for such week in such State.

"(2) Paragraph (1) shall not apply with respect to the first 2 weeks for which extended compensation is payable (determined without regard to this subsection) pursuant to an interstate claim filed under the interstate benefit payment plan to the individual from the extended compensation account established for the benefit year.

"(3) Section 3304(a)(9)(A) of the Internal Revenue Code of 1954 shall not apply to any denial of compensation required under this subsection." 26 USC 3304.

(b) EFFECTIVE DATE.— 26 USC 3304 note.

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to weeks of unemployment beginning after October 1, 1980; except that such amendment shall not be a requirement of any State law under section 3304(a)(11) of the Internal Revenue Code of 1954 for any week which begins before June 1, 1981.

(2) SPECIAL RULE FOR CERTAIN STATES.—In the case of any State the legislature of which does not meet in a regular session which begins during calendar year 1981 and before April 1, 1981, paragraph (1) shall be applied by substituting "June 1, 1982" for "June 1, 1981".

Approved September 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS No. 96-869, pt. I (Comm. on Education and Labor), pt. II (Comm. on Ways and Means) and No. 96-1343 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 126 (1980):

May 21, 22, considered and passed House.

July 29, considered and passed Senate, amended, in lieu of S. 1076.

July 31, Aug. 1, 25, House concurred in Senate amendment with an amendment.

Aug. 26, Senate concurred in House amendment with amendments.

Aug. 28, House disagreed to Senate amendments.

Sept. 18, Senate agreed to conference report.

Sept. 19, House agreed to conference report.

Public Law 96-365
96th Congress

An Act

Sept. 26, 1980
[S. 1125]

To improve and expand the Federal crop insurance program, and for other purposes.

Federal Crop Insurance Act of 1980.
7 USC 1501 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Crop Insurance Act of 1980".

TITLE I—FEDERAL CROP INSURANCE PROGRAM

CAPITAL STOCK

Appropriation authorization.
7 USC 1504.

SEC. 101. (a) Effective October 1, 1980, section 504(a) of the Federal Crop Insurance Act is amended by striking out "$200,000,000" and inserting in lieu thereof "$500,000,000".

(b) Section 504 of the Federal Crop Insurance Act is amended by adding after subsection (c) a new subsection (d) as follows:

Receipts for payments, cancellation.

"(d) Within thirty days after the date of enactment of the Federal Crop Insurance Act of 1980, the Secretary of the Treasury shall cancel, without consideration, receipts for payments for or on account of the stock of the Federal Crop Insurance Corporation outstanding on such date of enactment and such receipts shall cease to be liabilities of the Corporation.".

BOARD OF DIRECTORS: MEMBERSHIP AND COMPENSATION

7 USC 1505.

SEC. 102. (a) Section 505(a) of the Federal Crop Insurance Act is amended by—

(1) amending the second sentence to read as follows: "The Board shall consist of the manager of the Corporation, the Under Secretary or Assistant Secretary of Agriculture responsible for the Federal crop insurance program, the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department of Agriculture, one person experienced in the crop insurance business who is not otherwise employed by the Federal Government, and three active farmers who are not otherwise employed by the Federal Government."; and

(2) adding at the end thereof a new sentence as follows: "The Secretary, in appointing the three active farmers who are not otherwise employed by the Federal Government, shall ensure that such members are policyholders and are from different geographic areas of the United States, in order that diverse agricultural interests in the United States are at all times represented on the Board.".

Vacancies.

(b) Section 505(b) of the Federal Crop Insurance Act is amended by striking out "three" wherever that word appears therein and inserting in lieu thereof "four".

(c) The second sentence of section 505(c) of the Federal Crop Insurance Act is amended to read as follows: "The Directors of the

Corporation who are not employed by the Federal Government shall be paid such compensation for their services as Directors as the Secretary of Agriculture shall determine, but such compensation shall not exceed the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5 of the United States Code when actually employed, and actual necessary traveling and subsistence expenses, or a per diem allowance in lieu of subsistence expenses, as authorized by section 5703 of title 5 of the United States Code for persons in Government service employed intermittently, when on the business of the Corporation away from their homes or regular places of business.". 5 USC 5332 note.

GENERAL POWERS FOR THE CORPORATION

SEC. 103. Section 506 of the Federal Crop Insurance Act is amended by— 7 USC 1506.

(1) in subsection (c), striking out "make contracts and";

(2) amending subsection (d) to read as follows:

"(d) subject to the provisions of section 508(c), may sue and be sued in its corporate name, but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Corporation or its property. The district courts of the United States, including the district courts of the District of Columbia and of any territory or possession, shall have exclusive original jurisdiction, without regard to the amount in controversy, of all suits brought by or against the Corporation. The Corporation may intervene in any court in any suit, action, or proceeding in which it has an interest. Any suit against the Corporation shall be brought in the District of Columbia, or in the district wherein the plaintiff resides or is engaged in business;"; *Post*, p. 1315.

(3) in subsection (f), striking out "free"; and

(4) at the end of subsection (j), striking out the period and inserting in lieu thereof "; and", and adding at the end of section 506 a new subsection (k) as follows:

"(k) may enter into and carry out contracts or agreements necessary in the conduct of its business, as determined by the Board. State and local laws or rules shall not apply to contracts or agreements of the Corporation or the parties thereto to the extent that such contracts or agreements provide that such laws or rules shall not apply, or to the extent that such laws or rules are inconsistent with such contracts or agreements.".

USE OF PRIVATE INSURANCE COMPANIES AND OTHER FEDERAL AGENCIES

SEC. 104. Section 507 of the Federal Crop Insurance Act is amended by— 7 USC 1507.

(1) amending subsection (c) to read as follows:

"(c) In the administration of this title, the Board shall, to the maximum extent possible, (1) establish or use committees or associations of producers and make payments to them to cover the administrative and program expenses, as determined by the Board, incurred by them in cooperating in carrying out this title, (2) contract with private insurance companies and reimburse such companies for the administrative and program expenses, as determined by the Board, incurred by them, under terms and provisions and rates of compensation consistent with those generally prevailing in the insurance industry, and (3) encourage the sale of Federal crop insurance

through licensed private insurance agents and brokers and give the insured the right to renew such insurance for successive terms through such agents and brokers, in which case the agent or broker shall be reasonably compensated from premiums paid by the insured for such sales and renewals recognizing the function of the agent or broker to provide continuing services while the insurance is in effect: *Provided,* That such compensation shall not be included in computations establishing premium rates. The Board shall provide such agents and brokers with indemnification, including costs and reasonable attorney fees, from the Corporation for errors or omissions on the part of the Corporation or its contractors for which the agent or broker is sued or held liable, except to the extent the agent or broker has caused the error or omission."; and

Indemnification.

(2) adding a new subsection (f) as follows:

"(f) The Board should use, to the maximum extent possible, the resources, data, boards, and the committees of (1) the Soil Conservation Service, in assisting the Board in the classification of land as to risk and production capability and in the development of acceptable conservation practices; (2) the Forest Service, in assisting the Board in the development of a timber insurance plan; (3) the Agricultural Stabilization and Conservation Service, in assisting the Board in the determination of individual producer yields and in serving as a local contact point for farmers where the Board deems necessary; and (4) other Federal agencies in any way the Board deems necessary in carrying out this title.".

FEDERAL CROP INSURANCE EXPANSION AND EXTENT OF COVERAGE

SEC. 105. Effective with respect to the 1981 and subsequent crops, subsection (a) of section 508 of the Federal Crop Insurance Act is amended by—

7 USC 1508.

(1) striking out all that follows the subsection designation down through the end of the sixth sentence, which begins, "Reinsurance for private insurance companies . . .", and inserting in lieu thereof the following: "If sufficient actuarial data are available, as determined by the Board, to insure producers of agricultural commodities grown in the United States under any plan or plans of insurance determined by the Board to be adapted to the agricultural commodity involved. Such insurance shall be against loss of the insured commodity due to unavoidable causes, including drought, flood, hail, wind, frost, winterkill, lightning, fire, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease, and such other unavoidable causes as may be determined by the Board.

Except in the case of tobacco, insurance shall not extend beyond the period the insured commodity is in the field. For the purpose of the foregoing sentence, in the case of aquacultural species, the term 'field' means the environment in which the commodity is produced.";

"Field."

(2) striking out the seventh sentence, which begins, "Any insurance offered against loss in yield . . .", and inserting in lieu thereof the following: "Any insurance offered against loss in yield shall make available to producers protection against loss in yield that covers 75 per centum of the recorded or appraised average yield of the commodity on the insured farm for a representative period (subject to such adjustments as the Board may prescribe to the end that the average yields fixed for farms in the same area, which are subject to the same conditions, may be fair and just). In addition, the Corporation shall make availa-

ble to producers lesser levels of yield coverage, including a level of coverage at 50 per centum of the recorded or appraised average yield, as adjusted. The Corporation shall not make available to producers any level of coverage in excess of 75 per centum of the recorded or appraised average yield, as adjusted. One of the price elections offered shall approximate (but be not less than 90 per centum of) the projected market price for the commodity involved, as determined by the Board."; and

(3) striking out the ninth sentence, which begins "Counties selected by the Board . . .".

HAIL AND FIRE INSURANCE CREDIT, PREMIUM SUBSIDY, REINSURANCE, AND SPECIFIC RISK PROTECTION

SEC. 106. Effective with respect to the 1981 and subsequent crops, section 508 of the Federal Crop Insurance Act is amended by— 7 USC 1508.

(1) amending subsection (b) to read as follows:

"(b)(1) To fix adequate premiums for insurance at such rates as the Board deems actuarially sufficient to cover claims for losses on such insurance and to establish as expeditiously as possible a reasonable reserve against unforeseen losses.

"(2) The producer may elect to have deleted from the Corporation's policy of insurance the coverage against losses caused by hail and fire and to obtain coverage therefor from other than a Federal insurer. Upon notice in writing of such election to the Corporation and submission of evidence of such substitute coverage on the commodities insured by the Corporation in a dollar amount not less than that provided by the Corporation's policy of insurance, the producer's premium, as calculated by the Corporation, shall be reduced by an amount equal to 40 per centum of the prevailing average county hail and fire insurance premium charged by other than Federal insurers for the dollar amount of the coverage provided by the Corporation's policy of insurance, as determined by the Corporation: *Provided,* That the producer's premium shall not be reduced by less than 15 per centum nor more than 30 per centum: *Provided further,* That, notwithstanding the preceding provisions of this sentence, the producer's premium shall not be reduced by an amount that exceeds the premium for the substitute coverage of a dollar amount equal to that provided by the Corporation's policy of insurance. Any premium reduction in excess of the amount of premium that the Corporation determines would have been necessary for the Corporation to charge in order to cover indemnities actually paid by other than Federal insurers for hail and fire coverage deleted from the Corporation's policy of insurance shall be regarded as premium paid by the Corporation. Premium reduction.

"(3) For the purpose of encouraging the broadest possible participation in the insurance program, 30 per centum of each producer's premium (reduced, where applicable, for hail and fire exclusion, or State or State agency subsidy), as calculated by the Corporation on any coverage under the Corporation's policy of insurance up to a maximum of 65 per centum of the recorded or appraised average yield, as adjusted, shall be paid by the Corporation.

"(4) The producer's premium, or share thereof, shall be collected at such time or times, and shall be secured in such manner, as the Board may determine. Premium collection.

"(5) The Board may enter into agreements with any State or agency of a State under which such State or agency may pay to the State agreements.

Corporation additional premium subsidy to further reduce the portion of the premium paid by farmers in such State.

Partial payment.

"(6) With respect to any crop insurance covering the 1981 crop of wheat, feed grains, upland cotton, or rice, a producer shall not be eligible for a partial payment of the premium by the Corporation under paragraph (3) of this subsection for such commodity if the producer elects to make the acreage of the commodity eligible for payments under the disaster payment provisions for wheat, feed grains, upland cotton, and rice of the Agricultural Act of 1949 (as amended effective for the 1981 crops): *Provided further,* That a producer who is not eligible for a partial payment of premium by the Corporation under this subsection because of the producer's election to make the acreage of the commodity involved eligible for disaster payments in 1981 shall remain eligible to purchase Federal crop insurance on the 1981 acreage of the commodity at the full cost of the premium.";

7 USC 1421 note.

(2) amending subsection (c) to read as follows:

Claims.

"(c) To adjust and pay claims for losses under rules prescribed by the Board. In the event that any claim for indemnity under the provisions of this title is denied by the Corporation, an action on such claim may be brought against the Corporation in the United States district court for the district in which the insured farm is located: *Provided,* That no suit on such claim may be allowed under this section unless it shall have been brought within one year after the date when notice of denial of the claim is mailed to and received by the claimant.";

(3) striking out subsection (d), and redesignating subsection (e) as subsection (d); and

(4) striking out subsection (f) and adding new subsections (e), (f), (g), and (h) as follows:

Reinsurance.

"(e) And directed, notwithstanding any other provision of this title, to provide reinsurance, to the maximum extent practicable, upon such terms and conditions as the Board may determine to be consistent with subsections (a) and (b) of this section and sound reinsurance principles, to insurers including private insurance companies or pools of such companies, reinsurers of such companies, or State or local governmental entities, including any political subdivisions thereof, that insure producers of any agricultural commodity under a plan or plans acceptable to the Corporation. A test program of such reinsurance shall be made available, to the maximum extent possible, to begin not later than with the 1982 crops. In order to provide equity among producers purchasing crop insurance, whenever the Corporation provides reinsurance under this subsection to any such insurers, the Corporation shall pay a portion of each producer's premium for such insurance so reinsured. Each such payment shall cover the same per centum of the premium, and be subject to the same restrictions regarding payments of premiums for crop insurance on commodities, as provided in subsection (b) of this section for Federal partial payments of Federal crop insurance premiums. The Corporation shall also pay operating and administrative costs to insurers of policies on which the Corporation provides reinsurance to the same extent that such costs are covered by the Corporation on the Corporation's policies of insurance. Insurers of policies on which reinsurance is provided shall make use of licensed private insurance agents and brokers on the same basis as provided for policies of the Corporation under section 507(c)(3) of this title, except that the provisions for compensating agents and brokers from premiums paid by the insured shall not apply.

Test program.

Operating and adminstrative costs.

Ante, p. 1313.

"(f) To provide insurance or reinsurance for production of agricultural commodities in the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands in the same manner as provided in this section for production of agricultural commodities in the United States.

"(g) To offer specific risk protection programs including, but not limited to, prevented planting, wildlife depredation, tree damage and disease, and insect infestation programs under such terms and conditions as the Board may determine: *Provided,* That no program may be undertaken if insurance for the specific risk involved is generally available from private companies.

"(h) To include appreciation (including interest charges) as an insurable cost of production in calculating premiums and indemnities in connection with insurance on yields of timber and forests.".

RESEARCH, SURVEYS, AND PILOT PROGRAMS

SEC. 107. (a) Section 506(h) of the Federal Crop Insurance Act is amended to read as follows: 7 USC 1506.

"(h) shall assemble data for the purpose of establishing sound actuarial bases for insurance on agricultural commodities;".

(b) Section 508 of the Federal Crop Insurance Act is amended by adding a new subsection (i) as follows: *Ante,* p. 1315.

"(i) To conduct research, surveys, pilot programs, and investigations relating to crop insurance and agriculture-related risks and losses including, but not limited to, insurance on losses involving reduced forage on rangeland caused by drought and by insect infestation, livestock poisoning and disease, destruction of bees due to the use of pesticides, and other unique problems of special risk related to, but not limited to, fruits, nuts, vegetables, aquacultural species, forest industry needs (including appreciation), and other agricultural products as determined by the Board: *Provided,* That no such programs may be undertaken if insurance protection against such risks is generally available from private companies. Beginning in the 1981 crop year and ending after the 1985 crop year, the Corporation shall also conduct a pilot program of individual risk underwriting of crop insurance in not less than twenty-five counties. Under this pilot program, to the extent that appropriate yield data are available, the Corporation shall make available to producers in such counties crop insurance under this title based on personalized rates and with guarantees determined from the producer's actual yield history. After the completion of any pilot program under this subsection, the Corporation shall evaluate the pilot program and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report of the operations of the pilot program, including its evaluation of the pilot program and its recommendations with respect to implementing the program on a national basis.". Crop insurance. Evaluation, report to congressional committees.

DELETION OF AUTHORITY FOR ADVISORY COMMITTEES

SEC. 108. Section 515 of the Federal Crop Insurance Act is repealed. Repeal. 7 USC 1515.

APPROPRIATIONS FOR OPERATING AND ADMINISTRATIVE EXPENSES

SEC. 109. Effective October 1, 1980, section 516(a) of the Federal Crop Insurance Act is amended to read as follows: 7 USC 1516.

Appropriation authorization.
7 USC 1516.

"SEC. 516. (a) There are hereby authorized to be appropriated such sums as may be necessary to cover the operating and administrative costs of the Corporation, including agents' and brokers' commissions, interest on Treasury notes and other obligations, partial premium payments by the Corporation, and the direct cost of loss adjusters for crop inspections and loss adjustments, which shall be allotted to the Corporation in such amounts and at such time or times as the Secretary of Agriculture may determine. Expenses in connection with agents' and brokers' commissions, interest on Treasury notes and other obligations, partial premium payments by the Corporation, and the direct cost of loss adjusters for crop inspections and loss adjustments may be paid from premium income and other Corporation funds, and any such payments may be restored by appropriations in subsequent years. The Corporation may not employ more than two hundred additional permanent full-time employees, in excess of the number of full-time employees employed by the Corporation on the effective date of the Federal Crop Insurance Act of 1980, to implement the provisions of this title, except in the case of, and only during, emergencies.".

Additional employees.

Ante, p. 1312.

EMERGENCY FUNDING IN CASE OF INSUFFICIENCY

7 USC 1516.

SEC. 110. Effective October 1, 1980, section 516 of the Federal Crop Insurance Act is amended by adding new subsections (c) and (d) as follows:

Indemnification.

"(c)(1) If at any time the moneys available to the Federal Crop Insurance Corporation are insufficient to enable the Corporation to discharge its responsibility of indemnifying producers for losses under this title, the Corporation may, upon majority vote of its Board of Directors, request the Secretary of Agriculture to use the funds of the Commodity Credit Corporation to make timely payment of indemnities to producers. Upon receiving such a request, the Secretary of Agriculture may use the funds of the Commodity Credit Corporation to meet obligations to indemnify producers for losses under this title. The Secretary's authority to use the funds of the Commodity Credit Corporation for the purposes of this subsection shall expire one year after the date on which the authority is first used.

"(2) The authority to make commitments under this subsection, in excess of funds available to the Commodity Credit Corporation under section 4 of the Commodity Credit Corporation Charter Act and the Act of October 11, 1978 (92 Stat. 1073), shall be effective for any fiscal year only to the extent provided by appropriation Acts.

15 USC 714b.

Notes or obligations, issuance.

"(d) Except as provided in subsection (c), if at any time the moneys available to the Federal Crop Insurance Corporation are insufficient to enable the Corporation to discharge its responsibility of indemnifying producers for losses under this title, the Corporation may issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Corporation from moneys available from premiums or the issuance of capital stock under section 504 of this title. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes

Redemption.

Ante, p. 1312.

Interest rate determination.

or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by the Secretary of the Treasury under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. The borrowing authority provided for in this subsection may be exercised by the Corporation only to such extent or in such amounts as are provided in appropriation Acts.". 31 USC 774.

AGRICULTURAL COMMODITY

SEC. 111. Section 518 of the Federal Crop Insurance Act is amended to read as follows: 7 USC 1518.

"SEC. 518. 'Agricultural commodity', as used in this title, means wheat, cotton, flax, corn, dry beans, oats, barley, rye, tobacco, rice, peanuts, soybeans, sugar beets, sugar cane, tomatoes, grain sorghum, sunflowers, raisins, oranges, sweet corn, dry peas, freezing and canning peas, forage, apples, grapes, potatoes, timber and forests, nursery crops, citrus, and other fruits and vegetables, nuts, tame hay, native grass, aquacultural species (including, but not limited to, any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant propagated or reared in a controlled or selected environment), or any other agricultural commodity, excluding livestock and stored grain, determined by the Board under subsection (a) or (i) of section 508 of this title, or any one or more of such commodities, as the context may indicate.". *Ante*, pp. 1314, 1317.

EFFECTIVE DATE

SEC. 112. Except as otherwise provided in this Act, the provisions of this Act amending the Federal Crop Insurance Act shall become effective on the date of enactment of this Act. 7 USC 1504 note. 7 USC 1501.

TITLE II—DISASTER PAYMENTS

PREVENTED PLANTING DISASTER AND FARM DISASTER PAYMENTS FOR THE 1981 CROPS

SEC. 201. (a) Section 101(h)(4) of the Agricultural Act of 1949, as added effective for the 1978 through 1981 crops of rice, is amended by— 7 USC 1441.

(1) in subparagraph (B), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of rice," and inserting in lieu thereof "Except as otherwise provided in subparagraph (D) of this paragraph, effective with respect to the 1978 through 1981 crops of rice,";

(2) in subparagraph (C), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of rice," and inserting in lieu thereof "Except as otherwise provided in subparagraph (D) of this paragraph, effective with respect to the 1978 through 1981 crops of rice,"; and

(3) redesignating subparagraph (D) as subparagraph (E) and inserting immediately after subparagraph (C) a new subparagraph (D) as follows:

"(D) With respect to the 1981 crop of rice, cooperators on a farm shall not be eligible for disaster payments under this paragraph if the cooperators elect to cover the rice acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act.".

Ante, p. 1315.

7 USC 1444.

(b) Section 103(f)(5) of the Agricultural Act of 1949, as added effective for the 1978 through 1981 crops of upland cotton, is amended by—

(1) in subparagraph (A), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of upland cotton," and inserting in lieu thereof "Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of upland cotton,";

(2) in subparagraph (B), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of upland cotton," and inserting in lieu thereof "Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of upland cotton,"; and

(3) adding at the end thereof a new subparagraph (C) as follows:

"(C) With respect to the 1981 crop of upland cotton, producers on a farm shall not be eligible for disaster payments under this paragraph if the producers elect to cover the upland cotton acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act.".

7 USC 1444c.

(c) Section 105A(b)(2) of the Agricultural Act of 1949, as added effective for the 1977 through 1981 crops of feed grains, is amended by—

(1) in subparagraph (A), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of feed grains," and inserting in lieu thereof "Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of feed grains,";

(2) in subparagraph (B), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of feed grains," and inserting in lieu thereof "Except as otherwise provided in subparagaph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of feed grains,"; and

(3) redesignating subparagraph (C) as subparagraph (D) and inserting immediately after subparagraph (B) a new subparagraph (C) as follows:

"(C) With respect to the 1981 crop of feed grains, producers on a farm shall not be eligible for disaster payments under this paragraph if the producers elect to cover the feed grain acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act.".

7 USC 1445b.

(d) Section 107A(b)(2) of the Agricultural Act of 1949, as added effective for the 1977 through 1981 crops of wheat, is amended by—

(1) in subparagraph (A), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of wheat," and inserting in lieu thereof "Except as otherwise provided in subparagraph

(C) of this paragraph, effective with respect to the 1978 through 1981 crops of wheat,";

(2) in subparagraph (B), striking out "Effective only with respect to the 1978, 1979, and 1980 crops of wheat," and inserting in lieu thereof "Except as otherwise provided in subparagraph (C) of this paragraph, effective with respect to the 1978 through 1981 crops of wheat,"; and

(3) redesignating subparagraph (C) as subparagraph (D) and inserting immediately after subparagraph (B) a new subparagraph (C), as follows:

"(C) With respect to the 1981 crop of wheat, producers on a farm shall not be eligible for disaster payments under this paragraph if the producers elect to cover the wheat acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act.". *Ante*, p. 1315.

NOTICE TO PRODUCERS OF RIGHT TO ELECT SUBSIDIZED CROP INSURANCE OR DISASTER PAYMENTS ON THE 1981 CROPS

SEC. 202. The Secretary of Agriculture, after consultation with the Board of Directors of the Federal Crop Insurance Corporation, shall, at least sixty days prior to the beginning of the planting of the 1981 crops of wheat, feed grains, upland cotton, and rice, or thirty days after the date of enactment of this Act, whichever is the later, notify producers of those commodities of their right to elect, with respect to the 1981 crop, between (1) declaring the farm acreage of the respective commodity eligible for disaster payments under the Agricultural Act of 1949, or (2) covering such farm acreage with crop insurance, part of the premium for which is paid by the Federal Crop Insurance Corporation under the provisions of section 508(b)(3) or 508(e) of the Federal Crop Insurance Act. Such notice shall include a statement of the percent of crop insurance premium that will be paid by the Corporation. 7 USC 1508 note. 7 USC 1421 note.

Approved September 26, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-430 accompanying H.R. 4119 (Comm. on Agriculture) and No. 96-1272 (Comm. of Conference).
SENATE REPORT No. 96-254 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 7, 10, considered and passed Senate.
Vol. 126 (1980): Feb. 13, H.R. 4119 considered and passed House; passage vacated and S. 1125, amended, passed in lieu.
Sept. 8, Senate agreed to conference report.
Sept. 17, House agreed to conference report.

Public Law 96-366
96th Congress

An Act

Sept. 29, 1980
[H.R. 3292]

To assist the States in developing fish and wildlife conservation plans and actions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fish and Wildlife Conservation Act of 1980".

Fish and Wildlife Conservation Act of 1980.
16 USC 2901 note.

SEC. 2. DECLARATION OF FINDINGS AND PURPOSE.

16 USC 2901.

(a) FINDINGS.—The Congress finds and declares the following:

(1) Fish and wildlife are of ecological, educational, esthetic, cultural, recreational, economic, and scientific value to the Nation.

(2) The improved conservation and management of fish and wildlife, particularly nongame fish and wildlife, will assist in restoring and maintaining fish and wildlife and in assuring a productive and more esthetically pleasing environment for all citizens.

(3) Many citizens, particularly those residing in urban areas, have insufficient opportunity to participate in recreational and other programs designed to foster human interaction with fish and wildlife and thereby are unable to have a greater appreciation and awareness of the environment.

(4) Historically, fish and wildlife conservation programs have been focused on the more recreationally and commercially important species within any particular ecosystem. As a consequence such programs have been largely financed by hunting and fishing license revenues or excise taxes on certain hunting and fishing equipment. These traditional financing mechanisms are neither adequate nor fully appropriate to meet the conservation needs of nongame fish and wildlife.

(5) Each State should be encouraged to develop, revise, and implement, in consultation with appropriate Federal, State, and local and regional agencies, a plan for the conservation of fish and wildlife, particularly those species which are indigenous to the State.

(b) PURPOSE.—It is the purpose of this Act—

(1) to provide financial and technical assistance to the States for the development, revision, and implementation of conservation plans and programs for nongame fish and wildlife; and

(2) to encourage all Federal departments and agencies to utilize their statutory and administrative authority, to the maximum extent practicable and consistent with each agency's statutory responsibilities, to conserve and to promote conservation of nongame fish and wildlife and their habitats, in furtherance of the provisions of this Act.

SEC. 3. DEFINITIONS. 16 USC 2902.

As used in this Act—

(1) The term "approved conservation plan" means the conservation plan of a State approved by the Secretary pursuant to section 5(a) of this Act.

(2) The term "conservation plan" means a plan developed by a State for the conservation of fish and wildlife which meets the requirements set forth in section 4.

(3) The terms "conserve", "conserving", and "conservation" mean to use, and the use of, such methods and procedures which are necessary to ensure, to the maximum extent practicable, the well being and enhancement of fish and wildlife and their habitats for the ecological, educational, esthetic, cultural, recreational, and scientific enrichment of the public. Such methods and procedures may include, but are not limited to, any activity associated with scientific resources management, such as research, census, law enforcement, habitat acquisition, maintenance, development, information, education, population manipulation, propagation, technical assistance to private landowners, live trapping, and transplantation.

(4) The term "designated State agency" means the commission, department, division, or other agency of a State which has primary legal authority for the conservation of fish and wildlife. If any State has placed such authority in more than one agency, such term means each such agency acting with respect to its assigned responsibilities but such agencies, for purposes of this Act, shall submit a single conservation plan.

(5) The term "fish and wildlife" means wild vertebrate animals that are in an unconfined state, including, but not limited to, nongame fish and wildlife.

(6) The term "nongame fish and wildlife" means wild vertebrate animals that are in an unconfined state and that—

(A) are not ordinarily taken for sport, fur, or food, except that if under applicable State law, any of such animals may be taken for sport, fur, or food in some, but not all, areas of the State, any of such animals within any area of the State in which such taking is not permitted may be deemed to be nongame fish and wildlife;

(B) are not listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531-1543); and

(C) are not marine mammals within the meaning of section 3(5) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(5)).

Such term does not include any domesticated species that has reverted to a feral existence.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

SEC. 4. CONSERVATION PLANS. 16 USC 2903.

The conservation plan for any State must—

(1) provide for the vesting in the designated State agency of the overall responsibility for the development and revision of the conservation plan;

(2) provide for an inventory of the nongame fish and wildlife, and such other fish and wildlife as the designated State agency deems appropriate, that are within the State and are valued for ecological, educational, esthetic, cultural, recreational, economic, or scientific benefits by the public;

(3) with respect to those species identified under paragraph (2) (hereinafter in this section referred to as "plan species"), provide for—

(A) the determination of the size, range, and distribution of their populations, and

(B) the identification of the extent, condition, and location of their significant habitats;

(4) identify the significant problems which may adversely affect the plan species and their significant habitats;

(5) determine those actions which should be taken to conserve the plan species and their significant habitats;

(6) establish priorities for implementing the conservation actions determined under paragraph (5);

(7) provide for the monitoring, on a regular basis, of the plan species and the effectiveness of the conservation actions determined under paragraph (5);

(8) provide for plan review and revision, if appropriate, at intervals of not more than 3 years;

Public views.

(9) ensure that the public be given opportunity to make its views known and considered during the development, revision, and implementation of the plan; and

Consultation.

(10) provide that the designated State agency consult, as appropriate, with Federal agencies, and other State agencies during the development, revision, and implementation of the plan, in order to minimize duplication of efforts and to ensure that the best information is available to all such agencies.

16 USC 2904.

SEC. 5. APPROVAL OF CONSERVATION PLANS AND CERTAIN NONGAME FISH AND WILDLIFE CONSERVATION ACTIONS.

(a) APPROVAL BY SECRETARY OF PLANS.—(1) Any State may apply to the Secretary for approval of a conservation plan.

Regulations.

(2) Applications for the approval of conservation plans shall be made and reviewed by the Secretary in such manner as the Secretary shall by regulation prescribe.

(3) As soon as practicable, but not later than 180 days, after the date on which a State submits (or resubmits in the case of prior disapproval) an application for the approval of a conservation plan the Secretary shall—

(A) approve the conservation plan, and designate it as an approved conservation plan, if he determines that the plan—

(i) meets the requirements set forth in section 4, and

(ii) is substantial in character and design; or

(B) disapprove the conservation plan if he determines that—

(i) the plan does not meet the requirements set forth in section 4, or

(ii) to implement any part of the plan on the basis of the specifications, determinations, identifications, or priorities therein would threaten the natural stability and continued viability of any of the plan species concerned.

Written disapproval statement.

If the Secretary disapproves a plan, he shall give the State concerned a written statement of the reasons for disapproval and provide the State opportunity for consultation with respect to deficiencies in the plan and the modifications required for approval.

(b) EFFECT OF APPROVAL OF PLANS.—If the Secretary approves the conservation plan of any State under subsection (a)—

(1) that portion of such plan that pertains to wildlife conservation shall be deemed to be an approved plan for purposes of section 6(a)(1) of the Act of September 2, 1937 (16 U.S.C. 669e(a)(1)), commonly referred to as the Pittman-Robertson Wildlife Restoration Act; and

(2) that portion of such plan that pertains to fish conservation shall be deemed to be an approved plan for the purposes of section 6(a)(1) of the Act of August 9, 1950 (16 U.S.C. 777c(a)(1)), commonly referred to as the Dingell-Johnson Sport Fish Restoration Act. 16 USC 777e.

(c) CONSERVATION ACTIONS.—If the Secretary approves the conservation plan of any State under subsection (a), those conservation actions set forth in the plan which pertain to nongame fish and wildlife shall be deemed to be eligible as nongame fish and wildlife projects for which reimbursement is available under section 6.

(d) NONGAME CONSERVATION ACTIONS IN THE ABSENCE OF AN APPROVED PLAN.—In the absence of an approved conservation plan, and on a showing of need by the State, the Secretary may deem certain conservation actions to be nongame fish and wildlife projects for which reimbursement is available under section 6(a)(3) if they—

(1) are consistent with such of the requirements set forth in section 4 as may be appropriate, including, but not limited to, the requirements in paragraphs (3), (4), (5), and (7) of such section; and

(2) are substantial in character and design.

SEC. 6. REIMBURSEMENT OF STATE COSTS FOR DEVELOPING, REVISING, AND IMPLEMENTING CONSERVATION PLANS AND IMPLEMENTING CERTAIN NONGAME FISH AND WILDLIFE CONSERVATION ACTIONS. 16 USC 2905.

(a) IN GENERAL.—Any State may apply to the Secretary for reimbursement under this section for costs incurred by the State for the following:

(1) The development of a conservation plan.

(2) The revision of an approved conservation plan.

(3) The implementation of nongame fish and wildlife conservation actions approved under section 5 (c) and (d).

(4) The implementation of conservation actions specified in an approved conservation plan.

(5) The coordination, consolidation, or implementation of the conservation plan or conservation actions approved under this Act with other related plans or actions developed pursuant to the Act of September 2, 1937 (16 U.S.C. 669e(a)(1)), commonly referred to as the Pittman-Robertson Wildlife Restoration Act and the Act of August 9, 1950 (16 U.S.C. 777c(a)(1)), commonly referred to as the Dingell-Johnson Sport Fish Restoration Act. 16 USC 777e.

(b) APPLICATIONS.—Application for reimbursement under this section shall be made in such manner as the Secretary shall by regulation prescribe and shall contain such information as is necessary to enable the Secretary to determine whether the State meets the eligibility requirements set forth in subsection (c).

(c) ELIGIBILITY.—No State is eligible for reimbursement under this section unless the Secretary finds that the costs, for which reimbursement is sought, have been incurred by the State as follows:

(1) If reimbursement is sought under subsection (a)(1), such costs have been incurred in developing a conservation plan that meets the requirements set forth in section 4.

(2) If reimbursement is sought under subsection (a)(2), such costs have been incurred in revising the plan in a manner consistent with such requirements.

(3) If reimbursement is sought under subsection (a)(3), such costs have been incurred in implementing the conservation actions as approved by the Secretary.

(4) If reimbursement is sought under subsection (a)(4), such costs have been incurred in implementing conservation actions specified in, and in a manner consistent with, the approved conservation plan.

(5) If reimbursement is sought under subsection (a)(5), such costs have been incurred in consolidating, coordinating or implementing conservation plans and actions approved under this Act with approved plans and actions under the Act of August 9, 1950 (16 U.S.C. 777c(a)(1)), commonly referred to as the Dingell-Johnson Sport Fish Restoration Act and the Act of September 2, 1937 (16 U.S.C. 669e(a)(1)), commonly referred to as the Pittman-Robertson Wildlife Restoration Act in a manner consistent with sections 2 and 4 of this Act.

16 USC 777e.

(d) REIMBURSEMENT.—Subject to the limitations in subsection (c) and the terms and conditions imposed under section 7, and to the availability of funds appropriated under section 11, the Secretary shall reimburse each State which the Secretary finds to be eligible therefor under subsection (c).

(e) LIMITATIONS.—(1) The total amount of the reimbursement paid to any State under this section with respect to any fiscal year may not exceed the allocation available to the State under section 8 for such year.

(2) No reimbursement may be paid under this section to any State for any cost incurred by the State during any fiscal year—

(A) after September 30, 1991, in developing a conservation plan;

(B) after September 30, 1986, for costs incurred in implementing certain nongame fish and wildlife actions approved under section 5(d);

(C) in which less than 80 percent of the costs to be reimbursed are for the principal benefit of nongame fish and wildlife or the users of nongame fish and wildlife;

(D) in implementing an approved conservation plan, unless the cost was incurred in implementing actions approved under section 5 (c) or (d);

(E) in implementing an approved conservation plan covering only nongame fish and wildlife, or any nongame fish and wildlife conservation action approved under section 5 (c) or (d), to the extent that more than 10 percent of such costs are paid for with moneys collected during such year by the State—

(i) from the sale of hunting, fishing, and trapping licenses, and

(ii) as penalties (including forfeitures) for violations of the hunting, fishing, and trapping laws of the State; or

(F) in implementing an approved conservation plan or any nongame fish and wildlife conservation action approved under section 5 (c) or (d), to the extent that—

(i) more than 10 percent of such costs are applied for purposes of conservation law enforcement under any such plan or action, and

(ii) more than 10 percent of such costs in any such year are accounted for by personal service or other inkind contributions.

(3) The amount of the reimbursement paid to any State under this section with respect to any fiscal year—

(A) may not exceed 75 percent for the development of a conservation plan except that during fiscal years 1982, 1983, and 1984 such amount shall not exceed 90 percent;

(B) for the implementation of nongame fish and wildlife conservation actions approved under section 5 (c) or (d), may not exceed 75 percent of the cost of implementing the action during such fiscal year, except that if such action is undertaken by two or more States such amount shall not exceed 90 percent;

(C) during and after the fiscal year in which the conservation plan of the State is approved under section 5(a), may not exceed 75 percent of the cost of implementing and revising the conservation plan during such fiscal year, or if two or more States cooperate in implementing or revising such plan, such cost shall not exceed 90 percent, and

(D) after September 30, 1991, may not exceed—

(i) 50 percent of the cost of implementing and revising the plan during the fiscal year, if the approved conservation plan of the State covers only nongame fish and wildlife, or

(ii) 75 percent of the cost of implementing and revising the plan during such fiscal year, if the approved conservation plan of the State coordinates and consolidates planning for fish and wildlife.

(4)(A) In computing the costs incurred by any State during any fiscal year in developing or revising conservation plans, in implementing approved conservation plans, or in implementing nongame fish and wildlife conservation actions approved under section 5 (c) or (d), for which reimbursement may be available under this section, the Secretary shall—

(i) take into account, in addition to each outlay, the value of inkind contributions and real and personal property received and applied during such year by the State for such purposes; and

(ii) not include any other Federal moneys received by such State and applied by it, directly or indirectly, for such purposes.

(B) For purposes of subparagraph (A), inkind contributions may be in the form of, but are not limited to, personal services rendered by volunteers in carrying out surveys, censuses, and other scientific studies regarding fish and wildlife. The Secretary shall by regulation establish (i) the training, experience, and other qualifications which such volunteers must have in order for their services to be considered as inkind contributions; and (ii) the standards under which the Secretary will determine the value of inkind contributions and real and personal property for purposes of subparagraph (A).

(C) Any valuation determination made by the Secretary for purposes of this paragraph shall be final and conclusive.

SEC. 7. TERMS AND CONDITIONS OF REIMBURSEMENT. 16 USC 2906.

Reimbursements made to the States under section 6 shall be subject to such terms and conditions as the Secretary shall by regulation prescribe as being necessary or appropriate to protect the interests of the United States. Such terms and conditions shall include, but not be limited to, the following:

(1) Each State and each designated State agency shall keep such records as the Secretary shall require as being necessary or Recordkeeping.

appropriate for fully disclosing the amount and purposes of costs incurred by the State for which reimbursement under section 6 is, or may be, sought. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purposes of audit and examination, to such records.

Access to records.

Hearing.

(2) Upon a finding by the Secretary, after notice and opportunity for an agency hearing on the record, that any State has received reimbursement under section 6 for which it is not eligible, or has violated any term or condition imposed under this section, the State shall thereafter be ineligible to receive reimbursement under such section until restitution satisfactory to the Secretary is made, such violation ceases, or adverse effects resulting from such violation are remedied.

16 USC 2907.

SEC. 8. ALLOCATION OF FUNDS FOR ADMINISTRATION AND REIMBURSEMENT OF STATES.

(a) IN GENERAL.—The total amount appropriated pursuant to section 11 for any fiscal year shall be available for administration and for allocation among the States as provided in this section.

(b) ALLOCATION FORMULA.—Of the total amount appropriated for any fiscal year pursuant to section 11—

(1) the Secretary shall deduct so much, but not to exceed 8 percent thereof, as may be necessary for administering during such fiscal year the provisions of this Act relating to the purposes for which so appropriated;

(2) less the deduction under paragraph (1), the Secretary shall allocate—

(A) for the District of Columbia and the Commonwealth of Puerto Rico each a sum equal to not more than one-half of 1 percent of such amount; and

(B) for Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands each a sum equal to not more than one-sixth of 1 percent of such amount; and

(3) less the deduction under paragraph (1) and the sums allocated under paragraph (2), the Secretary shall allocate for each of the States (other than those provided for in paragraph (2)) a sum—

(A) one-third of which is based on the ratio to which the area of such State bears to the total area of all such States, and

(B) two-thirds of which is based on the ratio to which the population of such State bears to the total population of all such States,

except all sums allocated under this paragraph shall be adjusted equitably so that no State shall be allocated a sum which is less than one-half of 1 percent of the amount available for allocation under this paragraph for any fiscal year or more than 5 percent of such amount.

(c) TREATMENT OF AMOUNTS ALLOCATED BUT NOT USED FOR ANY FISCAL YEAR.—(1) That portion of any amount deducted by the Secretary under subsection (b)(1) for administrative purposes for any fiscal year and not expended during such fiscal year shall remain available for administrative purposes until the close of the next succeeding fiscal year and if not obligated or expended by the close of such succeeding fiscal year shall be available for disbursement by the Secretary without regard to subsection (b), to the States to carry out the purposes of this Act.

(2) That portion of any amount allocated to any State under subsection (b) (2) or (3) for any fiscal year and not disbursed to the State for such fiscal years under section 6 shall remain available for disbursement to the State under such section for the next succeeding fiscal year and if not disbursed for such succeeding fiscal year shall be available for disbursement by the Secretary, without regard to subsection (b), to the States to carry out the purposes of this Act.

SEC. 9. OTHER FEDERAL ASSISTANCE AND ACTIONS. 16 USC 2908.

The Secretary and the chief executive officer of any other appropriate Federal department or agency may loan to any State such personnel and equipment of the department or agency, share such scientific or other appropriate information, and provide such other assistance as the Secretary or officer determines appropriate for purposes of assisting any State to develop or revise conservation plans.

SEC. 10. DISCLAIMERS. 16 USC 2909.

Nothing in this Act shall be construed as affecting—

(1) the authority, jurisdiction, or responsibility of the States to manage, control, or regulate fish and resident wildlife under State law;

(2) any requirement under State law that lands, waters, and interests therein may only be acquired for conservation purposes if the owner thereof is a willing seller; and

(3) the authority of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468-1469; 7 U.S.C. 426-426b).

SEC. 11. AUTHORIZATION OF APPROPRIATIONS. 16 USC 2910.

There are authorized to be appropriated for purposes of making reimbursements under section 6 to States for the development and implementation of conservation plans and for administration of this Act under section 8 not to exceed $5,000,000 for each of fiscal years 1982, 1983, 1984, and 1985.

16 USC 2911.

SEC. 12. STUDY.

The Director of the United States Fish and Wildlife Service, in consultation with affected parties, shall conduct, out of funds available for the administration of this Act a comprehensive study to determine the most equitable and effective mechanism for funding State conservation plans and actions under this Act, including, but not limited to, funding by means of an excise tax on appropriate items. On or before the expiration of the 30-month period following the date of enactment of this Act, the Director shall report to the Committee on Environment and Public Works of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives the results of such study, together with his recommendations with respect thereto.

Report to congressional committees.

Approved September 29, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-168 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-768 accompanying S. 2181 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 125 (1979): July 9, considered and passed House.
Vol. 126 (1980): May 22, S. 2181 considered and passed Senate.
Sept. 9, considered and passed Senate amended.
Sept. 16, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 40:
Sept. 30, Presidential statement.

Public Law 96-367
96th Congress

An Act

Making appropriations for energy and water development for the fiscal year ending September 30, 1981, and for other purposes.

Oct. 1, 1980
[H.R. 7590]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1981, for energy and water development, and for other purposes, namely:

Energy and Water Development Appropriation Act, 1981.

TITLE I—DEPARTMENT OF ENERGY

Operating Expenses

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For operating expenses of the Department of Energy necessary for energy supply, research and development activities and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), $2,268,754,000, to remain available until expended: *Provided,* That during fiscal year 1981 and within the resources and authority available, gross obligations for the principal amount of direct loans for the Hydropower Feasibility Studies Loan Program shall not exceed $10,000,000.

42 USC 7101 note.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For operating expenses of the Department of Energy necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), $1,009,040,000, to remain available until expended, of which $979,585,000 shall be derived from revenues received from the enrichment of uranium as authorized by section 111(h) of Public Law 93-438, as amended, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484): *Provided,* That within the limits of this appropriation, obligations may be incurred in advance of uranium enrichment revenue collections and shall be liquidated from such collections: *Provided further,* That this appropriation as well as all prior year balances are merged with the Uranium Supply and Enrichment Activities Plant and Capital Equipment Appropriation.

42 USC 5821.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For operating expenses of the Department of Energy necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), $378,015,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

For operating expenses of the Department of Energy necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), $2,890,623,000, to remain available until expended.

42 USC 7101 note.

DEPARTMENTAL ADMINISTRATION

OFFICE OF THE SECRETARY

For salaries and expenses for the Office of the Secretary of Energy necessary for administering the Department in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), and for official reception and representation expenses (not to exceed $35,000), $4,892,000.

GENERAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for general management, program administration, field office and program support functions and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the hire of passenger motor vehicles; $390,324,000, to remain available until expended, of which $184,267,000 shall be derived from moneys received as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484): *Provided,* That of the funds provided, $7,075,000 shall be for the Office of the Inspector General.

42 USC 5821.

PLANT AND CAPITAL EQUIPMENT

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For expenses of the Department of Energy in connection with the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 135 of which 131 are for replacement only) including 6 police-type vehicles; $373,287,000, and in addition, $10,000,000 for the construction or acquisition by the Secretary of Energy of capacity for the away from reactor storage of spent nuclear fuel from electric powerplants licensed under the Atomic Energy Act of 1954, all to remain available until expended.

42 USC 2011 note.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 20 for replace-

42 USC 7101 note.

ment only); $276,760,000, to remain available until expended, of which $274,460,000 shall be derived from revenues received from the enrichment of uranium as authorized by section 111(h) of Public Law 93-438, as amended, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484): *Provided,* That within the limits of this appropriation, obligations may be incurrred in advance of uranium enrichment revenue collections and shall be liquidated from such collections: *Provided further,* That this appropriation as well as all prior balances are merged with the Uranium Supply and Enrichment Activities Operating Expenses Appropriation. 42 USC 5821.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy in connection with the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 15 for replacement only); $126,400,000, to remain available until expended. 42 USC 7101 note.

ATOMIC ENERGY DEFENSE ACTIVITIES

For expenses of the Department of Energy in connection with the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 237 of which 212 are for replacement only) including 7 police-type vehicles; purchase of one aircraft for replacement only and acquisition of one additional aircraft at no cost through transfer from the Environmental Protection Agency; $600,005,000, to remain available until expended.

DEPARTMENTAL ADMINISTRATION

For expenses of the Department of Energy necessary for departmental administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, or for the purchase, construction or acquisition of capital equipment and other expenses incidental thereto, $38,065,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For engineering and economic investigations to promote the development and utilization of the water, power, and related resources of Alaska, and for necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $3,069,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

16 USC 838i.

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for construction of Southwest Oregon Service—Buckley-Summer Lake 500 KV transmission line and related facilities; and for official reception and representation expenses in an amount not to exceed $1,000. During fiscal year 1981 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $2,400,000.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $1,552,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $28,208,000, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

42 USC 7152.

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), other than the Upper Colorado River Storage Project, and for operation and maintenance of electric power transmission facilities, and power marketing including purchase power and wheeling, as authorized by law, including the purchase of passenger motor vehicles (not to exceed 17 of which 16 are for replacement only); $138,502,000, to remain available until expended, of which $124,200,000 shall be derived from the Department of the Interior Reclamation Fund and $600,000 shall be derived from the Colorado River Dam Fund for power marketing and transmission expenses of the Boulder Canyon Project.

COLORADO RIVER BASINS POWER MARKETING FUND, WESTERN AREA POWER ADMINISTRATION

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), for the Upper Colorado River Storage Project, as authorized by the Act of April 11, 1956, as amended (43 U.S.C. 620d), $3,548,000, to remain available until expended.

EMERGENCY FUND, WESTERN AREA POWER ADMINISTRATION

For the "Emergency Fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), to remain available until expended for the purposes specified in that Act, $200,000, to be derived from the Department of the Interior Reclamation Fund.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, $74,374,000. 42 USC 7101 note.

GEOTHERMAL RESOURCES DEVELOPMENT FUND

GEOTHERMAL LOAN GUARANTEE AND INTEREST ASSISTANCE PROGRAM

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development and Demonstration Act of 1974, as amended, $1,284,000, to remain available until expended: *Provided,* That the indebtedness guaranteed or committed to be guaranteed through funds provided by this or any other appropriation Act shall not exceed the aggregate of $500,000,000: *Provided further,* That no part of this or any other appropriation for the purpose of the Loan Guarantee and Interest Assistance Program shall be available for obligation for loan guarantees or interest assistance contracts entered into after September 2, 1984: *Provided further,* That notwithstanding provisions in Public Law 94-355; Public Law 95-96 and Public Law 96-69 to the contrary, such portion of the funds previously appropriated for the Geothermal Loan Guarantee and Interest Assistance Program as are required to secure outstanding loan guarantee obligations for those loans still in force as of September 2, 1984, may remain available for obligation after that date for payment of valid claims against the program for a period not in excess of thirty years. 30 USC 1101 note. 90 Stat. 889. 91 Stat. 797. 93 Stat. 437.

GENERAL PROVISIONS, DEPARTMENT OF ENERGY

SEC. 101. Appropriations to the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands, buildings, equipment and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State or private. Motor vehicles, aircraft. Contributions, acceptance.

SEC. 102. None of the funds appropriated for Department of Energy activities by this Act shall be available for any purpose related to the Waste Isolation Pilot Plant, N. Mex.

obtaining or issuing of a license by the Nuclear Regulatory Commission to operate the Waste Isolation Pilot Plant, Delaware Basin, Southeast New Mexico (Project 77-13-f), or for any purpose related to the storage at the Waste Isolation Pilot Plant project site, radioactive waste not resulting from the national defense activities of the Department of Energy.

Appropriation transfers, submittal to congressional committees.

SEC. 103. Not to exceed 5 per centum of any appropriations made available for the current fiscal year for Energy Supply, Research and Development Activities; Uranium Supply and Enrichment Activities; General Science and Research Activities; Atomic Energy Defense Activities; and Departmental Administration may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations and the appropriate authorizing committees of the House and Senate for approval.

TITLE II—DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

River and harbor, flood control, shore protection, study.

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, and when authorized by law, surveys and studies of projects prior to authorization for construction, $134,013,000 to remain available until expended: *Provided,* That none of the funds made available in this paragraph shall be obligated or expended for the study of Diversion of Lake Michigan at Chicago, if such study would result in adverse diminution of generation at hydroelectric facilities on the Niagara or St. Lawrence Rivers.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,585,742,000 to remain available until expended: *Provided,* That notwithstanding the provisions of Public Law 89-72 of the Federal Water Project Recreation Act of 1965 (79 Stat. 213, July 9, 1965), section 2A2, which limits the costs to be allocated to recreation or to fish and wildlife enhancement, the Corps of Engineers is directed to proceed with construction of site 20 of the Papio Creek Basin

16 USC 460*l*-13.

Nebraska plan of flood control improvements authorized by Public Law 94-83, the Flood Control Act of 1968: *Provided further,* That within available funds, $1,500,000 shall be for emergency beach nourishment at Mt. Baldy at the Indiana Dunes National Lakeshore and shall remain available until expended: *Provided further,* That funds appropriated for the Siuslaw River and Bar, Oregon navigation project, authorized by the Rivers and Harbors Act of 1910, as amended and modified, shall be used to design and construct further modifications to that project in accordance with the Report of the Division Engineer, North Pacific Division, dated 16 June 1976: *Provided further,* That the Chief of Engineers is directed to spend not more than $3,000,000 to provide beach nourishment to replenish the authorized project for beach erosion control at Oceanside, San Diego County, California, to its previous configuration from any materials that he may reasonably obtain for that purpose.

42 USC 4332.
82 Stat. 739.

36 Stat. 630.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), $232,519,000, to remain available until expended: *Provided,* That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist: *Provided further,* That none of the funds available to the Corps of Engineers' civil works program shall be available, except on a voluntary basis, for the acquisition of land or easements for the impoundment of floodwaters, or for the purpose of enlarging the four Yazoo Basin reservoirs, as determined by the Corps to be necessary because records of recent years show a more frequent incidence of high lake levels than originally calculated for the four lake projects in the Yazoo Basin, Mississippi, but this provision shall not apply to the acquisition of rights-of-way for a plan for flood protection for the town of Coffeeville which has the concurrence of community officials: *Provided further,* That funds in this Act for the Tensas Basin Red River Backwater Area, Louisiana project are to be used to construct features for flood control and allied purposes for Sicily Island and Below Red River including pumping stations and such other modifications of these or existing features in this area as the Chief of Engineers determines advisable, subject to non-Federal cooperation for each separable feature of such work at the time of construction as is required for work pursuant to the August 18, 1941, authorization.

55 Stat. 638.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; administration of laws pertaining to preservation of navigable waters; surveys and charting of northern and northwestern lakes and connecting waters; clearing

and straightening channels; and removal of obstructions to navigation; $902,605,000 to remain available until expended: *Provided,* That not to exceed $1,000,000 shall be available to reimburse non-Federal public interests for the costs of diking dredged disposal areas at Federal projects provided by non-Federal public interests and for funds contributed or advanced to the Secretary of the Army by non-Federal public interests for diking of dredged disposal areas at Federal projects, during the period October 1, 1978, to December 3, 1979, where the Secretary of the Army, acting through the Chief of Engineers, determines that such costs of diking or funds contributed or advanced and expended were not specifically required of such non-Federal public interests by project authorization: *Provided further,* That the authorized project dimensions for East Pass Channel, Florida, are hereby modified to provide a channel length of approximately 3,800 feet in lieu of 2,000 feet from the East Pass Channel into Old Pass Lagoon, with no changes in width and depth.

REVOLVING FUND

For design and construction of hopper dredges, and for the purchase of one aircraft, $43,225,000, to remain available until expended: *Provided,* That approximately $8,500,000 of this amount shall be used for the purchase of one aircraft for replacement of the existing aircraft of the Chief of Engineers.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors and the Coastal Engineering Research Center; commercial statistics; and miscellaneous investigations; $81,030,000.

SPECIAL RECREATION USE FEES

For construction, operation, and maintenance of outdoor recreation facilities, including collection of special recreation use fees, to remain available until expended, $5,000,000, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l).

16 USC 460*l*–4 note.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by 5 U.S.C. 4110, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901-5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; not to exceed $2,000 for official reception and representation expenses; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 221 of which 216 shall be for replacement only) and hire of passenger motor vehicles: *Provided,* That the total accrued expenditures of the capital investment program of the revolving fund shall not exceed $150,000,000 in fiscal year 1981.

GENERAL PROVISION

SEC. 201. None of the funds appropriated in this title, except as specifically contained herein, shall be used to alter, modify, dismantle, or otherwise change any project which is partially constructed but not funded for construction in this title.

FLOOD CONTROL PROJECTS

SEC. 202. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to design and construct, at full Federal expense, such flood control measures at or in the vicinity of—

(1) Pikesville, Kentucky, and of Grundy, Virginia, on the Levisa Fork of the Big Sandy River,

(2) Pineville, Kentucky, on the Cumberland River, and

(3) Williamson and Matewan, West Virginia, on the Tug Fork of the Big Sandy River,

as the Chief of Engineers determines necessary and advisable to afford these communities and other flood damaged localities and their immediate environs on both the Levisa and Tug Fork of the Big Sandy River and Cumberland River a level of protection against flooding at least sufficient to prevent any future losses to these communities from the likelihood of flooding such as occurred in April 1977, at an estimated cost of $284,000,000. Non-Federal interests shall hold and save the United States free from damages due to construction works referred to in this section, and maintain and operate all such works after their completion in accordance with regulations prescribed by the Secretary of the Army.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(c) The Congress finds that the benefits attributable to the objectives set forth in section 209 of the Flood Control Act of 1970 exceed the cost of the flood control measures authorized by this section. 42 USC 1962-2.

TITLE III—DEPARTMENT OF THE INTERIOR

WATER AND POWER RESOURCES SERVICE

For carrying out the functions of the Water and Power Resources Service as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Service as follows: 43 USC 371 note.

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $38,629,000, of which $38,579,000 is to be derived from the reclamation fund.

CONSTRUCTION PROGRAM

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Water and Power Resources Service use) and for other related activities as authorized by law, to remain available until expended, $570,641,000, of which $118,392,000 shall be available for advances to the Upper Colorado

43 USC 620d.

43 USC 1543.

San Luis Unit interceptor drain.

76 Stat. 1180.

Wellton-Mohawk Irrigation and Drainage District.

Fremont-Madison Irrigation District.

43 USC 504.

River Basin Fund authorized by section 5 of the Act of April 11, 1956, and $135,235,000 shall be available for advances to the Lower Colorado River Basin Fund authorized by section 403 of the Act of September 30, 1968: *Provided,* That of the total appropriated, $162,602,000 shall be derived from the Reclamation Fund: *Provided further,* That advances to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation to this heading: *Provided further,* That the unexpended balances of the appropriation accounts for "Construction and Rehabilitation", "Colorado River Basin Salinity Control Projects", and "Recreational and Fish and Wildlife" shall be merged into one and made available for the same purposes as appropriations under this heading: *Provided further,* That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further,* That of the total amount appropriated in this Act not to exceed $2,000,000 is for archeological research and recovery operations, in addition to any funds otherwise authorized for such operations, at New Melones Dam and Reservoir, California, authorized by the Flood Control Act of 1962: *Provided further,* That the Secretary of the Interior is authorized and directed to allocate as nonreimbursable and nonreturnable that part of the cost of constructing Red Fleet Dam on the Jensen Unit, Central Utah Project, which resulted from changes in the design to recognize state-of-the-art criteria deemed necessary for dam safety: *Provided further,* That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further,* That of the amount herein appropriated not to exceed $6,000,000 for the Wellton-Mohawk Irrigation and Drainage District, Gila Project, Arizona, shall be available for improvement of the Gila River Channel to facilitate drainage of lands within the District under a repayment obligation heretofore established by existing contract between the Secretary of the Interior and the District: *Provided further,* That of the amount herein appropriated not to exceed $10,000 shall be available to initiate a rehabilitation and betterment program with the Fremont-Madison Irrigation District to rehabilitate the facilities of the Marysville, Farmer's Own, Yellowstone, Squirrel Creek, and Silky Canal Companies under the Act of October 7, 1949 (63 Stat. 724), as amended, to be repaid in full by the lands served and under conditions satisfactory to the Secretary of Interior.

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Water and Power Resources Service pursuant to law, to remain available until expended, $101,117,000, of which $62,398,000 shall be derived from the reclamation fund and $12,858,000 shall be derived from the Colorado River Dam fund: *Provided,* That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same objects and in the same manner as

sums appropriated herein may be expended, and such advances shall remain available until expended.

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a-421d), and August 6, 1956, as amended (43 U.S.C. 422a-422k), including expenses necessary for carrying out the program, $22,924,000, to remain available until expended: *Provided,* That during 1981, and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $38,000,000: *Provided further,* That any contract under the Act of July 4, 1955, (69 Stat. 244), as amended, not yet executed by the Secretary, which calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197). 43 USC 421a. 43 USC 388.

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the offices of the Commissioner of the Water and Power Resources Service and in the regional offices of the Water and Power Resources Service, $38,150,000, to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided,* That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

SPECIAL FUNDS

Sums herein referred to as being derived from the Reclamation fund, the Colorado River Dam fund, or the Colorado River development fund, are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391), the Act of December 21, 1928 (43 U.S.C. 617a), and the Act of July 19, 1940 (43 U.S.C. 618a) respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the heads "Operation and Maintenance" and "General Administrative Expenses" shall revert and be credited to the special fund from which derived. Transfer of funds.

ADMINISTRATIVE PROVISIONS

Appropriations for the Water and Power Resources Service shall be available for purchase of not to exceed 30 passenger motor vehicles of which 26 shall be for replacement only; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Water and Power Resources Service; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Water and Power Resources Service appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; for service as authorized by 5

U.S.C. 3109, in total not to exceed $300,000; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Water and Power Resources Service; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriation Act, 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Act of August 21, 1935 (16 U.S.C. 461-467): *Provided,* That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses" and amounts provided for reconnaissance, basin surveys, and general engineering and research under the head "General Investigations".

58 Stat. 463.

Sums appropriated herein which are expended in the performance of reimbursable functions of the Water and Power Resources Service shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Water and Power Resources Service, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided,* That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of section 3679 of the Revised Statutes, as amended (31 U.S.C. 665).

43 USC 377a.

No funds appropriated to the Water and Power Resources Service for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Water and Power Resources Service.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Emergency reconstruction.

SEC. 301. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

Additional appropriations.

SEC. 302. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

Facilities, operation.

SEC. 303. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of

June 30, 1932 (31 U.S.C. 686): *Provided,* That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 304. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members. Aircraft and motor vehicles.

TITLE IV—INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Cochairman and his alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, $3,192,000.

FUNDS APPROPRIATED TO THE PRESIDENT

APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, except expenses authorized by section 105 of said Act, including services as authorized by 5 U.S.C. 3109, and hire of passenger motor vehicles, to remain available until expended, $339,300,000, of which $214,600,000 shall be available for the Appalachian Development Highway System. 40 USC app. 1. 40 USC app. 105.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $116,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $269,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the

current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $55,000.

33 USC 567b.
33 USC 567b-1.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, namely the control of atomic energy and the issuance of licenses as authorized by section 103 (42 U.S.C. 2133) so as to make the maximum contribution to the general welfare, promote world peace, increase the standard of living and strengthen free competition in private enterprise, subject at all times to the paramount objective of making the maximum contribution to the common defense and security and to the objective of protecting the health and safety of the public, including the employment of aliens; services authorized by 5 U.S.C. 3109; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms; official entertainment expenses (not to exceed $3,000); reimbursement of the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft; $447,520,000, to remain available until expended: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of 31 U.S.C. 484, and shall remain available until expended.

42 USC 5801 note.
42 USC 2011 note.

NUCLEAR SAFETY OVERSIGHT COMMITTEE

For expenses necessary for the Nuclear Safety Oversight Committee, $1,500,000, to remain available until expended.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1541), $112,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1530, 1531), $200,000.

TENNESSEE VALLEY AUTHORITY

PAYMENT TO TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C., ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, $269,563,000, to remain available until expended.

16 USC 831 *et seq.*

COLUMBIA DAM AND RESERVOIR

For necessary expenses for the orderly and expeditious completion of the Columbia Dam and Reservoir project near Columbia, Tennessee, for flood control, water supply, regional development and other purposes, including the maintenance of a normal maximum reservoir pool of 630 feet above sea level by August 1985 and thereafter, according to sound engineering practice, $18,000,000, to remain available until expended.

WATER RESOURCES COUNCIL

WATER RESOURCES PLANNING

For the Water Resources Council for expenses necessary in carrying out the provisions of the Water Resources Planning Act of 1965 (42 U.S.C. 1962-1962d-3), as amended, including services as authorized by 5 U.S.C. 3109 and 42 U.S.C. 1962a-4(5), and hire of passenger motor vehicles (42 U.S.C. 1962a-4(6)), $24,777,000 to remain available until expended, including $4,748,000 for expenses in administering the Act (42 U.S.C. 1962d(b)), $4,186,000 for preparation of assessments and plans (42 U.S.C. 1962d(c)), $3,443,000 for expenses of river basin commissions under title II of the Act (42 U.S.C. 1962d(a)), $10,000,000 for grants to States under title III of the Act (42 U.S.C. 1962c(a)), and $2,400,000 for Upper Mississippi Comprehensive Management Plan (42 U.S.C. 1962b-3).

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

Appropriation authorization.

SEC. 504. There is appropriated, out of any money in the Treasury not otherwise appropriated, for payment to Dorothy Runnels, widow of Harold Runnels, late a Representative from the State of New Mexico, $60,663.

Short title.

This Act may be cited as the "Energy and Water Development Appropriation Act, 1981".

Approved October 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1093 (Comm. on Appropriations) and No. 96-1366 (Comm. of Conference).
SENATE REPORT No. 96-927 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 24, 25, considered and passed House.
Sept. 9, 10, considered and passed Senate, amended.
Sept. 24, House agreed to conference report; concurred in certain Senate amendments, in others with amendments; Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 40:
Oct. 1, Presidential statement.

Public Law 96-368
96th Congress

An Act

To authorize the Department of Energy to carry out a high-level liquid nuclear waste management demonstration project at the Western New York Service Center in West Valley, New York.

Oct. 1, 1980
[S. 2443]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

West Valley Demonstration Project Act.
42 USC 2021a note.

SECTION 1. This Act may be cited as the "West Valley Demonstration Project Act".

42 USC 2021a note.

SEC. 2. (a) The Secretary shall carry out, in accordance with this Act, a high level radioactive waste management demonstration project at the Western New York Service Center in West Valley, New York, for the purpose of demonstrating solidification techniques which can be used for preparing high level radioactive waste for disposal. Under the project the Secretary shall carry out the following activities:

Activities.

(1) The Secretary shall solidify, in a form suitable for transportation and disposal, the high level radioactive waste at the Center by vitrification or by such other technology which the Secretary determines to be the most effective for solidification.

(2) The Secretary shall develop containers suitable for the permanent disposal of the high level radioactive waste solidified at the Center.

(3) The Secretary shall, as soon as feasible, transport, in accordance with applicable provisions of law, the waste solidified at the Center to an appropriate Federal repository for permanent disposal.

(4) The Secretary shall, in accordance with applicable licensing requirements, dispose of low level radioactive waste and transuranic waste produced by the solidification of the high level radioactive waste under the project.

(5) The Secretary shall decontaminate and decommission—

(A) the tanks and other facilities of the Center in which the high level radioactive waste solidified under the project was stored,

(B) the facilities used in the solidification of the waste, and

(C) any material and hardware used in connection with the project,

in accordance with such requirements as the Commission may prescribe.

(b) Before undertaking the project and during the fiscal year ending September 30, 1981, the Secretary shall carry out the following:

Hearings.

(1) The Secretary shall hold in the vicinity of the Center public hearings to inform the residents of the area in which the Center is located of the activities proposed to be undertaken under the project and to receive their comments on the project.

(2) The Secretary shall consider the various technologies available for the solidification and handling of high level radioactive waste taking into account the unique characteristics of such waste at the Center.

(3) The Secretary shall—

(A) undertake detailed engineering and cost estimates for the project,

(B) prepare a plan for the safe removal of the high level radioactive waste at the Center for the purposes of solidification and include in the plan provisions respecting the safe breaching of the tanks in which the waste is stored, operating equipment to accomplish the removal, and sluicing techniques,

(C) conduct appropriate safety analyses of the project, and

(D) prepare required environmental impact analyses of the project.

(4) The Secretary shall enter into a cooperative agreement with the State in accordance with the Federal Grant and Cooperative Agreement Act of 1977 under which the State will carry out the following:

41 USC 501 note.

(A) The State will make available to the Secretary the facilities of the Center and the high level radioactive waste at the Center which are necessary for the completion of the project. The facilities and the waste shall be made available without the transfer of title and for such period as may be required for completion of the project.

(B) The Secretary shall provide technical assistance in securing required license amendments.

State costs.

(C) The State shall pay 10 per centum of the costs of the project, as determined by the Secretary. In determining the costs of the project, the Secretary shall consider the value of the use of the Center for the project. The State may not use Federal funds to pay its share of the cost of the project, but may use the perpetual care fund to pay such share.

Licensing amendment application.

(D) Submission jointly by the Department of Energy and the State of New York of an application for a licensing amendment as soon as possible with the Nuclear Regulatory Commission providing for the demonstration.

(c) Within one year from the date of the enactment of this Act, the Secretary shall enter into an agreement with the Commission to establish arrangements for review and consultation by the Commission with respect to the project: *Provided,* That review and consultation by the Commission pursuant to this subsection shall be conducted informally by the Commission and shall not include nor require formal procedures or actions by the Commission pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, or any other law. The agreement shall provide for the following:

42 USC 2011 note.
42 USC 5801 note.

(1) The Secretary shall submit to the Commission, for its review and comment, a plan for the solidification of the high level radioactive waste at the Center, the removal of the waste for purposes of its solidification, the preparation of the waste for disposal, and the decontamination of the facilities to be used in solidifying the waste. In preparing its comments on the plan, the Commission shall specify with precision its objections to any provision of the plan. Upon submission of a plan to the Commission, the Secretary shall publish a notice in the Federal Register of the submission of the plan and of its availability for public inspection, and, upon receipt of the comments of the Commission respecting a plan, the Secretary shall publish a notice in the Federal Register of the receipt of the comments and of the availability of the comments for public inspection. If the Secre-

Publication in Federal Register.

tary does not revise the plan to meet objections specified in the comments of the Commission, the Secretary shall publish in the Federal Register a detailed statement for not so revising the plan.

(2) The Secretary shall consult with the Commission with respect to the form in which the high level radioactive waste at the Center shall be solidified and the containers to be used in the permanent disposal of such waste.

(3) The Secretary shall submit to the Commission safety analysis reports and such other information as the Commission may require to identify any danger to the public health and safety which may be presented by the project. Reports to Commission.

(4) The Secretary shall afford the Commission access to the Center to enable the Commission to monitor the activities under the project for the purpose of assuring the public health and safety.

(d) In carrying out the project, the Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Director of the Geological Survey, and the commercial operator of the Center. Consultation.

SEC. 3. (a) There are authorized to be appropriated to the Secretary for the project not more than $5,000,000 for the fiscal year ending September 30, 1981. Appropriation authorization. 42 USC 2021a note.

(b) The total amount obligated for the project by the Secretary shall be 90 per centum of the costs of the project.

(c) The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

SEC. 4. Not later than February 1, 1981, and on February 1 of each calendar year thereafter during the term of the project, the Secretary shall transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate an up-to-date report containing a detailed description of the activities of the Secretary in carrying out the project, including agreements entered into and the costs incurred during the period reported on and the activities to be undertaken in the next fiscal year and the estimated costs thereof. Report to Speaker of the House and President pro tempore of the Senate. 42 USC 2021a note.

SEC. 5. (a) Other than the costs and responsibilities established by this Act for the project, nothing in this Act shall be construed as affecting any rights, obligations, or liabilities of the commercial operator of the Center, the State, or any person, as is appropriate, arising under the Atomic Energy Act of 1954 or under any other law, contract, or agreement for the operation, maintenance, or decontamination of any facility or property at the Center or for any wastes at the Center. Nothing in this Act shall be construed as affecting any applicable licensing requirement of the Atomic Energy Act of 1954 or the Energy Reorganization Act of 1974. This Act shall not apply or be extended to any facility or property at the Center which is not used in conducting the project. This Act may not be construed to expand or diminish the rights of the Federal Government. 42 USC 2021a note. 42 USC 2011 note. 42 USC 5801 note.

(b) This Act does not authorize the Federal Government to acquire title to any high level radioactive waste at the Center or to the Center or any portion thereof.

SEC. 6. For purposes of this Act: Definitions. 42 USC 2021a note.

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Commission" means the Nuclear Regulatory Commission.

(3) The term "State" means the State of New York.

(4) The term "high level radioactive waste" means the high level radioactive waste which was produced by the reprocessing at the Center of spent nuclear fuel. Such term includes both liquid wastes which are produced directly in reprocessing, dry solid material derived from such liquid waste, and such other material as the Commission designates as high level radioactive waste for purposes of protecting the public health and safety.

(5) The term "transuranic waste" means material contaminated with elements which have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and which are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Commission may prescribe to protect the public health and safety.

(6) The term "low level radioactive waste" means radioactive waste not classified as high level radioactive waste, transuranic waste, or byproduct material as defined in section 11 e. (2) of the Atomic Energy Act of 1954.

42 USC 2014.

(7) The term "project" means the project prescribed by section 2(a).

(8) The term "Center" means the Western New York Service Center in West Valley, New York.

Approved October 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1100, pt. I (Comm. on Science and Technology) and pt. II (Comm. on Interstate and Foreign Commerce), both accompanying H.R. 6865.

SENATE REPORT No. 96-787 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 126 (1980):

June 12, considered and passed Senate.

Sept. 15, H.R. 6865 considered and passed House; passage vacated and S. 2443, amended, passed in lieu.

Sept. 17, Senate concurred in House amendment with amendments; House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 40:

Oct. 1, Presidential statement.

Public Law 96-369
96th Congress

Joint Resolution

Making continuing appropriations for the fiscal year 1981, and for other purposes.

Oct. 1, 1980
[H.J. Res. 610]

Continuing appropriations, FY 1981.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1981, and for other purposes, namely:

SEC. 101. (a)(1) Such amounts as may be necessary for projects or activities (not otherwise specifically provided for in this joint resolution) for which appropriations, funds, or other authority would be available in the following appropriation Acts:

Agriculture, Rural Development, and Related Agencies Appropriation Act, 1981;

District of Columbia Appropriation Act, 1981;

Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1981;

Department of the Interior and Related Agencies Appropriation Act, 1981;

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981;

Military Construction Appropriation Act, 1981;

Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1981;

Department of Transportation and Related Agencies Appropriation Act, 1981; and

Treasury, Postal Service, and General Government Appropriation Act, 1981.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House as of October 1, 1980, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1980, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided,* That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980.

(4) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1980, the pertinent project or activity

shall be continued under the appropriation, fund, or authority granted by the House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980, except section 201 of title II of the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriations Act, 1980 (H.R. 4389) as adopted by the House of Representatives on August 2, 1979, and except for title III of the Agriculture, Rural Development, and Related Agencies Appropriations Act, the programs in which shall continue at the rate of operations as provided for in the House-passed appropriation bill for fiscal year 1981.

(5) No provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1980, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

22 USC 2412. (b) Notwithstanding section 10 of Public Law 91-672, and section 15(a) of the Act entitled, "An Act to provide certain basic authority
22 USC 2680. for the Department of State", approved August 1, 1956, as amended, such amounts as may be necessary for continuing projects or activities which were conducted in fiscal year 1980 and would be provided for in H.R. 7854, the Foreign Assistance and Related Programs Appropriation Act, 1981, as reported July 29, 1980, at a rate of operations not in excess of the rate which would have been provided under the terms of the conference report (House Report 96-787), and in accordance with associated agreements stated in the Joint Explanatory Statement of the Committee of Conference, accompanying H.R. 4473, except that for Operating Expenses of the Agency for International Development the rate for operations shall be at an annual rate of $280,000,000: *Provided,* That not more than $105,700,000 of this amount shall be for AID/Washington Operating Expenses.

(c) Such amounts as may be necessary for continuing projects and activities under all the conditions and to the extent and in the manner as provided in H.R. 7593, entitled the Legislative Branch Appropriation Act, 1981, as passed the House of Representatives, July 21, 1980, except section 309 of H.R. 7593 shall be deemed not to be applicable to the General Accounting Office; and the provisions of section 306 of H.R. 7593 shall apply to any appropriation, fund or authority made available for the period October 1, 1980, through
Abortions. Funding restrictions. December 15, 1980, by this or any other Act. Notwithstanding any other provision of this joint resolution except section 102, and notwithstanding section 110 of this joint resolution, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape has within seventy-two hours been reported to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy:

Provided, however, That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

(d) Such amounts as may be necessary for continuing the following activities not otherwise provided for, which were conducted in fiscal year 1980, but at a rate for operations not in excess of the current rate: *Provided,* That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1980:

activities of the Council on Wage and Price Stability;

activities of the Attorney General in connection with assistance for Joint State and Joint State and Local Law Enforcement Agencies;

activities of the Economic Development Administration including salaries and expenses;

activities of the Regional Action Planning Commissions;

activities of the United States Travel Service including the Assistant Secretary for Tourism;

activities of the Judiciary under the heading "Pretrial Services Agencies";

activities of the Department of Housing and Urban Development under the heading "Annual contributions for assisted housing";

activities of the National Aeronautics and Space Administration under the heading "Research and development";

activities for which disbursements are made by the Secretary of the Senate, and the Senate items under the Architect of the Capitol;

activities for support of nursing research under section 301 of the Public Health Service Act; 42 USC 241.

activities for support of health professions education and nurse training under titles VII and VIII of the Public Health Service Act; 42 USC 292, 296.

activities under the Community Mental Health Centers Act; 42 USC 2689 note.

activities under title IV, part A, subparts 2 and 3, title III and title VII of the Comprehensive Employment and Training Act, except that activities under title VIII shall be conducted at not to exceed an annual rate for new obligations of $200,000,000; and 29 USC 899, 907, 871, 981. 29 USC 991.

activities for support of State Medicaid Fraud Control Units at the matching rate specified in section 1903(a)(6) of the Social Security Act, notwithstanding the limitations on eligible quarters contained therein. 42 USC 1396b.

(e) Such amounts as may be necessary to permit payments and assistance mandated by law for the following activities under the terms, conditions and limitations included in the applicable appropriation Act for 1980:

activities under title IV of the Federal Mine Health and Safety Act of 1977; 30 USC 901.

activities under the Social Security Act; 42 USC 1305.

retirement pay and medical benefits for commissioned officers of the Public Health Service;

activities under title IV, part B, of the Higher Education Act; 20 USC 1071.

notwithstanding any other provision of this joint resolution except section 102, activities of the Department of Labor, Employment and Training Administration for "Federal unemployment benefits and allowances" and "Advances to the unemployment trust fund and other funds";

activities of the Department of Labor, Employment Standards Administration for "Special benefits" and "Black Lung Disability Trust Fund";

Veterans Administration "Compensation and pensions"; and

Veterans Administration "Readjustment benefits".

(f) Such amounts as may be necessary for Department of Energy, Operating Expenses, Energy Supply, Research and Development Activities, to carry out the breeder reactor demonstration project or project alternative approved by Congress in authorizing legislation, and for no other purpose, at the current rate of operations notwithstanding the provisions of section 102 (a) and (b) of this joint resolution.

Cuban and Haitian entrants.
22 USC 2680.
22 USC 2412.

(g) Notwithstanding section 15(a) of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended, and section 10 of Public Law 91-672, activities of the Department of State to process, maintain, return or resettle Cuban and Haitian entrants shall be funded at not to exceed an annual rate provided in the budget estimate.

(h) Notwithstanding section 101(a) of this joint resolution, $1,850,000,000 shall be available to continue the low income energy assistance program under the State allocations provided for in H.R. 7998 as passed the House of Representatives August 27, 1980, and in House Report 96-1244, except that the sum of $50,000,000 shall be reserved for payments to any State which would receive under the above formula an amount less than 75 per centum of the amount it would have received under the State allocation formula for low-income energy assistance as provided in the regulations published on May 30, 1980 in volume 45, No. 106, Federal Register, pages 36810-36838, such payments to be the amount necessary for the allocations to those States to be equal to 75 per centum of their allocation under such regulations; the energy assistance program shall be continued under the terms and conditions of such regulations and any non-formula amendments thereto, except that an eligible household shall also include any single person household at or below 125 per centum of poverty: *Provided,* That none of the funds appropriated in this paragraph shall be used to provide assistance either in cash or in kind to any household during fiscal year 1981 which exceeds a value of $750, except this $750 limitation may be waived by the Secretary of Health and Human Services upon request of a State.

(i) Such amounts as may be necessary for projects and activities provided for in the Energy and Water Development Appropriation Act, 1981 (H.R. 7590), at a rate of operations, and to the extent and in the manner provided for in such Act as adopted by the House of Representatives and the Senate on September 24, 1980, notwithstanding section 102(c) of this joint resolution: *Provided,* That appropriations and funds made available to the Appalachian Regional Commission, including the Appalachian Regional Development Programs, by this or any other Act shall be used by the Commission in accordance with the provisions of the applicable appropriation Act and pursuant to the Appalachian Regional Development Act of 1965, as amended, notwithstanding the provisions of section 405 of said Act.

Ante, p. 1331.

40 USC app. 1.
40 USC app. 405.

(j) Funds available under the provisions of this section for child nutrition programs of the Department of Agriculture may be used to pay valid claims submitted in fiscal year 1981 for meals served in September, 1980.

(k) Such amounts as may be necessary to continue activities of the National Health Service Corps under section 338(a) of the Public

Health Service Act at a rate not to exceed the fiscal year 1981 budget estimate. 42 USC 254k.

(l) Such amounts as provided in H.R. 8105, entitled the Department of Defense Appropriation Act, 1981, as passed the House of Representatives, September 16, 1980, and under the authority and conditions provided in the Department of Defense Appropriation Act, 1980.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from October 1, 1980, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) December 15, 1980, whichever first occurs. Appropriations, availability.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 665(d)(2) of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such projects or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. Any appropriation for the fiscal year 1981 required to be apportioned pursuant to section 665 of title 31, United States Code, may be apportioned on a basis indicating the need (to the extent any such increases cannot be absorbed within available appropriations) for a supplemental or deficiency estimate of appropriation to the extent necessary to permit payment of such pay increases as may be granted pursuant to law to civilian officers and employees and to active and retired military personnel. Each such appropriation shall otherwise be subject to the requirements of section 665 of title 31, United States Code.

SEC. 107. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

SEC. 108. No provision in any appropriation Act for the fiscal year 1981 that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 109. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools. Public school voluntary prayer and meditation.

Abortions. Funding restrictions.

SEC. 110. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported within forty-eight hours to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy: *Provided, however,* That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

SEC. 111. Such amounts as may be necessary for projects or activities provided for in the Military Construction Appropriation Act, 1981 (H.R. 7592), at a rate of operations and to the extent and in the manner provided for in the conference report (H. Rept. No. 96-1433) filed in the House of Representatives on September 29, 1980, notwithstanding section 102(c) of this joint resolution.

Post, p. 1863.

Mount St. Helens, Wash., emergency activities.

Ante, p. 880.

SEC. 112. Of the additional amount appropriated under Public Law 96-304, to the Department of Agriculture, Forest Service for "Forest Management, Protection and Utilization", $15,000,000 for emergency activities caused by the eruption of Mount St. Helens in Washington State shall remain available for obligation until expended.

SEC. 113. Notwithstanding any other provision of law, no funds available to the Secretary of Education shall be used to adopt or enforce any final regulations which replace the current "Lau remedies" for use as a guideline concerning the scope or adequacy of services to be provided to students of limited English-language proficiency, or for defining entry and exit criteria for such services, before June 1, 1981.

5 USC 5343 note.

SEC. 114. (a) Notwithstanding any other provision of law, no part of any of the funds appropriated for the fiscal year ending September 30, 1981, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or an employee covered by section 5348 of that title, in an amount which exceeds—

(1) for the period from October 1, 1980, until the next applicable wage survey adjustment becomes effective, rate which was payable for the applicable grade and step to such employee under the applicable wage schedule that was in effect and payable on September 30, 1980, plus 75 percent of the difference between that rate and the rate which would be payable were it not for the limitation contained in section 613 of Public Law 96-74; and

93 Stat. 576.

(2) for the period consisting of the remainder of the fiscal year ending September 30, 1981, a rate which exceeds as a result of a wage survey adjustment the rate payable on September 30, 1980, by more than the overall average percentage of the adjustment in the General Schedule during the fiscal year ending September 30, 1981.

5 USC 5332 note.

(b) For the purpose of subsection (a) of this section, the rate payable to any employee, who is covered by this section and who is paid from a schedule which was not in existence on September 30, 1980, shall be determined under regulations prescribed by the President.

(c) The provisions of this section shall apply only with respect to pay for services performed by affected employees after the date of enactment of this Act.

(d) For the purpose of administering any provision of law, rule, or regulation which provides premium pay, retirement, life insurance, or any other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

Standby gasoline rationing plans.

SEC. 115. Notwithstanding the provisions of section 101, activities of the Department of Energy to initiate preimplementation of standby gasoline rationing plans, as authorized by the Emergency Energy Conservation Act of 1979, shall be funded at not to exceed an annual rate for obligations of $42,677,000.

42 USC 8501 note.

SEC. 116. Notwithstanding any other provision of this joint resolution there is appropriated $1,383,000,000, to remain available until expended, for strategic petroleum reserve petroleum acquisition as authorized by the Energy Policy and Conservation Act of 1975 (Public Law 94-163) and the Energy Security Act (Public Law 96-294).

42 USC 6201 note.

SEC. 117. Notwithstanding any other provision of this joint resolution, the amount available for the Postal Service shall not exceed $1,250,000,000.

Ante, p. 611.

Special census.

SEC. 118. Notwithstanding any other provision of law, when the President determines that a State, county, or local unit of general purpose government is significantly affected by a major population change due to a large number of legal immigrants within six months of a regular decennial census date, he may order a special census, pursuant to section 196 of title XIII of the United States Code, or other method of obtaining a revised estimate of the population, of such jurisdiction or subsections of that jurisdiction in which the immigrants are concentrated. If the President decides to conduct a special census, it may be conducted solely at Federal expense.

13 USC 196 note.

13 USC 196.

SEC. 119. From sums appropriated to the Bureau of Prisons, the Bureau is directed to protect and maintain McNeil Island, Washington, pending disposal of the island by the General Services Administration, and the Bureau is thereby directed (a) to immediately cease dismantling the island's physical facilities, and (b) to develop and implement a plan, which shall be coordinated with the General Services Administration and the Fish and Wildlife Service, to protect and maintain the island's physical facilities, natural resources, and wildlife.

Presidential transition.

SEC. 120. Should it be necessary, such amounts as may be required for Expenses, Presidential Transition, notwithstanding any other provision of this joint resolution, but at a rate of operations not in excess of the amount contained in H.R. 7583 as passed by the House of Representatives.

42 USC 5915 note.

SEC. 121. Notwithstanding any other provision of this joint resolution, for the purposes of Public Law 96-304 and Public Law 96-126 relating only to cooperative agreements and feasibility studies, the term "alternative fuels" as defined in Public Law 96-126, includes gaseous, liquid, or solid fuels and chemical feedstocks derived from heavy oil resources which cannot technically or economically be produced under applicable price and tax policy using conventional crude oil recovery and refining techniques, and innovative systems for the direct combustion of minerals and organic materials other than petroleum and natural gas for energy production: *Provided*, That obligations for energy feasibility studies and cooperative agree-

Ante, p. 857.
93 Stat. 954.

ments for direct combustion, except for direct combustion of urban waste, shall not exceed $30,000,000, to be derived from the $300,000,000 appropriated for energy feasibility studies and cooperative agreements in Public Law 96-304: *Provided further,* That funding made available in the Energy Security Reserve account in Public Law 96-304 shall not exceed $17,522,000,000 when used for the purposes authorized under title I of the Energy Security Act (Public Law 96-294) and shall not exceed $1,270,000,000 when used for the purposes authorized under title II of such Act: *Provided further,* That funds obligated for biomass energy feasibility studies and cooperative agreements under the Alternative Fuels Production account in Public Law 96-304 shall apply to the title II limitation, and all other funds obligated for such studies and agreements shall apply to the title I limitation: *Provided further,* That of the $1,500,000,000 made available for "alternative fuels production" in Public Law 96-126 for purchase commitments and price guarantees, up to $500,000,000 shall be available instead to supplement the default reserve for loan guarantees established by such law: *Provided further,* That the indebtedness guaranteed or committed to be guaranteed under the supplemented reserve shall not exceed the aggregate of up to $3,000,000,000.

Ante, p. 857.

Ante, p. 611.

Ante, p. 683.

93 Stat. 954.

SEC. 122. Notwithstanding any other provision of this resolution: For temporary employment assistance under title VI of the Comprehensive Employment and Training Act, no more than $1,229,000,000 of new obligations shall be available.

SEC. 123. No funds appropriated by this Act may be used to implement or enforce provisions of any regulation or ruling with respect to section 280A of the Internal Revenue Code of 1954 which relate to—

26 USC 280A.

(1) the rental of a dwelling unit to a member of the family of a taxpayer,

(2) the determination of the principal place of business of the taxpayer, or

(3) the circumstances under which use of the dwelling unit for repairs and maintenance constitutes personal use by the taxpayer.

SEC. 124. Notwithstanding any other provision of this joint resolution, none of the funds contained herein may be made available for implementing requirements imposed by section 2002(a)(9) of the Social Security Act or by any regulations promulgated by the department to carry out this section, to the extent that such requirements would not otherwise be applicable under State or local law.

42 USC 1397a.

SEC. 125. Notwithstanding any other provisions of this joint resolution, funding for emergency energy conservation services under the Community Services Administration shall be continued at a level not lower than that provided in fiscal year 1980.

SEC. 126. Notwithstanding any other provision of this joint resolution, the activities of the Solar Energy and Energy Conservation Bank shall be funded at a rate not to exceed the annual rate provided for in H.R. 7631 as passed by the Senate.

Post, p. 3044.

Approved October 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1327 (Comm. on Appropriations) and No. 96-1443 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 126 (1980):

Sept. 18, considered and passed House.

Sept. 26, 29, considered and passed Senate, amended.

Oct. 1, House and Senate agreed to conference report and resolved amendments in disagreement.

79-194 O—81—pt. 2——6 : QL3

Public Law 96-370
96th Congress

An Act

Oct. 3, 1980
[H.R. 7825]

To establish the Ice Age National Scenic Trail, and for other purposes.

Ice Age National Scenic Trail, establishment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Trails System Act (82 Stat. 919; 16 U.S.C. 1241), as amended, is further amended as follows:

16 USC 1244.

(a) Section 5(a) is amended by adding the following new paragraph at the end thereof:

"(10) The Ice Age National Scenic Trail, a trail of approximately one thousand miles, extending from Door County, Wisconsin, to Interstate Park in Saint Croix County, Wisconsin, generally following the route described in "On the Trail of the Ice Age—A Hiker's and Biker's Guide to Wisconsin's Ice Age National Scientific Reserve and Trail", by Henry S. Reuss, Member of Congress, dated 1980. The guide and maps shall be on file and available for public inspection in the Office of the Director, National Park Service, Washington, District of Columbia. Overall administration of the trail shall be the responsibility of the Secretary of the Interior pursuant to section 5(d) of this Act. The State of Wisconsin, in consultation with the Secretary of the Interior, may, subject to the approval of the Secretary, prepare a plan for the management of the trail which shall be deemed to meet the requirements of section 5(e) of this Act. Notwithstanding the provisions of section 7(c), snowmobile use may be permitted on segments of the Ice Age National Scenic Trail where deemed appropriate by the Secretary and the managing authority responsible for the segment.".

Ante, p. 68.
16 USC 1249.

(b) Section 10(c) is amended by changing "(7), and (8):" to "(7), (8), (9), and (10):", and by inserting "The Ice Age National Scenic Trail," after the phrase "North Country National Scenic Trail,".

Authorizations, effective date.
16 USC 1249 note.

SEC. 2. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1981. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

Approved October 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1314 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 16, considered and passed House.
Sept. 18, considered and passed Senate.

Public Law 96-371
96th Congress

Joint Resolution

Authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning October 5, 1980, as "National Port Week", and for other purposes.

Oct.3, 1980
[H.J. Res. 551]

Whereas the past development of the public ports of the United States is the result of a fruitful partnership in which State and local authorities have assumed major responsibilities for land-based port development with the Federal Government constructing and maintaining the navigable waterways and harbors of the United States;

Whereas the economic, social, and cultural developments in the history of the port cities and States has mirrored the conditions of the ports of the United States;

Whereas ports serving the United States waterborne commerce are responsible for the creation and continued employment of more than one million workers and an annual contribution in excess of $56,000,000,000 to our Nation's economic well-being;

Whereas the development of our Nation's ports is indispensable to our foreign trade and vital for the achievement of a favorable balance of trade;

Whereas viable United States ports are necessary to national security and the maintenance of an adequate defense;

Whereas the continued development of the ports of the United States is being adversely affected by economic, physical, and other factors, including the problems associated with the adequacy of the harbors and channels;

Whereas the ability of the public ports to continue their vital contribution to national security and welfare may be in question; and

Whereas there is an urgent need for continuing attention to the needs of the public ports of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the seven-day period beginning October 5, 1980, as "National Port Week" and to invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

National Port Week.
Designation authorization.

Port conditions, report to Congress. 15 USC 1519a.

SEC. 2. The Secretary of Commerce shall report annually to Congress on the conditions of the public ports of the United States, including, but not limited to, their economic and technological development, the extent to which they contribute to the national security and welfare, and those factors which may impede the continued development of the public ports of the United States.

Approved October 3, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
July 30, considered and passed House.
Sept. 19, considered and passed Senate, in lieu of S.J. Res. 176.

Public Law 96-372
96th Congress

Joint Resolution

Providing for temporary extension of certain Federal Housing Administration authorities and for rural housing authorities.

Oct. 3, 1980
[S.J. Res. 209]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

FHA and rural housing authorities, temporary extension.

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE AUTHORITIES

SECTION 1. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1980" in the first sentence and inserting in lieu thereof "October 16, 1980". 12 USC 1703.

(b) Section 217 of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980". 12 USC 1715h.

(c) Section 221(f) of such Act is amended by striking out "September 30, 1980" in the fifth sentence and inserting in lieu thereof "October 15, 1980". 12 USC 1715*l*.

(d) Section 235(m) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980". 12 USC 1715z.

(e) Section 236(n) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980". 12 USC 1715z-1.

(f) Section 244(d) of such Act is amended by— 12 USC 1715z-9.

(1) striking out "September 30, 1980" in the first sentence and inserting in lieu thereof "October 15, 1980"; and

(2) striking out "October 1, 1980" in the second sentence and inserting in lieu thereof "October 16, 1980".

(g) Section 245(a) of such Act is amended by striking out "September 30, 1980" where it appears and inserting in lieu thereof "October 15, 1980". 12 USC 1715z-10.

(h) Section 809(f) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "October 15, 1980". 12 USC 1748h-1.

(i) Section 810(k) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "October 15, 1980". 12 USC 1748h-2.

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "October 15, 1980". 12 USC 1749bb.

(k) Section 1101(a) of such Act is amended by striking out "September 30, 1980" in the second sentence and inserting in lieu thereof "October 15, 1980". 12 USC 1749aaa.

EXTENSION OF PERIOD DURING WHICH AMOUNTS IN THE RENTAL HOUSING ASSISTANCE FUND MAY BE APPROVED FOR USE IN THE TROUBLED PROJECTS PROGRAM

SEC. 2. Section 236(f)(3)(B) of the National Housing Act is amended by striking out "September 30, 1980" in the third sentence and inserting in lieu thereof "October 15, 1980". 12 USC 1715z-1.

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

38 USC 1801 *et seq.*
12 USC 1701.

SEC. 3. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709-1), is amended by striking out "October 1, 1980" and inserting in lieu thereof "October 16, 1980".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

12 USC 1723e note.

SEC. 4. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 1, 1980" and inserting in lieu thereof "October 16, 1980".

REHABILITATION LOANS

42 USC 1452b.

SEC. 5. Section 312(h) of the Housing Act of 1964 is amended by—

(1) striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980"; and

(2) striking out "October 1, 1980" and inserting in lieu thereof "October 16, 1980".

EXTENSION OF RURAL HOUSING AUTHORITIES

42 USC 1483.

SEC. 6. (a) Section 513 of the Housing Act of 1949 is amended by—

(1) striking out "September 30, 1980" where it appears in subsection (a) and inserting in lieu thereof "October 15, 1980"; and

(2) striking out "September 30, 1980" wherever it appears in subsection (b) and inserting in lieu thereof "October 15, 1980".

42 USC 1485. (b) Section 515(b)(5) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980".

42 USC 1487. (c) Section 517(a)(1) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "October 15, 1980".

42 USC 1490a. (d) Section 521(a)(1)(C) of such Act is amended by—

(1) striking out "with respect to fiscal year 1980" in the penultimate sentence and inserting in lieu thereof "through October 15, 1980"; and

(2) striking out "with respect to any fiscal year after fiscal year 1980" and inserting in lieu thereof "after October 15, 1980".

(e) Section 523(f) of such Act is amended by striking out "September 30, 1980" wherever it appears and inserting in lieu thereof "October 15, 1980". 42 USC 1490c.

Approved October 3, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 30, considered and passed Senate and House.

Public Law 96-373
96th Congress

An Act

Oct. 3, 1980
[H.R. 6395]

To amend the Consumer Product Safety Act to modify certain postemployment restrictions applicable to officers and employees of the Consumer Product Safety Commission.

Consumer Product Safety Act, amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(g)(2) of the Consumer Product Safety Act (15 U.S.C. 2053(g)(2)) is amended by striking out the last sentence thereof.

Approved October 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-925 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 96-965 (Comm. on Commerce, Science and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 19, considered and passed House.
Sept. 24, considered and passed Senate.

Public Law 96-374
96th Congress

An Act

To amend and extend the Higher Education Act of 1965, and for other purposes.

Oct. 3, 1980
[H.R. 5192]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education Amendments of 1980".

Education Amendments of 1980.
20 USC 1001 note.

TITLE I—ESTABLISHMENT OF A NEW TITLE I OF THE HIGHER EDUCATION ACT OF 1965

Sec. 101. New programs established.

"TITLE I—CONTINUING POSTSECONDARY EDUCATION PROGRAM AND PLANNING

"PART A—COMMISSION ON NATIONAL DEVELOPMENT IN POSTSECONDARY EDUCATION

"Sec. 101. Findings.
"Sec. 102. Establishment of the Commission on National Development in Postsecondary Education.
"Sec. 103. Duties of the Commission.
"Sec. 104. Powers and administrative provisions.
"Sec. 105. Authorization.

"PART B—EDUCATION OUTREACH PROGRAMS

"Sec. 111. Findings.
"Sec. 112. State allotments.
"Sec. 113. Comprehensive statewide planning.
"Sec. 114. Information services.
"Sec. 115. Continuing education.
"Sec. 116. Federal discretionary grants.
"Sec. 117. National Advisory Council on Continuing Education.
"Sec. 118. Definitions.
"Sec. 119. Appropriations authorized and payments.".

TITLE II—AMENDMENT AND EXTENSION OF TITLE II OF THE HIGHER EDUCATION ACT OF 1965

Sec. 201. Extension and revision of library programs.

"TITLE II—COLLEGE AND RESEARCH LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

"Sec. 201. Purpose; authorization.
"Sec. 202. Notification of State agency.

"PART A—COLLEGE LIBRARY RESOURCES

"Sec. 211. Resource development grants.

"PART B—LIBRARY TRAINING, RESEARCH, AND DEVELOPMENT

"Sec. 221. Grants authorized.
"Sec. 222. Library career training.
"Sec. 223. Research and demonstrations.

"Sec. 224. Special purpose grants.

"PART C—STRENGTHENING RESEARCH LIBRARY RESOURCES

"Sec. 231. Eligibility for assistance.
"Sec. 232. Geographical distribution of grants.

"PART D—NATIONAL PERIODICAL SYSTEM

"Sec. 241. Purpose.
"Sec. 242. Establishment.
"Sec. 243. Functions of the Corporation.
"Sec. 244. Board of Directors.
"Sec. 245. Director and staff of Corporation.
"Sec. 246. Nonprofit nature of Corporation.
"Sec. 247. Authority of Corporation.
"Sec. 248. Implementing the design.
"Sec. 249. Copyright Act.
"Sec. 250. Definitions.
"Sec. 251. Authorization of appropriations.".

TITLE III—ESTABLISHMENT OF A NEW TITLE III OF THE HIGHER EDUCATION ACT OF 1965

Sec. 301. Programs authorized.

"TITLE III—INSTITUTIONAL AID

"Sec. 301. Findings and purposes.

"PART A—STRENGTHENING INSTITUTIONS

"Sec. 311. Program purpose.
"Sec. 312. Definitions.
"Sec. 313. Duration of grant.

"PART B—AID TO INSTITUTIONS WITH SPECIAL NEEDS

"Sec. 321. Program purpose.
"Sec. 322. Definitions.
"Sec. 323. Duration of grant.
"Sec. 324. Federal share.

"PART C—CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

"Sec. 331. Establishment of challenge grant program.
"Sec. 332. Applications for challenge grants.

"PART D—GENERAL PROVISIONS

"Sec. 341. Applications for assistance.
"Sec. 342. Waiver authority and reporting requirement.
"Sec. 343. Application review process.
"Sec. 344. Cooperative arrangements.
"Sec. 345. Assistance to institutions under other programs.
"Sec. 346. Limitations.
"Sec. 347. Authorizations.".

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

Sec. 401. Statement of purpose.
Sec. 402. Pell grants.
Sec. 403. Supplemental educational opportunity grants.
Sec. 404. Grants to States for State student incentives.
Sec. 405. Special programs for students from disadvantaged backgrounds.

"Subpart 4—Special Programs for Students From Disadvantaged Backgrounds

"Sec. 417A. Program authority; authorization of appropriations.
"Sec. 417B. Talent search.
"Sec. 417C. Upward bound.
"Sec. 417D. Special services for disadvantaged students.
"Sec. 417E. Educational opportunity centers.
"Sec. 417F. Staff development activities.".

Sec. 406. Special program for migrant and seasonal farmwork students.
Sec. 407. Veterans' cost-of-instruction payments.

PART B—GUARANTEED AND INSURED STUDENT LOANS

Sec. 411. Extension of programs.
Sec. 412. Loan limitations.
Sec. 413. Deferral of repayment.
Sec. 414. State agencies as lenders of last resort.
Sec. 415. Interest rate and payment.
Sec. 416. Collection practices.
Sec. 417. Administrative improvements.
Sec. 418. Loan information program authorized.
Sec. 419. Loans to parents.
Sec. 420. Special allowances.
Sec. 421. The Student Loan Marketing Association.
Sec. 422. Prompt due diligence determinations.
Sec. 423. Miscellaneous amendments.

PART C—WORK-STUDY PROGRAMS

Sec. 431. Purpose; appropriations authorized.
Sec. 432. Allotment to States.
Sec. 433. Use of certain unused college work-study program funds for the support of cooperative education programs.
Sec. 434. Grants for work-study programs.
Sec. 435. Distribution of assistance.
Sec. 436. Job location and development.
Sec. 437. Work study for community service-learning.

PART D—NATIONAL DIRECT STUDENT LOANS

Sec. 441. Extension of program.
Sec. 442. Alternative funding for direct loans; recapture of current balances.
Sec. 443. Loan limitations.
Sec. 444. Deferral of repayment.
Sec. 445. Collection practices.
Sec. 446. Interest rates.
Sec. 447. Student loan information program authorized.
Sec. 448. Miscellaneous amendments.

PART E—GENERAL PROVISIONS

Sec. 451. Student assistance general provisions.

"PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

"Sec. 481. Definitions.
"Sec. 482. Need analysis.
"Sec. 483. Forms and regulations.
"Sec. 484. Student eligibility.
"Sec. 485. Institutional and financial assistance information for students.
"Sec. 486. Training in financial aid and student support services.
"Sec. 487. Program participation agreements.
"Sec. 488. Transfer of allotments.
"Sec. 489. Administrative expenses.
"Sec. 490. Criminal penalties.
"Sec. 491. National Commission on Student Financial Assistance.".

TITLE V—AMENDMENT AND EXTENSION OF TITLE V OF THE HIGHER EDUCATION ACT OF 1965

Sec. 501. Extension of programs.

Sec. 502. Teacher Corps amendments.
Sec. 503. Teacher centers amendments.
Sec. 504. Teacher training.
Sec. 505. Training for teachers of handicapped children in areas with a shortage.

"PART C—TRAINING FOR ELEMENTARY AND SECONDARY SCHOOL TEACHERS TO TEACH HANDICAPPED CHILDREN IN AREAS WITH A SHORTAGE

"Sec. 541. Grants authorized.
"Sec. 542. Application.
"Sec. 543. Stipends and institution of higher education allowances.
"Sec. 544. Fellowship conditions.
"Sec. 545. Definition.
"Sec. 546. Appropriations authorized.".

Sec. 506. Education professional development.

"PART D—COORDINATION OF EDUCATION PROFESSIONAL DEVELOPMENT

"Sec. 551. Findings.
"Sec. 552. Policy.
"Sec. 553. Office of Education Professional Development.".

TITLE VI—ESTABLISHMENT OF A NEW TITLE VI OF THE HIGHER EDUCATION ACT OF 1965

Sec. 601. Programs authorized.

"TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

"PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

"Sec. 601. Findings and purposes.
"Sec. 602. Graduate and undergraduate language and area centers.
"Sec. 603. International studies centers.
"Sec. 604. Undergraduate international studies and foreign language programs.
"Sec. 605. Research; studies; annual report.
"Sec. 606. Equitable distribution of funds.
"Sec. 607. Authorization of appropriations.

"PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

"Sec. 611. Findings and purposes.
"Sec. 612. Education and training programs.
"Sec. 613. Authorization of appropriations.

"PART C—GENERAL PROVISIONS

"Sec. 621. Advisory board.
"Sec. 622. Definitions.".

TITLE VII—AMENDMENT TO TITLE VII OF THE HIGHER EDUCATION ACT OF 1965

Sec. 701. Amendment.

"TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"Sec. 701. General purposes.
"Sec. 702. Appropriations authorized.

"PART A—GRANTS FOR THE CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF UNDERGRADUATE ACADEMIC FACILITIES

"Sec. 711. State plan.
"Sec. 712. Basic criteria.
"Sec. 713. Allotment of funds.

"PART B—GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF GRADUATE ACADEMIC FACILITIES

"Sec. 721. Grants.

"PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

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"TITLE X—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

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TITLE I—ESTABLISHMENT OF A NEW TITLE I OF THE HIGHER EDUCATION ACT OF 1965

NEW PROGRAMS ESTABLISHED

SEC. 101. (a) Title I of the Higher Education Act of 1965 (hereafter in this Act referred to as the "Act") is amended to read as follows:

"TITLE I—CONTINUING POSTSECONDARY EDUCATION PROGRAM AND PLANNING

"PART A—COMMISSION ON NATIONAL DEVELOPMENT IN POSTSECONDARY EDUCATION

"FINDINGS

"SEC. 101. The Congress finds— 20 USC 1001.

"(1) that institutions of higher education in our Nation and their human and intellectual resources are critical to the future of the American society, and that the Nation's economic potential, its strength and freedom, and the quality of life for all citizens are tied to the quality and extent of higher education available;

"(2) that it is the responsibility of the Federal Government, consistent with the rights, duties, and privileges of States and institutions of higher education, to promote—

"(A) equality of access to postsecondary education, without regard to age, race, sex, creed, handicap, national origin, geographic location, or economic status;

"(B) freedom of choice to students who wish to participate in postsecondary education, to select institutions and programs which meet their needs and abilities;

"(C) quality of postsecondary education, including the maintenance and extension of academic freedom, responsibility, and educational diversity;

"(D) responsiveness of postsecondary education to rapidly changing social and economic needs; and

"(E) the efficient use of resources in postsecondary education, and the optimal allocation of human, physical and financial resources, through efficient planning and management to achieve these goals; and

"(3) that demographic, economic, and social changes will require institutions of postsecondary education to adapt to the future needs of individuals and of American society.

"ESTABLISHMENT OF THE COMMISSION ON NATIONAL DEVELOPMENT IN POSTSECONDARY EDUCATION

20 USC 1002.

"SEC. 102. (a) There is established a Commission to be known as the Commission on National Development in Postsecondary Education to review the effectiveness of policies to promote the Federal responsibilities set forth in clauses (A) through (E) of section 101(2).

"(b) The Commission shall be composed of twenty-five members as follows:

"(1) Nine members shall be appointed by the President of the United States.

"(2) Eight of the members shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader.

"(3) Eight members shall be appointed by the Speaker of the House of Representatives.

"(c)(1) Of each class specified in subsection (b) not more than four members shall be from the same political party, except in the case of the members appointed under clause (1), in which case not more than five members shall be from the same political party. The members of the Commission appointed from private life shall be individuals who by reason of experience or training are especially qualified to serve on the Commission.

Appointments.

"(2) In making appointments under subsection (b) of this section the President, the President pro tempore, and the Speaker of the House of Representatives shall give due consideration to the appointment of individuals who, collectively, will provide appropriate representation of institutions of higher education, State agencies responsible for postsecondary education, labor, the business community, and public service.

"(d) Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

"(e) The Commission shall select a Chairman and a Vice Chairman from among its members.

"(f) Thirteen members of the Commission shall constitute a quorum for the transaction of business, but the Commission may establish a lesser number as a quorum for the purpose of holding hearings, taking testimony, and receiving evidence.

Compensation.

"(g)(1) Members of the Commission who are Members of Congress or officers or employees of the executive branch of the Government shall serve without additional compensation but shall be reimbursed for travel, subsistence and other necessary expenses incurred by them in carrying out the duties of the Commission.

"(2) Members of the Commission not otherwise employed by the Federal Government shall receive compensation at a rate equal to the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime for

each day they are engaged in the performance of their duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

"DUTIES OF THE COMMISSION

"SEC. 103. (a) The Commission shall study and investigate the extent to which national policies promote the objectives set forth in clauses (A) through (E) of section 101(2). Such study shall include, but not be limited to, consideration of— Study. 20 USC 1003.

"(1) the extent to which postsecondary educational planning by States and localities and institutions of higher education is designed to identify the future needs of education in American society;

"(2) the effectiveness of Federal financial assistance to students and institutions of higher education in promoting national development of postsecondary education in the most efficient manner;

"(3) the physical and financial capacity of institutions of higher education to carry out their mission, including the conduct of basic and applied research in the humanities and scientific and technical fields, and the relationship between institutions of higher education, public agencies, and the private sector in developing the capacity of higher education to promote such research;

"(4) the human and technical resources currently and prospectively available to institutions of higher education to enable them to address and respond to national and worldwide social and economic forces;

"(5) the effect of demographic changes on institutions of higher education and their constituent disciplines and professions and the ability of such institutions to meet national needs; and

"(6) the extent to which Federal student assistance may be used to promote the recruiting of individuals to serve in the Armed Forces and to retain members of the Armed Forces.

"(b)(1) In addition, the Commission shall conduct a study of the remaining barriers to adult postsecondary education which analyzes the characteristics of current or potential adult postsecondary students, the Federal response to the needs of adult postsecondary students, and the ability of educational institutions to respond to the growing postsecondary student population. For the purpose of the study conducted under this subsection, the term 'adult postsecondary student' means individuals twenty-two years of age or older. "Adult postsecondary student."

"(2) In analyzing the characteristics of current or potential adult postsecondary students and the Federal response to their needs, the Commission shall—

"(A) review the extent to which such students are motivated by employment goals, and whether these students seek further education in order to enter the labor force or reenter after an extended absence, advance in a current career, or move from one career to another;

"(B) analyze the relationship between different employment motivations and sources of financial assistance for education, choice of institution or patterns of participation in postsecondary education;

"(C) evaluate the extent to which the unavailability or inaccessibility of financial aid sources may prevent educational partici-

pation by economically or socially disadvantaged adults, or otherwise limit their choice of educational focus or intensity of study; and

"(D) evaluate the extent to which age represents a barrier to participation in postsecondary education and the potential for greater participation in postsecondary education by individuals age 60 and older.

"(3) In analyzing the ability of postsecondary institutions to respond to the potential adult postsecondary student population, the Commission shall, at a mimimum—

"(A) review the availability of outreach, information, counseling, or supportive service programs, with particular attention to programs serving adults such as homemakers or retirees who are least likely to have access to normal sources of educational information; and

"(B) review the availability of alternative methods of evaluating past education credits and experience to promote adult participation in postsecondary education, and the availability of remedial courses for adult students.

"(4) The Commission shall coordinate the study conducted under this subsection with the research and demonstration priorities of the National Institute of Education, and such other studies on student financial assistance as are authorized by this Act.

Reports to President and Congress.

"(c) The Commission shall submit to the President and to the Congress such interim reports as it deems advisable and, not later than December 31, 1983, a final report of its study and investigation together with such recommendations, including recommendations for legislation, as the Commission deems advisable.

Termination.

"(d) The Commission shall cease to exist 60 days after the submission of its final report.

"POWERS AND ADMINISTRATIVE PROVISIONS

20 USC 1004.

"SEC. 104. (a) The Commission or, on authorization of the Commission, any subcommittee or member thereof, may, for the purposes of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, as the Commission or such subcommittee or member may deem advisable.

"(b) The Commission may acquire directly from the head of any department, agency, independent instrumentality, or other authority of the executive branch of the Government, available information which the Commission considers useful in the discharge of its duties. All departments, agencies, and independent instrumentalities, or other authorities of the executive branch of the Government, shall cooperate with the Commission and furnish all information requested by the Commission to the extent permitted by law.

"(c) The Commission is authorized to—

"(1) appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

5 USC 101.
5 USC 5101 *et seq.*
5 USC 5331.

"(2) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

"(3) enter into agreements with the General Services Administration for procurement of necessary financial and

administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of General Services;

"(4) procure supplies, services, and property, and make contracts, without regard to the laws and procedures applicable to Federal agencies; and

"(5) enter into contracts with Federal or State agencies, private firms, institutions, and agencies for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties. Contract authority.

"AUTHORIZATION

"SEC. 105. There are authorized to be appropriated $3,000,000 to carry out the provisions of this part for the period beginning October 1, 1981 through March 1, 1984. 20 USC 1005.

"PART B—EDUCATION OUTREACH PROGRAMS

"FINDINGS

"SEC. 111. The Congress finds that— 20 USC 1011.

"(1) the rapid pace of social, economic, and technological change has created pressing needs for postsecondary educational opportunities for adults in all stages of life;

"(2) postsecondary educational opportunities in the United States are traditionally provided for individuals between the ages of eighteen and twenty-two;

"(3) many adults are barred from advancement or self-sufficiency by lack of access to, and lack of retention in, postsecondary educational opportunities appropriate to their needs, or by lack of information or support services concerning the availability of postsecondary educational opportunities;

"(4) access to postsecondary educational opportunities is severely limited for adults whose educational needs have been inadequately served during youth, or whose age, sex, race, handicap, national origin, rural isolation, or economic circumstance may be a barrier to such opportunities;

"(5) with declining population growth rates, the future of postsecondary education in the United States is largely dependent upon its ability to respond to the challenges of new student populations;

"(6) service in continuing education will be better achieved through increased emphasis on planning and coordination which more effectively utilizes existing resources of both public and private sectors; and

"(7) to meet the unique problems and needs of adults who are disadvantaged in seeking access to postsecondary educational opportunities, resources must be marshalled from a wide range of institutions and groups, including community colleges, community-based educational institutions, business, industry, labor, and other public and private organizations and institutions.

"STATE ALLOTMENTS

"SEC. 112. (a)(1) From 90 per centum of the funds appropriated for this part for each fiscal year, the Secretary shall— 20 USC 101[illegible]

"(A) allot to each State having an agreement under section 1203 of this Act an amount which bears the same ratio to 60 per centum of such amount as the adult population of that State bears to the adult population of all States, and

Post, p. 1493.

"(B) allot 40 per centum of such amount to all States having an agreement under section 1203 on an equal basis,

except that no State shall receive less than $187,500 in any such fiscal year. If 90 per centum of the sums appropriated for any fiscal year are insufficient to pay the allotment specified in clauses (A) and (B) of the previous sentence and the exception contained in the previous sentence, the amount of each State's allotment under such clauses (A) and (B) (but not the amount in the exception) shall be ratably reduced. If 90 per centum of the sums appropriated for any fiscal year are insufficient after the application of the previous sentence, the amount of each State's allotment shall be equal. In case additional funds become available in making such payments in any fiscal year during which the second and third sentence of this paragraph are applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"(2) Ten per centum of the funds appropriated for this part shall be available for carrying out section 116.

"(b) If, in any fiscal year, a State does not wish to conduct comprehensive planning pursuant to section 113, the Secretary shall allot to such State an amount equal to the amount the State would otherwise receive for the conduct of programs of continuing education and information services under this part. The Secretary shall reallot the funds that would have been used by such State for the conduct of statewide planning under section 113 to all other States having agreements under section 1203. Such reallotments shall be made in proportion to their allotments pursuant to subsection (a).

"COMPREHENSIVE STATEWIDE PLANNING

20 USC 1013.

"SEC. 113. (a)(1) Subject to paragraphs (2) and (3), each State with an agreement pursuant to section 1203 of this Act shall use at least 15 per centum but not to exceed 20 per centum of its allotment for the purpose of conducting comprehensive statewide planning for improving access and retention within the State to postsecondary educational programs for traditional and nontraditional learners, coordinating educational and occupational information and counseling services to youth and adults throughout the State, and promoting more effective and efficient use of available resources for continuing education within the State.

"(2) In any fiscal year in which appropriations for this part are equal to or exceed $18,500,000 but are less than $24,000,000, each State with an agreement pursuant to section 1203 of this Act shall use at least 10 per centum but not to exceed 15 per centum of its allotment for the purpose described in paragraph (1) of this subsection.

"(3) In any fiscal year in which the appropriations for this part are equal to or exceed $24,000,000, each State having an agreement pursuant to section 1203 of this Act shall use not to exceed 10 per centum of its allotment for the purpose described in paragraph (1) of this subsection.

Programs, grants, and contracts, State report.

"(b) A State shall submit to the Secretary at the end of each fiscal year for which sums have been received a list of programs assisted under this part, a brief description of the purposes of the programs, and an analysis of the relationship between grants and contracts

awarded under this part and comprehensive statewide planning for postsecondary education.

"(c) Of the sums granted to States for comprehensive statewide planning, not less than 50 per centum shall be for the purpose of carrying out a program of statewide planning for continuing education in order to improve access for adults within the State to postsecondary education programs and to promote more effective and efficient use of available resources, including efforts to ensure equal treatment of applicants in the evaluation of grant proposals, except that the Secretary may, upon application, grant a waiver to a State which has demonstrated that the State has adequately provided for meeting the needs of adult learners in its statewide planning activities. Such planning shall give particular consideration to the educational needs of adults who have been inadequately served by programs of postsecondary education. Continuing education.

"(d) Planning undertaken pursuant to this section shall be coordinated, to the maximum extent feasible, with the planning activities under subpart 4 of part A and part B of title IV and section 485 of this Act; the Vocational Education Act; the Comprehensive Employment and Training Act; the Older Americans Act of 1965; the Rehabilitation Act of 1973; the Career Education Incentive Act; the Adult Education Act; the Veterans Readjustment Assistance Act; and other Federal, State, and local activities intended to provide outreach, guidance, counseling, and educational, student aid, and occupational information to persons within the State. *Post*, p. 1407, 20 USC 1071, *post*, p. 1449. 20 USC 11 note, 2301 note. 29 USC 801 note. 42 USC 3001 note. 29 USC 701 note. 20 USC 2601 note. 20 USC 1201 note.

"(e) Each State may use the funds available for this section to conduct studies of student financial assistance needs and resources, information coordination, continuing education, and other topics consistent with the purposes of subsections (a) and (c) of this section. 66 Stat. 663. State studies.

"INFORMATION SERVICES

"SEC. 114. (a) Each State shall use not less than $50,000 nor more than 12 per centum of its allotment, whichever is greater, to conduct programs to develop and coordinate new and existing educational and occupational information and counseling programs to eliminate unnecessary duplication and to provide a more comprehensive delivery of services to both traditional and nontraditional learners seeking educational information and to youth and adults seeking occupational information. 20 USC 1014.

"(b) Such educational and occupational information and counseling programs shall be coordinated to the maximum extent possible with those authorized by subpart 4 of part A and part B of title IV and section 485 of this Act; the Vocational Education Act; the Comprehensive Employment and Training Act; the Older Americans Act of 1965; the Rehabilitation Act of 1973; the Career Education Incentive Act; the Adult Education Act; the Veterans Readjustment Assistance Act; and other Federal, State, and local activities intended to provide outreach, guidance, counseling, and educational, student aid, and occupational information to persons within the State.

"(c) For the purposes of carrying out this section, each State may make grants to, and enter into contracts with, institutions of higher education, public and private institutions and organizations, business, industry, and labor, or any combination thereof. Grants and contracts.

"CONTINUING EDUCATION

20 USC 1015.

"SEC. 115. (a) Each State shall use such sums as may remain available from that State's allotment after reserving the amounts required to carry out the provisions of sections 113 and 114 of this part for the purpose of—

"(1) promoting access to and retention in postsecondary educational programs for adults whose educational needs have been inadequately served;

"(2) expanding and improving postsecondary education programs which help adults develop their occupational potential and prepare for transitions between education and work;

"(3) eliminating barriers posed by previous education or training, age, sex, race, handicap, national origin, rural isolation, or economic circumstance which may place adults at a disadvantage in seeking postsecondary educational opportunities;

"(4) strengthening statewide and other mechanisms of information, counseling, and referral which provide access to postsecondary education and serve the special needs of adults; and

"(5) developing strategies to promote the financial self-sufficiency of postsecondary education programs initiated pursuant to this part.

Programs, grants and contracts.

"(b) To promote the purposes of subsection (a), each State may make grants to and enter into contracts with public and private institutions and organizations, institutions of higher education, business, industry, and labor, or any combination thereof, for programs, such as—

"(1) the creation or expansion of labor education, training and technical assistance programs, and the development of cooperative relationships between State and local labor organizations and institutions and agencies which provide opportunities for continuing education;

"(2) the removal of barriers to continuing education caused by rural isolation or other rural-related factors;

"(3) legal, vocational, and health educational services and information services for older individuals who use preretirement education as a means to adjust to retirement;

"(4) the promotion of resource sharing for innovative uses of technology, including telecommunications, either on an interstate or intrastate basis, to overcome barriers to postsecondary educational opportunities;

"(5) educational and occupational information and counseling services designed to meet the special needs of adult women, particularly homemakers, and to assist their entry or reentry into postsecondary education and the labor force;

"(6) the collection and dissemination of information, including data banks, on sources of student financial assistance and information designed to assist individuals to make choices among postsecondary institutions, programs, and other educational opportunities;

"(7) community education service activities consistent with the purpose of this section for adults in rural areas;

"(8) postsecondary educational programs suited to individuals whose educational needs have been inadequately served, especially the handicapped, older individuals, migrant and seasonal farmworkers, individuals who can participate in programs only on a part-time basis, and individuals who otherwise would be unlikely to continue their education beyond high school;

"(9) child care services to assist individuals desiring to participate to enter or reenter the field of postsecondary education and the labor force; and

"(10) the promotion or delivery of postsecondary education services to women at the place of their employment or in conjunction with their employment.

"(c) No grant or contract may be entered into to carry out the activities described in clause (9) of subsection (b) unless the agreement to make the grant or the contract contains provisions designed to assure that— Grant and contract agreement provisions.

"(1) the State will provide assurances that the State has established a cooperative agreement between the State entity responsible for planning under section 113 and the agency responsible for coordinating child care services within the State; and

"(2) funds made available pursuant to such grant or contract will be used for services furnished only by child care providers licensed in the State or child care providers who have applied for renewal of such a license and are determined by the State to be likely to be approved for renewal.

"(d) Each State may use an amount which does not exceed 5 per centum of sums available for this section or $40,000, whichever is greater, for the administration and operation of programs described in subsection (b) of this section. Program administration and operation.

"FEDERAL DISCRETIONARY GRANTS

"SEC. 116. (a) From 10 per centum of the sums appropriated to carry out the provisions of this part, the Secretary is authorized to make grants to and enter into contracts with public and private institutions and organizations, institutions of higher education, business, industry, labor, and States, or any combination thereof for activities which— 20 USC 1016.

"(1) develop and evaluate innovative delivery systems to increase access to postsecondary education for underserved adults;

"(2) expand the range of educational and community resources used to meet the needs of underserved adults for continuing education;

"(3) promote the development of interstate educational delivery systems, cooperative and consortial arrangements, and programs (including telecommunications) which more effectively address regional needs for continuing education;

"(4) stimulate and evaluate creative approaches to the problems of access for adults inadequately served by existing educational offerings;

"(5) develop statewide, regional, or national programs to coordinate educational and occupational information, including information on student financial assistance, through creation and expansion of data banks for the more effective coordination and dissemination of such information;

"(6) assist States to perform their functions of authorizing institutions of higher education effectively; and

"(7) provide preservice and inservice training to teachers and administrative personnel involved in child care programs, including the recruitment and training of low-income parents for child care positions, and provide specialized training in early childhood education, and to provide improved teacher certification criteria for child care programs.

"(b) No grant may be awarded under this section within a State unless the Secretary has provided the State entity responsible for comprehensive planning under section 1203, if applicable, an opportunity to comment on the relationship of the proposed grant to such planning.

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"NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

Appointments.
20 USC 1017.

"SEC. 117. (a) The President shall appoint a National Advisory Council on Continuing Education consisting of eight representatives of Federal agencies having postsecondary continuing education and training responsibilities, including but not limited to, one representative each from the Departments of Education, Agriculture, Defense, and Labor, and the Veterans' Administration; and twelve members, not full-time employees of the Federal Government, who are knowledgeable and experienced in the field of continuing education, including State and local government officials, representatives of business, labor, and community groups, and adults whose educational needs have been inadequately served. The Advisory Council shall meet at the call of the chairman but not less than twice a year.

Regulation preparation.

"(b) The Advisory Council shall advise the Secretary in the preparation of general regulations and with respect to policies and procedures arising in the administration of this title.

"(c) The Advisory Council shall examine all federally supported continuing education and training programs and make recommendations with regard to policies to eliminate duplication and to effectuate the coordination of programs under this title and other federally funded continuing education and training programs and services.

Report to President, transmittal to Congress.

"(d) The Advisory Council shall make annual reports to the President, the Congress, and the Secretary, commencing on September 30, 1981, of its findings and recommendations, including recommendations for changes in the provisions of this title and other Federal laws relating to continuing education and training activities. The President shall transmit each such report to the Congress with his comments and recommendations. The Advisory Council shall make such other reports or recommendations to the President, the Congress, the Secretary, or the head of any other Federal department or agency as may be appropriate.

"(e) The Advisory Council may utilize the services and facilities of any agency of the Federal Government as may be necessary. The Advisory Council may accept, employ, and dispose of gifts or bequests to carry out its responsibilities under this title.

"DEFINITIONS

20 USC 1018.

"SEC. 118. For the purposes of this subpart—

"(1) the term 'Commission' means the Commission on National Development in Postsecondary Education established under section 102;

"(2) the term 'Advisory Council' means the National Advisory Council on Continuing Education established under section 117;

"(3) the term 'adults whose educational needs have been inadequately served' means individuals eighteen years of age or older who, because of circumstances of age, sex, low income, handicap, minority status, rural isolation, status of unemployment or underemployment, lack of education, or other significant barriers have been discouraged from obtaining equal educational opportunities;

"(4) the term 'continuing education' means postsecondary instruction and support services designed to meet the educational needs of adults, including the expansion of available learning opportunities for adults whose educational needs are inadequately served by current educational offerings in their communities; and

"(5) the term 'adult population' means the population eighteen years old and older of a State and of all the States which shall be determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

"APPROPRIATIONS AUTHORIZED AND PAYMENTS

"SEC. 119. (a) There is authorized to be appropriated $20,000,000 for fiscal year 1981; $30,000,000 for fiscal year 1982; $40,000,000 for fiscal year 1983; $50,000,000 for fiscal year 1984; and $60,000,000 for fiscal year 1985 to carry out the provisions of this part. 20 USC 1019.

"(b) Payments under this part shall not exceed two-thirds of the cost of activities assisted under this part. The non-Federal share may be in cash or in kind, but may not include payments received under any other Federal program.

"(c) Each State is authorized to use not more than 50 per centum of the funds provided under section 113 for the purpose of carrying out programs under section 115.".

(b) Subpart 5 of part A of title IV of the Act is repealed. Repeal. 20 USC 1070d-2, 1070d-3.

TITLE II—AMENDMENT AND EXTENSION OF TITLE II OF THE HIGHER EDUCATION ACT OF 1965

EXTENSION AND REVISION OF LIBRARY PROGRAMS

SEC. 201. Title II of the Act is amended to read as follows:

"TITLE II—COLLEGE AND RESEARCH LIBRARY ASSISTANCE AND LIBRARY TRAINING AND RESEARCH

"PURPOSE; AUTHORIZATION

"SEC. 201. (a) The Secretary shall carry out a program to assist— 20 USC 1021.

"(1) institutions of higher education in the acquisition of library resources, including law library resources, and in the establishment and maintenance of networks for sharing library resources in accordance with part A; *Post*, p. 1384.

"(2) in the training of persons in librarianship and to encourage research and development relating to the improvement of libraries (including the promotion of economical and efficient information delivery, cooperative efforts, and developmental projects) in accordance with part B; *Post*, p. 1385.

"(3) the Nation's major research libraries, in maintaining and strengthening their collections, and in making their holdings available to other libraries whose users have need for research materials, in accordance with part C; and *Post*, p. 1386.

"(4) the establishment of a National Periodical System Corporation, in accordance with part D. *Post*, p. 1386.

"(b)(1)(A) There are authorized to be appropriated to carry out part A $10,000,000 for the fiscal year 1981, $30,000,000 for the fiscal year 1982 and for each of the two succeeding fiscal years, and $35,000,000 for the fiscal year 1985. Appropriation authorization.

"(B) There are authorized to be appropriated to carry out part B $10,000,000 for the fiscal year 1981, $30,000,000 for the fiscal year 1982 and for each of the two succeeding fiscal years, and $35,000,000 for the fiscal year 1985.

"(C) There are authorized to be appropriated to carry out part C $10,000,000 for the fiscal year 1981, $15,000,000 for the fiscal year 1982 and each of the three succeeding fiscal years.

"(2) Notwithstanding paragraph (1), no funds are authorized to be appropriated for part D unless the appropriation for each of parts A, B, and C equals or exceeds the amount appropriated for each such part, respectively, for fiscal year 1979.

"(c) No grant may be made under this title for books, periodicals, documents, or other related materials to be used for sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity.

"NOTIFICATION OF STATE AGENCY

20 USC 1022.

"SEC. 202. Each institution of higher education which receives a grant under this title shall annually inform the State agency designated pursuant to section 1203 of its activities under this title.

Post, p. 1493.

"PART A—COLLEGE LIBRARY RESOURCES

"RESOURCE DEVELOPMENT GRANTS

20 USC 1029.

"SEC. 211. (a) From the amount appropriated for this part, the Secretary shall make grants to institutions of higher education or combinations thereof (and to each branch of an institution which is located in a community different from that in which its parent institution is located), and to other public and private nonprofit library institutions whose primary function is to provide library and information services to institutions of higher education on a formal, cooperative basis. The amount of a resource development grant under this section shall not exceed $10,000.

Limitation.

Application requirements.

"(b) A grant under this part may be made only if the application provides—

"(1) information about the institution and its library resources as prescribed by the Secretary in regulations;

"(2) satisfactory assurance that the applicant will expend, for all library material expenditures (exclusive of construction) during the fiscal year for which the grant is sought, from funds other than funds received under this part, an amount not less than the average annual aggregate amount or the average amount per full-time equivalent student it expended for such purposes during the two fiscal years preceding the fiscal year for which assistance is sought under this part;

"(3) for such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(4) for making such reports as the Secretary may require and for keeping such records and for affording such access thereto as the Secretary deems necessary to assure the correctness and verification of such reports.

Waiver.

"(c) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent the applicant from making the assurance required by subsection (b)(2), the requirement for such assurance may be waived. For purposes of this

"Very unusual circumstances."

subsection, the term 'very unusual circumstances' means theft, vandalism, fire, flood, earthquake, or other occurrence which may temporarily reduce the level of expenditures for library materials and total library purposes, or which resulted in unusually high expenditures for library materials and total library purposes.

"(d) Grants under this part may be used only for books, periodicals, documents, magnetic tapes, phonographic records, audiovisual materials, and other related library materials (including necessary binding) and for the establishment and maintenance networks for sharing library resources with other institutions of higher education.

"PART B—LIBRARY TRAINING, RESEARCH, AND DEVELOPMENT

"GRANTS AUTHORIZED

"SEC. 221. From the amount appropriated for this part, the Secretary shall make grants in accordance with sections 222, 223, and 224. Of such amount, one-third shall be available for the purposes of each such section. 20 USC 1031.

"LIBRARY CAREER TRAINING

"SEC. 222. (a) The Secretary shall make grants to, and contracts with, institutions of higher education and library organizations or agencies to assist them in training persons in librarianship. Such grants or contracts may be used by such institutions, library organizations, or agencies (1) to assist in covering the cost of courses of training or study (including short term or regular session institutes), (2) to establish and maintain fellowships or traineeships with stipends (including allowances for travel, subsistence, and other expenses) for fellows and others undergoing training and their dependents, not in excess of such maximum amounts as may be determined by the Secretary, and (3) to establish, develop, or expand programs of library and information science, including new techniques of information transfer and communication technology. Grants and contracts. 20 USC 1032.

"(b) Not less than 50 per centum of the grants made under this section shall be for the purpose of establishing and maintaining fellowships or traineeships under subsection (a)(2).

"RESEARCH AND DEMONSTRATIONS

"SEC. 223. The Secretary is authorized to make grants to, and contracts with, institutions of higher education and other public or private agencies, institutions, and organizations for research and demonstration projects related to the improvement of libraries, training in librarianship, and information technology, and for the dissemination of information derived from such projects. Grants and contracts. 20 USC 1033.

"SPECIAL PURPOSE GRANTS

"SEC. 224. (a) The Secretary is authorized to make special purpose grants to (1) institutions of higher education to meet special national or regional needs in the library or information sciences, (2) combinations of institutions of higher education which demonstrate a need for special assistance in establishing and strengthening joint-use library facilities, resources, or equipment, (3) other public and private nonprofit library institutions which provide library and information services to institutions of higher education on a formal, cooperative basis for the purpose of establishing, developing, or expanding programs or projects that improve their services, and (4) institutions of 20 USC 1034.

higher education which demonstrate a need for special assistance to develop or expand programs or projects that will service the communities in which the institutions are located.

Grant application approval.

"(b) A grant under this section may be made only if the application therefor (whether by an individual institution or a combination of institutions) is approved by the Secretary on the basis of criteria prescribed in regulations and provides satisfactory assurance that (1) the applicant will expend during the fiscal year for which the grant is sought (from funds other than funds received under this title), for the same purpose as such grant, an amount from such other sources equal to not less than one-third of such grant, and (2) the applicant will expend during such fiscal year from such other sources for all library purposes (exclusive of construction) an amount not less than the average annual amount it expended for such purposes during the two fiscal years preceding the fiscal year for which the grant is sought under this section.

"PART C—STRENGTHENING RESEARCH LIBRARY RESOURCES

"ELIGIBILITY FOR ASSISTANCE

Grants.
20 USC 1041.

"SEC. 231. (a)(1) From the amount appropriated for this part, the Secretary shall make grants to institutions with major research libraries.

"Major research library."

"(2) For the purposes of this part, the term 'major research library' means a public or private nonprofit institution (including the library resources of an institution of higher education), an independent research library, or a State or other public library, having a library collection which is available to qualified users and which—

"(A) makes a significant contribution to higher education and research;

"(B) is broadly based and is recognized as having national or international significance for scholarly research;

"(C) is of a unique nature, and contains material not widely available; and

"(D) is in substantial demand by researchers and scholars not connected with that institution.

"(b) No institution receiving a grant under this part for any fiscal year may receive a grant under section 211 or 224 for that year.

"GEOGRAPHICAL DISTRIBUTION OF GRANTS

20 USC 1042.

"SEC. 232. In making grants under this part, the Secretary shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

"PART D—NATIONAL PERIODICAL SYSTEM

"PURPOSE

20 USC 1047.

"SEC. 241. It is the purpose of this part to assess the feasibility and advisability of, and, if feasible and advisable, prepare a design for a national periodical system to serve as a national periodical resource by contributing to the preservation of periodical materials and by providing access to a comprehensive collection of periodical literature to public and private libraries throughout the United States.

"ESTABLISHMENT

"SEC. 242. There is established a nonprofit corporation, to be known as the National Periodical System Corporation, which shall not be considered an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this part, and to the extent consistent with this Act, to the laws of the jurisdiction where incorporated. National Periodical System Corporation. 20 USC 1047a.

"FUNCTIONS OF THE CORPORATION

"SEC. 243. (a) The Corporation shall assess the feasibility and advisability of a national system and, if feasible and advisable, design such a system to provide reliable and timely document delivery from a comprehensive collection of periodical literature. A design may be implemented by the Corporation only in accordance with the provisions of section 248. 20 USC 1047b.

"(b) Any design for a national periodical system shall include provisions for such system to—

"(1) acquire current and past issues of periodicals, and to preserve and maintain a dedicated collection of such documents;

"(2) provide information on periodicals to which the system can insure access, including those circulated from private sector sources, and cooperate in efforts to improve bibliographic and physical access to periodicals;

"(3) make such periodicals available through libraries, by loan, photoreproduction or other means;

"(4) cooperate with and participate in international borrowing and lending activities as may be appropriate for such purposes;

"(5) ensure that copyright owners who do not wish to participate in such system are not required to participate;

"(6) ensure that copyright fees are fixed by the copyright owners for any reproduction or dissemination of a document delivered through the system;

"(7) complement and not duplicate activities in the private sector to provide access to periodical literature;

"(8) ensure, to the maximum extent feasible, that such system not adversely affect the publication and distribution of current periodicals, particularly scholarly periodicals of small circulation; and

"(9) ensure coordination with existing programs to distribute periodical literature, including programs of regional libraries and programs of interlibrary loan and library networks.

"(c) Any design shall include provisions for the role, if any, of the Corporation in the governance, administration, and operation of the system.

"(d) Any design shall be accompanied by an estimate of the cost for each fiscal year of carrying out the system proposed in the design.

"BOARD OF DIRECTORS

"SEC. 244. (a) The Corporation shall have a Board of Directors, consisting of fifteen members, including fourteen members appointed by the President, by and with the advice and consent of the Senate, and the Director of the Corporation. Appointments. 20 USC 1047c.

"(b) The members of the Board appointed by the President shall be equitably representative of the needs and interests of the Government, academic and research communities, libraries, publishers, the

information community, authors, and the public. Except for the initial Board of Directors, the members shall be appointed after consultation with the Board.

"(c) The members of the initial Board of Directors shall serve as incorporators and shall take whatever actions are necessary to establish the Corporation under the laws of the jurisdiction in which it is incorporated.

Term of office.

"(d) The term of office for each member of the Board (other than the Director) shall be two years except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Notwithstanding the preceding provisions of this paragraph, a member whose term has expired may serve until his successor has taken office.

Compensation.

"(e)(1) The members of the Board shall not, by reason of membership, be deemed employees of the United States. Except as provided in paragraph (2), members shall, while engaged in activities of the Board, be entitled to receive compensation at the rate equal to the daily rate prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day and, while away from their homes or regular place of business, may be allowed travel expenses.

"(2) Members of the Corporation who are full-time officers and employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Corporation.

"(f) Eight members of the Board shall constitute a quorum.

"(g) The Board shall elect annually one of its members to serve as the Chairman.

"(h) The Board shall meet annually or at the call of the Chairman or a majority of its members.

"DIRECTOR AND STAFF OF CORPORATION

20 USC 1047d.

"SEC. 245. (a) The Corporation shall have a Director, and such other officers as appointed by the Board for the terms and at rates of compensation fixed by the Board. The Director shall manage the operations of the Corporation, subject to such rules as may be prescribed by the Board.

"(b) Subject to such rules as may be prescribed by the Board, the Director may appoint and fix the pay of personnel and may procure temporary and intermittent services.

"NONPROFIT NATURE OF CORPORATION

20 USC 1047e.

"SEC. 246. (a) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

"(b) No part of the incomes or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

Tax exempt status.

"(c) The National Periodical System Corporation shall be exempt from taxation now or hereafter imposed by the United States, or any territory or possession thereof, or by any State, county, municipality, or local taxing authority.

"AUTHORITY OF CORPORATION

20 USC 1047f.

"SEC. 247. (a) The Corporation is authorized to—

"(1) obtain grants from and to make contracts with individuals and with private, State, and Federal agencies, organizations, and institutions;

"(2) conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

"(3) lease, purchase, or otherwise acquire, own, hold, improve, use or otherwise deal in and with any property (real, personal, or mixed), or any interest therein, wherever situated;

"(4) sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets; and

"(5) enter into contracts, execute instruments, incur liabilities, and do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business. Contract authority.

"(b) To carry out its functions and to engage in the activities described in subsection (a), the Corporation shall have the usual powers conferred upon a nonprofit corporation by the jurisdiction in which the Corporation is incorporated.

"(c) The Corporation may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States. The Administrator of General Services shall provide to the Corporation on a reimbursable basis such administrative support services as the Corporation may request. GSA administrative support services.

"(d) The Corporation is authorized to accept, hold, administer, and use gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the authority of the Corporation pursuant to section 243. For the purpose of Federal income, estate, and gift taxes, property accepted by the National Periodical System Corporation shall be a gift, bequest, or devise to the United States. Gifts and bequests.

"(e) The Corporation shall be subject to the provisions of section 552b of title 5, United States Code.

"IMPLEMENTING THE DESIGN

"SEC. 248. Any design established under this part shall be submitted to the Congress not later than December 31, 1981, and may not be implemented until the design is approved in whole or in part by enactment of a joint resolution of the Congress approving such design. Congressional approval. 20 USC 1047g.

"COPYRIGHT ACT

"SEC. 249. Nothing in this part shall be considered to amend, affect, or redefine the provisions of title 17, United States Code, relating to copyrights. 20 USC 1047h. 17 USC 1.

"DEFINITIONS

"SEC. 250. As used in this part— 20 USC 1047i.

"(1) the term 'access' means the ability to identify, locate, and obtain a specific item (generally a periodical article), and includes both bibliographic access (the ability to identify a specific item from its description) and physical access to materials (the ability to obtain the text of an item in an appropriate form, such as visual, audio, or printed formats);

"(2) the term 'Board' means the Board of Directors of the National Periodical System Corporation;

"(3) the term 'comprehensive collection' means a collection of periodical titles which will provide access to approximately 90

per centum of the requests received, except that such titles need not all be physically located in the same place;

"(4) the term 'copyright owner' means the owner of any one of the exclusive rights comprised in a copyright;

"(5) the term 'Corporation' means the National Periodical System Corporation established under this part;

"(6) the term 'dedicated collection' means a collection of periodicals maintained for the sole purpose of assuring the provision of permanent physical access;

"(7) the term 'document' means any portion or the entire issue of a periodical;

"(8) the term 'periodical' means a publication consisting of issues in a continuous series under the same title published at regular or irregular intervals, over an indefinite period, individual issues in the series being numbered consecutively or each issue being dated; and

"(9) the term 'private sector' means nongovernmental, nonprofit, and for-profit organizations.

"AUTHORIZATION OF APPROPRIATIONS

20 USC 1047j.

"SEC. 251. (a) There are authorized to be appropriated, for the purpose of carrying out this part, $750,000 for each of fiscal years 1981 and 1982, and such sums as may be necessary for each of the fiscal years 1983, 1984, and 1985.

"(b) In any fiscal year after the joint resolution described in section 248 is enacted, there are authorized to be appropriated such additional sums as may be necessary to implement an approved design for any such fiscal year ending prior to October 1, 1985.".

TITLE III—ESTABLISHMENT OF A NEW TITLE III OF THE HIGHER EDUCATION ACT OF 1965

PROGRAMS AUTHORIZED

SEC. 301. Title III of the Act is amended to read as follows:

"TITLE III—INSTITUTIONAL AID

"FINDINGS AND PURPOSES

20 USC 1051.

"SEC. 301. (a) The Congress finds that—

"(1) many institutions of higher education in this era of declining enrollments and scarce resources face problems which threaten their ability to survive;

"(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as to an inability to engage in long-range planning, recruitment activities, and development activities;

"(3) the solution of the problems of these institutions would enable them to become viable, thriving institutions of higher education; and

"(4) these institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them in solving their problems and in stabilizing their management and fiscal operations.

"(b) It is the purpose of this title to assist such institutions through a program of Federal assistance.

"PART A—STRENGTHENING INSTITUTIONS

"PROGRAM PURPOSE

"SEC. 311. (a) The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation. 20 USC 1057.

"(b) From the sums available for this part under section 347(a)(1), the Secretary may award grants to any eligible institution with an application approved under section 341 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution. Special consideration shall be given to applications which propose to engage in the following activities pursuant to the institution's plan: Grants.

"(1) faculty development;
"(2) funds and administrative management;
"(3) development and improvement of academic programs;
"(4) acquisition of equipment for use in strengthening funds management and academic programs;
"(5) joint use of facilities such as libraries and laboratories; and
"(6) student services.

"DEFINITIONS

"SEC. 312. For purposes of this part: 20 USC 1058.

"(1) The term 'educational and general expenditures' means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation, and maintenance expenditures for physical plant, and any mandatory transfers which the institution is required to pay by law.

"(2) The term 'eligible institution' means—

"(A) an institution of higher education—

"(i)(I) which, in the case of an institution which awards a bachelor's degree, has an enrollment which includes a substantial percentage of students receiving awards under subpart 1 of part A of title IV, the average amount of which is high in comparison with the average amount of all grants awarded under such subpart to students at such institutions, and (II) which, in the case of junior or community colleges, has an enrollment which includes a substantial percentage of students receiving awards under subpart 1 of title IV, the average amount of which is high in comparison with the average amount of all grants awarded under such subpart to students at such institutions; 20 USC 1070a.

"(ii) except as provided in section 342(a), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

"(iii)(I) is legally authorized to provide, and provides within the State, an educational program for which it

awards a bachelor's degree, or (II) is a junior or community college;

"(iv) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

"(v) except as provided in section 342(b) has, during the five academic years preceding the academic year for which it seeks assistance under this part—

"(I) met the requirement of either clause (iii)(I) or (iii)(II), or of both such clauses (simultaneously or consecutively); and

"(II) met the requirement of clause (iv); and

"(vi) meets such other requirements as the Secretary may prescribe; or

"(B) any branch of any institution of higher education described under subparagraph (A) which by itself satisfies the requirements contained in clauses (i) and (ii) of such subparagraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under subparagraph (A)(i) shall be given twice the weight of the factor described under subparagraph (A)(ii).

"(3) The term 'full-time equivalent students' means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve) at such institution.

"(4) The term 'junior or community college' means an institution of higher education—

"(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

"(B) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

"(C) that—

"(i) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

"(ii) offers a two-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

"DURATION OF GRANT

20 USC 1059.

"SEC. 313. (a) The Secretary may award a grant to an eligible institution under this part for—

"(1) not to exceed three years, or

"(2) not less than four nor more than seven years,

subject for each fiscal year to the availability of appropriations therefor. The Secretary shall not accept the application of an eligible institution for a grant under both paragraphs (1) and (2) for a fiscal year.

"(b) The Secretary shall not award a grant under this part to an eligible institution that has, for any prior fiscal year, received a grant under subsection (a)(2).

"(c) Notwithstanding subsection (a), the Secretary may award a grant to an eligible institution under this part for a period of one year for the purpose of assisting such institution in the preparation of plans and applications under this part.

"PART B—AID TO INSTITUTIONS WITH SPECIAL NEEDS

"PROGRAM PURPOSE

"SEC. 321. (a) The purpose of this part is to provide for a program of short-term Federal assistance to strengthen the planning, management, and fiscal capabilities of institutions with special needs. 20 USC 1060.

"(b) From the sums available for this part under section 347(a)(1), the Secretary may make grants to any institution with special needs with an application approved under section 341 in order to assist such an institution to plan, develop, or implement activities consistent with the purpose of this part. Such activities shall include— Grants.

"(1) faculty development;

"(2) funds and administrative management;

"(3) development and improvement of academic programs;

"(4) acquisition of equipment for use in strengthening funds management and academic programs;

"(5) joint use of facilities such as libraries and laboratories; and

"(6) student services.

"DEFINITIONS

"SEC. 322. (a) For purposes of this part: 20 USC 1061.

"(1) The term 'educational and general expenditures' means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation, and maintenance expenditures of physical plant, and any mandatory transfers which the institution is required to pay by law.

"(2) The term 'institution with special needs' means—

"(A) an institution of higher education—

"(i)(I) which, in the case of an institution which awards a bachelor's degree, has an enrollment which includes a substantial percentage of students receiving need-based assistance under title IV of this Act, the average amount of which assistance is high in comparison with the average amount of all assistance provided under such title to students at such institutions, and (II) which, in the case of junior or community colleges, has an enrollment which includes a substantial percentage of students receiving need-based assistance under title IV, the average amount of which assistance is high in comparison with the average amount of all assistance provided under such title to students at such institutions; 20 USC 1070.

"(ii) except as provided in section 342(a), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

"(iii)(I) is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (II) is a junior or community college;

"(iv) is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation;

"(v) except as provided in section 342(b) has, during the five academic years preceding the academic year for which it seeks assistance under this part—

"(I) met the requirement of either clause (iii)(I) or (iii)(II), or of both such clauses (simultaneously or consecutively); and

"(II) met the requirement of clause (iv);

"(vi) has an enrollment of not less than 100 full-time equivalent students in the academic year for which the determination is made; and

"(vii) meets such other requirements as the Secretary may prescribe; or

"(B) any branch of any institution of higher education described under subparagraph (A) which by itself satisfies the requirements contained in clauses (i), (ii), and (vi) of such subparagraph and which is located in a community different from that in which its parent institution is located.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under subparagraph (A)(i) shall be given the same weight as the factor described under subparagraph (A)(ii), and the Secretary may also consider the factors specified under subsection (b) of this section.

"(3) The term 'full-time equivalent students' means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time at such institution (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by twelve).

"(4) The term 'junior or community college' means an institution of higher education—

"(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

"(B) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

"(C) that—

"(i) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

"(ii) offers a two-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

"(b) In determining whether an institution is an institution with special needs under subsection (a)(2), the Secretary may also consider the following factors: Institutions with special needs, determination.

"(1) extreme financial limitations requiring low faculty salaries, low costs of instruction for students, and low library expenditures;

"(2) a little or no endowment, whether or not unrestricted;

"(3) a high student to faculty ratio;

"(4) a substantial percentage of students receiving need-based Federal student assistance;

"(5) limited library resources;

"(6) a low percentage of faculty with doctorate degrees;

"(7) poor physical facilities and limited resources to maintain physical facilities;

"(8) little or no support from foundations, alumni, or corporations;

"(9) limited or no sponsored research or faculty publications;

"(10) inadequate development offices and a limited capacity for long-range planning; and

"(11) poor or inadequate fiscal management and accounting procedures.

"DURATION OF GRANT

"SEC. 323. The Secretary may make a grant to any institution with special needs under this part for a period of not more than five years. A grant to enhance the planning capabilities of an institution shall not exceed one year. 20 USC 1062.

"FEDERAL SHARE

"SEC. 324. The Federal share of the cost of grants made to institutions with special needs under this part shall be 100 per centum for the first two years in which an institution receives a grant, 90 per centum for the third year an institution receives a grant, 80 per centum for the fourth year an institution receives a grant, and 70 per centum for the fifth year an institution receives a grant. Grants. 20 USC 1063.

"PART C—CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

"ESTABLISHMENT OF CHALLENGE GRANT PROGRAM

"SEC. 331. (a)(1) From the sums available under section 347(a)(2) for each fiscal year, the Secretary may award a challenge grant to each institution— 20 USC 1064.

"(A) which is an eligible institution under part A or would be considered to be such an institution if section 312(2)(A)(iii) referred to a postgraduate degree rather than a bachelor's degree; or *Ante*, p. 1391.

"(B) which is an institution with special needs under part B or would be considered to be such an institution if section *Ante*, p. 1393.

322(a)(2)(A)(iii) referred to a postgraduate degree rather than a bachelor's degree.

Waiver.

"(2) The Secretary may waive the requirements set forth in subparagraphs (A) and (B) of paragraph (1) with respect to a postgraduate degree in the case of any institution otherwise eligible under such paragraph for a challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.

"(b) The Secretary may make a grant under this section for a period of not more than 5 years. A grant under this section may be used for the programs and activities described in part A or part B, as the case may be.

Ante, pp. 1391, 1393.

"APPLICATIONS FOR CHALLENGE GRANTS

20 USC 1065.

"SEC. 332. (a) Any institution eligible for a challenge grant under section 331(a) may apply for such a grant under section 341, except that the application for the purpose of this part shall—

"(1) provide evidence that funds are available to the applicant to match funds that the Secretary is requested to make available to the institution as a challenge grant;

"(2) in the case of an application by a public institution, contain the recommendations of an appropriate State agency responsible for higher education in the State, or provide evidence that the institution requested the State agency to comment but the State agency failed to comment; and

"(3) in the case of an application by an institution described under section 331(a)(1)(B), demonstrate how challenge grant funds will be used to eradicate the conditions enumerated in section 322(b) (1) through (11), and lead to greater financial independence.

"(b) Not later than April 1 of the fiscal year preceding the fiscal year in which any grant is to be made under this part, the Secretary shall determine which institutions will receive challenge grants under this part and notify the institutions of the amount of the grant.

"(c) In approving applications for grants under this part, preference shall be given to institutions which are receiving, or have received, grants under part A or part B.

"PART D—GENERAL PROVISIONS

"APPLICATIONS FOR ASSISTANCE

20 USC 1066.

"SEC. 341. (a) Any institution which is eligible for assistance under this title may submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate its need for assistance. Subject to the availability of appropriations to carry out this title, the Secretary may approve an application for a grant under this title if the application meets the requirements of subsection (b) and shows that the applicant is eligible for assistance in accordance with the part of this title under which the assistance is sought.

Application requirements.

"(b) An institution, in its application for a grant, shall—

"(1) set forth, or describe how it will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

"(2) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 311(b) or 321(b), and in no case supplant those funds;

"(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

"(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this title;

"(5) provide for making such reports, in such form and containing such information, as the Secretary may require to carry out his functions under this title (including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded), and for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports; Recordkeeping.

"(6) provide that the institution will comply with the limitations set forth in section 346;

"(7) include such other information as the Secretary may prescribe; and

"(8) describe in a comprehensive manner any development project for which funds are sought under the application and include— Development project.

"(A) a description of the various components of the development project, including the estimated time required to complete each such component;

"(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the applicant);

"(C) an evaluation by the applicant of the priority given any development project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this title, and a similar evaluation regarding priorities among the components of any single development project (as described by the applicant pursuant to subparagraph (A));

"(D) in the case of a request for an award for a period of more than one year, a statement of reasons explaining why funds are necessary for each year of such period and why a single year award would be inadequate;

"(E) information explaining the manner in which the development project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, increased energy costs, and other problems;

"(F) a detailed budget showing the manner in which funds for any development project would be spent by the applicant; and

"(G) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (F).

"WAIVER AUTHORITY AND REPORTING REQUIREMENT

20 USC 1067.

"SEC. 342. (a)(1) The Secretary may waive the requirements set forth in section 312(2)(A)(ii) or section 322(a)(2)(A)(ii) if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as an eligible institution under part A or as an institution with special needs under part B (as the case may be) is otherwise consistent with the purposes of such parts.

Ante, p. 1391.
Ante, p. 1393.

Report to Congress.

"(2) The Secretary shall submit to the Congress each year a report concerning the institutions which, although not satisfying the criterion contained in section 312(2)(A)(ii) or section 322(a)(2)(A)(ii), have been determined to be eligible institutions under part A or institutions with special needs under part B, as the case may be. Such report shall—

"(A) identify the factors referred to in paragraph (1) which were considered by the Secretary as factors that distorted the determination of compliance with section 312(2)(A)(ii) or section 322(a)(2)(A)(ii), as the case may be; and

"(B) contain a list of each institution determined to be an eligible institution under part A or as an institution with special needs under part B and include a statement of the reasons for each such determination.

Waiver qualifications.

"(b) The Secretary may waive the requirement set forth in sections 312(2)(v) and 322(a)(2)(v) in the case of an institution—

"(1) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians;

"(2) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Spanish-speaking people;

"(3) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of individuals living in rural areas, whose needs are for the most part unserved by other postsecondary education institutions;

"(4) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of low-income individuals; or

"(5) wherever located, if the Secretary determines that the institution has traditionally served substantial numbers of black students.

"APPLICATION REVIEW PROCESS

20 USC 1068.

"SEC. 343. (a)(1) All applications submitted under this title by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

Conflict-of-interest safeguard.

"(2) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title and consistent with the provisions of this title, including—

"(A) explanations and examples of the types of activities referred to in section 311(b) that should receive special consideration for grants awarded under part A and of the types of activities referred to in section 321(b) that should receive special consideration for grants awarded under part B; *Ante*, p. 1391. *Ante*, p. 1393.

"(B) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

"(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

"(b) In awarding grants under this title, the Secretary shall take into consideration the recommendations of the panel made under subsection (a).

"(c) Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this title of— Applicant notification.

"(1) the scores given the applicant by the panel pursuant to this section,

"(2) the recommendations of the panel with respect to such application, and

"(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this title, and any modifications, if any, in the recommendations of the panel made by the Secretary.

"COOPERATIVE ARRANGEMENTS

"SEC. 344. (a) The Secretary may make grants to encourage cooperative arrangements— Grants. 20 USC 1069.

"(1) with funds available to carry out part A, between institutions eligible for assistance under part A; or

"(2) with funds available to carry out part B, between institutions eligible for assistance under part B;

for the activities described in section 311(b) or section 321(b), as the case may be, so that the resources of the cooperating institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts.

"(b) The Secretary shall give priority to grants for the purposes described under subsection (a) whenever the Secretary determines that the cooperative arrangement is geographically and economically sound.

"(c) Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 313 or 323, as the case may be.

"ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS

"SEC. 345. (a) Each institution which the Secretary determines to be an eligible institution under part A or an institution with special needs under part B shall be eligible for waivers in accordance with subsection (b). 20 USC 1069a.

"(b)(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an Waiver.

institution referred to in subsection (a) for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

"(2) The provisions of this section shall apply to any program authorized by title II, IV, VII, or VIII of this Act.

Ante, p. 1383, 20 USC 1070, *ante*, p. 1472, 20 USC 1133.

"(c) The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 per centum of the appropriations for the program for any fiscal year.

"LIMITATIONS

20 USC 1069b.

"SEC. 346. The funds appropriated under section 347 may not be used—

"(1) for a school or department of divinity or any religious worship or sectarian activity;

"(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

"(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

"(4) for purposes other than those set forth in the approved application under which the funds were made available to the institution.

"AUTHORIZATIONS

20 USC 1069c.

Ante, pp. 1391, 1393.

"SEC. 347. (a)(1) There are authorized to be appropriated to carry out parts A and B $175,000,000 for the fiscal year 1982, $185,000,000 for the fiscal year 1983, $200,000,000 for the fiscal year 1984, and $220,000,000 for the fiscal year 1985. Of the amounts appropriated under this paragraph for each fiscal year, 50 per centum shall be made available to carry out part A and 50 per centum shall be made available to carry out part B.

Ante, p. 1395.

"(2) There are authorized to be appropriated to carry out part C $25,000,000 for the fiscal year 1982, $35,000,000 for the fiscal year 1983, $45,000,000 for the fiscal year 1984, and $50,000,000 for the fiscal year 1985.

Multiple year award.

"(b) In the event of a multiple year award to any institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

Funds, allocation.

"(c)(1) Of the sums appropriated under subsection (a)(1) for any fiscal year for part A, the Secretary shall make available to use for the purposes of each such part—

"(A) not less than 24 per centum to institutions that are junior or community colleges, and

"(B) the remainder to institutions that plan to award a bachelor's degree during that year.

"(2) Of the sums appropriated under subsection (a)(1) for any fiscal year for part B, the Secretary shall make available to use for the purposes of each such part—

"(A) not less than 30 per centum to institutions that are junior or community colleges, and

"(B) the remainder to institutions that plan to award a bachelor's degree during that year.

"(d) Of the sums appropriated under subsection (a)(1) for the purpose of part A for any fiscal year, the Secretary shall make available not less than 25 per centum for grants under section 313(a)(2). Any funds made available under this subsection for such grants which are not expended during the fiscal year for which such funds were appropriated shall remain available for expenditure for the purpose of making such grants during subsequent fiscal years. *Ante*, p. 1391.

"(e) The Secretary shall assure that in each fiscal year the amount available under part B for institutions with special needs that historically serve substantial numbers of black students will not be less than 50 per centum of the amount received by such institutions for fiscal year 1979.". *Ante*, p. 1393.

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

STATEMENT OF PURPOSE

SEC. 401. Section 401(a) of the Act is amended— 20 USC 1070.

(1) by striking out "qualified students" and inserting in lieu thereof "eligible students (defined in accordance with section 484)"; and

(2) by striking out "of exceptional need who, for lack of such a grant, would be unable to obtain the benefits of a postsecondary education" in paragraph (2) and inserting in lieu thereof "who demonstrate financial need".

PELL GRANTS

SEC. 402. (a) Section 411(a)(1) of the Act is amended to read as follows: 20 USC 1070a.

"SEC. 411. (a)(1)(A) The Secretary shall, during the period beginning July 1, 1972, and ending September 30, 1985, pay to each eligible student (defined in accordance with section 484) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to paragraph (2).

"(B) The purpose of this subpart is to provide a basic grant that (i) as determined under paragraph (2), will meet in academic year 1985–1986, 70 per centum of a student's cost of attendance not in excess of $3,700; and (ii) in combination with reasonable parental or independent student contribution and supplemented by the programs authorized under subparts 2 and 3 of this part, will meet 75 per centum of a student's cost of attendance, unless the institution determines that a greater amount of assistance would better serve the purposes of section 401.

"(C) Basic grants made under this subpart shall be known as 'Pell Grants'.". "Pell Grants."

(b)(1) Section 411(a)(2)(A)(i) of the Act is amended to read as follows: Basic grants.

"(2)(A)(i) The amount of the basic grant for a student eligible under this part shall be—

"(I) $1,900 for academic year 1981–1982,

"(II) $2,100 for academic year 1982–1983,

"(III) $2,300 for academic year 1983–1984,

"(IV) $2,500 for academic year 1984–1985, and

"(V) $2,600 for academic year 1985-1986,

less an amount equal to the amount determined under section 482 to be the expected family contribution with respect to that student for that year.".

20 USC 1070a.

(2) Section 411(a)(2)(A)(ii) of this Act is amended by striking out "February 1 of each year" and inserting in lieu thereof "January 1, 1981, October 1, 1981, and on October 1 of each succeeding year".

(c)(1) Section 411(a)(2)(B)(i) of the Act is amended to read as follows:

Limitations.

"(B)(i) The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed—

"(I) 50 per centum of the cost of attendance (as defined under section 482(d)) at the institution at which the student is in attendance for that year, when the maximum grant is less than or equal to $1,900;

"(II) 55 per centum of such cost of attendance when the maximum basic grant is more than $1,900 but is less than $2,100;

"(III) 60 per centum of such cost of attendance when the maximum basic grant is at least $2,100 but is less than $2,300;

"(IV) 65 per centum of such cost of attendance when the maximum basic grant is at least $2,300 but is less than $2,600; and

"(V) 70 per centum of such cost of attendance when the maximum basic grant is $2,600.".

(2) Section 411(a)(2)(B)(ii) of the Act is amended by striking out "actual" each time it appears.

(3) Section 411(a)(2)(B)(iv) of the Act is repealed.

(d)(1) Section 411(a)(3) of the Act is repealed.

(2) Paragraph (4) of section 411(a) of the Act is redesignated as paragraph (3).

(e) Section 411(a)(3) of the Act (as redesignated by subsection (d)(2)) is amended to read as follows:

"(3) The period during which a student may receive basic grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance. Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature which are determined by the institution as necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree.".

(f) Section 411(b)(3)(B)(i) of the Act is amended to read as follows:

"(B)(i) If, during any period of any fiscal year, the funds available for payments under this subpart are insufficient to satisfy fully all entitlements, the amount paid with respect to each such entitlement, as calculated prior to the cost of attendance limitation provided in section 411(a)(2)(B)(i) under this subpart, shall be—

"(I) the full amount in the case of any student's eligibility index which is less than 601;

"(II) 90 per centum of the amount when the student's eligibility index is 601 but less than 801;

"(III) 80 per centum of the amount when the student's eligibility index is 801 but less than 1001;

"(IV) 70 per centum when the student's eligibility index is 1001 but less than 1201;

"(V) 60 per centum when the student's eligibility index is 1201 but less than 1601; and

"(VI) 50 per centum when the student's eligibility index is 1601 or greater.

For the purpose of this division, a 'student's eligibility index' is the index of need of a student established by the Secretary in carrying out section 482, relating to the family contribution schedule.". "Student's eligibility index." *Post*, p. 1445.

(g) Section 411(b)(5) of the Act is amended to read as follows: Limitations.

"(5)(A) For any fiscal year ending prior to October 1, 1985, if— 20 USC 1070a.

"(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $370,000,000, 20 USC 1070b.

"(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000, 20 USC 1070c.

"(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not at least equal $550,000,000, and *Post*, p. 1433.

"(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year, 20 USC 1087aa. *Post*, p. 1437.

no payment may be made in excess of $1,800 on the basis of entitlements established under this subpart in excess of such amount.

"(B) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $400,000,000,

"(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

"(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not at least equal $550,000,000, and *Post*, p. 1433.

"(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year, no payment may be made in excess of $1,899 on the basis of entitlements established under this subpart in excess of such amount.

"(C) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $440,000,000,

"(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

"(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not at least equal $550,000,000, and

"(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the

20 USC 1087aa, *post*, p. 1437.

sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year, no payment may be made in excess of $2,099 on the basis of entitlements established under this subpart in excess of such amount.

"(D) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $460,000,000,

20 USC 1070b.

"(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

20 USC 1070c.

"(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not at least equal $550,000,000, and

Post, p. 1433.

"(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year, no payment may be made in excess of $2,299 on the basis of entitlements established under this subpart in excess of such amount.

"(E) For any fiscal year ending prior to October 1, 1985, if—

"(i) the appropriation for making grants under subpart 2 of this part for that fiscal year does not at least equal $480,000,000,

"(ii) the appropriation for State student incentive grants under subpart 3 of this part for that fiscal year does not at least equal $76,750,000,

"(iii) the appropriation for work-study payments under section 441 of this title for that fiscal year does not equal at least $550,000,000, and

"(iv)(I) the amount available for Federal capital contributions to student loan funds for that fiscal year from funds appropriated under section 461 does not at least equal $286,000,000, (II) the sum of the amounts available under both sections 461 and 468 for Federal capital contributions to student loan funds for that fiscal year does not at least equal $286,000,000, or (III) the amount available under section 468 is not sufficient to provide Federal capital contributions to such funds for that fiscal year in an amount which equals or exceeds the total amount which was available for student loans during the preceding fiscal year, no payment may be made equal to or in excess of $2,500 on the basis of entitlements established under this subpart which are equal to or in excess of such amount.".

20 USC 1070a.

(h) Subsections (d) and (e) of section 411 of the Act are repealed.

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

20 USC 1070b.

SEC. 403. (a) Section 413A(a) of the Act is amended by striking out "who, for lack of financial means, would be unable to obtain such

benefits without such a grant" and inserting in lieu thereof "who demonstrate financial need in accordance with the provisions of section 482".

Post, p. 1445.

(b)(1) The first sentence of section 413A(b)(1) of the Act is amended by inserting before the period a comma and the following: "and $350,000,000 for the fiscal year 1981, and for each of the succeeding fiscal years ending prior to October 1, 1985". 20 USC 1070b.

(2) Section 413A(b)(3) of the Act is amended by inserting "second" before "fiscal year" the second time it appears in such section.

(c)(1) Section 413B(a)(2)(A) of the Act is amended to read as follows: 20 USC 1070b-1.

"(2)(A) The amount of the payment to any student pursuant to paragraph (1) shall be equal to the amount determined by the institution, in accordance with the provisions of section 482, to be needed by that student to enable him to pursue a course of study at the institution, except that such amount shall not exceed $2,000.".

(2) Section 413B(a)(2)(B) of the Act is amended by adding at the end thereof the following new sentence: "For a student enrolled for less than a full academic year, the minimum payment required shall be reduced proportionately.".

(3) Section 413B(a)(2) of the Act is further amended by striking out subparagraph (C).

(4) Section 413B(b) of the Act is amended to read as follows:

"(b)(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance.

"(2) A supplemental grant awarded under this subpart shall entitle the student to whom it is awarded to payments pursuant to such grant only if the student meets the requirements of section 484, except as provided in section 413C(c).".

Post, p. 1448.

(d) Section 413C of the Act is amended to read as follows:

"SELECTION OF RECIPIENTS; AGREEMENTS WITH INSTITUTIONS

"SEC. 413C. (a) An individual shall be eligible for the award of a supplemental grant under this subpart by an institution of higher education which, in accordance with section 487, has an agreement with the Secretary applicable to this subpart, if the individual makes application at a time and in a manner consistent with the requirements of the Secretary and that institution, and meets the requirements of section 484. 20 USC 1070b-2.

Post, p. 1451.

"(b) From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 487, and within the amount allocated to the institution for that purpose for that year under section 413D(b), select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them.

Infra.

"(c) An eligible institution may use not more than 10 per centum of its allocation for less-than-half-time undergraduate students who are determined by the institution to be in need of such grants and who meet the requirements of section 484, other than the requirement of clause (2) of section 484(a).".

(e)(1) Section 413D(a)(1) of the Act is amended by striking out "persons" each place it appears and inserting in lieu thereof "undergraduates". 20 USC 1070b-3.

(2) Section 413D(a)(2) is amended by striking out "section 431A(b)(2)" and inserting in lieu thereof "section 413A(b)(2)".

(3) Section 413D(b)(1)(B)(ii) of the Act is amended to read as follows:

Funds, allocation determination.

"(ii) Allocations under division (i) by the Secretary to such institutions shall be made in accordance with a formula which determines institutional need for funds under this subpart by subtracting from 75 per centum of total student expenses the sum of expected family or independent student contributions, awards made under subparts 1 and 3 of this part, and 25 per centum of grants and awards made by the institution from its own resources. In addition, the Secretary, in establishing equitable criteria, shall not issue any regulation which has the effect of penalizing institutions that under existing State law must provide scholarships or grant assistance from their own funds and yet are not free under laws in effect on January 1, 1979, either to select the recipients of such assistance or to adjust the criteria by which the recipients are selected. The formula established under this division shall not result in any institution receiving an amount less than—

20 USC 1070a, 1070c.

"(I) 100 per centum of the amount such institution received and used under this section for fiscal year 1979 in the case of any fiscal year for which the appropriation for this part is less than $400,000,000;

"(II) 80 per centum of such amount in the case of any fiscal year for which such appropriation is at least $400,000,000 but less than $420,000,000;

"(III) 60 per centum of such amount in the case of any fiscal year for which such appropriation is at least $420,000,000 but less than $440,000,000;

"(IV) 40 per centum of such amount in the case of any fiscal year for which such appropriation is at least $440,000,000 but less than $460,000,000; or

"(V) 20 per centum of such amount in the case of any fiscal year for which such appropriation is at least $460,000,000 but less than $480,000,000.".

20 USC 1070b-3.

(4) Section 413D(b)(2) of the Act is amended by adding at the end thereof the following new sentence: "Such allocation shall be made in accordance with the formula prescribed by regulation under division (ii) of paragraph (1)(B) of this subsection.".

(f) Section 413D(b) of the Act is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Each institution receiving allocations under this subsection from apportionments made to the State under subsection (a)(1) and under subsection (a)(2) may use its allocations for initial supplemental grants and for continuing supplemental grants in such manner as the institution determines will best achieve the purposes of this subpart.".

GRANTS TO STATES FOR STATE STUDENT INCENTIVES

SEC. 404. (a) Section 415A of the Act is amended to read as follows:

"PURPOSE; APPROPRIATIONS AUTHORIZED

20 USC 1070c.

"SEC. 415A. (a) It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants to eligible students attending institutions of higher education.

Appropriation authorization.

"(b)(1) There are authorized to be appropriated $100,000,000 for each of the fiscal years 1981 and 1982, $150,000,000 for fiscal year 1983, $200,000,000 for fiscal year 1984, and $250,000,000 for fiscal year

1985, for payments to the States for grants to eligible students under this subpart.

"(2) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States for the award of student grants under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.".

(b) Section 415B(a)(1)(A) of the Act is amended by inserting before the period a comma and the following: "except that no State shall receive less than the State received for fiscal year 1979". 20 USC 1070c-1.

(c) Section 415C of the Act is amended— 20 USC 1070c-2.

(1) in subsection (a), by striking out "shall submit" and inserting in lieu thereof "shall have a State agreement pursuant to section 1203 and shall submit"; *Post*, p. 1493.

(2) in subsection (b)(1), by inserting "under section 1203" immediately after "agency";

(3) in subsection (b)(2), by striking out "$1,500" and inserting in lieu thereof "$2,000", and by striking out "as an undergraduate";

(4) in subsection (b)(4), by inserting immediately before the semicolon at the end thereof the following: "or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978"; and

(5) in subsection (b), by striking out "and" at the end of clause (5), by redesignating clause (6) as clause (8), and by inserting after clause (5) the following new clauses:

"(6) provides that institutions of higher education, with the approval of the State agency, may use any proportion of the payments received in any fiscal year for grants to otherwise eligible students who fail to meet the requirement of section 484(a)(2); Grants. *Post*, p. 1448.

"(7) provides for State expenditures under such program of an amount not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years; and".

(d) Section 415E of the Act is repealed. Repeal. 20 USC 1070c-4.

SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

SEC. 405. Subpart 4 of part A of title IV of the Act is amended to read as follows:

"SUBPART 4—SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

"PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS

"SEC. 417A. (a) The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide special services for such students who are pursuing programs of postsecondary education, and to train persons serving or preparing for service in programs and projects so designed. Grants and contracts. 20 USC 1070d.

"(b)(1) For the purposes described in subsection (a), the Secretary is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, and contracts with, institutions of higher

education, public and private agencies and organizations, and, in exceptional circumstances, secondary schools for planning, developing, or carrying out one or more of the services assisted under this subpart.

"(2) In making grants and contracts under this subpart, the Secretary shall consider the prior experience of service delivery under the particular program for which funds are sought by each applicant.

Appropriation authorization.

"(c) For the purpose of making grants and contracts under this subpart there are authorized to be appropriated $400,000,000 for fiscal year 1982 and such sums as may be necessary for each of the succeeding fiscal years ending prior to October 1, 1985.

Definitions.

"(d) For the purposes of this subpart—

"(1) the term 'first generation college student' means a person neither of whose parents completed a baccalaureate degree; and

"(2) the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 per centum of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

Veteran eligibility.

"(e) No individual who is an eligible veteran, as that term is defined by section 1652(a) of title 38, United States Code, shall be deemed ineligible to participate in any program under this subpart by reason of such individual's age.

"TALENT SEARCH

20 USC 1070d-1.

"SEC. 417B. (a) The Secretary shall carry out a program to be known as talent search which shall be designed—

"(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youth to complete secondary school and to undertake a program of postsecondary education;

"(2) to publicize the availability of student financial assistance available to persons who pursue a program of postsecondary education; and

"(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to complete such programs, to reenter such programs.

Tutorial services.

"(b) A talent search project assisted under this subpart may include, in addition to the services described in paragraphs (1), (2), and (3) of subsection (a), tutorial services for youths being encouraged to undertake or reenter programs of postsecondary education if such tutorial services are not otherwise available to such youths through a project assisted under this subpart.

Application approval.

"(c) In approving applications for talent search projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that such participants be persons who either have completed six years of elementary education or are at least twelve years of age but not more than twenty-seven years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417E; and

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417E.

"(d) In approving applications for talent search projects under this subpart for any fiscal year, the Secretary shall require assurances that the project will be located in a setting accessible to the persons proposed to be served by the project.

"UPWARD BOUND

"SEC. 417C. (a) The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond high school. 20 USC 1070d-1a.

"(b) Any upward bound project assisted under the subpart may provide services such as— Project services.

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in high school course selection;

"(4) tutorial services;

"(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

"(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

"(7) instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

"(8) on-campus residential programs; and

"(9) programs and activities as described in paragraphs (1) through (8) which are specially designed for students of limited English proficiency.

"(c) In approving applications for upward bound projects under this subpart for any fiscal year the Secretary shall— Application approval requirements.

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or be first generation college students;

"(3) require that there be determination, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school; and

"(4) require that such participants be persons who have completed eight years of elementary education and are at least thirteen years of age but not more than nineteen years of age, unless the imposition of any such limitation would defeat the purposes of this section.

"(d) Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, and not in excess of $40 per month during the remaining period of the year. Stipends.

"SPECIAL SERVICES FOR DISADVANTAGED STUDENTS

20 USC 1070d-1b.

"SEC. 417D. (a) The Secretary shall carry out a program to be known as special services for disadvantaged students (hereinafter referred to as 'special services') which shall be designed to provide supportive services to persons participating in the projects.

Project services.

"(b) A special services project assisted under this subpart may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in course selection;

"(4) tutorial services;

"(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

"(6) activities designed to acquaint students participating in the project with the range of career options available to them;

"(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs; and

"(8) programs and activities as described in paragraphs (1) through (7) which are specially designed for students of limited English proficiency.

Application approval requirements.

"(c) In approving applications for special services projects under this subpart for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

"(A) be physically handicapped, or

"(B) be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application either be low-income individuals, first generation college students, or physically handicapped;

"(3) require that there be a determination, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school; and

"(4) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract.

"(d) In approving applications for special services projects under this subpart for any fiscal year, the Secretary shall require an assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will receive sufficient financial assistance to meet that student's full financial need.

"EDUCATIONAL OPPORTUNITY CENTERS

20 USC 1070d-1c.

"SEC. 417E. (a) The Secretary shall carry out a program of paying up to 75 per centum of the cost of establishing and operating programs to be known as educational opportunity centers which shall be designed—

"(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education; and

"(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers.

"(b) An educational opportunity center assisted under this subpart may provide, in addition to the services described in clauses (1) and (2) of subsection (a), tutorial and counseling services for persons participating in the project if such tutorial and counseling services are not otherwise available through a project assisted under this subpart. Tutorial and counseling services.

"(c) In approving applications for educational opportunity centers under this subpart for any fiscal year the Secretary shall— Application approval requirements.

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417B; and

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417B.

"STAFF DEVELOPMENT ACTIVITIES

"SEC. 417F. For the purpose of improving the operation of the programs and projects authorized by this subpart, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects. Such training shall include conferences, internships, seminars, and workshops designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.". Grants. 20 USC 1070d-1d.

SPECIAL PROGRAM FOR MIGRANT AND SEASONAL FARMWORK STUDENTS

SEC. 406. Subpart 5 of part A of title IV of the Act is amended to read as follows:

"SUBPART 5—SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

"SEC. 418A. (a) The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects, which shall be designed to provide services to students of families who are engaged in migrant and seasonal farmwork. The services authorized by this subpart include— 20 USC 1070d-2.

"(1) instruction in reading, writing, study skills, mathematics, communication skills, and other subjects necessary for success

beyond high school, and in preparation for the examination for a certificate of high school equivalency;

"(2) personal and academic counseling;

"(3) outreach and recruitment, special admissions, and financial assistance;

"(4) tutorial services;

"(5) career-oriented work study;

"(6) housing support and on-campus residential programs;

"(7) activities designed to acquaint youths participating in the project with the range of career options available to them;

"(8) exposure to cultural events, academic programs and other activities not usually available to migrant youth; and

"(9) other essential supportive services, as needed to ensure the success of eligible migrant and seasonal farmwork students at the secondary and postsecondary levels.

Appropriation authorization.

"(b) There is authorized to be appropriated $9,600,000 for the fiscal year 1981, $12,000,000 for the fiscal year 1982, $14,000,000 for the fiscal year 1983, $16,000,000 for the fiscal year 1984, and $18,000,000 for the fiscal year 1985, to carry out the provisions of this subpart.".

VETERANS' COST-OF-INSTRUCTION PAYMENTS

SEC. 407. Section 420 of the Act is amended to read as follows:

"VETERANS' COST-OF-INSTRUCTION PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

Eligible institutions.
20 USC 1070e-1.

"SEC. 420. (a)(1) During the period beginning July 1, 1972, and ending September 30, 1985, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year if—

"(A) the number of persons who are veterans receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or veterans receiving educational assistance under chapter 34 of such title, and who are in attendance as undergraduate students at such institution during any academic year, equals at least—

38 USC 1501 *et seq.*
38 USC 1651 *et seq.*

"(i) 110 per centum of the number of such recipients who were in attendance at such institution during the preceding academic year, or

"(ii) 10 per centum of the total number of undergraduate students in attendance at such institution during such academic year and if such number does not constitute a per centum of such undergraduate students which is less than such per centum for the preceding academic year; and

"(B) the number of such persons is at least 25.

"(2) With respect to any academic year ending on or before September 30, 1986, each institution which has qualified for payment under this section for the preceding year shall be entitled during such academic year, notwithstanding the provisions of paragraph (1)(A), to a payment under this section if—

"(A) the number of persons referred to in paragraph (1) equals at least the number which bears the same ratio to the number of such recipients who were in attendance at such institution during the first academic year in which the institution was entitled to payments under this section as the number of such recipients in all institutions of higher education during the academic year for which the determination is made bears to the

number of such recipients in all institutions of higher education for the first such academic year; or

"(B) in the event that subparagraph (A) of this paragraph is not satisfied, the Secretary determines, on the basis of evidence presented by such institution, that such institution is making reasonable efforts, taking into consideration the extent to which the number of persons referred to in such paragraph (1) falls short of meeting the ratio criterion set forth in such subparagraph (A), to continue to recruit, enroll, and provide necessary services to veterans.

"(3) For any fiscal year beginning after September 30, 1980, the Secretary may waive the provisions of paragraph (1) of this subsection for any institution of higher education which has qualified for payment under this section for any preceding fiscal year but subsequently became ineligible, if— Waiver.

"(A) the institution would have been eligible had section 420(a)(2) been in effect when such institution became ineligible,

"(B) the institution has had a full-time office of veterans' affairs since that institution was so eligible, and

"(C) the appropriations made available in any such fiscal year for this section are in excess of (i) $14,380,000, or (ii) the amount requested for carrying out this section in the budget of the President submitted under section 201 of the Budget and Accounting Act, 1921, whichever is greater, by an amount sufficient to make payments to all institutions meeting the requirements of clauses (A) and (B) of this paragraph. 31 USC 11.

"(b)(1) The amount of the payment to which any institution shall be entitled under this section for any fiscal year shall be—

"(A) $300 for each person who is a veteran receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or a veteran receiving educational assistance under chapter 34 of such title 38, and who is in attendance at such institution as an undergraduate student during such year; and 38 USC 1501 *et seq.* 38 USC 1651 *et seq.*

"(B) in addition, $150 for each person who is in attendance at such institution as an undergraduate student during such year and who has been the recipient of educational assistance under subchapter V or VI of chapter 34 of such title 38, or who has a service-connected disability as defined in section 101(16) of such title 38, or who is disabled, as determined in accordance with regulations promulgated by the Secretary after consultation with the Administrator of Veterans' Affairs. 38 USC 1690, 1695.

"(2) In any case where a person on behalf of whom a payment is made under this section attends an institution on less than a full-time basis, the amount of the payment on behalf of that person shall be reduced in proportion to the degree to which that person is not attending on a full-time basis. In no case shall a payment be made on behalf of a person who attends an institution on less than a half-time basis.

"(c)(1) An institution of higher education shall be eligible to receive the payment to which it is entitled under this section only if it makes application therefor to the Secretary. An application under this section shall be submitted at such time or times, in such manner, in such form and containing such information as the Secretary determines necessary to carry out the functions of the Secretary under this title, and shall— Application requirements.

"(A) set forth such policies, assurances, and procedures as will insure that—

"(i) the funds received by the institution under this section and available to it after the requirements of subsection (e) have been met will be used solely to defray instructional expenses in academically related programs of the applicant;

"(ii) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

"(iii) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the three years preceding the year for which the grant is sought; and

"(iv) the applicant will submit to the Secretary such reports as the Secretary may require by regulation;

"(B) contain such other statement of policies, assurances, and procedures as the Secretary may require by regulation in order to protect the financial interests of the United States; and

"(C) set forth such plans, policies, assurances, and procedures as will insure that the applicant will make an adequate effort—

"(i) to maintain a full-time office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provision of educational, vocational, and personal counseling for veterans,

"(ii) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education (I) under subchapter V of chapter 34 of title 38, United States Code, and (II) in the case of any institution located near a military installation, under subchapter VI of such chapter 34,

38 USC 1690.

38 USC 1695.

"(iii) to carry out active outreach (with special emphasis on service-connected disabled veterans, other disabled or handicapped veterans, incarcerated veterans, and educationally disadvantaged veterans), recruiting, and counseling activities through the use of funds available under federally assisted work-study programs (with special emphasis on the veteran-student services program under section 1685 of such title 38),

"(iv) to carry out an active tutorial assistance program (including dissemination of information regarding such program) in order to make maximum use of the benefits available under section 1692 of such title 38, and

"(v) to coordinate activities carried out under this part with the readjustment counseling program authorized under section 612A of title 38, United States Code, and with the veterans employment and training initiatives authorized under the Comprehensive Employment and Training Act and under chapters 41 and 42 of title 38, United States Code, in order to assist in serving the readjustment, rehabilitation, personal counseling, and employment needs of veterans,

29 USC 801 note.
38 USC 2001 *et seq.*, 2011 *et seq.*

except that an institution which the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator of Veterans' Affairs (hereinafter referred to as the 'Administrator'), cannot feasibly itself, in terms of the number of veterans in attendance there, carry out any or all of the programs set forth in subclauses (i) through (v) of clause (C), may carry out such program or programs through a consortium agreement with one or more other institutions of higher education and shall be required to carry out such programs only to the extent that the Secretary

determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator, is appropriate in terms of the number of veterans in attendance at such institution. The adequacy of efforts to meet the requirements of clause (C) of this paragraph shall be determined by the Secretary, based upon the recommendations of the Administrator, in accordance with criteria established in regulations jointly prescribed by the Secretary and the Administrator.

"(2) The Secretary shall not approve an application under this subsection unless he determines that the applicant will implement the requirements of clause (C) of paragraph (1) within the first academic year during which it receives a payment under this section.

"(d)(1) The Secretary shall pay to each institution of higher education which has had an application approved under subsection (c) the amount to which it is entitled under this section. Payments.

"(2) The maximum amount of payments to any institution of higher education, or any branch thereof which is located in a community which is different from that in which the parent institution thereof is located, in any fiscal year shall be $75,000. In making payments under this section for any fiscal year, the Secretary shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payments set forth in the preceding sentence, in such a manner as will result in the receipt by each institution which is eligible for payment under this section of the first $9,000 (or the amount of its entitlement for that fiscal year, whichever is the lesser) and then additional amounts up to the limitation set forth in the preceding sentence.

"(e) Not less than 90 per centum of the amounts paid to any institution under subsection (d) in any fiscal year shall be used to implement the requirement of clause (C)(i) of paragraph (1) of subsection (c), and to the extent that such funds remain after implementing such requirement, funds limited by such 90 per centum requirement shall be used for implementing the requirements of subclauses (ii) through (v) of clause (C) of such paragraph (1), except that the Secretary may, in accordance with criteria established in regulations jointly prescribed by the Secretary with the Administrator, waive the requirement of this subsection to the extent that he finds that such institution is adequately carrying out all such requirements without the necessity for such application of such amount of the payments received under this subsection. Waiver.

"(f) The Secretary, in carrying out the provisions of this section, shall seek to assure the coordination of programs assisted under this section with programs carried out by the Veterans' Administration pursuant to title 38, United States Code, and the Administrator shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section. 38 USC 101.

"(g) The program provided for in this section shall be administered by an identifiable administrative unit in the Department of Education.". Administration.

PART B—GUARANTEED AND INSURED STUDENT LOANS

EXTENSION OF PROGRAMS

SEC. 411. (a) Section 424(a) of the Act is amended— 20 USC 1074.

(1) by striking out "1981" and inserting in lieu thereof "1986"; and

(2) by striking out "1985" and inserting in lieu thereof "1990".

20 USC 1078. (b) Section 428(a)(5) of the Act is amended—

(1) by striking out "1981" and inserting in lieu thereof "1986"; and

(2) by striking out "1985" and inserting in lieu thereof "1990".

LOAN LIMITATIONS

20 USC 1075. SEC. 412. (a) Section 425(a)(1) of the Act is amended—

(1) by redesignating clauses (A), (B), and (C), as clauses (B), (C), and (D), respectively;

(2) by inserting immediately before clause (B) (as so redesignated) the following new clause:

"(A) that in the case of an independent student (defined in accordance with section 482(c)(2)) who has not successfully completed a program of undergraduate education, the total of such loans may not exceed $3,000,"; and

Post, p. 1445.

(3) by striking out "clause (B)" in the last sentence of such section and inserting in lieu thereof "clause (C)".

(b) Section 425(a)(2) of the Act is amended by striking out "$7,500, in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student" and inserting in lieu thereof "$12,500 in the case of any student (other than an independent student) who has not successfully completed a program of undergraduate education, $15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

20 USC 1078. (c) The matter preceding division (i) of section 428(b)(1)(A) of the Act is amended—

(1) by inserting after "student" the following: "(other than an independent student)"; and

(2) by inserting after "undergraduate education," the following: "or not more than $3,000 in the case of an independent student (defined in accordance with section 482(c)(2)) who has not successfully completed a program of undergraduate education,".

(d) Section 428(b)(1)(B) of the Act is amended by striking out "$7,500, in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student" and inserting in lieu thereof "$12,500 in the case of any student (other than an independent student) who has not successfully completed a program of undergraduate education, $15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

20 USC 1078-1. (e) Section 428A of the Act is amended—

(1) by striking out "$2,500 (in the case of a student who has not successfully completed a program of undergraduate education) or $5,000 (in the case of a graduate or professional student)" in subsection (a)(1)(A) and in subsection (a)(2)(A) and inserting in lieu thereof in each such place the following: "$2,500 (in the case of a student, other than an independent student, who has not successfully completed a program of undergraduate education), $3,000 (in the case of an independent student (as defined in section 482(c)(2)) who has not successfully completed a program

of undergraduate education), or $5,000 (in the case of a graduate or professional student)"; and

(2) by striking out "$7,500 in the case of any student who has not successfully completed a program of undergraduate education, and $15,000 in the case of any graduate or professional student" in subsection (a)(1)(A) and in subsection (a)(2)(A) and inserting in lieu thereof in each such place the following: "$12,500 in the case of any student (other than an independent student) who has not successfully completed a program of undergraduate education, $15,000 in the case of any independent student who has not successfully completed a program of undergraduate education, and $25,000 in the case of any graduate or professional student".

(f) Part B of title IV of the Act is further amended by inserting immediately before the period at the end of section 425(a)(2) and immediately before the semicolon at the end of sections 428(b)(1)(B), 428A(a)(1)(A), and 428A(a)(2)(A) the following: ", except that the Secretary may increase the limit applicable to graduate or professional students who are pursuing programs which the Secretary determines are exceptionally expensive". 20 USC 1071. 20 USC 1075. 20 USC 1078. 20 USC 1078-1.

DEFERRAL OF REPAYMENT

SEC. 413. (a) Section 427(a)(2)(C) is amended— 20 USC 1077.

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii); and

(2) by striking out "or (v)" and inserting in lieu thereof the following: "(v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled; or (viii)". 26 USC 501.

(b) Section 428(b)(1)(M) of the Act is amended— 20 USC 1078.

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii); and

(2) by striking out "or (v)" and inserting in lieu thereof the following: "(v) not in excess of three years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; (vi) not in excess of two years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; (vii) not in excess of three years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is

unable to secure employment by reason of the care required by a spouse who is so disabled, or (viii)".

Ante, p. 1417. (c) Section 427(a)(2)(C) of the Act is amended—

(1) by striking out "and any such period" and inserting in lieu thereof "that any such period", and

(2) by inserting before the comma at the end thereof a comma and the following: "and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until six months after the completion of such period or combination thereof".

Ante, p. 1417. (d) Section 428(b)(1)(M) is amended by inserting before the semicolon at the end thereof a comma and the following: "and that no repayment of principal of any loan for any period of study, training, service, or unemployment described in this clause or any combination thereof shall begin until six months after the completion of such period or combination thereof".

20 USC 1085. (e) Section 435 of the Act is amended by adding at the end thereof the following new subsection:

"Temporarily totally disabled." "(j) The term 'temporarily totally disabled' when used with respect to a borrower means a borrower who, by reason of injury or illness, cannot be expected to be able to attend an eligible institution or to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years. Such term when used with respect to the spouse of a borrower means a spouse who, by reason of injury or illness, cannot be expected to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed three years and who during such period required continuous nursing or other similar services.".

STATE AGENCIES AS LENDERS OF LAST RESORT

20 USC 1078. SEC. 414. Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(h)(1) From sums advanced by the Association pursuant to section *Post*, p. 1430. 439(p), each State agency and nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) of this section or an eligible lender in a State described in section 20 USC 1085. 435(g)(1) (D) or (F) of the Act is authorized to make loans directly to students otherwise unable to obtain loans under this part.

"(2)(A) Each State agency or nonprofit private institution or organization which has an agreement under subsection (b) of this section or an eligible lender in a State described in section 435(g)(1) (D) or (F) and which has an application approved under section 439(p)(2) may receive advances under section 439(p) for each fiscal year in an amount necessary to meet the demand for loans under this section. The amount such agency, institution, organization, or lender is eligible to receive may not exceed 25 per centum of the average of the loans guaranteed by that agency, institution, organization, or lender for the three years preceding the fiscal year for which the determination is made. Whenever the determination required by the preceding sentence cannot be made because the agency, institution, organization, or lender does not have three years previous experience, the amount such agency, institution, organization, or lender is eligible to receive may not exceed 25 per centum of the loans guaranteed under a program of a State of comparable size.

"(B) Each State agency or nonprofit private institution or organization which has an agreement under subsection (b) of this section and

each eligible lender in a State described in section 435(g)(1) (D) or (F) shall repay advances made under section 439(p) in accordance with agreements entered between the Association and such agency, institution, organization, or lender. 20 USC 1085. *Post*, p. 1430.

"(3) Loans made pursuant to this subsection shall have the same terms, conditions, and benefits as all other loans made under this part.".

INTEREST RATE AND PAYMENT

SEC. 415. (a)(1) Part B of the Act is amended by inserting immediately after section 427 the following new section:

"APPLICABLE INTEREST RATES

"SEC. 427A. (a) With respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, the rate of interest applicable to any borrower shall— 20 USC 1077a.

"(1) not exceed 7 per centum per annum on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, other than a loan for which the interest rate is determined under paragraph (2) or (3) of this subsection;

"(2) except as provided in paragraph (3), be 9 per centum per annum on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, or who has such an outstanding balance on a loan for which the interest rate is determined under this paragraph; or

"(3) be 8 per centum per annum on the unpaid principal balance of the loan in the case of any borrower not subject to paragraph (1) or (2) for any loan to cover the cost of education for any period of enrollment beginning on or after a date which is three months after a determination made under subsection (b).

"(b) If for any twelve-month period beginning on or after January 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned for such twelve-month period is equal to or less than 9 per centum, the interest rate for loans under this part shall be the rate prescribed in subsection (a)(3) for borrowers described in such subsection.

"(c) Nothing in this section shall be construed to prohibit a lender from charging a borrower interest at a rate less than the rate which is applicable under this part.".

(2) Section 427(b) of the Act is amended by striking "No maximum" and inserting in lieu thereof "Except as provided in section 427A, no maximum". 20 USC 1077.

(3) Section 428(a)(3)(B)(ii) of the Act is amended by striking out "7 per centum per annum on the unpaid principal balance" and inserting in lieu thereof "the applicable interest rate under this part". 20 USC 1078.

(4) Section 428(b)(1)(F) of the Act is amended by inserting immediately before the semicolon at the end thereof a comma and the following: "except as otherwise required by section 427A".

20 USC 1078.

(5) Section 428(d) of the Act is amended by striking out "7 per centum per annum" and inserting in lieu thereof "the rate specified in this part".

20 USC 1077.

(b)(1)(A) Section 427(a)(2)(B) of the Act is amended by striking out "nine-to-twelve-month period" the first time it appears and inserting in lieu thereof "six months".

(B) Such section 427(a)(2)(B) is further amended by striking out "nine months nor later than one year" and inserting in lieu thereof "six months".

20 USC 1078.

(2)(A) Section 428(b)(1)(E) of the Act is amended by striking out "nine-to-twelve-month period" the first time it appears and inserting in lieu thereof "six months".

(B) Such section 428(b)(1)(E) is further amended by striking out "nine months nor later than one year" in both places that it appears and inserting in lieu thereof "six months".

COLLECTION PRACTICES

20 USC 1080.

SEC. 416. (a)(1) Section 430(b) of the Act is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

Credit bureau organizations, cooperative agreements.

"(2)(A) For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations providing for the exchange of information concerning student borrowers in accordance with the requirements of this paragraph. For the purpose of assisting such organizations to comply with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary to requests from such organizations for responses to objections raised by such borrowers. Subject to the requirements of subparagraph (C), such agreements shall provide for the disclosure by the Secretary to such organizations with respect to any loan for which the Secretary has received a notice of default under subsection (a) of this section of—

15 USC 1681 note.

"(i) the date of disbursement and the amount of any such loan;

"(ii) information concerning collection of any such loan, including information concerning the status of any defaulted loan on which the Secretary has made a payment pursuant to subsection (a) of this section; and

"(iii) the date of cancellation of the note upon completion of repayment by the borrower of any such loan or payment by the Secretary pursuant to section 437.

20 USC 1087.

"(B) Such agreements may also provide for the disclosure by such organizations to the Secretary, upon receipt from the Secretary of a notice under subparagraph (A)(ii) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary in proceeding to collection of the defaulted amount.

"(C) Agreements entered into pursuant to this paragraph shall contain such provisions as may be necessary to ensure that—

"(i) no information is disclosed by the Secretary unless its accuracy and completeness have been verified, and no information stating that a loan is in default is disclosed until the Secretary has made a reasonable effort to collect the debt;

"(ii) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary with respect to such information, or any objections by the borrower with respect to any such informa-

tion, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

"(iii) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

"(iv) except for disclosures made to obtain the borrower's location, the Secretary (I) shall not disclose any such information until he has notified the borrower that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his loan, but (II) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than thirty days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

"(D)(i) The Secretary shall, within ninety days after the date of enactment of this paragraph, take such steps as may be necessary to establish the disclosure of information described in subparagraph (A) (i), (ii), and (iii) as a routine use in accordance with section 552a(b)(3) of title 5, United States Code, and to establish a system for the prompt notification of any borrower of any disclosure made pursuant to this paragraph. Information disclosure.

"(ii) Information disclosed by the Secretary to credit bureau organizations under the requirements of this paragraph shall not constitute a system of records within the meaning of section 552a of title 5, United States Code (the Privacy Act of 1974); and credit bureau organizations which enter into agreements with the Secretary under this paragraph shall not be considered Government contractors within the meaning of that Act.".

(2) Section 427(a)(2) of the Act is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph: 20 USC 1077.

"(H)(i) contains a notice of the system of disclosure of information concerning such loan to credit bureau organizations under section 430(b)(2), and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations,". *Ante*, p. 1420.

(b) Section 430(c) of the Act is amended by adding at the end thereof the following new sentence: "Any forbearance which is approved by the Secretary under this subsection with respect to the repayment of a loan shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.".

(c) Section 432 of the Act is amended by adding at the end thereof the following new subsection: 20 USC 1082.

"(e) Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any State or any nonprofit private institution or organization having a guaranty agreement under section 428(c)(1), any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived.". 20 USC 1078.

ADMINISTRATIVE IMPROVEMENTS

20 USC 1078.

SEC. 417. (a) Section 428(b)(1)(H) of the Act is amended by inserting before the semicolon a comma and the following: "and insures that the proceeds of the premium will not be used for incentive payments to lenders".

(b)(1) Section 428(c)(6)(A)(ii) of the Act is amended—

(A) by striking out "and" the first time it appears and inserting in lieu thereof a comma; and

(B) by inserting after "prevention" a comma and the following: "and the administrative costs of monitoring the enrollment and repayment status of students".

(2) Section 428(c)(6)(B) is amended—

(A) by striking out "and" at the end of clause (i) and inserting in lieu thereof a comma;

(B) by inserting "and" at the end of clause (ii); and

(C) by adding after clause (ii) the following:

Definition.

"(iii) 'administrative costs of monitoring the enrollment and repayment status of students' means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note agreement to determine if the provisions of that agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note to assure that the repayment provisions are consistent with the provisions of this part,".

(3) Section 428(f)(1)(A) of the Act is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause: "(iv) the administrative costs of monitoring the enrollment and repayment status of students; or".

(4)(A) Section 428(f)(1) of the Act is amended by striking out "(f)(1)(A)" and inserting in lieu thereof "(f)(1)" and by striking out subparagraphs (B) and (C).

(B) Such section is further amended by redesignating clauses (i) through (v) as clauses (A) through (E), respectively.

(5) Section 428(f)(2) of the Act is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by redesignating clause (iv) as clause (v); and

(C) by inserting after clause (iii) the following new clause: "(iv) the administrative costs of monitoring the enrollment and repayment status of students; or".

(6) Section 428(f)(3) of the Act is amended—

(A) by striking out "and" at the end of clause (B);

(B) by striking out the period at the end of clause (C) and inserting in lieu thereof a comma and the word "and"; and

(C) by adding after clause (C) the following new clause:

"(D) 'administrative costs of monitoring the enrollment and repayment status of students' means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note agreement to determine if the provisions of that agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note to assure that the

repayment provisions are consistent with the provisions of this part,".

(c) Section 428(f)(3)(A) of the Act is amended by redesignating clauses (iv) and (v) as clauses (vi) and (vii) respectively, and by inserting after clause (iii) the following new clauses: "(iv) the costs of providing interest and special allowance computation and billing services to lenders, (v) the amount of non-Federal funds expended by an insurer as incentive payments to lenders to induce them to improve or expand their program participation,". 20 USC 1078.

(d) Section 428 of the Act is amended by adding at the end thereof the following new subsection:

"(i)(1) Any State agency or any nonprofit private institution or organization which has an agreement under subsection (b) of this section may enter into an agreement with any eligible lender (other than an eligible institution or an agency or instrumentality of the State) for the purpose of authorizing multiple disbursements of the proceeds of a loan under which the lender will pay the proceeds of such loans into an escrow account to be administered by the State agency or any nonprofit private institution or organization in accordance with the provisions of paragraph (2) of this subsection.

"(2) Each State agency or each nonprofit private institution or organization entering into an agreement under paragraph (1) of this subsection is authorized to—

"(A) make the disbursements in accordance with the note evidencing the loan;

"(B) commingle the proceeds of all loans paid to it pursuant to the escrow agreement entered into under such paragraph (1);

"(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

"(D) retain interest or other earnings on such investment; and

"(E) return to the eligible lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.".

LOAN INFORMATION PROGRAM AUTHORIZED

SEC. 418. Title IV of the Act is amended by adding after section 433 the following new section:

"STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS

"SEC. 433A. Each eligible lender shall enter into an agreement with the Secretary under which the eligible lender will, at the time such lender makes a loan to a student borrower which is insured or guaranteed under this part, provide thorough and accurate loan information on loans insured or guaranteed under this part to the student borrower. The loan information required by this section shall include— 20 USC 1083a.

"(1) the yearly and cumulative maximum amounts that may be borrowed by a student;

"(2) the terms on which repayment will begin;

"(3) the maximum number of years in which the loan must be repaid;

"(4) the interest rate that will be repaid, and the minimum amount of required monthly payment;

"(5) any special options the borrower may have for deferral, cancellation, prepayment, consolidation, or other refinancing of the loan;

"(6) a definition of default and the consequences to the borrower if the borrower should default, including a description of any arrangements made with credit bureau organizations; and

"(7) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance.".

LOANS TO PARENTS

SEC. 419. Part B of title IV of the Act is amended by inserting immediately after section 428A the following new section:

"LOANS TO PARENTS OF DEPENDENT UNDERGRADUATE STUDENTS

20 USC 1078-2.

"SEC. 428B. (a) Parents of a dependent undergraduate student (as defined by regulations by the Secretary) shall be eligible to borrow funds under this part in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section the terms 'student' and 'student borrower' used in this part shall include a parent borrower under this section.

"Student" and "student borrower."

Limitation.

"(b)(1) Subject to paragraphs (2) and (3), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulation by the Secretary) is $3,000.

"(2) The aggregate insured principal amount for insured loans made to parents on account of an undergraduate dependent student shall not exceed $15,000.

"(3) No loan may be made to any parent or student under this part which would cause their combined loans for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance as certified by the eligible institution under section 428(a)(2)(A) of this part. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

20 USC 1078.

"(c)(1) Repayment of principal on loans made under this section shall commence not later than sixty days after the date such loan is disbursed by a lender.

"(2) No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(3) Interest on loans made pursuant to this section shall be at the rate of 9 per centum per annum on the unpaid principal balance of the loan, except that, if the loan is to cover the cost of education for a period of enrollment which begins on or after a date which is three months after the date on which the Secretary has made a determination under section 427A(b) and that borrower, on the date of entering into the note or other written evidence of the loan, has no obligation to repay any amount of principal or interest on any other loan made under this section with respect to the same student, then the interest shall be at the rate of 8 per centum per annum on the unpaid principal balance of the loan.

Ante, p. 1419.

Loan insurance.

"(d) Loans made under this section shall be insured by the Secretary in a State only if—

"(1) the State is not served by a State agency or nonprofit private institution or organization having an agreement with the Secretary pursuant to section 428(b), or

"(2) an agency, institution, or organization in a State having such an agreement does not authorize loans under this section (A) within one hundred and twenty days after the effective date of this amendment, or (B) if a State is prohibited from authorizing loans under this section because of existing State law, one hundred and twenty days after the adjournment of the next regular session of the State legislature which convenes after the effective date of this amendment.".

SPECIAL ALLOWANCES

SEC. 420. (a) Section 438 of the Act is amended to read as follows:

"SPECIAL ALLOWANCES

"SEC. 438. (a) In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious and objective examination of alternative methods for the determination of the quarterly rate of such allowances. 20 USC 1087-1.

"(b)(1) A special allowance shall be paid for each of the three-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any three-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

"(2)(A) Subject to subparagraph (D) and paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable interest rate is 7 per centum per annum or less shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 3.5 per centum from such average, (iii) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (iv) by dividing the resultant per centum by four.

"(B) Subject to subparagraph (D) and paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable interest rate is 8 per centum per annum shall be computed (i) by determining the average of the bond equivalent rates of the ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 4.5 per centum from such average, (iii) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (iv) by dividing the resultant per centum by four.

"(C) Subject to subparagraph (D) and paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable interest rate is 9 per centum per annum shall be computed (i) by determining the average of the bond equivalent rates of the

ninety-one-day Treasury bills auctioned for such three-month period, (ii) by subtracting 5.5 per centum from such average, (iii) by rounding the resultant per centum upward to the nearest one-eighth of 1 per centum, and (iv) by dividing the resultant per centum by four.

"(D)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954 shall be one-half the quarterly rate of the special allowance established under subparagraph (A), (B), or (C). Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds. This subparagraph shall not apply to loans which were made or insured prior to October 1, 1980.

26 USC 1.

"(ii) The rate set under division (i) shall not be less than (I) 2.5 per centum per annum in the case of loans for which the applicable interest rate is 7 per centum per annum, (II) 1.5 per centum per annum in the case of loans for which the applicable interest rate is 8 per centum per annum, or (III) 0.5 per centum in the case of loans for which the applicable rate is 9 per centum per annum.

"(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with section 420(b) of the Education Amendments of 1980.

Ante, p. 1425.

"(3) The holder of an eligible loan shall be deemed to have a contractual right against the United States, during the life of such loan, to receive the special allowance according to the provisions of this section. Subject to paragraph (4) the special allowance determined for any such three-month period shall be payable at such time, after the close of such period, as may be specified by or pursuant to regulations promulgated under this section.

"(4)(A) If payments of the special allowances payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within thirty days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

20 USC 1078.

"(B) Such daily interest shall be computed at the daily equivalent rate of the sum of the special allowance rate computed pursuant to paragraph (2) and the interest rate applicable to the loan and shall be paid for the later of (i) the thirty-first day after the receipt of such request for payment from the holder, or (ii) the thirty-first day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

Reports to Congress.

"(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

"Eligible loan."

"(5) As used in this section, the term 'eligible loan' means a loan which is insured under this part, or made under a program covered by an agreement under section 428(b) of this Act.

"(6) The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that

such holder shall submit to the Secretary, at such time or times and in such a manner as he may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

"(c) The Secretary shall adopt or amend appropriate regulations pertaining to programs carried on under this part to prevent, where practicable, any practices which he finds have denied loans to a substantial number of eligible students.". Regulations.

(b) In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under section 438(b)(2)(D) of the Higher Education Act of 1965, the Authority shall submit to the Secretary a plan for doing business. The Secretary shall approve or disapprove such plan within 30 days after the date of its submission. Each such plan shall contain provisions designed to assure that— Plans, submittal. 20 USC 1087-1a. 26 USC 1. *Ante*, p. 1425.

(1) no eligible lender in the area served by the Authority will be excluded from participation in the program of the Authority and that all eligible lenders may participate in the program on the same terms and conditions if eligible lenders are going to participate in the program;

(2) no director or staff member of the Authority who receives compensation from the Authority may own stock in, or receive compensation from any agency that would contract to service and collect the loans of the Authority;

(3) student loans will not be purchased from participating lenders at a premium or discount amounting to more than 1 per centum of the unpaid principal amount borrowed plus accrued interest to the date of acquisition, but a reasonable loan transfer fee may be paid by the purchaser;

(4) the Authority will, within the limit of funds available and subject to applicable State and Federal law, make loans to, or purchase loans incurred by, all eligible students who are residents of, or who attend an eligible institution within, the area served by the Authority;

(5) the Authority has a plan under which the Authority will pursue the development of new lender participation in a continuing program of benefits to students together with assurances of existing lender commitments to the program; and

(6) there will be an annual audit of the Authority by a certified public accounting firm which will include review of compliance by the Authority with the provisions of the plan.

THE STUDENT LOAN MARKETING ASSOCIATION

SEC. 421. (a)(1) Section 439(a)(1) of the Act is amended by striking out "Government-sponsored". 20 USC 1087-2.

(2) Section 439(f) of the Act is amended to read as follows:

"(f)(1) The Association shall have common stock having such par value as may be fixed by its Board of Directors from time to time which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions, as defined in section 435(a), other than an institution outside of the United States. Common stock. 20 USC 1085.

"(2) Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of Directors. Voting shall be by classes as described in subsection (c)(3).

"(3) The maximum number of shares of common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any common share issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(4) To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on common stock and nonvoting common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock and nonvoting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(5) The Association is authorized to issue nonvoting common stock having such par value as may be fixed by its Board of Directors from time to time. Any nonvoting common stock shall be freely transferable, except that, as to the Association, it shall be transferable only on the books of the Association.".

Nonvoting preferred stock.
20 USC 1087-2.

(3) The first sentence of section 439(g)(1) of the Act is amended to read as follows: "The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time.".

(b)(1) Section 439(d) of the Act is amended—

(A) in paragraph (1), by inserting "or repurchase," after "purchase" and by inserting "or resell, offer participations, or pooled interests," after "sell";

(B) by amending paragraph (2) to read as follows:

Warehousing advance.

"(2) Any warehousing advance made under paragraph (1) of this subsection shall be made on the security of (A) insured loans, (B) marketable obligations and securities issued, guaranteed or insured by, the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) marketable obligations issued, guaranteed, or insured by any agency, instrumentality or corporation of the United States for which the credit of such agency, instrumentality or corporation is pledged for the repayment of principal and interest thereof, in an amount equal to the amount of such advance. The proceeds of any such advance secured by insured loans shall either be invested in additional insured loans or the lender shall provide assurances to the Association that during the period of the borrowing it will maintain a level of insured loans in its portfolio not less than the aggregate outstanding balance of such loans held at the time of the borrowing. The proceeds from any such advance secured by collateral described in clauses (B) and (C) shall be invested in additional insured student loans."; and

(C) by adding at the end thereof the following new paragraph:

Securities, issuance.

"(4) Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.".

(2) Section 439(l) of the Act is amended by inserting "including those made under subsection (d)(4)" immediately after "All obligations issued by the Association".

(c) Section 439(e)(A) of the Act is amended by striking out "$50,000,000" and inserting in lieu thereof "$75,000,000". 20 USC 1087-2.

(d)(1) Section 439(h)(1) of the Act is amended to read as follows:

"(h)(1) The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank.". Outstanding obligations, issuance.

(2) Section 439(h)(2) of the Act is amended—

(A) by striking out "July 1, 1982" and inserting in lieu thereof "October 1, 1984"; and

(B) by adding at the end thereof the following new sentence: "Nothing in this section shall be construed so as to authorize the Secretary of Education or the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.".

(3) Section 439(h) of the Act is amended by adding at the end thereof the following new paragraphs:

"(4) Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than sixty days unless, prior to the end of such period, the Secretary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation of reasons for doing so.

"(5) The Secretary of the Treasury is authorized to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under Obligations, purchase authorization. 31 USC 774.

this subsection shall be treated as public debt transactions of the United States.

"(6) Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 428 or 429 of this part, to the Federal Financing Bank.".

20 USC 1078, 1079.

20 USC 1087-2.

(e)(1) Section 439 of the Act is amended by adding at the end thereof the following new subsections:

Loans.

"(o)(1)(A) The Association or its designated agent may, upon request of a borrower who has received loans under this title from two or more programs or lenders, or has received any other federally insured or guaranteed student loan, and where the borrower's aggregate outstanding indebtedness is in excess of $5,000, or where the borrower's aggregate outstanding indebtedness is in excess of $7,500 from a single lender under this part, make, notwithstanding any other provision of this part limiting the maximum insured principal amount for all insured loans made to a borrower, a new loan to the borrower in an amount equal to the unpaid principal and accrued unpaid interest on the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

"(B) The Association in making loans pursuant to this subsection in any State served by a State agency or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b) or an eligible lender in a State described in section 435(g)(1) (D) or (F) may designate as its agent such agency, institution, organization, or lender to perform such functions as the Association determines appropriate. Any agreements made pursuant to this subparagraph shall be on such terms and conditions as agreed upon by the Association and such agency, institution, organization, or lender.

20 USC 1085.

"(2) Loans made pursuant to this subsection shall be insurable either by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1) or by a State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b), except that such State or nonprofit private institution or organization shall provide the Association with a certificate of comprehensive insurance coverage. The terms of loans made under this subsection shall be such as may be agreed upon by the borrower and the Association and meet the requirements of section 427, except that (A) the ten-year maximum period referred to in section 427(a)(2)(B) may be extended to no more than twenty years, and (B) clause (ii) of section 427(a)(2)(B) shall not be applicable.

20 USC 1079.

20 USC 1077.

"(3)(A) Notwithstanding any other provision of this part, the Association, with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.

"(B) For any borrower who has received two or more loans under this part bearing interest at the rate of 9 per centum per annum on the unpaid principal balance of the loan and who requests a new loan under this subsection for the purpose of consolidation on a date after the date on which the Secretary has made a determination under section 427A(b), the rate of interest on such new loan shall not exceed 8 per centum per annum on the unpaid principal balance of such new loan.

Ante, p. 1419.

"(4) The Association shall develop a program to ensure the dissemination of information to students, lenders, and institutions of higher education regarding the loans authorized by this subsection.

"(p)(1) The Association shall make advances in each fiscal year from amounts available to it to each State agency, nonprofit institution or organization, and eligible lender described in subsection 428(h)(1) which has an agreement with the Association which sets forth that advances are necessary to enable such agency, institution, organization or lender to make student loans in accordance with section 428(h) of this title and that such advances will be repaid to the Association in accordance with such terms and conditions as may be set forth in the agreement and agreed to by the Association and such agency, institution, organization, or lender. Advances made under this subsection shall not be subject to section 439(d)(2) of this Act. *Ante*, p. 1428.

Ante, p. 1418.

"(2) No advance may be made under this subsection unless the State agency or nonprofit private institution, organization, or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

"(q)(1)(A) Whenever the Secretary determines that eligible borrowers in a State not served by a State agency or nonprofit private institution or organization having an agreement pursuant to section 428(b), or an eligible lender in a State described in section 435(g)(1) (D) or (F) are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary. The Association shall give preference to such States in making loans under this subsection.

20 USC 1078.
20 USC 1085.

"(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1).

20 USC 1079.

"(2)(A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the agency in a State or nonprofit private institution or organization having an agreement pursuant to section 428(b), or an eligible lender in a State described in section 435(g)(1)(D), determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary.

"(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 428(b). For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

"(3) The Association or its designated agent shall cease making loans under this part in any State at such time as it is determined by the Secretary, with regard to loans made under paragraph (1), or by any party to the agreement required by paragraph (2), that—

"(A) the conditions which caused the implementation of this subsection have ceased to exist; or

"(B) the implementation of this subsection has either (i) further reduced the availability of loans from other sources in the applicable geographical area, or (ii) inhibited the formation in a

State of an agency which would have an agreement pursuant to section 428(b) of this part which would have the responsibility of developing local sources of funds for student loans.".

20 USC 1078.

20 USC 1085.

(2) Section 435(g)(1) of the Act is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F), and by adding at the end thereof the following:

Ante, p. 1430.

"(G) for purposes of making loans under section 439 (o) and (q), the Student Loan Marketing Association; and

"(H) for purposes of making loans under section 428(j), a State agency or a nonprofit private institution or organization having an agreement under section 428(b).".

PROMPT DUE DILIGENCE DETERMINATIONS

20 USC 1080.

SEC. 422. Section 430(a) of the Act is amended by adding at the end thereof the following new sentence: "The Secretary shall make the determination required to carry out the provisions of this section not later than ninety days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of his due diligence investigation.".

MISCELLANEOUS AMENDMENTS

20 USC 1077.

SEC. 423. (a)(1) Section 427(a)(1) of the Act is amended to read as follows:

"(1) made to a student who (A) is an eligible student under section 484, and (B) has agreed to notify promptly the holder of the loan concerning any change of address; and".

Post, p. 1448.

20 USC 1078.

(2) Section 428(a)(2)(B)(i) of the Act is amended to read as follows:

"(i) a student's estimated cost of attendance means the cost of attendance for such student determined in accordance with section 482(d);".

Post, p. 1445.

(b) The first sentence of section 428(c)(1)(A) of the Act is amended by striking out everything after "of any insured loan" and inserting in lieu thereof a period.

(c) Section 428(e) of the Act is amended to read as follows:

"(e) From funds appropriated to carry out this part in any fiscal year, the Secretary shall pay to each eligible institution the amount of $10 per academic year for each student enrolled in that institution who is in receipt of a loan described in paragraph (1) of subsection (a) of this section or made under section 428B, for that year. Payments received by an institution under this subsection shall be used solely for the purpose of offsetting the costs to the institution for the program under this part.".

Ante, p. 1424.

(d) Section 428(f) of the Act is amended by adding at the end thereof the following new paragraph:

"(5)(A) The Secretary shall make payments in accordance with this paragraph to an agency, institution, or organization in any State which has an agreement under subsection (b) of this section which provides a lender referral service for students who meet the requirements of subparagraph (B).

"(B) A student is eligible to apply for lender referral services to an agency, institution, or organization in a State if (i) such student is either a resident of such State or is accepted for enrollment in or is attending an eligible institution in such State, and (ii) such student has sought and was unable to find a lender willing to make a loan under this part.

"(C) The amount which the Secretary shall pay to any eligible agency, institution, or organization under this paragraph shall be equal to one-half of 1 per centum of the total principal amount of the loans upon which insurance was issued under this part on loans made to a student described in subparagraph (B) who subsequently obtained such loans because of such agency's, institution's, or organization's referral service.

"(D) Nothing in this or any law shall prohibit an agency from using all or a portion of the funds received under this part for the payment of incentive fees to lenders who agree to participate in a loan referral service.

"(E) There is authorized to be appropriated such sums as are necessary to carry out the provisions of this paragraph.". Appropriation authorization.

PART C—WORK-STUDY PROGRAMS

PURPOSE; APPROPRIATIONS AUTHORIZED

SEC. 431. Section 441 of the Act is amended to read as follows:

"PURPOSE; APPROPRIATIONS AUTHORIZED

"SEC. 441. (a) The purpose of this part is to stimulate and promote the part-time employment of students, particularly students who are in need of earnings from employment to pursue courses of study at eligible institutions. 42 USC 2751.

"(b) There are authorized to be appropriated for carrying out this part $670,000,000 for fiscal year 1981, $720,000,000 for fiscal year 1982, $760,000,000 for fiscal year 1983, $800,000,000 for fiscal year 1984, and $830,000,000 for fiscal year 1985.".

ALLOTMENT TO STATES

SEC. 432. Section 442 of the Act is amended— 42 USC 2752.

(1) by striking out "2 per centum" in subsection (a)(1) and inserting in lieu thereof "1 per centum";

(2) by striking out "Puerto Rico," in subsection (a)(1);

(3) by striking out "subsection (e)" in subsection (a)(2) and inserting in lieu thereof "subsection (f)",

(4) by inserting "second" immediately after "until the close of the" in subsection (d); and

(5) by striking out "Puerto Rico," in subsection (e).

USE OF CERTAIN UNUSED COLLEGE WORK-STUDY PROGRAM FUNDS FOR THE SUPPORT OF COOPERATIVE EDUCATION PROGRAMS

SEC. 433. (a) The first sentence of section 442(d) of the Act is amended by inserting before the period a comma and the following: "except that the Secretary shall give preference for the first 50 per centum of such reallotments to eligible institutions for use for initiating, improving, and expanding programs of cooperative education conducted in accordance with title VIII of this Act". 20 USC 1133.

(b) Section 442(d) of the Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) The requirement for preference under reallotment contained in the exception of the first sentence of paragraph (1) of this subsection shall be made upon application by the eligible institution to the Secretary in such manner and such form as the Secretary may

require. The Secretary shall allot funds under such preference based upon the ratio of the number of students assisted under the cooperative education program authorized by title VIII for the fiscal year for which the determination is made enrolled in the eligible institution making application under this paragraph to the number of such students for such year enrolled in all eligible institutions applying under this part.".

20 USC 1133.

GRANTS FOR WORK-STUDY PROGRAMS

SEC. 434. Part C of title IV of the Act is amended by striking out sections 443 and 444 and inserting in lieu thereof the following:

42 USC 2753, 2754.

"GRANTS FOR WORK-STUDY PROGRAMS

42 USC 2753.

"SEC. 443. (a) The Secretary is authorized to enter into agreements with institutions of higher education under which the Secretary will make grants to such institutions to assist in the operation of work-study programs as provided in this part.

Grant agreements, requirements.

"(b) An agreement entered into pursuant to this section shall—

"(1) provide for the operation by the institution of a program for the part-time employment of its students in work for the institution itself (except in the case of a proprietary institution of higher education) or work in the public interest for a Federal, State, or local public agency or private nonprofit organization under an arrangement between the institution and such agency or organization, and such work—

"(A) will not result in the displacement of employed workers or impair existing contracts for services;

"(B) will be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee;

"(C) does not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship; and

"(D) will not pay any wage to students employed under this subpart that is less than the current Federal minimum wage as mandated by section 6(a) of the Fair Labor Standards Act of 1938;

29 USC 206.

"(2) provide that funds granted an institution of higher education, pursuant to section 443, may be used only to make payments to students participating in work-study programs, except that an institution may use a portion of the sums granted to it to meet administrative expenses in accordance with section 489 of this Act, may use a portion of the sums granted to it to meet the cost of a job location and development program in accordance with section 447 of this part, and may transfer funds in accordance with the provisions of section 488 of this Act;

Post, p. 1453.

42 USC 2756a.
Post, p. 1452.

"(3) provide that in the selection of students for employment under such work-study program, only students who demonstrate financial need in accordance with the provisions of section 482, and who meet the requirements of section 484 will be assisted, except that each eligible institution may reserve and award not more than 10 per centum of the funds made available under this part for each fiscal year for less-than-half-time students who are determined by the institution to be in need of such grants and

Post, p. 1445.
Post, p. 1448.

who meet the requirements of section 484, other than the requirement of clause (2) of section 484(a); Post, p. 1448.

"(4) provide that no student in a work-study program under this part shall be required to terminate that employment during a semester (or other regular enrollment period) at the time income derived from any employment (including work-study or nonwork-study or both) is in excess of the determination of the amount of such student's need for that semester under clause (3) of this subsection, but when such excess income equals $200 or more, continued employment under a work-study program shall not be subsidized with funds appropriated under this part;

"(5) provide that the institution will meet the requirements of section 487(2) of this Act (relating to maintenance of effort); Post, p. 1451.

"(6) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement will not exceed 80 per centum of such compensation; except that the Federal share may exceed 80 per centum of such compensation if the Secretary determines, pursuant to regulations adopted and promulgated by him establishing objective criteria for such determinations, that a Federal share in excess of 80 per centum is required in furtherance of the purposes of this part;

"(7) include provisions to make employment under such work-study program reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof, and to make equivalent employment offered or arranged by the institution reasonably available (to the extent of available funds) to all students in the institution who desire such employment;

"(8) provide assurances that employment made available from funds under this part will, to the maximum extent practicable, complement and reinforce the educational program or vocational goals of each student receiving assistance under this part; and

"(9) include such other provisions as the Secretary shall deem necessary or appropriate to carry out the purposes of this part.".

DISTRIBUTION OF ASSISTANCE

SEC. 435. (a) Section 446(a) of the Act is amended by inserting at the end thereof the following new sentence: "The criteria established under this subsection shall not result in any institution's receiving an amount less than the institution used under this section for fiscal year 1979, unless there is a substantial decline in the student enrollment of the institution.". 42 USC 2756.

(b) Section 446 of the Act is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) Of the sums granted to an eligible institution under this part for any fiscal year, 10 per centum may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out programs under this part. Any of the sums so granted to an institution for a fiscal year which are not needed by that institution to operate work-study programs during that fiscal year, and which it does not wish to use during the next fiscal year as authorized in the preceding sentence, shall remain available to the Secretary for making grants under section 443 to other institutions in the same State until the close of the second fiscal year next succeeding the fiscal year for which such funds were appropriated.

"(c) Up to 10 per centum of the sums the Secretary determines an eligible institution may receive from funds which have been appro-

priated for a fiscal year may be used by the Secretary to make grants under this part to such institution for expenditure during the fiscal year preceding the fiscal year for which the sums were appropriated.".

JOB LOCATION AND DEVELOPMENT

42 USC 2756a.

SEC. 436. Section 447 of the Act is amended by striking out "$15,000" and inserting in lieu thereof "$25,000".

WORK STUDY FOR COMMUNITY SERVICE-LEARNING

SEC. 437. Part C of title IV of the Act is amended by adding at the end thereof the following new section:

"WORK STUDY FOR COMMUNITY SERVICE-LEARNING ON BEHALF OF LOW-INCOME INDIVIDUALS AND FAMILIES

42 USC 2756b.

"SEC. 448. (a) The purpose of this section is to encourage and enable institutions of higher education to develop work study programs involving eligible students in community service-learning designed to develop, improve, or expand services for low-income individuals and families or to solve particular problems related to the needs of low-income individuals.

Definitions.

"(b) For the purpose of this section—

"(1) 'community service-learning' means a program of student work that—

"(A) provides tangible community services for or on behalf of low-income individuals or families; and

"(B) provides participating students with work-learning opportunities related to their educational or vocational programs or goals; and

"(2) 'community services' means direct service, planning or applied research activities designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, education, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement.

Post, p. 1453.

"(c) Each institution participating under this part may use funds made available under the last sentence of section 489(a) to conduct that institution's program of community service-learning, including—

"(1) development of mechanisms to assure the academic quality of the student experience,

"(2) assuring student access to educational resources, expertise, and supervision necessary to achieve community service objectives, and

"(3) collaboration with public and private nonprofit agencies in the planning and administration of such programs.".

PART D—NATIONAL DIRECT STUDENT LOANS

EXTENSION OF PROGRAM

Appropriation authorization.
20 USC 1087aa.

SEC. 441. (a) Section 461(b)(1) of the Act is amended to read as follows:

"(b)(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are

authorized to be appropriated $400,000,000 for each of the fiscal years 1981 and 1982, $475,000,000 for fiscal year 1983, $550,000,000 for fiscal year 1984, and $625,000,000 for fiscal year 1985, except that no funds are authorized to be appropriated for any fiscal year which begins after there has been a capital distribution under section 466(a).". 20 USC 1087ff.

(b) Section 461(b)(2) of the Act is amended— 20 USC 1087aa.

(1) by striking out "for the fiscal year ending September 30, 1980, and each of the three succeeding fiscal years" and inserting in lieu thereof "for fiscal year 1985 and each of the five succeeding fiscal years"; and

(2) by striking out "October 1, 1980" and inserting in lieu thereof "October 1, 1985".

ALTERNATIVE FUNDING FOR DIRECT LOANS; RECAPTURE OF CURRENT BALANCES

SEC. 442. (a) Part E of title IV of the Act is amended by adding at the end thereof the following new sections:

"ALTERNATIVE SOURCE OF FUNDS

"SEC. 468. (a)(1) The Secretary shall, not later than April 1 of each fiscal year, issue and have outstanding at any one time notes, debentures, bonds, or other obligations in such amounts as shall be necessary to carry out functions under this part, subject to such annual limitations as may be provided in an appropriation Act with respect to such fiscal year, except that the Secretary shall not issue any such obligation without the prior concurrence of the Secretary of the Treasury as to the terms and conditions of such obligations. The Secretary of the Treasury may direct that any such issuance by the Secretary be sold to the Department of the Treasury for its own account or to the Federal Financing Bank. Obligations. 20 USC 1087hh.

"(2) The Secretary of the Treasury is authorized and directed to purchase any obligations issued under this section, and for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this section shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. Interest due on obligations of the Secretary held by the Treasury may be deferred, at the discretion of the Secretary, but any such deferred interest shall bear interest at the rate specified in this section. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States. 31 USC 774.

"(3) All obligations of the Secretary issued under this section shall be fully and unconditionally guaranteed as to principal and interest and shall constitute general obligations of the United States, backed by the full faith and credit of the Government of the United States of America. Such guarantee shall be expressed on the face of all such obligations.

"(4) Obligations of the Secretary issued pursuant to this section shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. All stock and obligations issued by the Secretary pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States.

"(5) In order that the Secretary may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this section, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Secretary, to be held in the Treasury subject to delivery, upon order of the Secretary. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Secretary shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such notes, debentures, bonds, or other obligations.

"(6) All moneys of the Secretary not otherwise employed may be—

"(A) deposited with the Treasury of the United States subject to withdrawal by the Secretary, by check drawn on the Treasury of the United States by a Treasury disbursing officer, or

"(B) with the approval of the Secretary of the Treasury, deposited in any Federal Reserve bank, or

"(C) with the approval of the Secretary of the Treasury, and by authorization of the Secretary, used in the purchase for redemption and retirement of any notes, debentures, bonds, or other obligations issued by the Secretary.

Federal capital contributions.

"(b)(1) The Secretary shall make payments under this section for any fiscal year to each institution of higher education having an agreement under section 463 on the basis of the estimated needs of that institution for making student loans taking into consideration—

20 USC 1087cc.

"(A) the cost of attendance at that institution,

"(B) the financial need of students at that institution to meet the cost of attendance as determined under section 482, and

Post, p. 1445.

"(C) the financial assistance received by students at that institution under parts A and C of this title, or any other provision of Federal law (other than part B), and other scholarship, grant, work, and loan assistance received by students, subject to the limitations specified in section 464(a)(2). No application under subsection (c) shall be approved which requests an amount greater than the amount determined under this subsection to be needed by that institution.

20 USC 1070.
42 USC 2751.
20 USC 1071.
20 USC 1087dd.

"(2) If the total amount of Federal capital contributions requested in applications under subsection (c) exceeds the amount available under this section for a fiscal year, the request from each institution shall be ratably reduced, except that no reduction may be made under this sentence to an amount which, together with funds available to the institution of higher education under section 463(a)(2) (A) and (B) for that fiscal year, is less than the amount which was used by that institution for making loans under this part during fiscal year 1980. In case additional amounts become available for such contributions in any fiscal year in which requests have been so reduced, such requests shall be increased on the same basis as they were reduced,

except that no such request shall be increased above the amount requested in the application.

"(c) Any institution of higher education desiring to receive payments of Federal capital contributions from the apportionment under subsection (b) shall submit an application therefor to the Secretary at such time as the Secretary prescribes. Application submittal.

"(d) There are authorized to be appropriated such sums as may be necessary to pay the differential between the rate of return on obligations of the Secretary made under this section and the interest collected on student loans made under this part. Appropriation authorization.

"(e) In carrying out the provisions of this part, the Secretary is authorized—

"(1) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made under this part;

"(2) to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption;

"(3) to conduct litigation in accordance with the provisions of section 432(a)(2); and 20 USC 1082.

"(4) to enter into a contract or other arrangement with State or nonprofit agencies and, on a competitive basis, with collection agencies for servicing and collection of loans under this part.

"RECAPTURE OF CURRENT BALANCE OF STUDENT LOAN FUNDS

"SEC. 469. If, by April 1 of any fiscal year, the Secretary has made available for deposit in student loan funds pursuant to section 463(a)(2)(C) an amount which equals or exceeds $1,000,000,000 to be available for loans for such fiscal year, there shall be collected from each student loan fund established under this part the current balance of such student loan fund as follows: 20 USC 1087ii. *Infra.*

"(1) The Secretary shall first be paid an amount which bears the same ratio to the balance in such fund (excluding any portion of such balance which was deposited pursuant to section 463(a)(2)(C)) as the total amount of Federal capital contributions to such fund by the Secretary from funds appropriated under section 461 or under title II of the National Defense Education Act of 1958 bears to the sum of such Federal capital contributions and the institution's capital contribution to such fund. Such amounts shall be deposited in the Treasury of the United States. 20 USC 1087aa. 20 USC 421.

"(2) The remainder of such balance, excluding any portion of such balance which was deposited pursuant to section 463(a)(2)(C), shall be paid to the institution.

"(3) Any portion of such balance which was deposited pursuant to section 463(a)(2)(C) shall be retained in the student loan fund for use in accordance with this part.".

(b)(1) Section 463(a)(2) of the Act is amended to read as follows: 20 USC 1087cc.

"(2) provide for the deposit in such fund of—

"(A) Federal capital contributions from funds appropriated under section 461;

"(B) a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of the Federal capital contributions described in subparagraph (A);

"(C) Federal capital contributions from funds provided by the Secretary under section 468; *Ante,* p. 1437.

"(D) collections of principal and interest on student loans made from deposited funds other than those described in subparagraph (C);

"(E) charges collected pursuant to regulations under section 464(c)(1)(H); and

20 USC 1087dd.

"(F) any other earnings of the funds;".

20 USC 1087cc.

(2) Section 463(a)(3)(D) of the Act is amended by striking out "section 464(c)(1)(G)" and inserting in lieu thereof "section 464(c)(1)(H)".

Student loans. Principal and interest collections.

(3) Section 463(a) of the Act is further amended by striking out "and" at the end of paragraph (5), by redesignating paragraph (6) as paragraph (9), and by inserting immediately after paragraph (5) the following new paragraph:

"(6)(A) provide that collections of principal and interest on student loans made from funds described in paragraph (2)(C), after deduction of any costs of litigation and other servicing and collection costs agreed to by the Secretary in connection with the servicing and collection of such a loan (and interest thereon) or a charge assessed pursuant to regulations under section 464(c)(1)(H), shall be paid to the Secretary at such time and in such manner as the Secretary may prescribe by regulation and shall be deposited in the Treasury of the United States; or

"(B) provide that, if an institution of higher education determines not to service and collect student loans made from funds described in paragraph (2)(C), the institution will assign, at the beginning of the repayment period, notes or evidence of obligations of student loans made from funds described in such paragraph to the Secretary;".

(4) Section 463(b) of the Act is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) An institution which has entered into an agreement under subsection (a) and has elected to assign the notes or evidence of obligations of student loans in accordance with paragraph (6)(B) of such subsection shall be eligible to receive, from funds available to the Secretary, an amount equal to $10 per academic year for each student enrolled in that institution who in that year received a loan from funds described in paragraph (2)(C) of subsection (a) of this section. Payments received by an institution under this paragraph shall be used for the purpose of offsetting the costs to the institution for the program under this part.".

20 USC 1087dd.

(5) Section 464(c)(1)(G) of the Act is amended by inserting before the semicolon a comma and the following: "and except as necessary to carry out section 463(a)(6)(B)".

20 USC 1087ee.

(6) Section 465(b) of the Act is amended by inserting immediately before the period at the end of the first sentence the following: ", minus an amount equal to the aggregate of the amounts of any such loans so canceled which were made from Federal capital contributions to its student loan fund provided by the Secretary under section 468".

Ante, p. 1437.

20 USC 1087ff.

(c) Section 466 of the Act is amended—

(1) by striking out "September 30, 1984" each place it appears in subsection (a) and inserting in lieu thereof "September 30, 1990";

(2) by striking out "March 31, 1985" each place it appears in subsections (a) and (b) and inserting in lieu thereof "March 31, 1991";

(3) by striking out "September 30, 1978" in subsection (b) and inserting in lieu thereof "September 30, 1981"; and

(4) by striking out "October 1, 1984" in subsection (c) and inserting in lieu thereof "October 1, 1990".

LOAN LIMITATIONS

SEC. 443. Section 464(a)(2) of this Act is amended— 20 USC 1087dd.

(1) by striking out "$10,000" in clause (A) and inserting in lieu thereof "$12,000";

(2) by striking out "$5,000" in clause (B) and inserting in lieu thereof "$6,000"; and

(3) by striking out "$2,500" in clause (C) and inserting in lieu thereof "$3,000".

DEFERRAL OF REPAYMENT

SEC. 444. (a) Section 464(c)(2)(A) of the Act is amended—

(1) by inserting "or is an officer in the Commissioned Corps of the Public Health Service" immediately after "Armed Forces of the United States" in clause (ii);

(2) by striking out "or" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof a semicolon, and by inserting after clause (iv) the following new clauses:

"(v) is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954; 26 USC 501.

"(vi) is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service; or

"(vii) is temporarily totally disabled (as defined in section 435(j)), as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a spouse who is so disabled."; *Ante*, p. 1418.

(3) by striking "clause (ii), (iii), or (iv)" in the second sentence of such section and inserting in lieu thereof "clause (ii), (iii), (iv), (v), or (vii)"; and

(4) by inserting immediately after such sentence the following new sentence: "The period during which repayment may be deferred by reason of clause (vi) shall not exceed two years.". Limitation.

(b) Section 464(c)(1)(A) of the Act is amended by striking out "nine months" each place it appears and inserting in lieu thereof "six months".

(c) Section 464(c)(2) of the Act is amended by adding at the end thereof the following new subparagraph:

"(C) No repayment of principal of, or interest on, any loan for any period of study, service, or disability described in subparagraph (A) or any combination thereof shall begin until six months after the completion of such period of study, service, disability, or combination thereof.".

(d) Section 464(c)(3) of the Act is amended by inserting "(A)" immediately after "(3)" and by adding at the end thereof the following:

"(B) Pursuant to uniform criteria established by the Secretary, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period

not to exceed ten years and the repayment schedule may be adjusted to reflect the income of that individual.".

COLLECTION PRACTICES

20 USC 1087cc. *Ante*, p. 1440.

SEC. 445. (a) Section 463(a) of the Act (as amended by section 442(b)(3)) is further amended by inserting after paragraph (6) the following new paragraph:

"(7) provide that, notwithstanding any other provision of law, the Secretary will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to him, from whatever source such information may be derived;".

(b)(1) Section 463 of the Act is amended by adding at the end thereof the following new subsection:

Cooperative agreements with credit bureaus.

"(c)(1) For the purpose of promoting responsible repayment of loans made pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations to provide for the exchange of information concerning student borrowers concerning whom the Secretary has received a referral pursuant to section 467.

20 USC 1087gg.

"(2) Each cooperative agreement made pursuant to paragraph (1) shall be made in accordance with requirements of section 430(b)(2) except that such agreement shall provide for the disclosure by the Secretary to such organizations, with respect to any loan for which the Secretary is responsible, of—

Ante, p. 1420.

"(A) the date of disbursement and the amount of any such loan;

"(B) information concerning collection of any such loan, including information concerning the status of any defaulted loan; and

"(C) the date of cancellation of the note upon completion of repayment by the borrower of any such loan.".

20 USC 1087dd.

(2) Section 464(c)(1) of such Act is amended by striking out "and" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; and", and by adding at the end thereof the following new subparagraph:

"(I) shall contain a notice of the system of disclosure of information concerning default on such loan to credit bureau organizations under section 463(c).".

Supra.

20 USC 1087gg.

(c) Section 467 of the Act is amended by inserting "(a)" after "SEC. 467." and by adding at the end thereof the following new subsection:

"(b) The Secretary shall continue to attempt to collect any loan assigned under section 463(a)(5) or (6) or referred under subsection (a) of this section until a date which is not earlier than four years after the date of default (determined in a manner consistent with section 430(e)).".

20 USC 1080.

INTEREST RATES

20 USC 1087dd.

SEC. 446. Section 464(c)(1)(D) of the Act is amended by inserting immediately after "3 per centum per annum" the following: "or 4 per centum per annum in the case of any loan made on or after October 1, 1980".

STUDENT LOAN INFORMATION PROGRAM AUTHORIZED

20 USC 1087cc.

SEC. 447. (a) Section 463(a) of the Act (as amended by section 442(b)(3)) is amended by inserting immediately after paragraph (7) the following new paragraph:

"(8) provide assurances that the institution will comply with the provisions of section 463A;".

Post, p. 1443.

(b) Part E of title IV of the Act is amended by adding after section 463 the following new section:

"STUDENT LOAN INFORMATION BY INSTITUTIONS

"SEC. 463A. Each institution of higher education, in order to carry out the provisions of section 463(a)(7), shall, at the time such institution makes a loan to a student borrower which is made under this part, provide thorough and adequate loan information on loans made under this part to the student borrower. The loan information required by this section shall include— 20 USC 1087cc-1. *Ante*, p. 1442.

"(1) the yearly and cumulative maximum amounts that may be borrowed by a student;

"(2) the terms on which repayment will begin;

"(3) the maximum number of years in which the loan must be repaid;

"(4) the interest rate that will be repaid and the minimum amount of required monthly payment;

"(5) any special options the borrower may have for deferral, cancellation, prepayment, consolidation, or other refinancing of the loan;

"(6) a definition of default and the consequences to the borrower if the borrower should default, including a description of any arrangements made with credit bureau organizations; and

"(7) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance.".

MISCELLANEOUS AMENDMENTS

SEC. 448. (a) Section 462 of the Act is amended by striking out subsection (d). 20 USC 1087bb.

(b) Section 463(b) of the Act is amended by striking out "section 493" and inserting in lieu thereof "section 485". 20 USC 1087cc.

(c)(1) Section 464(b) of the Act is amended to read as follows: 20 USC 1087dd.

"(b) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with section 482 and who meets the requirements of section 484.". *Post*, p. 1445. *Post*, p. 1448.

(2) Section 464(e) of the Act is repealed.

(d) Section 465(a)(2) of the Act is amended by striking out the last sentence and inserting in lieu thereof the following: "For purposes of this paragraph, the term 'handicapped children' has the meaning set forth in section 602(1) of the Education of the Handicapped Act.". 20 USC 1087ee.

(e) Section 465(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(5) The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of the Internal Revenue Code of 1954.". 26 USC 1.

PART E—GENERAL PROVISIONS

STUDENT ASSISTANCE GENERAL PROVISIONS

SEC. 451. (a) Part F of title IV of the Act is amended to read as follows:

"PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

"DEFINITIONS

20 USC 1088.
20 USC 1070e, 1071.
20 USC 1141.

"SEC. 481. (a)(1) For the purposes of this title, except subpart 6 of part A and part B, the term 'institution of higher education' includes, in addition to the institutions covered by the definition contained in section 1201(a)—

"(A) a proprietary institution of higher education;

"(B) a postsecondary vocational institution;

"(C) a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing; and

"(D) a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

"(2) The term 'accredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Secretary.

"(b) For the purposes of this section, the term 'proprietary institution of higher education' means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1) and (2) of section 1201(a), (3) which does not meet the requirement of clause (4) of section 1201(a), (4) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, and (5) which has been in existence for at least two years. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution. For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

"(c) For the purposes of this section, the term 'postsecondary vocational institution' means a school (1) which provides not less than a six-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1), (2), (4), and (5) of section 1201(a), and (3) which has been in existence for at least two years. Such term also includes an educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.

"(d) For the purpose of any program under this title, the term 'academic year' shall be defined by the Secretary by regulation.

"NEED ANALYSIS

"SEC. 482. (a)(1) For the purpose of determining a student's need for financial assistance under this title (other than under subpart 3 of part A and under part B), the Secretary shall publish in the Federal Register, no later than July 1, 1981, April 1, 1982, and on April 1 of each succeeding calendar year, a proposed schedule of expected family contributions for the academic year which begins after July 1 of the calendar year which succeeds such calendar year for various levels of family income, which, except as is otherwise provided in paragraph (2), together with any amendments thereto, shall become effective July 1 of the calendar year which succeeds such calendar year. During the thirty-day period following such publication the Secretary shall provide interested parties with an opportunity to present their views and make recommendations with respect to such schedule. Such schedule shall be adjusted annually.

Publication in Federal Register.
20 USC 1089.
20 USC 1070c, 1071.

Effective date.

"(2) The schedule of expected family contributions required for each academic year shall be submitted to the President of the Senate and the Speaker of the House of Representatives not later than the time of its publication in the Federal Register. If either the Senate or the House of Representatives adopts, prior to October 1, 1981, July 1, 1982, or July 1 of any succeeding year following the submission of such schedule as required by this paragraph, a resolution of disapproval of such schedule, in whole or in part, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House in connection with such resolution. If within fifteen days following the submission of the revised schedule either the Senate or the House of Representatives again adopts a resolution of disapproval, in whole or in part, of such revised schedule, the Secretary shall publish a new schedule of expected family contributions in the Federal Register not later than fifteen days after the adoption of such resolution of disapproval. This procedure shall be repeated until neither the Senate nor the House of Representatives adopts a resolution of disapproval. The Secretary shall publish together with each new schedule a statement identifying the recommendations made in either House in connection with such resolution of disapproval and explaining his reasons for the new schedule.

Expected family contributions schedule.
Publication in Federal Register.

"(3) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall develop a proposed schedule of expected family contributions each year for publication in the Federal Register.

"(b)(1) For the purposes of this section, the term 'family contribution' with respect to any student means the amount which the student and his family may be reasonably expected to contribute toward his postsecondary education for the academic year for which the determination is made, as determined in accordance with regulations. In promulgating such regulations, the Secretary shall follow the basic criteria set forth in paragraph (2) of this subsection.

"Family contributions."

"(2) The basic criteria to be followed in promulgating regulations with respect to expected family contributions are as follows:

Criteria.

"(A) The amount of the effective income of the student or the effective family income of the student's parents.

"(B) The number of dependents of the family of the student.

"(C) The number of dependents of the student's family who are in attendance in a program of postsecondary education and for

whom the family may be reasonably expected to contribute for their postsecondary education.

"(D) The amount of the assets of the student and the assets of the student's family.

"(E) Any unusual expenses of the student or his family, such as unusual medical expenses and those which may arise from a catastrophe.

"(F) Any educational expenses of other dependent children in the family.

"Effective family income."

"(3) For purposes of subparagraph (A) of paragraph (2), the term 'effective family income' with respect to a student, means the annual adjusted family income, as determined in accordance with regulations prescribed by the Secretary, received by the parents or legal guardians of the student minus Federal, State and local taxes paid or payable with respect to such income, and includes any amount paid under the Social Security Act to, or on account of, the student which would not be paid if he were not a student and one-half any amount paid the student under chapters 34 and 35 of title 38, United States Code. The term 'effective family income' includes any effective student income after any offset as determined by regulations prescribed by the Secretary.

38 USC 1651 *et seq.*, 1700 *et seq.*

"(4) In determining the expected family contribution under this section for any academic year after academic year 1978-1979, an assessment rate of not more than 14 per centum shall be applied to parental discretionary income for families with adjusted gross family income which does not exceed $25,000 for each such year. The Secretary may set an assessment rate or a series of assessment rates to be applied to parental discretionary income for families with adjusted gross incomes which exceed $25,000 for each such year for income in excess of $25,000.

"(5) For the purposes of paragraph (2)(D), the assets shall be determined by—

"(A) excluding all equity in a single principal place of residence from the computation of assets;

"(B) deducting an asset reserve of not less than $10,000 from the net value of all assets; and

"(C) if net assets include farm or business assets, deducting an additional asset reserve of not less than $50,000 from the net assets.

Regulations.

"(c)(1) The Secretary shall promulgate special regulations for determining the expected family contribution and effective family income of an independent student. Such special regulations shall be consistent with the basic criteria set forth in paragraph (2) of subsection (b). In addition, such regulations shall—

"(A) provide that the portion of assets which shall be exempt from assessment for contribution for an independent student who has one or more dependents shall be the same as the portion so exempt for the family of a dependent student;

"(B) provide that the rate of assessment for contribution on that portion of assets of such an independent student which is not exempt under subparagraph (A) shall be the same as the rate applied to the comparable portion of assets of the family of a dependent student;

"(C) in establishing a portion of effective family income which shall be exempt from assessment for contribution by reason of subsistence requirements of independent students who have no dependents, use the same method for computation of such

portion for such students as is used for dependent students and for independent students who have dependents;

"(D) in determining the family contribution for an independent student who has one or more dependents, provide that the assessment rate which is to be applied to the student's discretionary income shall be the same as the assessment rate applied to discretionary income of the family of a dependent student; and

"(E) provide that a married student shall be considered independent if, notwithstanding prior dependency status, such student certifies that in the year of application he (i) will not live with parents for more than six weeks; (ii) will not be claimed by parents as a dependent on any tax return filed for purposes of Federal income taxes; and (iii) will not receive more than $750 in support from parents.

"(2) For purposes of this title, the term 'independent student' means a student who is determined, pursuant to regulations of the Secretary, to be independent of the parents or legal guardians of the student. "Independent student."

"(d) For the purposes of this title, the term 'cost of attendance' means— "Cost of attendance."

"(1) tuition and fees normally assessed a full-time student at the institution at which the student is in attendance;

"(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses;

"(3) an allowance for room and board costs incurred by the student which—

"(A) beginning in academic year 1981-1982 shall be an allowance of not less than $1,100 for a student without dependents residing at home with parents;

"(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board;

"(C) for all other students without dependents, shall be a standard allowance determined by the institution based on the expenses reasonably incurred by such students for room and board; and

"(D) for students with dependents, shall be an allowance based on the expenses reasonably incurred by such students for room and board;

"(4) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, and travel and room and board costs incurred specifically in fulfilling a required period of residential training;

"(5) for a student enrolled in an academic program which normally includes a formal program of study abroad, reasonable costs associated with such study;

"(6) for a student with dependent children, an allowance based on the expenses reasonably incurred for child care; and

"(7) for a handicapped student, an allowance for those expenses related to his handicap, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies.

"(e) Nothing in this section shall prohibit an institution, in individual cases, from adjusting the financial need determination for a student aided under subpart 2 of part A or part C or E of this title if the basis for such adjustment is documented. Financial need determination. 20 USC 1070b, 42 USC 2751, 20 USC 1088.

"FORMS AND REGULATIONS

20 USC 1090.

"SEC. 483. (a) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall prescribe a common Federal financial aid application form to be used to determine the need and eligibility of a student for financial assistance under this title (other than under subpart 3 of part A and under part B). No student or parent of a student shall be charged a fee for processing the data elements of the form prescribed by the Secretary. The Secretary shall, to the extent practicable, enter into not less than three contracts with States, institutions of higher education, or private organizations for the purpose of processing the application required under this subsection and issuing eligibility reports. The Secretary may also contract for additional services to assure coordination of financial aid from both Federal and non-Federal sources, and to provide information, training, and similar services to institutions, aid officers, counselors, lenders, parents and students. Nothing in this section shall prohibit States, institutions, or private organizations from simultaneously collecting data elements, in addition to the data elements prescribed by the Secretary, as may be necessary to determine the eligibility of a student for financial aid funds not covered by this title (or covered under subpart 3 of part A or under part B of this title).

20 USC 1070c, 1071.

Contract authority.

"(b) Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives at least thirty days prior to their effective date.

Contract authority.

"(c) To help insure access to postsecondary education by providing early notice to students of their potential eligibility for financial aid, the Secretary is authorized to enter into contracts with States, institutions of higher education, and private organizations for the purpose of—

"(1) developing a common pre-eligibility Federal financial aid form,

"(2) distributing and processing such form on a year-round basis free of charge to students, and

"(3) issuing on the basis of information reported by the student on such form a pre-eligibility index designed to estimate the amount of Federal (and, if feasible, non-Federal) funds for which the student might qualify in later completing and submitting the application form called for under this section.

The Secretary shall widely disseminate the pre-eligibility form through post offices and other appropriate Federal installations, schools, postsecondary institutions, libraries, and community-based agencies, including projects assisted under subpart 4 of part A of this title.

Ante, p. 1407.

"STUDENT ELIGIBILITY

20 USC 1091.

"SEC. 484. (a) In order to receive any grant, loan, or work assistance under this title, a student must—

"(1) be enrolled or accepted for enrollment at an institution of higher education that is an eligible institution in accordance with the provisions of section 487;

"(2) except as otherwise specifically provided, be carrying or planning to carry at least one-half the normal full-time workload

for the course of study the student is pursuing, as determined by the institution;

"(3) if the student is presently enrolled at an institution, be maintaining satisfactory progress in the course of study the student is pursuing according to the standards and practices of the institution at which the student is in attendance;

"(4) not owe a refund on grants previously received at such institution under this title, or be in default on any loan from a student loan fund at such institution provided for in part E, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at such institution; and 20 USC 1088.

"(5) file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a statement of educational purpose (which need not be notarized) stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution.

"(b) Any permanent resident of the Trust Territory of the Pacific Islands or of the Northern Mariana Islands shall be eligible for assistance under this title to the same extent that citizens of the United States are eligible for such assistance.

"INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

"SEC. 485. (a)(1) Each eligible institution participating in any program under this title shall carry out information dissemination activities for prospective and enrolled students regarding the institution and financial assistance under this title. The information required by this section shall be produced and be made readily available, through appropriate publications and mailings, to all current students, and to any prospective student upon request. The information required by this section shall accurately describe— 20 USC 1092.

"(A) the student financial assistance programs available to students who enroll at such institution;

"(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

"(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

"(D) the rights and responsibilities of students receiving financial assistance under this title;

"(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

"(F) a statement of the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in clause (E) of this paragraph;

"(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, and (iii) the faculty and other instructional personnel;

"(H) each person designated under subsection (b) of this section, and the methods by which and locations in which any

person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

"(I) special facilities and services available to handicapped students;

"(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs, and the procedures under which any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing; and

"(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 484(a)(3).

"Prospective student."

"(2) For purposes of this section, the term 'prospective student' means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

"(b) Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a). The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

Waiver.

Federal student assistance programs, descriptions.

"(c) The Secretary shall make available to eligible institutions descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs.

"TRAINING IN FINANCIAL AID AND STUDENT SUPPORT SERVICES

Contract authority.
20 USC 1093.

"SEC. 486. (a) The Secretary is authorized to enter into contracts with appropriate public agencies or nonprofit private organizations or institutions of higher education to provide training for financial aid administrators, student peer counselors, student staff or volunteers, and other part-time staff and volunteers who provide financial aid, admissions and academic counseling and outreach, and student support programs in postsecondary education in postsecondary institutions, communities or statewide programs.

"(b) Financial assistance under this section may be used for—

"(1) development of materials and inservice training and career awareness programs;

"(2) operation of short-term training institutes designed to improve the skills and career awareness of participants in such institutes; and

"(3) special programs to assist in training of students and part-time staff or volunteers at institutions eligible for assistance under title III of this Act.

20 USC 1051.

"(c) There are authorized to be appropriated $1,000,000 to carry out the provisions of this section for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985. Appropriation authorization.

"PROGRAM PARTICIPATION AGREEMENTS

"SEC. 487. (a) In order to be an eligible institution for the purposes of any program authorized under this title, an institution must be an institution of higher education or an eligible institution (as that term is defined for purposes of that program) and shall, except with respect to a program under subpart 3 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements: 20 USC 1094. 20 USC 1070c.

"(1) The institution will use funds received by it for any program under this title solely for the purposes specified in, and in accordance with, the provisions of that program.

"(2) In the case of an institution participating in any program authorized under subpart 2 of part A or part C of this title for any fiscal year, the institution will continue to spend in its own scholarship and student aid program, from sources other than funds received under such parts, not less than the average expenditures per year made for that purpose during the most recent period of three fiscal years preceding the effective date of the program participation agreement, except that, under special and unusual circumstances prescribed by regulation, the Secretary is authorized to waive the requirements of this paragraph. 20 USC 1070b, 42 USC 2751.

"(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this title.

"(4) The institution will comply with the provisions of subsection (b) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

"(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part E, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purposes of this title. 20 USC 1071, 1088.

"(6) The institution will comply with the requirements of section 485.

"(b)(1) Notwithstanding any other provisions of this title, the Secretary is authorized to prescribe such regulations as may be necessary to provide for— Regulations.

"(A) a fiscal audit of an eligible institution with regard to any funds obtained by it under this title or obtained from a student who has a loan insured or guaranteed by the Secretary under this title;

"(B) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title;

"(C) the establishment, by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a)(2)(A)(i), of policies and procedures by which the latest known address and enrollment status of any student who 20 USC 1078.

has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than sixty days after such termination or failure to re-enroll; and

"(D) the limitation, suspension, or termination of the eligibility for any program under this title of any otherwise eligible institution, or the imposition of a civil penalty under paragraph (2)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this title or any regulation prescribed under this title, except that no period of suspension under this section shall exceed sixty days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time.

Eligibility status, suspension or termination.

"(2)(A) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this title of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

Civil penalties.

"(B)(i) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution—

"(I) has violated or failed to carry out any provision of this title or any regulation prescribed under this title; or

"(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed $25,000 for each violation or misrepresentation.

"(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

"(3) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

"Eligible institution." 20 USC 1085.

"(c) For the purpose of this section the term 'eligible institution' means any such institution described in section 435(a) of this Act.

"TRANSFER OF ALLOTMENTS

20 USC 1095. 20 USC 1070b-3, 42 USC 2756.

"SEC. 488. Up to 10 per centum of the allotment of an eligible institution for a fiscal year under section 413D or 446 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including

institutional and State aid, which best fits the needs of each individual student. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

"ADMINISTRATIVE EXPENSES

"SEC. 489. (a) From the sums appropriated for any fiscal year for purposes of the program authorized under subpart 1 of part A, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 487, an amount equal to $10 for each student at that institution who receives assistance under subpart 1 of part A. In addition, an institution which has entered into an agreement with the Secretary under subpart 2 of part A or part C (other than section 448), of this title or under part E of this title shall be entitled for each fiscal year for which it receives an allotment by payment under any such part to a payment for the purposes set forth in subsection (b). The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary and shall be equal to 5 per centum of the institution's first $2,750,000 of expenditures plus 4 per centum of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 per centum of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 2 of part A, its expenditures during such fiscal year under part C for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part E, excluding the principal amount of any such loans which the institution has agreed to assign under section 463(a)(6)(B). The payment for a fiscal year for the purpose of subsection (b) with respect to section 448 shall be payable from each allotment under part C in accordance with regulations of the Secretary, and shall be 10 per centum of the institution's expenditures during such fiscal year under such section.

20 USC 1096.
20 USC 1070a.
20 USC 1070b, 42 USC 2751, *ante*, p. 1436, 20 USC 1088.
Ante, p. 1440.
Ante, p. 1436.

"(b) The sums paid to institutions under this part are for the sole purpose of offsetting the administrative costs of the programs described in subsection (a).

"CRIMINAL PENALTIES

"SEC. 490. (a) Any person who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds, assets, or property provided or insured under this title shall be fined not more than $10,000 or imprisoned for not more than five years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed $200, the fine shall not be more than $1,000 and imprisonment shall not exceed one year, or both.

20 USC 1097.

"(b) Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(c) Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B as an inducement to make, or to acquire by assignment, a loan insured under that part

20 USC 1071.

shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

"(d) Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

"NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

Establishment.
20 USC 1098.

"SEC. 491. (a) There is established, as an independent agency within the executive branch, a National Commission on Student Financial Assistance (referred to in this section as the 'Commission').

Appointments.

"(b)(1) The Commission shall be composed of twelve members. Four of the members shall be appointed by the President. Four of the members shall be appointed by the Speaker of the House, including two Members of the House, one from each political party. Four of the members shall be appointed by the President pro tempore of the Senate, including two Members of the Senate, one from each political party.

"(2) The Chairman shall be designated by the President from among the members appointed by him. If the President has not appointed four members of the Commission and designated a Chairman within sixty days of the enactment of this Act, the members of the Commission appointed by the Speaker of the House and the President pro tempore of the Senate shall elect a Chairman who shall continue to serve for the duration of the Commission.

"(3) Any vacancy in the Commission shall be filled by appointment of the same person who appointed the person who has left the Commission.

Studies.

"(c)(1) The Commission shall make a study of the following issues:

"(A) more effective means to reduce default, fraud, abuse, and delinquency in the programs authorized by this title;

"(B) the appropriate balance between loans and other sources of financing postsecondary education from the point of view of the needs and welfare of students and their parents;

"(C) the adequacy of capital to serve the postsecondary educational needs of students or their parents for credit; if adequate credit is available, the likelihood it will continue to remain available; if adequate credit is not available, the likelihood it will become available and the steps that can be taken to provide adequate credit for the postsecondary educational needs of students;

"(D) the impact of various levels of student borrowing, grants, gift aid, and employment on the educational performance, future career choices, and future educational choices of students;

"(E) the impact of various levels of parent borrowing for postsecondary education on parents;

"(F) the appropriate annual and aggregate self-help limits and gift aid for parents, dependent students, and independent students;

"(G) the most appropriate mechanism for the effective and efficient origination, servicing, and collection of student loans and for the effective and efficient delivery of other forms of student assistance;

"(H) the most appropriate source or sources of student loan capital considering both the cost and the reliability of adequate capital availability;

"(I) the appropriate level of public subsidy to students and parents for the cost of capital for student loans;

"(J) the impact of the availability of Federal student financial assistance on the availability of student financial assistance from all other sources;

"(K) the impact of the availability of student assistance, particularly from Federal sources, on the level of postsecondary education costs;

"(L) the most appropriate mechanism to provide students and parents with the flexible repayment options and opportunities for consolidation of student loan indebtedness;

"(M) means to remove barriers to capital availability caused by patterns of lender discrimination;

"(N) the cost to the Federal Government of the arbitrage derived from revenue bonds issued by agencies for the purpose of making or purchasing loans under part B of this title and the appropriate role of such bonds as a mechanism for raising student loan capital; and

20 USC 1071.

"(O) the effectiveness in serving the purposes of this title of the existing formulas for allotment among the States in subpart 2 of part A and in parts C and E of this title.

20 USC 1070b, 42 USC 2751, 20 USC 1088.

"(2) The Commission shall make a study of the insurance premium charged by an insurer pursuant to section 428(b)(1)(H) in order to determine if the rate of the insurance premium exceeds the rate necessary to protect the reserves of the insurer and to determine if a statutory limit should be enacted for the rate of such premium.

Insurance premiums.
Ante, p. 1422.

"(3)(A) The Commission shall make a study of an improved method or methods for determination of the quarterly rate of special allowances paid under part B of this title which the Commission determines will carry out the objectives set forth in section 438(a).

Quarterly rate of special allowances, determination.
Ante, p. 1425.

"(B) The Commission shall make every effort to reach a unanimous decision with respect to the method for determination of the quarterly rate of the special allowances required to be studied by this paragraph.

"(C) In developing the method for the determination of the quarterly rate of the special allowances under this paragraph, the Commission shall consider—

"(i) the experiences of students and eligible lenders under the method in operation during the period of the study,

"(ii) the administrative costs of various types of eligible lenders under part B of title IV,

20 USC 1071.

"(iii) relevant and widely available financial indicators which accurately reflect the costs of capital invested in programs under such part, or substitute financial indicators which equitably represent the cost of such capital,

"(iv) an administrative mechanism necessary to produce a prompt and rapidly disseminated determination of the quarterly rate of the special allowances, in order to avoid delays in the determination and dissemination of that rate and in the actual payment of the special allowances to eligible lenders, and

"(v) such other factors as the Commission considers necessary to carry out the purposes of section 438(a).

"(4) The Commission shall conduct a study to determine if institutions of higher education which meet the requirements of section 1201(a) (other than the provisions of subclauses (A) and (B) of clause

20 USC 1141.

(5) of such section), but fail to meet such requirements because the institution is not located in a State, should be included in the definition of institution of higher education under section 481.

Financial assistance, student eligibility.

"(5) The Commission shall conduct a study to determine if student eligibility for financial assistance under section 484 on the basis of maintaining satisfactory academic progress should include provisions which would require that a student complete successfully a specified portion of the workload undertaken during the academic period for which assistance was received by the student.

Postsecondary education.

"(6) The Commission shall, in consultation with the National Center for Education Statistics, conduct longitudinal studies of high school students in order to determine the effect of federally authorized student assistance programs upon postsecondary education access and choices of high school students.

Graduate education.

"(7)(A) The Commission shall, in consultation with appropriate higher education associations and representatives from institutions of higher education, collect data necessary for the study of graduate education throughout the United States required by this paragraph. Such study shall—

"(i) analyze trends and shortcomings in the sources of support available to students for the financing of graduate education, and compare the nature and level of support available in the various academic disciplines, including sources of support from student assistance and research programs sponsored by—

"(I) the Federal Government,

"(II) State and local governments,

"(III) foundations, corporations, and other private entities, and

"(IV) institutions of higher education, and

in addition, consider the resources of the students and the students' families;

"(ii) examine the extent to which students may be dissuaded from pursuing graduate education on financial grounds, to the consequent detriment of—

"(I) the major fields of knowledge which need to attract the most able and talented students of each generation if they are to remain strong and vigorous; and

"(II) the Nation as a whole, if some of its most promising students are precluded because of financial circumstances from developing their capacities and abilities to the fullest possible extent;

"(iii) investigate existing and projected levels of graduate student indebtedness, and consider the implications (for the students involved and for the health of graduate education generally) or existing and projected expectations for borrowing to meet the costs of graduate education;

"(iv) assess the desirability of modifying existing Federal fellowship and student assistance programs or establishing a new Federal graduate student assistance program in which the selection of students and the amounts of their awards are based on merit or financial need or both, particularly with regard to the special needs of students in the humanities and social sciences or other disciplines; and

"(v) examine and assess the financial and educational needs of individuals from disadvantaged backgrounds in order to enhance their participation in graduate and professional education and their potential for employment in occupational areas where these individuals are underrepresented.

"(B) In conducting the study described in this paragraph, the Commission shall consult with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of higher education institutions and associations, learned societies, and professional organizations.

"(8)(A) The Commission shall conduct a study of a proposal to amend the guaranteed student loan program authorized by part B of title IV by recapturing interest subsidies from borrowers who do not obtain loans for undergraduate study under such part by reason of need or who borrow under such part for graduate study to the extent such loans are made for graduate study. In conducting such study, the Commission shall analyze the long term effect on the Budget of the United States of recapturing the interest subsidy in accordance with such proposal outlined in this paragraph and the impact of such proposal on the availability of funds for postsecondary education for students. Guaranteed student loan program, proposed amendment. 20 USC 1071.

"(B) In conducting the study under this paragraph, the Commission shall also consider other alternative proposals designed to reduce the cost of the guaranteed student loan program under part B of title IV in fiscal years subsequent to fiscal year 1982 and the impact of such proposals on the availability of funds for postsecondary education for students.

"(d)(1) The Commission shall prepare and submit reports and recommendations to the President and to the Congress on the studies required to be conducted under subsection (c) of this section. The reports for the studies required by paragraphs (2), (3), (5), and (8) of such subsection shall be submitted as soon as practicable but in no event later than one year after the date of the first meeting of the Commission. The reports for the studies required by paragraphs (1), (4), (6), and (7) shall be submitted as soon as practicable but in no event later than July 1, 1983. Reports to President and Congress.

"(2) Any recommendations and reports submitted under this paragraph which contemplate changes in Federal legislation shall include draft legislation to accomplish the recommendations. Draft legislation.

"(3) The Commission shall cease to exist 90 days following the submission of its final report. Termination.

"(e)(1) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) Members of the Commission who are not officers or full-time employees of the United States may each receive $150 per diem when engaged in the actual performance of duties vested in the Commission. In addition, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Travel expenses and per diem.

"(f) Such personnel as the Commission deems necessary may be appointed by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall Personnel appointments. 5 USC 5101 *et seq.*, 5331.

5 USC 5332 note.

be paid in excess of the rate authorized for GS-18 of the General Schedule.

Hearings.

"(g)(1) The Commission or, on the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of the Act, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

"(2) In carrying out its duties under the Act, the Commission shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

"(3) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this section, and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

Contract authority.

"(4) For the purpose of securing the necessary data and information the Commission may enter into contracts with universities, research institutions, foundations, and other competent public or private agencies. For such purpose, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

Consultants, authorization.

"(5) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this section.

"(6) The Commission is authorized to utilize, with their consent, the services, personnel, information and facilities of other Federal, State, local and private agencies with or without reimbursement.

Monetary grants, gifts or bequests.

"(7) The Commission shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or his representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.

"(8) Six members of the Commission shall constitute a quorum, but a lesser number of two or more may conduct hearings.

Appropriation authorization.

"(h) There is authorized to be appropriated an amount not to exceed a total of $10,000,000 for fiscal years beginning on or after October 1, 1980, to carry out the provisions of this section, which shall remain available until expended or until the termination of the Commission, whichever occurs first.".

Repeal.
20 USC 1087-4.

(b) Section 440 of the Act is repealed.

Effective date.
20 USC 1088 note.

(c) The amendments made by section 6 of the Middle Income Student Assistance Act shall take effect on July 1, 1972.

20 USC 1088.
20 USC 1087-1.

(d) Section 438 of the Act is amended by striking out subsections (e), (f), and (g).

TITLE V—AMENDMENT AND EXTENSION OF TITLE V OF THE HIGHER EDUCATION ACT OF 1965

EXTENSION OF PROGRAMS

SEC. 501. (a) Section 511(b) of the Act is amended to read as follows: 20 USC 1101.
"(b) For the purpose of carrying out the provisions of this part, there are authorized to be appropriated $45,000,000 for the fiscal year 1981, $50,000,000 for the fiscal year 1982, $60,000,000 for the fiscal year 1983, $70,000,000 for the fiscal year 1984, and $80,000,000 for the fiscal year 1985.".

(b) The first sentence of section 531 of the Act is amended to read as follows: "There are authorized to be appropriated $20,000,000 for the fiscal year 1981, $30,000,000 for the fiscal year 1982, $40,000,000 for the fiscal year 1983, $50,000,000 for the fiscal year 1984, and $55,000,000 for the fiscal year 1985 to carry out the provisions of this part.". 20 USC 1119.

TEACHER CORPS AMENDMENTS

SEC. 502. (a) Section 513(a) of the Act is amended by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and" and by inserting after such paragraph the following: 20 USC 1103.

"(10) make grants to schools, colleges and departments of education and local educational agencies with high concentrations of low income students for the purpose of—

"(A) developing, improving or expanding curriculum offerings or instructional materials for the purpose of improving instruction in the areas of—

"(i) biological sciences, natural sciences and earth sciences,

"(ii) physical sciences, and

"(iii) mathematics; and

"(B) providing training opportunities for teachers to increase their effectiveness in developing instructional materials and teaching science and mathematics related subject matter.".

(b) Section 513(c)(2) of the Act is amended—

(1) by striking out "Not to exceed 5 per centum" and inserting in lieu thereof "Not to exceed 2 per centum"; and

(2) by striking out "Puerto Rico," each place it appears.

(c) Section 513(d) of the Act is amended by striking out "section 205(a)(2) of Public Law 874, Eighty-first Congress, as amended," and inserting in lieu thereof "section 130 of the Elementary and Secondary Education Act of 1965".

(d) Section 513(f) of the Act is amended by striking out "goal" and inserting in lieu thereof "the goal".

(e) Section 514(a)(2) of the Act is amended by striking out ", not to exceed $150 per week plus $15 per week for each dependent". 20 USC 1104.

TEACHER CENTERS AMENDMENTS

SEC. 503. (a) Section 531 of the Act is amended by striking out "In the event that sums exceeding $50,000,000 are appropriated in any fiscal year for purposes of carrying out this part, each" and inserting in lieu thereof "Each". 20 USC 1119.

(b) Section 532(a)(2) of the Act is amended— 20 USC 1119a.

(1) by striking out "local educational agency (or a combination of such agencies) which serve" and inserting in lieu thereof "local educational agency, a combination of such agencies, or an educational service agency which serves";

(2) by inserting "and, where desirable, in collaboration with one or more institutions of higher education which serve teachers" immediately after "experts as may be necessary";

(3) by inserting ", including the use of technology and telecommunications" immediately before the semicolon in subparagraph (A);

(4) by inserting ", testing," immediately after "curriculum development" in subparagraph (B).

20 USC 1119a.

(c) The first sentence of section 532(b) of the Act is amended by inserting before the period "and, where appropriate, bilingual education teachers".

TEACHER TRAINING

SEC. 504. Section 533 of the Act is amended to read as follows:

"TRAINING FOR HIGHER EDUCATION PERSONNEL

Grants.
20 USC 1119a-1.

"SEC. 533. (a) The Secretary is authorized to make grants to schools of education for the purposes of—

"(1) developing model projects within schools of education to carry out improved preservice or support activities for preparing elementary or secondary school teachers;

"(2) achieving diversification and redirection of education programs for elementary and secondary school teachers in order to make maximum use of human resources in the fields of education and public service;

"(3) retraining faculty members of such schools of education to provide courses of study for training elementary and secondary school teachers to teach in programs of career education, education of the gifted and talented children, education of handicapped individuals, community education, adult education programs, earth sciences, and other related programs;

"(4) training and orientation projects for faculty members of schools of education designed to prepare the faculty to teach and train personnel to work in conjunction with personnel who carry out projects under the Comprehensive Employment and Training Act and under title VIII of this Act, relating to cooperative education and training of individuals to prepare for the workplace; and

29 USC 801 note.
Post, p. 1481.

"(5) training educational personnel who will specialize in the implementation of the urban and environmental policies of the United States, and for other areas of critical need within education which are developing or are likely to develop as provided in section 406(b)(5) of the General Education Provisions Act.

20 USC 1221e-1.

"(b) The Secretary is authorized to make grants to schools of education for the fiscal year 1981 and for each of the four succeeding years to carry out model projects for the purposes set forth in subsection (a). No grant may be made under this subsection unless an application is made to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

Agreements.

"(c)(1) The Secretary is authorized to enter into agreements with consortia of schools of education for planning programs designed to

help member schools of the consortium to diversify and redirect programs and curricula of the member schools of education.

"(2)(A) The Secretary shall develop criteria for determining the regions of the country in which consortia of schools of education are to be established.

"(B) No consortium may receive a grant in excess of $200,000 in any fiscal year under this section.

"(C) No cooperative agreement may be entered into under this section unless an application is submitted through the State education agency of the State in which the applicant is located. Each such State agency will review and approve the application to assure its consistency with the comprehensive plan mandated by sections 404(a)(12) and 522(2) of the Elementary and Secondary Education Act of 1965. Such application shall be submitted at such time, in such manner, and containing or accompanied by such other information as the Secretary may reasonably require. 20 USC 3084, 3162.

"(d) For purposes of this section, the term 'schools of education' means institutions of higher education, and administrative units of institutions of higher education, specializing in the training of individuals to serve as teachers, guidance and counseling personnel, administrative personnel, or other education specialists.". "Schools of education."

TRAINING FOR TEACHERS OF HANDICAPPED CHILDREN IN AREAS WITH A SHORTAGE

SEC. 505. (a) Title V of the Act is amended by adding after part B the following new part:

"PART C—TRAINING FOR ELEMENTARY AND SECONDARY SCHOOL TEACHERS TO TEACH HANDICAPPED CHILDREN IN AREAS WITH A SHORTAGE

"GRANTS AUTHORIZED

"SEC. 541. (a) The Secretary is authorized to make grants, in accordance with the provisions of this part, to State educational agencies to enable such agencies to support a fellowship program of stipends and allowances to institutions of higher education for teachers to be trained to provide special education for handicapped children. 20 USC 1119b.

"(b) The Secretary shall establish criteria for— Criteria, establishment.

"(1) determining if there is a shortage of teachers in the area of special education for handicapped children in the State;

"(2) assuring that the institutions of higher education, at which recipients of fellowships awarded under this part are pursuing courses of study, offer a program designed to prepare such recipients in the area of special education for handicapped children; and

"(3) assuring that individuals trained with assistance under this part receive specialized training in the subject areas in which there is the greatest need for such teachers.

"(c) The Secretary shall assure an equitable distribution among the States of grants made under this part, consistent with criteria established under subsection (b).

"APPLICATION

20 USC 1119b-1.

"SEC. 542. (a) No grant may be made under this part unless an application is made by a State educational agency at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) describe a fellowship program under which the State will make stipends to recipients and make allowances to institutions of higher education, in accordance with the provisions of this part, for teachers and other specialists to be trained in special education for handicapped children;

Recipient's responsibilities.

"(2) provide assurances that each recipient of a fellowship under this part will enter into an agreement with the State under which the recipient will—

"(A) within the five-year period after the completion of the training for which the fellowship was awarded, teach for a period of not less than two years in an elementary or secondary school of a local educational agency of that State, a public elementary or secondary school of that State, or a public educational program approved by the local educational agency or the State, which has, or has provided assurances that it will have, a special education program for handicapped children, or

"(B) repay all of the stipend awarded to the recipient plus the allowances paid to any institution of higher education based upon that fellowship in the event that the conditions of clause (A) are not complied with, except when such conditions are not complied with for reasons beyond a recipient's control;

"(3) provide procedures under which recipients of fellowships who teach, for reasons beyond their control, less than the two-year period required under clause (2) of this subsection will have the repayment requirement reduced according to a schedule established by the State agency;

"(4) provide procedures under which stipends and institution of higher education allowances will be paid by the State agency in accordance with the provisions of this part; and

"(5) provide that the State agency will make continuing efforts to encourage recipients of fellowships under this part to continue to provide special education for handicapped children in areas where there is a shortage of such teachers.

"(b) The Secretary shall approve any application which meets the requirements of subsection (a) of this section. Prior to approving any applications under this section, the Secretary shall prepare regulations setting forth detailed requirements with respect to clauses (2) and (3) of subsection (a).

"STIPENDS AND INSTITUTION OF HIGHER EDUCATION ALLOWANCES

20 USC 1119b-2.

"SEC. 543. (a)(1) Each State educational agency receiving a grant under this part shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

"(2) No stipend may be paid to any single recipient in any one year in excess of $9,000.

"(b) Each State educational agency receiving a grant under this part shall (in addition to the stipends paid to persons under subsection (a)) pay to the institution of higher education at which such individual is pursuing a course of study such amounts as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"FELLOWSHIP CONDITIONS

"SEC. 544. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive the payments provided in this part only during such periods as the State educational agency finds that the individual is maintaining satisfactory progress and devoting at least one-half of the full-time academic workload to study in the field in which such fellowship was awarded in an institution of higher education, and is not engaging in gainful employment other than employment approved by the Secretary by or pursuant to regulation. The amount of any payment to an individual engaged in such gainful employment shall be appropriately reduced pursuant to regulation. 20 USC 1119b-3.

"(b) The State educational agency is authorized to require reports containing such information in such form and to be filed at such times as it determines necessary from any individual awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education approved by the State educational agency, stating that such individual is making satisfactory progress in, and is devoting at least one-half of the full-time academic workload to, the program for which the fellowship was awarded. Reports.

"(c) No fellowship shall be awarded under this part for study at a school or department of divinity.

"DEFINITION

"SEC. 545. As used in this part 'special education' has the same meaning as prescribed by section 602(16) of the Education of the Handicapped Act. 20 USC 1119b-4. 20 USC 1401.

"APPROPRIATIONS AUTHORIZED

"SEC. 546. There are authorized to be appropriated $2,000,000 for the fiscal year 1981, $3,000,000 for the fiscal year 1982, and $5,000,000 for the fiscal year 1983 and for each of the fiscal years ending prior to October 1, 1985 to carry out the provisions of this part.". 20 USC 1119b-5.

(b) The Secretary shall promulgate regulations to carry out the amendment made by subsection (a) of this section not later than 30 days after the date of enactment of the Education Amendments of 1980. Regulations. 20 USC 1119b note.

Ante, p. 1367.

EDUCATION PROFESSIONAL DEVELOPMENT

SEC. 506. Title V of the Act is further amended by adding after part C (as added by section 504) the following new part:

"PART D—COORDINATION OF EDUCATION PROFESSIONAL DEVELOPMENT

"FINDINGS

20 USC 1119c.

"SEC. 551. The Congress finds that—

"(1) many Federal programs have been enacted to train and develop education professionals;

"(2) such programs make Federal funds available to States, local education agencies, colleges and universities, and other agencies;

"(3) such programs should be coordinated at the Federal level to avoid unnecessary duplication of effort; and

"(4) such programs should be responsive to State needs and priorities for education professional development.

"POLICY

20 USC 1119c-1.

"SEC. 552. Federal programs which support education professional development should be administered in a coordinated manner, and the activities authorized under such programs should have complementary purposes whenever possible in order to provide the most effective use of Federal funds.

"OFFICE OF EDUCATION PROFESSIONAL DEVELOPMENT

Establishment and functions.
20 USC 1119c-2.

"SEC. 553. (a) There is established in the Department an Office of Education Professional Development, the function of which is to review the operations of and to coordinate program activities among the various Federal education professional development programs within the Department to eliminate unnecessary duplication of effort.

Review.

"(b) The Office shall review on a biennial basis each education professional development program administered by the Department and shall—

"(1) identify inconsistencies in program policies and procedures;

"(2) identify overlap in program purpose and operations; and

"(3) coordinate program activities among the various Federal education professional development programs, and wherever necessary, make legislative recommendations to coordinate such programs.

Report to Congress.

"(c) The Secretary shall report biennially to the Congress on the findings and recommendations of the Office.".

TITLE VI—ESTABLISHMENT OF A NEW TITLE VI OF THE HIGHER EDUCATION ACT OF 1965

PROGRAMS AUTHORIZED

SEC. 601. (a) Title VI of the Higher Education Act is amended to read as follows:

"TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

"PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

"FINDINGS AND PURPOSES

"SEC. 601. (a) The Congress finds that— 20 USC 1121.

"(1) knowledge of other countries is important in promoting mutual understanding and cooperation between nations;

"(2) strong American educational resources are a necessary base for strengthening our relations with other countries;

"(3) present and future generations of Americans should be given the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge pertaining to other countries, peoples, and cultures; and

"(4) the economy of the United States and the long range security of the Nation are dependent upon acquiring such knowledge.

"(b) It is the purpose of this part to assist in the development of resources and trained personnel for international study, international research, and foreign language study and to coordinate programs of the Federal Government in the areas of international study and research and foreign language study.

"GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS

"SEC. 602. (a)(1) The Secretary is authorized to make grants to, and enter into contracts with, institutions of higher education, or combination of such institutions, for the purpose of establishing, strengthening, and operating graduate and undergraduate centers and programs which will be national resources for the teaching of any modern foreign language, for instruction in fields needed to provide a full understanding of the areas, regions, or countries in which such language is commonly used, or for research and training in international studies and the international aspects of professional and other fields of study. Grants or contracts. 20 USC 1122.

"(2) Any such grant or contract may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of faculty, staff, and student travel in foreign areas, regions, or countries, the cost of teaching and research materials, the cost of curriculum planning and development, the cost of bringing visiting scholars and faculty to the center to teach or to conduct research, and the cost of training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out the objectives of this section.

"(3) The Secretary may make grants to centers described in paragraph (1) having important library collections for the maintenance of such collections.

"(b) The Secretary is also authorized to pay stipends to individuals undergoing such advanced training in any center or program approved by the Secretary under this part, including allowances for dependents and for travel for research and study in the United States and abroad. Stipends.

"(c) No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study. Travel expenses.

"INTERNATIONAL STUDIES CENTERS

Graduate and undergraduate centers, grants.
20 USC 1123.

"SEC. 603. (a)(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating graduate and undergraduate centers which will be regional resources to increase access to research and training in international and foreign language studies and the international aspects of professional and other fields of study. Activities carried out in such centers may be concentrated either on specific geographical areas of the world or on particular fields or issues in world affairs which concern one or more countries, or on both. In addition to providing training to students enrolled in the institution of higher education in which the center is located, the centers serving as regional resources shall, in order to qualify for assistance under this section, offer programs to strengthen international studies and foreign languages in the two-year and four-year colleges and universities in the region served by each such center.

"(2) The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines that such grants will make an especially significant contribution to attaining the objectives of this section.

"(b) Grants under this section may be used to pay part or all of the cost of establishing, strengthening, equipping, and operating research and training centers, including the cost of teaching and research materials and resources, the cost of programs for bringing visiting scholars and faculty to the center, and the cost of training, improvement, and travel of the staff for the purposes of carrying out the provisions of this section. Such grants may also include funds for stipends (in such amounts as may be determined in accordance with regulations of the Secretary) to individuals undergoing training in such centers, including allowances for dependents and for travel for research and study in the United States and abroad.

"(c) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the purposes of this section.

"UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS

Grants.
20 USC 1124.

"SEC. 604. (a) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to assist them in planning, developing, and carrying out a comprehensive program to strengthen and improve undergraduate instruction in international studies and foreign languages. Grants made under this section may be for projects and activities which are an integral part of such a comprehensive program, such as—

"(1) planning for the development and expansion of undergraduate programs in international studies;

"(2) teaching, research, curriculum development, and other related activities;

"(3) training of faculty members in foreign countries;

"(4) expansion of foreign language courses;

"(5) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

"(6) programs designed to integrate undergraduate education with terminal Masters Degree programs having an international emphasis; and

"(7) the development of an international dimension in teacher training.

"(b) The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to attaining the objective of this section.

"RESEARCH; STUDIES; ANNUAL REPORT

"SEC. 605. (a) The Secretary may, directly or through grants or contracts, conduct research and studies which contribute to the purposes of this part and part N of title III of the Elementary and Secondary Education Act of 1965. Such research and studies may include but are not limited to— 20 USC 1125. *Post*, p. 1471.

"(1) studies and surveys to determine the need for increased or improved instruction in modern foreign languages and in other fields needed to provide a full understanding of the places in which such languages are commonly used;

"(2) research on more effective methods of providing instruction and evaluating competency in such foreign languages and other fields; and

"(3) the development of specialized materials for use in providing such instruction and evaluation or for use in training individuals to provide such instruction and evaluation.

"(b) The Secretary shall prepare and publish an annual report which shall include an index and analysis of the books and research materials produced with assistance under this title.

"EQUITABLE DISTRIBUTION OF FUNDS

"SEC. 606. (a) The Secretary shall make excellence the criterion for selection of grants awarded under section 602. 20 USC 1126.

"(b) To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 602) in such manner as will achieve an equitable distribution of funds throughout the Nation.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 607. There are authorized to be appropriated $45,000,000 for fiscal year 1981, $50,000,000 for fiscal year 1982, $60,000,000 for fiscal year 1983, $70,000,000 for fiscal year 1984, and $80,000,000 for fiscal year 1985, to carry out the provisions of this part. 20 USC 1127.

"PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

"FINDINGS AND PURPOSES

"SEC. 611. (a) The Congress finds that— 20 USC 1130.

"(1) the future economic welfare of the United States will depend substantially on increasing international skills in the business community and creating an awareness among the American public of the internationalization of our economy;

"(2) concerted efforts are necessary to engage business schools, language and area study programs, public and private sector

organizations, and United States business in a mutually productive relationship which benefits the Nation's future economic interests;

"(3) few linkages presently exist between the manpower and information needs of United States business and the international education, language training and research capacities of institutions of higher education in the United States, and public and private organizations; and

"(4) organizations such as world trade councils, world trade clubs, chambers of commerce and State departments of commerce are not adequately used to link universities and business for joint venture exploration and program development.

"(b) It is the purpose of this part—

"(1) to enhance the broad objective of this Act by increasing and promoting the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and

"(2) to promote institutional and noninstitutional educational and training activities that will contribute to the ability of United States business to prosper in an international economy.

"EDUCATION AND TRAINING PROGRAMS

Grants.
20 USC 1130a.

"SEC. 612. (a) The Secretary shall make grants to, and enter into contracts with, institutions of higher education to pay the Federal share of the cost of programs designed to promote linkages between such institutions and the American business community engaged in international economic activity. Each program assisted under this part shall both enhance the international academic programs of institutions of higher education and provide appropriate services to the business community which will expand its capacity to engage in commerce abroad.

Activities.

"(b) Eligible activities to be conducted by institutions of higher education under this section shall include, but are not limited to—

"(1) innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, mid-career, or part-time students;

"(2) development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

"(3) internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business;

"(4) development of area studies programs and interdisciplinary international programs;

"(5) establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

"(6) research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

"(7) establishment of student and faculty fellowships and internships for training and education in international business activities;

"(8) development of opportunities for junior business and other professional school faculty to acquire or strengthen international skills and perspectives; and

"(9) development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity.

"(c) No grant may be made and no contract may be entered into under the provisions of this part unless an institution of higher education submits an application at such time and in such manner as the Secretary may reasonably require. Each such application shall be accompanied by a copy of the agreement entered into by the institution of higher education with a business enterprise, trade organization or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving or expanding activities eligible for assistance under subsection (b) of this section. Each such application shall contain assurances that the institution of higher education will use the assistance provided under this part to supplement and not to supplant activities conducted by institutions of higher education described in subsection (b). Applications.

"(d) The Federal share under this part for each fiscal year shall not exceed 50 per centum of the cost of such program.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 613. There are authorized to be appropriated $7,500,000 for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985, to carry out the provisions of this part. 20 USC 1130b.

"PART C—GENERAL PROVISIONS

"ADVISORY BOARD

"SEC. 621. (a) Not less than four times each year the Secretary shall convene meetings of an advisory board on the conduct of programs under this title. The board shall consist of— Membership. 20 USC 1131.

"(1) one member selected by the Secretary of State;

"(2) one member selected by the Secretary of Defense;

"(3) one member selected by the Secretary of the Treasury;

"(4) one member selected by the Secretary of Commerce;

"(5) one member selected by the Secretary to serve as Chairman and coordinator of the activities of the board;

"(6) one member selected by the Chairman of the National Endowment for the Humanities;

"(7) one member selected by the Director of the International Development Cooperation Agency;

"(8) one member selected by the Director of the International Communication Agency;

"(9) one member selected by the President and Chairman of the Export-Import Bank of the United States;

"(10) one member selected by the Administrator, Small Business Administration;

"(11) five members selected by the Secretary from among representatives of the postsecondary educational community;

"(12) two members selected by the Secretary from among representatives of the elementary and secondary education community;

"(13) three members selected by the Secretary from among members of the public; and

"(14) three members selected by the Secretary from among representatives of the business community.

Subcommittees. "(b)(1) The Advisory Board shall establish two subcommittees to carry out the functions described in paragraphs (2) and (3) of this subsection.

"(2) The first such subcommittee shall consider the grants made, or contracts entered into, under part A and part N of title III of the Elementary and Secondary Education Act of 1965. The board shall advise the Secretary on (A) any geographic areas of special need or concern to the United States, (B) the specific foreign languages to be designated under section 394(b)(3) of the Elementary and Secondary Education Act of 1965, (C) innovative approaches which may help to fulfill the purposes of this title, (D) activities which are duplicative of programs operated under other provisions of Federal law, (E) changes which should be made in the operation of programs under this part to ensure that the attention of scholars is attracted to problems of critical concern to United States international relations, and (F) the administrative and staffing requirements of international education programs in the Department.

Ante, p. 1391, *post*, p. 1471.

"(3) The second such subcommittee shall review the programs under section 612 and shall advise the Secretary, who shall seek the advice of the Secretary of Commerce, on (A) changes which should be made to advance the purposes of part B and to assure the success of the programs authorized by part B, (B) special needs of such programs, and (C) any program elements which are duplicative of programs operated under other provisions of Federal law.

"DEFINITIONS

20 USC 1132. "SEC. 622. (a) As used in this title—

"(1) the term 'area studies' means a program of comprehensive study of the aspects of a society or societies, including study of its history, culture, economy, politics, international relations and languages;

"(2) the term 'international business' means profit-oriented business relationships conducted across national boundaries and includes activities such as the buying and selling of goods; investments in industries; the licensing of processes, patents and trademarks; and the supply of services;

"(3) the term 'export education' means educating, teaching and training to provide general knowledge and specific skills pertinent to the selling of goods and services to other countries, including knowledge of market conditions, financial arrangements, laws and procedures; and

"(4) the term 'internationalization of curricula' means the incorporation of international or comparative perspectives in existing courses of study or the addition of new components to the curricula to provide an international context for American business education.

"(b) All references to individuals or organizations, unless the context otherwise requires, mean individuals who are citizens or permanent residents of the United States or organizations which are organized or incorporated in the United States.".

(b) Title III of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new part:

"PART N—INTERNATIONAL UNDERSTANDING

International Understanding Act.

"SHORT TITLE; DECLARATION OF FINDINGS; PURPOSE

"SEC. 393. (a) This part may be cited as the 'International Understanding Act'. 20 USC 3063.

"(b) The Congress finds that—

"(1) the well-being of the United States and its citizens is affected by policies adopted and actions taken by, or with respect to, other nations and areas; and

"(2) the United States must afford its citizens adequate access to the information which will enable them to make informed judgments with respect to the international policies and actions of the United States.

"(c) It is the purpose of this part to support educational programs which will increase the availability of such information to students in the United States.

"PROGRAM AUTHORIZED

"SEC. 394. (a)(1) The Secretary is authorized, by grant or contract, to stimulate educational programs to increase the understanding of students and the public in the United States about the cultures, actions and interconnections of nations and peoples in order better to evaluate the international and domestic impact of major national policies. Grants and contracts. 20 USC 3064.

"(2) Grants or contracts under this section may be made to any public or private agency or organization, including, but not limited to, institutions of higher education, State and local educational agencies, professional associations, education consortia, and organizations of teachers.

"(b)(1) Financial assistance under this part may be used for assistance for inservice training of teachers and other education personnel, the development of materials to link language learning to international studies, the compilation of existing information and resources about other nations in forms useful to various types of educational programs, and the dissemination of information and resources to educators and educational officials upon their request, but such assistance may not be used for the acquisition of equipment or remodeling of facilities. Financial assistance.

"(2) Financial assistance under this part may be made for projects and programs at all levels of education, and may include projects and programs carried on as part of community, adult, and continuing education programs.

"(3) Financial assistance under this part may be used by local educational agencies to introduce instruction in foreign languages designated by the Secretary as having critical importance for the Nation which have not been offered by the schools of the local educational agency in the three academic years preceding the year in which the grant is made.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 395. There are authorized to be appropriated $5,250,000 for fiscal year 1981, $6,750,000 for fiscal year 1982, $8,250,000 for fiscal year 1983, and $9,000,000 each for fiscal years 1984 and 1985 to carry out the provisions of this part.". 20 USC 3065.

(c)(1) Title VI of the National Defense Education Act of 1958 is repealed. Repeal. 20 USC 511-513.

Repeal.
20 USC 1172-1174, 1176, 1177.

(2) Title I of the International Education Act of 1966 is repealed.

TITLE VII—AMENDMENT TO TITLE VII OF THE HIGHER EDUCATION ACT OF 1965

AMENDMENT

SEC. 701. Title VII of the Act is amended to read as follows:

"TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"GENERAL PURPOSES

20 USC 1132a.

"SEC. 701. The Secretary shall carry out programs of financial assistance to institutions of higher education and to higher education building agencies for the construction, reconstruction, or renovation of academic facilities and the acquisition of special equipment if the primary purpose of such assistance is—

"(1) to enable such institutions to economize on the use of energy resources, with a priority for the use of coal, solar, and renewable resources;

"(2) to enable such institutions to bring their academic facilities into conformity with the requirements of—

"(A) the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968,

42 USC 4151 note.

"(B) section 504 of the Rehabilitation Act of 1973, or

29 USC 794.

"(C) environmental protection or health and safety programs mandated by Federal, State, or local law, if such requirements were not in effect at the time such facilities were constructed;

"(3) to enable such institutions to construct, reconstruct, or renovate the Nation's research facilities, including libraries, and to acquire special research equipment;

"(4) to enable institutions with unusual increases in enrollment (according to data and criteria established by the Secretary) to construct, reconstruct, or renovate their facilities; or

"(5) to enable such institutions to detect, remove, or otherwise contain asbestos hazards in academic or other facilities used by students, in accordance with regulations prescribed by the Secretary.

"APPROPRIATIONS AUTHORIZED

20 USC 1132a-1.

"SEC. 702. There are authorized to be appropriated $100,000,000 for fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, for part A. There are authorized to be appropriated $80,000,000 for the fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, for part B. There are authorized to be appropriated $80,000,000 for the fiscal year 1981 and for each succeeding fiscal year ending prior to October 1, 1985, for part C, and such sums as may be necessary for each such fiscal year for section 734.

"PART A—GRANTS FOR THE CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF UNDERGRADUATE ACADEMIC FACILITIES

"STATE PLAN

"SEC. 711. (a) Any State desiring to participate in the grant program authorized by this part shall have an agreement pursuant to section 1203 and submit annually to the Secretary, through the State agency designated in such agreement, a State plan which shall— 20 USC 1132b. *Post*, p. 1493.

"(1) provide that the plan shall be administered by the State entity having an agreement under section 1203;

"(2) set forth objective standards and methods which are consistent with basic criteria established under section 712, for—

"(A) determining the relative priorities of eligible projects submitted by institutions of higher education within the State, and

"(B) certifying the Federal share of the cost of each project;

"(3) provide for every applicant an opportunity for a hearing before the State agency regarding the priority assigned to such project, or any other decision by the State agency adversely affecting such applicant; and

"(4) provide for accounting procedures necessary to assure proper disbursement of Federal funds.

"(b) The Secretary shall not disapprove any State plan, or modification thereof, without first affording the State agency reasonable notice and opportunity for a hearing.

"(c) Whenever the Secretary finds that the State plan substantially fails to comply with this section, the Secretary shall notify the State that it is ineligible to participate in the program under this part until a determination is made that there is no longer a failure to comply. Compliance, failure.

"BASIC CRITERIA

"SEC. 712. (a) The Secretary shall, by regulation, prescribe basic criteria for the consideration of State plans which ensure— 20 USC 1132b-1.

"(1) flexibility for States to accommodate the varied needs of institutions in the States;

"(2) consideration of the degree to which applicant institutions are effectively using existing facilities; and

"(3) that the Federal share shall not exceed 50 percent of the development costs of a project.

"(b) Section 553 of title 5, United States Code, shall apply to the prescription of regulations under this section.

"ALLOTMENT OF FUNDS

"SEC. 713. (a) From the sums appropriated pursuant to section 702 to carry out the purposes of this part, not less than 24 per centum shall be allotted to States under subsection (b) for public community colleges and public technical institutes. The remainder of such sums shall be allotted States under subsection (c) for all other institutions of higher education. 20 USC 1132b-2.

"(b)(1) For the purpose of making grants to public community colleges and public technical institutes, the Secretary shall allot to each State an amount which bears the same ratio to the amount available for allotment under this subsection as the product of—

"(A) the number of persons in the State who have graduated from high school or received an equivalent certificate during the previous school year, and

"(B) the State's allotment ratio,

bears to the sum of the corresponding products for all the States.

Computation.

"(2)(A) Except as provided in subparagraph (B), the allotment ratio shall be 1.00 less the product of—

"(i) 0.50, and

"(ii) the quotient obtained by dividing the income per person for the State by the income per person for all States (not including Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam).

"(B) Notwithstanding subparagraph (A)—

"(i) the allotment ratio shall in no case be less than 0.33⅓ or more than 0.66⅔;

"(ii) the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam shall be 0.66⅔; and

"(iii) the allotment ratio of any State shall be 0.50 for any fiscal year if the Secretary finds that the cost of school construction in such State exceeds twice the median of such costs in all the States as determined by him on the basis of statistics and data as the Secretary shall deem adequate and appropriate.

Allotment ratios.

"(C) Allotment ratios shall be promulgated annually by the Secretary on the basis of the average personal income in the State and in all the States for the three most recent consecutive calendar years for which data are available from the Department of Commerce.

"(c) For the purpose of making grants to all other institutions of higher education, the Secretary shall allot to each State—

"(1) an amount which bears the same ratio to 50 per centum of the amount available for allotment under this subsection as the number of students enrolled in institutions of higher education in such State bears to the number of students so enrolled in all States; and

"(2) an amount which bears the same ratio to 50 per centum of the amount available for allotment under this subsection as the number of students enrolled in grades nine through twelve of schools in such State bears to the total number of students so enrolled in all the States.

"(d) The aggregate amount allotted to any State under subsections (b) and (c) for any fiscal year shall not be less than $100,000. If the sums appropriated pursuant to section 702 are not sufficient to make payments to each State, then the amount of each State's allotment shall be ratably reduced.

"(e) Any portion of a State's allotment under subsections (b) and (c) for any fiscal year for which applications from qualified institutions have not been received by the State agency prior to January 1 of such fiscal year shall, by request, be available for payment of the Federal share of cost of other approved projects.

"(f) Amounts allotted under this section for any fiscal year which are not used by the close of the fiscal year, shall be reallotted by the Secretary among the States which are able to use these funds without delay during the next fiscal year.

"(g) Funds available under this part may be used for construction, reconstruction, or renovation of undergraduate facilities and combined graduate and undergraduate facilities.

"PART B—GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF GRADUATE ACADEMIC FACILITIES

"GRANTS

"SEC. 721. (a)(1) Funds available for this part shall be used by the Secretary to make grants to graduate institutions of higher education whose applications for assistance are consistent with the objectives of this title. 20 USC 1132c.

"(2) The total payment for any fiscal year made to institutions of higher education in any State shall not exceed 12.5 per centum of sums appropriated for this part.

"(b) In making grants under this section, the Secretary shall seek the advice and recommendations of a panel of specialists who are not regular full-time employees of the Federal Government and are competent to evaluate such applications. Panel recommendations.

"(c) The amount of the grant shall not exceed 50 per centum of the development cost of the project.

"PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

"ELIGIBILITY CONDITIONS, AMOUNTS, AND TERMS

"SEC. 731. (a) From the sums available for this part, the Secretary shall make and insure loans to institutions of higher education and to higher education building agencies for programs consistent with the purposes of this title. No loan shall be made unless the Secretary finds that— 20 USC 1132d.

"(1) not less than 20 per centum of the development cost of the project will be financed from non-Federal sources;

"(2) the applicant is unable to secure the loan from other sources upon terms and conditions equally as favorable as those applicable to loans under this part;

"(3) the project will be undertaken in an economical manner; and

"(4) for any project with regard to an infirmary or other outpatient care facility for students and institutional personnel, assistance will not be provided under title IV of the Housing Act of 1950. 12 USC 1749.

"(b) Loans shall be repaid within fifty years and shall bear interest at (1) a rate annually determined by the Secretary which shall be not less than one-quarter of 1 percentage point above the average annual interest rate on all interest-bearing obligations of the United States forming a part of the public debt as computed at the end of the preceding fiscal year, adjusted to the nearest one-eighth of 1 per centum, or (2) the rate of 4 per centum per annum, whichever is less. Repayment.

"GENERAL PROVISIONS FOR LOAN PROGRAM

"SEC. 732. (a) Financial transactions of the Secretary, except with respect to administrative expenses, shall be final and conclusive on all officers of the Government and shall not be reviewable by any court. 20 USC 1132d-1.

"(b) In the performance of, and with respect to, the functions vested in him by this part, the Secretary may—

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part; Regulations.

Suits.

"(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 507(b) and 517 and 2679 of title 28, United States Code;

Foreclosure.

"(3) foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which he has made a loan pursuant to this part; in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary may complete, administer, remodel and convert, dispose of, lease and otherwise deal with, such property; except that (A) such action shall not preclude any other action by him to recover any deficiency in the amounts loaned and (B) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(4) sell, exchange, or lease real or personal property and securities or obligations;

Repayment

"(5) modify, with respect to the rate of interest, the time of payment of principal, interest, security, or any other term of any contract or agreement to which he is a party, including (A) granting a moratorium on the repayment of principal or interest to a party temporarily unable to make such repayment without undue financial hardship provided the applicant files, and the Secretary approves, a plan to make repayment, and (B) for any party for which a loan has been authorized prior to January 1, 1976, granting the option to pay into the fund pursuant to section 733, 75 per centum of the party's total obligation if the party desiring to exercise such option makes payment from non-Federal sources prior to October 1, 1985; and

"(6) include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this title will be achieved.

"REVOLVING LOAN AND INSURANCE FUND

Establishment.
20 USC 1132d-2

"SEC. 733. (a) There is created within the Treasury a revolving loan fund for the purpose of making and insuring loans under this part (hereafter called the 'fund') which shall be available to the Secretary without fiscal year limitation. The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in appropriations Acts.

Funds, transfer.

"(b)(1) The Secretary shall transfer to the fund appropriations provided under section 702 to provide capital for making loans. Interest and principal payments on loans, and any other moneys, property, or assets derived from activities under this part shall be deposited in the fund.

"(2) All loans, expenses, and payments pursuant to operation of this part shall be paid from the fund, including expenses and payments in connection with sale, pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this part. At the close of each fiscal year, the Secretary shall pay interest on the cumulative amount of funds paid out for loans under this part less the average undisbursed cash balance in the fund during the year. The interest rate shall be determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund during the month preceding each fiscal year. Interest payments may be deferred with the approval of the Secretary of the Treasury, but interest payments so deferred shall themselves bear interest. If the Secretary determines that moneys in the fund exceed the present and prospective needs of the fund, the excess may be transferred to the general fund of the Treasury.

42 USC 1450.
Interest payments.
Funds, transfer.

"ANNUAL INTEREST GRANTS

"SEC. 734. (a) To assist institutions of higher education and higher education building agencies in reducing the cost of borrowing from other sources for projects under this part, the Secretary may make annual interest grants to such institutions and agencies with respect to any project made over a fixed period not exceeding forty years, and provision for the grants shall be embodied in the contract guaranteeing their payment. Grants shall not be greater than the difference between (1) the average annual debt service which would be required to be paid during the life of the loan on the amount borrowed from other sources for the construction of such facilities, and (2) the average annual debt service which the institution or agency would have been required to pay during the life of the loan if the applicable interest rate had been determined by the Secretary in accordance with section 731(b).

20 USC 1132d-3.

"(b) The total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into for such year under this section shall not exceed $13,500,000.

"(c) The total payment for any fiscal year made to institutions of higher education and higher education building agencies in any State shall not exceed 12.5 per centum of sums appropriated for this section.

"(d) No annual interest grant shall be made unless (1) assurance is provided that not less than 10 per centum of the costs of the project will be financed from non-Federal sources, (2) the applicant is unable to secure a loan from other sources upon terms and conditions as favorable as those applicable to loans under this title, and (3) the project will be undertaken in an economical manner. Loans for which an interest grant is made shall, for purposes of this section only, not be considered financing from a non-Federal source.

"ACADEMIC FACILITIES LOAN INSURANCE

"SEC. 735. (a)(1) In order to assist institutions of higher education and higher education building agencies to procure loans for programs consistent with the purposes of this title, the Secretary may insure the payment of interest and principal on such loans if such institu-

20 USC 1132d-4.

tions and agencies meet criteria prescribed under section 734 for the making of annual interest grants.

"(2) No loan insurance may apply to any loan principal which exceeds 90 per centum of the development cost of the academic facility.

Waiver.

"(b)(1) The United States shall be entitled to recover from any institution or agency to which loan insurance has been issued under this section the amount of any payment made pursuant to that insurance, unless the Secretary waives its right of recovery. Upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payment with respect to which the payment was made.

"(2) Any insurance issued under subsection (a) shall be incontestable in the hands of the institution or agency on whose behalf insurance is issued, and as to any lenders which make or contract to make a loan to such institution or agency in reliance thereon, except for fraud or misrepresentation on the part of such institution or agency or on the part of the lender who makes or contracts to make such loan.

"(c) Insurance may be issued by the Secretary under subsection (a) only if he determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed a per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, considering interest rates prevailing in the private market for similar loans and the risks assumed by the United States. The Secretary may charge a premium for such insurance in an amount determined by him to be necessary to cover administrative expenses and probable losses under subsections (a) and (b). Such insurance shall be subject to such further terms and conditions as the Secretary determines to be necessary.

"PART D—GENERAL

"RECOVERY OF PAYMENTS

20 USC 1132e.

Ante, pp. 1473, 1475.

"SEC. 741. (a) The Congress declares that, if a facility constructed with the aid of a grant under part A or B of this title is used as an academic facility for twenty years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of twenty years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this title.

Academic facility.

"(b) If, within twenty years after completion of construction of an academic facility which has been constructed, in part with a grant under part A or B of this title—

"(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

"(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term 'academic facility', unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or

projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"(c) Notwithstanding the provisions of subsections (a) and (b), no project assisted with funds under this title shall ever be used for religious worship or a sectarian activity or for a school or department of divinity. Funds, usage restrictions.

"DEFINITIONS

"SEC. 742. The following definitions apply to terms used in this title: 20 USC 1132e-1.

"(1)(A) Except as provided in subparagraph (B) of this paragraph, the term 'academic facilities' means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For purposes of part A or C, such term includes infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to insure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

"(B) The term 'academic facilities' shall not include (i) any facility intended primarily for events for which admission is to be charged to the general public, or (ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other academic facilities included under this title is required to carry out the objectives of this title, or (iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or (iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (v) any facility used or to be used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 724 of the Public Health Service Act, or a school of nursing as defined in section 843 of that Act, except that the term 'academic facilities' may include any facility described in clause (v) to the degree that such facility is owned, operated, and maintained by the institution of higher education requesting the approval of a project; and that funds available for such facility under such project shall be used solely for the purpose of conversion or modernization of energy utilization techniques to economize on the use of energy resources; and that such project is not limited to facilities described in clause (v) of this subsection. 42 USC 293d note. 42 USC 298b.

"(2)(A) The term 'construction' means (i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (ii) acquisition of existing

structures not owned by the institution involved; or (iii) a combination of either of the foregoing. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed in connection with construction; and the terms 'equipment', 'initial equipment', and 'built-in equipment', shall be more particularly defined by the Secretary by regulation.

"(B) The term 'reconstruction or renovation' means rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of such equipment) of existing structures. For the purposes of the preceding sentence, the term 'equipment' includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, except books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term 'initial equipment' means equipment acquired and installed either in connection with construction as defined in paragraph (2)(A), or as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; the terms 'equipment', 'initial equipment', and 'built-in equipment' shall be more particularly defined by the Secretary by regulation; and the term 'rehabilitation, alteration, conversion, or improvement' includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.

"(3)(A) The term 'development cost', with respect to an academic facility, means the amount found by the Secretary to be the cost, to the applicant for a grant or loan under this title, of the construction, reconstruction, or renovation involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility. There shall be excluded from the development cost—

Development cost exclusions.

"(i) in determining the amount of any grant under part A or B, an amount equal to the sum of (I) any Federal grant which the institution has obtained or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a grant under part A or B, and (II) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant; and

"(ii) in determining the amount of any loan under part C, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this title, with

respect to the construction, reconstruction, or renovation that is to be financed with the aid of a loan under part C.

"(B) In determining the development cost with respect to an academic facility, the Secretary may include expenditures for works of art for the facility of not to exceed 1 per centum of the total cost (including such expenditures) to the applicant of construction, reconstruction, or renovation of, and land acquisition and site improvements for, such facility.

"(4) The term 'Federal share' means in the case of any project a percentage (as determined under the applicable State plan) not in excess of 50 per centum of its development cost.

"(5) The term 'higher education building agency' means (A) an agency, public authority, or other instrumentality of a State authorized to provide, or finance the construction, reconstruction, or renovation of, academic facilities for institutions of higher education (whether or not also authorized to provide or finance other facilities for such or other educational institutions, or for their students or faculty), or (B) any corporation (no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual (i) established by an institution of higher education for the sole purpose of providing academic facilities for the use of such institution, and (ii) upon dissolution of which, all title to any property purchased or built from the proceeds of any loan made under part C will pass to such institution), or (C) an institution of postsecondary education.

"(6) The term 'public community college and public technical institute' means an institution of higher education which is under public supervision and control, and is organized and administered principally to provide a two-year program which is acceptable for full credit toward a bachelor's degree, or a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; and the term includes a branch of an institution of higher education offering four or more years of higher education which is located in a community different from that in which its parent institution is located.

"(7) The term 'public educational institution' does not include a school or institution of any agency of the United States.

"(8) The term 'State' includes in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.".

TITLE VIII—COOPERATIVE EDUCATION

EXTENSION OF PROGRAM

SEC. 801. (a) Section 801(a) of the Act is amended— 20 USC 1133.

(1) by striking out "fiscal year 1979" in paragraph (4) and inserting in lieu thereof "fiscal years 1979 and 1980";

(2) by striking out "for each of the fiscal years 1980, 1981, and 1982, $25,000,000" in paragraph (5) and inserting in lieu thereof "for each of the fiscal years 1981, 1982, 1983, 1984, and 1985, $30,000,000"; and

(3) by striking out "alternating periods" and inserting in lieu thereof "alternating or parallel periods".

20 USC 1133. (b) Section 801(b) of the Act is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out "fiscal years 1978, 1979, 1980, 1981, and 1982," in paragraph (4) and inserting in lieu thereof "fiscal years 1978, 1979, and 1980; and";

(3) by inserting immediately after paragraph (4) the following new paragraph:

"(5) $5,000,000 for each of the fiscal years 1981, 1982, 1983, 1984, and 1985,".

20 USC 1133a. (c) Section 802(a) of the Act is amended—

(1) by striking out "$175,000" and inserting in lieu thereof "$325,000"; and

(2) by striking out "$125,000" and inserting in lieu thereof "$250,000".

(d) Section 802(c) of the Act is amended by inserting "individual unit of" immediately before "institution of higher education".

TITLE IX—GRADUATE PROGRAMS

GRANTS TO INSTITUTIONS OF HIGHER EDUCATION

20 USC 1134. SEC. 901. (a) Section 901 of the Act is amended—

(1) in subsection (a)(1), by striking out "to strengthen, improve and where necessary expand" and inserting in lieu thereof "to maintain, strengthen, and improve"; and

(2) in subsection (c), by striking out "1980" and inserting in lieu thereof "1985".

20 USC 1134b. (b) Section 903(b)(2) of the Act is amended by striking out "expansion" and inserting in lieu thereof "maintenance and improvement of quality".

GRADUATE FELLOWSHIPS

SEC. 902. (a) Part B of title IX of such Act is amended to read as follows:

"PART B—FELLOWSHIPS FOR GRADUATE AND PROFESSIONAL STUDY

"STATEMENT OF PURPOSE

20 USC 1134d. "SEC. 921. It is the purpose of this part to provide, through institutions of higher education, a program of grants to assist in making available the benefits of post-baccalaureate education to graduate and professional students who demonstrate financial need.

"PROGRAM AUTHORIZED

Grants. 20 USC 1134e. "SEC. 922. (a) The Secretary shall make grants to institutions of higher education to enable such institutions to make grants in accordance with the provisions of this part.

"(b)(1) In making such grants the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable distribution among eligible public and independent institutions of higher education.

"(2) The Secretary shall not make a grant to a single institution of higher education of less than $75,000 from the sums appropriated under this part for any fiscal year.

"(3) Whenever the Secretary determines that an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot such amounts not needed to institutions which can use the grants authorized by this part.

"(c) Any eligible institution of higher education offering a program of post-baccalaureate study leading to a graduate or professional degree may apply for grants under this part. Each such institution may make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(d) In making grants to institutions of higher education, the Secretary shall—

"(1) take into account present and projected needs for highly trained individuals in all areas of education beyond high school;

"(2) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority; and

"(3) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups which have been traditionally underrepresented in colleges and universities, but nothing contained in this paragraph shall be interpreted to require any educational institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this section, in comparison with the total number or percentage of individuals of such group in any community, State, section, or other area.

"(e) The Secretary shall assure that, in making grants under this part, awards are made to— Awards.

"(1) individuals who plan to pursue a career in public service;

"(2) individuals who plan to pursue advanced study in domestic mining and mineral and mineral fuel conservation, including oil, gas, coal, oil shale, and uranium; and

"(3) individuals from traditionally underrepresented groups, as determined by the Secretary, undertaking graduate or professional study.

The Secretary shall assure that the amount expended for categories of fellowships described in paragraphs (1), (2), and (3) of this subsection for each fiscal year is not less than the amount expended for each category in fiscal year 1979. Fellowships.

"(f) From sums required to be expended by the Secretary for grants under subsection (e), the Secretary may (in addition to the awards made to individuals) pay to the institution of higher education at which such person is pursuing his course of study such amounts as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"(g) No fellowship shall be awarded under this part for study at a school or department of divinity. Fellowship restriction.

"AWARD OF FELLOWSHIPS

20 USC 1134f.

"SEC. 923. (a) An institution of higher education receiving funds under this part shall make available to financially needy graduate and professional students an award determined by such institution of higher education, except that no award under this part may exceed $4,500, or the demonstrated level of financial need according to measurements of need approved by the Secretary, whichever is lower.

"(b) No student shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded and is not engaging in gainful employment other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed a total of 3 years, except that the Secretary may provide by regulation for the granting of such fellowships for a period of study not to exceed one twelve-month period, in addition to the 3 year period set forth in this section, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such twelve-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

"AUTHORIZATION OF APPROPRIATIONS

20 USC 1134g.

"SEC. 924. There are authorized to be appropriated to carry out the provisions of this part $60,000,000 for each of the fiscal years 1981 and 1982 and such sums as may be necessary for the fiscal year 1983 and each of the succeeding fiscal years ending before October 1, 1985.".

Repeal.
20 USC 1134i-1134s.

(b) Parts C, D, E, and F of such title IX are repealed.

NEW PROGRAM AUTHORIZED

SEC. 903. Title IX of the Act is amended by inserting after part B (as amended by this Act) the following new part:

"PART C—NATIONAL GRADUATE FELLOWS PROGRAM

"AWARD OF NATIONAL GRADUATE FELLOWSHIPS

20 USC 1134h.

"SEC. 931. (a) During the fiscal year ending September 30, 1981, and each of the succeeding fiscal years ending prior to October 1, 1985, the Secretary is authorized to award not more than 450 fellowships in accordance with the provisions of this part for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement and exceptional promise. Such fellowships shall be awarded for such periods as the Secretary may determine, but not in excess of forty-eight months.

Independent study.

"(b) The Secretary may allow a fellowship recipient to interrupt periods of study for a period not to exceed twelve months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program, except that for such period the Secretary shall make no payments to the fellowship recipients or payments to institutions pursuant to the fellowship award of the recipient.

"(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this part.

"ALLOCATION OF FELLOWSHIPS

"SEC. 932. (a)(1) The President shall appoint a National Graduate Fellows Program Fellowship Board consisting of not less than nine and not more than fifteen individuals representative of both public and private institutions of higher education especially qualified to serve on the Board. In making appointments, the President shall give due consideration to the appointment of individuals who are highly respected in the academic community. National Graduate Fellows Program Fellowship Board. Establishment. 20 USC 1134i.

"(2) The Board shall—

"(A) establish general policies for the program established by this part and oversee its operation;

"(B) select each year the fields in which fellowships under this part are to be awarded;

"(C) determine the number of fellowships each year to be awarded under this part in each designated field;

"(D) appoint distinguished panels in each field for the purpose of selecting fellows; and

"(E) prepare and submit to the Congress, at least once in every three year period, a report on any modifications in the program that the Board determines to be appropriate. Report to Congress.

"(3) In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institutions, learned societies, and professional organizations. Consultations.

"(4) The term of office of each member of the Board shall be six years; except that (A) the members first taking office shall serve as designated by the President, one-third of the members for terms of two years, one-third of the members for terms of four years, and one-third of the members for terms of six years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. No member may serve for a period in excess of eight years. Term of office.

"(5) The President shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve until one year after the date of their appointment. Thereafter each officer shall be elected for a term of two years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

"(6)(A) A majority of the members of the Board shall constitute a quorum.

"(B) The Board shall meet at least four times a year.

"(7) Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the President, but not exceeding the rate prescribed for GS-18 of the General Schedule under section 5332, title 5, United States Code, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently. Travel and per diem expenses.

"(b) The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Fellowship Board to make such selections under criteria established by the Board. The number of Fellowship recipients, selection.

recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Fellowship Board.

"(c) Each recipient shall be entitled to use the fellowship in a doctoral program at any accredited institution of higher education in which the recipient may decide to enroll.

"STIPENDS

20 USC 1134j.

"SEC. 933. (a) The Secretary shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such individuals and their dependents) as the Secretary may determine to be appropriate, adjusting such stipends as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.

"(b) The Secretary shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education at which such person is pursuing his course of study such amount as the Secretary may determine to be appropriate, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

"FELLOWSHIP CONDITIONS

20 USC 1134k.

"SEC. 934. (a) An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 933 only during such periods as the Secretary finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

Reports.

"(b) The Secretary is authorized to require reports containing such information in such form and to file at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this part. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded."

TRAINING AND LEGAL ASSISTANCE PROFESSION PROGRAM AUTHORIZED

SEC. 904. Title IX of the Act is amended by adding after part C (as added by section 904 of this Act) the following new part:

"PART D—ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION

"PROGRAM AUTHORIZED

Grants.
20 USC 1134*l*.

"SEC. 941. (a) The Secretary is authorized prior to October 1, 1985, to make grants to, or enter into contracts with, public and private agencies and organizations other than institutions of higher education for the purpose of assisting individuals from disadvantaged

backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake training for the legal profession.

"(b) Grants made, and contracts entered into, under subsection (a) may cover, in accordance with regulations of the Secretary, all or part of the cost of—

"(1) selecting individuals from disadvantaged backgrounds for training for the legal profession,

"(2) facilitating the entry of such individuals into institutions of higher education for the purpose of pursuing such training,

"(3) providing counseling or other services designed to assist such individuals to complete successfully such training,

"(4) providing, for not more than six months prior to the entry of such individuals upon their courses of training for the legal profession, preliminary training for such individuals designed to assist them to complete successfully such training for the legal profession,

"(5) paying such stipends (including allowances for travel and for dependents) as the Secretary may determine for such individuals for any such period of preliminary training or for any period of training for the legal profession during which such individuals maintain satisfactory academic proficiency, as determined by the Secretary, and

"(6) paying for administrative activities of the agencies and organizations which receive such grants, or with which such contracts are entered into, to the extent such activities are for the purpose of furthering activities described in clauses (1) through (5).

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 942. There are authorized to be appropriated to carry out the provisions of this part $5,000,000 for fiscal year 1981, $5,000,000 for fiscal year 1982, $7,500,000 for fiscal year 1983, $7,500,000 for fiscal year 1984, and $10,000,000 for fiscal year 1985.". 20 USC 1134m.

LAW SCHOOL PROGRAMS INCLUDED IN TITLE IX

SEC. 905. Title IX of the Act is amended by adding at the end thereof the following new part:

"PART E—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

"PROGRAM AUTHORIZATION

"SEC. 951. (a) The Secretary is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 per centum of the costs of establishing or expanding programs in such schools to provide clinical experience to students in the practice of law, which includes any form of law student work involving performance in the role of a lawyer exercising legal skills and roles such as those of an advocate, counselor, negotiator, investigator, and ethical practitioner, whether by way of the provision of representation of or services to an identifiable client in actual cases or situations (subject to existing State or local limitations upon such provision) or by way of simulation of such provision through appropriate exercises. The cases and situations handled in actuality or by simulation may encompass any one or more of the following: Grants. 20 USC 1134n.

"(1) judicial, administrative, executive, or legislative proceedings, including the full range of preparation therefor;

"(2) office or house counsel problems; or

"(3) factual investigation, empirical research, or policy or legal analysis.

"(b) Such costs may include necessary expenditures incurred for—

"(1) planning;

"(2) training of faculty members and salary for additional faculty members;

"(3) travel and per diem for faculty and students;

"(4) reasonable stipends for students for work in the public service performed as part of any such program at a time other than during the regular academic year;

"(5) equipment and library resources;

"(6) involving practicing lawyers in the process of training law students to perform as lawyers; and

"(7) such other items as are allowed pursuant to regulations issued by the Secretary.

"(c) No law school may receive more than $100,000 in any fiscal year pursuant to this part, no part of which may be used to pay for indirect costs or charges.

"Accredited law school."

"(d) For the purpose of this part the term 'accredited law school' means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, including any combination or consortium of such schools.

"APPLICATIONS

20 USC 1134o.

"SEC. 952. (a) A grant or contract authorized by this part may be made by the Secretary upon application which—

"(1) is made at such time or times and contains such information as he may prescribe;

"(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

Reports and records.

"(3) provides for making such reports, in such form and containing such information as the Secretary may require to carry out his functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

Grants or contracts.

"(b) The Secretary shall allocate grants or contracts under this part in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purposes of this part.

"AUTHORIZATION OF APPROPRIATIONS

20 USC 1134p.

"SEC. 953. There are authorized to be appropriated $5,000,000 for the fiscal year 1981, $8,000,000 for the fiscal year 1982, $8,000,000 for the fiscal year 1983, $9,000,000 for the fiscal year 1984, and $10,000,000 for the fiscal year 1985, to carry out the purposes of this part.".

TITLE X—ESTABLISHMENT OF A NEW TITLE X OF THE HIGHER EDUCATION ACT OF 1965

FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 1001. (a) Title X of the Act is amended by striking out everything preceding part C and inserting in lieu thereof the following:

"TITLE X—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

"PART A—ESTABLISHMENT AND OPERATION OF FUND

"AUTHORIZATION OF PROGRAM

Grants.
20 USC 1135.

"SEC. 1001. Subject to the provisions of section 1002, the Secretary is authorized to make grants to, and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance to such educational institutions and agencies for—

"(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

"(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experiential learning;

"(3) the establishment of institutions and programs based on the technology of communications;

"(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

"(5) the design and introduction of cost-effective methods of instruction and operation;

"(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

"(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

"(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

"CONSULTATION

Comments and recommendations.
20 USC 1135a.
Post, p. 1493.

"SEC. 1002. No grant shall be made or contract entered into under section 1001 for a project or program with any institution of postsecondary education unless it has been submitted to the appropriate State entity having an agreement under section 1203, and an opportunity has been afforded such entity to submit its comments and recommendations to the Secretary.

"NATIONAL BOARD OF THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

Establishment.
20 USC 1135a-1.

"SEC. 1003. (a) There is established a National Board of the Fund for the Improvement of Postsecondary Education. The Board shall consist of fifteen members appointed by the Secretary for overlapping three-year terms. A majority of the Board shall constitute a quorum. Any member of the Board who has served for six consecutive years shall thereafter be ineligible for appointment to the Board during a two-year period following the expiration of such sixth year.

Membership.

"(b) The Secretary shall designate one of the members as Chairman. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change.

Duties.

"(c) The Board shall—

"(1) advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education on priorities for the improvement of postsecondary education and make such recommendations as it may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

"(2) advise the Secretary and the Director of the Fund on the development of programs to be carried out by the Fund and on the selection of projects under consideration for support by the Fund in its competitions;

"(3) advise the Secretary and the Director of the Fund on the operation of the Fund, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund; and

"(4) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

Information availability.

"(d) The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

"ADMINISTRATIVE PROVISIONS

20 USC 1135a-2.

"SEC. 1004. (a) The Secretary may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than five technical employees to administer this title who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

5 USC 101.

5 USC 5101 *et seq.*
5 USC 5331.

Review.

"(b) The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this title. Procedures for reviewing grant applications or contracts for financial assistance under this section may not be subject to any review outside of officials responsible for the administration of the Fund for the Improvement of Postsecondary Education.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1005. There are authorized to be appropriated to carry out this title $20,000,000 for fiscal year 1981, $30,000,000 for fiscal year 1982, $40,000,000 for fiscal year 1983, $45,000,000 for fiscal year 1984, and $50,000,000 for fiscal year 1985.". 20 USC 1135a-3.

(b)(1) Part C of title X of the Act is redesignated as part B, and sections 1071 and 1072 thereof are redesignated as sections 1021 and 1022, respectively. 20 USC 1135c, 1135c-1.

(2) Section 1021(a) of the Act (as so redesignated) is amended by striking out "this title,". 20 USC 1135c.

(c) Section 404 of the General Education Provisions Act is repealed. Repeal. 20 USC 1221d.

TITLE XI—ESTABLISHMENT OF A NEW TITLE XI OF THE HIGHER EDUCATION ACT OF 1965

PROGRAM AUTHORIZED

SEC. 1101. Title XI of the Act is amended to read as follows:

"TITLE XI—URBAN GRANT UNIVERSITY PROGRAM

"FINDINGS AND PURPOSE

"SEC. 1101. (a) The Congress finds and declares— 20 USC 1136.

"(1) that there exists within the Nation's urban universities an underutilized reservoir of skills, talents, and knowledge applicable toward the amelioration of the multitude of problems that face the Nation's urban centers;

"(2) that the skills, talents, and knowledge of urban universities must be applied in a systematic and sustained manner to make a significant contribution toward the solution of these problems;

"(3) that the application of the skills, talents, and knowledge of urban universities is hindered by the limited funds available to sustain their commitment; and

"(4) that it is the policy of the United States to encourage and facilitate the application of the skills, talents, and knowledge of urban universities toward serving the needs of urban centers of the Nation.

"(b) The Secretary shall carry out programs in accordance with the provisions of this title, for the purpose of aiding urban universities to help find answers to urban problems, and aiding such universities to make their resources more readily and effectively available to the urban communities in which they are located.

"APPROPRIATIONS AUTHORIZED

"SEC. 1102. (a) For the purpose of carrying out the provisions of this title there is authorized to be appropriated $15,000,000 for fiscal year 1981, $25,000,000 for fiscal year 1982, $35,000,000 for fiscal year 1983, $45,000,000 for fiscal year 1984, and $55,000,000 for fiscal year 1985. 20 USC 1136a.

"(b) In the event of a multiple-year grant to any urban university under this title, the Secretary shall make funds available for such grant from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

"PROJECT ASSISTANCE

Grants.
20 USC 1136b.

"SEC. 1103. (a)(1) The Secretary shall make grants to urban universities to pay the Federal share of the cost of carrying out projects consistent with the purposes of this title.

Applications.

"(2) The Secretary shall give priority to applications containing cooperative arrangements between urban universities within an urban area.

"(b) An application submitted under this section shall contain provisions designed to show that the chief executive of the local agency or agencies of general government within whose jurisdiction fall the need or needs to be addressed by the project or projects described has been afforded a reasonable opportunity to review and comment upon the proposed project or projects. In making grants under this title, the Secretary shall consider the degree to which there is evidence in the application of (1) the participation of such local agency or agencies of general government and of the community in the development of the project or projects for which assistance is requested under this section; (2) local government and community participation in the implementation of the proposed project or projects; and (3) a commitment by such local agency or agencies of general government to pay the portion of the non-Federal share of the cost of such project or projects required by subsection (d) of this section. Not more than one-half of such non-Federal share may be in the form of services, supplies, or equipment.

"(c) The Secretary may request the advice of any Federal agency the Secretary considers appropriate before approving an application for project assistance under this section.

"(d) Each grant under this section shall be 90 per centum of the cost of the project for which assistance is granted.

"Urban grant university."

"(e) An institution of higher education which receives a grant under this section shall be designated by the Secretary as an 'urban grant university'. The Secretary shall annually publish a list of the institutions of higher education which have been so designated.

"LIMITATION

20 USC 1136c.

"SEC. 1104. (a) The total amount of payments in any fiscal year under section 1103 to institutions within any one State shall not exceed 15 per centum of the total amount paid.

"(b) In allocating assistance under section 1103 of this title, the Secretary shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

"DEFINITIONS

20 USC 1136d.

"SEC. 1105. As used in this title—

"(1) 'urban area' means a standard metropolitan statistical area having a population of not less than five hundred thousand persons; or, in any State which has no standard metropolitan statistical area within its borders which has such a population, the entity of the State having an agreement under section 1203 may, or if no such entity has an agreement, the Secretary shall designate one urban area for the purposes of this part;

"(2) 'urban university' means an institution of higher education which (A) is located in an urban area, (B) draws a substantial portion of its undergraduate students from the urban area in which it is located or contiguous urban areas, (C) carries out

programs to make postsecondary education opportunities more accessible to residents of such urban area or contiguous areas, (D) has the present capacity to provide resources responsible to the needs and priorities of such urban area and contiguous areas, (E) offers a range of professional or graduate programs sufficient to sustain its capacity to provide such resources, and (F) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and its people;

"(3) for the purposes of paragraphs (2) and (4) of this section, 'institution of higher education' includes any combination of such institutions, any one of which meets all the qualifications of paragraph (2); and

"(4) 'resources' are programs of institutions of higher education including specialized training, research services, and technical assistance responsible to the needs and priorities of the urban area and contiguous areas.".

TITLE XII—GENERAL PROVISIONS

AMENDMENTS

SEC. 1201. Title XII of the Act is amended by striking out sections 1202, 1203, 1205, 1206, and 1208, by redesignating section 1207 as section 1202, and by adding after such section the following new sections: 20 USC 1142, 1142a, 1142b, 1145, 1145a, 1145c.

"FEDERAL-STATE RELATIONSHIPS; STATE AGREEMENTS

"SEC. 1203. (a) Any State which desires to receive assistance under an applicable program, as described in subsection (f), shall enter into an agreement with the Secretary pursuant to subsection (b) setting forth the terms and conditions for the relationship between the Federal Government and that State for the purposes set forth in the applicable programs. 20 USC 1143.

"(b) Such agreement shall consist of assurances by the State, including a description of the means to be used by the State to fulfill the assurances, that—

"(1) the State will provide for such methods of administration as are necessary for the proper and efficient administration of any program in keeping with the purposes of the applicable programs described in subsection (f);

"(2) the State will provide such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State under any title of this Act;

"(3) the State will follow policies and practices of administration that will ensure that non-Federal funds will not be supplanted by Federal funds, and that equitable and appropriate criteria will be used in evaluation of applications or proposals for grants or contracts under any such applicable program; and

"(4) the State has a comprehensive planning or policy formulation process which—

"(A) considers the relation between State administration of any such applicable program, and administration of similar State programs or processes;

"(B) encourages State policies designed to consider effects on declining enrollments on all sectors of postsecondary education in the State;

"(C) considers the postsecondary education needs of unserved and underserved individuals within the State, including individuals beyond the traditional college age;

"(D) considers the resources of institutions, organizations, or agencies (both public and private) within the State capable of providing postsecondary educational opportunities in the State; and

"(E) provides for direct, equitable and active participation in the comprehensive planning or policy formulation process or processes of representatives of institutions of higher education (including community colleges, proprietary institutions, and independent colleges and universities), students, other providers of postsecondary education services, and the general public in the State.

Participation under subclause (E) shall, consistent with State law, be achieved through membership on State planning commissions, State advisory councils, or other State entities established by the State to conduct federally assisted comprehensive planning or policy formulation.

"(c) The information and assurances provided by a State in accordance with paragraphs (1), (2), and (3) of subsection (b), and regulations issued by the Secretary related directly to such assurances, shall be satisfactory for the purposes of, and shall be considered in lieu of, any comparable requirements for information and assurances in any applicable program described in subsection (f).

"(d)(1) An agreement of a State shall remain in effect subject to modification as changes in information or circumstances require.

Notice and hearing.

"(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing has been given to the State, finds that there is a failure to comply substantially with the assurances required in paragraph (1), (2), or (3) of subsection (b), the Secretary shall notify the State that it is no longer eligible to participate in any applicable program described in subsection (f) until the Secretary is satisfied that there is no longer any such failure to comply.

"(e)(1) For the purpose of this section, the selection of the State entity or entities authorized to act on behalf of the State for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

"(2)(A) Nothing in this section shall be construed to authorize the Secretary to require any State to adopt, as a condition for entering into an agreement, or for participation in an applicable program as defined in subsection (f), a specific State organizational structure for achieving participation in the planning, or administration of programs, or for statewide planning, coordination, governing, regulating, or administering of postsecondary education agencies, institutions, or programs in the State.

"(B) Nothing in this section shall be construed as a limitation on the authority of any State to adopt a State organizational structure for postsecondary education agencies, institutions, or programs which is appropriate to the needs, traditions, and circumstances of that State, or as a limitation on the authority of a State entering into an agreement pursuant to this section to modify the State organizational structure at any time subsequent to entering into such an agreement.

"Applicable program."

"(f) For the purposes of this section an 'applicable program' is defined as—

"(1) title I; *Ante*, p. 1373.
"(2) subpart 3 of part A of title IV; and 20 USC 1070c.
"(3) part A of title VII. *Ante*, p. 1473.

"TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE

"SEC. 1204. (a) The Secretary is authorized to provide such modifications of any programs under this Act as the Secretary deems necessary in order to adapt such programs to the needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands. Such program modifications may include the consolidation of grants for any single program on a regional or interterritorial basis. Such program modifications shall be established in cooperation with the governments of such territories and shall be governed by a memorandum of understanding between such governments and the Department of Education. 20 USC 1144a.

"(b) In conjunction with the development of program modifications under subsection (a), the Secretary shall, within eighteen months after the date of enactment of this section, conduct an analysis of the unique educational needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, and report to the Congress on the results of such analysis. Such report shall include recommendations of the Secretary with respect to the most appropriate form of Federal postsecondary education assistance for such territories, an evaluation of the effectiveness of the authority contained in subsection (a), and whether such authority should be extended or modified. Educational needs, analysis. Report to Congress.

"(c) Pending legislative implementation of the recommendations submitted by the Secretary under subsection (b), there are authorized to be appropriated $2,000,000 for each fiscal year ending prior to October 1, 1985 to support the cost of providing postsecondary education programs on Guam for nonresident students from the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa. Such sums shall be allocated by the Secretary among the educational institutions on Guam providing such programs on the basis of the number of students enrolled from the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa. Sums authorized under this subsection shall remain available until appropriated and sums appropriated under this subsection shall remain available until expended. Appropriation authorization.

"NATIONAL ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

"SEC. 1205. (a) There is established in the Department of Education a National Advisory Committee on Accreditation and Institutional Eligibility which shall be composed of 15 members appointed by the Secretary from among individuals knowledgeable concerning education, and including persons who are (1) representative of institutions, (2) representative of students and youth, (3) representative of professional associations, (4) representative of State educational agencies, and (5) representative of the general public. The Chairman of the Committee shall be appointed by the Secretary. Establishment. 20 USC 1145.

"(b) The term of office of each member of the Committee shall be three years, except that—

"(1) the members first appointed to the Committee shall serve as designated by the Secretary, five for a term of one year, five for a term of two years, and five for a term of three years, and

"(2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of that term.

Responsibilities.

"(c) The Committee shall, with respect to all matters pertaining to institutional eligibility—

"(1) advise the Secretary with regard to the responsibility to publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authority as to the quality of training offered, including advising the Secretary with respect to the criteria and procedures for carrying out such responsibility;

"(2) advise the Secretary with regard to the responsibility to designate State agencies as reliable authorities on the quality of public postsecondary vocational education or training;

"(3) develop and recommend to the Secretary standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies, in order to establish the eligibility of such institutions on an interim basis for participation in federally funded programs; and

"(4) carry out such other advisory functions relating to accreditation and institutional eligibility as may be assigned by the Secretary.

"(d) The Committee shall meet not less than twice each year at the call of the Chairman. The date of, and agenda for, each meeting of the Committee shall be submitted in advance to the Secretary for approval. A representative of the Secretary shall be present at all meetings of the Committee.

Report to Congress.

"(e) The Committee shall, not later than November 30 of each year, make an annual report through the Secretary to the Congress. The annual report shall contain a list of the members of the Committee and their addresses, a list of the Committee's functions, a list of dates and places of each meeting during the preceding fiscal year, and a summary of the activities, findings, and recommendations made by the Committee during the preceding fiscal year.

20 USC 1233g.

"(f) Subject to section 448(b) of the General Education Provisions Act, the Committee shall continue to exist until September 30, 1985.".

TITLE XIII—MISCELLANEOUS PROVISIONS

PART A—GENERAL EDUCATION PROVISIONS

CONTINGENT EXTENSION

20 USC 1226a.

SEC. 1301. (a) The first sentence of section 414 of the General Education Provisions Act is amended by striking out "for one additional fiscal year" and inserting in lieu thereof the following: "for—

"(i) two additional fiscal years for any applicable program authorized to be included in the Appropriation Act for the fiscal year preceding the fiscal year for which appropriations are available for obligation, or

"(ii) one additional fiscal year for any other applicable program".

(b) The second sentence of such section is amended by striking out "for such additional year" and inserting in lieu thereof "for each additional fiscal year".

ENFORCEMENT OF THE RULES

SEC. 1302. The second sentence of section 431(d)(1) of that Act is amended by inserting before the period a comma and the following: "in whole or in part". 20 USC 1232.

SCIENCE EDUCATION PROGRAMS

SEC. 1303. The General Education Provisions Act is amended by inserting after section 406 the following new section:

"AUTHORIZATION OF APPROPRIATIONS FOR SCIENCE EDUCATION PROGRAMS

"SEC. 406A. There is authorized to be appropriated to the Secretary of Education for fiscal year 1981— 20 USC 1221e-1b.

"(1) $2,500,000 for the purpose of carrying out the Pre-College Science Teacher Training program, and

"(2) $5,000,000 for the purpose of carrying out the Minority Institutions Science Improvement program

transferred to the Secretary from the National Science Foundation by section 304 of the Department of Education Organization Act.". 20 USC 3444.

COMMISSION ON THE REVIEW OF THE FEDERAL IMPACT AID PROGRAM

SEC. 1304. (a) Section 1015(d) of the Education Amendments of 1978, relating to the impact aid study, is amended by striking out "December 1, 1980" and inserting in lieu thereof "September 1, 1981". 20 USC 236 note.

(b) All funds available to the Commission for its operating expenses shall, notwithstanding any other provision of law, be made available to such Commission, and remain available to such Commission to carry out the amendment made by subsection (a) of this section. The Secretary of Education shall, notwithstanding any other provision of law, make available to such Commission, from funds appropriated to the Department of Education, such funds as may be necessary to enable the Commission to maintain its level of operations, consistent with the amendment made by subsection (a) of this section, except that the total amount so available for any month shall not exceed 110 per centum of the average monthly amount available for expenditure by the Commission during the fiscal year 1980. 20 USC 236 note.

(c) The terms of office of the members of such Commission shall be coterminous with the duration of the Commission and the number of such members shall be equal to the number who are in office at any time, except that such number shall not exceed the number specified in such section 1015. A quorum of the Commission shall be equal to a majority of the members of the Commission who have qualified. Term of office.

(d) The Commission shall terminate September 30, 1981. Termination.

EVALUATION REPORTS

SEC. 1305. Section 417(a)(1)(F) of the General Education Provisions Act is amended by inserting immediately before the period a comma and the following: "including tabulations of available data to indicate the effectiveness of the programs and projects by the sex, race, and age of its beneficiaries". 20 USC 1226c.

EDUCATION IMPACT STATEMENT

SEC. 1306. Part A of the General Education Provisions Act is amended by adding at the end thereof the following new section:

"EDUCATION IMPACT STATEMENT

Publication in Federal Register.
20 USC 1221e-4.

"SEC. 409. Notwithstanding any other provision of law, no regulation affecting any institution of higher education in the United States, promulgated on or after the date of enactment of this Act, shall become effective unless such agency causes to be published in the Federal Register a copy of such proposed regulation together with an educational impact assessment statement which shall determine whether any information required to be transmitted under such regulation is already being gathered by or is available from any other agency or authority of the United States. Notwithstanding the exception provided under section 553(b) of title 5, United States Code, such statement shall be based upon the record established under the provisions of section 553 of title 5, United States Code, compiled during the rulemaking proceeding regarding such regulation.".

PART B—NATIONAL INSTITUTE OF EDUCATION

EXTENSION OF AUTHORITY

20 USC 1221e.

SEC. 1311. Section 405(j) of the General Education Provisions Act is amended to read as follows:

"(j)(1) There are authorized to be appropriated to carry out the provisions of this section, $120,000,000 for fiscal year 1981, $130,000,000 for fiscal year 1982, $145,000,000 for fiscal year 1983, $160,000,000 for fiscal year 1984, and $175,000,000 for fiscal year 1985.

"(2) Sums so appropriated shall, notwithstanding any other provision of law unless enacted in express limitation of this subsection, remain available for the purposes of this subsection unless expended.".

DECLARATION OF POLICY

SEC. 1312. The first sentence of section 405(a)(1) of the General Education Provisions Act is amended by inserting after "sex" a comma and "age, handicap".

RESEARCH AND DEVELOPMENT PRIORITIES

SEC. 1313. Section 405(b)(2) of the General Education Provisions Act is amended by—

(1) striking out "and" at the end of clause (D);

(2) by redesignating clause (E) as clause (G);

(3) by adding after clause (D) the following new clauses:

"(E) overcoming the special problems of the nontraditional student, including the older student (with special consideration for students over age 45) and the part-time student, and the institution which the student attends;

"(F) encouraging the study of languages and cultures and addressing both national and international education concerns; and"; and

(4) by adding at the end the following sentence: "In carrying out this paragraph, the Institute shall give attention to the needs of early adolescents and the schools which serve them.".

REPEALER

SEC. 1314. (a) Section 405(f)(3) of the General Education Provisions Act is repealed. 20 USC 1221e.

(b) Paragraph (4) of section 405(f) of such Act is redesignated as paragraph (3).

PART C—AMENDMENTS TO THE REHABILITATION ACT OF 1973

COMPOSITION OF THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD AND TRANSMISSION OF REPORT

SEC. 1321. (a)(1) Section 502(a)(1)(B)(i) of the Rehabilitation Act of 1973 is amended to read as follows: 29 USC 792.

"(i) Department of Health and Human Services.".

(2) Section 502(a) of such Act is amended by adding the following clause immediately after clause (x):

"(xi) Department of Education.".

(b) Section 502(h) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) The Board shall, at the same time that the Board transmits the report required under section 7(b) of the Act entitled 'An Act to ensure that certain buildings financed with Federal funds are so designated and constructed as to be accessible to the physically handicapped', approved August 12, 1968 (commonly known as the Architectural Barriers Act of 1968) transmit that report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.". Report to congressional committees. 42 USC 4157.

INFORMATION CLEARINGHOUSE FOR HANDICAPPED INDIVIDUALS

SEC. 1322. (a) The first sentence of section 15(a) of the Rehabilitation Act of 1973 is amended by striking out "may" and inserting in lieu thereof "shall". 29 USC 714.

(b) Section 15(c) of such Act is amended by striking out "Any" and inserting in lieu thereof "The".

PART D—NATIVE HAWAIIAN EDUCATION STUDY

STUDY AUTHORIZED

SEC. 1331. (a)(1) The Congress finds that— 20 USC 1221-1 note.

(A) like other Native Americans, Native Hawaiians rank among the lowest in level of educational attainment and per capita income; and

(B) existing Federal, State, and local assistance in the field of education fails to address the basic and special needs of Native Hawaiians.

(2) The Congress declares its commitment to assist in providing the educational services and opportunities which Native Hawaiians need.

(b) There is established the Advisory Council on Native Hawaiian Education which shall consist of seven members appointed by the Secretary of Education, after consultation with the Governor of Hawaii, from among individuals who are professionals in the various fields relating to human development, and who are familiar with the educational problems of Native Hawaiians. Advisory Council on Native Hawaiian Education. Establishment.

(c) The Council shall—

(1) advise the Secretary with respect to the operation of programs administered by the Department of Education and other programs making educational assistance available to Native Hawaiians;

Study.

(2) conduct a study which shall (A) evaluate the effectiveness of State and federally assisted educational programs in serving Native Hawaiian children and the extent to which such programs achieve their purposes with respect to such children, and (B) take into account the special health, social, and psychological needs of Native Hawaiian children; and

Report to Secretary and Congress.

(3) submit a report to the Secretary and to the Congress not later than January 31, 1983, containing the findings and recommendations of the Council with respect to the matters described in paragraphs (1) and (2).

Termination.

(d) The Council shall terminate 60 days after the submission of its report under subsection (c).

Appropriation authorization.

(e) There are authorized to be appropriated a total amount of not more than $500,000 for the fiscal years 1981, 1982, and 1983 to carry out this section.

PART E—SPECIAL IMPACT AID PROGRAM

PROGRAM AUTHORIZED

SEC. 1341. The Act of September 30, 1950 (Public Law 874, 81st Cong.), relating to impact aid, is amended by adding after section 4 the following new section:

"SPECIAL PROGRAM

20 USC 239a.

"SEC. 4A. (a)(1) Any local educational agency that experiences an enrollment increase in any school year of at least 20 students as a result of the entry into any school supported by such agency of eligible children shall be eligible to receive payment for such children enrolled in its schools in accordance with the provisions of this section.

"Eligible children."

"(2) For purposes of this section the term 'eligible children' means—

"(A) aliens who fled from Cambodia, Vietnam, or Laos and who, on or after January 1, 1979—

"(i) were admitted into the United States as refugees under section 207 of the Immigration and Nationality Act;

Ante, p. 103.

"(ii) are applicants for asylum or have been granted asylum in the United States; or

"(iii) were paroled into the United States as refugees under section 212(d)(5) of the Immigration and Nationality Act; or

8 USC 1182.

"(B) aliens who fled from Cuba or Haiti and who, on or after November 1, 1979—

"(i) were admitted into the United States as refugees under section 207 of the Immigration and Nationality Act;

"(ii) are applicants for asylum or have been granted asylum in the United States;

"(iii) are paroled into the United States as refugees under section 212(d)(5) of the Immigration and Nationality Act; or

"(iv) are Cuban-Haitian entrants (status pending) who entered the United States on or after such date.

"(3)(A) Each such local educational agency is authorized to receive for the fiscal year 1981 an amount equal to the product of the number of eligible children in average daily attendance in the schools of such agency in excess of 20 such eligible children multiplied by the current local expenditure rate of that local educational agency, plus $200 for each such eligible child in excess of 20. Payment computation.

"(B) For the purpose of this paragraph the current local expenditure rate shall be deemed to be the non-Federal expenditure rate of the local educational agency.

"(4) No provision of this Act which is inconsistent with the provisions of this section shall apply to the administration of this section.

"(5) Each local educational agency which is authorized to receive assistance under this section shall provide the Secretary with assurances that no eligible child counted for the purpose of this section shall be counted for payments made under any other provision of this Act.

"(b) There are authorized to be appropriated for the fiscal year 1981 such sums as may be necessary to carry out the provisions of this section.".

PART F—THE NAVAJO COMMUNITY COLLEGE ASSISTANCE PROGRAM

AMENDMENTS TO THE NAVAJO COMMUNITY COLLEGE ACT

SEC. 1351. (a) Section 5(a)(1) of the Navajo Community College Act is amended by striking out "two" and inserting in lieu thereof "three". 25 USC 640c-1.

(b) Section 5(b) of such Act is amended by striking out paragraphs (1) and (2), by redesignating paragraph (3) as paragraph (2), and by inserting immediately before such paragraph the following:

"(b)(1) There is further authorized to be appropriated for grants to the Navajo Community College, for any fiscal year beginning on or after October 1, 1979, an amount equal to the amount necessary for operation and maintenance of the college, including, but not limited to, administrative, academic, and operations and maintenance costs.". Grant funds.

(c) Such Act is further amended by adding at the end thereof the following new section:

"EFFECT ON OTHER LAWS

"SEC. 6. Except as specifically provided by law, eligibility for assistance under this Act shall not, by itself, preclude the eligibility of the Navajo Community College to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.". 25 USC 640c-2. 20 USC 1001 note.

PART G—NEW LAND GRANT COLLEGES

AMERICAN SAMOA AND MICRONESIA LAND GRANT COLLEGES

SEC. 1361. (a) Section 506 of the Education Amendments of 1972 is amended— 7 USC 301 note.

(1) by inserting ", the Community College of American Samoa, the College of Micronesia," immediately after "The College of the Virgin Islands" in subsection (a);

(2) by striking out "Virgin Islands and Guam" each place it appears in subsection (b) and inserting in lieu thereof "Virgin Islands, Guam, American Samoa, and Micronesia"; and

(3) by striking out "Guam." in such subsection and inserting in lieu thereof "Guam and an equal amount to American Samoa and to Micronesia.".

7 USC 326a.

(b) Section 5 of the Act of August 30, 1890 (7 U.S.C. 327), commonly referred to as the Second Morrill Act, is amended by inserting ", American Samoa, and Micronesia," immediately after "the Virgin Islands".

7 USC 301 note.

(c) Any provision of any Act of Congress relating to the operation of or provision of assistance to a land grant college in the Virgin Islands or Guam shall apply to the land grant college in American Samoa and in Micronesia in the same manner and to the same extent.

7 USC 301 note.

(d) Nothing in this section shall be construed to interfere with or affect any of the provisions of the April 17, 1900 Treaty of Cession of Tutuila and Aunu'u Islands or the July 16, 1904 Treaty of Cession of the Manu'a Islands as ratified by the Act of February 20, 1929 (45 Stat. 1253) and the Act of May 22, 1929 (46 Stat. 4).

48 USC 1661.

PART H—MEMORIALS

Subpart 1—The Robert A. Taft Institute

Robert A. Taft Institute Assistance Act.

SHORT TITLE

SEC. 1371. This subpart may be cited as the "Robert A. Taft Institute Assistance Act".

GRANTS FOR DEVELOPMENT

SEC. 1372. (a) In recognition of the public service of Senator Robert A. Taft, the Secretary of Education is authorized to make grants to the Robert A. Taft Institute of Government, located in New York, New York.

(b) The total amount of grants under this section in any fiscal year may not exceed the total amount of private contributions received by the Institute for the fiscal year for which the grants are made.

(c) No payment may be made under this subpart except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may require.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1373. There are authorized to be appropriated $750,000 for the fiscal year 1981 and for each fiscal year ending prior to October 1, 1985.

Subpart 2—General Daniel James Memorial Health Education Center

FINANCIAL ASSISTANCE AUTHORIZED

SEC. 1376. (a) In recognition of the public service of General Daniel James and as a memorial to General Daniel James, the Secretary of Education shall, in accordance with the provisions of this title, make a grant to establish the General Daniel James Memorial Health

Education Center to be located at Tuskegee Institute, Tuskegee, Alabama.

(b) No grant may be made under subsection (a) of this section unless an application is made to the Secretary at such time and in such manner as the Secretary may provide. The application shall contain provisions designed to assure that— Applications.

(1) the building known as the General Daniel James Memorial Health Education Center will be located on the campus of Tuskegee Institute, Tuskegee, Alabama;

(2) the memorial will serve as a regional center for preventive health education and as a repository for papers and memorabilia relating to the life of General Daniel James; and

(3) such other reasonable conditions as the Secretary may require.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1377. (a) There are authorized to be appropriated $6,000,000 for the fiscal year 1981 to carry out the provisions of this title.

(b) Funds appropriated pursuant to this title shall remain available until expended.

Subpart 3—The William Levi Dawson Chair of Public Affairs

William Levi Dawson Chair of Public Affairs Act.

SHORT TITLE

SEC. 1381. This subpart may be cited as the "William Levi Dawson Chair of Public Affairs Act".

ASSISTANCE FOR THE ESTABLISHMENT OF THE WILLIAM LEVI DAWSON CHAIR OF PUBLIC AFFAIRS

SEC. 1382. (a) The Secretary of Education is authorized to provide financial assistance in accordance with the provision of this section to establish the William Levi Dawson Chair of Public Affairs at Fisk University, Nashville, Tennessee.

(b) No financial assistance under this title may be made except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1383. (a) There are authorized to be appropriated such sums, not to exceed $750,000, for the fiscal year 1981, as may be necessary to carry out the provisions of section 1802 of this title.

(b) Funds appropriated pursuant to this title shall remain available until expended.

PART I—TECHNICAL PROVISIONS

ADMINISTRATIVE AMENDMENTS

SEC. 1391. (a)(1) The Act is amended by striking out "Commissioner" wherever it appears (except in section 1201(f)) and inserting in lieu thereof "Secretary". 20 USC 1001 note. 20 USC 1141.

(2) The Act is further amended by striking out "Commissioner's" wherever it appears and inserting in lieu thereof "Secretary's".

(3) The Act is further amended by striking out "Secretary of Health, Education, and Welfare" wherever it appears (except in section 1201(e)) and inserting in lieu thereof "Secretary".

(b)(1) Section 1201(e) of the Act is amended to read as follows:

"Secretary." 20 USC 1141.

"(e) The term 'Secretary' means the Secretary of Education.".

(2) Section 1201(f) of the Act is repealed.

(3) Section 1201 of the Act is amended by adding at the end thereof the following:

"Department."

"(m) The term 'Department' means the Department of Education.".

CONTRACT AUTHORITY

20 USC 1146.

SEC. 1392. The authorization to enter into contracts or other obligations under the Act, as amended by this Act, shall be effective for fiscal year 1981 and any succeeding fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

EFFECTIVE DATES

20 USC 1001 note.

SEC. 1393. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1980.

(b)(1) The amendment made by section 301 of this Act to title III of the Act shall take effect October 1, 1981.

Ante, p. 1390.

(2) The amendment made by section 404(c)(4) of this Act to section 415C(b)(4) of the Act shall be effective October 1, 1979.

Ante, p. 1406.

(3) The amendment made by section 405 to subpart 4 of part A of title IV of the Act shall take effect October 1, 1981.

Ante, p. 1407.

Ante, p. 1415.

(4) The amendments made by part B of title IV of this Act shall take effect, except as otherwise provided therein, on January 1, 1981, and to the extent such amendments make changes in such part B which affect student loans, such changes shall apply to outstanding loans as well as to loans made after the amendments take effect, except that the amendments made by section 415(b) shall apply with respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, to any student borrower who has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 on the date on which the borrower enters into the note or other written evidence of the loan.

Ante, p. 1419.

20 USC 1071.

Ante, p. 1436.

Ante, p. 1443.

(5) The amendments made by part D of title IV of this Act shall apply to loans made under part E of the Act on or after October 1, 1980.

Ante, p. 1472.

(6) The amendment made by section 701 of this Act adding section 731 of the Act shall apply to loans made under section 731 on or after October 1, 1980.

Approved October 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-520 (Comm. on Education and Labor) and No. 96-1251 and No. 96-1337 (Comms. of Conference).

SENATE REPORT No. 96-733 accompanying S. 1839 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Oct. 29, Nov. 2, 7, considered and passed House.

Vol. 126 (1980): June 23, S. 1839 considered in Senate.

June 24, H.R. 5192 considered and passed Senate, amended, in lieu of S. 1839.

Aug. 28, House agreed to conference report.

Sept. 4, Senate rejected conference report.

Sept. 18, House agreed to second conference report.

Sept. 25, Senate agreed to second conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 40 (1980): Oct. 3, Presidential statement.

Public Law 96-375
96th Congress

An Act

Oct. 3, 1980
[H.R. 5278]

To authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments, and for other purposes.

Water resource developments, feasibility investigations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the following proposals:

(1) Hungry Horse Project, Hungry Horse Powerplant Enlargement and Reregulating Reservoir, located on the South Fork of the Flathead River in Flathead County, Montana.

(2) Boise Project, Power and Modification Study, located in southwestern Idaho (Ada, Boise, Canyon, Elmore, Gem, Payette, and Valley Counties) and in eastern Oregon (Malheur County).

(3) San Francisco Bay Area Waste Water Reclamation Project, located in the San Francisco Bay area and western San Joaquin Valley of California.

(4) San Joaquin Valley Drainage Investigation with a study area in the San Joaquin River basin, Tulare basin, and the Sacramento-San Joaquin Delta-Suisun Bay area of California.

(5) Delta Overland Water Service Facilities, located in the Sacramento, San Joaquin, Solano, and Contra Costa Counties of California.

(6) Chino Valley Project, located in north central Yavapai County and south central Coconino County in Arizona.

(7) North Platte River Hydroelectric Power Study, Pick-Sloan Missouri Basin Program, Western Division, located in Natrona and Carbon Counties, Wyoming.

(8) Wind-Hydroelectric Energy Project in Carbon and Albany Counties, Wyoming.

(9) Lake Meredith Salinity Project, in Quay County, New Mexico, and Oldham, Potter, Moore, Carson, and Hutchinson Counties in Texas.

(10) Colorado-Big Thompson Powerplants of the Pick-Sloan Missouri Basin Program in Colorado.

(11) The relocation of the intake of the Contra Costa County Water District Canal from Rock Slough to the vicinity of the Clifton Court Forebay in Contra Costa County, California.

(12) The Los Vaqueros Dam, pump-generating plant, and related features at a site approximately eight miles west of the Clifton Court Forebay in Contra Costa County, California.

(13) The obtaining of a water supply of up to ten thousand acre-feet per year for existing and potential domestic, recreational, and municipal water users along the Colorado River in California who do not hold water rights or whose rights are insufficient to meet their requirements.

(14) To determine the cause and extent of the high groundwater levels which developed in and adjacent to the town of Moses Lake, Washington, following the initiation of irrigation of the lands in and adjacent to the town and determine by the studies authorized herein

measures to resolve the problems caused by the high water levels in the area.

(15) The Cle Elum Dam and Tieton Dam powerplants, Yakima Project, Washington.

(16) The Owyhee Dam powerplant, Owyhee Project, Oregon.

(17) The Wickiup Dam powerplant, Deschutes Project, Oregon.

(18) The Tiber Dam powerplant, Lower Marias Unit, Marias Division, Pick-Sloan Missouri Basin Program, Montana.

(19) The New Siphon Drop powerplant, Yuma Project, Arizona-California.

(20) The Guernsey Dam powerplant enlargement, North Platte Project, Wyoming.

(21) Increasing the height of the Theodore Roosevelt Dam, Salt River Project, Arizona.

(22) The Sly Park Extension Unit, American River Division, Central Valley Project, California.

(23) The Prineville Dam powerplant, Crooked River Project, Oregon.

Shasta Dam and Reservoir, Central Valley Project, Calif.

SEC. 2. (a) The Secretary of the Interior is hereby authorized to engage in feasibility studies relating to enlarging Shasta Dam and Reservoir, Central Valley Project, California, or to the construction of a larger dam on the Sacramento River, California, to replace the present structure.

(b) The Secretary of the Interior is further authorized to engage in feasibility studies for the purpose of determining the potential costs, benefits, environmental impacts, and feasibility of using the Sacramento River for conveying water from the enlarged Shasta Dam and Reservoir or the larger dam to points of use downstream from the dam.

(c) Before funds are expended for the feasibility studies authorized by this section, the State of California shall agree to participate in the studies and to participate in the costs of the studies. The State's share of the costs may be partly or wholly in the form of services directly related to the conduct of the studies.

Kellogg Unit, Central Valley Project, Calif.

SEC. 3. The Secretary of the Interior is authorized to review and revise, as may be necessary, the feasibility study of the Kellogg Unit, Central Valley Project, Contra Costa County, California.

SEC. 4. In preparing the studies and review authorized by subsections (11) and (12) of section 1 and section 3, the Secretary of the Interior shall fully describe all potential beneficial or detrimental impacts resulting from the construction or operation of the projects under study. The Secretary shall further make recommendations to the Congress for assuring that neither the construction nor the operation of any such project results in the deterioration of the water quality and ecology of the Sacramento-San Joaquin Delta or the San Francisco Bay estuarine system.

Recommendations to Congress.

Lake Berryessa, Calif., concession agreements.

Term renewal.

SEC. 5. (a) Notwithstanding any other provision of law, the Secretary of the Interior is authorized to enter into new negotiated concession agreements with the present concessionaires at Lake Berryessa, California. Such agreements shall be for a term ending not later than May 26, 1989, and may be renewed at the request of the concessionaire with the consent of the Secretary of the Interior for no more than two consecutive terms of 10 years each. Concession agreements may be renegotiated preceding renewal. Such agreements must comply with the 1959 National Park Service Public Use Plan for Lake Berryessa, as amended, and with the Water and Power Resources Service Reservoir Area Management Plan: *Provided,* That the authority to enter into contracts or agreements to incur obliga-

tions or to make payments under this section shall be effective only to the extent and in such amounts as are provided in advance in appropriation Acts.

(b) Notwithstanding any other laws to the contrary, all permanent facilities placed by the concessionaires in the seven resorts at Lake Berryessa shall be considered the property of the respective current concessionaires. Further, any permanent additions or modifications to these facilities shall remain the property of said concessionaires: *Provided,* That at the option of the Secretary of the Interior, the United States may require that the permanent facilities mentioned herein not be removed from the concession areas, and instead, pay fair value for the permanent facilities or, if a new concessionaire assumes operation of the concession, require that new concessionaire to pay fair value for the permanent facilities to the existing concessionaire. Permanent facilities, ownership.

SEC. 6. The Reclamation Project Authorization Act of 1972 (Public Law 92-514, 86 Stat. 964) is amended—

(a) by inserting in section 101 of such Act, following "on this project", "as modified by the plans shown in the Definite Plan Report of the Water and Power Resources Service, dated November 1979";

(b) by inserting in section 102(b) of such Act, following "domestic wells in existence", "outside the project boundary"; and 86 Stat. 964.

(c) by striking in section 109 of such Act "$18,246,000 (April 1972 prices)" and inserting in lieu thereof "$57,139,000 (October 1979 prices)". 86 Stat. 966.

SEC. 7. The Curecanti Storage Unit of the Colorado River Storage Project constructed under the authority of the Act of April 11, 1956 (70 Stat. 106) is hereby designated and hereafter shall be known as the Wayne N. Aspinall Storage Unit of the Colorado River Storage Project. Any law, regulation, record, map, or other document of the United States referring to the Curecanti Storage Unit shall be held to refer to the Wayne N. Aspinall Storage Unit. Wayne N. Aspinall Storage Unit, designation. 43 USC 620, 621i, 620k note.

SEC. 8. Section 1(5) of the Act of July 2, 1956 (70 Stat. 483), is hereby amended to read as follows: "(5) Provide for payment of rates under any contract entered into pursuant to said subsection (e) in advance of delivery of water on an annual, semiannual, bimonthly, or monthly basis as specified in the contract.". 43 USC 485h-1.

SEC. 9. The Secretary of the Interior in coordination with the Secretary of Energy shall conduct a three-year study of the feasibility of integrating a solar powerplant in Arizona, Nevada, and California into the Federal hydroelectric system, including but not limited to consideration of the applicable solar technology, the operation of the Federal hydroelectric system and the integration of electric power generated by such a powerplant in the Federal system. The study shall specifically consider operations of Department of Energy Project 76-2-b, 10 MW Solar Thermal Power and related technology development. The Secretary shall complete the study by January 1, 1984 and submit a report to the President and the Congress. Solar powerplant, three-year study. Report to President and Congress.

SEC. 10. That the proviso contained in section 201 of the Colorado River Basin Project Act (43 U.S.C. 1511) is amended by striking out "the Secretary" and inserting in lieu thereof "any Federal official".

SEC. 11. Section 206 of Public Law 92-514 is amended to read as follows: "There is hereby authorized to be appropriated for construction of the Brantley project the sum of $172,728,000 (based on April 1979 prices), plus or minus such amounts, if any, as may be justified by reason of changes in the construction costs as indicated by engineering cost indexes applicable to the types of construction 86 Stat. 967. Appropriation authorization.

involved and, in addition thereto, sums as may be required for operation and maintenance of the project.".

Salinity control proposals, study.

SEC. 12. The Secretary of the Interior is hereby authorized to engage in feasibility studies of the following salinity control proposals:

(1) Lower Gunnison Basin unit, located in Delta, Montrose, and Ouray Counties, Colorado.

(2) Glenwood-Dotsero Springs unit, located in Garfield and Eagle Counties, Colorado.

(3) Meeker Dome unit, located in Rio Blanco County, Colorado.

(4) McElmo Creek unit, located in Montezuma County, Colorado.

(5) Uinta Basin unit, located in Duchesne and Uintah Counties, Utah.

(6) Dirty Devil River unit, located in Sanpete, Sevier, Emery, and Wayne Counties, Utah.

(7) Price-San Rafael Rivers unit, located in Carbon, Emery, and Sanpete Counties, Utah.

(8) La Verkin Springs unit, located in Washington County, Utah.

(9) Lower Virgin River unit, located in Clark County, Nevada, and Mohave County, Arizona.

(10) Big Sandy River unit, located in Sweetwater County, Wyoming.

SEC. 13. Nothing in this Act shall be interpreted to preclude or delay issuance of a license by the Federal Energy Regulatory Commission.

Approved October 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-710 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-890 accompanying H.R. 5278, and No. 96-938 accompanying S. 3017 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 5, considered and passed House.
Sept. 17, considered and passed Senate, amended.
Sept. 24, House concurred in Senate amendments.

Public Law 96-376
96th Congress

An Act

To authorize appropriations for the Coast Guard for fiscal year 1981, to authorize supplemental appropriations for fiscal year 1980, and for other purposes.

Oct. 3, 1980
[S. 2489]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That funds are hereby authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1981, as follows:

Coast Guard, appropriation authorization.

(1) for the operation and maintenance of the Coast Guard, including expenses related to the Capehart housing debt reduction: $1,248,367,000;

(2) for the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto: $469,320,000;

(3) for the alteration or removal of bridges over navigable waters of the United States, constituting obstructions to navigation: $16,200,000; and

(4) for research, development, test, and evaluation: $30,000,000.

Active duty personnel.

SEC. 2. For fiscal year 1981, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,600: *Provided,* That the ceiling shall not include members of the Ready Reserve called to active duty under the authority of section 764 of title 14, United States Code.

Military training student loads.

SEC. 3. For fiscal year 1981, average military training student loads for the Coast Guard are authorized as follows:

(1) recruit and special training: 4,175 student-years;

(2) flight training: 117 student-years;

(3) professional training in military and civilian institutions: 595 student-years; and

(4) officer acquisition: 925 student-years.

Housing leases in foreign countries.

SEC. 4. The second sentence of subsection 475(a) of title 14, United States Code, is amended to read as follows: "When any such lease involves housing facilities in a foreign country, the lease may be made on a multiyear basis for a period not to exceed five years, and, in accordance with local custom and practice, advance payment may be made for the lease.".

Fund, capital increase.

SEC. 5. The third sentence of subsection 650(a) of title 14, United States Code, is amended to read as follows: "In these regulations, whenever the fund is extended to include items not previously stocked, or spare parts obtained as part of a procurement under a different account of major items such as vessels or aircraft, whether or not such parts were previously stocked, the Secretary may authorize an increase in the existing capital of the fund by the value of such usable materials transferred thereto from Coast Guard inventories carried in other accounts.".

SEC. 6. The last sentence of subsection 214(d) of title 14, United States Code, is amended to read as follows: "A person who is appointed under this section may not suffer any reduction in the rate of pay and allowances to which he would have been entitled had he

remained in his former grade and continued to receive the increases in pay and allowances authorized for that grade.".

SEC. 7. (a) Chapter 13 of title 14, United States Code, is amended by adding a new section 512 as follows:

14 USC 512.

"§512. Monetary allowance for transportation of household effects

"The transportation and reimbursement authorized by subsection (b) of section 406 of title 37, United States Code, shall be available hereafter to pay a monetary allowance in place of such transportation to a member who, under regulations prescribed by the Secretary, participates in a program designated by the Secretary in which his baggage and household effects are moved by a privately owned or rental vehicle. This allowance shall not be limited to reimbursement for actual expenses and may be paid in advance of the transportation of the baggage and household effects. The allowance shall, however, be in an amount that will result in savings to the Government when the total cost of the movement of baggage and household effects is compared with the cost that otherwise would have been incurred under subsection (b) of section 406 of title 37, United States Code.".

(b) The analysis of chapter 13 of title 14, United States Code, is amended by adding the following item at the end thereof:

"512. Monetary allowance for transportation of household effects.".

Vessel inspection or examination, reimbursement. 46 USC 382b-1.

SEC. 8. When an inspection or examination of a vessel documented or to be documented as a vessel of the United States is conducted at a foreign port or place at the request of the owner or operator of the vessel, that owner or operator shall reimburse the Secretary of the department in which the Coast Guard is operating for the travel and subsistence expenses incurred by the personnel assigned to perform the inspection or examination. Amounts received as reimbursement for these expenses shall be credited to the appropriation for operating expenses of the Coast Guard.

SEC. 9. The joint resolution of June 4, 1958 (72 Stat. 179; 36 U.S.C. 161) is amended by striking the words "week which includes July 4" and inserting in lieu thereof the words "week commencing on the first Sunday in June".

SEC. 10. (a) Chapter 17 of title 14, United States Code, is amended by adding a new section 660 as follows:

14 USC 660.

"§660. Transportation to and from certain places of employment

"(a) Whenever the Secretary determines that it is necessary for the effective conduct of the affairs of the Coast Guard, he may, at reasonable rates of fare fixed under regulations to be prescribed by him, provide assured and adequate transportation by motor vehicle or water carrier to and from their places of employment for persons attached to, or employed by, the Coast Guard; and during a war or during a national emergency declared by Congress or the President, for persons attached to, or employed in, a private plant that is manufacturing material for the Coast Guard.

"(b) Transportation may not be provided under subsection (a) unless the Secretary or an officer designated by the Secretary, determines that—

"(1) other transportation facilities are inadequate and cannot be made adequate;

"(2) a reasonable effort has been made to induce operators of private facilities to provide the necessary transportation; and

"(3) the service to be furnished will make proper use of transportation facilities and will supply the most efficient transportation to the persons concerned.

"(c) To provide transportation under subsection (a), the Secretary may—

"(1) buy, lease, or charter motor vehicles or water carriers having a seating capacity of 12 or more passengers;

"(2) maintain and operate that equipment by enlisted members or employees of the Coast Guard, or by private persons under contract; and

"(3) lease or charter the equipment to private or public carriers for operation under terms that are considered necessary by the Secretary or by an officer designated by the Secretary, and that may provide for the pooling of government-owned and privately owned equipment and facilities and for the reciprocal use of that equipment.

"(d) Fares received under subsection (a), and proceeds of the leasing or chartering of equipment under subsection (c)(3), shall be covered into the Treasury as miscellaneous receipts.".

(b) The analysis of chapter 17 of title 14, United States Code, is amended by adding the following item at the end thereof:

"660. Transportation to and from certain places of employment.".

SEC. 11. Paragraph (1) of the first section of Public Law 96-23 (93 Stat. 68) is amended by striking "$1,058,357,000;" and substituting "$1,091,357,000;". Appropriation authorization.

SEC. 12. The President shall submit to the Congress, with the fiscal year 1982 budget request for the Coast Guard and each subsequent budget request, the current copy of the Coast Guard's Capital Investment Plan, Cutter Plan, Aviation Plan, and Shore Facilities Plan. Plans, submittal to Congress. 14 USC 656 note.

SEC. 13. Section 2(c) of Public Law 96-324 is amended by striking the words "the Canal Zone,". *Ante*, p. 1020.

Approved October 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-909 accompanying H.R. 6672 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-779 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 23, considered and passed Senate.
Sept. 15, H.R. 6672 considered and passed House; passage vacated and S. 2489, amended, passed in lieu.
Sept. 22, Senate concurred in House amendment.

Public Law 96-377
96th Congress

An Act

Oct. 3, 1980
[H.R. 7478]

To facilitate the management of the public debt by permitting an increase in the investment yield on United States savings bonds above the existing 7 per centum ceiling, and by increasing the amount of the bonds paying interest in excess of 4¼ per centum which may be outstanding.

U.S. savings bonds, interest rate increase.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, with respect to interest accrual periods beginning after the date of the enactment of this Act, paragraph (3) of section 22(b) of the Second Liberty Bond Act (31 U.S.C. 757c) is amended to read as follows:

"(3) The Secretary of the Treasury, with the approval of the President, may fix the investment yield on any United States savings bond at a yield which is above the 5½ per centum limitation contained in paragraph (1). The aggregate of the increases in investment yield which may take effect during any 6-month period pursuant to the preceding sentence for any United States savings bonds may not exceed 1 per centum per annum compounded semiannually."

SEC. 2. (a) Effective on the date of the enactment of this Act, the last sentence of the second paragraph of the first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by striking out "$50,000,000,000" and inserting in lieu thereof "$54,000,000,000".

(b) Effective on October 1, 1980, the last sentence of the second paragraph of the first section of such Act is amended by striking out "$54,000,000,000" and inserting in lieu thereof "$70,000,000,000".

Approved October 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1180 (Comm. on Ways and Means).
SENATE REPORT No. 96-911 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 28, considered and passed House.
Sept. 26, considered and passed Senate.

Public Law 96-378
96th Congress

An Act

To amend certain inspection and manning laws applicable to small vessels carrying passengers or freight for hire, and for other purposes.

Oct. 6, 1980
[H.R. 5164]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4426 of the Revised Statutes (46 U.S.C. 404), is amended so that the first portion of the section, commencing with the words "4426. The hulls and boilers of every ferryboat," and ending with the words "after December 31, 1953: *Provided further,"* reads as follows:

Small vessels, inspection and manning.

"SEC. 4426. The hulls and boilers of every ferryboat, canal boat, yacht, or other small craft of like character propelled by steam, shall be inspected under the provisions of this title. All mechanically propelled vessels of one hundred gross tons or over, except those vessels propelled by machinery other than steam and engaged in fishing as a regular business, which carry freight or passengers for hire shall likewise be inspected under the provisions of this title. The Secretary of the department in which the Coast Guard is operating shall issue regulations as may be necessary to carry out the provisions of this section for the inspection of hulls, machinery, and equipment; for the manning of these vessels; and for the duties and qualifications of the personnel thereof. Other applicable provisions of law and the regulations issued hereunder shall be complied with before a certificate of inspection may be issued: *Provided,* That no such vessel of three hundred gross tons or over may be navigated without a licensed engineer and a licensed deck officer: *Provided further,* That, for any violation of the provisions of this title or of the regulations issued thereunder, these vessels, their masters, officers, and owners shall be subject to the provisions of sections 4496, 4497, 4498, 4499, and 4500 of this title, relating to the imposition of penalties and the enforcement of law: *Provided further,".*

Regulations.

46 USC 494-498.

(b) Title 52 of the Revised Statutes is amended by adding the following new section after section 4426:

Offshore supply vessel.
46 USC 404-1.

"SEC. 4426a. (1) An offshore supply vessel is a vessel that—

"(i) is propelled by machinery other than steam,

"(ii) is not within the description of passenger carrying vessels in section 1 of the Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390),

"(iii) is of more than fifteen and less than five hundred gross tons, and

"(iv) regularly carries goods, supplies, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources.

"(2) An existing offshore supply vessel is one that was operating as such on or before January 1, 1979, or that, if not in service of any kind on or before that date, was contracted for on or before that date and entered service as such before the effective date of this section.

Existing offshore supply vessel.

"(3) A new offshore supply vessel is one that is not an existing offshore supply vessel.

New offshore supply vessel.

46 USC 391; *ante*, p. 1513.

"Passenger."

"(4) In the application of section 4417 or 4426 of this title or the Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390–390g), to an offshore supply vessel, the term 'passenger' means any person carried on board the vessel other than—

"(i) the owner;

"(ii) a representative of the owner;

"(iii) the master;

"(iv) a bona fide member of the crew engaged in the business of the vessel who has contributed no consideration for carriage on board and is paid for services on board;

"(v) an employee of the owner, or of a subcontractor to the owner, employed in the business of the owner;

"(vi) a charterer of the vessel;

"(vii) a person with the same relationship to a charterer as a person in (ii) or (v) above has to an owner;

"(viii) a person employed in some phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel; or

"(ix) a bona fide guest who has contributed no consideration for carriage on board.

"Freight for hire." "Freight carrying vessel."

"(5) The terms 'freight for hire' in section 4426 of this title and 'freight carrying vessel' in the Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390–390g), have no application to an offshore supply vessel.

New offshore supply vessel, inspection.

"(6) Each new offshore supply vessel is subject to inspection as follows:

"(i) a vessel of above fifteen and less than one hundred gross tons is subject to inspection to the same extent as a freight carrying vessel as defined in the Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390–390g).

"(ii) a vessel of one hundred gross tons and less than five hundred gross tons is subject to inspection under this title to the same extent as a vessel propelled in whole or in part by steam.

In issuing regulations for the inspection of these vessels, the Secretary of the department in which the Coast Guard is operating shall take into consideration the characteristics of these vessels, their method of operations, and the service in which they are engaged.

Existing offshore supply vessel, inspection.

"(7) Each existing offshore supply vessel is likewise subject to inspection under this title or under the Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390–390g), as applicable. Such a vessel, however, shall not be subject to rules, regulations, or standards for major structural or major equipment requirements unless compliance therewith is necessary in order to remove an especially hazardous condition. Each existing offshore supply vessel that does not possess a valid certificate of inspection issued by the Secretary shall be registered by its owner with the Secretary within three months of the date of enactment of this section. The Secretary shall cause the initial inspection of each such vessel to be made within two years of its registration date. Upon registration each existing offshore supply vessel shall be held to be in compliance with all applicable vessel inspection laws pending verification by actual inspection. The Secretary shall establish a reasonable time schedule to bring vessels subject to this subsection into compliance with applicable requirements. For the interim period, between registration and initial inspection, the Secretary shall prescribe a manning level for each such vessel in accordance with applicable law. On or after January 1, 1989, each existing offshore supply vessel that is twenty years or older shall be subject to inspection under subsection (6) of this section.

Manning level.

"(8) No offshore supply vessel may be navigated without a licensed deck officer and, if over two hundred gross tons, without a licensed engineer.

"(9) No offshore supply vessel operating on January 1, 1979, under a certificate of inspection issued by the Secretary shall be subjected to any higher standards or new inspection requirements as a result of the enactment of this section.

"(10) No offshore supply vessel may carry passengers except in an emergency. An offshore supply vessel that takes aboard one or more passengers in an emergency does not alter its character as an offshore supply vessel under this section.".

SEC. 2. Section 4438 of the Revised Statutes (46 U.S.C. 224), is amended to read as follows:

Officers, licensing and classification.

"SEC. 4438. The Secretary of the department in which the Coast Guard is operating shall license and classify the masters, chief mates, and second and third mates, engineers and pilots of all vessels subject to the vessel inspection or manning laws of the United States. In classifying licensed officers under this section, the Secretary shall, where possible, establish suitable career patterns, and service and other qualifying requirements, appropriate to the particular service or industry in which the officers are engaged. It shall be unlawful to employ any person or for any person to serve as a master, mate, engineer, or pilot of any such vessel, when required to be licensed by the laws of the United States, or the regulations issued in implementation thereof, who is not licensed by the Secretary. Anyone violating this section is liable to a civil penalty of not more than $500 for each offense. Each day of a continuing violation shall constitute a separate offense.".

Violation; penalty.

SEC. 3. The Act of May 10, 1956 (70 Stat. 151), as amended (46 U.S.C. 390-390g), is amended as follows:

(1) Section 1(a) is amended by striking the words "passenger-carrying". 46 USC 390.

(2) Section 1(b) is amended to read as follows:

"Passenger-carrying vessel."

"(b) The term 'passenger-carrying vessel' means any vessel which carries more than six passengers, and which is (1) propelled in whole or in part by steam or by any form of mechanical or electrical power and is of less than one hundred gross tons; (2) propelled by sail and is of seven hundred gross tons or less; or (3) non-self-propelled and is of one hundred gross tons or less; except any public vessel of the United States or of any foreign state, or any lifeboat forming part of a vessel's lifesaving equipment. The term includes (1) a domestic vessel operating on the navigable waters of the United States, or on the high seas outside of those waters and within the normal operating range of the vessel, and (2) a foreign vessel departing from a port of the United States.".

(3) Section 1 is amended by adding a new subsection as follows:

"Freight-carrying vessel."

"(e) The term 'freight-carrying vessel' means a vessel which carries freight for hire, is propelled by machinery, and is above fifteen gross tons and less than one hundred gross tons. The term does not include (1) vessels propelled by machinery other than steam and engaged in fishing as a regular business, or (2) vessels of foreign registry.".

(4) Section 2(a) is amended by striking the words "passenger-carrying vessel," and inserting in lieu thereof the words "passenger-carrying vessel and each freight-carrying vessel,". 46 USC 390a.

(5) Section 3 is amended by striking the words "passenger-carrying vessels" and inserting in lieu thereof the words "passenger-carrying vessels and freight-carrying vessels". 46 USC 390b.

46 USC 390c, 390d.

(6) Sections 4 and 5 are amended by striking in four places the words "passenger-carrying vessel" and inserting in lieu thereof the words "passenger-carrying vessel or freight-carrying vessel".

SEC. 4. Section 13 of the Act of March 4, 1915 (38 Stat. 1169), as amended (46 U.S.C. 672), is amended to read as follows:

One-hundred-gross-ton vessels, exemptions.

"SEC. 13. (a) All vessels of one hundred gross tons or over shall meet the requirements of this section and the regulations issued hereunder by the Secretary of the department in which the Coast Guard is operating, hereinafter referred to as 'Secretary', except—

"(1) vessels navigating exclusively on the rivers and smaller inland lakes of the United States; and

"(2) non-self-propelled vessels, other than barges subject to section 10 of the Act of May 28, 1908 (35 Stat. 428), as amended (46 U.S.C. 395), or section 4417(a) of the Revised Statutes (46 U.S.C. 391a).

Able seaman, eligibility requirements.

"(b) Every person may be rated an able seaman and qualified to serve as such who is eighteen years of age or older; meets the regulatory requirements with respect to sight, hearing, and physical condition; meets the applicable professional knowledge examination or educational requirements; and meets the following applicable service requirements:

Definitions.

"(1) 'Able seaman' qualified for unlimited service on any vessel and on any waters shall have at least three years' service on deck on vessels operating on the oceans or the Great Lakes.

"(2) 'Able seaman-limited' qualified for limited service on any vessel on any waters shall have at least eighteen months' service on deck on vessels subject to this section operating on the oceans or the navigable waters of the United States including the Great Lakes.

"(3) 'Able seaman-special' qualified for special service on any vessel on any waters shall have at least twelve months' service on deck on vessels operating on the oceans or the navigable waters of the United States including the Great Lakes. For service on a vessel of less than five hundred gross tons engaged in support of exploration, exploitation, or production of offshore mineral or energy resources, a person may be rated as able seaman-special who has at least six months' service on deck on vessels operating on the oceans or the navigable waters of the United States including the Great Lakes.

"(c) 'Service on deck' means service in the deck department in work related to the work usually performed aboard vessels by able seamen and may include service on decked fishing vessels and on public vessels of the United States. Three hundred and sixty days shall be equal to one year's service, and a day shall be equal to eight hours of labor or duty. A graduate of a school ship approved by the Secretary may be rated as able seaman upon satisfactory completion of the course of instruction. The satisfactory completion of other relevant training programs approved by the Secretary may be substituted for not more than one-third of the required service on deck in accordance with applicable regulations. These regulations may not allow substitution for time spent in these training programs for the required service on deck in a ratio greater than three to one.

"(d) No person below the rating of able seaman shall be permitted at the wheel in ports, harbors, and other waters subject to congested vessel traffic; or under conditions of reduced visibility, adverse weather, or other hazardous circumstances.

Compliance.

"(e) No vessel subject to this section may depart from any port of the United States unless the following provisions are complied with:

"(1) Not less than 75 per centum of the crew in each department are able to understand any order given by the officers of the vessel.

"(2) At least 65 per centum of the deck crew, exclusive of licensed officers, are of a rating not less than able seaman. This percentage may be reduced to 50 per centum on vessels that are permitted by the Act of March 4, 1915 (38 Stat. 1164), as amended (46 U.S.C. 673), to maintain a two watch system. Able seamen shall not be required on tugs and towboats operating on the bays and sounds connected directly with the ocean.

Able seaman, employment.

"(f) Employment of persons rated as able seaman under subsection (b) of this section shall be in accordance with the following scale:

"(1) Persons qualified as able seaman may constitute the entire complement of able seamen required on any vessel.

"(2) Persons qualified as able seaman-limited may constitute the entire complement of able seamen required on a vessel of less than one thousand six hundred gross tons or on a vessel operating on the Great Lakes and the Saint Lawrence River as far east as Sept Iles; persons qualified as able seaman-limited may constitute up to 50 per centum of the complement of able seamen required aboard other vessels.

"(3) Persons qualified as able seaman-special may constitute the entire complement of able seamen required on a vessel of five hundred gross tons or less, or on a seagoing barge, tug, or towboat and may constitute up to 50 per centum of the complement of able seamen required aboard other vessels.

"(4) In no case in which the service of able seaman-limited or able seaman-special is authorized for only a part of the required complement of able seamen aboard a vessel may the combined percentage of persons so qualified be greater than 50 per centum of the required complement.

Certificate of service.

"(g) No vessel may be navigated unless all of the complement in her engine department above the rating of coal passer or wiper and below licensed officer shall be the holders of a certificate of service, attesting to proficiency as a qualified member of the engine department. An applicant for this rating shall have six months' service at sea in a rating at least equal to that of coal passer or wiper. A graduate of a school ship approved by the Secretary may be rated as a qualified member of the engine department upon satisfactory completion of the course of instruction. The satisfactory completion of other courses of instruction approved by the Secretary may be substituted for not more than one-half of the required service at sea in accordance with applicable regulations.

"(h) It is unlawful to employ any person, or for any person to serve aboard a vessel to which this section applies, other than a licensed officer, if that person does not have a certificate of service attesting to proficiency issued by the Secretary.

Regulations.

"(i) The Secretary shall issue regulations as may be necessary to carry out the provisions of this section. These regulations shall, among other things, establish procedures for the processing, verification, examination, and retention of records and affidavits related to the issuance of certificates of service attesting to proficiency.

Violation; penalty.

"(j) Every master, person in charge, owner, or operator who violates a provision of this section or of the regulations issued hereunder, and every vessel that is navigated in violation of this section or of the regulations issued hereunder is equally and severally liable to a civil penalty of not more than $500 for each offense.".

46 USC 660b, 643a.

SEC. 5. The provisions of section 4 of the Act of June 25, 1936 (49 Stat. 1935), as amended (46 U.S.C. 660a), with respect to crew quarters; and section 4551 of the Revised Statutes of the United States (46 U.S.C. 643), shall not apply to non-self-propelled vessels, other than barges subject to section 10 of the Act of May 28, 1908 (35 Stat. 428), as amended (46 U.S.C. 395), or section 4417(a) of the Revised Statutes (46 U.S.C. 391a).

SEC. 6. Section 2 of the Act of May 11, 1918 (40 Stat. 549; 46 U.S.C. 223), is further amended: (1) by adding immediately before the last clause, the following: "That an offshore supply vessel, as defined in section 4426a of the Revised Statutes shall, when on a voyage of less than six hundred miles, have on board and in her service one licensed mate, but if any such vessel is engaged on a voyage of six hundred miles or more, then such vessel shall have two licensed mates."; and (2) by striking in the last clause the reference "the Act of June Ninth, Nineteen Hundred and Ten," and inserting in lieu thereof "the Act of April 25, 1940, c. 155, 54 Stat. 163,".

Ante, p. 1513.

46 USC 526-526u.

SEC. 7. Section 2 of the Act of March 4, 1915 (38 Stat. 1164), as amended (46 U.S.C. 673), is amended by deleting from the last proviso the words "tugs and barges" and inserting in lieu thereof the following: "tugs, barges, and offshore supply vessels as defined in section 4426a of the Revised Statutes,".

SEC. 8. Section 4399 of the Revised Statutes (46 U.S.C. 361), is amended to read as follows:

Steam vessel.

"SEC. 4399. Every vessel propelled in whole or in part by steam and every vessel subject to inspection propelled by machinery other than steam is a steam vessel within the meaning of this title.".

"Motorboat." 46 USC 526.

SEC. 9. Section 1 of the Act of April 25, 1940 (54 Stat. 163; 46 U.S.C. 526-526t), is amended to read as follows: "That the word 'motorboat' where used in this Act includes every vessel propelled by machinery and not more than sixty-five feet in length except tugboats and towboats propelled by steam. The length shall be measured from end to end over the deck, excluding sheer.".

Temporary license or certificate of service. 46 USC 224 note.

SEC. 10. The Secretary of the department in which the Coast Guard is operating may, for a period of two years after the effective date of this Act, issue a temporary license as master, mate, or engineer, or certificate of service as able seaman or qualified member of the engine department to any person who on or before January 1, 1979, was serving in such a capacity on board an offshore supply vessel as defined in section 4426a of the Revised Statutes. This license or certificate may be for a term no longer than three years. It may not be renewed, nor may more than one such license or certificate be issued to any person, except for replacements occasioned by loss of a license or certificate. A person holding such a license or certificate may not serve under it on any vessel other than an offshore supply vessel. To qualify for a temporary license or certificate the person must apply to the Secretary within three months of the date of enactment of this Act. The Secretary shall acknowledge receipt of that application and advise the person of those positions in which he may serve pending issuance of a temporary license or certificate. Upon receipt of that acknowledgement the person shall be deemed to be in compliance with the appropriate statutes dealing with licensing or certification of merchant marine personnel pending issuance of the temporary license or certificate. Before issuing such a license or certificate, the Secretary shall satisfy himself that the applicant has sufficient qualifications and experience as to warrant the belief that the applicant's continued service in the position for which he is being licensed or certificated will be consistent with the safety of the vessel.

Any temporary license, certificate, or acknowledgement of application issued under this subsection is subject to suspension and revocation on the same grounds and with like procedure as provided in section 4450 of the Revised Statutes. 46 USC 239.

SEC. 11. The following laws are repealed, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act: Repeals.

(a) the Acts of July 8, 1941, chapters 279 and 280 (55 Stat. 579), (46 U.S.C. 672-2 and 672-1, respectively);

(b) the Act of September 25, 1941 (55 Stat. 732; 46 U.S.C. 672b-1);

(c) the Act of June 16, 1938 (52 Stat. 753; 46 U.S.C. 672b, 660b, 643a, and 672c); and

(d) section 18 of the Act of April 25, 1940 (54 Stat. 166; 46 U.S.C. 526q).

Approved October 6, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1075 (Comm. on Merchant Marine and Fisheries) and No. 96-1342 (Comm. of Conference).
SENATE REPORT No. 96-886 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 30, considered and passed House.
Aug. 18, considered and passed Senate, amended.
Sept. 18, Senate agreed to conference report.
Sept. 23, House agreed to conference report.

79-194 O—81—pt. 2——16 : QL3

Public Law 96-379
96th Congress

An Act

Oct. 6, 1980
[S. 1895]

To change the name of the Los Esteros Dam (New Mexico) to the Santa Rosa Dam and Lake, and to designate Clark Hill Dam and Lake on the Savannah River, Georgia and South Carolina, as "Clarks Hill Dam and Lake".

Dams, name changes.
Pecos River Basin.
68 Stat. 1260.
Savannah River Basin.
58 Stat. 894.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Los Esteros Dam in New Mexico, authorized by Public Law 83-780, shall hereafter be identified and known as the Santa Rosa Dam and Lake.

SEC. 2. The Clark Hill Dam and Lake, Georgia and South Carolina, project, authorized by Public Law 534, Seventy-eighth Congress, approved December 22, 1944, shall hereafter be known and designated as "Clarks Hill Dam and Lake". Any reference in any law, regulation, map, document, record or other paper of the United States to such dam and lake, shall be held and considered to be a reference to "Clarks Hill Dam and Lake".

Approved October 6, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1336 (Comm. on Public Works and Transportation).
SENATE REPORT No. 96-742 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 5, considered and passed Senate.
Sept. 29, considered and passed House.

Public Law 96-380
96th Congress

An Act

To establish a Towing Safety Advisory Committee in the Department of Transportation.

Oct. 6, 1980
[H.R. 6242]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is established a Towing Safety Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall consist of sixteen members with particular expertise, knowledge, and experience regarding shallow-draft inland and coastal waterway navigation and towing safety as follows:

Towing Safety Advisory Committee, establishment.
33 USC 1231a.
Membership.

(1) seven members from the barge and towing industry, reflecting a regional geographic balance;

(2) one member from the offshore mineral and oil supply vessel industry; and

(3) two members from each of the following—

(A) port districts, authorities, or terminal operators;

(B) maritime labor;

(C) shippers (of whom at least one shall be engaged in the shipment of oil or hazardous materials by barge); and

(D) the general public.

(b) The Secretary of the department in which the Coast Guard is operating (hereinafter referred to as the "Secretary") shall appoint the members of the Committee. The Secretary shall designate one of the members of the Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman. The Secretary may request the Secretary of the Army and the Secretary of Commerce to each designate a representative to participate as an observer on the Committee.

Appointments.

(c) The Committee shall advise, consult with, and make recommendations to the Secretary on matters relating to shallow-draft inland and coastal waterway navigation and towing safety. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned. The Secretary shall consult with the Committee before taking any significant action affecting shallow-draft inland and coastal waterway navigation and towing safety. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All proceedings of the Committee shall be open to the public, and a record of the proceedings shall be made available for public inspection.

Functions.

Meetings.

Public proceedings and record.

Administrative services.

(d) The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are considered necessary for the conduct of its business. There are authorized to be appropriated such sums as may be necessary to implement the provisions of this subsection.

Termination.

(e) Unless extended by subsequent Act of Congress, the Committee shall terminate five years from the date of enactment of this Act.

Approved October 6, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
June 23, considered and passed House.
Sept. 23, considered and passed Senate.

Public Law 96-381
96th Congress

An Act

To amend section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for title II of such Act for fiscal year 1980.

Oct. 6, 1980
[S. 1123]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1443) is amended to read as follows:

Marine Protection, Research, and Sanctuaries Act of 1972, amendment.

"SEC. 203. (a) The Administrator of the Environmental Protection Agency shall—

"(1) conduct research, investigations, experiments, training, demonstrations, surveys, and studies for the purpose of—

"(A) determining means of minimizing or ending, as soon as possible after the date of the enactment of this section, the dumping into ocean waters, or waters described in section 101(b), of material which may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities, and

33 USC 1411.

"(B) developing disposal methods as alternatives to the dumping described in subparagraph (A); and

"(2) encourage, cooperate with, promote the coordination of, and render financial and other assistance to appropriate public authorities, agencies, and institutions (whether Federal, State, interstate, or local) and appropriate private agencies, institutions, and individuals in the conduct of research and other activities described in paragraph (1).

"(b) Nothing in this section shall be construed to affect in any way the December 31, 1981, termination date, established in section 4 of the Act of November 4, 1977 (Public Law 95-153; 33 U.S.C. 1412a), for the ocean dumping of sewage sludge.".

Appropriation authorization.

SEC. 2. Section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is amended—

(1) by striking out "and" immediately after "fiscal year 1977,", and

(2) by striking out "fiscal year 1978." and inserting in lieu thereof the following: "fiscal year 1978, not to exceed $11,396,000 for fiscal year 1981, and not to exceed $12,000,000 for fiscal year 1982.".

SEC. 3. Section 202(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442(a)) is amended by inserting the following immediately after the first sentence thereof: "These responsibilities shall include the scientific assessment of damages to the natural resources from spills of petroleum or petroleum products.".

Approved October 6, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-894 Pt. 1 (Comm. on Merchant Marine and Fisheries) and Pt. 2 (Comm. on Science and Technology), both accompanying H.R. 6616.

SENATE REPORT No. 96-133 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 125 (1979): June 6, considered and passed Senate.

Vol. 126 (1980): May 12, 13, H.R. 6616 considered and passed House; passage vacated and S. 1123, amended, passed in lieu.

Sept. 9, Senate concurred in House amendment with an amendment.

Sept. 24, House concurred in Senate amendment.

Public Law 96-382
96th Congress

An Act

To provide for a uniform national three-year statute of limitations in actions to recover damages for personal injury or death, arising out of a maritime tort, and for other purposes.

Oct. 6, 1980
[H.R. 3748]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, unless otherwise specified by law, a suit for recovery of damages for personal injury or death, or both, arising out of a maritime tort, shall not be maintained unless commenced within three years from the date the cause of action accrued.

Maritime torts, statute of limitations. 46 USC 763a.

SEC. 2. Section 3 of the Act of March 30, 1920 (41 Stat. 537; 46 U.S.C. 763) is repealed.

Repeal.

Approved October 6, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-737 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 11, considered and passed House.
Sept. 23, considered and passed Senate.

Public Law 96-383
96th Congress

An Act

Oct. 6, 1980
[H.R. 8018]

To rename a reservoir and dam in the Little Miami River Basin, Ohio, as the "William H. Harsha Lake" and the "William H. Harsha Dam".

William H. Harsha Lake and William H. Harsha Dam. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the reservoir and dam in the Little Miami River Basin, Ohio, which—

(1) are known as "East Fork Lake" and "East Fork Dam", respectively; and

(2) were completed on site 44 of the general comprehensive flood control plan of 1937 for the Ohio River Basin which was submitted by the United States Army Corps of Engineers (described in Flood Control Committee Document Numbered 1, Seventy-fifth Congress, first session), and which is authorized under the heading "Ohio River Basin" in section 4 of the Act of June 28, 1938 (Public Law 75-61; 52 Stat. 1217), commonly known as the "Flood Control Act of 1938";

hereafter shall be known and designated as the "William H. Harsha Lake" and the "William H. Harsha Dam", respectively.

SEC. 2. Any reference in any law, map, regulation, document, record, or other paper of the United States to the reservoir or dam specified in the first section of this Act hereby is deemed to be a reference to the "William H. Harsha Lake" or the "William H. Harsha Dam", as the case may be.

Effective date.

SEC. 3. This Act shall take effect on January 4, 1981.

Approved October 6, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1334 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 25, considered and passed House.
Sept. 26, considered and passed Senate.

Public Law 96-384
96th Congress

An Act

To change the name of Aubrey Lake, Texas, to Ray Roberts Lake.

Oct. 6, 1980
[H.R. 8024]

Ray Roberts Lake.
Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Aubrey Lake project, Elm Fork of the Trinity River, Texas, authorized by the River and Harbor Act of 1965 (79 Stat. 1073), shall hereafter be known as Ray Roberts Lake. Any law, regulation, map, document, or record of the United States in which such lake is referred to shall be held and considered to refer to such lake as "Ray Roberts Lake". This Act shall take effect on January 4, 1981.

Effective date.

Approved October 6, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1335 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 24, considered and passed House.
Sept. 26, considered and passed Senate.

Public Law 96-385
96th Congress

An Act

Oct. 7, 1980
[H.R. 7511]

To amend title 38, United States Code, to provide cost-of-living increases in the rates of compensation for veterans with service-connected disabilities and in the rates of dependency and indemnity compensation for surviving spouses and children of veterans, to provide for limited grants for special home adaptations for certain severely disabled veterans, to provide for Veterans' Administration guaranties for loans to refinance certain existing veterans' home loans and to increase the maximum loan guaranties for home loans made to veterans, and to provide for the confidentiality of certain Veterans' Administration medical quality assurance records; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Disability Compensation and Housing Benefits Amendments of 1980".

Veterans' Disability Compensation and Housing Benefits Amendments of 1980.
38 USC 101 note.

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—VETERANS' DISABILITY COMPENSATION BENEFITS

RATES OF DISABILITY COMPENSATION

38 USC 314.

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$48" in subsection (a) and inserting in lieu thereof "$54";

(2) by striking out "$88" in subsection (b) and inserting in lieu thereof "$99";

(3) by striking out "$133" in subsection (c) and inserting in lieu thereof "$150";

(4) by striking out "$182" in subsection (d) and inserting in lieu thereof "$206";

(5) by striking out "$255" in subsection (e) and inserting in lieu thereof "$291";

(6) by striking out "$321" in subsection (f) and inserting in lieu thereof "$367";

(7) by striking out "$380" in subsection (g) and inserting in lieu thereof "$434";

(8) by striking out "$440" in subsection (h) and inserting in lieu thereof "$503";

(9) by striking out "$495" in subsection (i) and inserting in lieu thereof "$566";

(10) by striking out "$889" in subsection (j) and inserting in lieu thereof "$1,016";

(11) by striking out "$1,104" and "$1,547" in subsection (k) and inserting in lieu thereof "$1,262" and "$1,768", respectively;

(12) by striking out "$1,104" in subsection (l) and inserting in lieu thereof "$1,262";

(13) by striking out "$1,217" in subsection (m) and inserting in lieu thereof "$1,391";

(14) by striking out "$1,383" in subsection (n) and inserting in lieu thereof "$1,581";

(15) by striking out "$1,547" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$1,768";

(16) by striking out "$664" and "$989" in subsection (r) and inserting in lieu thereof "$759" and "$1,130", respectively;

(17) by striking out "$995" in subsection (s) and inserting in lieu thereof "$1,137"; and

(18) by striking out "$192" in subsection (t) and inserting in lieu thereof "$219".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code. 38 USC 314 note. 38 USC note prec. 101. 38 USC 301 *et seq.*

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended— 38 USC 315.

(1) by striking out "$54" in clause (A) and inserting in lieu thereof "$62";

(2) by striking out "$91" in clause (B) and inserting in lieu thereof "$104";

(3) by striking out "$121" in clause (C) and inserting in lieu thereof "$138";

(4) by striking out "$151" and "$30" in clause (D) and inserting in lieu thereof "$173" and "$34", respectively;

(5) by striking out "$37" in clause (E) and inserting in lieu thereof "$42";

(6) by striking out "$67" in clause (F) and inserting in lieu thereof "$77";

(7) by striking out "$97" and "$30" in clause (G) and inserting in lieu thereof "$111" and "$34", respectively;

(8) by striking out "$44" in clause (H) and inserting in lieu thereof "$50";

(9) by striking out "$98" in clause (I) and inserting in lieu thereof "$112"; and

(10) by striking out "$82" in clause (J) and inserting in lieu thereof "$94".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$240" and inserting in lieu thereof "$274". 38 USC 362.

TITLE II—SURVIVORS' DEPENDENCY AND INDEMNITY COMPENSATION BENEFITS

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 201. (a) Subsection (a) of section 411 is amended to read as follows: 38 USC 411.

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose

death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate	"Pay grade	Monthly rate
E-1	$373	W-4	$535
E-2	385	O-1	472
E-3	394	O-2	487
E-4	419	O-3	522
E-5	431	O-4	551
E-6	441	O-5	608
E-7	462	O-6	684
E-8	487	O-7	741
E-9	[1]510	O-8	812
W-1	472	O-9	872
W-2	491	O-10	[2]954
W-3	505		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $549.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,023.".

(b) Subsection (b) of such section is amended by striking out "$38" and inserting in lieu thereof "$43".

(c) Subsection (c) of such section is amended by striking out "$98" and inserting in lieu thereof "$112".

(d) Subsection (d) of such section is amended by striking out "$49" and inserting in lieu thereof "$56".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

38 USC 413.

SEC. 202. Section 413 is amended—

(1) by striking out "$165" in clause (1) and inserting in lieu thereof "$189";

(2) by striking out "$237" in clause (2) and inserting in lieu thereof "$271";

(3) by striking out "$306" in clause (3) and inserting in lieu thereof "$350"; and

(4) by striking out "$306" and "$62" in clause (4) and inserting in lieu thereof "$350" and "$71", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

38 USC 414.

SEC. 203. Section 414 is amended—

(1) by striking out "$98" in subsection (a) and inserting in lieu thereof "$112";

(2) by striking out "$165" in subsection (b) and inserting in lieu thereof "$189"; and

(3) by striking out "$84" in subsection (c) and inserting in lieu thereof "$96".

TITLE III—SPECIAL HOME ADAPTATION GRANTS FOR CERTAIN SEVERELY DISABLED VETERANS

EXTENSION OF SPECIALLY-ADAPTED HOUSING GRANT PROGRAM

SEC. 301. (a) Section 801 is amended by inserting "(a)" before "The Administrator" and by adding at the end the following new subsection: 38 USC 801.

"(b)(1) Subject to paragraph (2) of this subsection, the Administrator, under regulations which the Administrator shall prescribe, shall assist any veteran (other than a veteran who is eligible for assistance under subsection (a) of this section) who is entitled to compensation under chapter 11 of this title for a permanent and total service-connected disability which— Regulations. 38 USC 301 *et seq.*

"(A) is due to blindness in both eyes with 5/200 visual acuity or less, or

"(B) includes the anatomical loss or loss of use of both hands, in acquiring such adaptations to such veteran's residence as are determined by the Administrator to be reasonably necessary because of such disability.

"(2) Assistance under paragraph (1) of this subsection may be provided only to a veteran who the Administrator determines is residing in and reasonably intends to continue residing in a residence owned by such veteran or by a member of such veteran's family or, if the veteran's residence is to be constructed or purchased, will be residing in and reasonably intends to continue residing in a residence owned by such veteran or by a member of such veteran's family.".

(b) Section 802 is amended— 38 USC 802.

(1) by inserting "(a)" before "The assistance";

(2) by striking out "section 801" and inserting in lieu thereof "section 801(a)"; and

(3) by adding at the end the following new subsection:

"(b) Except as provided in section 804(b)(2) of this title, the assistance authorized by section 801(b) of this title shall be limited to the lesser of— *Supra.*

"(1) the actual cost of the adaptations determined by the Administrator under such section 801(b) to be reasonably necessary, or

"(2) $5,000.".

(c) Section 804 is amended— 38 USC 804.

(1) by inserting "(a)" before "Any veteran";

(2) by striking out "the assistance authorized by this chapter" and inserting in lieu thereof "except as provided in subsection (b) of this section, the assistance authorized by section 801 of this title"; and

(3) by adding at the end the following new subsection: Home health services.

"(b) A veteran eligible for assistance under section 801(b) of this title shall not by reason of such eligibility be denied benefits for which such veteran becomes eligible under section 801(a) of this title or benefits relating to home health services under section 612(a) of this title. However, no particular type of adaptation, improvement, or structural alteration provided to a veteran under section 612(a) of this title may be provided to such veteran under section 801(b) of this title.". *Supra.* 38 USC 612.

(d) Section 805 is amended by striking out "unit, or necessary land therefor," and inserting in lieu thereof "unit, or necessary land therefor, or adaptation". 38 USC 805.

TITLE IV—VETERANS' ADMINISTRATION HOME-LOAN PROGRAM AMENDMENTS

REFINANCING OF VETERANS' ADMINISTRATION HOME LOANS

38 USC 1810.

SEC. 401. (a) Section 1810 is amended—

(1) by inserting after clause (7) of subsection (a) the following new clause:

"(8) To refinance in accordance with subsection (e) of this section an existing loan guaranteed, insured, or made under this chapter."; and

(2) by adding at the end the following new subsection:

"(e)(1) For a loan to be guaranteed for the purpose specified in subsection (a)(8) of this section—

"(A) the interest rate of the loan must be less than the interest rate of the loan being refinanced;

"(B) the loan must be secured by the same dwelling or farm residence as was the loan being refinanced and such dwelling or residence must be owned and occupied by the veteran as such veteran's home;

"(C) the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 1803(c)(3)(A) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan;

38 USC 1803.

"(D) the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced; and

"(E) the term of the loan may not exceed the original term of the loan being refinanced.

Loan guarantee.

"(2) A loan to a veteran may be guaranteed by the Veterans' Administration under this chapter for the purpose specified in clause (8) of subsection (a) of this section without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For purposes of section 1802(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

38 USC 1802.

Surviving spouse.

"(3) If a veteran is deceased and if such veteran's surviving spouse was a co-obligor under an existing loan guaranteed, insured, or made under this chapter, such surviving spouse shall, only for the purpose specified in subsection (a)(8) of this section, be deemed to be a veteran eligible for benefits under this chapter.".

38 USC 1819.

(b) Section 1819(a) is amended—

(1) by adding at the end of paragraph (1) the following new clause:

"(F) To refinance in accordance with paragraph (4) of this subsection an existing loan guaranteed, insured, or made under this section."; and

(2) by adding at the end the following new paragraph:

"(4)(A) For a loan to be guaranteed for the purpose specified in clause (F) of paragraph (1) of this subsection—

"(i) the interest rate of the loan must be less than the interest rate of the loan being refinanced;

"(ii) the loan must be secured by the same mobile home or mobile-home lot, or mobile home and mobile-home lot, as was the loan being refinanced and such mobile home (or a mobile home

on such lot) must be owned and occupied by the veteran as such veteran's home;

"(iii) the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 1803(c)(3)(A) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan; 38 USC 1803.

"(iv) the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced; and

"(v) the term of the loan may not exceed the original term of the loan being refinanced.

"(B) A loan to a veteran may be guaranteed by the Veterans' Administration under this chapter for the purpose specified in clause (F) of paragraph (1) of this subsection without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For purposes of section 1802(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced. Loan guarantee. 38 USC 1802.

"(C) If a veteran is deceased and if such veteran's surviving spouse was a co-obligor under an existing loan previously guaranteed, insured, or made under this section, such surviving spouse shall, only for the purpose specified in clause (F) of paragraph (1) of this subsection, be deemed to be a veteran eligible for benefits under this chapter.". Surviving spouse.

(c)(1) Section 1803(c)(3)(A) is amended by striking out "section 1810(a)(5)" and inserting in lieu thereof "clause (5) or (8) of section 1810(a) of this title or section 1819(a)(1)(F) of this title". 38 USC 1803. *Ante*, p. 1532.

(2) The second sentence of section 1811(b) is amended by inserting "(other than the refinancing of a loan under section 1810(a)(8) or 1819(a)(1)(F))" after "section 1810(a) or 1819 of this title". 38 USC 1811.

INCREASES IN MAXIMUM AMOUNTS OF VETERANS' HOME-LOAN GUARANTIES

SEC. 402. (a) Section 1810(c) is amended by striking out "$25,000" and inserting in lieu thereof "$27,500". 38 USC 1810.

(b) Section 1811(d)(2) is amended— 38 USC 1811.

(1) by striking out "$25,000" both places it appears in subparagraph (A) and inserting in lieu thereof "$27,500"; and

(2) by striking out "$17,500" both places it appears in subparagraph (B) and inserting in lieu thereof "$20,000".

(c) Section 1819(c) is amended by striking out "$17,500" each place it appears and inserting in lieu thereof "$20,000". 38 USC 1819.

TITLE V—MISCELLANEOUS PROVISIONS

EXTENSION OF AUTHORITY FOR VETERANS' ADMINISTRATION OFFICE IN THE REPUBLIC OF THE PHILIPPINES

SEC. 501. Section 230(b) is amended by striking out "1981" and inserting in lieu thereof "1985". 38 USC 230.

HEADSTONES AND MARKERS IN CERTAIN CASES

38 USC 906. SEC. 502. Section 906(a) is amended by adding at the end of such section the following new paragraph:

38 USC 1002. "(4) Any individual described in section 1002(5) of this title who is buried in a veterans' cemetery owned by a State.".

PAYMENT OF PENSION IN CERTAIN CASES

38 USC 3104. SEC. 503. (a) Section 3104(a) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end of such subsection the following new paragraph:

"(2) Notwithstanding the provisions of paragraph (1) of this subsection and of section 3105 of this title, pension under section 521 or 541 of this title may be paid to a person entitled to receive retired or retirement pay described in section 3105 of this title concurrently with such person's receipt of such retired or retirement pay if the annual amount of such retired or retirement pay is counted as annual income for the purposes of chapter 15 of this title.".

38 USC 3105.
38 USC 521, 541.
38 USC 501 *et seq.*

38 USC 3203. (b) Section 3203(a)(1)(C) is amended by striking out "of not less than two full calendar months" and inserting in lieu thereof "in connection with which pension was reduced pursuant to subparagraph (A) or (B) of this paragraph".

LIMITATION ON PAYMENT OF COMPENSATION FOR SERVICE-CONNECTED DISABILITIES OR DEATH AND OF DEPENDENCY AND INDEMNITY COMPENSATION FOR INCARCERATION FOR FELONY CONVICTION

SEC. 504. (a) Chapter 53 is amended by adding at the end the following new section:

38 USC 3113. **"§ 3113. Limitation on payment of compensation and dependency and indemnity compensation to persons incarcerated for conviction of a felony**

"(a)(1) To the extent provided in subsection (d) of this section, any person who is entitled to compensation or to dependency and indemnity compensation and who is incarcerated in a Federal, State, or local penal institution for a period in excess of sixty days for conviction of a felony shall not be paid such compensation or dependency and indemnity compensation, for the period beginning on the sixty-first day of such incarceration and ending on the day such incarceration ends, in an amount that exceeds—

"(A) in the case of a veteran with a service-connected disability rated at 20 percent or more, the rate of compensation payable under section 314(a) of this title; or

38 USC 314.

"(B) in the case of a veteran with a service-connected disability not rated at 20 percent or more or in the case of a surviving spouse, parent, or child, one-half of the rate of compensation payable under section 314(a) of this title.

"(2) The provisions of paragraph (1) of this section shall not apply with respect to any period during which a person is participating in a work-release program or is residing in a halfway house.

"(b)(1) All or any part of the compensation not paid to a veteran by reason of subsection (a) of this section may, as appropriate in an individual case, be apportioned under the same terms and conditions as are provided under section 3107 of this title.

38 USC 3107.

"(2) All or any part of the dependency and indemnity compensation not paid to a surviving spouse or child by reason of subsection (a) of this section may, as appropriate in an individual case, be apportioned as follows:

"(A) In the case of dependency and indemnity compensation not paid to a surviving spouse, any apportionment shall be to the surviving child or children.

"(B) In the case of dependency and indemnity compensation not paid to a surviving child, any apportionment shall be to the surviving spouse or other surviving children, as applicable.

"(3) No apportionment may be made under this subsection to or on behalf of any person who is incarcerated in a Federal, State, or local penal institution for conviction of a felony.

"(c) The Administrator shall not assign to any veteran a rating of total disability based on the individual unemployability of the veteran resulting from a service-connected disability during any period during which the veteran is incarcerated in a Federal, State, or local penal institution for conviction of a felony.

"(d) The provisions of subsection (a) of this section shall apply (1) with respect to any period of incarceration of a person for conviction of a felony committed after the date of the enactment of this section, and (2) with respect to any period of incarceration on or after October 1, 1980, for conviction of a felony of a person who on October 1, 1980, is incarcerated for conviction of such felony and with respect to whom the action granting an award of compensation or dependency and indemnity compensation is taken on or after such date.

"(e) For purposes of this section—

"(1) The term 'compensation' includes disability compensation payable under section 351 of this title. "Compensation." 38 USC 351.

"(2) The term 'dependency and indemnity compensation' means death compensation payable under section 321 or 341 of this title, death compensation and dependency and indemnity compensation payable under section 351 of this title, and any benefit payable under chapter 13 of this title.". "Dependency and indemnity compensation." 38 USC 321, 341. 38 USC 351. 38 USC 401 *et seq.*

(b) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3113. Limitation on payment of compensation and dependency and indemnity compensation to persons incarcerated for conviction of a felony.".

CONFIDENTIALITY OF MEDICAL QUALITY-ASSURANCE RECORDS

SEC. 505. (a) Subchapter I of chapter 57 is amended by adding at the end the following new section:

"§ 3305. Confidentiality of medical quality-assurance records 38 USC 3305.

"(a) Records and documents created by the Veterans' Administration as part of a medical quality-assurance program are confidential and privileged and may not be disclosed to any person or entity except as provided in subsection (b) of this section.

"(b)(1) Subject to paragraph (2) of this subsection, a record or document described in subsection (a) of this section shall, upon request, be disclosed as follows:

"(A) To a Federal agency or private organization, if such record or document is needed by such agency or organization to perform licensing or accreditation functions related to Veterans' Administration health-care facilities or to perform monitoring, required by statute, of Veterans' Administration health-care facilities.

"(B) To a Federal executive agency or provider of health-care services, if such record or document is required by such agency or provider for participation by the Veterans' Administration in a health-care program with such agency or provider.

"(C) To a criminal or civil law enforcement governmental agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality makes a written request that such record or document be provided for a purpose authorized by law.

"(D) To health-care personnel, to the extent necessary to meet a medical emergency affecting the health or safety of any individual.

"(2) The name of and other identifying information regarding any individual Veterans' Administration patient or employee, or any other individual associated with the Veterans' Administration for purposes of a medical quality-assurance program, contained in a record or document described in subsection (a) of this section shall be deleted from any record or document before any disclosure made under this subsection if disclosure of such name and identifying information would constitute a clearly unwarranted invasion of personal privacy.

"(3) No person or entity to whom a record or document has been disclosed under this subsection shall make further disclosure of such record or document except for a purpose provided in this subsection.

Withholding record from congressional committees.

"(4) Nothing in this section shall be construed as authority to withhold any record or document from a committee of either House of Congress or any joint committee of Congress, if such record or document pertains to any matter within the jurisdiction of such committee or joint committee.

"(5) Nothing in this section shall be construed as limiting the use of records and documents described in subsection (a) of this section within the Veterans' Administration (including contractors and consultants of the Veterans' Administration).

"Medical quality-assurance program."

"(c) For the purpose of this section, the term 'medical quality-assurance program' means—

"(1) with respect to any activity carried out before the date of the enactment of this section, a Veterans' Administration systematic health-care review activity carried out by or for the Veterans' Administration for the purpose of improving the quality of medical care or improving the utilization of health-care resources in Veterans' Administration health-care facilities; and

"(2) with respect to any activity carried out on or after the date of the enactment of this section, a Veterans' Administration systematic health-care review activity designated by the Administator to be carried out by or for the Veterans' Administration for either such purpose.

Regulations.

"(d)(1) Not later than 180 days after the date of the enactment of this section, the Administrator shall prescribe regulations to carry out this section. In prescribing such regulations, the Administrator shall specify those activities carried out before such enactment date which the Administrator determines meet the definition of medical quality-assurance program in subsection (c)(1) of this section and those activities which the Administrator has designated under subsection (c)(2) of this section. The Administrator shall, to the extent appropriate, incorporate into such regulations the provisions of the

existing administrative guidelines and procedures governing such programs.

"(2) After the date on which such regulations are first prescribed, no activity shall be considered as having been designated as a medical quality-assurance program for the purposes of subsection (c)(2) of this section unless the designation has been specified in such regulations.

"(e) Any person who, knowing that a document or record is a document or record described in subsection (a) of this section, willfully discloses such record or document except as provided for in subsection (b) of this section shall be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of a subsequent offense.". Penalty.

(b) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3304 the following new item:

"3305. Confidentiality of medical quality-assurance records.".

MINIMUM NUMBER OF EMPLOYEES OF AMERICAN BATTLE MONUMENTS COMMISSION

SEC. 506. The third paragraph of the first section of the Act entitled "An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes", approved March 4, 1923 (36 U.S.C. 121), is amended by inserting after the second sentence thereof the following new sentence: "To ensure adequate care and maintenance of the cemeteries, monuments, and memorials under the jurisdiction of the Commission, the Commission, subject to the availability of appropriations, shall employ (1) not less than 50 personnel in the competitive service (as defined in section 2102 of title 5, United States Code), of whom not less than 43 shall be assigned to duty in foreign countries in which such cemeteries, monuments, and memorials are located, and (2) not less than 348 individuals who are citizens of the countries in which such cemeteries, monuments, and memorials are located, who shall be hired for local employment relating to the care and maintenance of such cemeteries, monuments, and memorials.".

LAND TRANSFER, CHEYENNE, WYOMING

SEC. 507. (a) Subject to subsection (b), the Administrator of Veterans' Affairs is authorized to execute such instruments as may be necessary to permit the city of Cheyenne, Wyoming, to use for public roadway purposes a tract of land consisting of four acres, more or less, which is a portion of a larger tract of land previously conveyed by the United States to such city under the authority of the Act entitled "An Act authorizing the Administrator of Veterans' Affairs to convey certain property to the city of Cheyenne, Wyoming", approved November 8, 1965 (Public Law 89-345; 79 Stat. 1304), for use by such city for park and recreational purposes only.

(b) Any instrument executed by the Administrator of Veterans' Affairs under this section shall—

(1) provide that the four-acre tract of land referred to in subsection (a) may be used only for park and recreational purposes or for public roadway purposes, or both, and only in a manner that will not, in the judgment of the Administrator of Veterans' Affairs, interfere in any manner with the care and

treatment of patients in the Veterans' Administration Center, Cheyenne, Wyoming;

(2) contain such additional terms, conditions, and restrictions as may be determined by the Administrator of Veterans' Affairs to be necessary to protect the interest of the United States; and

(3) provide that, if the Administrator of Veterans' Affairs determines that the city of Cheyenne has violated any provision of any such instrument, title to the tract of land conveyed under the authority of such Act shall revert to the United States as provided in the deed of conveyance executed pursuant to such Act.

Survey.

(c) The legal description of the four-acre tract of land referred to in subsection (a) shall be determined by the Administrator of Veterans' Affairs. If a survey is required in order to make such determination, the city of Cheyenne shall bear the expenses of the survey.

TECHNICAL AMENDMENTS TO PUBLIC LAW 96-330

Ante, p. 1036.

SEC. 508. (a) Section 4107(c)(3) is amended by striking out "section 4507" and inserting in lieu thereof "sections 4507 and 5384".

Ante, p. 1039.

(b) Section 4109(b) is amended—

(1) by inserting "after August 25, 1980," after "any period of service"; and

(2) by inserting "after such date" after "such service".

TITLE VI—EFFECTIVE DATES

EFFECTIVE DATES

38 USC 314 note.
Ante, pp. 1528, 1529.
Ante, p. 1531.

SEC. 601. (a) The amendments made by titles I and II shall apply only to payments for months beginning after September 30, 1980.

(b) The amendments made by title III and by sections 402, 501, 503, and 506 shall take effect on October 1, 1980.

(c) The amendments made by section 502 shall apply only with respect to individuals who die after September 30, 1980.

(d) The amendments made by sections 401, 504, 505, and 507 shall take effect on the date of the enactment of this Act.

(e) The amendments made by section 508 shall take effect as of August 26, 1980.

Approved October 7, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1155 (Comm. on Veterans' Affairs).
SENATE REPORT No. 96-876 accompanying S. 2649 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 21, considered and passed House.
Aug. 6, considered and passed Senate, amended, in lieu of S. 2649.
Sept. 18, House concurred in Senate amendments with amendments.
Sept. 24, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 41:
Oct. 7, Presidential statement.

Public Law 96-386
96th Congress

An Act

Oct. 7, 1980
[H.R. 6308]

To provide for an accelerated program of research and development of magnetic fusion energy technologies leading to the construction and successful operation of a magnetic fusion demonstration plant in the United States before the end of the twentieth century to be carried out by the Department of Energy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Magnetic Fusion Energy Engineering Act of 1980".

Magnetic Fusion Energy Engineering Act of 1980.
42 USC 9301 note.

FINDINGS AND POLICY

42 USC 9301.

SEC. 2. (a) The Congress hereby finds that—

(1) the United States must formulate an energy policy designed to meet an impending worldwide shortage of many exhaustible, conventional energy resources in the next few decades;

(2) the energy policy of the United States must be designed to ensure that energy technologies using essentially inexhaustible resources are commercially available at a time prior to serious depletion of conventional resources;

(3) fusion energy is one of the few known energy sources which are essentially inexhaustible, and thus constitutes a long-term energy option;

(4) major progress in all aspects of magnetic fusion energy technology during the past decade instills confidence that power production from fusion energy systems is achievable;

(5) the United States must aggressively pursue research and development programs in magnetic fusion designed to foster advanced concepts and advanced technology and to develop efficient, reliable components and subsystems;

(6) to ensure the timely commercialization of magnetic fusion energy systems, the United States must demonstrate at an early date the engineering feasibility of magnetic fusion energy systems;

(7) progress in magnetic fusion energy systems is currently limited by the funds made available rather than technical barriers;

(8) it is a proper role for the Federal Government to accelerate research, development, and demonstration programs in magnetic fusion energy technologies; and

(9) acceleration of the current magnetic fusion program will require a doubling within seven years of the present funding level without consideration of inflation and a 25 per centum increase in funding each of fiscal years 1982 and 1983.

(b) It is therefore declared to be the policy of the United States and the purpose of this Act to accelerate the national effort in research, development, and demonstration activities related to magnetic fusion energy systems. Further, it is declared to be the policy of the United States and the purpose of this Act that the objectives of such program shall be—

(1) to promote an orderly transition from the current research and development program through commercial development;

(2) to establish a national goal of demonstrating the engineering feasibility of magnetic fusion by the early 1990's;

(3) to achieve at the earliest practicable time, but not later than the year 1990, operation of a magnetic fusion engineering device based on the best available confinement concept;

(4) to establish as a national goal the operation of a magnetic fusion demonstration plant at the turn of the twenty-first century;

(5) to foster cooperation in magnetic fusion research and development among government, universities, industry, and national laboratories;

(6) to promote the broad participation of domestic industry in the national magnetic fusion program;

(7) to continue international cooperation in magnetic fusion research for the benefit of all nations;

(8) to promote greater public understanding of magnetic fusion; and

(9) to maintain the United States as the world leader in magnetic fusion.

DEFINITIONS

42 USC 9302.

SEC. 3. For the purposes of this Act—

(1) "fusion" means a process whereby two light nuclei, such as deuterium and tritium, collide at high velocity, forming a compound nucleus, which subsequently separates into constituents which are different from the original colliding nuclei, and which carry away the accompanying energy release;

(2) "magnetic fusion" means the use of magnetic fields to confine a very hot, fully ionized gas of light nuclei, so that the fusion process can occur;

(3) "energy system" means a facility designed to utilize energy released in the magnetic fusion process for the generation of electricity and the production of hydrogen or other fuels;

(4) "fusion engineering device" means a magnetic fusion facility which achieves at least a burning plasma and serves to test components for engineering purposes;

(5) "demonstration plant" means a prototype energy system which is of sufficient size to provide safety, environmental reliability, availability, and ready engineering extrapolation of all components to commercial size but which system need not be economically competitive with then alternative energy sources; and

(6) "Secretary" means Secretary of Energy.

PROGRAM ACTIVITIES

42 USC 9303.

SEC. 4. (a) The Secretary shall initiate activities or accelerate existing activities in research areas in which the lack of knowledge limits magnetic fusion energy systems in order to ensure the achievement of the purposes of this Act.

Plasma confinement research.

(b)(1) The Secretary shall maintain an aggressive plasma confinement research program on the current lead concept to provide a full measure of support for the design, construction, and operation of the fusion engineering devices.

(2) The Secretary shall maintain a broadly based research program on alternate confinement concepts and on advanced fuels at a sufficient level of funding to achieve optimal design of each successive magnetic fusion facility using the then best available confinement and fuel concept.

(3) The Secretary shall ensure that research on properties of materials likely to be required for the construction of fusion engineering devices is adequate to provide timely information for the design of such devices.

Fusion engineering device designs.

(c)(1) The Secretary shall initiate design activities on a fusion engineering device using the best available confinement concept to ensure operation of such a device at the earliest practicable time, but not later than the year 1990.

(2) The Secretary shall develop and test the adequacy of the engineering design of components to be utilized in the fusion engineering device.

(d) The Secretary shall initiate at the earliest practical time each activity which he deems necessary to achieve the national goal for operation of a demonstration plant at the turn of the twenty-first century.

Magnetic fusion energy systems, assessment factors.

(e) The Secretary shall continue efforts to assess factors which will determine the commercial introduction of magnetic fusion energy systems including, but not limited to—

(1) projected costs relative to other alternative energy sources;

(2) projected growth rates in energy demand;

(3) safety-related design limitations;

(4) environmental impacts; and

(5) limitations on the availability of strategic elements, such as helium, lithium, and special metals.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

42 USC 9304.

SEC. 5. (a) The Secretary shall prepare a comprehensive program management plan for the conduct of the research, development, and demonstration activities under this Act. Such plan shall include at a minimum—

(1) a presentation of the program strategy which will be used to achieve the purposes of this Act;

(2) a five-year program implementation schedule, including identification of detailed milestone goals, with associated budget and program resources requirements;

(3) risk assessments;

(4) supporting research and development needed to solve problems which may inhibit or limit development of magnetic fusion energy systems; and

(5) an analysis of institutional, environmental, and economic considerations which are limiting the national magnetic fusion program.

Submittal to congressional committees.

(b) The Secretary shall transmit the comprehensive program management plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than January 1, 1982.

MAGNETIC FUSION ENGINEERING CENTER

42 USC 9305.

SEC. 6. (a) The Secretary shall develop a plan for the creation of a national magnetic fusion engineering center for the purpose of accelerating fusion technology development via the concentration

and coordination of major magnetic fusion engineering devices and associated activities at such a national center.

Plan development, factors.

(b) In developing the plan, the Secretary shall include relevant factors including, but not limited to—

(1) means of saving cost and time through the establishment of the national center relative to the cost and schedule currently projected for the program;

(2) means of providing common facilities to be shared by many magnetic fusion concepts;

(3) assessment of the environmental and safety-related aspects of the national center;

(4) provisions for international cooperation in magnetic fusion activities at the national center;

(5) provision of access to facilities for the broader technical involvement of domestic industry and universities in the magnetic fusion energy program;

(6) siting criteria for the national center including a list of potential sites;

(7) the advisability of establishing such a center considering all factors, including the alternative means and associated costs of pursuing such technology; and

(8) changes in the management structure of the magnetic fusion program to allow more effective direction of activities related to the national center.

Report to congressional committees.

(c) The Secretary shall submit not later than July 1, 1981, a report to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources characterizing the plan and setting forth the steps necessary for implementation of the plan, including any steps already implemented.

TECHNICAL PANEL ON MAGNETIC FUSION

42 USC 9306.

SEC. 7. (a) A technical panel on magnetic fusion of the Energy Research Advisory Board shall be established to review the conduct of the national magnetic fusion energy program.

Membership.

(b)(1) The technical panel shall be comprised of such representatives from domestic industry, universities, government laboratories, and other scientific and technical organizations as the Chairman of the Energy Research Advisory Board deems appropriate based on his assessment of the technical qualifications of each such representative.

(2) Members of the technical panel need not be members of the full Energy Research Advisory Board.

(c) The activities of the technical panel shall be in compliance with any laws and regulations guiding the activities of technical and fact-finding groups reporting to the Energy Research Advisory Board.

Review.

(d) The technical panel shall review and may make recommendations on the following items, among others:

(1) the preparation of the five-year program plan prepared pursuant to section 5;

(2) the type of future facilities needed to meet the goals of this Act along with their projected completion dates;

(3) the adequacy of participation by universities and industry in the program;

(4) the adequacy of international cooperation in magnetic fusion and any problems associated therewith; and

(5) institutional, environmental, and economic factors limiting, or prospectively limiting, efforts to achieve commercial application of magnetic fusion energy systems.

(e) The technical board shall submit to the Energy Research Advisory Board on at least a triennial basis a written report of its findings and recommendations with regard to the magnetic fusion program. Written report.

(f) After consideration of the technical panel report, the Energy Research Advisory Board shall submit such report, together with any comments such Board deems appropriate, to the Secretary. Report to Secretary.

PROGRAM ADVISORY COMMITTEES

SEC. 8. The Secretary may direct the director of each laboratory or installation at which a major magnetic fusion facility is operated for, or funded primarily by, the Federal Government to establish, for the sole purpose of providing advice to such director, a program advisory committee composed of persons with expertise in magnetic fusion from such domestic industry, universities, government laboratories, and other scientific and technical organizations as such director deems appropriate. 42 USC 9307.

INTERNATIONAL COOPERATION

SEC. 9. (a)(1) The Secretary in consultation with the Secretary of State shall actively seek to enter into or to strengthen existing international cooperative agreements in magnetic fusion research and development activities of mutual benefit to all parties. 42 USC 9308.

(2) The Secretary shall seek to achieve equitable exchange of information, data, scientific personnel, and other considerations in the conduct of cooperative efforts with technologically advanced nations.

(b)(1) The Secretary shall examine the potential impacts on the national magnetic fusion program of United States participation in an international effort to construct fusion engineering devices. Magnetic fusion, examination and exploration.

(2) The Secretary shall explore, to the extent feasible, the prospects for joint financial participation by other nations with the United States in the construction of a fusion engineering device.

(3) Within two years of the enactment of this Act the Secretary shall transmit to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources the results of such examinations and explorations with his recommendations for construction of a national or international fusion engineering device: *Provided, however,* That such examinations and explorations shall not have the effect of delaying design activities related to a national fusion engineering device. Results, transmittal to congressional committees.

TECHNICAL MANPOWER REQUIREMENTS

SEC. 10. (a) The Secretary shall assess the adequacy of the projected United States supply of manpower in the engineering and scientific disciplines required to achieve the purposes of this Act taking cognizance of the other demands likely to be placed on such manpower supply. 42 USC 9309.

(b) The Secretary shall within one year of the date of enactment of this Act submit a report to the President and to the Congress setting forth his assessment along with his recommendations regarding the Report to President and Congress.

need for increased support for education in such engineering and scientific disciplines.

INFORMATION DISSEMINATION

42 USC 9310.

SEC. 11. (a) The Secretary shall take all necessary steps to assure that technical information relevant to the status and progress of the national magnetic fusion program is made readily available to interested persons in domestic industry and universities in the United States: *Provided, however,* That upon a showing to the Secretary by any person that any information or portion thereof provided to the Secretary directly or indirectly from such person would, if made public, divulge (1) trade secrets or (2) other proprietary information of such person, the Secretary shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code.

(b) The Secretary shall maintain an aggressive program in the United States for the provision of public information and educational materials to promote widespread knowledge of magnetic fusion among educational, community, business, environmental, labor, and governmental entities and the public at large.

REPORTS

Submittal to Congress.
42 USC 9311.
42 USC 7321.

SEC. 12. As a separate part of the annual report submitted pursuant to section 801 of the Department of Energy Organization Act (Public Law 95-91), the Secretary shall submit to Congress an annual report of activities pursuant to this Act. Such report shall include—

(a) modifications to the comprehensive program management plan for implementing this Act;

(b) an evaluation of the status of national magnetic fusion energy program in the United States;

(c) a summary of the findings and recommendations of any report of the Energy Research Advisory Board on magnetic fusion;

(d) an analysis of the progress made in commercializing magnetic fusion technology; and

(e) suggestions for improvements in the national magnetic fusion program, including recommendations for legislation.

AUTHORIZATION OF APPROPRIATIONS

42 USC 9312.

SEC. 13. (a) There is hereby authorized to be appropriated to the Secretary, for the fiscal year ending September 30, 1981, such sums as are provided in the annual authorization Act pursuant to section 660 of Public Law 95-91.

42 USC 7270.

Contracts.

(b) In carrying out the provisions of this Act, the Secretary is authorized to enter into contracts only to such extent or in such amounts as may be provided in advance in appropriations Acts.

Approved October 7, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1096 (Comm. on Science and Technology).
SENATE REPORT No. 96-942 accompanying S. 2926 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 25, considered and passed House.
Sept. 23, S. 2926 considered and passed Senate; passage vitiated and H.R. 6308, amended, passed in lieu.
Sept. 24, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 41:
Oct. 7, Presidential statement.

Public Law 96-387
96th Congress

An Act

To authorize the documentation of certain vessels as vessels of the United States, and for other purposes.

Oct. 7, 1980
[S. 1442]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of title 46 of the United States Code, particularly but not limited to section 27 of the Merchant Marine Act of 1920, as amended (46 U.S.C. 883), or any other provision of law, the Secretary of the department in which the Coast Guard is operating, shall cause the vessels Sara (vessel numbered 530082), Aurelia Four, Alice (vessel numbered 289731), Albatross (vessel numbered 299537), Hillbilly I, and Kailua (registration numbered AK-7716-B) to be documented as vessels of the United States, with the privileges of engaging in coastwise trade so long as each such vessel being so documented is owned by a citizen of the United States.

Vessels, coastwise trade documentation. Merchant Marine Act, 1936, amendment.

SEC. 2. The vessel Sara which was constructed in a country other than the United States, is, pursuant to section 1, granted the privilege of engaging in coastwise trade only so long as the vessel is owned by a citizen of the United States and is operated for a nonprofit purpose.

SEC. 3. Section 502 of the Merchant Marine Act, 1936, is amended by adding at the end of subsection (g) thereof two new subsections to read as follows:

46 USC 1152.

"(h) The Secretary of Commerce is authorized to construct, purchase, lease, acquire, store, maintain, sell, or otherwise dispose of national defense features intended for installation on vessels. The Secretary of Commerce is authorized to install or remove such national defense features on any vessel (1) which is in the National Defense Reserve Fleet as defined by section 11(a) of the Merchant Ship Sales Act of 1946, (2) which is requisitioned, purchased, or chartered under section 902 of the Merchant Marine Act, 1936, (3) which serves as security for the guarantee of an obligation by the Secretary of Commerce under title XI of this Act, or (4) which is the subject of an agreement between the owner of such vessel and the Secretary of Commerce to install or remove such national defense features. Title to such national defense features which the Secretary of Commerce determines are not to be permanently incorporated in a vessel shall not be affected by such installation or removal unless otherwise transferred in accordance with the provisions of this title V.

National defense features.

50 USC app. 1744.
46 USC 1242.
46 USC 1271.

"(i) The Secretary of Commerce shall submit the plans and specifications for such national defense features and the proposals for their acquisition, storage, utilization, or disposition to the Navy Department for examination thereof and suggestion for such changes therein as may be deemed necessary or proper in order that such features shall be suitable for the use of the United States Government in time of war or national emergency. If the Secretary of the Navy approves such plans, specifications, or proposals as submitted,

46 USC 1151.
Plans, specifications, and proposals.

Certification of approval.

or as modified in accordance with the provisions of this subsection, he shall certify such approval to the Secretary of Commerce.".

46 USC 1119.

SEC. 4. Section 209(b) of the Merchant Marine Act, 1936, is amended by (a) deleting from clause (2) the words "and cost of national defense features"; (b) inserting after clause (2) the following new clause: "(3) cost of national defense features;"; and, (c) renumbering the remaining clauses accordingly.

Coastwise coal transport, priority loading. 46 USC 1121-1.

SEC. 5. Notwithstanding any other provisions of law, any vessel engaged in the coastwise transportation of coal produced in the United States, from a port in the United States to another port in the United States, shall until June 30, 1987, have the priority to load at any such ports ahead of any waiting vessels engaged in the export trade of coal produced in the United States: *Provided,* That, the Secretary of Commerce may, if he determines that it is in the national interest, eliminate priority loading, as provided herein, at any such port or ports, and to report such action to the Congress within 30 days.

Report to Congress.

Vessel, coastwise trade documentation.

SEC. 6. Notwithstanding section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883), or any other provision of law to the contrary, the vessel known as the Scuba King, official numbered 532376, owned by Bernard Despins, shall be entitled to be documented to engage in the fisheries and the coastwise trade upon compliance with the usual requirements, so long as such vessel is, from the date of enactment of this section, continuously owned by a citizen of the United States. For the purposes of this section, the term "citizen of the United States" includes corporations, partnerships, and associations, but only those which are citizens of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802).

"Citizen of the United States."

Approved October 7, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1221 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-477 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 18, considered and passed Senate.
Vol. 126 (1980): Aug. 26, considered and passed House, amended.
Sept. 19, Senate concurred in House amendments with amendments.
Sept. 22, House agreed to Senate amendments.

Public Law 96-388
96th Congress

An Act

To establish the United States Holocaust Memorial Council.

Oct. 7, 1980
[H.R. 8081]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established the United States Holocaust Memorial Council (hereinafter in this Act referred to as the "Council"). The Council shall— U.S. Holocaust Memorial Council. Establishment. 36 USC 1401.

(1) provide for appropriate ways for the Nation to commemorate the Days of Remembrance, as an annual, national, civic commemoration of the holocaust, and shall encourage and sponsor appropriate observances of such Days of Remembrance throughout the United States; Commemoration.

(2) plan, construct, and oversee the operation of, a permanent living memorial museum to the victims of the holocaust, in cooperation with the Secretary of the Interior and other Federal agencies as provided in section 5; and Memorial museum.

(3) develop a plan for carrying out the recommendations of the President's Commission on the Holocaust in its report to the President of September 27, 1979, to the extent such recommendations are not otherwise provided for in this Act. President's Commission on the Holocaust.

SEC. 2. (a) The Council shall consist of sixty voting members appointed (except as otherwise provided in this section) by the President and the following ex officio nonvoting members: Membership; appointment. 36 USC 1402.

(1) one appointed by the Secretary of the Interior;

(2) one appointed by the Secretary of State, and

(3) one appointed by the Secretary of Education.

Of the sixty voting members, five shall be appointed by the Speaker of the United States House of Representatives from among members of the United States House of Representatives and five shall be appointed by the President pro tempore of the United States Senate upon the recommendation of the majority and minority leaders from among members of the United States Senate. Any vacancy in the Council shall be filled in the same manner as the original appointment was made.

(b) The members of the United States Holocaust Memorial Council, as in effect immediately before the date of the enactment of this Act, are hereby designated as the initial members of the Council. Such initial members (other than the initial members appointed from the United States Senate or the United States House of Representatives) shall serve terms as follows: Initial members. Terms.

(1) All initial members shall serve until January 15, 1986.

(2) On January 15, 1986, the terms of ten of such initial members, as designated in the bylaws of the Council, shall terminate.

(3) On January 15 of each year thereafter through 1990 the terms of ten other initial members, as designated in the bylaws of the Council, shall terminate.

The terms of the initial members appointed from the United States Senate or the United States House of Representatives shall expire

upon the expiration of the term of Congress in session at the time of the enactment of this Act.

Terms. (c)(1) Except as provided in subsection (b) with respect to the initial members of the Council and except as otherwise provided in this subsection, Council members shall serve for five-year terms.

(2) The terms of the five members of the United States House of Representatives and the five members of the United States Senate appointed during any term of Congress shall each expire at the end of such term of Congress.

Vacancies. (3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member, other than a Member of Congress appointed by the Speaker of the United States House of Representatives or the President pro tempore of the United States Senate, may serve after the expiration of his term until his successor has taken office.

Officers. (d)(1) Except as provided in paragraph (2), the Chairperson and Vice Chairperson of the Council shall be appointed by the President from among the members of the Council and such Chairperson and Vice Chairperson shall each serve for terms of five years. Vacancies in the offices of Chairperson and Vice Chairperson shall be filled, as they arise, by appointment of the President.

Initial officers. (2) The Chairperson and Vice Chairperson of the United States Holocaust Memorial Council, as in effect immediately before the date of the enactment of this Act, are hereby designated respectively as the initial Chairperson and Vice Chairperson of the Council. Such initial Chairperson and Vice Chairperson shall serve until January 15, 1986.

Reappointments. (e) Members whose terms expire may be reappointed, and the Chairperson and Vice Chairperson may be reappointed to those offices.

Pay. 36 USC 1403. SEC. 3. (a) Except as provided in subsection (b), members of the Council are each authorized to be paid the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the 5 USC 5332 note. General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties of the Council.

Travel expenses. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(b) Members of the Council who are full-time officers or employees of the United States or Members of the Congress shall receive no additional pay by reason of their service on the Council.

Bylaws; quorum. 36 USC 1404. SEC. 4. (a) The Council shall adopt bylaws to carry out its functions under this Act. One-third of the members of the Council shall constitute a quorum, and any vacancy in the Council shall not affect its powers to function.

Experts and consultants. (b) The Council may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the 5 USC 5332 note. General Schedule.

Contracts. (c) The Council may, in accordance with applicable law, enter into contracts and other arrangements with public agencies and with private organizations and persons and may make such payments as may be necessary to carry out its functions under this Act.

(d) The Secretary of the Smithsonian Institution, the Library of Congress, and all executive branch departments, agencies, and establishments of the United States may assist the Council in the performance of its functions under this Act. Other Federal agencies, assistance.

(e) The Secretary of the Interior may provide administrative services and support to the Council on a reimbursable basis. Administrative services.

SEC. 5. (a) The Council shall, without regard to section 5311(b) of title 5, United States Code, have an Executive Director who shall be appointed by the President upon the recommendation of the Chairperson of the Council and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-18 of the General Schedule. Executive Director. 36 USC 1405.

5 USC 5332 note.

(b) Without regard to section 5311(b) of title 5, United States Code, the Executive Director may appoint and fix the pay of such additional personnel as he considers appropriate. The Executive Director and staff of the Council shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Additional personnel. Appointment. 5 USC 5101 *et seq.*, 5331.

SEC. 6. (a) For purposes of establishing the memorial museum referred to in paragraph (2) of the first section of this Act, any department, agency, or instrumentality of the United States is authorized to transfer to the administrative jurisdiction of the Council, with the approval of the Secretary of the Interior in consultation with the Commission of Fine Arts and the National Capital Planning Commission, any real property in the District of Columbia which is under the administrative jurisdiction of such department, agency, or instrumentality and which is deemed suitable by the Council for such memorial. With the approval of the Secretary of the Interior, in consultation with the Commission of Fine Arts and the National Capital Planning Commission, the Council may purchase, with the consent of the owner thereof, any real property within the District of Columbia which it deems suitable for purposes of establishing such memorial museum. Memorial museum, real property transfer. 36 USC 1406. Real property purchase.

(b) The architectural design for such memorial museum shall be subject to the approval of the Secretary of the Interior, in consultation with the Commission of Fine Arts and the National Capital Planning Commission. Architectural design, approval.

(c) The authority conferred pursuant to this Act for the construction and operation of the memorial museum shall lapse on the date five years after the date of the enactment of this Act unless (1) the erection or establishment of such memorial is commenced within such five year period, and (2) prior to the commencement, the Secretary of the Interior certifies that funds are available in an amount sufficient, in the judgment of the Secretary, to ensure completion of the memorial museum. Lapse of authority.

SEC. 7. The Council may solicit, accept, hold, administer, and use gifts, bequests, and devises of property, both real and personal, to aid or facilitate the construction, maintenance, and operation of the memorial. Property may be accepted pursuant to this section, and the property and the proceeds thereof used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States. Gift, bequests, devises of property. 36 USC 1407. Taxes.

SEC. 8. There is authorized to be appropriated to carry out the purposes of this Act $722,000 for the fiscal year 1981, $800,000 for the Appropriation authorization. 36 USC 1408.

Construction, restriction.

fiscal year 1982, and $850,000 for the fiscal year 1983: *Provided, however,* That notwithstanding any other provision of this Act, none of the funds authorized herein may be available for construction. Authority to enter into contracts and to make payments under this Act, using funds authorized to be appropriated under this section, shall be effective only to the extent, and in such amounts, as provided in advance in appropriation Acts.

Approved October 7, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1347, Pt. 1 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 23, considered and passed House.
Sept. 24, considered and passed Senate, amended.
Sept. 25, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 41:
Oct. 7, Presidential statement.

Public Law 96-389
96th Congress

An Act

To amend the Bretton Woods Agreements Act to authorize consent to an increase in the United States quota in the International Monetary Fund, and for other purposes.

Oct. 7, 1980
[S. 2271]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Bretton Woods Agreements Act, amendment.

INCREASE IN UNITED STATES QUOTA

SECTION 1. The Bretton Woods Agreements Act (22 U.S.C. 286 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 32. The United States Governor of the Fund is authorized to consent to an increase in the quota of the United States in the Fund equivalent to 4,202.5 million Special Drawing Rights, to such extent or in such amounts as are provided in appropriation Acts.". 22 USC 286e-lg.

BASIC HUMAN NEEDS

SEC. 2. (a) The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

"SEC. 33. (a) The President shall instruct the Secretary of the Treasury, the Secretary of State, and other appropriate Federal officials to use all appropriate means to encourage countries, in formulating economic adjustment programs to deal with their balance of payments difficulties, to design those programs so as to safeguard, to the maximum feasible extent, jobs, investment, real per capita income, policies to reduce the gap in wealth between rich and poor, and social programs such as health, housing, and education. International Monetary Fund economic adjustment programs. 22 USC 286s.

"(b) To ensure the effectiveness of economic adjustment programs supported by Fund resources and the reinforcement of those programs by longer term efforts to promote sustained growth and improved living conditions—

"(1) United States representatives to the Fund shall recommend and shall work for changes in Fund guidelines, policies, and decisions that would—

"(A) permit stand-by arrangements to be extended beyond three years, as necessary to enable Fund members to implement their economic adjustment programs successfully;

"(B) provide that in approving any economic adjustment program the Fund shall take into account the effect such program will have on jobs, investment, real per capita income, the gap in wealth between the rich and poor, and social programs such as health, housing, and education, in order to seek to minimize the adverse impact of those adjustment programs on basic human needs; and

"(C) provide that letters of intent submitted to the Fund in support of an economic adjustment program reflect that the

member country has taken into account the effect such program will have on the factors listed in subparagraph (B);

Review.

"(2)(A) before voting on the approval of any standby arrangement with respect to any economic adjustment program, the United States Executive Director shall review—

"(i) any analysis of factors prepared by the Fund or the member country in accordance with subparagraphs (B) and (C) of paragraph (1), or

"(ii) if no such analysis is prepared and available for such review, an analysis which shall be prepared by the United States Governor of the Fund which examines the effect of the program on the factors listed in subparagraph (B) of paragraph (1); and

"(B) the United States Executive Director of the Fund shall take into account the analysis reviewed pursuant to subparagraph (A) of this paragraph in voting on approval of that standby arrangement;

"(3) United States representatives to the Fund, to the Bank, and to other appropriate institutions shall work toward improving coordination among these institutions and, in particular, shall work toward formulation of programs in association with economic adjustment programs supported by Fund resources which (A) will, among other things, promote employment, investment, real income per capita, improvements in income distribution, and the objectives of social programs such as health, housing, and education, and (B) will, to the maximum extent feasible and consistent with the borrowing country's need to improve its balance of payments position within a reasonable period, ameliorate any adverse effects of economic adjustment programs on the poor;

"(4) United States representatives to the Fund and the Bank shall seek amendments to decisions on policies on the use of Fund and Bank resources to provide that, where countries are seeking Extended Fund Facility or upper credit tranche drawings from the Fund and are eligible to receive financing from the Bank, the Fund and Bank will coordinate their financing activities in order—

"(A) to take into account the effects of economic adjustment programs on the areas listed in clause (A) of paragraph (3),

"(B) to provide, to the extent feasible, Bank project loans designed to safeguard and further basic human needs in countries adopting economic adjustment programs supported by Fund resources, and

"(C) to provide, as appropriate, Bank financing for programs of structural adjustment that will facilitate development of a productive economic base and greater attainment of basic human needs objectives over the longer term; and

"(5) United States representatives to the Fund and the Bank shall request the Fund and the Bank to provide periodic analyses of the effects of economic adjustment programs supported by Fund or Bank financing on jobs, investment, real income per capita, income distribution, and social programs such as health, housing, and education.

Annual reports to Congress.

"(c) The National Advisory Council on International Monetary and Financial Policies shall include in each of its annual reports to the Congress a statement detailing the actions and progress made in

carrying out the requirements of subsections (a) and (b) of this section.".

(b) Section 30 of the Bretton Woods Agreements Act (22 U.S.C. 286e-9) is amended—

(1) in subsection (a) by striking out "entered into pursuant to loans from the Supplementary Financing Facility";

(2) in the first sentence of subsection (b) by striking out "entered into pursuant to loans from the Supplementary Financing Facility"; and

(3) in the second sentence of subsection (b) by striking out "by the Supplementary Financing Facility".

SEC. 3. Strike section 7 of Public Law 95-435, the Bretton Woods Agreements Act Amendments of 1978, which reads: "Beginning with Fiscal Year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.", and insert in lieu thereof: "The Congress reaffirms its commitment that beginning with Fiscal Year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.". 31 USC 27.

RECYCLING BALANCE-OF-PAYMENTS SURPLUSES

SEC. 4. (a) It is the sense of the Congress that (1) the interests of the United States and those of other member countries require an effective International Monetary Fund equipped with resources adequate to facilitate orderly balance-of-payments adjustments; (2) persistent balance-of-payments surpluses in oil exporting countries have placed, and will continue to place, severe strains on the resources of oil importing countries and on the liquidity of the Fund; (3) these strains can only be relieved if the oil exporting countries assume a greater burden for financing balance-of-payments deficits through direct methods of recycling their surpluses and through proportionally greater contributions to the Fund and to the international lending institutions; and (4) the Fund must explore innovative proposals to encourage more direct recycling of oil surpluses and to increase its own liquidity. 22 USC 286t note.

(b) The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new sections:

"SEC. 34. The Secretary of the Treasury, in consultation with the United States Executive Director of the Fund, shall study and, following consultations with member countries, shall report to the Congress prior to May 15, 1981, with respect to— Study and report to Congress. 22 USC 286t.

"(1) the current adequacy of Fund resources, together with projected needs of the Fund over the next five years;

"(2) the feasibility of increasing Fund liquidity by encouraging the Fund to borrow directly from the governments of oil exporting countries;

"(3) the feasibility of increasing Fund liquidity by encouraging the Fund to borrow in private capital markets through the issuance of securities backed by Fund resources;

"(4) the feasibility of an offer by the Fund of incentives to oil exporting countries, including financial guarantees by the Fund for government-to-government loans to countries with balance-of-payments deficits, in order to promote more direct recycling of oil surpluses; and

"(5) methods to enhance cooperation between commercial banks and the Fund to promote the availability of adequate resources for balance-of-payments financing.

Report to Congress. 22 USC 286u.

"SEC. 35. It is the sense of the Congress that the Secretary of the Treasury and the United States Executive Director of the Fund shall encourage member countries of the Fund to negotiate a dollar-Special Drawing Rights substitution account in which equitable burden sharing would exist among participants in the account, and shall report to the Congress prior to May 15, 1981, with respect to progress toward achieving this goal.".

DEBT RESCHEDULING COMPARABILITY

22 USC 286e-8.

SEC. 5. Section 29 of the Bretton Woods Agreements Act is amended by striking out "on the use of the facility".

TAIWAN

SEC. 6. The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

International Monetary Fund membership. 22 USC 286v.

"SEC. 36. It is the sense of the Congress that it is the policy of the United States that Taiwan (before January 1, 1979, known as the Republic of China) shall be granted appropriate membership in the Fund and that the United States Executive Director of the Fund shall so notify the Fund.".

PALESTINE LIBERATION ORGANIZATION

SEC. 7. The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

22 USC 286w.

"SEC. 37. It is the policy of the United States that the Palestine Liberation Organization should not be given membership in the Fund or be given observer status or any other official status at any meeting sponsored by or associated with the Fund. The United States Executive Director of the Fund shall promptly notify the Fund of such policy.

"In the event that the Fund provides either membership, observer status, or any other official status to the Palestine Liberation Organization, such action would result in a serious diminution of United States support. Upon review of such action, the President would be required to report his recommendations to the Congress with regard to any further United States participation in the Fund.".

Presidential report to Congress.

ASSISTANCE TO THE PRIVATE SECTOR OF EL SALVADOR AND OTHER NATIONS

SEC. 8. The Bretton Woods Agreements Act is further amended by adding at the end thereof the following new section:

22 USC 286x.

"SEC. 38. It is the sense of the Congress that in providing assistance through loans or other means to any nation, in particular El Salvador and Nicaragua, the Fund and the Bank should encourage programs which assist the private sector to create an environment which will stabilize the economy of the nation; and that the United States representatives to the Fund and the Bank shall promote the use of assistance by the Fund and the Bank to encourage such programs.".

International Monetary Fund salaries and travel costs. 22 USC 286a note.

SEC. 9. The United States Executive Director to the Fund shall seek to insure (a) that Fund salaries do not exceed those levels endorsed by the Fund Bank Joint Committee on Staff Compensation Issues; and (b) that travel costs are minimized by limiting first class and supersonic travel to instances where no reasonable alternative exists.

ROLE OF GOLD IN INTERNATIONAL MONETARY SYSTEMS

SEC. 10. (a) The Secretary of the Treasury shall establish and chair a commission consisting of— Commission, establishment. 31 USC 822a note.

(1) three members of the Board of Governors of the Federal Reserve System and two members of the Council of Economic Advisors, all of whom shall be designated by the Secretary of the Treasury;

(2) one majority and one minority member each from (A) the Joint Economic Committee of the Congress, (B) the Committee on Banking, Housing, and Urban Affairs of the Senate, and (C) the Committee on Banking, Finance and Urban Affairs of the House of Representatives, who shall be designated by the Speaker of the House of Representatives and the President of the Senate, respectively, upon the recommendations of the majority and minority leaders of the respective Houses; and

(3) four distinguished private citizens with business, finance, or academic backgrounds who shall be designated by the Secretary.

(b) The commission shall conduct a study to assess and make recommendations with regard to the policy of the United States Government concerning the role of gold in domestic and international monetary systems, and shall transmit to the Congress a report containing its findings and recommendations not later than one year after the date of enactment of this Act. Study and report to Congress.

(c) Sums appropriated pursuant to section 5 of Public Law 95-612 shall be available to the commission to carry out its functions. 92 Stat. 3092.

FULL APPROPRIATIONS REQUIRED

SEC. 11. Section 32 of the Bretton Woods Agreements Act, as added by section 1 of this Act, is amended by striking "to such extent or in such amounts as are provided in appropriations Acts" and inserting in lieu thereof "limited to such amounts as are appropriated in advance in appropriation Acts." 22 USC 286e-lg.

EFFECTIVE DATE

SEC. 12. This Act shall take effect on its date of enactment, except that funds may not be appropriated under any authorization contained in this Act for any period prior to October 1, 1980. 22 USC 286s note.

Approved October 7, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1018 accompanying H.R. 7244 (Comm. on Banking, Finance and Urban Affairs).

SENATE REPORTS: No. 96-693 (Comm. on Foreign Relations) and No. 96-794 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 126 (1980):

June 16, considered and passed Senate.

Sept. 17, 18, H.R. 7244 considered and passed House; passage vacated and S. 2271, amended, passed in lieu.

Sept. 23, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 41:

Oct. 7, Presidential statement.

Public Law 96-390
96th Congress

An Act

Oct. 7, 1980
[H.R. 4792]

To name a certain Federal building in Houston, Texas, the Bob Casey Federal Building—U.S. Courthouse.

Bob Casey Federal Building—U.S. Courthouse. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 515 Rusk Avenue, in Houston, Texas, shall hereinafter be known as, and is hereby designated as, the "Bob Casey Federal Building—U.S. Courthouse". Any reference in any law, regulation, document, record, map, or other paper of the United States to such a building shall be considered to be a reference to the Bob Casey Federal Building—U.S. Courthouse.

Approved October 7, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-433 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 15, considered and passed House.
Vol. 126 (1980): Sept. 26, considered and passed Senate.

Public Law 96-391
96th Congress

An Act

Oct. 7, 1980
[H.R. 5410]

To amend title 5, United States Code, to require any Federal employee who elects at the time of retirement not to provide survivorship benefits for the employee's spouse to notify (or take all reasonable steps to notify) the spouse of that election.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8339(j) of title 5, United States Code, is amended by inserting "(1)" after "(j)" and by adding at the end thereof the following:

Federal employee retirement, survivorship benefits.

"(2) Any written notification (or designation) by any employee or Member under the first sentence of paragraph (1) shall not be considered valid unless the employee or Member establishes to the satisfaction of the Office (A) that the spouse has been notified of the loss of or reduction in survivor benefits or (B) that the employee or Member has complied with such notification requirements as the Office shall, by regulation, prescribe.".

SEC. 2. The last sentence of section 12(b) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-522), is amended to read as follows: "Any member of the United States Secret Service Division appointed from the Executive Protective Service, or appointed from the Metropolitan Police force prior to January 1, 1972, and assigned to duties directly related to the protection of the President shall receive credit for periods of prior service with the Metropolitan Police force, the United States Park Police force, or the Executive Protective Service toward the required ten years or more service.".

SEC. 3. The amendments made by the first section of this Act shall take effect with respect to notifications and designations made under the first sentence of section 8339(j) of title 5, United States Code, on or after the ninetieth day after the date of the enactment of this Act.

5 USC 8339 note.

Approved October 7, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-850 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 96-903 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 31, Apr. 1, considered and passed House.
Aug. 27, considered and passed Senate, amended.
Sept. 25, House concurred in Senate amendments.

Public Law 96-392
96th Congress

An Act

Oct. 7, 1980
[H.R. 5732]

To designate the Federal Building located at 33 West Twohig, San Angelo, Texas, as the "O. C. Fisher Federal Building".

O. C. Fisher Federal Building. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building located at 33 West Twohig, San Angelo, Texas, shall hereinafter be called and designated as the "O. C. Fisher Federal Building". Any reference in law, map, regulation, document, record, or other paper of United States to such building shall be held to be a reference to the O. C. Fisher Federal Building.

Approved October 7, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1169 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 18, considered and passed House.
Sept. 26, considered and passed Senate.

Public Law 96-393
96th Congress

An Act

To name a certain Federal building in Indianapolis, Indiana, the Minton-Capehart Federal Building.

Oct. 7, 1980
[H.R. 6531]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 575 North Pennsylvania Street, Indianapolis, Indiana, shall hereinafter be known as, and is hereby designated as, the "Minton-Capehart Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such a building shall be considered to be a reference to the Minton-Capehart Federal Building.

Minton-Capehart Federal Building. Designation.

Approved October 7, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1170 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 18, considered and passed House.
Sept. 26, considered and passed Senate.

Public Law 96-394
96th Congress

An Act

Oct. 7, 1980
[H.R. 7414]

To designate the building known as the Federal Building and United States Courthouse in Amarillo, Texas, as the "J. Marvin Jones Federal Building".

J. Marvin Jones Federal Building. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building known as the Federal Building and United States Courthouse in Amarillo, Texas, shall hereafter be known, called, and designated as the "J. Marvin Jones Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "J. Marvin Jones Federal Building".

Approved October 7, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1173 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 18, considered and passed House.
Sept. 26, considered and passed Senate.

Public Law 96-395
96th Congress

An Act

To designate the United States Court House and the United States Post Office Federal Building in Waterbury, Connecticut, as the "John S. Monagan Federal Building".

Oct. 7, 1980
[H.R. 7450]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 135 Grand Street, Waterbury, Connecticut (commonly known as the Federal Building), shall hereafter be known, called, and designated as the "John S. Monagan Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "John S. Monagan Federal Building".

John S. Monagan Federal Building. Designation.

Approved October 7, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1174 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 18, considered and passed House.
Sept. 26, considered and passed Senate.

Public Law 96-396
96th Congress

An Act

Oct. 7, 1980
[H.R. 7782]

To amend the District of Columbia Police and Firemen's Salary Act of 1958 to provide for the same adjustments in the basic compensation of officers and members of the United States Secret Service Uniformed Division as are given to Federal employees under the General Schedule.

U.S. Secret Service Uniformed Division, basic compensation adjustments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the purpose of this Act is to insure that officers and members of the United States Secret Service Uniformed Division are entitled to adjustments in basic compensation in the same overall percentage as are other Federal employees within the General Schedule under the Federal pay comparability system.

(b) Section 501 of the District of Columbia Police and Firemen's Salary Act of 1958 (D.C. Code, sec. 4-833) is amended—

(1) by striking out "Executive Protective Service" in subsection (a) and inserting in lieu thereof "United States Secret Service Uniformed Division";

(2) by inserting ", and the annual rate of basic compensation of officers and members of the United States Secret Service Uniformed Division may be adjusted by the Secretary of the Treasury," in subsection (b)(1) after "Secretary of the Interior"; and

(3) by inserting "or to officers and members of the United States Secret Service Uniformed Division" in subsection (c) after "United States Park Police force".

Effective date.

(c) The amendments made by subsection (b) shall take effect on October 1, 1980.

Approved October 7, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1323 (Comm. on the District of Columbia).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 25, considered and passed House.
Sept. 26, considered and passed Senate.

Public Law 96-397
96th Congress

An Act

To continue in effect any authority provided under the Department of Justice Appropriation Authorization Act, Fiscal Year 1980, for a certain period.

Oct. 7, 1980
[H.R. 8202]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the authority, and any limitation on authority, contained in the Department of Justice Appropriation Authorization Act, Fiscal Year 1980, shall continue in effect with respect to activities of the Department of Justice (including any bureau, office, board, division, commission, or subdivision thereof) until the effective date of a general authorization Act or the end of the one hundred and eightieth day after the date of the enactment of this Act, whichever is earlier.

Justice Department Appropriation Authorization Act, FY 1980, authority continuation.
93 Stat. 1040.

Approved October 7, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 25, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 96-398
96th Congress

An Act

Oct. 7, 1980
[S. 1177]

To improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Mental Health Systems Act.
42 USC 9401 note.

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Mental Health Systems Act".

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TITLE IX—MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

Sec. 901. Mechanized claims processing and information retrieval systems.

FINDINGS

SEC. 2. The Congress finds— 42 USC 9401.

(1) despite the significant progress that has been made in making community mental health services available and in improving residential mental health facilities since the original community mental health centers legislation was enacted in 1963, unserved and underserved populations remain and there are certain groups in the population, such as chronically mentally ill individuals, children and youth, elderly individuals, racial and ethnic minorities, women, poor persons, and persons in rural areas, which often lack access to adequate private and public mental health services and support services;

(2) the process of transferring or diverting chronically mentally ill individuals from unwarranted or inappropriate institu-

tionalized settings to their home communities has frequently not been accompanied by a process of providing those individuals with the mental health and support services they need in community-based settings;

(3) the shift in emphasis from institutional care to community-based care has not always been accompanied by a process of affording training, retraining, and job placement for employees affected by institutional closure and conversion;

(4) the delivery of mental health and support services is typically uncoordinated within and among local, State, and Federal entities;

(5) mentally ill persons are often inadequately served by (A) programs of the Department of Health and Human Services such as medicare, medicaid, supplemental security income, and social services, and (B) programs of the Department of Housing and Urban Development, the Department of Labor, and other Federal agencies;

(6) health care systems often lack general health care personnel with adequate mental health care training and often lack mental health care personnel and consequently many individuals with some level of mental disorder do not receive appropriate mental health care;

(7) present knowledge of methods to prevent mental illness through discovery and elimination of its causes and through early detection and treatment is too limited;

(8) a comprehensive and coordinated array of appropriate private and public mental health and support services for all people in need within specific geographic areas, based upon a cooperative local-State-Federal partnership, remains the most effective and humane way to provide a majority of mentally ill individuals with mental health care and needed support; and

(9) because of the rising demand for mental health services and the wide disparity in the distribution of psychiatrists, clinical psychologists, social workers, and psychiatric nurses, there is a shortage in the medical specialty of psychiatry and there are also shortages among the other health personnel who provide mental health services.

TITLE I—GENERAL PROVISIONS

PART A—DEFINITIONS

DEFINITION OF COMMUNITY MENTAL HEALTH CENTER

42 USC 9411.

SEC. 101. (a) For purposes of this Act, the term "community mental health center" means a legal entity (1) through which comprehensive mental health services are provided—

(A) principally to individuals residing in a mental health service area, with special attention to those who are chronically mentally ill,

(B) within the limits of its capacity, to any individual residing or employed in such area regardless of ability to pay for such services, current or past health condition, or any other factor, and

(C) in the manner prescribed by subsection (b),

and (2) which is organized in the manner prescribed by subsections (c) and (d).

(b)(1) The comprehensive mental health services which shall be provided through a community mental health center are as follows: Comprehensive mental health services.

(A) Beginning on the date the community mental health center is established for purposes of section 201, the services provided through the center shall include—

(i) inpatient services, emergency services, and outpatient services;

(ii) assistance to courts and other public agencies in screening residents of the center's mental health service area who are being considered for referral to a State mental health facility for inpatient treatment to determine if they should be so referred and provision, where appropriate, of treatment for such persons through the center as an alternative to inpatient treatment at such a facility;

(iii) provision of followup care for residents of its mental health service area who have been discharged from inpatient treatment at a mental health facility;

(iv) consultation and education services which—

(I) are for a wide range of individuals and entities involved with mental health services, including health professionals, schools, courts, State and local law enforcement and correctional agencies, members of the clergy, public welfare agencies, health services delivery agencies, and other appropriate entities; and

(II) include a wide range of activities (other than the provision of direct clinical services) designed to develop effective mental health programs in the center's mental health service area, promote the coordination of the provision of mental health services among various entities serving the center's mental health service area, increase the awareness of the residents of the center's mental health service area of the nature of mental health problems and the types of mental health services available, and promote the prevention and control of rape and the proper treatment of the victims of rape; and

(v) the services described in subparagraph (B) or, in lieu of such services, the center shall have a plan approved by the Secretary under which the center will, during the three-year period beginning on such establishment date, assume in increments the provision of the services described in subparagraph (B) and will upon the expiration of such three-year period provide all the services described in subparagraph (B).

(B) After the expiration of such three-year period, a community mental health center shall provide, in addition to the services required by subparagraph (A), services which include— Additional services.

(i) day care and other partial hospitalization services;

(ii) a program of specialized services for the mental health of children, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

(iii) a program of specialized services for the mental health of the elderly, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

(iv) a program of transitional half-way house services for mentally ill individuals who are residents of its mental health service area and who have been discharged from

inpatient treatment in a mental health facility or would without such services require inpatient treatment in such a facility; and

(v) provision of each of the following service programs (other than a service program for which there is not sufficient need (as determined by the Secretary) in the center's mental health service area, or the need for which in the center's mental health service area the Secretary determines is currently being met):

(I) A program for the prevention and treatment of alcoholism and alcohol abuse and for the rehabilitation of alcohol abusers and alcoholics.

(II) A program for the prevention and treatment of drug addiction and abuse and for the rehabilitation of drug addicts, drug abusers, and other persons with drug dependency problems.

Service coordination.

(2) The provision of comprehensive mental health services through a center shall be coordinated with the provision of services by other health and social service agencies (including public mental health facilities) in or serving residents of the center's mental health service area to ensure that persons receiving services through the center have access to all such health and social services as they may require. The center's services (A) may be provided at the center or satellite centers through the staff of the center or through appropriate arrangements with health professionals and others in the center's mental health service area, or, with the approval of the Secretary, in the case of inpatient services, emergency services, partial hospitalization, transitional half-way house services, and certain specialized services, through appropriate arrangements with health professionals and others serving the residents of the mental health service area, (B) shall be available and accessible to the residents of the area promptly, as appropriate, and in a manner which preserves human dignity and assures continuity and high quality care and which overcomes geographic, cultural, linguistic, and economic barriers to the receipt of services, and (C) when medically necessary, shall be available and accessible twenty-four hours a day and seven days a week.

Professional supervision.

(3)(A) The mental health care of every patient of a center shall be under the supervision of a member of the professional staff of the center. The center shall provide for having a member of its professional staff available to furnish necessary mental health care in case of an emergency.

Supervising physician.

(B) Any medical services provided by a center shall be under the supervision of a physician unless otherwise permitted by State law. Whenever possible, the supervising physician shall be a psychiatrist.

Governing body.

(c)(1) Except as provided in paragraph (2) or (3), a community mental health center shall have a governing body which (A) is composed of individuals who reside in the center's mental health service area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and (B) is required to meet at least once a month, to establish general policies for the center (including a schedule of hours during which services will be provided), to approve the center's annual budget, and to approve the selection of a director for the center. At least one-half of the members of such body shall be individuals who are not providers of health care.

(2)(A) Except as provided in subparagraph (B), in the case of a community mental health center which is operated by a governmental agency or a hospital, such center may, in lieu of meeting the requirements of paragraph (1), appoint a committee which advises it with respect to the operations of the center and which is composed of individuals who reside in the center's mental health service area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care. A center to which this subparagraph applies shall submit to such a committee for its review any application for a grant under section 201. Advisory committee.

(B) Subparagraph (A) does not apply with respect to a community mental health center which on the date of the enactment of this Act had a governing body which met the requirements of paragraph (1).

(3) Paragraphs (1) and (2) do not apply to a community mental health center which is operated by a primary care center, community health center, or migrant center and which meets the applicable requirements of part D of title III of the Public Health Service Act. 42 USC 255.

(4) For purposes of paragraphs (1) and (2), the term "provider of health care" has the same meaning as is prescribed for that term by section 1531(3) of the Public Health Service Act. "Provider of health care." 42 USC 300n.

(d) A center shall, in accordance with regulations prescribed by the Secretary, have (1) an ongoing quality assurance program (including multidisciplinary utilization and peer review systems) respecting the center's services, (2) an integrated medical records system (including a drug use profile) which, in accordance with applicable Federal and State laws respecting confidentiality, is designed to provide access to all past and current information regarding the health status of each patient and to maintain safeguards to preserve confidentiality and to protect the rights of the patient, (3) a multidisciplinary professional advisory board, which is composed of members of the center's professional staff, to advise the governing board or the advisory committee in establishing policies governing medical and other services provided by such staff on behalf of the center, and (4) an identifiable administrative unit which shall be responsible for providing the consultation and education services described in subsection (b)(1)(A)(iv). The Secretary may waive the requirements of clause (4) with respect to any center if he determines that because of the size of such center or because of other relevant factors the establishment of the administrative unit described in such clause is not warranted. Center, requirements. Waiver.

OTHER DEFINITIONS

SEC. 102. For purposes of this Act: 42 USC 9412.

(1) The term "Secretary" means the Secretary of Health and Human Services.

(2) The term "State" includes (in addition to the fifty States) the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(3) The term "State mental health authority" means the agency of a State designated under section 105 to be responsible for the mental health programs of the State.

(4) The term "mental health service area" means an area established under section 106.

(5) The term "nonprofit", as applied to any entity, means an entity which is owned and operated by one or more corporations

or associations no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or person.

(6) The term "priority population group" means an identifiable population group in a mental health service area which is unserved or underserved by mental health programs in such area as determined under a health systems plan or a State health plan in effect under section 1513 or 1524 of the Public Health Service Act.

42 USC 300*l*-2, 300m-3.

(7) The term "Governor" means the chief executive officer of a State.

PART B—STATE ADMINISTRATIVE RESPONSIBILITIES

STATE MENTAL HEALTH AUTHORITY

42 USC 9421.

SEC. 105. Each State shall designate an agency of the State to be responsible for the mental health programs of the State.

MENTAL HEALTH SERVICE AREAS

Redesignation. 42 USC 9422.

SEC. 106. (a) Each catchment area of a community mental health center designated under the Community Mental Health Centers Act is redesignated as a mental health service area.

Boundaries.

(b) A mental health service area in a State shall, except to the extent permitted under regulations of the Secretary, have boundaries which conform to or are within the boundaries of a health service area established under title XV of the Public Health Service Act and, to the extent practicable, conform to boundaries of one or more school districts or political or other subdivisions in the State.

42 USC 300k-1.

Boundary review; revision.

(c)(1) The State mental health authority of a State shall review the boundaries of any mental health service area in the State which does not meet the requirements of subsection (b) and shall make such revisions in the boundaries of the area as may be necessary to meet such requirements.

(2) The State mental health authority of a State may review the boundaries of any mental health service area in the State and may revise the boundary of any such area to—

(A) ensure that the size of such area is such that the services to be provided in the area are available and accessible to the residents of the area promptly, as appropriate, and

(B) ensure that the boundary of such area eliminates, to the extent possible, barriers to access to the services provided in the area, including barriers resulting from an area's physical characteristics, its residential patterns, its economic and social groupings, and its available transportation.

Notice; hearing.

(3) In conducting a review of a boundary under paragraph (1) or (2) a State mental health authority shall provide notice of its review and shall provide a reasonable opportunity for a hearing on its review and any proposed boundary revision.

ALLOTMENTS TO STATES TO IMPROVE THE ADMINISTRATION OF STATE MENTAL HEALTH PROGRAMS

42 USC 9423.

SEC. 107. (a) For the purpose of assisting State mental health authorities to improve the administration of State mental health programs and to carry out their activities under this Act relating to—

(1) planning and program design,

(2) data collection,
(3) data analysis,
(4) research,
(5) evaluation,
(6) setting and enforcing regulatory and other standards,
(7) reporting to the Secretary, and
(8) establishing, expanding, or operating mental health patients' rights protection programs,

the Secretary shall, for each fiscal year and in accordance with regulations, allot to the States the sums appropriated for such year under subsection (c) on the basis of the population and the financial need of the respective States. The populations of the States shall be determined on the basis of the latest figures for the populations of the States available from the Department of Commerce.

Population determination.

(b) No allotment may be made to a State under subsection (a) unless the State has submitted to the Secretary an application for the allotment containing such information as the Secretary may require.

Allotment application.

(c) There are authorized to be appropriated for allotments under subsection (a), $15,000,000 for the fiscal year ending September 30, 1982, $15,000,000 for the fiscal year ending September 30, 1983, and $15,000,000 for the fiscal year ending September 30, 1984.

Appropriation authorization.

(d) Effective September 30, 1981, section 314(g) of the Public Health Service Act is repealed.

Repeal. 42 USC 246.

TITLE II—GRANT PROGRAMS

GRANTS FOR COMMUNITY MENTAL HEALTH CENTERS

SEC. 201. (a)(1) The Secretary may make grants to any public or nonprofit private community mental health center to assist it in meeting its costs of operation (other than costs related to construction).

42 USC 9431.

(2) No application for a grant under paragraph (1) for a community mental health center which has not received a grant for its operation under the Community Mental Health Centers Act may be approved unless the application is accompanied by assurances, satisfactory to the Secretary, that the grant applied for and the State, local, and other funds and the fees, premiums, and third-party reimbursements which the applicant may reasonably be expected to collect in the year for which the grant would be made are sufficient to meet the projected costs of operation for that year.

(3) Grants under paragraph (1) may only be made for a grantee's costs of operation during the first eight years after its establishment. In the case of a community mental health center which received a grant under section 220 of the Community Mental Health Centers Act (as in effect before the date of enactment of the Community Mental Health Centers Amendments of 1975) or section 203(a) of such Act (as in effect after such date), such center shall, for purposes of grants under paragraph (1), be considered as having been in operation since its establishment for a number of years equal to the sum of the number of grants it received under such sections and the number of grants it has received under paragraph (1).

Time limitation.

79 Stat. 428, 84 Stat. 56. 42 USC 2689 note. 42 USC 2689b.

(b) Each grant under subsection (a) to a community mental health center shall be made for the costs of its operation for the one-year period beginning on the first day of the month in which such grant is made, except that if at the end of such period a center has not obligated all the funds received by it under a grant, the center may use the unobligated funds under the grant in the succeeding year for the same purposes for which such grant was made but only if the center is eligible to receive a grant under subsection (a) for such succeeding year.

Unobligated funds.

Grant computation.

(c)(1) The amount of a grant for any year made under subsection (a) shall be the lesser of the amounts computed under subparagraph (A) or (B) as follows:

(A) An amount equal to the amount by which the grantee's projected costs of operation for that year exceed the total of State, local, and other funds and of the fees, premiums, and third-party reimbursements which the grantee may reasonably be expected to collect in that year.

(B)(i) Except as provided in clause (ii), an amount equal to the following percentages of the grantee's projected costs of operation: 80 percent of such costs for the first year of its operation, 65 percent of such costs for the second year of its operation, 50 percent of such costs for the third year of its operation, 35 percent of such costs for the fourth year of its operation, 30 percent of such costs for the fifth and sixth years of its operation, and 25 percent of such costs for the seventh and eighth years of its operation.

Designated urban or rural poverty area.

(ii) In the case of a grantee providing services for persons in an area designated by the Secretary as an urban or rural poverty area, an amount equal to the following percentages of the grantee's projected costs of operation: 90 percent of such costs for the first two years of its operation, 80 percent of such costs for the third year of its operation, 70 percent of such costs for the fourth year of its operation, 60 percent of such costs for the fifth year of its operation, 50 percent of such costs for the sixth year of its operation, 40 percent of such costs for the seventh year of its operation, and 30 percent of such costs for the eighth year of its operation.

Unobligated funds.

(2) The amount of a grant prescribed by paragraph (1) for a community mental health center for any year shall be reduced by the amount of unobligated funds from the preceding year which the center is authorized, under subsection (b)(1), to use in the year for which the grant is to be made.

Costs exceeded by funds, grant adjustment.

(3) If in a fiscal year the sum of—

(A) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and

(B) the amount of the grant received under subsection (a) by a center,

exceeds its actual costs of operation for that year, and if the center is eligible to receive a grant under subsection (a) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the center may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center (i) to expand and improve its services, (ii) to increase the number of persons which it is able to serve, (iii) to modernize its facilities, (iv) to improve the administration of its service programs, and (v) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

Operational costs, appropriation authorization.

(d)(1) For initial grants under subsection (a) there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1982, $35,000,000 for the fiscal year ending September 30, 1983, and $40,000,000 for the fiscal year ending September 30, 1984.

(2) There are authorized to be appropriated for the fiscal year ending September 30, 1982, and for each of the next nine fiscal years such sums as may be necessary to make grants, for the number of years prescribed by subsection (a)(3), to community mental health centers which received an initial grant for operations under the Community Mental Health Centers Act or this Act for a fiscal year beginning before October 1, 1984.

42 USC 2689 note.

(3) Of the total amount appropriated under paragraphs (1) and (2) for any fiscal year, the Secretary may not obligate more than 5 percent for grants under subsection (a) to community mental health centers which are operated by hospitals and which have advisory committees as prescribed by section 101(c)(2). Restriction.

GRANTS FOR SERVICES FOR CHRONICALLY MENTALLY ILL INDIVIDUALS

SEC. 202. (a)(1) The Secretary may make grants to any State mental health authority, community mental health center, or other public or nonprofit private entity for projects for the provision of mental health and related support services for chronically mentally ill individuals. No grant may be made under this subsection for a project unless the project provides for at least the following: 42 USC 9432. Service requirements.

(A) The identification of the chronically mentally ill individuals residing in the area to be served by the project.

(B) Assistance to such individuals in gaining access to essential mental health services, medical and dental care and rehabilitation services, and employment, housing, and other support services designed to enable chronically mentally ill individuals to function outside of inpatient institutions to the maximum extent of their capabilities.

(C) Assuring the availability, for each such chronically mentally ill individual who needs both mental health and related support services, of an individual to assume responsibility for seeing to it that the individual receives any such service that the individual needs.

(D) Coordinating the provision of mental health and related support services to such individuals with the provision of other services to them.

(2) A grant under this subsection for a project in a mental health service area served by a community mental health center may be made only to the community mental health center or to the State mental health authority of the State in which the area is located, except that, if the Secretary finds that because of exceptional circumstances in the mental health service area the chronically mentally ill individuals in the area would be otherwise underserved, a grant may be made to any other public or private nonprofit entity. Recipients; restriction, exception.

(3) In considering applications for grants under this subsection, the Secretary shall give special consideration to applications for projects designed to supplement and strengthen existing community support services. Applications, special consideration.

(b) The Secretary may make grants to any State mental health authority to— Grants, purposes.

(1) improve the skills of personnel providing services to chronically mentally ill individuals by providing or arranging for the provision of inservice training, other training, or retraining for such personnel; or

(2) coordinate the operations of State agencies or intrastate regional agencies responsible for mental health and related support services for chronically mentally ill individuals, and coordinate the provision of mental health and support services for chronically mentally ill individuals with the provision of services to such individuals under titles IV, V, XVI, XVIII, XIX, and XX of the Social Security Act and under the Rehabilitation Act of 1973, the United States Housing Act, the Comprehensive Employment and Training Act, the Developmental Disabilities 42 USC 601, 701, 1381, 1395, 1396, 1397. 29 USC 701 note, 42 USC 1437 note. 29 USC 801 note.

42 USC 6001 note, 3001 note. Limitation.

Assistance and Bill of Rights Act, the Older Americans Act, and other Federal and State statutes.

(c)(1) No entity may receive more than eight grants under this section.

Grant computation.

(2) The amount of any grant under subsection (a) or (b) shall be determined by the Secretary, except that the amount of—

(A) the first and second grant may not exceed 90 percent of the costs (as determined by the Secretary) of the project for which the grant is made;

(B) the third grant may not exceed 80 percent of such costs;

(C) the fourth grant may not exceed 70 percent of such costs;

(D) the fifth grant may not exceed 60 percent of such costs;

(E) the sixth grant may not exceed 50 percent of such costs;

(F) the seventh grant may not exceed 40 percent of such costs; and

(G) the eighth grant may not exceed 30 percent of such costs.

Costs exceeded by funds, grant adjustment.

(3) If in a fiscal year the sum of—

(A) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and

(B) the amount of the grant received under subsection (a) by an entity,

exceeds its actual costs of operation for that year and if the entity is eligible to receive a grant under subsection (a) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the entity may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the entity can demonstrate to the satisfaction of the Secretary will be used to enable the entity (i) to expand and improve its services, (ii) to increase the number of persons which it is able to serve, (iii) to modernize its facilities, (iv) to improve the administration of its service programs, and (v) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

(d)(1) Except as provided in paragraph (3), no grant may be made to an entity under subsection (a) or (b) unless the entity meets the requirements of paragraph (2).

Governing body.

(2)(A) Except as provided in subparagraph (B), an applicant for a grant under subsection (a) to provide the services described in that subsection shall have a governing body which (i) is composed of individuals who reside in the entity's mental health service area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and (ii) is required to meet at least once a month, to establish general policies for the entity (including a schedule of hours during which services will be provided), to approve the entity's annual budget, and to approve the selection of a director for the entity. At least one-half of the members of such body shall be individuals who are not providers of health care.

Advisory committee.

(B) An applicant which is a hospital, a State agency, or other public or nonprofit private entity which does not have as its primary purpose the provision of mental health services under grants under subsection (a) may appoint a committee which advises it with respect to the operations of the entity which are funded with a grant under subsection (a) or (b) and which is composed of individuals who reside in the entity's mental health service area, who are representative of the residents of the area as to employment, age, sex, place of

residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.

(3) Paragraph (1) does not apply with respect to an entity which is a primary care center, community health center, or migrant health center and which meets the applicable requirements of part D of title III of the Public Health Service Act. 42 USC 255.

(4) For purposes of paragraph (2), the term "provider of health care" has the same meaning as is prescribed for that term by section 1531(3) of the Public Health Service Act. "Provider of health care." 42 USC 300n.

(e) For grants under subsections (a) and (b) there are authorized to be appropriated $45,000,000 for the fiscal year ending September 30, 1982, $50,000,000 for the fiscal year ending September 30, 1983, and $60,000,000 for the fiscal year ending September 30, 1984. Appropriation authorization.

GRANTS FOR SERVICES FOR SEVERELY MENTALLY DISTURBED CHILDREN AND ADOLESCENTS

SEC. 203. (a) The Secretary may make grants to any State mental health authority, community mental health center, or other public or nonprofit private entity for the provision of mental health and related support services for severely mentally disturbed children and adolescents and for members of their families. The services which may be provided under a grant under this subsection shall include at least one of the following: 42 USC 9433. Service requirements.

(1) The identification and assessment of the needs of severely mentally disturbed children and adolescents and the provision of needed mental health and related support services which are not provided by existing programs.

(2) Assuring the availability of appropriate personnel to be responsible for providing, or arranging for the provision of, the needed mental health and related support services for such children and adolescents.

(3) The provision of auxiliary mental health services under the Education for all Handicapped Children Act of 1975 to such children and adolescents who are handicapped. 20 USC 1401 note.

(4) The establishment of cooperative arrangements with juvenile justice authorities, educational authorities, and other authorities and agencies that come in contact with such children and adolescents to ensure referral of such children and adolescents for appropriate mental health and related support services.

A grant made under this subsection for a project in a mental health service area served by a community mental health center may be made only to the community mental health center or to the State mental health authority of the State in which the area is located, except that, if the Secretary finds that because of exceptional circumstances in the mental health service area the severely mentally disturbed children and adolescents in the area would otherwise be underserved, a grant may be made to any other public or private nonprofit entity. Recipients; restriction, exception.

(b) The Secretary may make grants to any public entity for projects to coordinate the provision of mental health and related support services to severely mentally disturbed children and adolescents with the activities of community agencies and State agencies and with the provision of services available to such children and adolescents under titles IV, V, XVI, XIX, and XX of the Social Security Act and under the Education for All Handicapped Children Act of 1975, the Developmental Disabilities Assistance and Bill of Rights Act, the Rehabilitation Act of 1973, and other Federal and State statutes. Grants, purposes. 42 USC 601, 701, 1381, 1396, 1397. 20 USC 1401 note. 42 USC 6001 note. 29 USC 701 note.

Limitation.

(c)(1) No entity may receive more than eight grants under this section.

Grant computation.

(2) The amount of any grant under subsection (a) or (b) shall be determined by the Secretary, except that the amount of—

(A) the first and second grant may not exceed 90 percent of the costs (as determined by the Secretary) of the project for which the grant is made;

(B) the third grant may not exceed 80 percent of such costs;

(C) the fourth grant may not exceed 70 percent of such costs;

(D) the fifth grant may not exceed 60 percent of such costs;

(E) the sixth grant may not exceed 50 percent of such costs;

(F) the seventh grant may not exceed 40 percent of such costs; and

(G) the eighth grant may not exceed 30 percent of such costs.

Costs exceeded by funds, grant adjustment.

(3) If in a fiscal year the sum of—

(A) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and

(B) the amount of the grant received under subsection (a) by an entity,

exceeds its actual costs of operation for that year and if the entity is eligible to receive a grant under subsection (a) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the entity may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the entity can demonstrate to the satisfaction of the Secretary will be used to enable the entity (i) to expand and improve its services, (ii) to increase the number of persons which it is able to serve, (iii) to modernize its facilities, (iv) to improve the administration of its service programs, and (v) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

(d)(1) Except as provided in paragraph (3), no grant may be made to an entity under subsection (a) or (b) unless the entity meets the requirements of paragraph (2).

Governing body.

(2)(A) Except as provided in subparagraph (B), an applicant for a grant under subsection (a) to provide the services described in that subsection shall have a governing body which (i) is composed of individuals who reside in the entity's mental health service area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and (ii) is required to meet at least once a month, to establish general policies for the entity (including a schedule of hours during which services will be provided), to approve the entity's annual budget, and to approve the selection of a director for the entity. At least one-half of the members of such body shall be individuals who are not providers of health care.

Advisory committee.

(B) An applicant which is a hospital, a State agency, or other public or nonprofit private entity which does not have as its primary purpose the provision of mental health services under grants under subsection (a) may appoint a committee which advises it with respect to the operations of the entity which are funded with a grant under subsection (a) or (b) and which is composed of individuals who reside in the entity's mental health service area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.

(3) Paragraph (1) does not apply with respect to an entity which is a primary care center, community health center, or migrant health center and which meets the applicable requirements of part D of title III of the Public Health Service Act. 42 USC 255.

(4) For purposes of paragraph (2), the term "provider of health care" has the same meaning as is prescribed for that term by section 1531(3) of the Public Health Service Act. "Provider of health care." 42 USC 300n.

(e) For grants under subsections (a) and (b) there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1982, $12,000,000 for the fiscal year ending September 30, 1983, and $15,000,000 for the fiscal year ending September 30, 1984. Appropriation authorization.

GRANTS FOR MENTAL HEALTH SERVICES FOR ELDERLY INDIVIDUALS AND OTHER PRIORITY POPULATIONS

SEC. 204. (a)(1) The Secretary may make grants to any public or nonprofit private entity for projects for services for elderly individuals. Each such project shall include at least the following: 42 USC 9434. Service requirements.

(A) The location of elderly individuals in the mental health service area or areas served by the entity who are in need of mental health services.

(B) The provision or arrangement for the provision of medical differential diagnoses of elderly individuals in such area or areas to distinguish between their need for mental health services and other medical care.

(C) The specification of the mental health needs of elderly individuals in such area or areas and the mental health and support services required to meet such needs.

(D) The provision of—

(i) the mental health and support services specified under subparagraph (C) in the communities in such area or areas, or

(ii) such services for elderly individuals in nursing homes and intermediate care facilities in such area or areas and training of the employees of such homes and facilities in the provision of such services.

(2) The Secretary may make grants to any public or nonprofit private entity in a mental health service area in which, as determined by the Secretary, the services described in paragraph (1) are being provided to enable the entity to— Grants, purposes.

(A) assure the availability of appropriate personnel to be responsible for the provision of or for arranging for the provision of such services to elderly individuals; or

(B) coordinate the provision of such services to elderly individuals with (i) the area agency on aging (as defined in the Older Americans Act) and other community agencies providing mental health and related support services for elderly individuals, and (ii) with the provision of services available to elderly individuals under titles XVI, XVIII, XIX, and XX of the Social Security Act and under the Older Americans Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, the Drug Abuse Prevention, Treatment, and Rehabilitation Act, the United States Housing Act, the Domestic Volunteer Service Act of 1973, and other Federal and State statutes. 42 USC 1381, 1395, 1396, 1397. 42 USC 3001 note. 42 USC 4541 note. 21 USC 1101 note, 42 USC 1437 note. 42 USC 4951 note.

(3)(A) No entity may receive more than eight grants under paragraph (1) or (2). Limitation.

(B) The amount of any grant under paragraph (1) or (2) shall be determined by the Secretary, except that the amount of— Grant computation.

(i) the first and second grant may not exceed 90 percent of the costs (as determined by the Secretary) of the project for which the grant is made;

(ii) the third grant may not exceed 80 percent of such costs;

(iii) the fourth grant may not exceed 70 percent of such costs;

(iv) the fifth grant may not exceed 60 percent of such costs;

(v) the sixth grant may not exceed 50 percent of such costs;

(vi) the seventh grant may not exceed 40 percent of such costs; and

(vii) the eighth grant may not exceed 30 percent of such costs.

Costs exceeded by funds, grant adjustment.

(C) If in a fiscal year the sum of—

(i) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and

(ii) the amount of the grant received under paragraph (1) by an entity,

exceeds its actual costs of operation for that year and if the entity is eligible to receive a grant under paragraph (1) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the entity may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the entity can demonstrate to the satisfaction of the Secretary will be used to enable the entity (I) to expand and improve its services, (II) to increase the number of persons which it is able to serve, (III) to modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

Recipients; restriction, exception.

(D) A grant made under paragraph (1) for a project in a mental health service area served by a community mental health center may be made only to the community mental health center or to the State mental health authority of the State in which the area is located, except that, if the Secretary finds that because of exceptional circumstances in the mental health service area the elderly individuals in the area would otherwise be underserved, a grant may be made to any other public or private nonprofit entity.

(E)(i) Except as provided in clause (iii), no grant may be made to an entity under paragraph (1) or (2) unless the entity meets the requirements of clause (ii).

Governing body.

(ii)(I) Except as provided in subclause (I), an applicant for a grant under paragraph (1) to provide the services described in that paragraph shall have a governing body which is composed of individuals who reside in the entity's mental health service area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and which is required to meet at least once a month, to establish general policies for the entity (including a schedule of hours during which services will be provided), to approve the entity's annual budget, and to approve the selection of a director for the entity. At least one-half of the members of such body shall be individuals who are not providers of health care.

Advisory committee.

(II) An applicant which is a hospital, a State agency, or other public or nonprofit private entity which does not have as its primary purpose the provision of mental health services under grants under paragraph (1) may appoint a committee which advises it with respect to the operations of the entity which are funded with a grant under paragraph (1) or (2) and which is composed of individuals who reside

in the entity's mental health service area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.

(iii) Clause (i) does not apply with respect to an entity which is a primary care center, community health center, or migrant health center and which meets the applicable requirements of part D of title III of the Public Health Service Act. 42 USC 255.

(iv) For purposes of clause (ii), the term "provider of health care" has the same meaning as is prescribed for that term by section 1531(3) of the Public Health Service Act. "Provider of health care." 42 USC 300n.

(b)(1) The Secretary may make grants to any public or nonprofit private entity for any project for mental health services which—

(A) is designed to serve principally one or more priority population groups in a mental health service area, and

(B) is available to all residents of the area.

(2) A grant made under paragraph (1) for a project in a mental health service area served by a community mental health center may be made only to the community mental health center or to the State mental health authority of the State in which the area is located and only if the Secretary finds that because of exceptional circumstances in the mental health service area priority populations in the area would be otherwise underserved. Recipients, restriction.

(3)(A) Not more than four grants may be made under paragraph (1) to the same entity for mental health services for the same priority population group or groups, except that, if the entity is a community mental health center or other entity in a mental health service area served by a community mental health center, the number of grants which it may receive for the same population group or groups may not exceed two. Limitation.

(B) In any fiscal year not more than two grants may be made under paragraph (1) for projects in one mental health service area and the total number of grants that may be made for projects in such an area under paragraph (1) may not exceed eight.

(C) The amount of any grant under paragraph (1) shall be determined by the Secretary, except that the amount of— Grant computation.

(i) the first such grant may not exceed 90 percent of the costs of the project (as determined by the Secretary) for which the grant is made,

(ii) the second such grant may not exceed 80 percent of such costs,

(iii) the third such grant may not exceed 70 percent of such costs, and

(iv) the fourth such grant may not exceed 60 percent of such costs.

(D) If in a fiscal year the sum of— Costs exceeded by funds, grant adjustment.

(i) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and

(ii) the amount of the grant received under paragraph (1) by an entity,

exceeds its actual costs of operation for that year and if the entity is eligible to receive a grant under paragraph (1) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the entity may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the entity can demonstrate to the satisfaction of the Secretary will be used to enable the entity (I) to expand and improve its services, (II) to

increase the number of persons which it is able to serve, (III) to modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

(4) For purposes of this subsection, if a grant could be made under subsection (a) or section 202 or 203 for a project designed primarily to serve a particular population group, such population group shall not be included in the priority population groups for which grants are authorized under this subsection.

Criteria.

(c) An application for a grant under subsection (b) may be approved only if—

(1) the application contains satisfactory assurances that the project for which the application is made will lead to increased or more appropriate mental health services for a priority population group or to the development of mental health services for such a group;

(2) the application contains satisfactory assurances that members of the priority population group or groups to be served by the project will be afforded reasonable opportunity to comment on performance under the project; and

(3) the applicant (A) will during the first three years that it receives a grant under subsection (b) provide outpatient mental health services and any two of the following mental health services determined to be of the greatest need for the priority population to be served by the applicant: inpatient, screening, followup, consultation and education, and emergency services, and (B) unless the applicant is a community mental health center or a State mental health authority receiving a grant under subsection (b) as authorized by paragraph (2) of that subsection, has a plan satisfactory to the Secretary for the provision of all the mental health services described in clause (A) upon the expiration of the first three years that it receives a grant under subsection (b).

The Secretary may not approve an application of an entity which has received a grant for three years under subsection (b) unless the applicant is providing all the mental health services described in paragraph (3)(A).

(d)(1) Except as provided in paragraph (3), no grant may be made to an entity under subsection (b) unless the entity meets the requirements of paragraph (2).

Governing body.

(2)(A) Except as provided in subparagraph (B), an applicant for a grant under subsection (b) to provide the services described in that subsection shall have a governing body which (i) is composed of individuals who reside in the entity's mental health service area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and (ii) is required to meet at least once a month, to establish general policies for the entity (including a schedule of hours during which services will be provided), to approve the entity's annual budget, and to approve the selection of a director for the entity. At least one-half of the members of such body shall be individuals who are not providers of health care.

Advisory committee.

(B) An applicant which is a hospital, a State agency, or other public or nonprofit private entity which does not have as its primary purpose the provision of mental health services under grants under subsection (b) may appoint a committee which advises it with respect

to the operations of the entity which are funded with a grant under subsection (b) and which is composed of individuals who reside in the entity's mental health service area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.

(3) Paragraph (1) does not apply with respect to an entity which is a primary care center, community health center, or migrant health center and which meets the applicable requirements of part D of title III of the Public Health Service Act. 42 USC 255.

(4) For purposes of paragraph (2), the term "provider of health care" has the same meaning as is prescribed for that term by section 1531(3) of the Public Health Service Act. "Provider of health care." 42 USC 300n.

(e) For grants under this section there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1982, $35,000,000 for the fiscal year ending September 30, 1983, and $40,000,000 for the fiscal year ending September 30, 1984. Not less than 40 percent of the amount appropriated under this subsection for any fiscal year shall be obligated by the Secretary for grants under subsection (a). Appropriation authorization.

GRANTS FOR NON-REVENUE-PRODUCING SERVICES

SEC. 205. (a)(1) The Secretary may make grants to any public or nonprofit private community mental health center to assist in meeting the costs (as determined by the Secretary by regulation) of— Service requirements. 42 USC 9435.

(A) providing the consultation and education services described in clause (iv) of section 101(b)(1)(A),

(B) providing the followup services described in clause (iii) of such section,

(C) administering the mental health service programs of the center,

(D) providing individuals who will be responsible for assuring that individuals in need of both mental health services and support services receive each of the services that they need, and

(E) any other non-revenue-producing service which the Secretary determines is appropriate for a community mental health center to provide.

(2) To be eligible for a grant under paragraph (1) a community mental health center must— Eligibility.

(A) have received a grant under section 203(a) of the Community Mental Health Centers Act, under section 220 of such Act as in effect before July 29, 1975, or under section 201 of this Act; and 42 USC 2689b. 79 Stat. 428, 84 Stat. 56.

(B) because of the limitations on the period for which a center may receive such a grant or on the number of such grants the center may receive, be no longer eligible to receive such a grant.

(b) An application for a grant under subsection (a) shall contain assurances satisfactory to the Secretary that the applicant will, during the period which it receives a grant under subsection (a), provide, at a minimum— Assurances.

(1) the comprehensive mental health services described in clauses (i) through (iv) of section 101(b)(1)(A), and

(2) any service described in section 101(b)(1)(B) which the center was providing in the last year it received a grant under the Community Mental Health Centers Act or this Act for its operations. 42 USC 2689 note.

Such an application shall also include information regarding the extent to which and manner in which the applicant has served

chronically mentally ill individuals in prior years (if such service has been provided) and proposes to serve chronically mentally ill individuals during the fiscal year for which the grant is sought.

Limitation.

(c)(1) No community mental health center may receive more than five grants under subsection (a).

Grant computation.

(2) The amount of a grant under subsection (a) shall be determined by the Secretary, except that no grant may exceed the product of $1.25 and the population of the mental health service area of the community mental health center receiving the grant. The population of a mental health service area shall be determined on the basis of the latest figures for the populations of the States available from the Department of Commerce.

Population determination.

Appropriation authorization.

(d) For grants under subsection (a) there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1982, $35,000,000 for the fiscal year ending September 30, 1983, and $40,000,000 for the fiscal year ending September 30, 1984.

GRANTS FOR MENTAL HEALTH SERVICES IN HEALTH CARE CENTERS

Service requirements. 42 USC 9436.

SEC. 206. (a)(1) For the purpose of assisting health care centers to participate appropriately in the provision of mental health services to their patients, the Secretary may make grants to—

(A) any public or nonprofit private entity which provides mental health services that include at least twenty-four-hour emergency services, outpatient services, and consultation and education services (as described in section 101(b)(1)(A)(iv)) and has in effect an agreement of affiliation, described in paragraph (2), with an entity which is a health care center; or

(B) any public or nonprofit private health care center which has in effect an agreement of affiliation, described in paragraph (2), with an entity described in subparagraph (A).

Affiliation agreement.

(2) An agreement of affiliation referred to in paragraph (1) is an agreement between a mental health services entity described in paragraph (1)(A) and a health care center which agreement—

(A) describes the geographical area the residents of which will be served by the mental health services to be provided under the agreement;

(B) provides for the employment of at least one mental health professional to serve as a liaison between the parties to the agreement and includes a description of the qualifications to be required of that person and of any other professional mental health personnel to be employed under the agreement;

(C) provides satisfactory assurances that the mental health services entity will make mental health services available to patients of the center referred to it by the liaison or other mental health professionals; and

(D) includes transportation arrangements and other arrangements for effecting referral from the center to the mental health services entity of patients needing the services of such entity.

Projects.

(b) Any grant under subsection (a) may be made for a project for any one or more of the following:

(1) The costs of the liaison or other mental health professionals providing services in the health care center in accordance with an agreement of affiliation.

(2) Mental health services provided by other personnel of the center which the mental health services entity determines can be appropriately provided by such personnel.

(3) Consultation and inservice training on mental health provided to personnel of the health care center by the mental health services entity.

(4) Establishing liaison between the center and other providers of mental health services or support services.

(c)(1) No entity may receive more than eight grants under subsection (a). Limitation.

(2) The amount of any grant under subsection (a) shall be determined by the Secretary, except that the amount of— Grant computation.

(A) the first and second grant may not exceed 90 percent of the costs (as determined by the Secretary) of the project for which the grant is made;

(B) the third grant may not exceed 80 percent of such costs;

(C) the fourth grant may not exceed 70 percent of such costs;

(D) the fifth grant may not exceed 60 percent of such costs;

(E) the sixth grant may not exceed 50 percent of such costs;

(F) the seventh grant may not exceed 40 percent of such costs; and

(G) the eighth grant may not exceed 30 percent of such costs.

(3) If in a fiscal year the sum of— Costs exceeded by funds, grant adjustment.

(A) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and

(B) the amount of the grant received under subsection (a) by a center or other entity,

exceeds its actual costs of operation for that year and if the center or entity is eligible to receive a grant under subsection (a) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the center or entity may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the center or entity can demonstrate to the satisfaction of the Secretary will be used to enable the center or entity (i) to expand and improve its services, (ii) to increase the number of persons which it is able to serve, (iii) to modernize its facilities, (iv) to improve the administration of its service programs, and (v) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

(d) For grants under subsection (a) there are authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1982, $17,500,000 for the fiscal year ending September 30, 1983, and $20,000,000 for the fiscal year ending September 30, 1984. Appropriation authorization.

(e) For purposes of this section, the term "health care center" includes an outpatient facility operated in connection with a hospital, a primary care center, a community health center, a migrant health center, a clinic of the Indian Health Service, a skilled nursing home, an intermediate care facility, and an outpatient health care facility of a medical group practice, a public health department, or a health maintenance organization.

GRANTS AND CONTRACTS FOR INNOVATIVE PROJECTS

SEC. 207. (a) The Secretary may make grants to any public or nonprofit private entity for— 42 USC 9437.

(1) projects for the training and retraining of employees adversely affected by changes in the delivery of mental health

services and for providing such employees assistance in securing employment;

(2) projects for the innovative use of personnel in the management and delivery of mental health services; and

(3) any other innovative project of national significance respecting mental health services and mental health services personnel.

The Secretary may enter into contracts for the projects described in this subsection with any private entity which is engaged solely in the provision of mental health services.

Limitation.

(b)(1) The total number of grants and contracts which an entity may receive under subsection (a) may not exceed five.

Amount, determination.

(2) The amount of any grant or contract under subsection (a) shall be determined by the Secretary.

Application.

(c) No contract may be entered into under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. The application shall be submitted in such form and manner and shall contain such information as the Secretary may prescribe.

(d) Of the total amount appropriated for any fiscal year under sections 201 through 206, 5 percent is available to the Secretary in such fiscal year for grants and contracts under subsection (a). Of the funds obligated in any fiscal year by the Secretary for such grants and contracts, not less than 50 percent shall be obligated for approvable projects described in subsection (a)(1).

GRANTS FOR THE PREVENTION OF MENTAL ILLNESS AND THE PROMOTION OF MENTAL HEALTH

42 USC 9438.

SEC. 208. (a) The Secretary may make grants to any public or nonprofit private entity for projects for the prevention of mental illness and the promotion of mental health or to demonstrate the effectiveness of intervention techniques and mental health promotion activities in the—

(1) maintenance and improvement of the mental health of individuals and groups of individuals particularly susceptible to mental illness,

(2) prevention of the onset of mental illness in such individuals and groups,

(3) prevention of the deterioration of the mental health of such individuals and groups,

(4) education of the general public regarding mental health problems and mental illness, the prevention of mental health problems and mental illness, and the promotion of mental health, and

(5) provision of screening, consultation, referral, and education in public school systems and in places of employment to detect and prevent early mental health problems and to promote mental health.

(b) Projects supported by grants under subsection (a) shall be consistent with national goals and priorities regarding the prevention of mental illness and promotion of mental health determined by the Director of the National Institute of Mental Health under section 455(d)(1) of the Public Health Service Act.

42 USC 289k-1.

Application requirements.

(c) An application for a grant under subsection (a) shall—

(1) define the techniques and mental health promotion activities to be funded by the grant;

(2) define the individuals or groups of individuals to be served by such techniques and activities; and

(3) provide for the evaluation of the effectiveness of such techniques and activities and describe the methodology to be used in making such evaluation.

(d) No entity may receive more than eight grants under subsection (a). The amount of a grant under subsection (a) shall be determined by the Secretary. Limitation. Amount, determination.

(e) For the purpose of grants under subsection (a) there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1982, $7,000,000 for the fiscal year ending September 30, 1983, and $8,000,000 for the fiscal year ending September 30, 1984. Appropriation authorization.

TITLE III—GENERAL PROVISIONS RESPECTING GRANT PROGRAMS

PART A—STATE MENTAL HEALTH SERVICE PROGRAMS

STATE MENTAL HEALTH SERVICES PROGRAMS

SEC. 301. The State mental health authority of and any entity in a State is not eligible to receive a grant or contract under title II or this title for any fiscal year unless such State has in effect a State mental health services program which— 42 USC 9451.

(1) has been prepared by the State mental health authority in consultation with the Statewide Health Coordinating Council of the State, and

(2) is consistent with the provisions relating to mental health services of the State health plan prepared in accordance with section 1524(c)(2) of the Public Health Service Act. 42 USC 300m-3.

CONTENTS OF PROGRAMS

SEC. 302. A State mental health services program shall be submitted in such form and manner as the Secretary prescribes. The program shall consist of an administrative part and a services part as follows: 42 USC 9452.

(1) The administrative part shall— Administrative part.

(A) provide that the State mental health authority will assume responsibility for administration of the program;

(B) provide for the designation of a State advisory council to consult with the State mental health authority in administering the program, which council shall include— State advisory council.

(i) representatives of nongovernmental organizations or groups, and of State agencies, concerned with the planning, operation, or use of facilities for the provision of mental health services, and

(ii) representatives of consumers and providers of such services who are familiar with the need for such services,

and the nonprovider members of which shall constitute at least one-half of the membership of the council;

(C) provide that the State mental health authority will make such reports in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports; Reports; records, access.

Data.

(D) provide that any statistics or other data included in the program or on which the program is based will conform to such criteria, standards, and other requirements relating to their form, method of collection, content, or other aspects as the Secretary may prescribe;

Review; modifications, submittal to Secretary.

(E) provide that the State mental health authority will from time to time, but not less often than annually, review the program and submit to the Secretary appropriate modifications thereof which it considers necessary;

Personnel standards.

(F) include provisions, meeting such requirements as the Office of Personnel Management may prescribe, relating to the establishment and maintenance of personnel standards on a merit basis; and

Employee protection.

(G) include a statement of the arrangements made pursuant to section 801.

Services part.

(2) The services part shall—

(A) identify the mental health service areas within the State;

(B) identify the need in each mental health service area of the State for mental health and related support services after consideration of—

(i) the demographic, economic, cultural, and social characteristics of the population of the area, and

(ii) the special mental health services needs in the area of chronically mentally ill individuals, emotionally disturbed children and adolescents, elderly individuals, and other priority population groups;

(C) identify and evaluate the public and private mental health facilities, the mental health personnel, and the mental health services available in each mental health service area, and determine the additional facilities, personnel, and services necessary to meet the mental health needs of each area;

(D) identify the methods used (i) to determine the mental health needs of each mental health service area, and (ii) to evaluate the facilities, personnel, and services of each mental health service area;

(E) provide the information described in subparagraphs (B) through (D) for mental health services and related support service needs which relate to more than one mental health service area;

(F) list the mental health service needs of each mental health service area in the order of priority that such needs should be addressed through the use of existing Federal, State, and local resources;

(G) identify measures which need to be taken to alleviate geographic, cultural, linguistic, and economic barriers with respect to the delivery of mental health services in the mental health service areas;

(H) identify the legal rights of persons in the State who are mentally ill or otherwise mentally handicapped and describe any measure which needs to be taken to protect such rights;

(I) describe the actions which need to be taken by the State and entities in communities of the State to coordinate the provision of mental health and related support services in the State;

(J) describe, in specific terms, the actions the State mental health authority will take—

(i) to continue the provision of appropriate services which have been provided by local entities in the State with financial assistance under the Community Mental Health Centers Act and this Act and for which Federal financial assistance is no longer available; 42 USC 2689 note.

(ii) to promote the development of comprehensive mental health services in each mental health service area where such services are currently unavailable;

(iii) to ensure substantially that, within a five-year period after the program is in effect in the State (or within such longer period as the Secretary, upon request of the State mental health authority, permits)— Placement and discharge.

(I) residents of public inpatient mental health facilities who have been inappropriately placed in such facilities are discharged, and, to the extent appropriate, are placed in the least-restrictive settings and provided mental health and related support services appropriate to such persons' level of functioning;

(II) persons who need to be placed in inpatient mental health facilities are placed in the least-restrictive settings and provided mental health and related support services appropriate to such persons' level of functioning; and

(III) persons who are discharged from, or are in need of placement in, inpatient mental health facilities are informed of available community-based facilities and programs providing mental health and related support services, and provided access to a sufficient number of adequately staffed and adequately funded community-based facilities and programs providing mental health and related support services; and Facilities and programs, information and access.

(iv) to assist the courts and other public agencies, and appropriate private agencies, in screening persons being considered for inpatient care in mental health facilities in the State in order to determine if such care is medically or psychologically indicated; Screening.

(K) include a description of the services made available for mentally ill individuals in the State under titles IV, V, XVI, XVIII, XIX, and XX of the Social Security Act and under the Education for All Handicapped Children Act of 1975, the Older Americans Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, the Drug Abuse Prevention, Treatment, and Rehabilitation Act, and other relevant Federal statutes; Service description. 42 USC 601, 701, 1381, 1395, 1396, 1397. 20 USC 1401 note. 42 USC 3001 note. 42 USC 6001 note. 42 USC 4541 note. 21 USC 1101 note.

(L) describe the steps being taken in the State to coordinate the provision of services under this Act with the provision of services under the Acts referred to in subparagraph (K); and Service coordination.

(M) contain or be accompanied by such additional information or assurances and meet such other requirements as the Secretary prescribes in order to achieve the purposes of this Act.

MENTAL HEALTH PROVISIONS OF STATE HEALTH PLANS

42 USC 300m-2.

SEC. 303. Section 1523(a)(1)(B) of the Public Health Service Act is amended by inserting after "the statewide health needs of the State" the following: ", including the need for mental health services in the State,".

PART B—APPLICATIONS AND RELATED PROVISIONS

STATE ADMINISTRATION

42 USC 9461.

SEC. 305. (a) The Secretary may enter into an agreement with any qualified State mental health authority of a State under which the authority will be the exclusive agent for the State and entities within the State for purposes of the financial assistance programs authorized by title II (other than the programs authorized by sections 207 and 208).

Qualified State mental health authority.

(b) For purposes of subsection (a), a qualified State mental health authority is an authority which meets the following requirements:

(1) A State mental health authority shall demonstrate to the satisfaction of the Secretary (A) that it is effectively implementing its State mental health services program prepared pursuant to section 301, and (B) that it, or another agency of the State, is making a good faith effort to establish and implement procedures for carrying out the requirements of paragraph (2).

Chronically mentally ill individuals, discharge monitoring.

(2)(A) For the purpose of eliminating the overconcentration of chronically mentally ill individuals in any community or group of communities in a State, the State mental health authority of the State shall monitor the discharge and diversion of such individuals into communities by inpatient mental health facilities.

Service program.

(B) A State mental health authority shall administer a program of services for chronically mentally ill individuals in the State who have been discharged or diverted from inpatient mental health facilities. Such program shall include at least the following:

Discharge, notification.

(i) The timely notification by the inpatient mental health facilities in the State to the appropriate community mental health centers or other entities of the discharge of and the location of the residence of each chronically mentally ill individual who has given an informed consent to such notification.

Prerelease consultation.

(ii) Before a chronically mentally ill individual is discharged from an inpatient mental health facility into a community, a prerelease consultation between the facility and the appropriate community mental health center or other entity respecting the individual if the individual has given an informed consent to such consultation. Such consultation shall take place without delaying the discharge of such individual from the mental health facility. Such consultation shall include a preliminary evaluation of the physical, mental, social, and monetary needs of the individual to be discharged, and an identification of the services and programs for which such individual is eligible.

Treatment and services plan.

(iii) Development by each inpatient mental health facility of a written treatment and services plan for each chronically mentally ill individual who is to be discharged or who is diverted by the facility and who has given an informed consent to the development of such plan. The plan shall be

developed in consultation with a case manager in the community mental health center or other appropriate entity in the mental health service area in which such individual will or does reside. Such plan shall—

(I) to the maximum extent feasible, be developed with the participation of the individual discharged or diverted and the family of such individual;

(II) include appropriate living arrangements suited to the needs of the individual, and, if the individual resides or is to reside in a residence in which there are at least three other chronically mentally ill individuals with whom the individual is not related by blood or marriage and which charges the individual for residing in the residence, assure that the residence meets the requirements prescribed under subparagraph (C) or meets the comparable requirements established under section 1616(e) of the Social Security Act. 42 USC 1382e.

(III) describe appropriate mental health services and other needed services, such as medical and dental services, rehabilitation services, vocational training and placement, social services, and living skills training; and

(IV) identify specific programs and services for which the individual is eligible, including income support.

There shall be a periodic reevaluation of the plan at least every one hundred and twenty days. Periodic reevaluation.

(iv) In the case of a chronically mentally ill individual for whom a plan has been developed under clause (iii), designation of a case manager to be responsible for the implementation of the plan and the coordination of services under the plan.

(v) The establishment and enforcement of minimum standards for the provision of followup care for the chronically mentally ill by community mental health centers and other appropriate entities.

Compliance with the informed consent requirements of the program shall be determined in accordance with the law of the State in which the program is in effect.

(C) A State mental health authority shall develop a program for regulating, in accordance with guidelines established by the Secretary, residences in which there are at least four chronically mentally ill individuals who are not related by blood or marriage, which charge such individuals for residing in the residence, and which do not meet the comparable requirements established under section 1616(e) of the Social Security Act. Such program shall include the following:

(i) Minimum standards for approval of a residence, including a standard which requires a mechanism to be available to the residents who are chronically mentally ill to provide referral to and assistance in reaching appropriate medical, dental, mental health, and other services not available at a residence, compliance with appropriate life safety, fire, and sanitation codes, and access for visitation during reasonable hours without prior notice by appropriate mental health and social service staff. Residence approval, minimum standards.

(ii) Procedures for the evaluation, inspection, and monitoring of the compliance of the residence with the requirements of the program.

(iii) Remedies for noncompliance with such requirements.

Educational or informational services.

(D) A State mental health authority shall provide educational or informational services to educate the population of the State regarding the problems of chronically mentally ill individuals, the need for community involvement in programs designed to resolve the problems of chronically mentally ill individuals outside institutional settings, and the resources available or needed to help such programs succeed.

(E) A State mental health authority shall improve the skills of personnel involved in providing services for chronically mentally ill individuals through inservice training, retraining, or other training of such personnel.

Biennial report to Secretary.

(F) A State mental health authority shall provide satisfactory assurances to the Secretary that it will submit a biennial report to the Secretary regarding its efforts and progress under this paragraph, including the manner in which the needs of chronically mentally ill individuals in each mental health service area in the State are being met within the community and the State's progress in implementing mechanisms to ensure that, as chronically mentally ill individuals are discharged from mental health facilities, increased State mental health funds are available for community-based care.

Agreement application.

(c) No agreement may be entered into under subsection (a) with a State mental health authority unless the authority has submitted an application to the Secretary in such form and manner as the Secretary shall prescribe. The Secretary shall publish a notice in the Federal Register identifying the States which have made an application for an agreement under subsection (a) and, in considering an application, the Secretary shall provide a reasonable opportunity for submission of comments on the application.

Notice, publication in Federal Register.

Grants to States.

(d) The Secretary may make grants to States which have entered into agreements under subsection (a) for purposes of assisting the States in meeting the costs of carrying out the agreements. For grants authorized by this subsection there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1982, $4,000,000 for the fiscal year ending September 30, 1983, and $5,000,000 for the fiscal year ending September 30, 1984.

Appropriation authorization.

PROCESSING OF APPLICATIONS BY STATE MENTAL HEALTH AUTHORITIES

42 USC 9462.
Ante, p. 1571.

SEC. 306. (a) Each applicant for a grant under title II (other than an applicant for a grant under section 207 or 208) shall submit its application to the State mental health authority for its State in accordance with such requirements as the authority may prescribe.

(b)(1) If a State mental health authority has entered into an agreement under section 305, the authority shall carry out the following:

Hearing.

(A) The authority shall consider the applications submitted to it in accordance with subsection (a), and, in the course of such consideration, shall provide the applicants and other interested persons with a reasonable opportunity for a hearing before the authority on the applications. The authority shall also provide a reasonable opportunity for a hearing on applications the authority proposes to submit for itself to the Secretary.

(B) The authority may modify any application submitted to it and may return an application to an applicant.

(C) The authority shall (i) rank all the applications which the authority proposes to transmit to the Secretary in the order in which the authority determines the applications should be

funded when approved by the Secretary, and (ii) in accordance with the agreement entered into under section 305, transmit such applications to the Secretary.

If the State mental health authority modifies or returns an application, the State mental health authority shall provide the applicant involved with a statement of the reasons for the modification or return.

(2) If a State mental health authority has not entered into an agreement under section 305, the authority shall carry out the following:

(A) The authority shall consider the applications submitted to it in accordance with subsection (a), and, in the course of such consideration, shall provide the applicants and other interested persons with a reasonable opportunity for a hearing before the authority on the applications. The authority shall also provide a reasonable opportunity for a hearing on applications the authority proposes to submit for itself to the Secretary. Hearing.

(B) For each category of grants under title II for which an application was submitted to or proposed by the authority, the authority shall (i) rank all the applications for such category of grants in the order in which the authority determines the applications should be funded when approved by the Secretary, and (ii) in accordance with regulations issued by the Secretary, transmit such applications to the Secretary. *Ante*, p. 1571.

(c)(1) An applicant may appeal to the Secretary a decision of a State mental health authority under subsection (b)(1) to return to the applicant its application or to modify its application. In reviewing the decision of the authority, the Secretary shall provide the authority and the applicant involved a reasonable opportunity for a hearing on the appeal of the decision of the authority. If the Secretary finds that the decision of the authority was arbitrary or capricious, the Secretary—

(A) shall, if the decision of the authority was to return the application, return the application to the authority for ranking, and

(B) shall, if the decision of the authority was to modify the application, provide the authority an opportunity to change its rank of the application, and the Secretary may consider the application without regard to the modifications.

(2) An applicant may appeal to the Secretary a decision of a State mental health authority under subsection (b)(2) ranking the application. In reviewing the decision of the authority, the Secretary shall provide the authority and the applicant involved a reasonable opportunity for a hearing on the appeal of the decision of the authority. If the Secretary finds that, on the basis of the record established in the hearing provided under the preceding sentence, there is substantial evidence that the activity proposed in the application involved would better carry out the purposes of the section under which it would be funded than other applications under that section given a higher rank, the Secretary may consider the application without regard to the rank given the application by the State mental health authority.

(3) A decision of the Secretary under paragraph (1) or (2) is not subject to judicial review.

(d) If a State mental health authority fails to carry out, in accordance with an agreement entered into under section 305 or with regulations issued by the Secretary, its responsibilities under subsection (b) with respect to applications submitted to it, the applicants

under such applications shall be provided an opportunity to submit their applications directly to the Secretary.

APPLICATIONS

42 USC 9463.
Ante, pp. 1585, 1571.

SEC. 307. (a) No grant may be made under this title or title II unless an application therefor is submitted to and approved by the Secretary. The application shall be in such form, submitted in such manner, and contain such information, as the Secretary may require.

(b) An application for a grant under section 201, 202, 203, or 204 must, in addition to the application requirements prescribed in the section under which the grant is to be made, contain or be accompanied by—

Financial plan and budget.

(1) a financial plan and budget covering the year for which the grant is sought (and such additional period as the Secretary may require) showing the sources of funding for the project and allocating the funds available for the project among the various types of services to be provided or assisted or the various types of activities to be conducted or assisted and among the various population groups to which the project is directed;

(2) a statement of the objectives of the project;

(3) with respect to health services which are to be provided, assurances satisfactory to the Secretary that—

Fee schedule.

(A) the applicant (i) has prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments which discounts are adjusted on the basis of the patient's ability to pay; (ii) has made and will continue to make every reasonable effort (I) to secure from patients payment for services in accordance with such approved schedules, and (II) to collect reimbursement for health services to persons described in subparagraph (B) on the basis of the full amount of fees and payments for such services without application of any discount, and (iii) has submitted to the Secretary such reports as the Secretary may require to determine compliance with this subparagraph; and

(B) the applicant has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing services to persons who are entitled to insurance benefits under title XVIII of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program; and

42 USC 1395.
42 USC 1396.

(C) the applicant will adopt and enforce a policy (i) under which fees for the provision of mental health services through the applicant will be paid to the applicant, and (ii) which prohibits health professionals who provide such services to patients through the applicant from providing such services to such patients except through the applicant.

(4) in the case of a project which will serve a population which includes a substantial proportion of individuals of limited English-speaking ability, assurances satisfactory to the Secretary that the applicant has (A) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (B) identified

an individual on its staff who is fluent in both that language and English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivity and bridging linguistic and cultural differences;

(5) assurances that the applicant has in effect a system, satisfactory to the Secretary, to assure that an employee of the applicant who reports to any officer or employee of the Department of Health and Human Services or appropriate State authority any failure on the part of the applicant to comply with an applicable requirement of this Act or regulation of the Secretary or requirement of State law will not on account of such report be discharged or discriminated against with respect to the employee's compensation or the terms, conditions, or privileges of the employee's employment; Noncompliance report, employee protection.

(6) satisfactory assurances that each facility to be used in the provision of mental health or support services to be supported by the grant applied for meets the requirements of applicable fire and safety codes imposed by State law;

(7) information on the organization and operation of the applicant;

(8) satisfactory assurances that the applicant will submit such reports, at such times and containing such information, as the Secretary may request and maintain such records as the Secretary may find necessary for purposes of this Act, and afford the Secretary and the Comptroller General of the United States such access to such records and other documents as may be necessary for an effective audit of the project; Records and other documents, accessibility.

(9) satisfactory assurances that funds made available under this Act will be used to supplement and, to the extent practical, increase the level of non-Federal funds that would, in the absence of those Federal funds, be made available for the purpose for which the funds under this Act are made available, and will in no event supplant such non-Federal funds; Non-Federal funds, increase.

(10) satisfactory assurances that measures have been taken by the applicant to consult with members of the group or groups to be served, members of the public, and affected organizations and agencies during the development of the application, and to give reasonable opportunities to members of such groups, members of the public, and interested organizations and agencies to comment on the application;

(11) assurances that the applicant has made satisfactory efforts to coordinate the services to be provided with other mental health and support services in the same area;

(12) in the case of a grant under section 201 or 202, information regarding the extent to which and manner in which the applicant has served chronically mentally ill individuals in prior years (if such service has been provided) and proposes to serve chronically mentally ill individuals during the fiscal year for which the grant is sought;

(13) statistics and other information requested by the Secretary necessary to evaluate the compliance of the application with the requirements of this section;

(14) satisfactory assurance that the project is consistent with the State mental health services program; and

(15) such other information and material and such other assurances as the Secretary may prescribe.

(c) If an entity has received a grant under section 201, 202, 203, 204, or 206, the entity is not eligible to apply for a grant under another of such sections unless it continues to provide the service it provided under the grant it received or the Secretary determines that the service is not needed.

(d) If a grant is made for any fiscal year under section 202, 203, or 204(a) for a project in a mental health service area, no more than one grant may be made for such fiscal year for a project in such mental health service area under any one of the other such sections.

INDIAN TRIBES AND ORGANIZATIONS

42 USC 9464.
Ante, pp. 1585, 1571.

SEC. 308. (a) Except as provided in this section, the requirements of this title and title II shall apply with respect to any application of an Indian tribe, intertribal organization, or urban Indian organization made for a grant under title II.

(b)(1) Any Indian tribe or intertribal organization may apply directly to the Secretary for a grant under title II for the provision of mental health services if such services will be available within or will specifically serve—

(A) a federally recognized Indian reservation,

(B) any land area in Oklahoma that is held in trust by the United States for Indians or that is a restricted Indian-owned land area,

(C) a native village in Alaska (as defined in section 3(c) of the Alaska Native Claims Settlement Act), or

43 USC 1602.

(D) an Indian community the members of which are recognized as eligible for services under the Indian Health Care Improvement Act.

25 USC 1601 note.

(2) An application of an Indian tribe or intertribal organization authorized by paragraph (1)—

(A) shall also be submitted by the applicant to the Indian Health Service and may not be approved by the Secretary unless the Indian Health Service certifies that the application is consistent with the Tribal Specific Health Plan of the tribe or tribes to be served by the grant,

(B) shall not be subject to consideration by a State mental health authority,

(C) may be made without regard to the State mental health services program in effect in the State in which the tribe or organization is located, and

(D) may be considered, approved, and funded by the Secretary without regard to the mental health service area or areas in which the services under the grant will be provided.

(c) If the application of any Indian tribe, intertribal organization, or urban Indian organization for a grant under title II requests that the Indian Health Service or any entity of the Service provide the mental health services under the grant to members of such tribe or organization—

(1) the application shall not be subject to consideration by a State mental health authority, and

(2) if the application is approved, payments under the grant shall be made to the Indian Health Service or entity of the Service as requested in the application.

(d) For purposes of this section—

"Indian tribe." 25 USC 450 note.

(1) the term "Indian tribe" has the same meaning as is given that term by the Indian Self-Determination Act, and

(2) the term "urban Indian organization" has the same meaning as is given that term by the Indian Health Care Improvement Act. "Urban Indian organization."

PROCEDURES

SEC. 309. In considering any application for a grant or contract under this title or title II, the Secretary shall provide a reasonable opportunity for the submission of comments on the application. If the Secretary does not approve an application, the Secretary shall provide the applicant and the State mental health authority of the State in which the applicant is located to the Secretary with a statement of the reasons of the Secretary for not approving the application. 42 USC 9465. *Ante*, pp. 1585, 1571.

PART C—PERFORMANCE

PERFORMANCE CONTRACTS

SEC. 315. No payment may be made under any grant or contract made or entered into under title II or this title unless the Secretary has entered into a contract with the entity to which the grant has been made or with which the contract has been entered into specifying the following with respect to the performance of the activities for which the grant or contract was made or entered into: 42 USC 9471.

(1) A schedule for the performance of such activities.

(2) The standards by which the performance of such activities by the entity will be monitored and evaluated, the incentives which will be provided the entity to meet such standards, and the role of the Secretary and of consumers and representatives of communities affected by such activities in such monitoring and evaluation.

(3) The methods and format which will be used in collecting and transmitting data to the Secretary respecting the performance of such activities.

(4) An expeditious and impartial method for the resolution of disputes between the entity and the Secretary respecting the performance of such activities.

(5) Such other matters which the Secretary includes in the contract to carry out the purposes of the section under which the grant or contract was made or entered into.

PERFORMANCE STANDARDS

SEC. 316. (a) The Secretary shall prescribe standard measures of performance designed to test the quality and extent of performance by the recipients of grants and contracts under title II and this title and the extent to which such performance has helped to achieve the national or other objectives for which the grants or contracts were made or entered into. 42 USC 9472.

(b) In determining whether or not to approve an application for a grant or contract under title II or this title, the Secretary shall consider the performance by the applicant under any prior grant or contract under title II or this title as measured under subsection (a).

EVALUATION AND MONITORING

SEC. 317. (a) With the approval of the Secretary, any recipient of a grant or contract under title II or this title may use a portion of that grant or contract for evaluation of the project or activity involved. 42 USC 9473.

(b) Not more than 1 per centum of the total amount appropriated under title II and this title for any fiscal year shall be used by the Secretary, or through contracts with State mental health authorities or other entities, to monitor activities of the recipients of grants and contracts under title II or this title to determine if the requirements of this Act applicable to the receipt of such grants or contracts are being met.

Ante, pp. 1571, 1585.

PART D—ENFORCEMENT

ENFORCEMENT

42 USC 9481.

SEC. 321. (a) If the Secretary determines that there has been a substantial and persistent failure—

Proposed stop-payment order. *Ante*, p. 1585.

(1) by a State mental health authority to implement its State mental health services program in accordance with the requirements of part A of this title, the Secretary may issue a proposed order to stop payments under title II and this title to any entity in the State, including the State mental health authority, until the Secretary is satisfied that such failure has been or will be corrected, or

(2) by any entity in a State which is receiving funds under a grant or contract under title II or this title to comply with the requirements of this title (other than the requirements of part A), the Secretary may issue a proposed order to stop payments under such grant or contract until the Secretary is satisfied that such failure has been or will be corrected.

The Secretary shall notify each entity affected by an order issued under this subsection of the effect of the order.

Hearing.

(b) If the Secretary issues an order under subsection (a), the Secretary shall provide a reasonable opportunity for an informal hearing for the entities affected by the order. Such a hearing shall be held in the State in which such entities are located. If after such a hearing the Secretary reaffirms the determination on which the order was based, the Secretary may discontinue payments as specified in the proposed order or as revised by the Secretary after the hearing.

PART E—MISCELLANEOUS

NATIONAL INSTITUTE OF MENTAL HEALTH PREVENTION UNIT

42 USC 289k-1.

SEC. 325. Section 455 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

Administrative unit, designation.

"(d) The Director shall designate an administrative unit in the Institute to—

"(1) design national goals and establish national priorities for—

"(A) the prevention of mental illness, and

"(B) the promotion of mental health,

"(2) encourage and assist local entities and State agencies to achieve the goals and priorities described in paragraph (1), and

"(3) develop and coordinate Federal prevention policies and programs and to assure increased focus on the prevention of mental illness and the promotion of mental health.".

TECHNICAL ASSISTANCE

SEC. 326. Such portion as the Secretary may determine, but not more than 2 percent, of the total amount appropriated under title II for any fiscal year is available to the Secretary to provide technical assistance, including short-term training, to any State mental health authority or other entity which is or has been a recipient of a grant under title II or this title to assist it in developing, or in better administering, the mental health services program or programs for which it is responsible. 42 USC 9491. *Ante*, p. 1571.

INDIRECT PROVISION OF SERVICES

SEC. 327. Except as provided in section 101(b)(2), any mental health service which an entity is responsible for providing in a mental health service area under a grant or contract under title II may be provided by it directly at its primary or satellite facilities or through arrangements with other entities or health professionals and others in, or serving residents of, the same mental health service area. 42 USC 9492.

COOPERATIVE AGREEMENTS

SEC. 328. In lieu of providing funds under a grant under title II or this title, the Secretary may provide such funds under a cooperative agreement, and all requirements which would apply with respect to such a grant shall apply to the cooperative agreement. 42 USC 9493.

TITLE IV—ASSOCIATE DIRECTOR FOR MINORITY CONCERNS

ASSOCIATE DIRECTOR FOR MINORITY CONCERNS

SEC. 401. (a) Section 455 of the Public Health Service Act (as amended by section 325 of this Act) is amended by adding at the end thereof the following new subsection: 42 USC 289k-1.

"(e)(1) The Director of the National Institute of Mental Health shall designate an Associate Director for Minority Concerns. Designation.

"(2) The Secretary, acting through the Associate Director for Minority Concerns, shall— Functions.

"(A) develop and coordinate prevention, treatment, research, and administrative policies and programs to assure increased emphasis on the mental health needs of minority populations.

"(B) support programs and projects relating to the delivery of mental health services to minority populations, including demonstration programs and projects;

"(C) develop a plan to increase the representation of minority populations in mental health service delivery and manpower programs;

"(D) support programs of basic and applied social and behavioral research on the mental health problems of minority populations;

"(E) study the effects of discrimination on institutions and individuals, including majority institutions and individuals;

"(F) develop systems to assist minority populations in adapting to, and coping with, the effects of discrimination;

"(G) support and develop research, demonstration, and training programs designed to eliminate institutional discrimination; and

"(H) provide increased emphasis on the concerns of minority populations in training programs, service delivery programs, and research endeavors of the Institute.".

Effective date.
42 USC 289k-1 note.

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act or October 1, 1980, whichever occurs later.

TITLE V—MENTAL HEALTH RIGHTS AND ADVOCACY

BILL OF RIGHTS

State laws, review and revision.
42 USC 9501.

SEC. 501. It is the sense of the Congress that each State should review and revise, if necessary, its laws to ensure that mental health patients receive the protection and services they require; and in making such review and revision should take into account the recommendations of the President's Commission on Mental Health and the following:

(1) A person admitted to a program or facility for the purpose of receiving mental health services should be accorded the following:

Appropriate treatment and related services.

(A) The right to appropriate treatment and related services in a setting and under conditions that—

(i) are the most supportive of such person's personal liberty; and

(ii) restrict such liberty only to the extent necessary consistent with such person's treatment needs, applicable requirements of law, and applicable judicial orders.

Individualized written treatment or service plan.

(B) The right to an individualized, written, treatment or service plan (such plan to be developed promptly after admission of such person), the right to treatment based on such plan, the right to periodic review and reassessment of treatment and related service needs, and the right to appropriate revision of such plan, including any revision necessary to provide a description of mental health services that may be needed after such person is discharged from such program or facility.

Service planning, participation.

(C) The right to ongoing participation, in a manner appropriate to such person's capabilities, in the planning of mental health services to be provided such person (including the right to participate in the development and periodic revision of the plan described in subparagraph (B)), and, in connection with such participation, the right to be provided with a reasonable explanation, in terms and language appropriate to such person's condition and ability to understand, of—

(i) such person's general mental condition and, if such program or facility has provided a physical examination, such person's general physical condition;

(ii) the objectives of treatment;

(iii) the nature and significant possible adverse effects of recommended treatments;

(iv) the reasons why a particular treatment is considered appropriate;

(v) the reasons why access to certain visitors may not be appropriate; and

(vi) any appropriate and available alternative treatments, services, and types of providers of mental health services.

(D) The right not to receive a mode or course of treatment, established pursuant to the treatment plan, in the absence of such person's informed, voluntary, written consent to such mode or course of treatment, except treatment—

(i) during an emergency situation if such treatment is pursuant to or documented contemporaneously by the written order of a responsible mental health professional; or

(ii) as permitted under applicable law in the case of a person committed by a court to a treatment program or facility.

Experimentation, non-participation.

(E) The right not to participate in experimentation in the absence of such person's informed, voluntary, written consent, the right to appropriate protections in connection with such participation, including the right to a reasonable explanation of the procedure to be followed, the benefits to be expected, the relative advantages of alternative treatments, and the potential discomforts and risks, and the right and opportunity to revoke such consent.

Restraint or seclusion.

(F) The right to freedom from restraint or seclusion, other than as a mode or course of treatment or restraint or seclusion during an emergency situation if such restraint or seclusion is pursuant to or documented contemporaneously by the written order of a responsible mental health professional.

Humane treatment.

(G) The right to a humane treatment environment that affords reasonable protection from harm and appropriate privacy to such person with regard to personal needs.

(H) The right to confidentiality of such person's records.

Records, access.

(I) The right to access, upon request, to such person's mental health care records, except such person may be refused access to—

(i) information in such records provided by a third party under assurance that such information shall remain confidential; and

(ii) specific material in such records if the health professional responsible for the mental health services concerned has made a determination in writing that such access would be detrimental to such person's health, except that such material may be made available to a similarly licensed health professional selected by such person and such health professional may, in the exercise of professional judgment, provide such person with access to any or all parts of such material or otherwise disclose the information contained in such material to such person.

(J) The right, in the case of a person admitted on a residential or inpatient care basis, to converse with others privately, to have convenient and reasonable access to the telephone and mails, and to see visitors during regularly scheduled hours, except that, if a mental health professional treating such person determines that denial of access to a particular visitor is necessary for treatment purposes, such

mental health professional may, for a specific, limited, and reasonable period of time, deny such access if such mental health professional has ordered such denial in writing and such order has been incorporated in the treatment plan for such person. An order denying such access should include the reasons for such denial.

(K) The right to be informed promptly at the time of admission and periodically thereafter, in language and terms appropriate to such person's condition and ability to understand, of the rights described in this section.

Grievance assertions.

(L) The right to assert grievances with respect to infringement of the rights described in this section, including the right to have such grievances considered in a fair, timely, and impartial grievance procedure provided for or by the program or facility.

Rights protection service, accessibility.

(M) Notwithstanding subparagraph (J), the right of access to (including the opportunities and facilities for private communication with) any available—

(i) rights protection service within the program or facility;

(ii) rights protection service within the State mental health system designed to be available to such person; and

(iii) qualified advocate;

for the purpose of receiving assistance to understand, exercise, and protect the rights described in this section and in other provisions of law.

(N) The right to exercise the rights described in this section without reprisal, including reprisal in the form of denial of any appropriate, available treatment.

(O) The right to referral as appropriate to other providers of mental health services upon discharge.

(2)(A) The rights described in this section should be in addition to and not in derogation of any other statutory or constitutional rights.

Records, confidentiality and accessibility.

(B) The rights to confidentiality of and access to records as provided in subparagraphs (H) and (I) of paragraph (1) should remain applicable to records pertaining to a person after such person's discharge from a program or facility.

Admission, non-denial.

(3)(A) No otherwise eligible person should be denied admission to a program or facility for mental health services as a reprisal for the exercise of the rights described in this section.

(B) Nothing in this section should—

(i) obligate an individual mental health or health professional to administer treatment contrary to such professional's clinical judgment;

(ii) prevent any program or facility from discharging any person for whom the provision of appropriate treatment, consistent with the clinical judgment of the mental health professional primarily responsible for such person's treatment, is or has become impossible as a result of such person's refusal to consent to such treatment;

(iii) require a program or facility to admit any person who, while admitted on prior occasions to such program or facility, has repeatedly frustrated the purposes of such admissions by withholding consent to proposed treatment; or

(iv) obligate a program or facility to provide treatment services to any person who is admitted to such program or facility solely for diagnostic or evaluative purposes.

(C) In order to assist a person admitted to a program or facility in the exercise or protection of such person's rights, such person's attorney or legal representatives should have reasonable access to— Records and information, accessibility.

(i) such person;

(ii) the areas of the program or facility where such person has received treatment, resided, or had access; and

(iii) pursuant to the written authorization of such person, the records and information pertaining to such person's diagnosis, treatment, and related services described in paragraph (1)(I).

(D) Each program and facility should post a notice listing and describing, in language and terms appropriate to the ability of the persons to whom such notice is addressed to understand, the rights described in this section of all persons admitted to such program or facility. Each such notice should conform to the format and content for such notices, and should be posted in all appropriate locations. Notice.

(4)(A) In the case of a person adjudicated by a court of competent jurisdiction as being incompetent to exercise the right to consent to treatment or experimentation described in subparagraph (D) or (E) of paragraph (1), or the right to confidentiality of or access to records described in subparagraph (H) or (I) of such paragraph, or to provide authorization as described in paragraph (3)(C)(iii), such right may be exercised or such authorization may be provided by the individual appointed by such court as such person's guardian or representative for the purpose of exercising such right or such authorization. Incompetent persons.

(B) In the case of a person who lacks capacity to exercise the right to consent to treatment or experimentation under subparagraph (D) or (E) of paragraph (1), or the right to confidentiality of or access to records described in subparagraph (H) or (I) of such paragraph, or to provide authorization as described in paragraph (3)(C)(iii), because such person has not attained an age considered sufficiently advanced under State law to permit the exercise of such right or such authorization to be legally binding, such right may be exercised or such authorization may be provided on behalf of such person by a parent or legal guardian of such person. Incapacitated persons.

(C) Notwithstanding subparagraphs (A) and (B), in the case of a person admitted to a program or facility for the purpose of receiving mental health services, no individual employed by or receiving any remuneration from such program or facility should act as such person's guardian or representative.

GRANTS FOR PROTECTION AND ADVOCACY PROGRAMS

SEC. 502. (a)(1) The Secretary may make grants to any public or nonprofit private entity for projects to protect and advocate the rights of mentally ill individuals if the entity— Public or nonprofit private entity, eligibility. 42 USC 9502.

(A) has the authority and ability to pursue legal, administrative, and other appropriate remedies to ensure the protection of the rights of mentally ill individuals, and

(B) is independent of any entity which provides treatment or services to mentally ill individuals.

(2) A grant under paragraph (1) for the first fiscal year for which funds are appropriated under subsection (d) may be made only to an entity of the government of a State designated by the Governor of the State or a public or nonprofit private entity in a State recommended by the Governor of the State. A grant under paragraph (1) for a succeeding fiscal year may be made to any public or nonprofit private entity, except that in considering an application of an entity which is not an entity of State government designated by the Governor or Hearing.

which has not been recommended by the Governor of a State, the Secretary shall notify the Governor of the State in which such entity is located of the application and shall provide the Governor and other interested persons a reasonable opportunity for a hearing on the application.

Training and technical assistance.

(b) The Secretary may make grants to any public or nonprofit private entity for the provision of training and technical assistance for entities carrying out projects to protect and advocate the rights of mentally ill individuals.

(c) No grant may be made under subsection (a) or (b) unless an application therefor is submitted to and approved by the Secretary. The application shall be submitted in such form and manner, and shall contain such information, as the Secretary may prescribe.

Appropriation authorization.

(d) For grants under subsections (a) and (b), there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1982, $12,500,000 for the fiscal year ending September 30, 1983, and $15,000,000 for the fiscal year ending September 30, 1984. Not more than 10 percent and not less than 5 percent of the amount appropriated under this subsection for any fiscal year shall be obligated for grants under subsection (b).

TITLE VI—RAPE PREVENTION AND CONTROL

RAPE PREVENTION AND CONTROL

42 USC 9511.

SEC. 601. (a) The Secretary, acting through the National Center for the Prevention and Control of Rape (hereafter in this section referred to as the "Center"), may, directly or by grant, carry out the following:

Study and investigation.

(1) A continuing study of rape, including a study and investigation of—

(A) the effectiveness of existing Federal, State, and local laws dealing with rape;

(B) the relationship, if any, between traditional legal and social attitudes toward sexual roles, the act of rape, and the formulation of laws dealing with rape;

(C) the treatment of the victims of rape by law enforcement agencies, hospitals or other medical institutions, prosecutors, and the courts;

(D) the causes of rape, identifying to the degree possible—

(i) social conditions which encourage sexual attacks, and

(ii) the motives of offenders, and

(E) the impact of rape on the victim and family of the victim;

(F) sexual assaults in correctional institutions;

(G) the estimated actual incidence of forcible rape as compared to the reported incidence of forcible rape and the reasons for any difference between the two; and

(H) the effectiveness of existing private and local and State government educational, counseling, and other programs designed to prevent and control rape.

Summaries, publication.

(2) The compilation, analysis, and publication of summaries of the continuing study conducted under paragraph (1) and the research and demonstration projects conducted under paragraph (5).

Report to Congress.

The Secretary shall submit not later than March 30, 1983, to the Congress a summary of such study and projects together with a review of their effectiveness and recommendations where appropriate.

(3) The development and maintenance of an information clearinghouse with regard to— Information clearinghouse.

(A) the prevention and control of rape;

(B) the treatment and counseling of the victims of rape and their families; and

(C) the rehabilitation of offenders.

(4) The compilation and publication of training materials for personnel who are engaged or intend to engage in programs designed to prevent and control rape. Training materials.

(5) Assistance to community mental health centers and other qualified public and nonprofit private entities in conducting research and demonstration projects concerning the prevention and control of rape, including projects (A) for the planning, development, implementation, and evaluation of alternative methods used in the prevention and control of rape, the treatment and counseling of the victims of rape and their families, and the rehabilitation of offenders; (B) for the application of such alternative methods; and (C) for the promotion of community awareness of the specific locations in which, and the specific social and other conditions under which sexual attacks are most likely to occur.

(6) Assistance to community mental health centers in meeting the costs of providing consultation and education services respecting rape. Costs, assistance.

(b) The Secretary shall appoint an advisory committee to advise, consult with, and make recommendations to the Secretary on the implementation of subsection (a). The recommendations of the committee shall be submitted directly to the Secretary without review or revision by any person without the consent of the committee. The Secretary shall appoint to such committee persons who are particularly qualified to assist in carrying out the functions of the committee. A majority of the members of the committee shall be women. Members of the advisory committee shall receive compensation at rates, not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, for each day (including traveltime) they are engaged in the performance of their duties as members of the advisory committee and, while so serving away from their homes or regular places of business, each member shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently. Advisory committee, appointment. Membership. Compensation. 5 USC 5332 note.

(c) No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. The application shall be submitted in such form and manner and contain such information as the Secretary may prescribe.

(d) For the purpose of carrying out subsection (a), there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1981, $1,500,000 for the fiscal year ending September 30, 1982, $1,500,000 for the fiscal year ending September 30, 1983. Appropriation authorization.

(e) For purposes of subsection (a), the term "rape" includes statutory and attempted rape and any other criminal sexual assault (whether homosexual or heterosexual) which involves force or the threat of force. "Rape."

(f) Part D of the Community Mental Health Centers Act is repealed. Repeal. 42 USC 2689q.

GRANTS FOR SERVICES FOR RAPE VICTIMS

42 USC 9512.

SEC. 602. (a) The Secretary may make grants to any public or nonprofit private entity to assist in meeting the cost of—

(1) providing counseling and followup counseling for rape victims and the immediate family of rape victims;

(2) providing assistance in securing mental health, social, medical, and legal services for rape victims; and

(3) demonstration projects to develop and implement methods of preventing rape and assisting rape victims.

(b)(1) No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. The application shall be submitted in such form and manner and contain such assurances as the Secretary may require that the applicant will comply with the requirements of subsection (e) and such other information as the Secretary may prescribe.

Amount, limitation.

(2) The amount of any grant under this section shall be determined by the Secretary, except that the amount may not exceed 90 per centum of the cost of the project (as determined by the Secretary) with respect to which the grant is made.

(c)(1) In carrying out this section, the Secretary shall coordinate with other activities related to rape carried out by the Secretary and the heads of other Federal departments and agencies.

Grant review panel, establishment.

(2) The Secretary shall establish a grant review panel to make recommendations to the Secretary with respect to the approval of applications for grants under subsection (a). The Secretary shall appoint individuals to the panel who are or have been engaged in the provision of services to rape victims.

Appropriation authorization.

(d)(1) There are authorized to be appropriated for grants under subsection (a) $6,000,000 for the fiscal year ending September 30, 1981, $9,000,000 for the fiscal year ending September 30, 1982, $12,000,000 for the fiscal year ending September 30, 1983, and $12,000,000 for the fiscal year ending September 30, 1984.

Funding limits.

(2) The Secretary may in a fiscal year obligate not more than 7.5 percent of the funds appropriated for that fiscal year under paragraph (1) to provide, upon request, technical assistance in the development and submission of applications for a grant under subsection (a). Such assistance shall be provided only to those entities which the Secretary determines do not possess the resources or expertise necessary to develop and submit such an application.

Information disclosure.

(e) No officer or employee of the Federal Government or of any recipient of a grant under subsection (a) may use or disclose any personally identifiable information obtained, in carrying out an activity assisted by such grant, by the recipient (or an officer or employee of the recipient) from a rape victim or a rape victim's immediate family unless such use or disclosure is necessary to carry out the activity or is made with the consent of the person who supplied the information. Such information shall be immune from legal process and may not, without the consent of the person furnishing the information, be admitted as evidence or otherwise used in any civil or criminal action or other judicial or administrative proceeding.

TITLE VII—EXTENSION OF COMMUNITY MENTAL HEALTH CENTERS ACT

ONE-YEAR EXTENSION OF COMMUNITY MENTAL HEALTH CENTERS ACT

SEC. 701. (a) Subsection (d) of section 202 of the Community Mental Health Centers Act (42 U.S.C. 2689a(d)) (relating to grants for planning) is amended by striking out "for the fiscal year ending September 30, 1980" and inserting in lieu thereof "each for the fiscal year ending September 30, 1980, and the next fiscal year".

(b) Subsection (d) of section 203 of such Act (relating to grants for initial operation) is amended— 42 USC 2689b.

(1) in paragraph (1), by (A) striking out "and" after "1979,", and (B) inserting before the period a comma and the following: "and $37,000,000 for the fiscal year ending September 30, 1981"; and

(2) effective October 1, 1981, by striking out "(1)" and paragraph (2).

(c) Subsection (c) of section 204 of such Act (42 U.S.C. 2689c(c)) (relating to grants for consultation and education services) is amended (1) by striking out "and" after "1979,", and (2) by inserting before the period a comma and the following: "and $15,000,000 for the fiscal year ending September 30, 1981".

(d)(1) Section 213 of such Act (42 U.S.C. 2689h) (relating to financial distress grants) is amended (1) by striking out "and" after "1978,", and (B) by inserting after "1979," the following: "and $20,000,000 for the fiscal year ending September 30, 1981,".

(2) Section 212(c) of such Act (42 U.S.C. 2689g(c)) of such Act is amended by striking out "five" and inserting in lieu thereof "six".

(e) Section 206(e)(2)(B) of such Act (42 U.S.C. 2689e(e)(2)(B)) is amended by striking out "the fiscal year ending September 30, 1979, and during the fiscal year ending September 30, 1980" and inserting in lieu thereof "the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981".

TITLE VIII—MISCELLANEOUS

EMPLOYEE PROTECTION

SEC. 801. (a)(1) Each State mental health authority shall have in effect equitable arrangements to protect the interests of employees affected adversely by actions taken by the State mental health authority to emphasize outpatient mental health services. Such arrangements shall include arrangements designed to preserve employee rights and benefits and to provide training and retraining of employees, where necessary, for work in mental health or other fields and arrangements under which maximum effort will be made to place employees in employment. The arrangements required by this paragraph shall be established by a State mental health authority in accordance with regulations issued by the Secretary with the concurrence of the Secretary of Labor. 42 USC 9521.

(2) The Secretary shall issue the regulations referred to in paragraph (1) not later than six months after the date of the enactment of this Act. Regulations.

(b) Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State mental health authority involved, finds (after consultation with the Secretary of Labor) that there is a failure to comply substantially with the requirements of subsection (a), the Secretary may, until the Secretary is satisfied that there will no Noncompliance.

longer be any such failure, discontinue payments to the State mental health authority under sections 107 and 305.

Report to congressional committees.

(c) Not later than March 1, 1983, and March 1, 1984, the Secretary of Health and Human Services shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a report on actions taken under subsection (a). The report shall include the comments of the Secretary of Labor on such actions and shall include—

Contents.

(1) a statement of the number, by State, of public inpatient mental health facilities which have been closed or partially closed since the date of the enactment of this Act,

(2) a statement of the number, by State, of public employees who were adversely affected by such closings,

(3) a summary, by State, of the arrangements made under subsection (a) for such employees and the cost of carrying out such arrangements,

(4) a description of agency procedures, resources, and personnel used to implement subsections (a) and (b), and

(5) a description of the training and retraining projects funded under section 207.

Ante, p. 1583.

REPORT ON SHELTER AND BASIC LIVING NEEDS OF CHRONICALLY MENTALLY ILL INDIVIDUALS

Report to congressional committees. 42 USC 9522.

SEC. 802. (a) The Secretary of Health and Human Services and the Secretary of Housing and Urban Development shall jointly submit a report to the Committees on Labor and Human Resources and Banking, Housing, and Urban Affairs of the Senate, and the Committees on Interstate and Foreign Commerce and Banking, Finance, and Urban Affairs of the House of Representatives, relating to Federal efforts to respond to the shelter and basic living needs of chronically mentally ill individuals.

Contents.

(b) The report required by subsection (a) shall include—

(1) an analysis of the extent to which chronically mentally ill individuals remain inappropriately housed in institutional facilities or have otherwise inadequate or inappropriate housing arrangements;

(2) an analysis of available permanent noninstitutional housing arrangements for the chronically mentally ill;

(3) an evaluation of ongoing permanent and demonstration programs, funded in whole or in part by Federal funds, which are designed to provide noninstitutional shelter and basic living services for the chronically mentally ill, including—

(A) a description of each program;

(B) the total number of individuals estimated to be eligible to participate in each program, the number of individuals served by each program, and an estimate of the total population each program expects to serve; and

(C) an assessment of the effectiveness of each program in the provision of shelter and basic living services;

(4) recommendations of measures to encourage States to coordinate and link the provisions in State health plans which relate to mental health and, in particular, the shelter and basic living needs of chronically mentally ill individuals, with local and State housing plans;

(5) recommendations for Federal legislation relating to the provision of permanent residential noninstitutional housing

arrangements and basic living services for chronically mentally ill individuals, including an estimate of the cost of such recommendations; and

(6) any other recommendations for Federal initiatives which, in the judgment of the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, will lead to improved shelter and basic living services for chronically mentally ill individuals.

(c) The report required by subsection (a) shall be submitted to the committees referred to in subsection (a) no later than January 1, 1981.

OBLIGATED SERVICE FOR MENTAL HEALTH TRAINEESHIPS

SEC. 803. (a) Section 303 of the Public Health Service Act is amended by adding at the end thereof the following new subsection: 42 USC 242a.

"(d)(1) Any individual who has received a clinical traineeship, in psychology, psychiatry, nursing, or social work, under subsection (a)(1) that was not of a limited duration or experimental nature (as determined by the Secretary) is obligated to serve, in service determined by the Secretary to be appropriate in the light of the individual's training and experience, at the rate of one year for each year (or academic year, whichever the Secretary determines to be appropriate) of the traineeship.

"(2) The service required under paragraph (1) shall be performed—

"(A) for a public inpatient mental institution providing inpatient care or any entity receiving a grant under the Mental Health Systems Act, *Ante*, p. 1564.

"(B) in a health manpower shortage area (as determined under subpart II of part D of this title), or 42 USC 254d.

"(C) in any other area or for any other entity designated by the Secretary,

and shall begin within such period after the termination of the traineeship as the Secretary may determine. In developing criteria for determining for which institutions or entities or in which areas, referred to in the preceding sentence, individuals must perform service under paragraph (1), the Secretary shall give preference to institutions, entities, or areas which in his judgment have the greatest need for personnel to perform that service. The Secretary may permit service for or in other institutions, entities, or areas if the Secretary determines that the request for such service is supported by good cause.

"(3) Any individual who fails to perform the service required under this subsection within the period prescribed by the Secretary is obligated to repay to the United States an amount equal to three times the cost of the traineeship (including stipends and allowances) plus interest at the maximum legal rate at the time of payment of the traineeship, multiplied, in any case in which the service so required has been performed in part, by the percentage which the length of the service not so performed is of the length of the service so required to be performed. Repayment to U.S.

"(4)(A) In the case of any individual any part of whose obligation to perform service under this subsection exists at the same time as any part of the individual's obligation to perform service under section 752 or 753 (because of receipt of a scholarship under subpart IV of part C of title VII) or the individual's obligation to perform service under section 472 (because of receipt of a National Research Service 42 USC 294u, 294v. 42 USC 294t. 42 USC 289*l*-1.

Award), or both, the same service may not be used to any extent to meet more than one of those obligations.

"(B) In any case to which subparagraph (A) is applicable and in which one of the obligations is to perform service under section 752 or 753, the obligation to perform service under that section must be met (by performance of the required service or payment of damages) before the obligation to perform service under this subsection or under section 472.

42 USC 294u, 294v.

42 USC 289*l*-1.

"(C) In any case to which subparagraph (A) is applicable, if any part of the obligation to perform service under section 472 exists at the same time as any part of the obligation to perform service under this subsection, the manner and time of meeting each obligation shall be prescribed by the Secretary.

"(5) In disseminating application forms to individuals desiring traineeships, the Secretary shall include with such forms a fair summary of the liabilities under this subsection of an individual who receives a traineeship.".

42 USC 242a note.

42 USC 242a.

(b) The amendment made by subsection (a) applies in the case of any academic year (of any traineeship awarded under section 303(a)(1) of the Public Health Service Act) beginning after the date of the enactment of this Act if the award for such academic year is made after such date.

CONFORMING AMENDMENTS

SEC. 804. (a) The second sentence of section 455(a) of the Public Health Service Act (42 U.S.C. 289k-1(a)) (relating to the National Institute of Mental Health) is amended—

(1) by striking out "and" after "sections 301 and 303 of this Act" and inserting in lieu thereof a comma; and

Ante, p. 1564.

(2) by inserting ", and the Mental Health Systems Act" after "Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (other than part C of title II)".

42 USC 6001 note.

(b) Section 507 of the Public Health Service Act (42 U.S.C. 225a) (relating to grants to Federal institutions) is amended—

(1) by striking out "and" after "drug dependence,"; and

(2) by inserting ", and appropriations under title VI of the Mental Health Systems Act" before "shall also be available".

Ante, p. 1602.

(c) Section 513 of the Public Health Service Act (42 U.S.C. 229b) (relating to evaluation of programs) is amended by inserting "the Mental Health Systems Act," after "Community Mental Health Centers Act,".

42 USC 2689 note.

42 USC 300*l*-2.

(d) Section 1513(e)(1)(A)(i) of the Public Health Service Act (42 U.S.C. 300l-2(e)(1)(A)) (relating to functions of health systems agencies) is amended by inserting "the Mental Health Systems Act," after "Community Mental Health Centers Act,".

SPECIAL PAY FOR PUBLIC HEALTH SERVICE PHYSICIANS AND DENTISTS

SEC. 805. Section 208(a) of the Public Health Service Act (42 U.S.C. 210(a)) is amended (1) by inserting "(1)" after "(a)", and (2) by adding at the end the following:

"(2) Commissioned medical and dental officers in the Regular and Reserve Corps shall while on active duty be paid special pay in the same amounts as, and under the same terms and conditions which apply to, the special pay now or hereafter paid to commissioned medical and dental officers of the Armed Forces under chapter 5 of title 37, United States Code.".

37 USC 301.

CONTRACT AUTHORITY

SEC. 806. The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts. 42 USC 9523.

TITLE IX—MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

SEC. 901. Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 1396b.

"(r)(1)(A) In order to receive payments under paragraphs (2) and (7) of subsection (a) without being subject to per centum reductions set forth in subparagraph (C) of this paragraph, a State must provide that mechanized claims processing and information retrieval systems of the type described in subsection (a)(3)(B) and detailed in an advance planning document approved by the Secretary are operational on or before the deadline established under subparagraph (B).

"(B) The deadline for operation of such systems for a State is the earlier of (i) September 30, 1982, or (ii) the last day of the sixth month following the date specified for operation of such systems in the State's most recently approved advance planning document submitted before the date of the enactment of this subsection.

"(C) If a State fails to meet the deadline established under subparagraph (B), the per centums specified in paragraphs (2) and (7) of subsection (a) with respect to that State shall each be reduced by 5 percentage points for the first two quarters beginning on or after such deadline, and shall be further reduced by an additional 5 percentage points after each period consisting of two quarters during which the Secretary determines the State fails to meet the requirements of subparagraph (A); except that—

"(i) neither such per centum may be reduced by more than 25 percentage points by reason of this paragraph; and

"(ii) no reduction shall be made under this paragraph for any quarter following the quarter during which such State meets the requirements of subparagraph (A).

"(2)(A) In order to receive payments under paragraphs (2) and (7) of subsection (a) without being subject to the per centum reductions set forth in subparagraph (C) of this paragraph, a State must have its mechanized claims processing and information retrieval systems, of the type required to be operational under paragraph (1), initially approved by the Secretary in accordance with paragraph (5)(A) on or before the deadline established under subparagraph (B).

"(B) The deadline for approval of such systems for a State is the last day of the fourth quarter that begins after the date on which the Secretary determines that such systems became operational as required under paragraph (1).

"(C) If a State fails to meet the deadline established under subparagraph (B), the per centums specified in paragraphs (2) and (7) of subsection (a) with respect to that State shall each be reduced by 5 percentage points for the first two quarters beginning after such deadline, and shall be further reduced by an additional 5 percentage points at the end of each period consisting of two quarters during which the State fails to meet the requirements of subparagraph (A); except that—

"(i) neither such per centum may be reduced by more than 25 percentage points by reason of this paragraph, and

"(ii) no reduction shall be made under this paragraph for any quarter following the quarter during which such State's systems are approved by the Secretary as provided in subparagraph (A).

"(D) Any State's systems which are approved by the Secretary for purposes of subsection (a)(3)(B) on or before the date of the enactment of this subsection shall be deemed to be initially approved for purposes of this subsection.

"(3)(A) When a State's systems are initially approved, the 75 per centum Federal matching provided in subsection (a)(3)(B) shall become effective with respect to such systems, retroactive to the first quarter beginning after the date on which such systems became operational as required under paragraph (1), except as provided in subparagraph (B).

Per centum reductions.

"(B) In the case of any State which was subject to a per centum reduction under paragraph (2), the per centum specified in subsection (a)(3)(B) shall be reduced by 5 percentage points for the first two quarters beginning after the deadline established under paragraph (2)(B), and shall be further reduced by an additional 5 percentage points at the end of each period consisting of two quarters beginning after such deadline and before the date on which such systems are initially approved, except that no reduction shall be made under this paragraph for any quarter following the quarter during which the State's systems are initially approved by the Secretary.

Approved systems, review.

"(4)(A) The Secretary shall review all approved systems not less often than once each fiscal year, and shall reapprove or disapprove any such systems. Systems which fail to meet the current performance standards, system requirements, and any other conditions for approval developed by the Secretary under paragraph (6) shall be disapproved. Any State having systems which are so disapproved shall be subject to a per centum reduction under subparagraph (B). The Secretary shall make the determination of reapproval or disapproval and so notify the States not later than the end of the first quarter following the review period.

"(B) If the Secretary disapproves a State's systems under subparagraph (A), the Secretary shall, with respect to such State for quarters beginning after the determination of disapproval and before the first quarter beginning after such systems are reapproved, reduce the per centum specified in subsection (a)(3)(B) to a per centum of not less than 50 per centum and not more than 70 per centum as the Secretary determines to be appropriate and commensurate with the nature of noncompliance by such State; except that such per centum may not be reduced by more than 10 percentage points in any 4-quarter period by reason of this subparagraph. No State shall be subject to a per centum reduction under this paragraph (i) before the fifth quarter beginning after such State's systems were initially approved, or (ii) on the basis of a review conducted before October 1, 1981.

Waiver.

"(C) The Secretary may retroactively waive a per centum reduction imposed under subparagraph (B), if the Secretary determines that the State's systems meet all current performance standards and other requirements for reapproval and that such action would improve the administration of the State's plan under this title, except that no such waiver may extend beyond the four quarters immediately prior to the quarter in which the State's systems are reapproved.

"(5)(A) In order to be initially approved by the Secretary, mechanized claims processing and information retrieval systems must be of

the type described in subsection (a)(3)(B) and must meet the following requirements:

"(i) The systems must be capable of developing provider, physician, and patient profiles which are sufficient to provide specific information as to the use of covered types of services and items, including prescribed drugs.

"(ii) The State must provide that information on probable fraud or abuse which is obtained from, or developed by, the systems, is made available to the State's medicaid fraud control unit (if any) certified under subsection (q) of this section.

"(iii) The systems must meet all performance standards and other requirements for initial approval developed by the Secretary under paragraph (6).

"(B) In order to be reapproved by the Secretary, mechanized claims processing and information retrieval systems must meet the requirements of subparagraphs (A)(i) and (A)(ii) and performance standards and other requirements for reapproval developed by the Secretary under paragraph (6).

"(6) The Secretary, with respect to State systems, shall— Functions.

"(A) develop performance standards, system requirements, and other conditions for approval for use in initially approving such State systems, and shall further develop written approval procedures for conducting reviews for initial approval, including specific criteria for assessing systems in operation to insure that all such performance standards and other requirements are met; Performance standards, development.

"(B) by not later than October 1, 1980, develop an initial set of performance standards, system requirements, and other conditions for reapproval for use in reapproving or disapproving State systems, and shall further develop written reapproval procedures for conducting reviews for reapproval, including specific criteria for reassessing systems operations over a period of at least six months during each fiscal year to insure that all such performance standards and other requirements are met on a continuous basis;

"(C) provide that reviews for reapproval, conducted before October 1, 1981, shall be for the purpose of developing a systems performance data base and assisting States to improve their systems, and that no per centum reduction shall be made under paragraph (4) on the basis of such a review; Systems performance data base, development.

"(D) insure that review procedures, performance standards, and other requirements developed under subparagraph (B) are sufficiently flexible to allow for differing administrative needs among the States, and that such procedures, standards, and requirements are of a nature which will permit their use by the States for self-evaluation;

"(E) notify all States of proposed procedures, standards, and other requirements at least one quarter prior to the fiscal year in which such procedures, standards, and other requirements will be used for conducting reviews for reapproval;

"(F) periodically update the systems performance standards, system requirements, review criteria, objectives, regulations, and guides as the Secretary shall from time to time deem appropriate;

"(G) provide technical assistance to States in the development and improvement of the systems so as to continually improve the capacity of such systems to effectively detect cases of fraud or abuse; Technical assistance to States.

"(H) for the purpose of insuring compatibility between the State systems and the systems utilized in the administration of title XVIII—

42 USC 1395.

Coding system, development.

"(i) develop a uniform identification coding system (to the extent feasible) for providers, other persons receiving payments under the State plans (approved under this title) or under title XVIII, and beneficiaries of medical services under such plans or title;

Liaison between States, carriers and intermediaries.

"(ii) provide liaison between States and carriers and intermediaries having agreements under title XVIII to facilitate timely exchange of appropriate data; and

"(iii) improve the exchange of data between the States and the Secretary with respect to providers and other persons who have been terminated, suspended, or otherwise sanctioned under a State plan (approved under this title) or under title XVIII;

Reasonable costs, definitions.

"(I) develop and disseminate clear definitions of those types of reasonable costs relating to State systems which are reimbursable under the provisions of subsection (a)(3) of this section; and

Report to Congress.

"(J) report on or before October 1, 1981, to the Congress on the extent to which States have developed and operated effective mechanized claims processing and information retrieval systems.

Waiver.

"(7)(A) The Secretary shall waive the provisions of this subsection with respect to initial operation and approval of mechanized claims processing and information retrieval systems with respect to any State which—

"(i) had a 1976 population (as reported by the Bureau of the Census) of less than 1,000,000 and which made total expenditures (including Federal reimbursement) for which Federal financial participation is authorized under this title of less than $100,000,000 in fiscal year 1976 (as reported by such State for such year), or

"(ii) is a Commonwealth, or territory or possession, of the United States,

if such State reasonably demonstrates, and the Secretary does not formally disagree, that the application of such provisions would not significantly improve the efficiency of the administration of such State's plan under this title.

Timetable.

"(B) If the Secretary determines that the application of the provisions described in subparagraph (A) to a State would significantly improve the efficiency of the administration of the State's plan under this title, the Secretary may withdraw the State's waiver under subparagraph (A) and, in such case, the Secretary shall impose a timetable for such State with respect to compliance with the provisions of this subsection and the imposition of per centum reductions. Such timetable shall be comparable to the timetable established under this subsection as to the amount of time allowed such State to comply and the timing of per centum reductions.

"(8)(A) The per centum reductions provided for under this subsection shall not apply to a State for any quarter with respect to which the Secretary determines that such State is unable to comply with the relevant requirements of this subsection—

"(i) for good cause (but such a waiver may not be for a period in excess of 2 quarters), or

"(ii) due to circumstances beyond the control of such State.

Report to Congress.

"(B) If the Secretary determines under subparagraph (A) that such a reduction will not apply to a State, the Secretary shall report to the

Congress on the basis for each such determination and on the modification of all time limitations and deadlines as described in subparagraph (C).

"(C) For purposes of determining all time limitations and deadlines imposed under this subsection, any time period during which a State was found under subparagraph (A)(ii) to be unable to comply with requirements of this subsection due to circumstances beyond its control shall not be taken into account, and the Secretary shall modify all such time limitations and deadlines with respect to such State accordingly.".

Time limitations and deadlines, modification.

Approved October 7, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-977 accompanying H.R. 7299 (Comm. on Interstate and Foreign Commerce) and No. 96-1367 (Comm. of Conference).
SENATE REPORTS: No. 96-712 (Comm. on Labor and Human Resources) and No. 96-980 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 24, considered and passed Senate.
Aug. 22, H.R. 7299 considered and passed House; passage vacated and S. 1177, amended, passed in lieu.
Sept. 24, Senate agreed to conference report.
Sept. 30, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 41:
Oct. 7, Presidential statement.

Public Law 96-399
96th Congress

An Act

Oct. 8, 1980
[S.2719]

To amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

Housing and Community Development Act of 1980.
42 USC 5301 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Housing and Community Development Act of 1980".

TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

ADMINISTRATION OF COMMUNITY DEVELOPMENT PROGRAM

42 USC 5302.

SEC. 101. (a) Section 102(b) of the Housing and Community Development Act of 1974 is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of law, for the fiscal years 1981, 1982, and 1983, (1) no data derived from the 1980 Decennial Census, as provided for in subchapter II of title 13, United States Code, except those relating to population and poverty, shall be taken into account for purposes of section 119 or the allocation of amounts under section 106, and (2) no revision to the criteria for establishing a metropolitan area or defining a central city of such an area published after January 1, 1980, shall be taken into account for purposes of this title, except that any area or city which would newly qualify as a metropolitan area or a central city of such an area by reason of any such revision shall be so considered.".

13 USC 21.
42 USC 5318.
42 USC 5306.

42 USC 5302.

(b)(1) Section 102 of such Act is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) With respect to program years beginning with the program year for which grants are made available from amounts appropriated for fiscal year 1982 under section 103(a)(1), the population of any unit of general local government which is included in that of an urban county as provided in subsection (a)(6)(B) shall be included in the population of such urban county for three program years beginning with the program year in which its population was first so included and shall not otherwise be eligible for a grant under section 106 as a separate entity, unless the application by the urban county is disapproved or withdrawn prior to or during such three-year period. During any such three-year period, the population of any unit of general local government which is not included in that of the urban county for the first year shall not be eligible for such inclusion in the second or third year.".

Post, p. 1618.

42 USC 5306.

Effective date.
42 USC 5302 note.

(2) The amendment made by paragraph (1) shall take effect on October 1, 1981.

42 USC 5302.

(c) Section 102 of such Act is amended by adding at the end thereof the following:

Urban county.

"(e) Any county seeking qualification as an urban county, including any urban county seeking to continue such qualification, shall notify, as provided in this subsection, each unit of general local government,

which is included therein and is eligible to elect to have its population excluded from that of an urban county under subsection (a)(6)(B)(i), of its opportunity to make such an election. Such notification shall, at a time and in a manner prescribed by the Secretary, be provided so as to provide a reasonable period for response prior to the period for which such qualification is sought. The population of any unit of general local government which is provided such notification and which does not inform, at a time and in a manner prescribed by the Secretary, the county of its election to exclude its population from that of the county shall, if the county qualifies as an urban county, be included in the population of such urban county as provided in subsection (d).".

(d) Section 104 of such Act is amended by adding the following new subsection at the end thereof: 42 USC 5304.

"(j) In any case in which a metropolitan city is located, in whole or in part, within an urban county, the Secretary may, upon the joint request of such city and county, approve the inclusion of the metropolitan city as part of the urban county for purposes of planning a joint community development program, meeting the application requirements of this section, and implementing such program.".

PRO RATA REDUCTION OF GRANTS

SEC. 102. Section 106(g) of the Housing and Community Development Act of 1974, as redesignated by section 111(d) of this Act, is amended— 42 USC 5306.

(1) by striking out "fiscal year 1978, fiscal year 1979, or fiscal year 1980" and inserting in lieu thereof "any fiscal year";

(2) by striking out "and hold-harmless" wherever it appears; and

(3) by striking out "(d)(2)" and "(f)(1)(B)" and inserting in lieu thereof "(c)" and "(e)", respectively.

INCLUSION OF CERTAIN INDEPENDENT CITIES IN DETERMINING COMMUNITY DEVELOPMENT GRANT AMOUNTS FOR URBAN COUNTIES

SEC. 103. Section 106(b)(4) of the Housing and Community Development Act of 1974 is amended to read as follows: 42 USC 5306.

"(4) In computing amounts or exclusions under this section with respect to any urban county, there shall be excluded units of general local government located in the county the populations of which are not counted in determining the eligibility of the urban county to receive a grant under this subsection, except that there shall be included any independent city (as defined by the Bureau of the Census) which—

"(A) is not part of any county;

"(B) is not eligible for a grant pursuant to subsection (b)(1);

"(C) is contiguous to the urban county;

"(D) has entered into cooperation agreements with the urban county which provide that the urban county is to undertake or to assist in the undertaking of essential community development and housing assistance activities with respect to such independent city; and

"(E) is not included as a part of any other unit of general local government for purposes of this section.

Any independent city which is included in any fiscal year for purposes of computing amounts pursuant to the preceding sentence

shall not be eligible for a grant under subsection (c) or (e) with respect to such fiscal year.".

ENERGY AND ELIGIBLE ACTIVITIES

42 USC 5301. SEC. 104. (a) Section 101 of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (1) of subsection (a);

(2) by striking out the period at the end of paragraph (2) of subsection (a) and inserting in lieu thereof "; and";

(3) by adding the following new paragraph at the end of subsection (a):

"(3) increasing energy costs which have seriously undermined the quality and overall effectiveness of local community and housing development activities.";

(4) by striking out "and" at the end of paragraph (2) of subsection (b);

(5) by striking out the period at the end of paragraph (3) of subsection (b) and inserting in lieu thereof "; and";

(6) by adding the following new paragraph at the end of subsection (b):

"(4) concerted action by Federal, State, and local governments to address the economic and social hardships borne by communities as a consequence of scarce fuel supplies.";

(7) by striking out "and" at the end of paragraph (7) of subsection (c);

(8) by striking out the period at the end of paragraph (8) of subsection (c) and inserting in lieu thereof "; and"; and

(9) by adding the following new paragraph after paragraph (8) of subsection (c):

"(9) the conservation of the Nation's scarce energy resources, improvement of energy efficiency, and the provision of alternative and renewable energy sources of supply.".

42 USC 5304. (b) Section 104(a) of such Act is amended by adding the following new sentence at the end thereof: "The applicant may, at the discretion of the applicant, include (as part of the program summary, formulation, and description requirements described in paragraphs (1), (2), and (3) of this subsection) comparable information with respect to the applicant's energy conservation and renewable energy resource needs and objectives.".

42 USC 5305. (c) Section 105(a) of such Act is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation which promote energy efficiency) of public works, facilities and site or other improvements—including neighborhood facilities, centers for the handicapped, senior centers, historic properties, utilities (including power generation and distribution facilities using renewable resource energy systems), streets, street lights, water and sewer facilities, foundations and platforms for air rights sites, pedestrian malls and walkways, and parks, playgrounds, and recreation facilities (including parks, playgrounds, and recreational facilities established as a result of reclamation and other construction activities carried out in connection with a river and land adjacent thereto where assistance under other Federal laws or programs is determined to be unavailable), flood

and drainage facilities in cases where assistance for such facilities under other Federal laws or programs is determined to be unavailable, and parking facilities, solid waste disposal facilities, recycling or conversion facilities, and fire protection services and facilities which are located in or which serve designated community development areas;";

(2) by inserting after "rehabilitation" the first time it appears in paragraph (4) the following: "(including rehabilitation which promotes energy efficiency)";

(3) by inserting after "education," in paragraph (8) the following: "energy conservation,";

(4) by inserting after "community economic development" in paragraph (15) the following: "or energy conservation"; and

(5) by striking out "and" at the end of paragraph (14), by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and", and by adding the following new paragraph at the end thereof:

"(16) activities necessary to the development of a comprehensive community-wide energy use strategy, which may include items such as— Comprehensive community-wide energy use strategy.

"(A) a description of energy use and projected demand by sector, by fuel type, and by geographic area;

"(B) an analysis of the options available to the community to conserve scarce fuels and encourage use of renewable energy resources;

"(C) an analysis of the manner in, and extent to, which the community's neighborhood revitalization, housing, and economic development strategies will support its energy conservation strategy;

"(D) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, land use planning and zoning, and traffic control, parking, and public transportation functions;

"(E) a statement of the actions the community will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities;

"(F) appropriate provisions for energy emergencies;

"(G) identification of the local governmental unit responsible for administering the energy use strategy;

"(H) provision of a schedule for implementation of each element in the strategy; and

"(I) a projection of the savings in scarce fossil fuel consumption and the development and use of renewable energy resources that will result from implementation of the energy use strategy.".

(d) Section 105(a)(4) of such Act is amended by inserting ", and including the renovation of closed school buildings" after "privately owned properties". 42 USC 5305.

(e) Section 105(a) of such Act is amended—

(1) by inserting after "activities" the first time it appears in paragraph (14) the following: "(as specifically described in the application submitted pursuant to section 104)"; and

42 USC 5304.

(2) by inserting after "project" in paragraph (15) the following: "(as specifically described in the application submitted pursuant to section 104)".

DISPLACEMENT

SEC. 105. (a) Section 104(a)(2) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "including activities," in clause (B) and inserting in lieu thereof "activities, and objectives, including activities";

(2) by striking out "and objectives," in clause (B); and

(3) by striking out clause (C) and inserting in lieu thereof the following: "(C) takes into account the effect of such activities on the involuntary displacement of low- and moderate-income persons and takes into account appropriate environmental factors;".

Study and report to Congress

(b) The Secretary of Housing and Urban Development shall continue the study on involuntary displacement conducted under section 902 of the Housing and Community Development Amendments of 1978 and shall transmit, not later than March 30, 1981, a report to the Congress which shall contain (1) data collected since the initial report submitted under such section 902, and (2) further recommendations on minimizing involuntary displacement and alleviating problems caused by such displacement.

42 USC 5313 note.

AUTHORIZATIONS

SEC. 106. (a) The second sentence of section 103(a)(1) of the Housing and Community Development Act of 1974 is amended to read as follows: "There are authorized to be appropriated for these purposes not to exceed $3,810,000,000 for the fiscal year 1981, not to exceed $3,960,000,000 for the fiscal year 1982, and not to exceed $4,110,000,000 for the fiscal year 1983.".

42 USC 5303.

(b) Section 103(a)(2) of such Act is amended to read as follows: "(2) Of the amounts approved in appropriation Acts pursuant to paragraph (1), $275,000,000 for the fiscal year 1981 shall be added to the amount available for allocation under section 106(c) and shall not be subject to the provisions of section 107.".

Post, p. 1621.
42 USC 5307.

(c) Section 103(c) of such Act is amended to read as follows: "(c) There are authorized to be appropriated for supplemental grant assistance under section 119 amounts aggregating not to exceed $1,475,000,000 for fiscal years prior to the fiscal year 1981, and an additional amount not to exceed $675,000,000 for each of the fiscal years 1981, 1982, and 1983.".

42 USC 5303.

SECTION 107 DISCRETIONARY FUND

SEC. 107. Section 107(a) of the Housing and Community Development Act of 1974 is amended by striking out "of authority to enter into contracts approved in appropriation Acts under section 103(a)(1) for each of the fiscal years 1975, 1976, 1977, 1978, 1979, and 1980, an amount equal to 3 per centum thereof shall" and inserting in lieu thereof "approved in appropriation Acts under section 103(a)(1) for each of the fiscal years 1981, 1982, and 1983, not more than $104,000,000 for fiscal year 1981, not more than $104,000,000 for fiscal year 1982, and not more than $107,000,000 for fiscal year 1983, may".

42 USC 5307.
42 USC 5303.

LIMITATION ON COMMUNITY DEVELOPMENT GUARANTEES

SEC. 108. Section 108 of the Housing and Community Development Act of 1974 is amended— 42 USC 5308.

(1) by inserting after "commitments to guarantee" in the first sentence of subsection (a) the following: ", only to such extent or in such amounts as provided in appropriation Acts,";

(2) by adding the following new sentence at the end of subsection (a): "During fiscal year 1981, the Secretary may not enter into commitments to guarantee under this section notes and other obligations with an aggregate principal amount in excess of $300,000,000."; and

(3) by striking out "Notwithstanding any other provision of this section, the" in subsection (k) and inserting in lieu thereof "The".

PERFORMANCE REPORTS FOR CERTAIN NON-ENTITLEMENT COMMUNITIES

SEC. 109. Section 104(d) of the Housing and Community Development Act of 1974 is amended— 42 USC 5304.

(1) by striking out "Prior to the beginning of fiscal year 1977 and each fiscal year thereafter, each" in the first sentence and inserting in lieu thereof "Each";

(2) by inserting after the first sentence the following new sentence: "The performance report shall be submitted annually prior to the beginning of each fiscal year, except that a grantee which receives a grant made pursuant to subsection (c) or (e) of section 106 which the Secretary determines does not fund a comprehensive community development program may submit a report with respect to such grant less frequently than annually as determined by the Secretary."; and *Post*, p. 1621.

(3) by inserting "(or less frequently as the Secretary determines appropriate in the case of a grant for which a report is submitted less frequently than annually in accordance with the second sentence of this paragraph)" after "at least on an annual basis" in the third sentence.

HISTORIC PRESERVATION

SEC. 110. (a) Section 119(c) of the Housing and Community Development Act of 1974 is amended by— 42 USC 5318.

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding the following new paragraph after paragraph (6):

"(7) include (A) an identification of all properties, if any, which are included on the National Register of Historic Places and which, as determined by the applicant, will be affected by the project for which the application is made; (B) an identification of all other properties, if any, which will be affected by such project and which, as determined by the applicant, may meet the criteria established by the Secretary of the Interior for inclusion on such Register, together with documentation relating to the inclusion of such properties on the Register; and (C) a description of the effect, as determined by the applicant, of the project on the properties identified pursuant to clauses (A) and (B).".

(b) Section 119 of such Act is amended by adding the following new subsection at the end thereof:

"(n) In the case of any application which identifies any property in accordance with subsection (c)(7)(B), the Secretary may not commit funds with respect to an approved application unless the applicant has certified to the Secretary that the appropriate State historic preservation officer and the Secretary of the Interior have been provided an opportunity to take action in accordance with the provisions of section 121(b).".

Infra.

(c) Title I of such Act is amended by adding the following new section at the end thereof:

"HISTORIC PRESERVATION REQUIREMENTS

Regulations.
42 USC 5320.
42 USC 5318.

"SEC. 121. (a) With respect to applications for assistance under section 119, the Secretary of the Interior, after consulting with the Secretary, shall prescribe and implement regulations concerning projects funded under section 119 and their relationship with—

"(1) 'An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes', approved October 14, 1966, as amended; and

16 USC 470.

"(2) 'An Act to provide for the preservation of historical and archaeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam', approved June 27, 1960, as amended.

16 USC 469.

"(b) In prescribing and implementing such regulations with respect to applications submitted under section 119 which identify any property pursuant to subsection (c)(7)(B) of such section, the Secretary of the Interior shall provide at least that—

Ante, p. 1619.

Information submittal.

"(1) the appropriate State historic preservation officer (as determined in accordance with regulations prescribed by the Secretary of the Interior) shall, not later than 45 days after receiving information from the applicant relating to the identification of properties which will be affected by the project for which the application is made and which may meet the criteria established by the Secretary of the Interior for inclusion on the National Register of Historic Places (together with documentation relating to such inclusion), submit his or her comments, together with such other information considered necessary by the officer, to the applicant concerning such properties; and

Application determination.

"(2) the Secretary of the Interior shall, not later than 45 days after receiving from the applicant the information described in paragraph (1) and the comments submitted to the applicant in accordance with paragraph (1), make a determination as to whether any of the properties affected by the project for which the application is made is eligible for inclusion on the National Register of Historic Places.

Regulations.

"(c) The Advisory Council on Historic Preservation shall prescribe regulations providing for expeditious action by the Council in making its comments under section 106 of the Act referred to in subsection (a)(1) in the case of properties which are included on, or eligible for inclusion on, the National Register of Historic Places and which are affected by a project for which an application is made under section 119.".

Post, p. 1621.

42 USC 5318.

TECHNICAL AMENDMENTS TO THE BLOCK GRANT PROGRAM

SEC. 111. (a) Section 102 of the Housing and Community Development Act of 1974 is amended by striking out "Office of Management and Budget" each place it appears in paragraphs (3), (4), and (8) of

42 USC 5302.

subsection (a) and in subsection (b) and inserting in lieu thereof "Department of Commerce".

(b) Section 103 of such Act is amended by striking out subsection (e). 42 USC 5303.

(c) Section 104 of such Act is amended— 42 USC 5304.

(1) by striking out "106(a)" in the first sentence of subsection (c) and inserting in lieu thereof "106(b)"; and

(2) by striking out "(d)(2)" and "(f)(1)(B)" wherever they appear in subsections (d) and (e) and inserting in lieu thereof "(c)" and "(e)", respectively.

(d) Section 106 of such Act is amended by striking out subsections (c), (g), (h), (i), (j), and (l) and redesignating subsections (d), (e), (f), (k), and (m) as subsections (c), (d), (e), (f), and (g), respectively. 42 USC 5306.

(e) The second sentence of section 106(a) of such Act is amended—

(1) by striking out "subsections (c) and (e)" and inserting in lieu thereof "subsection (d)"; and

(2) by striking out "aggregate", "the greater of" and "or its hold-harmless amount computed pursuant to subsection (g)".

(f) Section 106(c) of such Act, as redesignated by subsection (d) of this section, is amended—

(1) by striking out "allocated by the Secretary, first, for grants to metropolitan cities, urban counties, and other units of general local government within metropolitan areas to meet their hold-harmless needs as determined under subsections (g) and (h), and second, in accordance with the provisions of paragraph (2).

"(2) Any portion of such amounts which remains after applying the provisions of paragraph (1) shall be";

(2) by redesignating paragraph (3) as paragraph (2);

(3) by striking out "paragraph (2)" wherever it appears in paragraph (2), as redesignated by paragraph (2) of this subsection, and inserting in lieu thereof "paragraph (1)";

(4) by striking out the second sentence of paragraph (2), as redesignated; and

(5) by striking out in the final sentence of paragraph (2), as redesignated, ", Indian tribes, and units of general local government which are entitled to hold-harmless grants pursuant to subsection (h)" and inserting in lieu thereof "and Indian tribes".

(g) Section 106(e) of such Act, as redesignated by subsection (d) of this section, is amended—

(1) by striking out in the first sentence of paragraph (1) the following: "allocated by the Secretary—

"(A) first, for grants to units of general local government outside of metropolitan areas to meet their hold-harmless needs as determined under subsection (h); and

"(B) second, any portion of such amount which remains after applying the provisions of subparagraph (A) shall be";

(2) by striking out "(i)" and "(ii)" in the first sentence of paragraph (1) and inserting in lieu thereof "(A)" and "(B)", respectively, and by striking out "(I)", "(II)", and "(III)" wherever they appear in such sentence and inserting in lieu thereof "(i)", "(ii)", and "(iii)", respectively;

(3) by striking out "clause (i) of subparagraph (B)" and "clause (ii) of subparagraph (B)" in the second sentence of paragraph (1) and inserting in lieu thereof "subparagraph (A)", and "subparagraph (B)", respectively;

(4) by striking out "subparagraph (B)" in the third sentence of paragraph (1) and inserting in lieu thereof "this paragraph", and by striking out "such subparagraph" wherever it appears in such sentence and inserting in lieu thereof "such paragraph";

(5) by striking out the second sentence of paragraph (2);
(6) by striking out "paragraph (1)(B)" wherever it appears in paragraph (2) and inserting in lieu thereof "paragraph (1)";
(7) by striking out "units of general local government which are entitled to hold-harmless grants pursuant to subsection (h) and" in the last sentence of paragraph (2); and
(8) by striking out "paragraph (1)(B)" in the first sentence of paragraph (3) and inserting in lieu thereof "paragraph (1)".

42 USC 5316.

(h) Section 116 of such Act is amended—
(1) by striking out subsections (b), (f), and (h), and by redesignating subsection (g) as subsection (b); and
(2) by striking out in subsection (b), as redesignated, "or from a unit a general local government for a grant pursuant to section 106(h)".

REALLOCATION OF FUNDS

SEC. 112. Section 106(d) of the Housing and Community Development Act of 1974, as redesignated by section 111(d) of this Act, is amended by striking out "first," and all that follows through the period at the end of the first sentence and inserting in lieu thereof the following: "first, in any metropolitan area in the same State, with a preference for units of general local government in the same metropolitan area to which such funds were originally allocated, and second, in any other metropolitan area.".

REPORT ON COMMUNITY DEVELOPMENT GRANT FORMULA

Report to Congress.
42 USC 5313 note.

SEC. 113. The Secretary of Housing and Urban Development shall, not later than January 1, 1983, report to the Congress with respect to the adequacy, effectiveness, and equity of the formula used for allocation of funds under title I of the Housing and Community Development Act of 1974, with specific analysis and recommendations concerning the manner in which such formula is or could be affected by the data derived from the 1980 decennial census.

42 USC 5301.

REHABILITATION LOANS

42 USC 1452b.

SEC. 114. (a) Section 312(c)(4) of the Housing Act of 1964 is amended—
(1) by striking out in subparagraph (A) "$27,000" and inserting in lieu thereof "$33,500";
(2) by inserting "(i)" after "secured by such property" in subparagraph (A);
(3) by inserting ", and (ii) if the Secretary determines that such refinancing is necessary and appropriate" before the semicolon at the end of subparagraph (A);
(4) by striking out "and" at the end of subparagraph (A);
(5) by redesignating subparagraph (B) as subparagraph (D); and
(6) by inserting after subparagraph (A) the following:
"(B) in the case of residential property in which some or all of the dwelling units do not contain kitchen facilities and to which there is connected a central dining facility where meals can be served to the occupants of such residential property, $25,000 per dwelling unit;
"(C) in the case of residential property in which some or all of the dwelling units do not contain bathroom or kitchen facilities, $15,000 per dwelling unit; and".

(b) Section 312(d) of such Act is amended—

(1) by striking out "and not to exceed $140,000,000 for the fiscal year beginning on October 1, 1979" in the first sentence and inserting in lieu thereof "not to exceed $140,000,000 for the fiscal year beginning on October 1, 1979, not to exceed $144,000,000 for the fiscal year beginning on October 1, 1980, and not to exceed $129,000,000 for the fiscal year beginning on October 1, 1981";

(2) by inserting the following before the period at the end of the third sentence thereof: ", and not more than $210,000,000 may be approved in appropriation Acts for such loans with respect to the fiscal year beginning on October 1, 1980"; and

(3) by striking out the fourth and fifth sentences and inserting in lieu thereof the following: "Of the amount available for loans under this section during any fiscal year beginning on or after October 1, 1980, the Secretary may utilize not more than one-third for rehabilitation loans for multifamily properties.".

(c) Section 312(f) of such Act is amended by inserting before the period at the end thereof the following: ", except that the Secretary may not delegate to any agency or organization outside the Department of Housing and Urban Development the authority to determine whether to permit refinancing of existing indebtedness under subsection (c)(4)(A)". 42 USC 1452b.

(d) Section 312(h) of such Act is amended—

(1) by striking out "October 15, 1980" and inserting in lieu thereof "September 30, 1982"; and

(2) by striking out "October 16, 1980" and inserting in lieu thereof "October 1, 1982".

NEIGHBORHOOD SELF-HELP DEVELOPMENT

SEC. 115. The first sentence of section 705 of the Housing and Community Development Amendments of 1978 is amended by inserting after "1980" the following: ", and not to exceed $10,000,000 for the fiscal year 1981". 42 USC 8124.

URBAN HOMESTEADING

SEC. 116. The first sentence of section 810(h) of the Housing and Community Development Act of 1974 is amended by striking out "subsection (c)" and inserting in lieu thereof "subsections (c) and (g)". 12 USC 1706e.

UDAG AMENDMENTS RELATING TO GUAM, THE VIRGIN ISLANDS, AND INDIAN TRIBES

SEC. 117. (a) Section 119 of the Housing and Community Development Act of 1974 is amended by adding the following new subsection at the end thereof: 42 USC 5318.

"(o)(1) For the purpose of carrying out this section, the term 'city' includes Guam, the Virgin Islands, and Indian tribes. "City."

"(2) The application requirements— Application requirements. 42 USC 5304.

"(A) of section 104, and

"(B) of subsection (c)(2) of this section, to the extent such subsection requires a concentrated urban development action program to be consistent with the program and plan described in paragraphs (2) and (4) of section 104(a),

shall not apply to applications by Guam, the Virgin Islands, or Indian tribes for assistance under this section.

"(3) Grants may be made under this section to Guam, the Virgin Islands, or an Indian tribe only with respect to fiscal years for which Guam, the Virgin Islands, or such Indian tribe, as the case may be, Grants.

42 USC 5307.

has submitted an application meeting requirements prescribed pursuant to section 107.

"(4) The Secretary may not approve a grant to an Indian tribe unless such Indian tribe—

"(A) is located on a reservation or in an Alaskan Native Village; and

"(B) is an eligible recipient under the State and Local Fiscal Assistance Act of 1972.".

31 USC 1221 note.

(b) Section 107(d) of such Act is amended by inserting "under this title" after "Indian tribe" in the first sentence.

TITLE II—HOUSING ASSISTANCE PROGRAMS

LOW INCOME HOUSING

42 USC 1437c.

SEC. 201. (a) Section 5(c) of the United States Housing Act of 1937 is amended to read as follows:

Contracts.

"(c)(1) The Secretary may enter into contracts for annual contributions aggregating not more than $7,875,049,000 per annum, which amount shall be increased by $1,494,400,000 on October 1, 1980. The additional authority to enter into such contracts provided on or after October 1, 1980, shall be effective only in such amounts as may be approved in appropriation Acts; in addition, the aggregate amount which may be obligated, with respect to the additional authority provided on October 1, 1980, over the duration of the contracts may not exceed $31,200,000,000. The Secretary, in utilizing the additional authority to enter into such contracts provided on and after October 1, 1980, shall administer the programs authorized by this Act to provide assistance, to the maximum extent practicable, consistent with section 213(d) of the Housing and Community Development Act of 1974.

Post, p. 1629.

"(2)(A) Of the additional authority approved in appropriation Acts and made available on October 1, 1980, the Secretary shall enter into contracts aggregating at least $100,000,000 for assistance to projects under section 14.

Post, p. 1625.

"(B) Of the balance of such additional authority approved in appropriation Acts and made available on October 1, 1980, which remains after deducting the amount to be provided for assistance to projects under section 14, the Secretary may not enter into contracts aggregating—

42 USC 1437f.

"(i) more than 37.5 per centum of such balance for existing units assisted under section 8, including assistance provided under subsection (j) of such section; and

"(ii) more than 62.5 per centum of such balance for newly constructed and substantially rehabilitated units assisted under this Act, of which not more than $265,800,000 shall be made available for such units assisted under this Act other than section 8.

"(3) The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into.

Appropriation authorization.

"(4) The full faith and credit of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there are hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments.

"(5) All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this Act when

such payments are due, except that funds obtained through the issuance of obligations pursuant to section 4(b) (including repayments or other realizations of the principal of loans made out of such funds) shall not be available for the payment of such annual contributions.". 42 USC 1437b.

(b) Section 9(c) of such Act is amended— 42 USC 1437g.

(1) by striking out "and" immediately after "on or after October 1, 1978,"; and

(2) by inserting immediately before the period at the end thereof the following: ", and not to exceed $826,000,000 on or after October 1, 1980".

(c) Section 6(b) of such Act is amended— 42 USC 1437d.

(1) by inserting the following before the period at the end of the second sentence: "; except that, for projects to be constructed as a result of assistance provided under this Act and which are to be located on Indian reservations or in Alaskan Native villages, the Secretary shall determine and make the prototype costs available within a reasonable time prior to the beginning of each construction season as is determined to be appropriate for the area in which the project is to be located"; and

(2) by striking out "and" at the end of clause (6) of the third sentence, and by adding the following before the period at the end of such sentence: ", and (8) with respect to remote areas such as may be found in connection with projects developed under the Indian and Alaskan Native housing program assisted under this Act, the extensive transportation required to provide the necessary labor, materials, and equipment to the project site and any additional conditions that the Secretary determines should be taken into consideration under clauses (1) through (7) for such projects".

(d) Section 9(a)(1) of such Act is amended by striking out "and" before "(B)" in the second sentence, and by inserting the following before the period at the end of the second sentence: ", and (C) with respect to housing projects developed under the Indian and Alaskan Native housing program assisted under this Act, to provide funds (in addition to any other operating costs contributions approved by the Secretary under this section) as determined by the Secretary to be required to cover the administrative costs to an Indian housing authority during the development period of a project approved pursuant to section 5 and until such time as the project is occupied". 42 USC 1437g. 42 USC 1437c.

(e) Section 6(c)(4)(A) of such Act is amended by inserting immediately after "(A)" the following: "except for projects or portions of projects specifically designated for elderly families with respect to which the Secretary has determined that application of this clause would result in excessive delays in meeting the housing needs of such families,". 42 USC 1437d.

PUBLIC HOUSING COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM

SEC. 202. (a) The United States Housing Act of 1937 is amended by adding the following new section at the end thereof:

"COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM

"SEC. 14. (a) It is the purpose of this section to provide assistance— 42 USC 1437*l*.

"(1) to improve the physical condition of existing public housing projects, and

"(2) to upgrade the management and operation of such projects,

in order to assure that such projects continue to be available to serve low-income families.

"(b) The Secretary may make available and contract to make available financial assistance (in such amounts as are authorized pursuant to section 5(c) and as may be approved in appropriations Acts) to public housing agencies for the purpose of improving the physical condition of existing low-rent public housing projects and for upgrading the management and operation of such projects to the extent necessary to maintain such physical improvements.

Ante, p. 1624.

Eligibility requirements.

"(c) Assistance under subsection (b) may be made available only for low-rent housing projects which—

"(1) are owned by public housing agencies;

"(2) are operated as rental housing projects and receive assistance under section 5(c) or section 9 of this Act;

Ante, p. 1624.
42 USC 1437g.
42 USC 1437f.

"(3) are not assisted under section 8 of this Act; and

"(4) meet such other requirements consistent with the purposes of this section as the Secretary may prescribe.

Applications.

"(d) Except as provided in subsection (e)(4), no assistance may be made available under subsection (b) unless the Secretary has approved an application from the public housing agency which has been developed in consultation with appropriate local officials and with tenants of the housing projects for which assistance is requested. Such application shall contain at least—

"(1) a comprehensive assessment of (A) the current physical condition of each project for which assistance is requested, and (B) the physical improvements necessary for each such project to meet the standards established by the Secretary pursuant to subsection (j);

"(2) an identification, for each such project, of the equipment systems or structural elements which would normally be replaced (assuming routine and timely maintenance is performed) over the remaining period of the annual contributions contract or during the 30-year period beginning on the date of submission of the application, whichever period is longer;

"(3) a comprehensive assessment of the improvements needed to upgrade the management and operation of each such project so that decent, safe, and sanitary living conditions will be provided in such projects; such assessment shall include at least an identification of needs related to—

"(A) the management, financial, and accounting control systems of the public housing agency which are related to each project eligible for assistance under this section;

"(B) the adequacy and qualifications of personnel employed by such public housing agency (in the management and operation of such projects) for each category of employment; and

"(C) the adequacy and efficacy of—

"(i) tenant programs and services in such projects;

"(ii) the security of each such project and its tenants;

"(iii) policies and procedures of the public housing agency for the selection and eviction of tenants in such projects; and

"(iv) other policies and procedures of such agency relating to such projects, as specified by the Secretary; and

"(4) a plan for making the improvements and replacements, and for meeting the needs, described in paragraphs (1), (2), and (3); such plan shall include at least—

"(A) a schedule of those actions which are to be completed, over a period of not greater than 5 years from the date of approval of such application by the Secretary, within each 12-month period covered by such plan and which are necessary—

"(i) to make the improvements, described in paragraph (1)(B), for each project for which assistance is requested, and

"(ii) to upgrade the management and operation of such projects as described in paragraph (3);

"(B) the estimated cost of each of the actions described in subparagraph (A);

"(C) an estimate of the total costs of the replacement of the items identified for each such project pursuant to paragraph (2) over the remaining period of the annual contributions contract or during the 30-year period beginning on the date of submission of the application, whichever period is longer, including an estimate of the amount of funds necessary to fund the costs which have accrued for the period which ends upon the date on which the application is made, and an estimate of the costs which will accrue during each 12-month period subsequent to such application;

"(D) an operating budget for each such project for each 12-month period covered by such plan, excluding costs described in subparagraphs (B) and (C); and

"(E) an estimate of the financial resources which will be available from all sources to each such project and to the public housing agency (to the extent the resources of the agency relate to such project), and the amounts of assistance which are being requested pursuant to subsection (b) for each 12-month period covered by the plan.

"(e) The amount of financial assistance made available under subsection (b) to any public housing agency with respect to any year may not exceed the sum of— Financial assistance, limitation.

"(1) an amount determined by the Secretary to be necessary to undertake the actions specified for such year in the schedule submitted pursuant to subsection (d)(4)(A);

"(2) the amount determined necessary by the Secretary to fund the replacement costs which have been identified pursuant to subsection (d)(4)(C) for each project, which have accrued for the period ending at the beginning of such year, and for which payment under subsection (b) has not been made previously;

"(3) the amount determined necessary by the Secretary to reimburse the public housing agency for the cost of developing the plan described pursuant to subsection (d)(4), less any amount which has been provided such public housing agency with respect to such year under paragraph (4); and

"(4) in the case of a public housing agency which meets such criteria of financial distress as are established by the Secretary and which has submitted the information described in paragraphs (1), (2), and (3) of subsection (d), the amount determined necessary by the Secretary to enable such agency to develop the plan described pursuant to subsection (d)(4);

except that not more than 5 per centum of the total amount utilized for annual contributions contracts under subsection (b) in any year

shall be made available for the purposes described in paragraphs (3) and (4).

Low-rent housing project, demolition.

"(f) Where an application made pursuant to this section proposes demolition of any low-rent housing project or any portion of such a project, the Secretary may not approve such application unless the Secretary determines that—

"(1) timely replacement of the units in such project will be undertaken by the public housing agency;

"(2) the total cost of providing such replacement housing is less than the total cost of rehabilitation of such project, except that the Secretary may waive such requirement where the Secretary determines that the demolition is necessary to meet the purposes of this section; and

"(3) low-income families displaced by such proposed demolition will be provided with decent, safe, sanitary, and affordable housing.

"(g) No assistance shall be made available to a public housing agency pursuant to subsection (b) for any year subsequent to the first year for which such assistance is made available to such agency unless the Secretary has determined that such agency has made substantial efforts to meet the objectives for the preceding year under the plan described in subsection (d)(4) and approved by the Secretary.

"(h) In making assistance available under subsection (b), the Secretary shall give preference to public housing agencies—

"(1) which request assistance for projects (A) having conditions which threaten the health or safety of the tenants, or (B) having a significant number of vacant, substandard units; and

"(2) which have demonstrated a capability of carrying out the activities proposed in the plan submitted by the agency pursuant to subsection (d)(4) and approved by the Secretary.

"(i)(1) In addition to assistance made available under subsection (b), the Secretary may, without regard to the requirements of subsections (c), (d), (e), (g), and (h), make available and contract to make available financial assistance (in such amounts as are authorized pursuant to section 5(c) and as approved in appropriation Acts) to any public housing agency in an amount which the Secretary determines is necessary to meet emergency or special purpose needs. Such needs shall be limited to—

Ante, p. 1624.

"(A) correcting conditions which threaten the health or safety of the tenants of any project (i) which is described in subsection (c), and (ii) with respect to which an application for assistance pursuant to subsection (d) has not been approved by the Secretary;

"(B) correcting conditions (i) which threaten the health or safety of the tenants of any project with respect to which an application for assistance pursuant to subsection (d) has been approved, and (ii) which were unanticipated at the time of the development of such application;

"(C) correcting conditions which threaten the health or safety of the occupants of any low-income housing project not described in subsection (c) and not assisted pursuant to section 8; or

42 USC 1437f.

"(D) physical improvements needs which (i) would not otherwise be eligible for assistance under this section, and (ii) pertain to any low-income housing project other than a project assisted under section 8.

"(2) The Secretary may issue such rules and regulations as may be necessary to carry out this subsection.

"(j)(1) The Secretary may issue such rules and regulations as may be necessary to carry out the provisions and purposes of this section.

"(2) The Secretary shall issue rules and regulations establishing standards which provide for decent, safe, and sanitary living conditions in low-rent public housing projects and for energy conserving improvements in such projects and which, to the extent practicable, are consistent with the Minimum Property Standards for Multi-Family Housing as they reasonably would be applied to existing housing, except that the Secretary may establish higher standards on a project-by-project basis in such cases where the Secretary deems such higher standards appropriate for furthering the purposes of this section.".

(b) Section 13 of such Act is amended— 93 Stat. 1109. 42 USC 1437k.

(1) by striking out subsection (a); and

(2) by striking out "(b)" in subsection (b).

(c) Section 6(f) of such Act is amended by inserting "pursuant to section 14" after "modifications" in the first and second sentences thereof. 42 USC 1437d.

(d) Section 213(d)(1) of the Housing and Community Development Act of 1974 is amended by striking out "modernization of low-income housing projects" and inserting in lieu thereof "carrying out section 14 of such Act". 42 USC 1439. *Ante*, p. 1625.

SECTION 8 AMENDMENTS

SEC. 203. (a) Section 8(c)(1) of the United States Housing Act of 1937 is amended by adding the following new sentence after the second sentence: "In the case of newly constructed and substantially rehabilitated units, the exception in the preceding sentence shall not apply to more than 20 per centum of the total amount of authority to enter into annual contributions contracts for such units which is allocated to an area and obligated with respect to any fiscal year beginning on or after October 1, 1980.". 42 USC 1437f.

(b) Section 8(e)(5) of such Act is amended by inserting the following new sentence after the second sentence thereof: "Notwithstanding subsection (c)(1) of this section, the Secretary may, in carrying out the preceding sentence, establish a maximum monthly rent (for units upgraded pursuant to this paragraph) which exceeds the fair market rental by not more than 20 per centum if such units are located in an area where the Secretary finds cost levels so require, except that the Secretary may approve maximum monthly rents which exceed the fair market rentals by more than 20 but not more than 30 per centum where the Secretary determines that special circumstances warrant such higher rent or where necessary to the implementation of a local housing assistance plan.".

OPERATING ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS

SEC. 204. (a) The first sentence of section 201(h) of the Housing and Community Development Amendments of 1978 is amended— 12 USC 1715z-1a.

(1) by striking out "and" after "the fiscal year 1979,"; and

(2) by inserting before the period at the end thereof the following: ", and not to exceed $31,100,000 for the fiscal year 1981".

(b) Section 236(f)(3)(B) of the National Housing Act is amended— 12 USC 1715z-1.

(1) by striking out "October 15, 1980" in the third sentence and inserting in lieu thereof "September 30, 1981"; and

(2) by striking out "on or after October 1, 1978," in the first sentence and all that follows through "October 31, 1978,".

RENT SUPPLEMENTS

12 USC 1701s.

SEC. 205. Section 101(1) of the Housing and Urban Development Act of 1965 is amended—

(1) by striking out "may" the first time it appears in the first sentence and inserting in lieu thereof "shall, not later than 4 years after the date of enactment of the Housing and Community Development Act of 1980,";

(2) by inserting the following new sentence after the first sentence thereof: "In amending such contracts, the Secretary shall provide that the housing with respect to which payments are made under this section be maintained as low- and moderate-income housing during the term of the original contract."; and

(3) by striking out "preceding" in the second sentence and inserting in lieu thereof "the first sentence of this paragraph".

SECTION 235 STANDARD PROGRAM

12 USC 1715z.

SEC. 206. (a) Section 235 of the National Housing Act is amended—

(1) by striking out "$32,000", "$38,000", "$38,000", and "$44,000" in the last proviso in subsection (b)(2) and inserting in lieu thereof "$40,000", "$47,500", and "$47,500", and "$55,000", respectively;

(2) by striking out "$32,000", "$38,000", "$38,000", and "$44,000", wherever they appear in subsections (i)(3)(B) and (i)(3)(C), and inserting in lieu thereof "$40,000", "$47,500", "$47,500", and "$55,000", respectively;

(3) by striking out "$44,000", and "$49,000" in subsection (i)(3)(D) and inserting in lieu thereof "$55,000", and "$61,250", respectively;

(4) by adding at the end thereof the following new subsection:

Mortgage insurance.

"(p) The Secretary may insure a mortgage under this section involving a principal obligation which exceeds, by not more than 10 per centum, the maximum limits specified under subsection (b)(2) or (i)(3) of this section, or, if applicable, the maximum principal obligation insurable pursuant to subsection (o) of this section, if the mortgage relates to a dwelling to be occupied by a physically handicapped person and the Secretary determines that such action is necessary to reflect the cost of making such dwelling accessible to and usable by such person.".

(b)(1) Subsection (c) of such section is amended—

(A) by inserting "(1)" after "(c)";

(B) by redesignating paragraphs (1) and (2) of such subsection as subparagraphs (A) and (B), respectively; and

(C) by adding the following new paragraph at the end of such subsection:

"(2)(A) Upon disposition by the homeowner of any property assisted pursuant to this section or where the homeowner ceases for a period of 90 continuous days or more making payments required under the mortgage, loan, or advance of credit secured by such a property, or rents such a property (or the owner's unit in the case of a two- to four-family property) for a period longer than one year, the Secretary shall provide for the recapture of an amount equal to the lesser of (i) the amount of assistance actually received under this section, other than any amount provided under subsection (e), or (ii) an amount

equal to at least 50 per centum of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term 'net appreciation of the property' means any increase in the value of the property over the original purchase price, less the reasonable costs of sale, the reasonable costs of improvements made to the property, and any increase in the mortgage amount as of the time of sale over the original mortgage balance due to the mortgage being insured pursuant to section 245. Notwithstanding any other provision of law, any such assistance shall constitute a debt secured by the property to the extent that the Secretary may provide for such recapture.

"Net appreciation of the property."

12 USC 1715z-10.

"(B) Subparagraph (A) does not apply to any property with respect to which there is assumption in accordance with paragraph (1) of this subsection or to any property which is subject to a mortgage, loan, or other advance of credit insured pursuant to subsection (q).".

(2) The amendment made by paragraph (1) does not apply to any assistance contract under section 235 of the National Housing Act entered into pursuant to a commitment issued within 6 months following the date of enactment of this Act.

12 USC 1715z note.
12 USC 1715z.

(c)(1) The Secretary of Housing and Urban Development shall conduct a study of the effects which the application of subsection (n) of section 235 of the National Housing Act has had or is likely to have on the program established by subsection (a) of such section. If the program established by subsection (q) of such section is implemented, the Secretary shall include in the study an analysis of the effects on the subsection (q) program of the application of subsection (n) to such program.

Study.
12 USC 1715z note.

(2) The Secretary shall transmit to the Congress, not later than January 1, 1982, a report containing the findings and conclusions of the study described in paragraph (1).

Report to Congress.

SECTION 235(q) PROGRAM

SEC. 207. Section 235 of the National Housing Act is amended by adding at the end thereof the following:

12 USC 1715z.

"(q)(1) Notwithstanding any other provision of this section, except subsection (n), if the Secretary determines that there is a substantial need for emergency stimulation of the housing market, the Secretary is authorized to make and enter into contracts to make periodic assistance payments, to the extent of not to exceed 75 per centum of the authority available pursuant to subsection (h)(1), on behalf of homeowners, including owners of manufactured homes, to mortgagees or other lenders holding mortgages, loans, or advances of credit which meet the requirements of this subsection. The Secretary may establish such criteria, terms, and conditions relating to homeowners and mortgages, loans, or advances of credit assisted under this subsection as the Secretary deems appropriate, consistent with the provisions of this subsection. The Secretary is authorized to insure a mortgage which meets the requirements of and is to be assisted under this subsection. The authority to enter into contracts to provide assistance payments and to insure mortgages under this subsection shall terminate on June 1, 1981, or at such earlier date as the Secretary may deem appropriate, upon a determination by the Secretary that the conditions which gave rise to the exercise of authority under this subsection are no longer present, except pursuant to a commitment entered into prior to such date.

Contracts.

Eligibility requirements.

"(2) Payments under this subsection may be made only on behalf of a homeowner who satisfies such eligibility requirements as may be prescribed by the Secretary and who—

"(A)(i) is a mortgagor under a mortgage which meets the requirements of and is insured under this subsection, or (ii) is the original owner of a new manufactured home consisting of two or more modules and a lot on which the manufactured home is situated, where insurance under section 2 of this Act covering the loan, advance of credit, or purchase of an obligation representing such loan or advance of credit to finance the purchase of such manufactured home and lot has been granted to the lender making such loan, advance of credit, or purchase of an obligation; and

12 USC 1703.

"(B) has a family income, at the time of initial occupancy, which does not exceed 130 per centum of the area median income for the area (with adjustments for smaller and larger families, unusually high or low median family income, or other factors), as determined by the Secretary.

Assistance payments.

"(3) Assistance payments to a mortgagee or other lender by the Secretary on behalf of a homeowner shall be made only during such time as the homeowner shall continue to occupy the property which secures the mortgage, loan, or advance of credit. The Secretary may, where a mortgage insured under this subsection has been assigned to the Secretary, continue making such assistance payments.

"(4) The amount of the assistance payments in the case of a mortgage shall not at any time exceed the lesser of—

"(A) the balance of the monthly payment for principal, interest, taxes, insurance, and any mortgage insurance premium due under the mortgage remaining unpaid after applying a minimum of 25 per centum of the mortgagor's income, except that the Secretary may reduce such per centum of income to the extent he deems necessary, but not lower than 20 per centum of the mortgagor's income; or

"(B) the difference between the amount of the monthly payment for principal, interest, and any mortgage insurance premium which would be required if the mortgage were a level payment mortgage bearing interest at a rate equal to the maximum interest rate which is applicable to level payment mortgages insured under section 203(b), other than mortgages subject to section 3(a)(2) of Public Law 90-301, and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were a level payment mortgage bearing interest at the rate of at least 9½ per centum per annum.

12 USC 1709.
Post, p. 1652.

"(5) Assistance payments on behalf of the owner of a manufactured home shall not at any time exceed the lesser of—

"(A) the balance of the monthly payment for principal, interest, real and personal property taxes, insurance, and insurance premium chargeable under section 2 of this Act due under the loan or advance of credit remaining unpaid after applying a minimum of 25 per centum of the manufactured homeowner's income, except that the Secretary may reduce such per centum of income to the extent he deems necessary, but not lower than 20 per centum of the mortgagor's income; or

12 USC 1703.

"(B) the difference between the amount of the monthly payment for principal, interest, and insurance premium chargeable under section 2 of this Act which the manufactured homeowner is obligated to pay under the loan or advance of credit and the

monthly payment of principal and interest which the owner would be obligated to pay if the loan or advance of credit were to bear an interest rate determined by the Secretary which shall not be less than 12 per centum per annum.

"(6) The Secretary may include in the payment to the mortgagee or other lender such amount, in addition to the amount computed under paragraph (4) or (5), as the Secretary deems appropriate to reimburse the mortgagee or other lender for its reasonable and necessary expenses in handling the mortgage, loan, or advance of credit.

"(7) The Secretary shall prescribe such regulations as the Secretary deems necessary to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance payments are to be made is not greater than the appraised value as determined by the Secretary. Regulations.

"(8) Assistance payments pursuant to paragraph (5) shall not be made with respect to more than 20 per centum of the total number of units with respect to which assistance is approved under this subsection.

"(9) The Secretary may, in addition to mortgages insured under subsection (i) or (j), insure, upon application by the mortgagee, a mortgage executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under paragraph (2). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe. Mortgage insurance.

"(10) To be eligible for insurance under this subsection, a mortgage shall— Eligibility requirements.

"(A) be a first lien on real estate held in fee simple, or on a leasehold under a lease which meets terms and conditions established by the Secretary;

"(B) have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

"(C) involve a one- to four-family dwelling which has been approved by the Secretary prior to the beginning of construction, or if not so approved, has been completed within one year prior to the filing of the application for insurance and which has never been sold other than to the mortgagor;

"(D) involve a principal residence the sales price of which does not exceed 82 per centum of the applicable maximum principal obligation of a mortgage which may be insured in the area pursuant to section 203(b)(2), determined without regard to the last sentence of such section; *Post*, p. 1654.

"(E) have maturity and amortization provisions satisfactory to the Secretary;

"(F) bear interest (exclusive of premium charges for insurance, and service charges if any) at not to exceed the applicable maximum rate for mortgages insured pursuant to section 203(b);

"(G) be executed by a mortgagor who shall have paid in cash or its equivalent, on account of the property, at least an amount equal to 3 per centum of the Secretary's estimate of the cost of acquisition; and

"(H) contain such other terms and conditions as the Secretary may prescribe.

"(11) The Secretary shall, to the extent practicable, insure mortgages under this subsection which are secured by properties which contribute to the conservation of land and energy resources. Land and energy conservation.

Graduated payments. 12 USC 1715z-10.

"(12) A mortgage to be assisted under this subsection shall, where the Secretary deems it appropriate, provide for graduated payments pursuant to section 245.

Allocation system.

"(13) The Secretary shall develop and utilize a system to allocate assistance under this subsection in a manner which assures a reasonable distribution of such assistance among the various regions of the country and which takes into consideration such factors as population, relative decline in building permits, the need for increased housing production, and other factors he deems appropriate. Assistance provided under this subsection shall not be subject to section 213 of the Housing and Community Development Act of 1974.

42 USC 1439.

Recapture.

"(14) Upon the disposition by the homeowner of any property assisted pursuant to this subsection, or where the homeowner ceases for a period of 90 continuous days or more making payments on the mortgage, loan, or advance of credit secured by the property, or rents the property (or the owner's unit in the case of a two- to four-family residence) for a period longer than one year, the Secretary shall provide for the recapture of an amount equal to the lesser of (A) the amount of assistance actually received under this subsection, other than any amount provided under paragraph (6), or (B) an amount at least equal to 50 per centum of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term 'net appreciation of the property' means any increase in the value of the property over the original purchase price, less the reasonable costs of sale, the reasonable costs of improvements made to the property, and any increase in the mortgage balance as of the time of sale over the original mortgage balance due to the mortgage being insured pursuant to section 245. In providing for such recapture, the Secretary shall include incentives for the homeowner to maintain the property in a marketable condition. Notwithstanding any other provision of law, any such assistance shall constitute a debt secured by the property to the extent that the Secretary may provide for such recapture.

"Net appreciation of property."

12 USC 1715z-10.

Income recertification.

"(15) Procedures shall be adopted by the Secretary for recertification of the homeowner's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of such assistance payments within the limits of the formula described in paragraph (4) or (5).".

CONGREGATE SERVICES PROGRAM AMENDMENTS

42 USC 8004.

SEC. 208. (a) Section 405(c) of the Housing and Community Development Amendments of 1978 is amended by inserting after "for assistance" the following: "to provide congregate services to elderly residents".

(b) Section 405(d) of such Act is amended by inserting after "this title" in the first sentence the following: "for the provision of congregate services to elderly residents".

(c) Section 405(e) of such Act is amended—

(1) by striking out "When" and all that follows through "local agency" in paragraph (1) and inserting in lieu thereof the following: "A public housing agency or nonprofit corporation applying for assistance to provide congregate services to nonelderly handicapped residents shall consult with the appropriate agency"; and

(2) by striking out "local" in the first sentence of paragraph (2).

SECURITY PROGRAM FOR PUBLIC HOUSING

SEC. 209. (a) This section may be cited as the "Public Housing Anti-Crime Amendments of 1980". Public Housing Anti-Crime Amendments of 1980.

(b) The Congress finds that— 12 USC 1701z-6 note.

(1) public housing and surrounding neighborhoods continue to suffer substantially from rising crime and the fear of crime;

(2) funding to provide more security for public housing can be used to leverage funding from other sources and thereby produce more successful anti-crime efforts;

(3) the effects of inflation and the need for reductions in the budget of the Federal Government result in a need for more co-targeting of Federal and local anti-crime resources;

(4) as authorized by the Public Housing Security Demonstration Act of 1978, the Urban Initiatives Anti-Crime Program has performed in a promising manner; and 12 USC 1701z-6 note.

(5) the First Annual Report to Congress of the Urban Initiatives Anti-Crime Program and the two General Accounting Office reports to Congress on such Program have provided useful suggestions which can now be implemented.

(c) It is, therefore, the purpose of this section to continue the efforts of the Urban Initiatives Anti-Crime Program so that more progress can be made in providing secure, decent, safe, and sanitary dwelling units for low-income and elderly tenants in public housing projects. 12 USC 1701z-6 note.

(d) Section 207 of the Housing and Community Development Amendments of 1978 is amended— 12 USC 1701z-6 note.

(1) by striking out subsection (c)(4) and inserting in lieu thereof the following:

"(4) In carrying out the provisions of this section, the Secretary shall coordinate and jointly target resources with other agencies, particularly the Law Enforcement Assistance Administration, the Department of Health and Human Services, the Department of Labor, the Department of Justice, the Department of the Interior, the Department of Commerce, the Department of Education, ACTION, the Community Services Administration, and State and local agencies.

"(5) In order to assess the impact of crime and vandalism in public housing projects, the Secretary may, as part of the Annual Housing Survey conducted by the Department of Housing and Urban Development or by other means, collect data on crime and vandalism and integrate the data collection with the victimization surveys undertaken by the Department of Justice and the Department of Commerce. Crime and vandalism, data collection.

"(6) The Secretary shall, to the maximum extent practicable, utilize information derived from the program authorized by this section for assisting in establishing (A) guidelines to be used by public housing authorities in determining strategies to meet the security needs of tenants of public housing projects assisted under the United States Housing Act of 1937, other than under section 8 of such Act, and (B) guidelines for improvements relating to the security of projects (and the tenants living in such projects) assisted under section 14 of such Act."; Guidelines. 42 USC 1437 note, 1437f. *Ante*, p. 1625.

(2) by striking out "this Act" in the first sentence of subsection (e) and inserting in lieu thereof "the Housing and Community Development Act of 1980"; and

(3) by adding the following new sentence at the end of subsection (f): "Of the authority approved in appropriation Acts for the purpose of entering into annual contributions contracts under Contract authority.

Ante, p. 1624.

section 5(c) of the United States Housing Act of 1937 with respect to the fiscal year beginning on October 1, 1980, the Secretary may enter into contracts to carry out this section, except that the aggregate amount obligated over the duration of such contracts may not exceed $10,000,000.".

SOLAR ENERGY SYSTEMS IN PUBLIC HOUSING PROJECTS

42 USC 1437c.

SEC. 210. Section 5 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(i) In entering into contracts for assistance with respect to newly constructed or substantially rehabilitated projects under this section (other than for projects assisted pursuant to section 8), the Secretary shall require the installation of a passive or active solar energy system in any such project where the Secretary determines that such installation would be cost effective over the estimated life of the system.".

42 USC 1437f.

SECTION 236 AMENDMENT

12 USC 1715z-1.

SEC. 211. Section 236 of the National Housing Act is amended by adding the following new subsection at the end thereof:

"(q) The Secretary may provide assistance under section 8 of the United States Housing Act of 1937 with respect to residents of units in a project assisted under this section. In entering into contracts under section 5(c) of such Act with respect to the additional authority provided on October 1, 1980, the Secretary shall not utilize more than $20,000,000 of such additional authority to provide assistance for elderly or handicapped families which, at the time of applying for assistance under such section 8, are residents of a project assisted under this section and are expending more than 50 percent of their income on rental payments.".

42 USC 1437f.

Ante, p. 1624.

42 USC 1437f.

PAYMENT OF NONFEDERAL SHARE

SEC. 212. The United States Housing Act of 1937 is amended by adding at the end thereof the following new section:

"PAYMENT OF NONFEDERAL SHARE

42 USC 1437m.

"SEC. 15. Any of the following may be used as the non-Federal share required in connection with activities undertaken under Federal grant-in-aid programs which provide social, educational, employment, and other services to the tenants in a project assisted under this Act, other than under section 8:

42 USC 1437f.

"(1) annual contributions under this Act for operation of the project; or

"(2) rental or use-value of buildings or facilities paid for, in whole or in part, from development, modernization, or operation cost financed with loans or debt service annual contributions under this Act.".

MANAGEMENT AND PRESERVATION OF HOUSING AND URBAN DEVELOPMENT-OWNED MULTIFAMILY HOUSING PROJECTS

12 USC 1701z-11.

SEC. 213. (a) Section 203(a) of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) preserving the housing units so that at least those units which are occupied by low- and moderate-income persons or which are vacant, at the time of acquisition, are available to and affordable by such persons;";

(2) by striking out "and" at the end of clause (4);

(3) by striking out the period at the end of clause (5) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following:

"(6) maintaining the project for the purpose of providing rental or cooperative housing.".

(b) Section 203(b)(1) of such Act is amended by inserting after "considering the low- and moderate-income character of the project" the following: ", including the number of units in the project occupied by low- and moderate-income persons,". 12 USC 1701z-11.

(c) Section 203(c) of such Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) of such subsection and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) maintain the project for purposes of providing rental or cooperative housing for the longest feasible period.".

(d) Subparagraphs (B) and (C) of section 203(d)(2) of such Act are amended by inserting "except for tenants of above-moderate income," before "to".

(e) Section 203(f) of such Act is amended to read as follows:

"(f) For the purpose of this section, the term 'multifamily housing project' means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act, or was subject to a loan under section 202 of the Housing Act of 1959 or section 312 of the Housing Act of 1964, or which is acquired by the Secretary pursuant to any other provision of law.". "Multifamily housing project." 12 USC 1701. 12 USC 1701q, 42 USC 1452b.

RESTRICTION ON USE OF ASSISTED HOUSING

SEC. 214. (a) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not make financial assistance available for the benefit of any nonimmigrant student-alien. Nonimmigrant student aliens. 42 USC 1436a.

(b) For purposes of this section— Definitions.

(1) the term "financial assistance" means financial assistance made available pursuant to the United States Housing Act of 1937, section 235 or 236 of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965; and 42 USC 1437 note, 12 USC 1715z, 1715z-1.

(2) the term "nonimmigrant student-alien" means (A) an alien having a residence in a foreign country which he or she has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who is admitted to the United States temporarily and solely for purpose of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by him or her and approved by the Attorney General after consultation with the Department of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn, and (B) the alien 12 USC 1701s, 42 USC 1451, 1465.

spouse and minor children of any such alien if accompanying him or her or following to join him or her.

REPORT ON HOUSING ASSISTANCE BLOCK GRANT PROGRAM

Transmittal to Congress.

SEC. 215. The Secretary shall conduct a comprehensive examination of the feasibility of a housing assistance block grant program, including the feasibility of replacing the categorical housing assistance programs proposed to be utilized in fiscal year 1982, and shall transmit to the Congress a report thereon not later than March 31, 1981. Such examination shall include, but not be limited to—

(1) simplified and expedited application and review procedures;

(2) an equitable allocation formula which reflects both current program experience and identified needs; and

(3) such other recommendations as the Secretary deems appropriate.

FINANCIAL ASSISTANCE IN IMPACTED AREAS

42 USC 1436b.

SEC. 216. The Secretary of Housing and Urban Development shall not exclude from consideration for financial assistance under federally assisted housing programs proposals for housing projects solely because the site proposed is located within an impacted area. For the purposes of this section, the term "federally assisted housing programs" means any program authorized by the United States Housing Act of 1937, sections 235 and 236 of the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or section 202 of the Housing Act of 1959.

"Federally assisted housing programs."

42 USC 1437 note, 12 USC 1715z, 1715z-1. 12 USC 1701s, 42 USC 1451, 1465. 12 USC 1701q.

TITLE III—PROGRAM AMENDMENTS AND EXTENSIONS

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

12 USC 1703.

SEC. 301. (a) Section 2(a) of the National Housing Act is amended by striking out "October 16, 1980" in the first sentence and inserting in lieu thereof "October 1, 1981".

12 USC 1715h.

(b) Section 217 of such Act is amended by striking out "October 15, 1980" and inserting in lieu thereof "September 30, 1981".

12 USC 1715*l*.

(c) Section 221(f) of such Act is amended by striking out "October 15, 1980"in the fifth sentence and inserting in lieu thereof "September 30, 1981".

12 USC 1715z.

(d) Section 235(m) of such Act is amended by striking out "October 15, 1980" and inserting in lieu thereof "September 30, 1981".

12 USC 1715z-1.

(e) Section 236(n) of such Act is amended by striking out "October 15, 1980" and inserting in lieu thereof "September 30, 1981".

12 USC 1715z-9.

(f) Section 244(d) of such Act is amended by—

(1) striking out "October 15, 1980" in the first sentence and inserting in lieu thereof "September 30, 1981"; and

(2) striking out "October 16, 1980" in the second sentence and inserting in lieu thereof "October 1, 1981".

12 USC 1715z-10.

(g) Section 245(a) of such Act is amended by striking out "October 15, 1980" where it appears and inserting in lieu thereof "September 30, 1981".

12 USC 1748h-1.

(h) Section 809(f) of such Act is amended by striking out "October 15, 1980" in the second sentence and inserting in lieu thereof "September 30, 1981".

(i) Section 810(k) of such Act is amended by striking out "October 15, 1980" in the second sentence and inserting in lieu thereof "September 30, 1981". 12 USC 1748h-2.

(j) Section 1002(a) of such Act is amended by striking out "October 15, 1980" in the second sentence and inserting in lieu thereof "September 30, 1981". 12 USC 1749bb.

(k) Section 1101(a) of such Act is amended by striking out "October 15, 1980" in the second sentence and inserting in lieu thereof "September 30, 1981". 12 USC 1749aaa.

FLEXIBLE INTEREST RATE AUTHORITY

SEC. 302. (a) Section 3(a) of Public Law 90-301 is amended by striking out "October 16, 1980" and inserting in lieu thereof "October 1, 1981". 12 USC 1709-1.

(b) Section 3(a) of such Public Law is amended—

(1) by inserting after "finds necessary to meet the mortgage market," in the first sentence thereof the following: "taking into consideration the yields on mortgages in the primary and secondary markets,";

(2) by inserting after "finds necessary to meet the loan market" in the second sentence the following: ", taking into consideration the yields on home improvement and manufactured home loans"; and

(3) by adding the following new sentence at the end thereof: "In setting such rates, the Secretary shall seek to minimize uncertainty and speculation in connection with mortgage and loan transactions insured under the National Housing Act, and when effective rates on home mortgages and other such loans are rising, the Secretary shall exercise the authority to set the interest rates for such mortgage and loan insurance programs with sufficient frequency to promote the objective that discount points payable in connection with mortgages and loans insured pursuant to such programs should be minimized.". 12 USC 1701.

RESEARCH AUTHORIZATIONS

SEC. 303. The second sentence of section 501 of the Housing and Urban Development Act of 1970 is amended by striking out "and not to exceed $50,300,000 for the fiscal year 1980" and inserting in lieu thereof "not to exceed $50,300,000 for the fiscal year 1980, and not to exceed $51,000,000 for the fiscal year 1981". 12 USC 1701z-1.

AUTHORIZATION FOR FLOOD INSURANCE STUDIES

SEC. 304. Section 1376(c) of the National Flood Insurance Act of 1968 is amended by striking out "and not to exceed $74,000,000 for the fiscal year 1980" and inserting in lieu thereof "not to exceed $74,000,000 for the fiscal year 1980, and not to exceed $61,600,000 for the fiscal year 1981". 42 USC 4127.

FEDERAL HOUSING ADMINISTRATION GENERAL INSURANCE FUND

SEC. 305. Section 519(f) of the National Housing Act is amended by striking out all that follows "General Insurance Fund not to exceed" and inserting in lieu thereof "$1,738,000,000.". 12 USC 1735c.

DEFINITION OF MORTGAGE UNDER THE NATIONAL HOUSING ACT

12 USC 1707.

SEC. 306. Section 201(a) of the National Housing Act is amended by striking out "having a period of not less than fifty years to run from the date the mortgage was executed" and inserting in lieu thereof "having a period of not less than ten years to run beyond the maturity date of the mortgage".

RELIEF OF THE CITY OF SPRINGFIELD, ILLINOIS

42 USC 1500.

SEC. 307. Notwithstanding the provisions of title VII of the Housing Act of 1961 or any other law, the transactions under which land acquired by the city of Springfield, Illinois, in connection with Open-Space Projects Numbered Ill.-OSC-171 (DL) and Numbered Ill.-OSC-246 (DL) was transferred by such city to the United States Department of the Interior for the Lincoln Home National Historic Site shall be deemed to have been made in accordance with all provisions of title VII of such Act and of any other law and with any regulations or other requirements in implementation thereof.

MANUFACTURED HOUSING

12 USC 1703.

SEC. 308. (a) Section 2(b) of the National Housing Act is amended—

(1) by striking out "$18,000 ($27,000 in the case of a mobile home containing two or more modules)" in the first sentence and inserting in lieu thereof "$20,000 ($30,000 in the case of a manufactured home composed of two or more modules)";

(2) by striking out subparagraph (A) of the second paragraph and inserting in lieu thereof the following:

"(A) involve an amount not exceeding $26,675 ($36,675 in the case of a manufactured home composed of more than two modules); and";

(3) by striking out subparagraph (A) of the third paragraph and inserting in lieu thereof the following:

"(A) involve an amount not exceeding $30,550 ($40,550 in the case of a manufactured home composed of two or more modules); and"; and

(4) by striking out "$6,250 in the case of an undeveloped lot, or (ii) $9,375" in the fourth paragraph and inserting in lieu thereof "$6,950 in the case of an undeveloped lot, or (ii) $10,425".

(b) Section 2(b) of the National Housing Act is amended by adding the following new sentence at the end of the last paragraph: "In other areas where there are high land costs or high set-up costs, the Secretary may, by regulation, increase any such dollar amount limitation to—

"(1) $32,500 (or $43,000 with respect to a manufactured home composed of two or more modules) in the case of a manufactured home and an undeveloped lot;

"(2) $38,100 (or $49,000 with respect to a manufactured home composed of two or more modules) in the case of a manufactured home and a developed lot; and

"(3) $11,750 (or $17,450 with respect to a developed lot) in the case of a lot in which to place a manufactured home.".

12 USC 1701 note.

(c)(1) The National Housing Act is amended by striking out "mobile home" each place it appears and inserting in lieu thereof "manufactured home".

12 USC 1715z.

(2) Section 235(a)(2)(B) of such Act is amended by striking out "mobile homeowner" and "mobile homeowner's" and inserting in

lieu thereof "manufactured homeowner" and "manufactured homeowner's", respectively.

(3) The United States Housing Act of 1937 is amended by striking out "mobile home" each place it appears and inserting in lieu thereof "manufactured home". 42 USC 1437.

(4) Title VI of the Housing and Community Development Act of 1974 is amended by striking out "Mobile Home" each place it appears, other than in section 601, and inserting in lieu thereof "Manufactured Home" and by striking out "mobile home" each place it appears and inserting in lieu thereof "manufactured home". 42 USC 5401.

(5) Section 601 of the Housing and Community Development Act of 1974 is amended by striking out "Mobile Home" and inserting in lieu thereof "Manufactured Housing". 42 USC 5401 note.

(6) Section 501(e)(4) of Public Law 96-221 is amended by striking out "mobile home" and inserting in lieu thereof "manufactured home". *Ante*, p. 163.

(7) In adopting regulations and procedures in accordance with this subsection, the Secretary of Housing and Urban Development shall have discretion to take actions in a manner which he deems necessary to insure that the public is fully aware of the distinctions between the various types of factory-built housing. 42 USC 5424 note.

(d) Section 603(6) of the Housing and Community Development Act of 1974 is amended— 42 USC 5402.

(A) by striking out "is eight body feet or more in width and is thirty-two body feet or more in length" and inserting in lieu thereof ", in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet"; and

(B) by inserting the following after the semicolon at the end thereof: "except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this title;".

(e) Not later than January 1, 1982, the Secretary of Housing and Urban Development shall develop a procedure for collecting and regularly reporting data on the mean and median sales price for new manufactured homes, and, where available, data on the mean and median sales price for manufactured home lots and combination new manufactured home and lot packages. Such reports shall contain, to the maximum extent feasible, sales price information for the Nation, each census region, each State on an annual basis, and selected standard metropolitan statistical areas having sufficient activity on an annual basis. Data collection and reporting. 12 USC 1703 note.

ELIMINATION OF SECTION 8 CONDITION OF GNMA PURCHASE OF CERTAIN MULTIFAMILY MORTGAGES

SEC. 309. The second sentence of section 302(b)(1) of the National Housing Act is amended— 12 USC 1717.

(1) by striking out "(1)"; and

(2) by striking out ", and (2)" and all that follows through "1937".

INCREASE IN CERTAIN MAXIMUM MORTGAGE AMOUNTS FOR SOLAR ENERGY SYSTEMS AND ENERGY CONSERVING MEASURES

SEC. 310. (a) The last sentence of section 207(c)(3) of the National Housing Act is amended by striking out "therein" and inserting in 12 USC 1713.

lieu thereof "or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95-619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure therein".

42 USC 8211.

(b) Section 213 of such Act is amended by adding at the end thereof the following:

12 USC 1715e.

"(p) Notwithstanding any other provision of this section, the project mortgage amounts which may be insured under this section may be increased by up to 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95-619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure therein.".

12 USC 1703.

42 USC 8211.

(c) Section 220(d)(3)(B)(iii) of such Act is amended by inserting before the semicolon at the end thereof the following: ": *And provided further,* That the Secretary may further increase any of the dollar amount limitations which would otherwise apply for the purpose of this clause by not to exceed 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95-619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure therein".

12 USC 1715k.

12 USC 1703.

42 USC 8211.

(d) Section 221 of such Act is amended by adding at the end thereof the following new subsection:

12 USC 1715*l*.

"(k) With respect to any project insured under subsection (d)(3) or (d)(4), the Secretary may further increase the dollar amount limitations which would otherwise apply for the purpose of those subsections by up to 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95-619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure therein.".

42 USC 8211.

(e) Section 231(c)(2) of such Act is amended by inserting immediately before the semicolon at the end thereof ": *Provided,* That the Secretary may further increase the dollar amount limitations which would otherwise apply for the purpose of this section by not to exceed 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95-619) in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure therein".

12 USC 1715v.

42 USC 8211.

(f) Section 232(d)(2) of such Act is amended to read as follows: 12 USC 1715w.
"(2) The mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the estimated value of the property or project, including—
"(A) equipment to be used in the operation of the home or facility or combined home and facility when the proposed improvements are completed and the equipment is installed; or
"(B) a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential 12 USC 1703.
energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95-619) in cases where 42 USC 8211.
the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.".

(g) Section 234 of such Act is amended by adding at the end thereof 12 USC 1715y.
the following new subsection:
"(j) The Secretary may further increase the dollar amount limitations which would otherwise apply under subsection (e) by not to exceed 20 per centum if such increase is necessary to account for the increased cost of a project due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures 12 USC 1703.
(as defined in section 210(11) (A) through (G) and (I) of Public Law 95-619) in cases where the Secretary determines that such measures 42 USC 8211.
are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure therein.".

(h) Section 242(d)(2) of such Act is amended to read as follows: 12 USC 1715z-7.
"(2) The mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the estimated replacement cost of the property or project including—
"(A) equipment to be used in the operation of the hospital, when the proposed improvements are completed and the equipment is installed; and
"(B) a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential 12 USC 1703.
energy conservation measures (as defined in section 210(11) (A) through (G) and (I) of Public Law 95-619) in cases where 42 USC 8211.
the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.".

(i) Section 1101(c)(2) of such Act is amended by inserting immedi- 12 USC 1749aaa.
ately after "the boundaries of the property," the following: "a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) or residential energy conservation measures 12 USC 1703.
(as defined in section 210(11) (A) through (G) and (I) of Public Law 95-619) in cases where the Secretary determines that such measures 42 USC 8211.
are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure,".

SECTION 220 MORTGAGE INSURANCE IN AREAS OF CONCENTRATED DEVELOPMENT ACTIVITIES

SEC. 311. (a) Section 220(d)(1)(A) of the National Housing Act is 12 USC 1715k.
amended by inserting after "pursuant to Section 117 of the Housing Act of 1949" the following: ", or (v) an area, designated by the 42 USC 1468.
Secretary, where concentrated housing, physical development, and public service activities are being or will be carried out in a coordi-

nated manner, pursuant to a locally developed strategy for neighborhood improvement, conservation, or preservation".

12 USC 1715k.

(b) Section 220(d)(3)(B)(iv) of such Act is amended by inserting after "urban renewal plan" the following: "or, where appropriate, with the locally developed strategy for neighborhood improvement, conservation or preservation".

REPORT ON HOUSING PRODUCTION GOALS

42 USC 1441c.

SEC. 312. Section 1603 of the Housing and Urban Development Act of 1968 is amended—

(1) by striking out "January 20 of each year" and inserting in lieu thereof "March 15 of each year beginning with calendar year 1981";

(2) by inserting after "current year" in paragraph (2) the following: "and sets general objectives for such activity during the next year";

(3) by striking out "objective" in paragraph (3) and inserting in lieu thereof "objectives"; and

(4) by inserting after "current year" in paragraph (7) the following: "and, as feasible, the next year".

FEDERAL NATIONAL MORTGAGE ASSOCIATION AND FEDERAL HOME LOAN MORTGAGE CORPORATION MORTGAGE AMENDMENTS

12 USC 1717.

"Conventional mortgages."

26 USC 216.

Maximum principal obligation, limitation.

SEC. 313. (a) Section 302(b)(2) of the National Housing Act is amended by striking out the last sentence and inserting in lieu thereof the following: "For the purpose of this section, the term 'conventional mortgages' shall include a mortgage, lien, or other security interest on the stock or membership certificate issued to a tenant-stockholder or resident-member of a cooperative housing corporation, as defined in section 216 of the Internal Revenue Code of 1954, and on the proprietary lease, occupancy agreement, or right of tenancy in the dwelling unit of the tenant-stockholder or resident-member in such cooperative housing corporation. The corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it. Such limitations shall not exceed $93,750 for a mortgage secured by a single-family residence, $120,000 for a mortgage secured by a two-family residence, $145,000 for a mortgage secured by a three-family residence, and $180,000 for a mortgage secured by a four-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning with 1981. Each such adjustment shall be made by adding to each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase during the twelve-month period ending with the previous October in the national average one-family house price in the monthly survey of all major lenders conducted by the Federal Home Loan Bank Board. With respect to mortgages secured by property comprising five or more family dwelling units, such limitations shall not exceed 125 per centum of the limitations established under section 207(c)(3) of this Act. The foregoing limitations may be increased by not to exceed 50 per centum with respect to properties located in Alaska, Guam, and Hawaii.".

Ante, p. 1641.

12 USC 1454.

(b) Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act is amended by striking out the last sentence and inserting in

lieu thereof the following: "The Corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it. Such limitations shall not exceed $93,750 for a mortgage secured by a single-family residence, $120,000 for a mortgage secured by a two-family residence, $145,000 for a mortgage secured by a three-family residence, and $180,000 for a mortgage secured by a four-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning with 1981. Each such adjustment shall be made by adding to each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase during the twelve-month period ending with the previous October in the national average one-family house price in the monthly survey of all major lenders conducted by the Federal Home Loan Bank Board. With respect to mortgages of property comprising five or more family dwelling units, such limitations shall not exceed 125 per centum of the limitations established under section 207(c)(3) of the National Housing Act. The foregoing limitations may be increased by not to exceed 50 per centum with respect to properties located in Alaska, Guam, and Hawaii.".

Conventional mortgages, maximum principal obligation.

Ante, p. 1641.

SUPPLEMENTARY LOANS

SEC. 314. Section 241(e)(1) of the National Housing Act is amended by inserting after "multifamily housing project" the following: "if such meters are purchased or installed in connection with other energy conserving improvements or with a solar energy system or the project meets minimum standards of energy conservation established by the Secretary,".

12 USC 1715z-6.

NEIGHBORHOOD REINVESTMENT CORPORATION

SEC. 315. Title VI of the Housing and Community Development Amendments of 1978 is amended—

(1) by striking out "National" in section 603(a); 42 USC 8102.

(2) by striking out "supervising" in the first sentence of section 606(a)(1) and inserting in lieu thereof the word "monitoring"; and 42 USC 8105.

(3) by striking out "and not to exceed $12,000,000 for fiscal year 1980" in section 608(a) and inserting in lieu thereof the following: "not to exceed $12,000,000 for fiscal year 1980, and not to exceed $13,426,000 for fiscal year 1981". 42 USC 8107.

MUTUAL HOUSING ASSOCIATION DEMONSTRATION

SEC. 316. (a) The Congress— 42 USC 8106 note.

(1) recognizes the significant potential of mutual housing associations for helping make multifamily housing in the United States more affordable; and

(2) commends and encourages the efforts being made in connection with the national demonstration program of mutual housing associations being undertaken by the Neighborhood Reinvestment Corporation and the National Consumer Cooperative Bank with the cooperation of the Department of Housing and Urban Development.

(b) The Neighborhood Reinvestment Corporation, in conjunction with the National Consumer Cooperative Bank and the Secretary of Housing and Urban Development, shall transmit a report to the Congress on the findings and conclusions reached as a result of the demonstration program described in subsection (a)(2), together with legislative recommendations, not later than September 30, 1981.

Report to Congress.

COLLECTION OF DELINQUENCY DATA

Study; report to Congress.

SEC. 317. The Secretary of Housing and Urban Development shall conduct a study to determine the feasibility of collecting data pertaining to all home mortgage delinquencies on an appropriate regional basis, and shall, as soon as practicable, but not later than April 1, 1981, transmit to the Congress a report containing the results of such study.

AMENDMENT TO SECTION 234

12 USC 1715y.

SEC. 318. The first sentence of section 234(c) of the National Housing Act is amended by inserting after "Act)" the following: "or the project was approved for a guarantee, insurance, or a direct loan under chapter 37 of title 38, United States Code".

38 USC 1801 *et seq.*

MODERATE REHABILITATION OF SMALL GROUP HOMES AND SIMILAR FACILITIES FOR THE HANDICAPPED

12 USC 1701q.

SEC. 319. Section 202(d)(3) of the Housing Act of 1959 is amended by adding at the end thereof the following: "In the case of housing to meet the needs of handicapped (primarily nonelderly) persons, such term also means the cost of acquiring existing housing and related facilities, the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation, thereof, and the cost of the land on which the housing and related facilities are located.".

TIME OF PAYMENT OF PREMIUM CHARGES

SEC. 320. Title V of the National Housing Act is amended by adding the following new section at the end thereof:

"TIME OF PAYMENT OF PREMIUM CHARGES

12 USC 1735f-8. 12 USC 1702, 1707, 1724, 1747, 1748, 1750, 1749aa, 1749aaa.

"SEC. 530. In carrying out the provisions of titles I, II, IV, VII, VIII, IX, X, and XI pertaining to the payment of loan or mortgage insurance premium charges by a financial institution, other mortgagees, or agent thereof to the Federal Government in connection with a loan or mortgage insurance program established pursuant to any of these titles, the Secretary shall require that payment of such premiums be made promptly upon their receipt from the borrower; except that the Secretary may approve payment of such premiums within twenty-four months of such receipt if the financial institution, mortgagee, or agent thereof pays interest, at a rate specified by the Secretary, to the insurance fund for the period beginning twenty days after receipt from the borrower and ending upon payment of the premiums to the Federal Government.".

FORECLOSURE OF LOANS UNDER THE SECTION 203(k) REHABILITATION LOAN INSURANCE PROGRAM

12 USC 1709.

SEC. 321. Section 203(k)(5) of the National Housing Act is amended by striking out the second sentence and inserting in lieu thereof the following: "Insurance benefits paid with respect to loans secured by a first mortgage and insured under this subsection shall be paid in

12 USC 1710.

accordance with section 204, except that all references in section 204 to the Mutual Mortgage Insurance Fund shall be construed as referring to the General Insurance Fund. Insurance benefits paid with respect to loans secured by a mortgage other than a first

mortgage and insured under this subsection shall be paid in accordance with paragraphs (6) and (7) of section 220(h), except that reference to 'this subsection' in such paragraphs shall be construed as referring to this subsection.". 12 USC 1715k.

VALLEY HOMES MUTUAL HOUSING CORPORATION

SEC. 322. (a) Notwithstanding any other provision of law, Valley Homes Mutual Housing Corporation, obligor on a note and mortgage secured by a multifamily housing project located at 972 Medosch Avenue, Lincoln Heights, Ohio and held by the Government National Mortgage Association, is hereby relieved of all liability to the Government for the outstanding principal balance on the above mentioned mortgage; for the amount of accrued out unpaid interest thereon; and for taxes, insurance, and other charges previously paid by the Government. This release from liability is in full settlement of all present and any future claims Valley Homes Mutual Housing Corporation, its successors and assigns may have against the United States or any of its Agencies concerning the mortgagor's purchase of the mortgaged premises from the Public Housing Administration in 1954.

(b) The President of the Government National Mortgage Association is authorized and directed to release Valley Homes Mutual Housing Corporation from its liability to the Association and to discharge the mortgage note secured by the mortgage on the multifamily housing project located at 972 Medosch Avenue, Lincoln Heights, Ohio.

(c) No amount in excess of ten per centum of the principal and interest due upon the mortgage released under subsection (b) of this provision shall be paid to or received by an attorney or other person in consideration for services rendered in connection with the claims of Valley Homes Mutual Housing Corporation against the United States or any of its Agencies referred to in subsection (a) of this provision. Any person who violates this subsection shall be fined not more than $1,000. Penalty.

STUDY OF FACTORY-BUILT HOUSING

SEC. 323. The Secretary of Housing and Urban Development shall study the feasibility of utilizing factory-built and other appropriate types of housing (other than the traditional type of site-built housing), to the extent practicable, in carrying out housing programs for Indians and Alaskan Native, and shall, not later than eighteen months after the date of enactment of this Act, transmit a report to the Congress containing the findings and conclusions of such study, including a comparison of the costs and benefits of utilizing the traditional type of site-built housing and of utilizing other types of housing in situations in which either type of housing could be used. Report to Congress. 12 USC 1715d note.

USURY PROVISIONS

SEC. 324. (a) Section 501(a)(1)(A) of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended— *Ante*, p. 161.

(1) by striking out "stock" the first place it appears and inserting in lieu thereof "all stock allocated to a dwelling unit"; and

(2) by striking out "where the loan, mortgage, or advance is used to finance the acquisition of such stock".

(b) Section 511 of such Act is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

Definitions.

"(b) For the purpose of this part—

"(1) the term 'loan' includes all secured and unsecured loans, credit sales, forbearances, advances, renewals or other extensions of credit made by or to any person or organization for business or agricultural purposes;

"(2) the term 'interest' includes any compensation, however denominated, for a loan;

"(3) the term 'organization' means a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, association, or other entity; and

"(4) the term 'person' means a natural person or organization.".

Ante, p. 164.

(c)(1) Section 512 of such Act is amended—

(A) by inserting "(a)" after "SEC. 512."; and

(B) by adding at the end thereof the following:

"(b) A loan shall be deemed to be made during the period described in subsection (a) if such loan—

"(1)(A) is funded or made in whole or in part during such period, regardless of whether pursuant to a commitment or other agreement therefor made prior to April 1, 1980;

"(B) was made prior to or on April 1, 1980, and bears or provides for interest during such period on the outstanding amount thereof at a variable or fluctuating rate; or

"(C) is a renewal, extension, or other modification during such period of any loan, if such renewal, extension, or other modification is made with the written consent of any person obligated to repay such loan; and

"(2)(A) is an original principal amount of $25,000 or more ($1,000 or more on or after the date of enactment of the Housing and Community Development Act of 1980); or

Ante, p. 1614.

"(B) is part of a series of advances if the aggregate of all sums advanced or agreed or contemplated to be advanced pursuant to a commitment or other agreement therefor is $25,000 or more ($1,000 or more on or after the date of enactment of the Housing and Community Development Act of 1980).".

Effective date.
12 USC 86a note.

(2) The amendments made by paragraph (1) take effect on April 1, 1980.

Ante, p. 164.

(d) Part B of title V of such Act, other than section 512(b), is amended by striking out "$25,000" wherever it appears and inserting in lieu thereof "$1,000".

Ante, p. 161.

(e) Section 501(a)(1)(C)(vi) of such Act is amended by inserting before the period at the end thereof the following: ", and any individual who finances the sale or exchange of residential real property which such individual owns and which such individual occupies or has occupied as his principal residence".

LIQUID, HIGHLY RATED CORPORATE DEBT OBLIGATIONS

Ante, p. 139.

SEC. 325. (a) The first sentence of section 5A(b)(1) of the Federal Home Loan Bank Act is amended—

(1) by striking out "and" before "(E)";

(2) by redesignating clause (E) as subparagraph (E);

(3) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following:

"(F) to such extent as the Board may approve as liquid, highly rated corporate debt obligations with 3 years or less remaining until maturity; and

"(G) to such extent as the board may so approve, highly rated commercial paper with 270 days or less remaining until maturity.".

(b) Section 916 of the Housing and Urban Development Act of 1970 is amended by adding at the end thereof the following sentence: "In addition, to such extent as the Federal Home Loan Bank Board may so approve, unpledged deposits in the Savings Banks Trust Company, New York, New York, may be considered assets for the purposes of meeting the liquidity requirements of section 5A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)).". 84 Stat. 1816.

EXTENSION OF DEADLINE FOR ENERGY CONSERVATION STANDARDS FOR NEW BUILDINGS

SEC. 326. (a) Paragraphs (1) and (2) of section 304(a) of the Energy Conservation Standards for New buildings Act of 1976 are amended by striking out "within 6 months after the date of publication of the proposed standards" in the last sentence of each such paragraph and inserting in lieu thereof "by April 1, 1983,". 42 USC 6833.

(b) Section 304(a)(1) of such Act is amended by inserting the following new sentences after the first sentence thereof: "Interim performance standards for new Commercial buildings shall be promulgated by August 1, 1981, and, for at least the 12-month period beginning on such date, the Secretary of Energy shall conduct a demonstration project utilizing such standards in at least two geographical areas in different climatic regions of the country. Prior to the effective date of final performance standards promulgated pursuant to this paragraph and not later than 180 days after completing such demonstration project, such Secretary shall transmit to both Houses of the Congress a report containing an analysis of the findings and conclusions made as a result of carrying out such project, including at least an analysis of the effect such standards would have on the design, construction costs, and the estimated total energy savings (including the types of energy) to be realized from utilizing such energy standards in commercial buildings.". Commercial buildings, demonstration project. Report to Congress.

(c) Section 304(a)(2) of such Act is amended by inserting the following new sentences after the first sentence thereof: "Interim performance standards for new residential buildings shall be promulgated by August 1, 1981, and, for at least the 12-month period beginning on such date, the Secretary of Energy shall conduct a demonstration project utilizing such standards in at least two geographical areas in different climatic regions of the country. Prior to the effective date of final performance standards promulgated pursuant to this paragraph and not later than 180 days after completing such demonstration project, such Secretary shall transmit to both Houses of the Congress a report containing an analysis of the findings and conclusions made as a result of carrying out such project, including at least (A) an analysis of the impact of such standards on builders (especially on small builders) and on the cost of constructing such buildings and the impact of such cost on the ability of low- and moderate-income persons to purchase or rent such buildings, and (B) an analysis of the estimated total energy savings (including the types of energy) to be realized from utilizing such standards in residential buildings.". Residential buildings, demonstration project. Report to Congress.

42 USC 6835.

(d) Section 306 of such Act is amended by striking out "final performance standards" and all that follows and inserting in lieu thereof the following: "interim performance standards promulgated pursuant to section 304(a). Upon the effective date of the final performance standards promulgated pursuant to such section, the head of each such agency shall adopt such procedures as may be necessary to assure that construction of any Federal building meets or exceeds the applicable final performance standards.".

12 USC 1735f-4

(e) Section 526 of the National Housing Act is amended by striking out ", until such time as the energy conservation performance standards required under the Energy Conservation Standards for New Buildings Act of 1976 become effective" in the second sentence.

42 USC 6801 note.

RENTAL HOUSING PRESERVATION

12 USC 1715n.

SEC. 327. Section 223(f) of the National Housing Act is amended—

(1) by inserting "(1)" after "(f)";

(2) by inserting "(2)" at the beginning of the second sentence and redesignating that sentence as a new paragraph;

(3) by inserting "the purchase or" after "In the case of" in paragraph (2) as so redesignated;

(4) by inserting after "located in an older, declining urban area, the Secretary shall" in paragraph (2), as so redesignated, the following: "make available an amount not to exceed $30,000,000 of available purchase authority pursuant to section 305 of this Act to reduce interest rates on low- and moderate-income rental housing in projects having 100 units or less which otherwise could not support refinancing and moderate rehabilitation without causing excessive rent burdens on current tenants due to rent increases. The Secretary shall";

12 USC 1720.

(5) by striking out "(1)" before "the refinancing" in paragraph (2), as so redesignated and inserting in lieu thereof "(A)" and by striking out "and" after the semicolon;

(6) in paragraph (2) as so redesignated, by striking out "(2)" before "during" and inserting in lieu thereof "(B)", by inserting "and maintain reasonable profit levels" before "approved by the Secretary";

(7) by inserting after subparagraph (B), as so redesignated, the following:

"(3) For all insurance authorized by this subsection and provided pursuant to a commitment entered into after the date of enactment of the Housing and Community Development Act of 1980, the Secretary may not accept an offer to prepay or request refinancing of a mortgage secured by rental housing unless the Secretary takes appropriate action that will obligate the borrower (and successors in interest thereof) to utilize the property as a rental property for a period of five years from the date on which the insurance was provided (twenty years in the case of any such mortgage purchased under section 305) unless the Secretary finds that—

Ante, p. 1614.

"(A) the conversion of the property to a cooperative, or condominium form of ownership is sponsored by a bona fide tenants' organization representing a majority of the households in the project;

"(B) continuance of the property as rental housing is clearly unnecessary to assure adequate rental housing opportunities for low- and moderate-income people in the community; or

"(C) continuance of the property as rental housing would have an undesirable and deleterious effect on the surrounding neighborhood."; and

(8) by inserting "(5)" before the sentence beginning "In the case of refinancing of an existing hospital" and redesignating that sentence as paragraph (5).

TITLE INSURANCE RELIEF

SEC. 328. Section 203 of the National Housing Act is amended by adding at the end thereof the following new subsection: Indian land claims. 12 USC 1709.

"(p)(1) Notwithstanding any other provision of this section or any other section of this title, the Secretary is authorized to insure, and to commit to insure, under subsection (b) of this section as modified by this subsection a mortgage which meets both the requirements of this subsection and such criteria as the Secretary by regulation shall prescribe to further the purpose of this subsection, in any community where the Secretary determines that—

"(A) temporary adverse economic conditions exist throughout the community as a direct and primary result of outstanding claims to ownership of land in the community by an American Indian tribe, band, or nation;

"(B) such ownership claims are reasonably likely to be settled, by court action or otherwise; and

"(C) fifty or more individual homeowners were joined as parties defendant or were members of a defendant class prior to April 1, 1980, in litigation involving claims to ownership of land in the community by an American Indian tribe, band, group, or nation pursuant to a dispute involving the Articles of Confederation, Trade and Intercourse Act of 1790, or any similar State or Federal law. USC prec. title I, 1 Stat. 137.

"(2) A mortgage shall be eligible for insurance under subsection (b) of this section as modified by this subsection without regard to limitations in this title relating to marketability of title, or any other statutory restriction which the Secretary determines is contrary to the purpose of this subsection, but only if the mortgagor is an owner-occupant of a home in a community specified in paragraph (1). The Secretary, in connection with any mortgage insured under subsection (b) as modified by this subsection, shall have all statutory powers, authority, and responsibilities which the Secretary has with respect to other mortgages insured under subsection (b), except that the Secretary may modify such powers, authority, or responsibilities where the Secretary deems such action to be necessary because of the special nature of the mortgage involved. Notwithstanding section 202 of this title, the insurance of a mortgage under subsection (b) of this section as modified by this subsection shall be the obligation of the Special Risk Insurance Fund created pursuant to section 238 of this title.". 12 USC 1708. 12 USC 1715z-3.

PARTICIPATION BY LOCAL PERSONS AND FIRMS IN ASSISTED PROJECTS

SEC. 329. Section 3 of the Housing and Urban Development Act of 1968 is amended— 12 USC 1701u.

(1) by striking out "residing in the area of such project" in paragraph (1) and inserting in lieu thereof "residing within the unit of local government or the metropolitan area (or nonmetropolitan county), as determined by the Secretary, in which the project is located"; and

(2) by striking out "residing in the area of such project" in paragraph (2) and inserting in lieu thereof "residing in the same metropolitan area (or nonmetropolitan county) as the project".

MORTGAGE-BACKED SECURITIES PROGRAM

Report to Congress. 12 USC 1723a note.

SEC. 330. If the Federal National Mortgage Association submits to the Secretary of Housing and Urban Development or the Secretary of the Treasury, after the date of enactment of this section, a proposal with respect to undertaking a mortgage-backed securities program, the Secretary of Housing and Urban Development or the Secretary of the Treasury, as the case may be, shall, within 90 days after submission of such proposal, approve the proposal or transmit to the Congress a report explaining why the proposal has not been approved.

EXTENSION OF HUD MINIMUM PROPERTY STANDARDS; LOCAL ACCEPTABLE STANDARDS FOR MASONRY CONSTRUCTION

Thermal requirements.

SEC. 331. (a) Until the Secretary of Housing and Urban Development submits the report required by subsection (b) to the Congress, any final rule published for effect by the Secretary pertaining to increases in thermal requirements for the Department of Housing and Urban Development's minimum property standards shall provide for the continuation of any local acceptable standards exemptions, approved by the Secretary prior to May 31, 1979, which are applicable to masonry construction.

Analysis, report to Congress.

(b) The Secretary shall conduct an analysis and, on August 1, 1981, report to Congress on the cost of constructing, heating, and cooling masonry, frame, log, and other buildings that comply with the increased thermal requirements and on the competitive economic impact of applying such increased thermal standards or permitting any exemptions from them.

Exemption.

(c) If such analysis shows there is an economic justification for any exemption from the thermal standards, an appropriate exemption for a specific construction type in a specific geographical location may be provided by the Secretary.

NEGOTIATED INTEREST RATES UNDER SECTION 203

12 USC 1709-1.

SEC. 332. Section 3(a) of Public Law 90-301 is amended—

(1) by inserting "(1)" after "SEC. 3. (a)";

(2) by inserting ", except those provided for in paragraph (2)," in the first sentence after "for all purposes"; and

(3) by adding the following new paragraph at the end thereof:

Commitment agreement. 12 USC 1709.

"(2)(A) Notwithstanding any other provision of law, the Secretary may provide that the interest rate applicable to mortgages insured under section 203(b) of the National Housing Act shall be an interest rate specified in a commitment agreement which is negotiated between the mortgagor and mortgagee if—

"(i) the mortgagee discloses to the borrower, prior to the commitment, information on the applicable maximum rate established under paragraph (1) and a good faith estimate of the prevailing number of discount points associated with such rate;

"(ii) the agreement commits the mortgagee to such specified interest rate for at least 30 days after the date on which it is entered into; and

"(iii) the agreement contains a commitment with respect to any discount points to be charged which shall be binding during the same period as the commitment period with respect to the specified interest rate.

"(B) The number of mortgages which are insured in accordance with this paragraph in any fiscal year may not exceed— Mortgages, limitation.

"(i) the number of mortgages which exceeds 10 per centum of all mortgages insured under such section 203 during the preceding fiscal year, or 12 USC 1709.

"(ii) 50,000 mortgages,

whichever is greater.

"(C) The provisions of this paragraph shall not apply with respect to mortgages which are subject to section 245 of the National Housing Act. 12 USC 1715z-10.

"(D) The Secretary shall monitor experience under this paragraph and report to Congress by March 1, 1982, comparing the discount points and effective yields associated with mortgages insured under this paragraph with the discount points and effective yields associated with (i) mortgages in the conventional mortgage market, and (ii) other mortgages insured under section 203(b) of the National Housing Act.". Report to Congress.

DELETION OF REFERENCES TO REMAINING ECONOMIC LIFE

SEC. 333. (a) Section 203(b)(3) of the National Housing Act is amended by striking out the following: "or three-quarters of the Secretary's estimate of the remaining economic life of the building improvements, whichever is the lesser". 12 USC 1709.

(b) Section 220(h)(2)(iv) of such Act is amended by striking out the following: "or three-quarters of the remaining economic life of the structure, whichever is the lesser". 12 USC 1715k.

(c) Section 221(d)(6) of such Act is amended by striking out ": *Provided,* That no mortgage insured under subsection (d)(2) shall have a maturity exceeding three-quarters of the Secretary's estimate of the remaining economic life of the building improvements". 12 USC 1715*l*.

(d) Section 221(i)(2)(A)(iv) of such Act is amended by striking out "the lesser of" and by striking out "or three-quarters of the Secretary's estimate of the remaining economic life of the building improvements".

(e) Section 234(c) of such Act is amended by striking out the following: "or three-fourths of the Secretary's estimate of the remaining economic life of the project, whichever is the lesser". 12 USC 1715y.

(f) Section 240(c)(5) of such Act is amended by striking out the following "or three-quarters of the remaining economic life of the home, whichever is the lesser". 12 USC 1715z-5.

CONGRESSIONAL REVIEW

SEC. 334. (a) Section 7(o)(3) of the Department of Housing and Urban Development Act is amended by striking out "20" each place it appears and inserting in lieu thereof "30". 42 USC 3535.

(b) The amendment made by subsection (a) shall apply only to rules and regulations which are published as final on or after the date of enactment of this Act. 42 USC 3535 note.

AUTHORITY TO PROTECT FEDERAL GOVERNMENT'S INTERESTS IN CERTAIN SITUATIONS

12 USC 1721.

SEC. 335. Section 306(g) of the Federal National Mortgage Association Charter Act is amended—

(1) by striking out "Any Federal, State, or other law to the contrary notwithstanding, the" in the fourth sentence and inserting in lieu thereof "The"; and

(2) by inserting after the fourth sentence the following new sentence: "No State or local law, and no Federal law (except Federal law enacted expressly in limitation of this subsection after the effective date of this sentence), shall preclude or limit the exercise by the Association of (A) its power to contract with the issuer on the terms stated in the preceding sentence, (B) its rights to enforce any such contract with the issuer, or (C) its ownership rights, as provided in the preceding sentence, in the mortgages constituting the trust or pool against which the guaranteed securities are issued.".

MORTGAGE LIMITS

12 USC 1709.

SEC. 336. (a) Section 203(b)(2) of the National Housing Act is amended by inserting after "four-family residence" the following: "; except that the Secretary may increase the preceding maximum dollar amounts on an area-by-area basis to the extent the Secretary deems necessary, after taking into consideration the extent to which moderate and middle income persons have limited housing opportunities in the area due to high prevailing housing sales prices, but in no case may such limits, as so increased, exceed the lesser of (A) 133⅓ per centum of the dollar amount specified, or (B) in the case of a one-family residence, 95 per centum of the median one-family house price in the area, as determined by the Secretary; in the case of a two-family residence, 107 per centum of such median price; in the case of a three-family residence, 130 per centum of such median price; or in the case of a four-family residence, 150 per centum of such median price".

12 USC 1715k.

(b) Section 220(d)(3)(A)(i) of such Act is amended—

(1) by striking out "$67,500" and all that follows through "four-family residence" and inserting in lieu thereof the following: "the applicable maximum principal obligation which may be insured in the area under section 203(b)";

(2) by striking out "$107,000" the second place it appears and inserting in lieu thereof "the applicable maximum principal obligation secured by a four-family residence which may be insured in the area under section 203(b)"; and

(3) by striking out "$8,250" and inserting in lieu thereof "$9,165".

12 USC 1715m.

(c) Section 222(b)(2) of such Act is amended to read as follows: "(2) involve a dwelling designed principally for a one-family residence or a one-family unit in a condominium project;".

12 USC 1715y.

(d) Section 234(c) of such Act is amended by inserting after "$67,500," the following: "except that the Secretary may increase such maximum dollar amount on an area-by-area basis to the extent the Secretary deems necessary, after taking into consideration the extent to which moderate and middle income persons have limited housing opportunities in the area due to high prevailing housing sales prices, but in no case may such limit, as so increased, exceed the lesser of 111 per centum of such amount or 95 per centum of the

median one-family house price in the area, as determined by the Secretary;".

(e) The Secretary of Housing and Urban Development shall conduct a study of the appropriate role of mortgage and loan insurance programs administered by the Federal Housing Administration— Study.

(1) in assisting various income groups to obtain homeownership;

(2) in assuring an adequate level of new home construction;

(3) in assuring an adequate flow of capital into mortgage markets; and

(4) in moderating housing costs.

In conducting such study, the Secretary shall examine the desirability and feasibility of establishing mortgage limits for the mortgage insurance programs on an area-by-area basis and the desirability and feasibility of doing so by relating such limits to housing sales price data or indices. The Secretary shall prepare a report (including such recommendations as the Secretary deems appropriate) based upon such study and transmit it to the Congress by March 1, 1981. Report to Congress

AMENDMENTS TO THE PROGRAM ESTABLISHED BY THE EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 337. (a) Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 16, 1980" and inserting in lieu thereof "October 1, 1981". *Ante*, p. 1364.

(b) Section 313 of the National Housing Act is amended— 12 USC 1723e.

(1) by inserting "and if the Secretary determines that the implementation of this section will not significantly worsen inflationary conditions," after "1968," in the first sentence of subsection (a)(1);

(2) by striking out "mortgages" in the first sentence of subsection (a)(1) and inserting in lieu thereof "mortgages and securities";

(3) by striking out "mortgages (1)" in the first sentence of subsection (b) and inserting in lieu thereof "(1) mortgages";

(4) by striking out "or (2)" in the first sentence of subsection (b) and inserting in lieu thereof ", (2) securities guaranteed by the Association and backed by loans and advances of credit insured under title I of the National Housing Act, or guaranteed under chapter 37 of title 38, United States Code, and made for the purchase of a manufactured home and lot, or manufactured home, or (3) mortgages"; 12 USC 1702. 38 USC 1801 *et seq.*

(5) by inserting "or guaranteed under title V of the Housing Act of 1949" before "or by qualified" in the first sentence of subsection (b); 42 USC 1471.

(6) by striking out all that follows "such mortgage involves an original principal obligation not to exceed" in clause (B) of the second sentence of subsection (b) and inserting in lieu thereof the following: ", for that part of the property attributable to dwelling use in the case of a more than four-family residence, the per unit limitations under the section of the National Housing Act under which the project mortgage is insured or, in the case of a manufactured home loan or advance of credit, the limitation contained in section 2(b) of this Act;"; 12 USC 1701. 12 USC 1703.

(7) by striking out in clause (C) of the second sentence of subsection (b) "such mortgage involves an interest rate not in excess of that which the Secretary may prescribe, taking into account the cost of funds and administrative costs under this

section, but in no event shall such rate exceed the lesser of (i) 7½ per centum, or (ii) the rate set by the Secretary applicable to mortgages insured under section 203(b) of the National Housing Act" and inserting in lieu thereof the following: "such mortgage involves an interest rate which the Secretary may prescribe which shall be as high as feasible consistent with meeting the objectives of this section at the lowest feasible cost, but if such mortgage is executed to finance the acquisition of a one-to-four family residence, it may not bear interest at a rate lower than 3 percentage points below the average contract commitment rate for single family, thirty-year conventional mortgages with loan-to-value ratios of 90 per centum in the monthly survey of all major lenders conducted by the Federal Home Loan Bank Board which is most recently available at the time that funds are released, and if such mortgage is executed to finance the acquisition of a more than four-family residence, it may not bear interest at a rate lower than 4½ percentage points below such average contract commitment rate";

12 USC 1709.

(8) by striking out all that follows "such mortgage involves a principal residence the sales price of which does not exceed" in clause (D) of the second sentence of subsection (b) and inserting in lieu thereof the following: "92 per centum of the applicable maximum principal obligation which may be insured in the area under section 203(b).";

(9) by adding the following new sentence at the end of subsection (b):

"A security may be purchased under this section only if all of the loans or advances of credit backing such security (i) finance the purchase of manufactured homes and lots, or manufactured homes, which will be the principal residences of the borrowers, and (ii) involve an interest rate which the Secretary may prescribe which shall be as high as feasible consistent with meeting the objectives of this section at the lowest feasible cost, but in no event shall such rate be lower than 3 percentage points below the rate set by the Secretary and applicable to loans and advances of credit insured under title I of the National Housing Act.";

12 USC 1702.

(10) by inserting "or securities" after "mortgages" the first time it appears in subsection (d)(2);

(11) by striking out "enactment of this section" in subsection (e) and inserting in lieu thereof "the issuance of the commitment to purchase the mortgage";

(12) by inserting "or securities" after "mortgages" in subsection (f)(1);

(13) in subsection (h)—

(A) by inserting "and" at the end of clause (3);

(B) by striking out paragraph (4); and

(C) by redesignating paragraph (5) as paragraph (4); and

(14) by adding at the end thereof the following new subsections:

"(i) The Association may not purchase under this section any mortgage or loan which was executed or made (1) to finance the conversion of an existing rental housing project into a condominium or cooperative project, or (2) to finance the purchase of an individual unit in a condominium project or the purchase of a share in a cooperative project, in connection with such a conversion.

"(j) In carrying out the provisions of this section, the Association shall, to the extent practicable, purchase mortgages secured by dwelling units which contribute to the conservation of land and energy resources.".

INCREASE IN GOVERNMENT NATIONAL MORTGAGE ASSOCIATION MORTGAGE PURCHASE AUTHORITY

SEC. 338. Section 305(c) of the Federal National Mortgage Association Charter Act is amended by inserting the following before the period at the end thereof: ", and by $900,000,000 on October 1, 1980". 12 USC 1720.

FEDERAL NATIONAL MORTGAGE ASSOCIATION AUTHORITY

SEC. 339. (a)(1) Section 302(b)(3) of the Federal National Mortgage Association Charter Act is amended to read as follows: 12 USC 1717.

"(3) The corporation is authorized, with the approval of the Secretary of Housing and Urban Development, to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit for the purchase and installation of home improvements, including energy conserving improvements or solar energy systems described in the last paragraph of section 2(a) of the National Housing Act and residential energy conservation measures as described in section 210(11) of the National Energy Conservation Policy Act and financed by a public utility in accordance with the requirements of title II of such Act. To be eligible for purchase, any such loan or advance of credit (other than a loan or advance made with respect to energy conserving improvements or solar energy systems or residential energy conservation measures) not insured under title I of the National Housing Act shall be secured by a lien against the property to be improved.". 12 USC 1703. 42 USC 8211. 42 USC 8211. 12 USC 1702.

(2) When the Federal National Mortgage Association submits its proposal to the Secretary of Housing and Urban Development to implement the authority granted by the amendment made by paragraph (1), the Secretary of Housing and Urban Development shall, within 75 days, approve such proposal or transmit to the Congress a report explaining why such proposal has not been approved. Proposal submittal; report to Congress. 12 USC 1717 note.

(b)(1) Section 302(b) of such Act is amended by adding at the end thereof the following: 12 USC 1717.

"(4) The corporation is authorized, with the approval of the Secretary of Housing and Urban Development, to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit secured by mortgages or other liens against manufactured homes.".

(2) When the Federal National Mortgage Association submits its proposal to the Secretary of Housing and Urban Development to implement the authority granted by the amendment made by paragraph (1), the Secretary of Housing and Urban Development shall, within 75 days, approve such proposal or transmit to the Congress a report explaining why such proposal has not been approved. Proposal submittal; report to Congress. 12 USC 1717 note.

HOME MORTGAGE DISCLOSURE ACT AMENDMENTS

SEC. 340. (a) Section 304 of the Home Mortgage Disclosure Act of 1975 is amended— 12 USC 2803.

(1) by striking out "Office of Management and Budget" in subsection (a)(1) and inserting in lieu thereof "Department of Commerce";

(2) by amending subsection (a)(2)(A) to read as follows:

"(A) The number and dollar amount for each item referred to in paragraph (1), by census tracts for mortgage loans secured by property located within any county with a population of more than 30,000, within that standard metropoli-

tan statistical area, otherwise, by county, for mortgage loans secured by property located within any other county within that standard metropolitan statistical area."; and

(3) by adding at the end thereof the following:

Disclosure.

"(d) Notwithstanding the provisions of subsection (a)(1), data required to be disclosed under this section for 1980 and thereafter shall be disclosed for each calendar year. Any depository institution which is required to make disclosures under this section but which has been making disclosures on some basis other than a calendar year basis shall make available a separate disclosure statement containing data for any period prior to calendar year 1980 which is not covered by the last full year report prior to the 1980 calendar year report.

Format.

"(e) The Board shall prescribe a standard format for the dislosures required under this section.

Data disclosure system.

"(f) The Federal Financial Institutions Examination Council, in consultation with the Secretary, shall implement a system to facilitate access to data required to be disclosed under this section. Such system shall include arrangements for a central depository of data in each standard metropolitan statistical area. Disclosure statements shall be made available to the public for inspection and copying at such central depository of data for all depository institutions which are required to disclose information under this section (or which are exempted pursuant to section 306(b)) and which have a home office or branch office within such standard metropolitan statistical area.".

12 USC 2805.

Repeal.

(b) Section 310 of such Act is repealed.

12 USC 2809.

(c) Such Act is amended by adding at the end thereof the following:

"COMPILATION OF AGGREGATE DATA

12 USC 2809.

"SEC. 310. (a) Beginning with data for calendar year 1980, the Federal Financial Institutions Examination Council shall compile each year, for each standard metropolitan statistical area, aggregate data by census tract for all depository institutions which are required to disclose data under section 304 or which are exempt pursuant to section 306(b). The Council shall also produce tables indicating, for each standard metropolitan statistical area, aggregate lending patterns for various categories of census tracts grouped according to location, age of housing stock, income level, and racial characteristics.

12 USC 2803.
12 USC 2805.

"(b) The Board shall provide staff and data processing resources to the Council to enable it to carry out the provisions of subsection (a).

Public availability.

"(c) The data and tables required pursuant to subsection (a) shall be made available to the public by no later than December 31 of the year following the calendar year on which the data is based.

"DISCLOSURE BY THE SECRETARY

12 USC 2810.

"SEC. 311. Beginning with data for calendar year 1980, the Secretary shall make publicly available data in the Secretary's possession for each mortgagee which is not otherwise subject to the requirements of this title and which is not exempt pursuant to section 306(b), with respect to mortgage loans approved by the Secretary for insurance under title I or II of the National Housing Act. Such data to be disclosed shall consist of data comparable to the data which would be disclosed if such mortgagee were subject to the requirements of section 304. Dislosure statements containing data for each such mortgagee for a standard metropolitan statistical area shall, at a minimum, be publicly available at the central depository of data

12 USC 2805.
12 USC 1702, 1707.
12 USC 2803.

established pursuant to section 304(f) for such standard metropolitan statistical area. The Secretary shall also compile and make publicly available aggregate data for such mortgagees by census tract, and tables indicating aggregate lending patterns, in a manner comparable to the information required to be made publicly available in accordance with section 310.

"TERMINATION OF AUTHORITY

"SEC. 312. The authority granted by this title shall expire on October 1, 1985.". 12 USC 2811.

(d) The Federal Financial Institutions Examination Council, in consultation with the Administrator of the Small Business Administration, shall conduct a study to assess the feasbility and usefulness of requiring depository institutions which make small business loans to compile and publicly disclose information regarding such loans. The Council shall submit a report on the results of such study, together with recommendations, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives not later than March 1, 1981. Study. 12 USC 3305 note. Report to congressional committees.

(e) To promote efficiency and avoid duplication to the maximum extent feasible, the Federal Financial Institutions Examination Council shall transmit a report to the Congress not later than September 30, 1982, on the feasibility and desirability of establishing a unified system for enforcing fair lending laws and regulations, implementing the Community Reinvestment Act of 1977, and satisfying the public disclosure purposes of the Home Mortgage Disclosure Act of 1975. Such report shall evaluate the status and effectiveness of data collection and analysis systems of such agencies involving fair lending and community reinvestment, and shall outline possible specific timetables for implementing such a unified system. Report to Congress 12 USC 3305 note. 12 USC 2901 note. 12 USC 2801 note.

TEMPORARY MORTGAGE ASSISTANCE PAYMENTS

SEC. 341. Section 230 of the National Housing Act is amended to read as follows:

"TEMPORARY MORTGAGE ASSISTANCE PAYMENTS AND ACQUISITION OF MORTGAGES TO AVOID FORECLOSURE

"SEC. 230. (a)(1) Upon receiving notice of the default of any mortgage covering a one-, two-, three-, or four-family residence insured under this Act, the Secretary (for the purpose of avoiding foreclosure of the mortgage, and notwithstanding the fact that the Secretary has previously approved a request of the mortgagee for an extension of the time for curing the default and of the time for commencing foreclosure proceedings or for otherwise acquiring title to the mortgaged property, or has approved a modification of the mortgage for the purpose of changing the amortization provisions by recasting the unpaid balance) may make all or part of the monthly payments due under the mortgage directly to the mortgagee on behalf of the mortgagor, if such default was caused by circumstances which are beyond the mortgagor's control and render the mortgagor temporarily unable to correct a mortgage delinquency and to resume full mortgage payments. Payments may be made only in accordance with the provisions of this subsection and shall be subject to any additional requirements the Secretary may prescribe. Default. 12 USC 1715u.

"(2) No payments may be provided under this subsection unless the Secretary has determined that such payments are necessary to avoid

foreclosure and that there is a reasonable prospect that the mortgagor will be able—

"(A) to resume full mortgage payments within thirty-six months after the beginning of the period for which such payments are provided or upon termination of assistance under this subsection;

"(B) to commence repayment of the payments made under this subsection at a time designated by the Secretary; and

"(C) to pay the mortgage in full by its maturity date or by a later date established by the Secretary for completing the mortgage payments.

"(3) Payments under this subsection may be in an amount determined by the Secretary up to the amount of the principal, interest, taxes, assessments, ground rents, hazard insurance, mortgagee's expenses in connection with payments or repayments under this subsection, and mortgage insurance premiums due under the mortgage, and the initial payment may include an amount necessary to make the payments on the mortgage current. Payments may not exceed amounts which the Secretary determines to be necessary to supplement the amounts, if any, which the mortgagor is capable of contributing toward the mortgage payments.

Payment period, extension.

"(4) Payments under this subsection may be provided for a period of not to exceed eighteen months, and any period of default. Such period may be extended, in the Secretary's discretion, for not to exceed eighteen months where the Secretary has determined that such extension is necessary to avoid foreclosure and that there is a reasonable prospect that the mortgagor will be able to make the payments and repayments specified in paragraph (2) of this subsection. The Secretary shall establish procedures for periodic review of the mortgagor's financial circumstances for the purpose of determining the necessity for continuation, termination, or adjustment in the amount of the payments. Payments shall be discontinued at any time when the Secretary determines that, because of changes in the mortgagor's financial circumstances, the payments are no longer necessary to avoid foreclosure or that there is no longer a reasonable prospect that the mortgagor will be able to make the payments and repayments specified in paragraph (2) of this subsection.

Mortgagor's financial circumstances, review.

Lien.

"(5) All payments shall be secured by a lien on the property and by such other obligation as the Secretary may require. Payments shall be repayable upon terms and conditions prescribed by the Secretary, and such terms and conditions may include requirements for repayment of any amount paid by the Secretary toward a mortgagee's expenses in connection with the payment or repayments made under this subsection. The Secretary may establish interest charges on payments made under this subsection; except that such charges shall not exceed a rate which is more than the maximum interest rate applicable with respect to level payment mortgages insured pursuant to section 203(b) of this Act at the time assistance under this section is approved by the Secretary. Such charges shall be payable notwithstanding any provision of any State constitution or law or local law which limits the rate of interest on loans or advances of credit.

Interest.

12 USC 1709.

"(6) Payments under this subsection may be made without regard to whether the Secretary has previously taken action to avoid mortgage acquisition or foreclosure, except that payments may be provided on behalf of a mortgagor previously assisted under this section only in cases in which full mortgage payments (and any repayments to the Secretary which may have been requested) have been made by such mortgagor for at least 12 months from the time such previous assistance under this section was terminated.

"(b)(1) When the Secretary receives notice of a default described in subsection (a)(1) and makes a determination that assistance under subsection (a) would be inappropriate in the case of the mortgagor, the Secretary (for the purpose of avoiding foreclosure of the mortgage, and notwithstanding the facts described in the parenthetical material contained in subsection (a)(1) and the fact that payments have been made under subsection (a) with respect to the mortgage) shall, if determined necessary by the Secretary, acquire the mortgage and security therefor upon payment of the insurance benefits in an amount equal to the unpaid principal balance of the mortgage plus any unpaid mortgage interest and reimbursement for such costs and attorney's fees as the Secretary finds were properly incurred in connection with the defaulted mortgage and its assignment to the Secretary, and for any proper advances theretofore made by the mortgagee under the provisions of the mortgage. After the acquisition of such mortgage by the Secretary, the mortgagee shall have no further rights, liabilities, or obligations with respect thereto. The provisions of section 204 relating to the issuance of debentures incident to the acquisition of foreclosed properties shall apply with respect to debentures issued under this subsection, and the provisions of section 204 relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the Secretary when the Secretary has acquired an insured mortgage under this section, in accordance with and subject to regulations (modifying such provisions to the extent necessary to render their application for such purpose appropriate and effective) which shall be prescribed by the Secretary.

Mortgage acquisition by Secretary.

Debenture issuance.
12 USC 1710.

"(2) The Secretary may provide assistance, to a mortgagor whose mortgage has been acquired under paragraph (1) of this subsection, through forebearance of interest or principal, or both, or through other means, for a period of not more than eighteen months after the acquisition of the mortgage, if the mortgagor has not been assisted under subsection (a) within twelve months of the date of such acquisition and if the Secretary determines that there is a reasonable prospect that the mortgagor will be able to meet the conditions described in subsection (a)(2). Such period may be extended, in the Secretary's discretion, for not to exceed eighteen months where the Secretary has determined that such extension is necessary to avoid foreclosure and that there is a reasonable prospect that the mortgagor will be able to meet the conditions described in subsection (a)(2). Such assistance (which may include any expenses of the Secretary incurred in connection with providing such assistance) shall be repayable upon terms and conditions prescribed by the Secretary, except that in no event shall any interest rate charged on such repayments exceed the interest rate chargeable for repayments of assistance made under subsection (a). Such rate shall be payable notwithstanding any provision of any State constitution or law or local law which limits the rate of interest on loans or advances of credit.

Interest or principal.

Assistance repayment.

"(3) In carrying out paragraph (1), the Secretary shall, if determined necessary by the Secretary, acquire a mortgage, with respect to which assistance was being provided under subsection (a) immediately prior to such acquisition, for the sole purpose of extending the term of repayment under the mortgage so that the mortgagor will be able to make the full payments on the mortgage.

"(c) All expenditures made under this section shall be made from the insurance fund chargeable for insurance benefits on the mortgage covering the property to which the payments made relate, and

Insurance fund.

any payments received under this section shall be credited to such fund; except that payments made pursuant to subsection (a) of this section may only be made to the extent approved in appropriation Acts.

Homeownership counseling.

"(d) The Secretary shall, to the extent practicable, provide homeownership counseling to persons assisted under this section.".

TITLE IV—PLANNING ASSISTANCE

SEC. 401. Section 701 of the Housing Act of 1954 is amended to read as follows:

"PLANNING ASSISTANCE

40 USC 461.

"SEC. 701. (a) The Congress finds that—

"(1) the general welfare requires the conservation and the orderly and efficient growth and development of the Nation's communities, particularly communities suffering from fiscal, economic, and social distress;

"(2) effective and coordinated planning efforts at all levels of government are necessary in order for such conservation, growth, and development to be effectively and efficiently achieved;

"(3) a major component of such planning effort should be detailed strategies that can guide governmental actions in order to assure that, to the maximum extent practicable, the goals and objectives of such plans will be achieved through the implementation of such planning efforts;

"(4) such planning efforts and strategies should be consistent with National Policy Objectives; and

"(5) Federal actions and programs, to the extent practicable, should be administered in conformance with State, areawide and local plans and strategies.

"(b) The purposes of this section are—

"(1) to provide assistance to encourage State and local governments and areawide planning organizations to develop strategies for implementing comprehensive plans (or components of such plans) and to the extent necessary comprehensive plans or components of such plans, giving particular emphasis to those strategies which are designed to implement those components of the plan which relate to the National Policy Objectives; and

"(2) to encourage, to the maximum extent practicable, the coordination of Federal policy and program decisions with such plans and strategies.

Definitions.

"(c) As used in this section—

"(1) the term 'Secretary' means the Secretary of Housing and Urban Development;

"(2) the term 'State' means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

"(3) the term 'unit of general local government' means any city, county, town, township, parish, village, or other general purpose political subdivision of a State;

"(4) the term 'Indian tribe' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512);

25 USC 450 note.
31 USC 1221 note.

"(5) the term 'metropolitan area' means a standard metropolitan statistical area, established by the Department of Commerce, except that, to the extent the Secretary deems appropriate to carry out the purposes of this section, the Secretary may modify or extend such an area, but such modification or extension shall not affect the boundaries of any standard metropolitan statistical area for any other purpose;

"(6) the term 'areawide planning organization' means any multijurisdictional unit which—

"(A) is established under State law, interstate compact, or interlocal agreement for the purpose of formulating policies and plans for the orderly development of a substate or interstate region;

"(B) is formally charged with carrying out the provisions of section 401 of the Intergovernmental Cooperation Act of 1968; 42 USC 4231.

"(C) in the absence of State law to the contrary, has at least a majority of elected officials from local governments on its governing body; and

"(D) meets such other standards as the Secretary may prescribe by regulation;

"(7) the term 'National Policy Objectives' means—

"(A) the conservation and improvement of existing communities, particularly the improvement of those communities which are characterized by fiscal, economic or social distress;

"(B) an increase in housing and employment opportunities and choices, particularly for lower income, minority persons, women, and persons with special needs such as the elderly and handicapped, and a reduction in the cost of housing; and

"(C) the promotion of orderly and efficient growth and development of communities, regions and States, taking into consideration the necessity of conserving energy;

"(8) the term 'comprehensive plan' means a plan which includes, at least, housing and land use elements which take into account factors prescribed by the Secretary, including those required to achieve the National Policy Objectives;

"(9) the term 'strategy' means a detailed strategy statement designed to identify and describe the actions required to implement such plan, or components of such plan, in order to achieve, to the maximum extent practicable, the goals and objectives of such plan or, in the absence of such plan, the actions which will be required in the course of developing a comprehensive plan; and

"(10) the term 'action program' means a program which includes (A) an identification of specific actions that are necessary for implementing elements included in the strategy statement; (B) an identification of the governmental entity responsible for undertaking each such action; (C) a timetable specifying when each such action may be reasonably expected to be carried out; and (D) to the maximum extent practicable, agreements, by the governmental entities identified as being responsible for undertaking such actions, that they will undertake such actions.

"(d)(1) The Secretary may contract to make, and make, grants on an annual basis which are approved in accordance with the provisions of this section to— Grants.

"(A) States, for statewide activities;

"(B) States, for the provision of assistance to (i) nonmetropolitan areawide planning organizations; (ii) units of general local government (except counties) having a population of less than 50,000 according to the latest decennial or mid-decade census, as appropriate; (iii) counties, other than urban counties as defined under title I of the Housing and Community Development Act of 1974; and (iv) any group of adjacent units of general local government having a total population of less than 50,000 (according to the latest decennial or mid-decade census, as appropriate) and having common or related planning needs; except that a grant may not be made under this paragraph where the State would be undertaking the activities described in subsection (e) on behalf of such organization, local government, county, or group of adjacent units of local government unless such organization, local government, county, or group of adjacent units of local government requests the State to undertake such activities;

42 USC 5301.

"(C) metropolitan areawide planning organizations;

"(D) units of general purpose local government having a total population of fifty thousand or more according to the latest decennial or mid-decade census, as appropriate;

"(E) urban counties as defined under title I of the Housing and Community Development Act of 1974;

"(F) Indian tribes; and

"(G) the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

"(2) In making grants under paragraph (1), the Secretary may make grants to States for the provision of assistance to any entity which is described in subparagraphs (C), (D), or (E) and which does not receive direct funding from the Secretary under paragraph (1), except that such grants may be made only if such entity notifies the Secretary of its desire to receive funding through the State.

"(e) Grants may be made under this section only for those activities determined by the Secretary to be necessary to assist—

"(1) in the development of strategies and action programs to implement a comprehensive plan or a part thereof or related plans or planning and, where such a plan does not exist or is determined by the Secretary to be inadequate, in the development of a comprehensive plan;

"(2) in the development of evaluations or studies related to such plan, strategies, or action programs; or

"(3) in the carrying out of the clearinghouse functions required pursuant to OMB Circular A-95.

Grant recipients, action programs and plans.

"(f)(1) The Secretary shall require that each recipient develop strategies and action programs and, except as provided in paragraph (2), maintain and update a comprehensive plan and a planning process.

"(2) In the case of a recipient that is not covered by or does not have a comprehensive plan and a planning process, the Secretary shall require, with respect to such a plan and process, only that such recipient begin the phased development of such a plan and process in a manner designed to assure that such a plan and process will be completed in a reasonable period of time taking into consideration the nature and scope of the recipient's reasonable planning needs and its financial resources.

"(3) In carrying out this subsection, the Secretary shall require—

"(A) citizen participation pursuant to regulations of the Secretary;

"(B) the development and subsequent modifications of an implementation strategy and an action program and, to the extent necessary, a comprehensive plan and the review of such strategy, program, and plan, at least triennially for necessary or desirable amendments; and

"(C) procedures, including criteria set forth in advance, for evaluating programs and activities undertaken pursuant to this section to determine whether such programs and activities are meeting the goals and objectives set forth in the strategies.

Grant approval.

"(g) The Secretary may not approve a grant for any year after the first year in which a grant pursuant to this section is made to a recipient unless the Secretary determines that—

"(1) additional funds are required to assist in the development of the strategy, action program, and, to the extent necessary, the comprehensive plan or part thereof; and

"(2) substantial progress has been made in the development and implementation of the strategy.

To assist the Secretary in making such determinations, the applicant shall submit to the Secretary such information as the Secretary may require, including the performance report required pursuant to subsection (l), except that at least triennially the Secretary shall require the applicant to submit a detailed evaluation of the progress it has made during the preceding three-year period toward the development of such strategy and its implementation.

"(h) The Secretary shall encourage the cooperation of all interested States, areawide planning organizations, municipalities, political subdivisions, public agencies, and other parties in the preparation of and in the carrying out of programs developed pursuant to this section. Such parties shall be afforded by the recipient organization or government a reasonable opportunity to comment on such strategies, plans, and programs.

Areawide planning organizations.

"(i) States are authorized, subject to approval of the Secretary, to provide for the administration by areawide planning organizations of assistance provided pursuant to subsection (d), except that responsibility for adherence to the requirements of this section and other applicable laws shall remain with the State.

Terms and conditions.

"(j)(1) Contracts to make grants pursuant to this section shall contain such terms and conditions as the Secretary may prescribe.

"(2) A grant made under subsection (d) shall not exceed two-thirds of the estimated cost of the work for which the grant is made.

"(3) The Secretary is authorized by grant, contract, or otherwise to provide technical assistance directly to the entities referred to in subsection (d) to assist such entities to carry out the purposes of this section.

"(k) In providing assistance to areawide planning organizations under subsection (d), the Secretary (or the State, in the case of assistance provided through the State) shall give preference to, and may provide additional funding for, organizations which provide for voting rights among their members weighted in proportion to the population of the areas represented by such members.

Grant application criteria.

"(l)(1) The Secretary shall, by regulation, establish criteria for the evaluation and approval of applications for grants under this section.

Performance reports, reviews, and audits.

"(2) For each year in which activities assisted under this section are being carried out, each entity receiving assistance directly from the Secretary shall submit to the Secretary a performance report concerning activities carried out with such assistance. The Secretary shall, at least on an annual basis, make such reviews and audits as may be necessary or appropriate to determine whether a recipient of

funds under this section has carried out activities substantially as described in its application, whether such actions and activities conformed to the requirements of this section and other applicable laws, and whether the recipient has a continuing capacity to carry out such actions and activities in a timely manner. The Secretary shall adjust, reduce, or withdraw grant funds, or take other action as appropriate in accordance with such reviews and audits.

GAO audits.

"(3) Insofar as they relate to funds provided under this section, the financial transactions of recipients of such funds may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

"(m)(1) Grants made under this section shall only be used to carry out planning and related activities necessary to carry out the purposes of this section.

"(2) Grant assistance under this section shall not be used to defray the cost of the acquisition, construction, repair or rehabilitation of, or the preparation of engineering drawings or similar detailed specifications for, specific housing, capital facilities, public works projects, or for financing routine administrative responsibilities of any State or local government.

Communities, grant eligibility.

"(3) Grant assistance under this section may be made available for—

"(A) communities with populations of 25,000 or less; or

"(B) communities with populations above 25,000 but less than 50,000 which meet the criteria set forth in section 119(e) of the Housing and Community Development Act of 1974;

42 USC 5318.

for the preparation of applications for Federal financial assistance, except that there shall be a priority for such assistance to communities with populations of 25,000 or less.

"(n)(1) The Secretary shall utilize, to the maximum extent practicable, the plans and strategies approved by the Secretary under this section to guide policy and funding decisions with respect to the programs and activities of the Department of Housing and Urban Development which affect the geographical areas covered by such plans.

"(2) The Secretary shall encourage other Federal departments and agencies to use the plans and strategies approved by the Secretary, to the maximum extent practicable, to guide policy and funding decisions with respect to their programs and activities which affect the geographical areas covered by such plans and strategies. The Secretary shall encourage other Federal departments and agencies, consistent with their program authority, to adopt approved plans (or components thereof) as all or part of the planning requirements of such departments or agencies.

"(3) A plan and strategy approved by the Secretary under this section shall remain in effect for a maximum of three years following the date of its approval. Any extension of a plan and strategy beyond such three-year term, or any major modification (as approved by the Secretary) of such a plan and strategy during such term, shall meet all of the requirements of this section and must be approved by the Secretary. Any proposed modification shall be submitted to the Secretary prior to its incorporation into the plan or strategy.

"(4) The Secretary shall report to the Congress no later than January 15, 1984, and no later than January 15 of every third year thereafter, concerning the progress made in encouraging other Federal departments and agencies to use approved plans and strategies as provided in paragraphs (1) and (2) of this subsection. Report to Congress.

"(o) The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative effort and mutual assistance in the comprehensive planning for the growth and development of interstate, metropolitian, or other urban areas, and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts. State compacts.

"(p) There is authorized to be appropriate for purposes of this section an amount not to exceed $40,000,000 for the fiscal year 1981, and not to exceed $40,000,000 for the fiscal year 1982. Any amounts appropriated shall remain available until expended.". Appropriation authorization.

SEC. 402. This title shall become effective on the effective date of regulations implementing section 401 of this title, but in no event later than May 1, 1981. Effective date. 40 USC 461 note.

TITLE V—RURAL HOUSING

AUTHORIZATIONS

SEC. 501. (a) Section 513 of the Housing Act of 1949 is amended— 42 USC 1483.

(1) by striking out "not to exceed $4,484,000,000 with respect to fiscal year ending October 15, 1980" in subsection (a) and inserting in lieu thereof "not to exceed $3,797,600,000 with respect to the fiscal year ending September 30, 1981";

(2) by striking out "not less than $3,070,000,000" in subsection (a)(1) and inserting in lieu thereof "not less than $3,120,000,000";

(3) by striking out "not more than $38,000,000" in subsection (a)(2) and inserting in lieu thereof "not more than $25,600,000";

(4) by striking out "and" at the end of subsection (a)(2), by striking out the period at the end of subsection (a)(3) and inserting in lieu thereof "; and", and by adding at the end of subsection (a) the following new paragraph:

"(4) not more than $100,000,000 of such amount shall be available for loans guaranteed pursuant to this title on behalf of borrowers who do not receive assistance pursuant to subparagraph (B) or (C) of section 521(a)(1).";

42 USC 1490a.

(5) by striking out subsection (b)(2) and inserting in lieu thereof the following:

"(2) not to exceed $49,000,000 for loans and grants pursuant to section 504 for the fiscal year ending September 30, 1981, of which not more than $25,000,000 shall be available for grants;";

42 USC 1474.

(6) by striking out "not to exceed $30,000,000 for financial assistance pursuant to section 516 for the fiscal year ending October 15, 1980" in subsection (b)(3) and inserting in lieu thereof "not to exceed $25,000,000 for financial assistance pursuant to section 516 for the fiscal year ending September 30, 1981"; and

42 USC 1486.

(7) by striking out "not to exceed $1,500,000 for the purposes of section 525(a) of which not less than $750,000 shall be used for counseling purchasers and delinquent borrowers and not to exceed $1,000,000 for the purposes of section 525(b) for the fiscal year ending September 30, 1980" in subsection (b)(4) and inserting in lieu thereof "not to exceed $2,000,000 for the purposes of

42 USC 1490e.

42 USC 1490e.

section 525(a), of which not less than $1,000,000 shall be used for counseling purchasers and delinquent borrowers, for the fiscal year ending September 30, 1981".

Ante, p. 1364.

(b) Section 515(b)(5) of such Act is amended by striking out "October 15, 1980" and inserting in lieu thereof "September 30, 1981".

Ante, p. 1364.

(c) Section 517(a)(1) of such Act is amended by striking out "October 15, 1980" and inserting in lieu thereof "September 30, 1981".

Ante, p. 1365.

(d) Section 523 of such Act is amended—

(1) by striking out "October 15, 1980" wherever it appears in subsection (f) and inserting in lieu thereof "September 30, 1981"; and

(2) by striking out subsection (g) and inserting in lieu thereof the following:

Appropriation authorization.

"(g) There are authorized to be appropriated for the purposes of subsection (b)(1)(B) not to exceed $2,500,000 for fiscal year 1981. Amounts appropriated under this subsection, together with principal collections from loans made under appropriations in any previous fiscal years, shall be deposited in the Self-Help Housing Land Development Fund, which shall be available as a revolving fund for making loans under subsection (b)(1)(B). Instruments and property acquired by the Secretary in or as a result of making such loans shall be assets of the Self-Help Land Development Fund.".

Rental assistance contracts.

(e) Section 521(a)(2) of such Act is amended by adding the following new subparagraph at the end thereof:

42 USC 1490a.

"(D) The Secretary, to the extent approved in appropriation Acts, may enter into rental assistance contracts aggregating not more than $493,000,000 in carrying out subparagraph (A) with respect to the fiscal year ending on September 30, 1981, except that such amount shall be reduced by any amount approved in appropriation Acts for use pursuant to section 521(a)(1)(C).".

Ante, p. 1364.

(f) Section 521(a)(1)(C) of such Act is amended—

(1) by striking out the second sentence thereof and inserting in lieu thereof the following: "The amount of such additional assistance which may be approved in appropriation Acts may not exceed an aggregate amount of $100,000,000."; and

(2) by striking out "after October 15, 1980" in the third sentence and inserting in lieu thereof "with respect to any fiscal year beginning on or after October 1, 1981".

REFINANCING FOR CONSUMER COOPERATIVE

42 USC 1485.

SEC. 502. Section 515 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(f) Notwithstanding the provisions of subsections (a) and (b) of this section, the Secretary may make and insure loans to consumer cooperatives to enable such cooperatives to finance the transfers of memberships in the cooperatives upon such terms and conditions as low- and moderate-income persons can reasonably afford, except that such loans shall not be made upon terms more favorable than are

42 USC 1490a.

authorized under section 521(a), and that the total loan to a cooperative under this section shall not exceed the value of the property.".

CONTINUED ELIGIBILITY OF CO-OP MEMBERS

42 USC 1485.

SEC. 503. (a) Section 515(a) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (3) the following:

"(4) such a loan, when made to a consumer cooperative for cooperative housing purposes, may, notwithstanding any other provision of law, be made upon the condition that any person who is admitted as an eligible member and tenant of the cooperative may not subsequently be deprived of his membership or tenancy by reason of his no longer meeting the income eligibility requirements established by the Secretary.".

(b) Section 515(b) of such Act is amended— 42 USC 1485.

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) such a loan, when made to a consumer cooperative for cooperative housing purposes, may, notwithstanding any other provision of law, be made upon the condition that any person who is admitted as an eligible member and tenant of the cooperative may not subsequently be deprived of his membership or tenancy by reason of his no longer meeting the income eligibility requirements established by the Secretary.".

SURPLUS FEDERAL LAND

SEC. 504. The first sentence of section 414 of the Housing and Urban Development Act of 1969 is amended to read as follows: "Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949, any Federal surplus real property within the meaning of such Act may, in the discretion of the Administrator of General Services, be transferred to the Secretary of Housing and Urban Development or the Secretary of Agriculture at the request of either such Secretary for sale or lease by either Secretary at its fair value for use in the provision of housing to be occupied predominantly by families or individuals of low- or moderate-income, assisted under a Federal housing assistance program administered by the Secretary of Housing and Urban Development or the Secretary of Agriculture or under a State or local program found by the appropriate Secretary to have the same general purpose, and for related public commercial or industrial facilities approved by the appropriate Secretary.". Low- or moderate-income housing. 40 USC 484b. 40 USC 471 note.

INTEREST CREDITS

SEC. 505. Section 521(a)(1)(B) of the Housing Act of 1949 is amended by striking out "may" and inserting in lieu thereof "shall". 42 USC 1490a.

DEFINITIONS

SEC. 506. Section 501(b) of the Housing Act of 1949 is amended by adding at the end thereof the following new paragraphs: 42 USC 1471.

"(6) For the purposes of this title, the term 'Indian tribe' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512). 25 USC 450 note. 31 USC 1221 note.

"(7) For the purposes of this title, the term 'rural resident' shall include a family or a person who is a renter of a dwelling unit in a rural area.

"(8) For the purposes of this title, the term 'adequate dwelling' means a decent, safe, and sanitary dwelling unit.".

ASSISTANCE TO INDIANS AND ALASKAN NATIVES AND TO OTHER PERSONS RESIDING IN RESERVATIONS OR VILLAGES

42 USC 1471. SEC. 507. (a) Section 501 of the Housing Act of 1949 is amended by inserting the following after "residents" in subsection (a)(2): ", including persons who reside in reservations or villages of Indian tribes,".

42 USC 1484. (b) Section 514 of such Act is amended by inserting "or to any Indian tribe for such purpose," before "or to any State" in subsection (a).

42 USC 1485. (c) Section 515 of such Act is amended—

(1) by inserting "and Indian tribes" after "consumer cooperatives" in subsection (a); and

(2) by inserting "Indian tribe," after "trust," in subsection (b).

42 USC 1486. (d) Section 516 of such Act is amended by inserting "or any Indian tribe," after "or political subdivision thereof" in subsection (a).

42 USC 1490c. (e) Section 523 of such Act is amended—

(1) by inserting "Indian tribes," after "organizations," in subsection (b)(1)(A);

(2) by inserting "and to Indian tribes" after "private nonprofit organizations" in subsection (b)(1)(B); and

(3) by inserting ", including Indian tribes," after "other associations" in subsection (b)(2).

42 USC 1490d. (f) Section 524(a) of such Act is amended by inserting "and to Indian tribes" after "nonprofit organizations" the first time it appears in the first sentence.

42 USC 1490e. (g) Section 525 of such Act is amended by inserting "Indian tribes," after "organizations," in the first sentences of subsections (a) and (b).

42 USC 1471. (h) The second sentence of section 501(c) of such Act is amended by inserting "or Indian tribe" after "local public agency".

APPLICABILITY OF ENERGY CONSERVATON STANDARDS TO HOMES ACQUIRED AND SOLD BY THE FARMERS' HOME ADMINISTRATION

42 USC 1480. SEC. 508. Section 510(e) of the Housing Act of 1949 is amended by inserting after "standards," in clause (1) the following: "including cost-effective energy conservation standards prescribed under section 42 USC 1479. 509(a),".

CONDITION ON RENT INCREASES IN 514, 515, AND 517 PROJECTS

SEC. 509. Title V of the Housing Act of 1949 is amended by adding the following new section at the end thereof:

"CONDITION ON RENT INCREASES IN 514, 515, AND 517 PROJECTS

42 USC 1490j. "SEC. 530. The Secretary may not approve any increase in rental payments, with respect to units in which the tenants are paying rentals in excess of 25 per centum of their incomes, in any project 42 USC 1484, 1485, 1487. which is assisted under section 514, 515, or 517 and under section 521(a)(1)(B) unless the project owner is receiving, or has applied for 42 USC 1490a. (within the most recent period of 180 days prior to the effective date of such increase), rental assistance payments with respect to such project under section 521(a)(2)(A) of this title or section 8 of the 42 USC 1437f. United States Housing Act of 1937.".

SUBSEQUENT LOANS IN INELIGIBLE AREAS

SEC. 510. Section 510 of the Housing Act of 1949 is amended by inserting the following after "available" in subsection (h): "for subsequent loans to permit necessary dwelling repairs and rehabilitation and". 42 USC 1480.

GUARANTEED LOANS

SEC. 511. Section 517(n) of the Housing Act of 1949 is amended by inserting "moderate or" after "borrowers with". 42 USC 1487.

DISPLACEMENT

SEC. 512. Section 501 of the Housing Act of 1949 is amended by adding at the end thereof the following: 42 USC 1471.

"(g) The programs authorized by this title shall be carried out, consistent with program goals and objectives, so that the involuntary displacement of families and businesses is avoided.".

STUDY

SEC. 513. (a) The Secretary of Agriculture shall study the legislative and administrative changes which would be required—

(1) to conform the procedures of the Farmers Home Administration for reporting budget and accounting information with the reporting principles established by the Presidential Commission on Budget Concepts;

(2) to establish procedures to reflect fully in the Federal Budget the budget authority and budget outlays of the programs administered by the Farmers Home Administration;

(3) to remove budget and accounting practices which are inconsistent with the practices for recording debt transactions as provided in the current policy of the Office of Management and Budget; and

(4) to simplify the authorities provided in title V of the Housing Act of 1949. 42 USC 1471.

(b) In carrying out this study, the Secretary shall consult with the appropriate committees of the Congress, the Comptroller General of the United States, and the Office of Management and Budget.

(c) The Secretary shall report to the Congress the results of such study with recommendations for legislative and administrative changes for each of the matters described in paragraphs (1) through (4) of subsection (a), no later than the date on which the President's Budget for Fiscal Year 1982 is submitted to the Congress. Report to Congress.

PREPAYMENT AND REFINANCING OF LOANS UNDER SECTIONS 514 AND 515

SEC. 514. (a) Section 502(c) of the Housing Act of 1949 is amended— 42 USC 1472.

(1) by striking out "Except as provided in paragraph (2), the" in paragraph (1) and inserting in lieu thereof "The";

(2) by striking out "entered into before or after" each time it appears in paragraph (1) and inserting in lieu thereof "entered into after"; and

(3) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) If any loan which was made or insured under section 514 or 515 pursuant to a contract entered into before December 21, 1979, is Relocation priority. 42 USC 1484, 1485.

prepaid or refinanced on or after the date of enactment of the Housing and Community Development Act of 1980, and tenants of the housing and related facilities financed with such loan are displaced due to a change in the use of the housing, or to an increase in rental or other charges, as a result of such prepayment or refinancing, the Secretary shall provide such tenants a priority for relocation in alternative housing assisted pursuant to this title.".

Study, report to Congress.
42 USC 1472 note.

(b) The Secretary of Agriculture shall conduct a study of, and report to the Congress not later than 6 months after the date of enactment of this Act on, any adverse effects the amendments made by subsection (a) may have on housing, particularly for the elderly and persons of low income.

Condominium and Cooperative Abuse Relief Act of 1980.

TITLE VI—CONDOMINIUM AND COOPERATIVE CONVERSION PROTECTION AND ABUSE RELIEF

SHORT TITLE

15 USC 3601 note.

SEC. 601. This title may be cited as the "Condominium and Cooperative Abuse Relief Act of 1980".

FINDINGS AND PURPOSE

15 USC 3601.

SEC. 602. (a) The Congress finds and declares that—

(1) there is a shortage of adequate and affordable housing throughout the Nation, especially for low- and moderate-income and elderly and handicapped persons;

(2) the number of conversions of rental housing to condominiums and cooperatives is accelerating, which in some communities may restrict the shelter options of low- and moderate-income and elderly and handicapped persons;

(3) certain long-term leasing arrangements for recreation and other condominium- or cooperative-related facilities which have been used in the formation of cooperative and condominium projects may be unconscionable; in certain situations State governments are unable to provide appropriate relief; as a result of these leases, economic and social hardships may have been imposed upon cooperative and condominium owners, which may threaten the continued use and acceptability of these forms of ownership and interfere with the interstate sale of cooperatives and condominiums; appropriate relief from these abuses requires Federal action; and

(4) there is a Federal involvement with the cooperative and condominium housing markets through the operation of Federal tax, housing, and community development laws, through the operation of federally chartered and insured financial institutions, and through other Federal activities; that the creation of many condominiums and cooperatives is undertaken by entities operating on an interstate basis.

(b) The purposes of this title are to seek to minimize the adverse impacts of condominium and cooperative conversions particularly on the housing opportunities of low- and moderate-income and elderly and handicapped persons, to assure fair and equitable principles are followed in the establishment of condominium and cooperative opportunities, and to provide appropriate relief where long-term leases of recreation and other cooperative- and condominium-related facilities are determined to be unconscionable.

CONVERSION LENDING

SEC. 603. It is the sense of the Congress that lending by federally insured lending institutions for the conversion of rental housing to condominiums and cooperative housing should be discouraged where there are adverse impacts on housing opportunities of the low- and moderate-income and elderly and handicapped tenants involved. 15 USC 3602.

DEFINITIONS

SEC. 604. For the purpose of this title— 15 USC 3603.

(1) "affiliate of a developer" means any person who controls, is controlled by, or is under common control with a developer. A person "controls" a developer if the person (A) is a general partner, officer, director, or employer of the developer, (B) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 per centum of the voting interests of the developer, (C) controls in any manner the election of a majority of the directors of the developer, or (D) has contributed more than 20 per centum of the capital of the developer. A person "is controlled by" a developer if the developer (i) is a general partner, officer, director or employer of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 per centum of the voting interests of the person, (iii) controls in any manner the election of a majority of the directors, or (iv) has contributed more than 20 per centum of the capital of the person;

(2) "automatic rent increase clause" means a provision in a lease permitting periodic increases in the fee under the lease which is effective automatically or at the sole option of the lessor, and which provides that the fee shall increase at the rate of an economic, commodity, or consumer price index or at a percentage rate such that the actual increases in the rental payment over the lease term cannot be established with specificity at the time the lease is entered into;

(3) "common elements" means all portions of the cooperative or condominium project, other than the units designated for separate ownership or for exclusive possession or use;

(4) "condominium association" means the organization, whose membership consists exclusively of all the unit owners in the condominium project, which is, or will be, responsible for the operation, administration, and management of the condominium project;

(5) "condominium project" means real estate (A) which has five or more residential condominium units, in each residential structure, and the remaining portions of the real estate are designated for common ownership solely by the owners of those units, each owner having an undivided interest in the common elements, and (B) where such units are or have been offered for sale or sold, directly or indirectly, through the use of any means or instruments of transportation or communication of interstate commerce, or the mails;

(6) "condominium unit" means a portion of a condominium project designated for separate ownership;

(7) "conversion project" means a project, which has five or more residential units, which was used primarily for residential rental purposes immediately prior to being converted to a condominium or cooperative project;

(8) "convey or conveyance" means (A) a transfer to a purchaser of legal title in a unit at settlement, other than as security for an obligation, or (B) the acquisition by a purchaser of a leasehold interest for more than five years;

(9) "cooperative association" means an organization that owns the record interest in the residential cooperative property or a leasehold of the residential property of a cooperative project and that is responsible for the operation of the cooperative project;

(10) "cooperative project" means real estate (A) which has five or more residential cooperative units, in each residential structure, subject to separate use and possession by one or more individual cooperative unit owners whose interest in such units and in the undivided assets of the cooperative association which are appurtenant to the unit are evidenced by a membership or share interest in a cooperative association and a lease or other muniment of title or possession granted by the cooperative association as the owner of all the cooperative property, and (B) an interest in which is or has been offered for sale or lease or sold, or leased directly or indirectly, through use of any means or instruments of transportation or communication in interstate commerce or of the mails;

(11) "cooperative property" means the real estate and personal property subject to cooperative ownership and all other property owned by the cooperative association;

(12) "cooperative unit" means a part of the cooperative property which is subject to exclusive use and possession by a cooperative unit owner. A unit may be improvements, land, or land and improvements together, as specified in the cooperative documents;

(13) "cooperative unit owner" means the person having a membership or share interest in the cooperative association and holding a lease, or other muniment of title or possession, of a cooperative unit that is granted by the cooperative association as the owner of the cooperative property;

(14) "developer" means (A) any person who offers to sell or sells his interest in a cooperative or condominium unit not previously conveyed, or (B) any successor of such person who offers to sell or sells his interests in units in a cooperative or condominium project and who has the authority to exercise special developer control in the project including the right to: add, convert, or withdraw real estate from the cooperative or condominium project, and maintain sales offices, management offices and rental units; exercise easements through common elements for the purpose of making improvements within the cooperative or condominium; or exercise control of the owners' association;

(15) "interstate commerce" means trade, traffic, transportation, communication, or exchange among the States, or between any foreign country and a State, or any transaction which affects such trade, traffic, transportation, communication, or exchange;

(16) "lease" includes any agreement or arrangement containing a condominium or cooperative unit owner's obligation, individually, collectively, or through an association to make payments for a leasehold interest or for other rights to use or possess real estate, or personal property (which rights may include the

right to receive services with respect to such real estate or personal property), except a lease does not include mortgages or other such agreements for the purchase of real estate;

(17) "person" means a natural person, corporation, partnership, association, trust or other entity, or any combination thereof;

(18) "purchaser" means any person, other than a developer, who by means of a voluntary transfer acquires a legal or equitable interest in a unit, other than (A) a leasehold interest (including renewal options) of less than five years, or (B) as security for an obligation;

(19) "real estate" means any leasehold or other estate or interest in, over or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water;

(20) "residential" means used as a dwelling;

(21) "sale", "sale of a cooperative unit" or "sale of a condominium unit" means any obligation or arrangement for consideration for conveyance to a purchaser of a cooperative or condominium unit, excluding options or reservations not binding on the purchaser;

(22) "special developer control" means any right arising under State law, cooperative or condominium instruments, the association's bylaws, charter or articles of association or incorporation, or power of attorney or similar agreement, through which the developer may control or direct the unit owners' association or its executive board. A developer's right to exercise the voting share allocated to any condominium or cooperative unit which he owns is not deemed a right of special developer control if the voting share allocated to that condominium or cooperative unit is the same voting share as would be allocated to the same condominium or cooperative unit were that unit owned by any other unit owner at that time;

(23) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States; and

(24) "tenants' organization" means a bona fide organization of tenants who represent a majority of the occupied rental units in a rental housing project.

EXEMPTIONS

SEC. 605. The provisions of this title shall not apply to— 15 USC 3604.

(1) a cooperative or condominium unit sold or offered for sale by the Federal Government, by any State or local government, by any corporate instrumentality of the United States, or by any agency thereof;

(2) a cooperative or condominium project in which all units are restricted to nonresidential purposes or uses; or

(3) any lease or portion thereof—

(A) which establishes any leasehold or other estate or interest in, over or under land on or in which one or more residential condominium or cooperative units are located, the termination of which will terminate the condominium or

cooperative project, or reduce the number of units in such project, or

(B) which establishes a leasehold interest in, or other rights to use, possess, or gain access to, a condominium or cooperative unit.

CONDOMINIUM AND COOPERATIVE CONVERSIONS

15 USC 3605.

SEC. 606. It is the sense of the Congress that, when multifamily rental housing projects are converted to condominium or cooperative use, tenants in those projects are entitled to adequate notice of the pending conversion and to receive the first opportunity to purchase units in the converted projects and that State and local governments which have not already provided for such notice and opportunity for purchase should move toward that end. The Congress believes it is the responsibility of State and local governments to provide for such notice and opportunity to purchase in a prompt manner. The Congress has decided not to intervene and therefore leaves this responsibility to State and local governments to be carried out.

FEDERAL HOUSING ADMINISTRATION INSURANCE

15 USC 3606.

SEC. 607. Where an application for mortgage or loan insurance in connection with a conversion or purchase of a rental housing project being undertaken by a tenants' organization is submitted, the Secretary of Housing and Urban Development shall expedite the processing of the application in every way and shall make a final decision on such application at the earliest practicable time.

OPTIONAL TERMINATION OF SELF-DEALING CONTRACTS

15 USC 3607.

SEC. 608. (a) Any contract or portion thereof which is entered into after the effective date of this title, and which—

(1) provides for operation, maintenance, or management of a condominium or cooperative association in a conversion project, or of property serving the condominium or cooperative unit owners in such project;

(2) is between such unit owners or such association and the developer or an affiliate of the developer;

(3) was entered into while such association was controlled by the developer through special developer control or because the developer held a majority of the votes in such association; and

(4) is for a period of more than three years, including any automatic renewal provisions which are exercisable at the sole option of the developer or an affiliate of the developer,

may be terminated without penalty by such unit owners or such association.

(b) Any termination under this section may occur only during the two-year period beginning on the date on which—

(1) special developer control over the association is terminated; or

(2) the developer owns 25 per centum or less of the units in the conversion project,

whichever occurs first.

(c) A termination under this section shall be by a vote of owners of not less than two-thirds of the units other than the units owned by the developer or an affiliate of the developer.

(d) Following the unit owners' vote, the termination shall be effective ninety days after hand delivering notice or mailing notice by prepaid United States mail to the parties to the contract. Effective date.

CIVIL ACTION; UNCONSCIONABLE LEASES

SEC. 609. (a) Cooperative and condominium unit owners through the unit owners' association may bring an action seeking a judicial determination that a lease or leases, or portions thereof, were unconscionable at the time they were made. An action may be brought under this section if each such lease has all of the following characteristics: 15 USC 3608.

(1) it was made in connection with a cooperative or condominium project;

(2) it was entered into while the cooperative or condominium owners' association was controlled by the developer either through special developer control or because the developer held a majority of the votes in the owners' association;

(3) it had to be accepted or ratified by purchasers or through the unit owners' association as a condition of purchase of a unit in the cooperative or condominium project;

(4) it is for a period of more than twenty-one years or is for a period of less than twenty-one years but contains automatic renewal provisions for a period of more than twenty-one years;

(5) it contains an automatic rent increase clause; and

(6) it was entered into prior to June 4, 1975.

Such action must be authorized by the cooperative or condominium unit owners through a vote of not less than two-thirds of the owners of the units other than units owned by the developer or an affiliate of the developer, and may be brought by the cooperative or condominium unit owners through the units owners' association. Prior to instituting such action, the cooperative or condominium unit owners must, through a vote of not less than two-thirds of the owners of the units other than units owned by the developer or an affiliate of the developer, agree to enter into negotiation with the lessor and must seek through such negotiation to eliminate or modify any lease terms that are alleged to be unconscionable; if an agreement is not reached in ninety days from the date on which the authorizing vote was taken, the unit owners may authorize an action after following the procedure specified in the preceding sentence. Unit owners authorization.

(b) A rebuttable presumption of unconscionability exists if it is established that, in addition to the characteristics set forth in subsection (a) of this section, the lease—

(1) creates a lien subjecting any unit to foreclosure for failure to make payments;

(2) contains provisions requiring either the cooperative or condominium unit owners or the cooperative or condominium association as lessees to assume all or substantially all obligations and liabilities associated with the maintenance, management and use of the leased property, in addition to the obligation to make lease payments;

(3) contains an automatic rent increase clause without establishing a specific maximum lease payment; and

(4) requires an annual rental which exceeds 25 per centum of the appraised value of the leased property as improved: *Provided,* That, for purposes of this paragraph "annual rental" means the amount due during the first twelve months of the lease for all units, regardless of whether such units were occupied or sold "Annual rental."

"Appraised value."

during that period, and "appraised value" means the appraised value placed upon the leased property the first tax year after the sale of a unit in the condominium or after the sale of a membership or share interest in the cooperative association to a party who is not an affiliate of the developer.

Once the rebuttable presumption is established, the court, in making its finding, shall consider the lease or portion of the lease to be unconscionable unless proven otherwise by a preponderance of the evidence to the contrary.

Evidence presentation.

(c) Whenever it is claimed, or appears to the court, that a lease or any portion thereof is, or may have been, unconscionable at the time it was made, the parties shall be afforded a reasonable opportunity to present evidence at least as to—

(1) the commercial setting of the negotiations;

(2) whether a party has knowingly taken advantage of the inability of the other party reasonably to protect his interests;

(3) the effect and purpose of the lease or portion thereof, including its relationship to other contracts between the association, the unit owners and the developer or an affiliate of the developer; and

(4) the disparity between the amount charged under the lease and the value of the real estate subject to the lease measured by the price at which similar real estate was readily obtainable in similar transactions.

Remedial relief.

(d) Upon finding that any lease, or portion thereof, is unconscionable, the court shall exercise its authority to grant remedial relief as necessary to avoid an unconscionable result, taking into consideration the economic value of the lease. Such relief may include, but shall not be limited to rescission, reformation, restitution, the award of damages and reasonable attorney fees and court costs. A defendant may recover reasonable attorneys' fees if the court determines that the cause of action filed by the plantiff is frivolous, malicious, or lacking in substantial merit.

(e) Nothing in this section may be construed to authorize the bringing of an action by cooperative and condominium unit owners' association, seeking a judicial determination that a lease or leases, or portions thereof, are unconscionable, where such unit owners or a unit owners' association representing them has, after the termination of special developer control, reached an agreement with a holder of such lease or leases which either—

(1) sets forth the terms and conditions under which such lease or leases is or shall be purchased by such unit owners or associations; or

(2) reforms any clause in the lease which contained an automatic rent increase clause, unless such agreement was entered into when the leaseholder or his affiliate held a majority of the votes in the owners' association.

PROHIBITIONS

Developer, reimbursement. 15 USC 3609.

SEC. 610. Any provision in any lease or contract requiring unit owners or the owners' association, in any conversion project involving a contract meeting the requirements of section 608 of this title or in any project involving a lease meeting the requirements of section 609 of this title, to reimburse, regardless of outcome, the developer, his successor, or affiliate of the developer for attorneys' fees or money judgments, in a suit between unit owners or the owners' association

and the developer arising under the lease or agreement, is against public policy and void.

STATE AND LOCAL JURISDICTION

SEC. 611. Nothing in this title may be construed to prevent or limit the authority of any State or local government to enact and enforce any law, ordinance, or code with regard to any condominium, cooperative, or conversion project, if such law, ordinance, or code does not abridge, deny, or contravene any standard for consumer protection established under this title. Notwithstanding the preceding sentence, the provisions of this title, except for the application of section 609 and the prohibition included in section 610 as it relates to a lease with respect to which a cause of action may be established under section 609, shall not apply in the case of any State or local government which has the authority to enact and enforce such a law, ordinance, or code, if, during the three-year period following the date of enactment of this title, such State or local government enacts a law, ordinance, or code, or amendments thereto, stating in substance that such provisions of this title shall not apply in that State or local government jurisdiction. 15 USC 3610.

ADDITIONAL REMEDIES

SEC. 612. (a) Unless otherwise limited as in section 608 or 609 of this title, any person aggrieved by a violation of this title may sue at law or in equity. 15 USC 3611.

(b) In any action authorized by this section for a violation of section 608 or 610 where actual damages have been suffered, such damages may be awarded or such other relief granted as deemed fair, just, and equitable.

(c) Every person who becomes liable to make any payment under this section may recover contributions from any person who, if sued separately, would have been liable to make the same payment.

(d) The amounts recoverable under this section may include interest paid, reasonable attorneys' fees, independent engineer and appraisers' fees, and court costs. A defendant may recover reasonable attorneys' fees if the court determines that the cause of action filed by the plaintiff is frivolous, malicious, or lacking in substantial merit.

JURISDICTION

SEC. 613. The district courts of the United States, the United States courts of any territory, and the United States District Court for the District of Columbia shall have jurisdiction under this title and, concurrent with State courts, of actions at law or in equity brought under this title without regard to the amount in controversy. Any such action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, or in the district where the sale took place, and process in such cases may be served in other districts of which the defendant is an inhabitant or wherever the defendant may be found. No case arising under this title and brought in any State court of competent jurisdiction shall be removed to any court of the United States, except where any officer or employee of the United States in his official capacity is a party. 15 USC 3612.

LIMITATION OF ACTIONS

15 USC 3613.

SEC. 614. No action shall be maintained to enforce any right or liability created by this title unless brought within six years after such cause of action accrued, except that an action pursuant to section 609 must be brought within four years after the date of enactment of this title.

CONTRARY STIPULATIONS VOID

15 USC 3614.

SEC. 615. Any condition, stipulation, or provision binding any person to waive compliance with any provisions of this title shall be void.

ADDITIONAL REMEDIES

15 USC 3615.

SEC. 616. The rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist under Federal or State law.

SEPARABILITY

15 USC 3616.

SEC. 617. If any provisions of this title or the application thereof to any person or circumstance is held invalid, the remainder of this title shall not be affected thereby.

EFFECTIVE DATE

15 USC 3601 note.

SEC. 618. The provisions of this title shall become effective upon enactment, except that section 609, and the prohibition included in section 610 as it relates to a lease with respect to which a cause of action may be established under section 609, shall become effective one year after enactment.

Approved October 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-979 and supplemental reports Pts. II and III, all accompanying H.R. 7262 (all from Comm. on Banking, Finance, and Urban Affairs) and No. 96-1420 (Comm. of Conference).

SENATE REPORTS: No. 96-716 accompanying S. 2716, No. 96-724 accompanying S. 2711, and No. 96-736 accompanying S. 2719 (all from Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 126 (1980):

June 20, 21, considered and passed Senate.

Aug. 18, 21, 22, H.R. 7262 considered and passed House; passage vacated and S. 2719, amended, passed in lieu.

Sept. 30, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 41:

Oct. 8, Presidential statement.

Public Law 96-400
96th Congress

An Act

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

Oct. 9, 1980
[H.R. 7831]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1981, and for other purposes, namely:

Department of Transportation and Related Agencies Appropriation Act, 1981.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

Salaries and Expenses

For necessary expenses of the Office of the Secretary of Transportation, including not to exceed $27,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine, $35,680,000.

Transportation Planning, Research, and Development

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, to remain available until expended, $10,788,699.

Limitation on Working Capital Fund

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $56,843,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriation Acts to the Department of Transportation together with advances and reimbursements received by the Department of Transportation.

COAST GUARD

Operating Expenses

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles, seven for replacement and one new passenger motor vehicle (ambulance); and recreation and welfare, $1,193,112,000 of which $233,935 shall be applied to Capehart Housing debt reduction: *Provided,* That the number of aircraft on hand at any one time shall not exceed one hundred and eighty exclusive of planes and parts stored to meet future attrition: *Provided further,*

14 USC 92 note.

That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 103 except to the extent fees are collected from yacht owners and credited to this appropriation, and, notwithstanding any other law, the Secretary may prescribe fees to recover the expenses of yacht documentation.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; to remain available until September 30, 1985, $333,985,000.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $15,850,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefore otherwise chargeable to lapsed appropriations for this purpose, and payment under the Retired Serviceman's Family Protection and Survivor Benefit Plans, $232,000,000.

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services, $45,007,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for basic and applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law, $25,000,000, to remain available until expended: *Provided,* That there may be credited to this appropriation, funds received from State and local governments, other public authorities, private sources and foreign countries for expenses incurred for research, development, testing and evaluation.

OFFSHORE OIL POLLUTION COMPENSATION FUND

For necessary expenses to carry out the provisions of title III of the Outer Continental Shelf Lands Act Amendments of 1978 (Public Law 95-372), such sums as may be necessary to be derived from the Offshore Oil Pollution Compensation Fund, to remain available until expended. In addition, the Secretary of Transportation is authorized to issue to the Secretary of the Treasury, to meet the obligations of the Fund, notes or other obligations pursuant to section 302 of the Amendments in such amounts and at such times as may be necessary.

43 USC 1811.

43 USC 1812.

COAST GUARD SUPPLY FUND

To increase the capital of the Coast Guard Supply Fund, $1,500,000, to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development and for establishment of air navigation facilities, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing obligation of funds for similar programs of airport and airway development or improvement; purchase of five passenger motor vehicles for replacement only and purchase and repair of skis and snowshoes, $2,233,520,000, of which not to exceed $525,000,000 shall be derived from the Airport and Airway Trust Fund: *Provided,* That there may be credited to this appropriation, funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities: *Provided further,* That none of these funds shall be available for new applicants for the second career training program. 49 USC 1701.

FACILITIES, ENGINEERING AND DEVELOPMENT

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, for acquisition and modernization of facilities and equipment and service testing in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301-1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant, $21,155,000, to remain available until expended: *Provided,* That there may be credited to this appropriation, funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for engineering and development.

FACILITIES AND EQUIPMENT (AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; construction and furnishing of quarters and related accommodations for officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and purchase of one aircraft; to be derived from the Airport and Airway Trust Fund, $350,000,000, to remain available until September 30, 1985: *Provided,* That there may be credited to this appropriation, funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further,* That no part of the foregoing appropriation shall be available for the construction of a new wind tunnel, or to purchase any land for or in connection with

the National Aviation Facilities Experimental Center, or to decommission in excess of five flight service stations.

RESEARCH, ENGINEERING AND DEVELOPMENT (AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering and development in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301-1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant, $85,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That there may be credited to this appropriation, funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering and development.

GRANTS-IN-AID FOR AIRPORTS (LIQUIDATION OF CONTRACT AUTHORIZATION) (AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for airport development under authority contained in section 14 of Public Law 91-258, as amended, and for liquidation of obligations incurred for airport planning and development under other law authorizing such obligations, $595,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended.

49 USC 1714.

OPERATION AND MAINTENANCE, METROPOLITAN WASHINGTON AIRPORTS

For expenses incident to the care, operation, maintenance, improvement, and protection of the federally owned civil airports in the vicinity of the District of Columbia, including purchase of ten passenger motor vehicles for police or ambulance type use, for replacement only; and purchase of two motor bikes for replacement only; purchase, cleaning, and repair of uniforms; and arms and ammunition, $28,585,000: *Provided,* That there may be credited to this appropriation, funds received from air carriers, concessionaires and non-Federal tenants sufficient to cover utility and fuel costs which are in excess of $5,807,000: *Provided further,* That there may be credited to this appropriation, funds received from States, counties, municipalities, other public authorities, or private sources, for expenses incurred in the maintenance and operation of the federally owned civil airports.

CONSTRUCTION, METROPOLITAN WASHINGTON AIRPORTS

For necessary expenses for construction at the federally owned civil airports in the vicinity of the District of Columbia, $16,200,000, to remain available until September 30, 1983.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 849), as may be

necessary in carrying out the programs set forth in the budget for the current fiscal year for aviation insurance activities under said Act.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

In carrying out the program for guarantee of aircraft purchase loans under the Act of September 7, 1957, as amended (49 U.S.C. 1324 note), during fiscal year 1981 total new commitments to guarantee loans shall not exceed $400,000,000 of contingent liability for loan principal, including $100,000,000 for which priority shall be given to guarantees of aircraft purchase loans to commuter air carriers serving smaller communities: *Provided,* That this limitation shall not apply to any guarantee of an aircraft purchase loan where (1) the loan guarantee applicant has submitted a loan guarantee application before October 1, 1980; (2) the Federal Aviation Administration has indicated prior to October 1, 1980, that the applicant was conditionally eligible for a guarantee; (3) the aircraft are financed and delivered in fiscal year 1981 for reasons beyond the purchaser's control; and (4) the aggregate of all guarantees which meet the preceding three conditions when combined with guarantees issued during fiscal year 1980 shall not exceed $650,000,000 in principal amount.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, and research of the Federal Highway Administration not to exceed $191,282,000 shall be paid, in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided,* That not to exceed $39,600,000 of the amount provided herein shall remain available until expended.

MOTOR CARRIER SAFETY

For necessary expenses to carry out motor carrier safety functions of the Secretary, as authorized by the Department of Transportation Act (80 Stat. 939-940), $14,350,000, of which $3,740,000 of the amount appropriated herein shall remain available until expended and not to exceed $1,581,000 shall be available for "Limitation on general operating expenses". 49 USC 1651 note.

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out provisions of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, $9,000,000.

HIGHWAY BEAUTIFICATION

For necessary expenses in carrying out section 131 of title 23 U.S.C. and section 104(a)(11) of the Surface Transportation Assistance Act of 1978, $6,600,000, to remain available until expended. 92 Stat. 2690.

HIGHWAY-RELATED SAFETY GRANTS (LIQUIDATION OF CONTRACT AUTHORIZATION) (TRUST FUND)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, $17,500,000, to be derived from the Highway Trust Fund: *Provided,* That not to exceed $560,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses".

TERRITORIAL HIGHWAYS

For necessary expenses in carrying out the provisions of title 23, United States Code, sections 152, 153, 215, and 402, $6,600,000, to remain available until expended.

NATIONAL SCENIC AND RECREATIONAL HIGHWAY

(LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred in carrying out the provisions of 23 U.S.C. 148, $14,000,000, to remain available until expended, of which $9,000,000 shall be derived from the Highway Trust Fund.

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

For necessary expenses not otherwise provided, to carry out the provisions of 23 U.S.C. 155, $6,525,000, together with unobligated balances appropriated under "access highways to public recreation areas on certain lakes" contained in Public Law 95-85, to remain available until September 30, 1983.

91 Stat. 408.

FEDERAL-AID HIGHWAYS (LIQUIDATION OF CONTRACT AUTHORIZATION) (TRUST FUND)

For carrying out the provisions of title 23, United States Code, which are attributable to Federal-aid highways, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $7,500,000,000, or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

CARPOOL AND VANPOOL PROJECTS

For necessary expenses in carrying out the provisions of section 126(d) of Public Law 95-599, $1,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

23 USC 146 note.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety and functions under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended), $85,876,000, of which $26,963,500 shall be derived from the Highway Trust Fund: *Provided,* That not to exceed $38,477,500

15 USC 1901 note.

shall remain available until expended, of which $11,395,000 shall be derived from the Highway Trust Fund.

STATE AND COMMUNITY HIGHWAY SAFETY (INCLUDING LIQUIDATION OF CONTRACT AUTHORIZATION)

For necessary expenses of State and community highway safety programs authorized by 23 U.S.C. 154, 402, 406 and 407, to remain available until expended, $38,593,000, of which $10,000,000 shall be available for transportation systems management, and of which $26,000,000 shall be derived from the Highway Trust Fund; and for payment of obligations incurred in carrying out the provisions of 23 U.S.C. 402 and 406, to remain available until expended, $163,800,000, to be derived from the Highway Trust Fund.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $7,970,000.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $27,250,000, of which $7,600,000 shall remain available until expended.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $50,000,000, to remain available until expended: *Provided,* That there may be credited to this appropriation, funds received from State and local governments, other public authorities, private sources and foreign countries for expenses incurred for engineering, testing and development.

RAIL SERVICE ASSISTANCE

For necessary expenses for rail service assistance authorized by section 5 of the Department of Transportation Act, as amended, and for necessary administrative expenses in connection with Federal rail assistance programs not otherwise provided for, $90,000,000, together with $9,423,000 for the Minority Business Resource Center, as authorized by title IX of Public Law 94-210, and $25,000,000 for railroad restructuring assistance authorized by title V of Public Law 94-210 as amended, to remain available until expended: *Provided,* That none of the funds provided under this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, in excess of $20,000,000 of contingent liability for loan principal in fiscal year 1981.

49 USC 1654.

49 USC 1654 note.

45 USC 821.

45 USC 661 note.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of Public Law 94-210, as amended, and title I of Public Law 95-599, $350,000,000, to remain available until expended: *Provided,* That, notwithstanding any other provisions of

45 USC 851.
23 USC 101 note.
45 USC 851 note.

50 USC 1431.

law, the provisions of Public Law 85-804 shall apply to the Northeast Corridor Improvement Program: *Provided further,* That the Secretary may waive the provisions of 23 U.S.C. 322 (c) and (d) if he determines such action would serve a public purpose: *Provided further,* That all public at grade-level crossings remaining along the Northeast Corridor upon completion of the project shall be equipped with protective devices including gates and lights.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation, $881,000,000, to remain available until expended, of which $650,000,000 shall be for operating losses incurred by the Corporation, $18,000,000 for the payment of capital and operating expenses incurred from rail services provided under section 403(b) of the Rail Passenger Service Act, as amended, $11,000,000 for labor protection costs authorized by 45 U.S.C. 565, and $202,000,000 for capital improvements: *Provided,* That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the President of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further,* That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1981: *Provided further,* That the incurring of any obligation or commitment by the Corporation for capital improvements not expressly provided for in an appropriation act or prohibited by this Act shall be deemed a violation of 31 U.S.C. 665.

45 USC 563.

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation in fiscal year 1982 for capital improvements, $166,000,000, to remain available until expended.

ALASKA RAILROAD REVOLVING FUND

The Alaska Railroad Revolving Fund shall continue available until expended for the work authorized by law, including operation and maintenance of oceangoing or coastwise vessels by ownership, charter, or arrangement with other branches of the Government service, for the purpose of providing additional facilities for transportation of freight, passenger, or mail, when deemed necessary for the benefit and development of industries or travel in the area served and payment of compensation and expenses as authorized by 5 U.S.C. 8146, to be reimbursed as therein provided: *Provided,* That no employee shall be paid an annual salary out of said fund in excess of the salaries prescribed by the Classification Act of 1949, as amended, for grade GS-15, except the general manager of said railroad, one assistant general manager and five officers at not to exceed the salaries prescribed for members of the Senior Executive Service.

63 Stat. 954.
5 USC 5332 note.

PAYMENTS TO THE ALASKA RAILROAD REVOLVING FUND

For payment to the Alaska Railroad Revolving Fund for capital replacements, improvements, operations and maintenance, $10,640,000, to remain available until expended.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided,* That the aggregate principal amount of guarantees and commitments to guarantee obligations under section 511 of Public Law 94-210, as amended, shall not exceed $770,000,000.

45 USC 832.

45 USC 831-833.

RAIL LABOR ASSISTANCE

For payment of benefits under section 509 of the Regional Rail Reorganization Act of 1973, as amended, $7,500,000, together with $1,500,000 for new career training assistance under section 119 of the Rock Island Transition and Employment Assistance Act, to remain available until expended.

45 USC 779.

Ante, p. 408.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.); 23 U.S.C., chapter 1, in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $22,200,000.

23 USC 101 *et seq.*

RESEARCH, DEVELOPMENT, AND DEMONSTRATIONS AND UNIVERSITY RESEARCH AND TRAINING

For necessary expenses for research and training, as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, $65,500,000: *Provided,* That $63,500,000 shall be available for research, development, and demonstrations, $1,000,000 shall be available for university research and training and not to exceed $1,000,000 shall be available for managerial training as authorized under the authority of said Act.

URBAN DISCRETIONARY GRANTS

For necessary expenses for urban discretionary grants as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until September 30, 1984, $2,190,000,000: *Provided,* That none of these funds shall be available to retrofit any existing fixed rail transit system to comply with regulations issued pursuant to section 504 of the Rehabilitation Act of 1973: *Provided further,* That none of the funds provided by this Act shall be used to enforce the provisions of 43 F.R. 235, page 57145, with respect to any project contract entered into after the date of enactment of this Act unless obligated pursuant to the provisions of section 401, Public Law 95-599: *Provided further,* That grants awarded for contracts for the acquisition of rolling stock, including buses, which

29 USC 794.

49 USC 1602 note.

will result in the expenditure of Federal financial assistance, shall only be awarded based on consideration of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. Where necessary, the Secretary shall assist grantees in making such evaluations.

NON-URBAN FORMULA GRANTS

For necessary expenses for public transportation projects in areas other than urbanized areas as defined for the purposes of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $72,500,000, to remain available until expended.

URBAN FORMULA GRANTS

For necessary expenses for urban formula grants as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $1,455,000,000, to remain available until expended: *Provided,* That grants awarded for contracts for the acquisition of rolling stock, including buses, which will result in the expenditure of Federal financial assistance, shall only be awarded based on consideration of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. Where necessary, the Secretary shall assist grantees in making such evaluation.

LIQUIDATION OF CONTRACT AUTHORIZATION

For payment to the urban mass transportation fund, for liquidation of contractual obligations incurred under authority of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), and 23 U.S.C. 142(c) and of obligations incurred for projects substituted for Interstate System segments withdrawn prior to enactment of the Federal-Aid Highway Act of 1976, $1,500,000,000, to remain available until expended: *Provided,* That none of these funds shall be made available for the establishment of depreciation reserves or reserves for replacement accounts: *Provided further,* That amounts for highway projects substituted for Interstate System segments shall be transferred to the Federal Highway Administration.

23 USC 101 note.

WATERBORNE TRANSPORTATION DEMONSTRATION PROJECT

For necessary expenses for conducting one waterborne transportation demonstration project, $10,000,000 to remain available until expended.

INTERSTATE TRANSFER GRANTS

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) for fiscal year 1981, $800,000,000, to remain available until expended: *Provided,* That amounts for highway projects substituted for Interstate System segments shall be transferred to the Federal Highway Administration.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for the Corporation except as hereinafter provided. 31 USC 849.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $1,460,000 shall be available for administrative expenses which shall be computed on an accrual basis, including not to exceed $3,000 for official entertainment expenses to be expended upon the approval or authority of the Secretary of Transportation: *Provided,* That Corporation funds shall be available for the hire of passenger motor vehicles and aircraft, operation and maintenance of aircraft, uniforms or allowances therefor for operation and maintenance personnel, as authorized by law (5 U.S.C. 5901-5902), and $15,000 for services as authorized by 5 U.S.C. 3109.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, $31,420,000, of which not to exceed $12,291,000 shall remain available until expended for expenses for conducting research and development and not to exceed $3,082,000 shall remain available until expended for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1674).

COOPERATIVE AUTOMOTIVE RESEARCH

For necessary expenses to discharge the functions of a cooperative automotive research program for conducting basic automotive research, $12,000,000, to remain available until expended: *Provided,* That no additional funds shall be expended thereafter, unless authorized by Congress: *Provided further,* That the amount of funds obligated during the period ending 6 months after the date of enactment of this section shall not exceed $6,000,000: *Provided further,* That the Department of Transportation, in cooperation with the Department of Commerce, Department of Defense, National Science Foundation, National Aeronautics and Space Administration, Environmental Protection Agency, and Department of Energy, report to the Congress within 6 months of enactment of this Act its assessment of current Federal automotive and other surface transportation research and development and its analysis of options for the Federal management structure, areas of research, including applied research, detailed objectives, and funding requirements for a cooperative automotive research program: *Provided further,* That it is also the intention of the Congress that an authorization bill with positive or negative recommendations be reported out by the appropriate committees within said period. Report to Congress.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

5 USC app.

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, $13,657,000, together with $8,085,000 derived from funds available under 23 U.S.C. 104(a) for payment of obligations.

TITLE II—RELATED AGENCIES

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

5 USC 5332 note.

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), $18,200,000, of which not to exceed $300 may be used for official reception and representation expenses.

CIVIL AERONAUTICS BOARD

SALARIES AND EXPENSES

For necessary expenses of the Civil Aeronautics Board, including hire of aircraft; hire of passenger motor vehicles; services as authorized by 5 U.S.C. 3109; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); and not to exceed $5,000 for official reception and representation expenses, $28,419,000.

PAYMENTS TO AIR CARRIERS

49 USC 1376, 1389.
49 USC 1301 note.

For payments to air carriers of so much of the compensation fixed and determined by the Civil Aeronautics Board under section 406 and section 419 of the Federal Aviation Act of 1958, as amended, and the Airline Deregulation Act of 1978, as is payable by the Board, $86,300,000, to remain available until expended.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

49 USC 10344 note.

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, $82,400,000: *Provided,* That Joint Board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such.

PAYMENTS FOR DIRECTED RAIL SERVICE

None of the funds provided under this Act shall be available for the execution of programs the obligations for which can reasonably be expected to be in excess of $10,000,000 for directed rail service under 49 U.S.C. 11125 or any other legislation.

PANAMA CANAL COMMISSION

Operating Expenses

For operating expenses necessary for the Panama Canal Commission, including hire of passenger motor vehicles and aircraft; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); not to exceed $25,000 for official reception and representation expenses; operation of guide services; residence for the administrator, contingencies of the administrator, and to employ services as authorized by law (5 U.S.C. 3109); maintaining and altering facilities of other United States Government agencies in the Republic of Panama and facilities of the Government of the Republic of Panama for Panama Canal Commission use; and for payment of liabilities of the Panama Canal Company and Canal Zone Government that were pending on September 30, 1979, or that have accrued thereafter, including accounts payable for capital projects, $370,324,000, to be derived from the Panama Canal Commission Fund: *Provided,* That of the funds appropriated by this section not to exceed $495,000 shall be available for the hire of passenger motor vehicles; not to exceed $776,000 shall be available for the hire of aircraft; not to exceed $136,000 shall be available for uniforms or allowances; not to exceed $272,000 shall be available for operation of guide services; not to exceed $60,000 shall be available for maintenance of a residence for the Administrator; not to exceed $25,000 shall be available for contingencies of the Administrator; not to exceed $520,000 shall be available to employ services as authorized by law (5 U.S.C. 3109); and not to exceed $3,724,000 shall be available for maintaining and altering facilities of other United States Government agencies in the Republic of Panama and facilities of the Government of the Republic of Panama for Panama Canal Commission use. There may be credited to this appropriation, funds received from the Panama Canal Commission's capital outlay account for expenses incurred for supplies and services provided for capital projects and funds received from officers and employees of the Commission and/or commercial insurors of Commission employees for payment to other United States Government agencies for expenditures made for services provided to Commission employees and their dependents by such other agencies. To the extent that the resources of the Fund are not adequate to provide the amount of budget authority provided above, the Commission may incur obligations in advance of adequate receipts in the Fund.

Capital Outlay

For acquisition, construction, and replacement of improvements, facilities, structures, and equipment required by the Panama Canal Commission, including the purchase of not to exceed thirty-one passenger motor vehicles of which nineteen are for replacement only; to employ services authorized by law (5 U.S.C. 3109); for payment of liabilities of the Panama Canal Company and Canal Zone Government that were pending on September 30, 1979, or that have accrued thereafter; to improve facilities of other United States Government agencies in the Republic of Panama and facilities of the Government of the Republic of Panama for Panama Canal Commission use, $21,350,000, to be derived from the Panama Canal Commission Fund and to remain available until expended: *Provided,* That of the funds appropriated by this section not to exceed $16,226,000 shall be

available for navigation projects; not to exceed $1,648,000 shall be available for utilities projects; not to exceed $800,000 shall be available for housing improvements; and not to exceed $2,676,000 shall be available for general support projects. To the extent that the resources of the Fund are not adequate to provide the amount of budget authority provided above, the Commission may incur obligations in advance of adequate receipts in the Fund.

REIMBURSEMENT OF GENERAL FUND

For reimbursement to the General Fund of the Treasury from the Panama Canal Commission Fund, the total outlays in fiscal year 1980 from accounts 9501201 Panama Canal Commission Operating Expenses and 95X1201 Panama Canal Commission Capital Outlay, but in no case less than $350,000,000. The reimbursement shall be made within 30 days after submission by the General Accounting Office of the report on audit of the Panama Canal Commission accounts as required by section 1313 of the Panama Canal Act of 1979.

22 USC 3723.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

INVESTMENT IN FUND ANTICIPATION NOTES

For the acquisition, in accordance with section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, and section 803 of Public Law 95-620, of fund anticipation notes, $25,000,000.

45 USC 829.
45 USC 821, 822 and 822 note, 825.

UNITED STATES RAILWAY ASSOCIATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses to enable the United States Railway Association to carry out its functions under the Regional Rail Reorganization Act of 1973, as amended, $29,000,000, of which not to exceed $4,000 may be available for official reception and representation expenses.

45 USC 701 note.

PAYMENTS FOR PURCHASE OF CONRAIL SECURITIES

For acquisition of series A preferred stock issued by the Consolidated Rail Corporation, to remain available until expended, $185,000,000.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS

For necessary expenses for interest payments, to remain available until expended, $65,910,000: *Provided,* That these funds may be disbursed pursuant to terms and conditions that the Secretary of Transportation may establish.

TITLE III—GENERAL PROVISIONS

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official departmental business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 302. None of the funds provided in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $700,000,000 in fiscal year 1981 for grants-in-aid for airport planning, noise compatibility planning and programs, and development.

Highway-related safety grants.

SEC. 303. None of the funds provided under this Act shall be available for the planning or execution of programs, the obligations for which are in excess of $28,000,000 in fiscal year 1981 for "Highway-related safety grants".

State and community highway safety.

SEC. 304. None of the funds provided under this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $150,405,000 in fiscal year 1981 for "State and Community Highway Safety": *Provided,* That none of the funds under State and Community Highway Safety shall be used for construction, rehabilitation or remodeling costs or for office furnishings and fixtures for State, local, or private buildings or structures.

Panama Canal Commission, pay increases.

SEC. 305. Funds appropriated for the Panama Canal Commission may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 665), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

FAA personnel, dependents' school expenses. 20 USC 241 note.

SEC. 306. Funds appropriated under this Act for expenditure by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents and (2) for transportation of said dependents between schools serving the area which they attend and their places of residence when the Secretary, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 307. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18.

5 USC 5332 note.

Mass transit fare for elderly and handicapped. 49 USC 1604.

SEC. 308. None of the funds provided under this Act shall be made available under section 5 of the Urban Mass Transportation Act of 1964, as amended, to support mass transit facilities, equipment, or operating expenses unless the applicant for such assistance has given satisfactory assurances in such manner and forms as the Secretary may require, and in accordance with such terms and conditions as the Secretary may prescribe, that the rates charged elderly and handicapped persons during nonpeak hours shall not exceed one-half of the

rates generally applicable to other persons at peak hours: *Provided,* That the Secretary, in prescribing the terms and conditions for the provision of such assistance shall (1) permit applicants to continue the use of preferential fare systems for elderly or handicapped persons where those systems were in effect on or prior to November 26, 1974, (2) allow applicants a reasonable time to expand the coverage of operating preferential fare systems as appropriate, (3) allow applicants to continue to use preferential fare systems incorporating the offering of a free return ride upon payment of the generally applicable full fare where any such applicant's existing fare collection system does not reasonably permit the collection of half fares, and (4) allow applicants to define the eligibility of "handicapped persons" for the purposes of preferential fares in conformity with other Federal laws and regulations governing eligibility for benefits for disabled persons.

Fiscal year limitation.

SEC. 309. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Federal-aid highways.

SEC. 310. None of the funds provided under or included in this Act shall be available for the planning or execution of programs, the obligations for which are in excess of $8,750,000,000 for "Federal-Aid Highways" in fiscal year 1981: *Provided,* That this limitation shall not apply to obligations for emergency relief authorized by 23 U.S.C. 125: *Provided further,* for replacement of the West Seattle bridge in the State of Washington, $50,000,000 to be made available from obligations authorized by 23 U.S.C. 125 on August 4, 1978: *Provided further,* That this limitation shall not become effective if subsequent legislation containing an obligation limitation on "Federal-Aid Highways" for fiscal year 1981 is enacted into law by September 30, 1980: *Provided further,* That notwithstanding any other provisions of law, the Secretary of Transportation shall, not later than 60 days after date of enactment of this Act, designate under 23 U.S.C. 103(e)(1) as a route on the National System of Interstate and Defense Highways 3.03 miles in the State of Missouri extending I-170 southward from I-70 to tie into U.S. 40 and 6.25 miles in the State of Alabama connecting I-10 and I-65 in the vicinity of Mobile-Prichard: *Provided further,* That there shall be no obligation constraints placed upon ongoing emergency projects funded under the Discretionary Bridge Replacement Fund or the Emergency Relief Fund.

West Seattle bridge, Wash.

Funding allocation formula.

(a) For fiscal year 1981, the Secretary of Transportation shall control the obligation of the limitation imposed by the above allocation according to the following formula: 80 per centum in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to a State for fiscal year 1981 bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year; the remaining 20 per centum not so allocated, in the order in which States having obligated all such sums so allocated submit projects on or after August 1, 1981, to the Secretary of Transportation for his approval and in the amounts for such projects.

(b) Notwithstanding subsection (a), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1981, revise a distribution of the 80 per centum made under subsection (a) if a State will not obligate the amount distributed during fiscal year 1981 and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during fiscal year 1981; and

(3) not distribute amounts authorized for administrative expenses and forest highways.

Great River Road.

SEC. 311. Obligations for the Great River Road shall include preliminary engineering and the planning or execution of projects for the acquisition of areas of archeological, scientific, or historical importance and of necessary easements for scenic purposes, the construction or reconstruction of roadside rest areas, bicycle trails, and scenic viewing areas, the reconstruction and rehabilitation of existing road segments, and the construction of new route segments. No such funds, however, shall be used for constructing new segments until 60 per centum of the Great River Road in each State is completed: *Provided,* That such completion may be waived if the Administrator determines that circumstances in such State prevent such completion: *Provided further,* None of the funds provided under this Act shall be available for the planning or execution of programs for the Great River Road, the obligations for which are in excess of $37,500,000 in fiscal year 1981.

Waiver.

Dulles airport access highway extension.

SEC. 312. None of the funds provided under this Act shall be available for constructing an extension of the Dulles airport access highway prior to an agreement with the Commonwealth of Virginia under which that Commonwealth assumes responsibility for maintenance and operation of such extension.

Offshore Oil Pollution Compensation Fund.

SEC. 313. None of the funds provided in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $60,000,000 in fiscal year 1981 for the "Offshore Oil Pollution Compensation Fund".

Panama Canal Commission.

SEC. 314. None of the funds appropriated in this Act for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

Rail-highway crossings.

SEC. 315. None of the funds provided in this Act may be used for planning or construction of rail-highway crossings under section 322(a) of title 23, United States Code, or under sections 701(a)(5) or section 703(1)(A) of the Railroad Revitalization and Regulatory Reform Act of 1976 at the—

45 USC 851, 853.

(1) School Street crossing in Groton, Connecticut; and

(2) Broadway Extension crossing in Stonington, Connecticut.

Regulatory or adjudicatory proceedings.

SEC. 316. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

Vehicles, inspection fees or sticker requirements.

SEC. 317. None of the funds in this Act shall be used to assist, directly or indirectly, any State in imposing mandatory State inspection fees or sticker requirements on vehicles which are lawfully registered in another State, including vehicles engaged in interstate commercial transportation which are in compliance with Part 396—Inspection and Maintenance of the Federal Motor Carrier Safety Regulations of the U.S. Department of Transportation.

49 CFR Part 396.

Consulting service contracts.

SEC. 318. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts

which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within 24 months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

Contract requirements.

SEC. 319. No part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared and (B) the contractor who prepared the report pursuant to such contract.

End-of-fiscal-year spending limitation.

SEC. 320. (a) No appropriations made available in this Act shall be obligated in a manner that would cause obligations from the total budget authority available to any department, agency, or establishment (as defined in 31 U.S.C. chapter 1, subchapter I, section 2) or any major administrative subdivision thereof during the fiscal year ending September 30, 1981, to exceed 30 per centum for the last quarter of such fiscal year or 15 per centum for any month in the last quarter of such fiscal year. The Director of the Office of Management and Budget may waive the requirements of the preceding sentence with respect to any program or activity if the Director determines in writing that the waiver is necessary to avoid a serious disruption in carrying out such program or activity.

Quarterly report to congressional committees and OMB Director.

(b) Not later than 45 days after the close of each quarter of the fiscal year, the head of each department, agency, or establishment shall submit a report to the Committees on Appropriations and to the Director of the Office of Management and Budget, specifying the amount of obligations incurred during the quarter and the percentage of total available budget authority for the fiscal year which the obligations constitute.

(c) The Director of the Office of Management and Budget shall keep the Committees on Appropriations fully informed of actions taken to carry out the requirements of this section, including any waivers granted, and shall promptly report in writing any situation in which the obligations of any department, agency, or establishment exceed such requirements other than pursuant to a waiver. Not later than December 31, 1981, the director shall submit a report to the Committees on Appropriations on the results and impact of the requirements of this section and actions taken under this section, including the effects upon procurement and apportionment processes, together with any recommendations the Director considers appropriate. Concurrent with the submittal of the report to the Committees on Appropriations under the preceding sentence, the director shall submit a copy of such report to the Comptroller General, who shall promptly review that report and submit to the Committees on Appropriations an analysis of the report and any recommendations which the Comptroller General considers appropriate.

Report to congressional committees.

Unresolved audits.

SEC. 321. All unresolved audits currently pending within agencies and departments, for which appropriations are made under this Act, shall be resolved not later than September 30, 1981. Any new audits, involving questioned expenditures, arising after the enactment of this Act shall be resolved within 6 months of completing the initial audit report.

Overdue debts owed U.S.

SEC. 322. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible.

Consultant services reduction.

SEC. 323. (a) Notwithstanding any other provision of this Act, the amounts otherwise available to agencies under the Act for procurement of consultant services shall be reduced by the following amounts: Department of Transportation, $3,894,000.

Estimate, submittal to congressional committees. 31 USC 28. 31 USC 2.

(b) For fiscal year 1982 and thereafter, a department or establishment—as defined in section 2 of the Budget and Accounting Act, 1921—shall submit annually to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which such funds are located; and a brief description of the need for consulting services, including a list of major programs that require consulting services.

Progress evaluation, submittal to Congress. 31 USC 28.

(c) For fiscal year 1982 and thereafter, the Inspector General of such department or establishment, or comparable official, or if there is no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements.

Wheelchair lifts.

SEC. 324. None of the funds in this Act may be used for the planning or execution of programs to compel local transit authorities to purchase wheelchair lifts to comply with section 504 of the Rehabilitation Act of 1973, except—

29 USC 794.

(1) to the extent which would be required under the amendment contained in section 118 of S. 2720 (96th Congress, Federal Public Transportation Act of 1980), as passed by the Senate on June 25, 1980, or

(2) where such authorities have elected to purchase such lifts.

This section shall be effective only until modified by subsequent legislation.

SEC. 325. None of the funds in this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

Advertising or public relations funds, reduction.

SEC. 326. Notwithstanding any other provision of this Act, any amount appropriated by this Act for the fiscal year ending September 30, 1981, for any department, agency, or instrumentality of the United States Government, which is available to pay for or conduct advertising or public relations activities is reduced by 10 percent.

Interstate highway I-69.

SEC. 327. None of the funds provided in this Act shall be available for interstate highway I-69 between Charlotte and Lansing, Michigan, for a period of 90 days after the date of enactment of this Act.

Washington National Airport.

SEC. 328. None of the funds in this Act shall be used to mandate any reduction under the Washington National Airport Policy of the

number of certificated air carrier slots per hour at Washington National Airport below the number authorized on September 12, 1980, until April 26, 1981.

Short title.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriation Act, 1981."

Approved October 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1193 (Comm. on Appropriations) and No. 96-1400 (Comm. of Conference).

SENATE REPORT No. 96-932 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 126 (1980):

July 31, considered and passed House.

Sept. 18, considered and passed Senate, amended.

Sept. 30, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments. Senate agreed to conference report and concurred in House amendments.

Public Law 96-401
96th Congress

An Act

Relating to certain leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation.

Oct. 9, 1980
[S. 2126]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

Northern Cheyenne Indian Reservation, leases.

(1) certain mineral leases and prospecting permits entered into between the Northern Cheyenne Tribal Council and private parties in 1969, 1970, and 1971, presently encumber approximately 56 per centum of the lands within the boundaries of the Northern Cheyenne Indian Reservation;

(2) due to the likelihood of permanent and large-scale physical and social disruption of their tribal community that would result from development under such leases and permits, the Northern Cheyenne Indian Tribe has been and continues to be opposed to any development under these leases and permits;

(3) although such leases and permits were approved by representatives of the Secretary of the Interior, there are serious questions whether such approval is lawful and consistent with the trust responsibility of the Secretary of the Interior to "act in the best interests" of Indian tribes and individuals;

(4) the present impasse with regard to such leases and permits, unless resolved, can only result in expensive and time-consuming litigation that does not hold out the likelihood of a satisfactory solution that would be fair to all parties; and

(5) cancellation of such leases and permits, and providing a fair remedy to any party or parties whose property interest, invested in good faith, would be adversely affected by such cancellation, appears to be the most direct and effective manner within which to resolve this impasse.

Cancellation agreement negotiations.

SEC. 2. For the purpose of entering into a cancellation agreement under section 3 of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to negotiate with the Northern Cheyenne Tribe and each party holding a lease, permit, or right to a lease issued under the provisions of the Act of May 11, 1938 (52 Stat. 347; 25 U.S.C. 396a), as follows:

Name of companies	Document numbers	Document dates
Leases		
Peabody Coal Company	14-20-0257-897	November 17, 1970
	14-20-0257-899	November 17, 1970
	14-20-0257-900	November 17, 1970
	14-20-0257-901	November 17, 1970
	14-20-0257-902	November 17, 1970
	14-20-0257-903	November 17, 1970
Permits		
Peabody Coal Company	C-57-P-30	August 18, 1969
	C-57-P-31	August 18, 1969
	C-57-P-32	August 18, 1969
Bruce L. Ennis (now assigned to Chevron Oil).	C-57-P-42	May 21, 1971
Bruce L. Ennis	C-57-P-45	June 14, 1971
Norsworthy and Reger, Incorporated	C-57-P-46	June 14, 1971
	C-57-P-47	June 14, 1971
Consolidation Coal Company	C-57-P-43	May 21, 1971
Meadowlark Farms, Incorporated (subsidiary of AMAX, Incorporated).	C-57-P-40	May 21, 1971
	C-57-P-41	May 21, 1971
	C-57-P-44	May 21, 1971

SEC. 3. (a) With respect to any lease, permit, or right to a lease referred to in section 2 of this Act, the Secretary is authorized to execute a cancellation agreement under which the Secretary, the Northern Cheyenne Tribe, and the party holding such lease, permit, or right to a lease agree in writing that such lease, permit, or right to a lease is canceled and under which such party shall be issued:

Federal coal leases.

(1) a noncompetitive lease or leases for such federally owned coal deposits which for the foreseeable future are unlikely to be separately mined efficiently or economically except by incorporation into an existing mining unit controlled by such party, and for the surface of public lands containing such deposits, as may be agreed upon by the Secretary and such party. Such lease or leases shall be issued at the fair market value provided for in subsection (c) of this section only after a determination by the Secretary that such deposits and lands are acceptable for further consideration for coal leasing: *Provided,* That such cancellation agreement shall also provide that if, after further consideration, the Secretary determines that all or any part of such deposits or lands are not acceptable for coal leasing, such party shall be issued a certificate of bidding rights that may be used to acquire Federal coal leases at competitive sales. Such bidding rights shall have a value equal to the amount of the actual cash investment, plus interest on such investment compounded at a rate not to exceed 7 per centum per annum, made by the party involved in connection with the lease, permit, or right to a lease to be canceled under such cancellation agreement, multiplied by the percentage of the otherwise recoverable tonnage of any coal deposits for which the party does not, by reason of such determination by the Secretary, receive a lease under this subsection; or,

Bidding rights certificate.

(2) a certificate of bidding rights that may be used to acquire Federal coal leases at competitive sales. Such bidding rights shall have a value equal to the amount of the actual cash investment, plus interest on such investment compounded at a rate not to exceed 7 per centum per annum, made by the party involved in connection with the lease, permit, or right to a lease to be canceled under such cancellation agreement.

(b) A determination by the Secretary under subsection (a)(1) of this section shall be final. Final determination.

(c) Any noncompetitive lease issued under subsection (a)(1) of this section shall be valued at a sum equal to fair market value, as determined by the Secretary. Any bonus due may be reduced by an amount equal to so much of the investment and interest on such investment, compounded at a rate not to exceed 7 per centum per annum, made by the party involved in connection with the lease, permit, or right to a lease, to be canceled under this section as the Secretary may consider appropriate. Fair market value. Bonus.

(d) Any lease issued under subsection (a)(1) of this section shall, except as provided in this Act, be issued under, and be subject to the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.), and the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.).

SEC. 4. (a) With respect to any lease referred to in section 2 of this Act, any cancellation agreement entered into pursuant to section 3 of this Act shall be valid only if executed in writing, before November 1, 1980, by the Secretary, the Northern Cheyenne Tribe, and the party holding the lease. If such cancellation agreement is not so executed, such lease shall be canceled on November 1, 1980. Deadlines.

(b) With respect to any permit or right to a lease referred to in section 2 of this Act, any cancellation agreement entered into pursuant to section 3 of this Act shall be valid only if executed in writing, on or before January 1, 1982, by the Secretary, the Northern Cheyenne Tribe, and the party holding the permit or right to a lease. If such cancellation agreement is not so executed, such permit or right to a lease shall be canceled upon the expiration of a period ending ninety days after any date on which the Secretary, the Northern Cheyenne Tribe, and such party agree in writing that negotiations under section 2 of this Act are at an impasse, or on January 1, 1982, whichever occurs first.

(c) If any lease, permit, or right to a lease is canceled under subsection (a) or (b) of this section, the United States Court of Claims shall have jurisdiction to render judgment on any claim against the United States arising out of such cancellation. U.S. Court of Claims, jurisdiction.

SEC. 5. (a) Execution of any cancellation agreement under section 3 of this Act shall extinguish any claim or liability that may otherwise arise in connection with the lease, permit, or right to a lease canceled under such agreement. Extinguished claim or liability.

Claim or liability.

(b) With respect to any lease, permit, or right to a lease canceled under section 4 of this Act, nothing in this Act shall establish or extinguish any claim or liability that may arise in connection with such lease, permit, or right to a lease so canceled.

Report to Congress.

SEC. 6. Not later than March 1, 1982, the Secretary shall report to the Congress on the implementation of this Act.

Approved October 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1370 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-883 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 18, considered and passed Senate.
Sept. 29, considered and passed House.

Public Law 96-402
96th Congress

An Act

To amend title 10, United States Code, to remove certain inequities in the Survivor Benefit Plan provided for under chapter 73 of such title, and for other purposes.

Oct. 9, 1980
[S. 91]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniformed Services Survivor Benefits Amendments of 1980".

Uniformed Services Survivor Benefits Amendments of 1980. 10 USC 1447 note.

SEC. 2. Section 1447(2) of title 10, United States Code, relating to definitions, is amended—

(1) in subparagraph (C)—

(A) by inserting "but which is not less than $300" after "under the Plan"; and

(B) by striking out ", but not less than $300;" and inserting in lieu thereof a period; and

(2) by striking out "as increased from time to time under section 1401a of this title.".

SEC. 3. (a) Subsection (a) of section 1451 of title 10, United States Code, relating to the amount of annuities under the Survivor Benefit Plan, is amended to read as follows:

Monthly annuity. 10 USC 1450.

"(a)(1) The monthly annuity payable to a widow, widower, or dependent child who is entitled under section 1450(a) of this title to an annuity shall be—

"(A) 55 percent of the base amount, as adjusted from time to time under section 1401a of this title, if the annuity is provided by virtue of eligibility under section 1448(a)(1)(A) of this title; or

10 USC 1401a.
10 USC 1448.

"(B) a lesser percentage (determined by the Secretary of Defense in accordance with subsection (d)) of the base amount, as adjusted from time to time under section 1401a of this title on or after the date the person becomes entitled to retired pay under chapter 67 of this title, if the annuity is provided by virtue of eligibility under section 1448(a)(1)(B) of this title.

10 USC 1331.

"(2) In the case of a widow who has one dependent child, the monthly annuity shall be reduced by the lesser of (A) an amount equal to the amount of the mother's benefit, if any, to which the widow would be entitled under title II of the Social Security Act (42 U.S.C. 401 et seq.) based solely upon service by the person concerned as described in section 210(l)(1) of such Act (42 U.S.C. 410(l)(1)) and calculated assuming that the person concerned lived to age 65, or (B) an amount equal to 40 percent of the amount of the monthly annuity as determined under paragraph (1).

"(3) When the widow or widower reaches age 62, or there is no longer a dependent child, whichever occurs later, the monthly annuity shall be reduced by the lesser of (A) an amount equal to the amount of the survivor benefit, if any, to which the widow or widower would be entitled under title II of the Social Security Act (42 U.S.C. 401 et seq.) based solely upon service by the person concerned as described in section 210(l)(1) of such Act (42 U.S.C. 410(l)(1)) and calculated assuming that the person concerned lives to age 65, or (B)

an amount equal to 40 percent of the amount of the monthly annuity as determined under paragraph (1). For the purpose of the preceding sentence, a widow or widower shall not be considered as entitled to a benefit under title II of the Social Security Act (42 U.S.C. 401 et seq.) to the extent that such benefit has been offset by deductions under section 203 of such Act (42 U.S.C. 403) on account of work.

"(4) In the computation of any reduction made under paragraph (2) or (3), there shall be excluded any period of service described in section 210(l)(1) of the Social Security Act (42 U.S.C. 410(l)(1)) which was performed after the effective date of the Uniformed Services Survivor Benefits Amendments of 1980 and which involved periods of service of less than 30 continuous days for which the person concerned is entitled to receive a refund under section 6413(c) of the Internal Revenue Code of 1954 of the social security tax which he had paid.".

Ante, p. 1705.

26 USC 6413.

(b) Subsection (c) of such section is amended—

10 USC 1448.

(1) by striking out "section, or section 1448(d) of this title, on the day before the effective day of that increase" in the first sentence and inserting in lieu thereof "section or under section 1448(d) of this title"; and

(2) by striking out "title, or" in the second sentence and inserting in lieu thereof "title or under".

(c) Subsection (d) of such section is amended by striking out "(a)(2)" and inserting in lieu thereof "(a)(1)(B)".

SEC. 4. Section 1452 of title 10, United States Code, relating to reductions in retired and retainer pay, is amended by adding at the end thereof the following new subsections:

Plan participation, discontinuance request.

"(g)(1) Notwithstanding any other provision of this subchapter but subject to paragraphs (2) and (3), any person who has elected to participate in the Plan and who is suffering from a service-connected disability rated by the Veterans' Administration as totally disabling and has suffered from such disability while so rated for a continuous period of 10 or more years (or, if so rated for a lesser period, has suffered from such disability while so rated for a continuous period of not less than 5 years from the date of such person's last discharge or release from active duty) may discontinue participation in the Plan by submitting to the Secretary concerned a request to discontinue participation in the Plan. Any such person's participation in the Plan shall be discontinued effective on the first day of the first month following the month in which a request under this paragraph is received by the Secretary concerned. Effective on such date, the Secretary concerned shall discontinue the reduction being made in such person's retired or retainer pay on account of participation in the Plan or, in the case of a person who has been required to make deposits in the Treasury on account of participation in the Plan, such person may discontinue making such deposits effective on such date. Any request under this paragraph to discontinue participation in the Plan shall be in such form and shall contain such information as the Secretary concerned may require by regulation.

"(2) A person described in paragraph (1) may not discontinue participation in the Plan under such paragraph without the written consent of the beneficiary or beneficiaries of such person under the Plan.

"(3) The Secretary concerned shall furnish promptly to each person who files a request under paragraph (1) to discontinue participation in the Plan a written statement of the advantages of participating in the Plan and the possible disadvantages of discontinuing participation. A person may withdraw a request made under paragraph (1) if it

Request withdrawal.

is withdrawn within 30 days after having been submitted to the Secretary concerned.

"(4) Upon the death of any person described in paragraph (1) who has discontinued participation in the Plan in accordance with this subsection, any amounts deducted from the retired or retainer pay of the deceased under section 1452 of this title shall be refunded to the widow or widower. Deductions, refund.

Ante, p. 1706.

"(5) Any person described in paragraph (1) who has discontinued participation in the Plan may again elect to participate in the Plan if (A) at any time after having discontinued participation in the Plan the Veterans' Administration reduces such person's service-connected disability rating to less than total, and (B) such person applies to the Secretary concerned, within such period of time after the reduction in such person's service-connected disability rating has been made as the Secretary concerned may prescribe, to again participate in the Plan and includes in such application such information as the Secretary concerned may require. Such person's participation in the Plan under this paragraph is effective beginning on the first day of the month after the month in which the Secretary concerned receives the application for resumption of participation in the Plan, and the Secretary concerned shall begin making reductions in such person's retired or retainer pay, or require such person to make deposits in the Treasury under subsection (d), as appropriate, effective on such day. Plan participation, resumption.

"(h) Whenever retired and retainer pay is increased under section 1401a of this title, the amount of the reduction to be made under subsection (a) or (b) in the retired or retainer pay of any person shall be increased at the same time and by the same percentage as such retired or retainer pay is increased under section 1401a of this title.". Retired and retainer pay, increased, reduction.

SEC. 5. (a)(1) The Secretary concerned shall pay an annuity to any individual who is the surviving spouse of a member of the uniformed services who— Surviving spouse, annuity payment provisions. 10 USC 1448 note.

(A) died before September 21, 1972;

(B) was serving on active duty in the uniformed services at the time of his death and had served on active duty for a period of not less than 20 years; and

(C) was at the time of his death entitled to retired or retainer pay or would have been entitled to that pay except that he had not applied for or been granted that pay.

(2) An annuity under paragraph (1) shall be paid under the provisions of subchapter II of chapter 73 of title 10, United States Code, in the same manner as if such member had died on or after September 21, 1972. 10 USC 1447.

(b)(1) The amount of retired or retainer pay to be used as the basis for the computation of an annuity under subsection (a) is the amount of the retired or retainer pay to which the member would have been entitled if the member had been entitled to that pay based upon his years of active service when he died, adjusted by the overall percentage increase in retired and retainer pay under section 1401a of title 10, United States Code (or any prior comparable provision of law), during the period beginning on the date of the member's death and ending on the day before the effective date of this section.

(2) In addition to any reduction required under the provisions of subchapter II of chapter 73 of title 10, United States Code, the annuity paid to any surviving spouse under this section shall be reduced by any amount such surviving spouse is entitled to receive as an annuity under subchapter I of such chapter. Annuity payment, reduction.

10 USC 1431.

10 USC 1447.

(c) If an individual entitled to an annuity under this section is also entitled to an annuity under subchapter II of chapter 73 of title 10, United States Code, based upon a subsequent marriage, the individual may not receive both annuities but must elect which to receive.

Definitions.

(d) As used in this section:

(1) The term "uniformed services" means the Armed Forces and the commissioned corps of the Public Health Service and of the National Oceanic and Atmospheric Administration.

(2) The term "surviving spouse" has the meaning given the terms "widow" and "widower" in section 1447 of title 10, United States Code.

(3) The term "Secretary concerned" has the meaning given such term in section 101(8) of title 10, United States Code, and includes the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration, and the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service.

SEC. 6. Section 4 of the Act entitled "An Act to amend chapter 73 of title 10, United States Code, to establish a Survivor Benefit Plan, and for other purposes", approved September 21, 1972 (10 U.S.C. 1448 note), is amended—

(1) by striking out "section 9(b) of the Veterans' Pension Act of 1959 (73 Stat. 436)" in subsection (a)(2) and inserting in lieu thereof "section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978";

38 USC 521 note.

(2) by striking out "in the limitation on annual income for purposes of eligibility for benefits under section 541(b) of title 38, United States Code" in the first sentence of subsection (c) and inserting in lieu thereof "under section 3112 of title 38, United States Code, in the maximum annual rate of pension under section 541(b) of such title"; and

38 USC 541.

(3) by striking out "limitation on annual income" in the second sentence of subsection (c) and inserting in lieu thereof "the maximum annual rate of pension".

Effective date.
10 USC 1447 note.

SEC. 7. The amendments made by sections 2, 3, and 4 of this Act and the provisions of section 5 of this Act shall be effective on the first day of the second calendar month following the month in which this Act is enacted and shall apply to annuities payable by virtue of such amendments and provisions for months beginning on or after such date. No benefits shall accrue to any person by virtue of the enactment of this Act for any period before the date of the enactment of this Act.

Approved October 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1315 (Comm. on Armed Services).
SENATE REPORT No. 96-748 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 28, considered and passed Senate.
Sept. 22, considered and passed House, amended.
Sept. 29, Senate concurred in House amendment.

Public Law 96-403
96th Congress

An Act

To amend title II of the Social Security Act to make necessary adjustments in the allocation of social security tax receipts between the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

Oct. 9, 1980
[H.R. 7670]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 201(b)(1) of the Social Security Act is amended by striking out clauses (H) through (K) and inserting in lieu thereof the following: "(H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1980, and so reported, (I) 1.12 per centum of the wages (as so defined) paid after December 31, 1979, and before January 1, 1981, and so reported, (J) 1.30 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1982, and so reported, (K) 1.65 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1985, and so reported, (L) 1.90 per centum of the wages (as so defined) paid after December 31, 1984, and before January 1, 1990, and so reported, and (M) 2.20 per centum of the wages (as so defined) paid after December 31, 1989, and so reported,".

Social security tax receipts, allocation adjustments.
42 USC 401.

(b) Section 201(b)(2) of such Act is amended by striking out clauses (H) through (K) and inserting in lieu thereof the following: "(H) 1.0400 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1980, (I) 0.7775 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1979, and before January 1, 1981, (J) 0.9750 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1982, (K) 1.2375 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1985, (L) 1.4250 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1984, and before January 1, 1990, and (M) 1.6500 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989,".

42 USC 401 note.

SEC. 2. The amendments made by the first section of this Act shall apply with respect to remuneration paid, and taxable years beginning, after December 31, 1979.

Approved October 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1148 (Comm. on Ways and Means).
SENATE REPORT No. 96-946 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 21, considered and passed House.
Sept. 25, considered and passed Senate.

Public Law 96-404
96th Congress

An Act

To authorize the Three Affiliated Tribes of the Fort Berthold Reservation to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes.

Oct. 9, 1980
[S. 341]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fort Berthold Reservation Tribes, damage claims against U.S.

SECTION 1. Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), and notwithstanding the lapse of time, statutes of limitations, or the defense of res judicata or collateral estoppel, or any other provisions of law, jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render judgment on any claim filed by the Three Affiliated Tribes of the Fort Berthold Reservation within one year from the date of this Act for the taking under the fifth amendment of the Constitution of the nine million eight hundred and forty-six thousand one hundred eighty-six and ninety-three one-hundredths acres of land defined as the territory of the Three Affiliated Tribes in the Treaty of Fort Laramie of September 17, 1851 (11 Stat. 749), to which the Three Affiliated Tribes of the Fort Berthold Reservation and the United States were parties, being the same land determined by the Court of Claims to have an average value of 50 cents per acre for a total of $4,923,093.47 in Fort Berthold Indians versus United States (71 Ct. Cl. 308) (1930) (hereinafter "prior case"): *Provided,* That the value of the land fixed at an average of 50 cents per acre in the prior case shall be binding on the parties in any suit brought under this Act.

USC prec. title 1.

Award.

SEC. 2. If the Court of Claims determines that the claimant is entitled to just compensation under the fifth amendment, the Court shall enter an award computed on the basis of established judicial precedent: *Provided, however,* That as a measure of just compensation the Court shall compute interest at the rate of 5 per centum per annum. No offsets, including gratuities, subsequent to the terminal date of the accounting in the prior case shall be allowed or deducted from any judgment entered under authority of this Act, except that the United States shall be entitled to an offset, against any judgment entered under authority of this Act, of the sum of money, if any, awarded as a judgment in the prior case.

Interest.

Offsets.

SEC. 3. The provisions of section 15 of the Act of August 13, 1946 (60 Stat. 1053; 25 U.S.C. 70n) shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that the functions of the Commission shall be performed by the Court of Claims.

79-194 O—81—pt. 2——28 : QL3

25 USC 70n-1—70n-7.

SEC. 4. The provisions of the Act of November 4, 1963 (77 Stat. 301; 25 U.S.C. 70n-1-7), shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that reference to the Commission shall be deemed to be to the Court of Claims.

Approved October 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1356 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-833 (Comms. on Indian Affairs and the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 21, considered and passed Senate.
Sept. 29, considered and passed House.

Public Law 96-405
96th Congress

An Act

To authorize the Blackfeet and Gros Ventre Tribes to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes.

Oct. 9, 1980
[S. 1795]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Blackfeet and Gros Ventre Tribes, damage claims against U.S.

SECTION 1. Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), and notwithstanding the lapse of time, statutes of limitations, or the defense of res judicata or collateral estoppel, or any other provisions of law, jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render judgment on any claim filed by the Blackfeet and Gros Ventre Tribes within one year from the date of this Act for the taking under the fifth amendment of the Constitution of the twelve million two hundred and sixty-one thousand seven hundred forty-nine and seventy-six one-hundredths acres of land defined as the territory of the Blackfeet and Gros Ventre Tribes in the Treaty of October 17, 1855 (11 Stat. 657) to which the Blackfeet and Gros Ventre Tribes and the United States were parties, being the same land determined by the Court of Claims to have an average value of 50 cents per acre for a total of $6,130,874.88 in Blackfeet and other Nations versus United States (81 Ct. Cl. 101) (1935) (hereinafter "prior case"): *Provided,* That the value of the land fixed at an average of 50 cents per acre in the prior case shall be binding on the parties in any suit brought under this Act.

USC prec. title 1.

Award.

SEC. 2. If the Court of Claims determines that the claimant is entitled to just compensation under the fifth amendment, the Court shall enter an award computed on the basis of established judicial precedent: *Provided, however,* That as a measure of just compensation the Court shall compute interest at the rate of 5 per centum per annum. No offsets, including gratuities, subsequent to the terminal date of the accounting in the prior case shall be allowed or deducted from any judgment entered under authority of this Act, except that the United States shall be entitled to an offset, against any judgment entered under authority of this Act, of the sum of money, if any, awarded as a judgment in the prior case.

Interest.

Offsets.

SEC. 3. The provisions of section 15 of the Act of August 13, 1946 (60 Stat. 1053; 25 U.S.C. 70n) shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that the functions of the Commission shall be performed by the Court of Claims.

25 USC 70n-1—70n-7.

SEC. 4. The provisions of the Act of November 4, 1963 (77 Stat. 301; 25 U.S.C. 70n-1-7), shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that reference to the Commission shall be deemed to be to the Court of Claims.

Approved October 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1357 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-834 (Comms. on Indian Affairs and the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 21, considered and passed Senate.
Sept. 29, considered and passed House.

Public Law 96-406
96th Congress

An Act

To extend the provisions of the General Exchange Act, as amended, to certain lands in order that they may become parts of the Umatilla and Wallowa National Forests, and for other purposes.

Oct. 9, 1980
[S. 2398]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the Act of March 20, 1922 (42 Stat. 465, as amended), are hereby extended to the following described lands: Willamette meridian—township 3 north, range 36 east, section 13, that part of the east half of the southeast quarter and of the south half of the southwest quarter of the southeast quarter lying south of the Umatilla River; section 21, that part of lot 3 lying south of the Umatilla River, lot 4 and southeast quarter of the southeast quarter; section 22, those parts of lots 9, 10, 11, and 12 lying south of the Umatilla River, lots 13, 14, 15, and 16; section 23, that part of the north half and the north half of the southwest quarter lying south of the Umatilla River, and southwest quarter of the southwest quarter, and the north half of the southeast quarter; section 24, that part of lots 3 and 4 lying south of the Umatilla River, lots 5 and 6; section 28, lots 1 and 2, east half of the northeast quarter.

Umatilla and Wallowa National Forests, land inclusion.
16 USC 485 note.
16 USC 485, 486.

Township 2 north, range 41 east,
section 26;
section 35, east half;
section 36.
Township 5 south, range 32 east,
section 29, southwest quarter of the southeast quarter.

SEC. 2. Lands conveyed to the United States under section 1 of this Act shall, upon acceptance of title, become parts of the Umatilla and Wallowa National Forests and shall be subject to the laws, rules, and regulations applicable thereto.

16 USC 485 note.

SEC. 3. The Act of March 4, 1925 (43 Stat. 1279), is hereby amended to exclude the following described lands:

Land exclusion.
16 USC 486a-486w note.

Willamette Meridian

Township 4 north, range 41 east,
section 9, east half, northwest quarter of the northwest quarter, south half of the northwest quarter and the southwest quarter;
sections 10 to 17 inclusive;
sections 20 to 29 inclusive;
section 32, east half and east half of the west half;
sections 33, 34, 35, and 36.
Township 4 north, range 42 east,
sections 19 to 36 inclusive.
Township 3 north, range 40 east,
sections 13, 24, 25, and 36.
Township 3 north, range 41 east.
Township 3 north, range 42 east.

Township 2 north, range 40 east,
section 1, north half.
Township 2 north, range 41 east,
sections 1 to 17 inclusive.
Township 2 north, range 42 east,
sections 1 to 12 inclusive.
Township 3 south, range 37 east,
sections 28, 29, and 30.
Township 3 south, range 45 east,
sections 13, 14, and 15.
Township 3 south, range 46 east,
section 18.
Township 4 south, range 38 east,
section 26.

Land exclusion.
16 USC
486a-486w note.

SEC. 4. The Act of June 19, 1936 (49 Stat. 1534), is hereby amended to exclude the following described lands:

Willamette Meridian

Township 3 south, range 37 east,
sections 1, 2, 3, 4, 5, the west half, the south half southeast quarter, the north half northeast quarter, and the southeast quarter northeast quarter section 7; the east half, the northwest quarter, the east half southwest quarter, and the southwest quarter southwest quarter section 8, sections 9 to 24 inclusive, and sections 29 and 30.

Land exclusion.
16 USC
486a-486w note.

SEC. 5. The Act of June 17, 1940 (54 Stat. 402), is hereby amended to exclude the following described lands:

Willamette Meridian

Township 1 south, range 39 east,
section 12, south half.
Township 1 south, range 40 east,
sections 3, 4, and 5;
section 6, south half;
sections 7, 8, 9, and 10.
Township 4 south, range 38 east,
sections 11, 14, and 23.
Township 6 south, range 38 east,
sections 17, 20, 29, and 32.

Approved October 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1354 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-669 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 5, considered and passed Senate.
Sept. 29, considered and passed House.

Public Law 96-407
96th Congress

An Act

Granting the consent of the Congress to Hewson A. Ryan to accept the office and title of Honorary Consul of Honduras.

Oct. 9, 1980
[H.R. 3956]

Hewson A. Ryan, Honorary Consul of Honduras.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, **That pursuant to article I, section 9, clause 8 of the Constitution of the United States, the Congress hereby grants consent to Hewson A. Ryan, of Winchester, Massachusetts, a former Foreign Service Information Officer of the United States, to accept the office and title of Honorary Consul of Honduras.**

Approved October 9, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-988 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD:
Vol. 125 (1979): July 16, considered and passed House.
Vol. 126 (1980): Sept. 30, considered and passed Senate.

Public Law 96-408
96th Congress

An Act

Oct. 9, 1980
[H.R. 7130]

To designate the building known as United States Court House and Federal Building in Syracuse, New York, as the "James M. Hanley Federal Building".

James M. Hanley Federal Building. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 100 Clinton Street, Syracuse, New York (commonly known as the United States Court House and Federal Building), shall hereafter be known, called, and designated as the "James M. Hanley Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "James M. Hanley Federal Building".

Effective date.

SEC. 2. This Act shall be effective on January 4, 1981.

Approved October 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1171 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 18, considered and passed House.
Sept. 26, considered and passed Senate, amended.
Sept. 30, House concurred in Senate amendment.

Public Law 96-409
96th Congress

An Act

To designate the Federal building in Portland, Oregon the "Edith Green Federal Building".

Oct. 9, 1980
[H.R. 7309]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building, 1220 Southwest Third Avenue, Portland, Oregon, is hereby designated the "Edith Green-Wendell Wyatt Federal Building".

Edith Green-Wendell Wyatt Federal Building. Designation.

SEC. 2. Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the "Edith Green-Wendell Wyatt Federal Building".

Approved October 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1172 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 18, considered and passed House.
Sept. 23, considered and passed Senate, amended.
Sept. 30, House concurred in Senate amendments.

Public Law 96-410
96th Congress

An Act

Oct. 9, 1980
[H.R. 7544]

To designate the United States Federal Building in New Haven, Connecticut, as the "Robert N. Giaimo Federal Building".

Robert N. Giaimo Federal Building. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 150 Court Street, New Haven, Connecticut (commonly known as the Federal Building), shall hereafter be known, called, and designated as the "Robert N. Giaimo Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Robert N. Giaimo Federal Building.

Effective date.

SEC. 2. This Act shall be effective on January 4, 1981.

Approved October 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1333 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 23, considered and passed House.
Sept. 26, considered and passed Senate, amended.
Sept. 30, House concurred in Senate amendment.

Public Law 96-411
96th Congress

An Act

To redesignate the United States Post Office and Courthouse Building in Concord, New Hampshire, as the "James C. Cleveland Federal Building".

Oct. 9, 1980
[H.R. 7588]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office and Courthouse Building located at 55 Pleasant Street, Concord, New Hampshire, shall hereafter be known and designated as the "James C. Cleveland Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to that building shall be held and considered to be a reference to the "James C. Cleveland Federal Building".

James C. Cleveland Federal Building. Designation.

SEC. 2. This Act shall take effect January 15, 1981.

Effective date.

Approved October 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1339 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 24, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 96-412
96th Congress

An Act

Oct. 9, 1980
[H.R. 7770]

To name the Environmental Research Center in Cincinnati, Ohio, the "Andrew W. Breidenbach Environmental Research Center".

Andrew W. Breidenbach Environmental Research Center. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Environmental Research Center, located at 26 West Saint Clair Street, Cincinnati, Ohio, shall hereafter be known and designated as the "Andrew W. Breidenbach Environmental Research Center". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the Andrew W. Breidenbach Environmental Research Center.

Approved October 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1351 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 23, considered and passed House.
Sept. 26, considered and passed Senate.

Public Law 96-413
96th Congress

An Act

To designate the United States Federal Building in Pittsburgh, Pennsylvania, as the "William S. Moorhead Federal Building".

Oct. 9, 1980
[H.R. 8161]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Federal Building located at 1000 Liberty Avenue, Pittsburgh, Pennsylvania, shall hereafter be known and designated as the "William S. Moorhead Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to that building shall be held and considered to be a reference to the "William S. Moorhead Federal Building".

William S. Moorhead Federal Building. Designation.

SEC. 2. This Act shall take effect January 15, 1981.

Effective date.

Approved October 9, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 24, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 96-414
96th Congress

Joint Resolution

Oct. 9, 1980
[H.J. Res. 472]

Designating October 19, 1981, as a "Day of National Observance of the Two Hundredth Anniversary of the Surrender of Lord Cornwallis to General George Washington at Yorktown, Virginia."

Whereas October 19, 1981, is the two hundredth anniversary of the surrender of Lord Cornwallis to General George Washington at Yorktown, Virginia; and

Whereas such date marks the anniversary of the end of the heroic struggle by our forefathers for political freedom and the ideals of liberty upon which our institutions are founded; and

Whereas it is fitting that this historic event be commemorated in such manner as to rekindle love of country and devotion to its principles by recalling to this generation the trials and triumphs of the past: Now, therefore, be it

Observance of 200th Anniversary of Surrender of Lord Cornwallis to General George Washington. Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 19, 1981, is proclaimed a Day of National Observance of the Two Hundredth Anniversary of the Surrender of Lord Cornwallis to General George Washington at Yorktown, Virginia, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved October 9, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 125 (1980):
May 30, considered and passed House.
Sept. 30, considered and passed Senate, in lieu of S.J. Res. 186.

Public Law 96-415
96th Congress

An Act

To designate the Indian Health Facility in Ada, Oklahoma, the "Carl Albert Indian Health Facility".

Oct. 9, 1980
[S. 2801]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Indian Health Facility located at 1001 North Country Club Road, Ada, Oklahoma, shall hereafter be known and designated as the "Carl Albert Indian Health Facility".

Carl Albert Indian Health Facility. Designation.

SEC. 2. Any reference in law, map, regulation, document, record, or other paper of the United States to such facility shall be held to be reference to the "Carl Albert Indian Health Facility".

Approved October 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1369 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-846 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 21, considered and passed Senate.
Sept. 30, considered and passed House.

Public Law 96-416
96th Congress

Joint Resolution

Oct. 9, 1980
[H.J. Res. 560]

To proclaim March 19, 1981, as "National Agriculture Day".

Whereas agriculture is this Nation's most basic industry, and its associated production, processing, and marketing segments, together provide more jobs than any other single industry; and

Whereas the productivity of American agriculture is a vital ingredient in our strength as a Nation, both domestically and on the world scene; and

Whereas to maintain a healthy agriculture it is necessary that all Americans should understand how agriculture affects their lives and well-being, and should be aware of their personal stake in an abundant food and fiber supply: Now, therefore, be it

National Agriculture Day. Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 19, 1981, is hereby proclaimed "National Agriculture Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities.

Approved October 9, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 17, considered and passed House.
Sept. 29, considered and passed Senate.

Public Law 96-417
96th Congress

An Act

To improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes.

Oct. 10, 1980
[S. 1654]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Customs Courts Act of 1980".

Customs Courts Act of 1980.
28 USC 1 note.

TITLE I—COMPOSITION OF THE COURT OF INTERNATIONAL TRADE AND ASSIGNMENT OF JUDGES TO OTHER COURTS

COMPOSITION OF COURT

SEC. 101. Section 251 of title 28, United States Code, is amended to read as follows:

"§ 251. Appointment and number of judges; offices

"(a) The President shall appoint, by and with the advice and consent of the Senate, nine judges who shall constitute a court of record to be known as the United States Court of International Trade. Not more than five of such judges shall be from the same political party. The court is a court established under article III of the Constitution of the United States.

USC prec. title 1.

"(b) The President shall designate one of the judges of the Court of International Trade who is less than seventy years of age to serve as chief judge. The chief judge shall continue to serve as chief judge until he reaches the age of seventy years and another judge is designated as chief judge by the President. After the designation of another judge to serve as chief judge, the former chief judge may continue to serve as a judge of the court.

"(c) The offices of the Court of International Trade shall be located in New York, New York.".

ASSIGNMENT OF JUDGES

SEC. 102. (a) Section 293(b) of title 28, United States Code, is amended by striking out "Customs Court" and all that follows through "need arises" and inserting in lieu thereof "Court of International Trade to perform judicial duties in any circuit, either in a court of appeals or district court, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit in which the need arises".

(b) Section 293(d) of title 28, United States Code, is amended to read as follows:

"(d) The chief judge of the Court of International Trade may, upon presentation to him of a certificate of necessity by the chief judge of the Court of Customs and Patent Appeals or the chief judge of the Court of Claims, designate and assign temporarily any judge of the

Court of International Trade to serve as a judge of the Court of Customs and Patent Appeals or the Court of Claims.".

TITLE II—JURISDICTION OF THE COURT OF INTERNATIONAL TRADE

JURISDICTION OF THE COURT

SEC. 201. Chapter 95 of title 28, United States Code, is amended to read as follows:

"CHAPTER 95—COURT OF INTERNATIONAL TRADE

"Sec.
"1581. Civil actions against the United States and agencies and officers thereof.
"1582. Civil actions commenced by the United States.
"1583. Counterclaims, cross-claims, and third-party actions.
"1584. Cure of defects.
"1585. Powers in law and equity.

28 USC 1581.

"§ 1581. Civil actions against the United States and agencies and officers thereof

"(a) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to contest the denial of a protest, in whole or in part, under section 515 of the Tariff Act of 1930.

19 USC 1515.

"(b) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced under section 516 of the Tariff Act of 1930.

19 USC 1516.

"(c) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced under section 516A of the Tariff Act of 1930.

19 USC 1516a.

"(d) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review—

"(1) any final determination of the Secretary of Labor under section 223 of the Trade Act of 1974 with respect to the eligibility of workers for adjustment assistance under such Act;

19 USC 2273.

"(2) any final determination of the Secretary of Commerce under section 251 of the Trade Act of 1974 with respect to the eligibility of a firm for adjustment assistance under such Act; and

19 USC 2341.

"(3) any final determination of the Secretary of Commerce under section 271 of the Trade Act of 1974 with respect to the eligibility of a community for adjustment assistance under such Act.

19 USC 2371.

"(e) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review any final determination of the Secretary of the Treasury under section 305(b)(1) of the Trade Agreements Act of 1979.

19 USC 2515.

"(f) The Court of International Trade shall have exclusive jurisdiction of any civil action involving an application for an order directing the administering authority or the International Trade Commission to make confidential information available under section 777(c)(2) of the Tariff Act of 1930.

19 USC 1677f.

"(g) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review—

"(1) any decision of the Secretary of the Treasury to deny or revoke a customhouse broker's license under section 641(a) of the Tariff Act of 1930; and

19 USC 1641.

"(2) any order of the Secretary of the Treasury to revoke or suspend a customhouse broker's license under section 641(b) of the Tariff Act of 1930. 19 USC 1641.

"(h) The Court of International Trade shall have exclusive jurisdiction of any civil action commenced to review, prior to the importation of the goods involved, a ruling issued by the Secretary of the Treasury, or a refusal to issue or change such a ruling, relating to classification, valuation, rate of duty, marking, restricted merchandise, entry requirements, drawbacks, vessel repairs, or similar matters, but only if the party commencing the civil action demonstrates to the court that he would be irreparably harmed unless given an opportunity to obtain judicial review prior to such importation.

"(i) In addition to the jurisdiction conferred upon the Court of International Trade by subsections (a)–(h) of this section and subject to the exception set forth in subsection (j) of this section, the Court of International Trade shall have exclusive jurisdiction of any civil action commenced against the United States, its agencies, or its officers, that arises out of any law of the United States providing for—

"(1) revenue from imports or tonnage;

"(2) tariffs, duties, fees, or other taxes on the importation of merchandise for reasons other than the raising of revenue;

"(3) embargoes or other quantitative restrictions on the importation of merchandise for reasons other than the protection of the public health or safety; or

"(4) administration and enforcement with respect to the matters referred to in paragraphs (1)–(3) of this subsection and subsections (a)–(h) of this section.

"(j) The Court of International Trade shall not have jurisdiction of any civil action arising under section 305 of the Tariff Act of 1930. 19 USC 1305.

"§ 1582. Civil actions commenced by the United States 28 USC 1582.

"The Court of International Trade shall have exclusive jurisdiction of any civil action which arises out of an import transaction and which is commenced by the United States—

"(1) to recover a civil penalty under section 592, 704(i)(2), or 734(i)(2) of the Tariff Act of 1930; 19 USC 1592, 1671c, 1673c.

"(2) to recover upon a bond relating to the importation of merchandise required by the laws of the United States or by the Secretary of the Treasury; or

"(3) to recover customs duties.

"§ 1583. Counterclaims, cross-claims, and third-party actions 28 USC 1583.

"In any civil action in the Court of International Trade, the court shall have exclusive jurisdiction to render judgment upon any counterclaim, cross-claim, or third-party action of any party, if (1) such claim or action involves the imported merchandise that is the subject matter of such civil action, or (2) such claim or action is to recover upon a bond or customs duties relating to such merchandise.

"§ 1584. Cure of defects 28 USC 1584.

"(a) If a civil action within the exclusive jurisdiction of the Court of International Trade is commenced in a district court of the United States, the district court shall, in the interest of justice, transfer such civil action to the Court of International Trade, where such action shall proceed as if it had been commenced in the Court of International Trade in the first instance.

"(b) If a civil action within the exclusive jurisdiction of a district court, a court of appeals, or the Court of Customs and Patent Appeals is commenced in the Court of International Trade, the Court of International Trade shall, in the interest of justice, transfer such civil action to the appropriate district court or court of appeals or to the Court of Customs and Patent Appeals where such action shall proceed as if it had been commenced in such court in the first instance.

28 USC 1585.

"§ 1585. Powers in law and equity

"The Court of International Trade shall possess all the powers in law and equity of, or as conferred by statute upon, a district court of the United States.".

TITLE III—COURT OF INTERNATIONAL TRADE PROCEDURE

COURT PROCEDURE

SEC. 301. Chapter 169 of title 28, United States Code, is amended to read as follows:

"CHAPTER 169—COURT OF INTERNATIONAL TRADE PROCEDURE

"Sec.
"2631. Persons entitled to commence a civil action.
"2632. Commencement of a civil action.
"2633. Procedure and fees.
"2634. Notice.
"2635. Filing of official documents.
"2636. Time for commencement of action.
"2637. Exhaustion of administrative remedies.
"2638. New grounds in support of a civil action.
"2639. Burden of proof; evidence of value.
"2640. Scope and standard of review.
"2641. Witnesses; inspection of documents.
"2642. Analysis of imported merchandise.
"2643. Relief.
"2644. Interest.
"2645. Decisions.
"2646. Retrial or rehearing.
"2647. Precedence of cases.

28 USC 2631.

"§ 2631. Persons entitled to commence a civil action

"(a) A civil action contesting the denial of a protest, in whole or in part, under section 515 of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person who filed the protest pursuant to section 514 of such Act, or by a surety on the transaction which is the subject of the protest.

19 USC 1515.

19 USC 1514.

"(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person who filed such petition.

19 USC 1516.

"(c) A civil action contesting a determination listed in section 516A of the Tariff Act of 1930 may be commenced in the Court of International Trade by any interested party who was a party to the proceeding in connection with which the matter arose.

19 USC 1516a.

"(d)(1) A civil action to review any final determination of the Secretary of Labor under section 223 of the Trade Act of 1974 with respect to the eligibility of workers for adjustment assistance under such Act may be commenced in the Court of International Trade by a worker, group of workers, certified or recognized union, or authorized

19 USC 2273.

representative of such worker or group that applies for assistance under such Act and is aggrieved by such final determination.

"(2) A civil action to review any final determination of the Secretary of Commerce under section 251 of the Trade Act of 1974 with respect to the eligibility of a firm for adjustment assistance under such Act may be commenced in the Court of International Trade by a firm or its representative that applies for assistance under such Act and is aggrieved by such final determination, or by any other interested domestic party that is aggrieved by such final determination. 19 USC 2341.

"(3) A civil action to review any final determination of the Secretary of Commerce under section 271 of the Trade Act of 1974 with respect to the eligibility of a community for adjustment assistance under such Act may be commenced in the Court of International Trade by a community that applies for assistance under such Act and is aggrieved by such final determination, or by any other interested domestic party that is aggrieved by such final determination. 19 USC 2371.

"(e) A civil action to review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979 may be commenced in the Court of International Trade by any person who was a party-at-interest with respect to such determination. 19 USC 2515.

"(f) A civil action involving an application for the issuance of an order directing the administering authority or the International Trade Commission to make confidential information available under section 777(c)(2) of the Tariff Act of 1930 may be commenced in the Court of International Trade by any interested party whose application for disclosure of such confidential information was denied under section 777(c)(1) of such Act. 19 USC 1677f.

"(g)(1) A civil action to review any decision of the Secretary of the Treasury to deny or revoke a customhouse broker's license under section 641(a) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person whose license was denied or revoked. 19 USC 1641.

"(2) A civil action to review any order of the Secretary of the Treasury to revoke or suspend a customhouse broker's license under section 641(b) of the Tariff Act of 1930 may be commenced in the Court of International Trade by the person whose license was revoked or suspended.

"(h) A civil action described in section 1581(h) of this title may be commenced in the Court of International Trade by the person who would have standing to bring a civil action under section 1581(a) of this title if he imported the goods involved and filed a protest which was denied, in whole or in part, under section 515 of the Tariff Act of 1930. 28 USC 1581. 19 USC 1515.

"(i) Any civil action of which the Court of International Trade has jurisdiction, other than an action specified in subsections (a)-(h) of this section, may be commenced in the court by any person adversely affected or aggrieved by agency action within the meaning of section 702 of title 5. 5 USC 702.

"(j)(1) Any person who would be adversely affected or aggrieved by a decision in a civil action pending in the Court of International Trade may, by leave of court, intervene in such action, except that—

"(A) no person may intervene in a civil action under section 515 or 516 of the Tariff Act of 1930; 19 USC 1515, 1516.

"(B) in a civil action under section 516A of the Tariff Act of 1930, only an interested party who was a party to the proceeding in connection with which the matter arose may intervene, and such person may intervene as a matter of right; and 19 USC 1516a.

19 USC 1677f.

"(C) in a civil action under section 777(c)(2) of the Tariff Act of 1930, only a person who was a party to the investigation may intervene, and such person may intervene as a matter of right.

"(2) In those civil actions in which intervention is by leave of court, the Court of International Trade shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties.

"(k) In this section—

"Interested party." 19 USC 1677. "Party-at-interest."

"(1) 'interested party' has the meaning given such term in section 771(9) of the Tariff Act of 1930; and

"(2) 'party-at-interest' means—

"(A) a foreign manufacturer, producer, or exporter, or a United States importer, of merchandise which is the subject of a final determination under section 305(b)(1) of the Trade Agreements Act of 1979;

"(B) a manufacturer, producer, or wholesaler in the United States of a like product;

"(C) United States members of a labor organization or other association of workers whose members are employed in the manufacture, production, or wholesale in the United States of a like product; and

"(D) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

28 USC 2632.

"§ 2632. Commencement of a civil action

"(a) Except for civil actions specified in subsections (b) and (c) of this section, a civil action in the Court of International Trade shall be commenced by filing concurrently with the clerk of the court a summons and complaint, with the content and in the form, manner, and style prescribed by the rules of the court.

19 USC 1515, 1516.

"(b) A civil action in the Court of International Trade under section 515 or section 516 of the Tariff Act of 1930 shall be commenced by filing with the clerk of the court a summons, with the content and in the form, manner, and style prescribed by the rules of the court.

19 USC 1516a.

"(c) A civil action in the Court of International Trade under section 516A of the Tariff Act of 1930 shall be commenced by filing with the clerk of the court a summons or a summons and a complaint, as prescribed in such section, with the content and in the form, manner, and style prescribed by the rules of the court.

"(d) The Court of International Trade may prescribe by rule that any summons, pleading, or other paper mailed by registered or certified mail properly addressed to the clerk of the court with the proper postage affixed and return receipt requested shall be deemed filed as of the date of mailing.

28 USC 2633.

"§ 2633. Procedure and fees

"(a) A filing fee shall be payable to the clerk of the Court of International Trade upon the commencement of a civil action in such court. The amount of the fee shall be prescribed by the rules of the court, but shall be not less than $5 nor more than the filing fee for commencing a civil action in a district court of the United States. The court may fix all other fees to be charged by the clerk of the court.

"(b) The Court of International Trade shall prescribe rules governing the summons, pleadings, and other papers, for their amendment, service, and filing, for consolidations, severances, suspensions of cases, and for other procedural matters.

"(c) All summons, pleadings, and other papers filed in the Court of International Trade shall be served on all parties in accordance with rules prescribed by the court. When the United States, its agencies, or its officers are adverse parties, service of the summons shall be made upon the Attorney General and the head of the Government agency whose action is being contested. When injunctive relief is sought, the summons, pleadings, and other papers shall also be served upon the named officials sought to be enjoined.

"§ 2634. Notice 28 USC 2634.

"Reasonable notice of the time and place of trial or hearing before the Court of International Trade shall be given to all parties to any civil action, as prescribed by the rules of the court.

"§ 2635. Filing of official documents 28 USC 2635.

"(a)(1) Upon service of the summons on the Secretary of the Treasury in any civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930 or the denial of a petition under section 516 of such Act, the appropriate customs officer shall forthwith transmit to the clerk of the Court of International Trade, as prescribed by its rules, and as a part of the official record— 19 USC 1515. 19 USC 1516.

"(A) the consumption or other entry and the entry summary;

"(B) the commercial invoice;

"(C) the special customs invoice;

"(D) a copy of the protest or petition;

"(E) a copy of the denial, in whole or in part, of the protest or petition;

"(F) the importer's exhibits;

"(G) the official and other representative samples;

"(H) any official laboratory reports; and

"(I) a copy of any bond relating to the entry.

"(2) If any of the items listed in paragraph (1) of this subsection do not exist in a particular civil action, an affirmative statement to that effect shall be transmitted to the clerk of the court.

"(b)(1) In any civil action commenced in the Court of International Trade under section 516A of the Tariff Act of 1930, within forty days or within such other period of time as the court may specify, after the date of service of a complaint on the administering authority established to administer title VII of the Tariff Act of 1930 or the United States International Trade Commission, the administering authority or the Commission shall transmit to the clerk of the court the record of such action, as prescribed by the rules of the court. The record shall, unless otherwise stipulated by the parties, consist of— 19 USC 1516a. 19 USC 1671.

"(A) a copy of all information presented to or obtained by the administering authority or the Commission during the course of the administrative proceedings, including all governmental memoranda pertaining to the case and the record of ex parte meetings required to be maintained by section 777(a)(3) of the Tariff Act of 1930; and 19 USC 1677f.

"(B)(i) a copy of the determination and the facts and conclusions of law upon which such determination was based, (ii) all transcripts or records of conferences or hearings, and (iii) all notices published in the Federal Register.

"(2) The administering authority or the Commission shall identify and transmit under seal to the clerk of the court any document, comment, or information that is accorded confidential or privileged status by the Government agency whose action is being contested and that is required to be transmitted to the clerk under paragraph (1) of

this subsection. Any such document, comment, or information shall be accompanied by a nonconfidential description of the nature of the material being transmitted. The confidential or privileged status of such material shall be preserved in the civil action, but the court may examine the confidential or privileged material in camera and may make such material available under such terms and conditions as the court may order.

"(c) Within fifteen days, or within such other period of time as the Court of International Trade may specify, after service of a summons and complaint in a civil action involving an application for an order directing the administering authority or the International Trade Commission to make confidential information available under section 777(c)(2) of the Tariff Act of 1930, the administering authority or the Commission shall transmit under seal to the clerk of the Court of International Trade, as prescribed by its rules, the confidential information involved, together with pertinent parts of the record. Such information shall be accompanied by a nonconfidential description of the nature of the information being transmitted. The confidential status of such information shall be preserved in the civil action, but the court may examine the confidential information in camera and may make such information available under a protective order consistent with section 777(c)(2) of the Tariff Act of 1930.

19 USC 1677f.

"(d)(1) In any other civil action in the Court of International Trade in which judicial review is to proceed upon the basis of the record made before an agency, the agency shall, within forty days or within such other period of time as the court may specify, after the date of service of the summons and complaint upon the agency, transmit to the clerk of the court, as prescribed by its rules—

"(A) a copy of the contested determination and the findings or report upon which such determination was based;

"(B) a copy of any reported hearings or conferences conducted by the agency; and

"(C) any documents, comments, or other papers filed by the public, interested parties, or governments with respect to the agency's action.

"(2) The agency shall identify and transmit under seal to the clerk of the court any document, comment, or other information that was obtained on a confidential basis and that is required to be transmitted to the clerk under paragraph (1) of this subsection. Any such document, comment, or information shall include a nonconfidential description of the nature of the material being transmitted. The confidential or privileged status of such material shall be preserved in the civil action, but the court may examine such material in camera and may make such material available under such terms and conditions as the court may order.

"(3) The parties may stipulate that fewer documents, comments, or other information than those specified in paragraph (1) of this subsection shall be transmitted to the clerk of the court.

28 USC 2636.

"§ 2636. Time for commencement of action

"(a) A civil action contesting the denial, in whole or in part, of a protest under section 515 of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade—

19 USC 1515.

"(1) within one hundred and eighty days after the date of mailing of notice of denial of a protest under section 515(a) of such Act; or

"(2) within one hundred and eighty days after the date of denial of a protest by operation of law under the provisions of section 515(b) of such Act. 19 USC 1515.

"(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within thirty days after the date of mailing of a notice pursuant to section 516(c) of such Act. 19 USC 1516.

"(c) A civil action contesting a reviewable determination listed in section 516A of the Tariff Act of 1930, other than a determination under section 703(b), 703(c), 733(b), or 733(c) of such Act, is barred unless commenced in accordance with the rules of the Court of International Trade within thirty days after the date of the publication of such determination in the Federal Register. 19 USC 1516a. 19 USC 1671b, 1673b.

"(d)(1) A civil action contesting a determination by the administering authority under section 703(c) or 733(c) of the Tariff Act of 1930 that a case is extraordinarily complicated is barred unless commenced in accordance with the rules of the Court of International Trade within ten days after the date of the publication of such determination in the Federal Register.

"(2) A civil action contesting a negative determination by the administering authority under section 703(b) or 733(b) of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within ten days after the date of the publication of such determination in the Federal Register.

"(e) A civil action contesting a final determination of the Secretary of Labor under section 223 of the Trade Act of 1974 or a final determination of the Secretary of Commerce under section 251 or section 271 of such Act is barred unless commenced in accordance with the rules of the Court of International Trade within sixty days after the date of notice of such determination. 19 USC 2273. 19 USC 2341, 2371.

"(f) A civil action contesting a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979 is barred unless commenced in accordance with the rules of the Court of International Trade within thirty days after the date of the publication of such determination in the Federal Register. 19 USC 2515.

"(g) A civil action involving an application for the issuance of an order making confidential information available under section 777(c)(2) of the Tariff Act of 1930 is barred unless commenced in accordance with the rules of the Court of International Trade within ten days after the date of the denial of the request for such confidential information. 19 USC 1677f.

"(h) A civil action contesting the denial or revocation by the Secretary of the Treasury of a customhouse broker's license under section 641(a) of the Tariff Act of 1930 or the revocation or suspension by such Secretary of a customhouse broker's license under section 641(b) of such Act is barred unless commenced in accordance with the rules of the Court of International Trade within sixty days after the date of the entry of the decision or order of such Secretary. 19 USC 1641.

"(i) A civil action of which the Court of International Trade has jurisdiction under section 1581 of this title, other than an action specified in subsections (a)-(h) of this section, is barred unless commenced in accordance with the rules of the court within two years after the cause of action first accrues. 28 USC 1581.

"§ 2637. Exhaustion of administrative remedies 28 USC 2637.

"(a) A civil action contesting the denial of a protest under section 515 of the Tariff Act of 1930 may be commenced in the Court of 19 USC 1515.

International Trade only if all liquidated duties, charges, or exactions have been paid at the time the action is commenced, except that a surety's obligation to pay such liquidated duties, charges, or exactions is limited to the sum of any bond related to each entry included in the denied protest.

19 USC 1516. "(b) A civil action contesting the denial of a petition under section 516 of the Tariff Act of 1930 may be commenced in the Court of International Trade only by a person who has first exhausted the procedures set forth in such section.

28 USC 1581. "(c) A civil action described in section 1581(h) of this title may be commenced in the Court of International Trade prior to the exhaustion of administrative remedies if the person commencing the action makes the demonstration required by such section.

"(d) In any civil action not specified in this section, the Court of International Trade shall, where appropriate, require the exhaustion of administrative remedies.

28 USC 2638. **"§ 2638. New grounds in support of a civil action**

19 USC 1515. "In any civil action under section 515 of the Tariff Act of 1930 in which the denial, in whole or in part, of a protest is a precondition to the commencement of a civil action in the Court of International Trade, the court, by rule, may consider any new ground in support of the civil action if such new ground—

"(1) applies to the same merchandise that was the subject of the protest; and

"(2) is related to the same administrative decision listed in 19 USC 1514. section 514 of the Tariff Act of 1930 that was contested in the protest.

28 USC 2639. **"§ 2639. Burden of proof; evidence of value**

"(a)(1) Except as provided in paragraph (2) of this subsection, in any civil action commenced in the Court of International Trade under 19 USC 1515–1516a. section 515, 516, or 516A of the Tariff Act of 1930, the decision of the Secretary of the Treasury, the administering authority, or the International Trade Commission is presumed to be correct. The burden of proving otherwise shall rest upon the party challenging such decision.

"(2) The provisions of paragraph (1) of this subsection shall not apply to any civil action commenced in the Court of International *Ante*, p. 1729. Trade under section 1582 of this title.

Ante, p. 1728. "(b) In any civil action described in section 1581(h) of this title, the person commencing the action shall have the burden of making the demonstration required by such section by clear and convincing evidence.

"(c) Where the value of merchandise or any of its components is in issue in any civil action in the Court of International Trade—

"(1) reports or depositions of consuls, customs officers, and other officers of the United States, and depositions and affidavits of other persons whose attendance cannot reasonably be had, may be admitted into evidence when served upon the opposing party as prescribed by the rules of the court; and

"(2) price lists and catalogs may be admitted in evidence when duly authenticated, relevant, and material.

28 USC 2640. **"§ 2640. Scope and standard of review**

"(a) The Court of International Trade shall make its determinations upon the basis of the record made before the court in the following categories of civil actions:

"(1) Civil actions contesting the denial of a protest under section 515 of the Tariff Act of 1930. 19 USC 1515.

"(2) Civil actions commenced under section 516 of the Tariff Act of 1930. 19 USC 1516.

"(3) Civil actions commenced to review a final determination made under section 305(b)(1) of the Trade Agreements Act of 1979. 19 USC 2515.

"(4) Civil actions commenced under section 777(c)(2) of the Tariff Act of 1930. 19 USC 1677f.

"(5) Civil actions commenced to review any decision of the Secretary of the Treasury to deny or revoke a customhouse broker's license under section 641(a) of the Tariff Act of 1930. 19 USC 1641.

"(6) Civil actions commenced under section 1582 of this title.

"(b) In any civil action commenced in the Court of International Trade under section 516A of the Tariff Act of 1930, the court shall review the matter as specified in subsection (b) of such section. 19 USC 1516a.

"(c) In any civil action commenced in the Court of International Trade to review any final determination of the Secretary of Labor under section 223 of the Trade Act of 1974 or any final determination of the Secretary of Commerce under section 251 or section 271 of such Act, the court shall review the matter as specified in section 284 of such Act. 19 USC 2273. 19 USC 2341, 2371.

"(d) In any civil action not specified in this section, the Court of International Trade shall review the matter as provided in section 706 of title 5. *Post*, p. 1746.

"§ 2641. Witnesses; inspection of documents 28 USC 2641.

"(a) Except as otherwise provided by law, in any civil action in the Court of International Trade, each party and its counsel shall have an opportunity to introduce evidence, to hear and cross-examine the witnesses of the other party, and to inspect all samples and papers admitted or offered as evidence, as prescribed by the rules of the court. Except as provided in section 2639 of this title, subsection (b) of this section, or the rules of the court, the Federal Rules of Evidence shall apply to all civil actions in the Court of International Trade. 28 USC app.

"(b) The Court of International Trade may order that trade secrets and commercial or financial information which is privileged and confidential, or any information provided to the United States by any foreign government or foreign person, may be disclosed to a party, its counsel, or any other person under such terms and conditions as the court may order.

"§ 2642. Analysis of imported merchandise 28 USC 2642.

"The Court of International Trade may order an analysis of imported merchandise and reports thereon by laboratories or agencies of the United States.

"§ 2643. Relief 28 USC 2643.

"(a) The Court of International Trade may enter a money judgment—

"(1) for or against the United States in any civil action commenced under section 1581 or 1582 of this title; and *Ante*, pp. 1728, 1729.

"(2) for or against the United States or any other party in any counterclaim, cross-claim, or third-party action under section 1583 of this title. *Ante*, p. 1729.

"(b) If the Court of International Trade is unable to determine the correct decision on the basis of the evidence presented in any civil action, the court may order a retrial or rehearing for all purposes, or

may order such further administrative or adjudicative procedures as the court considers necessary to enable it to reach the correct decision.

"(c)(1) Except as provided in paragraphs (2), (3), and (4) of this subsection, the Court of International Trade may, in addition to the orders specified in subsections (a) and (b) of this section, order any other form of relief that is appropriate in a civil action, including, but not limited to, declaratory judgments, orders of remand, injunctions, and writs of mandamus and prohibition.

"(2) The Court of International Trade may not grant an injunction or issue a writ of mandamus in any civil action commenced to review any final determination of the Secretary of Labor under section 223 of the Trade Act of 1974, or any final determination of the Secretary of Commerce under section 251 or section 271 of such Act.

19 USC 2273.
19 USC 2341, 2371.

"(3) In any civil action involving an application for the issuance of an order directing the administering authority or the International Trade Commission to make confidential information available under section 777(c)(2) of the Tariff Act of 1930, the Court of International Trade may issue an order of disclosure only with respect to the information specified in such section.

19 USC 1677f.

"(4) In any civil action described in section 1581(h) of this title, the Court of International Trade may only order the appropriate declaratory relief.

Ante, p. 1728.

"(d) If a surety commences a civil action in the Court of International Trade, such surety shall recover only the amount of the liquidated duties, charges, or exactions paid on the entries included in such action. The excess amount of any recovery shall be paid to the importer of record.

28 USC 2644.

"§ 2644. Interest

"If, in a civil action in the Court of International Trade under section 515 of the Tariff Act of 1930, the plaintiff obtains monetary relief by a judgment or under a stipulation agreement, interest shall be allowed at an annual rate established under section 6621 of the Internal Revenue Code of 1954. Such interest shall be calculated from the date of the filing of the summons in such action to the date of the refund.

19 USC 1515.
26 USC 6621.

28 USC 2645.

"§ 2645. Decisions

"(a) A final decision of the Court of International Trade in a contested civil action or a decision granting or refusing a preliminary injunction shall be supported by—

"(1) a statement of findings of fact and conclusions of law; or

"(2) an opinion stating the reasons and facts upon which the decision is based.

"(b) After the Court of International Trade has rendered a judgment, the court may, upon the motion of a party or upon its own motion, amend its findings or make additional findings and may amend the decision and judgment accordingly. A motion of a party or the court shall be made not later than thirty days after the date of entry of the judgment.

"(c) A decision of the Court of International Trade is final and conclusive, unless a retrial or rehearing is granted pursuant to section 2646 of this title or an appeal is taken to the Court of Customs and Patent Appeals within the time and in the manner provided in section 2601 of this title.

28 USC 2601.

"§ 2646. Retrial or rehearing 28 USC 2646.

"After the Court of International Trade has rendered a judgment or order, the court may, upon the motion of a party or upon its own motion, grant a retrial or rehearing, as the case may be. A motion of a party or the court shall be made not later than thirty days after the date of entry of the judgment or order.

"§ 2647. Precedence of cases 28 USC 2647.

"The following civil actions in the Court of International Trade shall be given precedence, in the following order, over other civil actions pending before the court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

"(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

"(2) Second, a civil action for the review of a determination under section 516A(a)(1)(B) (i) or (ii) of the Tariff Act of 1930. 19 USC 1516a.

"(3) Third, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise. 19 USC 1515.

"(4) Fourth, a civil action commenced under section 516 or 516A of the Tariff Act of 1930, other than a civil action described in paragraph (2) of this section.". 19 USC 1516, 1516a.

JURY TRIALS

SEC. 302. (a) Chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1876. Trial by jury in the Court of International Trade 28 USC 1876.

"(a) In any civil action in the Court of International Trade which is to be tried before a jury, the jury shall be selected in accordance with the provisions of this chapter and under the procedures set forth in the jury selection plan of the district court for the judicial district in which the case is to be tried.

"(b) Whenever the Court of International Trade conducts a jury trial—

"(1) the clerk of the district court for the judicial district in which the Court of International Trade is sitting, or an authorized deputy clerk, shall act as clerk of the Court of International Trade for the purposes of selecting and summoning the jury;

"(2) the qualifications for jurors shall be the same as those established by section 1865(b) of this title for jurors in the district courts of the United States; 28 USC 1865.

"(3) each party shall be entitled to challenge jurors in accordance with section 1870 of this title; and 28 USC 1870.

"(4) jurors shall be compensated in accordance with section 1871 of this title.". 28 USC 1871.

(b) The section analysis for chapter 121 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1876. Trial by jury in the Court of International Trade.".

(c) Section 1862 of title 28, United States Code, is amended by inserting "or in the Court of International Trade" immediately after "United States".

TITLE IV—COURT OF CUSTOMS AND PATENT APPEALS

JURISDICTION OF THE COURT

SEC. 401. (a)(1) Section 1541(a) of title 28, United States Code, is amended to read as follows:

"(a) The Court of Customs and Patent Appeals shall have exclusive jurisdiction of appeals from all final decisions of the Court of International Trade.".

(2) Section 1541 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The Court of Customs and Patent Appeals shall have exclusive jurisdiction of appeals from interlocutory orders of the Court of International Trade granting, continuing, modifying, refusing, or dissolving injunctions, or refusing to dissolve or modify injunctions.".

(b)(1) Section 1543 of title 28, United States Code, is amended to read as follows:

28 USC 1543.

"§ 1543. International Trade Commission determinations

"The Court of Customs and Patent Appeals shall have jurisdiction to review the final determinations of the United States International Trade Commission made under section 337 of the Tariff Act of 1930 relating to unfair trade practices in import trade.".

19 USC 1337.

(2) The item relating to section 1543 in the section analysis of chapter 93 of title 28, United States Code, is amended to read as follows:

"1543. International Trade Commission determinations.".

POWERS OF THE COURT

SEC. 402. (a) Chapter 93 of title 28, United States Code, as amended by section 401 of this Act, is further amended by adding at the end thereof the following new section:

28 USC 1546.

"§ 1546. Powers in law and equity

"The Court of Customs and Patent Appeals shall have all the powers in law and equity of, or as conferred by statute upon, a court of appeals of the United States.".

(b) The section analysis of chapter 93 of title 28, United States Code, as amended by section 401 of this Act, is further amended by adding at the end thereof the following new item:

"1546. Powers in law and equity.".

COURT OF CUSTOMS AND PATENT APPEALS

Appeal notice.

SEC. 403. (a) Section 2601(a) of title 28, United States Code, is amended by adding at the end thereof the following new sentence: "If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within fourteen days after the date on which the first notice of appeal was filed.".

(b) The first sentence of section 2601(b) of title 28, United States Code, is amended—

(1) by inserting "or cross appeal" immediately after "appeal" each place it appears; and

(2) by striking out "which shall include a concise statement of the errors complained of".

(c) The third sentence of section 2601(b) of title 28, United States Code, is amended by striking out "and the Secretary of the Treasury

or their designees" and inserting in lieu thereof "and any named official".

(d) Section 2601(c) of title 28, United States Code, is amended by inserting immediately after the first sentence the following new sentences: "Findings of fact shall not be set aside unless clearly erroneous and due regard shall be given to the opportunity of the Court of International Trade to judge the credibility of the witnesses. A party may raise on appeal the question of whether the findings of fact are clearly erroneous, whether or not the party raising such question made an objection to such findings in the Court of International Trade or made a motion to amend such findings.".

(e)(1) Section 2602 of title 28, United States Code, is amended to read as follows:

"§ 2602. Precedence of cases 28 USC 2602.

"The following civil actions in the Court of Customs and Patent Appeals shall be given precedence, in the following order, over other civil actions pending before the court, and shall be assigned for hearing at the earliest practicable date and expedited in every way:

"(1) First, a civil action involving the exclusion of perishable merchandise or the redelivery of such merchandise.

"(2) Second, a civil action for the review of a determination under section 516A(a)(1)(B) (i) or (ii) of the Tariff Act of 1930. 19 USC 1516a.

"(3) Third, a civil action commenced under section 515 of the Tariff Act of 1930 involving the exclusion or redelivery of merchandise. 19 USC 1515.

"(4) Fourth, a civil action commenced under section 516 or 516A of the Tariff Act of 1930, other than a civil action described in paragraph (2) of this section. 19 USC 1516, 1516a.

"(5) Fifth, an appeal from findings of the Secretary of Commerce provided for in headnote 6 to schedule 8, part 4, of the Tariff Schedules of the United States (19 U.S.C. 1202).".

(2) The item relating to section 2602 in the section analysis of chapter 167 of title 28, United States Code, is amended to read as follows:

"2602. Precedence of cases.".

RULES OF EVIDENCE

SEC. 404. (a) Chapter 167 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 2603. Rules of evidence 28 USC 2603.

"Except as provided in section 2639 or 2641(b) of this title or in the rules prescribed by the court, the Federal Rules of Evidence shall apply in the Court of Customs and Patent Appeals in any appeal from the Court of International Trade.". *Ante*, pp. 1736, 1737. 28 USC app.

(b) The section analysis of chapter 167 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2603. Rules of evidence.".

JUDICIAL CONFERENCE

SEC. 405. (a) Chapter 167 of title 28, United States Code, as amended by section 404 of this Act, is further amended by adding at the end thereof the following new section:

28 USC 2604.

"§ 2604. Judicial conference

"The chief judge of the Court of Customs and Patent Appeals is authorized to summon annually the judges of such court to a judicial conference, at a time and place that such chief judge designates, for the purpose of considering the business of such court and improvements in the administration of justice in such court.".

(b) The section analysis of chapter 167 of title 28, United States Code, as amended by section 404 of this Act, is further amended by adding at the end thereof the following new item:

"2604. Judicial conference.".

TITLE V—TECHNICAL AND CONFORMING AMENDMENTS TO TITLE 28

28 USC 1.

SEC. 501. The following provisions of title 28, United States Code, are amended by striking out "Customs Court" and inserting in lieu thereof "Court of International Trade":

(1) The item relating to chapter 11 in the chapter analysis of part I.
(2) The chapter heading of chapter 11.
(3) Section 253(a).
(4) Section 254.
(5) Section 255(a).
(6) Section 257.
(7) Section 292(e).
(8) Section 293(c).
(9) Section 372 (a) and (b).
(10) Section 451 (including that section as it will become effective on April 1, 1984).
(11) Section 456.
(12) Section 569(a) (including that section as it will become effective on April 1, 1984).
(13) The item relating to chapter 55 in the chapter analysis of part III.
(14) Section 605.
(15) Section 610.
(16) The chapter heading of chapter 55.
(17) Section 871.
(18) Section 872.
(19) Section 873.
(20) The item relating to chapter 95 in the chapter analysis of part IV.
(21) Section 1340.
(22) The item relating to section 1541 in the section analysis of chapter 93.
(23) The section heading for section 1541.
(24) Section 1541(b).
(25) The item relating to chapter 169 in the chapter analysis of part VI.
(26) The item relating to section 2601 in the section analysis of chapter 167.
(27) The section heading for section 2601.
(28) Section 2601 (a), (b), and (c).

SEC. 502. Section 252 of title 28, United States Code, is amended by striking out "Judge of the Customs Court" and inserting in lieu thereof "Judges of the Court of International Trade".

SEC. 503. Section 518(a) of title 28, United States Code, is amended by inserting "and in the Court of International Trade" immediately after "Claims".

SEC. 504. Section 751 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) When the Court of International Trade is sitting in a judicial district, other than the Southern District or Eastern District of New York, the clerk of the district court of such judicial district or an authorized deputy clerk, upon the request of the chief judge of the Court of International Trade and with the approval of such district court, shall act in the district as clerk of the Court of International Trade, as prescribed by the rules and orders of the Court of International Trade for all purposes relating to the civil action then pending before such court.".

SEC. 505. Section 1337 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The district courts shall not have jurisdiction under this section of any matter within the exclusive jurisdiction of the Court of International Trade under chapter 95 of this title.". *Ante*, p. 1728.

SEC. 506. Section 1352 of title 28, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", except matters within the jurisdiction of the Court of International Trade under section 1582 of this title". *Ante*, p. 1729.

SEC. 507. Section 1355 of title 28, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", except matters within the jurisdiction of the Court of International Trade under section 1582 of this title".

SEC. 508. Section 1356 of title 28, United States Code, is amended by inserting immediately before the period at the end thereof the following: ", except matters within the jurisdiction of the Court of International Trade under section 1582 of this title".

SEC. 509. The second paragraph of section 1491 of title 28, United States Code, is amended by striking out "in suits" and inserting in lieu thereof "of any civil action within the exclusive jurisdiction of the Court of International Trade, or of any action".

SEC. 510. Section 1919 of title 28, United States Code, is amended by inserting "or the Court of International Trade" immediately after "court" the first place it appears.

SEC. 511. (a) Chapter 125 of title 28, United States Code, is amended by inserting immediately after section 1963 the following new section:

"§ 1963A. Registration of judgments of the Court of International Trade 28 USC 1963A.

"(a) A judgment in any civil action for the recovery of money or property entered by the Court of International Trade which has become final by appeal or expiration of time for appeal may be registered in any judicial district by filing a certified copy of such judgment. A judgment so registered shall have the same effect as a judgment of the district court of the district where registered and may be enforced in like manner.

"(b) A certified copy of the satisfaction of any judgment in whole or in part may be registered in like manner in any district in which the judgment is a lien.".

(b) The section analysis of chapter 125 of title 28, United States Code, is amended by inserting immediately after the item relating to section 1963 the following new item:

"1963A. Registration of judgments of the Court of International Trade.".

SEC. 512. The first paragraph of section 2414 of title 28, United States Code, is amended by inserting "or the Court of International Trade" immediately after "court" in the first sentence.

TITLE VI—TECHNICAL AND CONFORMING AMENDMENTS TO OTHER ACTS

SEC. 601. The following provisions of law are amended by striking out "Customs Court" and inserting in lieu thereof "Court of International Trade":

(1) Section 6001 of title 18, United States Code.
(2) Section 305 of the Tariff Act of 1930 (19 U.S.C. 1305).
(3) Section 502(b) of the Tariff Act of 1930 (19 U.S.C. 1502(b)).
(4) Section 503 of the Tariff Act of 1930 (19 U.S.C. 1503).
(5) Section 514 (a) and (b) of the Tariff Act of 1930 (19 U.S.C. 1514 (a) and (b)).
(6) Section 516 (d), (e), and (f) of the Tariff Act of 1930 (19 U.S.C. 1516 (d), (e), and (f)).
(7) Section 516A (a)(2), (c), (d), and (e) of the Tariff Act of 1930 (19 U.S.C. 1516a (a)(2), (c), (d), and (e)).
(8) Section 528 of the Tariff Act of 1930 (19 U.S.C. 1528).
(9) Section 308(9) of the Ethics in Government Act (28 U.S.C. app.).
(10) Section 7443(d) of the Internal Revenue Code of 1954. 26 USC 7443.
(11) Section 906 of title 44, United States Code.

SEC. 602. Section 103(h) of the Act of March 27, 1978 (92 Stat. 170; 16 U.S.C. 791(h)) is amended by striking out "section 250 of the Trade Act of 1974 (88 Stat. 2029)" and inserting in lieu thereof "section 284 of the Trade Act of 1974, except that such review shall be in the appropriate court of appeals of the United States, and the judgment of such court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.". 16 USC 791. *Post*, p. 1746.

Repeal. SEC. 603. The first section of the Act entitled "An Act to provide the name by which the Board of General Appraisers and members thereof shall be known" approved May 28, 1926 (19 U.S.C. 405a), is repealed.

SEC. 604. Section 337(c) of the Tariff Act of 1930 (19 U.S.C. 1337(c)) is amended—

(1) by inserting "for review in accordance with chapter 7 of title 5, United States Code" immediately before the period at the end of the fourth sentence; and 5 USC 701 *et seq.*

(2) by striking out the last sentence and inserting in lieu thereof the following new sentence: "Notwithstanding the foregoing provisions of this subsection, Commission determinations under subsections (d), (e), and (f) with respect to its findings on the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the amount and nature of bond, or the appropriate remedy shall be reviewable in accordance with section 706 of title 5, United States Code.".

SEC. 605. (a) Section 514(a)(4) of the Tariff Act of 1930 (19 U.S.C. 1514(a)(4)) is amended to read as follows:

"(4) the exclusion of merchandise from entry or delivery or a demand for redelivery to customs custody under any provision of the customs laws, except a determination appealable under section 337 of this Act;".

(b) Section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) is further amended by striking out "section 2632 of title 28 of the United States Code within the time prescribed by section 2631" and inserting in lieu thereof "chapter 169 of title 28 of the United States Code within the time prescribed by section 2636". *Ante*, p. 1734.

SEC. 606. Section 515(b) of the Tariff Act of 1930 (19 U.S.C. 1515(b)) is amended by striking out "section 1582" and inserting in lieu thereof "section 1581".

SEC. 607. (a) Section 516(a) of the Tariff Act of 1930 is amended— 19 USC 1516.

(1) by inserting "(1)" immediately before "The Secretary";

(2) by striking out "(as defined in section 771(9) (C), (D), and (E) of this Act)"; 19 USC 1677.

(3) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(4) by inserting at the end thereof the following new paragraph:

"(2) As used in this section, the term 'interested party' means a person who is— "Interested party."

"(A) a manufacturer, producer, or wholesaler in the United States;

"(B) a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States; or

"(C) a trade or business association a majority of whose members are manufacturers, producers, or wholesalers in the United States,

of goods of the same class or kind as the designated imported merchandise.".

(b) Section 516(d) of the Tariff Act of 1930 (19 U.S.C. 1516(d)) is amended by striking out "section 2632" and inserting in lieu thereof "chapter 169".

SEC. 608. (a) Section 516A(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(1)) is amended to read as follows:

"(1) REVIEW OF CERTAIN DETERMINATIONS.—

"(A) THIRTY-DAY REVIEW.—Within 30 days after the date of publication in the Federal Register of notice of—

"(i) a determination by the Secretary or the administering authority, under section 303(a)(3), 702(c), or 732(c) of this Act, not to initiate an investigation, 19 USC 1303, 1671a, 1673a.

"(ii) a determination by the administering authority or the Commission, under section 751(b) of this Act, not to review an agreement or a determination based upon changed circumstances, or 19 USC 1675.

"(iii) a negative determination by the Commission, under section 703(a) or 733(a) of this Act, as to whether there is reasonable indication of material injury, threat of material injury, or material retardation, 19 USC 1671b, 1673b.

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.

"(B) TEN-DAY REVIEW.—Within 10 days after the date of publication in the Federal Register of notice of—

19 USC 1671b, 1673b.

"(i) a determination by the administering authority, under section 703(c) or 733(c) of this Act, that a case is extraordinarily complicated, or

"(ii) a negative determination by the administering authority under section 703(b) or 733(b) of this Act,

an interested party who is a party to the proceeding in connection with which the matter arises may commence an action in the United States Court of International Trade by filing concurrently a summons and complaint, each with the content and in the form, manner, and style prescribed by the rules of that court, contesting any factual findings or legal conclusions upon which the determination is based.".

(b) Section 516A(a)(3) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(3)) is amended by striking out "section 2632" and inserting in lieu thereof "chapter 169".

(c) Section 516A(c)(2) of the Tariff Act of 1930 (19 U.S.C. 1516a(c)(2)) is amended by striking out the second sentence.

(d) The second sentence of section 516A(d) of the Tariff Act of 1930 (19 U.S.C. 1516a(d)) is amended to read as follows: "The party filing the action shall notify all such interested parties of the filing of an action under this section, in the form, manner, style, and within the time prescribed by rules of the court.".

SEC. 609. Section 592(e) of the Tariff Act of 1930 (19 U.S.C. 1592(e)) is amended by striking out "(e) DISTRICT COURT PROCEEDINGS.—" and all that follows through "under this section—" and inserting in lieu thereof the following:

"(e) COURT OF INTERNATIONAL TRADE PROCEEDINGS.—Notwithstanding any other provision of law, in any proceeding commenced by the United States in the Court of International Trade for the recovery of any monetary penalty claimed under this section—".

SEC. 610. Section 604 of the Tariff Act of 1930 (19 U.S.C. 1604) is amended—

(1) by striking out "every United States district attorney" and inserting in lieu thereof "the Attorney General of the United States";

(2) by inserting "or the Court of International Trade" immediately after "district court"; and

(3) by striking out "such district attorney" and inserting in lieu thereof "the Attorney General".

SEC. 611. (a) The second sentence of the second paragraph of section 641(b) of the Tariff Act of 1930 (19 U.S.C. 1641(b)) is amended by striking out "in the circuit court" and all that follows through "District of Columbia" and inserting in lieu thereof "in the Court of International Trade".

(b) Section 641(b) of the Tariff Act of 1930 (19 U.S.C. 1641(b)) is amended by striking out the next to last sentence of the second paragraph.

Repeal.

SEC. 612. Section 250 of the Trade Act of 1974 (19 U.S.C. 2322), and the item relating to such section in the table of contents of such Act, are repealed.

19 USC prec. 2271 note.

SEC. 613. (a) Title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.) is amended by redesignating section 284 as section 285 and by inserting immediately after section 283 the following new section:

19 USC 2395.

"SEC. 284. JUDICIAL REVIEW.

"(a) A worker, group of workers, certified or recognized union, or authorized representative of such worker or group aggrieved by a final determination of the Secretary of Labor under section 223 of

this title, a firm or its representative or any other interested domestic party aggrieved by a final determination of the Secretary of Commerce under section 251 of this title, or a community or any other interested domestic party aggrieved by a final determination of the Secretary of Commerce under section 271 of this title may, within sixty days after notice of such determination, commence a civil action in the United States Court of International Trade for review of such determination. The clerk of such court shall send a copy of the summons and the complaint in such action to the Secretary of Labor or the Secretary of Commerce, as the case may be. Upon receiving a copy of such summons and complaint, such Secretary shall promptly certify and file in such court the record on which he based such determination. 19 USC 2273. 19 USC 2341. 19 USC 2371.

"(b) The findings of fact by the Secretary of Labor or the Secretary of Commerce, as the case may be, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to such Secretary to take further evidence, and such Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(c) The Court of International Trade shall have jurisdiction to affirm the action of the Secretary of Labor or the Secretary of Commerce, as the case may be, or to set such action aside, in whole or in part. The judgment of the Court of International Trade shall be subject to review by the United States Court of Customs and Patent Appeals as prescribed by the rules of such court. The judgment of the Court of Customs and Patent Appeals shall be subject to review by the Supreme Court of the United States upon certiorari as provided in section 1256 of title 28.".

(b) The table of contents of the Trade Act of 1974 (19 U.S.C. 2101 et seq.) is amended by striking out the item relating to section 284 and inserting in lieu thereof the following new items:

"Sec. 284. Judicial review.
"Sec. 285. Effective date.".

TITLE VII—EFFECTIVE DATES AND MISCELLANEOUS PROVISIONS

EFFECTIVE DATES

SEC. 701. (a) Except as provided in subsection (b) of this section, the provisions of and amendments made by this Act shall take effect on November 1, 1980. 28 USC 251 note.

(b)(1) The following sections of title 28, United States Code, shall apply with respect to civil actions commenced on or after the 90th day after the effective date of this Act:

(A) Sections 1582, 2639(a)(2), and 2640(a)(6), as amended by sections 201 and 301 of this Act.

(B) Sections 1352, 1355, and 1356, as amended by sections 506, 507, and 508 of this Act.

(2) Section 592(e) of the Tariff Act of 1930, as amended by section 609 of this Act, shall apply with respect to civil actions commenced on or after 90th day after the effective date of this Act. 19 USC 1592.

TREATMENT OF REFERENCES

28 USC 251 note.

SEC. 702. Any reference in any statute or regulation of the United States to the United States Customs Court, the U.S. Customs Court, or the Customs Court shall be deemed to be a reference to the United States Court of International Trade.

EFFECT ON CUSTOMS COURT JUDGES

28 USC 251 note.

SEC. 703. (a) Except as provided in subsection (b) of this section, the amendments made by title I of this Act shall not affect the status of any individual serving as judge or chief judge of the Customs Court on the date of enactment of this Act.

(b) The requirement that a person may not continue to serve as chief judge of the Court of International Trade after having reached the age of seventy years, as set forth in the amendment made by section 101 of this Act, shall apply to any individual serving as chief judge on or after the date of enactment of this Act.

EFFECT ON PENDING CASES

28 USC 251 note.

SEC. 704. Nothing in this Act shall cause the dismissal of any action commenced prior to the date of enactment of this Act under jurisdictional statutes relating to the Customs Court or the Court of Customs and Patent Appeals as in effect immediately prior to such date of enactment.

TVA LEGAL REPRESENTATION

28 USC 251 note.
16 USC 831.

SEC. 705. Nothing in this Act affects the authority of the Tennessee Valley Authority under the Tennessee Valley Authority Act of 1933 to represent itself by attorneys of its choosing.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1235 accompanying H.R. 7540 (Comm. on the Judiciary).
SENATE REPORT No. 96-466 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 18, considered and passed Senate.
Vol. 126 (1980): Sept. 22, H.R. 7540 considered and passed House; passage vacated and S. 1654, amended, passed in lieu.
Sept. 24, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 42 (1980): Oct. 11, Presidential statement.

Public Law 96-418
96th Congress

An Act

To authorize certain construction at military installations for fiscal year 1981, and for other purposes.

Oct. 10, 1980
[H.R. 7301]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Military Construction Authorization Act, 1981".

Military Construction Authorization Act, 1981.

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION PROJECTS

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $16,350,000.
Fort Campbell, Kentucky, $14,200,000.
Fort Carson, Colorado, $129,960,000.
Fort Devens, Massachusetts, $1,000,000.
Fort Drum, New York, $5,900,000.
Fort Gillem, Georgia, $2,600,000.
Fort Hood, Texas, $24,420,000.
Fort Hunter-Liggett, California, $5,100,000.
Fort Lewis, Washington, $16,000,000.
Fort Ord, California, $4,700,000.
Fort Polk, Louisiana, $14,800,000.
Fort Riley, Kansas, $890,000.
Fort Sam Houston, Texas, $3,750,000.
Fort Stewart/Hunter Army Air Field, Georgia, $31,700,000.
Presidio of San Francisco, California, $750,000.

UNITED STATES ARMY WESTERN COMMAND

Schofield Barracks, Hawaii, $12,220,000.
Tripler Army Medical Center, Hawaii, $84,500,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort A. P. Hill, Virginia, $930,000.
Fort Belvoir, Virginia, $2,310,000.
Fort Benning, Georgia, $13,390,000.
Fort Bliss, Texas, $2,400,000.

Fort Dix, New Jersey, $4,510,000.
Fort Eustis, Virginia, $1,100,000.
Fort Gordon, Georgia, $2,500,000.
Fort Jackson, South Carolina, $20,140,000.
Fort Knox, Kentucky, $5,400,000.
Fort Leavenworth, Kansas, $1,250,000.
Fort Leonard Wood, Missouri, $7,900,000.
Fort Rucker, Alabama, $30,560,000.
Fort Sill, Oklahoma, $4,100,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

Anniston Army Depot, Alabama, $3,550,000.
Badger Army Ammunition Plant, Wisconsin, $2,100,000.
Corpus Christi Army Depot, Texas, $1,600,000.
Fort Monmouth, New Jersey, $2,000,000.
Holston Army Ammunition Plant, Tennessee, $4,690,000.
Indiana Army Ammunition Plant, Indiana, $2,800,000.
Iowa Army Ammunition Plant, Iowa, $1,650,000.
Jefferson Proving Ground, Indiana, $960,000.
Letterkenny Army Depot, Pennsylvania, $9,250,000.
Lone Star Army Ammunition Plant, Texas, $4,350,000.
Louisiana Army Ammunition Plant, Louisiana, $1,050,000.
McAlester Army Ammunition Plant, Oklahoma, $620,000.
Picatinny Arsenal, New Jersey, $1,400,000.
Pine Bluff Arsenal, Arkansas, $3,150,000.
Red River Army Depot, Texas, $3,800,000.
Redstone Arsenal, Alabama, $12,190,000.
Rock Island Arsenal, Illinois, $6,870,000.
Rocky Mountain Arsenal, Colorado, $10,400,000.
Sacramento Army Depot, California, $1,930,000.
Sierra Army Depot, California, $550,000.
St. Louis Support Activity, Illinois, $3,050,000.
Tobyhanna Army Depot, Pennsylvania, $680,000.
Tooele Army Depot, Utah, $2,050,000.
Twin City Army Ammunition Plant, Minnesota, $820,000.
Umatilla Army Depot, Oregon, $620,000.
Volunteer Army Ammunition Plant, Tennessee, $2,150,000.
White Sands Missile Range, New Mexico, $1,000,000.
Yuma Proving Ground, Arizona, $2,650,000.

AMMUNITION FACILITIES

Holston Army Ammunition Plant, Tennessee, $300,000.
Indiana Army Ammunition Plant, Indiana, $3,570,000.
Iowa Army Ammunition Plant, Iowa, $2,300,000.
Lake City Army Ammunition Plant, Missouri, $220,000.
Lone Star Army Ammunition Plant, Texas, $540,000.
Longhorn Army Ammunition Plant, Texas, $260,000.
Louisiana Army Ammunition Plant, Louisiana, $380,000.
Milan Army Ammunition Plant, Tennessee, $210,000.
Radford Army Ammunition Plant, Virginia, $5,890,000.

UNITED STATES ARMY CORPS OF ENGINEERS

Cold Regions Laboratory, New Hampshire, $6,100,000.

MILITARY DISTRICT OF WASHINGTON

Cameron Station, Virginia, $930,000.
Fort McNair, Washington, District of Columbia, $690,000.
Fort Myer, Virginia, $1,150,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, $4,650,000.
Fort Ritchie, Maryland, $1,750,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Fort Detrick, Maryland, $1,350,000.
Fitzsimmons Army Medical Center, Colorado, $790,000.

MILITARY TRAFFIC MANAGEMENT COMMAND

Bayonne Terminal, New Jersey, $660,000.
Sunny Point Terminal, North Carolina, $1,800,000.

OUTSIDE THE UNITED STATES

EIGHTH UNITED STATES ARMY, KOREA

Various Locations, $62,074,000.

KWAJALEIN MISSILE RANGE

National Missile Range, $5,440,000.

UNITED STATES ARMY FORCES COMMAND

Panama Area, Canal Zone, $8,100,000.

UNITED STATES ARMY, JAPAN

Kawakami, Japan, $3,000,000.

UNITED STATES ARMY, EUROPE

Various Locations, $168,340,000.

UNITED STATES ARMY INTELLIGENCE AND SECURITY COMMAND

Korea, $1,186,000.

EMERGENCY CONSTRUCTION

SEC. 102. The Secretary of the Army may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith,

may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $20,000,000. The Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1981, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1982, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

Notification to congressional committees.

Expiration date.

MINOR CONSTRUCTION

SEC. 103. The Secretary of the Army is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $44,560,000.

DEFICIENCY AUTHORIZATION FOR FISCAL YEAR 1979 PROJECTS

SEC. 104. Section 602(1) of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 580), is amended to read as follows:

"(1) for title I: inside the United States $503,794,000; outside the United States $232,510,000; minor construction $35,365,000; for a total of $771,669,000.".

TITLE II—NAVY

AUTHORIZED NAVY CONSTRUCTION PROJECTS

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

MARINE CORPS

Marine Corps Air Station, Beaufort, South Carolina, $930,000.
Marine Corps Base, Camp Lejeune, North Carolina, $24,700,000.
Marine Corps Base, Camp Pendleton, California, $8,050,000.
Marine Corps Air Station, Cherry Point, North Carolina, $16,700,000.
Marine Corps Air Station, El Toro, California, $11,500,000.
Marine Corps Air Station, Kaneohe Bay, Hawaii, $620,000.
Marine Corps Recruit Depot, Parris Island, South Carolina, $6,800,000.
Marine Corps Development and Education Command, Quantico, Virginia, $5,800,000.
Marine Corps Air Ground Combat Center, Twentynine Palms, California, $9,400,000.
Marine Corps Air Station, Yuma, Arizona, $2,200,000.

OFFICE OF NAVAL RESEARCH

Naval Research Laboratory, Washington, District of Columbia, $7,300,000.

CHIEF OF NAVAL OPERATIONS

Naval Submarine Base, Bangor, Bremerton, Washington, $8,562,000.
Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, $18,000,000.
Commandant Naval District, Washington, District of Columbia, $790,000.

COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Air Station, Brunswick, Maine, $4,100,000.
Naval Station, Charleston, South Carolina, $13,200,000.
Naval Air Station, Jacksonville, Florida, $3,830,000.
Naval Amphibious Base, Little Creek, Virginia, $8,100,000.
Naval Station, Mayport, Florida, $24,620,000.
Naval Submarine Base, New London, Groton, Connecticut, $8,030,000.
Headquarters Support Activity, Atlantic Fleet, Norfolk, Virginia, $3,400,000.
Naval Air Station, Norfolk, Virginia, $2,450,000.
Naval Station, Norfolk, Virginia, $15,500,000.
Naval Air Station, Oceana, Virginia, $19,350,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Air Station, Alameda, California, $10,850,000.
Naval Air Station, Barbers Point, Hawaii, $2,500,000.
Naval Air Station, Fallon, Nevada, $330,000.
Naval Air Station, Lemoore, California, $5,810,000.
Naval Magazine, Lualualei, Hawaii, $6,600,000.
Naval Air Station, Miramar, California, $1,200,000.
Naval Air Station, North Island, California, $850,000.
Naval Submarine Base, Pearl Harbor, Hawaii, $1,900,000.
Naval Station, San Diego, California, $4,950,000.
Navy Submarine Support Facility, San Diego, California, $4,150,000.
Naval Air Station, Whidbey Island, Washington, $2,390,000.

CHIEF OF NAVAL EDUCATION AND TRAINING

Fleet Ballistic Missile Submarine Training Center, Charleston, South Carolina, $1,100,000.
Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $4,700,000.
Naval Submarine School, Groton, Connecticut, $1,150,000.
Naval Education and Training Center, Newport, Rhode Island, $620,000.
Naval Training Center, Orlando, Florida, $7,050,000.
Fleet Combat Training Center, Pacific, San Diego, California, $540,000.
Naval Submarine Training Center, San Diego, California, $4,450,000.
Naval Air Station, Whiting Field, Florida, $3,680,000.

BUREAU OF MEDICINE AND SURGERY

National Naval Medical Center, Bethesda, Maryland, $23,000,000.
Naval Regional Medical Center, San Diego, California, $293,000,000, including land acquisition.

NAVAL MATERIAL COMMAND

Naval Air Rework Facility, Alameda, California, $2,350,000.
Puget Sound Naval Shipyard, Bremerton, Washington, $35,000,000.
Naval Supply Center, Puget Sound, Bremerton, Washington, $2,200,000.
Naval Fuel Annex, Casco Bay, Maine, $3,900,000.
Charleston Naval Shipyard, Charleston, South Carolina, $6,600,000.
Naval Weapons Station, Charleston, South Carolina, $3,410,000.
Polaris Missile Facility, Atlantic, Charleston, South Carolina, $8,400,000.
Naval Weapons Center, China Lake, California, $9,050,000.
Naval Construction Battalion Center, Davisville, Rhode Island, $550,000.
Navy Public Works Center, Great Lakes, Illinois, $8,400,000.
Naval Undersea Warfare Engineering Station, Keyport, Washington, $860,000.
Portsmouth Naval Shipyard, Kittery, Maine, $13,880,000.
Long Beach Naval Shipyard, Long Beach, California, $4,400,000.
Naval Ordnance Station, Louisville, Kentucky, $2,050,000.
Naval Supply Center, Norfolk, Virginia, $13,150,000.
Navy Public Works Center, Norfolk, Virginia, $1,560,000.
Naval Supply Center, Oakland, California, $4,600,000.
Navy Public Works Center, Pearl Harbor, Hawaii, $5,783,000.
Naval Air Rework Facility, Pensacola, Florida, $1,550,000.
Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, $10,710,000.
Pacific Missile Test Center, Point Mugu, California, $8,750,000.
Norfolk Naval Shipyard, Portsmouth, Virginia, $11,500,000.
Naval Supply Center, San Diego, California, $2,900,000.
Navy Public Works Center, San Diego, California, $670,000.
Mare Island Naval Shipyard, Vallejo, California, $7,100,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communications Area Master Station Eastern Pacific, Honolulu, Hawaii, $2,000,000.
Naval Communications Area Master Station Atlantic, Norfolk, Virginia, $700,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Winter Harbor, Maine, $1,150,000.

OUTSIDE THE UNITED STATES

COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Facility, Brawdy, Wales, United Kingdom, $3,600,000.
Naval Station, Keflavik, Iceland, $49,200,000.
Naval Station, Roosevelt Roads, Puerto Rico, $10,500,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Air Facility, Atsugi, Japan, $1,000,000.
Naval Support Facility, Diego Garcia, Indian Ocean, $108,177,000.
Naval Station, Subic Bay, Republic of the Philippines, $780,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communications Area Master Station Western Pacific, Guam, Mariana Islands, $1,900,000.
Naval Communication Station, Keflavik, Iceland, $3,600,000.

EMERGENCY CONSTRUCTION

SEC. 202. The Secretary of the Navy may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $20,000,000. The Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1981, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1982, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

Notification to congressional committees.

Expiration date.

MINOR CONSTRUCTION

SEC. 203. The Secretary of the Navy is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $33,010,000.

DUAL PURPOSE AIR TERMINAL, KEFLAVIK, ICELAND

SEC. 204. (a) The Secretary of the Navy may contract for the construction of the Air Passenger Terminal in Keflavik, Iceland, in accordance with this section and any agreement which may be made between the Government of Iceland and the Government of the United States. Of the amount authorized in section 201 for the Naval Station, Keflavik, Iceland, no more than $20,000,000 may be contributed by the United States as the United States share of the cost of such construction.

(b) A contract for such construction may not be entered into until the Government of Iceland agrees (1) to provide to the Government of the United States funds equal to the difference between the amount

required to complete the construction and the amount of the United States share authorized in subsection (a), and (2) to make those funds available, in advance of the time when payments are due, in such amounts and at such times as may be required by the Government of the United States.

NAVAL REGIONAL MEDICAL CENTER, SAN DIEGO, CALIFORNIA

SEC. 205. None of the funds authorized to be appropriated for the construction of the Naval Regional Medical Center, San Diego, California, may be obligated or expended until—

Report to congressional committees.

(1) the Secretary of the Navy has submitted a report to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives which includes (A) an evaluation of the Balboa Park and Helix Heights areas as proposed sites for the construction of such medical center, (B) a statement of the Secretary's preference between the two sites, and (C) a statement justifying the Secretary's preference; and

(2) a period of 30 calendar days has elapsed after the date on which such report is received by such committees.

NAVAL WEAPONS CENTER, CHINA LAKE, CALIFORNIA

SEC. 206. The Secretary of the Navy is authorized to acquire such lands or interests in lands as may be needed for two established low-level, high-speed aircraft corridors to serve the Naval Weapons Center at China Lake, California. The acquisition of such lands or interests may be made only by exchange, on an equal value basis, of excess land of the Naval Weapons Center, China Lake, California.

TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION PROJECTS

SEC. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $9,650,000.
Kelly Air Force Base, Texas, $650,000.
McClellan Air Force Base, California, $3,250,000.
Robins Air Force Base, Georgia, $4,850,000.
Tinker Air Force Base, Oklahoma, $11,870,000.
Wright-Patterson Air Force Base, Ohio, $3,700,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $11,500,000.
Brooks Air Force Base, Texas, $4,200,000.
Buckley Air National Guard Base, Colorado, $900,000.
Cape Canaveral Air Force Station, Florida, $22,300,000.
Edwards Air Force Base, California, $10,500,000.

Hanscom Air Force Base, Massachusetts, $7,200,000.
Port Hueneme Naval Installation, California, $16,700,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, $14,648,000.
Keesler Air Force Base, Mississippi, $2,810,000.
Lackland Air Force Base, Texas, $9,740,000.
Laughlin Air Force Base, Texas, $1,100,000.
Lowry Air Force Base, Colorado, $840,000.
Mather Air Force Base, California, $860,000.
Maxwell Air Force Base, Alabama, $11,184,000.
Randolph Air Force Base, Texas, $7,850,000.
Reese Air Force Base, Texas, $4,290,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $5,190,000.
Elmendorf Air Force Base, Alaska, $14,820,000.
Galen Air Force Base, Alaska, $930,000.
King Salmon Airport, Alaska, $1,000,000.
Shemya Air Force Base, Alaska, $2,900,000.

MILITARY AIRLIFT COMMAND

Andrews Air Force Base, Maryland, $3,140,000.
Charleston Air Force Base, South Carolina, $1,740,000.
Dover Air Force Base, Delaware, $4,500,000.
Kirtland Air Force Base, New Mexico, $1,200,000.
McChord Air Force Base, Washington, $5,500,000.
Norton Air Force Base, California, $2,000,000.
Pope Air Force Base, North Carolina, $9,250,000.
Scott Air Force Base, Illinois, $4,000,000.
Travis Air Force Base, California, $1,080,000.

PACIFIC AIR FORCES

Hickam Air Force Base, Hawaii, $580,000.

STRATEGIC AIR COMMAND

Barksdale Air Force Base, Louisiana, $3,200,000.
Beale Air Force Base, California, $2,670,000.
Blytheville Air Force Base, Arkansas, $6,141,000.
Carswell Air Force Base, Texas, $13,920,000.
Castle Air Force Base, California, $19,850,000.
Dyess Air Force Base, Texas, $10,300,000.
Ellsworth Air Force Base, South Dakota, $20,720,000.
Fairchild Air Force Base, Washington, $22,860,000.
Grand Forks Air Force Base, North Dakota, $22,650,000.
Griffiss Air Force Base, New York, $14,850,000.
K. I. Sawyer Air Force Base, Michigan, $3,700,000.
Loring Air Force Base, Maine, $11,800,000.
Malmstrom Air Force Base, Montana, $750,000.
McConnell Air Force Base, Kansas, $4,040,000.
Minot Air Force Base, North Dakota, $2,570,000.
Offutt Air Force Base, Nebraska, $5,360,000.
Pease Air Force Base, New Hampshire, $10,500,000.
Peterson Air Force Base, Colorado, $600,000.

Rickenbacker Air Force Base, Indiana, $6,300,000.
Vandenberg Air Force Base, California, $75,300,000.
Whiteman Air Force Base, Missouri, $990,000.
Wurtsmith Air Force Base, Michigan, $34,970,000.

TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, $1,910,000.
Davis Monthan Air Force Base, Arizona, $3,200,000.
George Air Force Base, California, $640,000.
Holloman Air Force Base, New Mexico, $5,800,000.
Homestead Air Force Base, Florida, $670,000.
Langley Air Force Base, Virginia, $3,892,000.
Luke Air Force Base, Arizona, $2,650,000.
MacDill Air Force Base, Florida, $1,160,000.
Moody Air Force Base, Georgia, $1,470,000.
Myrtle Beach Air Force Base, South Carolina, $780,000.
Nellis Air Force Base, Nevada, $6,250,000.
Shaw Air Force Base, South Carolina, $3,800,000.
Tyndall Air Force Base, Florida, $2,300,000.

OUTSIDE THE UNITED STATES

MILITARY AIRLIFT COMMAND

Lajes Field, Portugal, $22,300,000.

PACIFIC AIR FORCES

Camp Zama, Japan, $1,100,000.
Clark Air Base, Republic of the Philippines, $13,050,000.
Kadena Air Base, Japan, $10,280,000.
Kunsan Air Base, Korea, $4,400,000.
Kwang-Ju Air Base, Korea, $5,900,000.
Misawa Air Base, Japan, $1,930,000.
Naval Support Facility, Diego Garcia, Indian Ocean, $23,700,000.
Osan Air Base, Korea, $16,800,000.
Taegu Air Base, Korea, $8,350,000.

UNITED STATES AIR FORCES IN EUROPE

Various Locations, United Kingdom, $2,200,000.
Various Locations, $34,477,000.

EMERGENCY CONSTRUCTION

SEC. 302. The Secretary of the Air Force may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation,

appurtenances, utilities, and equipment in the total amount of $20,000,000. The Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1981, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1982, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

Notification to congressional committees.

Expiration date.

MINOR CONSTRUCTION

SEC. 303. The Secretary of the Air Force is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $24,870,000.

INSTALLATION OF ALARM SYSTEM AT TITAN II MISSILE SITES

SEC. 304. The Secretary of the Air Force shall acquire and install, out of funds appropriated pursuant to section 303, an appropriate warning system at each Titan II missile site which has in its near vicinity a significant size population.

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies for the following acquisition or construction:

INSIDE THE UNITED STATES

DEFENSE INTELLIGENCE AGENCY

Bolling Air Force Base, District of Columbia, $32,700,000.

DEFENSE LOGISTICS AGENCY

Defense Electronics Supply Center, Dayton, Ohio, $730,000.
Defense Fuel Support Point, Norwalk, California, $2,000,000.
Defense Fuel Support Point, Searsport, Maine, $3,000,000.
Defense Personnel Support Center, Philadelphia, Pennsylvania, $750,000.
Defense Storage Facility, Bayonne, New Jersey, $1,450,000.

DEFENSE MAPPING AGENCY

Hydrographic/Topographic Center, Brookmont, Maryland, $1,500,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, $5,065,000.
Kunia, Oahu, Hawaii, $2,700,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Activity, Fort Belvoir, Virginia, $16,500,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Property Disposal Office, Bitburg, Germany, $1,350,000.

NATIONAL SECURITY AGENCY

Classified Location, $674,000.

OFFICE OF THE SECRETARY OF DEFENSE

CLASSIFIED LOCATION

Classified Activity, $3,500,000.

DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS

Aschaffenburg, Germany, $1,110,000.
Baumholder, Wetzel Housing Area, Germany, $3,065,000.
Bermuda, Naval Air Station, $2,580,000.
Clark Air Base, Republic of the Philippines, $1,650,000.
Iwakuni, Marine Corps Air Station, Japan, $6,060,000.
Osan Air Base, Korea, $1,900,000.
Pruem Air Station, Germany, $1,150,000.
Sagamihara, Japan, $3,220,000.
Seoul, Yongsan Garrison, Korea, $4,500,000.
Taegu, Korea, $4,100,000.
Wiesbaden, Germany, $10,176,000.
Yokota Air Base West, Japan, $7,500,000.

EMERGENCY CONSTRUCTION

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the security of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $15,000,000. The Secretary of Defense, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including real estate actions pertaining thereto.

Notification to congressional committees.

MINOR CONSTRUCTION

SEC. 403. The Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $3,680,000.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 404. (a)(1) The Secretary of Defense, acting on behalf of the United States, may participate in the five-year slice group plan for 1980 through 1984 to implement the North Atlantic Treaty Organization Infrastructure program. The Secretary may participate in such five-year slice group plan, heretofore agreed to by member nations of the North Atlantic Treaty Organization, only to the extent that the United States share under such plan does not exceed 27.42 percent of the total amount of the commitments made by all member nations under such plan.

(2) No funds may be obligated or expended in connection with the North Atlantic Treaty Organization Infrastructure program in any year unless such funds have been authorized by law for such program for such year.

(b) The Secretary of Defense is authorized to incur obligations in amounts not to exceed $300,000,000 for the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including military headquarters) for the collective defense of the North Atlantic Treaty Area.

(c) Within thirty days after the end of each calendar year quarter, the Secretary of Defense shall furnish to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a description of all obligations incurred by the United States during the preceding quarter to meet the United States share of the cost of the multilateral programs for which the Secretary of Defense is authorized to incur obligations.

Notification to congressional committees.

SPECIAL CONTINGENCY FACILITIES CONSTRUCTION FUNDS

SEC. 405. (a) There is authorized to be appropriated to the Secretary of Defense the sum of $150,000,000 for the construction of contingency facilities to support the national security interests of the United States in strategic areas of the world, including the Middle East and Indian Ocean areas.

Appropriation authorization.

(b) None of the funds appropriated pursuant to subsection (a) may be obligated or expended for the construction of any facility until (1) the United States and the country which exercises sovereignty over the land on which the facility is to be constructed have entered into a formal agreement which guarantees the United States access to and use of such facility during the term of the agreement, and (2) a copy of such agreement has been transmitted to the Congress.

(c) None of the funds appropriated pursuant to subsection (a) may be obligated or expended for such construction if such construction is authorized under the terms of a renegotiated, amended, or extended agreement, previously entered into by the United States with any other country, until after a copy of the renegotiated, amended, or extended agreement has been transmitted to the Congress.

(d) On each separate occasion that the Secretary of Defense plans to obligate any part of the funds appropriated pursuant to subsection (a), he shall—

Report to congressional committees.

(1) transmit to the appropriate committees of the Congress a written report stating the purpose for which the funds are to be obligated and the amount proposed to be obligated for such purpose; and

(2) withhold such amount from obligation for such purpose for a period of thirty days following the day on which such report is received by such committees.

Contents.

Each report transmitted under this subsection shall include (A) a detailed accounting of funds appropriated pursuant to subsection (a) that have been previously obligated, (B) a detailed accounting of funds planned for obligation, and (C) a statement of the purposes and the estimated amounts for which any unobligated balance of such funds are to be used (excluding the amount for which an explanation under clause (B) is included).

(e) None of the funds appropriated pursuant to subsection (a) may be obligated or expended to carry out any contract for the construction of any contingency facility referred to in such subsection unless such contract requires that (1) all construction materials (except cement, cement products, and aggregates) used in the construction of such facility under such contract will be materials produced, manufactured, or refined in the United States, and (2) materials will be transported on United States flagships from the United States to the country in which the contingency facility is to be located.

(f) The provisions of subsections (c) and (e) of this section shall apply with respect to funds appropriated pursuant to sections 201 and 301 for the construction of a naval support facility at Diego Garcia.

DEFENSE INTELLIGENCE AGENCY BUILDING STUDY

SEC. 406. (a) None of the funds authorized to be appropriated in this title for the construction of a new facility at Bolling Air Force Base, Washington, District of Columbia, for the Defense Intelligence Agency may be obligated or expended until—

Study.

(1) the Secretary of Defense has conducted a study to examine alternatives to the facility currently planned for construction at Bolling Air Force Base;

Report to congressional committees.

(2) the Secretary of Defense has submitted the results of such study to the appropriate committees of the Congress together with his decision regarding the location and scope of the facility to be constructed for the Defense Intelligence Agency; and

(3) a period of thirty calendar days has elapsed after the date on which such study is received by such committees.

(b) The study conducted pursuant to subsection (a)(1) shall, as a minimum—

(1) examine alternatives in project scope for the proposed facility referred to in subsection (a) which could result in reduced requirements for new construction;

(2) examine alternative sites for the construction of such facility taking into account available lands and facilities as well as land and facilities that could be made available by consolidations; and

(3) provide detailed costs and operational efficiency comparisons of the alternatives considered.

(c) The study conducted pursuant to subsection (a)(1) shall be submitted to the appropriate committees of the Congress not later than ninety days after the date of the enactment of this Act.

TITLE V—MILITARY FAMILY HOUSING

AUTHORIZATION TO CONSTRUCT OR ACQUIRE HOUSING

SEC. 501. (a) The Secretary of Defense, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of Defense shall notify the Committees on Armed Services of the Senate and House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of thirty days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise.

Notification to congressional committees.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development-held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family housing units:

Marine Corps Air Station, Yuma, Arizona, one hundred thirty-two units, $8,050,000.

Defense Housing Complex, South Bay, San Francisco, California, two hundred seventy units, $19,045,000.

Marine Corps Air Station, El Toro, California, three hundred units, $17,483,000.

Fort Ord, California, five hundred units, $30,808,000.

Naval Complex, New London, Connecticut, four hundred units, $24,608,000.

Fort Stewart, Georgia, two hundred units, $9,716,000.

Fort Polk, Louisiana, two hundred units, $11,173,000.

Naval Air Station, Brunswick, Maine, sixty-two units, $3,956,000.

Naval Complex, Norfolk, Virginia, two hundred and thirty-two units, $12,093,000.

Lajes Field, Azores, one hundred and fifty units, $9,768,000.

Incirlik Air Base, Turkey, two hundred units, $11,723,000.

Classified location overseas, five units, $468,000.

(d) The amounts specified in this section may, at the discretion of the Secretary of Defense, or the Secretary's designee, be increased by 10 per centum, if he determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was

submitted to the Congress. The amounts authorized include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

IMPROVEMENT OF EXISTING QUARTERS

SEC. 502. (a) The Secretary of Defense, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed—

(1) for the Department of the Army, $42,436,000, of which $27,150,000 shall be available only for energy conservation projects;

(2) for the Department of the Navy, $13,562,000, of which $2,819,000 shall be available only for energy conservation projects;

(3) for the Department of the Air Force, $52,819,000, of which $17,000,000 shall be available only for energy conservation projects; and

(4) for the Defense Agencies, $23,000.

42 USC 1594h-2.

Improvement costs, limitation.

(b) The first sentence of section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110, 81 Stat. 305) is amended to read as follows: "None of the funds authorized by this or any other Act may be expended for the improvement of any single family housing unit, or for the improvement of two or more housing units when such units are to be converted into or used as a single family housing unit, if the total cost of such improvements exceeds $20,000, adjusted by the area construction cost index (as developed by the Department of Defense) for the location at the time of contract award. The total cost of any such improvement shall include all repair costs undertaken as part of the improvement project and all costs in connection with (1) the furnishing of electricity, gas, water, and sewage disposal, (2) the construction or repair of roads and walks, and (3) any grading and drainage work.".

(c) The Secretary of Defense, or the Secretary's designee, within the amounts specified in subsection (a), is authorized to accomplish repairs and improvements to existing family housing in amounts in excess of the dollar limitation prescribed in section 610(a) of the Military Construction Authorization Act, 1968 (42 U.S.C. 1594h-2), as follows:

Redstone Arsenal, Alabama, forty units, $891,000.

Navy Public Works Center, Pearl Harbor, Hawaii, one hundred and forty-six units, $5,468,000.

Fort Knox, Kentucky, one hundred units, $2,592,000.

Loring Air Force Base, Maine, five hundred and sixty-five units, $12,723,600.

Kirtland Air Force Base, New Mexico, one hundred and twenty-five units, $2,458,100.

Marine Corps Development and Education Command, Quantico, Virginia, fifty-two units, $1,910,000.

Warren Air Force Base, Wyoming, one hundred and sixty-two units, $3,150,000.

Hahn Air Base, Federal Republic of Germany, twenty-eight units, $980,000.

Ramstein Air Base (Vogelweh and Landstuhl), Federal Republic of Germany, twenty units, $993,000.

Yokota Air Base, Japan, two hundred and sixty-eight units, $9,054,800.

ADVANCE PLANNING AND DESIGN

SEC. 503. The Secretary of Defense, or the Secretary's designee, may carry out advance planning and construction design and may obtain architectural and engineering services in connection with any family housing construction, including improvements, authorized or not otherwise authorized by law at a total cost of not to exceed—

(1) for the Department of the Army, $3,993,000;
(2) for the Department of the Navy, $2,994,000;
(3) for the Department of the Air Force, $1,380,000; and
(4) for the Defense agencies, $2,000.

LEASING OF FAMILY HOUSING

SEC. 504. (a) Subsection (c) of section 2686 of title 10, United States Code, relating to leases for military family housing in the United States, is amended to read as follows:

"(c)(1) Except as provided in paragraph (2), expenditures for the rental of such housing facilities (including the cost of utilities, maintenance, and operation) may not exceed $515 per month for any unit.

"(2) The Secretary of Defense may lease not more than five hundred housing units under this section for which the expenditure for the rental of such facilities (including the cost of utilities, maintenance, and operation) exceeds $515 per month but does not exceed $600 per month.".

(b) The first sentence of section 2675(d)(1) of such title, relating to leases in foreign countries, is amended to read as follows: "Expenditures for the rental of family housing in foreign countries (including the cost of utilities and maintenance and operation) may not exceed $1,115 per month for any unit.". Cost limitation. 10 USC 2675.

SETTLEMENT OF CONTRACTOR CLAIMS ON MILITARY FAMILY HOUSING

SEC. 505. Notwithstanding any other provision of law, if the proposed settlement of any contractor claim or claims arising out of the construction of new or improvement of existing family housing would cause authorized cost limitations on the construction or improvement of family housing to be exceeded, the Secretary of Defense may proceed with the settlement of such claim or claims after (1) he has submitted a report regarding such claim or claims, including the amount of the proposed settlement, to the Committees on Armed Services of the Senate and House of Representatives, and (2) a period of thirty days has elapsed after the date of submission of such report to such committees. Report to congressional committees. 42 USC 1594h-3.

OCCUPANT LIABILITY FOR DAMAGES TO FAMILY HOUSING

SEC. 506. (a) Chapter 165 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2775. Liability of member for damages to family housing, equipment, and furnishings 10 USC 2775.

"(a) A member of the armed forces shall be liable to the United States for damage to any family housing unit, or damage to or loss of any equipment or furnishing of any family housing unit, assigned to

or provided such member if it is determined, under regulations issued by the Secretary of Defense, that such damage or loss was caused by the abuse or negligence of such member or a dependent of such member.

"(b)(1) The Secretary concerned may deduct from a member's pay an amount sufficient to pay for the cost of the repairs or replacements made necessary as the result of any abuse or negligence referred to in subsection (a) on the part of such member or any dependent of such member.

"(2) The final determination of an amount to be deducted from the pay of an officer of an armed force in accordance with regulations issued under this section shall be deemed to be a special order authorizing such deduction for the purposes of section 1007 of title 37.

"(c) Amounts deducted from members' pay under this section shall be credited to the Department of Defense family housing management account established under section 501 of Public Law 87-554 (76 Stat. 236; 42 U.S.C. 1594a-1) and shall be available for use for the same purposes and under the same circumstances as other funds in such account.

Regulations.

"(d) The Secretary of Defense shall issue regulations to carry out the provisions of this section, including regulations for determining the cost of repairs or replacements made necessary as the result of abuse or negligence on the part of a member or dependent of a member.".

(b) The table of sections at the beginning of chapter 165 of such title is amended by adding at the end thereof the following new item:

"2775. Liability of member for damages to family housing, equipment, and furnishings.".

INCREASED AUTHORIZATION FOR CONSTRUCTION, OAHU, HAWAII

SEC. 507. Notwithstanding the limitations on costs contained in sections 501(a) and 502 of the Military Construction Authorization Act, 1974 (Public Law 93-166; 87 Stat. 673) and sections 501(a) and 502 of the Military Construction Authorization Act, 1975 (Public Law 93-552; 88 Stat. 1757, 1758), the Secretary of Defense is authorized to complete construction of two thousand six hundred family housing units in support of Department of Defense requirements in Oahu, Hawaii, at a total cost of not to exceed $117,150,000.

DEFICIENCY AUTHORIZATION FOR NEW CONSTRUCTION

SEC. 508. (a) Section 501(c) of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 577), is amended—

(1) by striking out "$1,509,000" in the item relating to the Naval Facility, Centerville Beach, California, and inserting in lieu thereof "$2,030,000"; and

(2) by striking out "$4,307,000" in the item relating to the Marine Corps Base, Twentynine Palms, California, and inserting in lieu thereof "$6,069,000".

(b)(1) Section 505(1) of such Act is amended by striking out "$139,105,000" and inserting in lieu thereof "$140,867,000".

(2) Section 602(5) of such Act is amended by striking out "$1,701,605,000" and inserting in lieu thereof "$1,703,367,000".

REPEAL OF PROVISIONS RELATING TO ENERGY CONSUMPTION METERING DEVICES AND EXCESS ENERGY CONSUMPTION CHARGES

SEC. 509. Sections 506 and 507 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 372), are repealed. Repeal. 10 USC 4593 note.

AUTHORIZATION OF APPROPRIATIONS

SEC. 510. (a) There is authorized to be appropriated for fiscal year 1981 for use by the Secretary of Defense, or the Secretary's designee, for military family housing as authorized by law for the following purpose:

(1) For construction of, or acquisition of sole interest in, family housing, including minor construction, improvements to public quarters, relocation of family housing, and planning, an amount not to exceed $276,100,000.

(2) For support of military family housing, including operating expenses, leasing, maintenance of real property, payments of principal and interest on mortgage debts incurred, payment to the Commodity Credit Corporation, and mortgage insurance premiums authorized under section 222 of the National Housing Act (12 U.S.C. 1715), an amount not to exceed $1,880,760,000, of which not more than $25,000,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and of which not more than $95,000,000 may be obligated or expended for the leasing of military family housing in foreign countries. 12 USC 1715m.

(b) The amounts authorized to be appropriated in subsection (a)(2) may be increased to the extent additional funds are necessary for increased pay costs associated with actions taken pursuant to law.

FAMILY HOUSING MANAGEMENT ACCOUNT

SEC. 511. Subsection (b) of section 501 of Public Law 87-554 (42 U.S.C. 1594a-1) is amended to read as follows:

"(b) The management account shall be administered by the Secretary of Defense as a single account. There shall be transferred into such account (1) appropriations made to the Department of Defense for the purpose of, or which are available for, the payment of costs arising in connection with the construction, acquisition, leasing, relocation, operating and maintenance, and disposal of family housing, including the cost of principal and interest charges, and insurance premiums, arising in connection with the acquisition of such housing, and mortgage insurance premiums payable under section 222(c) of the National Housing Act (12 U.S.C. 1715m(c)), (2) proceeds from the rental of family housing and mobile home facilities under the control of the Department of Defense, reimbursements from occupants of such facilities for services rendered (including utility costs), funds obtained from individuals as a result of losses, damages, or destruction to such facilities caused by the abuse or negligence of such individuals, and reimbursements from other Government agencies for expenditures from the management account, and (3) notwithstanding any other provision of law, proceeds of the handling and the disposal of family housing of the Department of Defense, including related land and improvements, whether effected by the Department of Defense or any other Federal agency, but less those expenses payable pursuant to section 204(b) of the Federal Property and

Administrative Services Act of 1949 (40 U.S.C. 485(b)), to remain available until expended.".

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND ADMINISTRATIVE PROVISIONS

WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes (31 U.S.C. 529) and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes (40 U.S.C. 255) and even though the land is held temporarily. The authority to acquire real estate or lands includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. There are authorized to be appropriated for fiscal years beginning after September 30, 1980, such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, and IV shall not exceed—

(1) for title I: inside the United States $586,800,000; outside the United States $248,140,000; minor construction $44,560,000; for a total of $879,500,000.

(2) for title II: inside the United States $777,925,000; outside the United States $178,757,000; minor construction $33,010,000; for a total of $989,692,000.

(3) for title III: inside the United States $546,985,000; outside the United States $144,487,000; minor construction $24,870,000; for a total of $716,342,000.

(4) for title IV: a total of $587,610,000, including $3,680,000 for minor construction.

COST VARIATIONS

SEC. 603. (a) OVERALL TITLE TOTAL LIMITATION.—Notwithstanding the provisions of subsections (b), (c), (d), and (g), the total cost of all construction and acquisition in each of titles I, II, III, and IV may not exceed the total amount authorized to be appropriated in that title.

(b) VARIATIONS IN INSTALLATION TOTALS—UNUSUAL VARIATIONS IN COST.—Except as provided in subsections (c) and (d), any of the amounts specified in titles I, II, III, and IV of this Act (other than in sections 103, 203, 303, and 403) may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased by 5 per centum when inside the United States (other than Alaska or Hawaii), and by 10 per centum when outside the United States or in Alaska or Hawaii, if the Secretary of the military department or Director of the defense agency concerned determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been

reasonably anticipated at the time such estimate was submitted to the Congress.

(c) VARIATIONS IN INSTALLATION TOTALS—ONLY ONE PROJECT AT AN INSTALLATION.—When the amount named for any construction or acquisition in title I, II, III, or IV of this Act involves only one project at any military installation and the Secretary of the military department or Director of the defense agency concerned determines that the amount authorized must be increased by more than the applicable percentage prescribed in subsection (b), the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition if the amount of the increase does not exceed by more than 25 per centum the amount named for such project by the Congress.

(d) VARIATIONS IN INSTALLATION TOTALS—REPORTS BY THE SECRETARY OF DEFENSE.—When the Secretary of Defense determines that any amount named in title I, II, III, or IV of this Act must be exceeded by more than the percentages permitted in subsections (b) and (c) to accomplish authorized construction or acquisition, the Secretary of the military department or Director of the defense agency concerned may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either (1) thirty days have elapsed after the date of submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding the provisions in prior Military Construction Authorization Acts, the provisions of this subsection shall apply to such prior Acts.

(e) COST AND SCOPE VARIATIONS OF INDIVIDUAL PROJECTS; REPORTS TO CONGRESS.—No individual project authorized under title I, II, III, or IV of this Act for any specifically listed military installation for which the current working estimate is greater than the statutory upper limit for minor construction projects, may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 per centum; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 per centum the amount authorized for such project by the Congress;

until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for reduction in scope or increase in cost, has been submitted to the Committees on Armed Services of the Senate and House of Representatives, and either thirty days have elapsed after the date of submission of such report, or both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(f) ANNUAL REPORT TO CONGRESS.—The Secretary of Defense, or the Secretary's designee, shall submit an annual report to the Congress identifying each individual project (other than a project authorized under section 103, 203, 303, or 403) which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense, based upon bids received, for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope was reduced by more than 25 per centum in order to permit contract award within

the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

(g) COST AND FLOOR AREA VARIATIONS—SOLAR ENERGY.—The Secretary of Defense shall encourage the utilization of solar energy as a source of energy for projects authorized by this Act where utilization of solar energy would be practical and economically feasible. In order to equip any project authorized by this Act with solar heating equipment, solar cooling equipment, or both solar heating and solar cooling equipment, the Secretary of Defense may authorize increases in the cost limitations or floor area limitations for such project by such amounts as may be necessary for such purpose. Any increase under this section in the cost or floor area of a project authorized by this Act shall be in addition to any other increase in such cost or variation in floor area limitations authorized by this or any other Act.

CONSTRUCTION SUPERVISION

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army, the Naval Facilities Engineering Command, Department of the Navy, or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress, shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business; the names of such firms; the total number of separate contracts awarded each firm; and the total amount paid or to be paid in the case of each such action under all such contracts awarded such firm.

10 USC 2301 *et seq.*

REPEAL OF PRIOR YEAR AUTHORIZATIONS: EXCEPTIONS

SEC. 605. (a) As of October 1, 1981, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1982, whichever is later, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a

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military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefor, that are contained in titles I, II, III, IV, and V of the Military Construction Authorization Act, 1980 (Public Law 96-125; 93 Stat. 928), and all such authorizations contained in Acts approved before November 26, 1979, and not superseded or otherwise modified by a later authorization are repealed except— 93 Stat. 928, 931, 934, 938, 940.

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1981, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1982, whichever is later, and authorizations for appropriations therefor.

(b) Notwithstanding the repeal provisions of subsection (a) of this section and section 605 of the Military Construction Authorization Act, 1980 (Public Law 96-125; 93 Stat. 944), authorizations for the following items authorized in section 101 of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 565) shall remain in effect until October 1, 1982, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1983, whichever is later:

(1) Energy Control System construction in the amount of $3,300,000 at Fort Jackson, South Carolina.

(2) Regional Sewage Treatment Plant Upgrade construction in the amount of $1,209,000 at Fort Bliss, Texas.

(3) Regional Sewage Treatment Plant Upgrade construction in the amount of $550,000 at Fort Monroe, Virginia.

(4) Barracks with Dining construction in the amount of $4,603,000 at Fulda, Germany.

(5) Improvements to Heating System in the amount of $394,000 at Kansas Army Ammunition Plant, Kansas.

(6) Energy Control System in the amount of $1,372,000 at Fitzsimmons Army Medical Center, Colorado.

(7) Hospital addition, alteration, and upgrade in the amount of $30,283,000 at 2d General Hospital, Landstuhl, Germany.

(8) Facilities Modernization in the amount of $1,782,000 at Christensen Barracks, Bindlach, Germany.

(9) Facilities Modernization in the amount of $7,731,000 at Ferris Barracks, Erlangen, Germany.

(10) Barracks without dining facilities in the amount of $2,299,000 at Conn Barracks, Schweinfurt, Germany.

(11) Small Arms Maintenance and Storage Facility in the amount of $3,645,000 at Fort Benning, Georgia.

(12) Cargo Handling Training Facility in the amount of $3,666,000 at Fort Eustis, Virginia.

(13) Petroleum Storage Facilities in the amount of $2,437,000 at Fort Leonard Wood, Missouri.

(14) Tactical Equipment Shop and Facilities in the amount of $2,272,000 at Fort Polk, Louisiana.

(15) Contaminated Waste Incinerator construction in the amount of $620,000 at Kansas Army Ammunition Plant, Kansas.

(16) Contaminated Waste Incinerator Plant construction in the amount of $501,000 at Iowa Army Ammunition Plant, Iowa.

(17) Contaminated Waste Incinerator construction in the amount of $637,000 at Milan Army Ammunition Plant, Tennessee.

(18) Contaminated Waste Incinerator construction in the amount of $518,000 at Sunflower Army Ammunition Plant, Kansas.

(19) Tactical Equipment Shop and Facilities in the amount of $1,037,000 at Wildflecken Training Area, Germany.

(20) Facilities Modernization in the amount of $7,000,000 at Mannheim, Germany.

(21) Facilities Modernization in the amount of $14,000,000 at Baumholder, Germany.

(22) Flight Simulator Building in the amount of $1,739,000 at Mannheim, Germany.

(23) Explosive Waste Incinerator construction in the amount of $763,000 at Sunflower Army Ammunition Plant, Kansas.

(24) Missile Maintenance Facility in the amount of $863,000 at Fort Polk, Louisiana.

(c) Notwithstanding the repeal provisions of subsection (a) of this section and section 605 of the Military Construction Authorization Act, 1980 (Public Law 96-125; 93 Stat. 944), authorizations for the following items authorized in section 201 of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 567) shall remain in effect until October 1, 1982, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1983, whichever is later:

(1) Energy Monitoring and Control System in the amount of $765,000 at the Naval Air Station, Jacksonville, Florida.

(2) Municipal Sewer Connection construction in the amount of $2,500,000 at the Naval Education and Training Center, Newport, Rhode Island.

(d) Notwithstanding the repeal provisions of subsection (a) of this section and section 605 of the Military Construction Authorization Act, 1980 (Public Law 96-125; 93 Stat. 944), authorizations for the following items authorized in section 301 of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 572) shall remain in effect until October 1, 1982, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1983, whichever is later:

(1) Space Transportation System airfield facilities in the amount of $32,100,000 at Vandenberg Air Force Base, California.

(2) Energy—Alter Lighting System in the amount of $850,000 at Hill Air Force Base, Utah.

(3) Energy Monitoring and Control System in the amount of $3,300,000 at Kelly Air Force Base, Texas.

(4) Fire Station in the amount of $1,031,000 at Tinker Air Force Base, Oklahoma.

(5) Energy—Alter Mechanical, Electrical and Structural Systems in the amount of $1,120,000 at Wright-Patterson Air Force Base, Ohio.

(6) Energy Monitoring and Control System in the amount of $3,350,000 at Wright-Patterson Air Force Base, Ohio.

(7) Propulsion Wind Tunnel—16T High Angle Automatic Sting in the amount of $2,710,000 at Arnold Engineering Development Center, Tennessee.

(8) Energy Monitoring and Control System in the amount of $2,750,000 at Edwards Air Force Base, California.

(9) Insulate Heating and Cooling Controls and Insulate Buildings in the amount of $650,000 at Edwards Air Force Base, California.

(10) Chapel Center in the amount of $1,190,000 at Eglin Air Force Base, Florida.

(11) Energy Monitoring and Control System in the amount of $2,000,000 at Hanscom Air Force Base, Massachusetts.

(12) Aircraft Corrosion Control Facility in the amount of $7,310,000 at Dover Air Force Base, Delaware.

(13) Chapel Center in the amount of $1,240,000 at Castle Air Force Base, California.

(14) Energy Monitoring and Control System in the amount of $610,000 at Grand Forks Air Force Base, North Dakota.

(15) Air Installation Compatible Use Zone in the amount of $314,000 at Grissom Air Force Base, Indiana.

(16) Air Installation Compatible Use Zone in the amount of $357,000 at March Air Force Base, California.

(17) Sewage Main Regional Connection in the amount of $946,000 at Rickenbacker Air Force Base, Ohio.

(18) Energy Monitoring and Control System in the amount of $540,000 at Holloman Air Force Base, New Mexico.

(19) Energy Monitoring and Control System in the amount of $900,000 at Nellis Air Force Base, Nevada.

(20) Add to and Alter Cadet Library in the amount of $4,000,000 at the United States Air Force Academy, Colorado.

(21) Special Operation Facilities in the amount of $2,800,000 at Various Locations, Pacific Air Forces.

(22) Telecommunications Facility in the amount of $6,515,000 at Various Locations (Ramstein Air Base), Germany.

(e) Notwithstanding the repeal provisions of subsection (a) of this section and section 605 of the Military Construction Authorization Act, 1980 (Public Law 96-125; 93 Stat. 944), authorizations for the following items authorized in section 401 of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 572) shall remain in effect until October 1, 1982, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1983, whichever is later: 92 Stat. 575.

(1) ADP and Communications Facility—Alteration of existing space in the amount of $1,573,000 at Defense Depot, Ogden, Utah.

(2) Storage Facilities—Construction in the amount of $1,353,000 at Defense Property Disposal Office, Indianapolis, Indiana.

(3) Covered Storage Facilities—Construction in the amount of $584,000 at Defense Property Disposal Office, Subic Bay, Republic of the Philippines.

(f) Notwithstanding the repeal provisions of subsection (a) of this section and section 605 of the Military Construction Authorization Act, 1980 (Public Law 96-125; 93 Stat. 944), authorization for the Effluent Land Irrigation System construction in the amount of $6,933,000 at Fort Ord, California, authorized in section 101 of the Military Construction Authorization Act, 1977 (Public Law 94-431; 90 Stat. 1349) shall remain in effect until October 1, 1982, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1983, whichever is later.

UNIT COST LIMITATIONS

SEC. 606. None of the authority contained in titles I, II, III, and IV of this Act shall be deemed to authorize any building construction projects inside the United States in excess of a unit cost to be determined in proportion to the appropriate area construction cost index, based on the following unit cost limitations where the area construction index is 1.0:

(1) $52 per square foot for permanent barracks; or

(2) $56 per square foot for unaccompanied officer quarters;

unless the Secretary of Defense, or the Secretary's designee, determines that, because of special circumstances, application to such project of the limitations on unit cost contained in this section is impracticable. Notwithstanding the limitations contained in prior Military Construction Authorization Acts on units costs, the limitations on such costs contained in this section shall apply to all prior authorizations for such construction not heretofore repealed and for which construction contracts have not been awarded by the date of the enactment of this Act.

AMENDMENT TO PRIOR AUTHORIZATION

SEC. 607. (a) Section 301 of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 572), is amended under the heading "INSIDE THE UNITED STATES" by striking out "$141,782,000" in the item relating to Vandenberg Air Force Base, California, under the subheading "STRATEGIC AIR COMMAND" and inserting in lieu thereof "$223,161,000".

92 Stat. 580.

(b) Section 602(3) of such Act is amended by striking out "$423,059,000" and "$522,743,000" and inserting in lieu thereof "$504,438,000" and "$604,122,000", respectively.

EFFECTIVE DATE FOR PROJECT AUTHORIZATIONS

10 USC 2675 note.

SEC. 608. Titles I, II, III, IV, and V shall take effect on October 1, 1980.

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

10 USC 2231 *et seq.*

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $36,000,000; and

(B) for the Army Reserve, $42,225,000.

(2) For the Department of the Navy: for the Naval and Marine Corps Reserves, $30,550,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $73,500,000; and

(B) for the Air Force Reserve, $17,725,000.

WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes (31 U.S.C. 529) and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes (40 U.S.C. 255) and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

TITLE VIII—GENERAL PROVISIONS

IMPACT ASSISTANCE FOR FISCAL YEAR 1981 FOR AREAS AFFECTED BY THE MX WEAPON SYSTEM AND THE EAST COAST TRIDENT BASE

SEC. 801. During fiscal year 1981, the Secretary of Defense may utilize funds appropriated for planning and design purposes to provide community planning assistance as follows:

(1) To assist communities near MX Weapon System sites, $5,000,000.

(2) To assist communities near the East Coast Trident Base, $1,000,000.

IMPACT ASSISTANCE FOR FISCAL YEARS AFTER FISCAL YEAR 1981 FOR AREAS AFFECTED BY THE MX WEAPON SYSTEM AND THE EAST COAST TRIDENT BASE

SEC. 802. (a) The Secretary of Defense (hereinafter in this section referred to as the "Secretary") is authorized to assist communities located near MX Weapon System sites, communities located near the East Coast Trident Base, and the States in which such communities are located in meeting the costs of providing increased municipal services and facilities to the residents of such communities, if the Secretary determines that there is an immediate and substantial increase in the need for such services and facilities in such communities as a direct result of work being carried out in connection with the construction, installation, testing, and operation of the MX Weapon System or the East Coast Trident Base, as the case may be, and that an unfair and excessive financial burden will be incurred by such communities, or the States in which such communities are located, as a result of the increased need for such services and facilities. 10 USC 139 note.

(b)(1) The Secretary shall carry out the program of assistance authorized under this section through existing Federal programs. In carrying out such program of assistance, the Secretary is authorized, subject to the provisions of subsection (d), to (A) supplement funds made available under such Federal programs through a direct transfer of funds from the Secretary to the department or agency concerned in such amounts as the Secretary considers necessary, (B) provide financial assistance to communities described in subsection (a) to help such communities pay their share of the costs under such programs, and (C) guarantee State or municipal indebtedness for improved public facilities related to the MX Weapon System or the East Coast Trident Base.

(2) The head of each department and agency of the Federal Government concerned shall cooperate fully with the Secretary in carrying out the provisions of this section on a priority basis.

(3) Notwithstanding any other provision of law, the Secretary, in cooperation with the heads of other departments and agencies of the Federal Government, is authorized to provide facilities and services in anticipation of the work to be carried out in connection with the MX Weapon System and the East Coast Trident Base. No department or agency may charge a management fee for assisting the Secretary in carrying out the provisions of this section.

(c) In determining the amount of financial assistance to be made available under this section to any local community for any community service or facility, the Secretary shall consult with the head of the department or agency concerned with the type of service or facility for which financial assistance is being made available and shall take into consideration (1) the time lag between the initial impact of increased population in any such community and any increase in the local tax base which will result from such increased population, (2) the possible temporary nature of the increased population and the long-range cost impact on the permanent residents of any such community, (3) the initial capitalization required for municipal sewer and water systems, (4) the initial operating cost for upgrading municipal services, and (5) such other pertinent factors as the Secretary considers appropriate.

(d) Funds appropriated to the Department of Defense for carrying out the MX Weapon System and the East Coast Trident Base may, to the extent specifically authorized in Military Construction Authorization Acts, be utilized by the Secretary in carrying out the provisions of this section.

Report to congressional committees.

(e) The Secretary shall transmit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, not later than sixty days after the end of each fiscal year beginning after fiscal year 1981, a written report indicating the total amount transferred to and the amount obligated and expended by each local community or State which has been provided assistance under the authority of this section during the preceding fiscal year, the specific projects for which assistance was provided during such year, and the total amount for each such project during such year.

COMMUNITY IMPACT ASSISTANCE STUDY

SEC. 803. (a) The Congress finds that—

(1) the Department of Defense is required from time to time, for national security reasons, to provide for the construction in the United States of major, new military facilities which have a serious adverse impact on the communities and the areas in which such facilities are constructed; and

(2) neither the impacted local governments nor the States in which such facilities are constructed should be expected to bear the full cost of such impact.

(b) The President shall conduct a thorough study of the adverse impact on communities in areas in which major, new military facilities are constructed with a view to determining the most effective and practicable means of promptly mitigating such impact. In carrying out such study the President shall, as a minimum—

(1) identify those potential Department of Defense actions that are sufficient in scope to warrant impact assistance by the Federal Government;

(2) examine various options and recommend organizational mechanisms to administer the Federal community impact assistance to be made available;

(3) examine various options and recommend procedures for the budgeting of community impact assistance funds;

(4) recommend such changes in existing programs as may be necessary to provide effective and timely impact assistance to areas adversely affected by the construction of major, new military facilities; and

(5) consult with and seek the advice of appropriate State and local leaders and officials regarding the problems and needs of communities that result from the construction of major, new military facilities in or near such communities.

(c) The President shall submit the results of the study required by subsection (b) to the Congress not later than March 1, 1981, together with such comments and recommendations as the President considers appropriate. Report to Congress.

USE OF SOLAR ENERGY SYSTEMS IN NEW CONSTRUCTION

SEC. 804. Section 2688(b) of title 10, United States Code, is amended to read as follows:

"(b) For the purposes of this section, a solar energy system shall be considered to be cost effective if the original investment cost differential can be recovered over the expected life of the facility using accepted life cycle costing procedures. Such accepted life cycle costing procedures shall include— Life cycle costing procedures.

"(1) the use of undiscounted, constant dollars in all calculations;

"(2) an assumption that any additional maintenance costs incurred as a result of the installation of a solar system will be offset by a corresponding reduction in the maintenance costs for a conventional back-up system; and

"(3) the use of realistic assumptions with regard to the rate of inflation on the cost of fossil fuel as compared with the general rate of inflation, but in no event may the assumed general rate of inflation be greater than the assumed rate of inflation on the cost of fossil fuel.".

REPORTS ON REAL PROPERTY TRANSACTIONS

SEC. 805. Section 2662 of title 10, United States Code, is amended by striking out "$50,000" each place it appears in subsections (a), (b), and (e) and inserting in lieu thereof "$100,000".

INCREASE IN MAXIMUM AMOUNT THE SECRETARY OF A MILITARY DEPARTMENT IS AUTHORIZED TO EXPEND FOR ACQUISITION OF INTERESTS IN LAND

SEC. 806. (a) Section 2672 of title 10, United States Code, is amended—

(1) by striking out "$50,000" in the catchline and inserting in lieu thereof "$100,000"; and

(2) by striking out "$50,000" each place it appears in the text of such section and inserting in lieu thereof "$100,000".

(b) The table of sections at the beginning of chapter 159 of such title is amended by striking out "$50,000" in the item relating to section 2662 and inserting in lieu thereof "$100,000".

ALTERNATE FUELS USE STUDY

Report to congressional committees.

SEC. 807. (a) Within one hundred and eighty days after the date of the enactment of this Act, the Secretary of Defense shall furnish a report to the appropriate committees of the Congress outlining a plan (1) to convert to the use of a fuel other than oil or gas all oil and gas fired plants of the Department of Defense which have heat input rates of fifty million British thermal units per hour or more, and (2) to replace, in each case in which such action would be cost effective, existing oil or gas fired plants with new central plants that use a fuel other than oil or gas.

Contents.

(b) Such report shall include with respect to each plant the following:

(1) The estimated cost of conversion or replacement, including a breakdown of costs by major work items (powerplant, utilities, fuel handling facilities, pollution abatement facilities, and related or similar items).

(2) The estimated oil and gas savings that would result from such conversion or replacement.

(3) The estimated annual net fuel cost savings that would result from such conversion or replacement.

(4) The computed benefit-cost ratio and the estimated payback period using accepted life cycle costing procedures.

Such report shall also include funding schedules based on the assumption that such conversions and replacements are to be completed within (A) a five-year period, and (B) a ten-year period.

NEW BOILER PLANT CONSTRUCTION

SEC. 808. (a) Except as provided in subsection (b) of this section, no new facility or plant which requires heat input rates of fifty million British thermal units per hour or more and which uses oil or gas (or a derivative of either) as fuel may be constructed on lands under the jurisdiction of the Department of Defense.

Waiver.

(b) The Secretary of Defense may waive the provisions of subsection (a) in rare, unusual situations, but no such waiver shall become effective until after the Secretary has notified the appropriate committees of the Congress of the waiver in writing.

(c) The Secretary of Defense may not provide heating service for any new facility or plant in increments in order to avoid the prohibition contained in subsection (a).

REMOVAL OF CHEMICAL MUNITIONS, ROCKY MOUNTAIN ARSENAL

SEC. 809. (a) Notwithstanding any other provision of law, the Secretary of Defense shall remove all chemical munitions from the Rocky Mountain Arsenal, Colorado, within one year after the date of the enactment of this Act.

Notification to congressional committees.

(b) Within ninety days after the date of the enactment of this Act, the Secretary of Defense shall notify the Committees on Armed Services of the Senate and the House of Representatives in writing of the methods proposed to be used in carrying out the provisions of subsection (a).

(c) The Secretary of Defense shall not take any action to carry out the provisions of subsection (a) until a period of thirty days has elapsed after the receipt by the Committees on Armed Services of the notification required under subsection (b).

DECONTAMINATION STUDY, KAHOOLAWE ISLAND

SEC. 810. (a) In order to determine the feasibility and cost of clearing the island of Kahoolawe, Hawaii, and the adjacent waters of ordnance and other debris resulting from the use of such island as a target range by the United States Navy, the Secretary of the Navy is authorized and directed to (1) develop appropriate technology for clearing unexploded ordnance from test land which has the same or similar soil composition as the island of Kahoolawe and from submerged land which has the ecology characteristics of subtropical waters, and (2) demonstrate the developed technology at selected sites on the island of Kahoolawe.

(b) The Secretary of the Navy shall begin work on the development of the technology described in subsection (a) within six months after the date of the enactment of this Act and shall complete the development and demonstration of such technology at the earliest practicable date. The Secretary of the Navy shall submit progress reports to the Committees on Armed Services of the Senate and the House of Representatives each year until the project provided for in subsection (a) is completed.

Reports to congressional committees.

(c) Any land or water area which may be cleared of unexploded ordnance incident to the demonstration of the technology shall be fenced or buoyed and be used for such purpose or purposes as the Secretary of the Navy may approve.

(d) There are authorized to be approriated such sums as may be necessary to carry out the provisions of this section during fiscal year 1981.

Appropriation authorization.

STUDY OF CONDITION OF THE STRATEGIC RAIL CORRIDOR

SEC. 811. (a) The Secretary of Defense, in consultation with the Secretary of Transportation, shall conduct a study of the condition of railroad lines identified in the Strategic Rail Corridor Network (STRACNET) for National Defense (Military Traffic Management Command Report RND 76-1, An Analysis of a Strategic Rail Corridor Network for National Defense, November 1976). Such study shall include (1) an identification of those segments of the corridor which, as a result of deferred maintenance or deterioration, may potentially have an adverse impact on the movement of personnel, equipment, and materials among Federal military arsenals and installations, and (2) an estimate of the cost of rehabilitating such segments.

(b) The Secretary of Defense shall submit the results of such study, together with recommendations for correcting deficiencies in the Strategic Rail Corridor Network in order to strengthen the Armed Forces' combat readiness and mobilization base, to the Committees on Armed Services of the Senate and the House of Representatives not later than July 1, 1981.

Report to congressional committees.

LAND CONVEYANCE, SOUTH PORTLAND, MAINE

SEC. 812. (a) The first section and section 2 of the Act entitled "An Act to provide for the conveyance to the State of Maine of certain lands located in such State", approved August 28, 1957 (71 Stat. 467), are amended by striking out "for vocational or other school purposes" and inserting in lieu thereof "for public purposes".

(b) The Secretary of the Navy shall issue such written instructions, deeds, or other instruments as may be necessary to bring the conveyance made to the State of Maine under the authority of the Act

referred to in subsection (a) into conformity with the amendment made by such subsection.

MODIFICATION OF PRIOR AUTHORITY FOR LAND CONVEYANCE, SOUTH CHARLESTON, WEST VIRGINIA

SEC. 813. Section 609 of the Military Construction Authorization Act, 1977 (Public Law 94-431; 90 Stat. 1365), is amended—

(1) by striking out "a section of land" in the first sentence and inserting in lieu thereof "three parcels of land";

(2) by striking out "4.5 acres" in the first sentence and inserting in lieu thereof "eight acres";

(3) by striking out "eight acres" in the second sentence and inserting in lieu thereof "approximately ten acres"; and

(4) by striking out the period at the end of the last sentence and inserting in lieu thereof "or the Department of the Navy.".

MODIFICATION OF PRIOR LAND ACQUISITION, SAN DIEGO, CALIFORNIA

SEC. 814. (a)(1) Subject to paragraph (3), the Secretary of the Navy (hereinafter in this section referred to as the "Secretary") shall amend the declaration of taking described in paragraph (2) by substituting for the interest described in such declaration of taking which is condemned for the use of the United States an interest consisting of all right, title, and interest of the City of San Diego, California, in and to the tract of land described in such declaration subject to a possibility of reverter of such tract of land (including improvements thereon) to the City of San Diego in the event that the United States ceases to use the land for hospital or medical purposes (or purposes related thereto).

(2) The declaration of taking referred to in paragraph (1) is the declaration of taking signed by the Secretary on December 26, 1979, and filed in Civil Action No. 80-0021-E in the United States District Court for the Southern District of California under the authority of section 809 of the Military Construction Authorization Act, 1980 (Public Law 96-125; 93 Stat. 950), condemning for the use of the United States all right, title, and interest of the City of San Diego, California, in and to a certain tract of land consisting of 40 acres, more or less, in Balboa Park, San Diego, California.

(3) The amendment to such declaration of taking authorized by paragraph (1) may not be made without the consent of the City of San Diego.

Naval Regional Medical Center, San Diego, Calif., conveyance.

(b) The Secretary may convey to the City of San Diego as consideration, in whole or in part, for the acquisition under the declaration of taking described in subsection (a) all right, title, and interest of the United States, or any lesser interest, in and to all or any part of the real property (including improvements thereon) of the Naval Regional Medical Center, San Diego, California, that has been conveyed, leased, or otherwise made available to the United States by the City of San Diego other than through the acquisition under such declaration of taking.

(c) Notwithstanding any other provision of law, the Secretary may construct on the land referred to in subsection (a) or on any other land acquired by the United States from the City of San Diego which is contiguous to such land and in which the United States has less than a fee simple absolute interest any military construction project for a hospital or other medical facility which is otherwise authorized by law.

(d) The provisions of subsections (c) and (d) of section 809 of the Military Construction Authorization Act, 1980, shall apply to the acquisition under the declaration of taking described in subsection (a), as amended under such subsection. 93 Stat. 950.

LAND ACQUISITION, SAN DIEGO, CALIFORNIA

SEC. 815. (a) The Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to acquire by exchange all right, title, and interest of the San Diego Unified School District (hereinafter in this section referred to as the "District") in and to certain parcels of land in the County of San Diego, State of California, comprising approximately 5.11 acres of land (together with improvements thereon) known and identified as the Fairhaven School, San Diego, California, as shown and more particularly described on a map entitled "Naval Station San Diego, California, Acquisition of Fairhaven School", on file at the Western Division, Naval Facilities Engineering Command, San Bruno, California. Fairhaven School.

(b) In consideration for the acquisition under subsection (a), the Secretary is authorized to convey to the District all right, title, and interest of the United States in and to land and improvements having a fair market value (as determined by the Secretary) equal to or greater than the fair market value (as determined by the Secretary) of the improvements on the property to be acquired. If the fair market value of the land and improvements conveyed by the Secretary exceeds the fair market value of such improvements, the difference shall be paid by the District to the United States and shall be covered into the Treasury as miscellaneous receipts.

(c) The exact acreages and legal descriptions of the properties to be acquired or conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

LAND ACQUISITION, SACRAMENTO COUNTY, CALIFORNIA

SEC. 816. (a) The Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to acquire by exchange all right, title, and interest in all or any part of three tracts of land contiguous to McClellan Air Force Base, Sacramento County, California, consisting of a total of approximately 443.3 acres.

(b) As consideration for any acquisition under subsection (a), the Secretary is authorized to convey to the owners of the property to be acquired all right, title, and interest of the United States in and to real property of the United States under the jurisdiction of the Secretary (including any improvements thereon) having a fair market value of not more than the fair market value of the property to be acquired. Fair market value.

(c) The exact acreage and legal description of any real property acquired or conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

LAND EXCHANGE, WABASHA, MINNESOTA

SEC. 817. (a) Subject to subsection (b), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the City of Wabasha, Minnesota (hereinafter in this section referred to as the "City") all right, title, and interest of the United States in and to the land and improvements comprising the United States Army Reserve Center, Wabasha, Minnesota. United States Army Reserve Center.

(b) In consideration for the acquisition under subsection (a), the City shall convey to the United States all right, title, and interest of the City in and to a certain tract of land of approximately seven acres owned by the City. If the fair market value of the land conveyed by the City under this subsection is less than the fair market value of the land conveyed by the United States under subsection (a), the City shall pay to the United States the amount of the difference between such fair market values. Any amount received under the preceeding sentence shall be covered into the Treasury as miscellaneous receipts.

Fair market value.

(c) The conveyances under subsections (a) and (b) shall not be made until a new Army Reserve Center has been constructed on the land to be conveyed to the United States under subsection (b) and the existing Army Reserve Center referred to in subsection (a) has been vacated. Before such conveyances are made, the City shall make available to the Secretary without charge the lands to be conveyed under subsection (b) for the purpose of allowing the construction of the new Army Reserve Center.

New Army Reserve Center.

(d) The exact acreages and legal descriptions of any property acquired or conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

(e) The Secretary is authorized to accept and administer any real property conveyed to the United States under this section.

LAND CONVEYANCE, GUAM, MARIANAS ISLANDS

SEC. 818. (a)(1) Subject to subsections (b) and (c), the Secretary of the Navy (hereinafter in this section referred to as the "Secretary") is authorized to convey, without monetary consideration, to the Government of Guam all right, title, and interest of the United States in and to the lands (or any part of the lands) described in paragraph (2), together with the improvements thereon.

(2) The lands referred to in paragraph (1) consist of approximately 927 acres of land located on Cabras Island and within the northern portion of the Apra Harbor Naval Complex, Guam, Marianas Islands, as shown and more particularly described on a map entitled "Apra Harbor Complex, Guam, Marianas Islands, Conveyance of 927 Acres of Land to the Government of Guam", on file at the Pacific Division, Naval Facilities Engineering Command, Pearl Harbor, Hawaii.

(b)(1) Conveyance of the property described in subsection (a) shall be made at such times, and shall be subject to such terms and conditions, as the Secretary considers to be in the interest of national defense.

(2) Conveyance of the property described in subsection (a) shall be subject to the condition that any disposal by sale or lease of any part or all of the property by the Government of Guam shall only be for a monetary consideration equal to or in excess of the fair market value (at the time of the disposal) of the property concerned, or of the leasehold interest therein, as determined by the Administrator of General Services, and any such monetary consideration received by the Government of Guam, minus any reasonable development costs incurred by such Government in preparing the property concerned for disposal, shall be paid to the United States.

Easements, reserve.

(3) The United States shall reserve easements for all existing utilities and navigation aids in the conveyed parcels as exist on the date of conveyance of the property whether or not such utilities and facilities are specifically mentioned in the conveyance documents for the property. The Government of Guam, for as long as it owns the conveyed lands, shall agree to issue easements not interfering with

their facilities and operations to the United States at no cost for the future facility installations including, but not limited to, construction, installation, reconstruction, operation, maintenance, and removal of water, oil, gas, fuel, and other pipelines, drainage and sewage systems, power and telephone transmission lines, water sewage, and other utility lines, navigation aids, and all things incident thereto, in, on, under, and over the conveyed lands together with all necessary rights and privileges for the full enjoyment of the foregoing, including, without limitation, the right of ingress and egress. The Government of Guam shall agree that for as long as it owns the conveyed lands, it will bear all costs of relocation of existing and future utility lines and other facilities owned by the United States in the conveyed lands requisite to construction on the conveyed lands by the Government of Guam and authorized other parties.

Utility lines and other U.S. owned facility lines, relocation costs.

(4) All leases, licenses, easements, and other property interests affecting the conveyed lands at the time of conveyance issued by the United States shall be honored by the Government of Guam until their final expiration dates. All rents due to be collected under such contracts shall be remitted to the United States for all periods prior to the date the property is conveyed, after which date the rents will be the property of the Government of Guam.

(5) All leases, licenses, easements, conveyances of land, and other real estate interests granted by the Government of Guam after conveyance, shall be subject to the terms, conditions, convenants, and reservations stated in this subsection and shall recite the same in the contractual documents.

(c) The exact acreages and legal descriptions of all lands to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of such surveys, together with all other direct and indirect costs related to any conveyance under this section, shall be borne by the Government of Guam.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1009 (Comm. on Armed Services) and No. 96-1399 (Comm. of Conference).
SENATE REPORT No. 96-915 accompanying S. 3059 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 10, considered and passed House.
Sept. 16, considered and passed Senate, amended, in lieu of S. 3059.
Sept. 30, Senate agreed to conference report.
Oct. 1, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 42 (1980): Oct. 11, Presidential statement.

Public Law 96-419
96th Congress

Joint Resolution

Oct. 10, 1980
[S.J. Res. 201]

To provide for the designation of a week as "National Lupus Week".

National Lupus Week.
Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week of October 19 through 25, 1980, as "National Lupus Week" and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 29, considered and passed Senate.
Sept. 30, considered and passed House.

Public Law 96-420
96th Congress

An Act

To provide for the settlement of land claims of Indians, Indian nations and tribes and bands of Indians in the State of Maine, including the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and for other purposes.

Oct. 10, 1980
[H.R. 7919]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maine Indian Claims Settlement Act of 1980".

Maine Indian Claims Settlement Act of 1980.
25 USC 1721 note.

CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) Congress hereby finds and declares that:

25 USC 1721.

(1) The Passamaquoddy Tribe, the Penobscot Nation, and the Maliseet Tribe are asserting claims for possession of lands within the State of Maine and for damages on the ground that the lands in question were originally transferred in violation of law, including, but without limitation, the Trade and Intercourse Act of 1790 (1 Stat. 137), or subsequent reenactments or versions thereof.

(2) The Indians, Indian nations, and tribes and bands of Indians, other than the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, that once may have held aboriginal title to lands within the State of Maine long ago abandoned their aboriginal holdings.

(3) The Penobscot Nation, as represented as of the time of passage of this Act by the Penobscot Nation's Governor and Council, is the sole successor in interest to the aboriginal entity generally known as the Penobscot Nation which years ago claimed aboriginal title to certain lands in the State of Maine.

(4) The Passamaquoddy Tribe, as represented as of the time of passage of this Act by the Joint Tribal Council of the Passamaquoddy Tribe, is the sole successor in interest to the aboriginal entity generally known as the Passamaquoddy Tribe which years ago claimed aboriginal title to certain lands in the State of Maine.

(5) The Houlton Band of Maliseet Indians, as represented as of the time of passage of this Act by the Houlton Band Council, is the sole successor in interest, as to lands within the United States, to the aboriginal entity generally known as the Maliseet Tribe which years ago claimed aboriginal title to certain lands in the State of Maine.

(6) Substantial economic and social hardship to a large number of landowners, citizens, and communities in the State of Maine, and therefore to the economy of the State of Maine as a whole, will result if the aforementioned claims are not resolved promptly.

(7) This Act represents a good faith effort on the part of Congress to provide the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians with a fair and

just settlement of their land claims. In the absence of congressional action, these land claims would be pursued through the courts, a process which in all likelihood would consume many years and thereby promote hostility and uncertainty in the State of Maine to the ultimate detriment of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, their members, and all other citizens of the State of Maine.

(8) The State of Maine, with the agreement of the Passamaquoddy Tribe and the Penobscot Nation, has enacted legislation defining the relationship between the Passamaquoddy Tribe, the Penobscot Nation, and their members, and the State of Maine.

(9) Since 1820, the State of Maine has provided special services to the Indians residing within its borders, including the members of the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians. During this same period, the United States provided few special services to the respective tribe, nation, or band, and repeatedly denied that it had jurisdiction over or responsibility for the said tribe, nation, and band. In view of this provision of special services by the State of Maine, requiring substantial expenditures by the State of Maine and made by the State of Maine without being required to do so by Federal law, it is the intent of Congress that the State of Maine not be required further to contribute directly to this claims settlement.

(b) It is the purpose of this Act—

(1) to remove the cloud on the titles to land in the State of Maine resulting from Indian claims;

(2) to clarify the status of other land and natural resources in the State of Maine;

(3) to ratify the Maine Implementing Act, which defines the relationship between the State of Maine and the Passamaquoddy Tribe, and the Penobscot Nation, and

(4) to confirm that all other Indians, Indian nations and tribes and bands of Indians now or hereafter existing or recognized in the State of Maine are and shall be subject to all laws of the State of Maine, as provided herein.

DEFINITIONS

25 USC 1722.

SEC. 3. For purposes of this Act, the term—

(a) "Houlton Band of Maliseet Indians" means the sole successor to the Maliseet Tribe of Indians as constituted in aboriginal times in what is now the State of Maine, and all its predecessors and successors in interest. The Houlton Band of Maliseet Indians is represented, as of the date of the enactment of this Act, as to lands within the United States, by the Houlton Band Council of the Houlton Band of Maliseet Indians;

(b) "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including but without limitation minerals and mineral rights, timber and timber rights, water and water rights, and hunting and fishing rights;

(c) "Land Acquisition Fund" means the Maine Indian Claims Land Acquisition Fund established under section 5(c) of this Act;

(d) "laws of the State" means the constitution, and all statutes, regulations, and common laws of the State of Maine and its political subdivisions and all subsequent amendments thereto or judicial interpretations thereof;

(e) "Maine Implementing Act" means section 1, section 30, and section 31, of the "Act to Implement the Maine Indian Claims Settlement" enacted by the State of Maine in chapter 732 of the public laws of 1979;

(f) "Passamaquoddy Indian Reservation" means those lands as defined in the Maine Implementing Act;

(g) "Passamaquoddy Indian Territory" means those lands as defined in the Maine Implementing Act;

(h) "Passamaquoddy Tribe" means the Passamaquoddy Indian Tribe, as constituted in aboriginal times and all its predecessors and successors in interest. The Passamaquoddy Tribe is represented, as of the date of the enactment of this Act, by the Joint Tribal Council of the Passamaquoddy Tribe, with separate councils at the Indian Township and Pleasant Point Reservations;

(i) "Penobscot Indian Reservation" means those lands as defined in the Maine Implementing Act;

(j) "Penobscot Indian Territory" means those lands as defined in the Maine Implementing Act;

(k) "Penobscot Nation" means the Penobscot Indian Nation as constituted in aboriginal times, and all its predecessors and successors in interest. The Penobscot Nation is represented, as of the date of enactment of this Act, by the Penobscot Nation Governor and Council;

(l) "Secretary" means the Secretary of the Interior;

(m) "Settlement Fund" means the Maine Indian Claims Settlement Fund established under section 5(a) of this Act; and

(n) "transfer" includes but is not limited to any voluntary or involuntary sale, grant, lease, allotment, partition, or other conveyance; any transaction the purpose of which was to effect a sale, grant, lease, allotment, partition, or conveyance; and any act, event, or circumstance that resulted in a change in title to, possession of, dominion over, or control of land or natural resources.

APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF INDIAN TITLE AND CLAIMS OF THE PASSAMAQUODDY TRIBE, THE PENOBSCOT NATION, THE HOULTON BAND OF MALISEET INDIANS, AND ANY OTHER INDIANS, INDIAN NATION, OR TRIBE OR BAND OF INDIANS WITHIN THE STATE OF MAINE

SEC. 4. (a)(1) Any transfer of land or natural resources located anywhere within the United States from, by, or on behalf of the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, or any of their members, and any transfer of land or natural resources located anywhere within the State of Maine, from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State, shall be deemed to have been made in accordance with the Constitution and all laws of the United States, including but without limitation the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, Sec. 4, 1 Stat. 137, 138), and all amendments thereto and all subsequent reenactments and versions thereof, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer: *Provided however,* That nothing in this section shall be construed to affect or eliminate the personal claim of any individual Indian (except for any Federal common law fraud claim) which is pursued under any law of general applicability that protects non-Indians as well as Indians. 25 USC 1723.

(2) The United States is barred from asserting on behalf of any Indian, Indian nation, or tribe or band of Indians any claim under the laws of the State of Maine arising before the date of this Act and arising from any transfer of land or natural resources by any Indian, Indian nation, or tribe or band of Indians, located anywhere within the State of Maine, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State, on the grounds that such transfer was not made in accordance with the laws of the State of Maine.

(3) The United States is barred from asserting by or on behalf of any individual Indian any claim under the laws of the State of Maine arising from any transfer of land or natural resources located anywhere within the State of Maine from, by, or on behalf of any individual Indian, which occurred prior to December 1, 1873, including but without limitation any transfer pursuant to any treaty, compact, or statute of any State.

(b) To the extent that any transfer of land or natural resources described in subsection (a)(1) of this section may involve land or natural resources to which the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians, or any of their members, or any other Indian, Indian nation, or tribe or band of Indians had aboriginal title, such subsection (a)(1) shall be regarded as an extinguishment of said aboriginal title as of the date of such transfer.

(c) By virtue of the approval and ratification of a transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, all claims against the United States, any State or subdivision thereof, or any other person or entity, by the Passamaquoddy Tribe, the Penobscot Nation, the Houlton Band of Maliseet Indians or any of their members or by any other Indian, Indian nation, tribe or band of Indians, or any predecessors or successors in interest thereof, arising at the time of or subsequent to the transfer and based on any interest in or right involving such land or natural resources, including but without limitation claims for trespass damages or claims for use and occupancy, shall be deemed extinguished as of the date of the transfer.

Effective date.

(d) The provisions of this section shall take effect immediately upon appropriation of the funds authorized to be appropriated to implement the provisions of section 5 of this Act. The Secretary shall publish notice of such appropriation in the Federal Register when such funds are appropriated.

Publication in Federal Register.

ESTABLISHMENT OF FUNDS

Maine Indian Claims Settlement Fund.
25 USC 1724.

SEC. 5. (a) There is hereby established in the United States Treasury a fund to be known as the Maine Indian Claims Settlement Fund in which $27,000,000 shall be deposited following the appropriation of sums authorized by section 14 of this Act.

(b)(1) One-half of the principal of the settlement fund shall be held in trust by the Secretary for the benefit of the Passamaquoddy Tribe, and the other half of the settlement fund shall be held in trust for the benefit of the Penobscot Nation. Each portion of the settlement fund shall be administered by the Secretary in accordance with reasonable terms established by the Passamaquoddy Tribe or the Penobscot Nation, respectively, and agreed to by the Secretary: *Provided,* That the Secretary may not agree to terms which provide for investment of the settlement fund in a manner not in accordance with section 1 of the Act of June 24, 1938 (52 Stat. 1037), unless the respective tribe or

Waiver.

25 USC 162a.

nation first submits a specific waiver of liability on the part of the United States for any loss which may result from such an investment: *Provided, further,* That until such terms have been agreed upon, the Secretary shall fix the terms for the administration of the portion of the settlement fund as to which there is no agreement.

(2) Under no circumstances shall any part of the principal of the settlement fund be distributed to either the Passamaquoddy Tribe or the Penobscot Nation, or to any member of either tribe or nation: *Provided, however,* That nothing herein shall prevent the Secretary from investing the principal of said fund in accordance with paragraph (1) of this subsection.

(3) The Secretary shall make available to the Passamaquoddy Tribe and the Penobscot Nation in quarterly payments, without any deductions except as expressly provided in subsection 6(d)(2) and without liability to or on the part of the United States, any income received from the investment of that portion of the settlement fund allocated to the respective tribe or nation, the use of which shall be free of regulation by the Secretary. The Passamaquoddy Tribe and the Penobscot Nation annually shall each expend the income from $1,000,000 of their portion of the settlement fund for the benefit of their respective members who are over the age of sixty. Once payments under this paragraph have been made to the tribe or nation, the United States shall have no further trust responsibility to the tribe or nation or their members with respect to the sums paid, any subsequent distribution of these sums, or any property or services purchased therewith.

(c) There is hereby established in the United States Treasury a fund to be known as the Maine Indian Claims Land Acquisition Fund in which $54,500,000 shall be deposited following the appropriation of sums authorized by section 14 of this Act.

Maine Indian Claims Land Acquisition Fund, establishment.

(d) The principal of the land acquisition fund shall be apportioned as follows:

(1) $900,000 to be held in trust for the Houlton Band of Maliseet Indians;

(2) $26,800,000 to be held in trust for the Passamaquoddy Tribe; and

(3) $26,800,000 to be held in trust for the Penobscot Nation.

The Secretary is authorized and directed to expend, at the request of the affected tribe, nation or band, the principal and any income accruing to the respective portions of the land acquisition fund for the purpose of acquiring land or natural resources for the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians and for no other purpose. The first 150,000 acres of land or natural resources acquired for the Passamaquoddy Tribe and the first 150,000 acres acquired for the Penobscot Nation within the area described in the Maine Implementing Act as eligible to be included within the Passamaquoddy Indian Territory and the Penobscot Indian Territory shall be held in trust by the United States for the benefit of the respective tribe or nation. The Secretary is also authorized to take in trust for the Passamaquoddy Tribe or the Penobscot Nation any land or natural resources acquired within the aforesaid area by purchase, gift, or exchange by such tribe or nation. Land or natural resources acquired outside the boundaries of the aforesaid areas shall be held in fee by the respective tribe or nation, and the United States shall have no further trust responsibility with respect thereto. Land or natural resources acquired within the State of Maine for the Houlton Band of Maliseet Indians shall be held in trust by the United States for the benefit of the band: *Provided,* That

Land or natural resources, acquisition.

no land or natural resources shall be so acquired for or on behalf of the Houlton Band of Maliseet Indians without the prior enactment of appropriate legislation by the State of Maine approving such acquisition: *Provided further,* That the Passamaquoddy Tribe and the Penobscot Nation shall each have a one-half undivided interest in the corpus of the trust, which shall consist of any such property or subsequently acquired exchange property, in the event the Houlton Band of Maliseet Indians should terminate its interest in the trust.

State of Maine and Houlton Band of Maliseet Indians, negotiations.

(4) The Secretary is authorized to, and at the request of either party shall, participate in negotiations between the State of Maine and the Houlton Band of Maliseet Indians for the purpose of assisting in securing agreement as to the land or natural resources to be acquired by the United States to be held in trust for the benefit of the Houlton Band. Such agreement shall be embodied in the legislation enacted by the State of Maine approving the acquisition of such lands as required by section 5(d)(3). The agreement and the legislation shall be limited to:

(A) provisions providing restrictions against alienation or taxation of land or natural resources held in trust for the Houlton Band no less restrictive than those provided by this Act and the Maine Implementing Act for land or natural resources to be held in trust for the Passamaquoddy Tribe or Penobscot Nation;

(B) provisions limiting the power of the State of Maine to condemn such lands that are no less restrictive than the provisions of this Act and the Maine Implementing Act that apply to the Passamaquoddy Indian Territory and the Penobscot Indian Territory but not within either the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation;

(C) consistent with the trust and restricted character of the lands, provisions satisfactory to the State and the Houlton Band concerning:

(i) payments by the Houlton Band in lieu of payment of property taxes on land or natural resources held in trust for the band, except that the band shall not be deemed to own or use any property for governmental purposes under the Maine Implementing Act;

(ii) payments of other fees and taxes to the extent imposed on the Passamaquoddy Tribe and the Penobscot Nation under the Maine Implementing Act, except that the band shall not be deemed to be a governmental entity under the Maine Implementing Act or to have the powers of a municipality under the Maine Implementing Act;

(iii) securing performance of obligations of the Houlton Band arising after the effective date of agreement between the State and the band.

(D) provisions on the location of these lands.

Except as set forth in this subsection, such agreement shall not include any other provisions regarding the enforcement or application of the laws of the State of Maine. Within one year of the date of enactment of this Act, the Secretary is directed to submit to the appropriate committees of the House of Representatives and the Senate having jurisdiction over Indian affairs a report on the status of these negotiations.

Report to congressional committees.

(e) Notwithstanding the provisions of section 1 of the Act of August 1, 1888 (25 Stat. 357), as amended, and section 1 of the Act of

February 26, 1931 (46 Stat. 1421), the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon the purchase price and other terms of sale. Subject to the agreement required by the preceding sentence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the Attorney General, in the United States and condemn interests adverse to the ostensible owner. Except for the provisions of this Act, the United States shall have no other authority to acquire lands or natural resources in trust for the benefit of Indians or Indian nations, or tribes, or bands of Indians in the State of Maine. 40 USC 258a.

(f) The Secretary may not expend on behalf of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians any sums deposited in the funds established pursuant to the subsections (a) and (c) of this section unless and until he finds that authorized officials of the respective tribe, nation, or band have executed appropriate documents relinquishing all claims to the extent provided by sections 4, 11, and 12 of this Act and by section 6213 of the Maine Implementing Act, including stipulations to the final judicial dismissal with prejudice of their claims.

(g)(1) The provisions of section 2116 of the Revised Statutes shall not be applicable to (A) the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians or any other Indian, Indian nation, or tribe or band of Indians in the State of Maine, or (B) any land or natural resources owned by or held in trust for the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians or any other Indian, Indian nation or tribe or band of Indians in the State of Maine. Except as provided in subsections (d)(4) and (g)(2), such land or natural resources shall not otherwise be subject to any restraint on alienation by virtue of being held in trust by the United States or the Secretary. 25 USC 177.

(2) Except as provided in paragraph (3) of this subsection, any transfer of land or natural resources within Passamaquoddy Indian Territory or Penobscot Indian Territory, except (A) takings for public uses consistent with the Maine Implementing Act, (B) takings for public uses pursuant to the laws of the United States, or (C) transfers of individual Indian use assignments from one member of the Passamaquoddy Tribe or Penobscot Nation to another member of the same tribe or nation, shall be void ab initio and without any validity in law or equity.

(3) Land or natural resources within the Passamaquoddy Indian Territory or the Penobscot Indian Territory or held in trust for the benefit of the Houlton Band of Maliseet Indians may, at the request of the respective tribe, nation, or band, be— Land or natural resources held in trust.

(A) leased in accordance with the Act of August 9, 1955 (69 Stat. 539), as amended; 25 USC 415–415d, 396.

(B) leased in accordance with the Act of May 11, 1938 (52 Stat. 347), as amended; 25 USC 396a–396f and notes.

(C) sold in accordance with section 7 of the Act of June 25, 1910 (36 Stat. 857), as amended; 25 USC 407.

(D) subjected to rights-of-way in accordance with the Act of February 5, 1948 (62 Stat. 17); 25 USC 323–328 and note.

(E) exchanged for other land or natural resources of equal value, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary for deposit in the land acquisition fund for the benefit of the affected

tribe, nation, or band, as the circumstances require, so long as payment does not exceed 25 per centum of the total value of the interests in land to be transferred by the tribe, nation, or band; and

(F) sold, only if at the time of sale the Secretary has entered into an option agreement or contract of sale to purchase other lands of approximate equal value.

Land or natural resources, administration.

(h) Land or natural resources acquired by the Secretary in trust for the Passamaquoddy Tribe and the Penobscot Nation shall be managed and administered in accordance with terms established by the respective tribe or nation and agreed to by the Secretary in accordance with section 102 of the Indian Self-Determination and Education Assistance Act (88 Stat. 2206), or other existing law.

25 USC 450f.

(i)(1) Trust or restricted land or natural resources within the Passamaquoddy Indian Reservation or the Penobscot Indian Reservation may be condemned for public purposes pursuant to the Maine Implementing Act. In the event that the compensation for the taking is in the form of substitute land to be added to the reservation, such land shall become a part of the reservation in accordance with the Maine Implementing Act and upon notification to the Secretary of the location and boundaries of the substitute land. Such substitute land shall have the same trust or restricted status as the land taken. To the extent that the compensation is in the form of monetary proceeds, it shall be deposited and reinvested as provided in paragraph (2) of this subsection.

(2) Trust land of the Passamaquoddy Tribe or the Penobscot Nation not within the Passamaquoddy Reservation or Penobscot Reservation may be condemned for public purposes pursuant to the Maine Implementing Act. The proceeds from any such condemnation shall be deposited in the land acquisition fund established by section 5(c) and shall be reinvested in acreage within unorganized or unincorporated areas of the State of Maine. When the proceeds are reinvested in land whose acreage does not exceed that of the land taken, all the land shall be acquired in trust. When the proceeds are invested in land whose acreage exceeds the acreage of the land taken, the respective tribe or nation shall designate, with the approval of the United States, and within thirty days of such reinvestment, that portion of the land acquired by the reinvestment, not to exceed the area taken, which shall be acquired in trust. The land not acquired in trust shall be held in fee by the respective tribe or nation. The Secretary shall certify, in writing, to the Secretary of State of the State of Maine the location, boundaries, and status of the land acquired.

Condemnation proceedings.

(3) The State of Maine shall have initial jurisdiction over condemnation proceedings brought under this section. The United States shall be a necessary party to any such condemnation proceedings.

State jurisdiction, U.S. judicial review.

After exhaustion of all State administrative remedies, the United States is authorized to seek judicial review of all relevant matters in the courts of the United States and shall have an absolute right of removal, at its discretion, over any action commenced in the courts of the State.

(j) When trust or restricted land or natural resources of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet Indians are condemned pursuant to any law of the United States other than this Act, the proceeds paid in compensation for such condemnation shall be deposited and reinvested in accordance with subsection (i)(2) of this section.

APPLICATION OF STATE LAWS

SEC. 6. (a) Except as provided in section 8(e) and section 5(d)(4), all Indians, Indian nations, or tribes or bands of Indians in the State of Maine, other than the Passamaquoddy Tribe, the Penobscot Nation, and their members, and any lands or natural resources owned by any such Indian, Indian nation, tribe or band of Indians and any lands or natural resources held in trust by the United States, or by any other person or entity, for any such Indian, Indian nation, tribe, or band of Indians shall be subject to the civil and criminal jurisdiction of the State, the laws of the State, and the civil and criminal jurisdiction of the courts of the State, to the same extent as any other person or land therein. State civil and criminal jurisdiction. 25 USC 1725.

(b)(1) The Passamaquoddy Tribe, the Penobscot Nation, and their members, and the land and natural resources owned by, or held in trust for the benefit of the tribe, nation, or their members, shall be subject to the jurisdiction of the State of Maine to the extent and in the manner provided in the Maine Implementing Act and that Act is hereby approved, ratified, and confirmed.

(2) Funds appropriated for the benefit of Indian people or for the administration of Indian affairs may be utilized, consistent with the purposes for which they are appropriated, by the Passamaquoddy Tribe and the Penobscot Nation to provide part or all of the local share as provided by the Maine Implementing Act.

(3) Nothing in this section shall be construed to supersede any Federal laws or regulations governing the provision or funding of services or benefits to any person or entity in the State of Maine unless expressly provided by this Act.

(4) Not later than October 30, 1982, the Secretary is directed to submit to the appropriate committees of the House of Representatives and the Senate having jurisdiction over Indian affairs a report on the Federal and State funding provided the Passamaquoddy Tribe and Penobscot Nation compared with the respective Federal and State funding in other States. Report to congressional committees.

(c) The United States shall not have any criminal jurisdiction in the State of Maine under the provisions of sections 1152, 1153, 1154, 1155, 1156, 1160, 1161, and 1165 of title 18 of the United States Code. This provision shall not be effective until sixty days after the publication of notice in the Federal Register as required by subsection 4(d) of this Act. State criminal jurisdiction, effective date.

(d)(1) The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians, and all members thereof, and all other Indians, Indian nations, or tribes or bands of Indians in the State of Maine may sue and be sued in the courts of the State of Maine and the United States to the same extent as any other entity or person residing in the State of Maine may sue and be sued in those courts; and section 1362 of title 28, United States Code, shall be applicable to civil actions brought by the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians: *Provided, however,* That the Passamaquoddy Tribe, the Penobscot Nation, and their officers and employees shall be immune from suit to the extent provided in the Maine Implementing Act.

(2) Notwithstanding the provisions of section 3477 of the Revised Statutes, as amended, the Secretary shall honor valid final orders of a Federal, State, or territorial court which enters money judgments for causes of action which arise after the date of the enactment of this Act against either the Passamaquoddy Tribe or the Penobscot Nation by making an assignment to the judgment creditor of the right to 31 USC 203.

receive income out of the next quarterly payment from the settlement fund established pursuant to section 5(a) of this Act and out of such future quarterly payments as may be necessary until the judgment is satisfied.

(e)(1) The consent of the United States is hereby given to the State of Maine to amend the Maine Implementing Act with respect to either the Passamaquoddy Tribe or the Penobscot Nation: *Provided*, That such amendment is made with the agreement of the affected tribe or nation, and that such amendment relates to (A) the enforcement or application of civil, criminal, or regulatory laws of the Passamaquoddy Tribe, the Penobscot Nation, and the State within their respective jurisdictions; (B) the allocation or determination of governmental responsibility of the State and the tribe or nation over specified subject matters or specified geographical areas, or both, including provision for concurrent jurisdiction between the State and the tribe or nation; or (C) the allocation of jurisdiction between tribal courts and State courts.

(2) Notwithstanding the provisions of subsection (a) of this section, the State of Maine and the Houlton Band of Maliseet Indians are authorized to execute agreements regarding the jurisdiction of the State of Maine over lands owned by or held in trust for the benefit of the band or its members.

Separate jurisdiction.

(f) The Passamaquoddy Tribe and the Penobscot Nation are hereby authorized to exercise jurisdiction, separate and distinct from the civil and criminal jurisdiction of the State of Maine, to the extent authorized by the Maine Implementing Act, and any subsequent amendments thereto.

(g) The Passamaquoddy Tribe, the Penobscot Nation, and the State of Maine shall give full faith and credit to the judicial proceedings of each other.

(h) Except as other wise provided in this Act, the laws and regulations of the United States which are generally applicable to Indians, Indian nations, or tribes or bands of Indians or to lands owned by or held in trust for Indians, Indian nations, or tribes or bands of Indians shall be applicable in the State of Maine, except that no law or regulation of the United States (1) which accords or relates to a special status or right of or to any Indian, Indian nation, tribe or band of Indians, Indian lands, Indian reservations, Indian country, Indian territory or land held in trust for Indians, and also (2) which affects or preempts the civil, criminal, or regulatory jurisdiction of the State of Maine, including, without limitation, laws of the State relating to land use or environmental matters, shall apply within the State.

Certain Indian tribes, financial benefits and tax treatment.

(i) As federally recognized Indian tribes, the Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be eligible to receive all of the financial benefits which the United States provides to Indians, Indian nations, or tribes or bands of Indians to the same extent and subject to the same eligibility criteria generally applicable to other Indians, Indian nations or tribes or bands of Indians. The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall be treated in the same manner as other federally recognized tribes for the purposes of Federal taxation and any lands which are held by the respective tribe, nation, or band subject to a restriction against alienation or which are held in trust for the benefit of the respective tribe, nation, or band shall be considered Federal Indian reservations for purposes of Federal taxation.

TRIBAL ORGANIZATION

SEC. 7. (a) The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians may each organize for its common welfare and adopt an appropriate instrument in writing to govern the affairs of the tribe, nation, or band when each is acting in its governmental capacity. Such instrument and any amendments thereto must be consistent with the terms of this Act and the Maine Implementing Act. The Passamaquoddy Tribe, the Penobscot Nation, and the Houlton Band of Maliseet Indians shall each file with the Secretary a copy of its organic governing document and any amendments thereto. 25 USC 1726.

(b) For purposes of benefits under this Act and the recognition extended the Houlton Band of Maliseet Indians, no person who is not a citizen of the United States may be considered a member of the Houlton Band of Maliseets, except persons who, as of the date of this Act, are enrolled members on the band's existing membership roll, and direct lineal descendants of such members. Membership in the band shall be subject to such further qualifications as may be provided by the band in its organic governing document or amendments thereto subject to the approval of the Secretary. Houlton Band of Maliseet Indians, membership.

IMPLEMENTATION OF THE INDIAN CHILD WELFARE ACT

SEC. 8. (a) The Passamaquoddy Tribe or the Penobscot Nation may assume exclusive jurisdiction over Indian child custody proceedings pursuant to the Indian Child Welfare Act of 1978 (92 Stat. 3069). Before the respective tribe or nation may assume such jurisdiction over Indian child custody proceedings, the respective tribe or nation shall present to the Secretary for approval a petition to assume such jurisdiction and the Secretary shall approve that petition in the manner prescribed by sections 108(a)-(c) of said Act. Indian child custody proceedings, tribal jurisdiction. 25 USC 1727. 25 USC 1901 note. 25 USC 1918.

(b) Any petition to assume jurisdiction over Indian child custody proceedings by the Passamaquoddy Tribe or the Penobscot Nation shall be considered and determined by the Secretary in accordance with sections 108 (b) and (c) of the Act.

(c) Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction.

(d) For the purposes of this section, the Passamaquoddy Indian Reservation and the Penobscot Indian Reservation are "reservations" within section 4(10) of the Act. Reservations.

(e) For the purposes of this section, the Houlton Band of Maliseet Indians is an "Indian tribe" within section 4(8) of the Act, provided, that nothing in this subsection shall alter or effect the jurisdiction of the State of Maine over child welfare matters as provided in subsection 6(e)(2) of this Act. Indian tribe.

(f) Until the Passamaquoddy Tribe or the Penobscot Nation has assumed exclusive jurisdiction over the Indian child custody proceedings pursuant to this section, the State of Maine shall have exclusive jurisdiction over Indian child custody proceedings of that tribe or nation. Indian child custody proceedings, jurisdiction.

EFFECT OF PAYMENTS TO PASSAMAQUODDY TRIBE, PENOBSCOT NATION, AND HOULTON BAND OF MALISEET INDIANS

SEC. 9. (a) No payments to be made for the benefit of the Passamaquoddy Tribe, the Penobscot Nation, or the Houlton Band of Maliseet 25 USC 1728.

Indians pursuant to the terms of this Act shall be considered by any agency or department of the United States in determining or computing the eligibility of the State of Maine for participation in any financial aid program of the United States.

(b) The eligibility for or receipt of payments from the State of Maine by the Passamaquoddy Tribe and the Penobscot Nation or any of their members pursuant to the Maine Implementing Act shall not be considered by any department or agency of the United States in determining the eligibility of or computing payments to the Passamaquoddy Tribe or the Penobscot Nation or any of their members under any financial aid program of the United States: *Provided*, That to the extent that eligibility for the benefits of such a financial aid program is dependent upon a showing of need by the applicant, the administering agency shall not be barred by this subsection from considering the actual financial situation of the applicant.

(c) The availability of funds or distribution of funds pursuant to section 5 of this Act may not be considered as income or resources or otherwise utilized as the basis (1) for denying any Indian household or member thereof participation in any federally assisted housing program, (2) for denying or reducing the Federal financial assistance or other Federal benefits to which such household or member would otherwise be entitled, or (3) for denying or reducing the Federal financial assistance or other Federal benefits to which the Passamaquoddy Tribe or Penobscot Nation would otherwise be eligible or entitled.

DEFERRAL OF CAPITAL GAINS

25 USC 1729.

SEC. 10. For the purpose of subtitle A of the Internal Revenue Code of 1954, any transfer by private owners of land purchased or otherwise acquired by the Secretary with moneys from the land acquisition fund whether in the name of the United States or of the respective tribe, nation or band shall be deemed to be an involuntary conversion within the meaning of section 1033 of the Internal Revenue Code of 1954, as amended.

26 USC 1033.

TRANSFER OF TRIBAL TRUST FUNDS HELD BY THE STATE OF MAINE

25 USC 1730.

SEC. 11. All funds of either the Passamaquoddy Tribe or the Penobscot Nation held in trust by the State of Maine as of the effective date of this Act shall be transferred to the Secretary to be held in trust for the respective tribe or nation and shall be added to the principal of the settlement fund allocated to that tribe or nation. The receipt of said State funds by the Secretary shall constitute a full discharge of any claim of the respective tribe or nation, its predecessors and successors in interest, and its members, may have against the State of Maine, its officers, employees, agents, and representatives, arising from the administration or management of said State funds. Upon receipt of said State funds, the Secretary, on behalf of the respective tribe and nation, shall execute general releases of all claims against the State of Maine, its officers, employees, agents, and representatives, arising from the administration or management of said State funds.

OTHER CLAIMS DISCHARGED BY THIS ACT

25 USC 1731.

SEC. 12. Except as expressly provided herein, this Act shall constitute a general discharge and release of all obligations of the State of Maine and all of its political subdivisions, agencies, departments, and

all of the officers or employees thereof arising from any treaty or agreement with, or on behalf of any Indian nation, or tribe or band of Indians or the United States as trustee therefor, including those actions now pending in the United States District Court for the District of Maine captioned United States of America against State of Maine (Civil Action Nos. 1966-ND and 1969-ND).

LIMITATION OF ACTIONS

SEC. 13. Except as provided in this Act, no provision of this Act shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, or to grant implied consent to any Indian, Indian nation, or tribe or band of Indians to sue the United States or any of its officers with respect to the claims extinguished by the operation of this Act. 25 USC 1732.

AUTHORIZATION

SEC. 14. There is hereby authorized to be appropriated $81,500,000 for the fiscal year beginning October 1, 1980, for transfer to the funds established by section 5 of this Act. 25 USC 1733.

INSEPARABILITY

SEC. 15. In the event that any provision of section 4 of this Act is held invalid, it is the intent of Congress that the entire Act be invalidated. In the event that any other section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections of this Act shall continue in full force and effect. 25 USC 1734.

CONSTRUCTION

SEC. 16. (a) In the event a conflict of interpretation between the provisions of the Maine Implementing Act and this Act should emerge, the provisions of this Act shall govern. 25 USC 1735.

(b) The provisions of any Federal law enacted after the date of enactment of this Act for the benefit of Indians, Indian nations, or tribes or bands of Indians, which would affect or preempt the application of the laws of the State of Maine, including application of the laws of the State to lands owned by or held in trust for Indians, or Indian nations, tribes, or bands of Indians, as provided in this Act and the Maine Implementing Act, shall not apply within the State of Maine, unless such provision of such subsequently enacted Federal law is specifically made applicable within the State of Maine.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1353 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-957 accompanying S. 2829 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 22, considered and passed House.
Sept. 23, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 42:
Oct. 11, Presidential statement.

Public Law 96-421
96th Congress

Joint Resolution

Oct. 10, 1980
[S.J. Res. 82]

To designate the week commencing with the third Monday in February of 1981 as "National Patriotism Week".

Whereas the freedom known in this country was won through great sacrifice and long tribulation; and

Whereas similar sacrifices have been made by the citizenry of the United States to extend liberty and well-being to other nations of the world; and

Whereas it is altogether fitting and proper to recognize such great freedoms, and to honor so great a Nation: Now, therefore, be it

National Patriotism Week. Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week commencing with the third Monday in February of 1981 is hereby designated as "National Patriotism Week".

SEC. 2. The President is authorized and requested to issue a proclamation—

(1) calling upon the people of the United States to commemorate National Patriotism Week with appropriate celebrations and observances;

(2) encouraging primary and secondary schools to adopt an appropriate curriculum for that week including such elements as the study of the Pledge of Allegiance and the national anthem, national symbols, seals, and mottos, and national monuments, heroes, and accomplishments; and

(3) requesting each Federal agency to recognize such week by taking such action as it may deem appropriate.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-577 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 26, considered and passed Senate.
Sept. 29, considered and passed House, amended.
Sept. 30, Senate concurred in House amendments.

Public Law 96-422
96th Congress

An Act

To provide general assistance to local educational agencies for the education of Cuban and Haitian refugee children, to provide special impact aid to such agencies for the education of Cuban and Haitian refugee children and Indochinese refugee children, and to provide assistance to State educational agencies for the education of Cuban and Haitian refugee adults.

Oct. 10, 1980
[H.R. 7859]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Refugee Education Assistance Act of 1980".

Refugee Education Assistance Act of 1980.

TITLE I—GENERAL PROVISIONS

8 USC 1522 note.

DEFINITIONS

SEC. 101. As used in this Act— 8 USC 1522 note.

(1) The terms "Cuban and Haitian refugee adults" and "Cuban and Haitian refugee children" mean aliens who have fled from Cuba or Haiti and who—

(A) on or after November 1, 1979—

(i) have been admitted into the United States as refugees under section 207 of the Immigration and Nationality Act; *Ante*, p. 103.

(ii) have been paroled into the United States by the Attorney General pursuant to section 212(d)(5) of such Act; or *Ante*, p. 107.

(iii) are applicants for asylum, or have been granted asylum, in the United States; or

(B) are Cuban-Haitian entrants (status pending) who entered the United States on or after November 1, 1979.

For purposes of this paragraph, any person who is a Cuban-Haitian entrant as described in subparagraph (B) at any time after the date of the enactment of this Act shall be considered to maintain such status for purposes of this Act regardless of any subsequent change in status under any other law.

(2) The terms "elementary school", "local educational agency", "secondary school", "State", and "State educational agency" have the meanings given such terms under section 198(a) of the Elementary and Secondary Education Act of 1965. 20 USC 2854.

(3) The term "elementary or secondary nonpublic schools" means schools which comply with the compulsory education laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954. 26 USC 501.

(4) The term "Indochinese refugee children" means aliens who have fled from Cambodia, Vietnam, or Laos, and, on or after January 1, 1979—

(A) have been admitted into the United States as refugees under section 207 of the Immigration and Nationality Act; *Ante*, p. 103.

(B) have been paroled into the United States by the Attorney General pursuant to section 212(d)(5) of such Act; or

Ante, p. 107.

(C) are applicants for asylum, or have been granted asylum, in the United States.

(5) The term "Secretary" means the Secretary of Education.

AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS

8 USC 1522 note.

SEC. 102. (a) There are authorized to be appropriated for each of the fiscal years 1981, 1982, and 1983, but only in a lump sum for all programs under this Act, subject to allocation in accordance with subsection (b), such sums as may be necessary to make payments to which State educational agencies are entitled under this Act and payments for administration under section 104.

(b)(1) If the sums appropriated for any fiscal year to make payments to States under this Act are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under titles II through IV for such year, the allocations to State educational agencies under each of such titles shall be ratably reduced by the same percentage to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

Post, pp. 1801, 1803, 1807.

(2) In the event that funds become available for making payments under this Act for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

TREATMENT OF CERTAIN JURISDICTIONS

8 USC 1522 note.

SEC. 103. (a) The jurisdictions to which this section applies are Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

Grants.

(b)(1) Each jurisdiction to which this section applies shall be entitled to grants for the purposes set forth in sections 201(a), 302, and 402 in amounts equal to amounts determined by the Secretary in accordance with criteria established by the Secretary, except that the aggregate of the amount to which such jurisdictions are so entitled for any period—

(A) for the purposes set forth in section 201(a), shall not exceed an amount equal to 1 percent of the aggregate of the amounts to which all States are entitled under section 201 for that period;

(B) for the purposes set forth in section 302, shall not exceed an amount equal to 1 percent of the aggregate of the amounts to which all States are entitled under section 301 for that period; and

(C) for the purposes set forth in section 402, shall not exceed an amount equal to 1 percent of the aggregate of the amounts to which all States are entitled under section 401 for that period.

Aggregate amount reduction.

(2) If the aggregate of the amounts determined by the Secretary pursuant to paragraph (1) to be so needed for any period exceeds an amount equal to such 1 percent limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such limitation.

STATE ADMINISTRATIVE COSTS

SEC. 104. The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this Act, except that the total of such payments for any period shall not exceed 1 percent of the amounts which that State educational agency is entitled to receive for that period under this Act. 8 USC 1522 note.

WITHHOLDING

SEC. 105. Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any title of this Act, the Secretary shall notify that agency that further payments will not be made to the agency under such title, or in the discretion of the Secretary, that the State educational agency shall not make further payments under such title to specified local educational agencies or other entities (in the case of funds under title IV) whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under such title, or payments by the State educational agency under such title shall be limited to local educational agencies or other entities (in the case of funds under title IV) whose actions did not cause or were not involved in the failure, as the case may be. Notice and hearing. 8 USC 1522 note. *Post*, p. 1807.

TITLE II—GENERAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES

STATE ENTITLEMENTS

SEC. 201. (a) The Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for each of the fiscal years 1981, 1982, and 1983 for the purpose of assisting local educational agencies of that State in providing basic education for Cuban and Haitian refugee children. Payments made under this title to any State shall be used in accordance with applications approved under section 202 for public educational services for Cuban and Haitian refugee children enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of that State. Cuban and Haitian refugee children. 8 USC 1522 note.

(b)(1) Except as provided in paragraph (2) and in subsection (c), the amount of the grant to which a State educational agency is entitled under this title, for any fiscal year described in subsection (a), shall be equal to the product of— Grants.

(A) the number of Cuban and Haitian refugee children enrolled in elementary or secondary public schools under the jurisdiction of each local educational agency within that State during the period for which the determination is made;

multiplied by—

(B) $450.

(2) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the Grant reductions.

extent that such amounts (A) are allocated to the State (or to agencies or entities providing services within the State) on the basis of a statutory formula, and (B) are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

"State." (3) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 201(a) shall be considered to be payments under this title.

Determinations. (c) Determinations by the Secretary under this title for any period with respect to the number of Cuban and Haitian refugee children and the amount of the reduction under subsection (b)(2) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

APPLICATIONS

8 USC 1522 note. SEC. 202. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the payments under this title will be used for the purposes set forth in section 201(a);

(2) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with section 201;

(3) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting the application for such funds reasonable notice and opportunity for a hearing; and

Reports. (4) provide for making such reports as the Secretary may reasonably require to carry out this title.

Approval or disapproval. (b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

PAYMENTS

8 USC 1522 note. SEC. 203. The Secretary shall pay to each State educational agency having an application approved under section 202 the amount which that State is entitled to receive under this title.

TITLE III—SPECIAL IMPACT ASSISTANCE FOR SUBSTANTIAL INCREASES IN REFUGEE ATTENDANCE

STATE ENTITLEMENTS

SEC. 301. (a) The Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for each of the fiscal years 1981, 1982, and 1983 for the purpose set forth in section 302. Payments. 8 USC 1522 note.

(b)(1) Except as provided in paragraph (3) and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this title— Educational agency grants.

(A) for fiscal year 1981, shall be equal to the product of (i) the number of Cuban and Haitian refugee children and Indochinese refugee children enrolled during such fiscal year in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the districts served by each such local educational agency, multiplied by (ii) $750;

(B) for fiscal year 1982, shall be equal to the sum of—

(i) the amount equal to the product of (I) the number of Cuban and Haitian refugee children and Indochinese refugee children enrolled during fiscal year 1982 in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the districts served by each such local educational agency, who were not enrolled in such schools during fiscal year 1981, multiplied by (II) $750; and

(ii) the amount equal to the product of (I) the number of Cuban and Haitian refugee children and Indochinese refugee children enrolled during fiscal year 1982 in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the districts served by each such local educational agency, who were enrolled in such schools during fiscal year 1981, multiplied by (II) $500; and

(C) for fiscal year 1983, shall be equal to the sum of—

(i) the amount equal to the product of (I) the number of Cuban and Haitian refugee children and Indochinese refugee children enrolled during fiscal year 1983 in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the districts served by each such local educational agency, who were not enrolled in such schools during either fiscal year 1981 or fiscal year 1982, multiplied by (II) $750;

(ii) the amount equal to the product of (I) the number of Cuban and Haitian refugee children and Indochinese refugee children enrolled during fiscal year 1983 in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the districts served by each such local educational agency, who were enrolled in such schools

during either fiscal year 1981 or fiscal year 1982 (but not during both such fiscal years), multiplied by (II) $500; and

(iii) the amount equal to the product of (I) the number of Cuban and Haitian refugee children and Indochinese refugee children enrolled during fiscal year 1983 in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the districts served by each such local educational agency, who were enrolled in such schools during both of the fiscal years 1981 and 1982, multiplied by (II) $350.

Local educational agencies.

(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of Cuban and Haitian refugee children and Indochinese refugee children who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, or in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this title, and are receiving supplementary educational services during such period, is equal to—

(A) at least 500; or

(B) at least 5 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year;

whichever number is less. Notwithstanding the provisions of this paragraph, the local educational agencies referred to in paragraph (1) shall include local educational agencies eligible to receive assistance by reason of the last sentence of section 3(b) and section 3(c)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), relating to Federal impact aid, subject to paragraph (5) of this subsection.

Grant reductions.

(3) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available under any other Federal law to agencies or other entities for educational, or education-related, services or activities within the State because of the significant concentration of Cuban and Haitian refugee children or Indochinese refugee children, except that the reduction shall be made only to the extent that such amounts are allocated to the State, or to such agencies or entities, on the basis of a statutory formula. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

"State."

(4) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 302 shall be considered to be payments under this title.

(5) The amount of the grant to which a State educational agency is entitled as a result of the last sentence of paragraph (2) shall be limited to Cuban and Haitian refugee children who meet the requirements of section 101(1).

Determinations.

(c) Determinations by the Secretary under this title for any period with respect to the number of Cuban and Haitian refugee children and Indochinese refugee children and the amount of the reduction under subsection (b)(3) shall be made, whenever actual satisfactory

data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

Unused payments.

(d) Whenever the Secretary determines that any amount of a payment made to a State under this title for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

USES OF FUNDS

Refugee children, school enrollment.
8 USC 1522 note.

SEC. 302. (a) Payments made under this title to any State may be used in accordance with applications approved under section 303 for supplementary educational services and costs, as described under subsection (b) of this section, for Cuban and Haitian refugee children and Indochinese refugee children enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of the State described in section 301(b)(2) and in elementary and secondary nonpublic schools of that State within the districts served by such agencies.

Supplementary educational services.

(b) Financial assistance provided under this title shall be available to meet the costs of providing Cuban and Haitian refugee children and Indochinese refugee children supplementary educational services, including but not limited to—

(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance, including—

(A) English language instruction;

(B) other bilingual educational services; and

(C) special materials and supplies;

(2) additional basic instructional services which are directly attributable to the presence in the school district of Cuban and Haitian refugee children and Indochinese refugee children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

(3) special inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this subsection.

APPLICATIONS

8 USC 1522 note.

SEC. 303. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the educational programs, services and activities for which payments under this title are made will be administered by or under the supervision of the agency;

(2) provide assurances that payments under this title will be used for purposes set forth in section 302;

(3) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with section 301;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

Reports. (5) provide for making such reports as the Secretary may reasonably require to perform his functions under this Act; and

(6) provide assurances—

(A) that to the extent consistent with the number of Cuban and Haitian refugee children and Indochinese refugee children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

(B) that the control of funds provided under this paragraph and the title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

Approval or disapproval. (b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

PAYMENTS

8 USC 1522 note. SEC. 304. (a) The Secretary shall pay to each State educational agency having an application approved under section 303 the amount which that State is entitled to receive under this title.

Waiver. (b) If a State is prohibited by law from providing public educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 303(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such

children through arrangements which shall be subject to the requirements of this Act.

TITLE IV—ADULT EDUCATION PROGRAMS

STATE ENTITLEMENTS

Cuban and Haitian refugee adults.
8 USC 1522 note.

SEC. 401. (a) The Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for each of the fiscal years 1982 and 1983 for the purposes of providing for the operation of adult education programs as described under section 402 for Cuban and Haitian refugee adults aged 16 or older. Payments made under this title to any State shall be used in accordance with applications approved under section 403.

Grants.

(b)(1) Except as provided in subsection (c) of this section, the amount of the grant to which a State educational agency is entitled under this Act, for any fiscal year described in subsection (a), shall be equal to the product of—

(A) the number of Cuban and Haitian refugee adults aged 16 or older who are enrolled, during the period for which the determination is made, in programs of instruction referred to in section 402 which are offered within that State, other than any such refugees who are enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies; multiplied by—

(B) $300.

Grant reductions.

(2) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that such amounts (A) are allocated to the State (or to agencies or entities providing services within the State) on the basis of a statutory formula, and (B) are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

"State."

(3) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 402 shall be considered to be payments under this title.

Determinations.

(c) Determinations by the Secretary under this title for any period with respect to the number of Cuban and Haitian refugee adults and the amount of the reduction under subsection (b)(2) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

USE OF FUNDS

Refugee adults, school enrollment.
8 USC 1522 note.

SEC. 402. (a) Funds made available to State educational agencies under this title shall be used by such agencies to provide for programs of adult education and adult basic education to Haitian and Cuban refugee adults aged 16 or older in need of such services who are not enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies. Such programs may be provided directly by the State educational agency, or such agency may make grants, or enter into contracts, with local educational agencies, and other public or private nonprofit agencies, organizations, or institutions to provide for such programs. Funds available under this title may be used for—

(1) programs of instruction of such adult refugees in basic reading and mathematics, in development and enhancement of necessary skills, and for the promotion of literacy among such refugees;

(2) administrative costs of planning and operating such programs of instruction;

(3) educational support services which meet the need of such adult refugees, including guidance and counseling with regard to educational, career, and employment opportunities; and

(4) special projects designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for individuals, particularly programs authorized under the Comprehensive Employment and Training Act of 1973 or under the Vocational Education Act of 1963.

29 USC 801 note.
20 USC 2301 note.

(b) The State educational agency shall review applications for grants and contracts in a manner consistent with the purposes of paragraphs (12) and (13) of section 306(b) of the Adult Education Act.

20 USC 1205.

(c) The State educational agency shall provide for the use of funds made available under this title in such manner that the maximum number of Haitian and Cuban refugee adults aged 16 or older residing within the State receive education under the programs of instruction described under subsection (a).

APPLICATIONS

8 USC 1522 note.

SEC. 403. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that payments made under this title will be used only for the purposes, and in the manner, set forth in section 402;

(2) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the entity submitting an application for such funds reasonable notice and opportunity for a hearing; and

Reports.

(3) provide for making periodic reports to the Secretary evaluating the effectiveness of the payments made under this title, and such other reports as the Secretary may reasonably require to perform his functions under this Act.

Approval or disapproval.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after

reasonable notice and opportunity for a hearing on the record to such agency.

TITLE V—OTHER PROVISIONS RELATING TO CUBAN AND HAITIAN ENTRANTS

AUTHORITIES FOR OTHER PROGRAMS AND ACTIVITIES

SEC. 501. (a)(1) The President shall exercise authorities with respect to Cuban and Haitian entrants which are identical to the authorities which are exercised under chapter 2 of title IV of the Immigration and Nationality Act. The authorizations provided in section 414 of that Act shall be available to carry out this section without regard to the dollar limitation contained in section 414(a)(2). 8 USC 1522 note. *Ante*, p. 110. *Ante*, p. 116.

(2) Any reference in chapter III of title I of the Supplemental Appropriations and Rescission Act, 1980, to section 405(c)(2) of the International Security and Development Assistance Act of 1980 or to the International Security Act of 1980 shall be construed to be a reference to paragraph (1) of this subsection. *Ante*, p. 865.

(b) In addition, the President may, by regulation, provide that benefits granted under any law of the United States (other than the Immigration and Nationality Act) with respect to individuals admitted to the United States under section 207(c) of the Immigration and Nationality Act shall be granted in the same manner and to the same extent with respect to Cuban and Haitian entrants. *Ante*, p. 103.

(c)(1)(A) Any Federal agency may, under the direction of the President, provide assistance (in the form of materials, supplies, equipment, work, services, facilities, or otherwise) for the processing, care, maintenance, security, transportation, and initial reception and placement in the United States of Cuban and Haitian entrants. Such assistance shall be provided on such terms and conditions as the President may determine.

(B) Funds available to carry out this subsection shall be used to reimburse State and local governments for expenses which they incur for the purposes described in subparagraph (A). Such funds may be used to reimburse Federal agencies for assistance which they provide under subparagraph (A). Reimbursements.

(2) The President may direct the head of any Federal agency to detail personnel of that agency, on either a reimbursable or nonreimbursable basis, for temporary duty with any Federal agency directed to provide supervision and management for purposes of this subsection.

(3) The furnishing of assistance or other exercise of functions under this subsection shall not be considered a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. 42 USC 4321 note.

(4) Funds to carry out this subsection may be available until expended.

(5) To facilitate the transfer of the functions described in paragraph (1) from the Federal Emergency Management Agency to other Federal agencies pursuant to this subsection, the purposes for which the funds appropriated to the President in the first paragraph under the heading "FEDERAL EMERGENCY MANAGEMENT AGENCY" in chapter VII of title I of the Supplemental Appropriations and Rescission Act, 1980, are available may be construed to include use in carrying out this subsection to the extent that those funds are allocated for use for any of the purposes described in paragraph (1) of this subsection. *Ante*, p. 873.

(d) The authorities provided in this section are applicable to assistance and services provided with respect to Cuban or Haitian entrants at any time after their arrival in the United States, including periods prior to the enactment of this section.

"Cuban and Haitian entrant."

(e) As used in this section, the term "Cuban and Haitian entrant" means—

(1) any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(2) any other national of Cuba or Haiti—

(A) who—

(i) was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act;

8 USC 1101 note.

(ii) is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act; or

(iii) has an application for asylum pending with the Immigration and Naturalization Service; and

(B) with respect to whom a final, nonappealable, and legally enforceable order of deportation or exclusion has not been entered.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1218 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 18, considered and passed House.
Sept. 25, considered and passed Senate, amended.
Sept. 30, Oct. 1, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 42:
Oct. 10, Presidential statement.

Public Law 96-423
96th Congress

An Act

To amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes.

Oct. 10, 1980
[S. 2730]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Railroad Safety Authorization Act of 1980".

Federal Railroad Safety Authorization Act of 1980.
45 USC 421 note.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 2. The Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) is amended by striking out section 212 and by adding at the end thereof the following new section:

Post, p. 1815.
45 USC 441.

"SEC. 214. AUTHORIZATION FOR APPROPRIATIONS.

45 USC 444.

"(a) There are authorized to be appropriated to carry out the provisions of this Act not to exceed $38,000,000 for the fiscal year ending September 30, 1981, and not to exceed $40,000,000 for the fiscal year ending September 30, 1982.

"(b) The amounts appropriated under subsection (a) of this section for a fiscal year shall be available for expenditure in such fiscal year as follows:

"(1) For the Office of Safety, including salaries and expenses for not more than (A) six hundred safety inspectors, (B) forty-five signal and train control inspectors, and (C) one hundred and twenty-five clerical personnel, not to exceed $22,500,000 for the fiscal year ending September 30, 1981, and not to exceed $24,000,000 for the fiscal year ending September 30, 1982. Such funds shall be available for travel expenses of safety inspectors for not less than twenty days per month.

"(2) To carry out the provisions of section 206(d) of this Act, relating to State safety programs, not to exceed $2,000,000 for the fiscal year ending September 30, 1981, and not to exceed $2,500,000 for the fiscal year ending September 30, 1982.

45 USC 435.

"(3) For the Federal Railroad Administration, for salaries and expenses not otherwise provided for, not to exceed $3,500,000.

"(4) For conducting safety research and development activities under this Act, not to exceed $10,000,000, of which not less than $500,000 shall be available for assisting in the treatment of alcohol and drug abuse problems of railroad employees.

"(c) Sums appropriated under this section for research and development, automated track inspection, and the State safety grant program are authorized to remain available until expended.".

EMERGENCY SAFETY ORDERS

SEC. 3. Section 203 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 432) is amended to read as follows:

"SEC. 203. EMERGENCY POWERS.

Unsafe conditions or practices; order.

"(a) If the Secretary determines, on the basis of testing, inspection, investigation, or research carried out pursuant to this title, that an unsafe condition or practice, or a combination of unsafe conditions or practices, or both, create an emergency situation involving a hazard of death or injury to persons, the Secretary may immediately issue an order, without regard to the provisions of section 202(b) of this title, imposing such restrictions or prohibitions as may be necessary to bring about the abatement of such emergency situation.

45 USC 431.

Review.

"(b) After the issuance of an order under this section, opportunity for review of such order shall be provided in accordance with section 554 of title 5, United States Code.

"(c) If a petition for review of an order has been filed under subsection (b) of this section but administrative review of such order has not been completed by the end of the thirty-day period beginning on the date such order was issued, such order shall cease to be effective at the end of such period unless the Secretary determines in writing that the emergency situation remains in existence.

Relief, standards and procedures.

"(d) In issuing any order under this section, the Secretary shall describe the conditions or practices which create an emergency situation (as determined by the Secretary), and shall establish standards and procedures under which relief from such order may be obtained. Nothing in this subsection shall be construed to affect the discretion of the Secretary under this section to maintain an order in effect until the emergency situation has been abated.

Court action.

"(e) Any employee of a common carrier by railroad engaged in interstate or foreign commerce who may be exposed to imminent physical injury in the course of his employment because of the Secretary's failure, without any reasonable basis, to seek relief under subsection (a) of this section, or the authorized representative of such an employee, shall have the right to bring an action against the Secretary in the United States district court for the judicial district in which the emergency situation is alleged to exist or in which the employer has its principal executive office, or for the District of Columbia, to compel the Secretary to issue an order under this section. The failure of the Secretary to seek relief under subsection (a) of this section shall be reviewed solely under the standards of section 706 of title 5, United States Code.".

SCOPE OF STATE PARTICIPATION

SEC. 4. (a) Section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435) is amended by adding at the end thereof the following new subsection:

Investigation and surveillance.

"(g) In addition to the provisions for State participation set forth in subsections (a) and (c) of this section, the Secretary may enter into agreements with any State to provide investigative and surveillance activities with respect to those functions transferred to the Secretary by section 6 (e)(1), (e)(2), and (e)(6)(A) of the Department of Transportation Act (49 U.S.C. 1655 (e)(1), (e)(2), and (e)(6)(A)).".

(b) Section 206(d) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435(d)) is amended by inserting "or (g)" immediately after "subsection (c)".

STATE ENFORCEMENT POWER

SEC. 5. Section 207 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 436) is amended to read as follows:

"SEC. 207. ENFORCING COMPLIANCE WITH FEDERAL RAILROAD SAFETY RULES, REGULATIONS, ORDERS, AND STANDARDS.

"(a)(1) In any case in which the Secretary has failed to assess the civil penalty applicable under section 209 of this title with respect to a violation of any railroad safety rule, regulation, order, or standard issued under this title or under any law transferred by section 6 (e)(1), (e)(2), or (e)(6)(A) of the Department of Transportation Act, within sixty days after the date on which notification was received by the Secretary from a State agency participating in investigative and surveillance activities under the provisions of section 206 of this title, that State agency may apply to the United States district court for the judicial district in which the violation occurred or in which the defendant has its principal executive office for the assessment and collection of the civil penalty included in or made applicable to such rule, regulation, order, or standard. Civil penalty, application for assessment and collection. 45 USC 438. 49 USC 1655.

"(2) The provisions of this subsection shall not apply in any case in which the Secretary has affirmatively determined in writing that no violation has occurred. Exception.

"(b)(1) In any case in which the Secretary has not commenced an action for injunctive relief under section 210 of this title with respect to a violation of any railroad safety rule, regulation, order, or standard issued under this title or under any law transferred by section 6 (e)(1), (e)(2), or (e)(6)(A) of the Department of Transportation Act, within 15 days after the date on which the Secretary received notification of the violation, together with a request that an injunctive action be instituted, from a State agency participating in investigative and surveillance activities under the provisions of section 206 of this title, that State agency may apply to the United States district court for the judicial district in which the violation occurred or in which the defendant has its principal executive office for injunctive relief to restrain further violation of such rule, regulation, order, or standard. Injunctive relief. 45 USC 439.

"(2) The provisions of this subsection shall not apply in any case in which the Secretary has affirmatively determined in writing that (A) no violation has occurred, or (B) an action for injunctive relief is not necessary because of other enforcement action undertaken by the Secretary with respect to the subject violation. Exception.

"(c) A State agency may not bring an action under this section in any United States district court located outside the boundaries of the State.". Geographic limitation.

CONSOLIDATION OF ADMINISTRATIVE POWERS

SEC. 6. (a) Section 208(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437(b)) is amended by inserting "and under the functions transferred by section 6 (e)(1), (e)(2), and (e)(6)(A) of the Department of Transportation Act (49 U.S.C. 1655 (e)(1), (e)(2), and (e)(6)(A))" immediately after "this title".

(b) Section 208 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437) is amended by adding at the end thereof the following new subsection:

"(d)(1) In carrying out the functions formerly vested in the Interstate Commerce Commission and transferred to the Secretary by section 6 (e)(1), (e)(2), and (e)(6)(A) of the Department of Transportation Act (49 U.S.C. 1655 (e)(1), (e)(2), and (e)(6)(A)), the Secretary is authorized to perform any act authorized in subsection (a) of this section that he considers necessary to carry out such transferred functions, including, but not limited to, conducting investigations, DOT Secretary, authorized actions.

making reports, issuing subpenas, requiring production of documents, taking depositions, and prescribing recordkeeping and reporting requirements. The Secretary is further authorized to issue orders directing compliance with the laws transferred by section 6 (e)(1), (e)(2), and (e)(6)(A) of the Department of Transportation Act or with any regulation or order issued thereunder.

Orders.

49 USC 1655.

Enforcement.

"(2) The district courts of the United States shall have jurisdiction, upon petition by the Attorney General, to enforce by appropriate means any order issued by the Secretary under paragraph (1) of this subsection.".

CRIMINAL PENALTY FOR FALSE REPORTING

Penalties.

SEC. 7. Section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) is amended by adding at the end thereof the following new subsection:

"(e) Any person who knowingly and willfully—

"(1) makes a false entry in any record or report required under this title to be made, prepared, or preserved;

"(2) destroys, mutilates, changes, or by another means falsifies any such record or report;

"(3) does not enter required specified facts and transactions in any such record or report;

"(4) makes, prepares, or preserves any such record or report in violation of a regulation or order issued under this title; or

"(5) files a false record or report with the Secretary,

shall be fined not more than $5,000, or imprisoned for not more than two years, or both.".

VENUE

SEC. 8. (a) Section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) is amended by striking out "having jurisdiction in the locality where such violation occurred" and inserting in lieu thereof "for the judicial district in which such violation occurred or in which the defendant has its principal executive office".

(b) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6), is amended by striking out "having jurisdiction in the locality where such violation shall have been committed" and inserting in lieu thereof "for the judicial district in which such violation occurred or in which the defendant has its principal executive office".

(c) Section 9 of the Act of February 17, 1911 (45 U.S.C. 34), is amended by striking out "having jurisdiction in the locality where such violation shall have been committed" and inserting in lieu thereof "for the judicial district in which such violation occurred or in which the defendant has its principal executive office".

(d) Section 25(h) of the Act of February 4, 1887 (49 U.S.C. 26(h)), is amended by striking out "having jurisdiction in the locality where such violation shall have been committed" and inserting in lieu thereof "for the judicial district in which such violation occurred or in which the defendant has its principal executive office".

INJUNCTIVE RELIEF

SEC. 9. (a) Section 210(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 439(a)) is amended by inserting "and to restrain violations of or to enforce rules, regulations, orders, or standards established under any statute transferred to the Secretary under section 6 (e)(1),

(e)(2), and (e)(6)(A) of the Department of Transportation Act (49 U.S.C. 1655 (e)(1), (e)(2), and (e)(6)(A))" immediately before the period at the end thereof.

(b) Section 210 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 439) is amended by adding at the end thereof the following new subsection:

"(c) Subject to section 207(d) of this title, any action under subsection (a) of this section may be brought in the United States district court for the judicial district in which the violation occurred or in which the defendant has its principal executive office.". Location. *Ante* p. 1812.

PROTECTION AND RIGHTS OF EMPLOYEES

SEC. 10. The Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) is amended by inserting after section 211 the following new section:

"SEC. 212. PROTECTION AND RIGHTS OF EMPLOYEES. 45 USC 441.

"(a) A common carrier by railroad engaged in interstate or foreign commerce may not discharge or in any manner discriminate against any employee because such employee, whether acting in his own behalf or in a representative capacity, has—

"(1) filed any complaint or instituted or caused to be instituted any proceeding under or related to the enforcement of the Federal railroad safety laws; or

"(2) testified or is about to testify in any such proceeding.

"(b)(1) A common carrier by railroad engaged in interstate or foreign commerce may not discharge or in any manner discriminate against any employee for refusing to work when confronted by a hazardous condition related to the performance of the employee's duties, if—

"(A) the refusal is made in good faith and no reasonable alternative to such refusal is available to the employee;

"(B) the hazardous condition is of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that—

"(i) the condition presents an imminent danger of death or serious injury; and

"(ii) there is insufficient time, due to the urgency of the situation, to eliminate the danger through resort to regular statutory channels; and

"(C) the employee, where possible, has notified his employer of his apprehension of such hazardous condition and of his intention not to perform further work unless such condition is corrected immediately.

"(2) The provisions of this subsection shall not apply to security personnel employed by a railroad to protect persons and property transported by such railroad. Security personnel, exemption.

"(c)(1) Any dispute, grievance, or claim arising under this section shall be subject to resolution in accordance with the procedures set forth in section 3 of the Railway Labor Act (45 U.S.C. 153). Dispute resolution.

"(2) In the case of any violation of subsection (a) or (b) of this section, the Adjustment Board (or any division or delegate thereof) or any other board of adjustment created under section 3 of the Railway Labor Act shall, where appropriate, award backpay to the aggrieved employee and order such employee reinstated to his position. Backpay; reinstatement.

"(d) Whenever an employee of a railroad is afforded protection under this section and under any other provision of law in connection Election of provision.

with the same allegedly unlawful act of an employer, if such employee seeks protection he must elect either to seek relief pursuant to this section or pursuant to such other provision of law.

"Federal railroad safety laws."

"(e) As used in this section, the term 'Federal railroad safety laws' means this Act, the Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.), and those laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e) (1), (2), and (6)(A) of section 6 of the Department of Transportation Act (49 U.S.C. 1655(e) (1), (2), and (6)(A)).".

PAY CLASSIFICATIONS

SEC. 11. The Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) is amended by inserting after section 212, as added by section 10 of this Act, the following new section:

45 USC 443.

"SEC. 213. PAY CLASSIFICATIONS.

"Notwithstanding any other provision of law—

"(1) the position held by a fully experienced and qualified railroad safety inspector employed by the Department of Transportation shall be classified in accordance with chapter 51 of title 5, United States Code, but not lower than Grade GS-12 of the General Schedule; and

5 USC 5101 *et seq.*.
5 USC 5332 note.

"(2) the position held by a railroad safety specialist employed by the Department of Transportation shall be classified in accordance with chapter 51 of title 5, United States Code, but not lower than Grade GS-13 of the General Schedule.".

HOURS OF SERVICE ACT AMENDMENT

SEC. 12. Section 5(a) of the Act of March 4, 1907 (45 U.S.C. 64a(a)), commonly known as the Hours of Service Act, is amended to read as follows:

Penalties.

"SEC. 5. (a)(1) Any common carrier subject to this Act, or any officer or agent thereof, that requires or permits any employee to go, be, or remain on duty in violation of section 2, section 3, or section 3A of this Act, or that violates any other provision of this Act, shall be liable for a penalty of $500 for each violation, to be recovered in an action to be brought by the United States attorney in the district court of the United States for the judicial district in which such violation occurred or in which the defendant has its principal executive office. It shall be the duty of the United States attorney to bring such an action upon satisfactory information being lodged with him. In the case of a violation of section 2 (a)(3) or (a)(4) of this Act, each day a facility is in noncompliance shall constitute a separate offense.

45 USC 62-63a.

Time limitation.

"(2) No action may be brought under this section after the expiration of the two-year period beginning on the date the violation occurred unless administrative notification pursuant to the Federal Claims Collection Act (31 U.S.C 951-953) has been provided to the common carrier within such two-year period, but in no event may any such action be brought after the expiration of the period specified in section 2462 of title 28, United States Code.".

LOCOMOTIVE INSPECTION ACT AMENDMENT

Inspection report.

SEC. 13. Section 6 of the Act of February 17, 1911 (45 U.S.C. 29), is amended by striking out the fourth and fifth sentences and inserting in lieu thereof the following: "Each carrier subject to such sections shall keep on file the report of each inspection required by such rules

and regulations and the report showing the repair of the defects disclosed by the inspection. The rules and regulations referred to in this section shall prescribe the manner in which such reports shall be kept.".

SAFETY OF RAILROAD PASSENGER EQUIPMENT

SEC. 14. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following new subsection:

"(h)(1) The Secretary shall, within two years after the date of enactment of this subsection, issue such initial rules, regulations, orders, and standards as may be necessary to insure the safe construction, maintenance, and operation of railroad passenger equipment. The Secretary shall periodically review such rules, regulations, orders, and standards and shall, after a hearing in accordance with subsection (b) of this section, make such revisions in such rules, regulations, orders, and standards as may be necessary. Rules and regulations. Review.

"(2) In issuing initial rules, regulations, orders, and standards under this subsection, and in making any subsequent revisions thereto, the Secretary shall—

"(A) concentrate on those areas which, in the judgment of the Secretary, present the greatest opportunity for enhancing the safety of railroad passenger equipment; and

"(B) give significant weight to the expenditures that would be necessary to retrofit existing equipment and to alter specifications for equipment on order;

"(3) In issuing initial rules, regulations, orders, and standards under this subsection, and in making any subsequent revisions thereto, the Secretary may consult with the National Railroad Passenger Corporation, public authorities that operate passenger service, other rail carriers that transport passengers, organizations of passengers, and organizations of employees. Such consultations shall not be subject to the Federal Advisory Committee Act, but minutes of such consultations shall be placed in the public docket of the rulemaking proceeding. Consultation. 5 USC app.

"(4) As used in this subsection, the term 'railroad passenger equipment' means all railroad equipment used for the transportation of passengers, whether in commuter or intercity service.". "Railroad passenger equipment."

ALASKA RAILROAD ACT AMENDMENT

SEC. 15. The first section of the Act of March 12, 1914 (43 U.S.C. 975), is amended by inserting immediately after the first undesignated paragraph the following new paragraph:

"Any security officer employed to protect life and property on the railroad is authorized to maintain law and order, to carry firearms, and to make arrests on railroad property with a warrant for any offense committed against the laws of the United States, and to make arrests without a warrant for any offense committed upon property of the railroad if there is reasonable ground to believe that the offense constitutes a felony under the laws of the United States and the person to be arrested has committed or is committing the felony.". Security officers.

STUDIES AND REPORTS

SEC. 16. (a) The Secretary of Transportation shall conduct a study regarding employee training in the railroad industry as it affects 45 USC 431 note.

railroad safety. Among other factors, such study shall consider the appropriate Federal role, if any, in such training, and the adequacy of such training. The results of such study, together with recommendations for any necessary legislation, shall be submitted to the Congress by December 31, 1980.

Submittal to Congress.

(b)(1) The Secretary of Transportation shall make every possible effort to expedite promulgation of a final rule regarding the retrofitting of Department of Transportation specification one hundred and five tank cars with shelf couplers. In the event that such rule is not promulgated prior to December 31, 1980, the Secretary of Transportation shall submit to the Congress a status report with respect to such rule, indicating the Federal Railroad Administration's activities to such date, the current status of such rule, and an estimate as to when a final rule will be promulgated.

Status report, submittal to Congress.

(2) Whenever the Secretary of Transportation submits a status report pursuant to the provisions of paragraph (1) of this subsection, or when the Federal Railroad Administration promulgates a final rule with respect to the retrofitting of Department of Transportation specification one hundred and five tank cars with shelf couplers, the Secretary shall transmit to the Congress any other recommendations and anticipated action by the Department of Transportation with respect to the retrofitting of such tank cars.

Recommendations and anticipated action, submittal to Congress.

(c)(1) The Secretary of Transportation shall submit to the Congress a systems safety plan relating to the activities of the Department of Transportation in carrying out rail safety laws. The Secretary shall complete such plan at the earliest possible date, but in no event shall the study be submitted later than January 31, 1981.

Systems safety plan, submittal to Congress.

(2) As part of the plan submitted to the Congress under paragraph (1) of this subsection, the Secretary of Transportation shall develop a methodology to determine frequency and schedules of safety inspections, giving appropriate priority to track and equipment involved with passenger trains and hazardous cargos. Such methodology shall further take into consideration safety records of the rail carriers, location of track and equipment in population centers, volume of usage of track and equipment, and any other factors that the Secretary considers relevant to railroad safety.

Methodology.

EFFECTIVE DATE

SEC. 17. (a) Except as provided in subsection (b) of this section, the provisions of this Act shall take effect on the date of enactment of this Act. 45 USC 431 note.

(b) Section 11 of this Act shall take effect on October 1, 1980, or on the date of enactment of this Act, whichever is later.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1025 accompanying H.R. 7104 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 96-785 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 6, considered and passed Senate.
Sept. 22, H.R. 7104 considered and passed House; passage vacated, and S. 2730, amended, passed in lieu.
Sept. 24, Senate concurred in House amendments.

Public Law 96-424
96th Congress

An Act

Oct. 10, 1980
[S. 3180]

To repeal a provision of the Refugee Education Assistance Act of 1980.

Refugee Education Assistance Act of 1980, provision, repeal.
8 USC 1522 note.
Ante, p. 1809.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, **That effective on the day after the date of enactment of the Refugee Education Assistance Act of 1980, section 501(c)(5) of the Refugee Education Assistance Act of 1980 is repealed.**

Approved October 10, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 30, considered and passed Senate.
Oct. 1, considered and passed House.

Public Law 96-425
96th Congress

An Act

To amend title V of the Motor Vehicle Information and Cost Savings Act to reduce administrative burdens on low volume automobile manufacturers, to encourage an increase of the domestic value added content in labor and materials of foreign automobiles sold in the United States, to extend the time available to all manufacturers for carryforward or carryback of credits earned under the Act, and for other purposes.

Oct. 10, 1980
[S. 2475]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Automobile Fuel Efficiency Act of 1980.
15 USC 1901 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Automobile Fuel Efficiency Act of 1980".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Fuel efficiency standards applicable to small manufacturers.
Sec. 4. Modification of local content requirements to encourage domestic production of fuel efficient automobiles.
Sec. 5. Adjustments regarding standards for 4-wheel drive, light-duty trucks.
Sec. 6. Determinations of unlawful conduct; 3-year carryforward and carryback.
Sec. 7. Exemptions for emergency vehicles.
Sec. 8. Technical, clerical, and conforming amendments.
Sec. 9. Effective date.

SEC. 2. PURPOSES.

15 USC 2001 note.

It is the purpose of this Act—

(1) to amend certain Federal automobile fuel economy requirements to improve fuel efficiency, and thereby facilitate conservation of petroleum and reduce petroleum imports, and

(2) to encourage full employment in the domestic automobile manufacturing sector.

SEC. 3. FUEL EFFICIENCY STANDARDS APPLICABLE TO SMALL MANUFACTURERS.

(a) STANDARDS.—(1) Section 502(c) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(c)) is amended by inserting "(1)" after "(c)", and by adding at the end thereof the following new paragraph:

Applications for exemption and alternative standards.

"(2) Any manufacturer may elect in any application submitted under paragraph (1) to have the applications for, and administrative determinations regarding, exemptions and alternative average fuel economy standards be consolidated for two or more of the model years after model year 1980 and before model year 1986. The Secretary may grant an exemption and set an alternative standard or standards for all model years covered by such application.".

(2) Any application filed for model year 1981 under section 502(c) of such Act before the effective date of this Act may be amended by the applicant to make the election allowed under the amendment made by paragraph (1) and have such application apply for the model years covered by the election. Additional information shall not be required in connection with such application for the years covered by such

15 USC 2002 note.

election except information which the Secretary of Transportation may specifically request.

Review.
15 USC 2002 note.
15 USC 2002.

(3)(A) The Secretary of Transportation shall review the requirements and procedures established pursuant to section 502(c)(1) of such Act (as redesignated by this subsection) as soon as practicable after the date of the enactment of this Act and modify such requirements and procedures to the maximum extent practicable in order to further reduce administrative burdens on such applicants and the Secretary, and expedite determinations regarding such applications.

Notification of Congress.
15 USC 2012.

(B) The Secretary shall notify the Congress of the review and actions taken or to be taken under this paragraph in the first annual report to the Congress which is made under section 512 of such Act after the completion of such review.

(b) CERTAIN REPORTING REQUIREMENTS.—Section 505(a) of such Act (15 U.S.C. 2005(a)) is amended by inserting at the end thereof the following new paragraph:

"(4) The provisions of this subsection shall not apply to any manufacturer for any model year for which that manufacturer is subject to an alternative average fuel economy standard under section 502(c).".

SEC. 4. MODIFICATION OF LOCAL CONTENT REQUIREMENTS TO ENCOURAGE DOMESTIC PRODUCTION OF FUEL EFFICIENT AUTOMOBILES.

Passenger automobile standards, exemption.

(a) CERTAIN NEW DOMESTIC MANUFACTURERS.—(1) Section 503(b) of such Act (15 U.S.C. 2003(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) After consideration of a petition (and comments thereon) for an exemption from the provisions of paragraph (1) filed by a manufacturer, the Secretary shall, by order, grant an exemption from such provisions for passenger automobiles manufactured by that manufacturer during the period provided for in such order, unless the Secretary finds, after notice and reasonable opportunity for written or oral comment, that the proposed exemption would, for such period, result in reduced employment in the United States related to motor vehicle manufacturing.

"(B) Any exemption granted under subparagraph (A) shall be effective for a period of 5 model years or, at the request of the manufacturer, such longer period as the Secretary may provide, as specified in the order.

"(C) An exemption granted under subparagraph (A) for any manufacturer shall not be effective unless the manufacturer—

"(i) began automobile production or assembly in the United States after December 22, 1975, and before May 1, 1980; or

"(ii) began automobile production or assembly in the United States on or after May 1, 1980, and has engaged in such production or assembly in the United States for at least one model year ending on or before December 31, 1985.

Publication in Federal Register.

"(D)(i) Any decision by the Secretary to grant or deny an exemption under subparagraph (A) shall be made, and notice thereof published in the Federal Register, not later than 90 days after the date of the petition for that exemption. The Secretary may extend such period to a specified date if the Secretary publishes notice thereof in the Federal Register, together with the reasons for such extension. In no event may such period be extended beyond the 150th day after the date of the petition for such exemption.

"(ii) The period for written or oral comment provided in subparagraph (A) for any petition shall end not later than 60 days after the

filing of the petition, except that such period may be extended by the Secretary for not to exceed an additional 30 days. If the Secretary fails to make a decision pursuant to this paragraph within the period for a decision in clause (i)—

"(I) the petition shall be deemed to have been granted; and

"(II) the Secretary, within 30 days after the end of such decision period, shall submit a written statement to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives setting forth the reasons for failing to decide within such decision period. Report to congressional committees.

"(E)(i) Any person adversely affected by a decision of the Secretary denying or granting an exemption pursuant to this paragraph may, not later than 30 days after publication of the notice of such decision, file a petition of review of such decision in the United States Court of Appeals for the District of Columbia. Such court shall have exclusive jurisdiction to review such decision, in accordance with section 706(2)(A) through (D) of title 5, of the United States Code, and to affirm, remand, or set aside the decision of the Secretary. Judicial review of exemption application decisions.

"(ii) Any such proceeding shall be assigned for a hearing and completed at the earliest possible date and shall be expedited in every possible way by such court. The court shall render its decision in any such proceeding within 60 days after the date of filing the petition for review unless the court determines that a longer period of time is necessary to satisfy the requirements of the Constitution of the United States. USC prec. title 1.

"(iii) The judgment of the court affirming, remanding, or setting aside, in whole or in part, any such decision shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28 of the United States Code. Application therefor shall be made within 30 days after entry of such judgment. Review by Supreme Court.

"(iv) Notwithstanding any other provision of law, a decision of the Secretary on an exemption pursuant to this paragraph shall not be subject to judicial or administrative review except as provided in this paragraph.

"(F) Notwithstanding section 502(l), in the case of any model year for which an exemption under this subsection is effective for any manufacturer— 15 USC 2002. *Post*, p. 1826.

"(i) no credit may be earned under section 502(l)(1)(B) by the manufacturer; and

"(ii) no credit may be made available under section 502(l)(1)(C) for the manufacturer.".

(2) Section 512 of such Act (15 U.S.C. 2012) is amended by adding at the end thereof the following new subsection:

"(c)(1) After an exemption has been granted under section 503(b)(3), the Secretary and the Secretary of Labor shall annually conduct a joint examination of the extent to which the amendment made to section 503(b) by section 4(a)(1) of the Automobile Fuel Efficiency Act of 1980— Annual joint examination and report to Congress. 15 USC 2003.

"(A) achieves the purposes of that Act and this title, including whether such amendment has promoted employment in the United States related to motor vehicle manufacturing,

"(B) has not caused undue harm to the motor vehicle manufacturing sector in the United States, and

"(C) has permitted any manufacturer that has assembled passenger automobiles which are considered domestically manufactured under section 503(b)(2)(E) to thereafter assemble in the

United States passenger automobiles of the same model type which have less than 75 percent of their value added in the United States or Canada, together with the reasons for such action.

"(2) The Secretary shall include the results of such examination in each annual report that is made to the Congress under subsection (a) more than 180 days after an exemption has been granted under section 503(b)(3) of this subsection, or transmit the results of such examination directly to the Congress before such a report in any case in which circumstances so warrant.".

Manufacturer's production plan.

(b) TRANSITION PROVISIONS FOR CERTAIN NEW DOMESTIC PRODUCTION.—Section 503(b) of such Act (15 U.S.C. 2003(b)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) If a plan has been submitted by a manufacturer and approved by the Secretary under subparagraph (B), the EPA Administrator shall for each of the four model years covered by such plan include under paragraph (1)(A) (and exclude under paragraph (1)(B)) with respect to that manufacturer not more than 150,000 passenger automobiles which are manufactured by that manufacturer but which do not qualify as domestically manufactured if—

"(i) the model type or types involved have not previously been domestically manufactured;

"(ii) at least 50 percent of the cost to the manufacturer of each such automobile is attributable to value added in the United States or Canada;

"(iii) in the case of any such automobile the assembly of which is completed in Canada, that automobile is imported into the United States not later than 30 days following the end of the model year involved; and

"(iv) such automobile model type or types are domestically manufactured before the close of the fourth model year covered by such plan.

"(B)(i) A manufacturer may submit to the Secretary for approval a plan, including supporting material, which shall set forth the actions, and the dates by which such actions are to be taken, which will assure that the automobile model type or types referred to in subparagraph (A) will be domestically manufactured before the end of the fourth model year covered by such plan.

"(ii) The Secretary shall promptly consider and act upon any plan submitted under this subparagraph. The Secretary shall approve any such plan unless—

"(I) the Secretary finds that the plan is inadequate to meet the requirements of this paragraph, or

"(II) the manufacturer has previously submitted a plan which has been approved by the Secretary under this paragraph.

"(C) This paragraph shall only apply with respect to model years beginning after model year 1980.".

(c) CONFORMING AMENDMENTS.—(1) Section 501(8) of such Act (15 U.S.C. 2001(8)) is amended by adding at the end thereof the following new sentence: "Such term also includes any predecessor or successor of such a manufacturer to the extent provided under rules which the Secretary shall prescribe.".

(2) Section 503(b)(1) of such Act (15 U.S.C. 2003(b)(1)) is amended—

(A) in subparagraph (A), by inserting "and passenger automobiles which are included within this category pursuant to paragraph (3)" after "manufactured by such manufacturer"; and

(B) in subparagraph (B), by inserting "and which are not included in the domestic category pursuant to paragraph (3)" after "manufactured by such manufacturer".

(3) Section 503(b)(2)(F) of such Act (15 U.S.C. 2003(b)(2)) is amended by striking out "or 1979," and inserting in lieu thereof "or any subsequent model year,".

SEC. 5. ADJUSTMENTS REGARDING STANDARDS FOR 4-WHEEL DRIVE, LIGHT-DUTY TRUCKS.

Section 502 of such Act (15 U.S.C. 2002), as amended, is further amended by adding at the end thereof the following new subsection:

Average fuel economy standards, impact examinations.

"(k)(1) On the petition of any manufacturer for any model year beginning after model year 1981 and before model year 1986, the Secretary may conduct an examination of the impacts on that manufacturer or a class of manufacturers of any standard under subsection (b) applicable to 4-wheel drive automobiles. If after consideration of the results of that examination the Secretary finds in accordance with paragraph (2) that the manufacturer has demonstrated that such manufacturer or class of manufacturers would not otherwise be able to comply with such standard for that model year as it applies to 4-wheel drive automobiles without causing severe economic impacts, such as plant closures or reduction in employment in the United States related to motor vehicle manufacturing, the Secretary shall, by order, make an adjustment or otherwise provide relief regarding—

"(A) the manner by which the average fuel economy of that manufacturer or class of manufacturers is calculated for purposes of that standard as it applies to 4-wheel drive automobiles, or

"(B) other aspects regarding the application of that standard to the manufacturer or class of manufacturers with respect to such automobiles to the extent consistent with the provisions of this title.

"(2) Any finding by the Secretary under paragraph (1) shall be made (A) after notice and a reasonable opportunity for written or oral comment, and (B) after consideration of the benefits available under the amendments made by the Automobile Fuel Efficiency Act of 1980.

Limitation.

"(3) The authority of the Secretary under this subsection to make any adjustment or provide other relief shall not be effective for any model year after model year 1985.

Notification of Congress. 15 USC 2012.

"(4) The Secretary shall notify the Congress of any adjustment or other relief provided under this subsection in the first annual report submitted to the Congress under section 512 after the order is issued providing for that adjustment or relief.

Publication in Federal Register.

"(5)(A) Any final decision of the Secretary under this subsection shall be made, and notice thereof published in the Federal Register, not later than 120 days after the date of the petition involved. The Secretary may extend such period to a specified date if the Secretary publishes notice thereof in the Federal Register, together with the reasons for such extension. Any such decision by the Secretary shall become final 30 days after the publication of the notice of final decision unless a petition for judicial review is filed under subparagraph (B).

Review.

"(B) Any person adversely affected by such a decision may, not later than 30 days after publication of notice of such decision, file a petition for review of such decision with the United States Court of Appeals for the District of Columbia or for the circuit in which such person resides, or in which the principal place of business of such

person is located. The United States court of appeals involved shall have jurisdiction to review such decision in accordance with section 706(2) (A) through (D) of title 5, United States Code, and to affirm, remand, or set aside the decision of the Secretary. Except as otherwise provided in this subparagraph, section 504 (c) and (d) shall apply to such review to the same extent and manner as it applies with respect to review of any rule prescribed under this section or section 501, 503, or 506.

15 USC 2004.

15 USC 2001, 2003, 2006.

"(6) The availability of any adjustment or other relief under this subsection shall not be taken into account in prescribing standards under subsection (b).".

SEC. 6. DETERMINATIONS OF UNLAWFUL CONDUCT; 3-YEAR CARRYFORWARD AND CARRYBACK.

(a) UNLAWFUL CONDUCT.—Section 507 of such Act (15 U.S.C. 2007) is amended—

(1) by striking out "The" and inserting in lieu thereof "(a) Subject to subsection (b), the"; and

(2) by adding at the end thereof the following new subsection:

"(b) A manufacturer shall not be considered to have engaged in unlawful conduct, or to have failed to comply with any fuel economy standard applicable to such manufacturer under section 502, if the average fuel economy of such manufacturer, after taking into account the credits then available to the manufacturer under section 502(l), would result in the applicable standard being met or exceeded.".

15 USC 2002.

(b) 3-YEAR CARRYFORWARD AND CARRYBACK OF CREDITS.—Section 502 of such Act (15 U.S.C. 2002), as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(l)(1)(A) For purposes of this part, credits under this subsection shall be considered to be available to any manufacturer upon the completion of the model year in which such credits are earned under subparagraph (B) unless under subparagraph (C) the credits are made available for use at a time prior to the model year in which earned.

"(B) Whenever the average fuel economy of the passenger automobiles manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard established under subsection (a) or (c) (determined by the Secretary without regard to any adjustment under subsection (d) or any credit under this subsection), such manufacturer shall be entitled to a credit, calculated under subparagraph (C), which—

"(i) shall be available to be taken into account with respect to the average fuel economy of that manufacturer for any of the three consecutive model years immediately prior to the model year in which such manufacturer exceeds such applicable average fuel economy standard, and

"(ii) to the extent that such credit is not so taken into account pursuant to clause (i), shall be available to be taken into account with respect to the average fuel economy of that manufacturer for any of the three consecutive model years immediately following the model year in which such manufacturer exceeds such applicable average fuel economy standard.

Manufacturer's plan, submittal.

"(C)(i) At any time prior to the end of any model year, a manufacturer which has reason to believe that its average fuel economy for passenger automobiles will be below such applicable standard for that model year may submit a plan demonstrating that such manufacturer will earn sufficient credits under subparagraph (B) within

the next 3 model years which when taken into account would allow the manufacturer to meet that standard for the model year involved.

"(ii) Such credits shall be available for the model year involved subject to—

"(I) the Secretary approving such plan; and

"(II) the manufacturer earning such credits in accordance with such plan.

"(iii) The Secretary shall approve any such plan unless the Secretary finds that it is unlikely that the plan will result in the manufacturer earning sufficient credits to allow the manufacturer to meet the standard for the model year involved.

"(iv) The Secretary shall provide notice to any manufacturer in any case in which the average fuel economy of that manufacturer is below the applicable standard under subsection (a) or (c), after taking into account credits available under subparagraph (B)(i), and afford the manufacturer a reasonable period (of not less than 60 days) in which to submit a plan under this subparagraph. Substandard average fuel economy, notice.

"(D) The amount of credit to which a manufacturer is entitled under this paragraph shall be equal to—

"(i) the number of tenths of a mile per gallon by which the average fuel economy of the passenger automobiles manufactured by such manufacturer in the model year in which the credit is earned pursuant to this paragraph exceeds the applicable average fuel economy standard established under subsection (a) or (c), multiplied by

"(ii) the total number of passenger automobiles manufactured by such manufacturer during such model year.

"(E) The Secretary shall take credits into account for any model year on the basis of the number of tenths of a mile per gallon by which the manufacturer involved was below the applicable average fuel economy standard for that model year and the volume of passenger automobiles manufactured that model year by the manufacturer. Credits once taken into account for any model year shall not thereafter be available for any other model year. Prior to taking any credit into account, the Secretary shall provide the manufacturer involved with written notice and reasonable opportunity to comment thereon. Notice.

"(2) Credits for manufacturers of automobiles which are not passenger automobiles shall be earned and be available to be taken into account for model years in which the average fuel economy of such class of automobiles is below the applicable average fuel economy standard established under subsection (b) to the same extent and in the same manner as provided for under paragraph (1). Not later than 60 days after the date of the enactment of this subsection, the Secretary shall prescribe regulations to carry out the provisions of this paragraph. Regulations.

"(3) Whenever a civil penalty has been assessed and collected under section 508 from a manufacturer who is entitled to a credit under this subsection, the Secretary of the Treasury shall refund to such manufacturer the amount of the civil penalty so collected to the extent that penalty is attributable to credits available under this subsection. Civil penalties, refunds. 15 USC 2008.

"(4) The Secretary may prescribe rules for purposes of carrying out the provisions of this subsection.". Rules.

(c) CONFORMING AMENDMENTS.—(1) Subsections (a) and (b) of section 508 of such Act (15 U.S.C. 2008) are each amended by striking out "507(1)", "507(2)", "507(3)", and "507 (1) or (2)" each place such terms

appear and inserting in lieu thereof "507(a)(1)", "507(a)(2)", "507(a)(3)", and "507(a)(1) or (2)", respectively.

(2) Section 508(a) of such Act (15 U.S.C. 2008(a)) is amended by striking out paragraph (3).

(3) Subparagraphs (A) and (B) of section 508(b)(1) of such Act (15 U.S.C. 2008) are each amended—

(A) by striking out "(i) $5 for each tenth" and inserting in lieu thereof "the amount obtained by multiplying $5 by (i) the number of tenths";

(B) by striking out "by (ii) the total" and inserting in lieu thereof "by the"; and

(C) by striking out the period at the end thereof and inserting in lieu thereof ", reduced by (ii) the credits then available under section 502(l) for such model year".

Ante, p. 1826.

(4) Section 508(d) of such Act (15 U.S.C. 2008(d)) is amended by striking out paragraph (4).

15 USC 2002 note.

(d) EFFECTIVE DATE.—Under such regulations as the Secretary of Transportation shall prescribe, the amendments made by this section shall apply to the 3 model years preceding the model year during which this Act is enacted.

SEC. 7. EXEMPTION FOR EMERGENCY VEHICLES.

Section 502 of such Act (15 U.S.C. 2002) is amended by redesignating subsection (g) and the following two subsections as subsections (h), (i), and (j), respectively, and by inserting after subsection (f) the following new subsection:

"(g)(1) At the election of any manufacturer, the fuel economy of any emergency vehicle shall not be taken into account in applying any fuel economy standard prescribed by or under subsection (a), (b), or (c). Any manufacturer electing to have the provisions of this subsection shall provide written notice of that election to the Secretary and to the Environmental Protection Agency Administrator.

Notice.

"Emergency vehicle."

"(2) For purposes of paragraph (1), the term 'emergency vehicle' means any automobile manufactured primarily for use—

"(A) as an ambulance or combination ambulance-hearse,

"(B) by the United States or by a State or local government for police or other law enforcement purposes, or

"(C) for other emergency uses prescribed by the Secretary of Transportation by regulation.".

SEC. 8. TECHNICAL, CLERICAL, AND CONFORMING AMENDMENTS.

(a)(1) The table of contents for such Act is amended by striking out the item relating to part A.

(2) Section 2 of such Act (15 U.S.C. 1901) is amended by striking out "except part A of title V" and inserting in lieu thereof "except title V".

(3) Title V of such Act is amended by striking out the designation relating to part A.

(b) Section 501(9) of such Act (15 U.S.C. 2001(9)) is amended by striking out "manufacturer" and inserting in lieu thereof "manufacture".

(c) Section 502(b) of such Act (15 U.S.C. 2002(b)) is amended by striking out "and shall be" and inserting in lieu thereof "and such standards shall be".

(d) Section 502(d)(3)(E) of such Act (15 U.S.C. 2002(d)(3)(E)) is amended by striking out "subparagraph," and inserting in lieu thereof "subsection,".

(e) Section 503(b)(2)(A)(ii)(I) of such Act (15 U.S.C. 2003(b)(2)(A)(ii)(I)) is amended by striking out "base" the last place it appears.

(f) Section 508(b)(1)(A) of such Act (15 U.S.C. 2008(b)(1)(A)) is amended by inserting before ", shall be" the following "with respect to any model year".

SEC. 9. EFFECTIVE DATE.

15 USC 2001 note.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date of the enactment of this Act.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1026 (Comm. on Interstate and Foreign Commerce) and No. 96-1402 (Comm. of Conference).
SENATE REPORT No. 96-642 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 16, considered and passed Senate.
June 3, considered and passed House, amended.
Sept. 26, Senate agreed to conference report.
Sept. 30, House agreed to conference report.

Public Law 96-426
96th Congress

An Act

Oct. 10, 1980
[S. 3148]

To name the Federal Building located at 444 Southeast Quincy, Topeka, Kansas, the "Frank Carlson Federal Building".

Frank Carlson Federal Building. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building located at 444 Southeast Quincy, Topeka, Kansas, shall hereafter be known and designated as the "Frank Carlson Federal Building". Any reference in any law, map, regulation, document, record or other paper of the United States to that building shall be held and considered to be a reference to the "Frank Carlson Federal Building".

Approved October 10, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 26, considered and passed Senate.
Sept. 30, considered and passed House.

Public Law 96-427
96th Congress

An Act

To amend chapter 87 of title 5, United States Code, to increase the amounts of regular and optional group life insurance available to Federal employees and provide optional life insurance on family members, and for other purposes.

Oct. 10, 1980
[H.R. 7666]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

Federal Employees' Group Life Insurance Act of 1980.
5 USC 8701 note.

SECTION 1. This Act may be cited as the "Federal Employees' Group Life Insurance Act of 1980".

REGULAR GROUP INSURANCE PAYMENTS

SEC. 2. (a) Section 8701 of title 5, United States Code, is amended—

(1) in the section heading, by striking out "Definition" and inserting in lieu thereof "Definitions"; and

(2) by inserting at the end thereof the following new subsection:

"(c) For the purpose of this chapter, 'basic insurance amount' means, in the case of any employee under this chapter, an amount equal to the greater of— "Basic insurance amount."

"(1) the annual rate of basic pay payable to the employee, rounded to the next higher multiple of $1,000, plus $2,000, or

"(2) $10,000,

except that the amount of insurance may not exceed the annual rate of basic pay payable for positions at level II of the Executive Schedule under section 5313 of this title, rounded to the next higher multiple of $1,000, plus $2,000. In the case of any former employee entitled to coverage under this chapter, the term means the basic insurance amount applicable for the employee at the time the insurance to which the employee is entitled as an employee under this chapter stops pursuant to section 8706(a) of this title.". 5 USC 5313. 5 USC 8706.

(b) Section 8704(a) of title 5 is amended to read as follows:

"(a) An employee eligible for insurance is entitled to be insured for an amount of group life insurance equal to—

"(1) the employee's basic insurance amount, multiplied by

"(2) the appropriate factor determined on the basis of the employee's age in accordance with the following schedule:

"If the age of the employee is:	The appropriate factor is:
35 or under	2.0
36	1.9
37	1.8
38	1.7
39	1.6
40	1.5
41	1.4
42	1.3
43	1.2
44	1.1
45 or over	1.0.".

(c) Section 8704(b) of title 5 is amended—

(1) by inserting before "Subject to" the following new sentence: "An employee eligible for insurance is entitled to be insured for group accidental death and dismemberment insurance in accordance with this subsection.";

(2) in the table, by striking out "shown in the schedule in subsection (a) of this section" each place it appears and inserting in lieu thereof "of the employee's basic insurance amount"; and

(3) in the last sentence, by striking out "the amount shown in the schedule in subsection (a) of this section" and inserting in lieu thereof "an amount equal to the employee's basic insurance amount.".

"Annual pay." (d) Section 8704(c) of title 5 is amended by striking out the last sentence and inserting in lieu thereof the following: "For the purpose of this chapter, 'annual pay' includes—

5 USC 5545. "(1) premium pay under section 5545(c)(1) of this title; and

5 USC 8331. "(2) with respect to a law enforcement officer as defined in section 8331(20) of this title, premium pay under section 5545(c)(2) of this title.".

5 USC 5545.

(e) The item relating to section 8701 in the table of sections for chapter 87 of title 5 is amended by striking out "Definition" and inserting in lieu thereof "Definitions".

Effective date. 5 USC 8704 note. (f) Subsections (b) and (c) of this section shall take effect beginning with the first pay period beginning on or after October 1, 1981.

CONTINUATION OF REGULAR GROUP LIFE INSURANCE

SEC. 3. (a) Section 8706(b) of title 5, United States Code, is amended to read as follows:

"(b)(1) In the case of any employee who retires on an immediate annuity and has been insured under this chapter throughout—

"(A) the 5 years of service immediately preceding the date of the employee's retirement, or

"(B) the full period or periods of service during which the employee was entitled to be insured, if fewer than 5 years, life insurance, without accidental death and dismemberment insurance, may be continued, under conditions determined by the Office.

"(2) In the case of any employee who becomes entitled to receive 5 USC 8101. compensation under subchapter I of chapter 81 of this title because of disease or injury to the employee and has been insured under this chapter throughout—

"(A) the 5 years of service immediately preceding the date the employee becomes entitled to compensation, or

"(B) the full period or periods of service during which the employee was entitled to be insured, if fewer than 5 years, life insurance, without accidental death and dismemberment insurance, may be continued, under conditions determined by the Office, during the period the employee is receiving compensation and is held by the Secretary of Labor or the Secretary's delegate to be unable to return to duty.

"(3) The amount of life insurance continued under paragraph (1) or (2) of this subsection shall be continued, with or without reduction, at the end of each full calendar month after the date the employee becomes 65 years of age and is retired or is receiving compensation for disease or injury, in accordance with the employee's written election at the time eligibility to continue insurance during retirement or receipt of compensation arises, as follows:

"(A) the employee may elect to have the deductions required by section 8707 of this title withheld from annuity or compensation, and the employee's life insurance shall be reduced each month by 2 percent of the face value until 25 percent of the amount of life insurance in force before the first reduction remains; or 5 USC 8707.

"(B) in addition to any deductions which would be required if the insurance were continued as provided under subparagraph (A) of this paragraph, the employee may elect continuous withholdings from annuity or compensation in amounts determined by the Office, and the employee's life insurance coverage shall be either continued without reduction or reduced each month by no more than 1 percent of its face value until no less than 50 percent of the amount of insurance in force before the first reduction remains.

"(4) If an employee elects to continue insurance under subparagraph (B) of paragraph (3) of this subsection at the time eligibility to continue insurance during retirement or receipt of compensation for disease or injury arises, the individual may later cancel that election and life insurance coverage shall continue as if the individual had originally elected coverage under subparagraph (A) of paragraph (3) of this subsection.".

EMPLOYEE DEDUCTIONS; WITHHOLDING

SEC. 4. (a) Section 8707 of title 5, United States Code, is amended to read as follows:

"§ 8707. Employee deductions; withholding 5 USC 8707.

"(a) During each period in which an employee is insured under a policy purchased by the Office of Personnel Management under section 8709 of this title, there shall be withheld from the employee's pay a share of the cost of the group life insurance and accidental death and dismemberment insurance. 5 USC 8709.

"(b)(1) Whenever life insurance continues after an employee retires on an immediate annuity or while the employee is receiving compensation under subchapter I of chapter 81 of this title because of disease or injury to the employee, as provided in section 8706(b) of this title, deductions for insurance shall be withheld from the employee's annuity or compensation, except that, in any case in which the insurance is continued as provided in section 8706(b)(3)(A) of this title, the deductions shall not be made for months after the calendar month in which the employee becomes 65 years of age. 5 USC 8101. 5 USC 8706.

"(2) Notwithstanding paragraph (1) of this subsection, insurance shall be so continued without cost (other than as provided under section 8706(b)(3)(B)) to each employee who so retires, or commences receiving compensation, on or before December 31, 1989.

"(c) The amount withheld from the pay, annuity, or compensation of each employee subject to insurance deductions shall be at the rate, adjusted to the nearest half-cent, of 66⅔ percent of the level cost as determined by the Office for each $1,000 of the employee's basic insurance amount.

"(d) If an agency fails to withhold the proper amount of life insurance deductions from an individual's salary, compensation, or retirement annuity, the collection of unpaid deductions may be waived by the agency if, in the judgment of the agency, the individual is without fault and recovery would be against equity and good conscience. However, if the agency so waives the collection of unpaid deductions, the agency shall submit an amount equal to the sum of Waiver.

5 USC 8708.

the uncollected deductions and related agency contributions required under section 8708 of this title to the Office for deposit to the Employees' Life Insurance Fund.".

PREEMPTION

SEC. 5. (a) Section 8709 of title 5, United States Code, is amended by inserting at the end thereof the following new subsection:

"(d)(1) The provisions of any contract under this chapter which relate to the nature or extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any law of any State or political subdivision thereof, or any regulation issued thereunder, which relates to group life insurance to the extent that the law or regulation is inconsistent with the contractual provisions.

"State."

"(2) For the purpose of this section, 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.".

CONTINUATION OF REGULAR OPTIONAL INSURANCE

SEC. 6. (a) Section 8714a(c)(2)(C) of title 5, United States Code, is amended to read as follows:

"(C) The amount of optional life insurance continued under subparagraph (A) or subparagraph (B) of this paragraph shall be reduced by 2 percent at the end of each full calendar month after the date the employee becomes 65 years of age and is retired or is receiving compensation for disease or injury. The Office shall prescribe minimum amounts, not less than 25 percent of the amount of life insurance in force before the first reduction, to which the insurance may be reduced.".

(b) Section 8714a(d) of title 5 is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following new paragraph:

Waiver.

"(2) If an agency fails to withhold the proper cost of optional insurance from an individual's salary, compensation, or retirement annuity, the collection of amounts properly due may be waived by the agency if, in the judgment of the agency, the individual is without fault and recovery would be against equity and good conscience. However, if the agency so waives the collection of any unpaid amount, the agency shall submit an amount equal to the uncollected amount to the Office for deposit to the Employees' Life Insurance Fund.".

ADDITIONAL OPTIONAL LIFE INSURANCE

SEC. 7. (a) Chapter 87 of title 5, United States Code, is further amended by inserting after section 8714a the following new section:

5 USC 8714b.

"§ 8714b. Additional optional life insurance

"(a) Under the conditions, directives, and terms specified in sections 8709 through 8712 of this title, the Office of Personnel Management, without regard to section 5 of title 41, may purchase a policy which shall make available to each employee insured under section 8702 of this title amounts of additional optional life insurance (without accidental death and dismemberment insurance). An employee may elect coverage under this section without regard to whether the employee has elected coverage under optional insurance available under section 8714a of this title.

5 USC 8709–8712.

5 USC 8702.

5 USC 8714a.

"(b) The additional optional insurance provided under this section shall be made available to each eligible employee who has elected coverage under this section, under conditions the Office shall prescribe, in multiples, at the employee's election, of 1, 2, 3, 4, or 5 times the annual rate of basic pay payable to the employee (rounded to the next higher multiple of $1,000) except that coverage may not exceed an amount equal to 5 times the annual rate of basic pay payable for positions at level II of the Executive Schedule under section 5313 of this title (rounded to the next higher multiple of $1,000). An employee may reduce or stop coverage elected pursuant to this section at any time. 5 USC 5313.

"(c)(1) The additional optional insurance elected by an employee pursuant to this section shall stop on separation from service, 12 months after discontinuance of pay, or on entry on active military duty or active duty for training, subject to provision for a 31-day temporary extension of insurance coverage and for conversion to an individual policy, as provided in sections 8706(a) and 8706(c) of this title. 5 USC 8706.

"(2) In the case of any employee who retires on an immediate annuity or who becomes entitled to receive compensation under subchapter I of chapter 81 of this title because of disease or injury to the employee, so much of the additional optional insurance as has been in force for not less than— 5 USC 8101.

"(A) the 5 years of service immediately preceding the date of retirement or entitlement to compensation, or

"(B) the full period or periods of service during which the insurance was available to the employee, if fewer than 5 years,

may be continued under conditions determined by the Office after retirement or while the employee is receiving compensation under subchapter I of chapter 81 of this title and is held by the Secretary of Labor (or the Secretary's delegate) to be unable to return to duty. The amount of insurance continued under this paragraph shall be reduced each month by 2 percent effective at the beginning of the second calendar month after the date the employee becomes 65 years of age and is retired or is in receipt of compensation. The reduction shall continue for 50 months at which time the insurance stops.

"(d)(1) During each period in which the additional optional insurance is in force on an employee the full cost thereof shall be withheld from the employee's pay. During each period in which an employee continues additional optional insurance after retirement or while in receipt of compensation under subchapter I of chapter 81 of this title because of disease or injury to the employee, as provided in subsection (c) of this section, the full cost thereof shall be withheld from the former employee's annuity or compensation, except that, beginning at the end of the calendar month in which the former employee becomes 65 years of age, the additional optional life insurance shall be without cost to the former employee. Amounts so withheld shall be deposited, used, and invested as provided in section 8714 of this title and shall be reported and accounted for together with amounts withheld under section 8714a(d) of this title. 5 USC 8714.

"(2) If an agency fails to withhold the proper cost of additional optional insurance from an individual's salary, compensation, or retirement annuity, the collection of amounts properly due may be waived by the agency if, in the judgment of the agency, the individual is without fault and recovery would be against equity and good conscience. However, if the agency so waives the collection of any unpaid amount, the agency shall submit an amount equal to the Waiver.

uncollected amount to the Office for deposit to the Employees' Life Insurance Fund.

"(e) The cost of the additional optional insurance shall be determined from time to time by the Office on the basis of the employee's age relative to such age groups as the Office establishes under section 8714a(e) of this title.

5 USC 8714a.

"(f) The amount of additional optional life insurance in force on an employee at the date of his death shall be paid as provided in section 8705 of this title.".

5 USC 8705.

(b) The table of sections for chapter 87 of title 5, United States Code, is amended by inserting after the item relating to section 8714a the following new item:

"8714b. Additional optional life insurance.".

OPTIONAL LIFE INSURANCE ON FAMILY MEMBERS

SEC. 8. (a) Chapter 87 of title 5, United States Code, is further amended by inserting after section 8714b (as added by section 7 of this Act) the following new section:

5 USC 8714c.

"§ 8714c. Optional life insurance on family members

"(a) Under the conditions, directives, and terms specified in sections 8709 through 8712 of this title, the Office of Personnel Management, without regard to section 5 of title 41, may purchase a policy which shall make available to each employee insured under section 8702 of this title amounts of optional life insurance (without accidental death and dismemberment insurance) on the employee's family members.

5 USC 8709–8712.

5 USC 8702.

"(b) The optional life insurance on family members provided under this section shall be made available to each eligible employee who elects coverage under this section, under conditions the Office shall prescribe, in the amount of $5,000 for a spouse and $2,500 for each child described in section 8701(d). The employee may stop coverage elected under this section at any time.

5 USC 8701.

"(c)(1) Optional life insurance on family members shall stop at the earlier of the employee's death, the employee's separation from the service, 12 months after discontinuance of pay, or the employee's entry on active duty or active duty for training, as provided in sections 8706(a) and 8706(c) of this title, subject to provision for a 31-day temporary extension of insurance coverage and for conversion to individual policies under conditions approved by the Office.

5 USC 8706.

"(2) In the case of any employee who retires on an immediate annuity or who becomes entitled to receive compensation under subchapter I of chapter 81 of this title because of disease or injury to the employee and who has had in force insurance under this section for no less than—

5 USC 8101.

"(A) the 5 years of service immediately preceding the date of retirement or entitlement to compensation, or

"(B) the full period or periods of service during which the insurance was available to the employee, if fewer than 5 years,

optional life insurance on family members may be continued under the same conditions as provided in section 8714b(c)(2) of this title.

Ante, p. 1834.

"(d)(1) During each period in which the optional life insurance on family members is in force the full cost thereof shall be withheld from the employee's pay. During each period in which an employee continues optional life insurance on family members after retirement or while in receipt of compensation under subchapter I of chapter 81 of this title because of disease or injury to the employee, as provided

in subsection (c) of this section, the full cost shall be withheld from the annuity or compensation, except that, beginning at the end of the calendar month in which the former employee becomes 65 years of age, the optional life insurance on family members shall be without cost to the employee. Amounts so withheld shall be deposited, used, and invested as provided in section 8714 of this title and shall be reported and accounted for together with amounts withheld under section 8714a(d) of this title. 5 USC 8714. 5 USC 8714a.

"(2) If an agency fails to withhold the proper cost of optional life insurance on family members from an individual's salary, compensation, or retirement annuity, the collection of amounts properly due may be waived by the agency if, in the judgment of the agency, the individual is without fault and recovery would be against equity and good conscience. However, if the agency so waives the collection of any unpaid amount, the agency shall submit an amount equal to the uncollected amount to the Office for deposit to the Employees' Life Insurance Fund. Waiver.

"(e) The cost of the optional life insurance on family members shall be determined from time to time by the Office on the basis of the employee's age relative to such age groups as the Office establishes under section 8714a(e) of this title.

"(f) The amount of optional life insurance which is in force under this section on a family member of an employee or former employee on the date of the death of the family member shall be paid, on the establishment of a valid claim by the employee, to such employee or, in the event of the death of the employee before payment can be made, to the person or persons entitled to the group life insurance in force on the employee under section 8705 of this title.". 5 USC 8705.

(b) Section 8701 of title 5 is further amended by inserting at the end thereof the following new subsection: *Ante*, p. 1831.

"(d)(1) For the purpose of this chapter, 'family member', when used with respect to any individual, means— "Family member."

"(A) the spouse of the individual; and

"(B) an unmarried dependent child of the individual (other than a stillborn child), including an adopted child, stepchild (but only if the stepchild lived with the individual in a regular parent-child relationship), or recognized natural child—

"(i) who is less than 22 years of age, or

"(ii) who is 22 years of age or older and is incapable of self-support because of a mental or physical disability which existed before the child became 22 years of age.

"(2) For the purpose of this subsection, 'dependent', in the case of any child, means that the individual involved was, at the time of the child's death, either living with or contributing to the support of the child, as determined in accordance with the regulations the Office shall prescribe.". "Dependent."

(c) The table of sections for chapter 87 of such title 5 is amended by inserting after the item relating to section 8714b (as added by section 7 of this Act) the following new item:

"8714c. Optional life insurance on family members.".

REPEAL OF SECTION 8713 OF TITLE 5

SEC. 9. (a) Section 8713 of title 5, United States Code, is repealed.

(b) The table of sections for chapter 87 of title 5 is amended by striking out the item relating to section 8713.

EFFECTIVE DATES

5 USC 8701 note.

SEC. 10. (a) Unless otherwise specified, this Act shall take effect on the date of the enactment of this Act and shall have no effect in the case of an employee who died, was separated, or retired before the date of enactment.

(b) The amendment made by subsection (d) of section 2 of this Act shall apply with respect to premium pay payable under section 5545(c)(2) of title 5, United States Code, from and after the first day of the first pay period which begins on or after the date of the enactment of this Act.

(c) The amendments made by section 3 of this Act shall apply only in the case of an employee who retires or becomes entitled to receive compensation for work injury on or after the 180th day following the date of the enactment of this Act, or any earlier date that the Office of Personnel Management may prescribe which is at least 60 days after the date of enactment.

(d) The amendments made by sections 7 and 8 of this Act shall take effect on the first day of the first pay period which begins on or after the 180th day following the date of the enactment of this Act, or on any earlier date that the Office may prescribe which is at least 60 days after the date of enactment, and shall have no effect in the case of an employee who died, was finally separated, or retired before the effective date.

AVAILABILITY OF CERTAIN FUNDS IN EMPLOYEES' LIFE INSURANCE FUND

5 USC 8714a note.

SEC. 11. Amounts credited to the Employees' Life Insurance Fund under section 8714a(d) of title 5, United States Code, shall be available for expenses incurred by the Office of Personnel Management in implementing the amendments made by sections 7 and 8 of this Act.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1280 (Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 8, considered and passed House.
Sept. 29, considered and passed Senate.

Public Law 96-428
96th Congress

An Act

To establish the Martin Luther King, Junior, National Historic Site in the State of Georgia, and for other purposes.

Oct. 10, 1980
[H.R. 7218]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to protect and interpret for the benefit, inspiration, and education of present and future generations the places where Martin Luther King, Junior, was born, where he lived, worked, and worshipped, and where he is buried, there is hereby established the Martin Luther King, Junior, National Historic Site in the State of Georgia. The national historic site shall consist of that real property in the city of Atlanta, Georgia, within the boundary generally depicted on the map entitled "Martin Luther King, Junior, National Historic Site Boundary Map", numbered NASM/SERO/20, 109-C, and dated May 1980, together with the property known as 234 Sunset Avenue, Northwest. The map referred to in this subsection shall be on file and available for public inspection in the local and Washington, District of Columbia offices of the National Park Service, Department of the Interior.

Martin Luther King, Junior, National Historic Site. Establishment. 16 USC 461 note.

(b) In furtherance of the purposes of this Act, there is hereby established the Martin Luther King, Junior, Preservation District, which shall consist of the area identified as "Preservation District" in the map referred to in subsection (a) of this section.

Preservation District.

SEC. 2. (a) The Secretary of the Interior (hereinafter referred to as "the Secretary") shall administer the Martin Luther King, Junior, National Historic Site and Preservation District in accordance with the provisions of this Act, and the provisions of law generally applicable to national historic sites, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-7).

Administration.

16 USC 461-467.

(b)(1) Within the national historic site the Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer, or exchange, lands and interests therein, except that property owned by the State of Georgia or any political subdivision thereof may be acquired only by donation.

Lands and interests, acquisition.

(2) Notwithstanding the acquisition authority contained in paragraph (1), any lands or interests therein which are owned wholly or in part, by the widow of Martin Luther King, Junior, or by the Martin Luther King, Junior, Center for Social Change, shall be acquired only with the consent of the owner thereof, except that—

Exceptions.

(A) the Secretary may acquire such property in accordance with the provisions of this section if he determines that the property is undergoing or is about to undergo a change in use which is inconsistent with the purposes of this Act, and

(B) with respect to properties owned by the Center for Social Change, the Secretary shall have the first right of refusal to purchase such property for a purchase price not exceeding the fair market value of such property on the date it is offered for sale.

(3) Property may be acquired pursuant to this section subject to such conditions and reservations as in the judgment of the Secretary are not inconsistent with the purposes of this Act and the administration of the national historic site, including, in the event that the burial site of Martin Luther King, Junior, is acquired, the condition that his widow may be interred therein.

Parcel A property, conveyance to Interior Dept.

(4) Any and all legal or equitable title, interests, or encumbrances, if any, held by the Department of Housing and Urban Development in the property designated "Parcel A" on the map referenced in section one are hereby conveyed to the Secretary to be administered in accordance with the purposes of this Act.

(5) Structural space requirements of the National Park Service to meet its administrative, operational, and interpretive functions for the national historic site and preservation district shall, to the maximum extent feasible without displacing residents, be met within the district through the adaptive use of existing structures.

Freehold or leasehold property interest, conveyance.

SEC. 3. (a) Within the national historic site, the Secretary may convey a freehold or leasehold interest in any property, for such sums as he deems appropriate, and subject to such terms and conditions and reservations as will assure the use of the property in a manner which is, in the judgment of the Secretary, consistent with the purposes of this Act and the administration of the national historic site. The Secretary shall offer the last owner or tenant of record a reasonable opportunity to purchase or lease, as appropriate, the property proposed to be conveyed prior to any conveyance under this subsection, and in the case of a lease to such tenant of record, the initial rental charge shall not be substantially more than the last rent paid by the tenant for that property, with any future increases not to exceed the general escalation of rental rates in the surrounding area.

Cooperative agreements with property owners.

(b) The Secretary may enter into cooperative agreements with the owners of properties of historical or cultural significance as determined by the Secretary, pursuant to which the Secretary may mark, interpret, improve, restore, and provide technical assistance with respect to the preservation and interpretation of such properties. Such agreements shall contain, but need not be limited to, provisions that the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes, and that no changes or alterations shall be made in the property except by mutual agreement. The authorities in this subsection shall also be available to the Secretary with respect to properties within the Martin Luther King, Junior, Preservation District.

(c) The Secretary may, in carrying out his authorities with respect to the interpretation of properties within the national historic site and the preservation district, accept the services and assistance, with or without reimbursement therefor, of qualified persons and entities to the extent he deems necessary and appropriate. Funds appropriated for the purposes of this Act may be expended for the improvement, restoration, and maintenance of properties in which the Secretary has acquired a leasehold interest.

Property improvement and restoration, funds.

Appropriate mementos, concession contract.

(d) Notwithstanding any other provision of law, the Secretary shall give first preference to the Martin Luther King, Junior, Center for Social Change with respect to any contract for a concession to sell books, postcards, tapes, or similar types of appropriate mementos related to the purposes of this Act, on facilities operated and maintained by the Secretary within the historic site: *Provided,* That agreement can be reached on terms and conditions acceptable to the Secretary.

(e) The Secretary is authorized to take only such actions within and upon the grounds of the Ebenezer Baptist Church as will directly support appropriate public visitation to and within the church in accordance with the purposes of this Act, or which will assist in the maintenance or preservation of those portions of said church which are directly related to the purposes of this Act. Ebenezer Baptist Church, maintenance and preservation.

SEC. 4. (a) There is hereby established the Martin Luther King, Junior, National Historic Site Advisory Commission (hereinafter referred to in this section as the "Commission"). The Commission shall consist of thirteen members, eleven of whom shall be appointed by the Secretary as follows: Martin Luther King, Junior, National Historic Site Advisory Commission. Establishment. Membership, terms.

(1) three members appointed for terms of three years from recommendations submitted by the governing body of the Martin Luther King, Junior, Center for Social Change;

(2) two members appointed for terms of four years from recommendations submitted by the Governor of the State of Georgia, one of whom shall have professional expertise in historic preservation matters;

(3) two members appointed for terms of five years from recommendations submitted by the mayor of the city of Atlanta, Georgia, one of whom shall represent the economic and cultural interests of the Sweet Auburn Historic District;

(4) one member appointed for a term of five years from recommendations submitted by the governing body of the Ebenezer Baptist Church;

(5) the Chairman of the Atlanta Urban Design Commission and one additional member from the Commission to be chosen by the Commission; and

(6) one member, appointed for a term of five years by the Secretary, who shall chair the Commission. In addition to the foregoing members, Mrs. Coretta Scott King, or such other appropriate family member as may be designated by the immediate family of Martin Luther King, Junior, and the Director of the National Park Service shall be ex officio members of the Commission.

(b) Any vacancy in the membership of the Commission shall be filled in the same manner in which the original appointment was made. Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses of Commission members reasonably incurred by them in carrying out their responsibilities under this section upon presentation of vouchers signed by the chair of the Commission. Necessary administrative services and expenses shall be provided to the Commission by the Department of the Interior. Compensation. Administrative services and expenses.

(c) The function of the Commission shall be to: Function.

(1) advise the Secretary with respect to the formulation and execution of plans for and the overall administration of the national historic site and the preservation district, including advice with respect to the consummation of cooperative agreements, and interpretation of properties, and the use and appreciation of the national historic site and the preservation district by the public;

(2) prepare a generalized impact area plan for a one-mile radius outside the District which shall examine overall community development goals, plans, and efforts within that area, including historic preservation, transportation, parking, housing, urban revitalization, and parks and recreation functions, in Generalized impact area plan.

order to maximize beneficial relationships between these goals, plans, and efforts and the district herein established; and

Detailed development plan.

(3) prepare, on the basis of the findings and recommendations of the impact area plan required by the preceding paragraph, a detailed development plan for the neighborhoods and outlying commercial areas immediately outside the district for such development, conservation, preservation, rehabilitation activities and transportation, parking, and land use planning as would complement and enhance the District and the purposes for which the District is established.

Staff and technical assistance, funds.

(d) The Secretary is directed to provide the appropriate planning agency of the city of Atlanta an amount of the local planning funds authorized by section 6 sufficient for that agency to provide such staff and technical assistance to the Advisory Commission as are required for it to develop the plans required by subsection (c) of this section. Such plans, prepared in full coordination with and opportunities for participation by, all relevant public agencies and private groups, shall be delivered to the Secretary in a timely fashion for use in preparing the general management plan for the district.

Termination date.

(e) The Commission shall terminate ten years from the effective date of this Act.

Admission fees.

SEC. 5. Notwithstanding any other provision of law, no fees shall be charged for entrance or admission to the national historic site or the preservation district established by this Act.

Effective date.

SEC. 6. Effective October 1, 1980, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $1,000,000 for development, $100,000 for local planning, and $3,500,000 for the acquisition of lands and interests therein. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

SEC. 7. (a) In order to better integrate the east and west portions of the Martin Luther King, Junior, Preservation District, the Federal Highway Administration, in cooperation with the Georgia Department of Transportation, is hereby directed to insure that any design and reconstruction of the North Interstate 85 and Interstate 75 Expressway over Auburn and Edgewood Avenues in the city of Atlanta, Georgia, and the interchange at Edgewood Avenue, shall minimize the adverse impacts on the preservation district.

(b) In carrying out the provisions of this subsection, the Federal Highway Administration shall require that, where feasible, any major change required for the Auburn Avenue overpass results in a design which permits a wider distance between overpass support structures and the disposition of understructure development rights for appropriate business or recreation uses.

Land use change, review and comment.

(c) Plans for the construction, exterior renovation, or demolition of any structure or change in land use within the preservation district by the National Park Service or any Federal agency must be submitted to the Atlanta Urban Design Commission in a timely fashion for its review and comment.

SEC. 8. Within three complete fiscal years from the effective date of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive general management plan for the historic site and the preservation district consistent with the provisions of this Act and pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended (16 U.S.C. 1a-1 et seq.).

Management plan, transmittal to congressional committees.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 9, considered and passed House.
Sept. 26, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 42:
Oct. 11, Presidential statement.

Public Law 96-429
96th Congress

An Act

Oct. 10, 1980
[S. 3044]

To designate the United States Federal Building in Hartford, Connecticut, as the "Abraham A. Ribicoff Federal Building".

Abraham A. Ribicoff Federal Building. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 450 Main Street, Hartford, Connecticut (commonly known as the Federal Building), shall hereinafter be known, called, and designated as the "Abraham A. Ribicoff Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Abraham A. Ribicoff Federal Building.

Effective date.

SEC. 2. The authorization contained in section 1 of this Act shall become effective on January 15, 1981.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 23, considered and passed Senate.
Sept. 30, considered and passed House.

Public Law 96-430
96th Congress

An Act

To provide for the establishment of the Boston African American National Historic Site in the Commonwealth of Massachusetts, and for other purposes.

Oct. 10, 1980
[H.R. 7434]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Boston African American National Historic Site, establishment.
16 USC 461 note.

TITLE I—BOSTON AFRICAN AMERICAN NATIONAL HISTORIC SITE

SEC. 101. In order to preserve for the benefit and inspiration of the people of the United States as a national historic site certain historic structures and properties of outstanding national significance located in Boston, Massachusetts, and associated with the creation and development of a free African American community within Beacon Hill prior to the Civil War, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to establish the Boston African American National Historic Site, including the African American Meeting House, within the area generally depicted on the map entitled "Boundary Map, Boston African American National Historic Site", numbered BOAF-80,000 and dated March 1980. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Map, public availability.

SEC. 102. At such time as the Secretary determines that sufficient properties within the boundary of the site are the subject of cooperative agreements pursuant to section 103, he may establish the area as the Boston African American National Historic Site. Pending such establishment and thereafter, the site shall be administered by the Secretary in accordance with the provisions of this Act and the provisions of law generally applicable to the administration of national historic sites, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467).

Administration.

SEC. 103. The Secretary may accept any gift or bequest of any property depicted on the map referred to in the first section of this Act, and he is authorized to enter into cooperative agreements with the city of Boston, the Commonwealth of Massachusetts, or any of their political subdivisions, or any private person or organization, including the Beacon Hill Architectural Commission, to mark, interpret, restore, provide technical assistance, or any combination thereof, and for such other activities as may be necessary for the preservation of any properties depicted on such map. Cooperative agreements shall contain, but need not be limited to, provisions that (1) the Secretary, through the National Park Service, or some appropriate private group contracted to the National Park Service for this purpose, shall have the right at all reasonable times to interpret the exterior of the properties, and such portions of the interior as have been mutually agreed upon, and (2) no changes or alterations shall be made in such properties except by mutual

Gifts or bequests, cooperative agreements.

agreement between the Secretary and the other parties to such agreements. The agreements may contain specific provisions which outline in detail the extent of the participation by the Secretary in the restoration, preservation, or maintenance of such historic properties. The Secretary is authorized in his discretion to assist with maintenance directly related to public visitation of those properties covered by cooperative agreements consummated pursuant to this Act. No funds may be expended on a property until after the Secretary determines that there is applicable to that property a binding written cooperative agreement which remains in force and effect assuring the preservation and historical integrity of such property. If any fees are charged for the use of a property covered by a cooperative agreement, and Federal funds are committed in the cooperative agreements, the income from such fees shall be applied to the costs of maintenance and renovation of that property. Notwithstanding any other provision of law, no Federal fees shall be charged for entrance or admission to the historic site.

Fees.

Site identification.

SEC. 104. The Secretary, in cooperation with other interested groups, may identify other significant sites relating to the nineteenth century free African American community on Beacon Hill, Boston, which are related to the historic site authorized by this Act, and, with the consent of the owners thereof, may mark them appropriately and make reference to them in any interpretive literature.

Management plan, submittal to congressional committees.

SEC. 105. Within three complete fiscal years from the effective date of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive general management plan for the historic site, pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 et seq.).

Appropriation authorization.

SEC. 106. Effective on October 1, 1981, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

TITLE II—NATIONAL CENTER FOR THE STUDY OF AFRO-AMERICAN HISTORY AND CULTURE

National Center for the Study of Afro-American History and Culture Act.
20 USC 3701 note.

SEC. 201. This title may be cited as the "National Center for the Study of Afro-American History and Culture Act".

Commission.
20 USC 3701.

SEC. 202. (a) There is established a commission to be known as the National Afro-American History and Culture Commission (hereinafter in this title referred to as the "Commission") which shall be composed of fifteen members, as specified in section 203 of this title.

Duties.

(b) The Commission shall have the following duties:

Plan, submittal to President and Congress.

(1) The Commission shall be responsible for the development of a definitive plan for the construction and operation of the National Center for the Study of Afro-American History and Culture and shall submit the plan, together with any recommendations for additional legislation, to the President of the United States and the Congress not later than twenty-four months after the date of the enactment of this title. The plan shall include, but not be limited to, identification of—

(A) the main objectives to be achieved by the establishment, development, and operation of the National Center for the Study of Afro-American History and Culture;

(B) the types of uses, both public and private, to be accommodated by such a center;

(C) the criteria and recommendations for the design and appearance of such a center;

(D) the proposed ownership and operation of the center;

(E) the criteria and recommendations for interpretive, cultural, and educational programs and uses of the center;

(F) the areas where cooperative agreements might be developed between the center and Afro-American institutions, organizations, and universities to enhance their programs and projects relating to the knowledge, preservation, and presentation of the history and culture of Afro-Americans;

(G) the estimates of costs, both public and private, for implementing the plan; and

(H) the procedures to be used in implementing the plan.

Funds, solicitation.

(2)(A) The Commission shall solicit subscriptions of funds from private and public sources to help meet the costs of carrying out its duties under this section; the costs of the construction, furnishing, and operation of the center; the costs of research programs and research staff positions, and reasonable administrative costs which may include, subject to the availability of funds, payment to members of the Commission of travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code. Any funds so received by the Commission shall be placed in a special deposit account with the Treasurer of the United States, and may be expended by the Commission only to meet the costs specified in this subparagraph.

Special deposit account.

Art and artifacts, donation or loan.

(B) The General Services Administration, the Smithsonian Institution, and other agencies of the Government may donate or loan to the Commission for the purposes of the center any works of art, artifacts, or other materials under their control.

Property, acquisition and disposal.

(c) For the purpose of carrying out this title, the Commission may—

(1) acquire by gift, purchase with appropriated or donated funds (including funds from State or local sources), transfer from any Federal or State agency, exchange, or otherwise, suitable land (together with any buildings or other improvements thereon) and interest in land in the vicinity of Wilberforce, Ohio, for the location of the headquarters of the center;

(2) borrow or acquire by gift, purchase with appropriated or donated funds (including funds from State or local sources), or otherwise, any other real or personal property necessary for the establishment and operation of the center; and

(3) sell, exchange, or otherwise dispose of any property acquired under this subsection and designate any proceeds from such disposal for the benefit of the center.

Membership. 20 USC 3702.

SEC. 203. (a) The Commission shall be composed of fifteen members as follows:

(1) The Secretary of the Interior (or his designee).

(2) The Secretary of Education (or his designee).

(3) The Librarian of Congress (or his designee).

(4) The President of the Association for the Study of Afro-American Life and History.

(5) The presidents of Wilberforce University and Central State University in Ohio.

(6) Nine members appointed by the President, who are especially qualified to serve on the Commission by reason of their background and experience. No more than two members appointed under this paragraph shall be from any one State.

Terms of office.

(b) Subject to subsection (c), the members of the Commission specified in paragraphs (1) through (5) of subsection (a) shall serve for the life of the Commission. The members of the Commission appointed under paragraph (6) of such subsection shall serve for terms of four years, except that of the members first appointed—

(1) three shall be appointed for terms of one year;

(2) three shall be appointed for terms of two years; and

(3) three shall be appointed for terms of four years;

as designated by the President at the time of appointment.

Membership continuation.

(c) If any member of the Commission who was appointed to the Commission under paragraphs (1) through (5) as an officer designated under such paragraphs leaves such office, such member may continue as a member of the Commission for not longer than the thirty-day period beginning on the date he leaves that office.

Vacancies.

(d)(1) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members may be reappointed.

Quorum.

(e) Six members of the Commission shall constitute a quorum.

Voting.

(f) The Commission shall act by affirmative majority vote.

Officers.

(g) The Commission shall elect a chairman and other officers from among its members to serve for terms established by the Commission.

Meetings.

(h) The Commission shall meet at the call of the chairman or a majority of its members, but not less than two times each year. The headquarters of the Commission shall be at Wilberforce, Ohio, and the Commission shall conduct its meetings in such city unless circumstances otherwise require.

Seal; bylaws, rules.

(i) The Commission may adopt an official seal which shall be judicially noticed and may make such bylaws, rules, and regulations as it considers necessary to carry out its functions under this title.

Compensation.

(j) Members of the Commission shall serve without pay.

Services, procurement.

(k) The Commission may procure, subject to the availability of funds, temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code.

Personnel details.

(l) Upon request of the Commission, and subject to the availability of funds, the head of any Federal agency may detail to the Commission on a reimbursable basis any of the personnel of such agency to assist the Commission in carrying out its duties under this title.

GSA administrative support services.

(m) The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request to carry out its duties under this title.

Report to congressional committees. 20 USC 3703.

SEC. 204. On the first January 1 occurring after the date of the enactment of this title, and on each subsequent January 1, the Commission shall submit to appropriate committees of the Congress a

report which contains a detailed statement of the financial transactions of the Commission and the activities undertaken by the Commission during the previous year. The report shall contain such other appropriate information as the committees to whom the report is submitted may from time to time request.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1239 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 25, considered and passed House.
Sept. 30, considered and passed Senate, amended.
Oct. 1, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 42:
Oct. 10, Presidential statement.

Public Law 96-431
96th Congress

An Act

Oct. 10, 1980
[H.R. 6065]

To amend title 5, United States Code, to provide that military leave be made available for Federal employees on a fiscal year rather than a calendar year basis, to allow certain unused leave to accumulate for subsequent use, and for other purposes.

Military leave for Federal employees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6323(a) of title 5, United States Code, is amended—

(1) by striking out "An employee" and inserting in lieu thereof "(1) Subject to paragraph (2) of this subsection, an employee";

(2) by striking out "for each day, not in excess of 15 days in a calendar year, in which he is on active duty or is engaged in field or coast defense training" and inserting in lieu thereof the following: "for active duty or engaging in field or coast defense training";

(3) by adding at the end thereof the following new sentence: "Leave under this subsection accrues for an employee or individual at the rate of 15 days per fiscal year and, to the extent that it is not used in a fiscal year, accumulates for use in the succeeding fiscal year until it totals 15 days at the beginning of a fiscal year."; and

(4) by adding at the end thereof the following new paragraph:

"(2) In the case of an employee or individual employed on a part-time career employment basis (as defined in section 3401(2) of this title), the rate at which leave accrues under this subsection shall be a percentage of the rate prescribed under paragraph (1) which is determined by dividing 40 into the number of hours in the regularly scheduled workweek of that employee or individual during that fiscal year.".

Effective date.
5 USC 6323 note.

SEC. 2. The amendments made by the first section of this Act shall take effect October 1, 1980.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1128 (Comm. on Post Ofice and Civil Service).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 30, considered and passed House.
Oct. 1, considered and passed Senate.

Public Law 96-432
96th Congress

An Act

To amend the Act of July 31, 1946, as amended, relating to the United States Capitol Grounds, and for other purposes.

Oct. 10, 1980
[H.R. 6331]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of July 31, 1946, as amended (40 U.S.C. 193a), is amended to include within the definition of the United States Capitol Grounds the following additional areas and portions of streets which are situated as follows:

U.S. Capitol grounds. Boundaries. D.C. Code 9-118. 40 USC 193a note.

(1) that portion of D Street Northeast from the east curb of Second Street Northeast to the east curb of First Street Northeast;

(2) that portion of Second Street Northeast and Southeast from the south curb of F Street Northeast to the south curb of C Street Southeast;

(3) that portion of Constitution Avenue Northeast from the east curb of Second Street Northeast to the east curb of First Street Northeast;

(4) that portion of Pennsylvania Avenue Northwest from the west curb of First Street Northwest to the east curb of Third Street Northwest;

(5) that portion of Maryland Avenue Southwest from the west curb of First Street Southwest to the east curb of Third Street Southwest;

(6) that portion of Constitution Avenue Northwest from the east curb of Second Street Northwest to the east curb of Third Street Northwest;

(7) that portion of Independence Avenue Southwest from the west curb of First Street Southwest to the east curb of Third Street Southwest;

(8) that portion of Maryland Avenue Northeast from the east curb of Second Street Northeast to the east curb of First Street Northeast;

(9) that portion of East Capitol Street from the east curb of Second Street Southeast to the east curb of First Street Southeast;

(10) that portion of Independence Avenue Southeast from the east curb of Second Street Southeast to the east curb of First Street Southeast;

(11) that portion of C Street Southeast from the east curb of Second Street Southeast to the east curb of First Street Southeast;

(12) that portion of North Capitol Street from the south curb of Massachusetts Avenue to the north curb of Louisiana Avenue;

(13) that portion of New Jersey Avenue Northwest from the north curb of D Street Northwest to the north curb of Louisiana Avenue;

(14) that portion of Second Street Southwest from the north curb of D Street to the south curb of Virginia Avenue Southwest;

(15) that portion of Virginia Avenue Southwest from the east curb of Second Street Southwest to the west curb of Third Street Southwest;

(16) that portion of Third Street Southwest from the south curb of Virginia Avenue Southwest to the north curb of D Street Southwest;

(17) that portion of D Street Southwest from the west curb of Third Street Southwest to the east curb of Second Street Southwest;

(18) that portion of Canal Street Southwest, including sidewalks and traffic islands, from the south curb of Independence Avenue Southwest to the west curb of South Capitol Street; and

(19) all that area contiguous to, and surrounding, square numbered 724 from the property line thereof to the contiguous curb;

(20) those areas contiguous to, and surrounding, the areas comprising the grounds of the United States Botanic Garden from the property line of such grounds to the contiguous curb;

(21) all that area contiguous to, and surrounding, the structures comprising the United States Capitol Power Plant, from the building lines of such structures to the contiguous curbs; and

(22) all that area contiguous to, and surrounding, square numbered 581 from the property line thereof to the contiguous curb.

D.C. Code 9-118.

SEC. 2. Section 1 of the Act of July 31, 1946, as amended (40 U.S.C. 193a), is amended (1) by deleting "First Street N.E. to Second Street N.W." and inserting in lieu thereof "Second Street Northeast to Third Street Northwest"; and (2) by inserting immediately before the colon preceding the proviso, a comma and the following: "Pennsylvania Avenue Northwest from First Street Northwest to Third Street Northwest, Maryland Avenue Southwest from First Street Southwest to Third Street Southwest, Second Street Northeast from F Street Northeast to C Street Southeast; C Street Southeast from Second Street Southeast to First Street Southeast; that portion of Maryland Avenue Northeast from Second Street Northeast to First Street Northeast; that portion of New Jersey Avenue Northwest from D Street Northwest to Louisiana Avenue; that portion of Second Street Southwest from the north curb of D Street to the south curb of Virginia Avenue Southwest; that portion of Virginia Avenue Southwest from the east curb of Second Street Southwest to the west curb of Third Street Southwest; that portion of Third Street Southwest from the south curb of Virginia Avenue Southwest to the north curb of D Street Southwest; that portion of D Street Southwest from the west curb of Third Street Southwest to the east curb of Second Street Southwest; that portion of Canal Street Southwest, including sidewalks and traffic islands, from the south curb of Independence Avenue Southwest to the west curb of South Capitol Street".

40 USC 193a note.

SEC. 3. On and after the effective date of this section, that portion of C Street Northeast from the west curb of Second Street Northeast to the east curb of First Street Northeast shall be under the exclusive jurisdiction and control of the Capitol Police Board and the Architect of the Capitol in the same manner and to the same extent as such Board or the Architect of the Capitol has over other streets comprising the United States Capitol Grounds, and the Architect of the Capitol shall be responsible for the maintenance and improvement thereof.

SEC. 4. The foregoing provisions of this Act shall take effect upon the expiration of the thirty-day period following the date of the enactment of this Act.

Effective date.
40 USC 193a note.

SEC. 5. The Capitol Police Board is authorized to detail police from the House Office, Senate Office, and Capitol Buildings for police duty on the Capitol Grounds and on the Library of Congress Grounds.

40 USC 212a-1.

SEC. 6. (a) Notwithstanding any other provisions of this Act, with respect to those squares occupied by the United States Supreme Court and the Library of Congress, those streets or portions thereof referred to in the first section of this Act which surround such squares shall be considered a part of the Capitol Grounds only to the face of the curbs contiguous to such squares.

U.S. Supreme Court and Library of Congress, jurisdictional boundaries.
40 USC 193a note.

(b) Nothing in this Act shall be construed as repealing, or otherwise altering, modifying, affecting, or superseding those provisions of law in effect on the date immediately preceding the date of the enactment of this Act vesting authority in the United States Supreme Court Police and the Library of Congress Police to make arrests in adjacent streets.

(c) In order to provide a fair and reasonable transition period in which to permit the orderly relocation of those duly licensed vendors operating, as of the effective date hereof, on those portions of Pennsylvania Avenue Northwest, and Maryland Avenue Southwest, hereby included in the definition of United States Capitol Grounds pursuant to section 1 (4) and (5), so much of the prohibitions contained in section 4 of the law of July 31, 1946 (60 Stat. 718), as would prevent the use of those portions of Pennsylvania Avenue Northwest, and Maryland Avenue Southwest, for the offer and exposure of articles for sale, shall be suspended for a period not to exceed one year.

Vendors, relocation.
Effective date.
40 USC 193d note.

40 USC 193d.
D.C. Code 9-121.

SEC. 7. (a) The Architect of the Capitol, under the direction of the House Office Building Commission, is hereby authorized to acquire, on behalf of the United States, by purchase, condemnation, transfer, or otherwise, for addition to the United States Capitol Grounds, all publicly or privately owned property contained in lot 49 in square 582; lot 70 in square 640; and lots 1, 2, 67, 79, 80, 800, 801, 807, 814 through 822, and 834 in square 693 in the District of Columbia (including all alleys or parts of alleys and streets within the lotlines and curblines surrounding such real property): *Provided,* That upon the acquisition of any such real property by the Architect of the Capitol on behalf of the United States, such property shall be subject to the provisions of the Act of July 31, 1946 (60 Stat. 718), as amended in the same manner and to the same extent as all other areas comprising the United States Capitol Grounds.

Architect of the Capitol, additional property acquisition.
40 USC 193a note.

40 USC 193a-193m, 212a, 212b.
D.C. Code 9-118 to 9-131.

(b) For the purposes of this section the properties authorized to be acquired hereunder, shall be deemed to extend to the outer face of the curbs of the squares in which they are located.

(c) There is hereby authorized to be appropriated to the Architect of the Capitol for the fiscal year ending September 30, 1981, the sum of $11,500,000 for the purpose of carrying out the provisions of this section, said appropriation to remain available until expended.

Appropriation authorization.

SEC. 8. The acquisition of real property under this Act shall be conducted in accordance with the Act entitled "Uniform Relocation Assistance and Land Acquisition Policies Act of 1970", Public Law 91-646, approved January 2, 1971, and any proceeding for condemnation brought in its course shall be conducted in accordance with the Act entitled "An Act to provide for the acquisition of land in the District of Columbia for the use of the United States", approved March 1, 1929 (16 D.C. Code, secs. 1351-1368).

Real property, acquisition.
40 USC 193a note.
42 USC 4601 note.

SEC. 9. The Architect of the Capitol is authorized to enter into contracts and to make expenditures for grading and paving and such

Grading, paving, and other expenditures.
40 USC 193a note.

other expenditures, including expenditures for personal and other services, as may be necessary to carry out the purposes of section 7 of this Act.

40 USC 193a note.

SEC. 10. Any contract entered into pursuant to this Act or pursuant to any amendment made by this Act shall be effective only to such extent and in such amounts as may be provided in advance in an appropriation Act.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-903 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 22, considered and passed House.
Sept. 24, considered and passed Senate.

Public Law 96-433
96th Congress

An Act

Oct. 10, 1980
[H.R. 7939]

To amend the Securities Investor Protection Act to increase the amount of protection available under such Act to customers of brokers and dealers, and to provide for the applicability of the Right to Financial Privacy Act of 1978 to the Securities and Exchange Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Brokers and dealers' customers, increased protection; financial privacy, applicability to SEC.

AMENDMENTS TO THE SECURITIES INVESTOR PROTECTION ACT

SECTION 1. Section 9(a) of the Securities Investor Protection Act (15 U.S.C. 78fff-3(a)) is amended—

(1) by striking out "$100,000" and inserting in lieu thereof "$500,000"; and

(2) in paragraph (1), by striking out "$40,000" and inserting in lieu thereof "$100,000".

AMENDMENT TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978

SEC. 2. Section 1122 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3422) is amended to read as follows:

"SECURITIES AND EXCHANGE COMMISSION

"SEC. 1122. Except as provided in the Securities Exchange Act of 1934, this Act shall apply with respect to the Securities and Exchange Commission.". 15 USC 78a.

AMENDMENT TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 3. Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end thereof the following:

"(h)(1) The Right to Financial Privacy Act of 1978 shall apply with respect to the Commission, except as otherwise provided in this subsection. 12 USC 3401 note.

"(2) Notwithstanding section 1105 or 1107 of the Right to Financial Privacy Act of 1978, the Commission may have access to and obtain copies of, or the information contained in financial records of a customer from a financial institution without prior notice to the customer upon an ex parte showing to an appropriate United States district court that the Commission seeks such financial records pursuant to a subpena issued in conformity with the requirements of section 19(b) of the Securities Act of 1933, section 21(b) of the Securities Exchange Act of 1934, section 18(c) of the Public Utility Holding Company Act of 1935, section 42(b) of the Investment Company Act of 1940, or section 209(b) of the Investment Advisers Act of 1940, and that the Commission has reason to believe that— Records, access. 12 USC 3405, 3407. 15 USC 77s. 15 USC 78u. 15 USC 79r. 15 USC 80a-41. 15 USC 80b-9.

"(A) delay in obtaining access to such financial records, or the required notice, will result in—

"(i) flight from prosecution;

"(ii) destruction of or tampering with evidence;

"(iii) transfer of assets or records outside the territorial limits of the United States;

"(iv) improper conversion of investor assets; or

"(v) impeding the ability of the Commission to identify or trace the source or disposition of funds involved in any securities transaction;

"(B) such financial records are necessary to identify or trace the record or beneficial ownership interest in any security;

"(C) the acts, practices or course of conduct under investigation involve—

"(i) the dissemination of materially false or misleading information concerning any security, issuer, or market, or the failure to make disclosures required under the securities laws, which remain uncorrected; or

"(ii) a financial loss to investors or other persons protected under the securities laws which remains substantially uncompensated; or

"(D) the acts, practices or course of conduct under investigation—

"(i) involve significant financial speculation in securities; or

"(ii) endanger the stability of any financial or investment intermediary.

"(3) Any application under paragraph (2) for a delay in notice shall be made with reasonable specificity.

Ex parte order granting delay.

"(4)(A) Upon a showing described in paragraph (2), the presiding judge or magistrate shall enter an ex parte order granting the requested delay for a period not to exceed ninety days and an order prohibiting the financial institution involved from disclosing that records have been obtained or that a request for records has been made.

Delay, extension.

"(B) Extensions of the period of delay of notice provided in subparagraph (A) of up to ninety days each may be granted by the court upon application, but only in accordance with this subsection or section 1109(a), (b)(1), or (b)(2) of the Right to Financial Privacy Act of 1978.

12 USC 3409.

Subpena.

"(C) Upon expiration of the period of delay of notification ordered under subparagraph (A) or (B), the customer shall be served with or mailed a copy of the subpena insofar as it applies to the customer together with the following notice which shall describe with reasonable specificity the nature of the investigation for which the Commission sought the financial records:

Notice.

"'Records or information concerning your transactions which are held by the financial institution named in the attached subpena were supplied to the Securities and Exchange Commission on (date). Notification was withheld pursuant to a determination by the (title of court so ordering) under section 21(h) of the Securities Exchange Act of 1934 that (state reason). The purpose of the investigation or official proceeding was (state purpose).'.

Ante, p. 1855.

Proceedings and records.

"(5) Upon application by the Commission, all proceedings pursuant to paragraphs (2) and (4) shall be held in camera and the records thereof sealed until expiration of the period of delay or such other date as the presiding judge or magistrate may permit.

Annual tabulation; report to Congress.
12 USC 3401 note.

"(6) The Commission shall compile an annual tabulation of the occasions on which the Commission used each separate subparagraph or clause of paragraph (2) of this subsection or the provisions of the Right to Financial Privacy Act of 1978 to obtain access to financial records of a customer and include it in its annual report to the

Congress. Section 1121(b) of the Right to Financial Privacy Act of 1978 shall not apply with respect to the Commission. 12 USC 3421.

"(7)(A) Following the expiration of the period of delay of notification ordered by the court pursuant to paragraph (4) of this subsection, the customer may, upon motion, reopen the proceeding in the district court which issued the order. If the presiding judge or magistrate finds that the movant is the customer to whom the records obtained by the Commission pertain, and that the Commission has obtained financial records or information contained therein in violation of this subsection, other than paragraph (1), it may order that the customer be granted civil penalties against the Commission in an amount equal to the sum of— Reopening of proceeding. Civil penalties.

"(i) $100 without regard to the volume of records involved;

"(ii) any out-of-pocket damages sustained by the customer as a direct result of the disclosure; and

"(iii) if the violation is found to have been willful, intentional, and without good faith, such punitive damages as the court may allow, together with the costs of the action and reasonable attorney's fees as determined by the court.

"(B) Upon a finding that the Commission has obtained financial records or information contained therein in violation of this subsection, other than paragraph (1), the court, in its discretion, may also or in the alternative issue injunctive relief to require the Commission to comply with this subsection with respect to any subpena which the Commission issues in the future for financial records of such customer for purposes of the same investigation. Injunctive relief.

"(C) Whenever the court determines that the Commission has failed to comply with this subsection, other than paragraph (1), and the court finds that the circumstances raise questions of whether an officer or employee of the Commission acted in a willful and intentional manner and without good faith with respect to the violation, the Office of Personnel Management shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the agent or employee who was primarily responsible for the violation. After investigating and considering the evidence submitted, the Office of Personnel Management shall submit its findings and recommendations to the Commission and shall send copies of the findings and recommendations to the officer or employee or his representative. The Commission shall take the corrective action that the Office of Personnel Management recommends. OPM investigation. Findings and recommendations, submittal to SEC.

"(8) The relief described in paragraphs (7) and (10) shall be the only remedies or sanctions available to a customer for a violation of this subsection, other than paragraph (1), and nothing herein or in the Right to Financial Privacy Act of 1978 shall be deemed to prohibit the use in any investigation or proceeding of financial records, or the information contained therein, obtained by a subpena issued by the Commission. In the case of an unsuccessful action under paragraph (7), the court shall award the costs of the action and attorney's fees to the Commission if the presiding judge or magistrate finds that the customer's claims were made in bad faith. 12 USC 3401 note. Costs and fees.

"(9)(A) The Commission may transfer financial records or the information contained therein to any government authority if the Commission proceeds as a transferring agency in accordance with section 1112 of the Right to Financial Privacy Act of 1978, except that the customer notice required under section 1112 (b) or (c) of such Act may be delayed upon a showing by the Commission, in accordance with the procedure set forth in paragraphs (4) and (5), that one or more of subparagraphs (A) through (D) of paragraph (2) apply. Records, transfer. 12 USC 3412.

Records, transfer.
12 USC 3412.

Disclosure restrictions, customer notification.

"(B) The Commission may, without notice to the customer pursuant to section 1112 of the Right to Financial Privacy Act of 1978, transfer financial records or the information contained therein to a State securities agency or to the Department of Justice. Financial records or information transferred by the Commission to the Department of Justice or to a State securities agency pursuant to the provisions of this subparagraph may be disclosed or used only in an administrative, civil, or criminal action or investigation by the Department of Justice or the State securities agency which arises out of or relates to the acts, practices, or courses of conduct investigated by the Commission, except that if the Department of Justice or the State securities agency determines that the information should be disclosed or used for any other purpose, it may do so if it notifies the customer, except as otherwise provided in the Right to Financial Privacy Act of 1978, within 30 days of its determination, or complies with the requirements of section 1109 of such Act regarding delay of notice.

12 USC 3401 note.

Procedures and penalties.

"(10) Any government authority violating paragraph (9) shall be subject to the procedures and penalties applicable to the Commission under paragraph (7)(A) with respect to a violation by the Commission in obtaining financial records.

Financial institution's records.

"(11) Notwithstanding the provisions of this subsection, the Commission may obtain financial records from a financial institution or transfer such records in accordance with provisions of the Right to Financial Privacy Act of 1978.

Records requests, challenges.

"(12) Nothing in this subsection shall enlarge or restrict any rights of a financial institution to challenge requests for records made by the Commission under existing law. Nothing in this subsection shall entitle a customer to assert any rights of a financial institution.

Defined terms.

"(13) Unless the context otherwise requires, all terms defined in the Right to Financial Privacy Act of 1978 which are common to this subsection shall have the same meaning as in such Act.".

CONFORMING AMENDMENT

SEC. 4. The second sentence of section 21(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(g)) is amended by inserting "and in subsection (h)" after "as used herein".

EFFECTIVE DATES

15 USC 78u note.

SEC. 5. (a) The amendments made by section 1 of this Act shall take effect on the date of enactment of this Act.

(b) The amendments made by sections 2, 3, and 4 of this Act shall take effect on November 10, 1980. Nothing in this Act or in the Right to Financial Privacy Act of 1978 shall apply to any Securities and Exchange Commission subpena issued prior to such date.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1321, Pt. I (Comm. on Interstate and Foreign Commerce).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 22, 23, considered and passed House.
Sept. 25, considered and passed Senate.

Public Law 96-434
96th Congress

An Act

To authorize the Assiniboine Tribe to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes.

Oct. 10, 1980
[S. 1796]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Assiniboine Tribe.
Claims against U.S.

SECTION 1. Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), and notwithstanding the lapse of time, statutes of limitations, or the defense of res judicata or collateral estoppel, or any other provisions of law, jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render judgment on any claim filed by the Assiniboine Nation or Tribe within one year from the date of this Act for the taking under the fifth amendment of the Constitution of the six million four hundred and seventy-seven thousand nine hundred and forty acres of land defined as the territory of the Assiniboine Nation in the Treaty of Fort Laramie of September 17, 1851 (11 Stat. 749), to which the Assiniboine Nation and the United States were parties, being the same land determined by the Court of Claims to have an average value of 50 cents per acre for a total of $3,238,970 in Assiniboine Indian Tribe versus United States (77 Ct. Cl. 347) (1933), appeal dismissed and certiorari denied (292 U.S. 606) (1934) (hereinafter "prior case"): *Provided,* That the value of the land fixed at an average of 50 cents per acre in the prior case shall be binding on the parties in any suit brought under this Act.

Award.

SEC. 2. If the Court of Claims determines that the claimant is entitled to just compensation under the fifth amendment, the Court shall enter an award computed on the basis of established judicial precedent: *Provided, however,* That as a measure of just compensation the Court shall compute interest at the rate of 5 per centum per annum. In calculating any award due claimant, the Court shall treat the amount of $2,492,319, that portion of offsets in the prior case that represents the tribe's own funds, as if that sum had not been offset in the prior case: *Provided further,* That the court shall give appropriate credit to the United States for that portion of the $2,492,319, to wit the amount of $1,242,796 paid to the tribe by the Act of January 8, 1971 (84 Stat. 1981), in satisfaction of the judgment of the Indian Claims Commission in Assiniboine Tribes against United States, Numbered 279A, affirmed 192 Ct. Cl. 679 (1970). No offsets, including gratuities, subsequent to the terminal date of the accounting in the prior case shall be allowed or deducted from any judgment entered under authority of this Act, except that the United States shall be entitled to an offset, against any judgment entered under authority of this Act, of the sum of money, if any, awarded as a judgment in the prior case.

Interest rate.

Offsets.

SEC. 3. The provisions of section 15 of the Act of August 13, 1946 (60 Stat. 1053; 25 U.S.C. 70n), shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same

extent as if such claim were pending before the Indian Claims Commission except that the functions of the Commission shall be performed by the Court of Claims.

SEC. 4. The provisions of the Act of November 4, 1963 (77 Stat. 301; 25 U.S.C. 70n-1-7), shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that reference to the Commission shall be deemed to be to the Court of Claims.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1358 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-835 (Select Comm. on Indian Affairs and Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 21, considered and passed Senate.
Sept. 29, considered and passed House, amended.
Sept. 30, Senate concurred in House amendment.

Public Law 96-435
96th Congress

An Act

Authorizing the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Massachusetts, and authorizing the Secretary to administer the United First Parish Church as a national historic site, and for other purposes.

Oct. 10, 1980
[H.R. 7411]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to preserve for the benefit, education, and inspiration of present and future generations the church in which John Adams, John Quincy Adams, and Abigail Adams are buried, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to accept the conveyance, without monetary consideration, of the following for administration as part of the Adams National Historic Site in Quincy, Massachusetts:

Adams National Historic Site, Quincy, Mass.

(1) The property known as the United First Parish Church, at 1306 Hancock Street, Quincy, Massachusetts, together with such adjacent real property as the Secretary considers desirable.

(2) The furnishings and personal property located in the United First Parish Church, after consultation with the chairman of the board of the United First Parish Church and with the owners of such furnishings and personal property.

(b) The Secretary shall administer the property acquired pursuant to subsection (a) of this section as part of the Adams National Historic Site in accordance with this section and the provisions of law generally applicable to national historic sites, including the Act of August 25, 1916 (16 U.S.C. 1 et seq.) and the Act of August 21, 1935 (16 U.S.C. 461 note).

Separation of church and state, report to congressional committees.

SEC. 2. Prior to accepting the donation of any or all of the property referred to in section 1 above, the Secretary shall submit, after consultation with the Attorney General of the United States, a report to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives describing the measures which the Secretary intends to take to ensure that in the management of said property there is no violation of the constitutional provisions regarding the separation of church and state.

Contracts, obligations, payments.

SEC. 3. Effective on October 1, 1981, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

Approved October 10, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1241 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 25, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 96-436
96th Congress

An Act

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes.

Oct. 13, 1980
[H.R. 7592]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1981, for military construction functions administered by the Department of Defense, and for other purposes, namely:

Military Construction Appropriation Act, 1981.

Military Construction, Army

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, and facilities for the Army as currently authorized in military public works or military construction Acts, and in sections 2673, 2674, and 2675 of title 10, United States Code, $857,834,000, of which $840,000 may be paid for use after 1960 by the Government of the United States of land on Roi-Namur Island, Marshall Islands District of the Trust Territories of the Pacific Islands, as authorized by the Military Construction Authorization Act, 1980, to remain available until September 30, 1985: *Provided,* That of this amount, not to exceed $74,950,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *And provided further,* That $4,700,000 of the funds available for planning and design shall be available only for activities related to the conversion of facilities to alternative fuels.

93 Stat. 1017.

Notification to congressional committees.

Military Construction, Navy

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, and facilities for the Navy as currently authorized in military public works or military construction Acts, and in sections 2673, 2674, and 2675 of title 10, United States Code, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $775,273,000, to remain available until September 30, 1985: *Provided,* That of this amount, not to exceed $63,790,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That $1,000,000 of the funds available for planning and design shall be available only to assist State and local governments in community impact planning for the

Notification to congressional committees.

fleet submarine support base at Kings Bay, Georgia: *And provided further,* That $8,100,000 of the funds available for planning and design shall be available only for activities related to the conversion of facilities to alternative fuels.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, and facilities for the Air Force as currently authorized in military public works or military construction Acts, and in sections 2673, 2674, and 2675 of title 10, United States Code, $861,125,000, to remain available until September 30, 1985: *Provided,* That of this amount, not to exceed $139,400,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That $5,000,000 of the funds available for planning and design shall be available only to assist State and local governments in community impact planning in potential MX basing areas: *Provided further,* That no part of the funds in this Act may be used to transfer or move chemical or gas weapons into MX impacted areas: *And provided further,* That $6,000,000 of the funds available for planning and design shall be available only for planning and design for activities related to the conversion of facilities to alternative fuels.

Notification to congressional committees.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, and facilities for activities and agencies of the Department of Defense (other than the military departments), as currently authorized in military public works or military construction Acts, and in sections 2673, 2674, and 2675 of title 10, United States Code, $245,600,000, to remain available until September 30, 1985; and, in addition, not to exceed $20,000,000 to be derived by transfer from the appropriation "Research, development, test, and evaluation, Defense Agencies" as determined by the Secretary of Defense: *Provided,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate: *Provided further,* That of the amount appropriated, not to exceed $7,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

Notification to congressional committees.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area as authorized in military construction acts, $250,000,000, to remain available until expended:

Provided, That unexpended balances of funds, as determined by the Secretary of Defense, heretofore appropriated under the headings "Military Construction, Army" and "Military Construction, Defense Agencies" may be transferred to this appropriation.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard as authorized by chapter 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, $42,269,000, to remain available until September 30, 1985.

10 USC 2231 *et seq.*

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, $83,200,000, to remain available until September 30, 1985.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, $43,200,000, to remain available until September 30, 1985.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, $33,000,000, to remain available until September 30, 1985.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, as amended, and the Reserve Forces Facilities Acts, $21,600,000, to remain available until September 30, 1985.

MILITARY CONSTRUCTION, RESERVE COMPONENTS

GENERALLY

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Armed Forces, $3,742,000, to be allocated by the Secretary of Defense for the Army Reserve.

FAMILY HOUSING, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For expenses of family housing for the Army, Navy, Marine Corps, Air Force, and Defense agencies, for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation, maintenance, and debt payment, including leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, $2,007,893,000, to be obligated and expended in the Family Housing Management Account established pursuant to section 501(a) of Public Law 87-554, in not to exceed the following amounts:

42 USC 1594a-1.

For the Army:
Construction, $82,133,000;
For the Navy and Marine Corps:
Construction, $86,786,000;
For the Air Force:
Construction, $53,575,000;
For the Defense Agencies:
Construction, $468,000;
For the Department of Defense:
Debt payment, $133,605,000;
Operation, maintenance, $1,651,326,000;

Provided, That the amounts provided under this head for construction, and for debt payment, shall remain available until September 30, 1985: *Provided further,* That funds previously appropriated under this head in fiscal year 1979 and prior fiscal years for construction in the amount of $400,000 for the Navy and Marine Corps, and for debt payment in the amount of $18,251,000 for the Department of Defense shall be transferred and merged in the Family Housing Management Account with, and be available for the same period as, the funds appropriated in this Act for construction and debt service for such departments and agencies, and such funds may be obligated and expended for such purposes: *Provided further,* That of the amounts appropriated for operation and maintenance, not less than $811,711,000 shall be available only for the maintenance of real property facilities.

GENERAL PROVISIONS

Prior appropriations.

SEC. 101. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such department by the authorizations enacted into law during the second session of the Ninety-sixth Congress.

Contracts.

SEC. 102. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

Construction costs.

SEC. 103. None of the funds appropriated in this Act shall be expended for additional costs involved in expediting construction unless the Secretary of Defense certifies such costs to be necessary to protect the national interest and establishes a reasonable completion date for each project, taking into consideration the urgency of the requirement, the type and location of the project, the climatic and

seasonal conditions affecting the construction, and the application of economical construction practices. Service facilities.

SEC. 104. None of the funds appropriated in this Act shall be used for the construction, replacement, or reactivation of any bakery, laundry, or drycleaning facility in the United States, its territories, or possessions, as to which the Secretary of Defense does not certify, in writing, giving his reasons therefor, that the services to be furnished by such facilities are not obtainable from commercial sources at reasonable rates.

SEC. 105. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles. Motor vehicles, hire. 31 USC 638f.

SEC. 106. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense. Access roads, construction. 31 USC 700b.

SEC. 107. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made. New bases.

SEC. 108. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except: (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest. Land purchases or easements.

SEC. 109. None of the funds appropriated in this Act may be used to make payments under contracts for any project in a foreign country unless the Secretary of Defense or his designee, after consultation with the Secretary of the Treasury or his designee, certifies to the Congress that the use, by purchase from the Treasury, of currencies of such country acquired pursuant to law is not feasible for the purpose, stating the reason therefor. Foreign projects.

SEC. 110. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts. Family housing limitations.

SEC. 111. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committee on Appropriations. Notification to Committee on Appropriations.

SEC. 112. None of the funds appropriated or otherwise made available under this Act shall be obligated or expended in connection with any base realignment or closure activity, until all terms, conditions and requirements of the National Environmental Policy Act have been complied with, with respect to each such activity. Base realignment or closure activities. 42 USC 4321 note.

SEC. 113. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement. Steel, procurement.

SEC. 114. None of the funds available to the Department of Defense for military construction during the current fiscal year may be obligated for projects under the authority of section 402 of the Military Construction Authorization Act, 1980, or similar provisions Notification to congressional committees. 93 Stat. 939.

in prior-year military construction authorization Acts until twenty-one days have passed after the Secretary of Defense has notified the Committees on Appropriations of the Senate and the House of Representatives of the purpose and estimated cost of construction for which these funds are to be used under such authorities.

Indian Ocean dredging.

SEC. 115. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided,* That the low responsive bid of a United States contractor does not exceed the lowest responsive bid of a foreign contractor by greater than 20 per centum.

Solar energy systems, installation.

SEC. 116. During the current fiscal year none of the funds available to the Department of Defense for military construction or family housing shall be available to furnish or install solar energy systems in new facilities (including family housing) unless such systems can be shown to be cost effective using the sum of all capital and operating expenses associated with the energy system of the building involved over the expected life of such system or during a period of twenty-five years, whichever is shorter, and using marginal fuel costs as determined by the Secretary of Defense and at a discount rate of 7 per centum per year.

Vandenberg Air Force Base, Calif.

SEC. 117. No part of the funds appropriated in this Act for construction of space transportation system facilities at Vandenberg Air Force Base, California, may be obligated until the first rollout of the Space Shuttle has been accomplished.

MX missile facilities, design.

SEC. 118. No part of the funds appropriated in this Act may be obligated for design of any site-specific facilities for the MX missile system until all terms, conditions, and requirements of the National Environmental Policy Act (42 U.S.C. 4332) are met, which will include a complete analysis of a split basing alternative.

SEC. 119. No part of the funds appropriated in this Act may be used for the design of an area security system for the MX missile system.

SEC. 120. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

Naval medical facility, San Diego, Calif.

SEC. 121. None of the funds appropriated under this Act to construct facilities required for and associated with a Naval hospital or medical center in San Diego, California, may be used unless such construction is performed on real property in which the interests of the United States is at least fee title: *Provided, however,* That fee title may be subject to a reverter to the City of San Diego in the event and at such time as the United States shall cease to use the property for a site for a Naval hospital or medical center, and for related purposes.

SEC. 122. No part of the funds appropriated in this Act may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

Consulting service contracts.

SEC. 123. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 124. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or

contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

Overdue debts.

SEC. 125. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible.

Report to congressional committees.

31 USC 28.
31 USC 2.

SEC. 126. (a) For fiscal year 1982 and thereafter, a department or establishment—as defined in section 2 of the Budget and Accounting Act, 1921—shall submit annually to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which such funds are located; and a brief description of the need for consulting services, including a list of major programs that require consulting services.

Report to Congress.

(b) For fiscal year 1982 and thereafter, the Inspector General of such department or establishment, or comparable official, or if there is no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements.

SEC. 127. No part of the funds appropriated in this Act may be used for the purchase of foreign steel for the construction of the shelters or bases of the proposed MX missile system.

Short title.

This Act may be cited as the "Military Construction Appropriation Act, 1981".

Approved October 13, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1097 (Comm. on Appropriations) and 96-1433 (Comm. of Conference).
SENATE REPORT No. 96-931 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 27, considered and passed House.
Sept. 17, considered and passed Senate, amended.
Sept. 30, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments. Senate agreed to conference report and concurred in House amendments.

Public Law 96-437
96th Congress

An Act

Oct. 13, 1980
[H.R. 5546]

To amend the United States Grain Standards Act to permit grain delivered to export elevators by any means of conveyance other than barge to be transferred into such export elevators without official weighing, and for other purposes.

U.S. Grain Standards Act, amendment. 7 USC 75.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended by—

(1) in subsection (aa) striking out the period and inserting in lieu thereof "; and", and

(2) adding at the end thereof the following new subsection:

"Intracompany shipment."

"(bb) the term 'intracompany shipment' means the shipment, within the United States, of grain lots between facilities owned or controlled by the person owning the grain. The shipment of grain owned by a cooperative, from a facility owned by that cooperative, to an export facility which it jointly owns with other cooperatives, qualifies as an intracompany shipment.".

SEC. 2. Section 5(a)(2) of the United States Grain Standards Act (7 U.S.C. 77(a)) is amended to read as follows:

"(2) except as the Administrator may provide in emergency or other circumstances which would not impair the objectives of this Act, all other grain transferred out of and all grain transferred into an export elevator at an export port location shall be officially weighed in accordance with such standards or procedure: *Provided,* That, unless the shipper or receiver requests that the grain be officially weighed, intracompany shipments of grain into an export elevator by any mode of transportation, grain transferred into an export elevator by transportation modes other than barge, and grain transferred out of an export elevator to destinations within the United States shall not be officially weighed; and".

Approved October 13, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1166 (Comm. on Agriculture).
SENATE REPORT No. 96-983 (Comm. on Agriculture, Nutrition and Forestry).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 18, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 96-438
96th Congress

An Act

To amend the Consolidated Farm and Rural Development Act.

Oct. 13, 1980
[S. 985]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Consolidated Farm and Rural Development Act, amendment.

RENEWABLE RESOURCE ENERGY LOANS

SECTION 1. The Consolidated Farm and Rural Development Act is amended by—

(1) in section 303(b), amending paragraph (1) to read as follows: 7 USC 1923.

"(1) the term 'improving farms' includes, but is not limited to, the acquisition, installation, and modification of any qualified nonfossil energy system located on a family farm; and"; "Improving farms."

(2) in the first sentence of section 310B(a), striking out all that follows "individuals" down through the end of the sentence and inserting in lieu thereof the following: "for the purposes of (1) improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural communities, including pollution abatement and control, (2) the conservation, development, and use of water for aquaculture purposes in rural areas, and (3) reducing the reliance on nonrenewable energy resources by encouraging the development and construction of solar energy systems, including the modification of existing systems, in rural areas. For the purposes of this subsection, the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Nonnuclear Energy Research and Development Act of 1974, as amended."; and 7 USC 1932. "Solar energy." 42 USC 5901 note.

(3) in the first sentence of section 312(a), striking out "and" immediately before clause (10) and inserting immediately before the period at the end of the sentence a comma and the following: "and (11) assisting farmers and ranchers in reducing their dependence on nonrenewable energy resources through the development and construction of solar energy systems, including the modification of existing systems". 7 USC 1942.

LOAN ELIGIBILITY

SEC. 2. The Consolidated Farm and Rural Development Act is amended by—

(1) in section 306(a)(7), immediately after "in excess of ten thousand inhabitants, except that", inserting the following: "(A) for the purpose of loans for essential community facilities under subsection (a)(1) of this section, the terms 'rural' and 'rural area' may include any area in any city or town that has a population not in excess of twenty thousand inhabitants; and (B)"; 7 USC 1926. "Rural." "Rural area."

"Owner-operator."
7 USC 1991.

(2) in section 343, inserting a new clause (3) as follows: "(3) the term 'owner-operator' shall include in the State of Hawaii the lessee-operator of real property in any case in which the Secretary determines that such real property cannot be acquired in fee simple by such lessee-operator, that adequate security is provided for the loan with respect to such real property for which such lessee-operator applies under this title, and that there is a reasonable probability of accomplishing the objectives and repayment of such loan,"; and

(3) adding at the end thereof a new section 348 as follows:

Resident aliens.
7 USC 1996.

"SEC. 348. Notwithstanding the provisions of this title limiting the making and insuring of loans to citizens of the United States, the Secretary may make and insure loans under this title to aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act: *Provided,* That no loans may be made or insured under this title to such aliens until the Secretary issues regulations establishing the terms and conditions under which such aliens may receive loans: *Provided further,* That the Secretary shall submit the regulations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least thirty days prior to the date the regulations are published in the Federal Register.".

8 USC 1101 note.
Regulations.

Submittal to congressional committees.

EMERGENCY LOAN PROGRAM

Repeal.

SEC. 3. (a) Section 120 of the Act of July 2, 1980 (94 Stat. 841), is repealed.

(b) Subtitle C of the Consolidated Farm and Rural Development Act is amended by—

(1) amending sections 321, 322, 323, and 324 to read as follows:

Eligibility.
7 USC 1961.

"SEC. 321. (a) The Secretary shall make and insure loans under this subtitle to (1) established farmers, ranchers, or persons engaged in aquaculture, who are citizens of the United States, and (2) farm cooperatives or private domestic corporations or partnerships in which a majority interest is held by members, stockholders, or partners who are citizens of the United States if the cooperative, corporation, or partnership is engaged primarily in farming, ranching, or aquaculture, where the Secretary finds that the applicants' farming, ranching, or aquaculture operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief Act of 1974: *Provided,* That they have experience and resources necessary to assure a reasonable prospect for successful operation with the assistance of such loan and are not able to obtain sufficient credit elsewhere.

42 USC 5121 note.

"(b) Notwithstanding the credit elsewhere requirements of subsection (a) of this section and section 333(a) of this title, the Secretary shall implement a program under which the Secretary may make or insure loans under this subtitle to applicants able to obtain sufficient credit elsewhere, subject to the other terms and conditions for loans made or insured under this subtitle and such other terms and conditions as the Secretary may, by regulation, prescribe.

7 USC 1983.

"(c) The Secretary shall conduct the emergency loan program under this subtitle in a manner that will foster and encourage the family farm system of agriculture, consistent with the reaffirmation of policy and declaration of the intent of Congress contained in section 102(a) of the Food and Agriculture Act of 1977. Family farm system. 7 USC 2266.

"(d) For the purposes of this subtitle— Definitions.

"(1) 'aquaculture' means the husbandry of aquatic organisms under a controlled or selected environment; and

"(2) 'able to obtain sufficient credit elsewhere' means able to obtain sufficient credit elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

"SEC. 322. (a) For the purpose of determining whether to make or insure any loan under this subtitle, the Secretary shall take into consideration the net worth of the applicant involved, including all the assets and liabilities of the applicant. Loan determination factors. 7 USC 1962.

"(b) For the purpose of determining whether an applicant under this subtitle is not able to obtain sufficient credit elsewhere, the Secretary shall require at least one written indication of declination of credit, from a legally organized lending institution within reasonable proximity to the applicant, that specifies the reasons for the declination: *Provided,* That for loans in excess of $300,000, the Secretary shall require at least two such written declinations: *Provided further,* That for loans of $300,000 or less, the Secretary may waive the requirement of this subsection if the Secretary determines that it would impose an undue burden on the applicant. Written credit declination.

"SEC. 323. Loans may be made or insured under this subtitle for any purpose authorized for loans under subtitle A or B of this title and for crop or livestock changes deemed desirable by the applicant, subject to the limitations on the amounts of loans provided in section 324(a) of this title. Loans, extent. 7 USC 1963. 7 USC 1922, 1941.

"SEC. 324. (a)(1) Except as otherwise provided in paragraph (2) of this subsection, no loan made or insured under this subtitle may exceed the amount of the actual loss caused by the disaster or $500,000, whichever is less, for each disaster. Loan limitation. 7 USC 1964.

"(2) Through September 30, 1982, loans may be made or insured under this subtitle in amounts in excess of the amount of actual loss (as limited under paragraph (1) of this subsection) to applicants who are not able to obtain sufficient credit elsewhere, within the following limits: Excess loan amounts.

"(A) Through the end of fiscal year 1980, no such loan may be made or insured in an amount that would cause the total unpaid principal indebtedness of the applicant for loans or portions of loans in excess of the amount of actual loss to exceed $1,500,000;

"(B) During fiscal year 1981, no such loan may be made or insured in an amount that would cause the total unpaid principal indebtedness of the applicant for loans or portions of loans in excess of the amount of actual loss to exceed $1,000,000;

"(C) During fiscal year 1982, no such loan may be made or insured in an amount that would cause the total unpaid principal

indebtedness of the applicant for loans or portions of loans in excess of the amount of actual loss to exceed $500,000; and

"(D) No loan or portion of a loan in excess of the amount of actual loss that is for more than $300,000 may be made or insured under this subtitle unless the Secretary determines that the applicant is not able to obtain from a private or cooperative lending agency a loan guaranteed by the Secretary under this subtitle sufficient to finance the applicant's actual needs at reasonable rates and terms (taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time).

Interest rates.

"(b) Loans under this subtitle shall be at rates of interest as follows:

"(1) For loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster, as limited under subsection (a)(1) of this section, the interest shall be at rates prescribed by the Secretary, but (A) if the applicant is not able to obtain sufficient credit elsewhere, not in excess of 5 per centum per annum, and (B) if the applicant is able to obtain sufficient credit elsewhere, not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum; and

"(2) For loans or portions of loans in excess of the amount of the applicant's actual loss caused by the disaster, as limited under subsection (a)(1) of this section, (A) the interest for insured loans shall be at rates prevailing in the private market for similar loans, as determined by the Secretary, and (B) the interest for guaranteed loans shall be at rates agreed on by the borrower and lender, but not in excess of such rates as may be determined by the Secretary.

Interest subsidies.

"(c) For guaranteed loans under this subtitle, the Secretary may pay interest subsidies to the lenders for those portions of the loans up to the amount of the actual loss caused by the disaster, as limited under subsection (a)(1) of this section. Any such subsidy shall not exceed the difference between the interest rate being charged for loans up to the amount of the actual loss, as established under subsection (b)(1) of this section, and the maximum interest rate for guaranteed loans, as established under subsection (b)(2) of this section.

Repayment.

"(d) All loans under this subtitle shall be repayable at such times as the Secretary may determine, taking into account the purposes of the loan and the nature and effect of the disaster, but not later than as provided for loans for similar purposes under subtitles A and B of this title, and upon the full personal liability of the borrower and upon the best security available, as the Secretary may prescribe: *Provided,* That the security is adequate to assure repayment of the loans, except that if such security is not available because of the disaster, the Secretary shall (1) accept as security such collateral as is available, a portion or all of which may have depreciated in value due to the

7 USC 1922, 1941.
Security.

disaster and which in the opinion of the Secretary, together with the Secretary's confidence in the repayment ability of the applicant, is adequate security for the loan, and (2) make such loan repayable at such times as the Secretary may determine, not later than as provided under subtitles A and B of this title, as justified by the needs of the applicant: *Provided further,* That for any disaster occurring after January 1, 1975, the Secretary, if the loan is for a purpose described in subtitle B of this title, may make the loan repayable at the end of a period of more than seven years, but not more than twenty years, if the Secretary determines that the need of the loan applicant justifies such a longer repayment period: *Provided further,* That for any direct or insured loan (other than a guaranteed loan) approved under section 321(b) of this title, three years after the loan is made or insured, and every two years thereafter for the term of the loan, the Secretary shall review the loan; and if, based on such review, the Secretary determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans for similar purposes and periods of time, the borrower shall on request by the Secretary, apply for and accept such non-Federal loan in sufficient amount to repay the Secretary.

7 USC 1922, 1941.
Repayment period, extension.

Review; non-Federal loans.
Ante, p. 1872.

"(e) Any political subdivision of a State with a population of less than ten thousand inhabitants that, if such subdivision had a population of ten thousand or more inhabitants, would be eligible for a grant under the first title of the Community Emergency Drought Relief Act of 1977 shall be eligible for a grant under the Consolidated Farm and Rural Development Act during any period in which the Community Emergency Drought Relief Act of 1977 is or has been in effect."; and

Grant eligibility.
42 USC 5184 note.
7 USC 1921 note.

(2) amending section 330 to read as follows:

7 USC 1971.

"SEC. 330. Subsequent loans to continue the farming, ranching, or aquaculture operation may be made under this subtitle on an annual basis, for not to exceed two additional years, to eligible borrowers, subject to the limits on loans and the rates of interest established under section 324 of this title.".

Ante, p. 1873.

(c) Section 333(b) of the Consolidated Farm and Rural Development Act is amended by striking out "321(b)(2)" wherever it appears and inserting in lieu thereof "321(a)(2)".

7 USC 1983.

(d) The amendments to subtitle C of the Consolidated Farm and Rural Development Act made by subsection (b) of this section shall be effective with respect to loans approved by the Secretary of Agriculture under subtitle C after the date of enactment of this Act, except that, for borrowers with loans outstanding under subtitle C as of December 15, 1979—

7 USC 1961 note.
7 USC 1961.

(1) the limits on loans under section 324 of the Consolidated Farm and Rural Development Act made by subsection (b)(1) of this section, and

Ante, p. 1873.

(2) the reduction in the time limit on subsequent emergency loans under section 330 of the Consolidated Farm and Rural Development Act made by subsection (b)(2) of this section

shall not apply to subsequent emergency loans under section 330 (as in effect on the date preceding the date of enactment of this Act) that are made to such borrowers for the disasters for which the borrowers obtained loans under subtitle C prior to December 16, 1979.

LENDING LIMITS UNDER THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

7 USC 1994.

SEC. 4. Section 346 of the Consolidated Farm and Rural Development Act is amended by inserting "(a)" after "SEC. 346" and adding at the end thereof new subsections (b) and (c) as follows:

"(b)(1) Loans for each of the fiscal years 1980, 1981, and 1982 are authorized to be insured, or made to be sold and insured, or guaranteed under the Agricultural Credit Insurance Fund as follows:

"(A) real estate loans, $1,615,000,000, including $1,500,000,000 for farm ownership loans of which $1,400,000,000 may be for insured loans and $100,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories, and $100,000,000 for water development, use, and conservation loans of which $90,000,000 may be for insured loans and $10,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories;

"(B) operating loans, $1,200,000,000 of which $1,150,000,000 may be for insured loans and $50,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories; and

"(C) emergency insured and guaranteed loans in amounts necessary to meet the needs resulting from natural disasters.

Not more than 75 per centum of the insured loans authorized for farm ownership purposes and not more than 75 per centum of the insured loans authorized for farm operating purposes may be for applicants other than low-income, limited-resource borrowers.

"(2) Loans for each of the fiscal years 1980, 1981, and 1982 are authorized to be insured, or made to be sold and insured, or guaranteed under the Rural Development Insurance Fund as follows:

"(A) insured water and sewer facility loans, $1,000,000,000;

"(B) industrial development loans, $1,500,000,000 of which $100,000,000 may be for insured loans and $1,400,000,000 may be for guaranteed loans with authority to transfer amounts between categories; and

"(C) insured community facility loans, $500,000,000.

Cost projections.

"(c) The Secretary shall develop long-term cost projections for loan program authorizations required under subsection (a) of this section. Each such projection shall include analyses of (1) the long-term costs of the lending levels that the Secretary requests to be authorized under subsection (a) of this section and (2) the long-term costs for increases in lending levels beyond those requested to be authorized, based on increments of $10,000,000 or such other levels as the Secretary deems appropriate. Long-term cost projections for the three-year period beginning with fiscal year 1983 and each three-year period thereafter shall be submitted to the House Committee on Agriculture, the House Committee on Appropriations, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Senate Committee on Appropri-

Submittal to congressional committees.

ations at the time the requests for authorizations for those periods are submitted to Congress. Not later than fifteen days after the date of enactment of this subsection the Secretary shall submit to such committees long-term cost projections covering authorized lending levels for the loan programs for fiscal years 1981 and 1982.".

Approved October 13, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-153 and No. 96-153, Pt. 2, accompanying H.R. 3683 (Comm. on Agriculture) and No. 96-1394 (Comm. of Conference).
SENATE REPORT No. 96-168 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD:
Vol. 125 (1979): May 23, considered and passed Senate.
Oct. 24, H.R. 3683 considered and passed House; passage vacated and S. 985, amended, passed in lieu.
Dec. 14, Senate concurred in House amendments with amendments.
Vol. 126 (1980): Sept. 30, Senate agreed to conference report.
Oct. 1, House agreed to conference report.

Public Law 96-439
96th Congress

An Act

Oct. 13, 1980
[H.R. 7779]

To amend the Internal Revenue Code of 1954 to authorize three additional judges for the Tax Court and to remove the age limitation on appointments to the Tax Court.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Internal Revenue Code of 1954, amendment.

SECTION 1. THREE ADDITIONAL JUDGES FOR TAX COURT; REMOVAL OF AGE LIMITATION.

26 USC 7443.

(a) INCREASE IN NUMBER OF JUDGES.—Subsection (a) of section 7443 of the Internal Revenue Code of 1954 (relating to the number of judges on the Tax Court) is amended by striking out "16" and inserting in lieu thereof "19".

(b) REMOVAL OF AGE LIMITATION.—Subsection (b) of section 7443 of such Code (relating to appointment to the Tax Court) is amended by striking out the last sentence.

26 USC 7443 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on February 1, 1981.

Approved October 13, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1258 (Comm. on Ways and Means).
SENATE REPORT No. 96-993 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 8, considered and passed House.
Oct. 1, considered and passed Senate.

Public Law 96-440
96th Congress

An Act

To limit governmental search and seizure of documentary materials possessed by persons, to provide a remedy for persons aggrieved by violations of the provisions of this Act, and for other purposes.

Oct. 13, 1980
[S. 1790]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Privacy Protection Act of 1980".

Privacy Protection Act of 1980.
42 USC 2000aa note.

TITLE I—FIRST AMENDMENT PRIVACY PROTECTION

PART A—UNLAWFUL ACTS

Work product materials, search or seizure.
42 USC 2000aa.

SEC. 101. (a) Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize any work product materials possessed by a person reasonably believed to have a purpose to disseminate to the public a newspaper, book, broadcast, or other similar form of public communication, in or affecting interstate or foreign commerce; but this provision shall not impair or affect the ability of any government officer or employee, pursuant to otherwise applicable law, to search for or seize such materials, if—

(1) there is probable cause to believe that the person possessing such materials has committed or is committing the criminal offense to which the materials relate: *Provided, however,* That a government officer or employee may not search for or seize such materials under the provisions of this paragraph if the offense to which the materials relate consists of the receipt, possession, communication, or withholding of such materials or the information contained therein (but such a search or seizure may be conducted under the provisions of this paragraph if the offense consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data under the provisions of section 793, 794, 797, or 798 of title 18, United States Code, or section 224, 225, or 227 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275, 2277), or section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783)); or

(2) there is reason to believe that the immediate seizure of such materials is necessary to prevent the death of, or serious bodily injury to, a human being.

(b) Notwithstanding any other law, it shall be unlawful for a government officer or employee, in connection with the investigation or prosecution of a criminal offense, to search for or seize documentary materials, other than work product materials, possessed by a person in connection with a purpose to disseminate to the public a newspaper, book, broadcast, or other similar form of public communication, in or affecting interstate or foreign commerce; but this provision shall not impair or affect the ability of any government

officer or employee, pursuant to otherwise applicable law, to search for or seize such materials, if—

(1) there is probable cause to believe that the person possessing such materials has committed or is committing the criminal offense to which the materials relate: *Provided, however,* That a government officer or employee may not search for or seize such materials under the provisions of this paragraph if the offense to which the materials relate consists of the receipt, possession, communication, or withholding of such materials or the information contained therein (but such a search or seizure may be conducted under the provisions of this paragraph if the offense consists of the receipt, possession, or communication of information relating to the national defense, classified information, or restricted data under the provisions of section 793, 794, 797, or 798 of title 18, United States Code, or section 224, 225, or 227 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275, 2277), or section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783));

(2) there is reason to believe that the immediate seizure of such materials is necessary to prevent the death of, or serious bodily injury to, a human being;

(3) there is reason to believe that the giving of notice pursuant to a subpena duces tecum would result in the destruction, alteration, or concealment of such materials; or

(4) such materials have not been produced in response to a court order directing compliance with a subpena duces tecum, and—

(A) all appellate remedies have been exhausted; or

(B) there is reason to believe that the delay in an investigation or trial occasioned by further proceedings relating to the subpena would threaten the interests of justice.

Affidavit.

(c) In the event a search warrant is sought pursuant to paragraph (4)(B) of subsection (b), the person possessing the materials shall be afforded adequate opportunity to submit an affidavit setting forth the basis for any contention that the materials sought are not subject to seizure.

PART B—REMEDIES, EXCEPTIONS, AND DEFINITIONS

Customs laws.
42 USC 2000aa-5.

SEC. 105. This Act shall not impair or affect the ability of a government officer or employee, pursuant to otherwise applicable law, to conduct searches and seizures at the borders of, or at international points of, entry into the United States in order to enforce the customs laws of the United States.

Damages, civil actions.
42 USC 2000aa-6.

SEC. 106. (a) A person aggrieved by a search for or seizure of materials in violation of this Act shall have a civil cause of action for damages for such search or seizure—

(1) against the United States, against a State which has waived its sovereign immunity under the Constitution to a claim for damages resulting from a violation of this Act, or against any other governmental unit, all of which shall be liable for violations of this Act by their officers or employees while acting within the scope or under color of their office or employment; and

(2) against an officer or employee of a State who has violated this Act while acting within the scope or under color of his office or employment, if such State has not waived its sovereign immunity as provided in paragraph (1).

(b) It shall be a complete defense to a civil action brought under paragraph (2) of subsection (a) that the officer or employee had a reasonable good faith belief in the lawfulness of his conduct. Defense.

(c) The United States, a State, or any other governmental unit liable for violations of this Act under subsection (a)(1), may not assert as a defense to a claim arising under this Act the immunity of the officer or employee whose violation is complained of or his reasonable good faith belief in the lawfulness of his conduct, except that such a defense may be asserted if the violation complained of is that of a judicial officer.

(d) The remedy provided by subsection (a)(1) against the United States, a State, or any other governmental unit is exclusive of any other civil action or proceeding for conduct constituting a violation of this Act, against the officer or employee whose violation gave rise to the claim, or against the estate of such officer or employee.

(e) Evidence otherwise admissible in a proceeding shall not be excluded on the basis of a violation of this Act. Evidence.

(f) A person having a cause of action under this section shall be entitled to recover actual damages but not less than liquidated damages of $1,000, and such reasonable attorneys' fees and other litigation costs reasonably incurred as the court, in its discretion, may award: *Provided, however,* That the United States, a State, or any other governmental unit shall not be liable for interest prior to judgment. Damage recovery.

(g) The Attorney General may settle a claim for damages brought against the United States under this section, and shall promulgate regulations to provide for the commencement of an administrative inquiry following a determination of a violation of this Act by an officer or employee of the United States and for the imposition of administrative sanctions against such officer or employee, if warranted. Attorney General, claim settlement; regulations.

(h) The district courts shall have original jurisdiction of all civil actions arising under this section. Jurisdiction.

SEC. 107. (a) "Documentary materials", as used in this Act, means materials upon which information is recorded, and includes, but is not limited to, written or printed materials, photographs, motion picture films, negatives, video tapes, audio tapes, and other mechanically, magentically or electronically recorded cards, tapes, or discs, but does not include contraband or the fruits of a crime or things otherwise criminally possessed, or property designed or intended for use, or which is or has been used as, the means of committing a criminal offense. Definitions. 42 USC 2000aa-7.

(b) "Work product materials", as used in this Act, means materials, other than contraband or the fruits of a crime or things otherwise criminally possessed, or property designed or intended for use, or which is or has been used, as the means of committing a criminal offense, and—

(1) in anticipation of communicating such materials to the public, are prepared, produced, authored, or created, whether by the person in possession of the materials or by any other person;

(2) are possessed for the purposes of communicating such materials to the public; and

(3) include mental impressions, conclusions, opinions, or theories of the person who prepared, produced, authored, or created such material.

(c) "Any other governmental unit", as used in this Act, includes the District of Columbia, the Commonwealth of Puerto Rico, any terri-

tory or possession of the United States, and any local government, unit of local government, or any unit of State government.

Effective date. 42 USC 2000aa note.

SEC. 108. The provisions of this title shall become effective on January 1, 1981, except that insofar as such provisions are applicable to a State or any governmental unit other than the United States, the provisions of this title shall become effective one year from the date of enactment of this Act.

TITLE II—ATTORNEY GENERAL GUIDELINES

42 USC 2000aa-11.

SEC. 201. (a) The Attorney General shall, within six months of date of enactment of this Act, issue guidelines for the procedures to be employed by any Federal officer or employee, in connection with the investigation or prosecution of an offense, to obtain documentary materials in the private possession of a person when the person is not reasonably believed to be a suspect in such offense or related by blood or marriage to such a suspect, and when the materials sought are not contraband or the fruits or instrumentalities of an offense. The Attorney General shall incorporate in such guidelines—

(1) a recognition of the personal privacy interests of the person in possession of such documentary materials;

(2) a requirement that the least intrusive method or means of obtaining such materials be used which do not substantially jeopardize the availability or usefulness of the materials sought to be obtained;

(3) a recognition of special concern for privacy interests in cases in which a search or seizure for such documents would intrude upon a known confidential relationship such as that which may exist between clergyman and parishioner; lawyer and client; or doctor and patient; and

(4) a requirement that an application for a warrant to conduct a search governed by this title be approved by an attorney for the government, except that in an emergency situation the application may be approved by another appropriate supervisory official if within 24 hours of such emergency the appropriate United States Attorney is notified.

Report to congressional committees.

(b) The Attorney General shall collect and compile information on, and report annually to the Committees on the Judiciary of the Senate and the House of Representatives on the use of search warrants by Federal officers and employees for documentary materials described in subsection (a)(3).

SEC. 202. Guidelines issued by the Attorney General under this title shall have the full force and effect of Department of Justice regulations and any violation of these guidelines shall make the employee or officer involved subject to appropriate administrative disciplinary action. However, an issue relating to the compliance, or the failure to comply, with guidelines issued pursuant to this title may not be litigated, and a court may not entertain such an issue as the basis for the suppression or exclusion of evidence. 42 USC 2000aa-12.

Approved October 13, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1064 accompanying H.R. 3486 (Comm. on the Judiciary).
SENATE REPORTS: No. 96-874 (Comm. on the Judiciary) and No. 96.1003 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 4, considered and passed Senate.
Sept. 22, H.R. 3486 considered and passed House; passage vacated and S. 1790, amended, passed in lieu.
Sept. 29, Senate agreed to conference report.
Oct. 1, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 42:
Oct. 14, Presidential statement.

Public Law 96-441
96th Congress

An Act

Oct. 13, 1980
[H.R. 8103]

To rename the National Collection of Fine Arts and the Museum of History and Technology of the Smithsonian Institution as the National Museum of American Art and the National Museum of American History, respectively.

National Collection of Fine Arts and Museum of History and Technology. Name changes. 20 USC 71 note. 20 USC 59 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the bureau of the Smithsonian Institution designated as the National Collection of Fine Arts by section 6(c) of the joint resolution entitled "Joint Resolution providing for the construction and maintenance of a National Gallery of Art", approved March 24, 1937 (20 U.S.C. 71 note), shall be known as the "National Museum of American Art".

SEC. 2. The bureau of the Smithsonian Institution known as the Museum of History and Technology and so referred to in the Act entitled "An Act to authorize the construction of a building for a Museum of History and Technology for the Smithsonian Institution, including the preparation of plans and specifications, and all other work incidental thereto", approved June 28, 1955 (20 U.S.C. 59 note), shall be known as the "National Museum of American History".

20 USC 71 note.

SEC. 3. Any reference in any law, regulation, document, or paper to the National Collection of Fine Arts or the Museum of History and Technology shall on and after the effective date of this Act be considered to be a reference to the National Museum of American Art and the National Museum of American History, respectively.

Effective date. 20 USC 71 note.

SEC. 4. This Act shall take effect on the day after the date of the enactment of this Act.

Approved October 13, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Oct. 1, considered and passed House and Senate.

Public Law 96-442
96th Congress

An Act

To amend the Act entitled "An Act to preserve within Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battle of Manassas, and for other purposes", approved April 17, 1954 (68 Stat. 56; 16 U.S.C. 429b).

Oct. 13, 1980
[H.R. 5048]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Manassas National Battlefield Park Amendments of 1980".

Manassas National Battlefield Park Amendments of 1980.
16 USC 429b note.

SEC. 2. The Act entitled "An Act to preserve within the Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battle of Manassas, and for other purposes", approved April 17, 1954 (16 U.S.C. 429b), is amended to read as follows: "That there is established as a unit of the national park system in the Commonwealth of Virginia the Manassas National Battlefield Park, which shall contain within its boundaries the important historical lands relating to the two battles of Manassas. The total area of the park shall not be greater than four thousand five hundred and twenty-five acres. The boundaries of the park shall be the boundaries depicted on the map entitled 'Boundary Map, Manassas National Battlefield Park', dated October 1980, and numbered 379/80,009, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary shall publish in the Federal Register, as soon as practicable after the date of the enactment of this Act, but no later than one year from the effective date of this section, a detailed description and map of the boundaries. Notwithstanding section 7(c) of the Land and Water Conservation Fund Act of 1965 (91 Stat. 211), as amended (16 U.S.C. 460l), the Secretary may not make any changes in the boundaries of the park. The Secretary shall administer the park in accordance with laws, rules, and regulations applicable to the national park system.

16 USC 429b.

Description.

Publication in Federal Register.

16 USC 460*l*-9.

"SEC. 2. (a) In order to effectuate the purposes of this Act, the Secretary is authorized to acquire by donation, purchase with donated or appropriated funds or exchange, any property or interests therein which are located within the boundaries of the park, except that property owned by the Commonwealth of Virginia or by any political subdivision thereof may be acquired only by donation.

Funding.
16 USC 429b-1.

"(b) With respect to areas within the 1954 boundaries of the park, as identified on the map referred to in the first section of this Act, the Secretary may not acquire fee simple title to such areas without the consent of the owner so long as the lands continue to be devoted to a use which is the same as that in effect on September 1, 1980. Further, if the Secretary proposes to acquire fee simple title to such property because of a change in use, the owner of such property may seek a review of the proposed acquisition of his or her property and is entitled to a hearing on the record in accordance with section 554 of title 5 of the United States Code.

Route 234 bypass.

"(c) If the Virginia Department of Highways and Transportation determines that the proposed Route 234 bypass should be properly located between the Virginia Electric Power Company powerline easement and Route 705, the Secretary shall make available the land necessary for such bypass, subject to such revisions, terms, and conditions as the Secretary deems are necessary and appropriate to assure that such bypass is located, constructed, operated, and maintained in a manner consistent with the administration of the park.

"(d) The Secretary may not close any State roads within the park unless action permitting the closing of such roads has been taken by appropriate officials of the Commonwealth of Virginia.

Residential property. 16 USC 429b-2.

"SEC. 3. (a) Subsequent to the date of enactment of this section, the owner of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than twenty-five years or for a term ending at the death of the owner or the death of the spouse of the owner, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner an amount equal to the fair market value of the property on the date of its acquisition less the value on such date of the right retained by the owner. If such property is donated (in whole or in part) to the United States, the Secretary may pay to the owner such lesser amount as the owner may agree to. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

"(b) No property owner who elects to retain a right of use and occupancy under this section shall be considered a displaced person as defined in section 101(6) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894). Such owners shall be considered to have waived any benefits which would otherwise accrue to them under sections 203 through 206 of such Act.

42 USC 4601.

42 USC 4623-4626.

Definitions. 16 USC 429b-3.

"SEC. 4. For purposes of this Act—

"(1) The term 'improved property' means a detached, one-family dwelling, construction of which was begun before January 1, 1979, which is used for noncommercial residential purposes, together with not to exceed three acres of land on which the dwelling is situated and together with such additional lands or interests therein as the Secretary deems to be reasonably necessary for access thereto, such lands being in the same ownership as the dwelling, together with any structures accessory to the dwelling which are situated on such land.

"(2) The term 'park' means the Manassas National Battlefield Park established under this Act.

"(3) The term 'Secretary' means the Secretary of the Interior.

"(4) The term 'owner' means the owner of record as of September 1, 1980.

16 USC 429b-4.

"SEC. 5. (a) In addition to sums heretofore expended for the acquisition of property and interests therein for the park, from funds available for expenditure from the Land and Water Conservation Fund, as established under the Land and Water Conservation Fund

Act of 1965, not more than a total of $8,700,000 may be expended for the acquisition of property and interests therein under this Act. 16 USC 460*l*-4 note.

"(b) It is the express intent of Congress that, except for property referred to in subsection 2(b), the Secretary shall acquire property and interests therein under this Act within two complete fiscal years after the date of the enactment of the Manassas National Battlefield Park Amendments of 1980.

Ante, p. 1885.

"SEC. 6. (a) Authorizations of moneys to be appropriated under this Act from the Land and Water Conservation Fund for acquisition of properties and interests shall be effective on October 1, 1981. Effective date. 16 USC 429b-5.

"(b) Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts as are provided in advance in appropriation Acts.".

SEC. 3. (a) The Secretary of the Interior shall conduct a study to determine appropriate measures for the protection, interpretation, and public use of the natural wetlands and undeveloped uplands of that portion of the Hackensack Meadowlands District identified as the DeKorte State Park on the official zoning maps of that District. The Secretary shall, in the course of the study, consult with and seek the advice of, representatives of interested local, State, and other Federal agencies. As a part of the study, the Secretary shall determine the suitability and feasibility of establishing the area as a unit of the national park system, including its administration as a unit of Gateway National Recreation Area, together with alternative measures that may be undertaken to protect and interpret the resources of the area for the public. Not later than two complete fiscal years from the effective date of this Act, the Secretary shall transmit a report of the study, including the estimated development, operation, and maintenance costs of alternatives identified therein, to the Senate Committee on Energy and Natural Resources and the Committee on Interior and Insular Affairs of the House of Representatives, together with his recommendations for such further legislation as may be appropriate. Study. 16 USC 460cc note. Report to congressional committees.

(b) There is authorized to be appropriated from amounts previously authorized to study lands for possible inclusion in the national park system not to exceed $150,000 to carry out the provisions of this Act. Appropriation authorization.

Approved October 13, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-490 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-968 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 9, considered and passed House.
Vol. 126 (1980): Sept. 29, considered and passed Senate, amended.
Sept. 30, House concurred in certain Senate amendments and in others with amendments.
Oct. 1, Senate concurred in House amendments.

Public Law 96-443
96th Congress

Joint Resolution

Oct. 13, 1980
[H.J. Res. 568]

To authorize and request the President to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week".

Whereas the Congress fully recognizes that it is essential for the people of the United States of America to understand and respect the rich heritage of all American ethnic groups if we are to maintain and foster the national unity; and

Whereas the many great contributions of Italian-Americans to our country must be recognized and the deep Western roots of Italian-American culture, history, and traditions must be appreciated; and

Whereas the long recognized American holiday of Columbus Day is celebrated on the second Monday of October to commemorate the discovery of America by the famous Italian geographer-navigator-explorer, and this day is of special significance to the Italian-American community as a symbol of their essential contributions to American society as courageous immigrants, hard-working citizens, and true American achievers: Now, therefore, be it

Italian-American Heritage Week. Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating October 12 through October 19, 1980, as "Italian-American Heritage Week" and calling upon the people of the United States, State, and local government agencies, and interested organizations to observe that week with appropriate ceremonies, activities, and programs.

Approved October 13, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 17, considered and passed House.
Sept. 30, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 42:
Oct. 13, Presidential statement.

Public Law 96-444
96th Congress

An Act

To transfer certain employees of the Architect of the Capitol to the Sergeant at Arms and Doorkeeper of the Senate.

Oct. 13, 1980
[S. 2936]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) those employees engaged by the Architect of the Capitol under the provisos in the paragraph beginning "Capitol garages:" under the center heading "CAPITOL BUILDINGS AND GROUNDS" under the general heading "ARCHITECT OF THE CAPITOL" in section 1 of the Act entitled "An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes", approved June 30, 1932 (40 U.S.C. 185a), for the primary purpose of servicing official motor vehicles, together with the functions performed by such employees, shall, on October 1, 1980, be transferred to the jurisdiction of the Sergeant at Arms and Doorkeeper of the Senate.

Certain legislative branch employees, tranfer. 40 USC 185a.

(2) For purposes of section 8339(m) of title 5, United States Code, the days of unused sick leave to the credit of any such employee as of the date such employee is transferred under paragraph (1), shall be included in the total service of such employee in connection with the computation of any annuity under subsections (a)–(e) and (o) of such section.

Unused sick leave, annuity computation. 40 USC 185a note.

(3) In the case of days of annual leave to the credit of any such employee as of the date such employee is transferred under paragraph (1), the Architect of the Capitol is authorized to make a lump sum payment to each such employee for that annual leave. No such payment shall be considered a payment or compensation within the meaning of any law relating to dual compensation.

Unused annual leave, lump sum payment. 40 USC 185a note.

(b) As used in subsection (a), the term "servicing" includes, with respect to an official motor vehicle, the washing and fueling of such vehicle, the checking of its tires and battery, and checking and adding oil.

"Servicing." 40 USC 185a.

SEC. 2. (a) Effective October 1, 1980, the Sergeant at Arms and Doorkeeper of the Senate is authorized to appoint and fix the compensation of four garage attendants at not to exceed $14,100 per annum each.

Garage attendants, compensation. 40 USC 185a note.

(b) If, and to the extent that, positions established by subsection (a) are first filled by individuals transferred under subsection (a)(1) of the first section, the Sergeant at Arms and Doorkeeper of the Senate is authorized to fix, in lieu of the compensation prescribed in subsection (a), the compensation—

(1) of not more than two of such positions so filled at not to exceed $16,560 per annum each;

(2) of one of such positions so filled at not to exceed $15,485 per annum; and

(3) of one of such positions so filled at not to exceed $14,390 per annum.

Compensation fixed under this subsection for a position first filled by an individual transferred under subsection (a)(1) of the first section shall cease to be applicable with respect to such position on the date that such individual first ceases to occupy such position.

Longevity compensation.

(c) During any period with respect to which subsection (b) is applicable to a position occupied by an individual described in such subsection, such individual shall be credited, for purposes of longevity compensation, as authorized by section 106 (a), (b), and (d) of the Legislative Branch Appropriation Act, 1963 (2 U.S.C. 60j), for service performed by such individual in the position of garage attendant, as an employee of the Architect of the Capitol, as certified to the Secretary of the Senate by the Architect of the Capitol.

Approved October 13, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-844 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 21, considered and passed Senate.
Oct. 1, S. 3177 considered and passed Senate. S. 2936 considered and passed House, amended; Senate concurred in House amendments.

Public Law 96-445
96th Congress

An Act

To establish priorities in the payment of claims against the People's Republic of China.

Oct. 13, 1980
[H.R. 6440]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the International Claims Settlement Act of 1949 is amended—

People's Republic of China, claim payment priorities.
22 USC 1627.

(1) in subsection (e), by striking out "The" after "(e)" and inserting in lieu thereof "Except as provided in subsection (f), the"; and

(2) by adding at the end thereof the following:

"(f)(1) Out of sums covered after May 11, 1979, into the special fund created pursuant to this section to receive funds paid by the People's Republic of China, the Secretary of the Treasury is authorized and directed to make payments on account of awards certified by the Commission pursuant to title V with respect to claims included within the terms of the Agreement Between the Government of the United States of America and the Government of the People's Republic of China Concerning the Settlement of Claims, signed on May 11, 1979, in the following order of priority:

22 USC 1643.

"(A) Payment in the amount of $1,000 or the principal amount of the award, whichever is less.

"(B) Thereafter, except as provided in paragraph (2), to the extent there remain unpaid principal balances on awards, payments from time to time on account of the unpaid principal balance of each remaining award which bear to such unpaid principal balance the same proportion as the total amount available for distribution at the time such payments are made bears to the aggregate unpaid principal balance of all such awards.

"(C) Thereafter, payments from time to time on account of the unpaid balance of each award of interest which bear to such unpaid balance of interest the same proportion as the total amount available for distribution at the time such payments are made bears to the aggregate unpaid balance of interest of all such awards.

Federal tax benefits.

"(2)(A) For the purpose of computing the payments to be made under paragraph (1) to any claimant which was an incorporated business enterprise on the date of nationalization or other taking of property, the award certified by the Commission under title V shall be reduced by the amount of Federal tax benefits derived by such claimant on account of the losses upon which such claim was based, but in no case shall such payments be reduced below the amount paid to such claimant on account of such claim before the date of the enactment of this subsection. For purposes of this subparagraph, such Federal tax benefits shall be the amount by which the claimant's taxes in any prior taxable year or years under chapters 1, 2A, 2B, 2D, and 2E of the Internal Revenue Code of 1939, or subtitle A of the Internal Revenue Code of 1954, were decreased with respect to the

53 Stat. 1, 26 USC note prec. tables.
26 USC 1.

loss or losses upon which the claim was based. The sum of the amounts which would otherwise be payable but for this paragraph which are not paid to any such claimant shall be aggregated, and the Secretary of the Treasury is authorized and directed to make payments out of such aggregated sums in accordance with subparagraph (B).

Nonprofit organizations.

"(B) To the extent that there remain unpaid principal balances on awards to claimants which were, on the date of nationalization or other taking of property, nonprofit organizations operated exclusively for the promotion of social welfare, religious, charitable, or educational purposes (after payments made to such nonprofit organizations pursuant to subparagraphs (A) and (B) of paragraph (1) are taken into account), the Secretary of the Treasury is authorized and directed to make payments from time to time on account of the unpaid principal balance of each remaining award to such nonprofit organizations which bear to such unpaid principal balance the same proportion as the total sums aggregated pursuant to subparagraph (A) at the times such payments are made bear to the aggregate unpaid principal balance of all such awards to nonprofit organizations.".

Approved October 13, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 30, considered and passed House.
Oct. 1, considered and passed Senate.

Public Law 96-446
96th Congress

An Act

To authorize the acceptance and use of bequests and gifts for disaster relief.

Oct. 13, 1980
[S. 2185]

Disaster relief, bequests and gifts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 601 of the Disaster Relief Act of 1974 (42 U.S.C. 5201) is amended—

(1) by inserting "AND ACCEPT GIFTS" after "RULES" in the heading;

(2) by inserting "(a)" before "The President"; and

(3) by adding at the end thereof the following new subsection:

"(b) In furtherance of the purposes of this Act, the President or his delegate may accept and use bequests, gifts, or donations of service, money, or property, real, personal, or mixed, tangible, or intangible. All sums received under this subsection shall be deposited in a separate fund on the books of the Treasury and shall be available for expenditure upon the certification of the President or his delegate. At the request of the President or his delegate, the Secretary of the Treasury may invest and reinvest excess monies in the fund. Such investments shall be in public debt securities with maturities suitable for the needs of the fund and shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to, and form a part of, the fund.".

Separate fund.

Investment.

Approved October 13, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1431 (Comm. on Public Works and Transportation).
SENATE REPORT No. 96-845 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 21, considered and passed Senate.
Sept. 30, considered and passed House.

Public Law 96-447
96th Congress

An Act

Oct. 13, 1980
[S. 2511]

To amend section 106 of the Civil Rights Act of 1957 to authorize appropriations for the Commission on Civil Rights for the fiscal year 1981.

Civil Rights Commission Authorization Act of 1980.
42 USC 1975 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Rights Commission Authorization Act of 1980".

SEC. 2. Section 106 of the Civil Rights Act of 1957 (42 U.S.C. 1975e) is amended (1) by striking out "$14,000,000" and inserting in lieu thereof "$12,600,000"; and (2) by striking out "1980" and inserting in lieu thereof "1981".

Approved October 13, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-969 accompanying H.R. 6888 (Comm. on the Judiciary).
SENATE REPORT No. 96-706 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 20, 22, considered and passed Senate.
June 3, H.R. 6888 considered and passed House.
June 4, passage of H.R. 6888 vacated in House; S. 2511, amended, passed in lieu.
Sept. 22, Senate concurred in House amendments with an amendment.
Sept. 30, House concurred in Senate amendment.

Public Law 96-448
96th Congress

An Act

To reform the economic regulation of railroads, and for other purposes.

Oct. 14, 1980
[S. 1946]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Staggers Rail Act of 1980.
49 USC 10101 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Staggers Rail Act of 1980".

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FINDINGS

49 USC 10101a note.

SEC. 2. The Congress hereby finds that—

(1) historically, railroads were the essential factor in the national transportation system;

(2) the enactment of the Interstate Commerce Act was essential to prevent an abuse of monopoly power by railroads and to establish and maintain a national railroad network;

(3) today, most transportation within the United States is competitive;

(4) many of the Government regulations affecting railroads have become unnecessary and inefficient;

(5) nearly two-thirds of the Nation's intercity freight is transported by modes of transportation other than railroads;

(6) earnings by the railroad industry are the lowest of any transportation mode and are insufficient to generate funds for necessary capital improvements;

(7) by 1985, there will be a capital shortfall within the railroad industry of between $16,000,000,000 and $20,000,000,000;

(8) failure to achieve increased earnings within the railroad industry will result in either further deterioration of the rail system or the necessity for additional Federal subsidy; and

(9) modernization of economic regulation for the railroad industry with a greater reliance on the marketplace is essential

in order to achieve maximum utilization of railroads to save energy and combat inflation.

GOALS

SEC. 3. The purpose of this Act is to provide for the restoration, maintenance, and improvement of the physical facilities and financial stability of the rail system of the United States. In order to achieve this purpose, it is hereby declared that the goals of this Act are— 49 USC 10101a note.

(1) to assist the railroads of the Nation in rehabilitating the rail system in order to meet the demands of interstate commerce and the national defense;

(2) to reform Federal regulatory policy so as to preserve a safe, adequate, economical, efficient, and financially stable rail system;

(3) to assist the rail system to remain viable in the private sector of the economy;

(4) to provide a regulatory process that balances the needs of carriers, shippers, and the public; and

(5) to assist in the rehabilitation and financing of the rail system.

TITLE I—RAIL TRANSPORTATION POLICY

RAIL TRANSPORTATION POLICY

SEC. 101. (a) Chapter 101 of title 49, United States Code, is amended by inserting after section 10101 the following new section:

"§ 10101a. Rail transportation policy 49 USC 10101a.

"In regulating the railroad industry, it is the policy of the United States Government—

"(1) to allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail;

"(2) to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required;

"(3) to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues, as determined by the Interstate Commerce Commission;

"(4) to ensure the development and continuation of a sound rail transportation system with effective competition among rail carriers and with other modes, to meet the needs of the public and the national defense;

"(5) to foster sound economic conditions in transportation and to ensure effective competition and coordination between rail carriers and other modes;

"(6) to maintain reasonable rates where there is an absence of effective competition and where rail rates provide revenues which exceed the amount necessary to maintain the rail system and to attract capital;

"(7) to reduce regulatory barriers to entry into and exit from the industry;

"(8) to operate transportation facilities and equipment without detriment to the public health and safety;

"(9) to cooperate with the States on transportation matters to assure that intrastate regulatory jurisdiction is exercised in accordance with the standards established in this subtitle;

"(10) to encourage honest and efficient management of railroads and, in particular, the elimination of noncompensatory rates for rail transportation;

"(11) to require rail carriers, to the maximum extent practicable, to rely on individual rate increases, and to limit the use of increases of general applicability;

"(12) to encourage fair wages and safe and suitable working conditions in the railroad industry;

"(13) to prohibit predatory pricing and practices, to avoid undue concentrations of market power and to prohibit unlawful discrimination;

"(14) to ensure the availability of accurate cost information in regulatory proceedings, while minimizing the burden on rail carriers of developing and maintaining the capability of providing such information; and

"(15) to encourage and promote energy conservation.".

(b) Section 10101(a) of title 49, United States Code, is amended by striking out "To ensure" and inserting in lieu thereof "Except where policy has an impact on rail carriers, in which case the principles of section 10101a of this title shall govern, to ensure".

Ante, p. 1897.

(c) The section analysis of chapter 101 of title 49, United States Code, is amended by inserting after the item relating to section 10101 the following new item:

"10101a. Rail transportation policy.".

TITLE II—RAILROAD RATES AND INTER-CARRIER PRACTICES

REGULATION OF RAILROAD RATES

SEC. 201. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by inserting after section 10701 the following new section:

49 USC 10701a.

"§ 10701a. Standards for rates for rail carriers

"(a) Except as provided in subsection (b) or (c) of this section and unless a rate is prohibited by a provision of this title, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may establish any rate for transportation or other service provided by the carrier.

49 USC 10501.

"(b)(1) If the Commission determines, under section 10709 of this title, that a rail carrier has market dominance over the transportation to which a particular rate applies, the rate established by such carrier for such transportation must be reasonable.

49 USC 10709.

"(2) In any proceeding to determine the reasonableness of a rate described in paragraph (1) of this subsection—

"(A) the shipper challenging such rate shall have the burden of proving that such rate is not reasonable if—

"(i) such rate (I) is authorized under section 10707a of this title, and (II) results in a revenue-variable cost percentage for the transportation to which the rate applies that is less than the lesser of the percentages described in clauses (i) and (ii) of section 10707a(e)(2)(A) of this title; or

Post, p. 1901.

"(ii) such rate does not meet the description set forth in clause (i) of this subparagraph, but the Commission does not begin an investigation proceeding under section 10707 of this title to determine whether such rate is reasonable; and

49 USC 10707.

"(B) the rail carrier establishing the challenged rate shall have the burden of proving that such rate is reasonable if—

"(i) such rate (I) is greater than that authorized under section 10707a of this title, or (II) results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than the lesser of the percentages described in clauses (i) and (ii) of section 10707a(e)(2)(A) of this title; and

Post, p. 1901.

"(ii) the Commission begins an investigation proceeding under section 10707 of this title to determine whether such rate is reasonable.

"(3) In determining whether a rate established by a rail carrier is reasonable for purposes of this section, the Commission shall recognize the policy of this title that rail carriers shall earn adequate revenues, as established by the Commission under section 10704(a)(2) of this title.

Post, p. 1906.

"(c)(1) A rate for transportation or other service provided by a rail carrier subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may not be established below a reasonable minimum. Any rate for transportation by such a rail carrier that does not contribute to the going concern value of such carrier is presumed to be not reasonable. A rate that contributes to the going concern value of such carrier is conclusively presumed not to be below a reasonable minimum.

49 USC 10501.

"(2) A rate for transportation by a rail carrier that equals or exceeds the variable cost of providing the transportation is conclusively presumed to contribute to the going concern value of such rail carrier.

"(3)(A) Upon the filing of a complaint alleging that a rate is in violation of this subsection, the Commission shall take final action thereon by the 90th day after the date such complaint is filed.

"(B) If the Commission determines, based on the record after opportunity for a hearing, that a rate is in violation of this subsection, the Commission shall order such rate to be raised, but only to the minimum level required by this subsection. The complainant shall have the burden of proving that such rate is in violation of this subsection.

"(4)(A) For purposes of this subsection, variable costs shall be determined under formulas or procedures prescribed or certified by the Commission.

"(B) In the determination of variable costs for purposes of minimum rate regulation, the Commission shall, on application of the rail carrier proposing the rate, determine only the costs of such carrier and only those costs of the specific service in question unless the specific information is not available. The Commission may not include in such variable costs an expense that does not vary directly with the level of transportation provided under the proposed rate.".

(b)(1) Section 10701(a) of title 49, United States Code, is amended—

(A) by inserting "(other than a rail rate)" immediately after "A rate" in the first sentence;

(B) by inserting "(including a rail carrier)" immediately after "such a carrier" in the second sentence thereof; and

(C) by inserting "(including rail carriers)" immediately after "those carriers" in the third sentence thereof.

Repeal.

(2) Section 10701(b) of title 49, United States Code, is repealed.

(3) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately below the item relating to section 10701 the following new item:

"10701a. Standards for rates for rail carriers.".

DETERMINATION OF MARKET DOMINANCE

SEC. 202. Section 10709 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

Definitions.

"(d)(1) In this subsection—

"(A) 'fixed and variable cost' means all cost incurred by rail carriers in the transportation of freight, but limiting the return on equity capital to a rate equal to the embedded cost of debt.

"(B)(i) 'cost recovery percentage' means the lowest revenue-variable cost percentage which, if all movements that produced revenues resulting in revenue-variable cost percentages in excess of the cost recovery percentage are deemed to have produced only revenues resulting in the cost recovery percentage, would produce revenues which would be equal, when combined with total revenues produced by all other traffic transported by rail carrier, to the total fixed and variable cost of the transportation of all traffic by rail carrier.

"(ii) for purposes of determining the cost recovery percentage only, 'revenue-variable cost percentage' means the quotient, expressed as a percentage figure, obtained by dividing the total revenues produced by the transportation of all traffic received by rail carriers for rail transportation by the total variable cost of such transportation.

"(2) In making a determination under this section, the Commission shall find that the rail carrier establishing the challenged rate does not have market dominance over the transportation to which the rate applies if such rail carrier proves that the rate charged results in a revenue-variable cost percentage for such transportation that is less than—

Ante, p. 1895.

"(A) 160 percent during the period beginning on the effective date of the Staggers Rail Act of 1980 and ending September 30, 1981;

"(B) 165 percent during the period beginning October 1, 1981, and ending September 30, 1982;

"(C) 170 percent during the period beginning October 1, 1982, and ending September 30, 1983;

"(D) 175 percent or the cost recovery percentage, whichever is less, during the period beginning October 1, 1983, and ending September 30, 1984; and

"(E) the cost recovery percentage, during each 12-month period beginning on or after October 1, 1984.

Cost recovery percentage.

For purposes of subparagraphs (D) and (E) of this paragraph, the cost recovery percentage shall in no event be less than a revenue-variable cost percentage of 170 percent or more than a revenue-variable cost percentage of 180 percent.

Revenue-variable cost percentage.

Ante, p. 1916.

"(3) For purposes of determining the revenue-variable cost percentage for a particular transportation, variable costs shall be determined pursuant to section 10705a(m)(1) of this title, with adjustments specified by the Commission. A rail carrier may meet its burden of proof under this subsection by establishing its variable costs in accordance with such section 10705a(m)(1), but a shipper may rebut

that showing by evidence of such type, and in accordance with such burden of proof, as the Commission shall prescribe.

"(4) A finding by the Commission that a rate charged by a rail carrier results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than the applicable percentage under paragraph (2) of this subsection does not establish a presumption that (A) such rail carrier has or does not have market dominance over such transportation, or (B) the proposed rate exceeds or does not exceed a reasonable maximum.

Cost recovery percentages. *Ante*, p. 1895.

"(5)(A) Within 180 days after the effective date of the Staggers Rail Act of 1980 and on an annual basis thereafter, the Commission shall determine the cost recovery percentage for the transportation of all traffic received by rail carriers. The Commission shall make such determination after considering each individual revenue-variable cost percentage resulting from the revenues and costs of a valid and reliable statistical sample of all movements of commodities transported by class I rail carriers during the most recent calendar year for which such information is available.

"(B) If, on the basis of calculations under subparagraph (A) of this paragraph, the Commission determines that revenues earned by all class I rail carriers during the previous calendar year do not exceed the fixed and variable costs of such carriers, then the cost recovery percentage for purposes of this section shall be deemed to be equal to the cost recovery percentage last determined by the Commission.

"(C) The Commission shall, in its annual report submitted to the Congress under section 10311 of this title, set forth the cost recovery percentage determined for that year under subparagraph (A) of this paragraph.".

49 USC 10311.

ZONE OF RATE FLEXIBILITY

SEC. 203. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by inserting after section 10707 the following new section:

"§ 10707a. Zone of rail carrier rate flexibility

49 USC 10707a.

"(a) In this section—

"Base rate."

"(1)(A) 'base rate' means, with respect to the transportation of a particular commodity (i) for the 24-month period beginning on October 1, 1980, the rate in effect on October 1, 1980, (ii) for the 24-month period beginning on October 1, 1982, the rate in effect on October 1, 1982, and (iii) for the 5-year period beginning on October 1, 1984, and for each subsequent 5-year period, the rate in effect on the first day of the applicable 5-year period.

"(B) If no rate exists for the transportation of a particular commodity on October 1, 1980, the base rate for the transportation of such commodity shall be the rate established by the rail carrier (divided by the latest rail cost adjustment factor published by the Commission), unless such rate is found to be unreasonable by the Commission, in which case the base rate shall be the rate authorized by the Commission (divided by the latest rail cost adjustment factor published by the Commission).

"Adjusted base rate."

"(2)(A) 'adjusted base rate' means the base rate for the transportation of a particular commodity multiplied by the latest rail cost adjustment factor published by the Commission pursuant to this paragraph.

Rail cost adjustment factor.

"(B) Commencing with the fourth quarter of 1980, the Commission shall, as often as practicable but in no event less often than

quarterly, publish a rail cost adjustment factor which shall be a fraction, the numerator of which is the latest published Index of Railroad Costs (which index shall be compiled or verified by the Commission, with appropriate adjustments to reflect the changing composition of railroad costs, including the quality and mix of material and labor), and the denominator of which is the same index for the fourth quarter of 1980, or for the fourth quarter of 1982 or for the fourth quarter of every fifth year thereafter, as appropriate.

Rate increase.

"(b)(1) Except as provided in paragraph (2) of this subsection, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may increase any rate over which the Commission has jurisdiction under section 10709 of this title so long as the increased rate is not greater than the adjusted base rate for the transportation involved, plus any rate increases implemented under subsection (c) or (d) of this section.

49 USC 10501.
49 USC 10709.

"(2) A rate increase authorized under this subsection may not be found to exceed a reasonable maximum for the transportation involved.

"(3) A rail carrier may not increase a rate under this subsection to the extent that the cost increases to such carrier due to inflation are recovered through (A) general rate increases pursuant to section 10706 of this title, or (B) inflation-based rate increases under section 10712 of this title applicable to that rate.

49 USC 10706.
49 USC 10712.

"(c)(1) During the 12-month period beginning on the effective date of the Staggers Rail Act of 1980 and during each of the 3 succeeding 12-month periods, a rail carrier may, in addition to rate increases authorized under subsection (b) of this section, increase any rate over which the Commission has jurisdiction under section 10709 of this title by an annual amount of not more than 6 percent of the adjusted base rate, except that in no event shall the total increase under this subsection result in a rate which is more than 118 percent of the adjusted base rate.

Ante, p. 1895.

"(2)(A) If any portion of a rate increase under this subsection is not implemented in the year in which it is authorized, such portion may, except as provided in subparagraph (B) of this paragraph, be implemented only in the next succeeding year.

"(B) If any portion of the total rate increase authorized under this subsection is not implemented by the end of the 4-year period beginning on the effective date of the Staggers Rail Act of 1980, such portion may be implemented in the next 2 succeeding years, except that in no event may a rail carrier increase a rate under this subsection or under subsection (d) of this section in either of such 2 succeeding years by an annual amount of more than 10 percent of the adjusted base rate.

"(d)(1) Except as provided in paragraph (3) of this subsection, during the 12-month period beginning on October 1, 1984, and during each succeeding 12-month period, a rail carrier may, in addition to rate increases under subsection (b) of this section, increase any rate over which the Commission has jurisdiction under section 10709 of this title by an annual amount of not more than 4 percent of the adjusted base rate.

"(2) No portion of any rate increase under this subsection which is not implemented in the year in which it is authorized may be implemented in any other year.

"(3)(A) The provisions of this subsection shall not apply to a rail carrier proposing to increase a single line rate if such carrier earns

adequate revenues, as determined by the Commission under section 10704(a)(2) of this title.

Post, p. 1906.

"(B) The Commission shall, after a hearing on the record, prescribe such rules with respect to joint rates as necessary to ensure that rail carriers which earn adequate revenues, as determined under section 10704(a)(2) of this title, do not receive the rate increases authorized by this subsection unless the Commission determines that it is unable to prescribe such rules without precluding rail carriers not earning adequate revenues from receiving the rate increases authorized under this subsection.

Joint rates, rules.

"(e)(1) Notwithstanding the provisions of section 10707 of this title, in the case of any rate increase by a rail carrier that is authorized under subsection (c) or (d) of this section—

49 USC 10707.

"(A)(i) the Commission may not suspend such rate increase pending final Commission action; and

"(ii) except as provided in paragraph (2) of this subsection, the Commission may not begin an investigation proceeding under section 10707 of this title with respect to the reasonableness of such rate increase; but

"(B) an interested party may file a complaint under section 11701(b) of this title alleging that such rate increase violates the provisions of this subtitle.

49 USC 11701.

In considering any complaint challenging a rate increase that is authorized under subsection (c) of this section and that results in a revenue-variable cost percentage that is less than the lesser of the percentages described in clauses (i) and (ii) of paragraph (2)(A), the Commission shall, in determining the reasonableness of such rate increase, give due consideration to whether the carrier proposing the rate increase has attained adequate revenues, as determined by the Commission under section 10704(a)(2) of this title, giving regard to preventing a carrier with adequate revenues from realizing excessive profits on the traffic involved and also the policy of bringing to an adequate level the revenues of carriers not having an adequate revenue level.

"(2)(A) If a rate increase authorized under this section in any year results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than—

"(i) 20 percentage points above the revenue-variable cost percentage applicable in that year under section 10709(d) of this title; or

Ante, p. 1900.

"(ii) a revenue-variable cost percentage of 190 percent,

whichever is less, the Commission may, on its own initiative, or on complaint of an interested party, begin an investigation proceeding to determine whether the proposed rate increase violates this subtitle.

"(B) In determining whether to investigate or not to investigate any proposed rate increase that results in a revenue-variable cost percentage for the transportation to which the rate applies that is equal to or greater than the lesser of the percentages described in clauses (i) and (ii) of subparagraph (A) of this paragraph (without regard to whether such rate increase is authorized under this section), the Commission shall set forth its reasons therefor, giving due consideration to the following factors:

"(i) the amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

"(ii) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

"(iii) the impact of the proposed rate or rate increase on the attainment of the national energy goals and the rail transportation policy under section 10101a of this title, taking into account the railroads' role as a primary source of energy transportation and the need for a sound rail transportation system in accordance with the revenue adequacy goals of section 10704 of this title.

Ante, p. 1897.

49 USC 10704.

This subparagraph shall not be construed to change existing law with regard to the nonreviewability of such determination.

"(C) In determining whether a rate is reasonable, the Commission shall consider, among other factors, evidence of the following:

"(i) the amount of traffic which is transported at revenues which do not contribute to going concern value and efforts made to minimize such traffic;

"(ii) the amount of traffic which contributes only marginally to fixed costs and the extent to which, if any, rates on such traffic can be changed to maximize the revenues from such traffic; and

"(iii) the carrier's mix of rail traffic to determine whether one commodity is paying an unreasonable share of the carrier's overall revenues.

"(f) In any proceeding under this section, evidence of the underlying rail carrier rate is admissible.

"(g) A finding by the Commission that a rate increase exceeds the increase authorized under this section does not establish a presumption that (1) the rail carrier proposing such rate increase has or does not have market dominance over the transportation to which the rate applies, or (2) the proposed rate exceeds or does not exceed a reasonable maximum.

"(h) The authority of the Commission to determine and prescribe reasonable rules, classifications, and practices may not be used, directly or indirectly, to limit the rates which rail carriers are otherwise authorized to establish under this subtitle.".

(b) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10707 the following new item:

"10707a. Zone of rail carrier rate flexibility.".

Rail carrier rate increases.
49 USC 10707a note.

(c)(1) Any rail carrier rate which increased over 70 percent between 1976 and 1979 inclusive for the transportation, in shipper owned equipment over a distance exceeding 1,550 miles between points within the United States, of coal pursuant to a tariff calling for an annual volume of more than 2,000,000 tons per year purchased by a municipally owned utility for the generation of electric power under a 20-year purchase agreement entered into by such utility in the year 1974 shall not be increased so long as coal is purchased under such original agreement, except that—

(A) during the period beginning October 1, 1980, and ending September 30, 1987, the Interstate Commerce Commission may permit increases in such rate which result in a revenue-variable cost percentage of not more than 162 percent; and

(B) after October 1, 1987, such rate shall be subject to section 10701a of title 49, United States Code, and related provisions of such title governing regulation of rail carrier rates, except that until such rate results in a revenue-variable cost percentage that is equal to or greater than the revenue-variable cost percentage applicable under section 10709(d) of such title, such rate may not be increased more than 4 percent, in addition to inflation, in any year.

Ante, p. 1898.

Ante, p. 1900.

(2) Neither the provisions of this subsection nor any rate subject to this subsection shall be admissible as evidence or considered in any way in any proceeding involving any other rail carrier rate that is commenced to determine market dominance under section 10709 of title 49, United States Code, or to determine reasonableness under section 10701a of such title.

Ante, p. 1898.

TRANSPORTATION OF RECYCLABLE MATERIALS

SEC. 204. Section 10731 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of this title or any other law, within 90 days after the effective date of the Staggers Rail Act of 1980, all rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title shall take all actions necessary to reduce and thereafter maintain rates for the transportation of recyclable or recycled materials, other than recyclable or recycled iron or steel, at revenue-to-variable cost ratio levels that are equal to or less than the average revenue-to-variable cost ratio that rail carriers would be required to realize, under honest, economical, and efficient management, in order to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business sufficient to attract and retain capital in amounts adequate to provide a sound transportation system in the United States. As long as any such rate equals or exceeds such average revenue-to-variable cost ratio established by the Commission, such rate shall not be required to bear any further rate increase. The Commission shall have jurisdiction to issue all orders necessary to enforce the requirements of this subsection.".

49 USC 10501.

RATE REGULATION PROCEEDINGS; ADEQUATE REVENUES

SEC. 205. (a)(1) The Interstate Commerce Commission shall commence a proceeding for purposes of determining whether, and to what extent, product competition should be considered in proceedings under subtitle IV of title 49, United States Code, to determine the reasonableness of rail carrier rates. The Commission shall complete its proceeding under this subsection within 230 days after the effective date of this Act.

49 USC 10701a note.

49 USC 10101.

(2)(A) For purposes of this subsection, the term "product competition" means the availability to a consignee, at a competitive delivered cost and in sufficient quantities, of products or commodities which are of the same type as the commodity or product to which the rate in question applies, without regard to whether such products or commodities are available from the same or a different origin as those to which the rate applies.

"Product competition."

(B) In determining the availability of alternative sources of a particular commodity for purposes of this subsection, such commodity must be capable, by reason of similar specifications, of being effectively utilized by the consignee.

(C) In determining the availability of alternative sources of coal for purposes of this subsection, such coal must be capable, by reason of similar specifications such as Btu's, sulfur content, and ash content, of being effectively utilized by the consignee.

(D) For purposes of this subsection, any coal imported in the United States for the generation of electricity by utilities shall not be taken

into account in the determination of whether coal is available to a consignee from another source.

(3)(A) Nothing in this subsection shall be construed as requiring the Commission to modify its standards for the determination of the reasonableness of rail carrier rates under existing law and procedures.

"Market dominance."

(B) Nothing in this subsection shall be construed as altering the meaning, use, or interpretation by the Commission, the courts, or any party of the term "market dominance", as defined in section 10709(a) of title 49, United States Code. The enactment of this subsection shall not be considered by the Commission in any proceeding, or by any court on an appeal from that or any other proceeding, to determine the proper scope of the term "market dominance" or whether there is market dominance over the transportation to which any particular rate applies.

(b)(1) Section 10704(a)(2) of title 49, United States Code, is amended by inserting "and revise as necessary" immediately after "shall maintain".

(2) Section 10704(a) of title 49, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(3) The Commission shall conclude a proceeding under paragraph (2) of this subsection within 180 days after the effective date of the Staggers Rail Act of 1980 and thereafter as necessary.

Ante, p. 1895.

"(4) On the basis of the standards and procedures under paragraph (2) of this subsection, the Commission shall, within 180 days after the effective date of the Staggers Rail Act of 1980 and on an annual basis thereafter, determine which rail carriers are earning adequate revenues.".

INFLATION-BASED RATE INCREASES

SEC. 206. (a) Subchapter I of chapter 107 of title 49, United States Code, is amended by adding at the end thereof the following new section:

49 USC 10712.

"§ 10712. Inflation-based rate increases

"(a) The Commission may, on a quarterly basis and consistent with the rail transportation policy set forth in section 1010ia of this title, prescribe a percentage rate increase or rate index for rail carriers in order to compensate for inflationary cost increases. Such percentage rate increase or rate index may be applicable on an industry-wide, territory-wide, or carrier-by-carrier basis.

Ante, p. 1897.

"(b) Within 60 days after the date the Commission prescribes a percentage rate increase or rate index under subsection (a) of this section, each rail carrier or group of rail carriers shall notify the Commission of any rate or group of rates which such carrier or carriers intend to be excluded from the application of such percentage rate increase or rate index.

Percentage rate index.

"(c) For purposes of this section, a percentage rate index may permit rate increases within a specified range to allow carriers to recover a total revenue increase specified by the Commission as necessary to compensate for inflationary cost increases.".

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10711 the following new item:

"10712. Inflation-based rate increases.".

INVESTIGATION AND SUSPENSION OF RATES

SEC. 207. (a) Section 10707(b)(1) of title 49, United States Code, is amended to read as follows:

"(b)(1) The Commission must complete a proceeding under this section and make its final decision by the end of the 5th month after the rate, classification, rule, or practice was to become effective, except that if the Commission reports to the Congress by the end of such 5th month that it cannot make a final decision by that time and explains the reason for the delay, it may take an additional 3 months to complete the proceeding and make its final decision. If the Commission does not reach a final decision within the applicable time period, the rate, classification, rule, or practice—

"(A) is effective at the end of that time period; or

"(B) if already in effect at the end of that time period, remains in effect.".

(b) Section 10707(c) of title 49, United States Code, is amended to read as follows:

"(c)(1) The Commission may not suspend a proposed rate, classification, rule, or practice during the course of a Commission proceeding under this section unless it appears from the specific facts shown by the verified statement of a person that—

"(A) it is substantially likely that the protestant will prevail on the merits;

"(B) without suspension, the proposed rate change will cause substantial injury to the protestant or the party represented by the protestant; and

"(C) because of the peculiar economic circumstances of the protestant, the provisions of subsection (d) of this section do not protect the protestant.

"(2) The burden shall be on the protestant to prove the matters described in paragraph (1) (A), (B), and (C) of this subsection.".

(c) Section 10707(d) of title 49, United States Code, is amended to read as follows:

"(d)(1) If the Commission does not suspend a proposed rate increase under subsection (c) of this section, the Commission shall require the rail carrier to account for all amounts received under the increase until the Commission completes its proceedings under subsection (b) of this section. The accounting shall specify by whom and for whom the amounts are paid. When the Commission takes final action, it shall require the carrier to refund to the person for whom the amounts were paid that part of the increased rate found to be unreasonable, plus interest at a rate equal to the average yield (on the date the statement is filed) of marketable securities of the United States Government having a duration of 90 days.

"(2) If a rate is suspended under subsection (c) of this section and any portion of such rate is later found to be reasonable under this title, the carrier shall collect from each person using the transportation to which the rate applies the difference between the original rate and the portion of the suspended rate found to be reasonable for any services performed during the period of suspension, plus interest at a rate equal to the average yield (on the date the statement is filed) of marketable securities of the United States Government having a duration of 90 days, except that this paragraph shall not apply to general rate increases under section 10706 of this title. 49 USC 10706.

"(3) If any portion of a proposed rate decrease is suspended under subsection (c) of this section and later found to be reasonable under this title, the rail carrier may refund any part of the portion of the

decrease found to comply with this title if the carrier makes the refund available to each shipper who participated in the rate, in accordance with the relative amount of such shipper's traffic transported at such rate.

49 USC 10741, 10761.

"(4) Notwithstanding the provisions of section 10741 or section 10761 of this title, the Commission shall, by rule, establish standards and procedures permitting a rail carrier to waive the collection of amounts due under this subsection if such amounts are not significant.".

Repeal.

(d) Section 10707(e) of title 49, United States Code, is repealed.

CONTRACTS

SEC. 208. (a) Subchapter I of chapter 107 of title 49, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new section:

49 USC 10713.

"§ 10713. Contracts

"(a) One or more rail carriers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title may enter into a contract with one or more purchasers of rail services to provide specified services under specified rates and conditions. Such a rail carrier may not enter into a contract with purchasers of rail service except as provided in this section.

49 USC 10501.

"(b) Each contract entered into under this section shall be filed with the Commission, together with a summary of the contract containing such nonconfidential information as the Commission prescribes. The Commission shall publish special tariff rules for such contracts in order to assure that the essential terms of the contract are available to the general public in tariff format.

Special tariff rules.

Approval.

"(c) A contract filed under this section shall be approved by the Commission, as provided in subsection (e) of this section, unless the Commission determines in a proceeding under subsection (d) of this section that such contract is in violation of this section.

Review.

"(d)(1) No later than 30 days after the date of filing of a contract under this section, the Commission may, on its own initiative or on complaint, begin a proceeding to review such contract on the grounds described in this subsection.

Complaint filing.

"(2)(A) In the case of a contract other than a contract for the transportation of agricultural commodities (including forest products and paper), a complaint may be filed—

"(i) by a shipper only on the grounds that such shipper individually will be harmed because the proposed contract unduly impairs the ability of the contracting carrier or carriers to meet their common carrier obligations to the complainant under section 11101 of this title; or

49 USC 11101.

"(ii) by a port only on the grounds that such port individually will be harmed because the proposed contract will result in unreasonable discrimination against such port.

Agricultural commodities.

"(B) In the case of a contract for the transportation of agricultural commodities (including forest products and paper), in addition to the grounds for a complaint described in subparagraph (A) of this paragraph, a complaint may be filed by a shipper on the grounds that such shipper individually will be harmed because—

"(i) the rail carrier has unreasonably discriminated by refusing to enter into a contract with such shipper for rates and services for the transportation of the same type of commodity under

similar conditions to the contract at issue, and that shipper was ready, willing, and able to enter into such a contract at a time essentially contemporaneous with the period during which the contract at issue was offered; or

"(ii) the proposed contract constitutes a destructive competitive practice under this subtitle.

In making a determination under clause (ii) of this subparagraph, the Commission shall consider the difference between contract rates and published single car rates.

"(C) For purposes of this paragraph, the term 'unreasonable discrimination' has the same meaning as such term has under section 10741 of this title. "Unreasonable discrimination." 49 USC 10741.

"(3)(A) Within 30 days after the date a proceeding is commenced under paragraph (1) of this subsection, or within such shorter time period after such date as the Commission may establish, the Commission shall determine whether the contract that is the subject of such proceeding is in violation of this section.

"(B) If the Commission determines, on the basis of a complaint filed under paragraph (2)(B)(i) of this subsection, that the grounds for a complaint described in such paragraph have been established with respect to a carrier, the Commission shall, subject to the provisions of this section, order such carrier to provide rates and service substantially similar to the contract at issue with such differentials in terms and conditions as are justified by the evidence. Rates and service.

"(e) Approval of a contract filed under this section shall be effective— Effective dates.

"(1) on the date the Commission expressly approves such contract, but in no event before the end of the 30-day period beginning on the date such contract is filed or after the end of the 60-day period beginning on such date; or

"(2) if the Commission has not disapproved such contract by the end of the 60-day period beginning on the date such contract is filed, at the end of such 60-day period.

"(f) The Commission may limit the right of a rail carrier to enter into future contracts under this section following a determination that additional contracts would impair the ability of the rail carrier to fulfill its common carrier obligations under section 11101 of this title. Future contracts. 49 USC 11101.

"(g) The Commission may not require a rail carrier to violate the terms of a contract that has been approved under this section, except to the extent necessary to comply with section 11128 of this title. 49 USC 11128.

"(h) A party to a contract entered into under this section shall have no duty in connection with services provided under such contract other than those duties specified by the terms of the contract.

"(i)(1) A contract that is approved by the Commission under this section, and transportation under such contract, shall not be subject to this subtitle, and may not be subsequently challenged before the Commission or in any court on the grounds that such contract violates a provision of this subtitle.

"(2) The exclusive remedy for any alleged breach of a contract entered into under this section shall be an action in an appropriate State court or United States district court, unless the parties otherwise agree.

"(j) The provisions of this section shall not affect the status of any lawful contract between a rail carrier and one or more purchasers of rail service that is in effect on the effective date of the Staggers Rail Act of 1980. Any such contract shall hereafter have the same force and effect as if it had been entered into in accordance with the *Ante*, p. 1895.

provisions of this section. Nothing in this section shall affect the rights of the parties to challenge the existence of such a contract.

Agricultural commodities, transportation.

"(k)(1) Any rail carrier may, in accordance with the terms of this section, enter into contracts for the transportation of agricultural commodities (including forest products and paper) involving the utilization of carrier owned or leased equipment not in excess of 40 percent of the capacity of such carrier's owned or leased equipment by major car type (plain boxcars, covered hopper cars, gondolas and open top hoppers, coal cars, bulkhead flatcars, pulpwood rackcars, and flatbed equipment, including TOFC/COFC), except that in the case of a proposed contract between a class I carrier and a shipper originating an average of 1,000 cars or more per year during the prior 3-year period by major car type on a particular carrier, not more than 40 percent of carrier owned or leased equipment utilized on the average during the prior 3-year period may be used for such contract without prior authorization by the Commission.

"(2) The Commission may, on request of a rail carrier or other party or on its own initiative, grant such relief from the limitations of paragraph (1) of this subsection as the Commission considers appropriate, if it appears that additional equipment may be made available without impairing the rail carrier's ability to meet its common carrier obligations under section 11101 of this title.

49 USC 11101.

"(l) Service under a contract approved under this section shall be deemed to be a separate and distinct class of service, and the equipment used in the fulfillment of such a contract shall not be subject to car service decisions under section 11123 of this title.

49 USC 11123.

Railroad contract rate advisory service.

"(m) The Commission shall establish a railroad contract rate advisory service. The advisory service shall—

"(1) compile and disseminate to interested parties nonconfidential summaries of the provisions of individual contract information relating to the provisions of contracts entered into under this section with regard to various goods, items, and commodities covered by such contracts;

"(2) provide the Commission and interested parties with advice regarding contracts; and

"(3) assess the impact on competition among shippers of variations between contract rates for various shipments and the published single car rates, and submit a report on such impact to the Congress not later than 90 days after the effective date of the Staggers Rail Act of 1980.".

Ante, p. 1895.

(b) The section analysis for chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10712, as added by this Act, the following new item:

"10713. Contracts.".

DEMAND SENSITIVE RATES

Repeal.

SEC. 209. Section 10727 of title 49, United States Code, and the item relating to such section in the section analysis for chapter 107 of such title, are repealed.

PHASEOUT OF CAPITAL INCENTIVE RATES

Repeal.

SEC. 210. (a) Section 10729 of title 49, United States Code, and the item relating to such section in the section analysis of chapter 107 of such title, are repealed.

49 USC 10729 note.

(b) Notwithstanding any other provision of law, any rate established by a rail carrier under section 10729 of title 49, United States

Code, prior to the effective date of this Act shall remain in effect in accordance with its terms, but for no longer than 5 years after the date it became effective, unless the parties otherwise agree. However, the Interstate Commerce Commission may, during the period such a rate is in effect, order such rate revised to a level equal to the incremental cost of providing the transportation if the Commission finds that the level then in effect reduces the going concern value of the rail carrier. Rate revision.

PERMISSIVE LIMITED LIABILITY RATES

SEC. 211. (a) Section 10730(a) of title 49, United States Code, is amended by inserting "and excluding any rail carrier" immediately after "motor common carrier of property".

(b) Section 10730 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) A rail carrier providing transportation or service subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may establish rates for transportation of property under which the liability of the carrier for such property is limited to a value established by written declaration of the shipper or by a written agreement between the shipper and the carrier, and may provide in such written declaration or agreement for specified amounts to be deducted from any claim against the carrier for loss or damage to the property or for delay in the transportation of such property.". 49 USC 10501.

(c) Section 11707(d) of title 49, United States Code, is amended—

(1) by inserting "(1)" immediately after "(d)";

(2) by inserting "(other than a rail carrier)" immediately after "delivering carrier"; and

(3) by adding at the end thereof the following new paragraph:

"(2)(A) A civil action under this section may only be brought—

"(i) against the originating rail carrier, in the judicial district in which the point of origin is located;

"(ii) against the delivering rail carrier, in the judicial district in which the principal place of business of the person bringing the action is located if the delivering carrier operates a railroad or a route through such judicial district, or in the judicial district in which the point of destination is located; and

"(iii) against the carrier alleged to have caused the loss or damage, in the judicial district in which such loss or damage is alleged to have occurred.

"(B) A civil action under this section may be brought in a United States district court or in a State court.

"(C) In this section, 'judicial district' means (i) in the case of a United States district court, a judicial district of the United States, and (ii) in the case of a State court, the applicable geographic area over which such court exercises jurisdiction.". "Judicial district."

(d) Within one year after the effective date of this Act, the Attorney General and the Interstate Commerce Commission shall independently investigate whether rail carriers should continue to be subject to section 11707 of title 49, United States Code, and submit a report to the Congress setting forth recommendations to Congress for appropriate legislative action. Each such investigation shall address the following issues: Investigation; report to Congress. 49 USC 11707 note.

(1) Whether, in the case of traffic with respect to which rail carriers do not have market dominance, such carriers should be

subject to any higher level of liability for loss and damage than they are willing to agree to with the shippers of such traffic.

(2) Whether, in the case of traffic with respect to which rail carriers have market dominance, such carriers should be subject to any greater liability than would be imposed under a statutory comparative negligence standard.

(3) Whether liability for damage to rail traffic should be determined under a no-fault liability system and what shippers should bear the cost of such a system.

(4) Whether venue in cases arising from rail carrier liability for damages to traffic should be further limited.

(5) Whether rail carrier property damage cases should be subject to laws other than Federal law.

(6) Whether the right to claims should be limited to either the shipper or receiver of property.

(7) Whether maximum time limits should be imposed on the filing of claims with rail carriers and the courts.

(8) Whether the prevailing party in a claims proceeding should be awarded attorneys fees in order to limit needless litigation.

(9) Whether excessive attorneys fees are awarded in cases under section 11707 of title 49, United States Code.

(10) Whether claimants should be able to recover damages in excess of the market value of the commodity transported unless liability for special or consequential damages is agreed to by the carrier in unity.

RATE DISCRIMINATION

SEC. 212. Section 10741 of title 49, United States Code, is amended by striking out subsection (e) and inserting in lieu thereof the following new subsections:

"(e) Differences between rates, classifications, rules, and practices of rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title do not constitute a violation of this section if such differences result from different services provided by rail carriers.

"(f) This section shall not apply to—

"(1) contracts approved under section 10713 of this title, other than as provided in subsection (d)(2)(A)(ii) and (d)(2)(B) of such section;

"(2) surcharges or cancellations under section 10705a of this title;

"(3) separate rates for distinct rail services under section 10728 of this title;

"(4) rail rates applicable to different routes; or

"(5) expenses authorized under section 10751 of this title, except that with respect to rates described in paragraphs (2), (3), and (4), nothing in this subsection shall affect the authority of the Commission under this section with respect to rate relationships between ports or within the same port.".

49 USC 10501.

Ante, p. 1908.

49 USC 10728.

49 USC 10751.

EXEMPTION

SEC. 213. Section 10505 of title 49, United States Code, is amended to read as follows:

"§ 10505. Authority to exempt rail carrier transportation

"(a) In a matter related to a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under this subchapter, the Commission shall exempt a person, class of persons, or a transaction or service when the Commission finds that the application of a provision of this subtitle—

"(1) is not necessary to carry out the transportation policy of section 10101a of this title; and *Ante*, p. 1897.

"(2) either (A) the transaction or service is of limited scope, or (B) the application of a provision of this subtitle is not needed to protect shippers from the abuse of market power.

"(b) The Commission may, where appropriate, begin a proceeding under this section on its own initiative or on application by the Secretary of Transportation or an interested party.

"(c) The Commission may specify the period of time during which an exemption granted under this section is effective.

"(d) The Commission may revoke an exemption, to the extent it specifies, when it finds that application of a provision of this subtitle to the person, class, or transportation is necessary to carry out the transportation policy of section 10101a of this title. Exemption revocation.

"(e) No exemption order issued pursuant to this section shall operate to relieve any rail carrier from an obligation to provide contractual terms for liability and claims which are consistent with the provisions of section 11707 of this title. Nothing in this subsection or section 11707 of this title shall prevent rail carriers from offering alternative terms nor give the Commission the authority to require any specific level of rates or services based upon the provisions of section 11707 of this title. Liability and claims. 49 USC 11707.

"(f) The Commission may exercise its authority under this section to exempt transportation that is provided by a rail carrier as a part of a continuous intermodal movement.

"(g) The Commission may not exercise its authority under this section (1) to authorize intermodal ownership that is otherwise prohibited by this title, or (2) to relieve a carrier of its obligation to protect the interests of employees as required by this subtitle." Intermodal ownership, prohibition.

INTRASTATE RATES

SEC. 214. (a) Section 11501(a) of title 49, United States Code, is amended—

(1) by striking out paragraph (2).

(2) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(3) by striking out "subchapter I or IV" and inserting in lieu thereof "subchapter IV"; and

(4) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(b) Section 11501 of title 49, United States Code, is amended by redesignating subsections (b) and (c) as subsections (d) and (e), respectively, and by inserting immediately after subsection (a) the following new subsections:

"(b)(1) A State authority may only exercise jurisdiction over intrastate transportation provided by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title if such State authority exercises such jurisdiction exclusively in accordance with the provisions of this subtitle. 49 USC 10501.

"(2) Within 120 days after the effective date of the Staggers Rail Act of 1980, each State authority exercising jurisdiction over intrastate *Ante*, p. 1895.

rates, classifications, rules, and practices for intrastate transportation described in paragraph (1) of this subsection shall submit to the Commission the standards and procedures (including timing requirements) used by such State authority in exercising such jurisdiction.

"(3)(A) Within 90 days after receipt of the intrastate regulatory rate standards and procedures of a State authority under paragraph (2) of this subsection, the Commission shall certify such State authority for purposes of this subsection if the Commission determines that such standards and procedures are in accordance with the standards and procedures applicable to regulation of rail carriers by the Commission under this title. If the Commission determines that such standards and procedures are not in such accordance, it shall deny certification to such State authority, and such State authority may resubmit new standards and procedures to the Commission for review in accordance with this subsection.

Certification denial.

"(B) The standards and procedures existing in each State on the effective date of the Staggers Rail Act of 1980 for the exercise of jurisdiction over intrastate rail rates, classifications, rules, and practices shall be deemed to be certified by the Commission from that date until the date an initial determination is made by the Commission under subparagraph (A) of this paragraph.

Ante, p. 1895.

"(4)(A) Any State authority which is certified by the Commission under this subsection may use its standards and procedures in exercising jurisdiction over intrastate rail rates, classifications, rules, and practices during the 5-year period commencing on the date of such certification. Any State authority which is denied certification or which does not seek certification may not exercise any jurisdiction over intrastate rates, classifications, rules, and practices until it receives certification under this subsection.

"(B) Any intrastate transportation provided by a rail carrier in a State which may not exercise jurisdiction over an intrastate rate, classification, rule, or practice of that carrier due to a denial of certification under this subsection shall be deemed to be transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title.

49 USC 10501.

"(5)(A) Certification of a State authority under this subsection is valid for the 5-year period beginning on the date of such certification. Prior to the expiration of such 5-year period, the State authority shall resubmit its intrastate regulatory standards procedures to the Commission for subsequent certification in accordance with this subsection.

5-year certification period.

"(B) During any 5-year certification period, a State may not change its certified standards and procedures without notifying and receiving express approval from the Commission.

"(6) Notwithstanding any other provision of this subtitle, a State authority may not exercise any jurisdiction over general rate increases under section 10706 of this title, inflation-based rate increases under section 10712 of this title, or fuel adjustment surcharges approved by the Commission.

49 USC 10706.
Ante, p. 1906.

"(c) Any rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title may petition the Commission to review the decision of any State authority, in any administrative proceeding in which the lawfulness of an intrastate rate, classification, rule, or practice is determined, on the grounds that the standards and procedures applied by the State were not in accordance with the provisions of this subtitle. The Commission shall take final action on any such petition within 30 days after the date it is received. If the Commission determines that

the standards and procedures were not in accordance with the provisions of this subtitle, its order shall determine and authorize the carrier to establish the appropriate rate, classification, rule, or practice.".

(c)(1) Section 11501(d)(2) of title 49, United States Code, as redesignated by subsection (b) of this section, is amended by inserting "and chapter 107 of this title" immediately before the period at the end of the first sentence.

(2) Section 10103(a) of title 49, United States Code, is amended by striking out "The" and inserting in lieu thereof "Except as otherwise provided in this subtitle, the".

(3) Section 10501(a)(2) of title 49, United States Code, is amended by inserting "such jurisdiction is not limited by subsection (b) of this section or the extent" immediately after "to the extent".

(4) Section 10501(c) of title 49, United States Code, is amended by inserting "(1) the transportation is deemed to be subject to the jurisdiction of the Commission pursuant to section 11501(b)(4)(B) of this title, or (2)" immediately after "unless". *Ante*, p. 1913.

(5) Section 10501 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) The jurisdiction of the Commission and of State authorities (to the extent such authorities are authorized to administer the standards and procedures of this title pursuant to this section and section 11501(b) of this title) over transportation by rail carriers, and the remedies provided in this title with respect to the rates, classifications, rules, and practices of such carriers, is exclusive.".

BUSINESS ENTERTAINMENT EXPENSES

SEC. 215. Section 10751 of title 49, United States Code, is amended by striking out "(other than transportation by rail)" in subsections (a) and (b).

(b) The provisions of section 10751 of title 49, United States Code, as amended by subsection (a) of this section, shall apply to any expense of the type described in subsection (a) of such section 10751 that was incurred prior to the effective date of this Act (other than an expense with respect to which a penalty was paid pursuant to section 10761 of such title 49) or that is incurred on or after such effective date. 49 USC 10751 note. 49 USC 10761.

EFFICIENT MARKETING

SEC. 216. (a) Section 10762(c)(3) of title 49, United States Code, is amended by striking out the second sentence and inserting in lieu thereof the following: "In the case of a carrier other than a rail carrier, a proposed rate change or a new or reduced rate may not become effective for 30 days after the notice is published, filed, and held open as required under subsections (a) and (b) of this section. In the case of a rail carrier, a proposed rate change resulting in an increased rate or a new rate shall not become effective for 20 days after the notice is published and a proposed rate change resulting in a reduced rate shall not become effective for 10 days after the notice is published, except that a contract authorized under section 10713 of this title shall become effective in accordance with the provisions of such section.". *Ante*, p. 1908.

(b) Section 10762(d)(1) of title 49, United States Code, is amended by striking out "30-day" and inserting in lieu thereof "notice".

COMPENSATORY JOINT RATE RELIEF

SEC. 217. (a)(1) Chapter 107 of title 49, United States Code, is amended by inserting after section 10705 the following new section:

49 USC 10705a.

"§ 10705a. Joint rate surcharges and cancellations

"(a)(1)(A) Except as provided in subparagraph (B) of this paragraph, a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 49 USC 10501. 105 of this title may publish and apply a surcharge increasing or decreasing the through charge applicable to any movement between points designated by the surcharging carrier subject to a joint rate. Such a surcharge may be applied without the concurrence of the other carriers that are party in such joint rate.

"(B) A carrier earning adequate revenues, as determined under *Ante*, p. 1906. section 10704(a)(2) of this title, may not apply such a surcharge to any movement on a line operated by such carrier which carried more than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year.

"(C) Any surcharge applied pursuant to this subsection must be applied in equal dollar amounts to the movement subject to the surcharge over all routes between the points designated by the surcharging carrier which such carrier participates in under the joint rate involved, and when the surcharge increases the through charges, under any of such carrier's single line rates between the same points.

"(2)(A) Whenever a rail carrier applies a surcharge increasing a through charge pursuant to paragraph (1) of this subsection, any other rail carrier that participates in any movement subject to such surcharge may cancel the application of such surcharge to any route participated in by such other carrier, if such carrier makes the demonstration described in subparagraph (B) of this paragraph.

"(B) A rail carrier may cancel the application of a surcharge under this paragraph if such carrier demonstrates to the Commission that the surcharging carrier's share of the revenues, at the time the surcharge was filed with the Commission, from its participation in the movement over the route involved would have been equal to or greater than 110 percent of its variable costs of providing service over such route, under either—

"(i) the applicable joint rate in effect at the time the surcharge was filed with the Commission, without the surcharge;

"(ii) a new rate division increasing the share of the surcharging carrier;

"(iii) a new higher lawful rate published by the canceling carrier; or

"(iv) a new, lesser surcharge which shall be prescribed by the Commission upon and in conformity with the request of the carrier proposing to cancel the surcharge. Any such prescribed surcharge shall, in conjunction with the surcharging carrier's division of the joint rate in effect on the date the original surcharge was filed with the Commission, provide the carrier proposing the original surcharge revenues equal to or greater than 110 percent of such surcharging carrier's variable cost of providing service over such route.

"(C)(i) The canceling tariff shall only become effective if the rail carrier proposing to cancel the application of the surcharge makes the demonstration described in subparagraph (B) of this paragraph.

"(ii) If the demonstration described in clause (i) of this subparagraph is made on the basis of the applicable joint rate in effect at the

time the surcharge was filed with the Commission, without the surcharge, the tariff shall become effective on one day's notice after such determination is made.

"(iii) If the demonstration described in clause (i) of this subparagraph is made on the basis of a new rate, division, or surcharge prescribed pursuant to subparagraph (B)(iv) of this paragraph, the tariff shall become effective on the date such new rate, division, or surcharge becomes effective.

"(D) The remedy available to a rail carrier canceling the application of a surcharge under this paragraph shall be in addition to any other remedy available to such carrier under this chapter.

"(3)(A) The Commission may cancel the application of a surcharge to a route to which such surcharge applies if a shipper moving traffic over such route demonstrates to the Commission that—

"(i) there is no competitive alternative to such route for the movement of the traffic involved that is not subject to such surcharge; and

"(ii) the surcharging carrier's share of the revenues from its participation in the movement over the route to which such surcharge applies, under the applicable joint rate in effect at the time the surcharge was filed with the Commission, with the surcharge, would be greater than 110 percent of its variable cost of providing service over such route.

Surcharge level, determination.

"(B) If the Commission cancels the application of a surcharge to a particular route pursuant to subparagraph (A) of this paragraph, the Commission shall determine the level of surcharge which, in conjunction with the surcharging carrier's division of the joint rate in effect at the time the surcharge was filed with the Commission, would equal 110 percent of the surcharging carrier's variable cost of providing service over such route, and shall authorize such carrier immediately to apply such a surcharge without any further proceedings under this subsection.

"(4) A rail carrier may not apply a surcharge under this subsection unless, for the one-year period preceding the surcharge, such carrier has concurred in all rate increases of general applicability applicable to the joint rate to which such surcharge applies and agreed to by all other carriers that are party to such joint rate.

"(5) A rail carrier may not apply a surcharge under this subsection increasing a through charge applicable to a particular movement more than once each calendar year.

Total charges, reduction.

"(6) Notwithstanding any other provision of this subsection, a rail carrier may, by tariff, reduce the total charges applicable to a movement over any specific joint line or single line route or routes in which such carrier participates, if such reduction does not lower the total charges applicable to such movement to a level that is less than the lowest total charges applicable to the same movement over a competing route. Any such reduction may be made without the concurrence of any other rail carrier, and shall be borne solely by the carrier reducing the charge. Nothing in this paragraph shall be construed to limit the right of a carrier to reduce rates over routes not in direct competition between the same points with routes to which it has applied a surcharge.

"(b)(1) Notwithstanding subsection (a) of this section—

Ante, p. 1906.

"(A) a rail carrier not earning adequate revenues, as determined under section 10704(a)(2) of this title, may publish and apply a surcharge applicable to traffic originating or terminating upon any of its lines that carried less than 3,000,000 gross ton

miles of traffic per mile in the most recent calendar year for which traffic data is available; and

"(B) a rail carrier earning adequate revenues, as so determined, may publish and apply a surcharge applicable to traffic originating or terminating upon any of its lines that carried less than 1,000,000 gross ton miles of traffic per mile in such most recent calendar year.

Such a surcharge may be applied without the concurrence of any rail carrier. Any such surcharge may be allocated, subject to the provisions of paragraph (4) of this subsection, in different amounts among different movements between different origins and destinations, and shall accrue solely to the surcharging carrier.

"(2) A rail carrier may apply a surcharge under this subsection if, prior to the application of such surcharge, that portion of the charges applicable to traffic to and from the line to which the surcharge applies and accruing to the surcharging carrier does not provide such carrier revenues adequate to cover—

"(A) 110 percent of such carrier's variable cost of transporting the traffic involved to or from such line; plus

"(B) 100 percent of such carrier's reasonably expected costs of continuing to operate such line, which shall include all costs necessary to sustain service on the line.

The Commission shall, within 120 days after the effective date of the Staggers Rail Act of 1980, complete a proceeding to define the term 'reasonably expected costs' as used in subparagraph (B) of this paragraph. In the interim, the term shall be construed in accordance with Rail Services Planning Office subsidy standards.

Ante, p. 1895.

Shipper petition.

"(3)(A) Upon petition of a shipper located upon a line to which a surcharge under this subsection is applied, the Commission may cancel the application of a surcharge under this subsection if such shipper demonstrates to the Commission that, after application of the surcharge, the surcharging carrier's revenues from all traffic originating or terminating upon the line to which the surcharge applies exceed 110 percent of such carrier's variable cost of transporting all traffic to or from such line plus such carrier's reasonably expected costs of continuing to operate such line.

"(B)(i) A rail carrier's revenue from all traffic originating or terminating upon a line shall be presumed to exceed 110 percent of its variable cost of transporting all traffic to or from such line plus its reasonably expected costs of continuing to operate such line if the complaining shipper demonstrates that the carrier is earning revenues from all traffic originating or terminating upon such line that result in a revenue-variable cost percentage that is equal to or greater than the revenue-variable cost percentage applicable in that year under section 10709(d) of this title.

Ante, p. 1900.

"(ii) A surcharging carrier may rebut the presumption set forth in clause (i) of this subparagraph by demonstrating to the Commission that its reasonably expected costs for operating the line to which the surcharge applies exceed the percentage of variable cost set forth in such clause (i).

"(C) Upon a finding by the Commission that application of the surcharge will produce revenues in excess of 110 percent of the surcharging carrier's variable cost of transporting traffic to or from the line plus its reasonably expected costs for operating the line, the Commission shall determine the level of surcharge which would produce revenues equal to such figure and shall authorize such carrier immediately to apply such surcharges as will generate such

revenues without any further proceedings, subject only to the right of a shipper to proceed under paragraph (4) of this subsection.

"(4)(A) A rail carrier may not apply a surcharge under this subsection that results in any shipper being required to bear more than a reasonable proportion of the reasonably expected costs of continuing to operate the line to which such surcharge applies.

"(B) Upon complaint of a shipper, the Commission shall determine whether the shipper is being required to bear more than a reasonable proportion of the costs described in subparagraph (A) of this paragraph. Shipper complaint.

"(C) If the Commission finds that a complaining shipper is being required to bear more than a reasonable proportion of the costs described in subparagraph (A) of this paragraph, the Commission may reallocate the surcharge among the traffic originating or terminating on the line to which the surcharge applies, but may not order relief which would result in the surcharging carrier earning revenues less than those which the carrier would have earned had the surcharge been applied as filed.

"(5) A shipper may, in a single complaint, seek relief under paragraphs (3) and (4) of this subsection. In any such complaint, the Commission shall first determine the right to relief under paragraph (3) and shall grant such relief as is appropriate under such paragraph. Relief.

"(6) In any proceeding brought before the Commission challenging the application or amount of a surcharge under this subsection, whether the surcharge is claimed to violate this subsection or some other provision of this chapter, the Commission shall not suspend the application of any such surcharge unless the person filing the verified statement required by section 10707(c) of this title, in addition to the matters required by such section, also makes the demonstration required by paragraph (3)(A) of this subsection. If the demonstration required by such paragraph (3)(A) is made, the Commission may suspend the application of only so much of the surcharge as will produce revenues in excess of the amount so demonstrated. *Ante*, p. 1907.

"(c)(1) Notwithstanding any other provision of this title, any prior agreement in effect on the effective date of the Staggers Rail Act of 1980, or any requirement of the Commission, a rail carrier may cancel the application of a joint rate to a through route in which it participates, without the concurrence of any other rail carrier that is a party to such joint rate, unless another rail carrier that participates in such through route or a shipper that has no competitive alternative to such route makes the demonstration described in paragraph (2) of this subsection. *Ante*, p. 1895.

"(2) The application of a joint rate to a through route may not be canceled under this subsection if a rail carrier that participates in such through route or a shipper that has no competitive alternative to such route from an origin or destination served by such route demonstrates to the Commission that the canceling carrier's share of the revenues, under the joint rate in effect at the time the application of the joint rate is canceled, is equal to or greater than—

"(A) 110 percent of the canceling carrier's variable cost of providing service over such route; or

"(B) such lesser percent of the canceling carrier's variable cost as such carrier earns over a competing through route to which application of the joint rate has not been canceled, or over a competing single line route.

"(3) When a complaining party is unable to make the demonstration required by paragraph (2) of this subsection, the Commission may suspend the tariff canceling the joint rate only if—

"(A) a complaining carrier publishes a new rate division or a new higher lawful rate which increases the canceling carrier's share of the revenues over such route to the amount calculated under paragraph (2)(A) or (2)(B) of this subsection, whichever is less; or

"(B) a complaining carrier or shipper petitions the Commission and the Commission imposes a surcharge, in conformity with such petition, upon the joint rate which will accrue solely to the canceling carrier and which, in conjunction with the canceling carrier's division of the joint rate in effect on the date the tariff canceling the joint rate was filed, will provide the canceling carrier revenues equal to or greater than 110 percent of its variable cost of providing service over such route.

Unless a new rate, division, or surcharge described in this paragraph becomes effective within 120 days after the proposed effective date of the rate cancellation, the canceling tariff shall, nevertheless, become effective.

"(4) If the demonstration described in paragraph (2) is made or a new rate, division, or surcharge described in paragraph (3) becomes effective, the tariff canceling the joint rate shall be considered by the Commission in accordance with section 10705 of this title. The existing joint rate or the new rate, division, or surcharge, shall remain in effect during the pendency of the Commission's consideration.

49 USC 10705.

"(5) Whenever the application of a joint rate to a through route is canceled under this subsection and a rate other than a joint rate is or has been published by the canceling carrier to apply to such route, such rate shall thereafter apply in lieu of all other rates (except joint rates subsequently agreed to by such carrier) and any through rate of which such rate is a factor shall divide as the separate factors of such rate are made.

"(6) Nothing in this subsection shall be construed to limit the authority of the Commission under section 10705(a) of this title to prescribe joint rates which provide a rail carrier participating in such joint rate revenues equal to or greater than 110 percent of its variable cost of providing service over each route to which such rate applies.

Increased or decreased revenues.

"(d)(1) Except as provided in paragraph (2) of this subsection, any increase or decrease in revenue resulting from the application of a surcharge under subsection (a) of this section, or from the cancellation of the application of a joint rate under subsection (c) of this section, shall accrue solely to or be borne solely by the carrier applying the surcharge or canceling the application of the joint rate, as the case may be.

"(2) Whenever a class III rail carrier which participates in a through route to which a surcharge has been applied under subsection (a) of this section by a carrier operating in the same rate territory as such class III carrier demonstrates to the Commission that the application of such surcharge to such route provides, in the absence of any increase in the joint rate in effect on the date the surcharge was filed with the Commission, revenues from traffic moving over such route to such surcharging carrier in excess of 110 percent of its variable costs over such route, such surcharging carrier shall, from the date of such demonstration, share those revenues from such route, from the surcharge and the applicable joint rate in effect on the date the surcharge was filed with the Commission, in excess of

110 percent of its variable costs with all class III rail carriers in the same rate territory participating in such route, on the basis of their existing divisions of the joint rate to which the surcharge applies.

"(e)(1) Except as provided in paragraph (2) of this subsection, whenever a rail carrier proposes to apply a surcharge under subsection (a) of this section or to cancel the application of a joint rate under subsection (c) of this section and another rail carrier subsequently agrees to a new rate division or a new lawful rate that increases the surcharging or canceling carrier's share of the total through charges for a movement over a particular through route subject to a joint rate, such other rail carrier shall also agree to any other new rate division and new lawful rate—

"(A) that is proposed within 120 days after the date of the first agreement; and

"(B) that increases the surcharging or canceling carrier's share of the total through charges for movements over a competing through route subject to such joint rate.

"(2) A rail carrier shall not be required to agree under this subsection to any proposed new division or new rate which would—

"(A) reduce such carrier's share of the total through charges for a movement over any through route to less than (i) 110 percent of its variable costs of providing service over such route, or (ii) such lesser percent of its variable costs as such carrier earns from such movement over a competing through route with respect to which such carrier has agreed to a new division or rate;

"(B) increase the surcharging or canceling carrier's share of the total through charges for a movement over any through route to an amount in excess of 110 percent of its variable costs of providing service over such route;

"(C) reduce such carrier's share of the total through charges for a movement over any through route by a dollar amount in excess of the greatest dollar reduction which such carrier has agreed to make, for purposes of increasing the surcharging or canceling carrier's share, to its share of the total through charges for a movement over any competing through route; or

"(D) reduce such carrier's share of the total through charges for a movement over any through route in an amount in excess of such carrier's pro rata share (based on established divisions for movements over such route) of the increase of the surcharging or canceling carrier's share of the total through charges for movements over such route.

"(f) A rail carrier applying a surcharge or canceling the application of a joint rate under this section shall file a tariff with the Commission in accordance with section 10762 of this title. Such a tariff may not become effective until the expiration of the 45-day period (or such longer period as the filing carrier specifies) beginning on the date such tariff is filed. Tariff filing. 49 USC 10762.

"(g)(1) Any rail rate to which a surcharge is applied under this section shall be subject to section 10701a and 10709 of this title, and any such surcharge shall constitute a rate increase for purposes of such sections. *Ante*, p. 1898. 49 USC 10709.

"(2) For purposes of rate regulation under section 10701a of this title—

"(A) only the rail carrier proposing a surcharge under this section shall be required to defend such surcharge; and

"(B) the reasonableness of the surcharge and the revenues received by the rail carrier proposing the surcharge under the joint rate to which the surcharge applies shall be determined

without regard to amount received and services performed by other rail carriers that are party to such joint rate.

"(3) Except as provided in subsection (i), (j), or (k) of this section, if the application of a surcharge or the cancellation of the application of a joint rate under this section is found to constitute a violation of any provision of this title, such violation shall not be ordered remedied in any manner which—

"(A) requires the carrier applying a surcharge under subsection (a) of this section or canceling the application of a joint rate under subsection (c) of this section to provide service over any rate under a rate that provides revenues to such carrier that are less than 110 percent of its variable costs of providing such service; or

"(B) which requires the carrier applying a surcharge under subsection (b) of this section to provide service over the route to which such surcharge applies in a manner that provides revenues to such carrier that are less than 110 percent of such carrier's variable cost of transporting the traffic involved to or from the line to which the surcharge applies, plus such carrier's reasonably expected costs of providing service over such line.

Variable costs and revenues, determination.

"(h) Within 5 days after the request of a rail carrier participating in a joint rate subject to a surcharge or cancellation under this section, a shipper moving traffic over a route to which such surcharge or cancellation applies, or an affected port, the Commission shall make available to such carrier, shipper, or port the Commission's determination of the variable costs and revenues, over the route or routes to which the surcharge or cancellation applies, of the carrier applying the surcharge or canceling the application of the joint rate.

Investigation.

"(i)(1) Whenever a class III rail carrier, in a protest filed with the Commission, makes a prima facie showing that the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section will have an adverse effect on competition, the Commission shall investigate such protest. If, on the basis of such investigation, the Commission finds that the protested surcharge or cancellation is or is intended to be anticompetitive, the Commission shall, within 30 days after the date such protest is filed, enter an order rescinding such surcharge or cancellation, and may, on presentation of an adequate record, prescribe new joint rates or divisions of joint rates.

Rescinding order.

"(2) No order prescribed under this subsection shall require a carrier to provide service over any route under a rate which provides revenues less than 110 percent of the variable cost of providing such service unless the Commission determines that the public interest requires a lesser revenue to variable cost ratio to avoid anticompetitive action and to preserve service on the route involved.

"(j)(1) Any class III rail carrier which originates or terminates traffic subject to the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section may protest such surcharge or cancellation whenever—

"(A) such surcharge or cancellation affects the sole remaining route available to that carrier for that traffic; and

"(B)(i) such carrier demonstrates that alternative transportation is available or that a shipper dependent on that carrier will suffer significant market loss because of such surcharge or cancellation; or

"(ii) such surcharge or cancellation, alone or when considered in conjunction with other surcharges or cancellations affecting

the carrier, is likely to unduly impair a carrier's ability to earn an adequate rate of return.

"(2)(A) The Commission may, after an investigation on the basis of a protest under this subsection, prescribe a lesser surcharge or a different division of the joint rate. The Commission shall grant the surcharging or canceling carrier revenues not less than 110 percent of its variable cost of the movement involved, unless it determines that the public interest requires a lesser revenue to variable cost ratio to preserve service on the route involved. Any action by the Commission based on a protest under this subsection shall be taken within 30 days after the date such protest is filed.

"(B) If the Commission prescribes a different division of a joint rate under this paragraph, the Commission shall, upon petition of the surcharging or canceling carrier or the protesting class III rail carrier, reopen the proceeding in which such division was prescribed to reconsider whether such prescribed division is reasonable. If, on the basis of such reconsideration, the Commission determines that such division is not reasonable, it shall prescribe a new, reasonable division of the joint rate to which the surcharge or cancellation applied.

Rail carrier complaint, investigation.

"(k)(1) Upon the complaint of a class III rail carrier which originates or terminates traffic subject to the application of a surcharge under subsection (a) of this section or the cancellation of the application of a joint rate under subsection (c) of this section that such surcharge or cancellation will result in differences or greater differences in rates, including any surcharges, for the traffic to which the surcharge or cancellation applies over different routes in which the surcharging or canceling carrier participates—

"(A) from a single origin point to destination points within a 75 mile direct radius from the destination point on such class III rail carrier; or

"(B) to a single destination point from origin points within a 75 mile direct radius from the origin point on such class III rail carrier,

the Commission shall investigate such complaint and shall, within 30 days after the date such complaint is filed, take such actions, including rescinding surcharges or cancellations or prescribing new joint rates or surcharges, as it determines are required to eliminate such differences in rates, unless it finds that such actions are not warranted by the public interest in ensuring effective competition among rail carriers or in the preservation of rail service on the route involved.

"(2) No action taken by the Commission under this subsection shall require a carrier to provide service over any route under a rate which provides a revenue to variable cost ratio over such route less than that provided under the joint rate to which the surcharge or cancellation was applied or less than 110 percent, whichever is greater, unless the Commission determines that the public interest in ensuring effective competition among rail carriers or in preserving service over such route warrants requiring the surcharging or canceling carrier to provide service at a lesser revenue to variable cost ratio.

"(3) Notwithstanding subsection (m)(1) of this section, if, in a proceeding under this subsection or under subsection (i) or (j) of this section, the Commission considers whether to require the revenues of a carrier applying a surcharge under subsection (a) of this section or canceling the application of a joint rate under subsection (c) of this section to be less than 110 percent of its variable costs (as calculated using the Commission's Rail Form A cost finding methodology), such

surcharging or canceling carrier may prove its actual variable costs on the basis of evidence other than unadjusted costs calculated using such Rail Form A cost finding methodology. Such evidence shall be prepared in accordance with generally accepted accounting principles.

New compensatory through rate.

"(l) Whenever the application of a joint rate to a through route is canceled under subsection (c) of this section, the Commission shall, upon petition by a class II or III rail carrier participating in such route, prescribe a new compensatory through rate or rates over such route within 30 days after the date such petition is filed.

Variable costs and revenue share.

"(m) For purposes of this section—

"(1) variable costs for a class I rail carrier shall be determined only by using such carrier's unadjusted costs, calculated using the Commission's Rail Form A cost finding methodology (or an alternative methodology adopted by the Commission in lieu thereof) and indexed quarterly to account for current wage and price levels in the region in which the carrier operates;

"(2) variable costs for a rail carrier other than class I shall be presumed to be the average variable costs of all class I rail carriers in the region in which such carrier operates (as determined under paragraph (1) of this subsection) unless a rail carrier rebuts such presumption with other proof of variable costs; and

"(3) at the option of a carrier applying a surcharge or canceling the application of a joint rate under this section, revenue share may be determined by reference to past revenue settlements actually made in the most recent calendar year by connecting lines.

"(n) Surcharges applied under subsection (a) or (c) of this section and cancellations under subsection (c) of this section shall not be subject to the provisions of section 10726 (a)(1)(B) of this title.

49 USC 10726.

"(o) The Special Counsel of the Commission may, consistent with the rail transportation policy in section 10101a of this title, provide assistance to class III rail carriers and small businesses in preparing actions under this section.

Ante, p. 1897.

"(p)(1) The authority to apply a surcharge under subsection (a) of this section, and (except as provided in paragraph (2)) the authority to cancel such a surcharge, shall expire 3 years after the effective date of the Staggers Rail Act of 1980 unless extended for one additional year by the Commission upon petition of any rail carrier and for good cause shown.

Ante, p. 1895.

"(2) Any surcharge lawfully applied under subsection (a) of this section shall remain in effect in accordance with its terms following the expiration of the provisions of this section. Any such surcharge applied during the 45-day period immediately preceding the date of the expiration of the provisions of this section shall, notwithstanding such expiration, be subject to cancellation under subsection (a)(2) or (a)(3) of this section during the 45-day period beginning on the date such surcharge is applied.".

(2) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10705 the following new item:

"10705a. Joint rate surcharges and cancellations.".

49 USC 10705a note.

(b) For purposes of section 10705a of title 49, United States Code, the Interstate Commerce Commission shall classify all rail carriers on the basis of revenues, shall from time to time review its regulations setting forth revenue-based classifications for rail carriers, and

Ante, p. 1916.

shall make appropriate changes in such regulations in order to reflect inflation. The Commission shall not reclassify switching and terminal carriers, or any other rail carriers not classified on the basis of revenues on the effective date of this Act, for any purpose other than for purposes of such section 10705a.

Ante, p. 1916.

(c)(1) The Interstate Commerce Commission shall include in its annual report to the Congress under section 10311 of title 49, United States Code, a report with respect to the application of surcharges and the cancellation of the application of joint rates by the Consolidated Rail Corporation and other rail carriers, during the preceding year, under section 10705a of title 49, United States Code. Each such report shall include—

Report to Congress. 49 USC 10311 note.

Ante, p. 1916. Contents.

(A) an analysis of the effect of application of surcharges and the cancellation of the application of joint rates under such section 10705a on shippers, ports, class II and class III rail carriers, railroad employees, and other elements of the rail system;

(B)(i) the number of surcharges applied by the Consolidated Rail Corporation and all other rail carriers under such section 10705a and the amount of revenue received by the Corporation and all other rail carriers from the application of such surcharges, (ii) the number of surcharges applied by the Corporation and all other rail carriers that were canceled under the procedures of such section 10705a, and (iii) the number of cancellations of the application of a joint rate by the Corporation and all other rail carriers under such section 10705a; and

(C) an analysis of the operation of the remedies made available to class III rail carriers under subsections (i), (j), and (k) of such section 10705a and to class II and class III rail carriers under subsection (l) of such section 10705a.

(2) The Interstate Commerce Commission shall, within 2 years after the effective date of this Act, submit a report to the Congress with respect to whether the provisions of section 10705a of title 49, United States Code, have adequately addressed the joint rate problems of rail carriers. The report shall include such recommendations with respect to such joint rate problems as the Commission considers necessary and appropriate.

Report to Congress. 49 USC 10705a note.

Ante, p. 1916.

EXPEDITED DIVISION OF REVENUES PROCEEDINGS

SEC. 218. (a) Section 10705(f)(1) of title 49, United States Code, is amended to read as follows:

"(f)(1)(A) The Commission may begin a proceeding under subsection (a) or (b) of this section on its own initiative or on complaint. The Commission must complete all evidentiary proceedings to adjust the division of joint rates for transportation by a rail carrier within 9 months after the complaint is filed if the proceeding is brought on complaint or within 18 months after the commencement of a proceeding on the initiative of the Commission. The Commission must take final action by the 180th day after completion of the evidentiary proceedings, except that—

"(i) when the proceeding involves a railroad in reorganization or a contention that the divisions at issue do not cover the variable costs of handling the traffic, the Commission shall give the proceedings preference over all other proceedings and shall take final action at the earliest practicable time, which in no event may exceed 100 days after the completion of the evidentiary proceedings; and

"(ii) in all cases other than those specified in clause (i) of this subparagraph, the Commission may decide to extend such a proceeding to permit its fair and expeditious completion, but whenever the Commission decides to extend a proceeding pursuant to this clause, it must report its reasons to Congress.

"(B) The provisions of this paragraph imposing time limitations upon Commission action shall not apply to any division proceeding involving a joint rate participated in by a class III rail carrier.".

(b) Section 10705(f)(1) of title 49, United States Code, as amended by subsection (a) of this section, is further amended—

(1) by striking out subparagraph (B);

(2) by striking out "(A)" immediately before "The Commission";

(3) by striking out "(i)" and inserting in lieu thereof "(A)";

(4) by striking out "(ii)" and inserting in lieu thereof "(B)"; and

(5) by striking out "clause (i) of this subparagraph" and inserting in lieu thereof "subparagraph (A) of this paragraph".

RATE BUREAUS

SEC. 219. (a) Section 10706(a)(1) of title 49, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(C) 'practicably participates in that movement' shall have such meaning as the Commission shall by regulation prescribe.".

(b) Section 10706(a)(2)(A) of title 49, United States Code, is amended—

(1) by inserting "publication," immediately after "initiation," in the first sentence; and

(2) by striking out "section 10101" in the second sentence and inserting in lieu thereof "section 10101a".

(c)(1) Section 10706(a)(3)(A) of title 49, United States Code, is amended to read as follows:

"(3)(A) An organization established or continued under an agreement approved under this subsection shall make a final disposition of a rule or rate docketed with it by the 120th day after the proposal is docketed. Such an organization may not—

"(i) permit a rail carrier to discuss, to participate in agreements related to, or to vote on single line rates proposed by another rail carrier, except that for purposes of general rate increases and broad tariff changes only, if the Commission finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part;

"(ii) permit a rail carrier to discuss, to participate in agreements related to, or to vote on rates related to a particular interline movement unless that rail carrier practicably participates in that movement; or

"(iii) if there are interline movements over two or more routes between the same end points, permit a carrier to discuss, to participate in agreements related to, or to vote on rates except with a carrier which forms part of a particular single route. This clause shall take effect on January 1, 1984, or on such earlier date as the Commission determines. If the Commission finds at any time that the implementation of this clause is not feasible, it may delay or suspend such implementation in whole or in part.".

(2) Section 10706(a)(3)(B) of title 49, United States Code, is amended to read as follows:

"(B) Until January 1, 1984, subparagraph (A)(ii) and (A)(iii) of this paragraph do not apply to—

"(i) general rate increases to cover inflationary cost increases, or general rate decreases, for joint rates if the agreement gives shippers, under specified procedures, at least 15 days notice of the proposal and an opportunity to present comments on it before a tariff containing the increases or decreases is filed with the Commission; or

"(ii) broad tariff changes that are of at least substantially general application throughout the area where the changes will apply, except single line rates where subparagraph (A)(i) of this paragraph prohibits the participation of carriers with single line rates.

If the Commission finds at any time that the implementation of this subparagraph is not feasible, it may delay or suspend such implementation in whole or in part.".

(3) Section 10706(a)(3)(C) of title 49, United States Code, is amended—

(A) by inserting "(i)" immediately after "(C)"; and

(B) by adding at the end thereof the following new clause:

"(ii) In any proceeding in which it is alleged that a carrier was a party to an agreement, conspiracy, or combination in violation of a Federal law cited in subsection (a)(2)(A) of this section or of any similar State law, proof of an agreement, conspiracy, or combination may not be inferred from evidence that two or more carriers acted together with respect to an interline rate or related matter and that a party to such action took similar action with respect to a rate or related matter on another route or traffic. In any proceeding in which such a violation is alleged, evidence of a discussion or agreement between or among such carrier and one or more other carriers, or of any rate or other action resulting from such discussion or agreement, shall not be admissible if the discussion or agreement—

"(I) was in accordance with an agreement approved under paragraph (2) of this subsection; or

"(II) concerned an interline movement of the carrier, and the discussion or agreement would not, considered by itself, violate the laws referred to in the first sentence of this clause.

In any proceeding before a jury, the court shall determine whether the requirements of clause (I) or (II) are satisfied before allowing the introduction of any such evidence.".

(4) Section 10706(a)(3) of title 49, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(D) An organization described in subparagraph (A) of this paragraph shall provide that transcripts or sound recordings be made of all meetings, that records of votes be made, and that such transcripts or recordings and voting records be submitted to the Commission and made available to other Federal agencies in connection with their statutory responsibilities over rate bureaus, except that such material shall be kept confidential and shall not be subject to disclosure under section 552 of title 5, United States Code.". Records.

(d) Section 10706(a) of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

"(4) Notwithstanding any other provision of this subsection, one or more rail carriers may enter into an agreement, without obtaining prior Commission approval, that provides solely for compilation, publication, and other distribution of rates in effect or to become effective. The Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), the Federal Trade Commission Act (15 U.S.C. 41 et

seq.), sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936, as amended (15 U.S.C. 13, 13a, 13b, 21a) shall not apply to parties and other persons with respect to making or carrying out such agreement. However, the Commission may, upon application or on its own initiative, investigate whether the parties to such an agreement have exceeded its scope, and upon a finding that they have, the Commission may issue such orders as are necessary, including an order dissolving the agreement, to ensure that actions taken pursuant to the agreement are limited as provided in this paragraph.".

Investigation.

(e) Section 10706(i)(1)(B) of title 49, United States Code, is amended by striking out "section 10101" and inserting in lieu thereof "section 10101a".

49 USC 10101.

Ante, p. 1897.

(f) The Interstate Commerce Commission may not take any action with respect to the elimination of general rate increases or decreases prior to April 1, 1982.

49 USC 10706 note.

(g) The Interstate Commerce Commission shall require rail carrier members of a rate bureau to provide the employees of such rate bureau who are affected by the amendments made by this section with fair arrangements no less protective of the interests of such employees than those established pursuant to section 11347 of title 49, United States Code. For purposes of this subsection, the term "employees" does not include any individual serving as president, vice-president, secretary, treasurer, comptroller, counsel, member of the board of directors, or any other person performing such functions.

49 USC 10706 note.

"Employees."

LONG AND SHORT HAUL TRANSPORTATION

Repeal.

SEC. 220. Section 10726(c) of title 49, United States Code, is repealed.

RAILROAD ENTRY

SEC. 221. (a) Section 10901(a) of title 49, United States Code, is amended by striking "will be enhanced by" and inserting in lieu thereof "permit".

(b) Section 10901 of title 49, United States Code, is further amended by adding at the end thereof the following new subsections:

"(d)(1) Where a rail carrier has been issued a certificate of public convenience and necessity by the Commission authorizing the construction or extension of a railroad line, no other rail carrier may block such construction or extension by refusing to permit the carrier to cross its property if (A) the construction does not unreasonably interfere with the operation of the crossed line, (B) the operation does not materially interfere with the operation of the crossed line, and (C) the owner of the crossing line compensates the owner of the crossed line.

"(2) If the carriers are unable to agree on the terms of operation or the amount of payment for purposes of paragraph (1) of this subsection, either party may submit the matters in dispute to the Commission for determination.

"(e) The Commission may require any rail carrier proposing both to construct and operate a new railroad line pursuant to this section to provide a fair and equitable arrangement for the protection of the interests of railroad employees who may be affected thereby no less protective of and beneficial to the interests of such employees than those established pursuant to section 11347 of this title.".

49 USC 11347.

SERVICE DURING PERIODS OF PEAK DEMAND

SEC. 222. Section 11101(a) of title 49, United States Code, is amended by adding at the end thereof the following new sentence: "A rail carrier shall not be found to have violated this section because it fulfills its commitments under contracts approved under section 10713 of this title before responding to reasonable requests for service.". *Ante*, p. 1908.

RECIPROCAL SWITCHING

SEC. 223. Section 11103 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) The Commission may require rail carriers to enter into reciprocal switching agreements, where it finds such agreements to be practicable and in the public interest, or where such agreements are necessary to provide competitive rail service. The carriers entering into such an agreement shall establish the conditions and compensation applicable to such agreement, but, if the carriers cannot agree upon such conditions and compensation within a reasonable period of time, the Commission may establish such conditions and compensation.

"(2) The Commission may require reciprocal switching agreements entered into by rail carriers pursuant to this subsection to contain provisions for the protection of the interests of employees affected thereby.".

CAR SERVICE COMPENSATION

SEC. 224. (a)(1) Section 11122(b)(2) of title 49, United States Code, is repealed. Repeal.

(2) Section 11122(b)(1) of title 49, United States Code, is amended by striking out "(1)" immediately before "The rate".

(b) Section 10706(a) of title 49, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

"(5)(A) Whenever two or more shippers enter into an agreement to discuss among themselves that relates to the amount of compensation such shippers propose to be paid by rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, for use by such rail carriers of rolling stock owned or leased by such shippers, the shippers shall apply to the Commission for approval of that agreement under this paragraph. The Commission shall approve the agreement only when it finds that the making and carrying out of the agreement will further the transportation policy set forth in section 10101a of this title and may require compliance with conditions necessary to make the agreement further that policy as a condition of approval. If the Commission approves the agreement, it may be made and carried out under its terms and under the terms required by the Commission, and the antitrust laws set forth in paragraph (2) of this subsection do not apply to parties and other persons with respect to making or carrying out the agreement. The Commission shall approve or disapprove an agreement under this paragraph within one year after the date application for approval of such agreement is made. 49 USC 10501. *Ante*, p. 1897.

"(B) If the Commission approves an agreement described in subparagraph (A) of this paragraph and the shippers entering into such agreement and the rail carriers proposing to use rolling stock owned

or leased by such shippers, under payment by such carriers or under a published allowance, are unable to agree upon the amount of compensation to be paid for the use of such rolling stock, any party directly involved in the negotiations may require that the matter be settled by submitting the issues in dispute to the Commission. The Commission shall render a binding decision, based upon a standard of reasonableness and after taking into consideration any past precedents on the subject matter of the negotiations, no later than 90 days after the date of the submission of the dispute to the Commission.

"(C) Nothing in this paragraph shall be construed to change the law in effect prior to the effective date of the Staggers Rail Act of 1980 with respect to the obligation of rail carriers to utilize rolling stock owned or leased by shippers.".

Ante, p. 1895.

CAR UTILIZATION

SEC. 225. (a) Subchapter II of chapter 107 of title 49, United States Code, is amended by inserting at the end thereof the following new section:

49 USC 10734.

"§ 10734. Car utilization

"In order to encourage more efficient use of freight cars, notwithstanding any other provision of this subtitle, rail carriers shall be permitted to establish tariffs containing premium charges for special services or special levels of services not provided in any tariff otherwise applicable to the movement. The Commission shall facilitate development of such tariffs so as to increase the utilization of equipment.".

(b) The section analysis of chapter 107 of title 49, United States Code, is amended by inserting immediately after the item relating to section 10731 the following new item:

"10734. Car utilization.".

CAR SERVICE ORDERS FOR EXIGENT CIRCUMSTANCES

SEC. 226. Section 11123(a) of title 49, United States Code, is amended to read as follows:

"(a)(1) When the Interstate Commerce Commission finds that a shortage of equipment, congestion of traffic, or other failure in traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States, the Commission may, for a period not to exceed thirty days—

"(A) suspend any car service rule or practice;

"(B) take action during the emergency to promote service in the interest of the public and of commerce regardless of the ownership (as between carriers) of a locomotive, car, or other vehicle on terms of compensation the carriers establish between themselves, subject to subsection (b)(2) of this section;

"(C) require joint or common use of facilities, on terms of compensation the carriers establish between themselves, subject to subsection (b)(2) of this section, when that action will best meet the emergency and serve the public interest; and

"(D) give directions for preference or priority in transportation, embargoes, or movement of traffic under permits.

Commission action, extension.

"(2) The Commission may extend any action taken under paragraph (1) of this subsection beyond the thirty-day period provided in

such paragraph only if the full Commission, after a hearing, certifies that a transportation emergency exists.

"(3) In carrying out the provisions of this subsection, the Commission shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with the traffic subject to the action of the Commission.".

EMPLOYEE PROTECTION

SEC. 227. (a) Section 1170 of title 11, United States Code, is amended by adding at the end thereof the following new subsection: Railroad line abandonments.

"(e)(1) In authorizing any abandonment of a railroad line under this section, the court shall require the rail carrier to provide a fair arrangement at least as protective of the interests of employees as that established under section 11347 of title 49.

"(2) Nothing in this subsection shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this subsection.".

(b) Section 1172 of title 11, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) In approving an application under subsection (b) of this section, the Commission shall require the rail carrier to provide a fair arrangement at least as protective of the interests of employees as that established under section 11347 of title 49.

"(2) Nothing in this subsection shall be deemed to affect the priorities or timing of payment of employee protection which might have existed in the absence of this subsection.".

MERGERS AND OTHER TRANSACTIONS

SEC. 228. (a) Section 11344(b) of title 49, United States Code, is amended— Applications.

(1) by inserting immediately after "section" the following: "which involves the merger or control of at least two class I railroads, as defined by the Commission"; and

(2) by adding at the end thereof the following new paragraph:

"(5) whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region.".

(b) Section 11344 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) In a proceeding under this section which does not involve the merger or control of at least two class I railroads, as defined by the Commission, the Commission shall approve such an application unless it finds that—

"(1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

"(2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

In making such findings, the Commission shall, with respect to any application that is part of a plan or proposal developed under section 5 (a)-(d) of the Department of Transportation Act (49 U.S.C. 1654 (a)-(d)), accord substantial weight to any recommendations of the Secretary of Transportation.".

(c) Section 11344 of title 49, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(e) A rail carrier, or a person controlled by or affiliated with a rail carrier, together with one or more affected shippers, may apply for approval under this subsection of a transaction for the purpose of providing motor carrier transportation prior or subsequent to rail transportation to serve inadequately served shippers located on a railroad other than the applicant carrier. Such application shall be approved by the Commission if the applicants demonstrate presently impaired rail service and inadequate motor common carrier service which results in the serious failure of the rail carrier serving the shippers to meet the rail equipment or transportation schedules of shippers or seriously to fail otherwise to provide adequate normal rail services required by shippers and which shippers would reasonably expect the rail carrier to provide. The Commission shall approve or disapprove applications under this subsection within 30 days after receipt of such application. The Commission shall approve applications which are not protested by interested parties within 30 days following receipt of such application.".

(d) Section 11345 of title 49, United States Code, is amended to read as follows:

Applications.
49 USC 11345.

"§ 11345. Consolidation, merger, and acquisition of control: rail carrier procedure

"(a) If a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title is involved in a proposed transaction under section 11343 of this title, this section and section 11344 of this title also apply to the transaction. The Commission shall publish notice of the application in the Federal Register by the end of the 30th day after the application is filed with the Commission and after a certified copy of it is furnished to the Secretary of Transportation. However, if the application is incomplete, the Commission shall reject it by the end of that period. The order of rejection is a final action of the Commission under section 10327 of this title. The published notice shall indicate whether the application involves—

49 USC 10501.
49 USC 11343, 11344.
Publication in Federal Register.
49 USC 10327.

"(1) the merger or control of at least two class I railroads, as defined by the Commission, to be decided within the time limits specified in subsection (b) of this section;

"(2) transactions of regional or national transportation significance, to be decided within the time limits specified in subsection (c) of this section; or

"(3) any other transaction covered by this section, to be decided within the time limits specified in subsection (d) of this section.

"(b) If the application involves the merger or control of two or more class I railroads, as defined by the Commission:

Comments.

"(1) Written comments about an application may be filed with the Commission within 45 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments.

"(2) The Commission shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it and given to the Secretary of

Transportation by the 90th day after publication of notice under that subsection.

"(3) The Commission must conclude evidentiary proceedings by the end of the 24th month after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 180th day after the date on which it concludes the evidentiary proceedings. Evidentiary proceedings.

"(c) If the application involves a transaction other than the merger or control of at least two class I railroads, as defined by the Commission, which the Commission has determined to be of regional or national transportation significance:

"(1) Written comments about an application may be filed with the Commission within 30 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments. Comments.

"(2) The Commission shall require that applications inconsistent with an application, notice of which was published under subsection (a) of this section, and applications for inclusion in the transaction, be filed with it and given to the Secretary of Transportation by the 60th day after publication of notice under that subsection.

"(3) The Commission must conclude any evidentiary proceedings by the 180th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 90th day after the date on which it concludes the evidentiary proceedings. Evidentiary proceedings.

"(d) For all applications under this section other than those specified in subsections (b) and (c) of this section:

"(1) Written comments about an application may be filed with the Commission within 30 days after notice of the application is published under subsection (a) of this section. Copies of such comments shall be served on the Secretary of Transportation and the Attorney General, each of whom may decide to intervene as a party to the proceeding. That decision must be made by the 15th day after the date of receipt of the written comments, and if the decision is to intervene, preliminary comments about the application must be sent to the Commission by the end of the 15th day after the date of receipt of the written comments. Comments.

"(2) The Commission must conclude any evidentiary proceedings by the 105th day after the date of publication of notice under subsection (a) of this section. The Commission must issue a final decision by the 45th day after the date on which it concludes the evidentiary proceedings. Evidentiary proceedings.

"(e) If the Commission does not issue a decision that is a final action under section 10327 of this title, it shall send written notice to Congress that a decision was not issued and the reasons why it was not issued. Notice to Congress. 49 USC 10327.

"(f) The Commission may waive the requirement that an initial decision be made under section 10327 of this title and make a final decision itself when it determines that action is required for the timely execution of its functions under this subchapter or that an application governed by this section is of major transportation Waiver. 49 USC 11341.

49 USC 10327.

importance. The decision of the Commission under this subsection is a final action under section 10327 of this title.".

Adjudication.
49 USC 11343 note.
Ante, p. 1932.

(e) Any application filed or pending on the effective date of this Act under section 11343, 11344, or 11345 of title 49, United States Code, before the Secretary of Transportation, the Interstate Commerce Commission, or any court shall be adjudicated or determined as if this Act had not been enacted.

SAVINGS PROVISIONS

Rate complaints.
49 USC 10701a note.
49 USC 10501.

SEC. 229. (a) Any rate that is in effect on the effective date of this Act for transportation by a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of title 49, United States Code, may, during the 180-day period beginning on such effective date, be challenged in a complaint filed with the Interstate Commerce Commission by any interested party alleging that the rail carrier has market dominance over the transportation to which the rate applies, as determined under section 10709 of such title, and that the rate is not reasonable under section 10701a of such title.

49 USC 10709.
Ante, p. 1898.

(b) Any rate described in subsection (a) of this section—

(1) which is not challenged in a complaint filed within the 180-day period provided in such subsection; or

(2) which is challenged in such a complaint, but (A) the rail carrier is found not to have market dominance over the transportation to which the rate applies, or (B) the rate is found to be reasonable,

shall be deemed to be lawful and may not thereafter be challenged in the Commission or in any court (other than on appeal from a decision of the Commission).

(c) The provisions of this section shall not apply to any rate under which the volume of traffic moved during the 12-month period immediately preceding the effective date of this Act did not exceed 500 net tons and has increased tenfold within the 3-year period immediately preceding the bringing of a challenge to the reasonableness of such rate.

(d) The burden of proof in any proceeding under this section shall be on the complainant.

TITLE III—RAILROAD COST DETERMINATIONS

UNIFORM ACCOUNTING SYSTEM

SEC. 301. Section 11142 of title 49, United States Code, is amended to read as follows:

49 USC 11142.

"§ 11142. Uniform accounting system

"The Interstate Commerce Commission may prescribe a uniform accounting system for classes of carriers providing, and brokers for, transportation subject to the jurisdiction of the Commission under subchapters II, III, and IV of chapter 105 of this title.".

49 USC 10521, 10541, 10561.

RAILROAD COST ACCOUNTING

SEC. 302. (a) Chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER IV—RAILROAD COST ACCOUNTING

"§ 11161. Railroad Accounting Principles Board

Establishment.
49 USC 11161.

"(a)(1) There is established a Railroad Accounting Principles Board which shall be within and responsible to the legislative branch of the Federal Government.

"(2) The Board shall be composed of the Comptroller General of the United States, who shall serve as chairman, and six members to be appointed by the Comptroller General.

Membership.

"(3) The Comptroller General shall appoint members of the Board from among persons who are well qualified for such position by virtue of experience in or knowledge of rate regulation, accounting, or cost determinations. Of the members of the Board so appointed—

"(A) one shall be from the accounting profession;
"(B) one shall be from the railroad industry;
"(C) one shall be a representative of major rail shippers;
"(D) one shall be from the Interstate Commerce Commission;
"(E) one shall be a representative of small rail shippers; and
"(F) one shall be from the economics profession.

"(4) The term of office of each appointed member of the Board shall be three years, except that any member appointed to fill a vacancy in the Board shall serve for the remainder of the term for which his predecessor was appointed.

"(5) The Board shall not act in the absence of a quorum, which shall consist of three members.

"(b) Each appointed member of the Board shall receive compensation at a rate equal to 1/260 of the rate prescribed for level IV of the Executive Schedule, under section 5315 of title 5, for each day (including traveltime) in which he is engaged in the actual performance of duties vested in the Board.

Compensation.

"(c)(1) The Board may utilize personnel from the Federal Government, with the consent of the head of the appropriate Federal department or agency, or appoint individuals from private life, to serve on advisory committees or to provide the staff services necessary to assist the Board in carrying out its functions and responsibilities under this subchapter.

Advisory committees; staff services.

"(2) Individuals appointed by the Board under this subsection may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

5 USC 5101 *et seq.*, 5331.

"(d) All Federal departments and agencies are authorized to cooperate with the Board and to furnish information, appropriate personnel (with or without reimbursement), and such financial and other assistance as may be agreed upon by the Board and the Federal department or agency involved.

"(e) Members and employees of the Board and all other individuals appointed under this subsection having or having had access to information in the possession of the Board shall be subject to the provisions of section 1905 of title 18.

Confidential information.

"(f) The Board shall cease to exist three years after the effective date of the Staggers Rail Act of 1980.

Termination.
Ante, p. 1895.

"§ 11162. Cost accounting principles

49 USC 11162.

"(a) Within two years after the effective date of the Staggers Rail Act of 1980, the Railroad Accounting Principles Board shall establish, for rail carriers providing transportation subject to the jurisdiction of

Ante, p. 1895.

49 USC 10501.

the Interstate Commerce Commission under subchapter I of chapter 105 of this title, principles governing the determination of economically accurate railroad costs directly and indirectly associated with particular movements of goods, including the variable costs associated with particular movements of goods or such other costs as the Board believes most accurately represent the economic costs of such movements. Such principles shall govern the determination of all railroad costs for specific regulatory proceedings under this title.

"(b) In developing cost accounting principles under this section, the Board shall take into account the following considerations:

"(1) The specific regulatory purposes for which railroad costs are required.

"(2) The degree of accuracy of the cost information which is needed to meet regulatory purposes.

"(3) The existing capability and the probable future capability of rail carriers to provide such information and the relative benefits and costs of requiring development of additional capability.

"(4) The means by which the degree of economic accuracy required can be obtained at the least possible expense and with the least possible information reporting.

"(5) The means by which the confidentiality of such costs can best be maintained while meeting the need for such information in regulatory proceedings.

Cost information disclosure.

"(c) The cost accounting principles established by the Board shall require that cost information be reported or disclosed only for the essential regulatory purposes defined by the Board.

Rules.
49 USC 11163.

"§ 11163. Implementation of cost accounting principles

"Upon the establishment of cost accounting principles by the Railroad Accounting Principles Board under section 11162 of this title, the Interstate Commerce Commission shall promptly promulgate rules to implement and enforce such principles. Not less than once every five years after the promulgation of the original rules, the Commission shall review the principles of the Board and shall, by rule, make such changes in such principles as are required to achieve the regulatory purposes of this title and the goals of this subchapter. The Commission shall insure that the rules promulgated under this section are the most efficient and least burdensome means by which the required information may be developed for regulatory purposes.

Review.

49 USC 11164.

"§ 11164. Certification of rail carrier cost accounting systems

"(a) Within 180 days after the effective date of the Staggers Rail Act of 1980, each rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title shall file with the Commission a request for preliminary certification of its cost accounting system. The Commission shall grant such preliminary certification if it determines that the cost accounting system of such rail carrier is in compliance with the accounting standards of the Commission in effect on the day prior to the effective date of the Staggers Rail Act of 1980.

Ante, p. 1895.

49 USC 10501.

"(b)(1) As soon as practicable, but not later than 9 months, after the promulgation of rules by the Commission under section 11163 of this title, each rail carrier described in subsection (a) of this section shall file with the Commission a request for final certification of its cost accounting system developed to comply with this section.

"(2) Within 90 days, or such additional time as the Commission finds necessary, after a rail carrier files its request for final certification under paragraph (1) of this subsection, the Commission shall grant such final certification to such carrier if the Commission determines that the cost accounting system of such carrier is in compliance with the rules promulgated by the Commission under section 11163 of this title. If the Commission denies such final certification, the rail carrier shall revise its cost accounting system and file a new request for certification within 90 days after the date of such denial. The Commission shall thereupon grant final certification if it determines that such cost accounting system, as revised, is in compliance with such rules. If the Commission again denies final certification to the rail carrier, the Commission shall prescribe a cost accounting system which such carrier shall adopt within a reasonable time and which shall be considered a finally certified cost accounting system for purposes of this section.

"(c) Each rail carrier shall have and maintain a cost accounting system that is in compliance with the rules promulgated by the Commission under section 11163 of this title.

"(d)(1) Certification under this section that the cost accounting system of a rail carrier is in compliance with the rules promulgated by the Commission under section 11163 of this title shall be valid until the promulgation of new rules by the Commission.

"(2) After the cost accounting system of a rail carrier is certified under this section, such rail carrier may, after notifying the Commission, make modifications in such system unless, within 60 days after the date of notification, the Commission finds such modifications to be inconsistent with the rules promulgated by the Commission under section 11163 of this title.

Cost accounting systems, modification.

"(e) For purposes of determining whether the cost accounting system of a rail carrier is in compliance with the rules promulgated by the Commission, the Commission shall have the right to examine and make copies of any documents, papers, or records of such rail carrier relating to compliance with such rules. Such documents, papers, and records (and any copies thereof) shall not be subject to the mandatory disclosure requirements of section 552 of title 5.

Compliance determination.

"§ 11165. Cost availability

49 USC 11165.

"As required by the rules of the Interstate Commerce Commission governing discovery in Commission proceedings, rail carriers shall make relevant cost data available to shippers, States, ports, communities, and other interested parties that are a party to a Commission proceeding in which such data is required.

"§ 11166. Accounting and cost reporting

Rules.
49 USC 11166.

"(a) To obtain expense and revenue information for regulatory purposes, the Interstate Commerce Commission may promulgate reasonable rules for rail carriers providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title, prescribing expense and revenue accounting and reporting requirements consistent with generally accepted accounting principles uniformly applied to such carriers. Such requirements shall be cost effective and compatible with and not duplicative of the managerial and responsibility accounting requirements of those carriers. To the extent such rules are required solely to provide expense and revenue information necessary for determining railroad costs in regulatory proceedings pursuant to this title, such rules shall be promulgated in accordance with the cost accounting principles

49 USC 10501.

established by the Railroad Accounting Principles Board under section 11162 of this title.

Reports.

"(b) Any reports required by the rules established by the Commission under this section shall include only information considered necessary for disclosure under the cost accounting principles established by the Board or under generally accepted accounting principles or the requirements of the Securities and Exchange Commission.

Submittal to Congress.
49 USC 11167.
Ante, p. 1895.

"§ 11167. Report

"The Railroad Accounting Principles Board shall, within 2 years after the effective date of the Staggers Rail Act of 1980, submit to the Congress a report setting forth any recommendations of the Board for appropriate legislative or administrative action in order to integrate the cost accounting principles and the cost accounting system certification process under this subchapter into existing rail carrier rate regulation under this title, including determinations under section 10709 of this title.

49 USC 10709.

49 USC 11168.

"§ 11168. Authorization of appropriations

"There are authorized to be appropriated to carry out the provisions of this subchapter not to exceed $1,000,000 for the fiscal year ending September 30, 1981, not to exceed $1,000,000 for the fiscal year ending September 30, 1982, and not to exceed $1,000,000 for the fiscal year ending September 30, 1983.".

(b) The analysis of chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER IV—RAILROAD COST ACCOUNTING

"11161. Railroad Accounting Principles Board.
"11162. Cost accounting principles.
"11163. Implementation of cost accounting principles.
"11164. Certification of rail carrier cost accounting systems.
"11165. Cost availability.
"11166. Accounting and cost reporting.
"11167. Report.
"11168. Authorization of appropriations.".

CIVIL PENALTIES FOR VIOLATIONS OF ACCOUNTING PRINCIPLES PROVISIONS

SEC. 303. (a)(1) Chapter 119 of title 49, United States Code, is amended by inserting immediately after section 11913 the following new section:

49 USC 11913a.

"§ 11913a. Accounting principles violations

"Any rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title that fails to obtain final certification of its cost accounting system under section 11164(b) of this title shall be fined not less than $50,000.".

49 USC 10501.
Ante, p. 1936.

(2) The section analysis of chapter 119 of title 49, United States Code, is amended by inserting immediately after the item relating to section 11913 the following new item:

"11913a. Accounting principles violations.".

Confidential data, disclosure.

(b) Section 11910 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

Ante, p. 1937.

"(d) A person that knowingly discloses confidential data made available to such person under section 11165 of this title by a rail carrier providing transportation subject to the jurisdiction of the

Commission under subchapter I of chapter 105 of this title shall be fined not more than $50,000.". 49 USC 10501.

TITLE IV—RAILROAD MODERNIZATION ASSISTANCE

FEEDER RAILROAD DEVELOPMENT PROGRAM

SEC. 401. (a) Subchapter I of chapter 109 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10910. Railroad development 49 USC 10910.

"(a) In this section— Definitions.

"(1) 'financially responsible person' means a person who (A) is capable of paying the constitutional minimum value of the railroad line proposed to be acquired, and (B) is able to assure that adequate transportation will be provided over such line for a period of not less than 3 years. Such term includes a government authority but does not include a class I or a class II rail carrier.

"(2) 'railroad line' means (A) during the 3-year period beginning on the effective date of the Staggers Rail Act of 1980, a line of railroad which carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year, and (B) after the end of such 3-year period, any line of railroad. *Ante*, p. 1895.

"(b)(1) When the Interstate Commerce Commission finds that— Railroad lines, sale.

"(A)(i) the public convenience and necessity require or permit the sale of a particular railroad line under this section; or

"(ii) a railroad line has been placed on a system diagram map as required under section 10904 of this title, but the rail carrier owning such line has not filed an application to abandon such line under sections 10903 and 10904 of this title; and 49 USC 10904. 49 USC 10903.

"(B) an application to purchase such line has been filed, in accordance with regulations required under subsection (k) of this section, by a financially responsible person,

the Commission shall require the rail carrier owning the railroad line to sell such line to such financially responsible person at a price not less than the constitutional minimum value.

"(2) For purposes of this subsection, the constitutional minimum value of a particular railroad line shall be presumed to be not less than the net liquidation value of such line or the going concern value of such line, whichever is greater, but shall not include the cost of providing a protective arrangement under subsection (j) of this section.

"(c)(1) For purposes of this section, the Commission may determine that the public convenience and necessity require or permit the sale of a railroad line if the Commission determines, after a hearing on the record, that—

"(A) the rail carrier operating such line refuses within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over such line;

"(B) the transportation over such line is inadequate for the majority of shippers who transport traffic over such line;

"(C) the sale of such line will not have a significantly adverse financial effect on the rail carrier operating such line;

"(D) the sale of such line will not have an adverse effect on the overall operational performance of the rail carrier operating such line; and

"(E) the sale of such line will be likely to result in improved railroad transportation for shippers that transport traffic over such line.

"(2) In a proceeding under this subsection, the burden of proving that the public convenience and necessity require or permit the sale of a particular railroad line is on the person filing the application to acquire such line. If the Commission finds under this subsection that the public convenience and necessity require or permit the sale of a particular railroad line, the Commission shall concurrently notify the parties of such finding and publish such finding in the Federal Register.

Publication in Federal Register.

Trackage rights.

"(d) In the case of any railroad line subject to sale under subsection (a) of this section, the Commission shall, upon the request of the acquiring carrier, require the selling carrier to provide to the acquiring carrier trackage rights to allow a reasonable interchange with the selling carrier or to move power equipment or empty rolling stock between noncontiguous feeder lines operated by the acquiring carrier. The Commission shall require the acquiring carrier to provide the selling carrier reasonable compensation for any such trackage rights.

"(e) The Commission shall require, to the maximum extent practicable, the use of the employees who would normally have performed work in connection with a railroad line subject to a sale under this section.

Joint rates.

"(f) In the case of a railroad line which carried less than 3,000,000 gross ton miles of traffic per mile in the preceding calendar year, whenever a purchasing carrier under this section petitions the Commission for joint rates applicable to traffic moving over through routes in which the purchasing carrier may practicably participate, the Commission shall, within 30 days after the date such petition is filed and pursuant to section 10705(a) of this title, require the establishment of reasonable joint rates and divisions over such route.

49 USC 10705.

Exemptions.

"(g)(1) Any person operating a railroad line acquired under this section may elect to be exempt from any of the provisions of this title, except that such a person may not be exempt from the provisions of chapter 107 of this title with respect to transportation under a joint rate.

49 USC 10701 *et seq.*

"(2) The provisions of paragraph (1) of this subsection shall apply to any line of railroad which was abandoned during the 18-month period immediately prior to the effective date of the Staggers Rail Act of 1980 and was subsequently purchased by a financially responsible person.

Ante, p. 1895.

"(h) If a purchasing carrier under this section proposes to sell or abandon all or any portion of a purchased railroad line, such purchasing carrier shall offer the right of first refusal with respect to such line or portion thereof to the carrier which sold such line under this section. Such offer shall be made at a price equal to the sum of the price paid by such purchasing carrier to such selling carrier for such line or portion thereof and the fair market value (less deterioration) of any improvements made, as adjusted to reflect inflation.

Preconditions for shippers.

"(i) Any person operating a railroad line acquired under this section may determine preconditions, such as payment of a subsidy, which must be met by shippers in order to obtain service over such lines, but such operator must notify the shippers on the line of its intention to impose such preconditions.

Employee interests, protection.

"(j) In the case of any railroad line sold pursuant to this section, the Commission shall require the selling carrier to provide a fair arrange-

ment at least as protective of the interests of employees as that established under section 11347 of this title. 49 USC 11347.

"(k) The Commission shall, within 60 days after the effective date of the Staggers Rail Act of 1980, prescribe such regulations and procedures as may be necessary to carry out the provisions of this section.". Regulations and procedures. *Ante*, p. 1895.

(b) The section analysis of chapter 109 of title 49, United States Code, is amended by adding immediately after the item relating to section 10909 the following new item:

"10910. Railroad development.".

ABANDONMENT

SEC. 402. (a)(1) Section 10903(b)(1) of title 49, United States Code, is amended by striking out the first sentence.

(2) Section 10903(c) of title 49, United States Code, is repealed.

(b)(1) Section 10904(a) of title 49, United States Code, is amended—

(A) by striking out "at least 60" and all that follows through "effective" in paragraph (1);

(B) by striking out "and" at the end of paragraph (2)(A);

(C) by striking out the period at the end of paragraph (2)(B) and inserting in lieu thereof "; and";

(D) by adding at the end of paragraph (2) the following new subparagraph:

"(C)(i) a statement that the line is available for subsidy or sale in accordance with section 10905 of this title, (ii) a statement that the carrier will promptly provide to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation, calculated in accordance with section 10905 of this title, and (iii) the name and business address of the person who is authorized to discuss sale or subsidy terms for the carrier."; and *Post*, p. 1942.

(E) by inserting immediately before the period at the end of paragraph (3)(E) the following: ", and certifying that clauses (A)-(D) have been satisfied within the most recent 30 days prior to the date the application is filed".

(2) Section 10904(b) of title 49, United States Code, is amended to read as follows:

"(b) If no protest is received within 30 days after the application is filed, the Commission shall find that the public convenience and necessity require or permit the abandonment or discontinuance. In such a case, the Commission shall, within 45 days after the application is filed, issue a certificate which permits the abandonment or discontinuance to occur within 75 days after the application is filed.". Certificate.

(3) Section 10904(c) of title 49, United States Code, is amended to read as follows: Protests.

"(c)(1) If a protest is received within 30 days after the application is filed, the Commission shall, within 45 days after the application is filed, determine whether an investigation is needed to assist in determining what disposition to make of the application.

"(2) If the Commission decides that no investigation is to be undertaken, the Commission shall, within 75 days after the application is filed, decide whether the present or future public convenience and necessity require or permit the abandonment or discontinuance, taking into consideration the application of the rail carrier and any materials submitted by protestants. If the Commission finds that the present or future public convenience and necessity require or permit the abandonment, it shall, within 90 days after the date of applica- Certificate.

tion, issue a certificate which permits the abandonment or discontinuance to occur within 120 days after the application is filed.

Investigation.

"(3) If the Commission decides that an investigation should be undertaken under this section, the investigation must be completed within 135 days, and an initial decision must be rendered within 165 days, after the date the application is filed. Thirty days after such decision, the initial decision shall become the final decision of the Commission unless, during the interim, the Commission decides to hear appeals. If an initial decision is appealed and considered by the Commission, the Commission shall issue a final decision within 255 days after the date of application. Whenever the Commission decides upon investigation that the present or future public convenience and necessity require or permit the abandonment or discontinuance of rail service, it shall, within 15 days of the final decision, issue a certificate which permits the abandonment or discontinuance to occur within 75 days of the date of the final decision.

"(4) The effective date of any certificate which permits abandonment or discontinuance may be stayed by the Commission pursuant to the provisions of section 10905 of this title.".

Infra.

(4) Section 10904 of title 49, United States Code, is amended by redesignating subsection (d) as subsection (e), and by inserting immediately after subsection (c) the following new subsection:

"(d)(1) The burden is on the person applying for the certificate to prove that the present or future public convenience and necessity require or permit the abandonment or discontinuance.

"(2) For applications approved by the Secretary of Transportation as part of a plan or proposal under section 5(a)-(d) of the Department of Transportation Act (49 U.S.C. 1654(a)-(d)), the Commission shall consider whether any detriment from the abandonment or discontinuance exceeds the transportation benefit from the plan or proposal as a whole.".

Waiver.

(5) Section 10904(e) of title 49, United States Code, as redesignated by paragraph (4) of this subsection, is amended by inserting immediately before the period at the end thereof the following: ", except that the requirement of such description or identification in such diagram may be waived by the Commission if the application was approved by the Secretary of Transportation as part of a plan or proposal under section 5(a)-(d) of the Department of Transportation Act (49 U.S.C. 1654(a)-(d)), or the application is filed by a railroad in bankruptcy".

(c) Section 10905 of title 49, United States Code, is amended to read as follows:

49 USC 10905.

"§ 10905. Offers of financial assistance to avoid abandonment and discontinuance

Definitions.

"(a) In this section—

"(1) 'avoidable cost' means all expenses that would be incurred by a rail carrier in providing transportation that would not be incurred if the railroad line over which the transportation was provided were abandoned or if the transportation were discontinued. Expenses include cash inflows foregone and cash outflows incurred by the rail carrier as a result of not abandoning or discontinuing the transportation. Cash inflows foregone and cash outflows incurred include—

"(A) working capital and required capital expenditure;

"(B) expenditures to eliminate deferred maintenance;

"(C) the current cost of freight cars, locomotives, and other equipment; and

"(D) the foregone tax benefits from not retiring properties from rail service and other effects of applicable Federal and State income taxes.

"(2) 'reasonable return' means—

"(A) if a rail carrier is not in reorganization, the cost of capital to the rail carrier, as determined by the Interstate Commerce Commission; and

"(B) if a rail carrier is in reorganization, the mean cost of capital of rail carriers not in reorganization, as determined by the Commission.

"(b) Any rail carrier which has filed an application for a certificate of abandonment or discontinuance shall provide promptly to a party considering an offer of financial assistance and shall provide concurrently to the Commission—

"(1) an estimate of the annual subsidy and minimum purchase price required to keep the line or a portion of the line in operation;

"(2) its most recent reports on the physical condition of that part of the railroad line involved in the proposed abandonment or discontinuance;

"(3) traffic, revenue, and other data necessary to determine the amount of annual financial assistance which would be required to continue rail transportation over that part of the railroad line; and

"(4) any other information that the Commission may deem necessary to allow a potential offeror to calculate an adequate subsidy or purchase offer.

Publication in Federal Register.
49 USC 10903.

"(c) When the Commission finds under section 10903 of this title that the public convenience and necessity require or permit abandonment or discontinuance of a particular railroad line, it shall, concurrently with service of the decision upon the parties, publish the finding in the Federal Register. Within 10 days following the publication, any person may offer to pay the carrier a subsidy or offer to purchase the line. Such offer shall be filed concurrently with the Commission. If the offer to subsidize or purchase the line is less than the carrier's estimate provided under subsection (b)(1) of this section, the offer shall explain the basis of the disparity, and the manner in which the offer of subsidy or purchase is calculated.

Subsidy or purchase offer.

Abandonment or discontinuance, postponement.

"(d) If, within 15 days after the publication required in subsection (c) of this section, the Commission finds that—

"(1) a financially responsible person (including a government authority) has offered financial assistance to enable the rail transportation to be continued over that part of the railroad line to be abandoned or over which all rail transportation is to be discontinued; and

"(2) it is likely that the assistance would be equal to—

"(A) the difference between the revenues attributable to that part of the railroad line and the avoidable cost of providing rail freight transportation on the line, plus a reasonable return on the value of the line; or

"(B) the acquisition cost of that part of the railroad line;

the Commission shall postpone the issuance of a certificate authorizing abandonment or discontinuance in accordance with subsections (e) and (f) of this section.

"(e) If the carrier and a person offering financial assistance enter into an agreement which will provide continued rail service, the Commission shall postpone the issuance of the certificate for so long as the agreement, or an extension or modification of the agreement,

is in effect. If the carrier and a person offering to purchase a line enter into an agreement which will provide continued rail service, the Commission shall approve the transaction and dismiss the application for abandonment or discontinuance. If the carrier and a financially responsible person (including a government authority) fail to agree on the amount or terms of the subsidy or purchase, either party may, within 30 days after the offer is made, request that the Commission establish the conditions and amount of compensation. If no agreement is reached within 30 days after the offer is made and neither party requests that the Commission establish the conditions and amount of compensation during that same period, the Commission shall immediately issue a certificate authorizing the abandonment or discontinuance.

Subsidy or purchase terms, establishment.

"(f)(1) Whenever the Commission is requested to establish the conditions and amount of compensation under this section—

"(A) the Commission shall render its decision within 60 days;

"(B) where subsidy has been offered, the Commission shall determine the amount and terms of subsidy based on the avoidable cost of providing continued rail transportation, plus a reasonable return on the value of the line; and

"(C) where an offer of purchase has been made in order to continue rail service on the line, the Commission shall determine the price and other terms of sale. In no case shall the Commission set a price which is below the fair market value of the line (including, unless otherwise mutually agreed, all facilities on the line or portion necessary to provide effective transportation services).

"(2) The decision of the Commission shall be binding on both parties, except that the person who has offered to subsidize or purchase the line may withdraw his offer within 10 days of the Commission's decision. In such a case, the Commission shall immediately issue a certificate authorizing the abandonment or discontinuance, unless other offers are being considered pursuant to paragraph (3) of this subsection.

"(3) If a carrier receives more than one offer to purchase or subsidize, it shall select the offeror with whom it wishes to transact business, and complete the sale or subsidy agreement, or request that the Commission establish the conditions and amount of compensation prior to the 40th day after the date on which notice was published under subsection (c) of this section. If no agreement on subsidy or sale is reached within the 40-day period and the Commission has not been requested to establish the conditions and amount of compensation, any other offeror may request that the Commission establish the conditions and amount of compensation. If the Commission has established the conditions and amount of compensation and the original offer has been withdrawn, any other offeror may accept the Commission's decision within 20 days of such decision, and the Commission shall require the carrier to enter into a sale or subsidy agreement with such offeror, if such sale or agreement incorporates the Commission's decision.

Service discontinuance or transfer, prohibition.

"(4) No purchaser of a line or portion of line sold under this section may transfer or discontinue service on such line prior to the end of the second year after consummation of the sale, nor may such purchaser transfer such line, except to the carrier from whom it was purchased, prior to the end of the fifth year after consummation of the sale.

Subsidy discontinuance.

"(5) Any subsidy provided under this section may be discontinued on notice of 60 days. Unless, within such 60-day period, another

financially responsible party enters into a subsidy agreement at least as beneficial to the carrier as that which was or was to be discontinued, the Commission shall, at the carrier's request, immediately issue a certificate authorizing the abandonment or discontinuance of service on the line.".

CONVERSION OF ABANDONED RAILROAD RIGHTS-OF-WAY

SEC. 403. Section 809(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended— 49 USC 10906 note.

(1) by inserting "(1)" immediately before the first sentence thereof; and

(2) by adding at the end thereof the following new paragraph:

"(2) There are authorized to be appropriated, for the purposes of carrying out the provisions of subsection (b)(2) of this section, not to exceed an aggregate amount of $10,000,000 for the fiscal years 1981, 1982, and 1983. Such sums are authorized to remain available until expended. Notwithstanding the provisions of subsection (b)(2) of this section, the Federal share for each grant made from the funds authorized to be appropriated pursuant to this paragraph may not exceed 80 percent of the total cost of any project.". Appropriation authorization.

EXTENSION OF REDEEMABLE PREFERENCE SHARE FINANCING

SEC. 404. Sections 505(e), 507(a), 507(d), and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(e), 827(a), 827(d), and 829) are each amended by striking out "September 30, 1980" wherever it appears and inserting in lieu thereof "September 30, 1982" in each such place.

FINANCING

SEC. 405. (a)(1) Section 505(d)(3) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(d)(3)) is amended by striking out "$700,000,000" and inserting in lieu thereof "$1,400,000,000". *Post*, p. 1947.

(2) Sections 507(a) and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 827(a) and 829) are each amended by striking out "$600,000,000" and inserting in lieu thereof "$1,400,000,000".

(b)(1) Section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is amended by inserting "(a)" immediately after "SEC. 509." and by adding at the end thereof the following new subsection:

"(b)(1) Not more than $200,000,000 of the funds received by the Secretary of Transportation from amounts appropriated under subsection (a) of this section shall be transferred by the Secretary to the United States Railway Association for use by the Association in accordance with section 216(b)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)(3)). Such funds shall be transferred immediately upon the finding by the Finance Committee under such section 216(b)(3). Funds transfer. *Post*, p. 1946.

"(2) Not less than 5 percent of the funds received by the Secretary of Transportation from amounts appropriated under subsection (a) (excluding funds transferred under paragraph (1) of this subsection) shall be available for the purchase or rehabilitation of railroad lines acquired under section 10910 of title 49, United States Code, except that no such funds shall be available for the purchase or rehabilita- Purchase or rehabilitation. *Ante*, p. 1939.

tion of such a railroad line unless such purchase or rehabilitation is consistent with the rail plan (as defined under section 5 of the Department of Transportation Act) of the State in which such line is located.

49 USC 1654.

Appropriation authorization.

"(3) Of the funds authorized to be appropriated under this section (other than funds described in paragraphs (1) and (2) of this subsection) not more than $180,000,000 are authorized to be appropriated in fiscal year 1981.".

Work force reduction.

(2) Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) Amounts transferred to the Association pursuant to section 509(b)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 may be used to purchase series A preferred stock of the Corporation to provide for the implementation by the Corporation of a program to reduce the Corporation's work force, if the Finance Committee finds that the implementation of such program will result in substantial savings to the United States.

Ante, p. 1945.

"(B) An employee who ceases to be an employee as a result of the reduction of work force under a program implemented pursuant to this paragraph shall not, by reason of so ceasing to be an employee, or by reason of any work or employment entered into after so ceasing to be an employee, lose such employee's current connection with the railroad industry for the purposes of the Railroad Retirement Act of 1974.".

45 USC 231t.

Financial assistance.

45 USC 825.

(c)(1) Section 505(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 725(a)) is amended—

(A) by inserting "(1)" immediately before "Any railroad"; and

(B) by adding at the end thereof the following new paragraphs:

"(2) An employee or employee-shipper group may apply to the Secretary for financial assistance pursuant to subsection (b)(3) of this section.

"(3) A financially responsible person (as defined in section 10910(a)(1) of title 49, United States Code) may apply to the Secretary for financial assistance from funds made available pursuant to section 509(b)(2) of this title.".

Ante, p. 1939.

Ante, p. 1945.

(2) Section 505(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(b)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary may approve applications to provide financial assistance to any employee or employee-shipper ownership group formed pursuant to a plan for the purchase or rehabilitation of a line or lines of railroad or of rail facilities which are considered to be in the public interest. The Secretary shall not use more than 20 percent of the total funds available under this section for such financial assistance. In considering the allocation of available funds and priority of eligible projects under this subsection, the Secretary shall consider the availability of viable alternatives to the ownership or rehabilitation by the eligible employee-shipper group for the continuation of rail service. Projects with no such alternative shall receive highest priority.".

(3) Sections 506 through 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 826 through 829) are amended by—

Ante, p. 1945.

(A) inserting "employee or employer-shipper group" immediately after "railroad" wherever it appears;

(B) inserting "employee or employee-shipper groups" immediately after "railroads" wherever it appears; and

(C) inserting "employee or employee-shipper group's" immediately after "railroad's" wherever it appears.

(4) Section 505(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(d)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph: *Ante*, p. 1945.

"(3) In the case of a Government authority that applies for financial assistance from funds made available pursuant to section 509(b)(2) for the purchase or rehabilitation of railroad lines purchased under section 10910 of title 49, United States Code, financing pursuant to this section shall be in the form of purchase by the Secretary of bonds or other debt obligations issued for such purpose by such Government authority.". *Ante*, p. 1945. *Ante*, p. 1939.

(5) Paragraph (4) of section 505(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 725(d)), as redesignated by this subsection, is amended by inserting ", bonds, and other debt obligations" immediately after "trustee certificates". 45 USC 825.

(d) Section 501 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821), as amended, is further amended by—

(1) striking out "and" at the end of paragraph (7);

(2) inserting "acquisition or sale of assets or securities," immediately after "merger," in paragraph (8);

(3) striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(4) adding at the end thereof the following new paragraphs: Definitions.

"(9) 'consolidation' means the combination of separate rail facilities and the abandonment of the excess facilities, except that such term does not include the combination by a single railroad of multiple tracks into fewer tracks where the tracks do not constitute separate physical and operating lines of railroad; and

"(10) 'coordination' means the combination of rail freight traffic flows through the use of joint facilities arrangements or internally that result in a reduction of service on at least one facility and includes arrangements for joint use of tracks or other facilities and the acquisition or sale of assets.".

(e) The first sentence of section 511(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831(a)) is amended by inserting immediately after "equipment" the following: "(which includes but is not limited to computerized car management systems)".

TRANSACTION ASSISTANCE

SEC. 406. Section 505(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(h)) is amended by adding at the end thereof the following new paragraphs:

"(5) Financial assistance made available under paragraph (1)(B) of this subsection may be used to purchase, for purposes of rail banking, properties of the Milwaukee Railroad located in the State of Montana with respect to which an interest in future rail common carrier operations has been evidenced.

"(6) Applications for rail banking shall be treated equally with other applications for transaction assistance."

ELECTRIFICATION LOAN GUARANTEES

SEC. 407. Section 211(i) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(i)) is amended—

(1) by inserting "or any other railroad" immediately after "the Corporation" the first place it appears;

(2) by inserting "or such railroad" immediately after "the Corporation" the second and third places it appears; and

(3) by inserting immediately after the first sentence the following new sentences: "Upon application by the Corporation or by any railroad in reorganization in the region which receives a loan under section 211(a) of this Act, the Secretary shall, pursuant to the provisions of and within the obligational limitations contained in sections 511 through 513 of such Act, guarantee obligations of the Corporation or such railroad for purposes of making capital improvements to coal export facilities.".

45 USC 831-833.

AMENDMENT TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 408. (a) The second sentence of section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended by inserting "is not required to make the findings with respect to subsections (e)(3) and (f) and" immediately after "the Association" the first place it appears.

(b) Section 211(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)(2)) is amended by striking out "$4,000,000" and inserting in lieu thereof "$7,500,000".

(c) The last sentence of section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended by striking out "1980" and inserting in lieu thereof "1981".

FEDERAL ASSISTANCE REPORT

Submittal to Congress.
49 USC 1654a.

SEC. 409. Within 90 days after the end of each fiscal year, the Secretary of Transportation shall submit a report to the Congress listing the specific Federal assistance provided the railroad industry during such fiscal year. Each such report shall set forth the reasons for each Federal loan or grant and explain the way in which such loan or grant contributed to the overall goal of providing a safe and efficient transportation system.

TITLE V—CONRAIL TITLE V LABOR PROTECTION

MONTHLY DISPLACEMENT ALLOWANCE

Pay rate.

SEC. 501. Section 505(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(b)) is amended to read as follows:

"(b) MONTHLY DISPLACEMENT ALLOWANCE.—A protected employee shall be paid a monthly displacement allowance for any calendar month within the period identified in subsection (c) of this section in which the employee is deprived of employment or adversely affected with respect to such employee's compensation, in accordance with the following provisions:

Ante, p. 1895.

"(1)(A) Effective on the effective date of the Staggers Rail Act of 1980, the protected rate of pay of a protected nonoperating employee (other than a maintenance-of-way employee) who has been deprived of employment or adversely affected with respect to such employee's compensation shall be based on the rate of pay of the position held by the employee on September 1, 1979, or

if the employee held no position on that date, the rate of pay of the last position held by the employee prior to that date. A guaranteed hourly rate of pay will be computed for each protected employee, based on the rate described in the preceding sentence, and will be (i) the actual hourly rate for hourly rated employees, (ii) the daily rate divided by 8 for daily rated employees, and (iii) the monthly rate divided by the working days in the claim month, further divided by 8, in the case of monthly rated employees. For employees occupying relief positions, the guarantee shall be computed on the basis of the weighted average daily rate of the positions relieved. Extra list employees will be guaranteed the extra list rate.

"(B) In the event a protected employee's position is abolished or such employee is displaced and is thereby required to occupy a position paying an hourly rate that is less than such employee's guaranteed hourly rate, the protected employee shall be paid the difference between the hourly rate of pay of the position such employee is occupying and his guaranteed hourly rate for all hours included in the straight time work schedule of such employee's position for the month of claim, less any time lost on account of voluntary absences other than vacations. Hours worked in excess of the straight time work schedule shall be paid in addition to the guarantee at the rate applicable to the position occupied, as provided for in the applicable collective bargaining agreement.

"(C) For any month or portion thereof in which a protected employee is deprived of employment, the protected employee shall be paid such employee's guaranteed hourly rate for the number of hours such employee would have worked in the straight time work schedule of such employee's previously held position.

"(D) Notwithstanding the provision that the protected rate shall be the rate of the position held on or immediately preceding September 1, 1979, if a protected employee becomes the permanent incumbent of a higher rated position and is not disqualified therefrom, the higher rate shall become such employee's protected rate.

"(2) Notwithstanding paragraph (1) of this subsection, effective on the effective date of the Staggers Rail Act of 1980, a protected maintenance-of-way employee shall be afforded his average monthly compensation, which is defined as the total compensation received by such employee during the 12 months immediately preceding January 1, 1975, divided by his total time paid for during that period and multiplied by 174 or by his average monthly time paid for, whichever is less, and adjusted to reflect subsequent general wage increases. If a protected employee is deprived of employment or if the employee's straight-time compensation in his current position is less in any month than the employee's average monthly compensation, the employee shall be paid the difference between his straight-time earnings, if any, and 80 percent of the average monthly compensation, less any time lost on account of voluntary absences other than vacations. If, at the close of the calendar year, the sum of the protected employee's annual straight-time compensation, monthly displacement allowance payments and offsets applicable pursuant to this title is less than the employee's average monthly compensation multiplied by 12, the employee shall receive an additional payment representing the difference. If in the previous calendar

Ante, p. 1895.

year an employee has received displacement allowance payments in excess of his annual entitlement, the excess payments shall be recovered from any current or future entitlement to monetary benefits afforded by this title, exclusive of benefits afforded by section 505(g) of this title.

45 USC 775.

"(3) Effective on the effective date of the Staggers Rail Act of 1980 a protected operating employee (as defined in Interstate Commerce Commission classifications 107 through 128) who has been deprived of employment or adversely affected with respect to such employee's compensation shall be afforded his average monthly compensation computed in accordance with this subsection as in effect prior to such effective date, but subject to a maximum amount equal to one-twelfth of the average annual earnings of all employees in the Interstate Commerce Commission classification, computed by cumulating the employee earnings reported to the Commission by the Corporation on a monthly basis for calendar year 1977 for the Interstate Commerce Commission classification of operating service in which such employee performed the preponderance of such employee's work in calendar year 1974, increased by applicable general wage increases. If the employee performed no operating service in 1974, the Interstate Commerce Commission classification shall be determined by the preponderance of such employee's operating service in an immediately preceding calendar year. If the average monthly compensation of a protected operating employee exceeds the maximum amount described in the first sentence of this paragraph, the average monthly compensation of the employee will be reduced to such maximum amount for purposes of computing such employee's monthly displacement allowance, if any. If the average monthly compensation of a protected operating employee is less than such maximum amount, the average monthly compensation of the employee will be used to compute such employee's monthly displacement allowance, if any. If a protected employee is deprived of employment, or if the employee is adversely affected with respect to his compensation such that the compensation in such employee's current position is less in any month than the average monthly compensation of the employee or such maximum amount, whichever is less, the employee shall be paid 75 per centum of the difference between such employee's earnings, if any, and the lesser figure, minus any time lost on account of voluntary absences other than vacations. If at the close of the calendar year the sum of the protected employee's annual earnings, monthly displacement allowance payments, and offsets applicable pursuant to this title is less than such employee's average monthly compensation subject to the maximum amount and multiplied by 12, the employee shall receive an additional payment representing the difference. In the computation of the annual payment, if during the calendar year an employee has been force assigned to, or has been required to exercise seniority to, a position in an Interstate Commerce Commission classification with a lesser maximum amount than the maximum amount applicable to such employee's 1974 Interstate Commerce Commission classification, such employee shall be paid the difference without credit being taken for compensation earned by virtue of actual working hours in the calendar year in excess of the number of hours paid for in such employee's average monthly compensation multiplied by 12 or such employee's annual 1977

Ante, p. 1895.

maximum amount, whichever is less. An employee's compensation for purposes of this subsection shall not include savings sharing productivity payments received pursuant to paragraph (t) of the Crew Consist Agreement between the Corporation and the United Transportation Union dated September 8, 1978. If, in the previous calendar year, an employee has received displacement allowance payments in excess of such employee's annual entitlement, the excess payments shall be recovered from any current or future entitlement to monetary benefits afforded by this title, exclusive of benefits afforded by subsection (g) of this section.

"(4) Effective on the effective date of the Staggers Rail Act of 1980, a protected noncontract employee who has been deprived of employment or adversely affected with respect to such employee's compensation shall retain his average monthly compensation and monthly displacement allowance computed in accordance with this subsection as in effect prior to such effective date. In the event such noncontract employee exercises or has exercised seniority in a craft or class of operating employees, such employee's entitlement to a monthly displacement allowance and fringe benefits, and such employee's eligibility for transfer, shall be the same as the entitlement and eligibility of other protected employees in the craft or class in which seniority is exercised. In the event such noncontract employee exercises or has exercised seniority in a craft or class of nonoperating employees, the entitlement of such employee to a monthly displacement allowance and fringe benefits, and such employee's eligibility for transfer, shall be consistent with the entitlement and eligibility of other protected employees in the craft or class in which seniority is exercised, except that the protected rate of pay shall be based on the rate of pay of the position first obtained through the exercise of seniority, rather than the rate of any position held on or prior to September 1, 1979. *Ante*, p. 1895.

"(5) Notwithstanding the preceding provisions of this subsection, employees who, prior to September 1, 1979, accepted transfer to positions requiring a change of residence pursuant to subsection (d) of this section, shall retain their average monthly compensation and monthly displacement allowance computed in accordance with this subsection prior to the effective date of the Staggers Rail Act of 1980.

"(6) In determining compensation in a protected employee's current employment, such employee shall be treated as occupying the position producing the highest rate of pay to which such employee's qualifications and seniority entitle the employee under the applicable collective bargaining agreement and which does not require a change in residence. A protected operating employee will be considered to be occupying the position producing the highest rate of pay if the employee occupies a position producing compensation equal to such employee's average monthly compensation, subject to the maximum amount.

"(7) With respect to a protected employee who has been deprived of employment, the monthly displacement allowance shall be reduced by (A) the full amount of any unemployment compensation benefits received by such employee, and (B) an amount equivalent to any outside earnings of such employee.

"(8) A protected employee's average monthly compensation or protected rate of pay shall be adjusted from time to time thereafter to reflect subsequent general wage increases.

"(9) The average monthly compensation or protected rate of pay provided by this section shall in no event exceed $2,500 in any month, except that such amount shall be adjusted to reflect general wage increases subsequent to April 1, 1976.

"(10) A protected employee and his representative shall be furnished with such employee's protected rate of pay, or average monthly compensation and average monthly time paid for, subject to the maximum amount, computed in accordance with the terms of this subsection. Each protected employee who has been deprived of employment or his representative and the employer shall agree upon a procedure by which the employee shall keep the employer currently informed of the unemployment compensation benefits received by such employee and the earnings of such employee in employment other than with such employer.

"(11) In the case of a supplemental transaction—

"(A) with respect to an employee described in paragraph (1) of this subsection who was not employed on September 1, 1979, the protected rate of pay of such employee shall be based on the rate of pay of the position held by such employee on the first day of the first month after September 1979 in which such employee was employed;

"(B) with respect to an employee described in paragraph (2) of this subsection who was not employed during the 12 months immediately preceding January 1, 1975, the average monthly compensation of such employee shall be determined on the basis of the first 12-month period after January 1, 1974, during which such employee was employed; and

"(C) with respect to an employee described in paragraph (3) of this subsection—

"(i) if such employee was employed during the 12 months immediately preceding January 1, 1975, the average monthly compensation of such employee shall be determined on the basis of such 12-month period; and

"(ii) if such employee was not employed during the 12 months immediately preceding January 1, 1975, the preponderance of work of such employee shall be determined on the basis of the first 12-month period after January 1, 1974, during which such employee was employed.".

DURATION OF MONTHLY DISPLACEMENT ALLOWANCE

SEC. 502. Section 505(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(c)) is amended to read as follows:

"(c) DURATION OF MONTHLY DISPLACEMENT ALLOWANCE.—The monthly displacement allowance provided for in subsection (b) of this section shall, in the case of a protected employee with 5 or more years of service on the effective date of this Act, continue until the attainment of age 65 by such employee, and shall, in the case of a protected employee who has less than 5 years of service on such date, continue for a period equal to the employee's total prior years of service, except that such monthly displacement allowance—

"(1) shall terminate upon the protected employee's death, retirement, resignation, or dismissal for cause;

"(2) shall not be paid with respect to any period of disciplinary suspension for cause, failure to work due to illness or disability, voluntary furlough, or failure to retain or obtain a position

available to the employee by the exercise of such employee's seniority rights in accordance with the provisions of this section;

"(3) shall not be paid to a protected employee deprived of employment with respect to any period of failure to work due to strike, fire, flood, snowstorm, hurricane, earthquake, tornado, or other similar natural occurrence that causes a suspension of operations in whole or in part and precludes performance of the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions (but the payment of monthly displacement allowances shall be resumed upon termination of the emergency); and

"(4) shall not be paid with respect to any month that commences after the effective date of the Staggers Rail Act of 1980 *Ante*, p. 1895. for which the employee has failed to make a claim for such allowance within 3 full calendar months (unless otherwise agreed upon by the employee or his representative and the employer) after the last day of the month for which such allowance is sought, except that such 3-month limit shall not apply to any claim which is the subject of or is based upon an arbitration decision issued pursuant to section 507 of this title. 45 USC 777.

Unless otherwise agreed upon by the employee or his representative and the employer, the entitlement of an employee to an allowance shall be approved or denied within 150 days after the claim therefor is made if such claim is filed during the 12-month period beginning on the effective date of the Staggers Rail Act of 1980, and within 90 days after the claim therefor is made if such claim is filed after such 12-month period. Any claim not approved or denied at the expiration of the time limits described in the preceding sentence shall be deemed approved.".

TRAINING AND TRANSFER

SEC. 503. (a)(1) Section 505(d) (1) and (3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d) (1) and (3)) are each amended by inserting "or other employers with employees protected under this section" immediately after "Corporation" wherever it appears.

(2) Section 505(d)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d)(1)) is amended by inserting "or the system of other employers with employees protected under this section" immediately after "Corporation's system".

(3) Section 505(d)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d)(2)) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this subsection, a protected employee of the National Railroad Passenger Corporation shall not be required to transfer to a location outside the seniority district of such protected employee.".

(b) Section 505(d)(4) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d)(4)) is amended by striking out "Transfers" and inserting in lieu thereof "Except as provided in paragraph (5) of this subsection, transfers".

(c) Section 505(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(d)(4)), as amended, is further amended by adding at the end thereof the following new paragraph:

"(5) In the case of a marine craft or class on the Corporation's system, or in the craft or class of a Penn Truck Lines, Incorporated, employee, transfers to vacancies requiring a change in residence shall be subject to the following:

"(A) The vacancy shall be first offered to the junior qualified protected employee or employees deprived of employment in the seniority district where the vacancy exists, and each such employee shall have 20 days to elect one of the options set forth in paragraph (1) of this subsection. The Corporation shall determine the number of junior qualified protected employees deprived of employment (not to exceed four employees per offer) who will be included in the offer of transfer. The vacancy will be awarded to the most junior qualified protected employee who accepts transfer. Other qualified protected employees who have accepted the transfer will retain their status as employees deprived of employment. Employees junior to the acceptor who have elected one of the options set forth in paragraph (1) of this subsection shall retain the option. If the vacancy is not filled, it may be again offered in inverse seniority order to remaining qualified protected employee(s) deprived of employment (not to exceed four employees per offer) in the seniority district.

"(B) If there are no qualified protected employees deprived of employment in the seniority district where the vacancy exists, the vacancy may be offered in inverse seniority order to qualified protected employees deprived of employment (not to exceed four employees per offer) on the system, in accordance with the procedure in subparagraph (A) of this paragraph. Employees offered transfer pursuant to this paragraph will be afforded 30 days to elect one of the options set forth in paragraph (1) of this subsection.

"(C) The provisions of this paragraph shall not prevent the adoption of other procedures pursuant to an agreement made by the Corporation and representatives of the class or craft of employees involved.

"(D) When no bona fide vacancies exist in such craft or class, the Corporation may offer such employee comparable employment for which the employee is qualified, or for which the employee can be trained, in another craft or class. The Corporation shall first attempt to locate a comparable position in a seniority district which encompasses the employee's last work location, and if successful, a transfer notice may be tendered pursuant to subparagraph (A) of this paragraph. If no such position exists, the Corporation may tender the employee a transfer notice involving a position elsewhere on the system pursuant to subparagraph (B) of this paragraph. In the event it is necessary to train an employee after such employee's acceptance of a position pursuant to this paragraph, such training shall be provided by the Corporation at no cost to the employee.".

(d) Section 505(i)(1) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 775(i)(1)) is amended by adding at the end thereof the following new sentences: "The Corporation may simultaneously offer a position to not more than 4 protected noncontract employees. The position shall be given to the protected employee accepting transfer whom the Corporation considers to be best qualified for the particular position involved. Other protected employees who have accepted the transfer shall retain their previous status. Employees who have elected a voluntary suspension of employment at their home location in lieu of protective benefits or a severance of employment shall retain the option elected.".

PAYMENT, AUDIT, AND REPORT

SEC. 504. Section 509 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779) is amended to read as follows:

"PAYMENT, AUDIT, AND REPORT

"SEC. 509. (a) PAYMENT.—The Corporation, the Association (where applicable), replacement operators, and acquiring railroads, as the case may be, shall be responsible for the actual payment of all allowances, expenses, and costs provided protected employees pursuant to the provisions of this title. The Corporation, the Association (where applicable), replacement operators, and acquiring railroads shall then be reimbursed for the actual amounts paid to, or for the benefit of, protected employees, pursuant to the provisions of this title (including such amounts paid by the employer prior to the effective date of the Staggers Rail Act of 1980 and training costs incurred by the Corporation pursuant to section 505(d)(4)(D) of this title), other than provisions with respect to employee pension benefits, not to exceed an aggregate sum of $485,000,000, by the Railroad Retirement Board, upon certification to such Board in such detail as the Board may reasonably require, by the Corporation, the Association (where applicable), replacements operators, and acquiring railroads, of the amounts paid such employees, except that the aggregate amount of reimbursements made by the Board for the payment of monthly displacement allowances in the period after the effective date of the Staggers Rail Act of 1980 shall not exceed $180,000,000. There is authorized to be appropriated to the Secretary annually such sums as may be required to meet the obligations payable under this title, not to exceed the aggregate sum of $485,000,000. Upon the exhaustion of such authorization, the Corporation, the Association (where applicable), replacement operators, and acquiring railroads shall retain responsibility for the payment of benefits otherwise reimbursable under this title, but they shall not be reimbursed therefor. There is further authorized to be appropriated to the Secretary such sums as may be necessary to provide for additional administrative expenses to be incurred by the Railroad Retirement Board in the performance of its functions under this section. Appropriations authorized under this section may be allocated by the Secretary to the Railroad Retirement Board.

Ante, p. 1895.
45 USC 775.

Appropriation authorization.

"(b) AUDIT.—Beginning October 1, 1980, the Association shall conduct a program audit of the payment of benefits pursuant to this title and shall evaluate the effectiveness of the provisions of this title in improving the Corporation's management of certain protected employees in its workforce who are entitled to receive monthly displacement allowances. Such audits and evaluations shall be conducted in accordance with such rules and regulations as the Association may prescribe. The representatives of the Association shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by or in connection with, the Corporation, replacement operators, acquiring railroads, or the Railroad Retirement Board which pertain to the benefits provided protected employees pursuant to this title and which are necessary to facilitate such audit and evaluation.

Records, accessibility.

"(c) REPORT.—The Association shall transmit to the Congress and the President, not later than 90 days after the end of each fiscal year, a comprehensive and detailed report on the payment of benefits under this title and the effectiveness of the provisions of this title in

Transmittal to Congress and the President.

improving the Corporation's management of certain protected employees in its workforce who are entitled to receive monthly displacement allowances.".

RAILROAD HIRING

SEC. 505. Title V of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771 et seq.) is amended by adding at the end thereof the following new section:

"RAILROAD HIRING

45 USC 780.

"SEC. 510. Any protected employee of the Corporation and any employee of the Corporation who is separated or furloughed from his employment with the Corporation (other than for cause) shall, unless found to be less qualified than other applicants, have the first right of hire by any other railroad that is subject to regulation by the Commission for any vacancy that is not covered by (1) an affirmative action plan, or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan. For purposes of this section, a railroad shall not be considered to be hiring new employees when it recalls any of its own furloughed employees.".

SINGLE COLLECTIVE-BARGAINING AGREEMENT

SEC. 506. Section 504(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 774(d)) is amended to read as follows:

"(d) NEW COLLECTIVE-BARGAINING AGREEMENTS.—Not later than 60 days after the effective date of any conveyance pursuant to the provisions of this Act, the representatives of the various classes of crafts of the employees of a railroad in reorganization involved in a conveyance and representatives of the Corporation shall commence negotiation of a new single collective-bargaining agreement for each class and craft of employees covering the rate of pay, rules, and working conditions of employees who are employees of the Corporation. Such collective-bargaining agreement shall include appropriate provisions concerning rates of pay, rules, and working conditions, but shall not include any provisions for job stabilization resulting from any transaction effected pursuant to this Act which may exceed or conflict with those established herein. Negotiations with respect to such single collective-bargaining agreement, and any successor thereto, shall be conducted systemwide.".

EMPLOYEE PROTECTION PAYMENTS

45 USC 779 note.

45 USC 771.

SEC. 507. Notwithstanding any other provision of law, the Consolidated Rail Corporation and other employers with employees protected under the provisions of title V of the Regional Rail Reorganization Act of 1973 shall, until the effective date of this Act, continue to make payments for employee protection under such Act in accordance with the provisions of such Act which were in effect on January 1, 1979. Notwithstanding any other provision of law, such Corporation and employers shall be reimbursed for such payments in accordance with the provisions of section 509(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 779(a)).

Ante, p. 1955.

TECHNICAL AMENDMENTS

SEC. 508. (a)(1) The item relating to section 509 in the table of contents of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) is amended to read as follows:

"Sec. 509. Payment, audit, and report.".

(2) The table of contents of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) is amended by inserting immediately after the item relating to section 509 the following new item:

"Sec. 510. Railroad hiring.".

(b) Section 102(16) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702(16)) is amended to read as follows:

"(16) 'Secretary' means the Secretary of Transportation or the designated representative of the Secretary;". "Secretary."

(c) Section 201 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 711) is amended—

(1) by amending subsection (d)(2) to read as follows:

"(2) three Government members, who shall be (A) the Secretary, acting directly or at any time through the Deputy Secretary of Transportation, the General Counsel of the Department of Transportation, the Federal Railroad Administrator, or the Deputy Administrator of the Federal Railroad Administration, (B) the Secretary of the Treasury, acting directly or at any time through an officer of the Department of the Treasury who has been appointed with the advise and consent of the Senate, and (C) the Chairman of the Commission, acting directly or at any time through the Vice Chairman of the Commission; and"; United States Railway Association, Board of Directors.

(2) striking out "through their respective Deputy Secretaries" from the first sentence of subsection (i) and inserting in lieu thereof "in the case of the Secretary, through the Deputy Secretary of Transportation, the General Counsel of the Department of Transportation, the Federal Railroad Administrator, or the Deputy Administrator of the Federal Railroad Administration, and, in the case of the Secretary of the Treasury, through an officer of the Department of the Treasury who has been appointed with the advise and consent of the Senate"; and

(3) by striking out the first sentence of subsection (j)(4).

(d) Section 501 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 771) is amended—

(1) in paragraph (6), by inserting immediately after "disability," the following: "failure to work due to strike, fire, flood, snowstorm, hurricane, earthquake, tornado, or other similar natural occurrence that causes a suspension of operations in whole or in part and precludes performance of the work which would be performed by the incumbents of the positions to be abolished or the work which would be performed by the employees involved in the force reductions,"; and

(2) by striking out "and" at the end of paragraph (10), by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(12) 'compensation' means earnings in employment subject to the Railroad Retirement Act.". "Compensation."

(e) Section 507 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 777) is amended by inserting ", section 509(b), or section 509(c)" immediately after "section 504(d)". 48 Stat. 1283. 45 USC 201-208 notes.

(f) The first sentence of section 403(d)(1) of the Rail Passenger Service Act (45 U.S.C. 563(d)(1)) is amended by striking out "if such State" and all that follows through "service".

TITLE VI—EXPEDITED SUPPLEMENTAL TRANSACTION PROPOSALS

EXPEDITED SUPPLEMENTAL TRANSACTION PROPOSALS

SEC. 601. (a) Section 305 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 745) is amended by adding at the end thereof the following new subsection:

Rail properties in Connecticut and Rhode Island, transfer.
Ante, p. 1895.

"(f) EXPEDITED PROPOSALS.—(1) Within 240 days after the effective date of the Staggers Rail Act of 1980, the Secretary, after providing an opportunity for comments from interested parties, shall determine whether to initiate a proposal for a supplemental transaction under this section for the transfer of all rail properties of the Corporation in the States of Connecticut and Rhode Island to another railroad in the region. If the Secretary determines that—

Conditions.

"(A) the proposed transferee railroad is financially and operationally capable of assuming the freight operations and freight service obligations of the Corporation on a financially self-sustaining basis;

"(B) the proposed transfer would promote the establishment and retention of a financially self-sustaining rail system in the States of Connecticut and Rhode Island adequate to meet the needs of such States; and

"(C) the proposed transfer is consistent with the goals set forth in section 206(a)(8) of this Act,

45 USC 716.

the Secretary shall develop such a proposal and may, after providing the Association, the Commission, and the States of Connecticut and Rhode Island an opportunity to review and comment on such proposal, petition the special court for an order to carry out such proposal.

Price establishment.

"(2) The Secretary shall establish a fair and equitable price for any rail properties transferred pursuant to a proposal developed under this subsection.

"(3) If the special court determines that a proposal developed under this subsection is fair and equitable, meets the requirements of this subsection, and is in the public interest, it shall issue such orders as may be necessary to carry out such proposal. The provisions of paragraphs (2)–(6) of subsection (d) of this section shall apply to the determination of the special court under this subsection, except that the standards for such determination shall be those set forth in this paragraph.

Agreement.

"(4) In complying with the requirements of subsection (d)(7) of this section with respect to the application of the provisions of title V of this Act to supplemental transactions, the parties to an expedited supplemental transaction under this subsection and the representatives of the employees affected thereby shall enter into a new agreement pursuant to section 508 of this Act and shall not be bound by the terms of any agreement executed under such section 508 and in effect on the date of enactment of the Staggers Rail Act of 1980.".

45 USC 771.

45 USC 778.

Ante, p. 1895.

(b) Section 102(19) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 702(19)) is amended by striking out ", within 6 years after the date on which the special court orders conveyances of rail properties to the Corporation".

TITLE VII—MISCELLANEOUS PROVISIONS

ROCK ISLAND AND MILWAUKEE RAILROADS AMENDMENTS

SEC. 701. (a)(1) The Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1001 et seq.) is amended by redesignating section 124 as section 125 and by inserting immediately after section 123 the following new section: 45 USC 1001 note. *Ante*, p. 409.

"JUDICIAL REVIEW

"SEC. 124. (a) Notwithstanding any other provision of law, any appeal from— 45 USC 1018.

"(1) any decision of the bankruptcy court with respect to the constitutionality of any provision of this Act; and

"(2) any decision of the court having jurisdiction over the reorganization of the Milwaukee Railroad with respect to the constitutionality of the Milwaukee Railroad Restructuring Act (45 U.S.C. 901 et seq.),

shall be taken to the United States Court of Appeals for the Seventh Circuit.

"(b) If appeals are taken from decisions described in subsection (a) of this section involving section 106 or 110 of this title or section 9 or 15 of the Milwaukee Railroad Restructuring Act, the court of appeals shall determine such appeals in a consolidated proceeding, sitting en banc, and shall render a final decision no later than 60 days after the date the last such appeal is filed. *Ante*, pp. 401, 403. 45 USC 908, 914.

"(c) Nothing in this Act or in the Milwaukee Railroad Restructuring Act (45 U.S.C. 901 et seq.) shall limit the right of any person to commence an action in the United States Court of Claims under section 1491 of title 28, United States Code (commonly referred to as the Tucker Act).".

(2) Section 110(e) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1008(e)) is amended by inserting "to employees" immediately after "liability". *Ante*, p. 403.

(3) Section 15(e) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 914(E)) is amended by inserting "to employees" immediately after "liability".

(b)(1) Section 106 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1005) is amended to read as follows: *Ante*, p. 401.

"EMPLOYEE PROTECTION AGREEMENTS

"SEC. 106. (a) No later than 5 days after the date of enactment of the Staggers Rail Act of 1980, in order to avoid disruption of rail service and undue displacement of employees, the Rock Island Railroad and labor organizations representing the employees of such railroad with the assistance of the National Mediation Board, may enter into an agreement providing protection for employees of such railroad who are adversely affected as a result of a reduction in service by such railroad. Such employee protection may include, but need not be limited to, employee relocation incentive compensation, moving expenses, and separation allowances. *Ante*, p. 1895.

"(b) If the Rock Island Railroad and the labor organizations representing the employees of such railroad are unable to enter into an employee protection agreement under subsection (a) of this section within 5 days after the date of enactment of the Staggers Rail Act of

1980, the matter shall be immediately submitted to the Commission. The Commission shall impose upon the parties by appropriate order a fair and equitable arrangement with respect to employee protection no later than 15 days after the date of enactment of the Staggers Rail Act of 1980, unless the Rock Island Railroad, and the authorized representatives of its employees have by then entered into a labor protection agreement. For purposes of this subsection, the term 'fair and equitable' means no less protective of the interests of employees than protection established by and pursuant to section 9 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 908), subject to the limitations set forth in section 110 of this title.

Ante, p. 1895.

"Fair and equitable."

Ante, p. 403.

"(c) If an employee protection arrangement is imposed by the Commission under subsection (b) of this section, the bankruptcy court shall immediately authorize and direct the Rock Island Railroad trustee to, and the Rock Island Railroad trustee and the labor organizations representing the employees of the railroad shall, immediately implement such arrangement.

"(d) Any order of the Commission under subsection (b) of this section and any order of the bankruptcy court under subsection (c) of this section may be appealed only to the United States Court of Appeals for the Seventh Circuit. Any such appeal to such court of appeals shall be filed within 5 days after the date of entry of the order of the Commission or the bankruptcy court, as the case may be, and such court of appeals shall finally determine such appeal within 60 days after the date such appeal is filed.

Employee benefits and allowances.

"(e)(1) Any claim of an employee for benefits and allowances under an employee protection agreement or arrangement entered into under this section shall be filed with the Board in such time and manner as the Board by regulation shall prescribe. The Board shall determine the amount for which such employee is eligible under such agreement or arrangement and shall certify such amount to the Rock Island Railroad for payment.

"(2) Benefits and allowances under such agreement or arrangement entered into this section shall be paid by the Rock Island Railroad from its own assets or in accordance with section 110 of this title, and claims of employees for such benefits and allowances shall be treated as administrative expenses of the estate of the Rock Island Railroad.

"(f) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(7)) is amended by striking out "Milwaukee Railroad Restructuring Act" and inserting in lieu thereof ", the Milwaukee Railroad Restructuring Act, and the Rock Island Railroad Transition and Employee Assistance Act.".

(2) Section 108(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1007(a)) is amended by inserting immediately before the period at the end thereof the following: "(other than as provided in the agreement entered into in Washington, District of Columbia, on March 4, 1980, entitled 'Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations Operating Through the Railway Labor Executives' Association')".

Ante, p. 402.

(3) Section 103(5) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1002(5)) is amended by inserting immediately before the period at the end thereof the following: ", the estate of such Company in its reorganization proceeding, or the trustee appointed in such proceeding".

Ante, p. 399.

(c)(1) Section 7 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 906) is amended by adding at the end thereof the following new subsection:

"(h)(1) All obligations to the United States or any agency or instrumentality of the United States incurred pursuant to this section by the Milwaukee Railroad or the trustee of the property of the Milwaukee Railroad shall be waived and canceled when—

"(A) the Milwaukee Railroad is reorganized as an operating rail carrier; or

"(B) substantially all of the Milwaukee Railroad is purchased.

"(2) For purposes of this subsection, substantially all of the Milwaukee Railroad shall be considered as having been purchased when (A) more than 50 percent of the rail system operated by the Milwaukee Railroad on the date of enactment of the Staggers Rail Act of 1980 has been purchased, and (B) more than 50 percent of the employees employed by the Milwaukee Railroad on such date of enactment have obtained employment with other rail carriers.".

Ante, p. 1895.

(2) Section 14 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) There are authorized to be appropriated $15,000,000 for purposes of providing transaction assistance in accordance with section 505(h)(1) (A) and (B) of the Railroad Revitalization and Regulatory Reform Act of 1976.".

Appropriation authorization.

Ante, p. 404.

(d) Section 505(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(h)) is amended—

(1) in paragraph (1)(A), by striking out "$25,000,000" and inserting in lieu thereof "$38,000,000";

(2) in paragraph (1)(B), by striking out "$18,000,000" and inserting in lieu thereof "$27,000,000"; and

(3) by amending paragraph (4) to read as follows:

"(4) This subsection shall apply to (A) purchase offers submitted to the Trustee of the Rock Island Railroad Estate and filed with the Commission prior to September 15, 1980 (or such other time as the Secretary considers appropriate), and (B) purchase applications filed with the Commission prior to September 15, 1980 (or such other time as the Secretary considers appropriate) and approved by the court having jurisdiction over the reorganization of the Rock Island Railroad or the Milwaukee Railroad, as the case may be, and by the Commission.".

LOAN GUARANTEES

SEC. 702. (a) To promote competition in the transportation of coal, the Secretary of Transportation shall, no later than 75 days after the date of the issuance of the final environmental impact statement with respect to the loan application, take final action on any application for loan guarantees, under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, to be used in connection with joint ownership, construction, or rehabilitation of any facilities (including support facilities) for a second rail carrier to serve the Powder River Coal Region in Montana and Wyoming.

Powder River Coal Region, Mont. and Wyo. 45 USC 831 note.

45 USC 831.

(b)(1) The Secretary of Transportation shall review the proposed Chicago and North Western connector line route and shall not approve any route which requires the use of any agricultural land unless (A) there is no feasible and prudent alternative to the use of such land, and (B) the proposed route construction plan requires all possible planning to minimize harm to such agricultural land result-

Chicago and Northwestern connector line route, review.

ing from such use. The Secretary of Transportation may not otherwise disapprove a proposed route for the Chicago and North Western line under the authority of this subsection. This review of a proposed route shall be conducted within 90 days after the final action specified in subsection (a) of this section.

Private grade crossings.

(2)(A) The Secretary shall review the use of any agricultural land used in any route for newly constructed line and shall require, to the maximum extent prudent and feasible, that such railroad provide a private grade crossing for the convenience of each landowner whose agricultural holdings are divided by such newly constructed line when the Secretary finds that such division of property will cause a substantial disruption to the agricultural use of such land. The owners of such property shall file a request for such grade crossing with the Secretary within 180 days of the final determination of the route. The finding of the Secretary under this subsection shall be final.

(B) The Secretary shall render a decision on each request for grade crossing under this paragraph within 180 days of its receipt. Such review shall not require the delay of construction of new line under subsection (a) of this section.

Claims and judicial review.

(c)(1) Notwithstanding any other provision of law, the actions of the Secretary of Transportation taken pursuant to subsections (a) and (b) of this section shall not be subject to judicial review except as provided in this section.

(2) A claim alleging the invalidity of this section may be brought no later than the 60th day following the date a final action is taken pursuant to subsections (a) and (b) of this section.

(3) A claim challenging an action of the Secretary of Transportation under subsection (a) or (b) of this section may be brought only on the grounds that such action will deny rights under the Constitution of the United States, is arbitrary, capricious, or an abuse of discretion, exceeds statutory jurisdiction, authority, or limitations, or is short of statutory right. Such a claim may be brought not later than the 60th day following the date of such action.

USC prec. title 1.

(4) A claim under paragraph (2) or (3) shall be barred unless prior to the expiration of such time limits, a complaint is filed in the United States Court of Appeals for the District of Columbia acting as a special court. Such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim in any proceeding instituted prior to or on or after the date of enactment of this Act.

Hearing.

(5) Any such proceeding shall be assigned for hearing and completed at the earliest possible date, and to the greatest extent practical shall take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court, and such court shall render its decision relative to any claim within 90 days from the date such claim is brought unless such court determines that a longer period is required to satisfy requirements of the Constitution of the United States.

(d) Notwithstanding any other provision of law, the Secretary shall take the final action described in subsection (a) of this section without regard to the consent, or lack thereof, of any Committee of the Congress.

CONRAIL STUDIES AND EMERGENCY FUNDING

Definitions. 45 USC 747 note.

SEC. 703. (a) For purposes of this section, the term—

(1) "Association" means the United States Railway Association;

(2) "Commission" means the Interstate Commerce Commission;

(3) "Corporation" means the Consolidated Rail Corporation;

(4) "rail properties" means assets or rights owned, leased, or otherwise controlled by the Corporation which are used or useful in rail transportation service;

(5) "region" has the meaning given such term in section 101(15) of the Regional Rail Reorganization Act of 1973; and 45 USC 702.

(6) "Secretary" means the Secretary of Transportation.

(b)(1) No later than April 1, 1980, the Association and the Corporation shall each submit a report to the Congress analyzing the impact, upon the Corporation, rail service in the region, railroad employees, the economy of the region, and other rail carriers in the region and elsewhere, and the Federal budget, of— Report to Congress.

(A) no further Federal funding for the Corporation;

(B) continued Federal funding of the rail system of the Corporation as it is presently structured; and

(C) future Federal funding of the Corporation to the extent necessary to preserve rail service in the region which can be self-supporting, without undue interim disruption of operations which will be maintained.

(2) Each report submitted under paragraph (1) of this subsection shall contain a description, under each of the Federal funding alternatives set forth in subsection (a) of this section, of the lines of the Corporation which would be maintained, the lines of the Corporation which would be abandoned, and the lines which would be transferred.

(3) Each report submitted under paragraph (1) of this subsection shall also include specific recommendations with respect to—

(A) future projected funding requirements of the Corporation;

(B) future structure and activities of the Corporation in the region;

(C) any legislative action needed with respect to the matters described in subparagraphs (A) and (B) of this paragraph; and

(D) any other matters which the Association or the Corporation considers appropriate.

The specific recommendations submitted under this paragraph shall set forth alternatives for the Congress to consider in the event it determines that modification of such recommendations is appropriate.

(4) In developing recommendations in accordance with this subsection, the Association and the Corporation shall identify measures designed to ensure a financially self-sustaining rail system in the region. The recommendations shall be based on analyses of rail properties which might be proposed for abandonment or transfer to another railroad or qualified person and proposed operating efficiencies which could improve the Corporation's revenue-to-cost ratio.

(5) In developing recommendations under this subsection, the Association and the Corporation shall each analyze and consider—

(A) projections of the Corporation's future traffic, revenues, operating costs, and capital requirements;

(B) rail properties which might be proposed for abandonment or transfer to another railroad or qualified person, taking into account the potential impact of changes in the regulatory environment;

(C) the impact on communities served by lines proposed for abandonment or transfer;

(D) proposed operating efficiencies which could improve the Corporation's revenue-to-cost ratio;

(E) the impact on the Corporation of proposed mergers by connecting or competing railroads;

(F) employee motivation and labor productivity programs and a projection of labor protection costs which could result from the recommendations;

(G) the future capital structure of the Corporation; and

(H) any other factors identified by the Association as relevant to the recommendations required to be developed and submitted pursuant to this section.

(6)(A) The Association and the Corporation shall, on the date of submission of their recommendations to the Congress under this subsection, transmit copies of such recommendations to the Secretary, the Commission, and the Governor of each State that could be affected by such recommendations. Upon request, the Association and the Corporation shall furnish a copy of their recommendations to any interested person.

Publication in Federal Register.

(B) As soon as practicable after submission of their recommendations to the Congress, the Association and the Corporation shall publish in the Federal Register a summary of such recommendations and invite interested parties to comment on such recommendations.

Comments, submittal to Congress.

(7) The Commission shall, no later than May 1, 1981, submit to the Congress its comments on the reports of the Association, the Secretary, and the Corporation under this subsection.

Recommendations, submittal to Congress.

(8) Not later than April 1, 1981, the Secretary shall submit to the Congress his recommendations with respect to the future structure and operations of the Corporation. Not later than May 1, 1981, the Secretary shall submit to the Congress his comments and recommendations with respect to the reports of the Association and the Corporation under this subsection, and shall make any changes in his recommendations that he determines are necessary.

(9) The antitrust laws, as defined in section 601(a)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 791(a)(3)), shall not apply to any action taken by the Association or the Secretary prior to May 1, 1981, in accordance with and under the authority of the provisions of this subsection.

Analysis, submittal to Congress.

(c) The Corporation shall, no later than March 15, 1981, submit to the Congress an analysis of the effects upon the Corporation and its employees of alternative changes in labor agreements and related operational changes. Such report shall include an analysis of any Federal funding that will be required.

(d) The Corporation shall, no later than January 15, 1981, submit to the Association its projections of the benefits to the Corporation of the Staggers Rail Act of 1980, its projections of changes needed in the structure of the rail system of the Corporation including properties which may be abandoned or transferred, and other projections of potential savings or increased revenues to the Corporation.

Ante, p. 1895.

(e) Section 216(b) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(b)), as amended by this Act, is further amended by adding at the end thereof the following new paragraph:

Ante, p. 1946.

"(4) Purchases of up to $329,000,000 of a series A preferred stock shall be made by the Association, subject to the availability of appropriations, as required and requested by the Corporation, if the Finance Committee makes an affirmative finding that the Corporation has taken appropriate action to eliminate losses on light density

lines and other lines which are unprofitable. Such action shall include the imposition of surcharges on such lines, the abandonment of such lines, and the transfer of such lines.".

(f)(1) Section 216(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(a)) is amended by striking out "$2,300,000,000" and inserting in lieu thereof "$2,629,000,000".

(2) Section 216(g) of such Act (45 U.S.C. 726(g)) is amended by striking out "$3,300,000,000" and inserting in lieu thereof "$3,629,000,000".

(3) Section 210(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 720(e)) is amended by inserting immediately after "section" in the first sentence thereof the following: "or under subsection (a) of section 306 of this Act".

USRA AUTHORIZATION OF APPROPRIATIONS

SEC. 704. Section 214(c) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 724(c)) is amended to read as follows:

"(c) ASSOCIATION.—For the fiscal year ending September 30, 1981, there are authorized to be appropriated to the Association for purposes of carrying out its administrative expenses under this Act such sums as are necessary, not to exceed $30,000,000. Sums appropriated under this subsection are authorized to remain available until expended.".

FEEDER LINE REHABILITATION STUDY

SEC. 705. (a) The Secretary of Transportation and the Secretary of the Treasury shall jointly submit to the Congress, within 9 months of the effective date of this Act, a comprehensive report on the anticipated effect (including the loss of revenue to the Federal Treasury) of amending section 103 of the Internal Revenue Code of 1954 to provide an exemption from taxation for obligations incurred in connection with the rehabilitation of railroad feeder lines. Such report shall also include such criteria as may be necessary to prevent the abuse of such special tax status. Report to Congress. 26 USC 103.

(b) For purposes of this section, railroad feeder line rehabilitation includes the acquisition, construction, reconstruction, or erection of any feeder line roadbed, track, trestle, depot, switching, and signaling equipment, or any other rail equipment (other than rolling stock).

EFFECT ON PENDING MATTERS

SEC. 706. In the case of any proposal docketed with a rate bureau prior to the effective date of this Act which is or becomes the subject of an application or proceeding before the Interstate Commerce Commission, such application or proceeding shall be determined as if this Act had not been enacted, and the antitrust immunity provided in section 10706(b) of title 49, United States Code, resulting from approval of such agreement shall continue in effect. 49 USC 10706 note.

CONSTRUCTION OF AMENDMENTS

SEC. 707. With respect to the relationship between water carriers and rail carriers, none of the amendments made by this Act shall be construed to make lawful (1) any competitive practice that is unfair, destructive, predatory, or otherwise undermines competition and that was unlawful on the effective date of this Act, or (2) any other 49 USC 10706 note.

competitive practice that is unfair, destructive, predatory, or otherwise undermines competition.

SURPLUS PROPERTY

Consolidated Rail Corporation, contract authority.

SEC. 708. Notwithstanding any other provision of law, the Consolidated Rail Corporation shall be considered a Federal agency for the sole purpose of Department of the Army Regulations 735-5, paragraph 1-16. Such Corporation may enter into a contract under the authority granted by this section only when it determines that the safety of the public so requires.

STUDY OF ALASKA RAILROAD RATES

SEC. 709. Within 6 months after the effective date of this Act, the Interstate Commerce Commission shall commence and complete a study to determine whether the rates charged by the Alaska Railroad pursuant to ICC-ARR Freight Tariffs 4108 and 4109 (as supplemented by supplements 1-4) would, if such rates had been entered into after the effective date of this Act, have constituted a violation of section 10701a(c)(1) of title 49, United States Code, as amended by this Act. To the extent feasible, such study shall be coordinated with the study by the State of Alaska in progress on the effective date of this Act.

Ante, p. 1898.

EFFECTIVE DATES

49 USC 10101 note.

SEC. 710. (a) Except as provided in subsections (b), (c), and (d) of this section, the provisions of this Act and the amendments made by this Act shall take effect on October 1, 1980.

(b) Section 206 of this Act shall take effect on January 1, 1981.

(c) Section 218(b) of this Act shall take effect on October 1, 1983.

(d) Section 701 of this Act shall take effect on the date of enactment of this Act.

Approved October 14, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1035 accompanying H.R. 7235 (Comm. on Interstate and Foreign Commerce) and No. 96-1430 (Comm. of Conference).
SENATE REPORT No. 96-470 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 1, considered and passed Senate.
Apr. 3, Senate considered and agreed to an amendment.
June 25, 26, 30, July 2, 24, Sept. 5, 9, H.R. 7235 considered and passed House; passage vacated and S. 1946, amended, passed in lieu.
Sept. 18, Senate agreed to House amendment with amendments.
Sept. 30, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 42:
Oct. 14, Presidential statement.

Public Law 96-449
96th Congress

An Act

To provide certain benefits to individuals held hostage in Iran and to similarly situated individuals, and for other purposes.

Oct. 14, 1980
[H.R. 7085]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hostage Relief Act of 1980".

Hostage Relief Act of 1980.
5 USC 5561 note.

TITLE I—SPECIAL PERSONNEL BENEFITS

DEFINITIONS

5 USC 5561 note.

SEC. 101. For purposes of this title—

(1) The term "American hostage" means any individual who, while—

(A) in the civil service or the uniformed services of the United States, or

(B) a citizen or resident alien of the United States rendering personal service to the United States abroad similar to the service of a civil officer or employee of the United States (as determined by the Secretary of State),

is placed in a captive status during the hostage period.

(2) The term "hostage period" means the period beginning on November 4, 1979, and ending on the later of—

(A) the date the President specifies, by Executive order, as the date on which all citizens and resident aliens of the United States who were placed in a captive status due to the seizure of the United States Embassy in Iran have been returned to the United States or otherwise accounted for, or

(B) January 1, 1983.

(3) The term "family member", when used with respect to any American hostage, means—

(A) any dependent (as defined in section 5561 of title 5, United States Code) of such hostage; and

(B) any member of the hostage's family or household (as determined under regulations which the Secretary of State shall prescribe).

(4) The term "captive status" means a missing status arising because of a hostile action abroad—

(A) which is directed against the United States during the hostage period; and

(B) which is identified by the Secretary of State in the Federal Register.

(5) The term "missing status"—

(A) in the case of employees, has the meaning given it in section 5561(5) of title 5, United States Code;

(B) in the case of members of the uniformed services, has the meaning given it in section 551(2) of title 37, United States Code; and

(C) in the case of other individuals, has a similar meaning as that provided under such sections, as determined by the Secretary of State.

(6) The terms "pay and allowances", "employee", and "agency" have the meanings given to such terms in section 5561 of title 5, United States Code, and the terms "civil service", "uniformed services", and "armed forces" have the meanings given to such terms in section 2101 of such title 5.

PAY AND ALLOWANCES MAY BE ALLOTTED TO SPECIAL SAVINGS FUND

5 USC 5561 note.

SEC. 102. (a) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any American hostage which are for pay periods during which the American hostage is in a captive status and which are not subject to an allotment under section 5563 of title 5, United States Code, under section 553 of title 37, United States Code, or under any other provision of law.

Interest rate.

(b) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

(c) Amounts may be allotted to the savings fund from pay and allowances for any pay period ending after November 4, 1979, and before the establishment of the savings fund. Interest on amounts allotted from the pay and allowances for any such pay period shall be calculated as if the allotment had occurred at the end of the pay period.

Withdrawal procedures.

(d) Amounts in the savings fund credited to any American hostage shall be considered as pay and allowances for purposes of section 5563 of title 5, United States Code, (or in the case of a member of the uniformed services, for purposes of section 553 of title 37, United States Code) and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

MEDICAL AND HEALTH CARE AND RELATED EXPENSES

5 USC 5561 note.

SEC. 103. Under regulations prescribed by the President, the head of an agency may pay (by advancement or reimbursement) any individual who is an American hostage, or any family member of such an individual, for medical and health care, and other expenses related to such care, to the extent such care—

(1) is incident to that individual being an American hostage; and

(2) is not covered by insurance.

EDUCATION AND TRAINING

5 USC 5561 note.

SEC. 104. (a)(1) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of an American hostage for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(2) Except as provided in paragraph (3), payments shall be available under this subsection for a spouse or child of an individual who is an American hostage for education or training which occurs—

(A) after the ninetieth day after the date the individual is placed in a captive status, and

(B) on or before—

(i) the end of any semester or quarter (as appropriate) which begins before the date on which the hostage ceases to be in a captive status, or

(ii) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the twelve-week period following that date.

In order to respond to special circumstances, the President may specify a date for purposes of cessation of assistance under subparagraph (B) which is later than the date which would otherwise apply under subparagraph (B).

Assistance after hostage's death.

(3) In the event an American hostage dies and the death is incident to that individual being an American hostage, payments shall be available under this subsection for a spouse or child of an individual who is an American hostage for education or training which occurs after the date of death.

(4) The preceding provisions of this subsection shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38, United States Code.

38 USC 1700 *et seq.*

(b)(1) In order to respond to special circumstances, the head of an agency may, under regulations prescribed by the President, pay (by advancement or reimbursement) an American hostage for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

(2) Payments shall be available under this subsection for an American hostage for education or training which occurs—

(A) after the termination of such hostage's captive status, and

(B) on or before—

(i) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the hostage ceases to be in a captive status, or

(ii) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the twelve-week period following that date.

Assistance, discontinuance.

(c) Assistance under this section shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 1724 of title 38, United States Code.

Limitation.

(d) In no event may assistance be provided under this section for any individual for a period in excess of forty-five months (or the equivalent thereof in part-time education or training).

(e) Regulations prescribed by the President under this section shall provide that the program under this section be consistent with the assistance program under chapters 35 and 36 of title 38, United States Code.

38 USC 1700 *et seq.*, 1770 *et seq.*

EXTENSION OF APPLICABILITY OF CERTAIN BENEFITS OF THE SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940

5 USC 5561 note.

SEC. 105. (a) Under regulations prescribed by the President, an American hostage is entitled to the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501 et seq.), including the benefits provided by section 701 (50 U.S.C. App. 591) but

excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 (50 U.S.C. App. 514, 515, 516, 540 through 548, 561 through 572, and 574).

Definitions.

(b) In applying such Act for purposes of this section—

(1) the term "person in the military service" is deemed to include any such American hostage;

(2) the term "period of military service" is deemed to include the period during which such American hostage is in a captive status; and

(3) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed to be references to the Secretary of State.

(c) The preceding provisions of this section shall not apply with respect to any American hostage covered by such provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 by reason of being in the Armed Forces.

50 USC app. 501.

APPLICABILITY TO COLOMBIAN HOSTAGE

Richard Starr.
5 USC 5561 note.

SEC. 106. Notwithstanding the requirements of section 101(1), for purposes of this title, Richard Starr of Edmonds, Washington, who, as a Peace Corps volunteer, was held captive in Colombia and released on or about February 10, 1980, shall be held and considered to be an American hostage placed in a captive status on November 4, 1979.

EFFECTIVE DATE

5 USC 5561 note.

SEC. 107. The preceding provisions of this title shall take effect as of November 4, 1979.

TITLE II—TAX PROVISIONS

5 USC 5561 note.

SEC. 201. COMPENSATION EXCLUDED FROM GROSS INCOME.

26 USC 1.

For purposes of the Internal Revenue Code of 1954, the gross income of an individual who was at any time an American hostage does not include compensation from the United States received for any month during any part of which such individual was—

(1) in captive status, or

(2) hospitalized as a result of such individual's captive status.

5 USC 5561 note.

SEC. 202. INCOME TAXES OF HOSTAGES WHERE DEATH RESULTS FROM CAPTIVE STATUS.

(a) GENERAL RULE.—In the case of an individual who was at any time an American hostage and who dies as a result of injury or disease or physical or mental disability incurred or aggravated while such individual was in captive status—

26 USC 1.

(1) any tax imposed by subtitle A of the Internal Revenue Code of 1954 shall not apply with respect to—

(A) the taxable year in which falls the date of such individual's death, or

(B) any prior taxable year ending on or after the first day such individual was in captive status, and

(2) any tax imposed under such subtitle A for taxable years preceding those specified in paragraph (1) which is unpaid at the date of such individual's death (including interest, additions to the tax, and additional amounts)—

(A) shall not be assessed,
(B) if assessed, the assessment shall be abated, and
(C) if collected, shall be credited or refunded as an overpayment.

(b) DEATH MUST OCCUR WITHIN 2 YEARS OF CESSATION OF CAPTIVE STATUS.—This section shall not apply unless the death of the individual occurs within 2 years after such individual ceases to be in captive status.

SEC. 203. SPOUSE MAY FILE JOINT RETURN. 5 USC 5561 note.

(a) GENERAL RULE.—If an individual is an American hostage who is in captive status, such individual's spouse may elect to file a joint return under section 6013(a) of the Internal Revenue Code of 1954 for any taxable year— 26 USC 6013.

(1) which begins on or before the day which is 2 years after the date on which the hostage period ends, and
(2) for which such spouse is otherwise entitled to file such a joint return.

(b) CERTAIN RULES MADE APPLICABLE.—For purposes of subsection (a), paragraphs (2) and (4) of section 6013(f) of such Code (relating to joint return where individual is in missing status) shall apply as if the election described in subsection (a) of this section were an election described in paragraph (1) of such section 6013(f).

SEC. 204. TIME FOR PERFORMING CERTAIN ACTS POSTPONED BY REASON OF CAPTIVE STATUS. 5 USC 5561 note.

(a) GENERAL RULE.—In the case of any individual who was at any time an American hostage, any period during which he was in captive status (and any period during which he was outside the United States and hospitalized as a result of captive status), and the next 180 days thereafter, shall be disregarded in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such individual—

(1) whether any of the acts specified in paragraph (1) of section 7508(a) of the Internal Revenue Code of 1954 was performed within the time prescribed therefor, and 26 USC 7508.
(2) the amount of any credit or refund (including interest).

(b) APPLICATION TO SPOUSE.—The provisions of this section shall apply to the spouse of any individual entitled to the benefits of subsection (a). The preceding sentence shall not cause this section to apply to any spouse for any taxable year beginning more than 2 years after the date on which the hostage period ends.

(c) SECTION 7508(d) MADE APPLICABLE.—Subsection (d) of section 7508 of the Internal Revenue Code of 1954 shall apply to subsection (a) in the same manner as if the benefits of subsection (a) were provided by subsection (a) of such section 7508.

SEC. 205. DEFINITIONS AND SPECIAL RULES. 5 USC 5561 note.

(a) AMERICAN HOSTAGE.—For purposes of this title, the term "American hostage" means any individual who, while—

(1) in the civil service or the uniformed services of the United States, or
(2) a citizen or resident alien of the United States rendering personal service to the United States abroad similar to the service of a civil officer or employee of the United States (as determined by the Secretary of State),

is placed in a captive status during the hostage period.

(b) HOSTAGE PERIOD.—For purposes of this title, the term "hostage period" means the period beginning on November 4, 1979, and ending on whichever of the following dates is the earlier:

(1) the date the President specifies, by Executive order, as the date on which all citizens and resident aliens of the United States who were placed in a captive status due to the seizure of the United States Embassy in Iran have been returned to the United States or otherwise accounted for, or

(2) December 31, 1981.

(c) CAPTIVE STATUS.—For purposes of this title—

(1) IN GENERAL.—The term "captive status" means a missing status arising because of a hostile action abroad—

(A) which is directed against the United States during the hostage period, and

(B) which is identified by the Secretary of State in the Federal Register.

(2) MISSING STATUS DEFINED.—The term "missing status"—

(A) in the case of employees, has the meaning given it in section 5561(5) of title 5, United States Code,

(B) in the case of members of the uniformed services, has the meaning given it in section 551(2) of title 37, United States Code, and

(C) in the case of other individuals, has a similar meaning as that provided under such sections, as determined by the Secretary of State.

For purposes of the preceding sentence, the term "employee" has the meaning given to such term by section 5561(2) of title 5, United States Code.

(d) HOSPITALIZED AS A RESULT OF CAPTIVE STATUS.—

(1) IN GENERAL.—For purposes of this title, an individual shall be treated as hospitalized as a result of captive status if such individual is hospitalized as a result of injury or disease or physical or mental disability incurred or aggravated while such individual was in captive status.

(2) 2-YEAR LIMIT.—Hospitalization shall be taken into account for purposes of paragraph (1) only if it is hospitalization—

(A) occurring on or before the day which is 2 years after the date on which the individual's captive status ends (or, if earlier, the date on which the hostage period ends), or

(B) which is part of a continuous period of hospitalization which began on or before the day determined under subparagraph (A).

(e) CIVIL SERVICE; UNIFORMED SERVICES.—For purposes of this section, the terms "civil service" and "uniformed services" have the meanings given to such terms by section 2101 of title 5, United States Code.

Tehran hostages.

(f) APPLICATION OF TITLE TO ALL TEHRAN HOSTAGES.—In the case of any citizen or resident alien of the United States who is determined by the Secretary of State to have been held hostage in Tehran at any time during November 1979, for purposes of this title—

(1) such individual shall be treated as an American hostage whether or not such individual meets the requirements of paragraph (1) or (2) of subsection (a), and

(2) if such individual was not in the civil service or the uniformed services of the United States—

Ante, p. 1970.

(A) section 201 shall be applied by substituting "earned income (as defined in section 911(b) of the Internal Revenue

Code of 1954) attributable to" for "compensation from the United States received for", and 26 USC 911.

(B) the amount excluded from gross income under section 201 for any month shall not exceed the monthly equivalent of the annual rate of basic pay payable for level V of the Executive Schedule. *Ante*, p. 1970. 5 USC 5332 note.

(g) APPLICATION OF TITLE TO INDIVIDUAL HELD CAPTIVE IN COLOMBIA.—For purposes of this title, Richard Starr of Edmonds, Washington, who, as a Peace Corps volunteer, was held captive in Colombia, shall be treated as an American hostage who was in captive status beginning on November 4, 1979, and ending on February 10, 1980. Richard Starr.

(h) SPECIAL RULES.—

(1) COMPENSATION.—For purposes of this title, the term "compensation" shall not include any amount received as an annuity or as retirement pay.

(2) WAGE WITHHOLDING.—Any amount excluded from gross income under section 201 shall not be treated as wages for purposes of chapter 24 of the Internal Revenue Code of 1954. 26 USC 3401 *et seq.*

SEC. 206. STUDY OF TAX TREATMENT OF HOSTAGES. 5 USC 5561 note.

(a) STUDY.—The Chief of Staff of the Joint Committee on Taxation shall study all aspects of the tax treatment of citizens and resident aliens of the United States who are taken hostage or are otherwise placed in a missing status.

(b) REPORT.—The Chief of Staff of the Joint Committee on Taxation shall, before July 1, 1981, report the results of the study made pursuant to subsection (a) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. Submittal to congressional committees.

TITLE III—TREATMENT OF THE HOSTAGES IN IRAN

VISITS BY THE INTERNATIONAL RED CROSS

SEC. 301. (a) The Congress finds that— 5 USC 5561 note.

(1) the continued illegal and unjustified detention of the American hostages by the Government of Iran has resulted in the deterioration of relations between the United States and Iran; and

(2) the protracted length and the conditions of their confinement have reportedly endangered the physical and mental well-being of the hostages.

(b) Therefore, it is the sense of the Congress that the President should make a formal request of the International Committee of the Red Cross to—

(1) make regular and periodic visits to the American hostages being held in Iran for the purpose of determining whether the hostages are being treated in a humane and decent manner and whether they are receiving proper medical attention;

(2) urge other countries to solicit the cooperation of the Government of Iran in the visits to the hostages by the International Committee of the Red Cross; and

(3) report to the United States its findings after each such visit.

Approved October 14, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT: No. 96-1349, Pt. 1 (Comm. on Post Office and Civil Service), Pt. 2 (Comm. on Foreign Affairs), and Pt. 3 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 22, considered and passed House.
Sept. 30, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 42:
Oct. 14, Presidential statement.

Public Law 96-450
96th Congress

An Act

To authorize appropriations for fiscal year 1981 for the intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, and for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Oct. 14, 1980
[S. 2597]

Be it enacted by the Senate and House of the Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1981".

Intelligence Authorization Act for Fiscal Year 1981.

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1981 for the conduct of the intelligence and intelligence-related activities of the following agencies of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1981, for the conduct of the intelligence and intelligence-related activities of the agencies listed in such section, are those specified in the classified Schedule of Authorizations prepared by the committee of conference to accompany S. 2597 of the 96th Congress. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the schedule, or of appropriate portions of the Schedule, within the executive branch.

Availability to congressional committees and President. Distribution.

CONGRESSIONAL NOTIFICATION OF EXPENDITURES IN EXCESS OF PROGRAM AUTHORIZATIONS

SEC. 103. During fiscal year 1981, funds may not be obligated or expended for any program for which funds are authorized to be appropriated by section 101 in an amount in excess of the amount specified for that program in the classified Schedule of Authoriza-

Supra.

tions described in section 102 unless the Director of Central Intelligence or the Secretary of Defense notifies the appropriate committees of Congress of the intent to make such obligation or expenditure not less than fifteen days before such obligation or expenditure is made.

RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 104. Nothing contained in this Act shall be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

AUTHORIZATION OF APPROPRIATIONS FOR COUNTERTERRORISM ACTIVITIES OF THE FEDERAL BUREAU OF INVESTIGATION

SEC. 105. In addition to the amounts authorized to be appropriated under section 101(9), there is authorized to be appropriated for fiscal year 1981 the sum of $11,400,000 for the conduct of the activities of the Federal Bureau of Investigation to counter terrorism in the United States.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1981 the sum of $17,824,000.

AUTHORIZATION OF PERSONNEL END-STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two hundred and forty-five full-time personnel as of September 30, 1981. Such personnel may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1981, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

Personnel detail.

(c) During fiscal year 1981, any officer or employee of the United States or member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1981, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a-403j) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1981 the sum of $55,300,000.

TITLE IV—GENERAL PROVISIONS

FUNDS TRANSFERS BY THE SECRETARY OF DEFENSE

SEC. 401. (a) Chapter 4 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 140a. Secretary of Defense: funds transfers for foreign cryptologic support 10 USC 140a.

"The Secretary of Defense may use funds available to the Department of Defense for intelligence and communications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support. Payments under this section may be made without regard to section 3651 of the Revised Statutes of the United States (31 U.S.C. 543).".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"140a. Secretary of Defense: funds transfers for foreign cryptologic support.".

ADMINISTRATIVE PROVISIONS RELATING TO THE NATIONAL SECURITY AGENCY

SEC. 402. (a)(1) The Act entitled "An Act to provide certain administrative authorities for the National Security Agency, and for other purposes" approved May 29, 1959 (50 U.S.C. 402 note), is amended by adding at the end thereof the following new sections:

"SEC. 9. (a) Notwithstanding section 322 of the Act of June 30, 1932 (40 U.S.C. 278a), section 5536 of title 5, United States Code, and section 2675 of title 10, United States Code, the Director of the National Security Agency, on behalf of the Secretary of Defense, may lease real property outside the United States, for periods not exceeding ten years, for the use of the National Security Agency for special cryptologic activities and for housing for personnel assigned to such activities. Real property leasing. 50 USC 402 note.

"(b) The Director of the National Security Agency, on behalf of the Secretary of Defense, may provide to certain civilian and military personnel of the Department of Defense who are assigned to special cryptologic activities outside the United States and who are designated by the Secretary of Defense for the purposes of this subsection— Personnel, benefits.

"(1) allowances and benefits comparable to those provided by the Secretary of State to officers and employees of the Foreign Service under paragraphs (1), (2), (7), (9), (10), and (11) of section 911, and under sections 912, 914, 933, 941, 942, and 945, of the Foreign Service Act of 1946 (22 U.S.C. 1136 (1), (2), (7), (9), (10), (11), 1137, 1138a, 1148, 1156, 1157, 1160); and

"(2) housing (including heat, light, and household equipment) without cost to such personnel, if the Director of the National Security Agency, on behalf of the Secretary of Defense deter-

mines that it would be in the public interest to provide such housing.

"(c) The authority of the Director of the National Security Agency, on behalf of the Secretary of Defense, to make payments under subsections (a) and (b), and under contracts for leases entered into under subsection (a), is effective for any fiscal year only to the extent that appropriated funds are available for such purpose.

Expenses, payment.
50 USC 402 note.

"SEC. 10. The Director of the National Security Agency, on behalf of the Secretary of Defense, may, without regard to section 4109(a)(2)(B) of title 5, United States Code, pay travel, transportation, storage, and subsistence expenses under chapter 57 of such title to civilian and military personnel of the Department of Defense who are assigned to duty outside the United States for a period of one year or longer which involves cryptologic training, language training, or related disciplines.

5 USC 5701 *et seq.*

50 USC 402 note.

"SEC. 11. The Administrator of General Services, upon the application of the Director of the National Security Agency, may provide for the protection in accordance with section 3 of the Act of June 1, 1948 (40 U.S.C. 318b), of certain facilities (as designated by the Director of such Agency) which are under the administration and control of, or are used by, the National Security Agency in the same manner as if such facilities were property of the United States over which the United States has acquired exclusive or concurrent criminal jurisdiction.".

50 USC 402 note.

(2) Such Act is further amended by inserting after the enacting clause the following: "That this Act may be cited as the 'National Security Agency Act of 1959'".

Liability to U.S., relief.

(b) Any individual who is liable to the United States for any overpayment which was made to or on behalf of such individual before October 1, 1980, under chapter 57 of title 5, United States Code, while such individual was an employee of or assigned to duty with the National Security Agency and which was subsequently determined to be subject to the limitations contained in section 4109(a)(2)(B) of such title is hereby relieved of liability to the United States for such overpayment.

5 USC 5701 *et seq.*

5 USC 4109.

AUTHORITY TO PAY DEATH GRATUITIES

SEC. 403. (a) The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a-403j) is amended by adding at the end thereof the following new section:

"AUTHORITY TO PAY DEATH GRATUITIES

50 USC 403k.

"SEC. 11. (a)(1) The Director may pay a gratuity to the surviving dependents of any officer or employee of the Agency who dies as a result of injuries (other than from disease) sustained outside the United States and whose death—

"(A) resulted from hostile or terrorist activities; or

"(B) occurred in connection with an intelligence activity having a substantial element of risk.

"(2) The provisions of this subsection shall apply with respect to deaths occurring after June 30, 1974.

"(b) Any payment under subsection (a)—

"(1) shall be in an amount equal to the amount of the annual salary of the officer or employee concerned at the time of death;

"(2) shall be considered a gift and shall be in lieu of payment of any lesser death gratuity authorized by any other Federal law; and

"(3) shall be made under the same conditions as apply to payments authorized by section 14 of the Act of August 1, 1956 (22 U.S.C. 2679a).".

(b)(1) Chapter 75 of title 10, United States Code, relating to death benefits, is amended by adding at the end thereof the following new section:

"§1489. Death gratuity: members and employees dying outside the United States while assigned to intelligence duties 10 USC 1489.

"(a) The Secretary of Defense may pay a gratuity to the surviving dependents of any member of the Armed Forces or of any employee of the Department of Defense—

"(1) who—

"(A) is assigned to duty with an intelligence component of the Department of Defense and whose identity as such a member or employee is disguised or concealed; or

"(B) is within a category of individuals determined by the Secretary of Defense to be engaged in clandestine intelligence activities; and

"(2) who after the date of the enactment of this section dies as a result of injuries (excluding disease) sustained outside the United States and whose death—

"(A) resulted from hostile or terrorist activities; or

"(B) occurred in connection with an intelligence activity having a substantial element of risk.

"(b) Any payment under subsection (a)—

"(1) shall be in an amount equal to the amount of the annual basic pay or salary of the member or employee concerned at the time of death;

"(2) shall be considered a gift and shall be in lieu of payment of any lesser death gratuity authorized by this chapter or any other Federal law; and

"(3) shall be made under the same conditions as apply to payments authorized by section 14 of the Act of August 1, 1956 (22 U.S.C. 2679a).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"Sec. 1489. Death gratuity: members and employees dying outside the United States while assigned to intelligence duties.".

SPECIAL PROVISIONS RELATING TO THE WELFARE OF PERSONNEL OF THE CENTRAL INTELLIGENCE AGENCY

SEC. 404. The Central Intelligence Agency Act of 1949 is amended by adding after section 11 (as added by section 403(a)) the following new section:

"AUTHORITY TO ACCEPT GIFTS, DEVISES, AND BEQUESTS

"SEC. 12. (a) Subject to the provisions of this section, the Director may accept, hold, administer, and use gifts of money, securities, or other property whenever the Director determines it would be in the interest of the United States to do so. Any gift accepted under this section (and any income produced by any such gift) may be used only for artistic display or for purposes relating to the general welfare, 50 USC 403*l*.

education, or recreation of employees or dependents of employees of the Agency or for similar purposes, and under no circumstances may such a gift (or any income produced by any such gift) be used for operational purposes. The Director may not accept any gift under this section which is expressly conditioned upon any expenditure not to be met from the gift itself or from income produced by the gift unless such expenditure has been authorized by law.

Property, handling and disposal.

"(b) Unless otherwise restricted by the terms of the gift, the Director may sell or exchange, or invest or reinvest, any property which is accepted under this section, but any such investment may only be in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

Fund disbursement.

"(c) There is hereby created on the books of the Treasury of the United States a fund into which gifts of money, securities, and other intangible property accepted under the authority of this section, and the earnings and proceeds thereof, shall be deposited. The assets of such fund shall be disbursed upon the order of the Director for the purposes specified in subsection (a) or (b).

"(d) For purposes of Federal income, estate, and gift taxes, gifts accepted by the Director under this section shall be considered to be to or for the use of the United States.

"Gift".

"(e) For the purposes of this section, the term 'gift' includes a bequest or devise.".

AUTHORITY TO REMEDY UNJUSTIFIED PERSONNEL ACTIONS

Monetary or other relief.

SEC. 405. (a) Whenever the Director of Central Intelligence finds during fiscal year 1981 that an employee or former employee of the Central Intelligence Agency has unfairly had his career with the Agency adversely affected as a result of allegations concerning the loyalty to the United States of such employee or former employee, the Director may grant such employee or former employee such monetary or other relief (including reinstatement and promotion) as the Director considers appropriate in the interest of fairness.

(b) Any action of the Director under this section is not reviewable in any other forum or in any court.

(c) The authority of the Director to make payments under subsection (a) is effective only to the extent that appropriated funds are available for that purpose.

GRANTING OF ADVANCED DEGREE AT DEFENSE INTELLIGENCE SCHOOL

SEC. 406. (a) Part III of subtitle A of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 108—GRANTING OF ADVANCED DEGREES AT DEPARTMENT OF DEFENSE SCHOOLS

"Sec.
"2161. Defense Intelligence School: master of science of strategic intelligence.

10 USC 2161.

"§ 2161. Defense Intelligence School: master of science of strategic intelligence

"Under regulations prescribed by the Secretary of Defense, the Commandant of the Defense Intelligence School may, upon recommendation by the faculty of such school, confer the degree of master

of science of strategic intelligence upon graduates of the school who have fulfilled the requirements for that degree.".

(b) The table of chapters at the beginning of subtitle A of title 10, United States Code, and the table of chapters at the beginning of part III of such subtitle are each amended by inserting after the item relating to chapter 107 the following new item:

"108. Granting of Advanced Degrees at Department of Defense Schools ..... 2161".

CONGRESSIONAL OVERSIGHT OF INTELLIGENCE ACTIVITIES

SEC. 407. (a) Section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422) is amended—

(1) by striking out "(a)" before "No funds";

(2) by striking out "and reports, in a timely fashion" and all that follows in subsection (a) and inserting in lieu thereof a period and the following: "Each such operation shall be considered a significant anticipated intelligence activity for the purpose of section 501 of the National Security Act of 1947."; and *Infra.*

(3) by striking out subsection (b).

(b)(1) The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by adding at the end thereof the following new title:

"TITLE V—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

"CONGRESSIONAL OVERSIGHT

"SEC. 501. (a) To the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches of the Government, and to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States involved in intelligence activities shall— 50 USC 413.

"(1) keep the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives (hereinafter in this section referred to as the 'intelligence committees') fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States, including any significant anticipated intelligence activity, except that (A) the foregoing provision shall not require approval of the intelligence committees as a condition precedent to the initiation of any such anticipated intelligence activity, and (B) if the President determines it is essential to limit prior notice to meet extraordinary circumstances affecting vital interests of the United States, such notice shall be limited to the chairman and ranking minority members of the intelligence committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate;

"(2) furnish any information or material concerning intelligence activities which is in the possession, custody, or control of any department, agency, or entity of the United States and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities; and

Report.

"(3) report in a timely fashion to the intelligence committees any illegal intelligence activity or significant intelligence failure and any corrective action that has been taken or is planned to be taken in connection with such illegal activity or failure.

Presidential information to congressional committees.

"(b) The President shall fully inform the intelligence committees in a timely fashion of intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given under subsection (a) and shall provide a statement of the reasons for not giving prior notice.

Procedures.

"(c) The President and the intelligence committees shall each establish such procedures as may be necessary to carry out the provisions of subsections (a) and (b).

Classified information disclosure, procedures.

"(d) the House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish, by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information and all information relating to intelligence sources and methods furnished to the intelligence committees or to Members of the Congress under this section. In accordance with such procedures, each of the intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

"(e) Nothing in this Act shall be construed as authority to withhold information from the intelligence committees on the grounds that providing the information to the intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.".

(2) The table of contents at the beginning of such Act is amended by adding at the end thereof the following:

"TITLE V—ACCOUNTABILITY FOR INTELLIGENCE ACTIVITIES

"Sec. 501. Congressional oversight.".

INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

SEC. 408. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

Approved October 14, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-926, Pt. I (Permanent Select Comm. on Intelligence) and Pt. II (Comm. on Armed Services), both accompanying H.R. 7152; and No. 96-1350 (Comm. of Conference).

SENATE REPORTS: No. 96-659 (Select Comm. on Intelligence) and No. 96-839 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 126 (1980):

June 28, considered and passed Senate.

July 28, H.R. 7152 considered and passed House; passage vacated and S. 2597, amended, passed in lieu.

Sept. 19, Senate agreed to conference report.

Sept. 30, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 42:

Oct. 14, Presidential statement.

Public Law 96-451
96th Congress

An Act

To amend the Federal Boat Safety Act of 1971 to promote recreational boating safety through the development, administration, and financing of a national recreational boating safety improvement program, and for other purposes.

Oct. 14, 1980
[H.R. 4310]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National boating safety program.

TITLE I—RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT

Recreational Boating Safety and Facilities Improvement Act of 1980.
46 USC 1451 note.

SEC. 101. This title may be cited as the "Recreational Boating Safety and Facilities Improvement Act of 1980".

SEC. 102. The Federal Boat Safety Act of 1971 (Public Law 92-75, 85 Stat. 213), as amended, is amended as follows:

46 USC 1451.

(1) In section 2 by striking the first sentence and inserting in lieu thereof the following: "It is declared to be the policy of Congress and the purpose of this Act to improve recreational boating safety and facilities and to foster greater development, use, and enjoyment of all the waters of the United States by encouraging and assisting participation by the several States, the boating industry, and the boating public in the development, administration, and financing of a national recreational boating safety and facilities improvement program; by authorizing the establishment of national construction and performance standards for boats and associated equipment; and by creating more flexible authority governing the use of boats and equipment.".

(2) In section 3—

Definitions.
46 USC 1452.

(a) by striking clauses (10) and (11) and inserting in lieu thereof the following:

"(10) 'United States' and 'State' include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction.

"(11) 'Eligible State' means a State that has a State recreational boating safety and facilities improvement program that has been accepted by the Secretary."; and

(b) by adding the following new clauses:

"(12) 'State recreational boating safety and facilities improvement program' means a State recreational boating safety program, or a State recreational boating facilities improvement program, or both.

"(13) 'State recreational boating safety program' means education, assistance, and enforcement activities conducted for the purpose of boating accident or casualty prevention, reduction, and reporting.

"(14) 'State recreational boating facilities improvement program' means programs to develop or improve public facilities that create, or add to, public access to the waters of the United States to improve their suitability for recreational boating purposes, including such

ancillary facilities as are necessary to insure the safe use of those facilities. Such term shall include acquisition of title, or any interest in, riparian or submerged land, and the capital improvement of riparian or submerged land for the purpose of increasing public access to the waters of the United States.

"(15) 'Fund' means the National Recreational Boating Safety and Facilities Improvement Fund established by title II of this Act.".

(3) Section 25 is amended to read as follows:

"NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT PROGRAM

46 USC 1474.

"SEC. 25. (a) In order to encourage greater State participation and uniformity in boating safety and facility improvement efforts, and particularly to permit the States to assume the greater share of boating safety education, assistance, and enforcement activities, the Secretary shall implement and administer a national recreational boating safety and facilities improvement program. Under this program, the Secretary may allocate and distribute funds to eligible States to assist them in the development, administration, and financing of State recreational boating safety and facilities improvement programs. The Secretary shall establish guidelines and standards for this program. In doing so, he shall—

Funds, allocation and distribution.

Guidelines and standards.

"(1) consider, among other things, factors which affect recreational boating safety by contributing to overcrowding and congestion of waterways, such as the increasing number of recreational boats using those waterways and their geographic distribution, and the availability and geographic distribution of recreational boating facilities within and among applying States, as well as State recreational boating casualty and fatality statistics;

Consultation.

"(2) consult with the Secretary of the Interior so as to minimize duplication with the purposes and expenditures of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4) and with the guidelines developed thereunder; and

Environmental standards.

"(3) maintain environmental standards consistent with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451-1464) and other Federal laws and policies intended to safeguard the ecological and esthetic quality of our Nation's waters and wetlands.

Funds, eligibility.

"(b) A State whose recreational boating safety and facilities improvement program has been accepted by the Secretary shall be eligible for allocation and distribution of funds under this Act to assist that State in the development, administration, and financing of its State program. Matching funds shall be allocated and distributed among eligible States by the Secretary in accordance with section 26 of this Act.".

Matching funds.

(4) Section 26 is amended to read as follows:

"PROGRAM ACCEPTANCE

46 USC 1475.

"SEC. 26. (a) The Secretary, in accordance with this section and such regulations as he may promulgate, may allocate and distribute funds from the fund to any State that has an accepted State recreational boating safety and facilities improvement program, if the State demonstrates to his satisfaction that—

"(1) the program submitted by that State is consistent with the purposes of this Act;

"(2) funds distributed will be used to develop and administer a State recreational boating safety and facilities improvement program containing the minimum requirements set forth in subsection (b), (c), or (d) of this section;

"(3) sufficient State matching funds are available from either general revenue, boat registration and license fees, State marine fuels taxes, or from a fund constituted from the proceeds of such a tax and established for the purpose of financing a State recreational boating safety and facilities improvement program. No Federal funds from other sources may be used to provide a State's share of the costs of the program described under this section, nor may any State matching funds committed to a program under this Act be used to constitute the State's share of matching funds required by any other Federal program; and Matching funds.

"(4) the program submitted by that State designates a State lead authority or agency, which would implement or coordinate the implementation of the State recreational boating safety and facilities improvement program supported by Federal financial assistance in that State, including the requirement that the designated State authority or agency submit required reports that are necessary and reasonable for a proper and efficient administration of the program and that are in the form prescribed by the Secretary. Designated State authority; reports, submittal.

"(b) The Secretary shall accept a State recreational boating safety program, and such program shall be eligible to receive funds appropriated pursuant to section 30(a) of this Act, if such program includes— *Post*, p. 1987.

"(1) a vessel numbering system, either approved or administered by the Secretary under this Act;

"(2) a cooperative boating safety assistance program with the Coast Guard in that State;

"(3) sufficient patrol and other activity to insure adequate enforcement of applicable State boating safety laws and regulations; and

"(4) an adequate State boating safety education program.

"(c) The Secretary shall accept a State recreational boating facilities improvement program, and such program shall be eligible to receive funds appropriated pursuant to section 30(b) of this Act, if such program includes—

"(1) a complete description of recreational boating facility improvement projects to be undertaken by the State; and

"(2) consultation with State officials responsible for the statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4) and for any program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451-64). 16 USC 460*l*-4 note.

"(d) Any State may, at its election, submit a combined program to the Secretary for the improvement of recreational boat safety and the improvement of recreational boating facilities in that State. The Secretary shall approve such program if it contains the minimum requirements set forth in subsections (b) and (c) of this section. Those portions of such combined program that are designed to improve recreational boating safety shall be eligible to receive funds appropriated for State recreational boating safety programs pursuant to section 30(a) of this Act. Those portions of such combined program that are designed to improve recreational boating facilities shall be eligible to receive funds appropriated for State recreational boating Combined program.

facilities improvement programs pursuant to section 30(b) of this Act.".

Post, p. 1987.

(5) Section 27 is amended to read as follows:

"ALLOCATION OF FEDERAL FUNDS

46 USC 1476.

"SEC. 27. (a) The Secretary shall allocate the Federal funds available for allocation and distribution under this Act for State recreational boating safety programs as follows:

"(1) one-third shall be allocated equally among eligible States;

"(2) one-third shall be allocated among eligible States that maintain a State vessel numbering system approved under this Act so that the amount allocated each fiscal year to each such State will be in the same ratio as the number of vessels numbered in that State bears to the number of vessels numbered in all eligible States; and

"(3) one-third shall be allocated so that the amount allocated each fiscal year to each eligible State will be in the same ratio as the amount of State funds expended or obligated by such State for the State recreational boating safety program during the previous fiscal year bears to the total State funds expended or obligated during that fiscal year by all eligible States for State recreational boating safety programs.

"(b) The Secretary shall allocate the Federal funds available for allocation and distribution under this Act for State recreational boating facilities improvement programs as follows:

"(1) one-third shall be allocated equally each year among eligible States;

"(2) one-third shall be allocated so that the amount each year to each eligible State will be in the same ratio as the number of vessels numbered in that State bears to the number of vessels numbered in all eligible States; and

"(3) one-third shall be allocated so that the amount each year to each eligible State shall be in the same ratio as the State funds expended or obligated by the State for a recreational boating facilities improvement program approved under this Act during the previous fiscal year by a State bears to the total State funds expended or obligated for that fiscal year by all eligible States for recreational boating facilities improvement programs.

Limitations.

"(c) The amount received by any State under this section in any fiscal year may not exceed one-half of the total cost incurred by that State in the development, administration, and financing of that State's recreational boating safety and facilities improvement program in that fiscal year.

"(d) No allocation or distribution of funds under this section may be made to any State for the maintenance of boating facilities under an approved State recreational boating safety and facilities improvement program.

"(e) The Secretary may allocate not more than 5 percent of the funds available for allocation and distribution in any fiscal year for national boating safety activities of one or more national nonprofit public service organizations.

"(f) The Secretary is authorized to expend from the funds available for allocation and distribution in any fiscal year such sums as are necessary for the administration of this Act, but in no event may the funds expended for such administration in any fiscal year exceed the greater of $250,000 or 2 percent of the funds available for allocation and distribution in that fiscal year.".

(6) In section 28 by striking subsections (a) and (d) and redesignating subsections (b) and (c) as (a) and (b), respectively. 46 USC 1477.

(7) In section 29 by (A) striking the words "boating safety program" and substituting "State recreational boating safety and facilities improvement program" and (B) by inserting the word "land," immediately after the words "costs of" the first time they appear therein. 46 USC 1478.

(8) Section 30 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 30. (a) For the purpose of providing financial assistance for State recreational boating safety programs, there is authorized to be appropriated from the National Recreational Boating Safety and Facilities Improvement Fund $10,000,000 for each of the fiscal years 1981, 1982, and 1983, such appropriations to remain available until expended. 46 USC 1479.

"(b) For the purpose of providing financial assistance for State recreational boating facilities improvement programs, there is authorized to be appropriated from the National Recreational Boating Safety and Facilities Improvement Fund $10,000,000 for each of the fiscal years 1981, 1982, and 1983, such appropriations to remain available until expended.".

(9) Section 31 is amended— 46 USC 1480.

(a) in subsection (a) to read as follows:

"(a) Amounts allocated and distributed under section 27 of this Act shall be computed and paid to the States as follows: The Secretary shall determine, during the last quarter of a fiscal year, on the basis of computations made pursuant to section 29 of this Act and submitted by the States, the percentage of the funds available for the next fiscal year to which each eligible State shall be entitled. Notice of the percentage and of the dollar amount, if it can be determined, for each State shall be furnished to the States at the earliest practicable time. If the Secretary finds that an amount made available to a State for a prior year is greater or less than the amount which should have been made available to that State for the prior year, because of later or more accurate State expenditure information, the amount for the current fiscal year may be increased or decreased by the appropriate amount."; and *Ante*, p. 1986.

(b) in subsection (c) by striking the words "boating safety program" each time they appear and substituting "State recreational boating safety and facilities improvement program".

(10) Section 32 is amended— 46 USC 1481.

(a) by striking in subsection (a) the words "boating and boating safety" and inserting in lieu thereof the words "boating safety and facilities improvement."; and

(b) by adding in the first sentence of subsection (b) following the word "safety" the words "and facilities improvement".

TITLE II—ESTABLISHMENT OF FUND

Recreational Boating Fund Act of 1980.

SEC. 201. SHORT TITLE.

This title may be cited as the "Recreational Boating Fund Act of 1980". 46 USC 1451 note.

SEC. 202. ESTABLISHMENT OF NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND. 46 USC 1479a.

There is established in the Treasury of the United States a separate fund to be known as the "National Recreational Boating Safety and

Facilities Improvement Fund", consisting of such amounts as may be paid into it as provided in section 209(f)(5) of the Highway Revenue Act of 1956. Amounts in the Fund shall be available, as provided in appropriation Acts, for making expenditures after September 30, 1980, and before April 1, 1984, as provided in section 26 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1476).

Infra.

Ante, p. 1984.

46 USC 1475.

SEC. 203. TRANSFER OF MOTORBOAT FUEL TAXES TO FUND.

(a) GENERAL RULE.—Paragraph (5) of section 209(f) of the Highway Revenue Act of 1956 (23 U.S.C. 120 note) is amended to read as follows:

"(5) TRANSFERS FROM THE TRUST FUND FOR MOTORBOAT FUEL TAXES.—

"(A) TRANSFER TO NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND.—

"(i) IN GENERAL.—The Secretary of the Treasury shall pay from time to time from the trust fund into the National Recreational Boating Safety and Facilities Improvement Fund established by section 202 of the Recreational Boating Fund Act amounts (as determined by him) equivalent to the motorboat fuel taxes received on or after October 1, 1980, and before October 1, 1983.

Ante, p. 1987.

"(ii) LIMITATIONS.—

"(I) LIMIT ON TRANSFERS DURING ANY FISCAL YEAR.—The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed $20,000,000.

"(II) LIMIT ON AMOUNT IN FUND.—No amount shall be transferred under this subparagraph if the Secretary determines that such transfer would result in increasing the amount in the National Recreational Boating Safety and Facilities Improvement Fund to a sum in excess of $20,000,000.

"(B) EXCESS FUNDS TRANSFERRED TO LAND AND WATER CONSERVATION FUND.—Any amount received in the trust fund which is attributable to motorboat fuel taxes and which is not transferred from the trust fund under subparagraph (A) shall be transferred by the Secretary from the trust fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965.

16 USC 460*l*–4.

"(C) MOTORBOAT FUEL TAXES.—For purposes of this paragraph, the term 'motorboat fuel taxes' means the taxes under section 4041(b) of the Internal Revenue Code of 1954 with respect to special motor fuels used as fuel in motorboats and under section 4081 of such Code with respect to gasoline used as fuel in motorboats."

26 USC 4041.

26 USC 4081.

23 USC 120 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxes received on or after October 1, 1980.

SEC. 204. STUDY BY SECRETARY OF THE TREASURY.

26 USC 4041 note.

The Secretary of the Treasury (after consultation with the Secretary of the department in which the Coast Guard is operating) shall conduct a study to determine the portion of the taxes imposed by sections 4041(b) and 4081 of the Internal Revenue Code of 1954 which is attributable to fuel used in recreational motorboats. Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury shall report to the Congress on his findings under such study.

Report to Congress.

TITLE III—REFORESTATION

SEC. 301. AMORTIZATION OF REFORESTATION EXPENDITURES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 194. AMORTIZATION OF REFORESTATION EXPENDITURES. 26 USC 194.

"(a) ALLOWANCE OF DEDUCTION.—In the case of any qualified timber property with respect to which the taxpayer has made (in accordance with regulations prescribed by the Secretary) an election under this subsection, the taxpayer shall be entitled to a deduction with respect to the amortization of the amortizable basis of qualified timber property based on a period of 84 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The 84-month period shall begin on the first day of the first month of the second half of the taxable year in which the amortizable basis is acquired.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The aggregate amount of amortizable basis acquired during the taxable year which may be taken into account under subsection (a) for such taxable year shall not exceed $10,000 ($5,000 in the case of a separate return by a married individual (as defined in section 143)). 26 USC 143.

"(2) ALLOCATION OF DOLLAR LIMIT.—

"(A) CONTROLLED GROUP.—For purposes of applying the dollar limitation under paragraph (1)—

"(i) all component members of a controlled group shall be treated as one taxpayer, and

"(ii) the Secretary shall, under regulations prescribed by him, apportion such dollar limitation among the component members of such controlled group.

For purposes of the preceding sentence, the term 'controlled group' has the meaning assigned to it by section 1563(a), except that the phrase 'more than 50 percent' shall be substituted for the phrase 'at least 80 percent' each place it appears in section 1563(a)(1). 26 USC 1563.

"(B) PARTNERSHIPS.—In the case of a partnership, the dollar limitation contained in paragraph (1) shall apply with respect to the partnership and with respect to each partner.

"(3) SECTION NOT TO APPLY TO TRUSTS.—This section shall not apply to trusts.

"(4) ESTATES.—The benefit of the deduction for amortization provided by this section shall be allowed to estates in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiary and the fiduciary under regulations prescribed by the Secretary. Any amount so apportioned to a beneficiary shall be taken into account for purposes of determining the amount allowable as a deduction under this section to such beneficiary.

"(c) DEFINITIONS AND SPECIAL RULE.—For purposes of this section—

"(1) QUALIFIED TIMBER PROPERTY.—The term 'qualified timber property' means a woodlot or other site located in the United States which will contain trees in significant commercial quantities and which is held by the taxpayer for the planting, cultivating, caring for, and cutting of trees for sale or use in the commercial production of timber products.

"(2) AMORTIZABLE BASIS.—The term 'amortizable basis' means that portion of the basis of the qualified timber property attributable to reforestation expenditures.

"(3) REFORESTATION EXPENDITURES.—

"(A) IN GENERAL.—The term 'reforestation expenditures' means direct costs incurred in connection with forestation or reforestation by planting or artificial or natural seeding, including costs—

"(i) for the preparation of the site;

"(ii) of seeds or seedlings; and

"(iii) for labor and tools, including depreciation of equipment such as tractors, trucks, tree planters, and similar machines used in planting or seeding.

"(B) COST-SHARING PROGRAMS.—Reforestation expenditures shall not include any expenditures for which the taxpayer has been reimbursed under any governmental reforestation cost-sharing program unless the amounts reimbursed have been included in the gross income of the taxpayer.

"(4) BASIS ALLOCATION.—If the amount of the amortizable basis acquired during the taxable year of all qualified timber property with respect to which the taxpayer has made an election under subsection (a) exceeds the amount of the limitation under subsection (b)(1), the taxpayer shall allocate that portion of such amortizable basis with respect to which a deduction is allowable under subsection (a) to each such qualified timber property in such manner as the Secretary may by regulations prescribe.

"(d) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant.".

26 USC 62. (b) ADJUSTED GROSS INCOME.—Section 62 of such Code (relating to definition of adjusted gross income) is amended by inserting after paragraph (14) the following:

"(15) REFORESTATION EXPENSES.—The deduction allowed by section 194.".

Ante, p 1989.

(c) CONFORMING AMENDMENTS.—

26 USC 1245. (1)(A) Paragraph (2) of section 1245(a) of such Code (relating to gain from dispositions of certain depreciable property) is amended by striking out "190, 193" each place it appears and inserting in lieu thereof "190, 193, 194".

(B) Paragraphs (2) and (3)(D) of such section 1245(a) are each amended by striking out "or 193" and inserting "193, or 194".

(C) Section 1245(b) of such Code (relating to exceptions and limitations) is amended by adding at the end thereof the following new paragraph:

"(8) TIMBER PROPERTY.—In determining, under subsection (a)(2), the recomputed basis of property with respect to which a deduction under section 194 was allowed for any taxable year, the taxpayer shall not take into account adjustments under section 194 to the extent such adjustments are attributable to the

amortizable basis of the taxpayer acquired before the 10th taxable year preceding the taxable year in which gain with respect to the property is recognized.".

(2) The table of sections for part VI of subchapter B of chapter 1 of such Code is amended by inserting at the end thereof the following new item:

"Sec. 194. Amortization of reforestation expenditures.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to additions to capital account made after December 31, 1979. 26 USC 194 note.

SEC. 302. INVESTMENT CREDIT.

(a) GENERAL RULE.—Paragraph (1) of section 48(a) of the Internal Revenue Code of 1954 (relating to definition of section 38 property) is amended— 26 USC 48, 38.

(1) by striking out the period at the end of subparagraph (E) and inserting ", or";

(2) by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of qualified timber property (within the meaning of section 194(c)(1)), that portion of the basis of such property constituting the amortizable basis acquired during the taxable year (other than that portion of such amortizable basis attributable to property which otherwise qualifies as section 38 property) and taken into account under section 194 (after the application of section 194(b)(1))."; and *Ante*, p. 1989.

(3) by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to property described in subparagraph (F) and, for purposes of this subpart, the useful life of such property shall be treated as its normal growing period.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to additions to capital account made after December 31, 1979. 26 USC 48 note.

SEC. 303. REFORESTATION TRUST FUND. 16 USC 1606a.

(a) There is established in the Treasury of the United States a trust fund, to be known as the Reforestation Trust Fund (hereinafter in this section referred to as the "Trust Fund"), consisting of such amounts as are transferred to the Trust Fund under subsection (b)(1) and any interest earned on investment of amounts in the Trust Fund under subsection (c)(2).

(b)(1) Subject to the limitation in paragraph (2), the Secretary of the Treasury shall transfer to the Trust Fund an amount equal to the sum of the tariffs received in the Treasury after September 30, 1979, and before October 1, 1985, under subparts A and B of part 1 of schedule 2 of the Tariff Schedules of the United States (19 U.S.C. 1202) and under part 3 of such schedule.

(2) The Secretary shall not transfer more than $30,000,000 to the Trust Fund for any fiscal year.

(3) The amounts required to be transferred to the Trust Fund under paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Trust Fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustment shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c)(1) It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Secretary of Agriculture) to report to the Congress each year on the financial condition Report to Congress.

and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and Senate document of the session of the Congress to which the report is made.

Printing as House and Senate document.

Investment.

(2)(A) It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest

31 USC 774.

(B) Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(C) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

Appropriation authorization.

(d) For each of the first 5 fiscal years beginning after September 30, 1980, there is authorized after that date to be appropriated to the Secretary of Agriculture, out of any amounts in the Trust Fund, an amount equal to the sum of—

(1) the amount by which—

(A) the sum estimated by the Secretary of Agriculture for the fiscal year under section 3(d)(2) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601(d)(2)) to be necessary for reforestation and other treatment of acreage, as set forth in the report transmitted by the Secretary to the Congress under that section for the fiscal year, exceeds

(B) the sum of the amounts appropriated for the fiscal year under the authorization contained in section 3(d)(3) of such Act and under any other provision of law to carry out the same purpose; and

(2) such sums as are determined by the Secretary of Agriculture to be properly allocable to administrative costs of the Federal Government incurred for the fiscal year in connection with the reforestation program carried out under that Act.

(e) The Secretary of the Treasury shall pay into the general fund of the Treasury any amounts, including interest earned on such amounts, remaining in the Trust Fund after September 30, 1985, which were not expended and remain in the Trust Fund.

Approved October 14, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-591, Pt. I (Comm. on Merchant Marine and Fisheries) and Pt. II (Comm. on Ways and Means); and No. 96-1320 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Dec. 3, considered and passed House.

Vol. 126 (1980): Aug. 25, considered and passed Senate, amended.
Sept. 10, Senate agreed to conference report.
Sept. 25, House agreed to conference report and to Senate amendment to the title of the bill.

Public Law 96-452
96th Congress

An Act

Oct. 14, 1980
[H.R. 7665]

To amend title 28, United States Code, to divide the fifth judicial circuit of the United States into two circuits, and for other purposes.

Fifth Circuit Court of Appeals Reorganization Act of 1980.
28 USC 1 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fifth Circuit Court of Appeals Reorganization Act of 1980".

SEC. 2. Section 41 of title 28, United States Code, is amended—

(1) in the text before the table, by striking out "eleven" and inserting in lieu thereof "twelve";

(2) in the table, by striking out the item relating to the fifth circuit and inserting in lieu thereof the following new item:

"Fifth ..... District of the Canal Zone, Louisiana, Mississippi, Texas.";

and

(3) at the end of the table, by adding the following new item:

"Eleventh ..... Alabama, Florida, Georgia.".

SEC. 3. The table in section 44(a) of title 28, United States Code, is amended—

(1) by striking out the item relating to the fifth circuit and inserting in lieu thereof the following new item:

"Fifth ..... 14";

and

(2) by adding at the end thereof the following new item:

"Eleventh ..... 12".

SEC. 4. The table in section 48 of title 28, United States Code, is amended—

(1) by striking out the item relating to the fifth circuit and inserting in lieu thereof the following new item:

"Fifth ..... New Orleans, Fort Worth, Jackson.";

and

(2) by adding at the end thereof the following new item:

"Eleventh ..... Atlanta, Jacksonville, Montgomery.".

Assignments.
28 USC 41 note.

SEC. 5. Each circuit judge in regular active service of the former fifth circuit whose official station on the day before the effective date of this Act—

(1) is in Louisiana, Mississippi, or Texas is assigned as a circuit judge of the new fifth circuit; and

(2) is in Alabama, Florida, or Georgia is assigned as a circuit judge of the eleventh circuit.

Senior judges, assignment election.
28 USC 41 note.

SEC. 6. Each judge who is a senior judge of the former fifth circuit on the day before the effective date of this Act may elect to be assigned to the new fifth circuit or to the eleventh circuit and shall

notify the Director of the Administrative Office of the United States Courts of such election.

Seniority.
28 USC 41 note.

SEC. 7. The seniority of each judge—

(1) who is assigned under section 5 of this Act; or

(2) who elects to be assigned under section 6 of this Act; shall run from the date of commission of such judge as a judge of the former fifth circuit.

Eleventh circuit, temporary site.
28 USC 41 note.

SEC. 8. The eleventh circuit is authorized to hold terms or sessions of court at New Orleans, Louisiana, until such time as adequate facilities for such court are provided in Atlanta, Georgia.

Cases, applicable provisions.
28 USC 41 note.

SEC. 9. The provisions of the following paragraphs of this section apply to any case in which, on the day before the effective date of this Act, an appeal or other proceeding has been filed with the former fifth circuit:

(1) If the matter has been submitted for decision, further proceedings in respect of the matter shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which it would have gone had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of this Act, or submitted before the effective date of this Act and decided on or after the effective date as provided in paragraph (1) of this section, shall be treated in the same manner and with the same effect as though this Act had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this Act had not been enacted.

Definitions.
28 USC 41 note.

SEC. 10. As used in sections 5, 6, 7, 8, and 9 of this Act, the term—

(1) "former fifth circuit" means the fifth judicial circuit of the United States as in existence on the day before the effective date of this Act;

(2) the term "new fifth circuit" means the fifth judicial circuit of the United States established by the amendment made by section 2(2) of this Act; and

(3) the term "eleventh circuit" means the eleventh judicial circuit of the United States established by the amendment made by section 2(3) of this Act.

28 USC 41 note.

Termination.

Effective date.
28 USC 41 note.

SEC. 11. The court of appeals for the fifth circuit as constituted on the day before the effective date of this Act may take such administrative action as may be required to carry out this Act. Such court shall cease to exist for administrative purposes on July 1, 1984.

SEC. 12. This Act and the amendments made by this Act shall take effect on October 1, 1981.

Approved October 14, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1390 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Oct. 1, considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 42:
Oct. 15, Presidential statement.

Public Law 96-453
96th Congress

An Act

To amend the Merchant Marine Act, 1936, to revise and reenact the laws pertaining to the United States Merchant Marine Academy and to State maritime academies and for other maritime education and training purposes.

Oct. 15, 1980
[H.R. 5451]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maritime Education and Training Act of 1980".

Maritime Education and Training Act of 1980.
46 USC 1295 note.

SEC. 2. The Merchant Marine Act, 1936 (46 U.S.C. 1101, et seq.), is amended by adding after title XII the following new title:

"TITLE XIII—MARITIME EDUCATION AND TRAINING

46 USC 1295.

"SEC. 1301. It is the policy of the United States that merchant marine vessels of the United States should be operated by highly trained and efficient citizens of the United States and that the United States Navy and the merchant marine of the United States should work closely together to promote the maximum integration of the total seapower forces of the United States. In furtherance of this policy—

"(1) the Secretary of Commerce is authorized to take the steps necessary to provide for the education and training of citizens of the United States who are capable of providing for the safe and efficient operation of the merchant marine of the United States at all times and as a naval and military auxiliary in time of war or national emergency; and

"(2) the Secretary of Navy, in cooperation with the Assistant Secretary of Commerce for Maritime Affairs and the head of each State maritime academy, shall assure that the training of future merchant marine officers at the United States Merchant Marine Academy and at the State maritime academies includes programs for naval science training in the operation of merchant marine vessels as a naval and military auxiliary and that naval officer training programs for the training of future officers, insofar as possible, be maintained at designated maritime academies consistent with United States Navy standards and needs.

Definitions.
46 USC 1295a.

"SEC. 1302. For purposes of this title—

"(1) the term 'Secretary' means the Secretary of Commerce;

"(2) the term 'Academy' means the United States Merchant Marine Academy located at Kings Point, New York which is maintained under section 1303;

"(3) the term 'State maritime academy' means any maritime academy or college which is assisted under section 1304 and which is sponsored by any State or territory of the United States or, in the case of a regional maritime academy or college, sponsored by any group of States or territories of the United States, or both; and

"(4) the term 'merchant marine officer' means any person who holds a license issued by the United States Coast Guard which authorizes service—

"(A) as a master, mate, or pilot on board any vessel of 1,000 gross tons or more which is documented under the laws of the United States and which operates on the oceans or on the Great Lakes; or

"(B) as an engineer officer on board any vessel propelled by machinery of 4,000 horsepower or more which is documented under the laws of the United States.

46 USC 1295b.

"SEC. 1303. (a) The Secretary shall maintain the Academy for providing instruction to individuals to prepare them for service in the merchant marine of the United States.

Cadet appointees, resident requirements.

"(b)(1) Each Senator and Member of the House of Representatives, the Panama Canal Commission, the Governor of the Northern Mariana Islands, and the Governor of American Samoa (until a delegate to the House of Representatives from American Samoa takes office) may nominate for appointment as a cadet at the Academy any individual who is

"(A) a citizen of the United States or a national of the United States; and

"(B) a resident of the State represented by such Senator if the individual is nominated by a Senator, a resident of the State in which the congressional district represented by such Member of the House of Representatives is located if the individual is nominated by a Member of the House of Representatives (or a resident of Guam, the Virgin Islands, the District of Columbia, the Commonwealth of Puerto Rico, or American Samoa if the individual is nominated by a Member of the House of Representatives representing such area), a resident of the area or installation described in paragraph (3)(A)(ii), or a son or daughter of the personnel described in such paragraph, if the individual is nominated by the Panama Canal Commission, a resident of the Northern Mariana Islands if the individual is nominated by the Governor of the Northern Mariana Islands, or a resident of American Samoa if the individual is nominated by the Governor of American Samoa.

Minimum requirements and competitive system.

"(2)(A) The Secretary shall establish minimum requirements for the individuals nominated pursuant to paragraph (1) and shall establish a system of competition for the selection of individuals qualified for appointment as cadets at the Academy.

"(B) Such system of competition shall determine the relative merit of appointing each such individual to the Academy through the use of competitive examinations, an assessment of the academic background of the individual, and such other factors as are considered effective indicators of motivation and the probability of successful completion of training at the Academy.

Positions, allocation.

"(3)(A) Qualified individuals nominated pursuant to paragraph (1) shall be selected each year for appointment as cadets at the Academy to fill positions allocated as follows:

"(i) Positions shall be allocated each year for individuals who are residents of each State and are nominated by the Members of the Congress from such State in proportion to the representation in Congress from that State.

"(ii) Two positions shall be allocated each year for individuals nominated by the Panama Canal Commission who are sons or daughters of residents of any area or installation located in the Republic of Panama which is made available to the United States pursuant to the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty, signed September 7, 1977, and the Agreement Between the United States of America

and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979, and sons or daughters of personnel of the United States Government and the Panama Canal Commission residing in the Republic of Panama, nominated by the Panama Canal Commission.

"(iii) One position shall be allocated each year for an individual who is a resident of Guam and is nominated by the Delegate to the House of Representatives from Guam.

"(iv) One position shall be allocated each year for an individual who is a resident of the Virgin Islands and is nominated by the Delegate to the House of Representatives from the Virgin Islands.

"(v) One position shall be allocated each year for an individual who is a resident of the Northern Mariana Islands and is nominated by the Governor of the Northern Mariana Islands.

"(vi) One position shall be allocated each year for an individual who is a resident of American Samoa and is nominated by the Governor of American Samoa (until a delegate to the House of Representatives from American Samoa takes office).

"(vii) Four positions shall be allocated each year for individuals who are residents of the District of Columbia and are nominated by the Delegate to the House of Representatives from the District of Columbia.

"(viii) One position shall be allocated each year for an individual who is a resident of the Commonwealth of Puerto Rico and is nominated by the Resident Commissioner to the United States from Puerto Rico.

Merit-based appointment.

"(B) The Secretary shall make appointments of qualified individuals to fill the positions allocated pursuant to subparagraph (A) (from among the individuals nominated pursuant to paragraph (1)) in the order of merit determined pursuant to paragraph (2)(B) among residents of each State, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa, the District of Columbia, and the Commonwealth of Puerto Rico and among individuals nominated by the Panama Canal Commission.

"(C) If positions are not filled after the appointments are made pursuant to subparagraph (B), the Secretary shall make appointments of qualified individuals to fill such positions from among all individuals nominated pursuant to paragraph (1) in the order of merit determined pursuant to paragraph (2)(B) among all such individuals.

Non-competitive appointments.

"(D) In addition, the Secretary may each year appoint without competition as cadets at the Academy not more than 40 qualified individuals possessing qualities deemed to be of special value to the Academy. In making such appointments the Secretary shall attempt to achieve a national demographic balance at the Academy.

"(E) No preference shall be granted in selecting individuals for appointment as cadets at the Academy because one or more members of the immediate family of any such individual are alumni of the Academy.

"(F) Any citizen of the United States selected for appointment pursuant to this paragraph must agree to apply for midshipman status in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve) before being appointed as a cadet at the Academy.

"State."

"(G) For purposes of this paragraph, the term 'State' means the several States.

"(4)(A) In addition to paragraph (3), the Secretary may permit, upon designation by the Secretary of the Interior, individuals from

the Trust Territory of the Pacific Islands to receive instruction at the Academy.

"(B) Not more than 4 individuals may receive instruction under this paragraph at any one time.

"(C) Any individual receiving instruction under the authority of this paragraph shall receive the same allowances and shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as cadets at the Academy appointed from the United States, subject to such exceptions as shall be jointly agreed upon by the Secretary and the Secretary of the Interior.

"(5)(A) In addition to paragraphs (3) and (4), the President may designate individuals from nations located in the Western Hemisphere other than the United States to receive instruction at the Academy.

"(B) Not more than 12 individuals may receive instruction under this paragraph at any one time, and not more than 2 individuals receiving instruction under this paragraph at any one time may be from the same nation.

"(C) Any individual receiving instruction under this subparagraph is entitled to the same allowances and shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as cadets at the Academy appointed from the United States.

"(6)(A) In addition to paragraphs (3), (4), and (5), the Secretary may permit, upon approval of the Secretary of State, individuals from nations other than the United States to receive instruction at the Academy.

"(B) Not more than 30 individuals may receive instruction under this paragraph at any one time.

"(C) The Secretary shall insure that each nation from which an individual comes to receive instruction under this paragraph shall reimburse the Secretary for the cost of such instruction (including the same allowances as received by cadets at the Academy appointed from the United States) as determined by the Secretary.

"(D) Any individual receiving instruction at the Academy under this paragraph shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation as cadets at the Academy appointed from the United States.

"(7) Any individual appointed as a cadet to the Academy under paragraph (3), or receiving instruction at the Academy under paragraph (4), (5), or (6), is not entitled to hold any license authorizing service on any merchant marine vessel of the United States solely by reason of graduation from the Academy.

"(c) Any citizen of the United States who is appointed as a cadet at the Academy may be appointed by the Secretary of the Navy as a midshipman in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve).

"(d) The Secretary shall provide to any cadet at the Academy all required uniforms and textbooks and allowances for transportation (including reimbursement of traveling expenses) while traveling under orders as a cadet of the Academy.

"(e)(1) Each individual appointed as a cadet at the Academy after the date occurring 6 months after the effective date of the Maritime Education and Training Act of 1980, who is a citizen of the United States, shall as a condition of appointment to the Academy sign an agreement committing such individual—

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"(A) to complete the course of instruction at the Academy, unless the individual is separated by the Academy;

"(B) to fulfill the requirements for a license as an officer in the merchant marine of the United States on or before the date of graduation from the Academy of such individual;

"(C) to maintain a license as an officer in the merchant marine of the United States for at least 6 years following the date of graduation from the Academy of such individual;

"(D) to apply for an appointment as, to accept if tendered an appointment as, and to serve as a commissioned officer in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve), the United States Coast Guard Reserve, or any other Reserve unit of an armed force of the United States, for at least 6 years following the date of graduation from the Academy of such individual; Six-year duty commitment.

"(E) to serve the foreign and domestic commerce and the national defense of the United States for at least 5 years following the date of graduation from the Academy— Foreign and domestic commerce service.

"(i) as a merchant marine officer serving on vessels documented under the laws of the United States or on vessels owned and operated by the United States or by any State or territory of the United States;

"(ii) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary), if the Secretary determines that service under clause (i) is not available to such individual;

"(iii) as a commissioned officer on active duty in an armed force of the United States or in the National Oceanic and Atmospheric Administration; or

"(iv) by combining the services specified in clauses (i), (ii), and (iii); and

"(F) to report to the Secretary on the compliance by the individual to this paragraph. Report.

"(2) If the Secretary determines that any individual who has attended the Academy for not less than 2 years has failed to fulfill the part of the agreement (required by paragraph (1)) described in paragraph (1)(A), such individual may be ordered by the Secretary of the Navy to active duty in the United States Navy to serve for a period of time not to exceed 2 years. In cases of hardship as determined by the Secretary, the Secretary may waive this paragraph. Active duty. Waiver.

"(3) If the Secretary determines that any individual has failed to fulfill any part of the agreement (required by paragraph (1)) described in subparagraphs (B), (C), (D), (E), or (F) of paragraph (1), such individual may be ordered to active duty to serve a period of time not less than 3 years and not more than the unexpired portion (as determined by the Secretary) of the service required by subparagraph (E) of such paragraph. The Secretary, in consultation with the Secretary of Defense and the Secretary of Transportation, shall determine in which service the individual shall be ordered to active duty to serve such period of time. In cases of hardship as determined by the Secretary, the Secretary may waive this paragraph. Active duty. Waiver.

"(4) The Secretary may defer the service commitment of any individual pursuant to subparagraph (E) of paragraph (1) (as specified in the agreement required by such paragraph) for a period of not more than 2 years if such individual is engaged in a graduate course of study approved by the Secretary, except that any deferment of service as a commissioned officer pursuant to paragraph (1)(E) must Service commitment deferment.

be approved by the Secretary of the military department (including the Secretary of the department in which the United States Coast Guard is operating with respect to the United States Coast Guard and the Secretary of Commerce with respect to the National Oceanic and Atmospheric Administration) which has jurisdiction over such service.

Training vessels.

"(f) The Secretary may provide for the training of cadets at the Academy—

"(1) on vessels owned or subsidized by the United States;

"(2) on other vessels documented under the laws of the United States if the owner of any such vessel cooperates in such use; and

"(3) in shipyards or plants and with any industrial or educational organizations.

"(g) The Superintendent of the Academy may confer the degree of bachelor of science upon any individual who has met the conditions prescribed by the Secretary and who, if a citizen of the United States, has passed the examination for a merchant marine officer's license. No individual may be denied a degree under this subsection because the individual is not permitted to take such examination solely because of physical disqualification.

Board of Visitors, establishment.

"(h)(1) A Board of Visitors to the Academy shall be established to visit the Academy annually on a date determined by the Secretary and to make recommendations on the operation of the Academy.

Membership.

"(2) The Board shall be composed of—

"(A) 2 Senators appointed by the chairman of the Commerce, Science, and Transportation Committee of the Senate;

"(B) 3 Members of the House of Representatives appointed by the chairman of the Merchant Marine and Fisheries Committee of the House of Representatives;

"(C) 1 Senator appointed by the Vice President;

"(D) 1 Member of the House of Representatives appointed by the Speaker of the House of Representatives; and

"(E) the chairman of the Commerce, Science, and Transportation Committee of the Senate and the chairman of the Merchant Marine and Fisheries Committee of the House of Representatives, as ex officio members.

"(3) Whenever a member of the Board is unable to attend the annual meeting provided in paragraph (1), another individual may be appointed in the manner provided by paragraph (2) as a substitute for such member.

Staff.

"(4) The chairmen of the Commerce, Science, and Transportation Committee of the Senate and the Merchant Marine and Fisheries Committee of the House of Representatives may designate staff members of such committees to serve without reimbursement as staff for the Board.

Travel expenses.

"(5) While away from their homes or regular places of business in the performance of services for the Board, members of the Board and any staff members designated under paragraph (4) shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

Advisory Board, establishment.

"(i)(1) An Advisory Board to the Academy shall be established to visit the Academy at least once during each academic year, for the purpose of examining the course of instruction and management of the Academy and advising the Assistant Secretary of Commerce for Maritime Affairs and the Superintendent of the Academy.

"(2) The Advisory Board shall be composed of not more than 7 persons of distinction in education and other fields relating to the Academy who shall be appointed by the Secretary for terms not to exceed 3 years and may be reappointed. Membership.

"(3) The Secretary shall appoint a chairman from among the members of the Advisory Board.

"(4) While away from their homes or regular places of business in the performance of service for the Advisory Board, members of the Advisory Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code. Travel expenses.

"(5) The Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) shall not apply to the Advisory Board established pursuant to this subsection.

"SEC. 1304. (a) The Secretary shall cooperate with and assist any State maritime academy in providing instruction to individuals to prepare them for service in the merchant marine of the United States. 46 USC 1295c.

"(b) The Governors of all States or territories of the United States, or both, cooperating to sponsor a regional maritime academy shall designate in writing one State or territory of the United States, from among the sponsoring States or territories, or both, to conduct the affairs of such regional maritime academy. Any regional maritime academy shall be eligible for assistance from the Federal Government on the same basis as any State maritime academy sponsored by a single State or territory of the United States. Regional maritime academy, designation. Federal assistance.

"(c)(1)(A) The Secretary may furnish for training purposes any suitable vessel under the control of the Secretary or provided under subparagraph (B), or construct and furnish a suitable vessel if such a vessel is not available, to any State maritime academy meeting the requirements of subsection (f)(1). Any such vessel— Training vessels.

"(i) shall be repaired, reconditioned, and equipped (including supplying all apparel, charts, books, and instruments of navigation) as necessary for use as a training ship;

"(ii) shall be furnished to such State maritime academy only after application for such vessel is made in writing by the Governor of the State or territory sponsoring such State maritime academy or, with respect to a regional maritime academy the Governor of the State or territory designated pursuant to subsection (b);

"(iii) shall be furnished to such State maritime academy only if a suitable port for the safe mooring of such vessel is available while it is being used by such academy;

"(iv) shall be maintained in good repair by the Secretary; and

"(v) shall remain the property of the United States.

"(B) Any department or agency of the United States may provide to the Secretary to be furnished to any State maritime academy any vessel (including equipment) which is suitable for the purposes of this paragraph and which can be provided without detriment to the service to which such vessel is assigned.

"(2) The Secretary may pay to any State maritime academy the amount of the costs of all fuel consumed by any vessel furnished under paragraph (1) while such vessel is being used for training purposes by such academy. Fuel costs, payment.

"(3)(A) The Secretary may provide for the training of individuals attending a State maritime academy—

"(i) on vessels owned or subsidized by the United States;

"(ii) on other vessels documented under the laws of the United States if the owner of any such vessel cooperates in such use; and

"(iii) in shipyards or plants and with any industrial or educational organizations.

Traveling expenses.

"(B) While traveling under orders for purposes of receiving training under this paragraph, any individual who is attending a State maritime academy shall receive from the Secretary allowances for transportation (including reimbursement of traveling expenses) in accordance with any regulations promulgated by the Secretary.

Academy maintenance and support, annual payments.

"(d)(1) The Secretary may enter into an agreement, which shall be effective for not more than 4 years, with one State maritime academy (not including regional maritime academies) located in each State or territory of the United States which meets the requirements of subsection (f)(1), and with each regional maritime academy which meets the requirements of subsection (f)(1), to make annual payments to each such academy for the maintenance and support of such academy. The amount of each such annual payment shall be not less than the amount furnished to such academy for its maintenance and support by the State or territory in which such academy is located or, in the case of a regional maritime academy an amount equal to the amount furnished to such academy for its maintenance and support by all States or territories, or both, cooperating to support such academy, but shall not exceed $25,000, or $100,000 if such academy meets the requirements of subsection (f)(2).

"(2) The Secretary shall provide to each State maritime academy guidance and assistance in developing courses on the operation and maintenance of new vessels, on equipment, and on innovations being introduced to the merchant marine of the United States.

Personnel detail.

"(e) Upon the request of the Governor of any State or territory, the President may detail, without reimbursement, any of the personnel of the United States Navy, the United States Coast Guard, or the United States Maritime Service to any State maritime academy to serve as superintendents, professors, lecturers, or instructors at such academy.

Courses.

"(f)(1) As a condition to receiving any payment or the use of any vessel under this section, any State maritime academy shall—

"(A) provide courses of instruction on navigation, marine engineering (including steam and diesel propulsion), the operation and maintenance of new vessels and equipment, and innovations being introduced to the merchant marine of the United States; and

"(B) agree in writing to conform to such standards for courses, training facilities, admissions, and instruction as are established by the Secretary after consultation with the superintendents of the State maritime academies.

"(2) As a condition to receiving an annual payment of any amount in excess of $25,000 under subsection (d), a State maritime academy shall agree to admit to such academy each year a number of individuals who meet the admission requirements of such academy and who are citizens of the United States residing in States and territories of the United States other than the States or territories, or both, supporting such academy. The Secretary shall determine the number of individuals under this paragraph for each State maritime academy so that such number does not exceed one-third of the total number of individuals attending such academy at any time.

Student incentive payments.

"(g)(1) The Secretary may enter into an agreement, which shall be effective for not more than 4 academic years, with any individual, who is a citizen of the United States and is attending a State

maritime academy which entered into an agreement with the Secretary under subsection (d)(1), to make student incentive payments to such individual, which payments shall be in amounts equaling $1,200 for each academic year and which payments shall be—

"(A) allocated among the various State maritime academies in a fair and equitable manner;

"(B) used to assist the individual in paying the cost of uniforms, books, and subsistence; and

"(C) paid by the Secretary to the individual in such payments as the Secretary shall prescribe while such individual is attending such academy.

"(2) Each agreement entered into under paragraph (1) shall require the individual to apply for midshipman status in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve) before receiving any student incentive payments under this subsection. Midshipman status requirement.

"(3) Each agreement entered into under paragraph (1) shall obligate the individual receiving student incentive payments under the agreement— Incentive payments, obligations.

"(A) to complete the course of instruction at the State maritime academy which the individual is attending, unless the individual is separated by such academy;

"(B) to take the examination for a license as an officer in the merchant marine of the United States on or before the date of graduation from such State maritime academy of such individual and to fulfill the requirements for such license not later than 3 months after such graduation date;

"(C) to maintain a license as an officer in the merchant marine of the United States for at least 6 years following the date of graduation from such State maritime academy of such individual;

"(D) to apply for an appointment as, to accept if tendered an appointment as, and to serve as a commissioned officer in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve), the United States Coast Guard Reserve, or any other reserve unit of an armed force of the United States, for at least 6 years following the date of graduation from such State maritime academy of such individual; Six-year duty commitment.

"(E) to serve the foreign and domestic commerce and the national defense of the United States for at least 3 years following the date of graduation from the Academy— Foreign and domestic commerce service.

"(i) as a merchant marine officer serving on vessels documented under the laws of the United States or on vessels owned and operated by the United States or by any State or territory of the United States;

"(ii) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary), if the Secretary determines that service under clause (i) is not available to such individual;

"(iii) as a commissioned officer on active duty in an armed force of the United States or in the National Oceanic and Atmospheric Administration; or

"(iv) by combining the services specified in clauses (i), (ii), and (iii); and

"(F) to report to the Secretary on the compliance by the individual to this paragraph. Report.

"(4) If the Secretary determines that any individual who has attended a State maritime academy for not less than 2 years has Active duty.

failed to fulfill the part of the agreement (required by paragraph (1)) described in paragraph (3)(A), such individual may be ordered by the Secretary of the Navy to active duty in the United States Navy to serve for a period of time not to exceed 2 years. In cases of hardship as determined by the Secretary, the Secretary may waive this paragraph.

Waiver.

Active duty.

"(5) If the Secretary determines that any individual has failed to fulfill any part of the agreement (required by paragraph (1)) described in subparagraphs (B), (C), (D), (E), or (F) of paragraph (3), such individual may be ordered to active duty to serve a period of time not less than 2 years and not more than the unexpired portion (as determined by the Secretary) of the service required by subparagraph (E) of such paragraph. The Secretary, in consultation with the Secretary of Defense and the Secretary of Transportation, shall determine in which service the individual shall be ordered to active duty to serve such period of time. In cases of hardship as determined by the Secretary, the Secretary may waive this paragraph.

Waiver.

Service deferment, condition.

"(6) The Secretary may defer the service commitment of any individual pursuant to subparagraph (E) of paragraph (3) (as specified in the agreement required by such paragraph) for a period of not more than 2 years if such individual is engaged in a graduate course of study approved by the Secretary, except that any deferment of service as a commissioned officer pursuant to subparagraph (E) of such paragraph must be approved by the Secretary of the military department (including the Secretary of the department in which the United States Coast Guard is operating with respect to the United States Coast Guard and the Secretary of Commerce with respect to the National Oceanic and Atmospheric Administration) which has jurisdiction over such service.

"(7) This subsection shall apply only to individuals first entering a State maritime academy after the date occurring 6 months after the effective date of the Maritime Education and Training Act of 1980.

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"(h) Any citizen of the United States attending a State maritime academy may be appointed by the Secretary of the Navy as a midshipman in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve).

Additional training. 46 USC 1295d.

"SEC. 1305. (a) The Secretary may provide additional training on maritime subjects, as the Secretary deems necessary, to supplement other training opportunities and may make any such training available to the personnel of the merchant marine of the United States and to individuals preparing for a career in the merchant marine of the United States.

Equipment or supplies, purchase.

"(b) The Secretary may prepare or purchase any equipment or supplies required for any training provided under subsection (a) and may contract with any person, partnership, firm, association, or corporation (without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5)) for the performance of any services deemed necessary by the Secretary in the preparation of any such equipment or supplies and in the supervision and administration of any such training.

United States Maritime Service, establishment. 46 USC 1295e.

"SEC. 1306. (a) The Secretary may establish and maintain a voluntary organization for the training of citizens of the United States to serve on merchant marine vessels of the United States to be known as the United States Maritime Service.

Enrollment determination.

"(b) The Secretary may determine the number of individuals to be enrolled for training and reserve purposes in such service, to fix the rates of pay and allowances of such individuals without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5,

United States Code (relating to classification and General Schedule pay rates), to prescribe the course of study and the periods of training in such service, and to prescribe the uniform of such service and the rules governing the wearing and furnishing of such uniform. 5 USC 5101 *et seq.*, 5331.

"(c) The ranks, grades, and ratings for personnel of the United States Maritime Service shall be the same as are then prescribed for the personnel of the United States Coast Guard.

"SEC. 1307. (a) As used in this section, the term 'civilian nautical school' means any school operated and conducted in the United States (except the Academy maintained under section 1303, any State maritime academy assisted under section 1304, and any other school operated by the United States or any agency of the United States) which offers instruction to individuals quartered on board any vessel for the primary purpose of training them for service in the merchant marine. "Civilian nautical school." 46 USC 1295f.

"(b) Each civilian nautical school shall be subject to examination and inspection by the Secretary, and the Secretary may (under such rules and regulations as the Secretary may prescribe) provide for the rating and certification of such schools as to the adequacy of the course of instruction, the competency of the instructors, and the suitability of the equipment used by, or in connection with, such school. Examination and inspection.

"(c)(1) Any vessel or other floating equipment, other than a vessel of the United States Navy or the United States Coast Guard, used by or in connection with any civilian nautical school (whether such vessel or other floating equipment is being navigated or not) shall be subject to the vessel inspection laws of the United States under the same terms as is a passenger carrying vessel or a vesssel carrying passengers for hire.

"(2) The Secretary of the department in which the United States Coast Guard is operating shall issue regulations to carry out the inspection of such vessels and floating equipment. Regulations.

"(d) Whoever— Violation, penalty.

"(1) violates this section or any regulations promulgated to implement this section;

"(2) is an owner of a vessel or floating equipment which is in violation of the requirements of this section;

"(3) is an officer or member of the Board of Directors of a school, organization, association, partnership, or corporation which owns a vessel or floating equipment which is used in violation of the requirements of this section or which uses such a vessel or floating equipment in violation of this section,

shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for each offense.

"SEC. 1308. (a) The Secretary shall establish such rules and regulations as may be necessary to carry out this title. Rules and regulations. 46 USC 1295g.

"(b) The Secretary may cooperate with and assist the Academy, any State maritime academy, and any nonprofit training institution which has been jointly approved by the Secretary and the Secretary of the department in which the United States Coast Guard is operating as offering training courses which meet Federal regulations for maritime training, by making vessels, shipboard equipment, and other marine equipment, owned by the United States which have been determined to be excess or surplus, available by gift, loan, sale, lease, or charter to such institution for instructional purposes on such terms as the Secretary deems appropriate. Excess vessels and equipment.

"(c)(1) The Secretary may secure directly from any department or agency of the United States any information, facilities, or equipment, on a reimbursable basis, necessary to carry out this title.

Personnel detail.

"(2) Upon the request of the Secretary, the head of any department or agency of the United States (including any military department of the United States) may detail, on a reimbursable basis, any of the personnel of such department or agency to the Secretary to assist in carrying out this title.

Personnel, employment.

5 USC 101.

"(d) To carry out this title, the Secretary may employ at the Academy any individual as a professor, lecturer, or instructor, without regard to the provisions of title 5, United States Code (governing appointments in the competitive service), and may pay such individual without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

5 USC 5101 *et seq.*, 5331.

Certain vessels, inspection regulations.

"(e)(1) The Secretary of the department in which the United States Coast Guard is operating shall inspect, and prescribe regulations for the inspection of, any vessel of more than 15 gross tons, other than a vessel of the United States Navy or the United States Coast Guard, which is used primarily for training or instruction provided by the Academy under section 1303 or by a State maritime academy assisted under section 1304. Any such vessel shall not be subject to inspection under any other law or regulation requiring the inspection of such vessel by the United States Coast Guard.

"(2) Any inspection under paragraph (1) shall include inspections of lifesaving and firefighting equipment, structure and arrangement generally, safe loading, and living and working conditions.

"(3) Any regulations prescribed under paragraph (1) shall take into account the function, purpose, and use of such vessels, the routes of such vessels, and the number of individuals who may be carried on such vessels.

"(4) Any vessel which is described in paragraph (1) may not be used in connection with any training or instruction provided by the Academy under section 1303 or by a State maritime academy assisted under section 1304 as long as such vessel is in violation of any regulations prescribed pursuant to this subsection or does not pass any inspection conducted pursuant to this subsection.

Inspection requirements, violation.

"(5) Whoever—

"(A) refuses to allow, or impedes or interferes with, any inspection required by this subsection; or

Penalty.

"(B) violates any regulations prescribed under this subsection, shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for each offense.".

SEC. 3. (a) Section 209(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1119(b)) is amended—

(1) by striking out "State Marine Schools" in clause (7) and inserting in lieu thereof "State maritime academies under section 1304 of this Act";

(2) by striking out "extension and correspondence courses authorized under section 216(c) of this Act; and" in clause (9) and inserting in lieu thereof "additional training provided under section 1305 of this Act;";

Ante, p. 2006.

(3) by redesignating clause (10) as clause (11); and

(4) by inserting after clause (9) the following new clause:

Ante, p. 1997.

"(10) expenses necessary to carry out title XIII of this Act; and".

(b) Section 905 of the Merchant Marine Act, 1936 (46 U.S.C. 1244), is amended by adding after subsection (e) the following new subsections:

"(f) The terms 'Representative' and 'Member of the Congress' include Delegates to the House of Representatives from the District of Columbia, Guam, and the Virgin Islands, and the Resident Commissioner to the House of Representatives from the Commonwealth of Puerto Rico. "Representative" and "Member of the Congress."

"(g) The term 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, and the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty, signed September 7, 1977, and the Agreement Between the United States of America and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979.". "United States."

(c) The Act entitled "An Act to encourage the establishment of Public Marine Schools", approved June 20, 1874 (18 Stat. 121), is repealed. Repeal.

(d) Section 216 of the Merchant Marine Act, 1936 (46 U.S.C. 1126) is repealed. Repeal.

(e) The Act entitled "An Act to provide for the examination of civilian nautical schools and for the inspection of vessels used in connection therewith, and for other purposes", approved June 12, 1940 (46 U.S.C. 1331-1334, commonly known as the Civilian Nautical School Act), is repealed. Repeal.

(f) The joint resolution entitled "Joint resolution to establish a Board of Visitors for the United States Merchant Marine Academy", approved May 11, 1944 (46 U.S.C. 1126c), is repealed. Repeal.

(g) The Act entitled "An Act to authorize the course of instruction at the United States Merchant Marine Academy to be given to not exceeding twelve persons at a time from the American republics, other than the United States", approved August 9, 1946 (46 U.S.C. 1126b), is repealed. Repeal.

(h) The Act entitled "An Act to create an Academic Advisory Board for the United States Merchant Marine Academy", approved July 22, 1947 (46 U.S.C. 1126d), is repealed. Repeal.

(i) Section 34 of the Act entitled "An Act to revise, codify, and enact into law, title 10 of the United States Code entitled 'Armed Forces', and title 32 of the United States Code, entitled 'National Guard' ", approved August 10, 1956 (46 U.S.C. 1126a-1), is repealed. Repeal.

(j) The Maritime Academy Act of 1958 (46 U.S.C. 1381-1388) is repealed, except as provided in section 1304(g)(5) of title XIII of the Merchant Marine Act, 1936 (as added by section 2 of this Act). Repeal. *Ante*, p. 2003.

Repeal.

(k) The Act entitled "An Act to authorize the Secretary of Interior to nominate citizens of the Trust Territory of the Pacific Islands to be cadets at the United States Merchant Marine Academy", approved September 14, 1961 (46 U.S.C. 1126b-1), is repealed.

Effective date.
46 USC 1295 note.

SEC. 4. This Act shall take effect on October 1, 1981.

Approved October 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1139 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 30, considered and passed House.
Sept. 30, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 42:
Oct. 15, Presidential statement.

Public Law 96-454
96th Congress

An Act

To reduce regulation of and increase competition in the household goods moving industry, and for other purposes.

Oct. 15, 1980
[S. 1798]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Household Goods Transportation Act of 1980". Household Goods Transportation Act of 1980. 49 USC 10101 note.

DECLARATION OF POLICY

SEC. 2. (a) The Congress hereby finds— 49 USC 10101 note.

(1) that a safe, stable, and financially sound system of transportation of household goods by motor common carriers is vital to the maintenance of a strong national economy and a strong national defense;

(2) that the best means of assuring such a system is through competition and reduced regulation;

(3) that maximum flexibility on the part of the carriers in the pricing of their services best serves the shippers of household goods and allows a variety of quality and price options to meet market demands; and

(4) that the interest of individual shippers can be best protected by allowing carriers of household goods maximum flexibility in serving the needs of their shippers, by providing accurate and complete information concerning carriers' performance and individual shippers' rights and remedies, by reducing the amount of unnecessary regulations, and by strengthening remedies for violations of those regulations that are necessary for protection of individual shippers.

(b) The appropriate authorizing committees of Congress shall conduct periodic oversight hearings on the effects of this legislation, no less than annually for the first 5 years following the date of enactment of this Act, to ensure that this Act is being implemented according to congressional intent and purpose. Hearings.

DEFINITIONS

SEC. 3. (a) Section 10102 of title 49, United States Code, is amended—

(1) by inserting after paragraph (9) the following new paragraph: "Household goods."

"(10) 'household goods' means—

"(A) personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling and such other similar property as the Commission may provide by regulation; except that this subparagraph shall not be construed to include property moving from a factory or store, except such property as the householder has purchased with intent to use in his dwelling and which is

transported at the request of, and the transportation charges paid to the carrier by, the householder;

"(B) furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments and such other similar property as the Commission may provide by regulation; except that this subparagraph shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as incidental to moving of the establishment, or a portion thereof, from one location to another; and

"(C) articles, including objects of art, displays, and exhibits, which because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods and such other similar articles as the Commission may provide by regulation; except that this subparagraph shall not be construed to include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods."; and

(2) by redesignating paragraphs (10) through (28) of such section, and any references thereto, as paragraphs (11) through (29), respectively.

26 USC 250. (b)(1) Section 250(a)(1) of the Internal Revenue Code of 1954 is amended by striking out "10102(17)" and inserting in lieu thereof "10102(18)".

(2) Section 5201(5) of title 39, United States Code, is amended by striking out "10102(11)" and inserting in lieu thereof "10102(12)".

RATES

SEC. 4. (a) Chapter 107 of title 49, United States Code, is amended by inserting after section 10733 the following new section:

49 USC 10734. **"§10734. Household goods rates—estimates; guarantees of service**

"(a)(1) Subject to the provisions of paragraph (2) of this subsection, a motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of 49 USC 10521. chapter 105 of this title may, subject to the provisions of this chapter (including the general tariff requirements of section 10762 of this 49 USC 10762. title), establish a rate for the transportation of household goods which is based on the carrier's written, binding estimate of charges for providing such transportation.

"(2) Any rate established under this subsection must be available on a nonpreferential basis to shippers and must not result in charges to shippers which are predatory.

"(b)(1) Subject to the provisions of paragraph (2) of this subsection, a motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may, subject to the provisions of this chapter (including the general tariff requirements of section 10762 of this title), establish rates for the transportation of household goods which guarantee that the carrier will pick up and deliver such household goods at the times specified in the contract for such services and

provide a penalty or per diem payment in the event the carrier fails to pick up or deliver such household goods at the specified time. The charges, if any, for such guarantee and penalty provision may vary to reflect one or more options available to meet a particular shipper's needs but must be contained in the tariff the carrier publishes for such service under this title.

"(2) Before a carrier may establish a rate for any service under paragraph (1) of this subsection, the Commission may require such carrier to have in effect and keep in effect, during any period such rate is in effect under such paragraph, a rate for such service which does not guarantee the pick up and delivery of household goods at the times specified in the contract for such services and which does not provide a penalty or per diem payment in the event the carrier fails to pick up or deliver household goods at the specified time.".

(b) The analysis for chapter 107 of title 49, United States Code, is amended by inserting

"10734. Household goods rates—estimates; guarantees of service."

after

"10733. Rates for transportation of recyclable materials.".

AGENTS

SEC. 5. (a)(1) Chapter 109 of title 49, United States Code, is amended by inserting after section 10933 the following new section:

"§10934. Household goods agents 49 USC 10934.

"(a) Each motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall be responsible for all acts or omissions of any of its agents which relate to the performance of household goods transportation services (including accessorial or terminal services) subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and which are within the actual or apparent authority of the agent from the carrier or which are ratified by the carrier. 49 USC 10521.

"(b) Each motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall use due diligence and reasonable care in selecting and maintaining agents who are sufficiently knowledgeable, fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services) and to fulfill the obligations imposed upon them by this subtitle and by such carrier.

"(c)(1) Whenever the Commission has reason to believe from a complaint or investigation that an agent providing household goods transportation services (including accessorial and terminal services) under the authority of a motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title has violated section 11901(j) or 11917 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), it may issue to such agent a complaint stating the charges and containing notice of the time and place of a hearing which shall be held no later than 60 days after service of the complaint to such agent. Complaints. *Post*, pp. 2019, 2021.

"(2) Such agent shall have the right to appear at such hearing and rebut the charges contained in the complaint. Hearing.

Compliance orders.
Post, pp. 2019, 2021.

"(3) If such person does not appear at the hearing or if the Commission finds that the agent has violated section 11901(j) or 11917 of this title or is consistently not fit, willing, and able to provide adequate household goods transportation services (including accessorial and terminal services), it may issue an order to compel compliance with the requirement that the agent be fit, willing, and able. Thereafter, the Commission may issue an order to limit, condition, or prohibit such agent from any involvement in the transportation or provision of services incidental to the transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title if, after notice and an opportunity for a hearing, it finds that such agent, within a reasonable time after the date of issuance of a compliance order under this section, but in no event less than 30 days after such date of issuance, has willfully failed to comply with such order.

49 USC 10521.

Hearing.

"(4) Upon filing of a petition with the Commission by an agent who is the subject of an order issued pursuant to the second sentence of paragraph (3) of this subsection and after notice, a hearing shall be held with an opportunity to be heard. At such hearing, a determination shall be made whether the order issued pursuant to paragraph (3) of this subsection should be rescinded.

"(5) Any agent adversely affected or aggrieved by an order of the Commission issued under this subsection may seek relief in the appropriate United States court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.

28 USC 2341 *et seq.*

Antitrust laws, applicability.

"(d) The antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12), do not apply to discussions or agreements between a motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and its agents (whether or not an agent is also a carrier) related solely to (1) rates for the transportation of household goods under the authority of the principal carrier, (2) accessorial, terminal, storage, or other charges for services incidental to the transportation of household goods transported under the authority of the principal carrier, (3) allowances relating to transportation of household goods under the authority of the principal carrier, and (4) ownership of a motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title by an agent or membership on the board of directors of any such motor common carrier by an agent.".

(2) The analysis for chapter 109 of title 49, United States Code, is amended by inserting

"10934. Household goods agents."

after

"10933. Authorizing abandonment of freight forwarder service.".

(b) Section 10322(a) of title 49, United States Code, is amended—

(1) by inserting ", or section 10934" before the period at the end of the first sentence; and

(2) by inserting "10934(c)," after "10928,".

(c) Subsection (b) of section 11342 of title 49, United States Code, is amended by inserting "(1)" after "(b)" and by adding at the end of such subsection the following new paragraphs:

Traffic or services, pooling or dividing agreements.

"(2) In the case of an application for Commission approval of an agreement or combination between a motor common carrier providing transportation of household goods and its agents to pool or divide traffic or services or any part of their earnings, such agreement or

combination shall be presumed to be in the interest of better service to the public and of economy in operation and not to restrain competition unduly if the practices proposed to be carried out under such agreement or combination are the same as or similar to practices carried out under agreements and combinations between motor common carriers providing transportation of household goods to pool or divide traffic or services or any part of their earnings approved by the Commission before the date of enactment of this paragraph.

"(3) The Commission shall streamline, simplify, and expedite, to the maximum extent practicable, the process (including, but not limited to, any paperwork) for submission and approval of applications under this section for agreements and combinations between motor common carriers providing transportation of household goods and their agents.". Applications.

RULES AND REGULATIONS

SEC. 6. (a)(1) Chapter 111 of title 49, United States Code, is amended by inserting after section 11109 the following new section:

"§11110. Household goods carrier operations 49 USC 11110.

"(a)(1) The regulations and paperwork required of motor common carriers providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall be minimized to the maximum extent feasible consistent with the protection of individual shippers. Regulations. 49 USC 10521.

"(2) The Interstate Commerce Commission may issue regulations, including regulations protecting individual shippers, in order to carry out this subtitle with respect to the transportation of household goods by motor common carrier. 49 USC 10101.

"(3) Regulations of the Commission protecting individual shippers shall include, where appropriate, reasonable performance standards for the transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title. In establishing performance standards under this paragraph, the Commission shall take into account at least the following:

"(A) the level of performance that can be achieved by a well-managed motor common carrier transporting household goods;

"(B) the degree of harm to individual shippers which could result from a violation of the regulation;

"(C) the need to set the level of performance at a level sufficient to deter abuses which result in harm to consumers and violations of regulations;

"(D) service requirements of the carriers;

"(E) the cost of compliance in relation to the consumer benefits to be achieved from such compliance; and

"(F) the need to set the level of performance at a level designed to encourage carriers to offer service responsive to shipper needs.

"(4) Nothing in this section shall be construed to limit the Commission's authority to require reports from motor common carriers providing transportation of household goods or to require such carriers to provide specified information to consumers concerning their past performance.

"(b)(1) Every motor common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title may, upon request of a prospective shipper, provide the shipper with an estimate of charges Estimate of charges.

for transportation of household goods and for the proposed services. The Commission shall not prescribe specific formulas, forms, methods, or techniques for providing a prospective shipper with such an estimate. The Commission shall not prohibit any such carrier from charging a prospective shipper for providing a written, binding estimate for the transportation and proposed services, nor shall the Commission require the final charges to a shipper to be based on an estimate.

"(2) Any charge for an estimate of charges provided by a motor common carrier to a shipper for transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall be subject to the antitrust laws, as defined in the first section of the Clayton Act (15 U.S.C. 12).

49 USC 10521.

Weighing regulations.

"(c) The Commission shall issue regulations that provide motor carriers providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title with the maximum possible flexibility in weighing shipments, consistent with assurance to the shipper of accurate weighing practices. The Commission shall not prohibit such carriers from backweighing shipments or from basing their charges on the reweigh weights if the shipper observes both the tare and gross weighings (or, prior to such weighings, waives in writing the opportunity to observe such weighings) and such weighings are performed on the same scale.".

(2) The analysis for chapter 111 of title 49, United States Code, is amended by inserting

"11110. Household goods carrier operations."

after

"11109. Loading and unloading motor vehicles.".

Rulemaking proceeding. 49 USC 11110 note.

(b)(1) Not later than sixty days after the date of enactment of this Act, the Interstate Commerce Commission shall institute a rulemaking proceeding in which it shall review and revise all of its operational regulations pertaining to transportation of household goods to carry out the purposes of section 11110(a) of title 49, United States Code.

Ante, p. 2015.

(2) The Interstate Commerce Commission shall conclude the rulemaking proceeding required by this subsection within two hundred and seventy days after the date of enactment of this Act.

(3) To the maximum extent feasible, the provisions of this section, including the amendments made by this section, shall apply to rules and regulations pertaining to transportation of household goods for the United States Government issued by departments, agencies, and instrumentalities of the United States (other than the Interstate Commerce Commission), including rules and regulations established for the distribution of such traffic, to the same extent as such provisions apply to rules and regulations issued by the Interstate Commerce Commission.

DISPUTE SETTLEMENT

SEC. 7. (a)(1) Chapter 117 of title 49, United States Code, is amended by inserting after section 11710 the following new section:

49 USC 11711.

"§11711. Dispute settlement program for household goods carriers

Applications.

"(a)(1) One or more motor common carriers providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title who want to establish

a program to settle disputes between such carriers and shippers of household goods concerning the transportation of household goods may submit an application for establishing such program to the Commission. Such application shall be in such form and contain such information as the Commission may, by regulation, require. The Commission shall review and approve, in accordance with the provisions of this section, each application submitted under this subsection.

"(2) The Commission shall approve, at least within 45 days of its filing, any application to establish a program for settling disputes concerning the transportation of household goods which meets the requirements of subsection (b) of this section. Application approval.

"(3) The Commission may investigate at any time the functioning of any program approved under this section and, after notice and an opportunity for a hearing, may suspend or revoke its approval for failure to meet the requirements of this section and such regulations as the Commission may issue to carry out the provisions of this section. Investigations.

"(b) No program for settling disputes concerning the transportation of household goods may be approved under this section unless the program is a fair and expeditious method for settling such disputes and complies with each of the following requirements and such regulations as the Commission may issue: Program requirements.

"(1) The program is designed to prevent a carrier from having any special advantage in any case in which the claimant resides or does business at a place distant from the carrier's principal or other place of business.

"(2) The program provides for adequate notice of the availability of such program, including a concise easy-to-read, accurate summary of the program and disclosure of the legal effects of election to utilize the program. Such notice must be given to persons for whom household goods are to be transported by the carrier before such goods are tendered to the carrier for transportation.

"(3) Upon request of a shipper, the carrier must promptly provide such forms and other information as are necessary for initiating an action under the program to resolve a dispute.

"(4) Each person, authorized pursuant to the program to arbitrate or otherwise settle disputes, must be independent of the parties to the dispute and must be capable, as determined under such regulations as the Commission may issue, to resolve such disputes fairly and expeditiously. The program must ensure that each person chosen to settle the disputes is authorized and able to obtain from the shipper or carrier any material and relevant information to the extent necessary to carry out a fair and expeditious decisionmaking process.

"(5) No fee for instituting a proceeding under the program may be charged the shipper; except that, if the program is binding solely on the carrier, the shipper may be charged a fee of not more than $25 for instituting a proceeding under the program. In any case in which a shipper is charged a fee under this paragraph for instituting a proceeding under the program and such dispute is settled in favor of the shipper, the person settling the dispute must refund such fee to the shipper unless the person settling the dispute determines that such refund is inappropriate.

"(6) The program must not require the shipper to agree to utilize the dispute settlement program prior to the time that a dispute arises.

"(7) The program may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute (or a party's representative), but such oral presentation may be made only if all parties to the dispute expressly agree to such presentation and the date, time, and location of such presentation.

"(8) Any person settling a dispute concerning transportation of household goods under the program must, as expeditiously as possible but at least within 60 days of receipt of written notification of the dispute, render a decision based on the information gathered, except that, in any case in which a party to the dispute fails to provide in a timely manner any information concerning such dispute which the person settling the dispute may reasonably require to resolve the dispute, the dispute settler may extend such 60-day period for a reasonable period of time. A decision resolving a dispute may include any remedies appropriate under the circumstances, including repair, replacement, refund, reimbursement for expenses, and compensation for damages.

"(c) Materials and information obtained in the course of a decision-making process to settle a dispute under a dispute settlement program approved under this section may not be used to bring an action under section 11910 of this title.

49 USC 11910.

Attorney fees.

"(d) In any court action to resolve a dispute between a shipper of household goods and a motor common carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title concerning the transportation of household goods by such carrier, the shipper shall be awarded reasonable attorney's fees if—

49 USC 10521.

"(1) the shipper submits a claim to the carrier within 120 days after the date the shipment is delivered or the date the delivery is scheduled, whichever is later;

"(2) the shipper prevails in such court action; and

"(3)(A) no dispute settlement program approved under this section was available for use by the shipper to resolve the dispute; or

"(B) a decision resolving the dispute was not rendered under a dispute settlement program approved under this section within the period provided under subsection (b)(8) of this section or an extension of such period under such subsection; or

"(C) the court proceeding is to enforce a decision rendered under a dispute settlement program approved under this section and is instituted after the period for performance under such decision has elapsed.

Attorney fees.

"(e) In any court action to resolve a dispute between a shipper of household goods and a motor common carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title concerning the transportation of household goods by such carrier, such carrier may be awarded reasonable attorney's fees by the court only if the shipper brought such action in bad faith—

"(1) after resolution of such dispute under a dispute settlement program approved under this section; or

"(2) after institution of a proceeding by the shipper to resolve such dispute under a dispute settlement program approved under this section but before (A) the period provided under subsection (b)(8) for resolution of such dispute (including, if applicable, an extension of such period under such subsection)

ends, and (B) a decision resolving such dispute is rendered under such program.

"(f) The provisions of this section shall apply only in the case of collect-on-delivery transportation of those types of household goods described in section 10102(10)(A) of this title.". *Ante*, p. 2011.

(2) The analysis for chapter 117 of title 49, United States Code, is amended by inserting

"11711. Dispute settlement program for household goods carriers."

after

"11710. Liability when property is delivered in violation of routing instructions.".

(b) The amendments made by this section shall take effect on the date of enactment of this Act, except that subsections (d) and (e) of section 11711 of title 49, United States Code, as inserted in chapter 117 of such title by subsection (a)(1) of this section, shall take effect on the two hundred and fortieth day following such date of enactment. Effective date. 49 USC 11711 note.

PENALTIES

SEC. 8. (a) Section 11901 of title 49, United States Code, is amended—

(1) by adding at the end of subsection (g) the following new sentence: "After the date of enactment of this sentence, no penalties shall be imposed under this subsection for a violation relating to the transportation of household goods. Any such penalties that were imposed prior to such date of enactment shall be collected only in accordance with the provisions of subsection (h) of this section.";

(2) by redesignating subsection (h) of such section, and any references thereto, as subsection (k) and inserting ", (h), (i)(1), or (j)" after "subsection (g)" in paragraph (2) of such subsection; and

(3) by inserting after subsection (g) the following new subsections:

"(h)(1) Any person required to make a report to the Commission, answer a question, or make, prepare, or preserve a record under this subtitle concerning transportation of household goods subject to jurisdiction of the Commission under subchapter II of chapter 105 of this title, or an officer, agent, or employee of such person, that (A) does not make the report, (B) does not specifically, completely, and truthfully answer the question, (C) does not make, prepare, or preserve the record in the form and manner prescribed by the Commission, or (D) does not comply with section 10921 of this title, is liable to the United States for a civil penalty of not more than $500 for each violation and of not more than $250 for each additional day during which the violation continues. No penalty shall be imposed under this paragraph for any failure to make, prepare, or preserve the record in the form and manner prescribed by the Commission unless the shipper or shippers have suffered harm as a result of such failure. 49 USC 10521. 49 USC 10921.

"(2) In determining and negotiating the amount of a civil penalty under this subsection, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, whether the shipper has been adequately compensated before institution of the proceeding, and such other matters as fairness may require shall be taken into account.

"(i)(1) Subject to the provisions of paragraph (3) this subsection, if a common carrier providing transportation of household goods subject

49 USC 10521.

to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or a receiver or trustee of such carrier fails or refuses to comply with any regulation issued by the Commission relating to protection of individual shippers, such carrier, receiver, or trustee is liable to the United States for a civil penalty of not more than $1,000 for each violation and of not more than $500 for each additional day during which the violation continues.

Violation determination, written notification.

"(2)(A) If the Commission determines—

"(i) that a common carrier providing transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or a receiver or trustee of such carrier has failed or refused to comply with a regulation issued by the Commission relating to protection of individual shippers in excess of any performance standard established in such regulation; and

"(ii) with respect to each such failure or refusal, that the shipper or shippers have suffered harm as a result of such failure or refusal;

the Commission may, in writing, notify the carrier, receiver, or trustee of its determinations and may elect to assess civil penalties under this paragraph for such failures and refusals in lieu of proceeding under paragraph (1) of this subsection with respect to such failures and refusals. If the Commission elects to assess civil penalties under this paragraph, such civil penalties may only be assessed after notice and opportunity for a hearing.

"(B) Subject to the provisions of paragraph (3) of this subsection, the amount of a civil penalty which may be assessed under this paragraph for a failure or refusal shall not be more than $1,000 for such failure or refusal and $500 for each additional day during which such failure or refusal continues.

"(C) Notwithstanding the provisions of section 1336 of title 28, United States Code, a proceeding to enjoin or suspend, in whole or part, an order issued by the Commission assessing one or more civil penalties under this paragraph may only be brought in the United States court of appeals as provided by and in the manner prescribed in chapter 158 of such title.

28 USC 2341 *et seq.*

Compensation of shippers.

"(3) The amount of a civil penalty which may be assessed under paragraph (1) or (2) of this subsection for a failure or refusal shall not be more than $500 for such failure or refusal and $250 for each additional day during which such failure or refusal continues if, between the time the carrier, receiver, or trustee receives notice from the Commission of such failure or refusal and the commencement of the assessment hearing or trial, as the case may be, the carrier, receiver, or trustee adequately compensates the shipper or shippers, or offers adequate compensation to the shipper or shippers, for the harm they have suffered as a result of such failure or refusal.

"(4)(A) No civil penalty may be imposed under this subsection for a failure or refusal to comply with a regulation issued by the Commission relating to protection of individual shippers unless the shipper or shippers have suffered harm as a result of such failure or refusal.

"(B) In addition, no civil penalty may be imposed under this subsection for a failure or refusal to comply with a regulation issued by the Commission relating to protection of individual shippers—

"(i) if, before receiving notice from the Commission of such failure or refusal, the carrier, receiver, or trustee adequately compensates the shipper or shippers, or offers adequate compensation to the shipper or shippers, for the harm they have suffered as a result of such failure or refusal; or

"(ii) in the case of a carrier, receiver, or trustee that does not know or have reason to know that the shipper or shippers have suffered harm as a result of such failure or refusal before receiving notice from the Commission of such failure or refusal, if such carrier, receiver, or trustee adequately compensates the shipper or shippers, or offers adequate compensation to the shipper or shippers, for such harm before commencement under this subsection of the assessment hearing or trial, as the case may be.

"(5) In determining and negotiating the amount of a civil penalty under this subsection, the degree of culpability, any history of prior such conduct, the degree of harm to shipper or shippers, ability to pay, the effect on ability to do business, and such other matters as fairness may require shall be taken into account.

Falsifying documents; illegal charges.

"(j) Any person that knowingly engages in or knowingly authorizes an agent or other person (1) to falsify documents used in the transportation of household goods subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title which evidence the weight of a shipment, or (2) to charge for accessorial services which are not performed or for which the carrier is not entitled to be compensated in any case in which such services are not reasonably necessary in the safe and adequate movement of the shipment, is liable to the United States for a civil penalty of not more than $2,000 for each violation and of not more than $5,000 for each subsequent violation. Any State may bring a civil action in the United States district courts to compel a person to pay a civil penalty assessed under this subsection.".

49 USC 10521.

(b)(1) Section 11348(a) of title 49, United States Code, is amended by striking out "(h)(1)" and inserting in lieu thereof "(k)(1)".

(2) Section 2342(5) of title 28, United States Code, is amended by inserting "and all final orders of such Commission made reviewable under section 11901(i)(2) of title 49, United States Code" after "section 2321 of this title".

WEIGHT BUMPING

SEC. 9. (a) Chapter 119 of title 49, United States Code, is amended by inserting after section 11916 the following new section:

"§11917. Weight-bumping in household goods transportation

49 USC 11917.

"(a) For the purposes of this section, 'weight-bumping' means the knowing and willful making or securing of a fraudulent weight on a shipment of household goods which is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title.

"Weight-bumping."

"(b) Any individual who has been found to have committed weight-bumping shall, for each offense, be fined at least $1,000 but not more than $10,000, imprisoned for not more than 2 years, or both.".

Penalties.

(b) The analysis for chapter 119 of title 49, United States Code, is amended by inserting

"11917. Weight-bumping in household goods transportation.".

after

"11916. Conclusiveness of rates in certain prosecutions.".

GOVERNMENT TRAFFIC

SEC. 10. (a) Section 10922(b) of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

"(9) Notwithstanding the provisions of paragraph (4) of this subsection, the provisions of paragraph (1) of this subsection (other than subparagraph (A)) shall not apply to applications under this subsection for authority to provide transportation for the United States Government of used household goods which transportation is incidental to a pack and crate service on behalf of the Department of Defense."

(b) Subsection (b) of section 10721 of title 49, United States Code, is amended—

(1) by inserting before the period at the end of paragraph (1) of such subsection the following: "; except that any rates for the transportation of household goods for the United States Government shall not be predatory".

(2) by adding at the end of such subsection the following new paragraph:

Commission authority.

"(3) Nothing in this subsection shall limit the Commission's authority to suspend and investigate proposed rates for the transportation of household goods for the United States Government on the basis that such rates constitute predatory practices in contravention of the transportation policy set forth in section 10101(a) of this title. However, pending final Commission action in a proceeding under section 10708 of this title to determine whether a proposed rate for the transportation of household goods for the United States Government under this subsection is predatory or not, the Commission may suspend the proposed rate under subsection (b) of such section 10708 only if it appears from specific facts shown by the verified complaint of a person that—

49 USC 10101.

49 USC 10708.

"(A) without suspension, the proposed rate will cause substantial injury to the complainant; and

"(B) it is likely that the complainant will prevail on the merits.".

TECHNICAL AMENDMENTS

SEC. 11. (a) Section 10526(a) of title 49, United States Code, is amended by striking out "or" at the end of paragraph (9) and by redesignating the last three paragraphs (the second paragraph (10) and paragraphs (11) and (12)) of such section as paragraphs (11), (12), and (13), respectively.

(b) Section 10528 of title 49, United States Code, is amended by striking out "(10), (11), or (12)" and inserting in lieu thereof "(11), (12), or (13)". *Ante*, p. 812.

Approved October 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1372 (Comm. on Public Works and Transportation).
SENATE REPORT No. 96-497 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 20, considered and passed Senate.
Vol. 126 (1980): Sept. 25, considered and passed House, amended.
Sept 30, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 42 (1980): Oct. 15, Presidential statement.

Public Law 96-455
96th Congress

An Act

Oct. 15, 1980
[H.R. 4273]

To amend section 17 of the Act of July 5, 1946, as amended, entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes.".

Trademark Trial and Appeal Board, membership.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17 of the Act of July 5, 1946, entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes" (60 Stat. 434), as amended August 8, 1958 (72 Stat. 540), and January 2, 1975 (88 Stat. 1949), 15 U.S.C. 1067, is amended by deleting the second sentence and substituting therefor: "The Trademark Trial and Appeal Board shall include the Commissioner, the Deputy Commissioner, the Assistant Commissioners, and members appointed by the Commissioner. Employees of the Patent and Trademark Office and other persons, all of whom shall be competent in trademark law, shall be eligible for appointment as members.".

Effective date.
15 USC 1067 note.

SEC. 2. This amendment shall become effective on the date of its enactment. Members of the Trademark Trial and Appeal Board on the date of enactment shall continue to be members under and in accordance with the provisions of section 17 of the Act of July 5, 1946, as amended, in effect immediately preceding the date of enactment.

Approved October 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1419 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 30, considered and passed House and Senate.

Public Law 96-456
96th Congress

An Act

To provide certain pretrial, trial, and appellate procedures for criminal cases involving classified information.

Oct. 15, 1980
[S. 1482]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Classified Information Procedures Act.

DEFINITIONS

SECTION 1. (a) "Classified information", as used in this Act, means any information or material that has been determined by the United States Government pursuant to an Executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security and any restricted data, as defined in paragraph r. of section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)). 18 USC app.

(b) "National security", as used in this Act, means the national defense and foreign relations of the United States.

PRETRIAL CONFERENCE

SEC. 2. At any time after the filing of the indictment or information, any party may move for a pretrial conference to consider matters relating to classified information that may arise in connection with the prosecution. Following such motion, or on its own motion, the court shall promptly hold a pretrial conference to establish the timing of requests for discovery, the provision of notice required by section 5 of this Act, and the initiation of the procedure established by section 6 of this Act. In addition, at the pretrial conference the court may consider any matters which relate to classified information or which may promote a fair and expeditious trial. No admission made by the defendant or by any attorney for the defendant at such a conference may be used against the defendant unless the admission is in writing and is signed by the defendant and by the attorney for the defendant. 18 USC app.

PROTECTIVE ORDERS

SEC. 3. Upon motion of the United States, the court shall issue an order to protect against the disclosure of any classified information disclosed by the United States to any defendant in any criminal case in a district court of the United States. 18 USC app.

DISCOVERY OF CLASSIFIED INFORMATION BY DEFENDANTS

SEC. 4. The court, upon a sufficient showing, may authorize the United States to delete specified items of classified information from documents to be made available to the defendant through discovery under the Federal Rules of Criminal Procedure, to substitute a summary of the information for such classified documents, or to substitute a statement admitting relevant facts that the classified 18 USC app. 18 USC app.

information would tend to prove. The court may permit the United States to make a request for such authorization in the form of a written statement to be inspected by the court alone. If the court enters an order granting relief following such an ex parte showing, the entire text of the statement of the United States shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal.

NOTICE OF DEFENDANT'S INTENTION TO DISCLOSE CLASSIFIED INFORMATION

18 USC app.

SEC. 5. (a) NOTICE BY DEFENDANT.—If a defendant reasonably expects to disclose or to cause the disclosure of classified information in any manner in connection with any trial or pretrial proceeding involving the criminal prosecution of such defendant, the defendant shall, within the time specified by the court or, where no time is specified, within thirty days prior to trial, notify the attorney for the United States and the court in writing. Such notice shall include a brief description of the classified information. Whenever a defendant learns of additional classified information he reasonably expects to disclose at any such proceeding, he shall notify the attorney for the United States and the court in writing as soon as possible thereafter and shall include a brief description of the classified information. No defendant shall disclose any information known or believed to be classified in connection with a trial or pretrial proceeding until notice has been given under this subsection and until the United States has been afforded a reasonable opportunity to seek a determination pursuant to the procedure set forth in section 6 of this Act, and until the time for the United States to appeal such determination under section 7 has expired or any appeal under section 7 by the United States is decided.

(b) FAILURE TO COMPLY.—If the defendant fails to comply with the requirements of subsection (a) the court may preclude disclosure of any classified information not made the subject of notification and may prohibit the examination by the defendant of any witness with respect to any such information.

PROCEDURE FOR CASES INVOLVING CLASSIFIED INFORMATION

Information use, relevance, or admissibility. 18 USC app.

SEC. 6. (a) MOTION FOR HEARING.—Within the time specified by the court for the filing of a motion under this section, the United States may request the court to conduct a hearing to make all determinations concerning the use, relevance, or admissibility of classified information that would otherwise be made during the trial or pretrial proceeding. Upon such a request, the court shall conduct such a hearing. Any hearing held pursuant to this subsection (or any portion of such hearing specified in the request of the Attorney General) shall be held in camera if the Attorney General certifies to the court in such petition that a public proceeding may result in the disclosure of classified information. As to each item of classified information, the court shall set forth in writing the basis for its determination. Where the United States' motion under this subsection is filed prior to the trial or pretrial proceeding, the court shall rule prior to the commencement of the relevant proceeding.

Information at issue, identification.

(b) NOTICE.—(1) Before any hearing is conducted pursuant to a request by the United States under subsection (a), the United States shall provide the defendant with notice of the classified information that is at issue. Such notice shall identify the specific classified

information at issue whenever that information previously has been made available to the defendant by the United States. When the United States has not previously made the information available to the defendant in connection with the case, the information may be described by generic category, in such form as the court may approve, rather than by identification of the specific information of concern to the United States.

(2) Whenever the United States requests a hearing under subsection (a), the court, upon request of the defendant, may order the United States to provide the defendant, prior to trial, such details as to the portion of the indictment or information at issue in the hearing as are needed to give the defendant fair notice to prepare for the hearing.

(c) ALTERNATIVE PROCEDURE FOR DISCLOSURE OF CLASSIFIED INFORMATION.—(1) Upon any determination by the court authorizing the disclosure of specific classified information under the procedures established by this section, the United States may move that, in lieu of the disclosure of such specific classified information, the court order—

(A) the substitution for such classified information of a statement admitting relevant facts that the specific classified information would tend to prove; or

(B) the substitution for such classified information of a summary of the specific classified information.

The court shall grant such a motion of the United States if it finds that the statement or summary will provide the defendant with substantially the same ability to make his defense as would disclosure of the specific classified information. The court shall hold a hearing on any motion under this section. Any such hearing shall be held in camera at the request of the Attorney General.

Hearing.

(2) The United States may, in connection with a motion under paragraph (1), submit to the court an affidavit of the Attorney General certifying that disclosure of classified information would cause identifiable damage to the national security of the United States and explaining the basis for the classification of such information. If so requested by the United States, the court shall examine such affidavit in camera and ex parte.

National security damage, certification.

(d) SEALING OF RECORDS OF IN CAMERA HEARINGS.—If at the close of an in camera hearing under this Act (or any portion of a hearing under this Act that is held in camera) the court determines that the classified information at issue may not be disclosed or elicited at the trial or pretrial proceeding, the record of such in camera hearing shall be sealed and preserved by the court for use in the event of an appeal. The defendant may seek reconsideration of the court's determination prior to or during trial.

(e) PROHIBITION ON DISCLOSURE OF CLASSIFIED INFORMATION BY DEFENDANT, RELIEF FOR DEFENDANT WHEN UNITED STATES OPPOSES DISCLOSURE.—(1) Whenever the court denies a motion by the United States that it issue an order under subsection (c) and the United States files with the court an affidavit of the Attorney General objecting to disclosure of the classified information at issue, the court shall order that the defendant not disclose or cause the disclosure of such information.

(2) Whenever a defendant is prevented by an order under paragraph (1) from disclosing or causing the disclosure of classified information, the court shall dismiss the indictment or information; except that, when the court determines that the interests of justice would not be served by dismissal of the indictment or information,

Indictment or information, dismissal.

the court shall order such other action, in lieu of dismissing the indictment or information, as the court determines is appropriate. Such action may include, but need not be limited to—

(A) dismissing specified counts of the indictment or information;

(B) finding against the United States on any issue as to which the excluded classified information relates; or

(C) striking or precluding all or part of the testimony of a witness.

Appeal.

An order under this paragraph shall not take effect until the court has afforded the United States an opportunity to appeal such order under section 7, and thereafter to withdraw its objection to the disclosure of the classified information at issue.

Rebuttal information, disclosure.

(f) RECIPROCITY.—Whenever the court determines pursuant to subsection (a) that classified information may be disclosed in connection with a trial or pretrial proceeding, the court shall, unless the interests of fairness do not so require, order the United States to provide the defendant with the information it expects to use to rebut the classified information. The court may place the United States under a continuing duty to disclose such rebuttal information. If the United States fails to comply with its obligation under this subsection, the court may exclude any evidence not made the subject of a required disclosure and may prohibit the examination by the United States of any witness with respect to such information.

INTERLOCUTORY APPEAL

18 USC app.

SEC. 7. (a) An interlocutory appeal by the United States taken before or after the defendant has been placed in jeopardy shall lie to a court of appeals from a decision or order of a district court in a criminal case authorizing the disclosure of classified information, imposing sanctions for nondisclosure of classified information, or refusing a protective order sought by the United States to prevent the disclosure of classified information.

(b) An appeal taken pursuant to this section either before or during trial shall be expedited by the court of appeals. Prior to trial, an appeal shall be taken within ten days after the decision or order appealed from and the trial shall not commence until the appeal is resolved. If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved and the court of appeals (1) shall hear argument on such appeal within four days of the adjournment of the trial, (2) may dispense with written briefs other than the supporting materials previously submitted to the trial court, (3) shall render its decision within four days of argument on appeal, and (4) may dispense with the issuance of a written opinion in rendering its decision. Such appeal and decision shall not affect the right of the defendant, in a subsequent appeal from a judgment of conviction, to claim as error reversal by the trial court on remand of a ruling appealed from during trial.

INTRODUCTION OF CLASSIFIED INFORMATION

18 USC app.

SEC. 8. (a) CLASSIFICATION STATUS.—Writings, recordings, and photographs containing classified information may be admitted into evidence without change in their classification status.

(b) PRECAUTIONS BY COURT.—The court, in order to prevent unnecessary disclosure of classified information involved in any criminal proceeding, may order admission into evidence of only part of a

writing, recording, or photograph, or may order admission into evidence of the whole writing, recording, or photograph with excision of some or all of the classified information contained therein, unless the whole ought in fairness be considered.

(c) TAKING OF TESTIMONY.—During the examination of a witness in any criminal proceeding, the United States may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible. Following such an objection, the court shall take such suitable action to determine whether the response is admissible as will safeguard against the compromise of any classified information. Such action may include requiring the United States to provide the court with a proffer of the witness' response to the question or line of inquiry and requiring the defendant to provide the court with a proffer of the nature of the information he seeks to elicit.

SECURITY PROCEDURES

SEC. 9. (a) Within one hundred and twenty days of the date of the enactment of this Act, the Chief Justice of the United States, in consultation with the Attorney General, the Director of Central Intelligence, and the Secretary of Defense, shall prescribe rules establishing procedures for the protection against unauthorized disclosure of any classified information in the custody of the United States district courts, courts of appeal, or Supreme Court. Such rules, and any changes in such rules, shall be submitted to the appropriate committees of Congress and shall become effective forty-five days after such submission.

Rules.
18 USC app.

Submittal to congressional committees.

(b) Until such time as rules under subsection (a) first become effective, the Federal courts shall in each case involving classified information adopt procedures to protect against the unauthorized disclosure of such information.

IDENTIFICATION OF INFORMATION RELATED TO THE NATIONAL DEFENSE

SEC. 10. In any prosecution in which the United States must establish that material relates to the national defense or constitutes classified information, the United States shall notify the defendant, within the time before trial specified by the court, of the portions of the material that it reasonably expects to rely upon to establish the national defense or classified information element of the offense.

Notification of defendant.
18 USC app.

AMENDMENT TO THE ACT

SEC. 11. Sections 1 through 10 of this Act may be amended as provided in section 2076, title 28, United States Code.

18 USC app.

ATTORNEY GENERAL GUIDELINES

SEC. 12. (a) Within one hundred and eighty days of enactment of this Act, the Attorney General shall issue guidelines specifying the factors to be used by the Department of Justice in rendering a decision whether to prosecute a violation of Federal law in which, in the judgment of the Attorney General, there is a possibility that classified information will be revealed. Such guidelines shall be transmitted to the appropriate committees of Congress.

Prosecution of certain violations.
18 USC app.

Transmittal to congressional committees.

(b) When the Department of Justice decides not to prosecute a violation of Federal law pursuant to subsection (a), an appropriate official of the Department of Justice shall prepare written findings

Nonprosecution, written findings.

detailing the reasons for the decision not to prosecute. The findings shall include—

(1) the intelligence information which the Department of Justice officials believe might be disclosed,

(2) the purpose for which the information might be disclosed,

(3) the probability that the information would be disclosed, and

(4) the possible consequences such disclosure would have on the national security.

REPORTS TO CONGRESS

18 USC app.

SEC. 13. (a) Consistent with applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches, the Attorney General shall report orally or in writing semiannually to the Permanent Select Committee on Intelligence of the United States House of Representatives, the Select Committee on Intelligence of the United States Senate, and the chairmen and ranking minority members of the Committees on the Judiciary of the Senate and House of Representatives on all cases where a decision not to prosecute a violation of Federal law pursuant to section 12(a) has been made.

(b) The Attorney General shall deliver to the appropriate committees of Congress a report concerning the operation and effectiveness of this Act and including suggested amendments to this Act. For the first three years this Act is in effect, there shall be a report each year. After three years, such reports shall be delivered as necessary.

FUNCTIONS OF ATTORNEY GENERAL MAY BE EXERCISED BY DEPUTY ATTORNEY GENERAL OR A DESIGNATED ASSISTANT ATTORNEY GENERAL

18 USC app.

SEC. 14. The functions and duties of the Attorney General under this Act may be exercised by the Deputy Attorney General or by an Assistant Attorney General designated by the Attorney General for such purpose and may not be delegated to any other official.

EFFECTIVE DATE

18 USC app.

SEC. 15. The provisions of this Act shall become effective upon the date of the enactment of this Act, but shall not apply to any prosecution in which an indictment or information was filed before such date.

SHORT TITLE

SEC. 16. That this Act may be cited as the "Classified Information Procedures Act". 18 USC app.

Approved October 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-831, Pt. I (Permanent Select Comm. on Intelligence) and Pt. II (Comm. on the Judiciary) both accompanying H.R. 4736; and No. 96-1436 (Comm. of Conference).
SENATE REPORT No. 96-823 (Comm. on Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 25, considered and passed Senate.
Sept. 22, H.R. 4736 considered and passed House; passage vacated and S. 1482, amended, passed in lieu.
Sept. 30, Senate agreed to conference report.
Oct. 2, House agreed to conference report.

79-194 O—81—pt. 2——48 : QL3

Public Law 96-457
96th Congress

An Act

Oct. 15, 1980
[S. 1640]

To extend certain authorities of the Secretary of the Interior with respect to water resources research and development and saline water conversion research and development programs, and for other purposes.

Water resources research and development, authorities extension.
42 USC 7872.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 401(a) of the Water Research and Development Act of 1978 (Public Law 95-467; 92 Stat. 1305) is amended as follows:

(a) In paragraph (1) following "September 30, 1980", delete the period, insert a comma, and add "an amount sufficient to provide $150,000 to each participating institute, on a cost-sharing basis, for the fiscal year ending September 30, 1981, and an amount sufficient to provide $160,000 to each participating institute, on a cost-sharing basis, for the fiscal year ending September 30, 1982.";

(b) In paragraph (2) following "September 30, 1980," insert "the sum of $1,000,000 for the fiscal year ending September 30, 1981, and the sum of $1,000,000 for the fiscal year ending September 30, 1982,".

SEC. 2. (a) Section 401 of the Water Research and Development Act of 1978 (Public Law 95-467; 92 Stat. 1305) is further amended as follows:

(1) in subsection (b) following "$8,500,000," insert "the sum of $8,000,000 for the fiscal year ending September 30, 1981, and the sum of $9,000,000 for the fiscal year ending September 30, 1982,";

(2) in subsection (c) following "$8,000,000" insert a comma and add "the sum of $5,200,000 for the fiscal year ending September 30, 1981, and the sum of $8,000,000 for the fiscal year ending September 30, 1982,"; and

(3) in subsection (d) following "$1,000,000" insert a comma and add "for the fiscal year ending September 30, 1981, and thereafter, the sum of $1,000,000,".

(b) The Water Research and Development Act of 1978 (Public Law 95-467; 92 Stat. 1305) is further amended as follows:

42 USC 7873.
(1) in section 402, following "$14,000,000," insert "the sum of $14,000,000 for the fiscal year ending September 30, 1981, and the sum of $17,400,000 for the fiscal year ending September 30, 1982,";

42 USC 7874.
(2) in section 403, following "September 30, 1980," insert "the sum of $6,500,000 for the fiscal year ending September 30, 1981, and the sum of $8,500,000 for the fiscal year ending September 30, 1982,"; and

42 USC 7882.
(3) in section 411, following the word "rules" strike from the word "regulations" through the word "prescribed" and substitute "and regulations promulgated".

Water desalting processes.
42 USC 7836.
SEC. 3. (a) Subsection 2(a) of the Act of August 2, 1977 (Public Law 95-84; 91 Stat. 400), as amended, is amended to read as follows:

"(a) The Secretary of the Interior is authorized and directed to demonstrate the engineering and economic viability of membrane and phase-change desalting processes. Such demonstrations shall

include the study, design, construction, operation, and maintenance of desalting plants at locations in the United States (which may include the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Virgin Islands, the Mariana Islands, and the Trust Territory of the Pacific Islands): *Provided,* That at least two such plants shall demonstrate desalting of brackish ground water: *And provided further,* That the plants constructed pursuant to this section shall be for the purpose of showing that the technology being demonstrated is ready for application; such plants shall be sufficient to demonstrate the specific application of the technology, and shall be significantly different in operation and process so as not to duplicate any other demonstration plant constructed pursuant to this section. The Secretary is further authorized to conduct such demonstrations or any portion thereof by means of cooperative agreements (as defined and authorized by 41 U.S.C. 504 et seq. (the Federal Grant and Cooperative Agreement Act of 1977; Public Law 95-224)) with duly authorized non-Federal public entities. Title to demonstration facilities constructed by the non-Federal public entity under a cooperative agreement shall vest in the non-Federal public entity.".

(b) Subsection 2(b) of the Act of August 2, 1977 (Public Law 95-84; 91 Stat. 400), as amended, is amended by inserting after "but is not limited to," the phrase, "how the plant being proposed differs from others, if any, already constructed under this section," and further, by deleting all after "ancillary facilities" and inserting the following: "Such report shall be accompanied by a proposed contract (or cooperative agreement) between the Secretary and a duly authorized non-Federal entity, in which such entity shall agree to provide not less than 15 per centum and not more than 35 per centum of the total cost of the demonstration; such cost to include, without being limited to, necessary water rights, water supplies, rights-of-way, power source interconnections, brine disposal facilities, land, construction, ancillary facilities, and the operation and maintenance costs for a period of four years following final acceptance of the construction of the plant from the plant contractor. The contributions of the non-Federal entity under such proposed contract may be in-kind. During the participation by the Secretary in the construction and the operation and maintenance of such demonstration, access to the demonstration and its operating data will not be denied to the Secretary or his representatives. The period of participation by the Secretary in the operation and maintenance of any such demonstration shall be four years. The Secretary is authorized to include in the proposed contract a provision for conveying, as appropriate, and in such amounts as are appropriate, rights, title, and interest of the Federal Government in the demonstration project to the non-Federal public entity.".

42 USC 7836.

Proposed contract.

(c) Subsection 2(c) of the Act of August 2, 1977 (Public Law 95-84; 91 Stat. 400), is amended to read as follows:

Appropriation authorization.

"(c) There is authorized to be appropriated, to remain available until expended, for the fiscal year ending September 30, 1978, and thereafter, the sum of $50,000,000 to finance the total Federal share of the cost of the demonstration plants authorized by this section; such cost to include, without being limited to, necessary water rights, water supplies, rights-of-way, power source interconnections, brine disposal facilities, land, construction, ancillary facilities, and the operation and maintenance costs for the four-year period of Federal participation in such costs.".

Contracts.
42 USC 7836.

(d) At the end of section 2 of the Act of August 2, 1977 (Public Law 95-84; 91 Stat. 400), as amended, add the following new subsection:

"(d) When appropriations have been made for the commencement or continuation of design, construction, or operation and maintenance of any demonstration plant authorized under this Act, the Secretary may, in connection with such design, construction, or operation and maintenance, enter into contracts and cooperative agreements for miscellaneous services, for materials and supplies, as well as for construction, which may cover such periods of time as the Secretary may consider necessary but in which the liability of the United States shall be contingent upon appropriations being made therefor.".

Repeal.
42 USC 7836 note.

SEC. 4. Section 205(c) of the Water Research and Development Act of 1978 (Public Law 95-467; 92 Stat. 1305) is hereby repealed.

Approved October 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-989 accompanying H.R. 5340 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-773 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 3, considered and passed Senate.
Sept. 22, 23, H.R. 5340 considered and passed House; passage vacated and S. 1640, amended, passed in lieu.
Sept. 24, Senate concurred in House amendment with an amendment.
Sept. 30, House concurred in Senate amendment.

Public Law 96-458
96th Congress

An Act

To revise the composition of the judicial councils of the Federal judicial circuits, to establish a procedure for the processing of complaints against Federal judges, and for other purposes.

Oct. 15, 1980
[S. 1873]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Judicial Councils Reform and Judicial Conduct and Disability Act of 1980.
28 USC 1 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Judicial Councils Reform and Judicial Conduct and Disability Act of 1980".

JUDICIAL COUNCILS OF THE CIRCUITS

Meetings.

SEC. 2. (a) Section 332(a) of title 28, United States Code, is amended to read as follows:

"(a)(1) The chief judge of each judicial circuit shall call, at least twice in each year and at such places as he may designate, a meeting of the judicial council of the circuit, consisting of—

"(A) the chief judge of the circuit, who shall preside;

"(B) that number of circuit judges fixed by majority vote of all such judges in regular active service; and

"(C) that number of district judges of the circuit fixed by majority vote of all circuit judges in regular active service, except that—

"(i) if the number of circuit judges fixed in accordance with subparagraph (B) of this paragraph is less than six, the number of district judges fixed in accordance with this subparagraph shall be no less than two; and

"(ii) if the number of circuit judges fixed in accordance with subparagraph (B) of this paragraph is six or more, the number of district judges fixed in accordance with this subparagraph shall be no less than three.

"(2) Members of the council shall serve for terms established by a majority vote of all judges of the circuit in regular active service.

"(3) The number of circuit and district judges fixed in accordance with paragraphs (1)(B) and (1)(C) of this subsection shall be set by order of the court of appeals for the circuit no less than six months prior to a scheduled meeting of the council so constituted.

"(4) Only circuit and district judges in regular active service shall serve as members of the council.

"(5) No more than one district judge from any one district shall serve simultaneously on the council, unless at least one district judge from each district within the circuit is already serving as a member of the council.

Replacement members.

"(6) In the event of the death, resignation, retirement, or disability of a member of the council, a replacement member shall be designated to serve the remainder of the unexpired term by the chief judge of the circuit.

"(7) Each member of the council shall attend each council meeting unless excused by the chief judge of the circuit.".

(b) Section 332(c) of title 28, United States Code, is amended by striking out "quarterly" and inserting in lieu thereof "semi-annually".

(c) Section 332(d) of title 28, United States Code, is amended to read as follows:

"(d)(1) Each judicial council shall make all necessary and appropriate orders for the effective and expeditious administration of justice within its circuit. Each council is authorized to hold hearings, to take sworn testimony, and to issue subpoenas and subpoenas duces tecum. Subpoenas and subpoenas duces tecum shall be issued by the clerk of the court of appeals, at the direction of the chief judge of the circuit or his designee and under the seal of the court, and shall be served in the manner provided in rule 45(c) of the Federal Rules of Civil Procedure for subpoenas and subpoenas duces tecum issued on behalf of the United States or an officer or agency thereof.

28 USC app.

"(2) All judicial officers and employees of the circuit shall promptly carry into effect all orders of the judicial council.

"(3) Unless an impediment to the administration of justice is involved, regular business of the courts need not be referred to the council.".

(d)(1) The section heading for section 332 of title 28, United States Code, is amended to read as follows:

"§ 332. Judicial councils of circuits".

(2) The item relating to section 332 in the section analysis for chapter 15 of title 28, United States Code, is amended to read as follows:

"332. Judicial councils of circuits.".

PROCEDURES WITHIN JUDICIAL COUNCILS

Complaints.

SEC. 3. (a) Section 372 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) Any person alleging that a circuit, district, or bankruptcy judge, or a magistrate, has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging that such a judge or magistrate is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct.

"(2) Upon receipt of a complaint filed under paragraph (1) of this subsection, the clerk shall promptly transmit such complaint to the chief judge of the circuit, or, if the conduct complained of is that of the chief judge, to that circuit judge in regular active service next senior in date of commission (hereafter, for purposes of this subsection only, included in the term 'chief judge'). The clerk shall simultaneously transmit a copy of the complaint to the judge or magistrate whose conduct is the subject of the complaint.

"(3) After expeditiously reviewing a complaint, the chief judge, by written order stating his reasons, may—

"(A) dismiss the complaint, if he finds it to be (i) not in conformity with paragraph (1) of this subsection, (ii) directly related to the merits of a decision or procedural ruling, or (iii) frivolous; or

"(B) conclude the proceeding if he finds that appropriate corrective action has been taken.

The chief judge shall transmit copies of his written order to the complainant and to the judge or magistrate whose conduct is the subject of the complaint.

"(4) If the chief judge does not enter an order under paragraph (3) of this subsection, such judge shall promptly— Special committee.

"(A) appoint himself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the complaint;

"(B) certify the complaint and any other documents pertaining thereto to each member of such committee; and

"(C) provide written notice to the complainant and the judge or magistrate whose conduct is the subject of the complaint of the action taken under this paragraph.

"(5) Each committee appointed under paragraph (4) of this subsection shall conduct an investigation as extensive as it considers necessary, and shall expeditiously file a comprehensive written report thereon with the judicial council of the circuit. Such report shall present both the findings of the investigation and the committee's recommendations for necessary and appropriate action by the judicial council of the circuit. Investigation.

"(6) Upon receipt of a report filed under paragraph (5) of this subsection, the judicial council—

"(A) may conduct any additional investigation which it considers to be necessary;

"(B) shall take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit, including, but not limited to, any of the following actions:

"(i) directing the chief judge of the district of the magistrate whose conduct is the subject of the complaint to take such action as the judicial council considers appropriate;

"(ii) certifying disability of a judge appointed to hold office during good behavior whose conduct is the subject of the complaint, pursuant to the procedures and standards provided under subsection (b) of this section;

"(iii) requesting that any such judge appointed to hold office during good behavior voluntarily retire, with the provision that the length of service requirements under section 371 of this title shall not apply; 28 USC 371.

"(iv) ordering that, on a temporary basis for a time certain, no further cases be assigned to any judge or magistrate whose conduct is the subject of a complaint;

"(v) censuring or reprimanding such judge or magistrate by means of private communication;

"(vi) censuring or reprimanding such judge or magistrate by means of public announcement; or

"(vii) ordering such other action as it considers appropriate under the circumstances, except that (I) in no circumstances may the council order removal from office of any judge appointed to hold office during good behavior, and (II) any removal of a magistrate shall be in accordance with section 631 of this title and any removal of a bankruptcy judge shall be in accordance with section 153 of this title; and 28 USC 631. 28 USC 153.

"(C) shall immediately provide written notice to the complainant and to such judge or magistrate of the action taken under this paragraph.

Complaint referral.

"(7)(A) In addition to the authority granted under paragraph (6) of this subsection, the judicial council may, in its discretion, refer any complaint under this subsection, together with the record of any associated proceedings and its recommendations for appropriate action, to the Judicial Conference of the United States.

"(B) In any case in which the judicial council determines, on the basis of a complaint and an investigation under this subsection, or on the basis of information otherwise available to the council, that a judge appointed to hold office during good behavior has engaged in conduct—

"(i) which might constitute one or more grounds for impeachment under article I of the Constitution; or

USC prec. title 1.

"(ii) which, in the interest of justice, is not amenable to resolution by the judicial council,

the judicial council shall promptly certify such determination, together with any complaint and a record of any associated proceedings, to the Judicial Conference of the United States.

Written notice.

"(C) A judicial council acting under authority of this paragraph shall, unless contrary to the interests of justice, immediately submit written notice to the complainant and to the judge or magistrate whose conduct is the subject of the action taken under this paragraph.

Impeachment determination.

"(8) Upon referral or certification of any matter under paragraph (7) of this subsection, the Judicial Conference, after consideration of the prior proceedings and such additional investigation as it considers appropriate, shall by majority vote take such action, as described in paragraph (6)(B) of this subsection, as it considers appropriate. If the Judicial Conference concurs in the determination of the council, or makes its own determination, that consideration of impeachment may be warranted, it shall so certify and transmit the determination and the record of proceedings to the House of Representatives for whatever action the House of Representatives considers to be necessary.

Transmittal to House of Representatives.

Subpoena powers.

"(9)(A) In conducting any investigation under this subsection, the judicial council, or a special committee appointed under paragraph (4) of this subsection, shall have full subpoena powers as provided in section 332(d) of this title.

Ante, p. 2036.

"(B) In conducting any investigation under this subsection, the Judicial Conference, or a standing committee appointed by the Chief Justice under section 331 of this title, shall have full subpoena powers as provided in that section.

28 USC 331.

Review petitions.

"(10) A complainant, judge, or magistrate aggrieved by a final order of the chief judge under paragraph (3) of this subsection may petition the judicial council for review thereof. A complainant, judge, or magistrate aggrieved by an action of the judicial council under paragraph (6) of this subsection may petition the Judicial Conference of the United States for review thereof. The Judicial Conference, or the standing committee established under section 331 of this title, may grant a petition filed by a complainant, judge, or magistrate under this paragraph. Except as expressly provided in this paragraph, all orders and determinations, including denials of petitions for review, shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

"(11) Each judicial council and the Judicial Conference may prescribe such rules for the conduct of proceedings under this subsection, including the processing of petitions for review, as each considers to be appropriate. Such rules shall contain provisions requiring that—

"(A) adequate prior notice of any investigation be given in writing to the judge or magistrate whose conduct is the subject of the complaint;

"(B) the judge or magistrate whose conduct is the subject of the complaint be afforded an opportunity to appear (in person or by counsel) at proceedings conducted by the investigating panel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing; and

"(C) the complainant be afforded an opportunity to appear at proceedings conducted by the investigating panel, if the panel concludes that the complainant could offer substantial information.

Any rule promulgated under this subsection shall be a matter of public record, and any such rule promulgated by a judicial council may be modified by the Judicial Conference.

"(12) No judge or magistrate whose conduct is the subject of an investigation under this subsection shall serve upon a special committee appointed under paragraph (4) of this subsection, upon a judicial council, upon the Judicial Conference, or upon the standing committee established under section 331 of this title, until all related proceedings under this subsection have been finally terminated. Judge or magistrate under investigation. 28 USC 331.

"(13) No person shall be granted the right to intervene or to appear as amicus curiae in any proceeding before a judicial council or the Judicial Conference under this subsection.

"(14) All papers, documents, and records of proceedings related to investigations conducted under this subsection shall be confidential and shall not be disclosed by any person in any proceeding unless— Confidentiality.

"(A) the judicial council of the circuit, the Judicial Conference of the United States, or the Senate or the House of Representatives by resolution, releases any such material which is believed necessary to an impeachment investigation or trial of a judge under article I of the Constitution; or USC prec. title 1.

"(B) authorized in writing by the judge or magistrate who is the subject to the complaint and by the chief judge of the circuit, the Chief Justice, or the chairman of the standing committee established under section 331 of this title.

"(15) Each written order to implement any action under paragraph (6)(B) of this subsection, which is issued by a judicial council, the Judicial Conference, or the standing committee established under section 331 of this title, shall be made available to the public through the appropriate clerk's office of the court of appeals for the circuit. Unless contrary to the interests of justice, each such order issued under this paragraph shall be accompanied by written reasons therefor.

"(16) Except as expressly provided in this subsection, nothing in this subsection shall be construed to affect any other provision of this title, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, or the Federal Rules of Evidence. 28 USC app. 18 USC app., 28 USC app.

"(17) The Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court shall each prescribe rules, consistent with the foregoing provisions of this subsection, establishing procedures for the filing of complaints with respect to the conduct of any judge of such court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any 28 USC app. Complaint filing, rules.

such complaint, each such court shall have the powers granted to a judicial council under this subsection.".

(b) The section heading for section 372 of title 28, United States Code, is amended to read as follows:

"§ 372. Retirement for disability; substitute judge on failure to retire; judicial discipline.".

(c) The item relating to section 372 in the section analysis for chapter 17 of title 28, United States Code, is amended to read as follows:

"372. Retirement for disability; substitute judge on failure to retire; judicial discipline.".

AUTHORITY OF THE JUDICIAL CONFERENCE

SEC. 4. The fourth undesignated paragraph of section 331 of title 28, United States Code, is amended to read as follows:

"The Conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary. It shall also submit suggestions and recommendations to the various courts to promote uniformity of management procedures and the expeditious conduct of court business. The Conference is authorized to exercise the authority provided in section 372(c) of this title as the Conference, or through a standing committee. If the Conference elects to establish a standing committee, it shall be appointed by the Chief Justice and all petitions for review shall be reviewed by that committee. The Conference or the standing committee may hold hearings, take sworn testimony, issue subpoenas and subpoenas duces tecum, and make necessary and appropriate orders in the exercise of its authority. Subpoenas and subpoenas duces tecum shall be issued by the clerk of the Supreme Court or by the clerk of any court of appeals, at the direction of the Chief Justice or his designee and under the seal of the court, and shall be served in the manner provided in rule 45(c) of the Federal Rules of Civil Procedure for subpoenas and subpoenas duces tecum issued on behalf of the United States or an officer or any agency thereof. The Conference may also prescribe and modify rules for the exercise of the authority provided in section 372(c) of this title. All judicial officers and employees of the United States shall promptly carry into effect all orders of the Judicial Conference or the standing committee established pursuant to this section.".

Ante, p. 2036.

28 USC app.

ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

SEC. 5. Section 604 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(h)(1) The Director shall, out of funds appropriated for the operation and maintenance of the courts, provide facilities and pay necessary expenses incurred by the judicial councils of the circuits and the Judicial Conference under section 372 of this title, including mileage allowance and witness fees, at the same rate as provided in section 1821 of this title. Administrative and professional assistance from the Administrative Office of the United States Courts may be requested by each judicial council and the Judicial Conference for purposes of discharging their duties under section 372 of this title.

"(2) The Director of the Administrative Office of the United States Courts shall include in his annual report filed with the Congress

Facilities and expenses.

28 USC 372.

28 USC 1821.

under this section a summary of the number of complaints filed with each judicial council under section 372(c) of this title, indicating the general nature of such complaints and the disposition of those complaints in which action has been taken.". *Ante*, p. 2036.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. 28 USC 331 note.

EFFECTIVE DATE

SEC. 7. This Act shall become effective on October 1, 1981. 28 USC 331 note.

Approved October 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1313 accompanying H.R. 7974 (Comm. on the Judiciary).
SENATE REPORT No. 96-362 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 30, considered and passed Senate.
Vol. 126 (1980): Sept. 15, H.R. 7974 considered and passed House; passage vacated and S. 1873, amended, passed in lieu.
Sept. 30, Senate concurred in House amendments with amendments.
Oct. 1, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 42 (1980): Oct. 15, Presidential statement.

Public Law 96-459
96th Congress

An Act

Oct. 15, 1980
[H.R. 6554]

To authorize appropriations for fiscal year 1981 and a supplemental appropriation for fiscal year 1980 for certain maritime programs of the Department of Commerce, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maritime Appropriation Authorization Act for Fiscal Year 1981".

Maritime Appropriation Authorization Act for Fiscal Year 1981.

SEC. 2. Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Commerce for fiscal year 1981 as follows:

Vessels.

(1) for acquisition, construction, or reconstruction of vessels and construction-differential subsidy and cost of national defense features incident to the construction, reconstruction, or reconditioning of ships, not to exceed $135,000,000; except that no funds authorized by this paragraph may be paid to subsidize the construction of any vessel which will not be offered for enrollment in a sealift readiness program approved by the Secretary of Defense;

Operating-differential subsidy.

(2) for payment of obligations incurred for operating-differential subsidy, not to exceed $347,697,000; except that no funds authorized by this paragraph may be paid for the operation of any vessel which is not offered for participation in a sealift readiness program approved by the Secretary of Defense;

Research and development.

(3) for expenses necessary for research and development activities, not to exceed $17,070,000;

Education and training.

(4) for maritime education and training expenses, not to exceed $32,543,000, including not to exceed $18,201,000 for maritime training at the Merchant Marine Academy at Kings Point, New York; $12,460,000 for financial assistance to State marine schools, of which amount, $2,100,000 shall be for fuel oil for State marine school training vessels; and $1,882,000 for supplementary training courses authorized under section 216(c) of the Merchant Marine Act, 1936; and

46 USC 1126.

Operating expenses.

(5) for operating expenses, not to exceed $38,864,000, including not to exceed $7,208,000 for reserve fleet expenses, and not to exceed $31,656,000 for other operating expenses.

Merchant Marine Academy, supplemental amounts.

SEC. 3. There are authorized to be appropriated for the fiscal year 1981, in addition to the amounts authorized by section 2 of this Act, such additional supplemental amounts for the activities for which appropriations are authorized under section 2 of this Act, as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law, and for increased costs for public utilities, food service, and other expenses of the Merchant Marine Academy at Kings Point, New York.

93 Stat. 847.

SEC. 4. Paragraph (2) of section 2 of the Maritime Appropriation Authorization Act for fiscal year 1980 (Public Law 96-112) is amended by striking "$256,208,000" and substituting "$300,515,000".

Fundy Pride, documentation as U.S. vessel. 46 USC 883.

SEC. 5. Notwithstanding the provisions of section 27 of the Merchant Marine Act of 1920 as amended, the Secretary of the Department in which the Coast Guard is operating, shall cause the vessel Fundy Pride, built in Cape Saint Mary's, Nova Scotia, and now owned by the State of Maine, as represented by the Department of Educational and Cultural Services to be documented as a vessel of the United States, upon compliance of the usual requirements, to engage in the coastwise trade and the fisheries, so long as such vessel is owned by the State of Maine.

Approved October 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-840 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-709 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 15, considered and passed House.
June 3, considered and passed Senate, amended.
Sept. 30, House concurred in one Senate amendment and in another with an amendment; Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 42:
Oct. 15, Presidential statement.

Public Law 96-460
96th Congress

An Act

Oct. 15, 1980
[H.R. 4417]

To provide for the coordination of federally supported and conducted research efforts regarding the Chesapeake Bay, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Chesapeake Bay Research Coordination Act of 1980.
16 USC 3001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chesapeake Bay Research Coordination Act of 1980".

16 USC 3001.

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) The Congress finds that—

(1) the Chesapeake Bay area is one of the greatest national resources in the United States of America, serving as an abundant source of seafood, recreation, beauty, and enjoyment, as well as providing habitat for a wide variety of fish, waterfowl, flora, and fauna;

(2) the Chesapeake Bay area serves as one of the world's major waterways, each year carrying millions of tons of waterborne shipping to and from all parts of the globe;

(3) the productivity and beauty of the Chesapeake Bay area in recent years has been diminished and threatened by water pollution, shoreline erosion, excessive sedimentation, and other injuries;

(4) numerous Federal agencies have initiated and supported research to study, manage, enhance, protect, preserve, or restore the resources of the Chesapeake Bay area; and

(5) the various research relating to the Chesapeake Bay area could be more effectively coordinated in order to obtain maximum benefits.

(b) The purposes of this Act are—

(1) to provide for the rational and effective coordination of federally conducted and supported research aimed at increasing fundamental knowledge in support of wise management of the Chesapeake Bay area;

(2) to identify key management information needs and specify a coherent program of research that will respond to those needs;

(3) to identify the needs and priorities for such additional research as are required for the improvement of fundamental knowledge about the Chesapeake Bay area;

(4) to assure a comprehensive and balanced approach to federally conducted and supported research on the Chesapeake Bay area;

(5) to encourage the utilization of the results and findings of research, and of other relevant information, in the management decisionmaking processes which have an impact on the Chesapeake Bay area; and

(6) to foster public understanding of the role of the Chesapeake Bay area as a unique national resource, the greatest natural ecological entity of its kind in the United States.

SEC. 3. DEFINITIONS. 16 USC 3002.

For purposes of this Act—

(1) The term "Chesapeake Bay area" means the waters of the Chesapeake Bay (including the tributaries to the extent of Chesapeake Bay tidal action), the lands within and under such waters, and the wetlands adjacent to such waters.

(2) The term "research" means the endeavor to discover, develop, and verify knowledge and a careful and critical inquiry or examination in seeking facts or principles.

(3) The term "research project" means any research related to the Chesapeake Bay area for the purpose of promoting the understanding, the improved management, and the protection of the marine or coastal related resources (including those relating to water quality, coastal zone management, navigation, shoreline erosion, wetlands, fisheries, shellfish, and wildlife) which is funded in whole or in part by any department, agency, or independent establishment of the Federal Government.

(4) The term "research program" means any aggregate of related individual research projects.

(5) The term "Secretary" means the Secretary of Commerce.

SEC. 4. OFFICE FOR CHESAPEAKE BAY RESEARCH COORDINATION. 16 USC 3003.

(a)(1) The Secretary shall establish in the Department of Commerce a separate office known as the Office for Chesapeake Bay Research Coordination (hereafter referred to in this Act as the "Office"). The Office shall serve as the staff of the Chesapeake Bay Research Board established under section 5 of this Act. Establishment.

(2)(A) The Office shall be headed by a Director who by reason of his knowledge and experience in research efforts on the Chesapeake Bay area, is qualified to serve as an adviser with respect to research, and who shall be appointed by the Secretary in consultation with the Administrator of the Environmental Protection Agency, the Secretary of the Army, the Secretary of the Interior, and the Secretary of the Smithsonian Institution. Director.

(B) Before making any appointment under subparagraph (A), the Secretary shall seek the recommendations of the Governor of Maryland and the Governor of Virginia with respect to individuals who are qualified to serve as the Director. Recommendations.

(3) The Director may appoint such personnel for the Office as he deems desirable, and as is provided for under this Act.

(b) The Office, when directed to do so by the Chesapeake Bay Research Board, shall— Functions.

(1) identify Federal and State research programs relating to the Chesapeake Bay area and annually update that inventory;

(2) establish a Chesapeake Bay Research Exchange for the purpose of facilitating the rapid identification, acquisition, retrieval, dissemination, and use of information concerning all research projects which are ongoing, completed, or for which funds have been requested, and which are conducted in or affect the Chesapeake Bay area;

(3) make recommendations to the Chesapeake Bay Research Board on the relationship of Federal programs to the Chesapeake Bay Research Plan; and

(4) make recommendations to the Chesapeake Bay Research Board on possible revisions to such Research Plan.

Additional functions.

(c) The Office shall work with the Chesapeake Bay Research Board to—

(1) identify the need for, and the priority of, research programs which could benefit the management of the resources of the Chesapeake Bay area;

(2) promote optimum utilization of available funds and resources to benefit the Chesapeake Bay area;

(3) remain cognizant of ongoing research programs and assist in the dissemination of the results and findings of research programs;

(4) conduct periodic meetings with representatives of the departments, agencies, and independent establishments of the Federal Government having responsibility for the administration of research programs in the Chesapeake Bay area, representatives of appropriate State, regional, and local agencies, and representatives of the scientific community, in order to obtain and exchange information relating to such programs;

(5) review proposed Federal legislation which may affect the Chesapeake Bay area and comment to the appropriate entities on the relation of the proposed legislation to the Chesapeake Bay Research Plan;

(6) determine existing Federal and State programs relating to the Chesapeake Bay area and annually update this inventory;

(7) plan and conduct a conference on Chesapeake Bay area affairs at least once every two years;

(8) prepare for the Board an annual report on research programs, current and planned, pertaining to the Chesapeake Bay area; and

(9) perform such other activities as are consistent with the purposes of this Act.

Administrative services.

(d)(1) The Secretary shall make available to the Office such administrative services and temporary staff as may be reasonably required by the Office to enable it to carry out its functions under this Act.

Federal information and assistance.

(2) The Office may request from any department, agency, or independent establishment of the Federal Government (A) information concerning grants made by such department, agency, or establishment for research in the Chesapeake Bay area, and (B) other assistance or information which the Office deems necessary to enable it to carry out its functions under this Act. Each such department, agency, or independent establishment shall furnish, with or without reimbursement, to the Office such assistance or information so requested consistent with other Federal law.

SEC. 5. CHESAPEAKE BAY RESEARCH BOARD.

Establishment. 16 USC 3004.

(a) There is established a Chesapeake Bay Research Board (hereafter referred to in this section as the "Board").

Membership.

(b)(1) The Board shall consist of—

(A) four members selected by the Governor of Virginia;

(B) four members selected by the Governor of Maryland; and

(C) seven members selected by the Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of the Army, the Secretary of the Interior, and the Secretary of the Smithsonian Institution.

(2) The Secretary, the Governor of Maryland, and the Governor of Virginia shall ensure that the Board is comprised of individuals who are qualified to perform the functions of the Board and who represent

the interests of Federal, State, and local government, industry, the public, and the scientific and environmental communities.

(c) The Chairman of the Board shall be elected annually by the membership of such Board. Chairman.

(d) The Board shall— Functions.

(1) develop a Chesapeake Bay Research Plan consistent with the missions and interests of appropriate agencies and States, and update this plan biennially to reflect changing priorities in Federal and State management needs as well as the need for fundamental research;

(2) review and evaluate, on a periodic basis, Federal research programs pertaining to the Chesapeake Bay area, and ascertain the extent to which the research programs are consistent with the Chesapeake Bay Research Plan; and

(3) submit an annual report to the Congress and the Governors of Maryland and Virginia on research programs, current and planned, pertaining to the Chesapeake Bay area and their relationship to the Chesapeake Bay Research Plan, together with any recommendations for improving the coordination of such research. Report to Congress and to Md. and Va. Governors.

(e) Members of the Board (other than those who are employees of the Federal or State governments) may, while engaged in business for the Board, receive compensation for travel expenses and per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service. Travel and per diem expenses.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS. 16 USC 3005.

There are authorized to be appropriated to the Office to carry out the purposes of this Act the sum of $500,000 for each of the three fiscal years ending on September 30, 1982, September 30, 1983, and September 30, 1984.

SEC. 7. RELATIONSHIP OF ACT TO EXISTING FEDERAL, STATE, AND LOCAL POWERS. 16 USC 3006.

(a) Nothing contained in this Act shall be construed to affect the jurisdiction, powers, or prerogatives of any existing department, agency, or officer of the Federal Government or of any State or local government.

(b) For purposes of administering this Act (including the preparation of an annual report pursuant to section 4(c)(8)) the Board shall solicit from the appropriate Federal departments and agencies and the Governors, recommendations that may be appropriate with respect to any existing law which may affect or be involved in research programs. Recommendations, solicitation.

SEC. 8. TERMINATION.

GAO evaluation, submittal to Congress. 16 USC 3007. Comments, solicitation.

This Act and the authority conferred by this Act shall terminate on September 30, 1984. At such time the General Accounting Office shall submit to the Congress an evaluation of the effectiveness of the Board, Office, and of this Act. In the preparation of such report, comments shall be solicited from Federal agencies, the Governors of Maryland and Virginia, and the research institutions, industries, and environmental and citizen's groups concerned with the Chesapeake Bay area.

Approved October 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-993 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-950 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 19, considered and passed House.
Sept. 24, considered and passed Senate, amended.
Sept. 30, House concurred in Senate amendment.

Public Law 96-461
96th Congress

An Act

To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal years 1981 and 1982, and for other purposes.

Oct. 15, 1980
[S. 2320]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Bureau of Standards Authorization Act for Fiscal Years 1981 and 1982".

National Bureau of Standards Authorization Act for Fiscal Years 1981 and 1982.

AUTHORIZATION FOR PROGRAM ACTIVITIES

SEC. 2. (a) There are hereby authorized to be appropriated to the Secretary of Commerce, hereinafter referred to as the Secretary, to carry out activities performed by the National Bureau of Standards, the sums set forth in the following line items:

(1) Measurement Research and Standards, for fiscal year 1981, $44,161,000, and for fiscal year 1982, $52,577,000;

(2) Engineering Measurements and Standards, for fiscal year 1981, $21,516,000, and for fiscal year 1982, $24,667,000;

(3) Computer Science and Technology, for fiscal year 1981, $11,603,000, and for fiscal year 1982, $12,263,000;

(4) Core Research Program for Innovation and Productivity, for fiscal year 1981, $12,800,000, and for fiscal year 1982, $18,080,000;

(5) Technical Competence Fund, for fiscal year 1981, $6,176,000, and for fiscal year 1982, $8,794,000;

(6) Fire Research Center, for fiscal year 1981, $1,253,000, and for fiscal year 1982, $1,378,000;

(7) Central Technical Support, for fiscal year 1981, $10,112,000, and for fiscal year 1982, $24,623,000.

(b) Notwithstanding any other provision of this or any other Act, for fiscal years 1981 and 1982:

(1) of the total amount authorized under subsection (a)(1), not less than $245,000 shall be available for the "Environmental Measurements Program" for fiscal year 1981 and $270,000 for fiscal year 1982;

(2) of the total amount authorized under subsection (a)(2), not less than $425,000 shall be available for the purpose of "Earthquake Hazards Engineering" for fiscal year 1981 and $475,000 for fiscal year 1982;

(3) of the total amounts authorized under subsections (a)(1) and (a)(2), not less than $1,000,000 shall be available for "Measurement Standards for the Handicapped" for fiscal year 1981 and $1,100,000 for fiscal year 1982;

(4) of the total amount authorized under subsection (a)(4), $2,000,000 is authorized for the purpose of "Automated Manufacturing Research Facility" for fiscal year 1981 and $4,000,000 for fiscal year 1982; and

(5) of the total of the amounts authorized under subsections (a)(4) and (a)(7), not more than $6,123,000 shall be available for "Transfer to Working Capital Fund" for fiscal year 1981, and of the total of the amounts authorized under subsections (a)(1), (a)(2), (a)(4), and (a)(7), not more than $11,245,000 shall be available for "Transfer to Working Capital Fund" for fiscal year 1982.

EXCESS FOREIGN CURRENCY

SEC. 3. In addition to the sums authorized in section 2, there is authorized to be appropriated not more than $400,000 for fiscal year 1981, and not more than $500,000 for fiscal year 1982, for expenses of the National Bureau of Standards incurred outside the United States, to be paid for in foreign currencies that the Secretary of the Treasury determines to be excess to the normal requirements of the United States.

NATIONAL TECHNICAL INFORMATION SERVICE

SEC. 4. In addition to the sums authorized in section 2, there is authorized to be appropriated the sum of $8,140,000 for fiscal year 1981, and the sum of $9,920,000 for fiscal year 1982, for the Assistant Secretary of Commerce for Productivity, Technology, and Innovation to carry out activities performed by the National Technical Information Service.

SALARY ADJUSTMENTS

SEC. 5. In addition to the sums authorized to be appropriated by this Act, such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law are authorized to be appropriated for fiscal years 1981 and 1982, and, if the full amount necessary to make such adjustments is not appropriated, the adjustments shall be made proportionately from section 4 and in the line items in section 2(a) in a manner reflecting the extent to which the amount of each such line item in section 2(a) is attributable to employee benefits of the type involved.

AVAILABILITY OF APPROPRIATIONS

SEC. 6. Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

TRANSFER OF FUNDS

SEC. 7. Funds may be transferred among the line items listed in section 2(a), but neither the total funds transferred from any line item nor the total funds transferred to any line item may exceed 10 per centum of the amount authorized for that line item in section 2(a), unless:

Report to Congress.

(1) thirty calendar days have passed after the Secretary or his designee has transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the chairman of the Committee on Science and Technology of the House of Representatives, and to the chairman of the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete explanation of the transfer involved and the reason for it, or

(2) before the expiration of thirty calendar days the chairmen of both the Committee on Science and Technology of the House and the Committee on Commerce, Science, and Transportation of the Senate have written to the Secretary to the effect that they have no objection to the proposed transfer.

FACILITIES IMPROVEMENT

SEC. 8. Section 14 of the Act of March 3, 1901 (15 U.S.C. 278(d)) as amended, is further amended by striking out "$75,000" and inserting in lieu thereof "$250,000". 15 USC 278d.

INTERNATIONAL ACTIVITIES

SEC. 9. In order to develop and strengthen the expertise of the National Bureau of Standards in science and engineering, to enhance the Secretary's ability to maintain the Bureau's programs at the forefront of worldwide developments in science and engineering, and to cooperate in international scientific activities, the Act of March 3, 1901 (15 U.S.C. 271-278h), as amended, is further amended by inserting immediately after section 16 the following new section:

"SEC. 17. (a) The Secretary is authorized, notwithstanding any other provision of law, to expend such sums, within the limit of appropriated funds, as the Secretary may deem desirable, through the grant of fellowships or any other form of financial assistance, to defray the expenses of foreign nationals not in service to the Government of the United States while they are performing scientific or engineering work at the National Bureau of Standards or participating in the exchange of scientific or technical information at the National Bureau of Standards. Foreign nationals, financial assistance. 15 USC 278g.

"(b) The Congress consents to the acceptance by employees of the National Bureau of Standards of fellowships, lectureships, or other positions for the performance of scientific or engineering activities or for the exchange of scientific or technical information, offered by a foreign government, and to the acceptance and retention by an employee of the National Bureau of Standards of any form of financial or other assistance provided by a foreign government as compensation for or as a means of defraying expenses associated with the performance of scientific or engineering activities or the exchange of scientific or technical information, in any case where the acceptance of such fellowship, lectureship, or position or the acceptance and retention of such assistance is determined by the Secretary to be appropriate and consistent with the interests of the United States. For the purposes of this subsection, the definitions appearing in section 7342(a) of title 5 of the United States Code apply. Civil actions may be brought and penalties assessed against any employee who knowingly accepts and retains assistance from a foreign government not consented to by this subsection in the same manner as is prescribed by section 7342(h) of title 5 of the United States Code. NBS employees, foreign assistance and compensation.

"(c) Provisions of law prohibiting the use of any part of any appropriation for the payment of compensation to any employee or officer of the Government of the United States who is not a citizen of the United States shall not apply to the payment of compensation to scientific or engineering personnel of the National Bureau of Standards.".

REPEAL OF LIMITED AUTHORIZATION

SEC. 10. Section 18 of the Act of March 3, 1901, as amended (15 U.S.C. 278h), is further amended by: (1) repealing subsection (b); and (2) removing the designation "(a)" from the remaining paragraph.

EFFECTIVE DATE OF ORGANIC ACT AMENDMENTS

15 USC 278g note.

SEC. 11. The effective date of sections 8 and 9 of this Act shall be October 1, 1980.

Approved October 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-949 accompanying H.R. 7113 (Comm. on Science and Technology).
SENATE REPORT No. 96-683 (Comm. on Commerce, Science and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 9, considered and passed Senate.
July 21, H.R. 7113 considered and passed House; passage vacated and S. 2320, amended, passed in lieu.
Sept. 30, Senate concurred in House amendments with amendments.
Oct. 2, House concurred in Senate amendments.

Public Law 96-462
96th Congress

An Act

To amend title 28 to make certain changes in judicial districts and in divisions within judicial districts, and for other purposes.

Oct. 15, 1980
[H.R. 8178]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal District Court Organization Act of 1980.

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal District Court Organization Act of 1980". 28 USC 1 note.

PLACE OF HOLDING COURT

SEC. 2. Section 84(c) of title 28, United States Code, is amended by inserting "and Santa Ana" after "at Los Angeles".

DIVISIONS OF SOUTHERN DISTRICT OF IOWA

SEC. 3. (a) Section 95(b) of title 28, United States Code, is amended—

(1) in paragraph (3) by inserting "Fremont," after "Cass," and by inserting "Page," after "Montgomery,", and

(2) in paragraph (4) by striking out "Fremont," and "Page,".

(b) The amendments made by subsection (a) shall not apply to any action commenced before the effective date of such amendments and pending in the United States District Court for the Southern District of Iowa on such date. 28 USC 95 note.

DIVISIONS OF EASTERN DISTRICT OF MISSOURI

SEC. 4. (a) Section 105(a) of title 28, United State Code, is amended—

(1) in paragraph (1) by striking out "Audrain," and "Montgomery," and

(2) in paragraph (2) by inserting "Audrain," after "Adair," and by inserting "Montgomery," after "Monroe,".

(b) The amendments made by subsection (a) shall not apply to any action commenced before the effective date of such amendments and pending in the United States District Court for the Eastern District of Missouri on such date. 28 USC 105 note.

DISTRICTS OF NORTH CAROLINA

SEC. 5. (a) The first sentence of section 113(a) of title 28, United States Code, is amended by adding before the period at the end thereof the following: "and that portion of Durham County encompassing the Federal Correctional Institution, Butner, North Carolina".

(b) Section 113(b) of title 28, United States Code, is amended—

(1) by striking out "Alleghany, Ashe,",

(2) by inserting "(excluding that portion of Durham County encompassing the Federal Correctional Institution, Butner, North Carolina)" after "Durham",

(3) by striking out "Watauga, Wilkes,", and

(4) by striking out "Rockingham, Salisbury, Wilkesboro,".

(c) Section 113(c) of title 28, United States Code, is amended—

(1) by inserting "Alleghany," after "Alexander,",

(2) by inserting "Ashe," after "Anson,", and

(3) by inserting "Watauga, Wilkes," after "Union,".

28 USC 113 note.

(d) The amendments made by this section shall not apply to any action commenced before the effective date of such amendments and pending in any judicial district of North Carolina on such date.

DIVISIONS OF EASTERN DISTRICT OF TEXAS

SEC. 6. (a) Section 124(b)(2) of title 28, United States Code, is amended by striking out "Polk," and "Trinity,".

(b) Section 124(c) of title 28, United States Code, is amended—

(1) by striking out "six" and inserting in lieu thereof "seven",

(2) in paragraph (1)—

(A) by striking out "Angelina,",

(B) by striking out "Houston, Nacogdoches,", and

(C) by striking out "Shelby,",

(3) in paragraph (2) by striking out "Orange, Sabine, San Augustine, and Tyler." and inserting in lieu thereof "and Orange.", and

(4) by adding at the end thereof the following new paragraphs:

"(7) The Lufkin Division comprises the counties of Angelina, Houston, Nacogdoches, Polk, Sabine, San Augustine, Shelby, Trinity, and Tyler.

"Court for the Lufkin Division shall be held at Lufkin.".

EFFECTIVE DATE

28 USC 84 note.

SEC. 7. (a) This Act and the amendments made by this Act shall take effect on October 1, 1981.

(b) Nothing in this Act shall affect the composition or preclude the service of any grand or petit juror summoned, empaneled, or actually serving in any judicial district on the effective date of this Act.

Approved October 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1417 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 30, considered and passed House.
Oct. 1, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 42:
Oct. 15, Presidential statement.

Public Law 96-463
96th Congress

An Act

To amend the Solid Waste Disposal Act to further encourage the use of recycled oil.

Oct. 15, 1980
[S. 2412]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Used Oil Recycling Act of 1980.

SHORT TITLE

SECTION 1. This Act may be cited as the "Used Oil Recycling Act of 1980". 42 USC 6901 note.

FINDINGS

SEC. 2. The Congress finds and declares that— 42 USC 6901a.

(1) used oil is a valuable source of increasingly scarce energy and materials;

(2) technology exists to re-refine, reprocess, reclaim, and otherwise recycle used oil;

(3) used oil constitutes a threat to public health and the environment when reused or disposed of improperly; and

that, therefore, it is in the national interest to recycle used oil in a manner which does not constitute a threat to public health and the environment and which conserves energy and materials.

DEFINITIONS

SEC. 3. Section 1004 of the Solid Waste Disposal Act is amended by adding the following new paragraphs at the end thereof: 42 USC 6903.

"(36) The term 'used oil' means any oil which has been—

"(A) refined from crude oil,

"(B) used, and

"(C) as a result of such use, contaminated by physical or chemical impurities.

"(37) The term 'recycled oil' means any used oil which is reused, following its original use, for any purpose (including the purpose for which the oil was originally used). Such term includes oil which is re-refined, reclaimed, burned, or reprocessed.

"(38) The term 'lubricating oil' means the fraction of crude oil which is sold for purposes of reducing friction in any industrial or mechanical device. Such term includes re-refined oil.

"(39) The term 're-refined oil' means used oil from which the physical and chemical contaminants acquired through previous use have been removed through a refining process.".

LABELING REQUIREMENTS

SEC. 4. (a) Subtitle B of title II of the Solid Waste Disposal Act is amended by inserting the following new section immediately after section 2004 and by redesignating sections 2005 and 2006 as 2006 and 2007, respectively: 42 USC 6915, 6916.

"LABELING OF CERTAIN OIL

42 USC 6914a.

"SEC. 2005. For purposes of any provision of law which requires the labeling of commodities, lubricating oil shall be treated as lawfully labeled only if it bears the following statement, prominently displayed:

"'DON'T POLLUTE—CONSERVE RESOURCES; RETURN USED OIL TO COLLECTION CENTERS'.".

(b) The table of contents for such subtitle B of title II of the Solid Waste Disposal Act is amended by inserting the following new item immediately after the item relating to section 2004 and by redesignating the items relating to sections 2005 and 2006 as 2006 and 2007, respectively:

"Sec. 2005. Labeling of certain oil.".

Labeling standards, applicability. 42 USC 6363 note. 42 USC 6363.

(c) Before the effective date of the labeling standards required to be prescribed under section 383(d)(1)(A) of the Energy Policy and Conservation Act, no requirement of any rule or order of the Federal Trade Commission may apply, or remain applicable, to any container of recycled oil (as defined in section 383(b) of such Act) if such requirement provides that the container must bear any label referring to the fact that it has been derived from previously used oil. Nothing in this subsection shall be construed to affect any labeling requirement applicable to recycled oil under any authority of law to the extent such requirement relates to fitness for intended use or any other performance characteristic of such oil or to any characteristic of such oil other than that referred to in the preceding sentence.

ASSISTANCE TO STATES

42 USC 6943.

SEC. 5. (a) Section 4003 of the Solid Waste Disposal Act is amended by striking out "Minimum" in the heading thereof.

(b) Such section 4003 is further amended by inserting "(a) MINIMUM REQUIREMENTS.—" after "4003" and by adding the following new subsection at the end thereof:

"(b) DISCRETIONARY PLAN PROVISIONS RELATING TO RECYCLED OIL.—Any State plan submitted under this subtitle may include, at the option of the State, provisions to carry out each of the following:

"(1) Encouragement, to the maximum extent feasible and consistent with the protection of the public health and the environment, of the use of recycled oil in all appropriate areas of State and local government.

"(2) Encouragement of persons contracting with the State to use recycled oil to the maximum extent feasible, consistent with protection of the public health and the environment.

"(3) Informing the public of the uses of recycled oil.

"(4) Establishment and implementation of a program (including any necessary licensing of persons and including the use, where appropriate, of manifests) to assure that used oil is collected, transported, treated, stored, reused, and disposed of, in a manner which does not present a hazard to the public health or the environment.

Any plan submitted under this title before the date of the enactment of the Used Oil Recycling Act of 1980 may be amended, at the option of the State, at any time after such date to include any provision referred to in this subsection.".

Ante, p. 2055.

(b) Section 4008 of such Act is amended by adding at the end the following new subsection: Grants. 42 USC 6948.

"(f) ASSISTANCE TO STATES FOR DISCRETIONARY PROGRAM FOR RECYCLED OIL.—(1) The Administrator may make grants to States, which have a State plan approved under section 4007, or which have submitted a State plan for approval under such section, if such plan includes the discretionary provisions described in section 4003(b). Grants under this subsection shall be for purposes of assisting the State in carrying out such discretionary provisions. No grant under this subsection may be used for construction or for the acquisition of land or equipment. 42 USC 6947. *Ante*, p. 2056.

"(2) Grants under this subsection shall be allotted among the States in the same manner as provided in the first sentence of subsection (b). Allotment.

"(3) No grant may be made under this subsection unless an application therefor is submitted to, and approved by, the Administrator. The application shall be in such form, be submitted in such manner, and contain such information as the Administrator may require. Application.

"(4) For purposes of making grants under this subsection, there are authorized to be appropriated $5,000,000 for fiscal year 1982 and $5,000,000 for fiscal year 1983.". Appropriation authorization.

TECHNICAL ASSISTANCE

SEC. 6. Section 4008(d) of the Solid Waste Disposal Act is amended by inserting "(1)" after ASSISTANCE.—" and by adding the following new paragraph at the end thereof: 42 USC 6948.

"(2) In carrying out this subsection, the Administrator may, upon request, provide technical assistance to States to assist in the removal or modification of legal, institutional, economic, and other impediments to the recycling of used oil. Such impediments may include laws, regulations, and policies, including State procurement policies, which are not favorable to the recycling of used oil.".

RESTRICTIONS ON RECYCLED OIL

SEC. 7. (a) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new section at the end thereof:

"RESTRICTIONS ON RECYCLED OIL

"SEC. 3012. Not later than one year after the date of the enactment of this section, the Administrator shall promulgate regulations establishing such performance standards and other requirements as may be necessary to protect the public health and the environment from hazards associated with recycled oil. In developing such regulations, the Administrator shall conduct an analysis of the economic impact of the regulations on the oil recycling industry. The Administrator shall ensure that such regulations do not discourage the recovery or recycling of used oil.". Regulations. 42 USC 6932.

(b) The table of contents for such subtitle is amended by inserting the following new item immediately after the item relating to section 3011:

"Sec. 3012. Restrictions on recycled oil.".

USED OIL AS A HAZARDOUS WASTE

"SEC. 8. Not later than ninety days after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall—

(1) make a determination as to the applicability to used oil of the criteria and regulations promulgated under subsections (a) and (b) of section 3001 of the Solid Waste Disposal Act relating to characteristics of hazardous wastes, and

42 USC 6921.

Report to Congress.

(2) report to the Congress the determination together with a detailed statement of the data and other information upon which the determination is based.

In making a determination under paragraph (1), the Administrator shall ensure that the recovery and reuse of used oil are not discouraged.

STUDY

42 USC 6932 note.

SEC. 9. The Administrator of the Environmental Protection Agency, in cooperation with the Secretary of Energy, the Federal Trade Commission, and the Secretary of Commerce, shall conduct a study—

(1) assessing the environmental problems associated with the improper disposal or reuse of used oil;

(2) addressing the collection cycle of used oil prior to recycling;

(3) analyzing supply and demand in the used oil industry, including (A) estimates of the future supply and quality of used oil feedstocks for purpose of re-refining and (B) estimates of the future supply of virgin crude oil available for refining for purposes of producing lubricating oil;

(4) comparing the energy savings associated with re-refining used oil and the energy savings associated with other uses of used oil; and

(5) recommending Federal, State, and local policies to encourage methods for environmentally sound and economically feasible recycling of used oil.

Where appropriate, for purposes of the study under this section, the Administrator may utilize and update information and data previously collected by the Administrator and by other agencies, departments, and instrumentalities of the United States. The Administrator shall submit to Congress a report containing the results of the study under this section not later than one year after the date of the enactment of this Act.

Report to Congress.

Approved October 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1415 (Comm. on Interstate and Foreign Commerce).
SENATE REPORT No. 96-879 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 18, considered and passed Senate.
Sept. 30, considered and passed House, amended.
Oct. 1, Senate concurred in House amendment.

Public Law 96-464
96th Congress

An Act

Oct. 17, 1980
[S. 2622]

To improve coastal zone management in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Coastal Zone Management Improvement Act of 1980".

Coastal Zone Management Improvement Act of 1980.
16 USC 1451 note.

SEC. 2. AMENDMENT TO CONGRESSIONAL FINDINGS.

Section 302 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451) is amended—

(1) by inserting immediately after subsection (e) the following:

"(f) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, and Outer Continental Shelf are placing stress on these areas and are creating the need for resolution of serious conflicts among important and competing uses and values in coastal and ocean waters;"; and

(2) by redesignating subsections (f), (g), (h), and (i) as subsections (g), (h), (i), and (j), respectively.

SEC. 3. AMENDMENT TO DECLARATION OF POLICY.

Section 303 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452) is amended to read as follows:

"CONGRESSIONAL DECLARATION OF POLICY

"SEC. 303. The Congress finds and declares that it is the national policy—

"(1) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations;

"(2) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, which programs should at least provide for—

"(A) the protection of natural resources, including wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone,

"(B) the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas and in areas of subsidence and saltwater intrusion, and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands.

"(C) priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities

related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new commercial and industrial developments in or adjacent to areas where such development already exists,

"(D) public access to the coasts for recreation purposes,

"(E) assistance in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural, and esthetic coastal features,

"(F) the coordination and simplification of procedures in order to ensure expedited governmental decisionmaking for the management of coastal resources,

"(G) continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies,

"(H) the giving of timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking, and

"(I) assistance to support comprehensive planning, conservation, and management for living marine resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between State and Federal coastal zone management agencies and State and wildlife agencies; and

"(3) to encourage the preparation of special area management plans which provide for increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas, and improved predictability in govermental decisionmaking; and

"(4) to encourage the participation and cooperation of the public, state and local governments, and interstate and other regional agencies, as well as of the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this title.".

SEC. 4. DEFINITIONS.

Section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) is amended—

(1) by redesignating paragraphs (2) through (16) as paragraphs (3) through (17), respectively;

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) the term 'coastal resource of national significance' means any coastal wetland, beach, dune, barrier island, reef, estuary, or fish and wildlife habitat, if any such area is determined by a coastal state to be of substantial biological or natural storm protective value.";

(3) by striking out "Guam," in paragraph (4) (as redesignated by paragraph (1) of this section) and inserting in lieu thereof "Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands,";

(4) by inserting immediately after paragraph (16) (as redesignated by paragraph (1) of this section) the following new paragraph:

"(17) The term 'special area management plan' means a comprehensive plan providing for natural resource protection and reason-

able coastal-dependent economic growth containing a detailed and comprehensive statement of policies; standards and criteria to guide public and private uses of lands and waters; and mechanisms for timely implementation in specific geographic areas within the coastal zone."; and

(5) by redesignating paragraph (17) (as redesignated by paragraph (1) of this section) as paragraph (18).

SEC. 5. ADMINISTRATIVE GRANTS.

(a) Section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The Secretary may make grants to any coastal state for not more than 80 per centum of the costs of administering such state's management program if the Secretary—

"(1) finds that such program meets the requirements of section 305(b);

16 USC 1454.

"(2) approves such program in accordance with subsections (c), (d), and (e); and

"(3) finds, if such program has been administered with financial assistance under this section for at least one year, that the coastal state will expend as increasing proportion of each grant received under this section (but not more than 30 per centum of the grant unless the state chooses to expend a higher percentage) on activities that will result in significant improvement being made in achieving the coastal management objectives specified in section 303(2) (A) through (I).

Ante, p. 2060.

For purposes of this subsection, the costs of administering a management program includes costs incurred in the carrying out, in a manner consistent with the procedures and processes specified therein, of projects and other activities (other than those of a kind referred to in clauses (A), (B), or (C) of section 306A(c)(2)) that are necessary or appropriate to the implementation of the management program.";

Post, p. 2063.

(2) by striking out the first proviso to subsection (b) and by striking out "further" in the second proviso to such subsection; and

(3) by adding at the end thereof the following new subsection:

"(i) The coastal states are encouraged to provide in their management programs for—

"(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

"(B) specific and enforceable standards to protect such resources.

If the Secretary determines that a coastal state has failed to make satisfactory progress in the activities described in this subsection by September 30, 1984, the Secretary shall not make any grants to such state provided under section 306A after such date.".

Regulations. 16 USC 1455 note.

(b) The amendments made by subsection (a) (1) and (2) of this section apply with respect to grants made after September 30, 1980, under section 306 of the Coastal Zone Management Act of 1972 and, within two hundred and seventy days after such date, the Secretary of Commerce shall issue regulations relating to the administration of subsection (a) of such section 306 (as so amended by such subsection (a)(1)).

SEC. 6. COASTAL RESOURCE IMPROVEMENT PROGRAM.

The Coastal Zone Management Act of 1972 is further amended by adding immediately after section 306 the following new section:

"RESOURCE MANAGEMENT IMPROVEMENT GRANTS

"SEC. 306A. (a) For purposes of this section— Definitions. 16 USC 1455a.

"(1) The term 'eligible coastal state' means a coastal state that for any fiscal year for which a grant is applied for under this section—

"(A) has a management program approved under section 306; and

"(B) in the judgment of the Secretary, is making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 303(2) (A) through (I). *Ante*, 2060.

"(2) The term 'urban waterfront and port' means any developed area that is densely populated and is being used for, or has been used for, urban residential recreational, commercial, shipping or industrial purposes.

"(b) The Secretary may make grants to any eligible coastal state to assist that state in meeting one or more of the following objectives:

"(1) The preservation or restoration of specific areas of the state that (A) are designated under the management program procedures required by section 306(c)(9) because of their conservation recreational, ecological, or esthetic values, or (B) contain one or more coastal resources of national significance. 16 USC 1455.

"(2) The redevelopment of deteriorating and underutilized urban waterfronts and ports that are designated under section 305(b)(3) in the state's management program as areas of particular concern. 16 USC 1454.

"(3) The provision of access of public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under section 305(b)(7).

"(c)(1) Each grant made by the Secretary under this section shall be subject to such terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section. Uses, terms and conditions.

"(2) Grants made under this section may be used for—

"(A) the acquisition of fee simple and other interests in land;

"(B) low-cost construction projects determined by the Secretary to be consistent with the purposes of this section, including but not limited to, paths, walkways, fences, parks, and the rehabilitation of historic buildings and structures; except that not more than 50 per centum of any grant made under this section may be used for such construction projects;

"(C) in the case of grants made for objectives described in subsection (b)(2)—

"(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity,

"(ii) the establishment of shoreline stabilization measures including the installation or rehabilitation of bulkheads for the purpose of public safety or increasing public access and use, and

"(iii) the removal or replacement of pilings where such action will provide increased recreational use of urban waterfront areas,

but activities provided for under this paragraph shall not by treated as construction projects subject to the limitations in paragraph (B);

"(D) engineering designs, specifications, and other appropriate reports; and

"(E) educational, interpretive, and management costs and such other related costs as the Secretary determines to be consistent with the purposes of this section.

"(d)(1) No grant made under this section may exceed an amount equal to 80 per centum of the cost of carrying out the purpose or project for which it was awarded.

"(2) Grants provided under this section may be used to pay a coastal state's share of costs required under any other Federal program that is consistent with the purposes of this section.

"(3) The total amount of grants made under this section to any eligible coastal state for any fiscal year may not exceed an amount equal to 10 per centum of the total amount appropriated to carry out this section for such fiscal year.

Allocation.

"(e) With the approval of the Secretary, an eligible coastal state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that state of the responsibility for ensuring that any funds so allocated are applied in furtherance of the state's approved management program.

42 USC 3334.

Federal assistance.

"(f) In addition to providing grants under this section, the Secretary shall assist eligible coastal states and their local governments in identifying and obtaining other sources of available Federal technical and financial assistance regarding the objectives of this section.".

SEC. 7. COASTAL ENERGY IMPACT PROGRAM.

Section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a) is amended—

Grants.

(1) by adding after subsection (c)(2), the following new paragraph:

"(3)(A) The Secretary shall make grants to any coastal state to enable such state to prevent, reduce, or ameliorate any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource, if such loss results from the transportation, transfer, or storage of coal or from alternative ocean energy activities.

"(B) Such grants shall be allocated to any such state based on rules and regulations promulgated by the Secretary which shall take into account the number of coal or alternative ocean energy facilities, the nature of their impacts, and such other relevant factors deemed appropriate by the Secretary.", and

(2) by striking out subsection (d)(4).

SEC. 8. INTERSTATE COASTAL ZONE MANAGEMENT COORDINATION.

Section 309 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456b) is amended to read as follows:

"INTERSTATE GRANTS

"SEC. 309. (a) The coastal States are encouraged to give high priority—

"(1) to coordinating State coastal zone planning, policies, and programs with respect to contiguous areas of such States;

"(2) to studying, planning, and implementing unified coastal zone policies with respect to such areas; and

"(3) to establishing an effective mechanism, and adopting a Federal-State consultation procedure, for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone.

The coastal zone activities described in paragraphs (1), (2), and (3) of this subsection may be conducted pursuant to interstate agreements or compacts. The Secretary may make grants annually, in amounts not to exceed 90 percent of the cost of such activities, if the Secretary finds that the proceeds of such grants will be used for purposes consistent with sections 305 and 306.

16 USC 1454, 1455. Agreements or compacts.

"(b) The consent of the Congress is hereby given to two or more coastal States to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States, for—

"(1) developing and administering coordinated coastal zone planning, policies, and programs pursuant to sections 305 and 306; and

"(2) establishing executive instrumentalities or agencies which such States deem desirable for the effective implementation of such agreements or compacts.

Such agreements or compacts shall be binding and obligatory upon any State or party thereto without further approval by the Congress.

"(c) Each executive instrumentality or agency which is established by an interstate agreement or compact pursuant to this section is encouraged to give high priority to the coastal zone activities described in subsection (a). The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, and the Secretary of Energy, or their designated representatives, shall participate ex officio on behalf of the Federal Government whenever any such Federal-State consultation is requested by such an instrumentality or agency.

"(d) If no applicable interstate agreement or compact exists, the Secretary may coordinate coastal zone activities described in subsection (a) and may make grants to assist any group of two or more coastal States to create and maintain a temporary planning and coordinating entity to carry out such activities. The amount of such grants shall not exceed 90 percent of the cost of creating and maintaining such an entity. The Federal officials specified in subsection (c), or their designated representatives, shall participate on behalf of the Federal Government, upon the request of any such temporary planning and coordinating entity for a Federal-State consultation.

"(e) A coastal State is eligible to receive financial assistance under this section if such State meets the criteria established under section 308(g)(1).".

16 USC 1456a.

SEC. 9. REVIEW OF PERFORMANCE.

(a) Section 312 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458) is amended to read as follows:

"REVIEW OF PERFORMANCE

SEC. 312. (a) The Secretary shall conduct a continuing review of the performance of coastal states with respect to coastal management. Each review shall include a written evaluation with an assessment

Written evaluation.

and detailed findings concerning the extent to which the state has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in section 303(2) (A) through (I), and adhered to the terms of any grant, loan, or cooperative agreement funded under this title.

Ante, p. 2060.

Meetings; comments.

"(b) For the purpose of making the evaluation of a coastal state's performance, the Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form and the Secretary shall make copies thereof available to the public.

16 USC 1455.

"(c) The Secretary shall reduce any financial assistance extended to any coastal state under section 306 (but not below 70 per centum of the amount that would otherwise be available to the coastal state under such section for any year), and withdraw any unexpended portion of such reduction, if the Secretary determines that the coastal state is failing to make significant improvement in achieving the coastal management objectives specified in section 303(2) (A) through (I).

Approval withdrawal.

"(d) The Secretary shall withdraw approval of the management program of any coastal state, and shall withdraw any financial assistance available to that state under this title as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state is failing to adhere to, is not justified in deviating from (1) the management program approved by the Secretary, or (2) the terms of any grant or cooperative agreement funded under section 306, and refuses to remedy the deviation.

Notice; hearing.

"(e) Management program approval and financial assistance may not be withdrawn under subsection (d), unless the Secretary gives the coastal state notice of the proposed withdrawal and an opportunity for a public hearing on the proposed action. Upon the withdrawal of management program approval under this subsection (d), the Secretary shall provide the coastal state with written specifications of the actions that should be taken, or not engaged in, by the state in order that such withdrawal may be canceled by the Secretary.

"(f) The Secretary shall carry out research on, and offer technical assistance of the coastal states with respect to, those activities, projects, and other relevant matters evaluated under this section that the Secretary considers to offer promise toward improving coastal zone management."

Regulations. 16 USC 1458 note.

(b) Within two hundred and seventy days after the date of the enactment of this Act, the Secretary of Commerce shall issue such regulations as may be necessary or appropriate to administer section 312 of the Coastal Zone Management Act of 1972 (as amended by subsection (a) of this section).

SEC. 10. ANNUAL REPORT.

Section 316 of the Coastal Zone Management Act (16 U.S.C. 1462) is amended—

(1) by amending the section heading to read as follows: "COASTAL ZONE MANAGEMENT REPORT";

Submittal to President and Congress.

(2) by amending subsection (a)—

(A) by amending the matter appearing before clause (1) to read as follows: "(a) The Secretary shall consult with the Congress on a regular basis concerning the administration of this title and shall prepare and submit to the President for transmittal to the Congress a report summarizing the administration of this title during each period of two consecutive fiscal years. Each report, which shall be transmitted

to the Congress not later than April 1 of the year following the close of the biennial period to which it pertains, shall include, but not be restricted to",

(B) by striking out "or with respect to which grants have been terminated under this title" in clause (4),

(C) by redesignating clauses (5) through (12) as clauses (6) through (13), respectively; and

(D) by inserting immediately after clause (4) the following new clause: "(5) a summary of evaluation findings prepared in accordance with subsection (a) of section 312, and a description of any sanctions imposed under subsections (c) and (d) of this section;"; and 16 USC 1458.

(3) by adding at the end thereof the following new subsection: Program review.

"(c)(1) The Secretary shall conduct a systematic review of Federal programs, other than this title, that affect coastal resources for purposes of identifying conflicts between the objectives and administration of such programs and the purposes and policies of this title. Not later than 1 year after the date of the enactment of this subsection, the Secretary shall notify each Federal agency having appropriate jurisdiction of any conflict between its program and the purposes and policies of this title identified as a result of such review.

"(2) The Secretary shall promptly submit a report to the Congress consisting of the information required under paragraph (1) of this subsection. Such report shall include recommendations for changes necessary to resolve existing conflicts among Federal laws and programs that affect the uses of coastal resources.". Report to Congress.

SEC. 11. ESTUARINE SANCTUARIES.

Section 315 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461) is amended—

(1) by striking out "BEACH ACCESS" in the section heading and inserting in lieu thereof "ISLAND PRESERVATION";

(2) by amending paragraph (2) to read as follows:

"(2) acquiring lands to provide for the preservation of islands, or portions thereof."; and

(3) in the last sentence by deleting "$2,000,000." and substituting in lieu thereof "$3,000,000."; and

(4) by adding the following new sentence at the end of the section:

"No grant for acquisition of land may be made under this section without the approval of the Governor of the State in which is located the land proposed to be acquired.".

SEC. 12. CONGRESSIONAL DISAPPROVAL PROCEDURE.

(a)(1) The Secretary, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session. Such final rule shall be referred to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House, respectively. Final rules, submittal to Congress. 16 USC 1463a.

(2) Any such final rule shall become effective in accordance with its terms unless, before the end of the period of sixty calendar days of continuous session, after the date such final rule is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such final rule.

(b)(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise in the rulemaking power of the House of Representatives and as such they are deemed a part of the Rules of the House of Representatives but applicable only with respect to the procedure to be followed in the House of Representatives in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time in the same manner and to the same extent as in the case of any other rule of that House.

(2) Any concurrent resolution disapproving a final rule of the Secretary shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Merchant Marine and Fisheries of the House, as the case may be.

(3)(A) When a committee has reported a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be highly privileged in the House of Representatives, and shall not be debatable. An amendment to such motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate in the House of Representatives on the concurrent resolution shall be limited to not more than ten hours which shall be divided equally between those favoring and those opposing such concurrent resolution and a motion further to limit debate shall not be debatable. In the House of Representatives, an amendment to, or motion to recommit, the concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

(4) Appeals from the decision of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a concurrent resolution shall be decided without debate.

(5) Notwithstanding any other provision of this subsection, if a House has approved a concurrent resolution with respect to any final rule of the Secretary, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same final rule.

(c)(1) If a final rule of the Secretary is disapproved by the Congress under subsection (a)(2), then the Secretary may promulgate a final rule which relates to the same acts or practices as the final rule disapproved by the Congress in accordance with this subsection. Such final rule—

(A) shall be based upon—

(i) the rulemaking record of the final rule disapproved by the Congress; or

(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Secretary in accordance with section 553 of title 5, United States Code, in any case in which the Secretary determines that it is necessary to supplement the existing rulemaking record; and

(B) may contain such changes as the Secretary considers necessary or appropriate.

(2) The Secretary after promulgating a final rule under this subsection, shall submit the final rule to the Congress in accordance with subsection (a)(1).

(d) Congressional inaction on, or rejection of a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the final rule involved, and shall not be construed to create any presumption of validity with respect to such final rule.

Provisions, constitutionality.

(e)(1) Any interested party may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this section. The district court immediately shall certify all questions of the constitutionality of this section to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

Supreme Court review.

(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than twenty days after the decision of the court of appeals.

(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(f)(1) For purposes of this section—

(A) continuity of session is broken only by an adjournment sine die; and

(B) days on which the House of Representatives is not in session because of an adjournment of more than five days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

(2) If an adjournment sine die of the Congress occurs after the Secretary has submitted a final rule under subsection (a)(1), but such adjournment occurs—

(A) before the end of the period specified in subsection (a)(2); and

(B) before any action necessary to disapprove the final rule is completed under subsection (a)(2);

then the Secretary shall be required to resubmit the final rule involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

Definitions.

(g) For purposes of this section:

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "concurrent resolution" means a concurrent resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the final rule promulgated by the Secretary of Commerce dealing with the matter of , which final rule was submitted to the Congress on .". (The blank spaces shall be filled appropriately.)

(3) The term "rule" means any rule promulgated by the Secretary pursuant to the Coastal Zone Management Act (16 U.S.C. 1450 et. seq.).

16 USC 1451 note.

Effective date. 16 USC 1463a note.

(h) The provisions of this section shall take effect on the date of the enactment of this Act and shall cease to have any force or effect after September 30, 1985.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

Section 318 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464) is amended—

(1) by amending subsection (a) to read as follows:

"SEC. 318. (a) There are authorized to be appropriated to the Secretary—

"(1) such sums, not to exceed $48,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for grants under section 306, to remain available until expended;

16 USC 1455.

"(2) such sums, not to exceed $20,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for grants under section 306A, to remain available until expended;

Ante, p. 2063.

"(3) such sums, not to exceed $75,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 308(b);

16 USC 1456a.

"(4) such sums, not to exceed $3,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for grants under section 309, to remain available until expended;

Ante, p. 2064.

"(5) such sums, not to exceed $9,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for grants under section 315 to remain available until expended;

16 USC 1461.

"(6) such sums, not to exceed $6,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1985, as may be necessary for administrative expenses incident to the administration of this title.";

(2) by amending subsection (b) by striking after the phrase "provisions of section 308," all that follows and substituting in lieu thereof "other than subsection (b), of which not to exceed $150,000,000 shall be for purposes of subsections (c)(1), (c)(2) and (c)(3) of such section."; and

16 USC 1456a.

(3) by amending subsection (c) by striking out "section 305, 306, 309, or 310." and inserting in lieu thereof "section 306 or 309.".

16 USC 1454, 1455, *ante*, p. 2064, 16 USC 1456c.

Approved October 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1012 accompanying H.R. 6979 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 96-783 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 126 (1980):

June 3, considered and passed Senate.

Sept. 30, H.R. 6979 considered and passed House; passage vacated and S. 2622, amended, passed in lieu. Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 43: Oct. 18, Presidential statement.

Public Law 96-465
96th Congress

An Act

To promote the foreign policy of the United States by strengthening and improving the Foreign Service of the United States, and for other purposes.

Oct. 17, 1980
[H.R. 6790]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Foreign Service Act of 1980. 22 USC 3901 note.

SECTION 1. SHORT TITLE.—This Act may be cited as the "Foreign Service Act of 1980".

SEC. 2. TABLE OF CONTENTS.—The table of contents for this Act is as follows:

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Sec. 613. Foreign Service awards.

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TITLE I—THE FOREIGN SERVICE OF THE UNITED STATES

CHAPTER 1—GENERAL PROVISIONS

22 USC 3901.

SEC. 101. FINDINGS AND OBJECTIVES.—(a) The Congress finds that—

(1) a career foreign service, characterized by excellence and professionalism, is essential in the national interest to assist the President and the Secretary of State in conducting the foreign affairs of the United States;

(2) the scope and complexity of the foreign affairs of the Nation have heightened the need for a professional foreign service that will serve the foreign affairs interests of the United States in an integrated fashion and that can provide a resource of qualified personnel for the President, the Secretary of State, and the agencies concerned with foreign affairs;

43 Stat. 140.
22 USC 801 note.

(3) the Foreign Service of the United States, established under the Act of May 24, 1924 (commonly known as the Rogers Act) and continued by the Foreign Service Act of 1946, must be preserved, strengthened, and improved in order to carry out its mission effectively in response to the complex challenges of modern diplomacy and international relations;

(4) the members of the Foreign Service should be representative of the American people, aware of the principles and history of the United States and informed of current concerns and trends in American life, knowledgeable of the affairs, cultures, and languages of other countries, and available to serve in assignments throughout the world; and

(5) the Foreign Service should be operated on the basis of merit principles.

(b) The objective of this Act is to strengthen and improve the Foreign Service of the United States by—

(1) assuring, in accordance with merit principles, admission through impartial and rigorous examination, acquisition of

career status only by those who have demonstrated their fitness through successful completion of probationary assignments, effective career development, advancement and retention of the ablest, and separation of those who do not meet the requisite standards of performance;

(2) fostering the development and vigorous implementation of policies and procedures, including affirmative action programs, which will facilitate and encourage (A) entry into and advancement in the Foreign Service by persons from all segments of American society, and (B) equal opportunity and fair and equitable treatment for all without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition;

(3) providing for more efficient, economical, and equitable personnel administration through a simplified structure of Foreign Service personnel categories and salaries;

(4) establishing a statutory basis for participation by the members of the Foreign Service, through their elected representatives, in the formulation of personnel policies and procedures which affect their conditions of employment, and maintaining a fair and effective system for the resolution of individual grievances that will ensure the fullest measure of due process for the members of the Foreign Service;

(5) minimizing the impact of the hardships, disruptions, and other unusual conditions of service abroad upon the members of the Foreign Service, and mitigating the special impact of such conditions upon their families;

(6) providing salaries, allowances, and benefits that will permit the Foreign Service to attract and retain qualified personnel as well as a system of incentive payments and awards to encourage and reward outstanding performance;

(7) establishing a Senior Foreign Service which is characterized by strong policy formulation capabilities, outstanding executive leadership qualities, and highly developed functional, foreign language, and area expertise;

(8) improving Foreign Service managerial flexibility and effectiveness;

(9) increasing efficiency and economy by promoting maximum compatibility among the agencies authorized by law to utilize the Foreign Service personnel system, as well as compatibility between the Foreign Service personnel system and other personnel systems of the Government; and

(10) otherwise enabling the Foreign Service to serve effectively the interests of the United States and to provide the highest caliber of representation in the conduct of foreign affairs.

SEC. 102. DEFINITIONS.—(a) As used in this Act, the term— 22 USC 3902.

(1) "abroad" means all areas not included within the United States;

(2) "agency" means an agency as defined in section 552(e) of title 5, United States Code;

(3) "chief of mission" means the principal officer in charge of a diplomatic mission of the United States or of a United States office abroad which is designated by the Secretary of State as diplomatic in nature, including any individual assigned under section 502(c) to be temporarily in charge of such a mission or office;

(4) "Department" means the Department of State, except that with reference to the exercise of functions under this Act with

respect to another agency authorized by law to utilize the Foreign Service personnel system, such term means that other agency;

Post p. 2129.

(5) "employee" (except as provided in section 1002(8)) means, when used with respect to an agency or to the Government generally, an officer or employee (including a member of the Service) or a member of the Armed Forces of the United States, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration;

(6) "function" includes any duty, obligation, power, authority, responsibility, right, privilege, discretion, or activity;

(7) "Government" means the Government of the United States;

(8) "merit principles" means the principles set out in section 2301(b) of title 5, United States Code;

(9) "principal officer" means the officer in charge of a diplomatic mission, consular mission (other than a consular agency), or other Foreign Service post;

(10) "Secretary" means the Secretary of State, except that (subject to section 201) with reference to the exercise of functions under this Act with respect to any agency authorized by law to utilize the Foreign Service personnel system, such term means the head of that agency;

(11) "Service" or "Foreign Service" means the Foreign Service of the United States; and

(12) "United States", when used in a geographic sense, means the several States and the District of Columbia.

(b) References in this Act or any other law to "Foreign Service officers" shall, with respect to the International Communication Agency, be deemed to refer to Foreign Service information officers.

22 USC 3903.

SEC. 103. MEMBERS OF THE SERVICE.—The following are the members of the Service:

(1) Chiefs of mission, appointed under section 302(a)(1) or assigned under section 502(c).

(2) Ambassadors at large, appointed under section 302(a)(1).

(3) Members of the Senior Foreign Service, appointed under section 302(a)(1) or 303, who are the corps of leaders and experts for the management of the Service and the performance of its functions.

(4) Foreign Service officers, appointed under section 302(a)(1), who have general responsibility for carrying out the functions of the Service.

(5) Foreign Service personnel, United States citizens appointed under section 303, who provide skills and services required for effective performance by the Service.

(6) Foreign national employees, foreign nationals appointed under section 303, who provide clerical, administrative, technical, fiscal, and other support at Foreign Service posts abroad.

(7) Consular agents, appointed under section 303 by the Secretary of State, who provide consular and related services as authorized by the Secretary of State at specified locations abroad where no Foreign Service posts are situated.

22 USC 3904.

SEC. 104. FUNCTIONS OF THE SERVICE.—Members of the Service shall, under the direction of the Secretary—

(1) represent the interests of the United States in relation to foreign countries and international organizations, and perform the functions relevant to their appointments and assignments, including (as appropriate) functions under the Vienna Conven-

tion on Diplomatic Relations, the Vienna Convention on Consular Relations, other international agreements to which the United States is a party, the laws of the United States, and orders, regulations, and directives issued pursuant to law;

(2) provide guidance for the formulation and conduct of programs and activities of the Department and other agencies which relate to the foreign relations of the United States; and

(3) perform functions on behalf of any agency or other Government establishment (including any establishment in the legislative or judicial branch) requiring their services.

22 USC 3905.

SEC. 105. MERIT PRINCIPLES; PROTECTIONS FOR MEMBERS OF THE SERVICE; AND MINORITY RECRUITMENT.—(a)(1) All personnel actions with respect to career members and career candidates in the Service (including applicants for career candidate appointments) shall be made in accordance with merit principles.

"Personnel action."

(2) For purposes of paragraph (1), the term "personnel action" means—

(A) any appointment, promotion, assignment (including assignment to any position or salary class), award of performance pay or special differential, within-class salary increase, separation, or performance evaluation, and

(B) any decision, recommendation, examination, or ranking provided for under this Act which relates to any action referred to in subparagraph (A).

Regulations.

(b) The Secretary shall administer the provisions of this Act and shall prescribe such regulations as may be necessary to ensure that members of the Service, as well as applicants for appointments in the Service—

(1) are free from discrimination on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation, as prohibited under section 2302(b)(1) of title 5, United States Code;

Information disclosure.

(2) are free from reprisal for—

(A) a disclosure of information by a member or applicant which the member or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(B) a disclosure to the Special Counsel of the Merit Systems Protection Board, or to the Inspector General of an agency (including the Inspector General of the Department of State and the Foreign Service) or another employee designated by the head of the agency to receive such disclosures, of information which the member or applicant reasonably believes evidences—

(i) a violation of any law, rule, or regulation, or

(ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;

(3) are free to submit to officials of the Service and the Department any report, evaluation, or recommendation, including the right to submit such report, evaluation, or recommenda-

tion through a separate dissent channel, whether or not the views expressed therein are in accord with approved policy, unless the report, evaluation, or recommendation was submitted with the knowledge that it was false or with willful disregard for its truth or falsity; and

(4) are free from any personnel practice prohibited by section 2302 of title 5, United States Code.

(c) This section shall not be construed as authorizing the withholding of information from the Congress or the taking of any action against a member of the Service who discloses information to the Congress.

Minority recruitment program, establishment. Report to Congress.

(d)(1) The Secretary shall establish a minority recruitment program for the Service consistent with section 7201 of title 5, United States Code.

(2) Not later than January 31 of each year, the Secretary shall transmit to each House of the Congress a report, signed by the Secretary, on the activities of the Secretary under paragraph (1). Such report shall include any affirmative action plans submitted by the Secretary under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) and any data necessary to evaluate the effectiveness of the program under paragraph (1) for the preceding fiscal year, together with recommendations for administrative or legislative action the Secretary considers appropriate.

(e) This section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to any employee or applicant for employment in the civil service under—

(1) section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), prohibiting discrimination on the basis of race, color, religion, sex, or national origin;

(2) sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a), prohibiting discrimination on the basis of age;

(3) section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)), prohibiting discrimination on the basis of sex;

(4) sections 501 and 505 of the Rehabilitation Act of 1973 (29 U.S.C. 791, 794a), prohibiting discrimination on the basis of handicapping condition; or

(5) any provision of law, rule, or regulation prohibiting discrimination on the basis of marital status or political affiliation.

CHAPTER 2—MANAGEMENT OF THE SERVICE

22 USC 3921.

SEC. 201. THE SECRETARY OF STATE.—(a) Under the direction of the President, the Secretary of State shall administer and direct the Service and shall coordinate its activities with the needs of the Department of State and other agencies.

(b) The Secretary of State alone among the heads of agencies utilizing the Foreign Service personnel system shall perform the functions expressly vested in the Secretary of State by this Act.

22 USC 3922.

SEC. 202. OTHER AGENCIES UTILIZING THE FOREIGN SERVICE PERSONNEL SYSTEM.—(a)(1) The Director of the International Communication Agency and the Director of the United States International Development Cooperation Agency may utilize the Foreign Service personnel system with respect to their respective agencies in accordance with this Act.

(2) The Secretary of Agriculture may utilize the Foreign Service personnel system in accordance with this Act—

(A) with respect to personnel of the Foreign Agricultural Service, and

(B) with respect to other personnel of the Department of Agriculture to the extent the President determines to be necessary in order to enable the Department of Agriculture to carry out functions which require service abroad.

(3) The Secretary of Commerce may utilize the Foreign Service personnel system in accordance with this Act—

(A) with respect to the personnel performing functions transferred to the Department of Commerce from the Department of State by Reorganization Plan Numbered 3 of 1979, and 5 USC app.

(B) with respect to other personnel of the Department of Commerce to the extent the President determines to be necessary in order to enable the Department of Commerce to carry out functions which require service abroad.

(b) Subject to section 201(b)—

(1) the agency heads referred to in subsection (a), and

(2) the head of any other agency (to the extent authority to utilize the Foreign Service personnel system is granted to such agency head under any other Act),

shall in the case of their respective agencies exercise the functions vested in the Secretary by this Act.

SEC. 203. COMPATIBILITY AMONG AGENCIES UTILIZING THE FOREIGN SERVICE PERSONNEL SYSTEM.—(a) The Service shall be administered to the extent practicable in a manner that will assure maximum compatibility among the agencies authorized by law to utilize the Foreign Service personnel system. To this end, the other heads of such agencies shall consult regularly with the Secretary of State. 22 USC 3923.

(b) Nothing in this chapter shall be construed as diminishing the authority of the head of any agency authorized by law to utilize the Foreign Service personnel system.

SEC. 204. CONSOLIDATED AND UNIFORM ADMINISTRATION OF THE SERVICE.—The Secretary shall on a continuing basis consider the need for uniformity of personnel policies and procedures and for consolidation (in accordance with section 23 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2695)) of personnel functions among agencies utilizing the Foreign Service personnel system. Where feasible, the Secretary of State shall encourage (in consultation with the other heads of such agencies) the development of uniform policies and procedures and consolidated personnel functions. 22 USC 3924.

SEC. 205. COMPATIBILITY BETWEEN THE FOREIGN SERVICE AND OTHER GOVERNMENT PERSONNEL SYSTEMS.—The Service shall be administered to the extent practicable in conformity with general policies and regulations of the Government. The Secretary shall consult with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget, and the heads of such other agencies as the President shall determine, in order to assure compatibility of the Foreign Service personnel system with other Government personnel systems to the extent practicable. 22 USC 3925.

SEC. 206. REGULATIONS; DELEGATION OF FUNCTIONS.—(a) The Secretary may prescribe such regulations as the Secretary deems appropriate to carry out functions under this Act. 22 USC 3926.

(b) The Secretary may delegate functions under this Act which are vested in the Secretary to any employee of the Department or any member of the Service.

SEC. 207. CHIEF OF MISSION.—(a) Under the direction of the President, the chief of mission to a foreign country— 22 USC 3927.

(1) shall have full responsibility for the direction, coordination, and supervision of all Government employees in that country (except for employees under the command of a United States area military commander); and

(2) shall keep fully and currently informed with respect to all activities and operations of the Government within that country, and shall insure that all Government employees in that country (except for employees under the command of a United States area military commander) comply fully with all applicable directives of the chief of mission.

(b) Any agency having employees in a foreign country shall keep the chief of mission to that country fully and currently informed with respect to all activities and operations of its employees in that country, and shall insure that all of its employees in that country (except for employees under the command of a United States area military commander) comply fully with all applicable directives of the chief of mission.

22 USC 3928.

SEC. 208. DIRECTOR GENERAL OF THE FOREIGN SERVICE.—There shall be a Director General of the Foreign Service, who shall be appointed by the President, by and with the advice and consent of the Senate, from among the career members of the Senior Foreign Service. The Director General shall assist the Secretary of State in the management of the Service and shall perform such functions as the Secretary of State may prescribe.

22 USC 3929.

SEC. 209. INSPECTOR GENERAL.—(a)(1) There shall be an Inspector General of the Department of State and the Foreign Service, who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation from among individuals exceptionally qualified for the position by virtue of their integrity and their demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations, or their knowledge and experience in the conduct of foreign affairs. The Inspector General shall report to and be under the general supervision of the Secretary of State. Neither the Secretary of State nor any other officer of the Department shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation. The Inspector General shall periodically (at least every 5 years) inspect and audit the administration of activities and operations of each Foreign Service post and each bureau and other operating unit of the Department of State, and shall perform such other functions as the Secretary of State may prescribe, except that the Secretary of State shall not assign to the Inspector General any general program operating responsibilities.

Removal from office; report to Congress.

(2) The Inspector General may be removed from office by the President. The President shall communicate the reasons for any such removal to both Houses of Congress.

Inspections, investigations, and audits.

(b) Inspections, investigations, and audits conducted by or under the direction of the Inspector General shall include the systematic review and evaluation of the administration of activities and operations of Foreign Service posts and bureaus and other operating units of the Department of State, including an examination of—

(1) whether financial transactions and accounts are properly conducted, maintained, and reported;

(2) whether resources are being used and managed with the maximum degree of efficiency, effectiveness, and economy;

(3) whether the administration of activities and operations meets the requirements of applicable laws and regulations and, specifically, whether such administration is consistent with the requirements of section 105;

(4) whether there exist instances of fraud or other serious problems, abuses, or deficiencies, and whether adequate steps for detection, correction, and prevention have been taken; and

(5) whether policy goals and objectives are being effectively achieved and whether the interests of the United States are being accurately and effectively represented.

Inspection and audit policies and procedures.

(c)(1) The Inspector General shall develop and implement policies and procedures for the inspection and audit activities carried out under this section. These policies and procedures shall be consistent with the general policies and guidelines of the Government for inspection and audit activities and shall comply with the standards established by the Comptroller General of the United States for audits of Government agencies, organizations, programs, activities, and functions.

(2) In carrying out the duties and responsibilities established under this section, the Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view toward insuring effective coordination and cooperation.

Federal criminal law, violation reports.

(3) In carrying out the duties and responsibilities established under this section, the Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

Reports.

(d)(1) The Inspector General shall keep the Secretary of State fully and currently informed, by means of the reports required by paragraphs (2) and (3) and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of activities and operations administered or financed by the Department of State.

(2) The Inspector General shall, not later than April 30 of each year, prepare and furnish to the Secretary of State an annual report summarizing the activities of the Inspector General. Such report shall include—

(A) a description of significant problems, abuses, and deficiencies relating to the administration of activities and operations of Foreign Service posts, and bureaus and other operating units of the Department of State, which were disclosed by the Inspector General within the reporting period;

(B) a description of the recommendations for corrective action made by the Inspector General during the reporting period with respect to significant problems, abuses, or deficiencies described pursuant to subparagraph (A);

(C) an identification of each significant recommendation described in previous annual reports on which corrective action has not been completed;

(D) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted; and

(E) a listing of each audit report completed by the Inspector General during the reporting period.

The Secretary of State shall transmit a copy of such annual report within 30 days after receiving it to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and to other appropriate committees, together with a report of the Secretary of State containing any comments which the Secretary of State deems appropriate. Within 60

days after transmitting such reports to those committees, the Secretary of State shall make copies of them available to the public upon request and at a reasonable cost.

(3) The Inspector General shall report immediately to the Secretary of State whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of activities and operations of Foreign Service posts or bureaus or other operating units of the Department of State. The Secretary of State shall transmit any such report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and to other appropriate committees within 7 days after receiving it, together with a report by the Secretary of State containing any comments the Secretary of State deems appropriate.

(4) Nothing in this subsection shall be construed to authorize the public disclosure by any individual of any information which is—

(A) specifically prohibited from disclosure by any other provision of law; or

(B) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

Authority.

(e)(1) The Inspector General shall have the same authority in carrying out the provisions of this section as is granted under section 6 of the Inspector General Act of 1978 to each Inspector General of an establishment (as defined in section 11(2) of such Act) for carrying out the provisions of that Act, and the responsibilities of other officers of the Government to the Inspector General shall be the same as the responsibilities of the head of an agency or establishment under section 6 (b) and (c) of such Act.

5 USC app.

5 USC app.

5 USC app.

(2) At the request of the Inspector General, employees of the Department and members of the Service may be assigned as employees of the Inspector General. The individuals so assigned and individuals appointed pursuant to paragraph (1) shall be responsible solely to the Inspector General, and the Inspector General or his or her designee shall prepare the performance evaluation reports for such individuals.

Complaints or information, receipt and investigation.

(f)(1) The Inspector General may receive and investigate complaints or information from a member of the Service or employee of the Department concerning the possible existence of an activity constituting a violation of laws or regulations, constituting mismanagement, gross waste of funds, or abuse of authority, or constituting a substantial and specific danger to public health or safety.

(2) The Inspector General shall not, after receipt of a complaint or information from a member of the Service or employee of the Department, disclose the identity of such individual without the consent of such individual, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

Activities and operations, review.

(g) Under the general supervision of the Secretary of State, the Inspector General may review activities and operations performed under the direction, coordination, and supervision of chiefs of mission for the purpose of ascertaining their consonance with the foreign policy of the United States and their consistency with the responsibilities of the Secretary of State and the chief of mission.

Establishment.
22 USC 3930.

SEC. 210. BOARD OF THE FOREIGN SERVICE.—The President shall establish a Board of the Foreign Service to advise the Secretary of State on matters relating to the Service, including furtherance of the objectives of maximum compatibility among agencies authorized by law to utilize the Foreign Service personnel system and compatibility between the Foreign Service personnel system and the other person-

nel systems of the Government. The Board of the Foreign Service shall be chaired by a career member of the Senior Foreign Service designated by the Secretary of State and shall include one or more representatives of the Department of State, the International Communication Agency, the United States International Development Cooperation Agency, the Department of Agriculture, the Department of Commerce, the Department of Labor, the Office of Personnel Management, the Office of Management and Budget, the Equal Employment Opportunity Commission, and such other agencies as the President may designate.

Establishment.
22 USC 3931.

SEC. 211. BOARD OF EXAMINERS FOR THE FOREIGN SERVICE.—(a) The President shall establish a Board of Examiners for the Foreign Service to develop, and supervise the administration of, examinations prescribed under section 301(b) to be given to candidates for appointment in the Service. The Board shall consist of 15 members appointed by the President (no fewer than 5 of whom shall be appointed from among individuals who are not Government employees and who shall be qualified for service on the Board by virtue of their knowledge, experience, or training in the fields of testing or equal employment opportunity). The Board shall include representatives of agencies utilizing the Foreign Service personnel system and representatives of other agencies which have responsibility for employment testing. The Board shall be chaired by a member of the Board, designated by the President, who is a member of the Service.

Examinations, review.

(b) The Board of Examiners shall periodically review the examinations prescribed under section 301(b) in order to determine—

(1) whether any such examination has an adverse impact on the hiring, promotion, or other employment opportunity of members of any race, sex, or ethnic group;

(2) methods of minimizing any such adverse impact;

(3) alternatives to any examinations which have such an adverse impact; and

(4) whether such examinations are valid in relation to job performance.

Report to Secretary of State.

The Board of Examiners shall annually report its findings under this subsection to the Secretary of State and shall furnish to the Secretary of State its recommendations for improvements in the development, use, and administration of the examinations prescribed under section 301(b).

(c) Any vacancy or vacancies on the Board shall not impair the right of the remaining members to exercise the full powers of the Board.

CHAPTER 3—APPOINTMENTS

22 USC 3941.

SEC. 301. GENERAL PROVISIONS RELATING TO APPOINTMENTS.—(a) Only citizens of the United States may be appointed to the Service, other than for service abroad as a consular agent or as a foreign national employee.

Examinations.

(b) The Secretary shall prescribe, as appropriate, written, oral, physical, foreign language, and other examinations for appointment to the Service (other than as a chief of mission or ambassador at large).

"Veteran or disabled veteran."

(c) The fact that an applicant for appointment as a Foreign Service officer candidate is a veteran or disabled veteran shall be considered an affirmative factor in making such appointments. As used in this subsection, the term "veteran or disabled veteran" means an individual who is a preference eligible under subparagraph (A), (B), or (C) of section 2108(3) of title 5, United States Code.

Career and noncareer appointments.

(d)(1) Members of the Service serving under career appointments are career members of the Service. Members of the Service serving under limited appointments are either career candidates or non-career members of the Service.

(2) Chiefs of mission, ambassadors at large, and ministers serve at the pleasure of the President.

(3) An appointment as a Foreign Service officer is a career appointment.

22 USC 3942.

SEC. 302. APPOINTMENTS BY THE PRESIDENT.—(a)(1) The President may, by and with the advice and consent of the Senate, appoint an individual as a chief of mission, as an ambassador at large, as a minister, as a career member of the Senior Foreign Service, or as a Foreign Service officer.

Ambassadors or ministers, conferral of personal rank.

(2)(A) The President may, by and with the advice and consent of the Senate, confer the personal rank of career ambassador upon a career member of the Senior Foreign Service in recognition of especially distinguished service over a sustained period.

(B)(i) Subject to the requirement of clause (ii), the President may confer the personal rank of ambassador or minister on an individual in connection with a special mission for the President of a temporary nature not exceeding six months in duration.

Report to Senate Committee.

(ii) The President may confer such personal rank only if, prior to such conferral, he transmits to the Committee on Foreign Relations of the Senate a written report setting forth—

(I) the necessity for conferring such rank,

(II) the dates during which such rank will be held,

(III) the justification for not submitting the proposed conferral of personal rank to the Senate as a nomination for advice and consent to appointment, and

(IV) all relevant information concerning any potential conflict of interest which the proposed recipient of such personal rank may have with regard to the special mission.

Such report shall be transmitted not less than 30 days prior to conferral of the personal rank of ambassador or minister except in cases where the President certifies in his report that urgent circumstances require the immediate conferral of such rank.

(C) An individual upon whom a personal rank is conferred under subparagraph (A) or (B) shall not receive any additional compensation solely by virtue of such personal rank.

Senate approval of appointments. USC prec. title 1.

(3) Except as provided in paragraph (2)(B) of this subsection or in clause 3, section 2, article II of the Constitution (relating to recess appointments), an individual may not be designated as ambassador or minister, or be designated to serve in any position with the title of ambassador or minister, without the advice and consent of the Senate.

Foreign Service status, retention.

(b) If a member of the Service is appointed to any position in the executive branch by the President, by and with the advice and consent of the Senate, or by the President alone, the period of service in that position by the member shall be regarded as an assignment under chapter 5 and the member shall not, by virtue of the acceptance of such assignment, lose his or her status as a member of the Service. A member of the Senior Foreign Service who accepts such an assignment may elect to continue to receive the salary of his or her salary class, to remain eligible for performance pay under chapter 4, and to receive the leave to which such member is entitled under subchapter I of chapter 63 of title 5, United States Code, as a member of the Senior Foreign Service, in lieu of receiving the salary and leave

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Post, p. 2087.

5 USC 6301.

(if any) of the position to which the member is appointed by the President.

SEC. 303. APPOINTMENTS BY THE SECRETARY.—The Secretary may appoint the members of the Service (other than the members of the Service who are in the personnel categories specified in section 302(a)) in accordance with this Act and such regulations as the Secretary may prescribe. 22 USC 3943.

SEC. 304. APPOINTMENT OF CHIEFS OF MISSION.—(a)(1) An individual appointed or assigned to be a chief of mission should possess clearly demonstrated competence to perform the duties of a chief of mission, including, to the maximum extent practicable, a useful knowledge of the principal language or dialect of the country in which the individual is to serve, and knowledge and understanding of the history, the culture, the economic and political institutions, and the interests of that country and its people. 22 USC 3944.

(2) Given the qualifications specified in paragraph (1), positions as chief of mission should normally be accorded to career members of the Service, though circumstances will warrant appointments from time to time of qualified individuals who are not career members of the Service.

(3) Contributions to political campaigns should not be a factor in the appointment of an individual as a chief of mission.

(4) The President shall provide the Committee on Foreign Relations of the Senate, with each nomination for an appointment as a chief of mission, a report on the demonstrated competence of that nominee to perform the duties of the position in which he or she is to serve. Nominations.

(b)(1) In order to assist the President in selecting qualified candidates for appointment or assignment as chiefs of mission, the Secretary of State shall from time to time furnish the President with the names of career members of the Service who are qualified to serve as chiefs of mission, together with pertinent information about such members.

(2) Each individual nominated by the President to be a chief of mission, ambassador at large, or minister shall, at the time of nomination, file with the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a report of contributions made by such individual and by members of his or her immediate family during the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination. The report shall be verified by the oath of the nominee, taken before any individual authorized to administer oaths. The chairman of the Committee on Foreign Relations of the Senate shall have each such report printed in the Congressional Record. As used in this paragraph, the term "contribution" has the same meaning given such term by section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)), and the term "immediate family" means the spouse of the nominee, and any child, parent, grandparent, brother, or sister of the nominee and the spouses of any of them. Political campaign contributions, report to Senate committee and House Speaker. "Contribution." "Immediate family."

(c) Within 6 months after assuming the position, the chief of mission to a foreign country shall submit, to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, a report describing his or her own foreign language competence and the foreign language competence of the mission staff in the principal language or other dialect of that country. Report to congressional committees.

22 USC 3945.

SEC. 305. APPOINTMENT TO THE SENIOR FOREIGN SERVICE.—(a) Appointment to the Senior Foreign Service shall be to a salary class established under section 402, and not to a position.

Limited appointments.

(b) An individual may not be given a limited appointment in the Senior Foreign Service if that appointment would cause the number of members of the Senior Foreign Service serving under limited appointments to exceed 5 percent of the total number of members of the Senior Foreign Service, except that (1) members of the Senior Foreign Service assigned to the Peace Corps shall be excluded in the calculation and application of this limitation, and (2) members of the Senior Foreign Service serving under limited appointments with reemployment rights under section 310 as career appointees in the Senior Executive Service shall be considered to be career members of the Senior Foreign Service for purposes of this subsection.

22 USC 3946.

SEC. 306. CAREER APPOINTMENTS.—(a) Before receiving a career appointment in the Service, an individual shall first serve under a limited appointment as a career candidate for a trial period of service prescribed by the Secretary. During such trial period of service, the Secretary shall decide whether—

(1) to offer a career appointment to the candidate under section 303, or

(2) to recommend to the President that the candidate be given a career appointment under section 302.

Fitness and aptitude, evaluation.

(b) Decisions by the Secretary under subsection (a) shall be based upon the recommendations of boards, established by the Secretary and composed entirely or primarily of career members of the Service, which shall evaluate the fitness and aptitude of career candidates for the work of the Service.

22 USC 3947.

SEC. 307. ENTRY LEVELS FOR FOREIGN SERVICE OFFICER CANDIDATES.—A career candidate for appointment as a Foreign Service officer may not be initially assigned under section 404 to a salary class higher than class 4 in the Foreign Service Schedule unless—

(1) the Secretary determines in an individual case that assignment to a higher salary class is warranted because of the qualifications (including foreign language competence) and experience of the candidate and the needs of the Service; or

(2) at the time such initial assignment is made, the candidate is serving under a career appointment in the Service and is receiving a salary at a rate equal to or higher than the minimum rate payable for class 4 in the Foreign Service Schedule.

22 USC 3948.

SEC. 308. RECALL AND REEMPLOYMENT OF CAREER MEMBERS.—(a) Whenever the Secretary determines that the needs of the Service so require, the Secretary may recall any retired career member of the Service for active duty in the same personnel category as that member was serving at the time of retirement. A retired career member may be recalled under this section to any appropriate salary class or rate, except that a retired career member of the Senior Foreign Service may not be recalled to a salary class higher than the one in which the member was serving at the time of retirement unless appointed to such higher class by the President, by and with the advice and consent of the Senate.

(b) Former career members of the Service may be reappointed under section 302(a)(1) or 303, without regard to section 306, in a salary class which is appropriate in light of the qualifications and experience of the individual being reappointed.

22 USC 3949.

SEC. 309. LIMITED APPOINTMENTS.—A limited appointment in the Service, including an appointment of an individual who is an employee of an agency, may not exceed 5 years in duration and,

except as provided in section 311(a), may not be extended or renewed. A limited appointment in the Service which is limited by its terms to a period of one year or less is a temporary appointment.

SEC. 310. REEMPLOYMENT RIGHTS FOLLOWING LIMITED APPOINTMENT.—Any employee of an agency who accepts a limited appointment in the Service with the consent of the head of the agency in which the employee is employed shall be entitled, upon the termination of such limited appointment, to be reemployed in accordance with section 3597 of title 5, United States Code. 22 USC 3950.

Post, p. 2164.

SEC. 311. EMPLOYMENT OF FAMILY MEMBERS OF GOVERNMENT EMPLOYEES.—(a) The Secretary, when employing individuals abroad in positions to which career members of the Service are not customarily assigned (including, when continuity over a long term is not a significant consideration, vacant positions normally filled by foreign national employees), shall give equal consideration to employing available qualified family members of members of the Service or of other Government employees assigned abroad. Family members so employed shall serve under renewable limited appointments in the Service and may be paid either in accordance with the Foreign Service Schedule or a local compensation plan established under section 408. 22 USC 3951.

(b) Employment of family members in accordance with this section may not be used to avoid fulfilling the need for full-time career positions.

SEC. 312. DIPLOMATIC AND CONSULAR COMMISSIONS.—(a) The Secretary of State may recommend to the President that a member of the Service who is a citizen of the United States be commissioned as a diplomatic or consular officer or both. The President may, by and with the advice and consent of the Senate, commission such member of the Service as a diplomatic or consular officer or both. The Secretary of State may commission as a vice consul a member of the Service who is a citizen of the United States. All official functions performed by a diplomatic or consular officer, including a vice consul, shall be performed under such a commission. 22 USC 3952.

(b) Members of the Service commissioned under this section may, in accordance with their commissions, perform any function which any category of diplomatic officer (other than a chief of mission) or consular officer is authorized by law to perform.

(c) The Secretary of State shall define the limits of consular districts.

CHAPTER 4—COMPENSATION

SEC. 401. SALARIES OF CHIEFS OF MISSION.—(a) Except as provided in section 302(b), each chief of mission shall receive a salary, as determined by the President, at one of the annual rates payable for levels II through V of the Executive Schedule under sections 5313 through 5316 of title 5, United States Code. 22 USC 3961.

(b) The salary of a chief of mission shall commence upon the effective date of appointment to that position. The official services of a chief of mission are not terminated by the appointment of a successor, but shall continue for such additional period, not to exceed 50 days after relinquishment of charge of the mission, as the Secretary of State may determine. During that period, the Secretary of State may require the chief of mission to perform such functions as the Secretary of State deems necessary in the interest of the Government.

SEC. 402. SALARIES OF THE SENIOR FOREIGN SERVICE.—(a) The President shall prescribe salary classes for the Senior Foreign Service 22 USC 3962.

and shall prescribe an appropriate title for each class. Basic salary rates for the Senior Foreign Service may not exceed the maximum rate or be less than the minimum rate of basic pay payable for the Senior Executive Service under section 5382 of title 5, United States Code, and shall be adjusted at the same time and in the same manner as rates of basic pay are adjusted for the Senior Executive Service.

(b)(1) An individual who is a career appointee in the Senior Executive Service receiving basic pay at one of the rates payable under section 5382 of title 5, United States Code, and who accepts a limited appointment in the Senior Foreign Service in a salary class for which the basic salary rate is less than such basic rate of pay, shall be paid a salary at his or her former basic rate of pay (with adjustments as provided in paragraph (2)) until the salary for his or her salary class in the Senior Foreign Service equals or exceeds the salary payable to such individual under this subsection.

(2) The salary paid to an individual under this subsection shall be adjusted by 50 percent of each adjustment, which takes effect after the appointment of such individual to the Senior Foreign Service, in the basic rate of pay at which that individual was paid under section 5382 of title 5, United States Code, immediately prior to such appointment.

22 USC 3963. SEC. 403. FOREIGN SERVICE SCHEDULE.—The President shall establish a Foreign Service Schedule which shall consist of 9 salary classes and which shall apply to members of the Service who are citizens of the United States and for whom salary rates are not otherwise provided for by this chapter. The maximum salary rate for the highest class established under this section, which shall be designated class 1, may not exceed the maximum rate of basic pay prescribed for GS-15 of the General Schedule under section 5332 of title 5, United States Code. Salary rates established under this section shall be adjusted in accordance with subchapter I of chapter 53 of title 5, United States Code.

5 USC 5301.

22 USC 3964. SEC. 404. ASSIGNMENT TO A SALARY CLASS.—(a) The Secretary shall assign all Foreign Service officers and Foreign Service personnel (other than Foreign Service personnel who are paid in accordance with section 407 or who are family members of Government employees paid in accordance with a local compensation plan established under section 408) to appropriate salary classes in the Foreign Service Schedule.

(b)(1) The salary class to which a member of the Service is assigned under this section shall not be affected by the assignment of the member to a position classified under chapter 5.

Post, p. 2092.

(2) Except as authorized by subchapter I of chapter 35 of title 5, United States Code, changes in the salary class of a member of the Senior Foreign Service or a member of the Service assigned to a salary class in the Foreign Service Schedule shall be made only in accordance with chapter 6. The Secretary shall prescribe regulations (which shall be consistent with the relevant provisions of subchapter VI of chapter 53 of title 5, United States Code, and with the regulations prescribed to carry out such provisions) providing for retention of pay by members of the Service in cases in which reduction-in-force procedures are applied.

5 USC 3501.

Post, p. 2094.

5 USC 5361.

22 USC 3965. SEC. 405. PERFORMANCE PAY.—(a) Members of the Senior Foreign Service who are serving—

(1) under career or career candidate appointments, or

(2) under limited appointments with reemployment rights under section 310 as career appointees in the Senior Executive Service,

shall be eligible to compete for performance pay in accordance with this section. Performance pay shall be paid in a lump sum and shall be in addition to the basic salary prescribed under section 402 and any other award. The fact that a member of the Senior Foreign Service competing for performance pay would, as a result of the payment of such performance pay, receive compensation exceeding the compensation of any other member of the Service shall not preclude the award or its payment.

(b) Awards of performance pay shall take into account the criteria established by the Office of Personnel Management for performance awards under section 5384 of title 5, United States Code, and rank awards under section 4507 of title 5, United States Code. Awards of performance pay under this section shall be subject to the following limitations: Limitations.

(1) Not more than 50 percent of the members of the Senior Foreign Service may receive performance pay in any fiscal year.

(2) Except as provided in paragraph (3), performance pay for a member of the Senior Foreign Service may not exceed 20 percent of the annual rate of basic salary for that member.

(3) Not more than 6 percent of the members of the Senior Foreign Service may receive performance pay in any fiscal year in an amount which exceeds the percentage limitation specified in paragraph (2). Payments under this paragraph to a member of the Senior Foreign Service may not exceed $10,000 in any fiscal year, except that payments of up to $20,000 in any fiscal year may be made under this paragraph to up to 1 percent of the members of the Senior Foreign Service.

(4) The total amount of basic salary plus performance pay received in any fiscal year by any member of the Senior Foreign Service may not exceed the salary payable for level I of the Executive Schedule under section 5312 of title 5, United States Code, as in effect at the end of that fiscal year.

(c) The Secretary shall determine the amount of performance pay available under subsection (b)(2) each year for distribution among the members of the Senior Foreign Service and shall distribute performance pay to particular individuals on the basis of recommendations by selection boards established under section 602.

(d) The President may grant awards of performance pay under subsection (b)(3) on the basis of annual recommendations by the Secretary of State of members of the Senior Foreign Service who are nominated by their agencies as having performed especially meritorious or distinguished service. Recommendations by the Secretary of State under this subsection shall be made on the basis of recommendations by special interagency selection boards established by the Secretary of State for the purpose of reviewing and evaluating the nominations of agencies. Meritorious or distinguished service awards.

SEC. 406. WITHIN-CLASS SALARY INCREASES.—(a) Any member of the Service receiving a salary under the Foreign Service Schedule shall be advanced to the next higher salary step in the member's class at the beginning of the first applicable pay period following the completion by that member of a period of— 22 USC 3966.

(1) 52 calendar weeks of service in each of salary steps 1 through 9, and

(2) 104 calendar weeks of service in each of salary steps 10 through 13,

unless the performance of the member during that period is found in a review by a selection board established under section 602 to fall below the standards of performance for his or her salary class.

(b) The Secretary may grant, on the basis of especially meritorious service, to any member of the Service receiving an increase in salary under subsection (a), an additional salary increase to any higher step in the salary class in which the member is serving.

22 USC 3967.

SEC. 407. SALARIES FOR FOREIGN SERVICE PERSONNEL ABROAD WHO PERFORM ROUTINE DUTIES.—(a) The Secretary may establish salary rates at rates lower than those established for the Foreign Service Schedule for the Foreign Service personnel described in subsection (b). The rates established under this subsection may be no less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

(b) The Secretary may pay Foreign Service personnel who are recruited abroad, who are not available or are not qualified for assignment to another Foreign Service post, and who perform duties of a more routine nature than are generally performed by Foreign Service personnel assigned to class 9 in the Foreign Service Schedule, in accordance with the salary rates established under subsection (a).

U.S. citizens and foreign nationals employed abroad.
22 USC 3968.

SEC. 408. LOCAL COMPENSATION PLANS.—(a)(1) The Secretary shall establish compensation (including position classification) plans for foreign national employees of the Service, and for United States citizens employed in the Service abroad who are family members of Government employees. To the extent consistent with the public interest, each compensation plan shall be based upon prevailing wage rates and compensation practices (including participation in local social security plans) for corresponding types of positions in the locality of employment, except that such compensation plans shall provide for payment of wages to those family members of Government employees who are paid in accordance with such plans at a rate which is no less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)). Any compensation plan established under this section may include provision for leaves of absence with pay for foreign national employees in accordance with prevailing law and employment practices in the locality of employment without regard to any limitation contained in section 6310 of title 5, United States Code.

Former foreign national employees, supplemental payments.

(2) The Secretary may make supplemental payments to any civil service annuitant who is a former foreign national employee of the Service (or who is receiving an annuity as a survivor of a former foreign national employee of the Service) in order to offset exchange rate losses, if the annuity being paid such annuitant is based on—

(A) a salary that was fixed in a foreign currency that has appreciated in value in terms of the United States dollar; and

(B) service in a country in which (as determined by the Secretary) the average retirement benefits being received by individuals who retired from competitive local organizations are superior to the local currency value of civil service annuities plus any other retirement benefits payable to foreign national employees who retired during similar time periods and after comparable careers with the Government.

(b) For the purpose of performing functions abroad, any agency or other Government establishment (including any establishment in the legislative or judicial branch) may administer employment programs for its employees who are foreign nationals or are family members of Government employees assigned abroad, in accordance with the applicable provisions of this Act.

(c) The Secretary of State may prescribe regulations governing the establishment and administration of local compensation plans under this section by all agencies and other Government establishments.

SEC. 409. SALARIES OF CONSULAR AGENTS.—The Secretary of State shall establish the salary rate for each consular agent. Such salary rate shall be established after taking into account the workload of the consular agency and the prevailing wage rates in the locality where the agency is located, except that, in the case of a consular agent who is a citizen of the United States, the salary rate may not be less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)). 22 USC 3969.

SEC. 410. COMPENSATION FOR IMPRISONED FOREIGN NATIONAL EMPLOYEES.—(a) The head of any agency or other Government establishment (including any in the legislative or judicial branch) may compensate any current or former foreign national employee, or any foreign national who is or was employed under a personal services contract, who is or has been imprisoned by a foreign government if the Secretary of State (or, in the case of a foreign national employed by the Central Intelligence Agency, the Director of Central Intelligence) determines that such imprisonment is the result of the employment of the foreign national by the United States. Such compensation may not exceed the amount that the agency head determines approximates the salary and other benefits to which the foreign national would have been entitled had he or she been employed during the period of such imprisonment. Such compensation may be paid under such terms and conditions as the Secretary of State deems appropriate. For purposes of this section, an agency head shall have the same powers with respect to imprisoned foreign nationals who are or were employed by the agency as an agency head has under subchapter VII of chapter 55 of title 5, United States Code, to the extent that such powers are consistent with this section. 22 USC 3970. 5 USC 5561.

(b) Any period of imprisonment of a current or former foreign national employee which is compensable under this section shall be considered for purposes of any other employee benefit to be a period of employment by the Government, except that a period of imprisonment shall not be creditable—

(1) for purposes of subchapter III of chapter 83 of title 5, United States Code, unless it is expressly creditable under that subchapter; or 5 USC 8331.

(2) for purposes of subchapter I of chapter 81 of title 5, United States Code, unless the individual was employed by the Government at the time of his or her imprisonment. 5 USC 8101.

(c) No compensation or other benefit shall be awarded under this section unless a claim therefor is filed within 3 years after—

(1) the termination of the period of imprisonment giving rise to the claim, or

(2) the date of the claimant's first opportunity thereafter to file such a claim, as determined by the appropriate agency head.

(d) The Secretary of State may prescribe regulations governing payments under this section by all agencies and other Government establishments.

SEC. 411. TEMPORARY SERVICE AS PRINCIPAL OFFICER.—For such time (in excess of such minimum period as the Secretary of State may establish) as any member of the Service is temporarily in charge of a Foreign Service post during the absence or incapacity of the principal officer, that member shall receive, in addition to the basic salary paid to the member and notwithstanding sections 5535 and 5536 of title 5, United States Code, an amount equal to that portion (which the Salary. 22 USC 3971.

Secretary of State may determine to be appropriate) of the difference between such salary and the basic salary provided for the principal officer, or, if there is no principal officer, for the former principal officer.

22 USC 3972.

SEC. 412. SPECIAL DIFFERENTIALS.—(a) The Secretary may pay special differentials, in addition to compensation otherwise authorized, to Foreign Service officers who are required because of the nature of their assignments to perform additional work on a regular basis in substantial excess of normal requirements.

Submittal to congressional committees.

(b) Before implementing any proposal to limit either the number of Foreign Service officers who may receive a special differential under subsection (a) or the amounts of such special differentials, the Secretary shall submit such proposal to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

Compensatory time.
5 USC 5541.

(c) Nothing in this Act, or in subchapter V of chapter 55 of title 5, United States Code, shall preclude the granting of compensatory time off for Foreign Service officers.

22 USC 3973.

SEC. 413. DEATH GRATUITY.—(a) The Secretary may provide for payment of a gratuity to the surviving dependents of any Foreign Service employee, who dies as a result of injuries sustained in the performance of duty abroad, in an amount equal to one year's salary at the time of death. Any death gratuity payment made under this section shall be held to have been a gift and shall be in addition to any other benefit payable from any source.

(b) A death gratuity payment shall be made under this section only if the survivor entitled to payment under subsection (c) is entitled to elect monthly compensation under section 8133 of title 5, United States Code, because the death resulted from an injury (excluding a disease proximately caused by the employment) sustained in the performance of duty, without regard to whether such survivor elects to waive compensation under such section 8133.

(c) A death gratuity payment under this section shall be made as follows:

(1) First, to the widow or widower.

(2) Second, to the child, or children in equal shares, if there is no widow or widower.

(3) Third, to the dependent parent, or dependent parents in equal shares, if there is no widow, widower, or child.

If there is no survivor entitled to payment under this subsection, no payment shall be made.

Definitions.

(d) As used in this section—

(1) the term "Foreign Service employee" means any member of the Service or United States representative to an international organization or commission; and

(2) each of the terms "widow", "widower", "child", and "parent" shall have the same meaning given each such term by section 8101 of title 5, United States Code.

CHAPTER 5—CLASSIFICATION OF POSITIONS AND ASSIGNMENTS

22 USC 3981.

SEC. 501. CLASSIFICATION OF POSITIONS.—The Secretary shall designate and classify positions in the Department and at Foreign Service posts which are to be occupied by members of the Service (other than by chiefs of mission and ambassadors at large). Positions designated under this section are excepted from the competitive service. Position classifications under this section shall be established, without regard to chapter 51 of title 5, United States Code, in relation to the salaries

5 USC 5101 *et seq.*

established under chapter 4. In classifying positions at Foreign Service posts abroad, the Secretary shall give appropriate weight to job factors relating to service abroad and to the compensation practices applicable to United States citizens employed abroad by United States corporations. *Ante*, p. 2087.

SEC. 502. ASSIGNMENTS TO FOREIGN SERVICE POSITIONS.—(a)(1) The Secretary (with the concurrence of the agency concerned) may assign a member of the Service to any position classified under section 501 in which that member is eligible to serve (other than as chief of mission or ambassador at large), and may assign a member from one such position to another such position as the needs of the Service may require. 22 USC 3982.

(2) In making assignments under paragraph (1), the Secretary shall assure that a member of the Service is not assigned to a position at a post in a particular geographic area exclusively on the basis of the race, ethnicity, or religion of that member.

(b) Positions designated as Foreign Service positions normally shall be filled by the assignment of members of the Service to those positions. Subject to that limitation—

(1) Foreign Service positions may be filled by the assignment for specified tours of duty of employees of the Department and, under interagency agreements, employees of other agencies; and

(2) Senior Foreign Service positions may also be filled by other members of the Service.

(c) The President may assign a career member of the Service to serve as charge d'affaires or otherwise as the head of a mission (or as the head of a United States office abroad which is designated under section 102(a)(3) by the Secretary of State as diplomatic in nature) for such period as the public interest may require.

SEC. 503. ASSIGNMENTS TO AGENCIES, INTERNATIONAL ORGANIZATIONS, AND OTHER BODIES.—(a) The Secretary may (with the concurrence of the agency, organization, or other body concerned) assign a member of the Service for duty— 22 USC 3983.

(1) in a non-Foreign Service (including Senior Executive Service) position in the Department or another agency, or with an international organization, international commission, or other international body;

(2) with a domestic or international trade, labor, agricultural, scientific, or other conference, congress, or gathering;

(3) for special instruction, training, or orientation at or with a public or private organization; and

(4) in the United States (or in any territory or possession of the United States or in the Commonwealth of Puerto Rico), with a State or local government, a public or private nonprofit organization (including an educational institution), or a Member or office of the Congress.

(b)(1) The salary of a member of the Service assigned under this section shall be the higher of the salary which that member would receive but for the assignment under this section or the salary of the position to which that member is assigned.

(2) The salary of a member of the Service assigned under this section shall be paid from appropriations made available for the payment of salaries and expenses of the Service. Such appropriations may be reimbursed for all or any part of the costs of salaries and other benefits for members assigned under this section. Salary.

(3) A member of the Service assigned under subsection (a)(4) to a Member or office of the Congress shall be deemed to be an employee

of the House of Representatives or the Senate, as the case may be, for purposes of payment of travel and other expenses.

Duration limitation.

(c) Assignments under this section may not exceed four years of continuous service for any member of the Service unless the Secretary approves an extension of such period for that member because of special circumstances.

22 USC 3984.

SEC. 504. SERVICE IN THE UNITED STATES AND ABROAD.—(a) Career members of the Service shall be obligated to serve abroad and shall be expected to serve abroad for substantial portions of their careers. The Secretary shall establish by regulation limitations upon assignments of members of the Service within the United States. A member of the Service may not be assigned to duty within the United States for any period of continuous service exceeding eight years unless the Secretary approves an extension of such period for that member because of special circumstances.

(b) Consistent with the needs of the Service, the Secretary shall seek to assign each career member of the Service who is a citizen of the United States to duty within the United States at least once during each period of fifteen years that the member is in the Service.

Sabbatical.

(c) The Secretary may grant a sabbatical to a career member of the Senior Foreign Service for not to exceed eleven months in order to permit the member to engage in study or uncompensated work experience which will contribute to the development and effectiveness of the member. A sabbatical may be granted under this subsection under conditions specified by the Secretary in light of the provisions of section 3396(c) of title 5, United States Code, which apply to sabbaticals granted to members of the Senior Executive Service.

22 USC 3985.

SEC. 505. TEMPORARY DETAILS.—A period of duty of not more than six months in duration by a member of the Service shall be considered a temporary detail and shall not be considered an assignment within the meaning of this chapter.

CHAPTER 6—PROMOTION AND RETENTION

22 USC 4001.

SEC. 601. PROMOTIONS.—(a) Career members of the Senior Foreign Service are promoted by appointment under section 302(a) to a higher salary class in the Senior Foreign Service. Members of the Senior Foreign Service serving under career candidate appointments or noncareer appointments are promoted by appointment under section 303 to a higher salary class in the Senior Foreign Service. Foreign Service officers, and Foreign Service personnel who are assigned to a class in the Foreign Service Schedule, are promoted by appointment under section 302(a) as career members of the Senior Foreign Service or by assignment under section 404 to a higher salary class in the Foreign Service Schedule.

(b) Except as provided in section 606(a), promotions of—

(1) members of the Senior Foreign Service, and

(2) members of the Service assigned to a salary class in the Foreign Service Schedule (including promotions of such members into the Senior Foreign Service),

shall be based upon the recommendations and rankings of selection boards established under section 602, except that the Secretary may by regulation specify categories of career members, and categories of career candidates, assigned to salary classes in the Foreign Service Schedule who may receive promotions on the basis of satisfactory performance.

Senior Foreign Service, promotion and retention.

(c)(1) Promotions into the Senior Foreign Service shall be recommended by selection boards only from among career members of the Service assigned to class 1 in the Foreign Service Schedule who request that they be considered for promotion into the Senior Foreign Service. The Secretary shall prescribe the length of the period after such a request is made (within any applicable time in class limitation established under section 607(a)) during which such members may be considered by selection boards for entry into the Senior Foreign Service. A request by a member for consideration for promotion into the Senior Foreign Service under this subsection may be withdrawn by the member, but if it is withdrawn, that member may not thereafter request consideration for promotion into the Senior Foreign Service.

(2) Decisions by the Secretary on the numbers of individuals to be promoted into and retained in the Senior Foreign Service shall be based upon a systematic long-term projection of personnel flows and needs designed to provide—

(A) a regular, predictable flow of recruitment in the Service;

(B) effective career development patterns to meet the needs of the Service; and

(C) a regular, predictable flow of talent upward through the ranks and into the Senior Foreign Service.

(3) The affidavit requirements of sections 3332 and 3333(a) of title 5, United States Code, shall not apply with respect to a member of the Service who has previously complied with those requirements and who subsequently is promoted by appointment to any class in the Senior Foreign Service without a break in service.

Establishment. 22 USC 4002.

SEC. 602. SELECTION BOARDS.—(a) The Secretary shall establish selection boards to evaluate the performance of members of the Senior Foreign Service and members of the Service assigned to a salary class in the Foreign Service Schedule. Selection boards shall, in accordance with precepts prescribed by the Secretary, rank the members of a salary class on the basis of relative performance and may make recommendations for—

(1) promotions in accordance with section 601;

(2) awards of performance pay under section 405(c);

(3) denials of within-class step increases under section 406(a);

(4) offer or renewal of limited career extensions under section 607(b); and

(5) such other actions as the Secretary may prescribe by regulation.

(b) All selection boards established under this section shall include public members. The Secretary shall assure that a substantial number of women and members of minority groups are appointed to each selection board established under this section.

22 USC 4003.

SEC. 603. BASIS FOR SELECTION BOARD REVIEW.—(a) Recommendations and rankings by selection boards shall be based upon records of the character, ability, conduct, quality of work, industry, experience, dependability, usefulness, and general performance of members of the Service. Such records may include reports prepared by or on behalf of the Inspector General of the Department of State and the Foreign Service, performance evaluation reports of supervisors, records of commendations, reports of language test scores from the Foreign Service Institute, awards, reprimands, and other disciplinary actions, and (with respect to members of the Senior Foreign Service) records of current and prospective assignments.

(b) Precepts for selection boards shall include a description of the needs of the Service for performance requirements, skills, and quali-

ties, which are to be considered in recommendations for promotion. The precepts for selection boards responsible for recommending promotions into and within the Senior Foreign Service shall emphasize performance which demonstrates the strong policy formulation capabilities, executive leadership qualities, and highly developed functional and area expertise, which are required for the Senior Foreign Service.

22 USC 4004. SEC. 604. CONFIDENTIALITY OF RECORDS.—The records described in section 603(a) shall be maintained in accordance with regulations prescribed by the Secretary. Except to the extent that they pertain to the receipt, disbursement, and accounting for public funds, such records shall be confidential and subject to inspection only by the President, the Secretary, such employees of the Government as may be authorized by law or assigned by the Secretary to work on such records, the legislative and appropriations committees of the Congress charged with considering legislation and appropriations for the Service, and representatives duly authorized by such committees. Access to such records relating to a member of the Service shall be granted to such member, upon written request.

22 USC 4005. SEC. 605. IMPLEMENTATION OF SELECTION BOARD RECOMMENDATIONS.—(a) Recommendations for promotion made by selection boards shall be submitted to the Secretary in rank order by salary class or in rank order by specialization within a salary class. The Secretary shall make promotions and, with respect to career appointments into or within the Senior Foreign Service, shall make recommendations to the President for promotions, in accordance with the rankings of the selection boards.

(b) Notwithstanding subsection (a), in special circumstances set forth by regulation, the Secretary may remove the name of an individual from the rank order list submitted by a selection board or delay the promotion of an individual named in such a list.

22 USC 4006. SEC. 606. OTHER BASES FOR INCREASING PAY.—(a) The Secretary may pursuant to a recommendation of the Foreign Service Grievance Board, an equal employment opportunity appeals examiner, or the Special Counsel of the Merit Systems Protection Board, and shall pursuant to a decision or order of the Merit Systems Protection Board—

(1) recommend to the President a promotion of a member of the Service under section 302(a);

(2) promote a member of the Service under section 303;

(3) grant performance pay to a member of the Senior Foreign Service under section 405(c); or

(4) grant a within-class salary increase under section 406 to a member of the Service who is assigned to a salary class in the Foreign Service Schedule.

(b) In implementing subsection (a) of this section and in cases in which the Secretary has exercised the authority of section 605(b), the Secretary may, in special circumstances set forth by regulation, make retroactive promotions, grant performance pay, make retroactive within-class salary increases, and recommend retroactive promotions by the President.

22 USC 4007. SEC. 607. RETIREMENT FOR EXPIRATION OF TIME IN CLASS.—(a)(1) The Secretary shall, by regulation, establish maximum time in class limitations for—

(A) career members of the Senior Foreign Service,

(B) Foreign Service officers, and

(C) other career members of the Service who are in such occupational categories as may be designated by the Secretary

and who are assigned to salary classes in the Foreign Service Schedule to which Foreign Service officers may also be assigned.

(2) Maximum time in class limitations under this subsection (which may not be less than 3 years for career members of the Senior Foreign Service) may apply with respect to the time a member may remain in a single salary class or in a combination of salary classes.

Maximum time in class, increases or decreases.

(3) The Secretary may, by regulation, increase or decrease any maximum time in class established under this subsection as the needs of the Service may require. If maximum time in class is decreased, the Secretary shall provide any member of the Service who is in a category and salary class subject to the new time in class limitation an opportunity to remain in class (notwithstanding the new limitation) for a period which is at least as long as the shorter of—

(A) the period which the member would have been permitted to remain in class but for the decrease in maximum time in class, or

(B) such minimum period as the Secretary determines is necessary to provide members of the Service who are in the same category and salary class as that member a reasonable opportunity to be promoted into the next higher class or combination of classes, as the case may be.

Limited career extensions.

(b) Members of the Service whose maximum time in class under subsection (a) expires—

(1) after they have attained the highest salary class for their respective occupational categories, or

(2) in the case of members of the Senior Foreign Service, while they are in salary classes designated by the Secretary,

may continue to serve only under limited extensions of their career appointments. Such limited extensions may not exceed 5 years in duration and may be granted and renewed by the Secretary in accordance with the recommendations of selection boards established under section 602. Members of the Service serving under such limited career extensions shall continue to be career members of the Service.

Retirement.

(c) Any member of the Service—

(1) whose maximum time in class under subsection (a) expires and who is not promoted to a higher class or combination of classes, as the case may be, or

(2) whose limited career extension under subsection (b) expires and is not renewed,

shall be retired from the Service and receive benefits in accordance with section 609, subject to any career extension under subsection (d) of this section.

Extension provisions.

(d) Notwithstanding any other provision of this section—

(1) the career appointment of a member of the Service whose maximum time in class under subsection (a) expires, or whose limited career extension under subsection (b) expires, while that member is occupying a position to which he or she was appointed by the President, by and with the advice and consent of the Senate, shall be extended until the appointment to that position is terminated; and

(2) if the Secretary determines it to be in the public interest, the Secretary may extend temporarily the career appointment of a career member of the Service whose maximum time in class or limited career extension expires, but in no case may any extension under this paragraph exceed one year and such extensions may be granted only in special circumstances.

Performance standards, *regulations.* 22 USC 4008.

SEC. 608. RETIREMENT BASED ON RELATIVE PERFORMANCE.—(a) The Secretary shall prescribe regulations concerning the standards of performance to be met by career members of the Service who are

Administrative review.

citizens of the United States. Whenever a selection board review indicates that the performance of such a career member of the Service may not meet the standards of performance for his or her class, the Secretary shall provide for administrative review of the performance of the member. The review shall include an opportunity for the member to be heard.

(b) In any case where the administrative review conducted under subsection (a) substantiates that a career member of the Service has failed to meet the standards of performance for his or her class, the member shall be retired from the Service and receive benefits in accordance with section 609.

22 USC 4009.

SEC. 609. RETIREMENT BENEFITS.—(a) A member of the Service—

(1) who is retired under section 607(c)(2); or

(2) who is retired under section 607(c)(1) or 608(b)—

(A) after becoming eligible for voluntary retirement under section 811, or

(B) from the Senior Foreign Service or while assigned to class 1 in the Foreign Service Schedule,

shall receive retirement benefits in accordance with section 806.

(b) Any member of the Service (other than a member to whom subsection (a) applies) who is retired under section 607(c)(1) or 608(b) shall receive—

(1) one-twelfth of a year's salary at his or her then current salary rate for each year of service and proportionately for a fraction of a year, but not exceeding a total of one year's salary at his or her then current salary rate, payable without interest from the Foreign Service Retirement and Disability Fund in 3 equal installments, such installments to be paid on January 1 of each of the first 3 calendar years beginning after the retirement of the member (except that in special cases, the Secretary of State may accelerate or combine such installments); and

(2) a refund as provided in section 815 of the contributions made by the member to the Foreign Service Retirement and Disability Fund, except that in lieu of such refund a member who has at least 5 years of service credit toward retirement under the Foreign Service Retirement and Disability System (excluding military and naval service) may elect to receive an annuity, computed under section 806, commencing at age 60.

In the event that a member of the Service has elected to receive retirement benefits under paragraph (2) and dies before reaching age 60, his or her death shall be considered a death in service within the meaning of section 809.

22 USC 4010.

SEC. 610. SEPARATION FOR CAUSE.—(a)(1) The Secretary may separate any member from the Service for such cause as will promote the efficiency of the Service.

Hearing.

(2) A member of the Service who is a member of the Senior Foreign Service or is assigned to a salary class in the Foreign Service Schedule and who either (A) is serving under a career appointment, or (B) if separation is to be by reason of misconduct, is serving under a limited appointment, shall not be separated from the Service under this section until the member has been granted a hearing before the Foreign Service Grievance Board and the cause for separation established at such hearing, unless the member waives in writing the right to a hearing. The hearing provided under this paragraph shall be in accordance with the hearing procedures applicable to grievances under section 1106 and shall be in lieu of any other administrative procedure authorized or required by this or any other law.

Ante, p. 2145.

(b) Any participant in the Foreign Service Retirement and Disability System who is separated under subsection (a) shall be entitled to receive a refund as provided in section 815 of the contributions made by the participant to the Foreign Service Retirement and Disability Fund. Except in cases where the Secretary determines that separation was based in whole or in part on the ground of disloyalty to the United States, a participant who has at least 5 years of service credit toward retirement under the Foreign Service Retirement and Disability System (excluding military and naval service) may elect, in lieu of such refund, to an annuity, computed under section 806, commencing at age 60. Refund or annuity election.

SEC. 611. TERMINATION OF LIMITED APPOINTMENTS.—Except as provided in section 610(a)(2), the Secretary may terminate at any time the appointment of any member of the Service serving under a limited appointment who is in the Senior Foreign Service, who is assigned to a salary class in the Foreign Service Schedule, or who is a family member of a Government employee serving under a local compensation plan established under section 408. 22 USC 4011.

SEC. 612. TERMINATION OF APPOINTMENTS OF CONSULAR AGENTS AND FOREIGN NATIONAL EMPLOYEES.—(a) The Secretary of State may terminate at any time the appointment of any consular agent in light of the criteria and procedures normally followed in the locality in similar circumstances. 22 USC 4012.

(b) The Secretary may terminate at any time the appointment of any foreign national employee in light of the criteria and procedures normally followed in the locality in similar circumstances.

SEC. 613. FOREIGN SERVICE AWARDS.—The President shall establish a system of awards to confer appropriate recognition of outstanding contributions to the Nation by members of the Service. The awards system established under this section shall provide for presentation by the President and by the Secretary of medals or other suitable commendations for performance in the course of or beyond the call of duty which involves distinguished, meritorious service to the Nation, including extraordinary valor in the face of danger to life or health. Establishment. 22 USC 4013.

CHAPTER 7—FOREIGN SERVICE INSTITUTE, CAREER DEVELOPMENT, TRAINING, AND ORIENTATION

SEC. 701. FOREIGN SERVICE INSTITUTE.—(a) The Secretary of State shall maintain and operate the Foreign Service Institute (hereinafter in this chapter referred to as the "Institute"), originally established under section 701 of the Foreign Service Act of 1946, in order to promote career development within the Service and to provide necessary training and instruction in the field of foreign relations to members of the Service and to employees of the Department and of other agencies. The Institute shall be headed by a Director, who shall be appointed by the Secretary of State. 22 USC 4021. 22 USC 1041.

(b) To the extent practicable, the Secretary of State shall provide training under this chapter which meets the needs of all agencies, and other agencies shall avoid duplicating the facilities and training provided by the Secretary of State through the Institute and otherwise.

SEC. 702. FOREIGN LANGUAGE REQUIREMENTS.—(a) The Secretary shall establish foreign language proficiency requirements for members of the Service who are to be assigned abroad in order that Foreign Service posts abroad will be staffed by individuals having a useful knowledge of the language or dialect common to the country in which the post is located. 22 USC 4022.

(b) The Secretary of State shall arrange for appropriate language training of members of the Service by the Institute or otherwise in order to assist in meeting the requirements established under subsection (a).

Program establishment. 22 USC 4023.

SEC. 703. CAREER DEVELOPMENT.—(a) The Secretary shall establish a professional development program to assure that members of the Service obtain the skills and knowledge required at the various stages of their careers. With regard to Foreign Service officers, primary attention shall be given to training for career candidate officers and for midcareer officers, both after achieving tenure and as they approach eligibility for entry to the Senior Foreign Service, to enhance and broaden their qualifications for more senior levels of responsibility in the Service. Training for other members of the Service shall emphasize programs designed to enhance their particular skills and expert knowledge, including development of the management skills appropriate to their occupational categories.

(b) Junior Foreign Service officer training shall be directed primarily toward providing expert knowledge in the basic functions of analysis and reporting as well as in consular, administrative, and linguistic skills relevant to the full range of future job assignments. Midcareer training shall be directed primarily toward development and perfection of management, functional, negotiating, and policy development skills to prepare the officers progressively for more senior levels of responsibility.

(c) At each stage the program of professional development should be designed to provide members of the Service with the opportunity to acquire skills and knowledge relevant to clearly established professional standards of expected performance. Career candidates should satisfactorily complete candidate training prior to attainment of career status. Members of the Service should satisfactorily complete midcareer training before appointment to the Senior Foreign Service.

University degree credit.

(d) In formulating programs under this section, the Secretary should establish a system to provide, insofar as possible, credit toward university degrees for successful completion of courses comparable to graduate-level, university courses.

(e) Training provided under this section shall be conducted by the Department and by other governmental and nongovernmental institutions as the Secretary may consider appropriate.

Report to Congress and President.

(f) The Secretary of State shall report annually to the Congress and the President on the status of the professional development program and the resources needed and made available to achieve it. The first such report, to be submitted 90 days after the effective date of this Act, shall set out the resources required to initiate successfully the program established pursuant to this section.

22 USC 4024.

SEC. 704. TRAINING AUTHORITIES.—(a) In the exercise of functions under this chapter, the Secretary of State may—

(1) provide for the general nature of the training and instruction to be furnished by the Institute, including functional and geographic area specializations;

(2) correlate training and instruction furnished by the Institute with courses given at other Government institutions and at private institutions which furnish training and instruction useful in the field of foreign affairs;

(3) encourage and foster programs complementary to those furnished by the Institute, including through grants and other gratuitous assistance to nonprofit institutions cooperating in any of the programs under this chapter;

(4)(A) employ in accordance with the civil service laws such personnel as may be necessary to carry out the provisions of this chapter, and

(B) if and to the extent determined to be necessary by the Secretary of State, obtain without regard to the provisions of law governing appointments in the competitive service, by appointment or contract (subject to the availability of appropriations), the services of individuals to serve as language instructors, linguists, and other academic and training specialists (including, in the absence of suitably qualified United States citizens, qualified individuals who are not citizens of the United States); and

(5) acquire such real and personal property and equipment as may be necessary for the establishment, maintenance, and operation of the facilities necessary to carry out the provisions of this chapter without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5) and section 302 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252).

(b) In furtherance of the objectives of this Act, the Secretary may—

(1) pay the tuition and other expenses of members of the Service and employees of the Department who are assigned or detailed in accordance with law for special instruction or training, including orientation, language, and career development training;

(2) pay the salary (excluding premium pay or any special differential under section 411) of members of the Service selected and assigned for training; and

(3) provide special monetary or other incentives to encourage members of the Service to acquire or retain proficiency in foreign languages or special abilities needed in the Service.

Orientation and training for family members.

(c) The Secretary may provide to family members of members of the Service or of employees of the Department or other agencies, in anticipation of their assignment abroad or while abroad—

(1) appropriate orientation and language training; and

(2) functional training for anticipated prospective employment under section 311.

22 USC 4025.

SEC. 705. TRAINING GRANTS.—(a) To facilitate training provided to members of families of Government employees under this chapter, the Secretary may make grants (by advance payment or by reimbursement) to family members attending approved programs of study. No such grant may exceed the amount actually expended for necessary costs incurred in conjunction with such attendance.

Language training, compensation.

(b) If a member of the Service who is assigned abroad, or a member of his or her family, is unable to participate in language training furnished by the Government through the Institute or otherwise, the Secretary may compensate that individual for all or part of the costs of language training, related to the assignment abroad, which is undertaken at a public or private institution.

22 USC 4026.

SEC. 706. CAREER COUNSELING.—(a) In order to facilitate their transition from the Service, the Secretary may provide (by contract or otherwise, subject to the availability of appropriations) professional career counseling, advice, and placement assistance to members of the Service, and to former members of the Service who were assigned to receive counseling and assistance under this subsection before they were separated from the Service, other than those separated for cause.

Employment of spouses.

(b)(1) The Secretary may facilitate the employment of spouses of members of the Service by—

(A) providing regular career counseling for such spouses;

(B) maintaining a centralized system for cataloging their skills and the various governmental and nongovernmental employment opportunities available to them; and

(C) otherwise assisting them in obtaining employment.

Family liaison office, establishment.

(2) The Secretary shall establish a family liaison office to carry out this subsection and such other functions as the Secretary may determine.

CHAPTER 8—FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM

22 USC 4041.

SEC. 801. ADMINISTRATION OF THE SYSTEM.—In accordance with such regulations as the President may prescribe, the Secretary of State shall administer the Foreign Service Retirement and Disability System (hereinafter in this chapter referred to as the "System"), originally established pursuant to section 18 of the Act of May 24, 1924 (43 Stat. 144).

22 USC 21.

22 USC 4042.

SEC. 802. MAINTENANCE OF THE FUND.—The Secretary of the Treasury shall maintain the special fund known as the Foreign Service Retirement and Disability Fund (hereinafter in this chapter referred to as the "Fund"), originally created by section 18 of the Act of May 24, 1924 (43 Stat. 144).

22 USC 21.

22 USC 4043.

SEC. 803. PARTICIPANTS.—(a) The following members of the Service (hereinafter in this chapter referred to as "participants") shall be entitled to the benefits of the System:

(1) Every member who is serving under a career appointment or as a career candidate under section 306—

(A) in the Senior Foreign Service, or

(B) assigned to a salary class in the Foreign Service Schedule.

(2) Every chief of mission, who is not a participant under paragraph (1), who—

(A) has served as chief of mission for an aggregate period of 20 years or more, and

(B) has paid into the Fund a special contribution for each year of such service in accordance with section 805.

(b) Any otherwise eligible member of the Service who is appointed to a position in the executive branch by the President, by and with the advice and consent of the Senate, or by the President alone, shall not by virtue of the acceptance of such appointment cease to be eligible to participate in the System.

Binational Center Grantee, eligibility.

(c) In addition to the individuals who are participants in the System under subsection (a), any individual who was appointed as a Binational Center Grantee and who completed at least 5 years of satisfactory service as such a grantee or under any other appointment under the Foreign Service Act of 1946 may become a participant in the System, and shall receive credit for such service if an appropriate special contribution is made to the Fund in accordance with section 805(d) or (f).

22 USC 801 note.

22 USC 4044.

SEC. 804. DEFINITIONS.—As used in this chapter, unless otherwise specified, the term—

(1) "annuitant" means any individual, including a former participant or survivor, who meets all requirements for an annuity from the Fund under this or any other Act and who has filed a claim for such annuity;

(2) "child" means an individual—

(A) who—

(i) is an offspring or adopted child of the participant,

(ii) is a stepchild or recognized natural child of the participant and who received more than one-half support from the participant, or

(iii) lived with the participant, for whom a petition of adoption was filed by the participant, and who is adopted by the surviving spouse of the participant after the death of the participant;

(B) who is unmarried; and

(C) who—

(i) is under the age of 18 years,

(ii) is a student under the age of 22 years (for purposes of this clause, an individual whose 22d birthday occurs before July 1 or after August 31 of the calendar year in which that birthday occurs, and while the individual is a student, is deemed to become 22 years of age on the first July 1 which occurs after that birthday), or

(iii) is incapable of self-support because of a physical or mental disability which was incurred before the individual reached the age of 18 years;

(3) "court" means any court of any State or of the District of Columbia;

(4) "court order" means any court decree of divorce or annulment, or any court order or court approved property settlement agreement incident to any court decree of divorce or annulment;

(5) "Foreign Service normal cost" means the level percentage of payroll required to be deposited in the Fund to meet the cost of benefits payable under the System (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for Government employees and less the cost of credit allowed for military and naval service;

(6) "former spouse" means a former wife or husband of a participant or former participant who was married to such participant for not less than 10 years during periods of service by that participant which are creditable under section 816;

(7) "Fund balance" means the sum of—

(A) the investments of the Fund calculated at par value, plus

(B) the cash balance of the Fund on the books of the Treasury;

(8) "lump-sum credit" means the compulsory and special contributions to the credit of a participant or former participant in the Fund plus interest on such contributions at 4 percent a year compounded annually to December 31, 1976, and after such date, for a participant who separates from the Service after completing at least 1 year of civilian service and before completing 5 years of such service, at the rate of 3 percent per year to the date of separation (except that interest shall not be paid for a fractional part of a month in the total service or on compulsory and special contributions from an annuitant for recall service or other service performed after the date of separation which forms the basis for annuity);

(9) "military and naval service" means honorable active service—

(A) in the Armed Forces of the United States,

(B) in the Regular or Reserve Corps of the Public Health Service after June 30, 1960, or

(C) as a commissioned officer of the National Oceanic and Atmospheric Administration, or a predecessor organization, after June 30, 1961,

but does not include service in the National Guard except when ordered to active duty in the service of the United States;

(10) "pro rata share", in the case of any former spouse of any participant or former participant, means a percentage which is equal to the percentage that (A) the number of years during which the former spouse was married to the participant during the creditable service of that participant is of (B) the total number of years of such creditable service;

(11) "spousal agreement" means any written agreement between—

(A) a participant or former participant; and

(B) his or her spouse or former spouse;

(12) "student" means a child regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution (for purposes of this paragraph, a child who is a student shall not be deemed to have ceased to be a student during any period between school years, semesters, or terms if the period of nonattendance does not exceed 5 calendar months and if the child shows to the satisfaction of the Secretary of State that he or she has a bona fide intention of continuing to pursue his or her course of study during the school year, semester, or term immediately following such period);

(13) "surviving spouse" means the surviving wife or husband of a participant or annuitant who, in the case of a death in service or marriage after retirement, was married to the participant or annuitant for at least one year immediately preceding his or her death or is a parent of a child born of the marriage; and

(14) "unfunded liability" means the estimated excess of the present value of all benefits payable from the Fund over the sum of—

(A) the present value of deductions to be withheld from the future basic salary of participants and of future agency contributions to be made on their behalf, plus

(B) the present value of Government payments to the Fund under section 821, plus

(C) the Fund balance as of the date the unfunded liability is determined.

22 USC 4045.

SEC. 805. CONTRIBUTIONS TO THE FUND.—(a) 7 percent of the basic salary received by each participant shall be deducted from the salary and contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amounts deducted and withheld from basic salary and the amounts contributed by the Department.

Salary deductions, consent.

(b) Each participant shall be deemed to consent and agree to such deductions from basic salary. Payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services during the period covered by such payment, except the right to the benefits to which

the participant shall be entitled under this Act, notwithstanding any law, rule, or regulation affecting the salary of the individual.

(c)(1) If a member of the Service who is under another retirement system for Government employees becomes a participant in the System by direct transfer, the total contributions and deposits of that member that would otherwise be refundable on separation (except voluntary contributions), including interest thereon, shall be transferred to the Fund effective as of the date such member becomes a participant in the System. Each such member shall be deemed to consent to the transfer of such funds, and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered by such member prior to becoming a participant in the System. Transfer of funds.

(2) A member of the Service whose contributions are transferred to the Fund pursuant to paragraph (1) shall not be required to make additional contributions for periods of service for which required contributions were made to the other Government retirement fund; nor shall any refund be made to any such member on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed by subsection (d).

(d)(1) Any participant credited with civilian service after July 1, 1924— Special contributions.

(A) for which no retirement contributions, deductions, or deposits have been made, or

(B) for which a refund of such contributions, deductions, or deposits has been made which has not been redeposited,

may make a special contribution to the Fund equal to the following percentages of basic salary received for such service:

Time of service:	Percent of basic salary
July 1, 1924, through October 15, 1960, inclusive	5
October 16, 1960, through December 31, 1969, inclusive	6½
On and after January 1, 1970	7

(2) Notwithstanding paragraph (1), a special contribution for prior nondeposit service as a National Guard technician which would be creditable toward retirement under subchapter III of chapter 83 of title 5, United States Code, and for which a special contribution has not been made, shall be equal to the special contribution for such service computed in accordance with the schedule in paragraph (1) multiplied by the percentage of such service that is creditable under section 816. 5 USC 8331.

(3) Special contributions under this subsection shall include interest computed from the midpoint of each service period included in the computation, or from the date refund was paid, to the date of payment of the special contribution or commencing date of annuity, whichever is earlier. Interest shall be compounded at the annual rate of 4 percent to December 31, 1976, and 3 percent thereafter. No interest shall be charged on special contributions for any period of separation from Government service which began before October 1, 1956. Special contributions may be paid in installments (including by allotment of pay) when authorized by the Secretary of State. Interest.

(e) Contributions shall not be required for any period of military and naval service or for any period for which credit is allowed to individuals of Japanese ancestry under section 816 for periods of internment during World War II. Military and naval service, exemption.

(f) A participant or survivor may make a special contribution at any time before receipt of annuity and may authorize payment by offset against initial annuity accruals.

22 USC 4046.

SEC. 806. COMPUTATION OF ANNUITIES.—(a) The annuity of a participant shall be equal to 2 percent of his or her average basic salary for the highest 3 consecutive years of service multiplied by the number of years, not exceeding 35, of service credit obtained in accordance with sections 816 and 817, except that the highest 3 years of service shall be used in computing the annuity of any participant who serves an assignment in a position, as described in section 302(b), to which the participant was appointed by the President and whose continuity of service in that position is interrupted prior to retirement by appointment or assignment to any other position determined by the Secretary of State to be of comparable importance. In determining the aggregate period of service upon which the annuity is to be based, the fractional part of a month, if any, shall not be counted. The annuity shall be reduced by 10 percent of any special contribution described in section 805(d) which is due for service for which no contributions were made and which remains unpaid unless the participant elects to eliminate the service involved for purposes of annuity computation.

(b)(1)(A) Except to the extent provided otherwise under a written election under subparagraph (B) or (C), if at the time of retirement a participant or former participant is married (or has a former spouse who has not remarried before attaining age 60), the participant shall receive a reduced annuity and provide a survivor annuity for his or her spouse under this subsection or former spouse under section 814(b), or a combination of such annuities, as the case may be.

(B) At the time of retirement, a married participant or former participant and his or her spouse may jointly elect in writing to waive a survivor annuity for that spouse under this section (or under section 814(b) if the spouse later qualifies as a former spouse under section 804(6)), or to reduce such survivor annuity under this section (or section 814(b)) by designating a portion of the annuity of the participant as the base for the survivor benefit. In the event the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 814(b) may not exceed the portion of the participant's annuity designated under this subparagraph.

Waiver.

(C) If a participant or former participant has a former spouse, the participant and such former spouse may jointly elect by spousal agreement under section 820(b)(1) to waive a survivor annuity under section 814(b) for that former spouse if the election is made (i) before the end of the 12-month period after the divorce or annulment involving that former spouse becomes final or (ii) at the time of retirement, whichever occurs first.

(D) The Secretary of State may prescribe regulations under which a participant or former participant may make an election under subparagraph (B) or (C) without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Secretary of State that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

(2) The annuity of a participant or former participant providing a survivor benefit under this section (or section 814(b)), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by 2½ percent of the first $3,600 plus 10 percent of any amount over $3,600. The reduction under this

paragraph shall be calculated before any reduction under section 814(a)(5).

(3)(A) If a former participant entitled to receive a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse equal to 55 percent of the full amount of the participant's annuity computed under subsection (a), or 55 percent of any lesser amount elected as the base for the survivor benefit under paragraph (1)(B).

(B) Notwithstanding subparagraph (A), the amount of the annuity calculated under subparagraph (A) for a surviving spouse in any case in which there is also a surviving former spouse of the participant who qualifies for an annuity under section 814(b) may not exceed 55 percent of the portion (if any) of the base for survivor benefits which remains available under section 814(b)(4)(B).

(C) An annuity payable from the Fund to a surviving spouse under this paragraph shall commence on the day after the participant dies and shall terminate on the last day of the month before the surviving spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is terminated if any lump sum paid upon termination of the annuity is returned to the Fund.

Children's annuity benefits.

(c)(1) If an annuitant who was a participant dies and is survived by a spouse and by a child or children, in addition to the annuity payable to the surviving spouse, there shall be paid to or on behalf of each child an annuity equal to the smaller of—

(A) $900, or

(B) $2,700 divided by the number of children.

(2) If an annuitant who was a participant dies and is not survived by a spouse but by a child or children, each surviving child shall be paid an annuity equal to the smaller of—

(A) $1,080, or

(B) $3,240 divided by the number of children.

(3) The amounts specified in this subsection are subject to—

(A) cost-of-living adjustments as specified under section 826(c)(3), and

(B) the minimum specified in subsection (l)(2) of this section.

Children's annuities, recomputation.

(d) If a surviving spouse dies or the annuity of a child is terminated, the annuities of any remaining children shall be recomputed and paid as though such spouse or child had not survived the participant. If the annuity to a surviving child who has not been receiving an annuity is initiated or resumed, the annuities of any other children shall be recomputed and paid from that date as though the annuities to all currently eligible children in the family were then being initiated.

(e) The annuity payable to a child under subsection (c) or (d) shall begin on the day after the participant dies, or if the child is not then qualified, on the first day of the month in which the child becomes eligible. The annuity of a child shall terminate on the last day of the month which precedes the month in which eligibility ceases.

Unmarried participants, reduced annuity option.

(f) At the time of retirement an unmarried participant who does not have a former spouse for whose benefit a reduction is made under subsection (b) may elect to receive a reduced annuity and to provide for an annuity equal to 55 percent of the reduced annuity payable after his or her death to a beneficiary whose name is designated in writing to the Secretary of State. The annuity payable to a participant making such election shall be reduced by 10 percent of an annuity computed under subsection (a) and by 5 percent of an

annuity so computed for each full 5 years the designated beneficiary is younger than the retiring participant, but such total reduction shall not exceed 40 percent. No such election of a reduced annuity payable to a beneficiary shall be valid until the participant has satisfactorily passed a physical examination as prescribed by the Secretary of State. The annuity payable to a beneficiary under this subsection shall begin on the day after the annuitant dies and shall terminate on the last day of the month preceding the death of the beneficiary. An annuity which is reduced under this subsection (or any similar prior provision of law) shall, effective the first day of the month following the death of the beneficiary named under this subsection, be recomputed and paid as if the annuity had not been so reduced.

Physical examination.

(g) A participant or former participant who was unmarried at retirement and who later marries may, within one year after such marriage, irrevocably elect in writing to receive a reduced annuity and to provide a survivor annuity for the spouse (if such spouse qualifies as a surviving spouse under section 804(13)). Receipt by the Secretary of State of notice of an election under this subsection voids prospectively any election previously made under subsection (f). The reduction in annuity required by an election under this subsection shall be computed and the amount of the survivor annuity shall be determined in accordance with subsections (b) (2) and (3). The annuity reduction or recomputation shall be effective the first day of the month beginning one year after the date of marriage.

(h) A surviving spouse or surviving former spouse of any participant or former participant shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the Fund unless the survivor elects to receive it instead of any other survivor annuity to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than that participant.

(i)(1) Any married annuitant who reverts to retired status with entitlement to a supplemental annuity under section 823 shall, unless the annuitant and his or her spouse jointly elect in writing to the contrary at that time, have the supplemental annuity reduced by 10 percent to provide a supplemental survivor annuity for his or her spouse. Such supplemental survivor annuity shall be equal to 55 percent of the supplemental annuity of the annuitant and shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or whom the annuitant subsequently married.

Regulations.

(2) The Secretary of State shall issue regulations to provide for the application of paragraph (1) of this subsection and of section 823 in any case in which an annuitant has a former spouse who was married to the participant at any time during a period of recall service and who qualifies for an annuity under section 814(b).

(j) An annuity which is reduced under this section or any similar prior provision of law to provide a survivor benefit for a spouse shall, if the marriage of the participant to such spouse is dissolved, be recomputed and paid for each full month during which an annuitant is not married (or is remarried if there is no election in effect under the following sentence) as if the annuity had not been so reduced, subject to any reduction required to provide a survivor benefit under section 814 (b) or (c). Upon remarriage the retired participant may irrevocably elect, by means of a signed writing received by the Secretary within one year after such remarriage, to receive during such marriage a reduction in annuity for the purpose of allowing an

annuity for the new spouse of the annuitant in the event such spouse survives the annuitant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 814(b)(5)), and shall be effective the first day of the first month beginning one year after the date of remarriage. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity under subsection (b).

(k) The Secretary of State shall, on an annual basis—

(1) inform each participant of his or her right of election under subsections (g) and (j); and

(2) to the maximum extent practicable, inform spouses or former spouses of participants or former participants of their rights under this section and section 814.

Minimum annuity rate.

(l)(1) The monthly rate of an annuity payable under this chapter to an annuitant, other than a child, shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act (42 U.S.C. 401 et seq.).

(2) The monthly rate of an annuity payable under this chapter to a surviving child shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act (42 U.S.C. 401 et seq.) or three times such primary insurance amount divided by the number of surviving children entitled to an annuity, whichever is the lesser.

(3) This subsection does not apply to an annuitant or to a survivor who is or becomes entitled to receive from the United States an annuity or retired pay under any other civilian or military retirement system, benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.), a pension, veterans' compensation, or any other periodic payment of a similar nature, when the monthly rate thereof is equal to or greater than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act (42 U.S.C. 401 et seq.).

(4) This subsection shall not apply to the extent provided in section 814(d).

22 USC 4047.

SEC. 807. PAYMENT OF ANNUITY.—(a) Except as otherwise provided, the annuity of a former participant who has met the eligibility requirements for an annuity shall commence on the day after separation from the Service or on the day after pay ceases. The annuity of a former participant who is entitled to a deferred annuity under this Act shall become effective on the day he or she attains age 60.

Application for benefits.

(b) The annuity to a survivor shall become effective as otherwise specified but shall not be paid until the survivor submits an application for such annuity, supported by such proof of eligibility as the Secretary of State may require. If such application or proof of eligibility is not submitted during the lifetime of an otherwise eligible individual, no annuity shall be due or payable to his or her estate.

Waiver.

(c) An individual entitled to annuity from the Fund may decline to accept all or any part of the annuity by submitting a signed waiver to the Secretary of State. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver was in effect.

Overpayments.

(d) Recovery of overpayments under this chapter may not be made from an individual when, in the judgment of the Secretary of State,

the individual is without fault and recovery would be against equity and good conscience or administratively infeasible.

22 USC 4048.

SEC. 808. RETIREMENT FOR DISABILITY OR INCAPACITY.—(a) Any participant who has at least 5 years of service credit toward retirement under the System (excluding military and naval service) and who becomes totally disabled or incapacitated for useful and efficient service by reason of disease, illness, or injury (not due to vicious habits, intemperance, or willful conduct of the participant) shall, upon his or her own application or upon order of the Secretary, be retired on an annuity computed as prescribed in section 806. If the disabled or incapacitated participant has less than 20 years of service credit toward retirement under the System at the time of retirement, his or her annuity shall be computed on the assumption that the participant has had 20 years of service, except that the additional service credit that may accrue to a participant under this sentence shall in no case exceed the difference between his or her age at the time of retirement and age 65.

Physical examination.

(b) Before being retired under this section, the participant shall be given a physical examination by one or more duly qualified physicians or surgeons designated by the Secretary of State to conduct examinations. Disability or incapacity shall be determined by the Secretary of State on the basis of the advice of such physicians or surgeons. Unless the disability or incapacity is permanent, like examinations shall be made annually until the annuitant has attained age 65. If the Secretary of State determines on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that he or she can return to duty, the annuitant may apply for reinstatement or reappointment in the Service within 1 year from the date recovery is determined. Upon application, the Secretary shall reinstate such recovered annuitant in the class in which the annuitant was serving at time of retirement, or the Secretary may, taking into consideration the age, qualifications, and experience of such annuitant, and the present class of his or her contemporaries in the Service, appoint or recommend that the President appoint the annuitant to a higher class. Payment of the annuity shall continue until a date 6 months after the date of the examination showing recovery or until the date of reinstatement or reappointment in the Service, whichever is earlier. Fees for examinations under this section, together with reasonable traveling and other expenses incurred in order to submit to examination, shall be paid out of the Fund. If the annuitant fails to submit to examination as required under this subsection, payment of the annuity shall be suspended until continuance of the disability or incapacity is satisfactorily established.

Reinstatement or reappointment.

Annuity suspension.

Recovered annuitant, service separation.

(c) If a recovered annuitant whose annuity is discontinued is for any reason not reinstated or reappointed in the Service, he or she shall be considered to have been separated within the meaning of section 810 as of the date of retirement for disability or incapacity and shall, after the discontinuance of the annuity, be entitled to the benefits of that section or of section 815, except that he or she may elect voluntary retirement if eligible under section 811.

Injury and compensation. 5 USC 8101.

(d) No participant shall be entitled to receive an annuity under this Act and compensation for injury or disability to himself or herself under subchapter I of chapter 81 of title 5, United States Code, covering the same period of time, except that a participant may simultaneously receive both an annuity under this section and scheduled disability payments under section 8107 of title 5, United

States Code. This subsection shall not bar the right of any claimant to the greater benefit conferred by either this Act or such subchapter for any part of the same period of time. Neither this subsection nor any provision of such subchapter shall be construed to deny the right of any participant to receive an annuity under this Act and to receive concurrently any payment under such subchapter by reason of the death of any other individual.

(e) Notwithstanding any other law, the right of any individual entitled to an annuity under this Act shall not be affected because such person has received an award of compensation in a lump sum under section 8135 of title 5, United States Code, except that where such annuity is payable on account of the same disability for which compensation under such section has been paid, so much of such compensation as has been paid for any period extended beyond the date such annuity becomes effective, as determined by the Secretary of Labor, shall be refunded to the Department of Labor, to be paid into the Federal Employees' Compensation Fund. Before such individual receives such annuity, he or she shall—

(1) refund to the Department of Labor the amount representing such commuted payments for such extended period, or

(2) authorize the deduction of such amount from the annuity payable under this Act, which amount shall be transmitted to the Department of Labor for reimbursement to such Fund.

Deductions from such annuity may be made from accrued and accruing payments, or may be prorated against and paid from accruing payments in such manner as the Secretary of Labor shall determine, whenever the Secretary of Labor finds that the financial circumstances of the annuitant warrant deferred refunding. Deductions.

(f) A claim may be allowed under this section only if the application is filed with the Secretary of State before the participant is separated from the Service or within one year thereafter. This time limitation may be waived by the Secretary of State for a participant who at the date of separation from the Service or within one year thereafter is mentally incompetent, if the application is filed with the Secretary of State within one year from the date of restoration of the participant to competency or the appointment of a fiduciary, whichever is earlier. Claim. Waiver.

SEC. 809. DEATH IN SERVICE.—(a) If a participant dies and no claim for annuity is payable under this Act, the lump-sum credit shall be paid in accordance with section 815. 22 USC 4049.

(b) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is survived by a spouse or former spouse qualifying for an annuity under section 814(b), such surviving spouse shall be entitled to an annuity equal to 55 percent of the annuity computed in accordance with subsections (e) and (g) of this section and section 806(a) and any surviving former spouse shall be entitled to an annuity under section 814(b) as if the participant died after being entitled to an annuity under this chapter. If the participant had less than 3 years creditable civilian service at the time of death, the survivor annuity shall be computed on the basis of the average salary for the entire period of such service. Survivor annuities.

(c) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or other separation from the Service and is survived by a spouse and a child or children, each surviving child shall be entitled to an annuity computed in accordance with subsections (c)(1) and (d) of section 806.

(d) If a participant who has at least 18 months of civilian service credit toward retirement under the System dies before retirement or

other separation from the Service and is not survived by a spouse, but by a child or children, each surviving child shall be entitled to an annuity computed in accordance with subsections (c)(2) and (d) of section 806.

20-year service credit.

(e) If, at the time of his or her death, the participant had less than 20 years of service credit toward retirement under the System, the annuity payable in accordance with subsection (b) shall be computed in accordance with section 806 on the assumption he or she has had 20 years of service, except that the additional service credit that may accrue to a deceased participant under this subsection shall in no case exceed the difference between his or her age on the date of death and age 65. In all cases arising under this subsection or subsection (b), (c), (d), or (g), it shall be assumed that the deceased participant was qualified for retirement on the date of death.

(f) If an annuitant entitled to a reduced annuity dies in service after being recalled under section 308 and is survived by a spouse or former spouse entitled to a survivor annuity based on the service of such annuitant, such survivor annuity shall be computed as if the recall service had otherwise terminated on the day of death and the annuity of the deceased had been resumed in accordance with section 823. If such death occurs after the annuitant had completed sufficient recall service to attain eligibility for a supplemental annuity, a surviving spouse or surviving former spouse who was married to the participant at any time during a period of recall service shall be entitled to elect, in addition to any other benefits and in lieu of a refund of retirement contributions made during the recall service, a supplemental survivor annuity computed and paid under section 806(i) as if the recall service had otherwise terminated. If the annuitant had completed sufficient recall service to attain eligibility to have his or her annuity determined anew, a surviving spouse or such a surviving former spouse may elect, in lieu of any other survivor benefit under this chapter, to have the rights of the annuitant redetermined and to receive a survivor annuity computed under subsection (b) on the basis of the total service of the annuitant.

Supplemental survivor annuity.

Annuity redetermination.

(g) Notwithstanding subsection (b), if the participant or former participant had a former spouse qualifying for an annuity under section 814(b), the annuity of the spouse under this section shall be subject to the limitation of section 806(b)(3)(B).

(h) Annuities that become payable under this section shall commence, terminate, and be resumed in accordance with subsection (b)(4), (e), or (h) of section 806, as appropriate.

22 USC 4050.

SEC. 810. DISCONTINUED SERVICE RETIREMENT.—Any participant who voluntarily separates from the Service after obtaining at least 5 years of service credit toward retirement under the System (excluding military and naval service) may upon separation from the Service or at any time prior to becoming eligible for an annuity elect to have his or her contributions to the Fund returned in accordance with section 815, or to leave his or her contributions in the Fund and receive an annuity, computed under section 806, commencing at age 60.

22 USC 4051.

SEC. 811. VOLUNTARY RETIREMENT.—Any participant who is at least 50 years of age and has 20 years of creditable service, including at least 5 years of service credit toward retirement under the System (excluding military and naval service), may on his or her own application and with the consent of the Secretary be retired from the Service and receive retirement benefits in accordance with section 806.

22 USC 4052.

SEC. 812. MANDATORY RETIREMENT.—(a) Except as provided in subsection (b), any participant shall be retired from the Service at the end of the month in which the participant has reached age 65 and has at least 5 years of service credit toward retirement under the System (excluding military and naval service), and shall receive retirement benefits in accordance with section 806.

Presidential appointment, termination.

(b)(1) Any participant who is otherwise required to retire under subsection (a) while occupying a position to which he or she was appointed by the President, by and with the advice and consent of the Senate, may continue to serve until that appointment is terminated.

(2) Whenever the Secretary determines it to be in the public interest, any participant who is otherwise required to retire under subsection (a) may be retained on active service for a period not to exceed 5 years.

(3) Any participant who completes a period of service authorized by this subsection shall be retired at the end of the month in which such authorized service is completed.

22 USC 4053.

SEC. 813. RETIREMENT OF FORMER PRESIDENTIAL APPOINTEES.—If a participant completes an assignment under section 302(b) in a position to which he or she was appointed by the President and has not been reassigned within 3 months after the termination of such assignment (plus any period of authorized leave), the participant shall be retired from the Service and receive retirement benefits in accordance with section 806.

22 USC 4054.

SEC. 814. FORMER SPOUSES.—(a)(1) Unless otherwise expressly provided by any spousal agreement or court order under section 820(b)(1), a former spouse of a participant or former participant is entitled to an annuity—

(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

(B) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such annuity.

Remarried spouse.

(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

Annuity termination.

(3) The annuity of a former spouse under this subsection commences on the later of the day the participant upon whose service the annuity is based becomes entitled to an annuity under this chapter on the first day of the month in which the divorce or annulment involved becomes final. The annuity of such former spouse and the right thereto terminate on—

(A) the last day of the month before the former spouse dies or remarries before 60 years of age; or

(B) the date the annuity of the participant terminates (except in the case of an annuity subject to paragraph (5)(B)).

(4) No spousal agreement or court order under section 820(b)(1) involving any participant may provide for an annuity or any combination of annuities under this subsection which exceeds the annuity of the participant, nor may any such court order relating to an annuity under this subsection be given effect if it is issued more than 12 months after the date the divorce or annulment involved becomes final.

Reduced annuity.

(5)(A) The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that participant. Such reduction shall be disregarded in calculating the survivor annuity for any

spouse, former spouse, or other survivor under this chapter, and in calculating any reduction in the annuity of the participant to provide survivor benefits under subsection (b) or section 806(b)(3).

Reinstated or reemployed annuitant.

(B) If any annuitant whose annuity is reduced under subparagraph (A) is recalled to service under section 308, or reinstated or reappointed in the Service in the case of a recovered disability annuitant or if any annuitant is reemployed as provided for under section 824, the salary of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the Fund.

(6) Notwithstanding paragraph (3), in the case of any former spouse of a disability annuitant—

(A) the annuity of that former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for an annuity under this chapter (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

(7) An annuity under this subsection shall be treated the same as a survivor annuity under subsection (b) for purposes of section 806(h) or any comparable provision of law.

Survivor annuity entitlement.

(b)(1) Subject to any election under section 806(b)(1)(C) and unless otherwise expressly provided by any spousal agreement or court order under section 820(b)(1), if a former participant who is entitled to receive an annuity is survived by a former spouse, the former spouse shall be entitled to a survivor annuity—

(A) if married to the participant throughout the creditable service of the participant, equal to 55 percent of the full amount of the participant's annuity, as computed under section 806(a); or

(B) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 55 percent of the full amount of such annuity.

(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

(3) An annuity payable from the Fund to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is terminated if any lump sum paid upon termination of the annuity is returned to the Fund.

Maximum survivor annuity, limitation.

(4)(A) The maximum survivor annuity or combination of survivor annuities under this section (and section 806(b)(3)) with respect to any participant or former participant may not exceed 55 percent of the full amount of the participant's annuity, as calculated under section 806(a).

(B) Once a survivor annuity has been provided for under this subsection for any former spouse, a survivor annuity may thereafter be provided for under this subsection (or section 806(b)(3)) with respect to a participant or former participant only for that portion (if any) of the maximum available which is not committed for survivor

benefits for any former spouse whose prospective right to such annuity has not terminated by reason of death or remarriage.

(C) After the death of a participant or former participant, a court order under section 820(b)(1) may not adjust the amount of the annuity of any former spouse under this section.

(5)(A) For each full month after a former spouse of a participant or former participant dies or remarries before attaining age 60, the annuity of the participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid as if the annuity had not been so reduced, unless an election is in effect under subparagraph (B).

(B) Subject to paragraph (4)(B), the participant may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to provide a higher survivor annuity under section 806(b)(3) for any spouse of the participant.

(c)(1) In the case of any participant or former participant providing a survivor annuity benefit under subsection (b) for a former spouse—

(A) such participant may elect, or

(B) a spousal agreement or court order under section 820(b)(1) may provide for,

an additional survivor annuity under this subsection for any other former spouse or spouse surviving the participant, if the participant satisfactorily passes a physical examination as prescribed by the Secretary of State.

(2) Neither the total amount of survivor annuity or annuities under this subsection with respect to any participant or former participant, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such participant under this section and section 806, shall exceed 55 percent of the full amount of the participant's annuity, as computed under section 806(a).

(3)(A) In accordance with regulations which the Secretary of State shall prescribe, the participant involved may provide for any annuity under this subsection— Regulations.

(i) by a reduction in the annuity or an allotment from the salary of the participant,

(ii) by a lump sum payment or installment payments to the Fund, or

(iii) by any combination thereof.

(B) The present value of the total amount to accrue to the Fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as calculated upon such tables of mortality as may from time to time be prescribed for this purpose by the Secretary of State.

(C) If a former spouse predeceases the participant or remarries before attaining age 60 (or, in the case of a spouse, the spouse does not qualify as a former spouse upon dissolution of the marriage)—

(i) if an annuity reduction or salary allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the salary allotment terminated, as the case may be, and

(ii) any amount accruing to the Fund under subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Secretary of State.

(D) Under regulations prescribed by the Secretary of State, an annuity shall be recomputed (or salary allotment terminated or adjusted), and a refund provided (if appropriate), in a manner comparable to that provided under subparagraph (C), in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 60 and an increased annuity is provided for that spouse in accordance with this chapter.

(4) An annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60.

(5) Section 826 shall not apply to any annuity under this subsection, unless authorized under regulations prescribed by the Secretary of State.

(d) Section 806(l) shall not apply—

(1) to any annuity payable under subsection (a) or (b) to any former spouse if the amount of that annuity varies by reason of a spousal agreement or court order under section 820(b)(1), or an election under section 806(b)(1)(B), from the amount which would be calculated under subsection (a)(1) or (b)(1), as the case may be, in the absence of such spousal agreement, court order, or election; and

(2) to any annuity payable under subsection (c).

22 USC 4055.

SEC. 815. LUMP-SUM PAYMENTS.—(a) Whenever a participant becomes separated from the Service without becoming eligible for an annuity or a deferred annuity under this chapter, a lump-sum credit shall be paid to the participant (and to any former spouse of the participant, in accordance with subsection (i)).

(b) Whenever an annuitant becomes separated from the Service following a period of recall service without becoming eligible for a supplemental or recomputed annuity under section 823, the compulsory contributions of the annuitant to the Fund for such service, together with any special contributions the annuitant may have made for other service performed after the date of separation from the Service which forms the basis for annuity, shall be returned to the annuitant (and any former spouse of the annuitant who was married to the participant during the period of recall service, in accordance with subsection (i)).

Annuity rights, termination.

(c) If all annuity rights under this chapter based on the service of a deceased participant or annuitant terminate before the total annuity paid equals the lump-sum credit to which the participant or annuitant is entitled, the difference shall be paid in accordance with subsection (f).

(d) If a participant or former participant dies and is not survived by an individual eligible for an annuity under this chapter or by such an individual or individuals all of whose annuity rights terminate before a claim for survivor annuity is filed, the lump-sum credit to which the participant or annuitant is entitled shall be paid in accordance with subsection (f).

(e) If an annuitant who was a former participant dies, any annuity accrued and unpaid shall be paid in accordance with subsection (f).

Survivor payments, order of precedence.

(f) Payments under subsections (c) through (e) shall be paid in the following order of precedence to individuals surviving the participant and alive on the date entitlement to the payment arises, upon the establishment of a valid claim therefor, and such payment shall be a bar to recovery by any other person:

(1) To the beneficiary or beneficiaries last designated by the participant before or after retirement in a signed and witnessed writing filed with the Secretary of State prior to the death of the participant, for which purpose a designation, change, or cancellation of beneficiary in a will or other document which is not so executed and filed shall have no force or effect.

(2) If there is no such beneficiary, to the surviving wife or husband of the participant.

(3) If none of the above, to the child (without regard to the definition in section 804(2)) or children of the participant (including adopted and natural children but not stepchildren) and descendants of deceased children by representation.

(4) If none of the above, to the parents of the participant or the survivor of them.

(5) If none of the above, to the duly appointed executor or administrator of the estate of the participant.

(6) If none of the above, to such other next of kin of the participant as may be determined in the judgment of the Secretary of State to be legally entitled to such payment, except that no payment shall be made under this paragraph until after the expiration of 30 days after the death of the participant or annuitant.

Death of survivor, annuity payment.

(g) Annuity accrued and unpaid on the death of a survivor annuitant shall be paid in the following order of precedence, and the payment bars recovery by any other person:

(1) To the duly appointed executor or administrator of the estate of the survivor annuitant.

(2) If there is no such executor or administrator, to such person as may be determined by the Secretary of State (after the expiration of 30 days from the date of death of the survivor annuitant) to be entitled under the laws of the domicile of the survivor annuitant at the time of death.

(h) Amounts deducted and withheld from basic salary of a participant under section 805 from the beginning of the first pay period after the participant has completed 35 years of service computed under section 816 (excluding service credit for unused sick leave under section 816(b)), together with interest on the amounts at the rate of 3 percent a year compounded annually from the date of the deduction to the date of retirement or death, shall be applied toward any special contribution due under section 805(d), and any balance not so required shall be refunded in a lump sum to the participant after separation or, in the event of a death in service, to a beneficiary in the order of precedence specified in subsection (f).

(i) Unless otherwise expressly provided by any spousal agreement or court order under section 820(b)(1), the amount of a participant's or former participant's lump-sum credit payable to a former spouse of that participant shall be—

(1) if the former spouse was married to the participant throughout the period of creditable service of the participant, 50 percent of the lump-sum credit to which such participant would be entitled in the absence of this subsection, or

(2) if such former spouse was not married to the participant throughout such creditable service, an amount equal to such former spouse's pro rata share of 50 percent of such lump-sum credit.

The lump-sum credit of the participant shall be reduced by the amount of the lump-sum credit payable to the former spouse.

22 USC 4056.

SEC. 816. CREDITABLE SERVICE.—(a) Except as otherwise specified by law, all periods of civilian and military and naval service, and all other periods through the date of final separation of a participant from the Service that the Secretary of State determines would be creditable toward retirement under the Civil Service Retirement and Disability System (as determined in accordance with section 8332 of title 5, United States Code), shall be creditable for purposes of this chapter. Conversely, any such service performed after December 31, 1976, that would not be creditable under specified conditions under section 8332 of title 5, United States Code, shall be excluded under this chapter under the same conditions.

Computation.

(b) In computing any annuity under this chapter, the total service of a participant who retires on an immediate annuity or who dies leaving a survivor or survivors entitled to annuity includes (without regard to the 35-year limitation imposed by section 806(a)) the days of unused sick leave to the credit of the participant, except that these days shall not be counted in determining average basic salary or annuity eligibility under this chapter. A contribution to the Fund shall not be required from a participant for this service credit.

(c)(1) A participant who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of Government employees may, within 60 days after entering on that leave without pay, file with the employing agency an election to receive full retirement credit for such periods of leave without pay and arrange to pay concurrently into the Fund through the employing agency, amounts equal to the retirement deductions and agency contributions on the Foreign Service salary rate that would be applicable if the participant were in a pay status. If the election and all payments provided by this subsection are not made for the periods of such leave without pay occurring after November 7, 1976, the participant may not receive any credit for such periods of leave without pay occurring after such date.

Special contribution.

(2) A participant may make a special contribution for any period or periods of approved leave without pay while serving before November 7, 1976, as a full-time officer or employee of an organization composed primarily of Government employees. Any such contribution shall be based upon the suspended Foreign Service salary rate and shall be computed in accordance with section 805. A participant who makes such contributions shall be allowed full retirement credit for the period or periods of leave without pay. If this contribution is not made, up to 6 months' retirement credit shall be allowed for such periods of leave without pay each calendar year.

(d) A participant who has received a refund of retirement contributions (which has not been repaid) under this or any other retirement system for Government employees covering service which may be creditable may make a special contribution for such service under section 805. Credit may not be allowed for service covered by the refund unless the special contribution is made.

Annuity computation credit.

(e) No credit in annuity computation shall be allowed for any period of civilian service for which a participant made retirement contributions to another retirement system for Government employees unless—

(1) the right to any annuity under the other system which is based on such service is waived, and

(2) a special contribution is made under section 805 covering such service.

(f) A participant who during a period of war, or national emergency proclaimed by the President or declared by the Congress, leaves the

Service to enter the military service is deemed, for the purpose of this chapter, as not separated from the Service unless the participant applies for and receives a lump-sum payment under section 815. However, the participant is deemed to be separated from the Service after the expiration of 5 years of such military service.

Participants of Japanese ancestry, annuity recomputation.

(g)(1) An annuity or survivor annuity based on the service of a participant of Japanese ancestry who would be eligible under section 8332(l) of title 5, United States Code, for credit for civilian service for periods of internment during World War II shall, upon application to the Secretary of State, be recomputed to give credit for that service. Any such recomputation of an annuity shall apply with respect to months beginning more than 30 days after the date on which application for such recomputation is received by the Secretary of State.

(2) The Secretary of State shall take such action as may be necessary and appropriate to inform individuals entitled to have any service credited or annuity recomputed under this subsection of their entitlement to such credit or recomputation.

(3) The Secretary of State shall, on request, assist any individual referred to in paragraph (1) in obtaining from any agency or other Government establishment information necessary to verify the entitlement of the individual to have any service credited or any annuity recomputed under this subsection.

(4) Any agency or other Government establishment shall, upon request, furnish to the Secretary of State any information it possesses with respect to the internment or other detention, as described in section 8332(l) of title 5, United States Code, of any participant.

(h) A participant who, while on approved leave without pay, serves as a full-time paid employee of a Member or office of the Congress shall continue to make contributions to the Fund based upon the Foreign Service salary rate that would be in effect if the participant were in a pay status. The participant's employing office in the Congress shall make a matching contribution (from the appropriation or fund which is used for payment of the salary of the participant) to the Treasury of the United States to the credit of the Fund. All periods of service for which full contributions to the Fund are made under this subsection shall be counted as creditable service for purposes of this chapter and shall not, unless all retirement credit is transferred, be counted as creditable service under any other Government retirement system.

(i)(1) Service of a participant shall be considered creditable service for purposes of applying provisions of this chapter relating to former spouses if such service would be creditable—

(A) under subsection (c) (1) or (2) but for the fact an election was not made under subsection (c)(1) or a special contribution was not made under subsection (c)(2), and

(B) under subsection (d) but for the fact that a refund of contributions has not been repaid unless the former spouse received under this chapter a portion of the lump sum (or a spousal agreement or court order provided otherwise).

(2) A former spouse shall not be considered as married to a participant—

(A) for periods assumed to be creditable service under section 808(a) or section 809(e), or

(B) for any extra period of creditable service provided under section 817 for service of a participant at an unhealthful post unless the former spouse resided with the participant at that post during that period.

22 USC 4057.

SEC. 817. EXTRA CREDIT FOR SERVICE AT UNHEALTHFUL POSTS.—The Secretary of State may from time to time establish a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts. Each year of duty at such posts, inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of the service of a participant for the purpose of retirement, fractional months being considered as full months in computing such service. No such extra credit for service at such unhealthful posts shall be credited to any participant who is paid a differential under section 5925 or 5928 of title 5, United States Code, for such service.

22 USC 4058.

SEC. 818. ESTIMATE OF APPROPRIATIONS NEEDED.—The Secretary of the Treasury shall prepare the estimates of the annual appropriations required to be made to the Fund, and shall make actuarial valuations of the System at intervals of not more than five years. The Secretary of State may expend from money to the credit of the Fund an amount not exceeding $5,000 per year for the incidental expenses necessary in administering the provisions of this chapter, including actuarial advice.

22 USC 4059.

SEC. 819. INVESTMENT OF THE FUND.—The Secretary of the Treasury shall invest from time to time in interest-bearing securities of the United States such portions of the Fund as in the judgment of the Secretary of the Treasury may not be immediately required for the payment of annuities, cash benefits, refunds, and allowances. The income derived from such investments shall constitute a part of the Fund.

22 USC 4060.

SEC. 820. ASSIGNMENT AND ATTACHMENT OF MONEYS.—(a)(1) An individual entitled to an annuity from the Fund may make allotments or assignments of amounts from such annuity for such purposes as the Secretary of State in his or her sole discretion considers appropriate.

(2) Notwithstanding section 3477 of the Revised Statutes of the United States (31 U.S.C. 203) or any other law, a member of the Service who is entitled to receive benefits under section 609(b)(1) may assign to any person the whole or any part of those benefits. Any such assignment shall be on a form approved by the Secretary of the Treasury and a copy of such assignment form shall be deposited with the Secretary of the Treasury by the member executing the assignment.

(b)(1)(A) In the case of any participant or annuitant who has a former spouse who is covered by a court order or who is a party to a spousal agreement—

(i) any right of the former spouse to any annuity under section 814(a) in connection with any retirement or disability annuity of the participant, and the amount of any such annuity;

(ii) any right of the former spouse to a survivor annuity under section 814 (b) or (c), and the amount of any such annuity; and

(iii) any right of the former spouse to any payment of a lump-sum credit under section 815 (a) or (b);

shall be determined in accordance with that spousal agreement or court order, if and to the extent expressly provided for in the terms of that spousal agreement or court order.

(B) This paragraph shall not apply in the case of any spousal agreement or court order which, as determined by the Secretary of State—

(i) would provide for a survivor annuity for a spouse or any former spouse of a participant with respect to which there has

not been an annuity reduction (or a salary reduction or payment under section 814(c)(3)); or

(ii) is otherwise inconsistent with the requirements of this chapter.

(2) Except with respect to obligations between participants and former spouses, payments under this chapter which would otherwise be made to a participant or annuitant based upon his or her service shall be paid (in whole or in part) by the Secretary of State to another individual to the extent expressly provided for in the terms of any order or any court decree of legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of legal separation.

(3) Paragraphs (1) and (2) shall apply only to payments made under this chapter for periods beginning after the date of receipt by the Secretary of State of written notice of such decree, order, or agreement, and such additional information and such documentation as the Secretary of State may require.

(4) Any payment under this subsection to an individual bars recovery by any other individual.

(5) The 10-year requirement of section 804(b)(6), or any other provision of this chapter, shall not be construed to affect the rights any spouse or individual formerly married to a participant or annuitant may have, under any law or rule of law of any State or the District of Columbia, with respect to an annuity of a participant or annuitant under this chapter.

(c) None of the moneys mentioned in this chapter shall be assignable either in law or equity, except under subsection (a) or (b) of this section, or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal law.

22 USC 4061.

SEC. 821. PAYMENTS FOR FUTURE BENEFITS.—(a) Any statute which authorizes—

(1) new or liberalized benefits payable from the Fund, including annuity increases other than under section 825;

(2) extension of the benefits of the System to new groups of employees; or

(3) increases in salary on which benefits are computed;

is deemed to authorize appropriations to the Fund to finance the unfunded liability created by that statute, in 30 equal annual installments with interest computed at the rate used in the then most recent valuation of the System and with the first payment thereof due as of the end of the fiscal year in which each new or liberalized benefit, extension of benefits, or increase in salary is effective.

Appropriation authorization.

(b) There is authorized to be appropriated to the Fund for each fiscal year an amount equal to the amount of the Foreign Service normal cost for that year which is not met by contributions to the Fund under section 805(a).

22 USC 4062.

SEC. 822. UNFUNDED LIABILITY OBLIGATIONS.—(a) At the end of each fiscal year, the Secretary of State shall notify the Secretary of the Treasury of the amount equivalent to—

(1) interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the System, and

(2) that portion of disbursement for annuities for that year which the Secretary of State estimates is attributable to credit allowed for military and naval service.

(b) Before closing the accounts for each fiscal year, the Secretary of the Treasury shall credit such amounts to the Fund, as a Government

contribution, out of any money in the Treasury of the United States not otherwise appropriated.

Reports to Congress.

(c) Requests for appropriations to the Fund under section 821(b) shall include reports to the Congress on the sums credited to the Fund under this section.

22 USC 4063.

SEC. 823. ANNUITY ADJUSTMENT FOR RECALL SERVICE.—(a) Any annuitant recalled to duty in the Service under section 308(a) shall, while so serving, be entitled in lieu of annuity to the full salary of the class in which serving. During such service the recalled annuitant shall make contributions to the Fund in accordance with section 805. On the day following termination of the recall service, the former annuity shall be resumed, adjusted by any cost-of-living increases under section 825 that became effective during the recall period.

(b) If the recall service lasts less than one year, the contributions of the annuitant to the Fund during recall service shall be refunded in accordance with section 815. If the recall service lasts more than one year, the annuitant may, in lieu of such refund, elect a supplemental annuity computed under section 806 on the basis of service credit and average salary earned during the recall period irrespective of the number of years of service credit previously earned. If the recall service continues for at least 5 years, the annuitant may elect to have his or her annuity determined anew under section 806 in lieu of any other benefits under this section. Any annuitant who is recalled under section 308 may upon written application count as recall service any prior service that is creditable under section 816 that was performed after the separation upon which his or her annuity is based.

22 USC 4064.

SEC. 824. REEMPLOYMENT.—(a) Notwithstanding any other law, any member of the Service who has retired and is receiving an annuity under this chapter, and who is reemployed in the Government service in any part-time or full-time appointive position, shall be entitled to receive the salary of the position in which he or she is serving plus so much of the annuity payable under this chapter which when combined with such salary does not exceed during any calendar year the basic salary the member was entitled to receive under this Act on the date of retirement from the Service. Any such reemployed member of the Service who receives salary during any calendar year in excess of the maximum amount which he or she may be entitled to receive under this subsection shall be entitled to such salary in lieu of benefits under this chapter.

(b) When any such retired member of the Service is reemployed, the employer shall send a notice of such reemployment to the Secretary of State, together with all pertinent information relating to such employment, and shall pay directly to such member the salary of the position in which he or she is serving.

Overpayment.

(c) In the event of any overpayment under this section, such overpayment shall be recovered by withholding the amount involved from the salary payable to such reemployed member of the Service or from any other moneys, including annuity payments, payable under this chapter.

22 USC 4065.

SEC. 825. VOLUNTARY CONTRIBUTIONS.—(a) The voluntary contribution account shall be the sum of unrefunded amounts voluntarily contributed prior to the effective date of this Act by any participant or former participant under any prior law authorizing such contributions to the Fund, plus interest compounded at the rate of 3 percent per year to the date of separation from the Service or (in case of participant or former participant separated with entitlement to a deferred annuity) to the date the voluntary contribution account is

claimed, the commencing date fixed for the deferred annuity, or the date of death, whichever is earlier. Effective on the date the participant becomes eligible for an annuity or a deferred annuity and at the election of the participant, his or her account shall be—

(1) returned in a lump sum;

(2) used to purchase an additional life annuity;

(3) used to purchase an additional life annuity for the participant and to provide for a cash payment on his or her death to a beneficiary whose name shall be notified in writing to the Secretary of State by the participant; or

(4) used to purchase an additional life annuity for the participant and a life annuity commencing on his or her death payable to a beneficiary whose name shall be notified in writing to the Secretary of State by the participant, with a guaranteed return to the beneficiary or his or her legal representative of an amount equal to the cash payment referred to in paragraph (3).

Benefits.

(b) The benefits provided by subsection (a) (2), (3), or (4) shall be actuarially equivalent in value to the payment provided for by subsection (a)(1) and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Secretary of the Treasury.

Account payment.

(c) A voluntary contribution account shall be paid in a lump sum following receipt of an application therefor from a present or former participant if application is filed prior to payment of any additional annuity. If not sooner paid, the account shall be paid at such time as the participant separates from the Service for any reason without entitlement to an annuity or a deferred annuity or at such time as a former participant dies or withdraws compulsory contributions to the Fund. In case of death, the account shall be paid in the order of precedence specified in section 815(f).

22 USC 4066.

SEC. 826. COST-OF-LIVING ADJUSTMENTS OF ANNUITIES.—(a) A cost-of-living annuity increase shall become effective under this section on the effective date of each such increase under section 8340(b) of title 5, United States Code. Each such increase shall be applied to each annuity payable from the Fund which has a commencing date not later than the effective date of the increase.

(b) Each annuity increase under this section shall be identical to the corresponding percentage increase under section 8340(b) of title 5, United States Code.

Annuity increase, eligibility.

(c) Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase except as follows:

(1) An annuity (except a deferred annuity) payable from the Fund to a participant who retires and receives an immediate annuity, or to a surviving spouse or former spouse of a deceased participant who dies in service or who dies after being separated with benefits under section 609(b)(2), which has a commencing date after the effective date of the then last preceding general annuity increase under this section shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of such last preceding increase. In the administration of this paragraph, the number of days of unused sick leave to the credit of a participant or deceased participant on the effective date of the then last preceding general annuity increase under this section shall be deemed to be equal to the number of days of unused sick leave to his or her credit on the day of separation from the Service.

(2) Effective from its commencing date, an annuity payable from the Fund to the survivor of an annuitant, except a child entitled to an annuity under section 806(c) or 809 (c) or (d), shall be increased by the total percentage increase the annuitant was receiving under this section at death.

(3) For purposes of computing or recomputing an annuity to a child under section 806 (c) or (d) or 809 (c) or (d), the items $900, $1,080, $2,700, and $3,240 appearing in section 806(c) shall be increased by the total percentage increases by which corresponding amounts are being increased under section 8340 of title 5, United States Code, on the date the annuity of the child becomes effective.

(d) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

Monthly installment.

(e) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar, except such installment shall after adjustment reflect an increase of at least $1.

(f) Effective from its commencing date, there shall be an increase of 10 percent in the annuity of each surviving spouse whose entitlement to annuity resulted from the death of an annuitant who, prior to October 1, 1976, elected a reduced annuity in order to provide a spouse's survivor annuity.

22 USC 4067.

SEC. 827. COMPATIBILITY BETWEEN CIVIL SERVICE AND FOREIGN SERVICE RETIREMENT SYSTEMS.—(a) In order to maintain existing conformity between the Civil Service Retirement and Disability System under subchapter III of chapter 83 of title 5, United States Code, and the Foreign Service Retirement and Disability System, whenever a law of general applicability is enacted which—

5 USC 8331.

(1) affects the treatment of current or former participants, annuitants, or survivors under the Civil Service Retirement and Disability System; and

(2) affects treatment which, immediately prior to the enactment of such law, was substantially identical to the treatment accorded to participants, former participants, annuitants, or survivors under the Foreign Service Retirement and Disability System;

such law shall be extended in accordance with subsection (b) to the Foreign Service Retirement and Disability System so that it applies in like manner with respect to participants, former participants, annuitants, or survivors under that System.

Regulations.

(b) The President shall by Executive order prescribe regulations to implement this section and may make such extension retroactive to a date no earlier than the effective date of the provision of law applicable to the Civil Service Retirement and Disability System. Any provision of an Executive order issued under this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(1) all provisions of law enacted prior to the effective date of that provision of the Executive order, and

(2) any prior provision of an Executive order issued under this section.

CHAPTER 9—TRAVEL, LEAVE, AND OTHER BENEFITS

22 USC 4081.

SEC. 901. TRAVEL AND RELATED EXPENSES.—The Secretary may pay the travel and related expenses of members of the Service and their families, including costs or expenses incurred for—

(1) proceeding to and returning from assigned posts of duty;
(2) authorized or required home leave;
(3) family members to accompany, precede, or follow a member of the Service to a place of temporary duty;
(4) representational travel within the country to which the member of the Service is assigned or, when not more than one family member participates, outside such country;
(5) obtaining necessary medical care for an illness, injury, or medical condition while abroad in a locality where there is no suitable person or facility to provide such care (without regard to those laws and regulations limiting or restricting the furnishing or payment of transportation and traveling expenses), as well as expenses for—

(A) an attendant or attendants for a member of the Service or a family member who is too ill to travel unattended or for a family member who is too young to travel alone, and

(B) a family member incapable of caring for himself or herself if he or she remained at the post at which the member of the Service is serving;

(6) rest and recuperation travel of members of the Service who are United States citizens, and members of their families, while serving at locations abroad specifically designated by the Secretary for purposes of this paragraph, to—

(A) other locations abroad having different social, climatic, or other environmental conditions than those at the post at which the member of the Service is serving, or

(B) locations in the United States;

except that, unless the Secretary otherwise specifies in extraordinary circumstances, travel expenses under this paragraph shall be limited to the cost for a member of the Service, and for each member of the family of the member, of 1 round trip during any continuous 2-year tour unbroken by home leave and of 2 round trips during any continuous 3-year tour unbroken by home leave;
(7) removal of the family members of a member of the Service, and the furniture and household and personal effects (including automobiles) of the family, from a Foreign Service post where there is imminent danger because of the prevalence of disturbed conditions, and the return of such individuals, furniture, and effects to such post upon the cessation of such conditions, or to such other Foreign Service post as may in the meantime have become the post to which the member of the Service has been reassigned;
(8) trips by a member of the Service for purposes of family visitation in situations where the family of the member is prevented by official order from accompanying the member to, or has been ordered from, the assigned post of the member because of imminent danger due to the prevalence of disturbed conditions, except that—

(A) with respect to any such member whose family is located in the United States, the Secretary may pay the costs and expenses for not to exceed two round trips in a 12-month period; and

(B) with respect to any such member whose family is located abroad, the Secretary may pay such costs and expenses for trips in a 12-month period as do not exceed the cost of 2 round trips (at less than first class) to the District of Columbia;

(9) round-trip travel from a location abroad for purposes of family visitation in emergency situations involving personal hardship;

(10) preparing and transporting to the designated home in the United States or to a place not more distant, the remains of a member of the Service, or of a family member of a member of the Service, who dies abroad or while in travel status;

(11) transporting the furniture and household and personal effects of a member of the Service (and of his or her family) to successive posts of duty and, on separation of a member from the Service, to the place where the member will reside (or if the member has died, to the place where his or her family will reside);

(12) packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of a member of the Service (and of his or her family)—

(A) when the member is absent from his or her post of assignment under orders or is assigned to a Foreign Service post to which such furniture and household and personal effects cannot be taken or at which they cannot be used, or when it is in the public interest or more economical to authorize storage;

(B) in connection with an assignment of the member to a new post, except that costs and expenses may be paid under this subparagraph only for the period beginning on the date of departure from his or her last post or (in the case of a new member) on the date of departure from the place of residence of the member and ending on the earlier of the date which is 3 months after arrival of the member at the new post or the date on which the member establishes residence quarters; and

(C) in connection with separation of the member from the Service, except that costs or expenses may not be paid under this subparagraph for storing furniture and household and personal effects for more than 3 months;

(13) transporting, for or on behalf of a member of the Service, a privately owned motor vehicle in any case in which the Secretary determines that water, rail, or air transportation of the motor vehicle is necessary or expedient for all or any part of the distance between points of origin and destination, but transportation may be provided under this paragraph for only one motor vehicle of a member during any 48-month period while the member is continuously serving abroad, except that another motor vehicle may be so transported as a replacement for such motor vehicle if such replacement—

(A) is determined, in advance, by the Secretary to be necessary for reasons beyond the control of the member and in the interest of the Government, or

(B) is incident to a reassignment when the cost of transporting the replacement motor vehicle does not exceed the cost of transporting the motor vehicle that is replaced;

(14) the travel and relocation of members of the Service, and members of their families, assigned to or within the United States (or any territory or possession of the United States or the Commonwealth of Puerto Rico), including assignments under subchapter VI of chapter 33 of title 5, United States Code (notwithstanding section 3375(a) of such title, if an agreement

5 USC 3371.
5 USC 3375.

similar to that required by section 3375(b) of such title is executed by the member of the Service); and 5 USC 3375.

(15) 1 round-trip per year for each child below age 21 of a member of the Service assigned abroad—

(A) to visit the member abroad if the child does not regularly reside with the member and the member is not receiving an education allowance or educational travel allowance for the child under section 5924(4) of title 5, United States Code; or

(B) to visit the other parent of the child if the other parent resides in a country other than the country to which the member is assigned and the child regularly resides with the member and does not regularly attend school in the country in which the other parent resides,

except that a payment under this paragraph may not exceed the cost of round-trip travel between the post to which the member is assigned and the port of entry in the contiguous 48 States which is nearest to that post.

SEC. 902. LOAN OF HOUSEHOLD EFFECTS.—The Secretary may, as a means of eliminating transportation costs, provide members of the Service with basic household furnishing and equipment for use on a loan basis in personally owned or leased residences. 22 USC 4082.

SEC. 903. REQUIRED LEAVE IN THE UNITED STATES.—(a) The Secretary may order a member of the Service who is a citizen of the United States to take a leave of absence under section 6305 of title 5, United States Code (without regard to the introductory clause of subsection (a) of that section), upon completion by that member of 18 months of continuous service abroad. The Secretary shall order on such a leave of absence a member of the Service who is a citizen of the United States as soon as possible after completion by that member of 3 years of continuous service abroad. 22 USC 4083.

(b) Leave ordered under this section may be taken in the United States, its territories and possessions, or the Commonwealth of Puerto Rico.

(c) While on a leave of absence ordered under this section, the services of any member of the Service shall be available for such work or duties in the Department or elsewhere as the Secretary may prescribe, but the time of such work or duties shall not be counted as leave.

SEC. 904. HEALTH CARE.—(a) The Secretary of State may establish a health care program to promote and maintain the physical and mental health of members of the Service, and (when incident to service abroad) other designated eligible Government employees, and members of the families of such members and employees. 22 USC 4084.

(b) Any such health care program may include (1) medical examinations for applicants for employment, (2) medical examinations and inoculations or vaccinations for members of the Service and employees of the Department who are citizens of the United States and for members of their families, and (3) examinations necessary in order to establish disability or incapacity of participants in the Foreign Service Retirement and Disability System or to provide survivor benefits under chapter 8. Program services.

Ante, p. 2102.

(c) The Secretary of State may establish health care facilities and provide for the services of physicians, nurses, or other health care personnel at Foreign Service posts abroad at which, in the opinion of the Secretary of State, a sufficient number of Government employees are assigned to warrant such facilities or services.

Treatment costs.

(d) If an individual eligible for health care under this section incurs an illness, injury, or medical condition while abroad which requires hospitalization or similar treatment, the Secretary may pay all or part of the cost of such treatment. Limitations on such payments established by regulation may be waived whenever the Secretary determines that the illness, injury, or medical condition clearly was caused or materially aggravated by the fact that the individual concerned is or has been located abroad.

(e) Health care may be provided under this section to a member of the Service or other designated eligible Government employee after the separation of such member or employee from Government service. Health care may be provided under this section to a member of the family of a member of the Service or of a designated eligible Government employee after the separation from Government service or the death of such member of the Service or employee or after dissolution of the marriage.

Program review.

(f) The Secretary of State shall review on a continuing basis the health care program provided for in this section. Whenever the Secretary of State determines that all or any part of such program can be provided for as well and as cheaply in other ways, the Secretary may, for such individuals, locations, and conditions as the Secretary of State deems appropriate, contract for health care pursuant to such arrangements as the Secretary deems appropriate.

22 USC 4085.

SEC. 905. REPRESENTATION EXPENSES.—Notwithstanding section 5536 of title 5, United States Code, the Secretary may provide for official receptions and may pay entertainment and representational expenses (including expenses of family members) to enable the Department and the Service to provide for the proper representation of the United States and its interests. In carrying out this section, the Secretary shall, to the maximum extent practicable, provide for the use of United States products, including American wine.

CHAPTER 10—LABOR-MANAGEMENT RELATIONS

22 USC 4101.

SEC. 1001. LABOR-MANAGEMENT POLICY.—The Congress finds that—

(1) experience in both private and public employment indicates that the statutory protection of the right of workers to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them—

(A) safeguards the public interest,

(B) contributes to the effective conduct of public business, and

(C) facilitates and encourages the amicable settlement of disputes between workers and their employers involving conditions of employment;

(2) the public interest demands the highest standards of performance by members of the Service and the continuous development and implementation of modern and progressive work practices to facilitate improved performance and efficiency; and

(3) the unique conditions of Foreign Service employment require a distinct framework for the development and implementation of modern, constructive, and cooperative relationships between management officials and organizations representing members of the Service.

Therefore, labor organizations and collective bargaining in the Service are in the public interest and are consistent with the requirement of an effective and efficient Government. The provisions of this

chapter should be interpreted in a manner consistent with the requirement of an effective and efficient Government.

SEC. 1002. DEFINITIONS.—As used in this chapter, the term— 22 USC 4102.

(1) "Authority" means the Federal Labor Relations Authority, described in section 7104(a) of title 5, United States Code;

(2) "Board" means the Foreign Service Labor Relations Board, established by section 1006(a);

(3) "collective bargaining" means the performance of the mutual obligation of the management representative of the Department and of the exclusive representative of employees to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting employees, and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but this obligation does not compel either party to agree to a proposal or to make a concession;

(4) "collective bargaining agreement" means an agreement entered into as a result of collective bargaining under the provisions of this chapter;

(5) "conditions of employment" means personnel policies, practices, and matters, whether established by regulation or otherwise, affecting working conditions, but does not include policies, practices, and matters—

(A) relating to political activities prohibited abroad or prohibited under subchapter III of chapter 73 of title 5, United States Code; 5 USC 7321.

(B) relating to the designation or classification of any position under section 501;

(C) to the extent such matters are specifically provided for by Federal statute; or

(D) relating to Government-wide or multiagency responsibility of the Secretary affecting the rights, benefits, or obligations of individuals employed in agencies other than those which are authorized to utilize the Foreign Service personnel system;

(6) "confidential employee" means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;

(7) "dues" means dues, fees, and assessments;

(8) "employee" means—

(A) a member of the Service who is a citizen of the United States, wherever serving, other than a management official, a confidential employee, a consular agent, or any individual who participates in a strike in violation of section 7311 of title 5, United States Code; or

(B) a former member of the Service as described in subparagraph (A) whose employment has ceased because of an unfair labor practice under section 1015 and who has not obtained any other regular and substantially equivalent employment, as determined under regulations prescribed by the Board;

(9) "exclusive representative" means any labor organization which is certified as the exclusive representative of employees under section 1011;

(10) "General Counsel" means the General Counsel of the Authority;

(11) "labor organization" means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose dealing with the Department concerning grievances (as defined in section 1101) and conditions of employment, but does not include—

(A) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(B) an organization which advocates the overthrow of the constitutional form of government of the United States;

(C) an organization sponsored by the Department; or

(D) an organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

(12) "management official" means an individual who—

(A) is a chief of mission or principal officer;

(B) is serving in a position to which appointed by the President, by and with the advice and consent of the Senate, or by the President alone;

(C) occupies a position which in the sole judgment of the Secretary is of comparable importance to the offices mentioned in subparagraph (A) or (B);

(D) is serving as a deputy to any individual described by subparagraph (A), (B), or (C);

(E) is assigned to carry out functions of the Inspector General of the Department of State and the Foreign Service under section 209; or

(F) is engaged in the administration of this chapter or in the formulation of the personnel policies and programs of the Department;

(13) "Panel" means the Foreign Service Impasse Disputes Panel, established by section 1010(a); and

(14) "person" means an individual, a labor organization, or an agency to which this chapter applies.

22 USC 4103.

SEC. 1003. APPLICATION.—(a) This chapter applies only with respect to the Department of State, the International Communication Agency, the United States International Development Cooperation Agency, the Department of Agriculture, and the Department of Commerce.

(b) The President may by Executive order exclude any subdivision of the Department from coverage under this chapter if the President determines that—

(1) the subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

(2) the provisions of this chapter cannot be applied to that subdivision in a manner consistent with national security requirements and considerations.

(c) The President may by Executive order suspend any provision of this chapter with respect to any post, bureau, office, or activity of the Department, if the President determines in writing that the suspension is necessary in the interest of national security because of an emergency.

22 USC 4104.

SEC. 1004. EMPLOYEE RIGHTS.—(a) Every employee has the right to form, join, or assist any labor organization, or to refrain from any

such activity, freely and without fear of penalty or reprisal. Each employee shall be protected in the exercise of such right.

(b) Except as otherwise provided under this chapter, such right includes the right—

(1) to act for a labor organization in the capacity of a representative and, in that capacity, to present the views of the labor organization to the Secretary and other officials of the Government, including the Congress, or other appropriate authorities; and

(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.

SEC. 1005. MANAGEMENT RIGHTS.—(a) Subject to subsection (b), nothing in this chapter shall affect the authority of any management official of the Department, in accordance with applicable law— 22 USC 4105.

(1) to determine the mission, budget, organization, and internal security practices of the Department, and the number of individuals in the Service or in the Department;

(2) to hire, assign, direct, lay off, and retain individuals in the Service or in the Department, to suspend, remove, or take other disciplinary action against such individuals, and to determine the number of members of the Service to be promoted and to remove the name of or delay the promotion of any member in accordance with regulations prescribed under section 605(b);

(3) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which the operations of the Department shall be conducted;

(4) to fill positions from any appropriate source;

(5) to determine the need for uniform personnel policies and procedures between or among the agencies to which this chapter applies; and

(6) to take whatever actions may be necessary to carry out the mission of the Department during emergencies.

(b) Nothing in this section shall preclude the Department and the exclusive representative from negotiating—

(1) at the election of the Department, on the numbers, types, and classes of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

(2) procedures which management officials of the Department will observe in exercising any function under this section; or

(3) appropriate arrangements for employees adversely affected by the exercise of any function under this section by such management officials.

SEC. 1006. FOREIGN SERVICE LABOR RELATIONS BOARD.—(a) There is established within the Federal Labor Relations Authority the Foreign Service Labor Relations Board. The Board shall be composed of 3 members, 1 of whom shall be the Chairman of the Authority, who shall be the Chairperson of the Board. The remaining 2 members shall be appointed by the Chairperson of the Board from nominees approved in writing by the agencies to which this chapter applies, and the exclusive representative (if any) of employees in each such agency. In the event of inability to obtain agreement on a nominee, the Chairperson shall appoint the remaining 2 members from among individuals the Chairperson considers knowledgeable in labor-management relations and the conduct of foreign affairs. 22 USC 4106.

(b) The Chairperson shall serve on the Board while serving as Chairman of the Authority. Of the 2 original members of the Board

other than the Chairperson, one shall be appointed for a 2-year term and one shall be appointed for a 3-year term. Thereafter, each member of the Board other than the Chairperson shall be appointed for a term of 3 years, except that an individual appointed to fill a vacancy occurring before the end of a term shall be appointed for the unexpired term of the member replaced. The Chairperson may at any time designate an alternate Chairperson from among the members of the Authority.

(c) A vacancy on the Board shall not impair the right of the remaining members to exercise the full powers of the Board.

(d) The members of the Board, other than the Chairperson, may not hold another office or position in the Government except as authorized by law, and shall receive compensation at the daily equivalent of the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day they are performing their duties (including traveltime).

(e) The Chairperson may remove any other Board member, upon written notice, for corruption, neglect of duty, malfeasance, or demonstrated incapacity to perform his or her functions, established at a hearing, except where the right to a hearing is waived in writing.

22 USC 4107.

SEC. 1007. FUNCTIONS OF THE BOARD.—(a) The Board shall—

(1) supervise or conduct elections and determine whether a labor organization has been selected as the exclusive representative by a majority of employees who cast valid ballots and otherwise administer the provisions of this chapter relating to the according of exclusive recognition to a labor organization;

(2) resolve complaints of alleged unfair labor practices;

(3) resolve issues relating to the obligation to bargain in good faith;

(4) resolve disputes concerning the effect, the interpretation, or a claim of breach of a collective bargaining agreement, in accordance with section 1014; and

(5) take any action considered necessary to administer effectively the provisions of this chapter.

(b) Decisions of the Board under this chapter shall be consistent with decisions rendered by the Authority under chapter 71 of title 5, United States Code, other than in cases in which the Board finds that special circumstances require otherwise. Decisions of the Board under this chapter shall not be construed as precedent by the Authority, or any court or other authority, for any decision under chapter 71 of title 5, United States Code.

5 USC 7101 *et seq.*

(c) In order to carry out its functions under this chapter—

(1) the Board shall by regulation adopt procedures to apply in the administration of this chapter; and

(2) the Board may—

(A) adopt other regulations concerning its functions under this chapter;

(B) conduct appropriate inquiries wherever persons subject to this chapter are located;

(C) hold hearings;

(D) administer oaths, take the testimony or deposition of any individual under oath, and issue subpenas;

(E) require the Department or a labor organization to cease and desist from violations of this chapter and require it to take any remedial action the Board considers appropriate to carry out this chapter; and

(F) consistent with the provisions of this chapter, exercise the functions the Authority has under chapter 71 of title 5,

United States Code, to the same extent and in the same manner as is the case with respect to persons subject to chapter 71 of such title.

5 USC 7101 *et seq.*

SEC. 1008. FUNCTIONS OF THE GENERAL COUNSEL.—The General Counsel may— 22 USC 4108.

(1) investigate alleged unfair labor practices under this chapter,

(2) file and prosecute complaints under this chapter, and

(3) exercise such other powers of the Board as the Board may prescribe.

SEC. 1009. JUDICIAL REVIEW AND ENFORCEMENT.—(a) Except as provided in section 1014(d), any person aggrieved by a final order of the Board may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of such order in the United States Court of Appeals for the District of Columbia. 22 USC 4109.

(b) The Board may petition the United States Court of Appeals for the District of Columbia for the enforcement of any order of the Board under this chapter and for any appropriate temporary relief or restraining order. Petition.

(c) Subsection (c) of section 7123 of title 5, United States Code, shall apply to judicial review and enforcement of actions by the Board in the same manner that it applies to judicial review and enforcement of actions of the Authority under chapter 71 of title 5, United States Code.

5 USC 7101 *et seq.*

(d) The Board may, upon issuance of a complaint as provided in section 1016 charging that any person has engaged in or is engaging in an unfair labor practice, petition the United States District Court for the District of Columbia, for appropriate temporary relief (including a restraining order). Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper. A court shall not grant any temporary relief under this section if it would interfere with the ability of the Department to carry out its essential functions or if the Board fails to establish probable cause that an unfair labor practice is being committed. Unfair labor practice, relief petition.

SEC. 1010. FOREIGN SERVICE IMPASSE DISPUTES PANEL.—(a) There is established within the Federal Labor Relations Authority the Foreign Service Impasse Disputes Panel, which shall assist in resolving negotiating impasses arising in the course of collective bargaining under this chapter. The Chairperson shall select the Panel from among individuals the Chairperson considers knowledgeable in labor-management relations or the conduct of foreign affairs. The Panel shall be composed of 5 members, as follows: 22 USC 4110.

(1) 2 members of the Service (other than a management official, a confidential employee, or a labor organization official);

(2) one individual employed by the Department of Labor;

(3) one member of the Federal Service Impasses Panel; and

(4) one public member who does not hold any other office or position in the Government.

The Chairperson of the Board shall set the terms of office for Panel members and determine who shall chair the Panel.

(b) Panel members referred to in subsection (a) (3) and (4) shall receive compensation for each day they are performing their duties (including traveltime) at the daily equivalent of the maximum rate payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, except that the member who is also a Compensation.

Travel expenses.

member of the Federal Service Impasses Panel shall not be entitled to pay under this subsection for any day for which he or she receives pay under section 7119(b)(4) of title 5, United States Code. Members of the Panel shall be entitled to travel expenses as provided under section 5703 of title 5, United States Code.

Impasse investigation and settlement.

(c)(1) The Panel or its designee shall promptly investigate any impasse presented to it by a party. The Panel shall consider the impasse and shall either—

(A) recommend to the parties to the negotiation procedures for the resolution of the impasse; or

(B) assist the parties in resolving the impasse through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.

(2) If the parties do not arrive at a settlement after assistance by the Panel under paragraph (1), the Panel may—

(A) hold hearings;

(B) administer oaths, take the testimony or deposition of any individual under oath, and issue subpenas as provided in section 7132 of title 5, United States Code; and

(C) take whatever action is necessary and not inconsistent with this chapter to resolve the impasse.

(3) Notice of any final action of the Panel under this section shall be promptly served upon the parties, and the action shall be binding on such parties during the term of the collective bargaining agreement unless the parties agree otherwise.

Labor organization. 22 USC 4111.

SEC. 1011. EXCLUSIVE RECOGNITION.—(a) The Department shall accord exclusive recognition to a labor organization if the organization has been selected as the representative, in a secret ballot election, by a majority of the employees in a unit who cast valid ballots in the election.

(b) If a petition is filed with the Board—

(1) by any person alleging—

(A) in the case of a unit for which there is no exclusive representative, that 30 percent of the employees in the unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

(B) in the case of a unit for which there is an exclusive representative, that 30 percent of the employees in the unit alleged that the exclusive representative is no longer the representative of the majority of the employees in the unit; or

(2) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

the Board shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after reasonable notice. If the Board finds on the record of the hearing that a question of representation exists, the Board shall supervise or conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any unit within which a valid election under this subsection has been held during the preceding 12 calendar months or with respect to which a labor organization has been certified as the exclusive representative during the preceding 24 calendar months.

(c) A labor organization which—

(1) has been designated by at least 10 percent of the employees in the unit; or

(2) is the exclusive representative of the employees involved; may intervene with respect to a petition filed pursuant to subsection (b) and shall be placed on the ballot of any election under subsection (b) with respect to the petition.

(d)(1) The Board shall determine who is eligible to vote in any election under this section and shall establish regulations governing any such election, which shall include regulations allowing employees eligible to vote the opportunity to choose— Regulations.

(A) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or

(B) not to be represented by a labor organization.

(2) In any election in which more than two choices are on the ballot, the regulations of the Board shall provide for preferential voting. If no choice receives a majority of first preferences, the Board shall distribute to the two choices having the most first preferences the preferences as between those two of the other valid ballots cast. The choice receiving a majority of preferences shall be declared the winner. A labor organization which is declared the winner of the election shall be certified by the Board as the exclusive representative.

(e) A labor organization seeking exclusive recognition shall submit to the Board and to the Department a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

(f) Exclusive recognition shall not be accorded to a labor organization—

(1) if the Board determines that the labor organization is subject to corrupt influence or influences opposed to democratic principles; or

(2) in the case of a petition filed under subsection (b)(1)(A), if there is not credible evidence that at least 30 percent of the employees wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition.

(g) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Board.

SEC. 1012. EMPLOYEES REPRESENTED.—The employees of the Department shall constitute a single and separate worldwide bargaining unit, from which there shall be excluded— 22 USC 4112.

(1) employees engaged in personnel work in other than a purely clerical capacity; and

(2) employees engaged in criminal or national security investigations or who audit the work of individuals to insure that their functions are discharged honestly and with integrity.

SEC. 1013. REPRESENTATION RIGHTS AND DUTIES.—(a) A labor organization which has been accorded exclusive recognition is the exclusive representative of, and is entitled to act for, and negotiate collective bargaining agreements covering, all employees in the unit described in section 1012. An exclusive representative is responsible for representing the interests of all employees in that unit without discrimination and without regard to labor organization membership. 22 USC 4113.

(b)(1) An exclusive representative shall be given the opportunity to be represented at—

(A) any formal discussion between one or more representatives of the Department and one or more employees in the unit (or their representatives), concerning any grievance (as defined in section 1101) or any personnel policy or practice or other general condition of employment; and

(B) any examination of an employee by a Department representative in connection with an investigation if—

(i) the employee reasonably believes that the examination may result in disciplinary action against the employee, and

(ii) the employee requests such representation.

(2) The Department shall annually inform employees of their rights under paragraph (1)(B).

(c) The Department and the exclusive representative, through appropriate representatives, shall meet and negotiate in good faith for the purposes of arriving at a collective bargaining agreement. In addition, the Department and the exclusive representative may determine appropriate techniques, consistent with the provisions of section 1010, to assist in any negotiation.

(d) The rights of an exclusive representative under this section shall not preclude an employee from—

(1) being represented by an attorney or other representative of the employee's own choosing, other than the exclusive representative, in any grievance proceeding under chapter 11; or

(2) exercising grievance or appeal rights established by law, rule, or regulation.

(e) The duty of the Department and the exclusive representative to negotiate in good faith shall include the obligation—

(1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;

(2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment;

(3) to meet at reasonable times and convenient places as frequently as may be necessary and to avoid unnecessary delays;

(4) for the Department to furnish to the exclusive representative, or its authorized representative, upon request and to the extent not prohibited by law, data—

(A) which is normally maintained by the Department in the regular course of business;

(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

(C) which does not constitute guidance, advice, counsel, or training provided for management officials or confidential employees, relating to collective bargaining;

(5) to negotiate jointly with respect to conditions of employment applicable to employees in more than one of the agencies authorized to utilize the Foreign Service personnel system, as determined by the heads of such agencies; and

(6) if agreement is reached, to execute, upon the request of any party to the negotiation, a written document embodying the agreed terms, and to take the steps necessary to implement the agreement.

Agreement approval.

(f)(1) An agreement between the Department and the exclusive representative shall be subject to approval by the Secretary.

(2) The Secretary shall approve the agreement within 30 days after the date of the agreement unless the Secretary finds in writing that the agreement is contrary to applicable law, rule, or regulation.

(3) Unless the Secretary disapproves the agreement by making a finding under paragraph (2), the agreement shall take effect after 30 days from its execution and shall be binding on the Department and the exclusive representative subject to all applicable laws, orders, and regulations.

(g) The Department shall consult with the exclusive representative with respect to Government-wide or multiagency matters affecting the rights, benefits, or obligations of individuals employed in agencies not authorized to utilize the Foreign Service personnel system. The exclusive representative shall be informed of any change proposed by the Department with respect to such matters, and shall be permitted reasonable time to present its views and recommendations regarding such change. The Department shall consider the views and recommendations of the exclusive representative before taking final action on any such change, and shall provide the exclusive representative a written statement of the reasons for taking the final action.

SEC. 1014. RESOLUTION OF IMPLEMENTATION DISPUTES.—(a) Any dispute between the Department and the exclusive representative concerning the effect, interpretation, or a claim of breach of a collective bargaining agreement shall be resolved through procedures negotiated by the Department and the exclusive representative. Any procedures negotiated under this section shall— 22 USC 4114.

(1) be fair and simple,

(2) provide for expeditious processing, and

(3) include provision for appeal to the Foreign Service Grievance Board by either party of any dispute not satisfactorily settled. Appeal.

(b) Either party to an appeal under subsection (a)(3) may file with the Board an exception to the action of the Foreign Service Grievance Board in resolving the implementation dispute. If, upon review, the Board finds that the action is deficient— Exception, filing.

(1) because it is contrary to any law, rule, or regulation; or

(2) on other grounds similar to those applied by Federal courts in private sector labor-management relations;

the Board may take such action and make such recommendations concerning the Foreign Service Grievance Board action as it considers necessary, consistent with applicable laws, rules, and regulations.

(c) If no exception to a Foreign Service Grievance Board action is filed under subsection (b) within 30 days after such action is communicated to the parties, such action shall become final and binding and shall be implemented by the parties.

(d) Resolutions of disputes under this section shall not be subject to judicial review.

SEC. 1015. UNFAIR LABOR PRACTICES.—(a) It shall be an unfair labor practice for the Department— 22 USC 4115.

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

(2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;

(3) to sponsor, control, or otherwise assist any labor organization, other than to furnish upon request customary and routine services and facilities on an impartial basis to labor organizations having equivalent status;

(4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint or petition, or has given any information, affidavit, or testimony under this chapter;

(5) to refuse to consult or negotiate in good faith with a labor organization, as required under this chapter;

(6) to fail or refuse to cooperate in impasse procedures and impasse decisions, as required under this chapter;

(7) to enforce any rule or regulation (other than a rule or regulation implementing section 2302 of title 5, United States Code) which is in conflict with an applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or

(8) to fail or refuse otherwise to comply with any provision of this chapter.

(b) It shall be an unfair labor practice for a labor organization—

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

(2) to cause or attempt to cause the Department to discriminate against any employee in the exercise by the employee of any right under this chapter;

(3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment or reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's functions as an employee;

(4) to discriminate against an employee with regard to the terms and conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(5) to refuse to consult or negotiate in good faith with the Department, as required under this chapter;

(6) to fail or refuse to cooperate in impasse procedures and impasse decisions, as required under this chapter;

(7)(A) to call, or participate in, a strike, work stoppage, or slowdown, or to picket the Department in a labor-management dispute (except that any such picketing in the United States which does not interfere with the Department's operations shall not be an unfair labor practice); or

(B) to condone any unfair labor practice described in subparagraph (A) by failing to take action to prevent or stop such activity;

(8) to deny membership to any employee in the unit represented by the labor organization except—

(A) for failure to tender dues uniformly required as a condition of acquiring and retaining membership, or

(B) in the exercise of disciplinary procedures consistent with the organization's constitution or bylaws and this chapter; or

(9) to fail or refuse otherwise to comply with any provision of this chapter.

(c) The expression of any personal view, argument, or opinion, or the making of any statement, which—

(1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such an election;

(2) corrects the record with respect to any false or misleading statement made by any person; or

(3) informs employees of the Government's policy relating to labor-management relations and representation,

if the expression contains no threat of reprisal or force or promise of benefit and was not made under coercive conditions shall not—

(A) constitute an unfair labor practice under this chapter, or

(B) constitute grounds for the setting aside of any election conducted under this chapter.

(d) Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this section. Except for matters wherein, under section 1109(b), an employee has an option of using the grievance procedure under chapter 11 or an appeals procedure, issues which can be raised under section 1014 or chapter 11 may, in the discretion of the aggrieved party, be raised either under such section or chapter or else raised as an unfair labor practice under this section, but may not be raised both under this section and under section 1014 or chapter 11.

Post, p. 2142.

SEC. 1016. PREVENTION OF UNFAIR LABOR PRACTICES.—(a) If the Department or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the Department or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint.

Investigation.
22 USC 4116.

(b) Any complaint under subsection (a) shall contain a notice—

Complaint.

(1) of the charge;

(2) that a hearing will be held before the Board (or any member thereof or before an individual employed by the Board and designated for such purpose); and

(3) of the time and place fixed for the hearing.

(c) The labor organization or Department involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.

(d)(1) Except as provided in paragraph (2), no complaint shall be issued based on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Board.

(2) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in paragraph (1) by reason of—

(A) any failure of the Department or labor organization against which the charge is made to perform a duty owed to the person, or

(B) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period,

the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

(e) The General Counsel may prescribe regulations providing for informal methods by which the alleged unfair labor practice may be resolved prior to the issuance of a complaint.

(f) The Board (or any member thereof or any individual employed by the Board and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, except that the parties shall not be bound by rules of evidence, whether statutory, common law, or adopted by a

Hearing.

5 USC 551.

court. A transcript shall be kept of the hearing. After such a hearing the Board, in its discretion, may upon notice receive further evidence or hear argument.

(g) If the Board (or any member thereof or any individual employed by the Board and designated for such purpose) determines after any hearing on a complaint under subsection (f) that the preponderance of the evidence received demonstrates that the Department or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the Department or labor organization an order—

(1) to cease and desist from any such unfair labor practice in which the Department or labor organization is engaged;

(2) requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Board and requiring that the agreement, as amended, be given retroactive effect;

(3) requiring reinstatement of an employee with backpay in accordance with section 5596 of title 5, United States Code; or

(4) including any combination of the actions described in paragraphs (1) through (3) or such other action as will carry out the purpose of this chapter.

Back pay.

If any such order requires reinstatement of an employee with backpay, backpay may be required of the Department (as provided in section 5596 of title 5, United States Code) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.

(h) If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the Department or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.

22 USC 4117.

SEC. 1017. STANDARDS OF CONDUCT FOR LABOR ORGANIZATIONS.—(a) The Department shall accord recognition only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in subsection (b), an organization is not required to prove that it is free from such influences if it is subject to a governing requirement adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated, or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

(1) the maintenance of democratic procedures and practices, including—

(A) provisions for periodic elections to be conducted subject to recognized safeguards, and

(B) provisions defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of persons affiliated with Communist or other totalitarian movements and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) A labor organization may be required to furnish evidence of its freedom from corrupt influences opposed to basic democratic principles if there is reasonable cause to believe that—

(1) the organization has been suspended or expelled from, or is subject to other sanction by, a parent labor organization, or federation of organizations with which it has been affiliated, because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a); or

(2) the organization is in fact subject to influences that would preclude recognition under this chapter.

Reports.

(c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with the Assistant Secretary of Labor for Labor Management Relations, provide for bonding of officials and others employed by the organization, and comply with trusteeship and election standards.

Regulations.

(d) The Assistant Secretary of Labor shall prescribe such regulations as are necessary to carry out this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor organization to cease and desist from violations of this section and require it to take such actions as the Assistant Secretary considers appropriate to carry out the policies of this section.

(e) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official, a confidential employee, or any other employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official functions of such management official or such employee.

Strike, work stoppage or slowdown.

(f) If the Board finds that any labor organization has willfully and intentionally violated section 1015(b)(7) by omission or commission with regard to any strike, work stoppage, slowdown, the Board shall—

(1) revoke the exclusive recognition status of the labor organization, which shall then immediately cease to be legally entitled and obligated to represent employees in the unit; or

(2) take any other appropriate disciplinary action.

22 USC 4118.

SEC. 1018. ADMINISTRATIVE PROVISIONS.—(a) If the Department has received from any individual a written assignment which authorizes the Department to deduct from the salary of that individual amounts for the payment of regular and periodic dues of the exclusive representative, the Department shall honor the assignment. Any such assignment shall be made at no cost to the exclusive representative or the individual. Except as provided in subsection (b), any such assignment may not be revoked for a period of one year from its execution.

(b) An assignment for deduction of dues shall terminate when—

(1) the labor organization ceases to be the exclusive representative;

(2) the individual ceases to receive a salary from the Department as a member of the Service; or

(3) the individual is suspended or expelled from membership in the exclusive representative.

(c) During any period when no labor organization is certified as the exclusive representative of employees in the Department, the Department shall have the duty to negotiate with a labor organization which has filed a petition under section 1011(b)(1)(A) alleging that 10 percent of the employees in the Department have membership in the organization if the Board has determined that the petition is valid. Negotiations under this subsection shall be concerned solely with the deduction of dues of the labor organization from the salary of the individuals who are members of the labor organization and who make a voluntary allotment for that purpose. Any agreement between the Department and a labor organization under this subsection shall terminate upon the certification of an exclusive representative of any employees to whom the agreement applies.

Official time, usage.

(d) The following provisions shall apply to the use of official time:

(1) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceedings, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this paragraph shall not exceed the number of individuals designated as representing the Department for such purposes.

(2) Any activities performed by any employee relating to the internal business of the labor organization, including the solicitation of membership, elections of labor organization officials, and collection of dues, shall be performed during the time the employee is in a nonduty status.

(3) Except as provided in paragraph (1), the Board shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Board shall be authorized official time for such purpose during the time the employee would otherwise be in a duty status.

(4) Except as provided in paragraphs (1), (2), and (3), any employee representing an exclusive representative, or engaged in any other matter covered by this chapter, shall be granted official time in any amount the Department and the exclusive representative agree to be reasonable, necessary, and in the public interest.

CHAPTER 11—GRIEVANCES

22 USC 4131.

SEC. 1101. DEFINITION OF GRIEVANCE.—(a)(1) Except as provided in subsection (b), for purposes of this chapter, the term "grievance" means any act, omission, or condition subject to the control of the Secretary which is alleged to deprive a member of the Service who is a citizen of the United States of a right or benefit authorized by law or regulation or which is otherwise a source of concern or dissatisfaction to the member, including—

(A) separation of the member allegedly contrary to laws or regulations, or predicated upon alleged inaccuracy, omission, error, or falsely prejudicial character of information in any part of the official personnel record of the member;

(B) other alleged violation, misinterpretation, or misapplication of applicable laws, regulations, or published policy affecting the terms and conditions of the employment or career status of the member;

(C) allegedly wrongful disciplinary action against the member;

(D) dissatisfaction with respect to the working environment of the member;

(E) alleged inaccuracy, omission, error, or falsely prejudicial character of information in the official personnel record of the member which is or could be prejudicial to the member;

(F) action alleged to be in the nature of reprisal or other interference with freedom of action in connection with participation by the member in procedures under this chapter; and

(G) alleged denial of an allowance, premium pay, or other financial benefit to which the member claims entitlement under applicable laws or regulations.

(2) The scope of grievances described in paragraph (1) may be modified by written agreement between the Department and the labor organization accorded recognition as the exclusive representative under chapter 10 (hereinafter in this chapter referred to as the "exclusive representative"). *Ante*, p. 2128.

(b) For purposes of this chapter, the term "grievance" does not include—

(1) an individual assignment of a member under chapter 5, other than an assignment alleged to be contrary to law or regulation; *Ante*, p. 2092.

(2) the judgment of a selection board established under section 602, a tenure board established under section 306(b), or any other equivalent body established by laws or regulations which similarly evaluates the performance of members of the Service on a comparative basis;

(3) the expiration of a limited appointment, the termination of a limited appointment under section 611, or the denial of a limited career extension or of a renewal of a limited career extension under section 607(b); or

(4) any complaint or appeal where a specific statutory hearing procedure exists, except as provided in section 1109(b).

(c) This chapter applies only with respect to the Department of State, the International Communication Agency, the United States International Development Cooperation Agency, the Department of Agriculture, and the Department of Commerce.

SEC. 1102. GRIEVANCES CONCERNING FORMER MEMBERS.—Within the time limitations of section 1104, a former member of the Service or the surviving spouse (or, if none, another member of the family) of a deceased member or former member of the Service may file a grievance under this chapter only with respect to allegations described in section 1101(a)(1)(G). 22 USC 4132.

SEC. 1103. FREEDOM OF ACTION.—(a) Any individual filing a grievance under this chapter (hereinafter in this chapter referred to as the "grievant"), and any witness, labor organization, or other person involved in a grievance proceeding, shall be free from any restraint, interference, coercion, harassment, discrimination, or reprisal in those proceedings or by virtue of them. 22 USC 4133.

(b)(1) The grievant has the right to a representative of his or her own choosing at every stage of the proceedings under this chapter.

(2) In any case where the grievant is a member of a bargaining unit represented by an exclusive representative, but is not represented in the grievance by that exclusive representative, the exclusive

representative shall have the right to appear during the grievance proceedings.

(3) The grievant, and any representative of the grievant who is a member of the Service or employee of the Department, shall be granted reasonable periods of administrative leave to prepare and present the grievance and to attend proceedings under this chapter.

Administrative leave.

(c) Any witness who is a member of the Service or employee of the Department shall be granted reasonable periods of administrative leave to appear and testify at any proceedings under this chapter.

(d)(1) No record of—

(A) a determination by the Secretary to reject a recommendation of the Foreign Service Grievance Board,

(B) a finding by the Grievance Board against the grievant, or

(C) the fact that a grievance proceeding is pending or has been held,

shall be entered in the personnel records of the grievant (except by order of the Grievance Board as a remedy for the grievance) or those of any other individual connected with the grievance.

Records, confidentiality.

(2) The Department shall maintain records pertaining to grievances under appropriate safeguards to preserve confidentiality.

(3) The Foreign Service Grievance Board may enforce compliance with the requirements of paragraphs (1) and (2).

(e) The Department will use its best endeavors to expedite security clearance procedures whenever necessary to assure a fair and prompt resolution of a grievance.

22 USC 4134.

SEC. 1104. TIME LIMITATIONS.—(a) A grievance is forever barred unless it is filed with the Department within a period of 3 years after the occurrence or occurrences giving rise to the grievance or such shorter period as may be agreed to by the Department and the exclusive representative. There shall be excluded from the computation of any such period any time during which, as determined by the Foreign Service Grievance Board, the grievant was unaware of the grounds for the grievance and could not have discovered such grounds through reasonable diligence.

(b) If a grievance is not resolved under Department procedures (which have been negotiated with the exclusive representative, if any) within ninety days after it is filed with the Department, the grievant or the exclusive representative (on behalf of a grievant who is a member of the bargaining unit) shall be entitled to file a grievance with the Foreign Service Grievance Board for its consideration and resolution.

Establishment.
22 USC 4135.

SEC. 1105. FOREIGN SERVICE GRIEVANCE BOARD.—(a) There is established the Foreign Service Grievance Board (hereinafter in this chapter referred to as the "Board"). The Board shall consist of no fewer than 5 members who shall be independent, distinguished citizens of the United States, well known for their integrity, who are not employees of the Department or members of the Service.

Appointment.

(b) The Chairperson and other members of the Board shall be appointed by the Secretary of State, from nominees approved in writing by the agencies to which this chapter applies and the exclusive representative (if any) for each such agency. Each member of the Board shall be appointed for a term of 2 years, subject to renewal with the same written approvals required for initial appointment. In the event of a vacancy on the Board, an appointment for the unexpired term may be made by the Secretary of State in accordance with the procedures specified in this section. In the event of inability to obtain agreement on a nominee, each such agency and exclusive representative shall select 2 nominees and shall, in an order deter-

mined by lot, in turn strike a name from a list of such nominees until only one name remains. For purposes of this section, the nominee whose name remains shall be deemed to be approved in writing by each such agency head and exclusive representative.

(c) Members of the Board who are not employees of the Government shall be paid for each day they are performing their duties (including traveltime) at the daily equivalent of the maximum rate payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code. Pay.

(d) The Secretary of State may, upon written notice, remove a Board member for corruption, neglect of duty, malfeasance, or demonstrated incapacity to perform his or her functions, established at a hearing (unless the right to a hearing is waived in writing by the Board member). Removal.

(e) The Board may obtain facilities, services, and supplies through the general administrative services of the Department of State. All expenses of the Board, including necessary costs of the travel and travel-related expenses of a grievant, shall be paid out of funds appropriated to the Department for obligation and expenditure by the Board. At the request of the Board, employees of the Department and members of the Service may be assigned as staff employees for the Board. Within the limits of appropriated funds, the Board may appoint and fix the compensation of such other employees as the Board considers necessary to carry out its functions. The individuals so appointed or assigned shall be responsible solely to the Board, and the Board shall prepare the performance evaluation reports for such individuals. The records of the Board shall be maintained by the Board and shall be separate from all other records of the Department of State under appropriate safeguards to preserve confidentiality. Administrative services.

SEC. 1106. BOARD PROCEDURES.—The Board may adopt regulations concerning its organization and procedures. Such regulations shall include provision for the following: 22 USC 4136.

(1) The Board shall conduct a hearing at the request of a grievant in any case which involves— Hearing.

(A) disciplinary action or the retirement of a grievant from the Service under section 607 or 608, or

(B) issues which, in the judgment of the Board, can best be resolved by a hearing or presentation of oral argument.

(2) The grievant, the representatives of the grievant, the exclusive representative (if the grievant is a member of the bargaining unit represented by the exclusive representative), and the representatives of the Department are entitled to be present at the hearing. The Board may, after considering the views of the parties and any other individuals connected with the grievance, decide that a hearing should be open to others. Testimony at a hearing shall be given under oath, which any Board member or individual designated by the Board shall have authority to administer.

(3) Each party (including an exclusive representative appearing in the proceedings) shall be entitled to examine and cross-examine witnesses at the hearing or by deposition and to serve interrogatories upon another party and have such interrogatories answered by the other party unless the Board finds such interrogatory irrelevant, immaterial, or unduly repetitive. Upon request of the Board, or upon a request of the grievant deemed relevant and material by the Board, an agency shall promptly make available at the hearing or by deposition any witness under its control, supervision, or responsibility, except that if the Board

determines that the presence of such witness at the hearing is required for just resolution of the grievance, then the witness shall be made available at the hearing, with necessary costs and travel expenses paid by the Department.

(4) During any hearing held by the Board, any oral or documentary evidence may be received, but the Board shall exclude any irrelevant, immaterial, or unduly repetitious evidence, as determined under section 556 of title 5, United States Code.

Transcript.

(5) A verbatim transcript shall be made of any hearing and shall be part of the record of proceedings.

(6) In those grievances in which the Board does not hold a hearing, the Board shall afford to each party the opportunity to review and to supplement, by written submissions, the record of proceedings prior to the decision by the Board. The decision of the Board shall be based exclusively on the record of proceedings.

Panels.

(7) The Board may act by or through panels or individual members designated by the Chairperson, except that hearings within the continental United States shall be held by panels of at least three members unless the parties agree otherwise. References in this chapter to the Board shall be considered to be references to a panel or member of the Board where appropriate. All members of the Board shall act as impartial individuals in considering grievances.

(8) If the Board determines that the Department is considering the involuntary separation of the grievant, disciplinary action against the grievant, or recovery from the grievant of alleged overpayment of salary, expenses, or allowances, which is related to a grievance pending before the Board and that such action should be suspended, the Department shall suspend such action until the Board has ruled upon the grievance. Notwithstanding such suspension of action, the head of the agency concerned or a chief of mission or principal officer may exclude the grievant from official premises or from the performance of specified functions when such exclusion is determined in writing to be essential to the functioning of the post or office to which the grievant is assigned.

(9) The Board may reconsider any decision upon presentation of newly discovered or previously unavailable material evidence.

22 USC 4137.

SEC. 1107. BOARD DECISIONS.—(a) Upon completion of its proceedings, the Board shall expeditiously decide the grievance on the basis of the record of proceedings. In each case the decision of the Board shall be in writing, and shall include findings of fact and a statement of the reasons for the decision of the Board.

(b) If the Board finds that the grievance is meritorious, the Board shall have the authority to direct the Department—

(1) to correct any official personnel record relating to the grievant which the Board finds to be inaccurate or erroneous, to have an omission, or to contain information of a falsely prejudicial character;

(2) to reverse a decision denying the grievant compensation or any other perquisite of employment authorized by laws or regulations when the Board finds that such decision was arbitrary, capricious, or contrary to laws or regulations;

(3) to retain in the Service a member whose separation would be in consequence of the matter by which the member is aggrieved;

(4) to reinstate the grievant, and to grant the grievant back pay in accordance with section 5596(b)(1) of title 5, United States Code;

(5) to pay reasonable attorney fees to the grievant to the same extent and in the same manner as such fees may be required by the Merit Systems Protection Board under section 7701(g) of title 5, United States Code; and

(6) to take such other remedial action as may be appropriate under procedures agreed to by the Department and the exclusive representative (if any).

(c) Except as provided in subsection (d), decisions of the Board under this chapter shall be final, subject only to judicial review as provided in section 1110.

Recommendations.

(d) If the Board finds that the grievance is meritorious and that remedial action should be taken that relates directly to promotion or assignment of the grievant or to other remedial action not otherwise provided for in this section, or if the Board finds that the evidence before it warrants disciplinary action against any employee of the Department or member of the Service, it shall make an appropriate recommendation to the Secretary. The Secretary shall make a written decision on the recommendation of the Board within 30 days after receiving the recommendation. The Secretary shall implement the recommendation of the Board except to the extent that, in a decision made within that 30-day period, the Secretary rejects the recommendation in whole or in part on the basis of a determination that implementation of the recommendation would be contrary to law or would adversely affect the foreign policy or national security of the United States. If the Secretary rejects the recommendation in whole or in part, the decision shall specify the reasons for such action. Pending the decision of the Secretary, there shall be no ex parte communication concerning the grievance between the Secretary and any person involved in the proceedings of the Board. The Secretary shall, however, have access to the entire record of the proceedings of the Board.

22 USC 4138.

SEC. 1108. ACCESS TO RECORDS.—(a) If a grievant is denied access to any agency record prior to or during the consideration of the grievance by the Department, the grievant may raise such denial before the Board in connection with the grievance.

(b) In considering a grievance, the Board shall have access to any agency record as follows:

(1)(A) The Board shall request access to any agency record which the grievant requests to substantiate the grievance if the Board determines that such record may be relevant and material to the grievance.

(B) The Board may request access to any other agency record which the Board determines may be relevant and material to the grievance.

(2) Any agency shall make available to the Board any agency record requested under paragraph (1) unless the head or deputy head of such agency personally certifies in writing to the Board that disclosure of the record to the Board and the grievant would adversely affect the foreign policy or national security of the United States or that such disclosure is prohibited by law. If such a certification is made with respect to any record, the agency shall supply to the Board a summary or extract of such record unless the reasons specified in the preceding sentence preclude such a summary or extract.

(c) If the Board determines that an agency record, or a summary or extract of a record, made available to the Board under subsection (b) is relevant and material to the grievance, the agency concerned shall make such record, summary, or extract, as the case may be, available to the grievant.

(d) In considering a grievance, the Board may take into account the fact that the grievant or the Board was denied access to an agency record which the Board determines is or may be relevant and material to the grievance.

(e) The grievant in any case decided by the Board shall have access to the record of the proceedings and the decision of the Board.

22 USC 4139. SEC. 1109. RELATIONSHIP TO OTHER REMEDIES.—(a) A grievant may not file a grievance with the Board if the grievant has formally requested, prior to filing a grievance, that the matter or matters which are the basis of the grievance be considered or resolved and relief be provided under another provision of law, regulation, or Executive order, other than under section 1206 of title 5, United States Code, and the matter has been carried to final decision under such provision on its merits or is still under consideration.

(b) If a grievant is not prohibited from filing a grievance under subsection (a), the grievant may file with the Board a grievance which is also eligible for consideration, resolution, and relief under chapter 12 of title 5, United States Code, or a regulation or Executive order other than under this chapter. An election of remedies under this section shall be final upon the acceptance of jurisdiction by the Board.

5 USC 1201 *et seq.*

22 USC 4140. SEC. 1110. JUDICIAL REVIEW.—Any aggrieved party may obtain judicial review of a final action of the Secretary or the Board on any grievance in the district courts of the United States in accordance with the standards set forth in chapter 7 of title 5, United States Code. Section 706 of title 5, United States Code, shall apply without limitation or exception.

5 USC 701 *et seq.*

TITLE II—TRANSITION, AMENDMENTS TO OTHER LAWS, AND MISCELLANEOUS PROVISIONS

CHAPTER 1—TRANSITION

22 USC 4151. SEC. 2101. PAY AND BENEFITS PENDING CONVERSION.—Until converted under the provisions of this chapter, any individual who is in the Foreign Service before the effective date of this Act and is serving under an appointment as a Foreign Service officer, Foreign Service information officer, Foreign Service Reserve officer with limited or unlimited tenure, or Foreign Service staff officer or employee, shall be treated for purposes of salary, allowances, and other matters as if such individual had been converted under section 2102 or 2103, as the case may be, on the effective date of this Act, except that any adjustment of salary under this section shall take effect—

(1) in the case of an individual who is in the Foreign Service on the date of enactment of this Act, on the first day of the first pay period which begins on or after October 1, 1980, and

(2) in the case of an individual who is appointed to the Foreign Service after the date of enactment of this Act, on the date such appointment becomes effective.

22 USC 4152. SEC. 2102. CONVERSION TO THE FOREIGN SERVICE SCHEDULE.—(a) Not later than 120 days after the effective date of this Act, the Secretary shall, in accordance with section 2106, convert to the appropriate class in the Foreign Service Schedule established under section 403 of

this Act those individuals in the Foreign Service who are serving immediately before the effective date of this Act under appointments at or below class 3 of the schedule established under section 412 or 414 of the Foreign Service Act of 1946, or at any class in the schedule established under section 415 of such Act, as— 22 USC 867, 869. 22 USC 870.

(1) Foreign Service officers, or

(2) Foreign Service Reserve officers with limited or unlimited tenure, and Foreign Service staff officers or employees, who the Secretary determines are available for worldwide assignment.

(b) Not later than 3 years after the effective date of this Act, Foreign Service Reserve officers and staff officers and employees who the Secretary determines under subsection (a)(2) are not available for worldwide assignment shall also be converted, in accordance with section 2106, to the appropriate class in the Foreign Service Schedule established under section 403 if—

(1) the Secretary certifies that there is a need for their services in the Foreign Service; and

(2) they agree in writing to accept availability for worldwide assignment as a condition of continued employment.

SEC. 2103. CONVERSION TO THE SENIOR FOREIGN SERVICE.—(a) Foreign Service officers and Foreign Service Reserve officers with limited or unlimited tenure who, immediately before the effective date of this Act, are serving under appointments at class 2 or a higher class of the schedule established under section 412 or 414 of the Foreign Service Act of 1946 may at any time within 120 days after such date submit to the Secretary a written request for appointment to the Senior Foreign Service. 22 USC 4153. 22 USC 867, 869.

(b) Except as provided in subsection (d), if a request is submitted under subsection (a) by a Foreign Service Reserve officer with limited tenure, the Secretary shall grant to such officer a limited appointment to the Senior Foreign Service in the appropriate class established under section 402 of this Act.

(c) If a request is submitted under subsection (a) by a Foreign Service officer or, except as provided in subsection (d), a Foreign Service Reserve officer with unlimited tenure, the Secretary shall recommend to the President a career appointment of such officer, by and with the advice and consent of the Senate, to the Senior Foreign Service in the appropriate class established under section 402 of this Act.

(d) If the Secretary determines that a Foreign Service Reserve officer with limited or unlimited tenure who submits a request under subsection (a) is not available for worldwide assignment, an appointment under subsection (b) or a recommendation for appointment under subsection (c) shall be made only if—

(1) the Secretary certifies that there is a need for the services of such officer in the Senior Foreign Service; and

(2) such officer agrees in writing to accept availability for worldwide assignment as a condition of continued employment.

(e) If a Foreign Service officer or a Foreign Service Reserve officer who is eligible to submit a request under subsection (a) submits a written request for appointment to the Senior Foreign Service to the Secretary more than 120 days after the effective date of this Act and before the end of the 3-year period beginning on such effective date, the Secretary (in the case of a Foreign Service Reserve officer with limited tenure) may grant a limited appointment to, or (in the case of a Foreign Service officer or Foreign Service Reserve officer with unlimited tenure) may recommend to the President a career appointment of, the requesting officer to the appropriate class established

under section 402 of this Act, subject to the conditions specified in subsection (d) and such other conditions as the Secretary may prescribe consistent with the provisions of chapter 6 of title I of this Act relating to promotion into the Senior Foreign Service.

(f) Any officer of the Foreign Service who is eligible to submit a request under subsection (a) and—

(1) who does not submit a request under subsection (a), or

(2) who submits such a request more than 120 days after the effective date of this Act and is not appointed to the Senior Foreign Service for any reason other than failure to meet the conditions specified in subsection (d),

may not remain in the Foreign Service for more than 3 years after the effective date of this Act. During such period, the officer shall be subject to the provisions of title I of this Act applicable to members of the Senior Foreign Service, except that such officer shall not be eligible to compete for performance pay under section 405, and shall not be eligible for a limited career extension as described in section 607(b). Upon separation from the Service, any such officer who is a participant in the Foreign Service Retirement and Disability System shall be entitled to retirement benefits determined in accordance with chapter 8 of title I of this Act.

22 USC 4154.

SEC. 2104. CONVERSION FROM THE FOREIGN SERVICE.—(a) In the case of any individual in the Foreign Service who, immediately before the effective date of this Act, is serving under an appointment described in section 2102(a) or 2103(a) and who is not converted under section 2102 or section 2103 because such individual does not meet the conditions specified in section 2102(b) or 2103(d), the Secretary shall, not later than 3 years after the effective date of this Act, provide that—

(1) the position such individual holds shall be subject to chapter 51 and subchapter III of chapter 53 of title 5, United States Code;

5 USC 5101 *et seq.*, 5331.

(2) such individual shall be appointed to such position without competitive examination; and

(3) such position shall be considered to be in the competitive service so long as the individual continues to hold that position;

except that any such individual who meets the eligibility requirements for the Senior Executive Service and who elects to join that Service shall be converted by the Secretary to the Senior Executive Service in the appropriate rate of basic pay established under section 5382 of title 5, United States Code.

International Communication Agency personnel.

(b) In the case of individuals in the Foreign Service in the International Communication Agency who immediately before the date of enactment of this Act are covered by a collective bargaining agreement between the Agency and the exclusive representative of those individuals, the 3-year period referred to in subsection (a) shall begin on July 1, 1981.

22 USC 4155.

SEC. 2105. CONVERSION OF CERTAIN POSITIONS IN THE DEPARTMENT OF AGRICULTURE.—(a) Not later than 15 days after the effective date of this Act, the Secretary of Agriculture shall—

(1) designate and classify under section 501 of this Act those positions in the Foreign Agricultural Service under the General Schedule described in section 5332 of title 5, United States Code, which the Secretary of Agriculture determines are to be occupied by career members of the Foreign Service, and

(2) provide written notice to individuals holding those positions of such designation and classification of the personnel category under section 103 which will apply to such individual.

(b) Each employee serving in a position at the time it is designated under subsection (a) shall, not later than 120 days after notice of such designation, elect—

(1) to accept conversion to the Foreign Service, in which case such employee shall be converted in accordance with the provisions of subsection (c); or

(2) to decline conversion to the Foreign Service and have the provisions of subsection (d) apply.

(c)(1) The Secretary of Agriculture shall recommend to the President for appointment to the appropriate class (as determined under paragraph (2)), by and with the advice and consent of the Senate, those employees who elect conversion under subsection (a)(1).

(2) The Secretary of Agriculture shall appoint as Foreign Service personnel those employees who elect to accept conversion and who are not eligible for appointment under paragraph (1).

(d) Any employee who declines conversion under subsection (b)(2) shall for so long as that employee continues to hold the designated position be deemed to be a member of the Foreign Service for purposes of allowances, differentials, and similar benefits (as determined by the Secretary of Agriculture).

SEC. 2106. PRESERVATION OF STATUS AND BENEFITS.—(a)(1) Every individual who is converted under this chapter shall be converted to the class or grade and pay rate that most closely corresponds to the class or grade and step at which the individual was serving immediately before conversion. No conversion under this chapter shall cause any individual to incur a reduction in his or her class, grade, or basic rate of salary. 22 USC 4156.

(2) An individual converted under section 2104 to a position in the competitive service shall be entitled to have that position, or any other position to which the individual is subsequently assigned (other than at the request of the individual), be considered for all purposes as at the grade which corresponds to the class in which the individual served immediately before conversion so long as the individual continues to hold that position.

(b)(1) Any participant in the Foreign Service Retirement and Disability System who would, but for this paragraph, participate in the Civil Service Retirement and Disability System by virtue of conversion under this chapter shall remain a participant in the Foreign Service Retirement and Disability System for 120 days after participation in the Foreign Service Retirement and Disability System would otherwise cease. During such 120-day period, the individual may elect in writing to continue to participate in the Foreign Service Retirement and Disability System instead of the Civil Service Retirement and Disability System so long as he or she is employed in an agency which is authorized to utilize the Foreign Service personnel system. If such an election is not made, the individual shall then be covered by the Civil Service Retirement and Disability System and contributions made by the participant to the Foreign Service Retirement and Disability Fund shall be transferred to the Civil Service Retirement and Disability Fund. Retirement fund, participant status.

(2) Any Foreign Service Reserve officer with limited tenure who has reemployment rights to a personnel category in the Foreign Service in which he or she would be a participant in the Foreign Service Retirement and Disability System and who would, but for this paragraph, continue to participate in the Civil Service Retirement and Disability System by virtue of conversion under section 2104 may elect, during the 120-day period beginning on the date of such conversion, to become a participant in the Foreign Service

Retirement and Disability System so long as he or she is employed in an agency which is authorized to utilize the Foreign Service personnel system. If such an election is made, the individual shall be transferred to the Foreign Service Retirement and Disability System and contributions made by that individual to the Civil Service Retirement and Disability Fund shall be transferred to the Foreign Service Retirement and Disability Fund.

(c) Individuals who are converted under this chapter shall be converted to the type of appointment which corresponds most closely in tenure to the type of appointment under which they were serving immediately prior to such conversion, except that this chapter shall not operate to extend the duration of any limited appointment or previously applicable time in class.

(d) Any individual who on the effective date of this Act is serving—

(1) under an appointment in the Foreign Service, or

(2) in any other office or position continued by this Act,

may continue to serve under such appointment, subject to the provisions of this Act, and need not be reappointed by virtue of the enactment of this Act.

(e) Any individual in the Foreign Service—

(1) who is serving under a career appointment on the date of enactment of this Act, and

(2) who was not subject to section 633(a)(2) of the Foreign Service Act of 1946 immediately before the effective date of this Act,

22 USC 1003.

Ante, p. 2097.

may not be retired under section 608 of this Act until 10 years after the effective date of this Act or when such individual first becomes eligible for an immediate annuity under chapter 8 of title I of this Act, whichever occurs first.

22 USC 4157.

SEC. 2107. REGULATIONS.—Under the direction of the President, the Secretary shall prescribe regulations for the implementation of this chapter.

22 USC 4158.

SEC. 2108. AUTHORITY OF OTHER AGENCIES.—The heads of agencies other than the Department of State which utilize the Foreign Service personnel system shall perform functions under this chapter in accordance with regulations prescribed by the Secretary of State under section 2107. Such agency heads shall consult with the Secretary of State in the exercise of such functions.

22 USC 4159.

SEC. 2109. SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES.—(a) Any participant or former participant in the Foreign Service Retirement and Disability System who on February 15, 1981, has a former spouse may, by a spousal agreement, elect to receive a reduced annuity and provide a survivor annuity for such former spouse under section 814(b).

Ante, p. 2113.

(b)(1) If the participant or former participant has not retired under such system on or before February 15, 1981, an election under this section may be made at any time before retirement.

(2) If the participant or former participant has retired under such system on or before February 15, 1981, an election under this section may be made within such period after February 15, 1981, as the Secretary of State may prescribe.

Ante, p. 2102.

(3) For purposes of applying chapter 8 of title I, any such election shall be treated the same as if it were a spousal agreement under section 820(b)(1).

Ante, p. 2120.

(c) An election under this section may provide for a survivor benefit based on all or any portion of that part of the annuity of the participant which is not designated or committed as a base for survivor benefits for a spouse or any other former spouse of the

participant. The participant and his or her spouse may make an election under section 806(b)(1)(B) prior to the time of retirement for the purpose of allowing an election to be made under this section. *Ante*, p. 2106.

(d) The amount of the reduction in the participant's annuity shall be determined in accordance with section 806(b)(2). Such reduction shall be effective as of—

(1) the commencing date of the participant's annuity, in the case of an election under subsection (b)(1), or

(2) February 15, 1981, in the case of an election under subsection (b)(2).

(e) For purposes of this section, the terms "former spouse", "participant", and "spousal agreement" have the meanings given such terms in sections 803 and 804. Definitions. *Ante*, p. 2102.

CHAPTER 2—PROVISIONS RELATING TO FOREIGN AFFAIRS AGENCIES

SEC. 2201. BASIC AUTHORITIES OF THE DEPARTMENT OF STATE.—(a) The Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, is amended by adding at the end thereof the following new sections:

"SEC. 25. (a) The Secretary of State may accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Department of State (including the Foreign Service) or for the carrying out of any of its functions. Conditional gifts may be so accepted at the discretion of the Secretary, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, except that no gift shall be accepted which is conditioned upon any expenditure which will not be met by the gift or the income from the gift unless such expenditure has been approved by Act of Congress. Gifts. 22 USC 2697.

"(b) Any unconditional gift of money accepted under subsection (a), the income from any gift property held under subsection (c) or (d) (except income made available for expenditure under subsection (d)(2)), the net proceeds from the liquidation of gift property under subsection (c) or (d), and the proceeds of insurance on any gift property which are not used for its restoration, shall be deposited in the Treasury of the United States. Such funds are hereby appropriated and shall be held in trust by the Secretary of the Treasury for the benefit of the Department of State (including the Foreign Service). The Secretary of the Treasury may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. Such funds and the income from such investments shall be available for expenditure in the operation of the Department of State (including the Foreign Service) and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Foreign Service by the Congress.

"(c) The evidences of any unconditional gift of intangible personal property (other than money) accepted under subsection (a), shall be deposited with the Secretary of the Treasury who may hold or liquidate them, except that they shall be liquidated upon the request of the Secretary of State whenever necessary to meet payments required in the operation of the Department of State (including the Foreign Service) or the performance of its functions.

"(d)(1) The Secretary of State shall hold any real property or any tangible personal property accepted unconditionally pursuant to subsection (a) and shall either use such property for the operation of the Department of State (including the Foreign Service) and the

performance of its functions or lease or hire such property, except that any such property not required for the operation of the Department of State (including the Foreign Service) or the performance of its functions may be liquidated by the Secretary of State whenever in the judgment of the Secretary of State the purposes of the gift will be served thereby. The Secretary of State may insure any property held under this subsection. Except as provided in paragraph (2), the Secretary shall deposit the income from any property held under this subsection with the Secretary of the Treasury as provided in subsection (b).

"(2) The income from any real property or tangible personal property held under this subsection shall be available for expenditure at the discretion of the Secretary of State for the maintenance, preservation, or repair and insurance of such property and any proceeds from insurance may be used to restore the property insured.

"(e) For the purpose of Federal income, estate, and gift taxes, any gift, devise, or bequest accepted under this section shall be deemed to be a gift, devise, or bequest to and for the use of the United States.

"(f) The authorities available to the Secretary of State under this section with respect to the Department of State shall be available to the Director of the International Communication Agency and the Director of the United States International Development Cooperation Agency with respect to their respective agencies.

Legal services.
22 USC 2698.

"SEC. 26. (a) The Secretary of State may, without regard to section 3106 of title 5, United States Code, authorize a principal officer of the Foreign Service to procure legal services whenever such services are required for the protection of the interests of the Government or to enable a member of the Service to carry on the member's work efficiently.

"(b) The authority available to the Secretary of State under this section shall be available to the Director of the International Communication Agency and the Director of the United States International Development Cooperation Agency with respect to their respective agencies.

Personnel family members, employment.
22 USC 2699.

"SEC. 27. (a) In order to expand employment opportunities for family members of United States Government personnel assigned abroad, the Secretary of State shall seek to conclude such bilateral and multilateral agreements as will facilitate the employment of such family members in foreign economies.

"(b) Any member of a family of a member of the Foreign Service may accept gainful employment in a foreign country unless such employment—

"(1) would violate any law of such country or of the United States; or

"(2) could, as certified in writing by the United States chief of mission to such country, damage the interests of the United States.

Transportation.
22 USC 2700.

"SEC. 28. The Secretary of State may authorize the principal officer of a Foreign Service post to provide for the use of Government owned or leased vehicles located at that post for transportation of United States Government employees and their families when public transportation is unsafe or not available or when such use is advantageous to the Government.

Education.
22 USC 2701.

"SEC. 29. Whenever the Secretary of State determines that educational facilities are not available, or that existing educational facilities are inadequate, to meet the needs of children of United States citizens stationed outside the United States who are engaged in carrying out Government activities, the Secretary may, in such

manner as he deems appropriate and under such regulations as he may prescribe, establish, operate, and maintain primary schools, and school dormitories and related educational facilities for primary and secondary schools, outside the United States, make grants of funds for such purposes, or otherwise provide for such educational facilities. The authorities of the Foreign Service Buildings Act, 1926, and of paragraphs (h) and (i) of section 3 of this Act, may be utilized by the Secretary in providing assistance for educational facilities. Such assistance may include hiring, transporting, and payment of teachers and other necessary personnel.

22 USC 299.
22 USC 2670.

"SEC. 30. (a) The remedy—

Damages against U.S.
22 USC 2702.

"(1) against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, or

"(2) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under such sections,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, nurse, pharmacist, or paramedical (including medical and dental assistants and technicians, nursing assistants, and therapists) or other supporting personnel of the Department of State in furnishing medical care or related services, including the conducting of clinical studies or investigations, while in the exercise of his or her duties in or for the Department of State or any other Federal department, agency, or instrumentality shall be exclusive of any other civil action or proceeding by reason of the same subject matter against such physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (or his or her estate) whose act or omission gave rise to such claim.

"(b) The United States Government shall defend any civil action or proceeding brought in any court against any person referred to in subsection (a) of this section (or his or her estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as may be determined by the Attorney General, all process served upon him or her or an attested true copy thereof to whomever was designated by the Secretary to receive such papers. Such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the Secretary.

Court action.

"(c) Upon a certification by the Attorney General that the defendant was acting within the scope of his or her employment in or for the Department of State or any other Federal department, agency, or instrumentality at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (a) of this section is not available against the United States, the case shall be remanded to the State court except that where such remedy is precluded because of the availability of a

28 USC 1.

remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the case shall be dismissed, but in that event, the running of any limitation of time for commencing, or filing an application or claim in, such proceedings for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this section.

"(d) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, the United States Code, and with the same effect.

"(e) For purposes of this section, the provisions of section 2680(h) of title 28, United States Code, shall not apply to any tort enumerated therein arising out of negligence in the furnishing of medical care or related services, including the conducting of clinical studies or investigations.

"(f) The Secretary may, to the extent he deems appropriate, hold harmless or provide liability insurance for any person to whom the immunity provisions of subsection (a) of this section apply, for damages for personal injury, including death, negligently caused by any such person while acting within the scope of his or her office or employment and as a result of the furnishing of medical care or related services, including the conducting of clinical studies or investigations, if such person is assigned to a foreign area or detailed for service with other than a Federal agency or institution, or if the circumstances are such as are likely to preclude the remedies of third persons against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, for such damage or injury.

"(g) For purposes of this section, any medical care or related service covered by this section and performed abroad by a covered person at the direction or with the approval of the United States chief of mission or other principal representative of the United States in the area shall be deemed to be within the scope of employment of the individual performing the service.

Services and facilities.
22 USC 2703.

"SEC. 31. (a) The Secretary of State may authorize and assist in the establishment, maintenance, and operation by civilian officers and employees of the Government of non-Government-operated services and facilities at posts abroad, including the furnishing of space, utilities, and properties owned or leased by the Government for use by its diplomatic, consular, and other missions and posts abroad. The provisions of the Foreign Service Buildings Act, 1926 (22 U.S.C. 292–300) and section 13 of this Act may be utilized by the Secretary in providing such assistance.

22 USC 2684.

"(b) The Secretary may establish and maintain emergency commissary or mess services in places abroad where, in the judgment of the Secretary, such services are necessary temporarily to insure the effective and efficient performance of official duties and responsibilities. Reimbursements incident to the maintenance and operation of commissary or mess service under this subsection shall be at not less than cost as determined by the Secretary and shall be used as working funds, except that an amount equal to the amount expended for such services shall be covered into the Treasury as miscellaneous receipts.

"(c) Services and facilities established under this section shall be made available, insofar as practicable, to officers and employees of all agencies and their dependents who are stationed in the locality abroad. Such services and facilities shall not be established in localities where another agency operates similar services or facilities

unless the Secretary determines that additional services or facilities are necessary. Other agencies shall to the extent practicable avoid duplicating the facilities and services provided or assisted by the Secretary under this section.

"(d) Charges at any post abroad for a service or facility provided, authorized or assisted under this section shall be at the same rate for all civilian personnel of the Government serviced thereby, and all charges for supplies furnished to such a service or facility abroad by any agency shall be at the same rate as that charged by the furnishing agency to its comparable civilian services and facilities.

"SEC. 32. The Secretary of State may pay, without regard to section 5702 of title 5, United States Code, subsistence expenses of (1) security officers of the Department of State who are on authorized protective missions, and (2) members of the Foreign Service and employees of the Department who are required to spend extraordinary amounts of time in travel status.

Subsistance expenses.
22 USC 2704.

"SEC. 33. This Act may be cited as the 'State Department Basic Authorities Act of 1956'.".

Short title.
22 USC 2651 note.

(b) Section 13(a) of such Act (22 U.S.C. 2684(a)) is amended by striking out "Foreign Service Act of 1946, as amended" and inserting in lieu thereof "Foreign Service Act of 1980".

22 USC 801 note.
Ante, p. 2071.

SEC. 2202. PEACE CORPS ACT.—(a) Section 5 of the Peace Corps Act (22 U.S.C. 2504) is amended—

(1) in subsection (f)(1)—

(A) in subparagraph (A) by striking out "section 852(a)(1) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1092(a)(1))," and inserting in lieu thereof "section 816(a) of the Foreign Service Act of 1980", and

Ante, p. 2118.

(B) in subparagraph (B) by striking out "Foreign Service Act of 1946" and inserting in lieu thereof "Foreign Service Act of 1980"; and

(2) in subsection (h)—

(A) by striking out "section 1091 of the Foreign Service Act of 1946" and inserting in lieu thereof "section 30 of the State Department Basic Authorities Act of 1956", and

22 USC 817.
Ante, p. 2155.

(B) by striking out "Director of ACTION" and inserting in lieu thereof "President".

(b)(1) Section 7(a) of the Peace Corps Act (22 U.S.C. 2506(a)) is amended—

(A) in paragraph (1)—

(i) by striking out ", who shall receive compensation at any of the rates provided for persons appointed to the Foreign Service Reserve and Staff under the Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.)" and inserting in lieu thereof "which are not authorized to utilize the Foreign Service personnel system, who shall receive compensation at any of the rates established under section 402 or 403 of the Foreign Service Act of 1980";

Ante, pp. 2087, 2088.

(ii) by striking out "section 528" and inserting in lieu thereof "section 310"; and

22 USC 928.
Ante, p. 2087.

(iii) by striking out "Reserve" the last place it appears and all that follows and inserting in lieu thereof a period; and

(B) by amending paragraph (2) to read as follows:

"(2) The President may utilize such authority contained in the Foreign Service Act of 1980 relating to members of the Foreign Service and other United States Government officers and employees as the President deems necessary to carry out functions under this Act, except that—

Ante, p. 2071.

"(A) no Foreign Service appointment or assignment under this paragraph shall be for a period of more than five years unless the Director of the Peace Corps, under special circumstances, personally approves an extension of not more than one year on an individual basis; and

"(B) no individual whose Foreign Service appointment or assignment under this paragraph has been terminated shall be reappointed or reassigned under this paragraph before the expiration of a period of time equal to the preceding tour of duty of that individual.

Such provisions of the Foreign Service Act of 1980 as the President deems appropriate shall apply to individuals appointed or assigned under this paragraph, including in all cases, the provisions of section 310 of that Act, except that (i) the President may by regulation make exceptions to the application of section 310 in cases in which the period of the appointment or assignment exceeds thirty months, (ii) members of the Foreign Service appointed or assigned pursuant to this paragraph shall receive within-class salary increases in accordance with such regulations as the President may prescribe, and (iii) under such regulations as the President may prescribe, individuals who are to perform duties of a more routine nature than are generally performed by members of the Foreign Service assigned to class 9 in the Foreign Service Schedule may be appointed to an unenumerated class ranking below class 9 in the Foreign Service Schedule and be paid basic compensation at rates lower than those for class 9, except that such rates may be no less than the then applicable minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).".

Ante, p. 2071.

Ante, p. 2087.

(2) Section 7(a)(4) of the Peace Corps Act (22 U.S.C. 2506(a)(4)) is amended—

(A) by striking out "Until" and all that follows through "paragraph or" and inserting in lieu thereof "An individual who has received an appointment or assignment in the Foreign Service under this subsection may, not later than September 30, 1982, or three years";

(B) by striking out "such person" and inserting in lieu thereof "such individual"; and

(C) by striking out "substantially continuous basis" and inserting in lieu thereof "continuous basis without a break in service of more than three days".

(c) Section 13(b) of the Peace Corps Act (22 U.S.C. 2512(b)) is amended by striking out "section 872 of the Foreign Service Act of 1946, as amended" and inserting in lieu thereof "section 824 of the Foreign Service Act of 1980,".

22 USC 1112.

Ante, p. 2122.

(d) Section 14(b) of the Peace Corps Act (22 U.S.C. 2513(b)) is amended by striking out "section 901 of the Foreign Service Act of 1946 (22 U.S.C. 1131)" and inserting in lieu thereof "section 905 of the Foreign Service Act of 1980".

Ante, p. 2128.

(e) Section 15(a) of the Peace Corps Act (22 U.S.C. 2514) is amended by striking out "Foreign Service personnel" and inserting in lieu thereof "members of the Foreign Service".

SEC. 2203. FOREIGN ASSISTANCE ACT.—(a) Section 625(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2385(d)) is amended to read as follows:

"(d) For the purpose of performing functions under this Act outside the United States, the President may employ or assign individuals, or may authorize the employment or assignment of officers or employees by agencies of the United States Government which are

not authorized to utilize the Foreign Service personnel system, who shall receive compensation at any of the rates provided for under section 402 or section 403 of the Foreign Service Act of 1980, together with allowances and benefits under that Act. Individuals so employed or assigned shall be entitled, except to the extent that the President may specify otherwise in cases in which the period of employment or assignment exceeds thirty months, to the same benefits as are provided by section 310 of that Act for individuals appointed to the Foreign Service.". *Ante*, pp. 2087, 2088. *Ante*, p. 2087.

(b) Section 629(b) of such Act (22 U.S.C. 2389(b)) is amended by striking out "section 901 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1131)" and inserting in lieu thereof "section 905 of the Foreign Service Act of 1980". *Ante*, p. 2128.

(c) Section 631(b) of such Act (22 U.S.C. 2391(b)) is amended by amending the second sentence to read as follows: "Such chief shall be entitled to receive such compensation and allowances as are authorized by the Foreign Service Act of 1980, not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) of that Act), as the President shall determine to be appropriate.". *Ante*, p. 2071. *Ante*, p. 2075.

(d) Section 631(c) of such Act (22 U.S.C. 2391(c)) is amended by striking out the second sentence and inserting in lieu thereof the following: "Such person may receive such compensation and allowances as are authorized by the Foreign Service Act of 1980, not to exceed those authorized for a chief of mission (as defined in section 102(a)(3) of that Act), as the President shall determine to be appropriate. Such person (if not a United States Government employee who is assigned to serve as Chairman) shall be deemed to be an employee of the United States Government for purposes of chapters 81, 83, 87, and 89 of title 5, United States Code.". 5 USC 8101 *et seq.*, 8301 *et seq.*, 8701 *et seq.*, 8901 *et seq.*

SEC. 2204. ARMS CONTROL AND DISARMAMENT ACT.—(a) Section 42 of the Arms Control and Disarmament Act (22 U.S.C. 2582) is amended to read as follows:

"FOREIGN SERVICE PERSONNEL

"SEC. 42. (a) The Secretary of State may authorize the Director to exercise, with respect to members of the Foreign Service appointed or employed for the Agency—

"(1) the authority available to the Secretary under the Foreign Service Act of 1980, and *Ante*, p. 2071.

"(2) the authority available to the Secretary under any other provisions of law pertaining specifically or applicable generally to members of the Foreign Service.

"(b) Limited appointments of members of the Foreign Service for the Agency may be extended or renewed, notwithstanding section 309 of the Foreign Service Act of 1980, so long as the service of the individual under such appointment does not exceed ten consecutive years without a break in service of at least one year.". *Ante*, p. 2086.

(b) Section 48 of the Arms Control and Disarmament Act (22 U.S.C. 2588) is amended by striking out "Foreign Service Act of 1946, as amended" and inserting in lieu thereof "Foreign Service Act of 1980". 22 USC 801 note.

SEC. 2205. REPEALED PROVISIONS.—The following are repealed: *Ante*, p. 2071.

(1) The Act entitled "An Act to improve, strengthen, and expand the Foreign Service of the United States and to consolidate and revise the laws relating to its administration", approved August 13, 1946, titles I through X of such Act being the Foreign Service Act of 1946 (22 U.S.C. 801-810, 816, 817, 821, 826, 827, 841-843, 846, 861, 866-873, 876, 877, 881, 882, 886, 889, 890, 896,

900, 901, 902, 906-915, 921-924, 926-928, 936-939, 946, 947, 951, 961-966, 968, 981, 986, 987, 991-996, 1001-1009, 1016, 1017, 1021, 1022, 1026-1028, 1031, 1036, 1037-1037c, 1041-1048, 1061-1065, 1071, 1076, 1076a, 1081, 1082, 1084, 1086, 1091, 1093, 1095, 1101, 1103-1106, 1111, 1112, 1116, 1121, 1131, 1136-1138a, 1139, 1148-1151, and 1156-1160).

22 USC 811a note, 889, 889 note.
22 USC 2693.

(2) Sections 401 and 413 of the Foreign Relations Authorization Act, Fiscal Year 1979 (92 Stat. 981, 986).

(3) Section 413 of the Foreign Relations Authorization Act, Fiscal Year 1978 (91 Stat. 857).

22 USC 1063 note, 1229, 1229 note.
22 USC 901a.

(4) Sections 117, 120, and 522 of the Foreign Relations Authorization Act, Fiscal Year 1977 (90 Stat. 827, 829, 846).

(5) Section 6 of the Department of State Appropriations Authorization Act of 1973 (87 Stat. 452).

22 USC 922, 929-932, 1221-1234.

(6) The Act entitled "An Act to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the International Communication Agency through establishment of a Foreign Service Information Officer Corps", approved August 20, 1968 (22 U.S.C. 929-932, 1221-1234).

(7) Section 104(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2454(c)).

(8) Subsections (e), (g), (j), and (k) of section 625 of the Foreign Assistance Act of 1961 (22 U.S.C. 2385 (e), (g), (j), and (k)).

(9) Section 7(b) of the Peace Corps Act (22 U.S.C. 2506(b)).

(10) Sections 14 and 16 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2679a, 2680a).

22 USC 2384 note.

(11) Section 124(a)(2) of the International Development and Food Assistance Act of 1977 (91 Stat. 542).

(12) The Act entitled "An Act to make certain increases in the annuities of annuitants under the Foreign Service retirement and disability system", approved May 21, 1952 (22 U.S.C. 1077, 1078).

(13) The Act entitled "An Act to make certain increases in the annuities of annuitants under the Foreign Service retirement and disability system", approved May 1, 1956 (22 U.S.C. 1079-1079f).

(14) The Act entitled "An Act to provide for adjustments in the annuities under the Foreign Service retirement and disability system", approved September 2, 1958 (22 U.S.C. 1079g-1079j).

22 USC 1079d, 1079d note, 1079*l*.

(15) The Act entitled "An Act to provide for adjustments in the annuities under the Foreign Service retirement and disability system", approved July 12, 1960 (22 U.S.C. 1079l).

22 USC 801 note, 1076, 1079m—1079s, 1082, 1121.

(16) The Foreign Service Annuity Adjustment Act of 1965 (22 U.S.C. 1079m-1079s).

SEC. 2206. OTHER CONFORMING AMENDMENTS.—(a)(1) Section 3(b) of the Asian Development Bank Act (22 U.S.C. 285a(b)) is amended by striking out "a Chief of Mission, class 2, within the meaning of the Foreign Service Act of 1946, as amended" and inserting in lieu thereof "a chief of mission under the Foreign Service Act of 1980".

22 USC 801 note.
Ante, p. 2071.

(2) The United Nations Participation Act of 1945 is amended—

22 USC 866, 867.

(A) in section 2(g) (22 U.S.C. 287(g)) by striking out "sections 411 and 412 of the Foreign Service Act of 1946 (Public Law 724, Seventy-ninth Congress) for chiefs of mission" and inserting in lieu thereof "sections 401, 402, and 403 of the Foreign Service Act of 1980 for chiefs of mission, members of the Senior Foreign Service,"; and

Ante, pp. 2087, 2088.

(B) in section 8 (22 U.S.C. 287e) by striking out "section 901(3) of the Foreign Service Act of 1946 (Public Law 724, Seventy-ninth Congress)" and inserting in lieu thereof "section 905 of the Foreign Service Act of 1980". 22 USC 1131. *Ante*, p. 2128.

(3) Section 2 of the joint resolution entitled "Joint Resolution providing for membership and participation by the United States in the United Nations Educational, Scientific, and Cultural Organization, and authorizing an appropriation therefor", approved July 30, 1946 (22 U.S.C. 287n), is amended by striking out "Foreign Service officers in the schedule contained in section 412 of the Foreign Service Act of 1946, as amended," and inserting in lieu thereof "members of the Senior Foreign Service under section 402 of the Foreign Service Act of 1980, or provided for Foreign Service officers under section 403 of that Act,". 22 USC 867. *Ante*, p. 2087. *Ante*, p. 2088.

(4) Section 2 of the joint resolution entitled "Joint Resolution providing for membership and participation by the United States in the World Health Organization and authorizing an appropriation therefor", approved June 14, 1948 (22 U.S.C. 290a), is amended by striking out "provided by section 412 of the Foreign Service Act of 1946, as amended," and inserting in lieu thereof "established under section 402 or 403 of the Foreign Service Act of 1980". 22 USC 867. *Ante*, p. 2087, 2088.

(5) Section 203(b) of the African Development Fund Act (22 U.S.C. 290g-1(b)) is amended by striking out "a Chief of Mission, class 2, within the meaning of the Foreign Service Act of 1946, as amended" and inserting in lieu thereof "a chief of mission under the Foreign Service Act of 1980". 22 USC 801 note. *Ante*, p. 2071.

(6) Section 408 of the Mutual Security Act of 1954 (22 U.S.C. 1928) is amended—

(A) in subsection (a) by striking out "Foreign Service Act of 1946, as amended (22 U.S.C. 801)," and inserting in lieu thereof "Foreign Service Act of 1980"; *Ante*, p. 2071.

(B) in subsection (b) by striking out "chief of mission, class 1, within the meaning of the Foreign Service Act of 1946, as amended (22 U.S.C. 801)" and inserting in lieu thereof "chief of mission under the Foreign Service Act of 1980"; and

(C) in subsection (c) by striking out "section 529 of this Act who are appointed as Foreign Service Reserve officers may serve for periods of more than five years notwithstanding the limitation in section 522 of the Foreign Service Act of 1946, as amended (22 U.S.C. 922)" and inserting in lieu thereof "section 628 of the Foreign Assistance Act of 1961 who are members of the Foreign Service serving under limited appointments may serve for periods of more than five years notwithstanding the limitation in section 309 of the Foreign Service Act of 1980". 22 USC 1789. 22 USC 2388. *Ante*, p. 2086.

(7) The International Atomic Energy Agency Participation Act of 1957 is amended—

(A) in section 2(d) (22 U.S.C. 2021(d))—

(i) in the first sentence by striking out "sections 411 and 412 of the Foreign Service Act of 1946, as amended (22 U.S.C. 866, 867), for Chiefs of Mission" and inserting in lieu thereof "sections 401, 402, and 403 of the Foreign Service Act of 1980 for chiefs of mission, members of the Senior Foreign Service,", and *Ante*, pp. 2087, 2088.

(ii) in the second sentence by striking out "by Chiefs of Mission" and inserting in lieu thereof "under the Foreign Service Act of 1980 by chiefs of mission, members of the Senior Foreign Service,"; and *Ante*, p. 2071.

(B) in section 5 (22 U.S.C. 2024)—

22 USC 801 note.
Ante, p. 2071.

(i) by striking out "Foreign Service Act of 1946, as amended," and inserting in lieu thereof "Foreign Service Act of 1980", and

(ii) by striking "Foreign Service Act of 1946, as amended;" and inserting in lieu thereof "Foreign Service Act of 1980;".

(8) Section 704(b) of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2056(b)) is amended by striking out "title X, part C of the Foreign Service Act of 1946, as amended" and inserting in lieu thereof "section 25 of the State Department Basic Authorities Act of 1956".

22 USC 809.
Ante, p. 2153.

(9) Section 104(d) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2454(d)) is amended by striking out "section 528" and all that follows through "such persons" and inserting in lieu thereof "section 310 of the Foreign Service Act of 1980 for individuals appointed to the Foreign Service".

22 USC 928.
Ante, p. 2087.

(10) Section 5(a) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2605(a)) is amended—

(A) in paragraph (1) by striking out "Foreign Service personnel" and inserting in lieu thereof "members of the Foreign Service";

(B) in paragraph (2) by striking out "Foreign Service Reserve officers" and inserting in lieu thereof "members of the Foreign Service serving under limited appointments"; and

(C) in paragraph (4) by striking out "Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.)" and inserting in lieu thereof "Foreign Service Act of 1980".

Ante, p. 2071.

(11) Section 403(c) of the International Development Cooperation Act of 1979 (22 U.S.C. 3503(c)) is amended by striking out "Foreign Service Act of 1946" and inserting in lieu thereof "Foreign Service Act of 1980".

(b)(1) Section 605A(h) of the Act entitled "An Act to provide for greater stability in agriculture; to augment the marketing and disposal of agricultural products; and for other purposes", approved August 28, 1954 (7 U.S.C. 1765a(h)), is amended by striking out "Foreign Service personnel" and inserting in lieu thereof "members of the Foreign Service".

(2) Section 606D of such Act (7 U.S.C. 1766c) is amended by striking out "title IX of the Foreign Service Act of 1946" and inserting in lieu thereof "chapter 9 of title I of the Foreign Service Act of 1980".

22 USC 1131.
Ante, p. 2124.

(c)(1) Section 2002(a) of title 10, United States Code, is amended—

(A) in the text preceding paragraph (1) by striking out "section 1041 of title 22" and inserting in lieu thereof "section 701(b) of the Foreign Service Act of 1980"; and

Ante, p. 2099.

(B) in paragraph (2) by striking out "section 1041 of title 22" and inserting in lieu thereof "section 701(a) of the Foreign Service Act of 1980".

(d) Section 8(a)(1) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 906(a)(1)) is amended by striking out "section 901(2) of the Foreign Service Act of 1946 (22 U.S.C. 1131(2))" and inserting in lieu thereof "section 5924 of title 5, United States Code".

(e)(1) Section 104(a)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 104(a)(4)) is amended by striking out "section 831 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1081)" and inserting in lieu thereof "section 808 of the Foreign Service Act of 1980".

Ante, p. 2110.

(2) Section 170(i) of the Internal Revenue Code of 1954 (26 U.S.C. 170(i)) is amended by amending paragraph (6) to read as follows:

"(6) For treatment of gifts accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency, as gifts to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.". *Ante*, p. 2153.

(3) Section 912(1)(A) of the Internal Revenue Code of 1954 (26 U.S.C. 912(1)(A)) is amended to read as follows:

"(A) chapter 9 of title I of the Foreign Service Act of 1980,". *Ante*, p. 2124.

(4) Section 2055(f)(5) of the Internal Revenue Code of 1954 (26 U.S.C. 2055(f)(5)) is amended to read as follows:

"(5) For treatment of gifts, devises, or bequests accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency as gifts, devises, or bequests to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.". *Ante*, p. 2153.

(f) Section 10(d) of the Gold Reserve Act of 1934 (31 U.S.C. 822a(d)) is amended by striking out "title IX of the Foreign Service Act of 1946, as amended" and inserting in lieu thereof "chapter 9 of title I of the Foreign Service Act of 1980". 22 USC 1131. *Ante*, p. 2124.

(g) Section 235 of title 38, United States Code, is amended—

(1) in paragraph (1) by striking out "Section 1131 of title 22" and inserting in lieu thereof "Section 905 of the Foreign Service Act of 1980"; *Ante*, p. 2128.

(2) in paragraph (2) by striking out "Section 1136 (1), (2), (3), (4), (5), (7), and (11) of title 22" and inserting in lieu thereof "Sections 901 (1), (2), (3), (4), (7), (8), (9), (11), and (12) of the Foreign Service Act of 1980"; *Ante*, p. 2124.

(3) in paragraph (3) by striking out "Section 1138 of title 22" and inserting in lieu thereof "Section 901(13) of the Foreign Service Act of 1980";

(4) in paragraph (4) by striking out "Section 1148 of title 22" and inserting in lieu thereof "Section 903 of the Foreign Service Act of 1980"; and *Ante*, p. 2127.

(5) in paragraph (5) by striking out "Section 1156 of title 22" and inserting in lieu thereof "Section 904(d) of the Foreign Service Act of 1980". *Ante*, p. 2127.

(h) Section 415(c) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5055(c)) is amended—

(1) in paragraph (1) by striking out "section 852(a)(1) of the Foreign Service Act of 1946, as amended (22 U.S.C. 1092(a)(1)), and every other" and inserting in lieu thereof "any"; and

(2) in paragraph (2) by striking out "Foreign Service Act of 1946" and inserting in lieu thereof "Foreign Service Act of 1980". 22 USC 801 note.

SEC. 2207. MODEL FOREIGN LANGUAGE COMPETENCE POSTS.—(a) In order to carry out the purposes of section 702 and to help ascertain the relationship between foreign language competence and the effectiveness of representation of the United States abroad, the Secretary of State shall designate as model foreign language competence posts at least two Foreign Service posts in countries where English is not the common language. Such designation shall be made no later than October 1, 1981, and shall be implemented so that no later than October 1, 1983, each Government employee permanently assigned to those posts shall possess an appropriate level of competence in the language common to the country where the post is located. The Secretary of State shall determine appropriate levels of language competence for employees assigned to those posts by reference to the nature of their functions and the standards employed by the Foreign Service Institute. *Ante*, p. 2071. 22 USC 4171.

(b) The posts designated under subsection (a) shall continue as model foreign language competence posts at least until September 30, 1985. The Secretary of State shall submit no later than January 31, 1986, a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate describing the operation of such posts and the costs, advantages and disadvantages associated with meeting the foreign language competence requirements of this section.

Report to Congress.

Exceptions.

(c) The Secretary of State may authorize exceptions to the requirements of this section if he determines that unanticipated exigencies so require. Such exceptions shall be annually reported to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate.

Report to Congress.

CHAPTER 3—AMENDMENTS TO TITLE 5, UNITED STATES CODE

SEC. 2301. REEMPLOYMENT RIGHTS.—(a) Chapter 35 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER VI—REEMPLOYMENT FOLLOWING LIMITED APPOINTMENT IN THE FOREIGN SERVICE

5 USC 3597.

"§ 3597. Reemployment following limited appointment in the Foreign Service

"An employee of any agency who accepts, with the consent of the head of that agency, a limited appointment in the Foreign Service under section 309 of the Foreign Service Act of 1980 is entitled, upon the expiration of that appointment, to be reemployed in that employee's former position or in a corresponding or higher position in that agency. Upon reemployment under this section, an employee shall be entitled to any within-grade increases in pay which the employee would have received if the employee had remained in the former position in the agency.".

Ante, p. 2086.

(b) The analysis for chapter 35 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER VI—REEMPLOYMENT FOLLOWING LIMITED APPOINTMENT IN THE FOREIGN SERVICE

"3597. Reemployment following limited appointment in the Foreign Service.".

SEC. 2302. SALARY FOR AMBASSADORS AT LARGE.—Section 5313 of title 5, United States Code, is amended by adding the following at the end thereof:

"Ambassadors at Large.".

SEC. 2303. ADVANCES OF PAY INCIDENT TO DEPARTURES FROM POSTS ABROAD.—(a) Section 5522(a) of title 5, United States Code, is amended—

(1) by striking out "evacuation" and inserting in lieu thereof "departure"; and

(2) by striking out "is ordered for military or other reasons which create imminent danger to the life or lives of the employee or of his dependents or immediate family" and inserting in lieu thereof "is officially authorized or ordered—

"(1) from a place outside the United States from which the Secretary of State determines it is in the national interest to require the departure of some or all employees, their dependents, or both; or

"(2) from any place where there is imminent danger to the life of the employee or the lives of the dependents or immediate family of the employee".

(b) Section 5522(b) of title 5, United States Code, is amended by striking out "evacuation" and inserting in lieu thereof "departure".

(c) Section 5523(a)(1) of title 5, United States Code, is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) whose departure is authorized or ordered under section 5522(a) of this title; and"; and

Ante, p. 2164.

(2) in subparagraph (B) by striking out "evacuation" and inserting in lieu thereof "departure".

(d) Section 5523(b) of title 5, United States Code, is amended by striking out "evacuation" both places it appears and inserting in lieu thereof "departure".

(e) Section 405a(a) of title 37, United States Code, is amended by striking out "evacuated" and "evacuation" wherever they appear and inserting in lieu thereof "to depart" and "departure", respectively.

SEC. 2304. PREMIUM PAY.—Paragraph (2) of section 5541 of title 5, United States Code, is amended by striking out clauses (xiv) and (xv) and inserting in lieu thereof the following:

"(xiv) a Foreign Service officer;

"(xv) a member of the Senior Foreign Service; or".

SEC. 2305. SEVERANCE PAY.—Section 5595(a)(2)(vi) of title 5, United States Code, is amended by inserting after "to receive" the following: "benefits under section 609(b)(1) of the Foreign Service Act of 1980 or any".

Ante, p. 2098.

SEC. 2306. ATTORNEYS FEES IN BACKPAY CASES.—Section 5596(b) of title 5, United States Code, is amended—

(1) in paragraph (1)(A)(ii) by inserting "or under chapter 11 of title I of the Foreign Service Act of 1980," immediately after "chapter 71 of this title,"; and

Ante, p. 2142.

5 USC 7101 *et seq.*

(2) in paragraph (3)—

(A) by inserting "and (with respect to members of the Foreign Service) in sections 1101 and 1002 of the Foreign Service Act of 1980" immediately after "section 7103 of this title"; and

Ante, pp. 2142, 2129.

5 USC 7103.

(B) by inserting "and (with respect to members of the Foreign Service) in section 1015 of the Foreign Service Act of 1980" immediately after "section 7116 of this title".

Ante, p. 2137.

5 USC 7116.

SEC. 2307. SEPARATE MAINTENANCE ALLOWANCE.—Section 5924(3) of title 5, United States Code, is amended—

(1) by inserting "or authorized" immediately after "compelled"; and

(2) by inserting "or who requests such an allowance because of special needs or hardship involving the employee or the employee's spouse or dependents," immediately after "for the convenience of the Government,".

SEC. 2308. EDUCATION ALLOWANCE.—Section 5924(4)(B) of title 5, United States Code, is amended by striking out "(i)" and all that follows through "each type of education" and inserting in lieu thereof "one annual trip each way for each dependent".

SEC. 2309. POSTS REQUIRING SPECIAL INCENTIVES.—Section 5925 of title 5, United States Code, is amended—

(1) by striking out "A post" in the first sentence and inserting in lieu thereof "(a) A post";

(2) by inserting "under this subsection" immediately after "differential" in the last sentence; and

(3) by adding at the end thereof the following new subsection:

Additional differential pay.

"(b) Any employee granted a differential under subsection (a) of this section may be granted an additional differential for an assignment to a post determined to have especially adverse conditions of environment which warrant additional pay as a recruitment and retention incentive for the filling of positions at that post. An additional differential for any employee under this subsection—

"(1) may be paid for each assignment to a post determined to have such conditions;

"(2) may be paid periodically or in a lump sum; and

"(3) may not exceed 15 percent of the rate of basic pay of that employee for the period served under that assignment.".

SEC. 2310. ADVANCES OF PAY.—(a) Subchapter III of chapter 59 of title 5, United States Code, is amended by adding at the end thereof the following new section:

5 USC 5927.

"§ 5927. Advances of pay

"Up to three months' pay may be paid in advance to an employee upon the assignment of the employee to a post in a foreign area.".

(b) The analysis of chapter 59 of title 5, United States Code, is amended by inserting after the item relating to section 5926 the following:

"5927. Advances of pay.".

SEC. 2311. DANGER PAY ALLOWANCE.—(a) Subchapter III of chapter 59 of title 5, United States Code, as amended by section 2310(a), is further amended by adding at the end thereof the following new section:

5 USC 5928.

"§ 5928. Danger pay allowance

"An employee serving in a foreign area may be granted a danger pay allowance on the basis of civil insurrection, civil war, terrorism, or wartime conditions which threaten physical harm or imminent danger to the health or well-being of the employee. A danger pay allowance may not exceed 25 percent of the basic pay of the employee, except that if an employee is granted an additional differential under section 5925(b) of this title with respect to an assignment, the sum of that additional differential and any danger pay allowance granted to the employee with respect to that assignment may not exceed 25 percent of the basic pay of the employee.".

Ante, p. 2165.

(b) The analysis for chapter 59 of title 5, United States Code, as amended by section 2310(b), is further amended by inserting after the item relating to section 5927 the following:

"5928. Danger pay allowance.".

"Employee."

SEC. 2312. LEAVE.—(a) Section 6301 of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "Notwithstanding clauses (x)-(xii) of paragraph (2), the term 'employee' includes any member of the Senior Foreign Service or any Foreign Service officer (other than a member or officer serving as chief of mission or in a position which requires appointment by and with the advice and consent of the Senate) and any member of the Foreign Service commissioned as a diplomatic or consular officer, or both, under section 312 of the Foreign Service Act of 1980.".

Ante, p. 2087.

(b) Section 6304 of title 5, United States Code, is amended—

(1) in subsection (a) by striking out "and (f)" and inserting in lieu thereof "(f), and (g)"; and

(2) by adding at the end thereof the following new subsection:

"(g) Annual leave accrued by a member of the Senior Foreign Service shall not be subject to the limitation on accumulation otherwise imposed by this section.".

(c) Section 6305(a) of title 5, United States Code, is amended by inserting immediately after "States" in the first sentence "(or after a shorter period of such service if the employee's assignment is terminated for the convenience of the Government)".

SEC. 2313. RETIREMENT CREDIT FOR IMPRISONED FOREIGN NATIONALS AND FOR SERVICE WITH CERTAIN OVERSEAS BROADCASTING ORGANIZATIONS.—(a) Section 8332(b) of title 5, United States Code, is amended by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon, and by inserting immediately after paragraph (9) the following new paragraphs:

"(10) periods of imprisonment of a foreign national for which compensation is provided under section 410 of the Foreign Service Act of 1980, if the individual (A) was subject to this subchapter during employment with the Government last preceding imprisonment, or (B) is qualified for an annuity under this subchapter on the basis of other service of the individual; and *Ante*, p. 2091.

"(11) subject to sections 8334(c) and 8339(i) of this title, service in any capacity of at least 130 days (or its equivalent) per calendar year performed after July 1, 1946, for the National Committee for a Free Europe; Free Europe Committee, Incorporated; Free Europe, Incorporated; Radio Liberation Committee; Radio Liberty Committee; subdivisions of any of those organizations; Radio Free Europe/Radio Liberty, Incorporated, Radio Free Asia; the Asia Foundation; or the Armed Forces Network, Europe (AFN-E), but only if such service is not credited for benefits under any other retirement system which is established for such entities and funded in whole or in part by the Government and only if the individual later becomes subject to this subchapter.". 5 USC 8334, 8339.

(b) Such section 8332(b) is further amended by adding at the end thereof the following new sentence: "The Office of Personnel Management shall accept the certification of the Executive Director of the Board for International Broadcasting concerning services for the purposes of this subchapter of the type described in paragraph (11) of this subsection.".

SEC. 2314. CONFORMING AMENDMENTS TO TITLE 5.—(a) Section 3323(c) of title 5, United States Code, is amended by striking out "Foreign Service officer retired under section 1001 or 1002 of title 22 or a Foreign Service staff officer or employee retired under section 1063 of title 22" and inserting in lieu thereof "member of the Foreign Service retired under section 812 of the Foreign Service Act of 1980". *Ante*, p. 2113.

(b) Section 5102(c)(2) of title 5, United States Code, is amended by striking out "employees in the Foreign Service of the United States whose pay is fixed under chapter 14 of title 22" and insert in lieu thereof "members of the Foreign Service whose pay is fixed under the Foreign Service Act of 1980". *Ante*, p. 2071.

(c)(1) Section 5301(c)(2) of title 5, United States Code, is amended by striking out "subchapter IV of chapter 14 of title 22" and inserting in lieu thereof "section 403 of the Foreign Service Act of 1980". *Ante*, p. 2088.

(2) Section 5303(a)(4) of title 5, United States Code, is amended by striking out "sections 867 and 870 of title 22" and inserting in lieu thereof "section 403 of the Foreign Service Act of 1980".

(3) Section 5304 of title 5, United States Code, is amended by striking out "chapter 14 of title 22" and inserting in lieu thereof "the Foreign Service Act of 1980".

Ante, p. 2071.

(d) Section 5724(g) of title 5, United States Code, is amended by striking out "chapter 14 of title 22" and inserting in lieu thereof "the Foreign Service Act of 1980".

(e) Section 5727(e)(2) of title 5, United States Code, is amended to read as follows:

"(2) This section, except subsection (a), does not affect section 403e(4) of title 50.".

(f)(1) Section 6301(2)(xii) of title 5, United States Code, is amended by striking out "an officer who receives pay under section 866 of title 22" and inserting in lieu thereof "a chief of mission (as defined in section 102(a)(3) of the Foreign Service Act of 1980)".

(2) Section 6305(b) of title 5, United States Code, is amended by striking out "an officer" and inserting in lieu thereof "a chief of mission".

(g) Section 7103(a)(2)(iv) of title 5, United States Code, is amended by striking out "the Agency for International Development, or" and inserting before the semicolon ", the United States International Development Cooperation Agency, the Department of Agriculture, or the Department of Commerce".

(h) Section 8501(1)(C) of title 5, United States Code, is amended by striking out "Foreign Service personnel for whom special separation allowances are provided under chapter 14 of title 22" and inserting in lieu thereof "members of the Foreign Service for whom payments are provided under section 609(b)(1) of the Foreign Service Act of 1980".

Ante, p. 2098.

CHAPTER 4—SAVING PROVISIONS, CONGRESSIONAL OVERSIGHT, AND EFFECTIVE DATE

22 USC 4172.

SEC. 2401. SAVING PROVISIONS.—(a) All determinations, authorizations, regulations, orders, agreements, exclusive recognition of an organization or other actions made, issued, undertaken, entered into, or taken under the authority of the Foreign Service Act of 1946 or any other law repealed, modified, or affected by this Act shall continue in full force and effect until modified, revoked, or superseded by appropriate authority. Any grievances, claims, or appeals which were filed or made under any such law and are pending resolution on the effective date of this Act shall continue to be governed by the provisions repealed, modified, or affected by this Act.

22 USC 801 note.

(b) This Act shall not affect any increase in annuity or other right to benefits, which was provided by any provision amended or repealed by this Act, with respect to any individual who became entitled to such benefit prior to the effective date of this Act.

(c) References in law to provisions of the Foreign Service Act of 1946 or other law superseded by this Act shall be deemed to include reference to the corresponding provisions of this Act.

Report to Congress. 22 USC 4173.

SEC. 2402. CONGRESSIONAL OVERSIGHT OF IMPLEMENTATION.—(a) Not later than February 1, 1982, the Secretary of State shall submit to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate a report describing the implementation of this Act during the fiscal year 1981 by the agencies utilizing the Foreign Service personnel system. Such report shall—

(1) describe the steps taken and planned in furtherance of (A) maximum compatibility among such agencies, as provided for in section 203, and (B) the development of uniform policies and

Ante, p. 2079.

procedures and consolidated personnel functions, as provided for in section 204; *Ante*, p. 2079.

(2) indicate the progress made by each such agency in the conversion of personnel and position classifications in accordance with chapter 1 of this title; *Ante*, p. 2074.

(3) specify the upper and lower limits planned by each such agency for recruitment, advancement, and retention of members of the Service, as provided for in section 601(c)(2), including with respect to each of the relevant promotion competition groups the projected ranges of rates of appointment, promotion, and attrition over each of the five fiscal years 1981 through 1985; and *Ante*, p. 2094.

(4) specify the numbers of members of the Service who are assigned to positions classified under section 501 which are more than one grade higher or lower than the personal rank of the member (except that the names and grades of such members shall be transmitted to the Congress in a confidential manner to assure privacy and to safeguard national security). *Ante*, p. 2092.

(b) Beginning in 1982, the Secretary of State shall submit each year to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate a supplemental report containing— Report to Congress.

(1) a description of any relevant developments with respect to the matters reported on under paragraphs (1) and (2) of subsection (a);

(2) with respect to paragraph (3) of such subsection, a revised projection of the ranges of rates of appointment, promotion, and attrition over each of the next five years, as well as a comparison of such projections with the projections for the preceding year and with actual rates of appointment, promotion, and attrition, including a full explanation of any deviations from projections reported in the preceding year; and

(3) the information specified in paragraph (4) of such subsection.

(c) The Secretary shall consult, in accordance with the procedures set out in section 1013(g), with the exclusive representative (if any) of members of the Foreign Service in each agency specified in section 1003(a) with respect to steps to be taken in implementing this Act and reported under this section. To that end, each such exclusive representative will have timely access to all relevant information at each stage. Each such report shall include the views of each such exclusive representative on any and all aspects of the report and the information contained in such report. *Ante*, p. 2135. *Ante*, p. 2130.

SEC. 2403. EFFECTIVE DATE.—(a) Except as otherwise provided, this Act shall take effect on February 15, 1981. 22 USC 3901 note.

(b) Personnel actions may be taken on and after the effective date of this Act on the basis of any then current Foreign Service evaluation cycle as if this Act had been in effect at the beginning of that cycle.

(c) Appointments to the Senior Foreign Service by the Secretary of Commerce shall be excluded in the calculation and application of the limitation in section 305(b) until October 1, 1985. Prior to that date, the number of members serving in the Senior Foreign Service under limited appointments by the Secretary of Commerce may not exceed 10 at any one time (excluding individuals with reemployment rights under section 310 as career appointees in the Senior Executive Service). *Ante*, p. 2086. *Ante*, p. 2087.

(d)(1) Section 812 of this Act, and the repeal of sections 631 and 632 of the Foreign Service Act of 1946 and section 625(k) of the Foreign *Ante*, p. 2113. 22 USC 1001, 1002; *ante*, p. 2159.

Assistance Act of 1961, shall be effective as of the date of enactment of this Act.

Ante, pp. 2148, 2087, 2088.

(2) For purposes of implementing section 2101, sections 402(a) and 403 shall be effective as of the date of enactment of this Act.

Ante, p. 2113.

(e)(1) The provisions of chapter 8 of title I regarding the rights of former spouses to any annuity under section 814(a) shall apply in the case of any individual who after the effective date of this Act becomes a former spouse of an individual who separates from the Service after such date.

Ante, p. 2152.

Ante, p. 2102.

(2) Except to the extent provided in section 2109, the provisions of such chapter regarding the rights of former spouses to receive survivor annuities under chapter 8 shall apply in the case of any individual who after the effective date of this Act becomes a former spouse of a participant or former participant in the Foreign Service Retirement and Disability System.

Approved October 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-992, Pt. 1 (Comm. on Foreign Affairs) and Pt. 2 (Comm. on Post Office and Civil Service); and No. 96-1432 (Comm. of Conference).

SENATE REPORT No. 96-913 accompanying S. 3058 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 126 (1980):

Sept. 8, considered and passed House.

Sept. 10, 11, 15, S. 3058 considered in Senate; H.R. 6790, amended, passed in lieu.

Sept. 30, Senate agreed to conference report.

Oct. 1, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 43:

Oct. 17, Presidential statement.

Public Law 96-466
96th Congress

An Act

To amend title 38, United States Code, to provide for updated and expanded rehabilitation programs for veterans with service-connected disabilities, to provide a 10-percent increase in the rates of educational assistance under the GI bill, to make certain improvements in the educational assistance programs for veterans and eligible survivors and dependents, to revise and expand veterans' employment and training programs, and to provide for certain cost savings; and for other purposes.

Oct. 17, 1980
[H.R. 5288]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Veterans' Rehabilitation and Education Amendments of 1980".

Veterans' Rehabilitation and Education Amendments of 1980.
38 USC 101 note.

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—REHABILITATION AMENDMENTS

REVISION OF VETERANS' ADMINISTRATION REHABILITATION PROGRAMS

SEC. 101. (a) Chapter 31 is amended to read as follows:

"CHAPTER 31—TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

"Sec.
"1500. Purposes.
"1501. Definitions.
"1502. Basic entitlement.
"1503. Periods of eligibility.
"1504. Scope of services and assistance.
"1505. Duration of rehabilitation programs.
"1506. Initial and extended evaluations; determinations regarding serious employment handicap.
"1507. Individualized vocational rehabilitation plan.
"1508. Allowances.
"1509. Entitlement to independent living services and assistance.
"1510. Leaves of absence.
"1511. Regulations to promote satisfactory conduct and cooperation.
"1512. Revolving fund loans.
"1513. Vocational rehabilitation for hospitalized members of the Armed Forces and veterans.
"1514. Vocational rehabilitation outside the United States.
"1515. Rehabilitation resources.
"1516. Promotion of employment and training opportunities.
"1517. Employment assistance.
"1518. Personnel training, development, and qualifications.
"1519. Rehabilitation research and special projects.
"1520. Pilot program of independent living services and assistance.
"1521. Veterans' Advisory Committee on Rehabilitation.

38 USC 1500.

"§ 1500. Purposes

"The purposes of this chapter are to provide for all services and assistance necessary to enable veterans with service-connected disabilities to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment.

38 USC 1501.

"§ 1501. Definitions

"For the purposes of this chapter—

"(1) The term 'employment handicap' means an impairment of a veteran's ability to prepare for, obtain, or retain employment consistent with such veteran's abilities, aptitudes, and interests.

"(2) The term 'independence in daily living' means the ability of a veteran, without the services of others or with a reduced level of the services of others, to live and function within such veteran's family and community.

"(3) The term 'program of education' has the meaning provided in section 1652(b) of this title.

38 USC 1652.

"(4) The term 'program of independent living services and assistance' includes (A) the services provided for in this chapter that are needed to enable a veteran to achieve independence in daily living, including such counseling, diagnostic, medical, social, psychological, and educational services as are determined by the Administrator to be needed for such veteran to achieve maximum independence in daily living, and (B) the assistance authorized by this chapter for such veteran.

"(5) The term 'rehabilitated to the point of employability' means rendered employable in an occupation for which a vocational rehabilitation program has been provided under this chapter.

"(6) The term 'rehabilitation program' means (A) a vocational rehabilitation program, or (B) a program of independent living services and assistance for a veteran for whom a vocational goal has been determined not to be reasonably feasible.

"(7) The term 'serious employment handicap' means a significant impairment of a veteran's ability to prepare for, obtain, or retain employment consistent with such veteran's abilities, aptitudes, and interests.

"(8) The term 'vocational goal' means a gainful employment status consistent with a veteran's abilities, aptitudes, and interests.

"(9) The term 'vocational rehabilitation program' includes—

"(A) the services provided for in this chapter that are needed for the accomplishment of the purposes of this chapter, including such counseling, diagnostic, medical, social, psychological, independent living, economic, educational, vocational, and employment services as are determined by the Administrator to be needed—

"(i) in the case of a veteran for whom the achievement of a vocational goal has not been determined not to be reasonably feasible, (I) to determine whether a vocational goal is reasonably feasible, (II) to improve such veteran's potential to participate in a program of services designed to achieve a vocational goal, and (III) to enable such veteran to achieve maximum independence in daily living, and

"(ii) in the case of a veteran for whom the achievement of a vocational goal is determined to be reasonably feasible, to enable such veteran to become, to the maximum extent

feasible, employable and to obtain and maintain suitable employment, and

"(B) the assistance authorized by this chapter for a veteran receiving any of the services described in clause (A) of this paragraph.

"§ 1502. Basic entitlement 38 USC 1502.

"A person shall be entitled to a rehabilitation program under the terms and conditions of this chapter if such person—

"(1)(A) is a veteran who has a service-connected disability which is, or but for the receipt of retired pay would be, compensable under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940, or (B) is hospitalized for a service-connected disability in a hospital over which the Secretary concerned has jurisdiction pending discharge or release from active military, naval, or air service and is suffering from a disability which the Administrator determines will likely be compensable under chapter 11 of this title; and 38 USC 301 *et seq.*

"(2) is determined by the Administrator to be in need of rehabilitation because of an employment handicap.

"§ 1503. Periods of eligibility 38 USC 1503.

"(a) Except as provided in subsection (b), (c), or (d) of this section, a rehabilitation program may not be afforded to a veteran under this chapter after the end of the twelve-year period beginning on the date of such veteran's discharge or release from active military, naval, or air service.

"(b)(1) In any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a medical condition of such veteran made it infeasible for such veteran to participate in such a program, the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program, and such period of eligibility shall again begin to run on the first day following such veteran's recovery from such condition on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such veteran to participate in such a program.

"(2) In any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because—

"(A) such veteran had not met the requirement of a discharge or release from active military, naval, or air service under conditions other than dishonorable before (i) the nature of such discharge or release was changed by appropriate authority, or (ii) the Administrator determined, under regulations prescribed by the Administrator, that such discharge or release was under conditions other than dishonorable, or

"(B) such veteran's discharge or dismissal was, under section 3103 of this title, a bar to benefits under this title before the Administrator made a determination that such discharge or dismissal is not a bar to such benefits, 38 USC 3103.

the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.

"(3) In any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because such veteran had not established the existence of a service-connected disability described in section 1502(1)(A) of this title, the twelve-year period of eligibility shall not run during the period such veteran was so prevented from participating in such a program.

"(c) In any case in which the Administrator determines that a veteran is in need of services to overcome a serious employment handicap, such veteran may be afforded a vocational rehabilitation program after the expiration of the period of eligibility otherwise applicable to such veteran if the Administrator also determines, on the basis of such veteran's particular employment handicap and need for such services, that an extension of the applicable period of eligibility is necessary for such veteran and—

"(1) that such veteran had not previously been rehabilitated to the point of employability;

"(2) that such veteran had previously been rehabilitated to the point of employability but (A) the need for such services had arisen out of a worsening of such veteran's service-connected disability that precludes such veteran from performing the duties of the occupation for which such veteran was previously trained in a vocational rehabilitation program under this chapter, or (B) the occupation for which such veteran had been so trained is not suitable in view of such veteran's employment handicap and capabilities; or

"(3) under regulations which the Administrator shall prescribe, that an extension of the period of eligibility of such veteran is necessary to accomplish the purposes of a rehabilitation program for such veteran.

"(d) In any case in which the Administrator has determined that a veteran's disability or disabilities are so severe that the achievement of a vocational goal is not reasonably feasible, such veteran may be afforded a program of independent living services and assistance under this chapter after the expiration of the period of eligibility otherwise applicable to such veteran if the Administrator also determines that an extension of the period of eligibility of such veteran is necessary for such veteran to achieve maximum independence in daily living.

38 USC 1504.

"§ 1504. Scope of services and assistance

"(a) Services and assistance which the Administrator may provide under this chapter, pursuant to regulations which the Administrator shall prescribe, include the following:

"(1) Evaluation, including periodic reevaluations as appropriate with respect to a veteran participating in a rehabilitation program, of the potential for rehabilitation of a veteran, including diagnostic and related services (A) to determine whether such veteran's disability or disabilities cause a serious employment handicap and whether a vocational goal is feasible for such veteran, and (B) to provide a basis for planning a suitable vocational rehabilitation program or a program of services and assistance to improve the vocational rehabilitation potential or independent living status of such veteran, as appropriate.

"(2) Educational, vocational, psychological, employment, and personal adjustment counseling.

"(3) An allowance and other appropriate assistance, as authorized by section 1508 of this title.

"(4) A work-study allowance as authorized by section 1685 of this title. 38 USC 1685.

"(5) Placement services to effect suitable placement in employment, and postplacement services to attempt to insure satisfactory adjustment in employment.

"(6) Personal adjustment and work adjustment training.

"(7) Vocational and other training services and assistance, including individualized tutorial assistance, tuition, fees, books, supplies, and licensing fees, and equipment and other training materials determined by the Administrator to be necessary to accomplish the purposes of the rehabilitation program in the individual case.

"(8) Loans as authorized by section 1512 of this title.

"(9) Treatment, care, and services described in chapter 17 of this title. 38 USC 601 *et seq.*

"(10) Prosthetic appliances, eyeglasses, and other corrective and assistive devices.

"(11) Services to a veteran's family as necessary for the effective rehabilitation of such veteran.

"(12) For the most severely disabled veterans requiring homebound training or self-employment, or both homebound training and self-employment, such license fees and essential equipment, supplies, and minimum stocks of materials as the Administrator determines to be necessary for such a veteran to begin employment and are within the criteria and cost limitations that the Administrator shall prescribe in regulations for the furnishing of such fees, equipment, supplies, and stocks.

"(13) Travel and incidental expenses under the terms and conditions set forth in section 111 of this title, plus, in the case of a veteran who because of such veteran's disability has transportation expenses in addition to those incurred by persons not so disabled, a special transportation allowance to defray such additional expenses during rehabilitation, job seeking, and the initial employment stage. 38 USC 111.

"(14) Special services (including services related to blindness and deafness) including— Special services.

"(A) language training, speech and voice correction, training in ambulation, and one-hand typewriting;

"(B) orientation, adjustment, mobility, reader, interpreter, and related services; and

"(C) telecommunications, sensory, and other technical aids and devices.

"(15) Services necessary to enable a veteran to achieve maximum independence in daily living.

"(16) Other incidental goods and services determined by the Administrator to be necessary to accomplish the purposes of a rehabilitation program in an individual case.

"(b) A program of independent living services and assistance may include the types of services and assistance described in section 702 of the Rehabilitation Act of 1973 (29 U.S.C. 796). 29 USC 796a.

"(c) A rehabilitation program (including individual courses) to be pursued by a veteran shall be subject to the approval of the Administrator.

38 USC 1505.

"§ 1505. Duration of rehabilitation programs

"(a) In any case in which the Administrator is unable to determine whether it is reasonably feasible for a veteran to achieve a vocational goal, the period of extended evaluation under section 1506(c) of this title may not exceed twelve months, except that such period may be extended for additional periods of up to six months each if the Administrator determines before granting any such extension that it is reasonably likely that, during the period of any such extension, a determination can be made whether the achievement of a vocational goal is reasonably feasible in the case of such veteran.

"(b) Except as provided in subsection (c) of this section, the period of a vocational rehabilitation program for a veteran under this chapter following a determination of the reasonable feasibility of achieving a vocational goal may not exceed forty-eight months, except that the counseling and placement and postplacement services described in section 1504(a) (2) and (5) of this title may be provided for an additional period not to exceed eighteen months in any case in which the Administrator determines the provision of such counseling and services to be necessary to accomplish the purposes of a rehabilitation program in the individual case.

Extensions.

"(c) The Administrator may extend the period of a vocational rehabilitation program for a veteran to the extent that the Administrator determines that an extension of such period is necessary to enable such veteran to achieve a vocational goal if the Administrator also determines—

"(1) that such veteran had previously been rehabilitated to the point of employability but (A) such veteran's need for further vocational rehabilitation has arisen out of a worsening of such veteran's service-connected disability that precludes such veteran from performing the duties of the occupation for which such veteran had been so rehabilitated, or (B) the occupation for which such veteran had been so rehabilitated is not suitable in view of such veteran's employment handicap and capabilities; or

"(2) under regulations which the Administrator shall prescribe, that such veteran has a serious employment handicap and that an extension of such period is necessary to accomplish the purposes of a rehabilitation program for such veteran.

"(d) Unless the Administrator determines that a longer period is necessary and likely to result in a substantial increase in a veteran's level of independence in daily living, the period of a program of independent living services and assistance for a veteran under this chapter (following a determination by the Administrator that such veteran's disability or disabilities are so severe that the achievement of a vocational goal is not reasonably feasible) may not exceed twenty-four months.

38 USC 1506.

"§ 1506. Initial and extended evaluations; determinations regarding serious employment handicap

"(a) The Administrator shall provide any veteran who has a service-connected disability described in section 1502(1) (A) or (B) of this title and who applies for benefits under this chapter with an intitial evaluation consisting of such services described in section 1504(a)(1) of this title as are necessary (1) to determine whether such veteran is entitled to and eligible for benefits under this chapter, and (2) in the case of a veteran who is determined to be entitled to and eligible for such benefits, to determine—

"(A) whether such veteran has a serious employment handicap, and

"(B) whether the achievement of a vocational goal is reasonably feasible for such veteran if it is reasonably feasible to make such determination without extended evaluation.

"(b) In any case in which the Administrator has determined that a veteran has a serious employment handicap and that the achievement of a vocational goal is reasonably feasible for such veteran, such veteran shall be provided counseling in accordance with an individualized written plan of vocational rehabilitation developed under section 1507(a) of this title.

"(c) In any case in which the Administrator has determined that a veteran has a serious employment handicap but the Administrator is unable to determine, in an initial evaluation pursuant to subsection (a) of this section, whether or not the achievement of a vocational goal is reasonably feasible, such veteran shall be provided with extended evaluation consisting of the services described in section 1504(a)(1) of this title, such services under this chapter as the Administrator determines necessary to improve such veteran's potential for participation in a program of services designed to achieve a vocational goal and enable such veteran to achieve maximum independence in daily living, and assistance as authorized by section 1508 of this title.

"(d) The Administrator shall in all cases determine as expeditiously as possible whether the achievement of a vocational goal by a veteran is reasonably feasible. In the case of a veteran provided extended evaluation under subsection (c) of this section (including any periods of extensions under section 1505(a) of this title), the Administrator shall make such determination not later than the end of such extended evaluation or period of extension, as the case may be. In determining whether the achievement of a vocational goal is reasonably feasible, the Administrator shall resolve any reasonable doubt in favor of determining that such achievement is reasonably feasible.

"(e) In connection with each period of extended evaluation of a veteran and each rehabilitation program for a veteran who is determined to have a serious employment handicap, the Administrator shall assign a Veterans' Administration employee to be responsible for the management and followup of the provision of all services (including appropriate coordination of employment assistance under section 1517 of this title) and assistance under this chapter to such veteran.

"§ 1507. Individualized vocational rehabilitation plan 38 USC 1507.

"(a) The Administrator shall formulate an individualized written plan of vocational rehabilitation for a veteran described in section 1506(b) of this title. Such plan shall be developed with such veteran and shall include, but not be limited to (1) a statement of long-range rehabilitation goals for such veteran and intermediate rehabilitation objectives related to achieving such goals, (2) a statement of the specific services (which shall include counseling in all cases) and assistance to be provided under this chapter, (3) the projected date for the initiation and the anticipated duration of each such service, and (4) objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved.

"(b) The Administrator shall review at least annually the plan formulated under subsection (a) of this section for a veteran and shall afford such veteran the opportunity to participate in each such review. On the basis of such review, the Administrator shall (1) redevelop such plan with such veteran if the Administrator deter- Review.

mines, under regulations which the Administrator shall prescribe, that redevelopment of such plan is appropriate, or (2) disapprove redevelopment of such plan if the Administrator determines, under such regulations, that redevelopment of such plan is not appropriate.

"(c)(1) Each veteran for whom a plan has been developed or redeveloped under subsection (a) or (b)(1), respectively, of this section or in whose case redevelopment of a plan has been disapproved under subsection (b)(2) of this section, shall be informed of such veteran's opportunity for a review as provided in paragraph (2) of this subsection.

Written disagreement statement.

"(2) In any case in which a veteran does not agree to such plan as proposed, to such plan as redeveloped, or to the disapproval of redevelopment of such plan, such veteran may submit to the person described in section 1506(e) of this title a written statement containing such veteran's objections and request a review of such plan as proposed or redeveloped, or a review of the disapproval of redevelopment of such plan, as the case may be.

Statement review.

"(3) The Administrator shall review the statement submitted under paragraph (2) of this subsection and the plan as proposed or as redeveloped, and, if applicable, the disapproval of redevelopment of the plan, and render a decision on such review not later than ninety days after the date on which such veteran submits such statement, unless the case is one for which a longer period for review, not to exceed 150 days after such veteran submits such statement, is allowed under regulations prescribed by the Administrator, in which case the Administrator shall render a decision no later than the last day of the period prescribed in such regulations.

38 USC 1508.

"§ 1508. Allowances

"(a)(1) Except in the case of a veteran who makes an election under subsection (f) of this section and subject to the provisions of paragraph (3) of this subsection, each veteran shall be paid a subsistence allowance in accordance with this section during a period determined by the Administrator to be a period of such veteran's participation under this chapter in a rehabilitation program.

"(2) In any case in which the Administrator determines, at the conclusion of such veteran's pursuit of a vocational rehabilitation program under this chapter, that such veteran has been rehabilitated to the point of employability, such veteran shall be paid a subsistence allowance, as prescribed in this section for full-time training for the type of program that the veteran was pursuing, for two months following the conclusion of such pursuit.

"(3) A subsistence allowance may not be paid under this chapter to a veteran for any period during which such veteran is being provided with an initial evaluation under section 1506(a) of this title or during which such veteran is being provided only with counseling or with placement or postplacement services under section 1505(b) of this title.

"(b) Except as otherwise provided in this section, the Administrator shall determine the subsistence allowance to be paid to a veteran under this chapter in accordance with the following table, which shall be the monthly amount shown in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the appropriate type of program being pursued as specified in column I:

"Column I	Column II	Column III	Column IV	Column V
Type of program	No dependents	One dependent	Two dependents	More than two dependents
				The amount in column IV, plus the following for each dependent in excess of two:
Institutional training:				
Full-time	$282	$349	$411	$30
Three-quarter-time	212	262	308	23
Half-time	141	175	206	15
Farm cooperative, apprentice, or other on-job training:				
Full-time	246	297	343	22
Extended evaluation:				
Full-time	282	349	411	30
Independent living training:				
Full-time	282	349	411	30
Three-quarter-time	212	262	308	23
Half-time	141	175	206	15".

"(c)(1) In any case in which the vocational rehabilitation program for a veteran includes training on the job by an employer in any month, such employer shall be required to submit to the Administrator a statement in writing showing any wage, compensation, or other income paid (directly or indirectly) by the employer to such veteran for such month. Based upon such written statement, the Administrator is authorized to reduce the subsistence allowance of such veteran to an amount considered equitable and just in accordance with criteria which the Administrator shall establish in regulations which the Administrator shall prescribe.

On-job training, required employer statement.

"(2) A veteran pursuing on-job training or work experience as part of a vocational rehabilitation program in a Federal agency under the provisions of section 1515(a)(1) of this title without pay or for nominal pay shall be paid the appropriate subsistence allowance rate provided in subsection (b) of this section for an institutional program.

"(d)(1) The Administrator shall, in accordance with regulations which the Administrator shall prescribe, define full-time and each part-time status for veterans participating in rehabilitation programs under this chapter.

"(2) A veteran participating in extended evaluation on less than a full-time basis may be paid a proportional subsistence allowance in accordance with regulations which the Administrator shall prescribe.

"(e) In any case in which a veteran is pursuing a rehabilitation program on a residential basis in a specialized rehabilitation facility, the Administrator may (1) pay to such facility the cost of such veteran's room and board in lieu of payment to such veteran of the subsistence allowance (not including any portion payable for any dependents) payable under subsection (b) of this section, and (2) pay to such veteran that portion of the allowance for dependents payable, as

determined by such veteran's dependency status, under subsection (b) of this section for a full-time institutional program.

Educational assistance program.
38 USC 1651 *et seq.*

"(f)(1)(A) In any case in which the Administrator determines that a veteran is entitled to rehabilitation under this chapter, to the extent that such veteran has remaining eligibility for and entitlement to educational assistance benefits under chapter 34 of this title, such veteran may elect, as part of a vocational rehabilitation program under this chapter, to pursue an approved program of education and receive allowances and other forms of assistance equivalent to those authorized for veterans enrolled under chapter 34 of this title, if the Administrator approves the educational, professional, or vocational objective chosen by such veteran for such program.

"(B) In the event that such veteran makes such an election, the terms and conditions applicable to the pursuit of a comparable program of education and the payment of allowances and provision of assistance under chapter 34 of this title for such a comparable program shall be applied to the pursuit of the approved program of education under this chapter.

"(2) A veteran who is receiving an allowance pursuant to paragraph (1) of this subsection may not receive any of the services or assistance described in section 1504(a) (3), (7), and (8) of this title (other than an allowance and other assistance under this subsection).

Convicted felons, subsistence nonpayment.

"(g)(1) Notwithstanding any other provision of this title and subject to the provisions of paragraph (2) of this subsection, no subsistence allowance may be paid under this section in the case of any veteran who is pursuing a rehabilitation program under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony.

"(2) Paragraph (1) of this subsection shall apply in the case of any veteran who is pursuing a rehabilitation program under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony if the Administrator determines that all the veteran's living expenses are being defrayed by a Federal, State, or local government.

"(h) Notwithstanding any other provision of this title, the amount of subsistence allowance, or other allowance under subsection (f) of this section, that may be paid to a veteran pursuing a rehabilitation program for any month for which such veteran receives compensation at the rate prescribed in section 314(j) of this title as the result of hospital treatment (not including post-hospital convalescence) or observation at the expense of the Veterans' Administration may not exceed, when added to any compensation to which such veteran is entitled for such month, an amount equal to the greater of—

38 USC 314.

"(1) the sum of—

"(A) the amount of monthly subsistence or other allowance that would otherwise be paid to such veteran under this section, and

"(B) the amount of monthly compensation that would be paid to such veteran if such veteran were not receiving compensation at such rate as the result of such hospital treatment or observation; or

"(2) the amount of monthly compensation payable under section 314(j) of this title.

"(i) Payment of a subsistence allowance may be made in advance in accordance with the provisions of section 1780(d) of this title.

38 USC 1780.

"§ 1509. Entitlement to independent living services and assistance 38 USC 1509.

"In any case in which the Administrator has determined under section 1506(d) of this title that the achievement of a vocational goal by a veteran is not reasonably feasible, such veteran shall be entitled, in accordance with the provisions of section 1520 of this title, to a program of independent living services and assistance designed to enable such veteran to achieve maximum independence in daily living.

"§ 1510. Leaves of absence

Regulations. 38 USC 1510.

"The Administrator shall prescribe such regulations as the Administrator determines necessary for granting leaves of absence to veterans pursuing rehabilitation programs under this chapter. During authorized leaves of absence, a veteran shall be considered to be pursuing such program.

"§ 1511. Regulations to promote satisfactory conduct and cooperation 38 USC 1511.

"The Administrator shall prescribe such rules and regulations as the Administrator determines necessary to promote satisfactory conduct and cooperation on the part of veterans who are pursuing rehabilitation programs under this chapter. In any case in which the Administrator determines that a veteran has failed to maintain satisfactory conduct or cooperation, the Administrator may, after determining that all reasonable counseling efforts have been made and are not reasonably likely to be effective, discontinue services and assistance unless the Administrator determines that mitigating circumstances exist. In any case in which such services and assistance have been discontinued, the Administrator may reinstitute such services and assistance only if the Administrator determines that—

"(1) the cause of the unsatisfactory conduct or cooperation of such veteran has been removed; and

"(2) the rehabilitation program which such veteran proposes to pursue (whether the same or revised) is suitable to such veteran's abilities, aptitudes, and interests.

"§ 1512. Revolving fund loans 38 USC 1512.

"The revolving fund established pursuant to part VII of Veterans Regulation Numbered 1(a) is continued in effect, and may be used by the Administrator, under regulations prescribed by the Administrator, for making advances, not in excess of twice the amount of the full-time institutional monthly subsistence allowance for a veteran with no dependents (as provided in section 1508(b) of this title) to veterans pursuing rehabilitation programs under this chapter. Such advances, and advances from such fund made before the effective date of the Veterans' Rehabilitation and Education Amendments of 1980, shall bear no interest and shall be repaid in such installments, as may be determined by the Administrator, by proper deductions from future payments of compensation, pension, subsistence allowance, educational assistance allowance, or retirement pay.

Ante, p. 2171.

"§ 1513. Vocational rehabilitation for hospitalized members of the Armed Forces and veterans 38 USC 1513.

"(a) Services and assistance may be provided under this chapter to a person described in section 1502 (1)(B) and (2) of this title who is hospitalized pending discharge from active military, naval, or air service. In such cases, no subsistence allowance shall be paid.

"(b) Services and assistance may be provided under this chapter to a veteran who is receiving care in a Veterans' Administration hospital, nursing home, or domiciliary facility or in any other hospital or medical facility.

38 USC 1514.

"§ 1514. Vocational rehabilitation outside the United States

"Under regulations which the Administrator shall prescribe, a vocational rehabilitation program under this chapter may be provided outside the United States if the Administrator determines that such training is (1) necessary in the particular case to provide the preparation needed to render a veteran employable and enable such veteran to obtain and retain suitable employment, and (2) in the best interest of such veteran and the Federal Government.

38 USC 1515.

"§ 1515. Rehabilitation resources

"(a) Notwithstanding any other provision of law, for the purpose of providing services under this chapter, the Administrator may—

"(1) use the facilities of any Federal agency (including the Veterans' Administration) to provide training or work experience as part or all of a veteran's vocational rehabilitation program without pay or for nominal pay in any case in which the Administrator determines that such training or work experience is necessary to accomplish such veteran's rehabilitation;

"(2) use the facilities, staff, and other resources of the Veterans' Administration;

"(3) employ such additional personnel and experts as the Administrator considers necessary; and

"(4) use the facilities and services of any Federal, State, or other public agency, any agency maintained by joint Federal and State contributions, any public or private institution or establishment, and any private individual.

"(b)(1) While pursuing on-job training or work experience under subsection (a)(1) of this section, a veteran shall be considered to be an employee of the United States for the purposes of the benefits of chapter 81 of title 5, but not for the purposes of laws administered by the Office of Personnel Management.

5 USC 8101 *et seq.*

38 USC 601 *et seq.*

"(2) Except as provided in chapter 17 of this title, hospital care and medical services provided under this chapter shall be furnished in facilities over which the Administrator has direct jurisdiction.

"(3) Use of facilities and services under clause (4) of subsection (a) of this section, shall be procured through contract, agreement, or other cooperative arrangement.

38 USC 1516.

"§ 1516. Promotion of employment and training opportunities

"(a) The Administrator shall actively promote the development and establishment of employment, training, and other related opportunities for (1) veterans who are participating or who have participated in a rehabilitation program under this chapter, (2) veterans with service-connected disabilities, and (3) other veterans to whom the employment emphases set forth in chapter 42 of this title apply. The Administrator shall promote the development and establishment of such opportunities through Veterans' Administration staff outreach efforts to employers and through Veterans' Administration coordination with Federal, State, and local governmental agencies and appropriate nongovernmental organizations. In carrying out the provisions of this subsection with respect to veterans referred to in clause (3) of the first sentence of this subsection, the Administrator shall place particular emphasis on the needs of catego-

38 USC 2011 *et seq.*

ries of such veterans on the basis of applicable rates of unemployment.

"(b)(1) The Administrator, pursuant to regulations prescribed in accordance with paragraph (3) of this subsection, may make payments to employers for providing on-job training to veterans who have been rehabilitated to the point of employability in individual cases in which the Administrator determines that such payment is necessary to obtain needed on-job training or to begin employment. Such payments may not exceed the direct expenses incurred by such employers in providing such on-job training or employment opportunity. On-job training payments.

"(2) In any case in which a veteran described in paragraph (1) of this subsection participates in on-job training described in such paragraph that satisfies the criteria for payment of a training assistance allowance under section 1787 of this title, such veteran shall, to the extent that such veteran has remaining eligibility for and entitlement to such allowance, be paid such allowance. 38 USC 1787.

"(3) The Administrator shall prescribe regulations under this subsection in consultation with the Secretary of Labor and, in prescribing such regulations, shall take into consideration the provisions of title V of the Rehabilitation Act of 1973 (29 U.S.C. ch. 16, subch. V) and section 2012 of this title, and regulations prescribed under such provisions. Regulations. 29 USC 790. 38 USC 2012.

"§ 1517. Employment assistance 38 USC 1517.

"(a)(1) A veteran with a service-connected disability who has participated in a vocational rehabilitation program under this chapter or a similar program under the Rehabilitation Act of 1973 and who the Administrator has determined to be employable shall be furnished assistance in obtaining employment consistent with such veteran's abilities, aptitudes, interests, and employment handicap, including assistance necessary to insure that such veteran receives the benefit of any applicable provisions of law or regulation providing for special consideration or emphasis or preference for such veteran in employment or training. 29 USC 701 note.

"(2) Assistance provided under this subsection may include—

"(A) direct placement of such veteran in employment;

"(B) utilization of the services of disabled veterans outreach program specialists under section 2003A of this title; and *Post*, p. 2204.

"(C) utilization of the job development and placement services of (i) programs under the Rehabilitation Act of 1973, (ii) the State employment service and the Veterans' Employment Service of the Department of Labor, (iii) the Office of Personnel Management, and (iv) any other public or nonprofit organization having placement services available.

"(b)(1) In any case in which a veteran has completed a vocational rehabilitation program for self-employment in a small business enterprise under this chapter, the Administrator shall cooperate with the Small Business Administration to assist such veteran to secure a loan for the purchase of equipment needed to establish such veteran's own business and to insure that such veteran receives the special consideration provided for in section 8 of the Small Business Act (15 U.S.C. 633(b)).

"(2) In the case of a veteran described in clause (12) of section 1504(a) of this title who has trained under a State rehabilitation program with the objective of self-employment in a small business enterprise, the Administrator may, subject to the limitations and criteria provided for in such clause, provide such veteran with such

supplementary equipment and initial stocks and supplies as are determined to be needed by such veteran if such supplementary equipment and initial stocks and supplies, or assistance in acquiring them, are not available through the State program or other sources.

38 USC 1518.

"§ 1518. Personnel training, development, and qualifications

"(a) The Administrator shall provide a program of ongoing professional training and development for Veterans' Administration counseling and rehabilitation personnel engaged in providing rehabilitation services under this chapter. The objective of such training shall be to insure that rehabilitation services for disabled veterans are provided in accordance with the most advanced knowledge, methods, and techniques available for the rehabilitation of handicapped persons. For this purpose, the Administrator may employ the services of consultants and may make grants to and contract with public or private agencies (including institutions of higher learning) to conduct such training and development.

"(b) The Administrator shall coordinate with the Commissioner of the Rehabilitation Services Administration in the Department of Education and the Assistant Secretary for Veterans' Employment in the Department of Labor in planning and carrying out personnel training in areas of mutual programmatic concern.

"(c) Notwithstanding any other provision of law, the Administrator shall establish such qualifications for personnel providing evaluation and rehabilitation services to veterans under this chapter and for employees performing the functions described in section 1506(e) of this title as the Administrator determines are necessary and appropriate to insure the quality of rehabilitation programs under this chapter. In establishing such qualifications, the Administrator shall take into account the qualifications established for comparable personnel under the Rehabilitation Act of 1973 (29 U.S.C. ch. 16).

29 USC 701 *et seq.*

38 USC 1519.

"§ 1519. Rehabilitation research and special projects

"(a) The Administrator shall carry out an ongoing program of activities for the purpose of advancing the knowledge, methods, techniques, and resources available for use in rehabilitation programs for veterans. For this purpose, the Administrator shall conduct and provide support for the development or conduct, or both the development and conduct, of—

"(1) studies and research concerning the psychological, educational, employment, social, vocational, industrial, and economic aspects of the rehabilitation of disabled veterans, including new methods of rehabilitation; and

"(2) projects which are designed to increase the resources and potential for accomplishing the rehabilitation of disabled veterans.

Grants or contracts.

"(b) For the purpose specified in subsection (a) of this section, the Administrator is authorized to make grants to or contract with public or nonprofit agencies, including institutions of higher learning.

"(c) The Administrator shall cooperate with the Commissioner of the Rehabilitation Services Administration and the Director of the Institute of Handicapped Research in the Department of Education, the Assistant Secretary for Veterans' Employment in the Department of Labor, and the Secretary of Health and Human Services regarding rehabilitation studies, research, and special projects of mutual programmatic concern.

"§ 1520. Pilot program of independent living services and assistance 38 USC 1520.

"(a)(1) During fiscal years 1982 through 1985, the Administrator may, under contracts with public or nonprofit private agencies or organizations, or through facilities of the Department of Medicine and Surgery, which possess a demonstrated capability to conduct programs of independent living services for severely handicapped persons, provide, under regulations which the Administrator shall prescribe, programs of independent living services and assistance under this chapter, in various geographic regions of the United States, to veterans described in paragraph (2) of this subsection.

"(2) A program of independent living services and assistance may be made available under this section only to a veteran who has a service-connected disability described in section 1502(1)(A) of this title and with respect to whom it is determined under section 1506(d) of this title that the achievement of a vocational goal is not reasonably feasible and who is selected pursuant to criteria provided for in regulations prescribed under paragraph (1) of this subsection.

"(3) The Administrator shall, to the maximum extent feasible, include among those veterans who are provided with programs of independent living services and assistance under this section substantial numbers of veterans described in paragraph (2) of this subsection who are receiving long-term care in Veterans' Administration hospitals and nursing homes and in nursing homes with which the Administrator contracts for the provision of care to veterans.

"(4) A program of independent living services and assistance for a veteran shall consist of such services described in section 1504 (a) and (b) of this title as the Administrator determines necessary to enable such veteran to achieve maximum independence in daily living. Such veteran shall have the same rights with respect to an individualized written plan of services and assistance as are afforded veterans under section 1507 of this title.

"(5) Any contract for services initiated with respect to any veteran under this section before the end of fiscal year 1985 may be continued in effect after the end of such year for the purposes of providing services and assistance to such veteran in accordance with the provisions of this chapter.

"(6) Programs of independent living services and assistance shall be initiated for no more than five hundred veterans in each of the fiscal years 1982 through 1985, and the first priority in the provision of such programs shall be afforded to veterans for whom the reasonable feasibility of achieving a vocational goal is precluded solely as a result of a service-connected disability.

"(b) Not later than September 30, 1984, the Administrator shall submit to the Congress a report on the programs of independent living services and assistance provided for in subsection (a) of this section. Such report shall include— Report to Congress.

"(1) the results of a study which the Administrator shall conduct of the accomplishments and cost-effectiveness of such programs, including the extent to which (A) such programs have met needs for comprehensive independent living services that would not otherwise have been met, (B) severely disabled veterans have achieved and maintained greater independence in daily living as a result of participation in the programs, and (C) costs of care in hospital, nursing home, and domiciliary facilities have been and may be avoided as the result of such programs; and

"(2) the Administrator's recommendations for any legislative changes with respect to the provision of independent living services and assistance to veterans for whom the achievement of a vocational goal is not feasible.

Establishment.
38 USC 1521.

"§ 1521. Veterans' Advisory Committee on Rehabilitation

"(a)(1) The Administrator shall appoint an advisory committee to be known as the Veterans' Advisory Committee on Rehabilitation (hereinafter in this section referred to as the 'Committee').

Membership.

"(2) The members of the Committee shall be appointed by the Administrator from the general public and shall serve for terms to be determined by the Administrator not to exceed three years. Veterans with service-connected disabilities shall be appropriately represented in the membership of the Committee, and the Committee shall also include persons who have distinguished themselves in the public and private sectors in the fields of rehabilitation medicine, vocational guidance, vocational rehabilitation, and employment and training programs. The Administrator may designate one of the members of the Committee appointed under this paragraph to chair the Committee.

"(3) The Committee shall also include as ex officio members the following: (A) one representative from the Department of Medicine and Surgery and one from the Department of Veterans' Benefits, (B) one representative from the Rehabilitation Services Administration of the Department of Education and one from the National Institute for Handicapped Research of the Department of Education, and (C) one representative of the Assistant Secretary of Labor for Veterans' Employment of the Department of Labor.

"(b) The Administrator shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of veterans' rehabilitation programs under this title.

Report to Administrator.

"(c) The Committee shall submit to the Administrator an annual report on the rehabilitation programs and activities of the Veterans' Administration and shall submit such other reports and recommendations to the Administrator as the Committee determines appropriate. The annual report shall include an assessment of the rehabilitation needs of veterans and a review of the programs and activities of the Veterans' Administration designed to meet such needs. The Administrator shall submit with each annual report submitted to the Congress pursuant to section 214 of this title a copy of all reports and recommendations of the Committee submitted to the Administrator since the previous annual report of the Administrator was submitted to the Congress pursuant to such section.".

Report to Congress.
38 USC 214.

(b) The items relating to chapter 31 in the table of chapters at the beginning of title 38, United States Code, and in the table of chapters at the beginning of part III of such title, are amended to read as follows:

"31. Training and Rehabilitation for Veterans with Service-Connected Disabilities ..... 1,500".

38 USC 1508 note.
Ante, p. 2178.
38 USC 3107.

(c) The provisions of section 1508(g)(1) of title 38, United States Code, as added by subsection (a), shall not apply to an apportionment made under section 3107(c) of such title before the date of the enactment of this Act.

38 USC 1507 note.
Ante, p. 2171.

(d) With respect to veterans who are participating in a program of vocational rehabilitation under chapter 31 of title 38, United States Code, on March 31, 1981—

(1) individualized written plans of vocational rehabilitation shall be formulated under section 1507 of such title (as amended by subsection (a)) for such veterans to the extent that and at such times as the Administrator determines that the formulation of such plans is feasible and on the basis of such priorities for the formulation of such plans as the Administrator shall prescribe; and *Ante*, p. 2177.

(2) extensions may be granted a veteran under sections 1503(c) and 1505(c)(2) of such title (as amended by subsection (a)) without regard to the requirement for a determination of a serious employment handicap. *Ante*, pp. 2173, 2176.

LIMITATION ON PAYMENT OF SUBSISTENCE ALLOWANCE

SEC. 102. Section 1781 is amended by inserting a comma and "or subsistence allowance granted under chapter 31," after "36". 38 USC 1781.

LIMITATION ON PERIOD OF ASSISTANCE UNDER TWO OR MORE PROGRAMS

SEC. 103. Section 1795 is amended by— 38 USC 1795.

(1) inserting "(a)" before "The aggregate";

(2) striking out clause (4) and inserting in lieu thereof the following:

"(4) chapters 32, 34, 35, and 36 of this title and the former chapter 33;"; 38 USC 1601 *et seq.*, 1651 *et seq.*, 1700 *et seq.*, 1770 *et seq.*

(3) striking out after "thereof)" the comma and "but this section shall not be deemed to limit the period for which assistance may be received under chapter 31 alone" and inserting in lieu thereof a period; and *Ante*, p. 2171.

(4) adding at the end the following new subsection:

"(b) No person may receive assistance under chapter 31 of this title in combination with assistance under any of the provisions of law cited in clauses (1), (2), (3), and (4) of this section in excess of forty-eight months (or the part-time equivalent thereof) unless the Administrator determines that additional months of benefits under chapter 31 of this title are necessary to accomplish the purposes of a rehabilitation program (as defined in section 1501(5) of this title) in the individual case.". *Ante*, p. 2172.

TITLE II—GI BILL RATE INCREASES

PART A—INCREASES EFFECTIVE OCTOBER 1, 1980

RATES OF EDUCATIONAL ASSISTANCE FOR VETERANS

SEC. 201. Chapter 34 is amended by—

(1) striking out "$288" in the last sentence of section 1677(b) and inserting in lieu thereof "$302"; 38 USC 1677.

(2) amending the table contained in paragraph (1) of section 1682(a) to read as follows: 38 USC 1682.

(2) inserting "so" after "that such veteran was" in such paragraph; and

(3) adding at the end the following new sentence: "When an extension of the applicable delimiting period is granted a veteran under the preceding sentence, the delimiting period with respect to such veteran will again begin running on the first day following such veteran's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations which the Administrator shall prescribe, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.".

CLARIFICATION OF AUTHORITY OF ADMINISTRATOR TO DISAPPROVE AN APPLICATION FOR BENEFITS

38 USC 1671.

SEC. 302. The second sentence of section 1671 is amended to read as follows: "The Administrator shall approve such application unless the Administrator finds that (1) such veteran or person is not eligible for or entitled to the educational assistance for which application is made, (2) the veteran's or person's selected educational institution or training establishment fails to meet any requirement of this chapter or chapter 36 of this title, (3) the veteran's or person's enrollment in, or pursuit of, the program of education selected would violate any provision of this chapter or chapter 36 of this title, or (4) the veteran or person is already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the program of education is offered.".

38 USC 1770 *et seq.*

MODIFICATION OF 50-PERCENT EMPLOYMENT RULE FOR VOCATIONAL COURSES

38 USC 1673.

SEC. 303. Section 1673(a) is amended by—

(1) inserting "(1)" before "The";

(2) redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D), respectively;

(3) amending clause (B) of paragraph (1), as redesignated by clause (2) of this section, to read as follows:

"(B) any course with a vocational objective, unless the eligible veteran or the institution offering such course presents evidence satisfactory to the Administrator showing that at least one-half of the persons who completed such course over such period, and who are not unavailable for employment, attained employment for an average of ten hours a week in an occupational category for which the course was designed to provide training;"; and

(4) adding at the end the following new paragraph:

"(2)(A) For the purposes of clause (B) of paragraph (1) of this subsection, in computing the number of persons who discontinued or completed a course over any two-year period, there shall not be included in such number those persons who received assistance under this title for pursuing such course while serving on active duty.

"(B) The provisions of clause (B) of paragraph (1) of this subsection shall not apply in the case of a particular course offered by an educational institution in a particular year if the total number of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in the institution during the two-year period preceding such year did not exceed 35 percent of the total enrollment in such institution during such period and the course has met the

38 USC 1701.

requirements of such clause for any two-year period ending on or after the date of the enactment of this paragraph.

"(C) The Administrator may waive the requirements under clause (B) of paragraph (1) of this subsection if the Administrator determines, under regulations which the Administrator shall prescribe, that such requirements would work an undue administrative hardship on an educational institution because of the small proportion of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in such institution.". Requirements, waiver. 38 USC 1701.

APPROVAL OF COURSES OFFERED THROUGH OPEN CIRCUIT TELEVISION

SEC. 304. Subsection (c) of section 1673 is amended to read as follows: 38 USC 1673.

"(c) The Administrator shall not approve the enrollment of an eligible veteran in any course to be pursued by radio or by open circuit television, except that the Administrator may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.".

ELIMINATION FROM COMPUTATION OF 85–15 RULE OF THE NUMBER OF PERSONS RECEIVING BASIC ECONOMIC OPPORTUNITY GRANTS AND SUPPLEMENTAL ECONOMIC OPPORTUNITY GRANTS

SEC. 305. The first sentence of section 1673(d) is amended by— 38 USC 1673.

(1) striking out the comma after "institution" and inserting in lieu thereof "or"; and

(2) striking out "and/or by grants from any Federal agency".

STANDARDS FOR DETERMINING SATISFACTORY PROGRESS

SEC. 306. Section 1674 is amended by striking out the second sentence. 38 USC 1674.

EDUCATION OUTSIDE THE UNITED STATES

SEC. 307. (a) Section 1652(f) is amended by adding at the end the following new sentence: "Such term shall also include an educational institution which is not located in a State, which offers a course leading to a standard college degree, or the equivalent, and which is recognized as such by the secretary of education (or comparable official) of the country or other jurisdiction in which the institution is located.". 38 USC 1652.

(b) The text of section 1676 is amended to read as follows: 38 USC 1676.

"An eligible veteran may not enroll in any course at an educational institution not located in a State unless such course is pursued at an approved institution of higher learning and the course is approved by the Administrator. The Administrator may deny or discontinue educational assistance under this chapter in the case of any veteran enrolled in an institution of higher learning not located in a State if the Administrator determines that such enrollment is not in the best interest of the veteran or the Federal Government.".

CHARGE AGAINST ENTITLEMENT FOR PURSUIT OF A PROGRAM OF EDUCATION WHILE ON ACTIVE DUTY OR ON A LESS THAN HALF-TIME BASIS

38 USC 1682. SEC. 308. Section 1682(b) is amended by adding at the end the following new sentence: "An individual's entitlement shall be charged for institutional courses on the basis of the applicable monthly training time rate as determined under section 1788 of this 38 USC 1788. title.".

COMPUTATION OF EDUCATIONAL ASSISTANCE ALLOWANCES AND CHARGES AGAINST ENTITLEMENT FOR PURSUIT OF INDEPENDENT STUDY

38 USC 1682. SEC. 309. Subsection (e) of section 1682 is amended to read as follows:

"(e) The educational assistance allowance of an eligible veteran pursuing an independent study program which leads to a standard college degree shall be computed at the rate provided in subsection (b) of this section. If the entire training is to be pursued by independent study, entitlement shall be charged at one-half of the full-time institutional rate. In any case in which independent study is combined with resident training, the educational assistance allowance shall be paid at the applicable institutional rate based on the total training time determined by adding the number of semester hours (or the equivalent thereof) of resident training to the number of semester hours (or the equivalent thereof) of independent study that do not exceed the number of semester hours (or the equivalent thereof) required for the less than half-time institutional rate, as determined by the Administrator, for resident training. A veteran's entitlement shall be charged for a combination of independent study and resident training on the basis of the applicable monthly training time rate as 38 USC 1788. determined under section 1788 of this title.".

COMPUTATION OF EDUCATIONAL ASSISTANCE ALLOWANCE FOR PURSUIT OF COURSES BY OPEN CIRCUIT TELEVISION

38 USC 1682. SEC. 310. Section 1682 is amended by adding at the end thereof the following new subsection:

"(f) The educational assistance allowance of an eligible veteran pursuing a course in part by open circuit television shall be computed in the same manner that such allowance is computed under subsection (e) of this section for an independent study program.".

ENTITLEMENT-FREE PURSUIT OF PROGRAMS OF SECONDARY EDUCATION

38 USC 1691. SEC. 311. Section 1691 is amended—

(1) in subsection (a) by—

(A) striking out "not on active duty";

(B) striking out "at the time of the veteran's discharge or release from active duty"; and

(C) inserting "is not on active duty and who," after "(2)";

(2) in subsection (b) by—

(A) inserting "(1)" before "The";

(B) inserting "(2)" after "subsection (a)"; and

(C) adding at the end the following new paragraph:

"(2) The Administrator shall pay to an eligible veteran described in subsection (a)(1) of this section who is pursuing a course or courses or program under this subchapter for the purpose of attaining a secondary school diploma (or an equivalency certificate) an educational assistance allowance (A) at the rate of established charges for tuition

and fees required of similarly circumstanced nonveterans enrolled in the same course, courses, or program, or (B) at the institutional full-time rate provided in section 1682(a), whichever is the lesser."; and

Ante, pp. 2187, 2189.

(3) by adding at the end the following new subsection:

"(c) The provisions of section 1673(d) of this title, relating to the disapproval of enrollment in certain courses, shall be applicable to the enrollment of an eligible veteran who, while serving on active duty, enrolls in one or more courses under this subchapter for the purpose of attaining a secondary school diploma (or an equivalency certificate).".

38 USC 1673.

DISQUALIFICATION OF CERTAIN FAMILY MEMBERS FROM ELIGIBILITY AS QUALIFIED TUTORS

SEC. 312. Section 1692(b)(2) is amended by inserting "and is not the eligible veteran's parent, spouse, child (whether or not married or over eighteen years of age), brother, or sister" after "is qualified".

38 USC 1692.

PART B—EDUCATIONAL ASSISTANCE FOR SURVIVORS AND DEPENDENTS

EXTENSION OF DEPENDENTS' PERIOD OF ELIGIBILITY IN CERTAIN CASES

SEC. 321. Section 1712(a) is amended by—

38 USC 1712.

(1) striking out "and" at the end of clause (4);

(2) redesignating clause (5) as clause (6); and

(3) inserting after clause (4) the following new clause (5):

"(5) if the person becomes eligible by reason of the provisions of section 1701(a)(1)(A)(iii) of this title after the person's eighteenth birthday but before the person's twenty-sixth birthday, then (unless clause (4) of this subsection applies) such period shall end eight years after the date on which the person becomes eligible by reason of such provisions, but in no event shall such period be extended beyond the person's thirty-first birthday by reason of this clause; and".

38 USC 1701.

PERIOD WITHIN WHICH APPLICATION FOR EXTENSION OF DELIMITING PERIOD MUST BE FILED AND MEASUREMENT OF EXTENSION

SEC. 322. Section 1712(b)(2) is amended by—

38 USC 1712.

(1) inserting "made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of mental or physical disability, or (C) the effective date of the Veterans' Rehabilitation and Education Amendments of 1980, whichever is the latest" after "application";

Ante, p. 2171.

(2) inserting "so" after "that such person was" in such paragraph; and

(3) adding at the end the following new sentence: "When an extension of the applicable delimiting period is granted under the exception in the preceding sentence, the delimiting period will again begin running on the first day following such eligible person's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations which the Administrator shall prescribe, for such eligible person to initiate or resume pursuit of a program of education with educational assistance under this chapter.".

REPEAL OF MANDATORY COUNSELING FOR DEPENDENTS

38 USC 1720.

SEC. 323. (a) Section 1720(a) is amended by—

(1) striking out "shall arrange for, and the eligible person shall take advantage of," and inserting in lieu thereof "may, upon request, arrange for"; and

(2) striking out the second sentence.

38 USC 1761.

(b) Section 1761(a) is amended by—

(1) striking out "required" and inserting in lieu thereof "authorized"; and

(2) striking out "or require".

CLARIFICATION OF AUTHORITY OF ADMINISTRATOR TO DISAPPROVE AN APPLICATION FOR BENEFITS

38 USC 1721.

SEC. 324. The text of section 1721 is amended to read as follows:

"The Administrator shall finally approve an application if the Administrator finds that—

38 USC 1720.

"(1) section 1720 of this title has been complied with;

"(2) the proposed program of education constitutes a 'program of education' as that term is defined in this chapter;

"(3) the eligible person is not already qualified, by reason of previous education or training, for the educational, professional, or vocational objective for which the program of education is offered;

"(4) the eligible person's proposed educational institution or training establishment is in compliance with all the requirements of this chapter and chapter 36 of this title; and

38 USC 1770 *et seq.*

"(5) it does not appear that the enrollment in or pursuit of such person's program of education would violate any provisions of this chapter or chapter 36 of this title.".

MODIFICATION OF 50-PERCENT EMPLOYMENT RULE FOR VOCATIONAL COURSES

38 USC 1723.

SEC. 325. Section 1723(a) is amended by—

(1) inserting "(1)" before "The";

(2) redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D), respectively;

(3) amending clause (B) of paragraph (1), as redesignated by clause (2) of this section, to read as follows:

"(B) any course with a vocational objective, unless the eligible person or the institution offering such course presents evidence satisfactory to the Administrator showing that at least one-half of the persons who completed such course over such period, and who are not unavailable for employment, attained employment for an average of ten hours a week in an occupational category for which the course was designed to provide training"; and

(4) adding at the end the following new paragraph:

"(2)(A) For the purposes of clause (B) of paragraph (1) of this subsection, in computing the number of persons who discontinued or completed a course over any two-year period, there shall not be included in such number those persons who received assistance under this title for pursuing such course while serving on active duty.

"(B) The provisions of clause (B) of paragraph (1) of this subsection shall not apply in the case of a particular course offered by an educational institution in a particular year if the total number of

38 USC 1652.

eligible veterans (as defined in section 1652(a)(1) of this title) and

eligible persons enrolled in the institution during the two-year period preceding such year did not exceed 35 percent of the total enrollment in such institution during such period and the course has met the requirements of such clause for any two-year period ending on or after the date of the enactment of this paragraph.

"(C) The Administrator may waive the requirements under clause (B) of paragraph (1) of this subsection if the Administrator determines, under regulations which the Administrator shall prescribe, that such requirements would work an undue administrative hardship on an educational institution because of the small proportion of eligible veterans (as defined in section 1652(a)(1) of this title) and eligible persons enrolled in such institution.". Requirements, waiver. 38 USC 1652.

APPROVAL OF COURSES OFFERED THROUGH OPEN CIRCUIT TELEVISION

SEC. 326. Subsection (c) of section 1723 is amended to read as follows: 38 USC 1723.

"(c) The Administrator shall not approve the enrollment of an eligible person in any course to be pursued by radio or by open circuit television, except that the Administrator may approve the enrollment of an eligible person in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.".

EDUCATION OUTSIDE THE UNITED STATES

SEC. 327. (a) Paragraph (10) of section 1701(a) is amended by adding at the end the following new sentence: "Such term shall also include an educational institution which is not located in a State, which offers a course leading to a standard college degree, or the equivalent, and which is recognized by the secretary of education (or comparable official) of the country or other jurisdiction in which the institution is located.". 38 USC 1701.

(b) Section 1723 is amended by adding at the end the following new subsection: 38 USC 1723.

"(e) An eligible person may not enroll in any course at an educational institution which is not located in a State or in the Republic of the Philippines, unless such course is pursued at an approved institution of higher learning and the course is approved by the Administrator. The Administrator, in the Administrator's discretion, may deny or discontinue educational assistance under this chapter in the case of any eligible person in such an institution if the Administrator determines that such enrollment is not in the best interest of the eligible person or the Federal Government.".

STANDARDS FOR DETERMINING SATISFACTORY PROGRESS

SEC. 328. Section 1724 is amended by striking out the second sentence. 38 USC 1724.

PAYMENT OF EDUCATIONAL ASSISTANCE ALLOWANCE ON BEHALF OF ELIGIBLE PERSONS

SEC. 329. Subsection (b) of section 1731 is amended to read as follows: 38 USC 1731.

"(b) The educational assistance allowance of an eligible person pursuing a program of education at an educational institution shall be paid as provided in chapter 36 of this title.". 38 USC 1770 *et seq.*

COMPUTATION OF EDUCATIONAL ASSISTANCE ALLOWANCE FOR PURSUIT OF COURSES BY OPEN CIRCUIT TELEVISION

38 USC 1732.

SEC. 330. Section 1732(c) is amended by adding at the end the following new paragraph:

"(4) The monthly educational assistance allowance to be paid on behalf of an eligible person pursuing a course in part by open circuit television shall be computed in the same manner that such allowance is computed under section 1682(e) of this title for an independent study program.".

Ante, p. 2194.

ELIGIBILITY FOR SPECIAL RESTORATIVE TRAINING

38 USC 1740.
38 USC 1701.

SEC. 331. Section 1740 is amended by inserting "(as defined in section 1701(a)(1)(A) of this title)" after "person".

PART C—AMENDMENTS RELATING TO THE ADMINISTRATION OF EDUCATIONAL BENEFITS

PERIODS FOR WHICH PAYMENT OF EDUCATIONAL ASSISTANCE OR SUBSISTENCE ALLOWANCES MAY BE PAID

38 USC 1780.

SEC. 341. (a) Subsection (a) of section 1780 is amended by—

(1) inserting "in, and pursuit of, such program" after "enrollment" in the second sentence; and

(2) striking out "institution and the requirements of this chapter or of chapter 34 or 35 of this title" in clause (1) and inserting in lieu thereof "institution, with the provisions of such regulations as may be prescribed by the Administrator pursuant to subsection (g) of this section, and with the requirements of this chapter or of chapter 34 or 35 of this title, but payment may be made for an actual period of pursuit of one or more unit subjects pursued for a period of time shorter than the enrollment period at the educational institution".

38 USC 1651 *et seq.*, 1700 *et seq.*

(b) Subsection (g) of such section is amended by inserting "and define" after "determine" in the first sentence.

BREAKS IN EDUCATION WHICH ARE NOT COUNTED AS ABSENCES

38 USC 1780.

SEC. 342. Section 1780(a)(2) is amended by inserting after "session" the following: "and periods (not to exceed five days in any twelve-month period) when the institution is not in session because of teacher conferences or teacher training sessions".

REPORTS BY VETERANS, ELIGIBLE PERSONS, AND EDUCATIONAL INSTITUTIONS TO THE VETERANS' ADMINISTRATION

38 USC 1784.

SEC. 343. (a) Section 1784 is amended by—

(1) amending subsection (a) to read as follows:

"(a) The veteran or eligible person and the educational institution offering a course in which such veteran or eligible person is enrolled under chapter 34, 35, or 36 of this title shall, without delay, report to the Administrator, in the form prescribed by the Administrator, such enrollment and any interruption or termination of the education of each such veteran or eligible person. The date of such interruption or termination will be the last date of pursuit, or, in the case of correspondence training, the last date a lesson was serviced by a school."; and

38 USC 1651 *et seq.*, 1700 *et seq.*, 1770 *et seq.*

(2) redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection (b):

"(b) The Administrator, prior to making payment of a reporting fee to an educational institution, as provided for in subsection (c) of this section, shall require such institution to certify that it has exercised reasonable diligence in determining whether such institution or any course offered by such institution approved for the enrollment of veterans or eligible persons meets all of the applicable requirements of chapters 34, 35, and 36 of this title and that it will, without delay, report any failure to meet any such requirement to the Administrator.". 38 USC 1651 *et seq.*, 1700 *et seq.*, 1770 *et seq.*

(b)(1) The catchline of such section is amended to read as follows:

"§ 1784. Reports by veterans, eligible persons, and institutions; reporting fee".

(2) The item relating to such section in the table of sections at the beginning of chapter 36 is amended to read as follows:

"1784. Reports by veterans, eligible persons, and institutions; reporting fee.".

LIABILITY FOR OVERPAYMENT OF BENEFITS

SEC. 344. The text of section 1785 is amended to read as follows: 38 USC 1785.

"(a) Whenever the Administrator finds that an overpayment has been made to a veteran or eligible person, the amount of such overpayment shall constitute a liability of such veteran or eligible person to the United States.

"(b) Whenever the Administrator finds that an overpayment has been made to a veteran or eligible person as the result of (1) the willful or negligent failure of an educational institution to report, as required under this chapter or chapter 34 or 35 of this title, to the Veterans' Administration excessive absences from a course, or discontinuance or interruption of a course by the veteran or eligible person, or (2) the willful or negligent false certification by an educational institution, the amount of such overpayment shall constitute a liability of the educational institution to the United States. 38 USC 1651 *et seq.*, 1700 *et seq.*

"(c) Any overpayment referred to in subsection (a) or (b) of this section may be recovered, except as otherwise provided in the last sentence of section 1784(c) of this title, in the same manner as any other debt due the United States. 38 USC 1784.

"(d) Any overpayment referred to in subsection (a) or (b) of this section may be waived as to a veteran or eligible person as provided in section 3102 of this title. Waiver of any such overpayment as to a veteran or eligible person shall in no way release any educational institution from liability under subsection (b) of this section. Waiver. 38 USC 3102.

"(e)(1) Any amount collected from a veteran or eligible person pursuant to this section shall be reimbursed to the educational institution which is liable pursuant to subsection (b) of this section to the extent that collection was made from the educational institution.

"(2) Nothing in this section or any other provision of this title shall be construed as (A) precluding the imposition of any civil or criminal liability under this title or any other law, or (B) requiring any institution of higher learning to maintain daily attendance records for any course leading to a standard college degree.".

MEASUREMENT OF COURSES

SEC. 345. (a) Subsection (a) of section 1788 is amended by— 38 USC 1788.

(1) inserting "(a)(1)" after "1775" in clauses (1) and (2);

(2) striking out "on a" in clause (4) and inserting in lieu thereof "in residence on a standard"; and

(3) inserting "per semester" in clause (4) after "fourteen semester hours" the first place it appears.

(b) Such section is further amended by adding at the end the following new subsections:

Definitions.

"(c) For the purposes of subsection (a)(4) of this section, the term 'in residence on a standard quarter- or semester-hour basis' means a study at a site or campus of a college or university, or off-campus at an official resident center, requiring pursuit of regularly scheduled weekly class instruction at the rate of one standard class session per week throughout the quarter or semester for one quarter or one semester hour of credit. For the purposes of the preceding sentence, the term 'standard class session' means one hour (or fifty-minute period) of academic instruction, two hours of laboratory instruction, or three hours of workshop training.

Institutional undergraduate course.

"(d) Notwithstanding any other provision of this title, an institutional undergraduate course leading to a standard college degree offered by a college or university in residence shall be considered to be a full-time course if—

"(1) the educational institution offering such course considers such course to be a full-time course and treats such course as a full-time course for all purposes, including (A) payment of tuition and fees, (B) the awarding of academic credit for the purpose of meeting graduation requirements, and (C) the transfer of such credits to an undergraduate course meeting the criteria set forth in subsection (a)(4) of this section;

"(2) less than 50 percent of the persons enrolled in such course are receiving educational assistance under this title;

"(3) such course would qualify as a full-time course under subsection (a)(4) of this section, except that it does not meet the requirements of such subsection with respect to weekly class instruction; and

"(4) the course requires—

"(A) pursuit of standard class sessions for each credit at a rate not less frequent than every two weeks; and

"(B) monthly pursuit of a total number of standard class sessions equal to that number of standard class sessions which, during the same period of time, is required for a course qualifying as a full-time course under subsection (a)(4) of this section.".

ADVISORY COMMITTEE ON VETERANS' EDUCATIONAL ASSISTANCE PROGRAMS

38 USC 1792.

SEC. 346. The text of section 1792 is amended to read as follows:

"(a) There shall be an advisory committee formed by the Administrator which shall be composed of persons who are eminent in their respective fields of education, labor, and management and of representatives of institutions and establishments furnishing education to eligible veterans or persons enrolled under chapter 32, 34, or 35 of this title. The committee shall also include veterans representative of World War II, the Korean conflict era, the post-Korean conflict era, the Vietnam era, and the post-Vietnam era. The Assistant Secretary of Education for Postsecondary Education (or such other comparable official of the Department of Education as the Secretary of Education may designate) and the Assistant Secretary of Labor for Veterans' Employment shall be ex officio members of the advisory committee.

38 USC 1601 *et seq.*, 1651 *et seq.*, 1700 *et seq.*

"(b) The Administrator shall consult with and seek the advice of the committee from time to time with respect to the administration of this chapter and chapters 32, 34, and 35 of this title. The committee may make such reports and recommendations as it considers desirable to the Administrator and the Congress. 38 USC 1601 *et seq.*, 1651 *et seq.*, 1700 *et seq.* Report to Congress.

"(c) The committee shall remain in existence until December 31, 1989.".

TITLE IV—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM ADJUSTMENTS

ELIGIBILITY OF CERTAIN VETERANS FOR THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM

SEC. 401. Section 1602(1)(A) is amended by— 38 USC 1602.

(1) inserting "who is not eligible for educational assistance under chapter 34 of this title and" after "any veteran"; and 38 USC 1651 *et seq.*

(2) striking out "initially" in clauses (i) and (ii).

DISTRIBUTION OF UNUSED CONTRIBUTIONS UPON DEATH OF PARTICIPANT

SEC. 402. Section 1624 is amended to read as follows:

"§ 1624. Death of participant 38 USC 1624.

"In the event of a participant's death, the amount of such participant's unused contributions to the fund shall be paid to the living person or persons first listed below:

"(1) The beneficiary or beneficiaries designated by such participant under such participant's Servicemen's Group Life Insurance policy.

"(2) The surviving spouse of the participant.

"(3) The surviving child or children of the participant, in equal shares.

"(4) The surviving parent or parents of the participant, in equal shares.

If there is no such person living, such amount shall be paid to such participant's estate.".

ENTITLEMENT-FREE PURSUIT OF PROGRAMS OF SECONDARY EDUCATION

SEC. 403. Subsection (b) of section 1631 is amended to read as follows: 38 USC 1631.

"(b) Any enlisted member of the Armed Forces participating in the program shall be eligible to enroll in a course, courses, or program of education for the purpose of attaining a secondary school diploma (or an equivalency certificate), as authorized by section 1691(a) of this title, during the last six months of such member's first enlistment and at any time thereafter.". 38 USC 1691.

LIMITATION ON PERIOD OF ASSISTANCE UNDER TWO OR MORE PROGRAMS

SEC. 404. Paragraph (1) of section 1631(a) is amended to read as follows: 38 USC 1631.

"(1) Subject to the provisions of section 1795 of this title limiting the aggregate period for which any person may receive assistance under two or more programs of educational or vocational assistance administered by the Veterans' Administration, a participant shall be 38 USC 1795.

entitled to a maximum of 36 monthly benefit payments (or their equivalent in the event of part-time benefits).".

APPLICABILITY OF CERTAIN PROVISIONS OF CHAPTER 34

38 USC 1641.

SEC. 405. Section 1641 is amended by—

(1) inserting "1663," after "sections" the first place it appears; and

(2) striking out "1696, and 1698" and inserting in lieu thereof "and 1691(a)(1)".

AMENDMENTS RELATING TO MONTHLY CONTRIBUTIONS

38 USC 1622.

SEC. 406. (a) Subsection (a) of section 1622 is amended by—

(1) striking out "Each" in the first sentence and inserting in lieu thereof "Except as provided in subsections (c) and (d) of this section, each"; and

(2) striking out "$50" and "$75" in the second sentence and inserting in lieu thereof "$25" and "$100", respectively.

(b) Subsection (c) of such section is amended by inserting after "Forces" a comma and "including contributions in lieu of, or to reduce the amount of, monthly deductions under subsection (a) of this section".

(c) Such section is further amended by adding at the end the following new subsection:

"(d) Subject to the maximum contribution prescribed by subsection (a) of this section, a participant shall be permitted, while serving on active duty, to make a lump-sum contribution to the fund. A lump-sum contribution to the fund by a participant shall be in addition to or in lieu of monthly deductions made from such participant's military pay and shall be considered, for the purposes of paragraph (2) of section 1631(a), to have been made by monthly deductions from such participant's military pay in the amount of $75 per month or in such lesser amount as may be specified by such participant pursuant to regulations issued jointly by the Secretary and the Administrator.".

38 USC 1631.

TITLE V—VETERANS' EMPLOYMENT ASSISTANCE AMENDMENTS

PROMOTION OF THE DEVELOPMENT AND ESTABLISHMENT OF EMPLOYMENT, TRAINING, AND OTHER OPPORTUNITIES

38 USC 244.

SEC. 501. Section 244 is amended by—

(1) redesignating clauses (2) through (5) as clauses (3) through (6), respectively; and

(2) inserting after clause (1) the following new clause (2):

"(2) in consultation with the Secretary of Labor, actively seek to promote the development and establishment of employment, training, and other opportunities for veterans, with particular emphasis on the needs of veterans with service-connected disabilities and other eligible veterans, taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title;".

38 USC 2011 *et seq.*

PROMOTION OF THE DEVELOPMENT OF PROGRAMS OF TRAINING ON THE JOB

SEC. 502. Section 1772 is amended by adding at the end the following new subsection: 38 USC 1772.

"(d) Pursuant to regulations prescribed by the Administrator in consultation with the Secretary of Labor, the Administrator shall actively promote the development of programs of training on the job (including programs of apprenticeship) for the purposes of sections 1777 and 1787 of this title and shall utilize the services of disabled veterans' outreach program specialists under section 2003A of this title to promote the development of such programs.". 38 USC 1777, 1787.

Post, p. 2204.

ELIGIBILITY FOR JOB COUNSELING, TRAINING, AND PLACEMENT SERVICES

SEC. 503. Section 2001 is amended by— 38 USC 2001.

(1) amending paragraph (1) to read as follows:

"(1) The term 'special disabled veteran' has the same meaning provided in section 2011(1) of this title."; and

Post, p. 2206.

(2) redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively, and inserting after paragraph (1) the following new paragraphs:

"(2) The term 'veteran of the Vietnam era' has the same meaning provided in section 2011(2) of this title.

"(3) The term 'disabled veteran' has the same meaning provided in section 2011(3) of this title.

"(4) The term 'eligible veteran' has the same meaning provided in section 2011(4) of this title.".

ELEVATION OF DEPUTY ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT TO ASSISTANT SECRETARY

SEC. 504. (a) Chapter 41 is amended by—

(1) striking out "Deputy" in the item relating to section 2002A in the table of sections at the beginning of such chapter; 38 USC 2002A.

(2) striking out "Deputy" before "Assistant Secretary" in section 2002; 38 USC 2002.

(3) striking out "Deputy" in the catchline of section 2002A; and 38 USC 2002A.

(4) striking out "Deputy" before "Assistant Secretary" in section 2002A.

(b) Any reference in any law, regulation, directive, or other document to the Deputy Assistant Secretary of Labor for Veterans' Employment shall be deemed to be a reference to the Assistant Secretary of Labor for Veterans' Employment. 38 USC 2002A note.

(c) Notwithstanding any other provision of law, the position of Deputy Assistant Secretary of Labor for Veterans' Employment, as constituted on the day before the date of the enactment of this section, shall remain in existence until a person has been appointed to and has qualified for the position of Assistant Secretary of Labor for Veterans' Employment (established by the amendments made by subsection (a)). 38 USC 2002A note.

(d) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"Assistant Secretary of Labor for Veterans' Employment.".

CLERICAL SUPPORT FOR VETERANS' EMPLOYMENT REPRESENTATIVES

38 USC 2003.

SEC. 505. Section 2003 is amended by inserting "(and shall assign full-time clerical support to each such representative)" after employment representative" the first time such term appears in the first sentence.

DISABLED VETERANS' OUTREACH PROGRAM

SEC. 506. (a) Chapter 41 is amended by inserting after section 2003 the following new section:

38 USC 2003A.

"§ 2003A. Disabled veterans' outreach program

"(a)(1) The Secretary of Labor shall make available to each State, directly or by grant or contract, such funds as may be necessary to support a disabled veterans' outreach program designed to meet the employment needs of veterans, especially disabled veterans of the Vietnam era.

"(2) Funds provided to a State under this subsection shall be sufficient to support the appointment of one disabled veterans' outreach program specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in such State. Each such specialist shall be a veteran. Preference shall be given in the appointment of such specialists to disabled veterans of the Vietnam era. If the Secretary finds that a disabled veteran of the Vietnam era is not available for any such appointment, preference for such appointment shall be given to other disabled veterans. If the Secretary finds that no disabled veteran is available for such appointment, such appointment may be given to any veteran. Each such specialist shall be compensated at a rate not less than the rate prescribed for an entry level professional in the State government of the State concerned.

"(3) The Secretary shall also make available to the States such funds, in addition to those made available to carry out paragraphs (1) and (2) of this subsection, as may be necessary to support the reasonable expenses of such specialists for training, travel, supplies, and fringe benefits.

"(4) Specialists appointed pursuant to paragraph (2) of this subsection shall be in addition to and shall not supplant employees assigned to local employment service offices pursuant to section 2004 of this title.

38 USC 2004.

"(b)(1) Pursuant to regulations prescribed by the Secretary of Labor, disabled veterans' outreach program specialists shall be assigned only those duties directly related to meeting the employment needs of eligible veterans, with priority for the provision of services in the following order:

"(A) Services to disabled veterans of the Vietnam era who are participating in or have completed a program of vocational rehabilitation under chapter 31 of this title.

Ante, p. 2171.

"(B) Services to other disabled veterans.

"(C) Services to other eligible veterans in accordance with priorities determined by the Secretary taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title.

38 USC 2011 *et seq.*

In the provision of services in accordance with this paragraph, maximum emphasis in meeting the employment needs of veterans shall be placed on assisting economically or educationally disadvantaged veterans.

"(2) Not more than three-fourths of the disabled veterans' outreach program specialists in each State shall be stationed at local employ-

ment service offices in such State. Specialists not so stationed shall be stationed at centers established by the Veterans' Administration to provide a program of readjustment counseling pursuant to section 621A of this title, veterans assistance offices established by the Veterans' Administration pursuant to section 242 of this title, and such other sites as may be determined to be appropriate in accordance with regulations prescribed by the Secretary after consultation with the Administrator.

38 USC 621A.
38 USC 242.

"(c) Each disabled veterans' outreach program specialist shall carry out the following functions for the purpose of providing services to eligible veterans in accordance with the priorities set forth in subsection (b) of this section:

"(1) Development of job and job training opportunities for such veterans through contacts with employers, especially small- and medium-size private sector employers.

"(2) Pursuant to regulations prescribed by the Secretary after consultation with the Administrator, promotion and development of apprenticeship and other on-job training positions pursuant to section 1787 of this title.

38 USC 1787.

"(3) The carrying out of outreach activities to locate such veterans through contacts with local veterans organizations, the Veterans' Administration, the State employment service agency and local employment service offices, and community-based organizations.

"(4) Provision of appropriate assistance to community-based groups and organizations and prime sponsors under the Comprehensive Employment and Training Act in providing services to such veterans.

29 USC 801 note.

"(5) Provision of appropriate assistance to local employment service office employees with responsibility for veterans in carrying out their responsibilities pursuant to this chapter.

"(6) Consultation and coordination with other appropriate representatives of Federal, State, and local programs for the purpose of developing maximum linkages to promote employment opportunities for and provide maximum employment assistance to such veterans.

"(7) The carrying out of such other duties as will promote the development of entry-level and career job opportunities for such veterans.

"(d) Persons serving as staff in the disabled veterans outreach program conducted under title III of the Comprehensive Employment and Training Act on the date of enactment of this section shall be appointed as disabled veterans' outreach program specialists in the State in which such individual is so serving, unless the Secretary for good cause shown determines that such individual is not qualified for such appointment.

29 USC 871.

"(e) The Secretary of Labor shall administer the program provided for by this section through the Assistant Secretary of Labor for Veterans' Employment.".

(b) The table of sections at the beginning of chapter 41 is amended by inserting after the item relating to section 2003 the following new item:

"2003A. Disabled veterans' outreach program.".

EMPHASIS ON VETERANS OF THE VIETNAM ERA AND DISABLED VETERANS; REVISION OF ANNUAL REPORT

SEC. 507. Section 2007 is amended by—

38 USC 2007.

(1) striking out "those veterans who have been recently discharged or released from active duty" in subsection (a)(1) and inserting in lieu thereof "veterans of the Vietnam era and disabled veterans"; and

(2) striking out the second sentence of subsection (c) and inserting in lieu thereof the following: "The report shall include, by State, specification of the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the public employment service system and, of each of such categories, the number referred to jobs, the number placed in permanent jobs as defined by the Secretary, the number referred to and the number placed in employment and job training programs supported by the Federal Government, the number counseled, and the number who received some reportable service.".

ELIGIBILITY FOR EMPLOYMENT AND TRAINING PROGRAMS FOR VETERANS OF THE VIETNAM ERA

Definitions.
38 USC 2011.

SEC. 508. The text of section 2011 is amended to read as follows:

"As used in this chapter—

"(1) The term 'special disabled veteran' means (A) a veteran who is entitled to compensation under laws administered by the Veterans' Administration for a disability rated at 30 percent or more, or (B) a person who was discharged or released from active duty because of a service-connected disability.

"(2)(A) Subject to subparagraph (B) of this paragraph, the term 'veteran of the Vietnam era' means an eligible veteran any part of whose active military, naval, or air service was during the Vietnam era.

"(B) No veteran may be considered to be a veteran of the Vietnam era under this paragraph after December 31, 1991.

"(3) The term 'disabled veteran' means (A) a veteran who is entitled to compensation under laws administered by the Veterans' Administration, or (B) a person who was discharged or released from active duty because of a service-connected disability.

"(4) The term 'eligible veteran' means a person who (A) served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge, or (B) was discharged or released from active duty because of a service-connected disability.

"(5) The term 'department or agency' means any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5.".

5 USC 105.

FILING OF COMPLAINTS REGARDING VIOLATIONS OF EMPLOYMENT EMPHASIS PROVISIONS IN FEDERAL CONTRACTS

38 USC 2012.

SEC. 509. Subsection (b) of section 2012 is amended to read as follows:

"(b) If any special disabled veteran or veteran of the Vietnam era believes any contractor of the United States has failed to comply or refuses to comply with the provisions of the contractor's contract relating to the employment of veterans, the veteran may file a complaint with the Secretary of Labor, who shall promptly investigate such complaint and take appropriate action in accordance with the terms of the contract and applicable laws and regulations.".

EMPLOYMENT WITHIN THE FEDERAL GOVERNMENT

SEC. 510. Section 2014 is amended by adding at the end the following new subsection: 38 USC 2014.

"(g) To further the policy stated in subsection (a) of this section, the Administrator may give preference to qualified special disabled veterans and qualified veterans of the Vietnam era for employment in the Veterans' Administration as veterans' benefits counselors and veterans' claims examiners and in positions to provide the outreach services required under section 241 of this title, to serve as veterans' representatives at certain educational institutions as provided in section 243 of this title, or to provide readjustment counseling under section 612A of this title to veterans of the Vietnam era.". 38 USC 241. 38 USC 243. 38 USC 612A.

REEMPLOYMENT RIGHTS OF RESERVES CALLED TO ACTIVE DUTY

SEC. 511. (a) Subsections (c) and (g) of section 2024 are amended by striking out "three consecutive months" and inserting in lieu thereof "twelve consecutive weeks". 38 USC 2024.

(b) Subsection (f) of such section is amended to read as follows:

"(f) For the purposes of subsections (c) and (d) of this section, full-time training or other full-time duty performed by a member of the National Guard under section 316, 502, 503, 504, or 505 of title 32 is considered active duty for training. For the purposes of subsection (d) of this section, inactive duty training performed by that member under section 502 of title 32 or section 206, 301, 309, 402, or 1002 of title 37 is considered inactive duty training.".

EMPLOYMENT ASSISTANCE AND SERVICES FOR VETERANS INELIGIBLE FOR ASSISTANCE UNDER CHAPTER 41

SEC. 512. The Secretary of Labor shall assure that any veteran who is made ineligible for employment assistance under chapter 41 of title 38, United States Code, by virtue of the amendments made by section 503(1) of this Act shall be provided with the employment assistance and services made available under the provisions of the Act entitled "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotion of such system, and for other purposes", approved June 6, 1933 (commonly referred to as the "Wagner-Peyser Act"), (29 U.S.C. 49-49k), the Comprehensive Employment and Training Act (29 U.S.C. et seq.), and other applicable provisions of law. 38 USC 2001 note. 38 USC 503. 29 USC 801 note.

REQUIREMENT FOR BUREAU OF LABOR STATISTICS TO PUBLISH CERTAIN UNEMPLOYMENT INFORMATION ANNUALLY

SEC. 513. (a) When the Commissioner of the Bureau of Labor Statistics publishes annual labor-market statistics relating specifically to veterans who served in the Armed Forces during the Vietnam era, the Commissioner shall also publish separate labor-market statistics on the same subject matter which apply only to veterans who served in the Vietnam theatre of operations. When the Commissioner of the Bureau of Labor Statistics publishes labor-market statistics which relate specifically to veterans who served in the Armed Forces during the Vietnam era in addition to those statistics published on an annual basis to which the preceding sentence applies, the Commissioner shall also, if feasible, publish separate labor-market statistics on the same subject matter which apply only to veterans who served in the Vietnam theatre of operations. 38 USC 2007 note.

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(b) For the purposes of this section, veterans who during the Vietnam era served in Vietnam, in air missions over Vietnam, or in naval missions in the waters adjacent to Vietnam shall be considered to be veterans who served in the Vietnam theatre of operations.

TITLE VI—COST-SAVING PROVISIONS

REPEAL OF AUTHORITY TO PURSUE PREDISCHARGE EDUCATION PROGRAM (PREP) UNDER CHAPTER 32

38 USC 1695-1698.

SEC. 601. (a)(1) Subchapter VI of chapter 34 is repealed.

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to subchapter VI and the items relating to sections 1695, 1696, 1697, and 1698.

38 USC 1661.

(b) Section 1661(c) is amended by striking out "subchapters V and VI" and inserting in lieu thereof "subchapter V".

38 USC 1780.

(c) Section 1780(d) is amended by—

(1) in paragraph (2)—

(A) striking out "(other than under subchapter VI of chapter 34)"; and

(B) striking out "paragraphs 5 (B) and (C) and (6)" and inserting in lieu thereof "paragraphs (4) (B) and (C) and (5)";

(2) striking out paragraph (3);

(3) redesignating paragraph (4) as paragraph (3);

(4) redesignating paragraph (5) as paragraph (4) and striking out "paragraphs (2) and (3)" in such paragraph and inserting in lieu thereof "paragraph (2)"; and

(5) redesignating paragraph (6) as paragraph (5) and striking out "paragraph (5)" in such paragraph and inserting in lieu thereof "paragraph (4)".

(d) Section 1780 is amended by—

(1) striking out "and (3)" in subsection (e); and

(2) striking out "(except as provided by subsection (d)(3) of this section)" in subsection (f).

38 USC 1784.

(e) Section 1784(c), as redesignated by section 342(a)(2) of this Act, is amended by striking out "1780(d)(5)" and inserting in lieu thereof "1780(d)(4)".

38 USC 1788.

(f) Section 1788(a)(6) is amended by striking out "or 1696(a)(2)".

38 USC 1789.

(g) Section 1789(b)(5) is amended by striking out "or VI".

38 USC 1798.

(h) Section 1798(f)(2) is amended by striking out "1780(d)(5)" and inserting in lieu thereof "1780(d)(4)".

LIMITATION OF PAYMENT OF EDUCATIONAL ASSISTANCE ALLOWANCES TO INCARCERATED VETERANS AND INCARCERATED PERSONS ELIGIBLE FOR EDUCATIONAL ASSISTANCE

38 USC 1682.

SEC. 602. (a) Section 1682, as amended by section 310 of this Act, is further amended by adding at the end the following new subsection:

"(g)(1) Subject to the provisions of paragraph (2) of this subsection, the amount of the educational assistance allowance paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed such amount as the Administrator determines, in accordance with regulations which the Administrator shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and to cover the

cost of necessary supplies, books, and equipment, or the applicable monthly educational assistance allowance prescribed for a veteran with no dependents in subsection (a)(1) or (c)(2) of this section or section 1787(b)(1) of this title, whichever is the lesser.

Ante, pp. 2189, 2191.

"(2) Paragraph (1) of this subsection shall apply in the case of any veteran who is pursuing a program of education under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony if the Administrator determines that all the veteran's living expenses are being defrayed by a Federal, State, or local government.".

(b) Section 1732 is amended by adding at the end the following new subsection:

38 USC 1732.

"(e) In the case of an eligible person who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony, the educational assistance allowance shall be paid in the same manner prescribed in section 1682(g) of this title for incarcerated veterans.".

38 USC 1682.

(c) Section 1780(a) is amended by—

38 USC 1780.

(1) striking out "or" at the end of clause (4);

(2) striking out the period at the end of clause (5) and inserting in lieu thereof a semicolon and "or"; and

(3) inserting after clause (5) the following new clause:

"(6) to any eligible veteran or person incarcerated in a Federal, State, or local prison or jail for any course (A) to the extent the tuition and fees of the veteran or person are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program, or (B) for which there are no tuition and fees.".

(d) The provisions of section 1682(g)(1) of title 38, United States Code, as added by subsection (a), shall not apply to an apportionment made under section 3107(c) of such title before the date of the enactment of this Act.

38 USC 1682 note.
Ante, p. 2208.
38 USC 3107.

REDUCTION IN EDUCATIONAL ASSISTANCE ALLOWANCE FOR FLIGHT TRAINING

SEC. 603. (a) Section 1677(b) is amended by striking out "90 per centum" and inserting in lieu thereof "60 percent".

38 USC 1677.

(b) The second sentence of section 1798(c) is amended by striking out "flight, apprentice, or other on-job, or PREP training" and inserting in lieu thereof "or apprenticeship or other on-job training".

38 USC 1798.

REDUCTION IN EDUCATIONAL ASSISTANCE FOR CORRESPONDENCE COURSES

SEC. 604. Section 1786(a)(1) is amended by striking out "90 per centum" and inserting in lieu thereof "70 percent".

38 USC 1786.

DEBT COLLECTION

SEC. 605. (a)(1) Chapter 53 is amended by adding at the end the following new sections:

"§ 3114. Indebtedness offsets

38 USC 3114.

"(a) Subject to subsections (b) and (d) of this section, the Administrator shall (unless the Administrator waives recovery under section 3102 of this title) deduct the amount of the indebtedness of any person who has been determined to be indebted to the United States by virtue of such person's participation in a benefits program adminis-

38 USC 3102.

tered by the Veterans' Administration from future payments made to such person under any law administered by the Veterans' Administration.

Deductions.

"(b) Deductions may not be made under subsection (a) of this section with respect to the indebtedness of a person described in such subsection unless the Administrator—

"(1) has made reasonable efforts to notify such person of such person's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and of such person's right to request a waiver of such indebtedness under section 3102 of this title;

38 USC 3102.

"(2) has made a determination with respect to any such dispute or request or has determined that the time required to make such a determination before making deductions would jeopardize the Administrator's ability to recover the full amount of such indebtedness through deductions from such payments; and

"(3) has made reasonable efforts to notify such person about the proposed deductions from such payments.

"(c) Notwithstanding any other provision of this title or of any other law, the authority of the Administrator to make deductions under this section or to take other administrative action authorized by law for the purpose of collecting an indebtedness described in subsection (a) of this section, or for the purpose of determining the creditworthiness of a person who owes such an indebtedness, shall not be subject to any limitation with respect to the time for bringing civil actions or for commencing administrative proceedings.

Regulations.

"(d) The Administrator shall prescribe regulations for the administration of this section.

38 USC 3115.

"§ 3115. Interest and administrative cost charges on delinquent payments of certain amounts due the United States

"(a) Notwithstanding any other provision of this title or of any other law and subject to section 3102 of this title, interest and administrative costs (as described in subsections (b) and (c) of this section) shall be charged, under regulations which the Administrator shall prescribe, on any amount owed to the United States—

38 USC 3102.

"(1) for an indebtedness resulting from a person's participation in a benefits program administered by the Veterans' Administration other than a loan, loan-guaranty, or loan-insurance program;

"(2) for an indebtedness resulting from the provision of care or services under chapter 17 of this title; or

38 USC 601 *et seq.*

"(3) to the extent not precluded by the terms of the loan instruments concerned, for an indebtedness resulting from a person's participation in a program of loans, loan guaranties, or loan insurance administered by the Veterans' Administration under this title.

"(b)(1) Interest on the amount of any indebtedness described in subsection (a) of this section shall accrue from the day on which the initial notification of the amount due is mailed to the person who owes such amount (using the most current address of such person that is available to the Administrator), but interest under this section shall not be charged (A) for any period before the date of the enactment of this section, or (B) if the amount due is paid within a reasonable period of time. The Administrator shall, in the regulations prescribed pursuant to subsection (a) of this section, prescribe what constitutes a reasonable period of time for payment of an

indebtedness after the initial notification of indebtedness has been mailed.

"(2) The rate of interest to be charged under this section shall be based on the rate of interest paid by the United States for its borrowing and shall be determined by the Administrator under such regulations.

"(c) The administrative costs to be charged under this section with respect to an amount owed to the United States shall be so much of the costs incurred by the United States in collecting such amount as the Administrator determines, under such regulations, to be reasonable and appropriate. Administrative costs.

"§ 3116. Authority to sue to collect certain debts 38 USC 3116.

"(a)(1) Within ninety days after the date of the enactment of this section, the Administrator shall take appropriate steps to authorize attorneys employed by the Veterans' Administration to exercise, subject to paragraphs (2) and (3) of this subsection, the right of the United States to bring suit in any court of competent jurisdiction to recover any indebtedness owed to the United States by a person by virtue of such person's participation in a benefits program administered by the Veterans' Administration.

"(2) No suit may be filed under this section to recover any indebtedness owed by any person to the United States unless the Administrator has determined, under regulations which the Administrator shall prescribe, that such person has failed to respond appropriately to reasonable administrative efforts to collect such indebtedness.

"(3) The activities of attorneys employed by the Veterans' Administration in bringing suit under this section shall be subject to the direction and supervision of the Attorney General of the United States and to such terms and conditions as the Attorney General may prescribe.

"(b) Not later than ninety days after the date of the enactment of this section, the Administrator and the Attorney General of the United States shall submit to the appropriate committees of the Congress a joint report that describes and explains the actions taken by the Administrator and the Attorney General to implement subsection (a) of this section.

"(c) Nothing in this section shall derogate from the authority of the Attorney General of the United States under sections 516 and 519 of title 28 to direct and supervise all litigation to which the United States or an agency or officer of the United States is a party.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"3114. Indebtedness offsets.
"3115. Interest and administrative cost charges on delinquent payments of certain amounts due the United States.
"3116. Authority to sue to collect certain debts.".

(b) The Administrator of Veterans' Affairs shall, not later than January 1, 1981, prescribe the regulations required to be prescribed under sections 3114 and 3115 of title 38, United States Code, as added by subsection (a). Regulations. 38 USC 3114 note.

(c)(1) Section 415 is amended by striking out subsection (f) and redesignating subsections (g) and (h) as subsections (f) and (g), respectively. 38 USC 415.

(2) Section 506 is amended by striking out "(a)" at the beginning of subsection (a) and striking out subsection (b). 38 USC 506.

(3) Section 3102 is amended by— 38 USC 3102.

(A) inserting "(or any interest thereon)" after "overpayments" in subsection (a); and

(B) inserting "(or any interest thereon)" after "indebtedness" both places it appears in subsection (c).

DISCLOSURE OF INFORMATION

38 USC 3301.

SEC. 606. (a) Subsection (a) of section 3301 is amended by striking out "personnel of the armed services" and inserting in lieu thereof "members of the Armed Forces".

(b) Subsection (b) of such section is amended by adding at the end the following new clause:

"(6) In connection with any proceeding for the collection of an amount owed to the United States by virtue of a person's participation in any benefit program administered by the Veterans' Administration when in the judgment of the Administrator such disclosure is deemed necessary and proper.".

(c) Subsection (c) of such section is amended to read as follows:

"(c)(1) The amount of any payment made by the Veterans' Administration to any person receiving benefits under a program administered by the Veterans' Administration shall be made known to any person who applies for such information.

"(2) Any appraisal report or certificate of reasonable value submitted to or prepared by the Veterans' Administration in connection with any loan guaranteed, insured, or made under chapter 37 of this title shall be made available to any person who applies for such report or certificate.

38 USC 1801 *et seq.*

Claim information, publication.

"(3) Subject to the approval of the President, the Administrator may publish at any time and in any manner any or all information of record pertaining to any claim filed with the Veterans' Administration if the Administrator determines that the public interest warrants or requires such publication.".

(d) The first sentence of subsection (f) of such section is amended by—

(1) striking out "names or addresses, or both, of any present or former members of the Armed Forces, and/or their dependents" and inserting in lieu thereof "name or address, or both, of any present or former member of the Armed Forces, or a dependent of a present or former member of the Armed Forces"; and

(2) striking out "such names or addresses" and inserting in lieu thereof "such name or address".

(e) Such section is further amended by redesignating subsection (g) as subsection (j) and inserting after subsection (f) the following new subsections:

"(g)(1) Subject to the provisions of this subsection, and under regulations which the Administrator shall prescribe, the Administrator may release the name or address, or both, of any person who is a present or former member of the Armed Forces, or who is a dependent of a present or former member of the Armed Forces, to a consumer reporting agency if the release of such information is necessary for a purpose described in paragraph (2) of this subsection.

"(2) A release of information under paragraph (1) of this subsection concerning a person described in such paragraph may be made for the purpose of—

"(A) locating such a person—

"(i) who has been administratively determined to be indebted to the United States by virtue of the person's

participation in a benefits program administered by the Veterans' Administration; or

"(ii) if the Administrator has determined under such regulations that (I) it is necessary to locate such person in order to conduct a study pursuant to section 219 of this title or a study required by any other provision of law, and (II) all reasonable steps have been taken to assure that the release of such information to such reporting agency will not have an adverse effect on such person; or 38 USC 219.

"(B) obtaining a consumer report in order to assess the ability of a person described in clause (A)(i) of this paragraph to repay the indebtedness of such person to the United States, but the Administrator may release the name or address of such person for the purpose stated in this clause only if the Administrator determines under such regulations that such person has failed to respond appropriately to administrative efforts to collect such indebtedness.

"(3) The Administrator may also release to a consumer reporting agency, for the purposes specified in clause (A) or (B) of paragraph (2) of this subsection, such other information as the Administrator determines under such regulations is reasonably necessary to identify a person described in such paragraph, except that the Administrator may not release to a consumer reporting agency any information which indicates any indebtedness on the part of such person to the United States or any information which reflects adversely on such person. Before releasing any information under this paragraph, the Administrator shall, under such regulations, take reasonable steps to provide for the protection of the personal privacy of persons about whom information is proposed to be released under this paragraph.

"(4)(A) If the Administrator determines, under regulations which the Administrator shall prescribe, that a person described in paragraph (1) of this subsection has failed to respond appropriately to reasonable administrative efforts to collect an indebtedness of such person described in paragraph (2)(A)(i) of this subsection, the Administrator may release information concerning the indebtedness, including the name and address of such person, to a consumer reporting agency for the purpose of making such information available for inclusion in consumer reports regarding such person and, if necessary, for the purpose of locating such person, if—

"(i) the Administrator has (I) made reasonable efforts to notify such person of such person's right to dispute through prescribed administrative processes the existence or amount of such indebtedness and of such person's right to request a waiver of such indebtedness under section 3102 of this title, (II) afforded such person a reasonable opportunity to exercise such rights, and (III) made a determination with respect to any such dispute or request; and 38 USC 3102.

"(ii) thirty calendar days have elapsed after the day on which the Administrator has made a determination that reasonable efforts have been made to notify such person (I) that the Administrator intends to release such information for such purpose or purposes, and (II) that, upon the request of such person, the Administrator shall inform such person of whether such information has been so released and of the name and address of each consumer reporting agency to which such information was released by the Administrator and of the specific information so released.

"(B) After release of any information under subparagraph (A) of this paragraph concerning the indebtedness of any person, the Administrator shall promptly notify—

"(i) each consumer reporting agency to which such information has been released by the Administrator; and

"(ii) each consumer reporting agency described in subsection (i)(3)(B)(i) of this section to which such information has been transmitted by the Administrator through a consumer reporting agency described in subsection (i)(3)(B)(ii)(I) of this section,

of any substantial change in the status or amount of such indebtedness and, upon the request of any such consumer reporting agency for verification of any or all information so released, promptly verify or correct, as appropriate, such information. The Administrator shall also, after the release of such information, inform such person, upon the request of such person, of the name and address of each consumer reporting agency described in clause (i) or (ii) of this subparagraph to which such information was released or transmitted by the Administrator and of the specific information so released or transmitted.

"(h)(1) Under regulations which the Administrator shall prescribe, the Administrator may release the name or address, or both, of any person who is a present or former member of the Armed Forces, or who is a dependent of a present or former member of the Armed Forces (and other information relating to the identity of such person), to any person in a category of persons described in such regulations and specified in such regulations as a category of persons to whom such information may be released, if the release of such information is necessary for a purpose described in paragraph (2) of this subsection.

"(2) A release of information under paragraph (1) of this subsection may be made for the purpose of—

"(A) determining the creditworthiness, credit capacity, income, or financial resources of a person who has (i) applied for any benefit under chapter 37 of this title, or (ii) submitted an offer to the Administrator for the purchase of property acquired by the Administrator under section 1820(a)(5) of this title;

38 USC 1801 *et seq.*

38 USC 1820.

"(B) verifying, either before or after the Administrator has approved a person's application for assistance in the form of a loan guaranty or loan insurance under chapter 37 of this title, information submitted by a lender to the Administrator regarding the creditworthiness, credit capacity, income, or financial resources of such person;

"(C) offering for sale or other disposition by the Administrator, pursuant to section 1820 of this title, any loan or installment sale contract owned or held by the Administrator; or

"(D) providing assistance to any applicant for benefits under chapter 37 of this title or administering such benefits if the Administrator promptly records the fact of such release in appropriate records pertaining to the person concerning whom such release was made.

"(i)(1) No contract entered into for any of the purposes of subsection (g) or (h) of this section, and no action taken pursuant to any such contract or either such subsection, shall result in the application of section 552a of title 5 to any consumer reporting agency or any employee of a consumer reporting agency.

"(2) The Administrator shall take reasonable steps to provide for the protection of the personal privacy of persons about whom information is disclosed under subsection (g) or (h) of this section.

"(3) For the purposes of this subsection and of subsection (g) of this section—

"(A) The term 'consumer report' has the meaning provided such term in subsection (d) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)). "Consumer report."

"(B) The term 'consumer reporting agency' means— "Consumer reporting agency."

"(i) a consumer reporting agency as such term is defined in subsection (f) of section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), or

"(ii) any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of (I) obtaining credit or other information on consumers for the purpose of furnishing such information to consumer reporting agencies (as defined in clause (i) of this paragraph), or (II) serving as a marketing agent under arrangements enabling third parties to obtain such information from such reporting agencies.".

(f) Subsection (j) of such section (as redesignated by subsection (e)) is amended by striking out "Any" and inserting in lieu thereof "Except as provided in subsection (i)(1) of this section, any".

TITLE VII—MISCELLANEOUS PROVISIONS

ADMINISTRATOR'S RESPONSIBILITIES FOR ADVOCACY ON BEHALF OF VETERANS

SEC. 701. (a) Section 220 is amended by striking out the period at the end and inserting in lieu thereof a comma and "and shall actively promote the effective implementation, enforcement, and application of all provisions of law and regulations providing for special consideration, emphasis, or preference for veterans.". 38 USC 220.

(b)(1) The catchline of such section is amended to read as follows:

"**§ 220. Coordination and promotion of other Federal programs affecting veterans and their dependents**".

(2) The item relating to such section in the table of sections at the beginning of chapter 3 is amended to read as follows:

"220. Coordination and promotion of other Federal programs affecting veterans and their dependents.".

NATIONAL INSTITUTE OF OCCUPATIONAL SAFETY AND HEALTH EXEMPTION

SEC. 702. Section 502 of the Veterans' Disability Compensation and Survivors' Benefits Amendments of 1979 (Public Law 96-128; 93 Stat. 987) is amended by adding at the end the following new sentence: "Disclosures of information made under this section shall for all purposes be deemed to be disclosures authorized in the Internal Revenue Code of 1954.". 26 USC 6103 note. 26 USC 1.

EFFECTIVE DATE FOR CHANGE IN PROBATIONARY PERIOD FOR CERTAIN EMPLOYEES

SEC. 703. The amendment made by section 303 of the Veterans Health Programs Extension and Improvement Act of 1979 (Public 38 USC 4106 note.

38 USC 4106.

Law 96-151; 93 Stat. 1096) shall apply only with respect to appointments described in section 4106(a) of title 38, United States Code, made after December 19, 1979.

AMENDMENT TO TITLE 18, UNITED STATES CODE

SEC. 704. Section 1114 of title 18, United States Code, is amended by inserting "or any officer or employee of the Veterans' Administration assigned to perform investigative or law enforcement functions," after "of the Department of Agriculture assigned to perform investigative, inspection, or law enforcement functions,".

TITLE VIII—TECHNICAL AMENDMENTS AND EFFECTIVE DATES

TECHNICAL AMENDMENTS

38 USC 1652.

SEC. 801. (a) Section 1652 is amended by—

(1) inserting "and chapter 36 of this title" after "chapter" the first place it appears;

(2) striking out "For the purposes of this chapter and chapter 36 of this title, the" in subsections (e), (f), and (g) and inserting in lieu thereof "The"; and

(3) striking out "Commissioner" in subsection (g) and inserting in lieu thereof "Secretary".

38 USC 1685.

(b) Section 1685(d) is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

38 USC 1701.

(c) Section 1701(a) is amended by—

(1) inserting "and chapter 36 of this title" after "chapter" the first place it appears;

(2) striking out "For the purposes of this chapter and chapter 36 of this title, the" in paragraphs (9), (10), and (11) and inserting in lieu thereof "The"; and

(3) striking out "Commissioner" in paragraph (11) and inserting in lieu thereof "Secretary".

38 USC 1775.

(d) Section 1775(a) is amended by striking out "Commissioner" each place it appears and inserting in lieu thereof "Secretary".

38 USC 1781.

(e) Section 1781 is amended by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Health and Human Services".

38 USC 1790.

(f) Section 1790(b)(2) is amended by striking out "therefor" and inserting in lieu thereof "for".

38 USC 1798.

(g) Section 1798(d)(3) is amended by striking out "Commissioner of Education, Department of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Education".

Ante, p. 2203.

(h) Section 2001 is amended by—

(1) striking out "the" the first place it appears in paragraph (5), as redesignated by section 503(2), and inserting in lieu thereof "The"; and

(2) inserting "the Commonwealth of the Northern Marianas Islands," after "the Virgin Islands," in paragraph (6), as redesignated by section 503(2).

38 USC 2003.

(i) Section 2003 is amended by—

(1) striking out ", United States Code," in the second sentence;

(2) striking out "manpower" in the fourth sentence and inserting in lieu thereof "employment";

(3) inserting "system" after "public employment service" each place it appears; and

(4) inserting ", disabled veterans, and veterans of the Vietnam era" in paragraph (6) after "eligible veterans".

(j) Section 2012(a) is amended by— 38 USC 2012.

(1) inserting "special" after "qualified"; and

(2) striking out "within 60 days after the date of enactment of this section, which regulations" and inserting in lieu thereof "which".

(k)(1) Section 2013 is amended by— 38 USC 2013.

(A) striking out "a veteran (as defined in section 101(2) of this title) who served on active duty for a period of more than 180 days or was discharged or released from active duty for a service-connected disability" and inserting in lieu thereof "an eligible veteran"; and

(B) striking out "any manpower training program assisted under the Manpower Development and Training Act of 1962, or any other manpower" and inserting in lieu thereof "any employment or training program assisted under the Comprehensive Employment and Training Act, or any other employment or".

(2)(A) The catchline of such section is amended to read as follows:

"§ 2013. Eligibility requirements for veterans under Federal employment and training programs".

(B) The item relating to such section in the table of sections at the beginning of chapter 42 is amended to read as follows:

"2013. Eligiblity requirements for veterans under Federal employment and training programs.".

(l) Section 2014 is amended by— 38 USC 2014.

(1) striking out "Civil Service Commission" and "Commission" each place such terms appear and inserting in lieu thereof "Office of Personnel Management" and "Office", respectively;

(2) striking out paragraph (2) of subsection (b) and redesignating paragraph (3) of such subsection as paragraph (2);

(3) striking out "Public Law 93-112 (87 Stat. 391)" in subsection (c) and inserting in lieu thereof "the Rehabilitation Act of 1973 (29 U.S.C. 791(b))"; and

(4) striking out "such Public Law 93-112" in subsection (e) and inserting in lieu thereof "the Rehabilitation Act of 1973 (29 U.S.C. 791(d))".

(m) The GI Bill Improvement Act of 1977 (Public Law 95-202) is amended by—

(1) striking out paragraph (3) of section 305(a); 38 USC 1673 note.

(2) striking out "paragraph (1)" in section 305(b)(3) and inserting in lieu thereof "paragraph (2)"; and 38 USC 1674 note.

(3) striking out "honorand" in section 401(a)(1)(B) and inserting in lieu thereof "honorable". 38 USC 106 note.

EFFECTIVE DATES

SEC. 802. (a)(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) of section 101 shall become effective on April 1, 1981. 38 USC 1500 note. *Ante*, p. 2171.

(2) The provisions of sections 1508, 1512, 1516, 1518, 1519, 1520, and

1521 of title 38, United States Code, as added by section 101(a), shall become effective on October 1, 1980.

(3) Notwithstanding paragraph (2), the provisions of chapter 31 of title 38, United States Code, as in effect on the day before the date of the enactment of this Act (other than section 1504, relating to subsistence allowances, and section 1507, relating to loans), shall continue in effect until March 31, 1981.

Ante, p. 2171.
Ante, p. 2174.
Ante, p. 2177.

Repeal.

(4) Effective on October 1, 1980, sections 1504 and 1507 are repealed. During the period beginning on October 1, 1980, and ending on March 31, 1981, the provisions of sections 1508 and 1512 of title 38, United States Code, as added by section 101(a), shall apply to veterans pursuing a program of vocational rehabilitation training under chapter 31 of such title in the same manner as sections 1504 and 1507 of such title, respectively, applied to veterans pursuing a program of vocational rehabilitation training under such chapter on September 30, 1980.

Ante, p. 2171.

(5) Subsection (c) of section 101 shall become effective on October 1, 1980. Subsection (d) of such section shall become effective on the date of the enactment of this Act.

(6) The amendments made by sections 102 and 103 shall become effective on October 1, 1980.

38 USC 1781 note.

(b)(1) The amendments made by part A of title II shall become effective on October 1, 1980.

Ante, p. 2187.
38 USC 1677 note.

(2) The amendments made by part B of title II shall become effective on January 1, 1981.

Ante, p. 2187.
Ante, p. 2189.

(c)(1) Except as provided in paragraph (2), the amendments made by title III shall become effective on October 1, 1980.

38 USC 1652 note.

(2) Paragraph (2) of section 1691(a) of title 38, United States Code, as added by section 311(2), shall not apply to any person receiving educational assistance under chapter 34 of title 38, United States Code, on October 1, 1980, for the pursuit of a program of education, as defined in section 1652(b) of such title, in which such person is enrolled on that date, for as long as such person continuously thereafter is so enrolled and meets the requirements of eligibility for such assistance for pursuit of such program.

Ante, p. 2191.
38 USC 1651 *et seq.*
38 USC 1652.

(d)(1) The amendments made by section 401 shall take effect as of January 1, 1977.

38 USC 1602 note.

(2) The amendments made by sections 402 through 406 shall become effective on October 1, 1980.

Ante, p. 2201.
38 USC 1624 note.

(e) The amendments made by title V and the provisions of sections 512 and 513 shall become effective on October 1, 1980.

38 USC 2001 note.

(f)(1) Except as provided in paragraph (2), the amendments made by title VI shall become effective on October 1, 1980.

Ante, p. 2202.
38 USC 3114 note.

(2) The amendments made by sections 603 and 604 shall not apply to any person receiving educational assistance under chapter 34 or 35 of title 38, United States Code, on September 1, 1980, for the pursuit of a program of education, as defined in section 1652(b) of such title, in which such person is enrolled on that date, for as long as such person continuously thereafter is so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under the provisions of such chapter and chapter 36 of such title as in effect on that date.

Ante, p. 2208.
Ante, p. 2209.
38 USC 1651 *et seq.*, 1700 *et seq.*
38 USC 1770 *et seq.*

(g)(1) The amendments made by section 701 shall become effective on October 1, 1980.

38 USC 220 note.
Ante, p. 2215.

(2) The amendment made by section 702 shall take effect as of November 28, 1979.

26 USC 6103 note.

(3) Section 703 and the amendment made by section 704 shall take effect on the date of the enactment of this Act.

38 USC 4106 note.
Ante, p. 2215.

(h) Section 801 shall become effective on October 1, 1980.

38 USC 1652 note.
Ante, p. 2216.

Approved October 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-498 (Comm. on Veterans' Affairs).
SENATE REPORT No. 96-314 accompanying S. 870 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 15, 16, considered and passed House.
Vol. 126 (1980): Jan. 23, S. 870 considered in Senate.
Jan. 24, H.R. 5288 considered and passed Senate, amended, in lieu of S. 870.
Sept. 25, House concurred in Senate amendments with amendments.
Sept. 26, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 43 (1980): Oct. 17, Presidential statement.

Public Law 96-467
96th Congress

An Act

Oct. 17, 1980
[H.R. 3122]

Relating to the tariff treatment of certain articles.

Tariff treatment of certain articles.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT DUTY-FREE TREATMENT TO CERTAIN DYEING AND TANNING MATERIALS.

(a)(1) Subpart A of part 9 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(A) by striking out item 470.15 and inserting in lieu thereof the following:

"

470.16	Other:		
470.18	Logwood	Free	Free
	Other	4% ad val.	15% ad val.

".

(B) by striking out "15% ad val." in each of items 470.23 and 470.65 and inserting in lieu thereof "Free";

(C) by striking out "6% ad val." and "15% ad val." in item 470.25 and inserting in lieu thereof "Free";

(D) by striking out "2.5% ad val." and "15% ad val." in item 470.55 and inserting in lieu thereof "Free"; and

(E) by striking out "3.5% ad val." and "15% ad val." in item 470.57 and inserting in lieu thereof "Free".

Repeal. (2) Item 907.80 of the Appendix to such Schedules is repealed.

(b)(1) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(2) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of any article described in item 907.80 of the Tariff Schedules of the United States (as in effect on June 30, 1978) and—

(A) that was made after June 30, 1978, and before the date of the enactment of this Act, and

(B) with respect to which there would have been no duty if any of the amendments made by subsection (a)(1) applied to such entry or withdrawal,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

19 USC 1514.

SEC. 2. SUSPENSION OF DUTY ON WOOD EXCELSIOR UNTIL JULY 1, 1981.

(a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding in numerical sequence the following new item:

"	904.00	Wood excelsior, including excelsior pads and wrappings (provided for in item 200.25, part 1A, schedule 2)	Free	No change	On or before 6/30/81	".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 3. SUSPENSION OF DUTY ON 2-METHYL-4-CHLOROPHENOL UNTIL JULY 1, 1981.

(a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

"	907.11	2-Methyl-4-chlorophenol (provided for in item 403.60, part 1B, schedule 4)	Free	No change	On or before 6/30/81	".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 4. REDUCTION OF DUTY ON CERTAIN CERAMIC INSULATORS UNTIL JULY 1, 1981.

(a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

"	909.20	Ceramic insulators having an alumina oxide content of not less than 96%, if used in spark plugs (provided for in item 535.14, part 2D, schedule 5)	4% ad val.	No change	On or before 6/30/81	".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 5. SUSPENSION OF DUTIES ON CERTAIN FORMS OF ZINC UNTIL JULY 1, 1981.

(a) Items 911.00, 911.01, 911.02, and 911.03 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) are each amended by striking out "6/30/78" and inserting in lieu thereof "6/30/84".

(b)(1) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(2) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of any article described in item 911.00,

19 USC 1202.

911.01, 911.02, or 911.03 of the Tariff Schedules of the United States (as in effect on June 30, 1978) and—

(A) that was made after June 30, 1978, and before the date of the enactment of this Act, and

(B) with respect to which there would have been no duty if any of the amendments made by subsection (a) applied to such entry or withdrawal,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

19 USC 1514.

SEC. 6. PERMANENT DUTY-FREE TREATMENT FOR CERTAIN CARILLON BELLS.

(a)(1) Item 725.38 of the Tariff Schedules of the United States (19 U.S.C. 1202, relating to chimes, peals, or carillons containing over 34 bells) is amended by striking out "2.6% ad val." and inserting in lieu thereof "Free".

(2) The amendment made by paragraph (1) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(b)(1) The Secretary of the Treasury shall admit free of duty 47 carillon bells (including all accompanying parts and accessories) for the use of Wake Forest University, Winston-Salem, North Carolina, such bells being provided by the Paccard Fonderie de Cloches, Annecy, France.

(2) The Secretary of the Treasury shall admit free of duty 49 carillon bells (including all accompanying parts and accessories) for the use of the University of Florida, Gainesville, Florida, such bells being provided by Koninkligke Eijsbouts B.V., Asten, The Netherlands.

(3) If the liquidation of the entry for consumption of any article subject to the provisions of paragraph (1) or (2) has become final, such entry shall be reliquidated and the appropriate refund of duty shall be made, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514).

SEC. 7. EXTENSION OF DUTY-FREE ENTRY PERIOD FOR TELESCOPE AND OTHER ARTICLES FOR USE OF THE INTERNATIONAL TELESCOPE PROJECT IN HAWAII.

(a) Section 2(a) of Public Law 93-630 (88 Stat. 2152) is amended by striking out "June 30, 1980" and inserting in lieu thereof "June 30, 1982".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(c) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of any article described in section 2 of Public Law 93-630 (88 Stat. 2152) (as in effect on June 30, 1980), and

(1) that was made after June 30, 1980, and before the date of the enactment of this Act, and

(2) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as

19 USC 1514.

though such entry or withdrawal had been made on the date of the enactment of this Act.

SEC. 8. SUSPENSION OF DUTY ON SYNTHETIC RUTILE UNTIL JUNE 30, 1982.

(a) Item 911.25 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "6/30/79" and inserting in lieu thereof "6/30/82".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(c) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of any article described in item 911.25 of the Tariff Schedules of the United States (as in effect on June 30, 1979) and—

(1) that was made after June 30, 1979, and before the date of the enactment of this Act, and

(2) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act. 19 USC 1514.

SEC. 9. PERMANENT DUTY-FREE TREATMENT FOR SYNTHETIC TANTALUM-COLUMBIUM CONCENTRATES.

(a) Part 1 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting immediately after item 603.65 the following new item:

"	603.67	Materials, other than the foregoing, which are synthetic tantalum-columbium concentrates..	Free	30% ad val. ".

(b) Item 911.27 of the Appendix to such Schedules is repealed. Repeal.

(c) The amendments made by subsections (a) and (b) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

(d) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of any article described in item 911.27 of the Tariff Schedules of the United States (as in effect on June 30, 1980) and—

(1) that was made after June 30, 1980, and before the date of the enactment of this Act, and

(2) with respect to which there would have been no duty if the amendment made by subsection (a) applied to such entry or withdrawal,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act. 19 USC 1514.

SEC. 10. TEMPORARY SUSPENSION OF DUTY ON CERTAIN ALLOYS OF COBALT.

(a) Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

"	911.90	Unwrought alloys of cobalt containing, by weight, 76% or more but less than 99% cobalt (provided for in item 632.88, part 2K, schedule 6)	Free	No change	On or before 6/30/82	".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 11. TEMPORARY SUSPENSION OF DUTY ON BICYCLE PARTS AND ACCESSORIES.

(a) Item 912.05 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "6/30/80" and inserting in lieu thereof "6/30/83".

(b) Item 912.10 of the Appendix to such Schedules is amended—

(1) by inserting "two-speed hubs with internal gear-changing mechanisms," immediately after "coaster brakes,";

(2) by striking out "rims," and inserting in lieu thereof "frame lugs,";

(3) by striking out "and 732.41" and inserting in lieu thereof "732.41 and 732.42"; and

(4) by striking out "6/30/80" and inserting in lieu thereof "6/30/83".

(c) The amendments made by subsections (a) and (b) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

(d) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of any article to which section 912.05 or 912.10 of the Tariff Schedules of the United States (as amended by subsection (b)) would have applied if this Act had been enacted before July 1, 1980, and—

(1) that was made after June 30, 1980, and before the date of the enactment of this Act, and

(2) with respect to which there would have been no duty if the amendments made by subsections (a) and (b) applied to such entry or withdrawal,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

19 USC 1514.

SEC. 12. RETROACTIVE DUTY-FREE TREATMENT FOR MANGANESE ORE AND RELATED PRODUCTS.

Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of manganese ore, including ferruginous manganese ore, and manganiferous iron ore, all the foregoing containing over 10 percent by weight of manganese (provided for in item 601.27 of the Tariff Schedules of the United States)—

(1) that was made after June 30, 1979, and before January 1, 1980, and

(2) with respect to which there would have been no duty if the entry or withdrawal had been made on or after January 1, 1980,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act. 19 USC 1514.

SEC. 13. DEFINITION OF RUBBER FOR PURPOSES OF THE TARIFF SCHEDULES.

(a) Headnote 2 to subpart B of part 4 of schedule 4 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended to read as follows:

"2. (a) For the purposes of the tariff schedules, the term 'rubber' means any substance, whether natural or synthetic, in bale, crumb, powder, latex, or other crude form, that— "Rubber."

"(i) can be vulcanized or otherwise cross-linked, and

"(ii) after cross-linking, can be stretched at 68° F. to at least three times its original length and that, after having been stretched to twice its original length and the stress removed, returns within 5 minutes to less than 150 percent of its original length.

"(b) For purposes of the tariff schedules other than schedule 4, the term 'rubber' also means any substance described in subdivision (a) that also contains fillers, extenders, pigments, or rubber-processing chemicals, whether or not such substance, after the addition of such fillers, extenders, pigments, or chemicals, can meet the tests specified in clauses (i) and (ii) of subdivision (a).".

(b) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, on or after the date of the enactment of this Act.

SEC. 14. MISCELLANEOUS AMENDMENTS TO THE TRADE AGREEMENTS ACT OF 1979.

(a) The Trade Agreements Act of 1979 (Public Law 96-39, 93 Stat. 144-317) is amended as follows:

(1) Paragraph (8) of section 510 is amended by striking out "item 719.—" and inserting in lieu thereof "items 717.—, 718.—, and 719.—". 93 Stat. 255. 19 USC 1202.

(2) The rate of duty column in section 514(a) is amended— 93 Stat. 257. 19 USC 1202.

(A) by striking out "1% ad val." opposite each of items 607.01, 607.02, 607.03, and 607.04 and inserting in lieu thereof "Additional duty of 1% ad val."; and

(B) by striking out "0.5% ad val. + additional duties" opposite item 607.21 and inserting in lieu thereof "1% ad val. + additional duties".

(3) Subsection (a) of section 601 is amended— 93 Stat. 267.

(A) by inserting immediately after "such articles" in paragraph (2) the following: "(other than flight simulating machines classified in item 678.50 and civil aircraft classified in item 694.15, 694.20, or 694.40)"; and

(B) by amending paragraph (3) to read as follows:

"(3) Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended by adding at the end thereof the following new subsection:

"'(f) CIVIL AIRCRAFT EXCEPTION.—The duty imposed under subsection (a) shall not apply to the cost of equipments, or any part thereof, purchased, of repair parts or materials used, or of repairs made in a

foreign country with respect to a United States civil aircraft, within the meaning of headnote 3 to schedule 6, part 6, subpart C of the Tariff Schedules of the United States.' ".

19 USC 1202.

(b) The amendment made by paragraphs (1) and (2) of subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after January 1, 1980. The amendment made by paragraph (3) of subsection (a) shall apply with respect to entries made under section 466 of the Tariff Act of 1930 on or after January 1, 1980.

19 USC 1466 note.

19 USC 1466.

SEC. 15. DUTY-FREE ENTRY OF TILES FOR CHINESE CULTURAL CENTER, PHILADELPHIA, PENNSYLVANIA.

(a) The Secretary of the Treasury shall admit free of duty the number of tiles (provided for in article 532.31 of the Tariff Schedules of the United States) purchased by the Chinese Cultural and Community Center, Philadelphia, Pennsylvania, for the renovation of the roof of the center, such tiles being purchased from the China National Arts and Crafts Import and Export Corporation.

19 USC 1202.

(b) If the liquidation of the entry for consumption of any article subject to the provisions of subsection (a) has become final, such entry shall be reliquidated and the appropriate refund of duty shall be made notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514).

SEC. 16. FIELD GLASSES AND BINOCULARS.

19 USC 1202.

(a)(1) Item 708.51 is amended by striking out "7.9% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "3.4% ad val." in the LDDC rate column.

(2) Item 708.52 is amended by striking out "18.5% ad val." in rate column numbered 1 and inserting in lieu thereof "Free", and by striking out "8% ad val." in the LDDC rate column.

(b) The amendments made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act.

SEC. 17. SUSPENSION OF DUTY ON CRUDE FEATHERS AND DOWNS UNTIL JULY 1, 1984.

(a) Items 903.70 and 903.80 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) are each amended by striking out "On or before 6/30/79" and inserting in lieu thereof "On or before 6/30/84".

(b)(1) The amendments made by subsection (a) shall apply to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.

(2) Upon request therefor filed with the customs officer concerned on or before the 90th day after the date of the enactment of this Act, the entry or withdrawal of any article described in item 903.70 or 903.80 of the Tariff Schedules of the United States (as in effect on June 30, 1979) and—

(A) that was made after June 30, 1979, and before the date of the enactment of this Act, and

(B) with respect to which there would have been no duty if any of the amendments made by subsection (a) applied to such entry or withdrawal,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the date of the enactment of this Act.

19 USC 1514.

SEC. 18. DUTY-FREE ENTRY OF ORGAN FOR OHIO WESLEYAN UNIVERSITY.

(a) The Secretary of the Treasury shall admit free of duty one organ (including all accompanying parts and accessories) for the use of Ohio Wesleyan University, Delaware, Ohio, such organ being provided by Johannes Klais Orgelbau K.G., Bonn, Federal Republic of Germany.

(b) If the liquidation of the entry for consumption of any article subject to the provisions of subsection (a) has become final, such entry shall be reliquidated and the appropriate refund of duty shall be made, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514).

SEC. 19. DUTY-FREE ENTRY OF ORGAN COMPONENTS FOR ST. PAUL'S EPISCOPAL CHURCH, RIVERSIDE, CONNECTICUT.

(a) The Secretary of the Treasury shall admit free of duty the components of the tracker pipe organ which were built (pursuant to contract with Gerhard Hradetzky of Austria) for St. Paul's Episcopal Church, Riverside, Connecticut, and which entered at New York, New York, on January 19, 1979 (entry number 266710).

(b) If the liquidation of the entry for consumption of any article subject to the provisions of subsection (a) has become final, such entry shall be reliquidated and the appropriate refund of duty shall be made, notwithstanding section 514 of the Tariff Act of 1930.

SEC. 20. COLD FINISHED STEEL BARS.

(a) Headnote 3(i) to subpart B of part 2 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking our "or cut to length" each place it appears therein.

(b) Item 606.88 in subpart B of part 2 of schedule 6 of such Tariff Schedules is amended by striking out "8.5% ad val." in rate column numbered 1 and inserting "7.5% ad val." in lieu thereof.

(c) Subpart B of part 1 of the Appendix to such Tariff Schedules is amended by inserting, in numerical sequence, the following new item:

"	911.45	Finished, drawn products of any cross-sectional configuration, not over 0.703 inch in maximum cross-sectional dimension and containing not over 0.25 percent by weight of carbon (provided for in item 606.88, part 2B, schedule 6)	5% ad val.	No change	On or before 12/31/81	".

(d) The amendments made by subsections (a), (b), and (c) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on and after the date of enactment of this Act.

SEC. 21. CLARIFICATION OF APPLICATION OF CUSTOMS LAWS TO DEEPWATER PORTS.

Section 644 of the Tariff Act of 1930 (19 U.S.C. 1644) is amended—

(1) by inserting "; APPLICATION OF CUSTOM LAWS TO DEEPWATER PORT ACT OF 1974" in the caption thereof immediately after "1926",

(2) by inserting "(a)" before the first word of the text thereof, and

(3) by adding at the end thereof the following new subsection:

Definition.
33 USC 1518.

"(b) For purposes of section 19(d) of the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), the term 'customs laws administered by the Secretary of the Treasury' shall mean this Act and any other provisions of law classified to title 19, United States Code.".

Approved October 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-379 (Comm. on Ways and Means).
SENATE REPORT No. 96-474 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 10, considered and passed House.
Vol. 126 (1980): Oct. 1, considered and passed Senate, amended.
Oct. 2, House concurred in Senate amendments.

Public Law 96-468
96th Congress

An Act

To regulate the feeding of garbage to swine.

Oct. 17, 1980
[H.R. 6593]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Swine Health Protection Act".

Swine Health Protection Act.
7 USC 3801 note.

FINDINGS

SEC. 2. The Congress hereby finds and declares that— 7 USC 3801.

(1) raw garbage is one of the primary media through which numerous infectious or communicable diseases of swine are transmitted;

(2) if certain exotic animal diseases, such as foot-and-mouth disease, African swine fever, hog cholera, and swine vesicular diseases, gain entrance into the United States, such diseases may be spread through the medium of raw or improperly treated garbage which is fed to swine;

(3) African swine fever, which is potentially the most dangerous and destructive of all communicable swine diseases, has been confirmed in several countries of the Western Hemisphere, including the Dominican Republic, Haiti, and Cuba;

(4) swine in the United States have no resistance to any of such exotic diseases and in the case of African swine fever there is a particular danger because there are no effective vaccines to this deadly disease;

(5) all articles and animals which are regulated under this Act are either in interstate or foreign commerce or substantially affect such commerce, and regulation by the Secretary and cooperation by the States and other jurisdictions as contemplated by this Act are necessary to prevent and eliminate burdens upon such commerce, to effectively regulate such commerce, and to protect the health and welfare of the people of the United States;

(6) the interstate and foreign commerce in swine and swine products and producers and consumers of pork products could be severely injured economically if any exotic animal diseases, particularly African swine fever, enter this country;

(7) it is impossible to assure that all garbage fed to swine is properly treated to kill disease organisms unless such treatment is closely regulated;

(8) therefore, in order to protect the commerce of the United States and the health and welfare of the people of this country, it is necessary to regulate the treatment of garbage to be fed to swine and the feeding thereof in accordance with the provisions of this Act.

DEFINITIONS

SEC. 3. For purposes of this Act— 7 USC 3802.

(1) the term "Secretary" means the Secretary of Agriculture;

(2) the term "garbage" means all waste material derived in whole or in part from the meat of any animal (including fish and poultry) or other animal material, and other refuse of any character whatsoever that has been associated with any such material, resulting from the handling, preparation, cooking, or consumption of food, except that such term shall not include waste from ordinary household operations which is fed directly to swine on the same premises where such household is located; and

(3) the term "person" means any individual, corporation, company, association, firm, partnership, society, or joint stock company or other legal entity.

PROHIBITION OF CERTAIN GARBAGE FEEDING

7 USC 3803.

SEC. 4. (a) No person shall feed or permit the feeding of garbage to swine except in accordance with subsection (b) of this section.

Garbage treatment requirements.

(b) Garbage may be fed to swine only if treated to kill disease organisms, in accordance with regulations issued by the Secretary, at a facility holding a valid permit issued by the Secretary, or the chief agricultural or animal health official of the State where located if such State has entered into an agreement with the Secretary pursuant to section 9 or has primary enforcement responsibility pursuant to section 10 of this Act. No person shall operate a facility for the treatment of garbage knowing it is to be fed to swine unless such person holds a valid permit issued pursuant to this Act. The Secretary may exempt any facility or premises from the requirements of this section whenever the Secretary determines that there would not be a risk to the swine industry in the United States.

Exemption.

ISSUANCE, SUSPENSION, AND REVOCATION OF PERMITS

7 USC 3804.

SEC. 5. (a) Any person desiring to obtain a permit to operate a facility to treat garbage that is to be fed to swine shall apply therefor to (1) the Secretary, or (2) the chief agricultural or animal health official of the State where the facility is located if such State has entered into an agreement with the Secretary pursuant to section 9 or has primary enforcement responsibility pursuant to section 10 of this Act, and provide such information as the Secretary shall by regulation prescribe. No permit shall be issued unless the facility—

(1) meets such requirements as the Secretary shall prescribe to prevent the introduction or dissemination of any infectious or communicable disease of animals or poultry, and

(2) is so constructed that swine are unable to have access to untreated garbage of such facility or material coming in contact with such untreated garbage.

Cease and desist orders.

(b) Whenever the Secretary finds, after notice and opportunity for a hearing on the record in accordance with sections 554 and 556 of title 5, United States Code, that any person holding a permit to operate a facility to treat garbage in any State is violating or has violated this Act or any regulation of the Secretary issued hereunder, the Secretary may issue an order requiring such person to cease and desist from continuing such violations or an order suspending or revoking such permit, or both. Any person aggrieved by an order of the Secretary issued pursuant to this subsection may, within sixty days after entry of such order, seek review of such order in the appropriate United States court of appeals in accordance with the provisions of sections 2341, 2343 through 2350 of title 28, United States Code, and

Judicial review.

such court shall have jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary's order. Judicial review of any such order shall be upon the record upon which the determination and order are based.

(c) The permit of any person to operate a facility to treat garbage in any State shall be automatically revoked, without action of the Secretary, upon the final effective date of the second conviction of such person pursuant to section 7 of this Act. Second conviction.

CIVIL PENALTIES

SEC. 6. (a) Any person who the Secretary determines, after notice and opportunity for a hearing on the record in accordance with sections 554 and 556 of title 5, United States Code, is violating or has violated any provision of this Act or any regulation of the Secretary issued hereunder, other than a violation for which a criminal penalty has been imposed under this Act, may be assessed a civil penalty by the Secretary of not more than $10,000 for each such violation. Each offense shall be a separate violation. The amount of such civil penalty shall be assessed by the Secretary by written order, taking into account the gravity of the violation, degree of culpability, and history of prior offenses; and may be reviewed only as provided in subsection (b) of this section. 7 USC 3805.

(b) The determination and order of the Secretary with respect thereto imposing a civil penalty under this section shall be final and conclusive unless the person against whom such an order is issued files application for judicial review within sixty days after entry of such order in the appropriate United States court of appeals in accordance with the provisions of sections 2341, 2343 through 2350 of title 28, United States Code, and such court shall have jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of the Secretary's order. Judicial review of any such order shall be upon the record upon which the determination and order are based. Judicial review.

(c) If any person fails to pay a civil penalty under a final order of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall institute a civil action to recover the amount assessed in any appropriate district court of the United States. In such collection action, the validity and appropriateness of the Secretary's order imposing the civil penalty shall not be subject to review. Collection actions by Attorney General.

(d) All penalties collected under authority of this section shall be paid into the Treasury of the United States.

(e) The Secretary may, in his discretion, compromise, modify, or remit, with or without conditions, any civil penalty assessed under this Act.

CRIMINAL PENALTIES

SEC. 7. (a) Whoever willfully violates any provision of this Act or the regulations of the Secretary issued hereunder shall be guilty of a misdemeanor and shall be fined not more than $10,000, or imprisoned not more than one year, or both. 7 USC 3806.

(b) Any person who fails to obey any order of the Secretary issued under the provisions of section 5, or such order as modified—

(1) after the expiration of the time allowed for filing a petition in the court of appeals to review such order, if no such petition has been filed within such time; or

(2) after the expiration of the time allowed for applying for a writ of certiorari, if such order, or such order as modified, has

been sustained by the court of appeals and no such writ has been applied for within such time; or

(3) after such order, or such order as modified, has been sustained by the courts as provided in section 5(b);

shall on conviction be fined not more than $10,000, or imprisoned for not more than one year, or both. Each day during which such failure continues shall be deemed a separate offense.

GENERAL ENFORCEMENT PROVISIONS

7 USC 3807.

SEC. 8. (a) The Attorney General, upon the request of the Secretary, shall bring an action to enjoin the violation of, or to compel compliance with, any provision of this Act or any regulation issued by the Secretary hereunder by any person. Such action shall be brought in the appropriate United States district court for the judicial district in which such person resides or transacts business or in which the violation or omission has occurred or is about to occur. Process in such cases may be served in any judicial district wherein the defendant resides or transacts business or wherever the defendant may be found.

Premises, access.

(b) Any person subject to the provisions of this Act shall, at all reasonable times, upon notice by a duly authorized representative of the Secretary, afford such representative access to his premises or facility and opportunity to examine the premises or facility, the garbage there at, and books and records thereof, to copy all such books and records and to take reasonable samples of such garbage.

(c) For the efficient execution of the provisions of this Act, and in order to provide information for the use of Congress, the provisions (including penalties) of sections 6 and 8 through 10 of the Federal Trade Commission Act, are made applicable to the jurisdiction, powers, and duties of the Secretary in enforcing the provisions of this Act and to any person subject to the provisions of this Act, whether or not a corporation. The Secretary, in person or by such agents as he may designate, may prosecute any inquiry necessary to his duties under this Act in any part of the United States.

15 USC 46, 48-50.

COOPERATION WITH STATES

7 USC 3808.

SEC. 9. In order to avoid duplication of functions, facilities, and personnel, and to attain closer coordination and greater effectiveness and economy in administration of this Act and State laws and regulations relating to the feeding of garbage to swine, the Secretary is authorized to enter into cooperative agreements with State departments of agriculture and other State agencies charged with the administration and enforcement of such State laws and regulations and to provide that any such State agency which has adequate facilities, personnel, and procedures, as determined by the Secretary, may assist the Secretary in the administration and enforcement of this Act and regulations hereunder. The Secretary is further authorized to coordinate the administration of this Act and regulations with such State laws and regulations whenever feasible: *Provided,* That nothing herein shall affect the jurisdiction of the Secretary under any other Federal law, or any authority to cooperate with State agencies or other agencies or persons under existing provisions of law, or affect any restrictions upon such cooperation.

STATE PRIMARY ENFORCEMENT RESPONSIBILITY

SEC. 10. (a) For purposes of this Act, a State shall have the primary enforcement responsibility for violations of laws and regulations relating to the treatment of garbage to be fed to swine and the feeding thereof during any period for which the Secretary determines that such State— 7 USC 3809.

(1) has adopted adequate laws and regulations regulating the treatment of garbage to be fed to swine and the feeding thereof which laws and regulations meet the minimum standards of this Act and the regulations hereunder: *Provided,* That the Secretary may not require a State to have laws that are more stringent than this Act;

(2) has adopted and is implementing adequate procedures for the effective enforcement of such State laws and regulations; and

(3) will keep such records and make such reports showing compliance with paragraphs (1) and (2) of this subsection as the Secretary may require by regulation.

Except as provided in subsection (c), the Secretary shall not enforce this Act or the regulations hereunder in any State which has primary enforcement responsibility pursuant to this section.

(b) Whenever the Secretary determines that a State having primary enforcement responsibility pursuant to this section does not have adequate laws or regulations or is not effectively enforcing such laws or regulations, the Secretary shall notify the State. Such notice shall specify those aspects of the administration or enforcement of the State program that are determined to be inadequate. The State shall have ninety days after receipt of the notice to correct any deficiencies. If after that time the Secretary determines that the State program remains inadequate, the Secretary may terminate, in whole or in part, the State's primary enforcement responsibility under this Act. Notification of inadequate enforcement or administration.

(c) Nothing in this section shall limit the authority of the Secretary to enforce this Act whenever the Secretary determines that emergency conditions exist that require immediate action on the part of the Secretary and the State authority is unwilling or unable adequately to respond to the emergency.

ADVISORY COMMITTEE

SEC. 11. The Secretary shall appoint an advisory committee or committees consisting of representatives of appropriate State agricultural or State animal health agencies, animal health organizations, the food waste feeder industry, and swine producer organizations to consult with the Secretary concerning matters within the scope of this Act, including evaluating State programs for purposes of section 10 of this Act and assuring effective coordination among State programs and Federal and State programs. Appointments. 7 USC 3810.

REGULATIONS

SEC. 12. The Secretary is authorized to issue such regulations and to require the maintenance of such records as he deems necessary to carry out the provisions of this Act. Record maintenance. 7 USC 3811.

AUTHORITY IN ADDITION TO OTHER LAWS; EFFECT ON STATE LAWS

SEC. 13. The authority conferred by this Act shall be in addition to authority conferred by other statutes. Nothing in this Act shall be 7 USC 3812.

construed to repeal or supersede any State law prohibiting the feeding of garbage to swine or to prohibit any State from enforcing requirements relating to the treatment of garbage to be fed to swine or the feeding thereof which are more stringent than those under this Act or the regulations hereunder.

AUTHORIZATION OF APPROPRIATIONS

7 USC 3813.

SEC. 14. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Approved October 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1383 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Oct. 1, considered and passed House and Senate.

Public Law 96-469
96th Congress

An Act

To provide for research and coordination of research in the diagnosis, prevention, and control of malignant tumors in domestic animals, poultry, and wildlife.

Oct. 17, 1980
[S. 2043]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Animal Cancer Research Act".

Animal Cancer Research Act.
7 USC 3901 note.

SEC. 2. Congress finds that—

7 USC 3901.

(a) basic research on malignant tumors or cancers is essential to protect the health of domestic animals, poultry, and wildlife, including birds;

(b) carcinogenic agents have not been adequately identified in domestic animals, poultry, and wildlife management;

(c) basic research in diagnosis, prevention, and control of malignant tumors in animals and birds has not been adequately coordinated;

(d) significant theories of a common factor in malignant tumors, such as chorionic gonadotropin, have not been pursued in depth;

(e) research on diagnosis, prevention, and control of cancer in animals and birds will be beneficial in identifying any common factors in human and animal malignant tumors, if such exist; and

(f) it is imperative for the Department of Agriculture and the National Institutes of Health to coordinate and consult with regard to the research authorized under this Act to achieve the maximum benefits from such research.

Research program.
7 USC 3902.

SEC. 3. The Secretary of Agriculture shall conduct a program of basic research on cancer in animals and birds at appropriate facilities within the Department of Agriculture or by grants to other qualified research facilities.

Annual program review.
7 USC 3903.

SEC. 4. The Secretary of Agriculture and the Director of the National Institutes of Health shall annually review the research program conducted under this Act in order to coordinate the program with the National Cancer Institute research program.

Appropriation authorization.
7 USC 3904.

SEC. 5. (a) There are hereby authorized to be appropriated to administer the program under this Act $25,000,000 for fiscal year 1982, and $25,000,000 annually thereafter through the end of fiscal year 1986.

Limitation.

(b) Not more than 30 per centum of any of the amounts appropriated under this section in any fiscal year may be obligated for research under section 3 at facilities of the Department of Agriculture.

Approved October 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1384 (Comm. on Agriculture).
SENATE REPORT No. 96-757 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 22, considered and passed Senate.
Oct. 1, considered and passed House, amended; Senate concurred in House amendment.

Public Law 96-470
96th Congress

An Act

To discontinue or amend certain requirements for agency reports to Congress.

Oct. 19, 1980
[H.R. 6686]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Congressional Reports Elimination Act of 1980".

Congressional Reports Elimination Act of 1980.

TITLE I—ELIMINATIONS

REPORTS BY MORE THAN ONE AGENCY

SEC. 101. (a) Section 404 of Federal Property and Administrative Services Act of 1949 (40 U.S.C. 514(d); 63 Stat. 398), is amended by striking out subsection (d) and redesignating subsection (e) as subsection (d).

(b) Section 304 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4224; 82 Stat. 1102) is repealed.

(c) The second undesignated paragraph under the paragraph designated "STEAM-VESSELS, FOOD-FISHES" under the center heading "MISCELLANEOUS OBJECTS UNDER THE TREASURY DEPARTMENT" in the first section of the Act of March 3, 1887 (16 U.S.C. 744; 24 Stat. 523) is repealed.

REPORTS BY THE DEPARTMENT OF AGRICULTURE

SEC. 102. (a) Section 2(b) of the Act of July 31, 1947, entitled "An Act to provide for the disposal of materials on the public lands of the United States" (30 U.S.C. 602(b); 76 Stat. 588), is repealed.

(b) Section 3 of the Act of September 18, 1972, entitled "An Act to provide for the acceleration of programs for the planting of trees on national forest lands in need of reforestation, and for other purposes" (16 U.S.C. 576e; 86 Stat. 678), is repealed.

(c) Section 302 of the Rural Development Act of 1972 (7 U.S.C. 1010a; 86 Stat. 670) is amended by striking out the last sentence.

(d) Section 11 of the Emergency Livestock Credit Act of 1974 (7 U.S.C. prec. 1961 note; 89 Stat. 214) is repealed.

(e) Section 609 of the Agricultural Act of 1970 (7 U.S.C. 1350a; 84 Stat. 1378) is repealed.

(f) Section 602(f) of the Act of August 28, 1954, entitled "An Act for greater stability in agriculture; to augment the marketing and disposal of agricultural products; and for other purposes" (7 U.S.C. 1762(f); 90 Stat. 1500) is amended by striking out the last sentence. 7 USC 1766b.

REPORTS BY THE DEPARTMENT OF COMMERCE

SEC. 103. (a) Section 9(a) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742h(a); 70 Stat. 1123) is repealed.

(b) The first section of the Act of June 16, 1948, entitled "An Act to provide safety in aviation and to direct a study of the causes and characteristics of thunderstorms and other atmospheric disturb-

ances" (15 U.S.C. 313, note; 62 Stat. 470), is amended by striking the last sentence.

REPORTS BY THE DEPARTMENT OF DEFENSE

SEC. 104. (a) Section 2390(b) of title 10, United States Code, is repealed.

(b) Section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903(e); 73 Stat. 214) is repealed.

(c) Section 7 of the Act of March 3, 1899, entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes" (33 U.S.C. 549; 30 Stat. 1150), is repealed.

REPORTS BY THE DEPARTMENT OF ENERGY

SEC. 105. Section 7(c)(4) of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976 (15 U.S.C. 2506(c)(4); 90 Stat. 1264) is repealed. 92 Stat. 91.

REPORTS BY THE DEPARTMENTS OF EDUCATION AND HEALTH AND HUMAN SERVICES

SEC. 106. (a) Section 418 of the General Education Provisions Act (20 U.S.C. 1226d; 88 Stat. 564) is repealed.

(b) Section 971 of the Higher Education Act of 1965 (20 U.S.C. 1134r-2; 90 Stat. 2164) is repealed.

(c) Subsection 981(f) of the Higher Education Act of 1965 (20 U.S.C. 1134s(f); 86 Stat. 380) is repealed.

(d) Subsection 403(c)(3) of the General Education Provisions Act (20 U.S.C. 1221c(c)(3); 88 Stat. 560) is repealed.

(e) Section 330(e)(5) of the Public Health Service Act (42 U.S.C. 254c(e)(5); 92 Stat. 3559) is amended by striking out the last sentence.

(f) Section 511(b) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 958(b); 83 Stat. 803) is repealed.

REPORTS BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 107. (a) Section 244 of the National Housing Act (12 U.S.C. 1715z-9; 88 Stat. 679) is amended by striking subsection (f) and redesignating subsection (g) as subsection (f).

(b) Section 803(b)(2) of the National Housing Act (12 U.S.C. 1748b(b)(2); 63 Stat. 571) is amended by striking "The Secretary shall report to the Committees on Banking and Currency of the Senate and the House of Representatives each instance in which he has required the Secretary of Defense to guarantee the General Insurance Fund, with reasons therefor.".

(c) Section 704(c) of the Housing and Urban Development Act of 1965 (42 U.S.C. 3104(c); 82 Stat. 533) is amended by striking "unless the Secretary (1) determines that due to unusual circumstances a longer period of time is necessary and in the public interest, and (2) reports such determination promptly to the Committees on Banking and Currency of the Senate and House of Representatives.", and inserting in lieu thereof "unless the Secretary determines that due to unusual circumstances a longer period of time is necessary and in the public interest.".

REPORTS BY THE DEPARTMENT OF THE INTERIOR

SEC. 108. (a) Section 1(d) of the Act of October 15, 1966 (42 U.S.C. 1900(d); 80 Stat. 951) is repealed.

(b) The second paragraph under the heading "SURVEYING THE PUBLIC LANDS" of the first section of the Act of March 2, 1895, entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-six, and for other purposes" (43 U.S.C. 886; 28 Stat. 937) is amended by striking out ", and the Secretary of the Interior shall report to each regular session of Congress what has been done under the foregoing provisions" in the last sentence thereof.

(c) Section 1 of the Colorado River Storage Project Act (43 U.S.C. 620; 82 Stat. 897), is amended by striking out "*Provided,* That construction of the Uintah of the Central Utah project shall not be undertaken by the Secretary until he has completed a feasibility report on such unit and submitted such report to the Congress, along with his certification that, in his judgment, the benefits of such unit or segment will exceed the costs and that such unit is physically and financially feasible, and the Congress has authorized the appropriation of funds for the construction thereof:".

(d) Section 4(c) of the Act of September 7, 1964, entitled "An Act to provide for the construction of the Lower Teton division of the Teton Basin Federal reclamation project, Idaho, and for other purposes" (43 U.S.C. 616qq(c); 78 Stat. 926), is repealed.

REPORT BY THE DEPARTMENT OF JUSTICE

SEC. 109. Section 19(d) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5919; 92 Stat. 64) is repealed.

REPORT BY THE DEPARTMENT OF LABOR

SEC. 110. Section 76 of the Act of April 30, 1900, entitled "An Act to provide a government for the Territory of Hawaii" (31 Stat. 155), is repealed. 29 USC 7, 48 USC 541.

REPORTS BY THE DEPARTMENT OF STATE

SEC. 111. (a) Section 302(b) of the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1613a(b); 65 Stat. 647) is amended by striking out "from time to time but not less than once every six months recommending action".

(b) Section 204(b)(8) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1824; 90 Stat. 344), is amended by inserting "and" at the end of subparagraph (B), by striking out "; and" at the end of subparagraph (C) and inserting in lieu thereof a period, and by striking out subparagraph (D).

REPORTS BY THE DEPARTMENT OF TRANSPORTATION

SEC. 112. (a) Section 3(b) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1702(b); 84 Stat. 219) is repealed.

(b)(1) Section 112(b) of title 23, United States Code, is amended by striking the second sentence.

(2) Section 307(b) of title 23, United States Code, is amended by striking out "and he shall report from time to time to the Committees on Public Works of the Senate and of the House of Representatives on the progress and findings with respect to such studies".

(c) Section 1124(g) of title 10, United States Code, is amended by striking out the second sentence thereof.

(d) Section 475(e) of title 14, United States Code, is amended by striking out "(c),".

(e) Section 303(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1344(e); 84 Stat. 234) is amended by striking out the last sentence.

(f) Section 1309 of the Federal Aviation Act of 1958 (49 U.S.C. 1539; 72 Stat. 805) is repealed.

(g) Subsections (a) and (b) of section 10 of the Act of September 30, 1965, entitled "An Act to authorize the Secretary of Commerce to undertake research and development in high-speed ground transportation, and for other purposes" (49 U.S.C. 1640 (a), (b); 79 Stat. 895), are repealed.

(h) Section 10 of the Emergency Rail Services Act of 1970 (45 U.S.C. 669; 84 Stat. 1978) is amended—

(1) by striking out the first sentence;

(2) by striking out "also" in the second sentence; and

(3) by inserting "except the Central Railroad Company of New Jersey and the Penn Central Transportation Company," immediately after "railroad" in the second sentence.

REPORT BY ACTION

SEC. 113. Section 405 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5045; 87 Stat. 409) is amended by striking out subsection (c).

REPORT BY THE CONSUMER PRODUCT SAFETY COMMISSION

SEC. 114. Section 14(b) of the Flammable Fabrics Act (15 U.S.C. 1201(b); 81 Stat. 573) is amended by striking out the last sentence.

REPORT BY THE EXPORT-IMPORT BANK

SEC. 115. Section 1(c) of the Act of July 7, 1968, entitled "An Act to enable the Export-Import Bank of the United States to approve extension of certain loans, guarantees, and insurance in connection with exports from the United States in order to improve the balance of payments and foster the long-term commercial interests of the United States" (12 U.S.C. 635j(c); 82 Stat. 297), is repealed.

REPORT BY THE FEDERAL COMMUNICATIONS COMMISSION

SEC. 116. Section 5(e) of the Communications Act of 1934 (47 U.S.C. 155(e); 66 Stat. 714), is amended by striking out, "; and the Commission shall promptly report to the Congress each such case which has been pending before it more than such three- or six-month period, respectively, stating the reasons therefor".

REPORT BY THE INTERNATIONAL COMMUNICATIONS AGENCY

SEC. 117. Section 1008 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1439; 62 Stat. 14) is repealed.

REPORTS BY THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 118. (a) Section 6(d) of the National Aeronautics and Space Administration Authorization Act, 1970 (42 U.S.C. 2462(d); 83 Stat. 199), is repealed.

(b) Section 206(b) of the Act of October 4, 1961, entitled "An Act to increase the limitation on the number of positions which may be placed in the top grades of the Classification Act of 1949, as amended, to provide certain additional research and development positions, and for other purposes" (42 U.S.C. 2473a; 75 Stat. 791) is repealed.

REPORT BY THE NATIONAL SCIENCE FOUNDATION

SEC. 119. Section 10 of the the National Science Foundation Authorization Act, Fiscal Year 1978 (42 U.S.C. 1873a; 91 Stat. 834), is amended by striking out subsection (c).

REPORT BY THE VETERANS' ADMINISTRATION

SEC. 120. The Act of October 22, 1975, entitled "An Act to amend title 38, United States Code, to provide special pay and incentive pay for certain physicians and dentists employed by the Department of Medicine and Surgery of the Veterans' Administration in order to enhance the recruitment and retention of such personnel, and for other purposes" (38 U.S.C. 4118 note; 89 Stat. 669), is amended by striking out subsection (h) of section 4.

REPORT BY THE OFFICE OF PERSONNEL MANAGEMENT

SEC. 121. Section 1308 of title 5, United States Code, is amended by striking out subsections (a) and (b) and redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively.

TITLE II—MODIFICATIONS

REPORTS BY THE DEPARTMENT OF COMMERCE

SEC. 201. (a) Section 809(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1213(a); 89 Stat. 680), is amended by striking out "Not later than March 1, 1976, and annually thereafter, the Secretary shall submit to Congress" and inserting in lieu thereof "The Secretary shall include in the annual report pursuant to section 208 of this Act". 46 USC 1118.

(b) Section 804(e) of the Merchant Marine Act, 1936, (46 U.S.C. 1222(e); 84 Stat. 1034), is amended by striking out "shall, at the beginning of each regular session, make a report to the Congress" and inserting in lieu thereof "shall include in the annual report pursuant to section 208 of this Act, a report". 46 USC 1118.

(c) Section 904(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3244(b); 88 Stat. 1165) is amended—

(1) by striking out "The Secretary shall provide an annual consolidated report to the Congress," and inserting in lieu thereof "The Secretary shall include in the annual report pursuant to section 707 of this Act a consolidated report"; and 42 USC 3217.

(2) by striking out the second sentence thereof.

(d) Section 204(b)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144(b)(2); 90 Stat. 2333) is amended—

(1) by striking out "The Secretary shall provide an annual consolidated report to the Congress," and inserting in lieu thereof "The Secretary shall include in the annual report pursuant to section 707 of this Act a consolidated report"; and 42 USC 3217.

(2) by striking out the second sentence thereof.

(e) Section 112(d) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1382(d); 86 Stat. 1042), is amended by striking out "forthwith

submit to Congress" and inserting in lieu thereof "include in the annual report to the public and the Congress required under section 103(f) of this Act".

16 USC 1373.

(f) Section 202(c) of the Marine Protection, Research and Sanctuaries Act of 1972 (86 Stat. 1061; 33 U.S.C. 1442(c)), is amended by inserting at the end thereof the following sentence: "The Secretary shall include in this report the report to Congress of activities of the Department of Commerce under section 5 of the Act of March 10, 1934 (48 Stat. 401; 16 U.S.C. 665), required by that section.".

REPORTS BY THE DEPARTMENT OF DEFENSE

SEC. 202. (a)(1) Section 1812 of the Revised Statutes (40 U.S.C. 50), is amended by striking out "in time to accompany the annual message of the President to Congress, namely:

"First. A report of his operations for the preceding year" and inserting in lieu thereof "within nine months after the end of a fiscal year:

"First. A report of the Chief of Engineers' operations for that year".

(2) Such section is further amended by striking out "his charge" and inserting in lieu thereof "the Chief of Engineers' charge".

(b) Section 306(f) of title 37, United States Code, is amended by striking out the first sentence and inserting in lieu thereof "The Secretary of Defense shall report to Congress by March 1 of each year following a calendar year in which special pay is disbursed under this section. Negative reports need not be submitted.".

(c) Section 43(b) of the Act of August 10, 1956, entitled "An Act to revise, codify, and enact into law, title 10 of the United States Code, entitled 'Armed Forces', and title 32 of the United States Code, entitled 'National Guard'" (50 U.S.C. App. 2285; 70A Stat. 636) is amended by striking out "quarterly" and inserting in lieu thereof "annually".

REPORTS BY THE DEPARTMENT OF ENERGY

SEC. 203. (a) Section 400I(b) of the Energy Policy and Conservation Act (92 Stat. 3253) is amended by striking out "within one year after the date of enactment of this part" and all that follows thereafter to the end of such subsection and inserting in lieu thereof "include in his annual report a detailed description of the actions taken under this part in the preceding fiscal year and the actions planned to be taken in the subsequent fiscal year. Such description shall show the allocations made (including the allocations made to each State) and include information on the technical assistance carried out with funds allocated, and an estimate of the energy savings, if any, achieved.".

42 USC 6372h.

(b) Section 399(b) of the Energy Policy and Conservation Act (92 Stat. 3247) is amended by striking out ", within one year after the date of enactment of this part" and all that follows thereafter to the end of such subsection and inserting in lieu thereof "include in his annual report a detailed description of the actions taken under this part in the preceding fiscal year and the actions planned to be taken in the subsequent fiscal year. Such description shall show the allocations made (including the allocations made to each State) and include information on the types of conservation measures implemented, with funds allocated, and an estimate of the energy savings achieved.".

42 USC 6371h.

(c) Section 13 of the Solar Energy Research Development and Demonstration Act of 1974 (42 U.S.C. 5562; 88 Stat. 1437) is amended to read as follows:

"ANNUAL REPORTS

"SEC. 13. A summary of all actions taken under the provisions of this Act and action planned for the ensuing year shall be included in the annual report required by section 657 of the Department of Energy Organization Act (42 U.S.C. 7267).".

(d) Section 308 of the Act of June 3, 1977, entitled "An Act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and for other purposes" (42 U.S.C. 5816a; 91 Stat. 189), is amended by striking out "Energy Research and Development Administration", "Administration", and "Administrator" wherever they appear therein, and inserting respectively, "Department of Energy", "Department", and "Secretary of Energy" in lieu thereof, and by amending subsection (b)(2) to read—

"(2) report annually to the Congress with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year".

(e) Section 308 of the Act of December 31, 1975, entitled "An Act to authorize appropriations to the Energy Research and Development Administration in accordance with section 261 of the Atomic Energy Act of 1954, as amended, section 305 of the Energy Reorganization Act of 1974, and section 16 of the Federal Nuclear Energy Research and Development Act of 1974, and for other purposes" (42 U.S.C. 5801, note; 89 Stat. 1074), is amended by striking out "by June 30, 1976, and by the end of each fiscal year thereafter, submit a report to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate," and inserting in lieu thereof "include, in the report required by section 204(b) of the Department of Energy Act of 1978—Civilian Applications (42 U.S.C. 7256, note; 92 Stat. 60), information"; and by striking out "Administrator" wherever it appears therein and by inserting in lieu thereof "Secretary of Energy". 42 USC 5878a.

(f) Subsection (b) of section 204 of the Department of Energy Act of 1978—Civilian Applications (42 U.S.C. 7256, note; 92 Stat. 60), is amended to read as follows:

"(b) The Secretary of Energy shall submit annually to the appropriate committees of the House of Representatives and the Senate a full report on the actions taken in carrying out subsection (a) during the preceding year, including the extent to which small business concerns are participating in the programs involved and in projects and activities of various types and sizes within each such program, and indicating the steps currently taken to assure such participation in the future. Such report shall also contain such information as may be required by section 308 of the Act of December 31, 1975 (42 U.S.C. 5878a; 89 Stat. 1074).".

(g) Section 206 of the Energy Conservation and Production Act (42 U.S.C. 6806; 92 Stat. 3134) is amended by striking out "Not later than the last day in December in each year, the Secretary shall transmit to the Congress a report" and inserting in lieu thereof "The Secretary shall include in each annual report submitted under section 657 of the Department of Energy Organization Act a statement". 42 USC 7267.

(h) Section 21(c) of the Federal Energy Administration Act of 1974 (15 U.S.C. 780(c); 88 Stat. 112) is amended by striking out "report quarterly to the Congress" and insert in lieu thereof "submit to the Secretary for inclusion in the annual report required by section 657 of the Department of Energy Organization Act a statement".

42 USC 7267.

REPORTS BY THE DEPARTMENTS OF EDUCATION AND HEALTH AND HUMAN SERVICES

SEC. 204. Section 183(g) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2833(g); 92 Stat. 2189) is amended by striking the words "no later than February 1, 1980, 1982, and 1984".

REPORTS BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 205. (a) Section 1234 of the National Housing Act (12 U.S.C. 1749bbb-10d; 84 Stat. 1790) is amended by inserting immediately after "shall include" the phrase "at least biennially".

(b) Section 1320 of the National Flood Insurance Act of 1968 (42 U.S.C. 4027; 82 Stat. 581) is amended—

(1) by striking out "include" and inserting in lieu thereof "biennially submit";

(2) by striking out "in the annual report"; and

(3) by striking out "required by section 8 of the Housing and Urban Development Act".

REPORTS BY THE DEPARTMENT OF THE INTERIOR

SEC. 206. (a) Section 1(1) of the Act of March 3, 1885, entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-six, and for other purposes" (16 U.S.C. 743a; 88 Stat. 124), is amended by striking the first sentence of subsection (c) thereof, and inserting in lieu thereof the following sentence: "The Director of the United States Fish and Wildlife Service shall make a report to Congress at the end of any fiscal year that the provisions of this section are utilized, which describes the use of the provisions of this section, and the additional cost, if any, to the Federal Government resulting therefrom."; and striking out "annual" in the second sentence.

(b) Section 6 of the Act of June 22, 1936, entitled "An Act to authorize the Secretary of the Interior to investigate and adjust irrigation charges on irrigation lands within projects on Indian Reservations, and for other purposes" (25 U.S.C. 389e; 49 Stat. 1804), is amended by striking the first sentence thereof, and inserting in lieu thereof the following sentence: "The Secretary shall include in the report to Congress required pursuant to section 2 of this Act, a description of actions taken under the provisions of sections 1 to 6 of this Act during the preceding fiscal year.".

25 USC 389a.

25 USC 389-389e.

(c) The text of section 6 of the Guam Development Fund Act of 1968 (48 U.S.C. 1428d; 82 Stat. 1173) is amended to read as follows: "The Governor of Guam shall include in the annual report to Congress required pursuant to section 6 of the Guam Organic Act (48 U.S.C. 1422; 82 Stat. 844) a report on the administration of this Act.".

(d) Section 9(g) of the Act of July 22, 1954, entitled "An Act to revise the Organic Act of the Virgin Islands of the United States" (48 U.S.C. 1575(g); 68 Stat. 501), is amended to read as follows:

"(g) A listing of all laws enacted by the legislature each year shall be transmitted with the annual report to Congress required pursuant to section 11 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1591; 68 Stat. 503).".

REPORT BY THE DEPARTMENT OF JUSTICE

SEC. 207. Section 204(d) of the Immigration and Nationality Act (8 U.S.C. 1154(d); 79 Stat. 915) is amended by striking out the first sentence and inserting in lieu thereof the following: "The Attorney General shall forward to the Congress a statistical summary of petitions for immigrant status approved by him under sections 203(a)(3) or 203(a)(6).". 8 USC 1153.

REPORTS BY THE DEPARTMENT OF STATE

SEC. 208. Section 204(b)(4)(C) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1824(b)(4)(C); 90 Stat. 343) is amended by striking out "a copy of such material" and inserting in lieu thereof "a monthly summary of foreign fishing applications including a report on approved applications as described in paragraphs (6) and (7)".

REPORTS BY THE DEPARTMENT OF TRANSPORTATION

SEC. 209. (a) Section 211(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 440(a); 84 Stat. 976) is amended by striking "May 1" and inserting "July 1" in lieu thereof.

(b) Section 163(o) of the Federal-Aid Highway Act of 1973 (23 U.S.C. 130, note; 87 Stat. 280) is amended by striking out "annual" and inserting in lieu thereof "biennial".

(c) Section 151(g) of title 23, United States Code, is amended by striking out "not later than September 30 of each year" and inserting in lieu thereof "not later than December 30 of each year" and by striking out "not later than January 1 of each year" and inserting in lieu thereof "not later than April 1 of each year.".

(d) Section 203(e) of the Federal-Aid Highway Act of 1973 (23 U.S.C. 130, note; 87 Stat. 283) is amended by striking out "not later than September 30 of each year" and inserting in lieu thereof "not later than December 30 of each year" and by striking qut "not later than January 1, of each year" and inserting in lieu thereof "not later than April 1 of each year.".

(e) Section 311(a) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1861(a); 90 Stat. 358) is amended by striking out "semiannually," and inserting "annually on June 30," in lieu thereof; and adding at the end of the subsection, before the period, "during the preceding calendar year".

(f) Section 112 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1421; 90 Stat. 725) is amended to read as follows:

"SEC. 112. The Administrator shall on or before February 1 of each year report to the Congress on the administration of this title during the preceding fiscal year, including recommendations for additional legislation if deemed necessary.".

REPORT BY THE EXPORT-IMPORT BANK OF THE UNITED STATES

SEC. 210. The fourth, seventh, and eighth sentences of section 2(b)(1)(A) of the Export-Import Bank Act of 1945 (12 U.S.C.

88 Stat. 2333.

635(b)(1)(A); 80 Stat. 2333) are amended by striking out "semiannual" and inserting "annual" in lieu thereof.

REPORT BY THE GENERAL SERVICES ADMINISTRATION

SEC. 211. Section 11(a) of the Public Buildings Act of 1959 (40 U.S.C. 610; 73 Stat. 481) is amended—

(1) by striking out "The Administrator shall submit to Congress each January, promptly after the convening of Congress," and inserting in lieu thereof "Upon the request of either House of Congress, or any committee thereof, and within a reasonable time, the Administrator shall submit"; and

(2) by striking out "last preceding report made under this Act" and inserting in lieu thereof "request, or as of such other date as the request may designate".

REPORTS BY THE INTERNATIONAL COMMUNICATION AGENCY

SEC. 212. (a) Section 108(b) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2458; 75 Stat. 534) is amended to read as follows:

"(b) The President shall submit periodic reports to the Congress of activities carried on and expenditures made in furtherance of the purposes of this Act and of the United States Information and Educational Exchange Act of 1948, as amended.".

22 USC 1431 note.

(b) Section 704(c) of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2056(c); 74 Stat. 142) is amended to read as follows:

"(c) The Director of the International Communication Agency shall make periodic reports, as he deems necessary, to the Congress with respect to his activities under the provisions of this chapter, and such reports shall include any recommendations for needed revisions in this chapter.".

REPORT BY THE AGENCY FOR INTERNATIONAL DEVELOPMENT

SEC. 213. Section 408(b) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736b(b); 80 Stat. 1537) is amended by striking out "March 31," in the second sentence thereof.

Approved October 19, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1268 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 15, considered and passed House.
Sept. 25, considered and passed Senate, amended.
Oct. 2, House concurred in Senate amendments.

Public Law 96-471
96th Congress

An Act

To amend the Internal Revenue Code of 1954 to revise the rules relating to certain installment sales.

Oct. 19, 1980
[H.R. 6883]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Installment Sales Revision Act of 1980.

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Installment Sales Revision Act of 1980". 26 USC 1 note.

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954. 26 USC 1.

SEC. 2. INSTALLMENT SALES RULES.

(a) GENERAL RULE.—Subpart B of part II of subchapter E of chapter 1 is amended by striking out section 453 and inserting in lieu thereof the following new sections:

"SEC. 453. INSTALLMENT METHOD. 26 USC 453.

"(a) GENERAL RULE.—Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this title under the installment method.

"(b) INSTALLMENT SALE DEFINED.—For purposes of this section— "Installment sale."

"(1) IN GENERAL.—The term 'installment sale' means a disposition of property where at least 1 payment is to be received after the close of the taxable year in which the disposition occurs.

"(2) EXCEPTIONS.—The term 'installment sale' does not include—

"(A) DEALER DISPOSITION OF PERSONAL PROPERTY.—A disposition of personal property on the installment plan by a person who regularly sells or otherwise disposes of personal property on the installment plan.

"(B) INVENTORIES OF PERSONAL PROPERTY.—A disposition of personal property of a kind which is required to be included in the inventory of the taxpayer if on hand at the close of the taxable year.

"(c) INSTALLMENT METHOD DEFINED.—For purposes of this section, the term 'installment method' means a method under which the income recognized for any taxable year from a disposition is that proportion of the payments received in that year which the gross profit (realized or to be realized when payment is completed) bears to the total contract price. "Installment method."

"(d) ELECTION OUT.—

"(1) IN GENERAL.—Subsection (a) shall not apply to any disposition if the taxpayer elects to have subsection (a) not apply to such disposition.

"(2) TIME AND MANNER FOR MAKING ELECTION.—Except as otherwise provided by regulations, an election under paragraph (1) with respect to a disposition may be made only on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed by this chapter for the taxable year in which the disposition occurs. Such an election shall be made in the manner prescribed by regulations.

"(3) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under paragraph (1) with respect to any disposition may be revoked only with the consent of the Secretary.

"(e) SECOND DISPOSITIONS BY RELATED PERSONS.—

"(1) IN GENERAL.—If—

"(A) any person disposes of property to a related person (hereinafter in this subsection referred to as the 'first disposition'), and

"(B) before the person making the first disposition receives all payments with respect to such disposition, the related person disposes of the property (hereinafter in this subsection referred to as the 'second disposition'),

then, for purposes of this section, the amount realized with respect to such second disposition shall be treated as received at the time of the second disposition by the person making the first disposition.

"(2) 2-YEAR CUTOFF FOR PROPERTY OTHER THAN MARKETABLE SECURITIES.—

"(A) IN GENERAL.—Except in the case of marketable securities, paragraph (1) shall apply only if the date of the second disposition is not more than 2 years after the date of the first disposition.

"(B) SUBSTANTIAL DIMINISHING OF RISK OF OWNERSHIP.—The running of the 2-year period set forth in subparagraph (A) shall be suspended with respect to any property for any period during which the related person's risk of loss with respect to the property is substantially diminished by—

"(i) the holding of a put with respect to such property (or similar property),

"(ii) the holding by another person of a right to acquire the property, or

"(iii) a short sale or any other transaction.

"(3) LIMITATION ON AMOUNT TREATED AS RECEIVED.—The amount treated for any taxable year as received by the person making the first disposition by reason of paragraph (1) shall not exceed the excess of—

"(A) the lesser of—

"(i) the total amount realized with respect to any second disposition of the property occurring before the close of the taxable year, or

"(ii) the total contract price for the first disposition, over

"(B) the sum of—

"(i) the aggregate amount of payments received with respect to the first disposition before the close of such year, plus

"(ii) the aggregate amount treated as received with respect to the first disposition for prior taxable years by reason of this subsection.

"(4) FAIR MARKET VALUE WHERE DISPOSITION IS NOT SALE OR EXCHANGE.—For purposes of this subsection, if the second dispo-

sition is not a sale or exchange, an amount equal to the fair market value of the property disposed of shall be substituted for the amount realized.

"(5) LATER PAYMENTS TREATED AS RECEIPT OF TAX PAID AMOUNTS.—If paragraph (1) applies for any taxable year, payments received in subsequent taxable years by the person making the first disposition shall not be treated as the receipt of payments with respect to the first disposition to the extent that the aggregate of such payments does not exceed the amount treated as received by reason of paragraph (1).

"(6) EXCEPTION FOR CERTAIN DISPOSITIONS.—For purposes of this subsection—

"(A) REACQUISITIONS OF STOCK BY ISSUING CORPORATION NOT TREATED AS FIRST DISPOSITIONS.—Any sale or exchange of stock to the issuing corporation shall not be treated as a first disposition.

"(B) INVOLUNTARY CONVERSIONS NOT TREATED AS SECOND DISPOSITIONS.—A compulsory or involuntary conversion (within the meaning of section 1033) and any transfer thereafter shall not be treated as a second disposition if the first disposition occurred before the threat or imminence of the conversion. 26 USC 1033.

"(C) DISPOSITIONS AFTER DEATH.—Any transfer after the earlier of—

"(i) the death of the person making the first disposition, or

"(ii) the death of the person acquiring the property in the first disposition,

and any transfer thereafter shall not be treated as a second disposition.

"(7) EXCEPTION WHERE TAX AVOIDANCE NOT A PRINCIPAL PURPOSE.—This subsection shall not apply to a second disposition (and any transfer thereafter) if it is established to the satisfaction of the Secretary that neither the first disposition nor the second disposition had as one of its principal purposes the avoidance of Federal income tax.

"(8) EXTENSION OF STATUTE OF LIMITATIONS.—The period for assessing a deficiency with respect to a first disposition (to the extent such deficiency is attributable to the application of this subsection) shall not expire before the day which is 2 years after the date on which the person making the first disposition furnishes (in such manner as the Secretary may by regulations prescribe) a notice that there was a second disposition of the property to which this subsection may have applied. Such deficiency may be assessed notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment.

"(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) RELATED PERSON.—Except for purposes of subsections (g) and (h), the term 'related person' means a person whose stock would be attributed under section 318(a) (other than paragraph (4) thereof) to the person first disposing of the property. 26 USC 318.

"(2) MARKETABLE SECURITIES.—The term 'marketable securities' means any security for which, as of the date of the disposition, there was a market on an established securities market or otherwise.

"(3) PAYMENT.—Except as provided in paragraph (4), the term 'payment' does not include the receipt of evidences of indebtedness of the person acquiring the property (whether or not payment of such indebtedness is guaranteed by another person).

"(4) PURCHASER EVIDENCES OF INDEBTEDNESS PAYABLE ON DEMAND OR READILY TRADABLE.—Receipt of a bond or other evidence of indebtedness which—

"(A) is payable on demand, or

"(B) is issued by a corporation or a government or political subdivision thereof and is readily tradable,

shall be treated as receipt of payment.

"(5) READILY TRADABLE DEFINED.—For purposes of paragraph (4), the term 'readily tradable' means a bond or other evidence of indebtedness which is issued—

"(A) with interest coupons attached or in registered form (other than one in registered form which the taxpayer establishes will not be readily tradable in an established securities market), or

"(B) in any other form designed to render such bond or other evidence of indebtedness readily tradable in an established securities market.

"(6) LIKE-KIND EXCHANGES.—In the case of any exchange described in section 1031(b)— 26 USC 1031.

"(A) the total contract price shall be reduced to take into account the amount of any property permitted to be received in such exchange without recognition of gain,

"(B) the gross profit from such exchange shall be reduced to take into account any amount not recognized by reason of section 1031(b), and

"(C) the term 'payment' shall not include any property permitted to be received in such exchange without recognition of gain.

Similar rules shall apply in the case of an exchange which is described in section 356(a) and is not treated as a dividend. 26 USC 356.

"(7) DEPRECIABLE PROPERTY.—The term 'depreciable property' means property of a character which (in the hands of the transferee) is subject to the allowance for depreciation provided in section 167. 26 USC 167.

"(g) SALE OF DEPRECIABLE PROPERTY TO SPOUSE OR 80-PERCENT OWNED ENTITY.—

"(1) IN GENERAL.—In the case of an installment sale of depreciable property between related persons within the meaning of section 1239(b), subsection (a) shall not apply, and, for purposes of this title, all payments to be received shall be deemed received in the year of the disposition. *Post*, p. 2255.

"(2) EXCEPTION WHERE TAX AVOIDANCE NOT A PRINCIPAL PURPOSE.—Paragraph (1) shall not apply if it is established to the satisfaction of the Secretary that the disposition did not have as one of its principal purposes the avoidance of Federal income tax.

"(h) USE OF INSTALLMENT METHOD BY SHAREHOLDERS IN SECTION 337 LIQUIDATIONS.— 26 USC 337.

"(1) RECEIPT OF OBLIGATIONS NOT TREATED AS RECEIPT OF PAYMENT.—

"(A) IN GENERAL.—If, in connection with a liquidation to which section 337 applies, in a transaction to which section 331 applies the shareholder receives (in exchange for the shareholder's stock) an installment obligation acquired in respect of a sale or exchange by the corporation during the 26 USC 331.

12-month period set forth in section 337(a), then, for purposes of this section, the receipt of payments under such obligation (but not the receipt of such obligation) by the shareholder shall be treated as the receipt of payment for the stock. 26 USC 337.

"(B) OBLIGATIONS ATTRIBUTABLE TO SALE OF INVENTORY MUST RESULT FROM BULK SALE.—Subparagraph (A) shall not apply to an installment obligation described in section 337(b)(1)(B) unless such obligation is also described in section 337(b)(2)(B).

"(C) SPECIAL RULE WHERE OBLIGOR AND SHAREHOLDER ARE RELATED PERSONS.—If the obligor of any installment obligation and the shareholder are related persons (within the meaning of section 1239(b)), to the extent such installment obligation is attributable to the disposition by the corporation of depreciable property— *Post*, p. 2255.

"(i) subparagraph (A) shall not apply to such obligation, and

"(ii) for purposes of this title, all payments to be received by the shareholder shall be deemed received in the year the shareholder receives the obligation.

"(D) COORDINATION WITH SUBSECTION (e)(1)(A).—For purposes of subsection (e)(1)(A), disposition of property by the corporation shall be treated also as disposition of such property by the shareholder.

"(E) SALES BY LIQUIDATING SUBSIDIARY.—For purposes of subparagraph (A), in any case to which section 337(c)(3) applies, an obligation acquired in respect of a sale or exchange by the selling corporation shall be treated as so acquired by the corporation distributing the obligation to the shareholder. 26 USC 337.

"(2) DISTRIBUTIONS RECEIVED IN MORE THAN 1 TAXABLE YEAR OF SHAREHOLDER.—If—

"(A) paragraph (1) applies with respect to any installment obligation received by a shareholder from a corporation, and

"(B) by reason of the liquidation such shareholder receives property in more than 1 taxable year,

then, on completion of the liquidation, basis previously allocated to property so received shall be reallocated for all such taxable years so that the shareholder's basis in the stock of the corporation is properly allocated among all property received by such shareholder in such liquidation.

"(i) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section.

"(2) SELLING PRICE NOT READILY ASCERTAINABLE.—The regulations prescribed under paragraph (1) shall include regulations providing for ratable basis recovery in transactions where the gross profit or the total contract price (or both) cannot be readily ascertained.

"SEC. 453A. INSTALLMENT METHOD FOR DEALERS IN PERSONAL PROPERTY. 26 USC 453A.

"(a) GENERAL RULE.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, a person who regularly sells or otherwise disposes of personal property on the installment plan may return as income

therefrom in any taxable year that proportion of the installment payments actually received in that year which the gross profit, realized or to be realized when payment is completed, bears to the total contract price.

"(2) TOTAL CONTRACT PRICE.—For purposes of paragraph (1), the total contract price of all sales of personal property on the installment plan includes the amount of carrying charges or interest which is determined with respect to such sales and is added on the books of account of the seller to the established cash selling price of such property. This paragraph shall not apply with respect to sales of personal property under a revolving credit type plan.

"(b) CARRYING CHARGES NOT INCLUDED IN TOTAL CONTRACT PRICE.—If the carrying charges or interest with respect to sales of personal property, the income from which is returned under subsection (a)(1), is not included in the total contract price, payments received with respect to such sales shall be treated as applying first against such carrying charges or interest.

26 USC 453B.

"SEC. 453B. GAIN OR LOSS DISPOSITION OF INSTALLMENT OBLIGATIONS.

"(a) GENERAL RULE.—If an installment obligation is satisfied at other than its face value or distributed, transmitted, sold, or otherwise disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation and—

"(1) the amount realized, in the case of satisfaction at other than face value or a sale or exchange, or

"(2) the fair market value of the obligation at the time of distribution, transmission, or disposition, in the case of the distribution, transmission, or disposition otherwise than by sale or exchange.

any gain or loss so resulting shall be considered as resulting from the sale or exchange of the property in respect of which the installment obligation was received.

"(b) BASIS OF OBLIGATION.—The basis of an installment obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obligation satisfied in full.

"(c) SPECIAL RULE FOR TRANSMISSION AT DEATH.—Except as provided in section 691 (relating to recipients of income in respect of decedents), this section shall not apply to the transmission of installment obligations at death.

26 USC 691.

"(d) EFFECT OF DISTRIBUTION IN CERTAIN LIQUIDATIONS.—

26 USC 332.

"(1) LIQUIDATIONS TO WHICH SECTION 332 APPLIES.—If—

"(A) an installment obligation is distributed in a liquidation to which section 332 (relating to complete liquidations of subsidiaries) applies, and

26 USC 334.

"(B) the basis of such obligation in the hands of the distributee is determined under section 334(b)(1),

then no gain or loss with respect to the distribution of such obligation shall be recognized by the distributing corporation.

26 USC 337.

"(2) LIQUIDATIONS TO WHICH SECTION 337 APPLIES.—If—

"(A) an installment obligation is distributed by a corporation in the course of a liquidation, and

"(B) under section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) no gain or loss would have been recognized to the corporation if the

corporation had sold or exchanged such installment obligation on the day of such distribution,

then no gain or loss shall be recognized to such corporation by reason of such distribution. The preceding sentence shall not apply to the extent that under paragraph (1) gain to the distributing corporation would be considered as gain to which section 341(f), 617(d)(1), 1245(a), 1250(a), 1251(c), 1252(a), or 1254(a) applies. 26 USC 341, 617, 1245, 1250-1252, 1254.

"(e) LIFE INSURANCE COMPANIES.—

"(1) IN GENERAL.—In the case of a disposition of an installment obligation by any person other than a life insurance company (as defined in section 801(a)) to such an insurance company or to a partnership of which such an insurance company is a partner, no provision of this subtitle providing for the nonrecognition of gain shall apply with respect to any gain resulting under subsection (a). If a corporation which is a life insurance company for the taxable year was (for the preceding taxable year) a corporation which was not a life insurance company, such corporation shall, for purposes of this subsection and subsection (a), be treated as having transferred to a life insurance company, on the last day of the preceding taxable year, all installment obligations which it held on such last day. A partnership of which a life insurance company becomes a partner shall, for purposes of this subsection and subsection (a), be treated as having transferred to a life insurance company, on the last day of the preceding taxable year of such partnership, all installment obligations which it holds at the time such insurance company becomes a partner. 26 USC 801.

"(2) SPECIAL RULE WHERE LIFE INSURANCE COMPANY ELECTS TO TREAT INCOME AS INVESTMENT INCOME.—Paragraph (1) shall not apply to any transfer or deemed transfer of an installment obligation if the life insurance company elects (at such time and in such manner as the Secretary may by regulations prescribe) to determine its life insurance company taxable income—

"(A) by returning the income on such installment obligation under the installment method prescribed in section 453, and *Ante*, p. 2247.

"(B) if such income would not otherwise be returnable as an item referred to in section 804(b) or as long-term capital gain, as if the income on such obligations were income specified in section 804(b). 26 USC 804.

"(f) OBLIGATION BECOMES UNENFORCEABLE.—For purposes of this section, if any installment obligation is canceled or otherwise becomes unenforceable—

"(1) the obligation shall be treated as if it were disposed of in a transaction other than a sale or exchange, and

"(2) if the obligor and obligee are related persons (within the meaning of section 453(f)(1)), the fair market value of the obligation shall be treated as not less than its face amount.". *Ante*, p. 2247.

(b) TECHNICAL AMENDMENTS.—

(1) Section 311(a) and section 336 (as in effect on the day before the date of the enactment of the Crude Oil Windfall Profit Tax Act of 1980) are each amended by striking out "section 453(d)" and inserting in lieu thereof "section 453B". 26 USC 311, 336. *Ante*, p. 2252.

(2) Paragraph (8) of section 381(c) is amended— 26 USC 381.

(A) by striking out "has elected, under section 453, to report on the installment basis" and inserting in lieu thereof "reports on the installment basis under section 453 or 453A", and *Ante*, pp. 2247, 2251.

(B) by striking out "for purposes of section 453" and inserting in lieu thereof "for purposes of section 453 or 453A".

(3) Subsection (d) of section 481 is hereby repealed.

(4) Subsection (f) of section 644 is amended by striking out "elects to report income under section 453" and inserting in lieu thereof "reports income under section 453".

(5) Paragraph (4) of section 691(a) is amended—

(A) by striking out "received by a decedent on the sale or other disposition of property, the income from which was properly reportable by the decedent on the installment basis under section 453" and inserting in lieu thereof "reportable by the decedent on the installment method under section 453 or 453A", and

(B) by striking out "section 453(d)" each place it appears and inserting in lieu thereof "section 453B".

(6) Paragraph (2) of section 1255(b) is amended by striking out "453(d)(4)(B)" and inserting in lieu thereof "453B(d)(2)".

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 336 (as amended by the Crude Oil Windfall Profit Tax Act of 1980) is amended by striking out "section 453(d)" and inserting in lieu thereof "section 453B".

(2) Paragraph (3) of section 337(f) is amended by striking out "section 453(d)(1)" and inserting in lieu thereof "section 453B(a)".

(3) Paragraph (2) of section 453B(d) is amended by adding at the end thereof the following new sentence: "In the case of any installment obligation which would have met the requirements of subparagraphs (A) and (B) of the first sentence of this paragraph but for section 337(f), gain shall be recognized to such corporation by reason of such distribution only to the extent gain would have been recognized under section 337(f) if such corporation had sold or exchanged such installment obligation on the date of such distribution.".

(4) Subparagraph (B) of section 403(b)(2) of the Crude Oil Windfall Profit Tax Act of 1980 is hereby repealed.

(d) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by striking out the item relating to section 453 and inserting in lieu thereof the following:

"Sec. 453. Installment method.
"Sec. 453A. Installment method for dealers in personal property.
"Sec. 453B. Gain or loss on disposition of installment obligations.".

SEC. 3. COORDINATION WITH SECTION 691.

Subsection (a) of section 691 (relating to income in respect of a decedent) is amended by adding at the end thereof the following new paragraph:

"(5) OTHER RULES RELATING TO INSTALLMENT OBLIGATIONS.—

"(A) IN GENERAL.—In the case of an installment obligation reportable by the decedent on the installment method under section 453 or 453A, for purposes of paragraph (2)—

"(i) the second sentence of paragraph (2) shall be applied by inserting '(other than the obligor)' after 'or a transfer to a person',

"(ii) any cancellation of such an obligation shall be treated as a transfer, and

"(iii) any cancellation of such an obligation occurring at the death of the decedent shall be treated as a transfer by the estate of the decedent (or, if held by a

person other than the decedent before the death of the decedent, by such person).

"(B) FACE AMOUNT TREATED AS FAIR MARKET VALUE IN CERTAIN CASES.—In any case to which the first sentence of paragraph (2) applies by reason of subparagraph (A), if the decedent and the obligor were related persons (within the meaning of section 453(f)(1)), the fair market value of the installment obligation shall be treated as not less than its face amount.

Ante, p. 2247.

"(C) CANCELLATION INCLUDES BECOMING UNENFORCEABLE.—For purposes of subparagraph (A), an installment obligation which becomes unenforceable shall be treated as if it were canceled.".

SEC. 4. AMENDMENT OF SECTION 1038.

26 USC 1038.

Section 1038 (relating to certain reacquisitions of real property) is amended by adding at the end thereof the following new subsection:

"(g) ACQUISITION BY ESTATE, ETC., OF SELLER.—Under regulations prescribed by the Secretary, if an installment obligation is indebtedness to the seller which is described in subsection (a), and if such obligation is, in the hands of the taxpayer, an obligation with respect to which section 691(a)(4)(B) applies, then—

26 USC 691.

"(1) for purposes of subsection (a), acquisition of real property by the taxpayer shall be treated as reacquisition by the seller, and

"(2) the basis of the real property acquired by the taxpayer shall be increased by an amount equal to the deduction under section 691(c) which would (but for this subsection) have been allowable to the taxpayer with respect to the gain on the exchange of the obligation for the real property."

SEC. 5. COORDINATION WITH SECTION 1239.

Definitions.
26 USC 1239.

Subsections (b) and (c) of section 1239 (defining related persons) are amended to read as follows:

"(b) RELATED PERSONS.—For purposes of subsection (a), the term 'related persons' means—

"(1) the taxpayer and the taxpayer's spouse,

"(2) the taxpayer and an 80-percent owned entity, or

"(3) two 80-percent owned entities.

"(c) 80-PERCENT OWNED ENTITY DEFINED.—

"(1) GENERAL RULE.—For purposes of this section, the term '80-percent owned entity' means—

"(A) a corporation 80 percent or more in value of the outstanding stock of which is owned (directly or indirectly) by or for the taxpayer, and

"(B) a partnership 80 percent or more of the capital interest or profits interest in which is owned (directly or indirectly) by or for the taxpayer.

"(2) CONSTRUCTIVE OWNERSHIP.—For purposes of subparagraphs (A) and (B) of paragraph (1), the principles of section 318 shall apply, except that—

26 USC 318.

"(A) the members of an individual's family shall consist only of such individual and such individual's spouse, and

"(B) paragraphs (2)(C) and (3)(C) of section 318(a) shall be applied without regard to the 50-percent limitation contained therein.".

SEC. 6. EFFECTIVE DATES.

26 USC 453 note.

(a) FOR SECTIONS 2 AND 5.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by sections 2 and 5 shall apply to dispositions made after the date of the enactment of this Act in taxable years ending after such date.

Ante, p. 2247.

(2) FOR SECTION 453(e).—Section 453(e) of the Internal Revenue Code of 1954 (as amended by section 2) shall apply to first dispositions made after May 14, 1980.

(3) FOR SECTION 453(h).—Paragraphs (1) and (2) of section 453(h) of such Code (as amended by section 2) shall apply in the case of distributions of installment obligations after March 31, 1980.

Ante, p. 2251.

(4) FOR SECTION 453A.—Section 453A of the Internal Revenue Code of 1954 (as amended by section 2) shall apply to taxable years ending after the date of enactment of this Act.

Ante, p. 2252.

(5) FOR SECTION 453B(f).—Section 453B(f) of the Internal Revenue Code of 1954 (as amended by section 2) shall apply to installment obligations becoming unenforceable after the date of the enactment of this Act.

(6) FOR SECTION 2(c).—The amendments made by section 2(c) shall take effect as if included in the amendments made by section 403(b) of the Crude Oil Windfall Profit Tax Act of 1980.

Ante, p. 304.

(7) SPECIAL RULE FOR APPLICATION OF FORMER SECTION 453 TO CERTAIN DISPOSITIONS.—In the case of any disposition made on or before the date of the enactment of this Act in any taxable year ending after such date, the provisions of section 453(b) of the Internal Revenue Code of 1954, as in effect before such date, shall be applied with respect to such disposition without regard to—

Ante, p. 2247.

(A) paragraph (2) of such section 453(b), and

(B) any requirement that more than 1 payment be received.

26 USC 691 note.

(b) FOR SECTION 3.—The amendment made by section 3 shall apply in the case of decedents dying after the date of the enactment of this Act.

26 USC 1038 note.

(c) FOR SECTION 4.—The amendment made by section 4 shall apply to acquisitions of real property by the taxpayer after the date of the enactment of this Act.

Approved October 19, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1042 (Comm. on Ways and Means).
SENATE REPORT No. 96-1000 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 17, considered and passed House.
Oct. 1, considered and passed Senate, amended.
Oct. 2, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 43:
Oct. 20, Presidential statement.

Public Law 96-472
96th Congress

An Act

To amend the Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974 to authorize the appropriation of funds to the Director of the Federal Emergency Management Agency to carry out the earthquake hazards reduction program and the fire prevention and control program, and for other purposes.

Oct. 19, 1980
[S. 1393]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Earthquake hazards reduction and fire prevention and control programs.

TITLE I—EARTHQUAKE HAZARDS REDUCTION PROGRAM

SEC. 101. (a) Paragraphs (1) through (3) of section 5(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(a)) are amended to read as follows:

"(1) be designed and administered to achieve the objectives set forth in subsection (c);

"(2) involve, where appropriate, each of the agencies listed in subsection (d) and the non-Federal participation specified in subsection (h); and

"(3) include each of the elements described in subsections (e) and (f) and the assistance to the States specified in subsection (g).".

(b) Section 5(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(b)) is amended to read as follows:

"(b) DUTIES.—

"(1) The President shall—

"(A) assign and specify the role and responsibility of each appropriate Federal department, agency, and entity with respect to each object and element of the program; and

"(B) establish goals, priorities, budgets, and target dates for implementation of the program.

Federal Emergency Management Agency, designated responsibilities.

"(2) The Federal Emergency Management Agency (hereinafter referred to as the 'Agency') is designated as the agency with the primary responsibilities to plan and coordinate the National Earthquake Hazards Reduction Program. The Director of the Agency (hereinafter referred to as the 'Director') shall—

"(A) recommend to the President the role and responsibility of each appropriate Federal department, agency, and entity with respect to each object and element of the program;

"(B) recommend to the President goals, priorities, budgets, and target dates for implementation of the program;

"(C) provide a method for cooperation and coordination with, and assistance (to the extent of available resources) to, interested governmental entities in all States, particularly those containing areas of high or moderate seismic risk;

"(D) provide for qualified and sufficient staffing for the program and its components;

Program plan, transmittal to Congress.

"(E) compile and maintain a written program plan for the program specified in subsections (a), (e), (f), and (g), which plan will recommend base and incremental budget options for the agencies to carry out the elements and programs specified through at least 1985, and which plan shall be completed by September 30, 1981, and transmitted to the Congress and shall be updated annually; and

"(F) recommend appropriate roles for State and local units of government, individuals, and private organizations.".

42 USC 7704.

(c) Section 5(d) of such Act is amended by striking out "(3)(B)" and inserting in lieu thereof "(1)(A)", by striking out "National Bureau of Standards" and inserting in lieu thereof "Department of Commerce", and by striking out "National Fire Prevention and Control Administration" and inserting in lieu thereof "Federal Emergency Management Agency".

(d) Section 5(e)(6) of such Act is amended by striking out "political" and by inserting in lieu thereof "potential".

(e)(1) That portion of section 5(f) of such Act which precedes paragraph (1) thereof is amended to read as follows:

"(f) MITIGATION ELEMENTS.—The mitigation elements of the program shall provide for—".

(2) Paragraph (1) of section 5(f) of such Act is amended to read as follows:

"(1) ISSUANCE OF EARTHQUAKE PREDICTIONS.—The Director of the United States Geological Survey is hereby given the authority, after notification of the Director, to issue an earthquake prediction or other earthquake advisory as he deems necessary. For the purposes of evaluating a prediction, the National Earthquake Prediction Evaluation Council shall be exempt from the requirements of section 10(a)(2) of the Federal Advisory Committee Act. The Director shall have responsibility to provide State and local officials and residents of an area for which a prediction has been made with recommendations of actions to be taken;".

5 USC app.

42 USC 7704.

(3)(A) Section 5(f) of such Act is amended by striking out "and" at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon, and by inserting after paragraph (6) the following:

Intraagency plan, transmittal to Congress.

"(7) transmittal to Congress by the Director of an intraagency coordination plan for earthquake hazard mitigation and response within thirty days after enactment of this paragraph, which plan shall coordinate all of the directorates of the Agency; and

Preparedness plan.

"(8) the development and implementation by the Director of a preparedness plan for response to earthquake predictions which includes the following items:

"(A) A prototype plan to be in place in one major metropolitan area by September 30, 1981.

"(B) An action plan to be completed for specific adaptations of the prototype plan to other high risk metropolitan areas by September 30, 1981.

"(C) These prediction response plans are to be integrated with preparedness response plans.

"(D) The plans shall include coordination with State and local governmental companion efforts.

"(E) The plans shall be updated as new, relevant information becomes available.".

(B) The last sentence of section 5(f) of such Act is repealed.

(f) Section 5 of such Act is amended by inserting at the end thereof the following:

Report to Congress. 42 USC 7704.

"(i) STUDY.—Within one year after the date of enactment of this subsection, the Director shall conduct a study and prepare and transmit recommendations to Congress to amend the Disaster Relief Act of 1974 (42 U.S.C. 5121, et seq.) to include provisions for funding for the period of time following a validated earthquake prediction.".

SEC. 102. (a) Section 6 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7705) is amended to read as follows:

"SEC. 6. ANNUAL REPORT.

"The President shall, within ninety days after the end of each fiscal year, submit an annual report to the appropriate authorizing committees in the Congress describing the status of the program, and describing and evaluating progress achieved during the preceding fiscal year in reducing the risks of earthquake hazards. Each such report shall include a copy of the program plan described in section 5(b)(2)(E) and any recommendations for legislation and other action the President deems necessary and appropriate.".

Ante, p. 2257.

SEC. 103. (a) Section 7(a) of such Act is amended by inserting "(1)" after "(a)" and by inserting at the end thereof the following:

Appropriation authorization. 42 USC 7706.

"(2) There are authorized to be appropriated to the Director to carry out the provisions of sections 5 and 6 of this Act for the fiscal year ending September 30, 1981—

42 USC 7704, *supra*.

"(A) $1,000,000 for continuation of the Interagency Committee on Seismic Safety in Construction and the Building Seismic Safety Council programs,

"(B) $1,500,000 for plans and preparedness for earthquake disasters,

"(C) $500,000 for prediction response planning,

"(D) $600,000 for architectural and engineering planning and practice programs,

"(E) $1,000,000 for development and application of a public education program,

"(F) $3,000,000 for use by the National Science Foundation in addition to the amount authorized to be appropriated under subsection (c), which amount includes $2,400,000 for earthquake policy research and $600,000 for the strong ground motion element of the siting program, and

"(G) $1,000,000 for use by the Center for Building Technology, National Bureau of Standards in addition to the amount authorized to be appropriated under subsection (d) for earthquake activities in the Center.".

(b) Section 7(b) of such Act is amended by striking out "and" after "1979;" and by inserting "; and $32,484,000 for the fiscal year ending September 30, 1981" before the period at the end thereof.

(c) Section 7(c) of such Act is amended by striking out "and" after "1979;" and by inserting "; and $26,600,000 for the fiscal year ending September 30, 1981" before the period at the end thereof.

(d) Section 7 of such Act is amended by inserting at the end thereof the following:

"(d) NATIONAL BUREAU OF STANDARDS.—To enable the Bureau to carry out responsibilities that may be assigned to it under this Act, there are authorized to be appropriated $425,000 for the fiscal year ending September 30, 1981.".

Appropriation authorization.

SEC. 104. Funds may be transferred among the line items listed in the amendment made by section 103(a), but neither the total funds transferred from any line item nor the total funds transferred to any

Funds, transfer. *Supra*.

line item may exceed 10 per centum of the amount authorized for that line item in the amendment made by section 103(a) unless—

Report to Congress.

(1) thirty calendar days have passed after the Director or his designee has transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the chairman of the Committee on Science and Technology of the House of Representatives, and to the chairman of the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete explanation of the transfer involved and the reason for it, or

(2) before the expiration of thirty calendar days both chairmen of the Committee on Science and Technology of the House and the Committee on Commerce, Science, and Transportation of the Senate have written to the Director to the effect that they have no objection to the proposed transfer.

TITLE II—FIRE PREVENTION AND CONTROL

Appropriation authorization.

SEC. 201. Section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended by inserting at the end thereof the following:

"(c) There are authorized to be appropriated to carry out this Act, except as otherwise specifically provided with respect to the payment of claims under section 11 of this Act, an amount not to exceed $23,814,000 for the fiscal year ending September 30, 1981, which amount includes—

15 USC 2210.

"(1) not less than $1,100,000 for the first year of a three-year concentrated demonstration program of fire prevention and control in two States with high fire death rates;

"(2) not less than $2,575,000 for rural fire prevention and control; and

"(3) not less than $4,255,000 for research and development for the activities under section 18 of this Act at the Fire Research Center of the National Bureau of Standards, of which not less than $250,000 shall be available for adjustments required by law in salaries, pay, retirement, and employee benefits.

15 USC 278f.

The funds authorized in paragraph (3) shall be in addition to funds authorized in any other law for research and development at the Fire Research Center.".

SEC. 202. Section 16 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2215) is amended by deleting the words: "June 30 of the year following the date of enactment of this Act and each year thereafter" from the first sentence and inserting in lieu thereof; "ninety calendar days following the year ending September 30, 1980 and similarly each year thereafter".

TITLE III—MULTIHAZARD RESEARCH, PLANNING, AND MITIGATION

50 USC app. 2251 note.

SEC. 301. It is recognized that natural and manmade hazards may not be independent of one another in any given disaster. Furthermore, planning for and responding to different hazards have certain common elements. To make maximum use of these commonalities, the Director of the Federal Emergency Management Agency (hereinafter referred to as the "Director") is authorized and directed to:

Studies.

(1) initiate, within one year after the date of enactment of this Act, studies with the objective of defining and developing a

multihazard research, planning, and implementation process within the Agency;

(2) develop, within one year after the date of enactment of this Act, in cooperation with State and local governments, prototypical multihazard mitigation projects which can be used to evaluate several approaches to the varying hazard mitigation needs of State and local governments and to assess the applicability of these prototypes to other jurisdictions with similar needs; Mitigation project development.

(3) investigate and evaluate, within one year after the date of enactment of this Act, the effectiveness of a range of incentives for hazard reductions that can be applied at the State and local government levels; Hazard reduction incentives.

(4) prepare recommendations as to the need for legislation that will limit the legal liability of those third party persons or groups which are called upon to provide technical assistance and advice to public employees, including policemen, firemen, and transportation employees, who are generally the first to respond to a hazardous incident; which recommendations shall be provided to the appropriate committees of Congress within one hundred and eighty days after the date of enactment of this Act; Report to congressional committees.

(5) prepare, within one hundred and eighty days after the date of enactment of this Act, a report on the status of the Agency's emergency information and communications systems which will provide recommendations on— Report.

(A) the advisability of developing a single, unified emergency information and communication system for use by the Agency in carrying out its emergency management activities;

(B) the potential for using communication and remote sensing satellites as part of the Agency's emergency information and communication system; and

(C) the type of system to be developed, if needed, including the relationship of the proposed system and its needs to the existing and emerging information and communication systems in other Federal agencies; and

(6) conduct a program of multihazard research, planning, and mitigation in coordination with those studies and evaluations authorized in paragraphs (1) through (5), as well as other hazard research, planning, and mitigation deemed necessary by the Director.

Appropriation authorization. 50 USC app. 2251 note.

SEC. 302. For the fiscal year ending September 30, 1981, there are authorized to be appropriated to the Director $1,000,000 to carry out paragraphs (1) through (5) of section 301 and such sums as may be necessary to carry out paragraph (6) of such section.

Approved October 19, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-951, Pt. 1 accompanying H.R. 7114 (Comm. on Science and Technology) and No. 96-951, Pt. II accompanying H.R. 7114 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 96-778 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 126 (1980):

May 22, considered and passed Senate.

June 30, H.R. 7114 considered and passed House; passage vacated and S. 1393, amended, passed in lieu.

Sept. 30, Senate concurred in House amendments with amendments.

Oct. 2, House concurred in Senate amendments.

Public Law 96-473
96th Congress

An Act

To amend the Social Security Act with respect to the retirement test, to reduce spending under title II of the Social Security Act, and for other purposes.

Oct. 19, 1980
[H.R. 5295]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Social Security Act, amendment.

PROVISION RELATING TO AVAILABILITY OF MONTHLY EARNINGS TEST

SECTION 1. (a)(1) Section 203(f)(1) of the Social Security Act is amended— 42 USC 403.

(A) by striking out "or" immediately before clause (E), and

(B) by inserting before the period at the end thereof the following: ", or (F) in which such individual did not engage in self-employment and did not render services for wages (determined as provided in paragraph (5) of this subsection) of more than the applicable exempt amount as determined under paragraph (8), in the case of an individual entitled to benefits under section 202(b) (but only by reason of having a child in her care within the meaning of paragraph (1)(B) of that subsection) or under section 202 (d) or (g), if such month is in a year in which such entitlement ends for a reason other than the death of such individual, and such individual is not entitled to any benefits under this title for the month following the month during which such entitlement under section 202 (b), (d), or (g) ended". 42 USC 402.

(2) Section 203(f)(2) of such Act is amended by striking out "(D), and (E)" and inserting in lieu thereof "(D), (E), and (F)".

(b) The amendments made by subsection (a) shall apply with respect to monthly benefits payable for months after December 1977. 42 USC 403 note.

MEDICARE ENTITLEMENT

SEC. 2. (a) Section 226(a)(2) of the Social Security Act is amended by inserting after "section 202" the following: ", or would be entitled to those benefits except that he has not filed an application therefor (or application has not been made for a benefit the entitlement to which for any individual is a condition of entitlement therefor) and, in conformity with regulations of the Secretary, files an application for hospital insurance benefits under part A of title XVIII,". 42 USC 426. 42 USC 1395c.

(b) Section 1811(1) of such Act is amended by striking out "are entitled to" and inserting in lieu thereof "are eligible for". 42 USC 1395c.

(c) For purposes of section 226 of such Act as amended by subsection (a) of this section, an individual who filed an application for monthly insurance benefits under section 202 of such Act prior to the effective date of the amendment made by subsection (a) shall be deemed to have filed an application for hospital insurance benefits under part A of title XVIII of such Act, at the time he applied for such benefits under section 202 regardless of the continuing status or effect of the application for benefits under section 202, if he would have been 42 USC 426 note. 42 USC 402.

entitled to benefits under that section had such application remained in effect.

42 USC 426 note. (d) The amendments made by subsections (a) and (b) shall be effective after the second month beginning after the date on which this Act is enacted.

INCOME NOT ATTRIBUTABLE TO SERVICES PERFORMED AFTER ENTITLEMENT

42 USC 403. SEC. 3. (a) Section 203(f)(5)(D) of the Social Security Act is amended to read as follows:

"(D) In the case of—

"(i) an individual who has attained the age of 65 on or before the last day of the taxable year, and who shows to the satisfaction of the Secretary that he or she is receiving royalties attributable to a copyright or patent obtained before the taxable year in which he or she attained such age and that the property to which the copyright or patent relates was created by his or her own personal efforts, or

"(ii) an individual who has become entitled to insurance benefits under this title, other than benefits under section 223 or benefits payable under section 202(d) by reason of being under a disability, and who shows to the satisfaction of the Secretary that he or she is receiving, in a year after his or her initial year of entitlement to such benefits, any other income not attributable to services performed after the month in which he or she initially became entitled to such benefits,

42 USC 423, 402.

there shall be excluded from gross income any such royalties or other income.".

42 USC 403 note. (b) The amendment made by subsection (a) shall apply with respect to taxable years ending after December 31, 1977, but only with respect to benefits payable for months after December 1977.

RETROSPECTIVE EFFECT OF ELIMINATION OF MONTHLY EARNINGS TEST

42 USC 403. SEC. 4. (a) Section 203(f)(1) of the Social Security Act is amended by striking out "the first month" in clause (E) and inserting in lieu thereof "the first month after December 1977".

42 USC 403 note. (b) The amendment made by subsection (a) shall apply with respect to monthly benefits payable for months after December 1977.

BENEFITS FOR CERTAIN PRISONERS

42 USC 423. SEC. 5. (a)(1) Section 223(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(6)(A) Notwithstanding any other provision of this title, any physical or mental impairment which arises in connection with the commission by an individual (after the date of the enactment of this paragraph) of an offense which constitutes a felony under applicable law and for which such individual is subsequently convicted, or which is aggravated in connection with such an offense (but only to the extent so aggravated), shall not be considered in determining whether an individual is under a disability.

"(B) Notwithstanding any other provision of this title, any physical or mental impairment which arises in connection with an individual's confinement in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of an

offense (committed after the date of the enactment of this paragraph) constituting a felony under applicable law, or which is aggravated in connection with such a confinement (but only to the extent so aggravated), shall not be considered in determining whether such individual is under a disability for purposes of benefits payable for any month during which such individual is so confined.".

(2) The third sentence of section 216(i)(1) of such Act is amended by striking out "and (5)" and inserting in lieu thereof "(5), and (6)". 42 USC 416.

(b) Section 202(d)(7)(A) of such Act is amended by adding at the end thereof the following: "An individual shall not be considered a 'full-time student' for the purpose of this section while that individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense (committed after the date of the enactment of this paragraph) which constituted a felony under applicable law.". "Fulltime student." 42 USC 402.

(c) Section 223 of such Act is amended by adding at the end thereof the following new subsection: 42 USC 423.

"Suspension of Benefits for Inmates of Penal Institutions

"(f)(1) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section, or under section 202(d) by reason of being under a disability, to any individual for any month during which such individual is confined in a jail, prison, or other penal institution or correctional facility, pursuant to his conviction of an offense which constituted a felony under applicable law, unless such individual is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for such individual by a court of law and, as determined by the Secretary, is expected to result in such individual being able to engage in substantial gainful activity upon release and within a reasonable time.

"(2) Benefits which would be payable to any individual (other than a confined individual to whom benefits are not payable by reason of paragraph (1)) under this title on the basis of the wages and self-employment income of such a confined individual but for the provisions of paragraph (1), shall be payable as though such confined individual were receiving such benefits under this section.".

(d) The amendments made by this section shall be effective with respect to benefits payable for months beginning on or after October 1, 1980. 42 USC 402 note.

TECHNICAL CORRECTIONS

SEC. 6. (a) Section 202(e)(2)(B)(i) of such Act is amended by striking out the second comma following "where applicable". 42 USC 402.

(b)(1) Section 203(a)(3)(A) of such Act is amended by striking out "bases" and inserting in lieu thereof "basis". 42 USC 403.

(2) Section 203(a)(7) of such Act is amended by striking out "benefits base" and inserting in lieu thereof "benefit base". *Ante*, p. 442.

(c) Section 213(a)(2)(A) of such Act is amended by striking out "quarters of coverage" and inserting in lieu thereof "quarter of coverage". 42 USC 413.

(d) Section 215(a)(4)(B) of such Act is amended by striking out "computation or recommendation" and inserting in lieu thereof "computation or recomputation". 42 USC 415.

(e)(1) Section 303 of such Act is amended by redesignating the second subsection (d) as subsection (e). *Ante*, p. 468.

(2) Section 304(a)(2) of such Act is amended to read as follows: 42 USC 504.

"(2) makes a finding with respect to a State under subsection (b), (c), (d), or (e) of section 303,".

42 USC 503.

42 USC 602.

(f)(1) Section 402(a)(27) of such Act is amended by striking out "provide, that the State" and inserting in lieu thereof "provide that the State".

(2) Section 402(a)(29) of such Act is amended by striking out "provided" and inserting in lieu thereof "provide".

Ante, p. 466.

(3) Section 402 of such Act is amended by redesignating the second subsection (d) as subsection (e).

42 USC 1382a.

(g)(1) Section 1612(a)(1)(B) of such Act is amended by striking out "following subsection (a)(10)" and inserting in lieu thereof "following subsection (a)(11)".

(2) Section 1612(a)(1) of such Act is further amended—

(A) by striking out "and" at the end of subparagraph (B); and

(B) by redesignating the second subparagraph (C) as subparagraph (D).

(3) Section 1612(b)(2)(B) of such Act is amended—

(A) by striking out "Monthly" and inserting in lieu thereof "monthly"; and

(B) by striking out the period at the end thereof and inserting in lieu thereof a semicolon.

Ante, p. 470.

(h) Section 1631(b) of such Act is amended—

(1) by striking out "(b)(1)(1)" and inserting in lieu thereof "(b)(1)"; and

(2) by redesignating the second paragraph (2) as paragraph (3).

42 USC 1395g.

(i) Section 1815(c) of such Act is amended by striking out "for on in connection with" and inserting in lieu thereof "for or in connection with".

42 USC 1395*l*.

(j) Section 1833 of such Act is amended by redesignating the second subsection (g) as subsection (h).

42 USC 1396d.

(k) Section 1905(c) of such Act is amended by striking out "under clauses (1)" and inserting in lieu thereof "under clause (1)".

42 USC 1397b.

(l) Section 2003(e)(1) of such Act is amended by striking out "under subsection (g)" and inserting in lieu thereof "under subsection (d)".

Approved October 19, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-537, Pts. 1 and 2 (Comm. on Ways and Means).
SENATE REPORT No. 96-987 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 19, considered and passed House.
Vol. 126 (1980): Sept. 30, considered and passed Senate, amended.
Oct. 1, House concurred in Senate amendments with an amendment; Senate concurred in House amendment.

Public Law 96-474
96th Congress

An Act

To authorize the Secretary of Agriculture to convey certain Government-owned property in the Kisatchie National Forest to the State of Louisiana in exchange for certain property at old Camp Livingston, Louisiana.

Oct. 19, 1980
[H.R. 5326]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall convey to the State of Louisiana all right, title, and interest of the United States in and to approximately 1,587.30 acres of land which is in the Kisatchie National Forest in the parishes of Grant and Rapides in Louisiana and more particularly described as: southwest quarter of section 1, township 5 north, range 1 east, containing 159.60 acres; southeast quarter of northwest quarter of section 1, township 5 north, range 1 east, containing 39.90 acres; a fractional part of west half of section 12, township 5 north, range 1 east, containing 273.92 acres; west half of southeast quarter of section 12, township 5 north, range 1 east, containing 79.44 acres; a fractional part of north half of section 13, township 5 north, range 1 east, containing 302.39 acres; southwest quarter of section 13, township 5 north, range 1 east, containing 159.07 acres; west half of southeast quarter of section 13, township 5 north, range 1 east, containing 79.49 acres; northeast quarter of southeast quarter of section 13, township 5 north, range 1 east, containing 39.73 acres; a fractional part of section 15, township 5 north, range 1 east, containing 171.76 acres; south half of southwest quarter of section 19, township 6 north, range 2 east, containing 80.64 acres; southwest quarter of southeast quarter of section 19, township 6 north, range 2 east, containing 40.24 acres; and north half of north half of section 30, township 6 north, range 2 east, containing 161.12 acres. All fractional parts referred to in this section shall be surveyed prior to conveyance.

Kisatchie National Forest, La., land conveyance.

SEC. 2. The conveyance referred to in the first section of this Act shall be made upon the following conditions:

Conditions.

(1) The conveyed property shall be used for the training and support of the National Guard of Louisiana and if it shall ever cease to be used for such purposes, all right, title, and interest in and to such property, and any improvements located thereon, shall revert to and become the property of the United States, which shall have immediate right of entry thereon.

(2) The United States shall reserve in itself all mineral rights with respect to the conveyed property, including oil and gas rights, as well as the right to enter the property for the purpose of the reasonable exploitation of such resources.

(3) The United States shall retain the right to enter and use the conveyed property, without payment of any compensation, in the event that the President declares a state of national emergency, or upon a determination by the Secretary of Defense that the property is needed in the interest of national defense.

(4) The conveyed property shall remain subject to all existing easements, servitudes, and rights-of-way.

Camp Livingston, land conveyance to U.S.

(5) In consideration for such conveyance, the State of Louisiana shall convey to the United States all of its right, title, and interest in and to approximately 1,584.41 acres of land essentially equal in value to the Federal land described in section 1 of this Act, said land being located in old Camp Livingston in the parishes of Grant and Rapides in Louisiana and more particularly described as: west half of northeast quarter of section 2, township 5 north, range 1 east, containing 80.58 acres; a fractional part of west half of southeast quarter of section 2, township 5 north, range 1 east, containing 50.0 acres; southeast quarter of northwest quarter of section 2, township 5 north, range 1 east, less and except 3.60 acres; said tract to contain 36.63 acres; a fractional part of east half of southwest quarter of section 2, township 5 north, range 1 east, containing 71.17 acres; southwest quarter of section 3, township 5 north, range 1 east, containing 161.80 acres; south half of northeast quarter of section 4, township 5 north, range 1 east, containing 80.35 acres; north half of southeast quarter of section 4, township 5 north, range 1 east, containing 80.35 acres; east half of section 5, township 5 north, range 1 east, containing 321.20 acres; east half of west half of section 5, township 5 north, range 1 east, containing 160.60 acres; northwest quarter of northwest quarter of section 5, township 5 north, range 1 east, containing 40.15 acres; northeast quarter of section 8, township 5 north, range 1 east, containing 160.0 acres; northeast quarter of southeast quarter of section 8, township 5 north, range 1 east, containing 40.0 acres; a fractional part of east half of northwest quarter of section 11, township 5 north, range 1 east, containing 61.76 acres; a fractional part of east half of southwest quarter of section 11, township 5 north, range 1 east, containing 83.48 acres; a fractional part of section 15 lying northwest of Beaver Creek containing 36 acres; south half of southwest quarter of section 35, township 6 north, range 1 east, containing 80.23 acres; and southwest quarter of southeast quarter of section 35, township 6 north, range 1 east, containing 40.11 acres. All fractional parts referred to in this paragraph shall be surveyed prior to conveyance.

Survey costs.

SEC. 3. The cost of any necessary surveys incident to the conveyances described in the first section and in paragraph (5) of section 2 of this Act shall be shared equally by the United States and the State of Louisiana.

National forest land, designations.

SEC. 4. The Secretary is authorized to accept the property described in paragraph (5) of section 2 of this Act on behalf of the United States, subject to all existing easements, servitudes, and rights-of-way. Such property shall be designated as national forest land and administered by the Secretary accordingly.

Approved October 19, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1385 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Oct. 1, considered and passed House and Senate.

Public Law 96-475
96th Congress

An Act

To provide for the exchange of certain Federal coal leases in the State of New Mexico for other Federal coal leases in that State.

Oct. 19, 1980
[H.R. 6816]

Federal coal leases in N. Mex., exchange.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any provision of law to the contrary and notwithstanding the provisions of section 2(a)(1) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 201(a)(1)), the Secretary of the Interior is authorized and directed to issue leases for coal on other Federal lands in the State of New Mexico to the owner or owners of Federal coal leases, serial numbered NM0186612 and NM0186613, upon surrender and relinquishment of such leases or portions thereof. Such exchange shall be completed within 30 months of the date of enactment of this Act: *Provided, however,* That failure of the Secretary to complete such exchange shall not prejudice the rights of the owner or owners of the designated coal leases, and the exchange shall be completed as expeditiously as possible after the expiration of such time period upon request of such owner or owners.

Description.

(b) Leases to be issued by the Secretary pursuant to the authority granted by subsection (a) of this Act shall be from within the Federal lands described as follows:

TOWNSHIP 23 NORTH, RANGE 12 WEST

Section 5: South half,
Section 6: South half,
Section 7: All,
Section 8: All,
Section 9: West half,
Section 17: East half west half, northwest quarter northwest quarter,
Section 18: North half north half,
Section 20: Northeast quarter, northeast quarter northwest quarter,
Section 21: West half northwest quarter.

TOWNSHIP 23 NORTH, RANGE 13 WEST

Section 1: Northwest quarter, northwest quarter southwest quarter, north half northeast quarter, southeast quarter northeast quarter, northeast quarter southeast quarter. The selection of lands pursuant to this subsection shall be consistent with existing land use planning policy and leasing procedures established by the Secretary.

Funds exchange.

(c) The leases to be issued by the Secretary pursuant to the authority granted by subsections (a) and (b) of this Act and the leases or portions thereof to be exchanged therefor shall be of equal value. If such leases or portions thereof are unavoidably not of equal value, the Secretary is authorized to receive, from the lessee, or effective October 1, 1981, to pay to the lessee out of funds appropriated in

advance for that purpose, cash in an amount up to 25 per centum of the value of the lease or leases to be issued by the Secretary in order to equalize the value of the leases to be exchanged.

Terms and conditions.

(d) Any exchange lease issued by the Secretary under the authority of this Act shall contain the same terms and conditions as those leases surrendered on the date the exchange takes place.

(e) Except as otherwise herein provided, any lease issued pursuant to this Act shall be consistent with the Mineral Leasing Act of 1920 as amended (30 U.S.C. 184 et seq.).

30 USC 181 note.

Approved October 19, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1200 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-800 accompanying S. 1455 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 18, considered and passed House.
Sept. 16, considered and passed Senate, amended, in lieu of S. 1455.
Sept. 30, House concurred in Senate amendment with amendments.
Oct. 1, Senate concurred in House amendments.

Public Law 96-476
96th Congress

An Act

To establish the Rattlesnake National Recreation Area and Wilderness in the State of Montana.

Oct. 19, 1980
[S. 3072]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rattlesnake National Recreation Area and Wilderness Act of 1980".

Rattlesnake National Recreation Area and Wilderness Act of 1980.
16 USC 460*ll* note.

STATEMENT OF FINDINGS AND POLICY

16 USC 460*ll*.

SECTION 1. (a) The Congress finds that—

(1) certain lands on the Lolo National Forest in Montana have high value for watershed, water storage, wildlife habitat, primitive recreation, historical, scientific, ecological, and educational purposes. This national forest area has long been used as a wilderness by Montanans and by people throughout the Nation who value it as a source of solitude, wildlife, clean, free-flowing waters stored and used for municipal purposes for over a century, and primitive recreation, to include such activities as hiking, camping, backpacking, hunting, fishing, horse riding, and bicycling; and

(2) certain other lands on the Lolo National Forest, while not predominantly of wilderness quality, have high value for municipal watershed, recreation, wildlife habitat, and ecological and educational purposes.

(b) Therefore, it is hereby declared to be the policy of Congress that, to further the purposes of the Wilderness Act of 1964 (16 U.S.C. 1131) and the National Forest Management Act of 1976 (16 U.S.C. 1600), the people of the Nation and Montana would best be served by national recreation area designation of the Rattlesnake area to include the permanent preservation of certain of these lands under established statutory designation as wilderness, and to promote the watershed, recreational, wildlife, and educational values of the remainder of these lands.

DESIGNATION AND MANAGEMENT OF RATTLESNAKE WILDERNESS AREA

16 USC 460*ll*-1, 1132 note.

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131), certain lands within the Rattlesnake National Recreation Area as designated by this Act, which comprise approximately 33,000 acres as generally depicted as the "Rattlesnake Wilderness" on a map entitled "Rattlesnake National Recreation Area and Wilderness—Proposed", and dated October 1, 1980, are hereby designated as wilderness and shall be known as the Rattlesnake Wilderness.

(b) Subject to valid existing rights, the Rattlesnake Wilderness as designated by this Act shall be administered by the Secretary of Agriculture, hereafter referred to as the Secretary, in accordance with the provisions of the Wilderness Act governing areas designated

16 USC 1131 note.

by that Act as wilderness: *Provided,* That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

DESIGNATION AND MANAGEMENT OF RATTLESNAKE NATIONAL RECREATION AREA

16 USC 460*ll*-2.

SEC. 3. An area of land as generally depicted as the "Rattlesnake National Recreation Area" on a map entitled "Rattlesnake National Recreation Area and Wilderness—Proposed", and dated October 1, 1980, is hereby established as the Rattlesnake National Recreation Area.

LAND ACQUISITION AND EXCHANGE

16 USC 460*ll*-3.

SEC. 4. (a) Within the boundaries of the Rattlesnake National Recreation Area and Rattlesnake Wilderness, the Secretary is authorized and directed to acquire with donated or appropriated funds including amounts appropriated from the Land and Water Conservation Fund, by exchange, gift, or purchase, such non-Federal lands, interests, or any other property, in conformance with the provisions of this section. Nothing in this Act shall be construed to limit or diminish the existing authority of the Secretary to acquire lands and interests therein within or contiguous to the Rattlesnake National Recreation Area or Rattlesnake Wilderness.

(b)(1) The Secretary of the Interior, in consultation with the Secretary of Agriculture, is authorized to consider and consummate an exchange with the owner of the private lands or interests therein within or contiguous to the boundaries of the Rattlesnake National Recreation Area and Rattlesnake Wilderness, as described in sections 2 and 3 of this Act, by which the Secretary of the Interior may accept conveyance of title to these private lands for the United States and in exchange issue bidding rights that may be exercised in competitive coal lease sales, or in coal lease modifications, or both, under sections 2 and 3 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. 201(a), 203). Any lands so acquired shall become national forest lands under the jurisdiction of the Secretary of Agriculture to be managed in accordance with the provisions of this Act and other laws applicable to the management of national forest lands. Nothing in this Act shall be construed to limit or diminish any existing authority of the Secretaries of the Interior and Agriculture to acquire private lands and interests therein in the Rattlesnake National Recreation Area and Rattlesnake Wilderness. Nothing in this Act shall be construed to require any owner of the lands within or contiguous to the Rattlesnake National Recreation Area or Rattlesnake Wilderness to accept coal lease bidding rights in exchange for title to those private lands.

Coal lease bidding rights.

(2) The coal lease bidding rights to be issued may be exercised as payment of bonus or other payment required of the successful bidder for a competitive coal lease, or required of an applicant for a coal lease modification. The bidding rights shall equal the fair market value of the private lands or interests therein conveyed in exchange for their issuance. The use and exercise of the bidding rights shall be subject to the provisions of the Secretary of the Interior's regulations governing coal lease bidding rights, to the extent that they are not inconsistent with this Act, that are in effect at the time the bidding rights are issued.

(3) If for any reason, including but not limited to the failure of the Secretary of the Interior to offer for lease lands in the Montana portion of the Powder River Coal Production Region as defined in the Federal Register of November 9, 1979 (44 FR 65196), or the failure of the holder of the bidding rights to submit a successful high bid for any such leases, any bidding rights issued in an exchange under this Act have not been exercised within three years from the date of enactment of this Act, the holder of the bidding rights may, at its election, use the outstanding bidding rights as a credit against any royalty, rental, or advance royalty payments owed to the United States on any Federal coal lease(s) it may then hold.

(4) It is the intent of Congress that the exchange of bidding rights for the private lands or interests therein authorized by this Act shall occur within three years of the date of enactment of this Act.

(5) In order to facilitate the exchange authorized by this Act, the Executive order captioned "Order of Withdrawal", of June 6, 1929, creating "Coal Reserve No. 1, Montana, No. 1", is hereby revoked to the extent that it constitutes a withdrawal of the lands therein from disposal under the Mineral Lands Leasing Act of 1920, as amended. 30 USC 181 note.

(c) The exchange of lands involving Burlington Northern, Inc. shall be in accordance with the agreement entitled "Statement of Intent" entered into by Burlington Northern, Inc. and the Regional Forester of the United States Forest Service, Region 1, signed September 18, 1980, and it is the intent of Congress that this exchange shall occur within three years of the date of enactment of this Act.

(d)(1) As non-Federal lands and interests in the Rattlesnake National Recreation Area are acquired, the lands shall become part of the Rattlesnake National Recreation Area. As non-Federal lands and interests in the Rattlesnake Wilderness are acquired, the lands shall become part of the Rattlesnake Wilderness. The Secretary shall publish from time to time a notice of such classifications in the Federal Register. It is the intention of Congress that acquisition of the non-Federal lands shall be completed no later than three years after the date of the enactment of this Act. Non-Federal lands. Publication in Federal Register.

(2) Nothing in this Act shall be construed to permit the Secretary to affect or diminish any water right which is vested under either State or Federal law at the time of enactment of this Act, nor the rights of the owner of such water right to the customary and usual access, including necessary motorized use over and along existing roads and trails to any facilities used in connection therewith, and the right to operate and maintain such facilities. Water rights.

FILING OF MAPS AND DESCRIPTIONS

SEC. 5. As soon as practicable after enactment of this Act, a map and legal description of the Rattlesnake National Recreation Area and a map and legal description of the Rattlesnake Wilderness shall be filed with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and such maps and legal descriptions shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Filing with congressional committees. 16 USC 460*ll*–4.

AUTHORIZATION OF APPROPRIATIONS

16 USC 460*ll*-5. SEC. 6. Effective October 1, 1981, there is hereby authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act.

Approved October 19, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-996 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Oct. 1, considered and passed Senate.
Oct. 2, considered and passed House.

Public Law 96-477
96th Congress

An Act

To amend the Federal securities laws to provide incentives for small business investment, and for other purposes.

Oct. 21, 1980
[H.R. 7554]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Investment Incentive Act of 1980".

Small Business Investment Incentive Act of 1980.
15 USC 80a-51 note.

TITLE I—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

DEFINITIONS

SEC. 101. Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)) is amended by adding at the end thereof the following new paragraphs:

"(46) 'Eligible portfolio company' means any issuer which—

"(A) is organized under the laws of, and has its principal place of business in, any State or States;

"(B) is neither an investment company as defined in section 3 (other than a small business investment company which is licensed by the Small Business Administration to operate under the Small Business Investment Act of 1958 and which is a wholly-owned subsidiary of the business development company) nor a company which would be an investment company except for the exclusion from the definition of investment company in section 3(c); and

15 USC 80a-3.

15 USC 661 note.

Post, pp. 2276, 2295.

"(C) satisfies one of the following:

"(i) it does not have any class of securities with respect to which a member of a national securities exchange, broker, or dealer may extend or maintain credit to or for a customer pursuant to rules or regulations adopted by the Board of Governors of the Federal Reserve System under section 7 of the Securities Exchange Act of 1934;

15 USC 78g.

"(ii) it is controlled by a business development company, either alone or as part of a group acting together, and such business development company in fact exercises a controlling influence over the management or policies of such eligible portfolio company and, as a result of such control, has an affiliated person who is a director of such eligible portfolio company; or

"(iii) it meets such other criteria as the Commission may, by rule, establish as consistent with the public interest, the protection of investors, and the purposes fairly intended by the policy and provisions of this title.

"(47) 'Making available significant managerial assistance' by a business development company means—

"(A) any arrangement whereby a business development company, through its directors, officers, employees, or general part-

ners, offers to provide, and, if accepted, does so provide, significant guidance and counsel concerning the management, operations, or business objectives and policies of a portfolio company;

"(B) the exercise by a business development company of a controlling influence over the management or policies of a portfolio company by the business development company acting individually or as part of a group acting together which controls such portfolio company; or

"(C) with respect to a small business investment company licensed by the Small Business Administration to operate under the Small Business Investment Act of 1958, the making of loans to a portfolio company.

15 USC 661 note.

For purposes of subparagraph (A), the requirement that a business development company make available significant managerial assistance shall be deemed to be satisfied with respect to any particular portfolio company where the business development company purchases securities of such portfolio company in conjunction with one or more other persons acting together, and at least one of the persons in the group makes available significant managerial assistance to such portfolio company, except that such requirement will not be deemed to be satisfied if the business development company, in all cases, makes available significant managerial assistance solely in the manner described in this sentence.

"(48) 'Business development company' means any closed-end company which—

"(A) is organized under the laws of, and has its principal place of business in, any State or States;

"(B) is operated for the purpose of making investments in securities described in sections 55(a) (1) through (3), and makes available significant managerial assistance with respect to the issuers of such securities, provided that a business development company must make available significant managerial assistance only with respect to the companies which are treated by such business development company as satisfying the 70 per centum of the value of its total assets condition of section 55; and

Post, p. 2278.

"(C) has elected pursuant to section 54(a) to be subject to the provisions of sections 55 through 65.".

Post, p. 2278.

Post, pp. 2278–2289.

ATTRIBUTION OF BENEFICIAL OWNERSHIP

SEC. 102. Section 3(c)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(1)) is amended to read as follows:

"(1) Any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than one hundred persons and which is not making and does not presently propose to make a public offering of its securities. For purposes of this paragraph:

"(A) Beneficial ownership by a company shall be deemed to be beneficial ownership by one person, except that, if the company owns 10 per centum or more of the outstanding voting securities of the issuer, the beneficial ownership shall be deemed to be that of the holders of such company's outstanding securities (other than short-term paper) unless, as of the date of the most recent acquisition by such company of securities of that issuer, the value of all securities owned by such company of all issuers which are or would, but for the exception set forth in this subparagraph, be excluded from the definition of investment company solely by this paragraph, does not exceed 10 per centum of the value of the

company's total assets. Such issuer nonetheless is deemed to be an investment company for purposes of section 12(d)(1). 15 USC 80a-12.

"(B) Beneficial ownership by any person who acquires securities or interests in securities of an issuer described in the first sentence of this paragraph shall be deemed to be beneficial ownership by the person from whom such transfer was made, pursuant to such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title, where the transfer was caused by legal separation, divorce, death, or other involuntary event.".

EXEMPTION FROM INVESTMENT COMPANY ACT OF 1940

SEC. 103. Section 6 of the Investment Company Act of 1940 (15 U.S.C. 80a-6) is amended by adding at the end thereof the following new subsection:

"(f) Any closed-end company which—

"(1) elects to be treated as a business development company pursuant to section 54; or *Post*, p. 2278.

"(2) would be excluded from the definition of an investment company by section 3(c)(1), except that it presently proposes to make a public offering of its securities as a business development company, and has notified the Commission, in a form and manner which the Commission may, by rule, prescribe, that it intends in good faith to file, within 90 days, a notification of election to become subject to the provisions of sections 55 through 65, *Ante*, p. 2276.

shall be exempt from sections 1 through 53, except to the extent provided in sections 59 through 65.". *Post*, pp. 2278-2289. 15 USC 80a-1—80a-52.

VALIDITY OF CONTRACTS

SEC. 104. Section 47(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-46(b)) is amended to read as follows: *Post*, pp. 2285-2289.

"(b)(1) A contract that is made, or whose performance involves, a violation of this title, or of any rule, regulation, or order thereunder, is unenforceable by either party (or by a nonparty to the contract who acquired a right under the contract with knowledge of the facts by reason of which the making or performance violated or would violate any provision of this title or of any rule, regulation, or order thereunder) unless a court finds that under the circumstances enforcement would produce a more equitable result than nonenforcement and would not be inconsistent with the purposes of this title.

"(2) To the extent that a contract described in paragraph (1) has been performed, a court may not deny rescission at the instance of any party unless such court finds that under the circumstances the denial of rescission would produce a more equitable result than its grant and would not be inconsistent with the purposes of this title.

"(3) This subsection shall not apply (A) to the lawful portion of a contract to the extent that it may be severed from the unlawful portion of the contract, or (B) to preclude recovery against any person for unjust enrichment.".

REGULATION OF BUSINESS DEVELOPMENT COMPANIES

SEC. 105. The Investment Company Act of 1940 is amended by adding at the end thereof the following new sections:

"ELECTION TO BE REGULATED AS A BUSINESS DEVELOPMENT COMPANY

15 USC 80a-53. *Ante*, p. 2275.

"SEC. 54. (a) Any company defined in sections 2(a)(48) (A) and (B) may elect to be subject to the provisions of sections 55 through 65 by filing with the Commission a notification of election, if such company—

"(1) has a class of its equity securities registered under section 12 of the Securities Exchange Act of 1934; or 15 USC 78*l*.

"(2) has filed a registration statement pursuant to section 12 of the Securities Exchange Act of 1934 for a class of its equity securities.

"(b) The Commission may, by rule, prescribe the form and manner in which notification of election under this section shall be given. A business development company shall be deemed to be subject to sections 55 through 65 upon receipt by the Commission of such notification of election.

"(c) Whenever the Commission finds, on its own motion or upon application, that a business development company which has filed a notification of election pursuant to subsection (a) of this section has ceased to engage in business, the Commission shall so declare by order revoking such company's election. Any business development company may voluntarily withdraw its election under subsection (a) by filing a notice of withdrawal of election with the Commission, in a form and manner which the Commission may, by rule, prescribe. Such withdrawal shall be effective immediately upon receipt by the Commission.

"FUNCTIONS AND ACTIVITIES OF BUSINESS DEVELOPMENT COMPANIES

15 USC 80a-54.

"SEC. 55. (a) It shall be unlawful for a business development company to acquire any assets (other than those described in paragraphs (1) through (7) of this subsection) unless, at the time the acquisition is made, assets described in paragraphs (1) through (6) below represent at least 70 per centum of the value of its total assets (other than assets described in paragraph (7) below):

"(1) securities purchased, in transactions not involving any public offering or in such other transactions as the Commission may, by rule, prescribe if it finds that enforcement of this title and of the Securities Act of 1933 with respect to such transactions is not necessary in the public interest or for the protection of investors by reason of the small amount, or the limited nature of the public offering, involved in such transactions— 15 USC 77a.

"(A) from the issuer of such securities, which issuer is an eligible portfolio company, or from any person who is, or who within the preceding thirteen months has been, an affiliated person of such eligible portfolio company; or

"(B) from the issuer of such securities, which issuer is described in sections 2(a)(46) (A) and (B) but is not an eligible portfolio company because it has issued a class of securities with respect to which a member of a national securities exchange, broker, or dealer may extend or maintain credit to or for a customer pursuant to rules or regulations adopted by the Board of Governors of the Federal Reserve System under *Ante*, p. 2275.

section 7 of the Securities Exchange Act of 1934, or from any person who is an officer or employee of such issuer, if— 15 USC 78g.

"(i) at the time of the purchase, the business development company owns at least 50 per centum of—

"(I) the greatest number of equity securities of such issuer and securities convertible into or exchangeable for such securities; and

"(II) the greatest amount of debt securities of such issuer,

held by such business development company at any point in time during the period when such issuer was an eligible portfolio company, except that options, warrants, and similar securities which have by their terms expired and debt securities which have been converted, or repaid or prepaid in the ordinary course of business or incident to a public offering of securities of such issuer, shall not be considered to have been held by such business development company for purposes of this requirement; and

"(ii) the business development company is one of the 20 largest holders of record of such issuer's outstanding voting securities;

"(2) securities of any eligible portfolio company with respect to which the business development company satisfies the requirements of section 2(a)(46)(C)(ii); *Ante*, p. 2275.

"(3) securities purchased in transactions not involving any public offering from an issuer described in sections 2(a)(46) (A) and (B) or from a person who is, or who within the preceding thirteen months has been, an affiliated person of such issuer, or from any person in transactions incident thereto, if such securities were—

"(A) issued by an issuer that is, or was immediately prior to the purchase of its securities by the business development company, in bankruptcy proceedings, subject to reorganization under the supervision of a court of competent jurisdiction, or subject to a plan or arrangement resulting from such bankruptcy proceedings or reorganization;

"(B) issued by an issuer pursuant to or in consummation of such a plan or arrangement; or

"(C) issued by an issuer that, immediately prior to the purchase of such issuer's securities by the business development company, was not in bankruptcy proceedings but was unable to meet its obligations as they came due without material assistance other than conventional lending or financing arrangements;

"(4) securities of eligible portfolio companies purchased from any person in transactions not involving any public offering, if there is no ready market for such securities and if immediately prior to such purchase the business development company owns at least 60 per centum of the outstanding equity securities of such issuer (giving effect to all securities presently convertible into or exchangeable for equity securities of such issuer as if such securities were so converted or exchanged);

"(5) securities received in exchange for or distributed on or with respect to securities described in paragraphs (1) through (4) of this subsection, or pursuant to the exercise of options, warrants, or rights relating to securities described in such paragraphs;

"(6) cash, cash items, Government securities, or high quality debt securities maturing in one year or less from the time of investment in such high quality debt securities; and

"(7) office furniture and equipment, interests in real estate and leasehold improvements and facilities maintained to conduct the business operations of the business development company, deferred organization and operating expenses, and other noninvestment assets necessary and appropriate to its operations as a business development company, including notes of indebtedness of directors, officers, employees, and general partners held by a business development company as payment for securities of such company issued in connection with an executive compensation plan described in section 57(j).

Infra.

"(b) For purposes of this section, the value of a business development company's assets shall be determined as of the date of the most recent financial statements filed by such company with the Commission pursuant to section 13 of the Securities Exchange Act of 1934, and shall be determined no less frequently than annually.

15 USC 78m.

"QUALIFICATIONS OF DIRECTORS

15 USC 80a-55.

"SEC. 56. (a) A majority of a business development company's directors or general partners shall be persons who are not interested persons of such company.

"(b) If, by reason of the death, disqualification, or bona fide resignation of any director or general partner, a business development company does not meet the requirements of subsection (a) of this section, or the requirements of section 15(f)(1) of this title with respect to directors, the operation of such provisions shall be suspended for a period of 90 days or for such longer period as the Commission may prescribe, upon its own motion or by order upon application, as not inconsistent with the protection of investors.

15 USC 80a-15.

"TRANSACTIONS WITH CERTAIN AFFILIATES

15 USC 80a-56.

"SEC. 57. (a) It shall be unlawful for any person who is related to a business development company in a manner described in subsection (b) of this section, acting as principal—

"(1) knowingly to sell any security or other property to such business development company or to any company controlled by such business development company, unless such sale involves solely (A) securities of which the buyer is the issuer, or (B) securities of which the seller is the issuer and which are part of a general offering to the holders of a class of its securities;

"(2) knowingly to purchase from such business development company or from any company controlled by such business development company, any security or other property (except securities of which the seller is the issuer);

"(3) knowingly to borrow money or other property from such business development company or from any company controlled by such business development company (unless the borrower is controlled by the lender), except as permitted in section 21(b) or section 62; or

15 USC 80a-21.

"(4) knowingly to effect any transaction in which such business development company or a company controlled by such business development company is a joint or a joint and several participant with such person in contravention of such rules and regulations as the Commission may prescribe for the purpose of limiting or

preventing participation by such business development company or controlled company on a basis less advantageous than that of such person, except that nothing contained in this paragraph shall be deemed to preclude any person from acting as manager of any underwriting syndicate or other group in which such business development company or controlled company is a participant and receiving compensation therefor.

"(b) The provisions of subsection (a) of this section shall apply to the following persons:

"(1) Any director, officer, employee, or member of an advisory board of a business development company or any person (other than the business development company itself) who is, within the meaning of section 2(a)(3)(C) of this title, an affiliated person of any such person specified in this paragraph. 15 USC 80a-2.

"(2) Any investment adviser or promoter of, general partner in, principal underwriter for, or person directly or indirectly either controlling, controlled by, or under common control with, a business development company (except the business development company itself and any person who, if it were not directly or indirectly controlled by the business development company, would not be directly or indirectly under the control of a person who controls the business development company), or any person who is, within the meaning of section 2(a)(3) (C) or (D), an affiliated person of any such person specified in this paragraph.

"(c) Notwithstanding paragraphs (1), (2), and (3) of subsection (a), any person may file with the Commission an application for an order exempting a proposed transaction of the applicant from one or more provisions of such paragraphs. The Commission shall grant such application and issue such order of exemption if evidence establishes that— Exemption order, application.

"(1) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching of the business development company or its shareholders or partners on the part of any person concerned;

"(2) the proposed transaction is consistent with the policy of the business development company as recited in the filings made by such company with the Commission under the Securities Act of 1933, its registration statement and reports filed under the Securities Exchange Act of 1934, and its reports to shareholders or partners; and 15 USC 77a. 15 USC 78a.

"(3) the proposed transaction is consistent with the general purposes of this title.

"(d) It shall be unlawful for any person who is related to a business development company in the manner described in subsection (e) of this section and who is not subject to the prohibitions of subsection (a) of this section, acting as principal—

"(1) knowingly to sell any security or other property to such business development company or to any company controlled by such business development company, unless such sale involves solely (A) securities of which the buyer is the issuer, or (B) securities of which the seller is the issuer and which are part of a general offering to the holders of a class of its securities;

"(2) knowingly to purchase from such business development company or from any company controlled by such business development company, any security or other property (except securities of which the seller is the issuer);

"(3) knowingly to borrow money or other property from such business development company or from any company controlled by such business development company (unless the borrower is controlled by the lender), except as permitted in section 21(b); or

15 USC 80a-21.

"(4) knowingly to effect any transaction in which such business development company or a company controlled by such business development company is a joint or a joint and several participant with such affiliated person in contravention of such rules and regulations as the Commission may prescribe for the purpose of limiting or preventing participation by such business development company or controlled company on a basis less advantageous than that of such affiliated person, except that nothing contained in this paragraph shall be deemed to preclude any person from acting as manager of any underwriting syndicate or other group in which such business development company or controlled company is a participant and receiving compensation therefor.

"(e) The provisions of subsection (d) of this section shall apply to the following persons:

"(1) Any person (A) who is, within the meaning of section 2(a)(3)(A), an affiliated person of a business development company, (B) who is an executive officer or a director of, or general partner in, any such affiliated person, or (C) who directly or indirectly either controls, is controlled by, or is under common control with, such affiliated person.

15 USC 80a-2.

"(2) Any person who is an affiliated person of a director, officer, employee, investment adviser, member of an advisory board or promoter of, principal underwriter for, general partner in, or an affiliated person of any person directly or indirectly either controlling or under common control with a business development company (except the business development company itself and any person who, if it were not directly or indirectly controlled by the business development company, would not be directly or indirectly under the control of a person who controls the business development company).

"Executive officer."

For purposes of this subsection, the term 'executive officer' means the president, secretary, treasurer, any vice president in charge of a principal business function, and any other person who performs similar policymaking functions.

"(f) Notwithstanding subsection (d) of this section, a person described in subsection (e) may engage in a proposed transaction described in subsection (d) if such proposed transaction is approved by the required majority (as defined in subsection (o)) of the directors of or general partners in the business development company on the basis that—

"(1) the terms thereof, including the consideration to be paid or received, are reasonable and fair to the shareholders or partners of the business development company and do not involve overreaching of such company or its shareholders or partners on the part of any person concerned;

"(2) the proposed transaction is consistent with the interests of the shareholders or partners of the business development company and is consistent with the policy of such company as recited in filings made by such company with the Commission under the Securities Act of 1933, its registration statement and reports filed under the Securities Exchange Act of 1934, and its reports to shareholders or partners; and

15 USC 77a.
15 USC 78a.

"(3) the directors or general partners record in their minutes and preserve in their records, for such periods as if such records were required to be maintained pursuant to section 31(a), a description of such transaction, their findings, the information or materials upon which their findings were based, and the basis therefor.

"(g) Notwithstanding subsection (a) or (d), a person may, in the ordinary course of business, sell to or purchase from any company merchandise or may enter into a lessor-lessee relationship with any person and furnish the services incident thereto.

"(h) The directors of or general partners in any business development company shall adopt, and periodically review and update as appropriate, procedures reasonably designed to ensure that reasonable inquiry is made, prior to the consummation of any transaction in which such business development company or a company controlled by such business development company proposes to participate, with respect to the possible involvement in the transaction of persons described in subsections (b) and (e) of this section. Inquiry procedures, adoption and review.

"(i) Until the adoption by the Commission of rules or regulations under subsections (a) and (d) of this section, the rules and regulations of the Commission under sections 17 (a) and (d) applicable to registered closed-end investment companies shall be deemed to apply to transactions subject to subsections (a) and (d) of this section. Any rules or regulations adopted by the Commission to implement this section shall be no more restrictive than the rules or regulations adopted by the Commission under sections 17 (a) and (d) that are applicable to all registered closed-end investment companies. 15 USC 80a-17.

"(j) Notwithstanding subsections (a) and (d) of this section, any director, officer, or employee of, or general partner in, a business development company may—

"(1) acquire warrants, options, and rights to purchase voting securities of such business development company, and securities issued upon the exercise or conversion thereof, pursuant to an executive compensation plan offered by such company which meets the requirements of section 61(a)(3)(B); and

"(2) borrow money from such business development company for the purpose of purchasing securities issued by such company pursuant to an executive compensation plan, if each such loan—

"(A) has a term of not more than ten years;

"(B) becomes due within a reasonable time, not to exceed sixty days, after the termination of such person's employment or service;

"(C) bears interest at no less than the prevailing rate applicable to 90-day United States Treasury bills at the time the loan is made;

"(D) at all times is fully collateralized (such collateral may include any securities issued by such business development company); and

"(E)(i) in the case of a loan to any officer or employee of such business development company (including any officer or employee who is also a director of such company), is approved by the required majority (as defined in subsection (o)) of the directors of or general partners in such company on the basis that the loan is in the best interests of such company and its shareholders or partners; or

"(ii) in the case of a loan to any director of such business development company who is not also an officer or employee of such company, or to any general partner in such company,

is approved by order of the Commission, upon application, on the basis that the terms of the loan are fair and reasonable and do not involve overreaching of such company or its shareholders or partners.

"(k) It shall be unlawful for any person described in subsection (l)—

"(1) acting as agent, to accept from any source any compensation (other than a regular salary or wages from the business development company) for the purchase or sale of any property to or for such business development company or any controlled company thereof, except in the course of such person's business as an underwriter or broker; or

"(2) acting as broker, in connection with the sale of securities to or by the business development company or any controlled company thereof, to receive from any source a commission, fee, or other remuneration for effecting such transaction which exceeds—

"(A) the usual and customary broker's commission if the sale is effected on a securities exchange;

"(B) 2 per centum of the sales price if the sale is effected in connection with a secondary distribution of such securities; or

"(C) 1 per centum of the purchase or sale price of such securities if the sale is otherwise effected,

unless the Commission, by rules and regulations or order in the public interest and consistent with the protection of investors, permits a larger commission.

"(l) The provisions of subsection (k) of this section shall apply to the following persons:

"(1) Any affiliated person of a business development company.

"(2)(A) Any person who is, within the meaning of section 2(a)(3) (B), (C), or (D), an affiliated person of any director, officer, employee, or member of an advisory board of the business development company.

15 USC 80a-2.

"(B) Any person who is, within the meaning of section 2(a)(3) (A), (B), (C), or (D), an affiliated person of any investment adviser of, general partner in, or person directly or indirectly either controlling, controlled by, or under common control with, the business development company.

"(C) Any person who is, within the meaning of section 2(a)(3)(C), an affiliated person of any person who is an affiliated person of the business development company within the meaning of section 2(a)(3)(A).

"(m) For purposes of subsections (a) and (d), a person who is a director, officer, or employee of a party to a transaction and who receives his usual and ordinary fee or salary for usual and customary services as a director, officer, or employee from such party shall not be deemed to have a financial interest or to participate in the transaction solely by reason of his receipt of such fee or salary.

Profit-sharing plan.

"(n)(1) Notwithstanding subsection (a)(4) of this section, a business development company may establish and maintain a profit-sharing plan for its directors, officers, employees, and general partners and such directors, officers, employees, and general partners may participate in such profit-sharing plan, if—

"(A)(i) in the case of a profit-sharing plan for officers and employees of the business development company (including any officer or employee who is also a director of such company), such profit-sharing plan is approved by the required majority (as defined in subsection (o)) of the directors of or general partners in

such company on the basis that such plan is reasonable and fair to the shareholders or partners of such company, does not involve overreaching of such company or its shareholders or partners on the part of any person concerned, and is consistent with the interests of the shareholders or partners of such company; or

"(ii) in the case of a profit-sharing plan which includes one or more directors of the business development company who are not also officers or employees of such company, or one or more general partners in such company, such profit-sharing plan is approved by order of the Commission, upon application, on the basis that such plan is reasonable and fair to the shareholders or partners of such company, does not involve overreaching of such company or its shareholders or partners on the part of any person concerned, and is consistent with the interests of the shareholders or partners of such company; and

"(B) the aggregate amount of benefits which would be paid or accrued under such plan shall not exceed 20 per centum of the business development company's net income after taxes in any fiscal year.

"(2) This subsection may not be used where the business development company has outstanding any stock option, warrant, or right issued as part of an executive compensation plan, including a plan pursuant to section 61(a)(3)(B), or has an investment adviser registered or required to be registered under title II of this Act. 15 USC 80b-1.

"(o) The term 'required majority', when used with respect to the approval of a proposed transaction, plan, or arrangement, means both a majority of a business development company's directors or general partners who have no financial interest in such transaction, plan, or arrangement and a majority of such directors or general partners who are not interested persons of such company.

"CHANGES IN INVESTMENT POLICY

"SEC. 58. No business development company shall, unless authorized by the vote of a majority of its outstanding voting securities or partnership interests, change the nature of its business so as to cease to be, or to withdraw its election as, a business development company. 15 USC 80a-57.

"INCORPORATION OF PROVISIONS

"SEC. 59. Notwithstanding the exemption set forth in section 6(f), sections 1, 2, 3, 4, 5, 6, 9, 10(f), 15 (a), (c), and (f), 16(b), 17 (f) through (j), 19(a), 20(b), 32 (a) and (c), 33 through 47, and 49 through 53 of this title shall apply to a business development company to the same extent as if it were a registered closed-end investment company. 15 USC 80a-58. *Ante*, p. 2277. 15 USC 80a-1—80a-5, 80a-9, 80a-10, 80a-15—80a-17, 80a-19, 80a-20, 80a-31, 80a-32—80a-46, 80a-48—80a-52.

"FUNCTIONS AND ACTIVITIES OF BUSINESS DEVELOPMENT COMPANIES

"SEC. 60. Notwithstanding the exemption set forth in section 6(f), section 12 shall apply to a business development company to the same extent as if it were a registered closed-end investment company, except that the Commission shall not prescribe any rule, regulation, or order pursuant to section 12(a)(1) governing the circumstances in which a business development company may borrow from a bank in order to purchase any security. 15 USC 80a-59. 15 USC 80a-12.

"CAPITAL STRUCTURE

15 USC 80a-60.
Ante, p. 2277, 15 USC 80a-18.

"SEC. 61. (a) Notwithstanding the exemption set forth in section 6(f), section 18 shall apply to a business development company to the same extent as if it were a registered closed-end investment company, except as follows:

"(1) The asset coverage requirements of section 18(a)(1) (A) and (B) applicable to business development companies shall be 200 per centum.

"(2) Notwithstanding section 18(c), a business development company may issue more than one class of senior security representing indebtedness if such business development company does not have outstanding any publicly held indebtedness, and all such securities of each class are—

"(A) privately held or guaranteed by the Small Business Administration, or banks, insurance companies, or other institutional investors; and

"(B) not intended to be publicly distributed.

"(3) Notwithstanding section 18(d)—

"(A) a business development company may issue senior securities representing indebtedness accompanied by warrants, options, or rights to subscribe or convert to voting securities of such company, if—

"(i) such warrants, options, or rights expire by their terms within ten years;

"(ii) such warrants, options, or rights are not separately transferable unless no class of such warrants, options, or rights and the senior securities accompanying them has been publicly distributed;

"(iii) the exercise or conversion price is not less than the current market value at the date of issuance, or if no such market value exists, the current net asset value of such voting securities; and

"(iv) the proposal to issue such securities is authorized by the shareholders or partners of such business development company, and such issuance is approved by the required majority (as defined in section 57(o)) of the directors of or general partners in such company on the basis that such issuance is in the best interests of such company and its shareholders or partners; and

"(B) a business development company may issue, to its directors, officers, employees, and general partners, warrants, options, and rights to purchase voting securities of such company pursuant to an executive compensation plan, if—

"(i)(I) in the case of warrants, options, or rights issued to any officer or employee of such business development company (including any officer or employee who is also a director of such company), such securities satisfy the conditions in clauses (i), (iii), and (iv) of subparagraph (A); or (II) in the case of warrants, options, or rights issued to any director of such business development company who is not also an officer or employee of such company, or to any general partner in such company, the proposal to issue such securities satisfies the conditions in clauses (i) and (iii) of subparagraph (A), is authorized by the shareholders or partners of such company, and is approved by order of the Commission,

upon application, on the basis that the terms of the proposal are fair and reasonable and do not involve overreaching of such company or its shareholders or partners;

"(ii) such securities are not transferable except for disposition by gift, will, or intestacy;

"(iii) no investment adviser of such business development company receives any compensation described in paragraph (1) of section 205 of title II of this Act, except to the extent permitted by clause (A) or (B) of that section; and 15 USC 80b-5.

"(iv) such business development company does not have a profit-sharing plan described in section 57(n).

Notwithstanding this paragraph, the amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance shall not exceed 25 per centum of the outstanding voting securities of the business development company, except that if the amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights issued to such company's directors, officers, employees, and general partners pursuant to any executive compensation plan meeting the requirements of subparagraph (B) of this paragraph would exceed 15 per centum of the outstanding voting securities of such company, then the total amount of voting securities that would result from the exercise of all outstanding warrants, options, and rights at the time of issuance shall not exceed 20 per centum of the outstanding voting securities of such company.

"(4) For purposes of measuring the asset coverage requirements of section 18(a), a senior security created by the guarantee by a business development company of indebtedness issued by another company shall be the amount of the maximum potential liability less the fair market value of the net unencumbered assets (plus the indebtedness which has been guaranteed) available in the borrowing company whose debts have been guaranteed, except that a guarantee issued by a business development company of indebtedness issued by a company which is a wholly-owned subsidiary of the business development company and is licensed as a small business investment company under the Small Business Investment Act of 1958 shall not be deemed to be a senior security of such business development company for purposes of section 18(a) if the amount of the indebtedness at the time of its issuance by the borrowing company is itself taken fully into account as a liability by such business development company, as if it were issued by such business development company, in determining whether such business development company, at that time, satisfies the asset coverage requirements of section 18(a). 15 USC 80a-18. 15 USC 661 note.

"(b) A business development company shall comply with the provisions of this section at the time it becomes subject to sections 55 through 65, as if it were issuing a security of each class which it has outstanding at such time.

"LOANS

"SEC. 62. Notwithstanding the exemption set forth in section 6(f), section 21 shall apply to a business development company to the same 15 USC 80a-61. *Ante*, p. 2277, 15 USC 80a-21.

extent as if it were a registered closed-end investment company, except that nothing in that section shall be deemed to prohibit—

"(1) any loan to a director, officer, or employee of, or general partner in, a business development company for the purpose of purchasing securities of such company as part of an executive compensation plan, if such loan meets the requirements of section 57(j); or

"(2) any loan to a company controlled by a business development company, which companies could be deemed to be under common control solely because a third person controls such business development company.

"DISTRIBUTION AND REPURCHASE OF SECURITIES

15 USC 80a-62. "SEC. 63. Notwithstanding the exemption set forth in section 6(f), *Ante*, p. 2277, 15 USC 80a-23. section 23 shall apply to a business development company to the same extent as if it were a registered closed-end investment company, except as follows:

"(1) The prohibitions of section 23(a)(2) shall not apply to any company which (A) is a wholly-owned subsidiary of, or directly or indirectly controlled by, a business development company, and (B) immediately after the issuance of any of its securities for property other than cash or securities, will not be an investment company within the meaning of section 3(a).

15 USC 80a-3.

"(2) Notwithstanding the provisions of section 23(b), a business development company may sell any common stock of which it is the issuer at a price below the current net asset value of such stock, and may sell warrants, options, or rights to acquire any such common stock at a price below the current net asset value of such stock, if—

"(A) the holders of a majority of such business development company's outstanding voting securities, and the holders of a majority of such company's outstanding voting securities that are not affiliated persons of such company, approved such company's policy and practice of making such sales of securities at the last annual meeting of shareholders or partners within one year immediately prior to any such sale, except that the shareholder approval requirements of this subparagraph shall not apply to the initial public offering by a business development company of its securities;

"(B) a required majority (as defined in section 57(o)) of the directors of or general partners in such business development company have determined that any such sale would be in the best interests of such company and its shareholders or partners; and

"(C) a required majority (as defined in section 57(o)) of the directors of or general partners in such business development company, in consultation with the underwriter or underwriters of the offering if it is to be underwritten, have determined in good faith, and as of a time immediately prior to the first solicitation by or on behalf of such company of firm commitments to purchase such securities or immediately prior to the issuance of such securities, that the price at which such securities are to be sold is not less than a price which closely approximates the market value of those securities, less any distributing commission or discount.

"(3) A business development company may sell any common stock of which it is the issuer at a price below the current net

asset value of such stock upon the exercise of any warrant, option, or right issued in accordance with section 61(a)(3).

"ACCOUNTS AND RECORDS

"SEC. 64. (a) Notwithstanding the exemption set forth in section 6(f), section 31 shall apply to a business development company to the same extent as if it were a registered closed-end investment company, except that the reference to the financial statements required to be filed pursuant to section 30 shall be construed to refer to the financial statements required to be filed by such business development company pursuant to section 13 of the Securities Exchange Act of 1934. 15 USC 80a-63. *Ante*, p. 2277, 15 USC 80a-30. 15 USC 80a-29. 15 USC 78m.

"(b)(1) In addition to the requirements of subsection (a), a business development company shall file with the Commission and supply annually to its shareholders a written statement, in such form and manner as the Commission may, by rule, prescribe, describing the risk factors involved in an investment in the securities of a business development company due to the nature of such company's investment portfolio, and shall supply copies of such statement to any registered broker or dealer upon request. Risk factors statement.

"(2) If the Commission finds it is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of this title, the Commission may also require, by rule, any person who, acting as principal or agent, sells a security of a business development company to inform the purchaser of such securities, at or before the time of sale, of the existence of the risk statement prepared by such business development company pursuant to this subsection, and make such risk statement available on request. The Commission, in making such rules and regulations, shall consider, among other matters, whether any such rule or regulation would impose any unreasonable burdens on such brokers or dealers or unreasonably impair the maintenance of fair and orderly markets.

"LIABILITY OF CONTROLLING PERSONS; PREVENTING COMPLIANCE WITH TITLE

"SEC. 65. Notwithstanding the exemption set forth in section 6(f), section 48 shall apply to a business development company to the same extent as if it were a registered closed-end investment company, except that the provisions of section 48(a) shall not be construed to require any company which is not an investment company within the meaning of section 3(a) to comply with the provisions of this title which are applicable to a business development company solely because such company is a wholly-owned subsidiary of, or directly or indirectly controlled by, a business development company.". 15 USC 80a-64. *Ante*, p. 2277, 15 USC 80a-47. 15 USC 80a-3.

TITLE II—AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

DEFINITION OF BUSINESS DEVELOPMENT COMPANY

SEC. 201. Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)) is amended by adding at the end thereof the following new paragraph:

"(22) 'Business development company' means any company which is a business development company as defined in section 2(a)(48) of

title I of this Act and which complies with section 55 of title I of this Act, except that—

"(A) the 70 per centum of the value of the total assets condition referred to in sections 2(a)(48) and 55 of title I of this Act shall be 60 per centum for purposes of determining compliance therewith;

"(B) such company need not be a closed-end company and need not elect to be subject to the provisions of sections 55 through 65 of title I of this Act; and

"(C) the securities which may be purchased pursuant to section 55(a) of title I of this Act may be purchased from any person.

For purposes of this paragraph, all terms in sections 2(a)(48) and 55 of title I of this Act shall have the same meaning set forth in such title as if such company were a registered closed-end investment company, except that the value of the assets of a business development company which is not subject to the provisions of sections 55 through 65 of title I of this Act shall be determined as of the date of the most recent financial statements which it furnished to all holders of its securities, and shall be determined no less frequently than annually.".

REGISTRATION REQUIREMENTS

SEC. 202. Section 203(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(b)) is amended by striking out the period at the end of the paragraph (3) and inserting in lieu thereof the following: ", or a company which has elected to be a business development company pursuant to section 54 of title I of this Act and has not withdrawn its election. For purposes of determining the number of clients of an investment adviser under this paragraph, no shareholder, partner, or beneficial owner of a business development company, as defined in this title, shall be deemed to be a client of such investment adviser unless such person is a client of such investment adviser separate and apart from his status as a shareholder, partner, or beneficial owner.".

INVESTMENT ADVISORY CONTRACTS

SEC. 203. Section 205 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-5) is amended—

(1) by striking out "or" immediately before "(B)" in the sentence following paragraph (3) thereof; and

(2) by striking out the period at the end of such sentence and inserting in lieu thereof the following: ", or (C) apply with respect to any investment advisory contract between an investment adviser and a business development company, as defined in this title, if (i) the compensation provided for in such contract does not exceed 20 per centum of the realized capital gains upon the funds of the business development company over a specified period or as of definite dates, computed net of all realized capital losses and unrealized capital depreciation, and the condition of section 61(a)(3)(B)(iii) of title I of this Act is satisfied, and (ii) the business development company does not have outstanding any option, warrant, or right issued pursuant to section 61(a)(3)(B) of title I of this Act and does not have a profit-sharing plan described in section 57(n) of title I of this Act.".

Ante, p. 2275.
Ante, p. 2278.
Ante, pp. 2278-2289.
Ante, p. 2278.
Ante, p. 2286.
Ante, p. 2280.

TITLE III—AMENDMENTS TO OTHER FEDERAL SECURITIES LAWS

SMALL OFFERING INCREASE

SEC. 301. Section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) is amended by striking out "$2,000,000" and inserting in lieu thereof "$5,000,000".

AMENDMENTS TO THE TRUST INDENTURE ACT OF 1939

SEC. 302. (a) Section 304(a)(8) of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd(a)(88)) is amended by striking out "more than $250,000 aggregate principal amount of any securities of the same issuer" and inserting in lieu thereof the following: "an aggregate principal amount of securities of the same issuer greater than the figure stated in section 3(b) of the Securities Act of 1933 limiting exemptions thereunder, or such lesser amount as the Commission may establish by its rules and regulations". *Supra.*

(b) Section 304(a)(9) of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd(a)(9)) is amended—

(1) by striking out "$1,000,000 or less" and inserting in lieu thereof "$10,000,000, or such lesser amount as the Commission may establish by its rules and regulations";

(2) by striking out "more than $1,000,000" and inserting in lieu thereof "more than $10,000,000"; and

(3) by inserting immediately before the semicolon at the end thereof the following: ", or such lesser amount as the Commission may establish by its rules and regulations".

TITLE IV—AUTHORIZATION

SEC. 401. Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended—

(1) in the first sentence thereof, by striking out "and" immediately after "1979,";

(2) by inserting immediately before the period at the end of the first sentence thereof the following: ", $85,500,000 for the fiscal year ending September 30, 1981, $96,640,000 for the fiscal year ending September 30, 1982, and $106,610,000 for the fiscal year ending September 30, 1983"; and

(3) in the last sentence thereof, by striking out "fiscal year 1980" and inserting in lieu thereof "fiscal year 1983".

TITLE V—CAPITAL FORMATION

Omnibus Small Business Capital Formation Act of 1980.

SHORT TITLE AND TABLE OF CONTENTS

SEC. 501. This title may be cited as the "Omnibus Small Business Capital Formation Act of 1980". 15 USC 80c note.

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Sec. 507. Effective date.

LIAISON BETWEEN SECURITIES AND EXCHANGE COMMISSION AND SMALL BUSINESS ADMINISTRATION

15 USC 80c.

SEC. 502. (a) The Securities and Exchange Commission shall gather, analyze, and make available to the public, information with respect to the capital formation needs, and the problems and costs involved with new, small, medium-sized, and independent businesses.

(b) The Commission shall make the results of such studies available to the Small Business Administration and otherwise have regular communication and liaison with such Administration in these matters.

ANNUAL GOVERNMENT-BUSINESS FORUM ON CAPITAL FORMATION

15 USC 80c-1.

SEC. 503. (a) Pursuant to the consultation called for in section 502, the Securities and Exchange Commission shall conduct an annual Government-business forum to review the current status of problems and programs relating to small business capital formation.

(b) The Commission shall invite other Federal agencies, such as the Department of the Treasury, the Board of Governors of the Federal Reserve System, the Small Business Administration, organizations representing State securities commissioners, and leading small business and professional organizations concerned with capital formation, to participate in the planning for such forums.

(c) The Commission may request any of the Federal departments, agencies, or organizations such as those specified in subsection (b), or other groups or individuals, to prepare statements and reports to be delivered at such forums. Such departments and agencies shall cooperate in this effort.

Proceedings, transmittal to congressional committees.

(d) A summary of the proceedings of such forums and any findings or recommendations thereof shall be prepared and transmitted to the participants, appropriate committees of the Congress, and others who may be interested in the subject matter.

ADDITIONAL FUNDS AUTHORIZED FOR THE SECURITIES AND EXCHANGE COMMISSION

15 USC 80c-2.

SEC. 504. For fiscal year 1982, and for each of the three succeeding fiscal years, there are hereby authorized to be appropriated such amounts as may be necessary and appropriate to carry out the provisions and purposes of this title. Any sums so appropriated shall remain available until expended.

FEDERAL-STATE COOPERATION IN SECURITIES MATTERS FOR THE BENEFIT OF SMALL BUSINESS

SEC. 505. Section 19 of the Securities Act of 1933 (15 U.S.C. 77s) is amended by adding at the end thereof the following:

"(c)(1) The Commission is authorized to cooperate with any association composed of duly constituted representatives of State governments whose primary assignment is the regulation of the securities business within those States, and which, in the judgment of the Commission, could assist in effectuating greater uniformity in Federal-State securities matters. The Commission shall, at its discretion, cooperate, coordinate, and share information with such an associ-

ation for the purposes of carrying out the policies and projects set forth in paragraphs (2) and (3).

"(2) It is the declared policy of this subsection that there should be greater Federal and State cooperation in securities matters, including—

"(A) maximum effectiveness of regulation,

"(B) maximum uniformity in Federal and State regulatory standards,

"(C) minimum interference with the business of capital formation, and

"(D) a substantial reduction in costs and paperwork to diminish the burdens of raising investment capital (particularly by small business) and to diminish the costs of the administration of the Government programs involved.

"(3) The purpose of this subsection is to engender cooperation between the Commission, any such association of State securities officials, and other duly constituted securities associations in the following areas:

"(A) the sharing of information regarding the registration or exemption of securities issues applied for in the various States;

"(B) the development and maintenance of uniform securities forms and procedures; and

"(C) the development of a uniform exemption from registration for small issuers which can be agreed upon among several States or between the States and the Federal Government. The Commission shall have the authority to adopt such an exemption as agreed upon for Federal purposes. Nothing in this Act shall be construed as authorizing preemption of State law. Registration exemption.

"(4) In order to carry out these policies and purposes, the Commission shall conduct an annual conference as well as such other meetings as are deemed necessary, to which representatives from such securities associations, securities self-regulatory organizations, agencies, and private organizations involved in capital formation shall be invited to participate. Annual conference.

"(5) For fiscal year 1982, and for each of the three succeeding fiscal years, there are authorized to be appropriated such amounts as may be necessary and appropriate to carry out the policies, provisions, and purposes of this subsection. Any sums so appropriated shall remain available until expended.".

REDUCTION OF COSTS OF SMALL SECURITIES ISSUES

SEC. 506. (a) The Securities and Exchange Commission shall use its best efforts to identify and reduce the costs of raising capital in connection with the issuance of securities by firms whose aggregate outstanding securities and other indebtedness have a market value of $25,000,000 or less, through such means as studies, giving appropriate publicity to improved technology developments in fields such as printing, communications, and filing, and giving special attention to the effect of existing and proposed regulatory changes upon the small companies wishing to raise capital and independent broker-dealers which are in a key position with respect to the costs of underwriting and making markets in the securities of smaller companies. 15 USC 80c-3.

(b) The Commission shall report on these efforts at the annual Government-business forum required by section 503. Report.

EFFECTIVE DATE

15 USC 80c note.

SEC. 507. Except as otherwise specified, the amendments made by this title shall become effective January 1 of the year following the date of enactment of this Act.

TITLE VI—SMALL BUSINESS ISSUERS' SIMPLIFICATION

Small Business Issuers' Simplification Act of 1980.

SHORT TITLE

15 USC 77a note.

SEC. 601. This title may be cited as the "Small Business Issuers' Simplification Act of 1980".

TRANSACTIONS INVOLVING ACCREDITED INVESTORS

SEC. 602. Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end thereof the following new paragraph:

"(6) transactions involving offers or sales by an issuer solely to one or more accredited investors, if the aggregate offering price of an issue of securities offered in reliance on this paragraph does not exceed the amount allowed under section 3(b) of this title, if there is no advertising or public solicitation in connection with the transaction by the issuer or anyone acting on the issuer's behalf, and if the issuer files such notice with the Commission as the Commission shall prescribe.".

15 USC 77c.

DEFINITIONS

SEC. 603. Section 2 of the Securities Act (15 U.S.C. 77b) is amended by adding at the end thereof the following new paragraphs:

"(15) The term 'accredited investor' shall mean—

"(i) a bank as defined in section 3(a)(2) of the Act whether acting in its individual or fiduciary capacity; an insurance company as defined in section 2(13) of the Act; an investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that Act; a Small Business Investment Company licensed by the Small Business Administration; or an employee benefit plan, including an individual retirement account, which is subject to the provisions of the Employee Retirement Income Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act, which is either a bank, insurance company, or registered investment adviser; or

15 USC 80a-51.

Ante, p. 2275.

29 USC 1001 note.

29 USC 1002.

"(ii) any person who, on the basis of such factors as financial sophistication, net worth, knowledge, and experience in financial matters, or amount of assets under management qualifies as an accredited investor under rules and regulations which the Commission shall prescribe.".

TITLE VII—EMPLOYEE BENEFIT PLAN EXEMPTIONS

SEC. 701. Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by striking out "or any interest or participation in a single" and all that follows through "section 401(c)(1) of such Code." and inserting in lieu thereof the following: "or any interest or participation in a single trust fund, or in a collective trust fund maintained by a bank, or any security arising out of a contract issued by an insurance company, which interest, participation, or security is

issued in connection with (A) a stock bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, (B) an annuity plan which meets the requirements for the deduction of the employer's contributions under section 404(a)(2) of such Code, or (C) a governmental plan as defined in section 414(d) of such Code which has been established by an employer for the exclusive benefit of its employees or their beneficiaries for the purpose of distributing to such employees or their beneficiaries the corpus and income of the funds accumulated under such plan, if under such plan it is impossible, prior to the satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees or their beneficiaries, other than any plan described in clause (A), (B), or (C) of this paragraph (i) the contributions under which are held in a single trust fund or in a separate account maintained by an insurance company for a single employer and under which an amount in excesss of the employer's contribution is allocated to the purchase of securities (other than interests or participations in the trust or separate account itself) issued by the employer or any company directly or indirectly controlling, controlled by, or under common control with the employer, (ii) which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of such Code, or (iii) which is a plan funded by an annuity contract described in section 403(b) of such Code.". 26 USC 401. 26 USC 404. 26 USC 414.

SEC. 702. Section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)) is amended by striking out "any interest or participation in any collective trust fund" and all that follows through "section 401(c)(1) of such Code," and inserting in lieu thereof the following: "any interest or participation in a single trust fund, or a collective trust fund maintained by a bank, or any security arising out of a contract issued by an insurance company, which interest, participation, or security is issued in connection with (A) a stock bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, (B) an annuity plan which meets the requirements for the deduction of the employer's contribution under section 404(a)(2) of such Code, or (C) a governmental plan as defined in section 414(d) of such code which has been established by an employer for the exclusive benefit of its employees or their beneficiaries for the purpose of distributing to such employees or their beneficiaries the corpus and income of the funds accumulated under such plan, if under such plan it is impossible, prior to the satisfaction of all liabilities with respect to such employees and their beneficiaries, for any part of the corpus or income to be used for, or diverted to, purposes other than the exclusive benefit of such employees or their beneficiaries, other than any plan described in clause (A), (B), or (C) of this paragraph (i) which covers employees some or all of whom are employees within the meaning of section 401(c) of such Code, or (ii) which is a plan funded by an annuity contract described in section 403(b) of such Code;".

SEC. 703. Section 3(c)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(11)) is amended to read as follows:

"(11) Any employee's stock bonus, pension, or profit-sharing trust which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954 or which holds only assets of governmental plans described in section 3(a)(2)(C) of the Securities Act of 1933; or any collective trust fund maintained by a bank 26 USC 401. *Ante*, p. 2294.

consisting solely of assets of such trusts; or any separate account the assets of which are derived solely from (A) contributions under pension or profit-sharing plans which meet the requirements of section 401 of the Internal Revenue Code of 1954 or the requirements for deduction of the employer's contribution under section 404(a)(2) of such Code, (B) contributions under governmental plans in connection with which interests, participations, or securities are exempted from the registration provisions of section 5 of the Securities Act of 1933 by section 3(a)(2)(C) of such Act, and (C) advances made by an insurance company in connection with the operation of such separate account.".

26 USC 401.

26 USC 404.

Ante, p. 2294.

Approved October 21, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1341 (Comm. on Interstate and Foreign Commerce).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 22, 23, considered and passed House.
Sept. 25, considered and passed Senate, amended.
Oct. 1, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 43:
Oct. 21, Presidential statement.

Public Law 96-478
96th Congress

An Act

To implement the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, and for other purposes.

Oct. 21, 1980
[H.R. 6665]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Act to Prevent Pollution from Ships".

Act to Prevent Pollution from Ships.
33 USC 1901 note.

SEC. 2. Unless the context indicates otherwise, as used in this Act—

Definitions.
33 USC 1901.

(1) "MARPOL Protocol" means the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, done at London on February 17, 1978. This Protocol incorporates and modifies the International Convention for the Prevention of Pollution from Ships, 1973, done at London on November 2, 1973;

(2) "Convention" means the International Convention for the Prevention of Pollution from Ships, 1973, including Protocols I and II and Annexes I and II attached thereto;

(3) "discharge" and "harmful substance" and "incident" shall have the meanings provided in the Convention;

(4) "owner" means any person holding title to, or in the absence of title, any other indicia of ownership of, a ship or terminal, but does not include a person who, without participating in the management or operation of a ship or terminal, holds indicia of ownership primarily to protect a security interest in the ship or terminal;

(5) "operator" means—

(a) in the case of a ship, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

(b) in the case of a terminal, any person, except the owner, responsible for the operation of the terminal by agreement with the owner;

(6) "person" means an individual, firm, public or private corporation, partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body;

(7) "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(8) "ship" means a vessel of any type whatsoever, including hydrofoils, air-cushion vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating platforms; and

(9) "terminal" means an onshore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States and used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance.

Applicability.
33 USC 1902.

SEC. 3. (a) This Act applies to—

(1) a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located;

(2) a ship registered in or of the nationality of a country party to the MARPOL Protocol, or one operated under the authority of a country party to the MARPOL Protocol, while in the navigable waters of the United States; and

(3) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States.

(b) This Act does not apply to—

(1) a warship, naval auxiliary, or other ship owned or operated by the United States when engaged in noncommercial service; or

(2) any other ship specifically excluded by the MARPOL Protocol.

Regulations.

(c) The Secretary shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol to ensure that their treatment is not more favorable than that accorded ships of parties to the MARPOL Protocol.

Noncommercial shipping standards.

(d) The heads of Federal departments and agencies shall prescribe standards applicable to ships excluded from this Act by subsection (b)(1) of this section and for which they are responsible. Standards prescribed under this subsection shall ensure, so far as is reasonable and practicable without impairing the operations or operational capabilities of such ships, that such ships act in a manner consistent with the MARPOL Protocol.

Administration and enforcement. 33 USC 1903.

SEC. 4. (a) Unless otherwise specified herein, the Secretary shall administer and enforce the MARPOL Protocol and this Act. In the administration and enforcement of the MARPOL Protocol and this Act, Annexes I and II of the MARPOL Protocol shall be applicable only to seagoing ships.

Regulations.

(b) The Secretary shall prescribe any necessary or desired regulations to carry out the provisions of the MARPOL Protocol or this Act.

(c) The Secretary may utilize by agreement, with or without reimbursement, personnel, facilities, or equipment of other Federal departments and agencies in administering the MARPOL Protocol, this Act, or the regulations thereunder.

Certificates. 33 USC 1904.

SEC. 5. (a) The Secretary shall designate those persons authorized to issue on behalf of the United States the certificates required by the MARPOL Protocol. A certificate required by the MARPOL Protocol shall not be issued to a ship which is registered in or of the nationality of a country which is not a party to the MARPOL Protocol.

(b) A certificate issued by a country which is a party to the MARPOL Protocol has the same validity as a certificate issued by the Secretary under the authority of the MARPOL Protocol.

(c) A ship required by the MARPOL Protocol to have a certificate—

(1) shall carry a valid certificate onboard in the manner prescribed by the authority issuing the certificate; and

(2) is subject to inspection while in a port or terminal under the jurisdiction of the United States.

Onboard inspections.

(d) An inspection conducted under subsection (c)(2) of this section is limited to verifying whether or not a valid certificate is onboard, unless clear grounds exist which reasonably indicate that the condition of the ship or its equipment does not substantially agree with the particulars of its certificate. This section shall not limit the authority of any official or employee of the United States under any other treaty, law, or regulation to board and inspect a ship or its equipment.

Penalties.

(e) In addition to the penalties prescribed in section 9 of the Act, a ship required by the MARPOL Protocol to have a certificate—

(1) which does not have a valid certificate onboard; or

(2) whose condition or whose equipment's condition does not substantially agree with the particulars of the certificate onboard;

shall be detained by order of the Secretary at the port or terminal where the violation is discovered until, in the opinion of the Secretary, the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment. The detention order may authorize the ship to proceed to the nearest appropriate available shipyard rather than remaining at the place where the violation was discovered.

(f) If a ship is under a detention order under this section, the Secretary of the Treasury, upon the request of the Secretary, may refuse or revoke—

(1) the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91); or

(2) a permit to proceed under section 4367 of the Revised Statutes of the United States (46 U.S.C. 313) or section 442 of the Tariff Act of 1930, as amended (19 U.S.C. 1443). 19 USC 1442.

(g) A person whose ship is subject to a detention order under this section may petition the Secretary, in the manner prescribed by regulation, to review the detention order. Upon receipt of a petition under this subsection, the Secretary shall affirm, modify, or withdraw the detention order within the time prescribed by regulation. Detention order review.

(h) A ship unreasonably detained or delayed by the Secretary acting under the authority of this Act is entitled to compensation for any loss or damage suffered thereby. Compensation for loss or damage.

SEC. 6. (a) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall establish regulations setting criteria for determining the adequacy of reception facilities of a port or terminal and shall establish procedures whereby a person in charge of a port or terminal may request the Secretary to certify that the port's or terminal's facilities for receiving the residues and mixtures containing oil or noxious liquid substance from seagoing ships are adequate. Pollution reception facilities, adequacy. 33 USC 1905.

(b) In determining the adequacy of reception facilities required by the MARPOL Protocol at a port or terminal, the Secretary may consider, among other things, the number and types of seagoing ships using the port or terminal, including their principal trades.

(c) If, upon inspection, reception facilities of a port or terminal are adequate to meet the requirements of the MARPOL Protocol and the regulations established hereunder, the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant. A certificate issued under this subsection— Certificate issuance.

(1) is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and

(2) shall be available for inspection upon the request of the master, other person in charge, or agent of a seagoing ship using or intending to use the port or terminal.

The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by him in the manner prescribed by regulation.

(d) The Secretary shall periodically cause to be published in the Federal Register a list of the ports or terminals holding a valid certificate issued under this section. Publication in Federal Register.

(e) Except in the case of force majeure, the Secretary shall deny entry to a seagoing ship required by the Convention to retain onboard Entry denial.

while at sea, residues and mixtures containing oil or noxious liquid substances, if—

(1) the port or terminal is one required by the MARPOL Protocol or regulations hereunder to have adequate reception facilities; and

(2) the port or terminal does not hold a valid certificate issued by the Secretary under this section.

Survey. (f) The Secretary is authorized to conduct surveys of existing reception facilities in the United States to determine measures needed to comply with the MARPOL Protocol.

33 USC 1906. SEC. 7. (a) As soon as he has knowledge of an incident, the master or other person in charge of a ship shall report it to the Secretary in the manner prescribed by Article 8 of the Convention.

(b) Upon receipt of the report of an incident involving a ship, other than one of United States registry or nationality or one operated under the authority of the United States, the Secretary shall take the action required by Article 8 of the Convention.

Violations. 33 USC 1907. SEC. 8. (a) It is unlawful to act in violation of the MARPOL Protocol, this Act, or the regulations issued thereunder. The Secretary shall cooperate with other parties to the MARPOL Protocol in the detection of violations and in enforcement of the MARPOL Protocol. The Secretary shall use all appropriate and practical measures of detection and environmental monitoring, and shall establish adequate procedures for reporting violations and accumulating evidence.

Investigations. (b) Upon receipt of evidence that a violation has occurred, the Secretary shall cause the matter to be investigated. In any investigation under this section the Secretary may issue subpenas to require the attendance of any witness and the production of documents and other evidence. In case of refusal to obey a subpena issued to any person, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance. Upon completion of the investigation, the Secretary shall take the action required by the MARPOL Protocol and whatever further action he considers appropriate under the circumstances. If the initial evidence was provided by a party to the MARPOL Protocol, the Secretary, acting through the Secretary of State, shall inform that party of the action taken or proposed.

Ship inspections. (c) While at a port or terminal subject to the jurisdiction of the United States, a ship to which the MARPOL Protocol applies may be inspected by the Secretary—

(1) to verify whether or not the ship has discharged a harmful substance in violation of the MARPOL Protocol or this Act; or

(2) to comply with a request from a party to the MARPOL Protocol for an investigation as to whether the ship may have discharged a harmful substance anywhere in violation of the MARPOL Protocol. An investigation may be undertaken under this clause only when the requesting party has furnished sufficient evidence to allow the Secretary reasonably to believe that a discharge has occurred.

If an inspection under this subsection indicates that a violation has occurred, the investigating officer shall forward a report to the Secretary for appropriate action. If a report made under this subsection involves a ship, other than one of United States registry or nationality or one operated under the authority of the United States, the Secretary shall undertake to notify the master of the ship concerned and, acting in coordination with the Secretary of State, shall take any additional action required by Article 6 of the Convention.

(d) Remedies and requirements of this Act supplement and neither amend nor repeal any other provisions of law, except as expressly provided in this Act. Nothing in this Act shall limit, deny, amend, modify, or repeal any other remedy available to the United States or any other person, except as expressly provided in this Act.

Violations and penalties.
33 USC 1908.

SEC. 9. (a) A person who knowingly violates the MARPOL Protocol, this Act, or the regulations issued thereunder shall, for each violation, be fined not more than $50,000 or be imprisoned for not more than 5 years, or both.

(b) A person who is found by the Secretary, after notice and an opportunity for a hearing, to have—

(1) violated the MARPOL Protocol, this Act, or the regulations issued thereunder shall be liable to the United States for a civil penalty, not to exceed $25,000 for each violation; or

(2) made a false, fictitious, or fraudulent statement or representation in any matter in which a statement or representation is required to be made to the Secretary under the MARPOL Protocol, this Act, or the regulations thereunder, shall be liable to the United States for a civil penalty, not to exceed $5,000 for each statement or representation.

Each day of a continuing violation shall constitute a separate violation. The amount of the civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters as justice may require.

(c) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to assessment or which has been assessed under this section. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States for collection in any appropriate district court of the United States.

(d) A ship operated in violation of the MARPOL Protocol, this Act, or the regulations thereunder is liable in rem for any fine imposed under subsection (a) or civil penalty assessed pursuant to subsection (b), and may be proceeded against in the United States district court of any district in which the ship may be found.

(e) If any ship subject to the MARPOL Protocol or this Act, its owner, operator, or person in charge is liable for a fine or civil penalty under this section, or if reasonable cause exists to believe that the ship, its owner, operator, or person in charge may be subject to a fine or civil penalty under this section, the Secretary of the Treasury, upon the request of the Secretary, shall refuse or revoke—

(1) the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91); or

(2) a permit to proceed under section 4367 of the Revised Statutes of the United States (46 U.S.C. 313) or section 443 of the Tariff Act 1930, as amended (19 U.S.C. 1443).

Clearance or a permit to proceed may be granted upon the filing of a bond or other surety satisfactory to the Secretary.

(f) Notwithstanding subsection (a), (b), or (d) of this section, if the violation is by a ship registered in or of the nationality of a country party to the MARPOL Protocol, or one operated under the authority of a country party to the MARPOL Protocol, the Secretary, acting in coordination with the Secretary of State, may refer the matter to that

country for appropriate action, rather than taking the actions required or authorized by this section.

MARPOL Protocol, proposed amendments. 33 USC 1909.

SEC. 10. (a) A proposed amendment to the MARPOL Protocol received by the United States from the Secretary-General of the Inter-Governmental Maritime Consultative Organization pursuant to Article VI of the MARPOL Protocol, may be accepted on behalf of the United States by the President following the advice and consent of the Senate, except as provided for in subsection (b) of this section.

(b) A proposed amendment to Annex I or II, appendices to the Annexes, or Protocol I of the MARPOL Protocol, received by the United States from the Secretary-General of the Inter-Governmental Maritime Consultative Organization pursuant to Article VI of the MARPOL Protocol, may be the subject of appropriate action on behalf of the United States by the Secretary of State following consultation with the Secretary, who shall inform the Secretary of State as to what action he considers appropriate at least 30 days prior to the expiration of the period specified in Article VI of the MARPOL Protocol during which objection may be made to any amendment received.

(c) Following consultation with the Secretary, the Secretary of State may make a declaration that the United States does not accept an amendment proposed pursuant to Article VI of the MARPOL Protocol.

Legal actions. 33 USC 1910.

SEC. 11. (a) Except as provided in subsection (b) of this section, any person having an interest which is, or can be, adversely affected, may bring an action on his own behalf—

(1) against any person alleged to be in violation of the provisions of this Act, or regulations issued hereunder;

(2) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this Act which is not discretionary with the Secretary;

(3) against the Secretary of the Treasury where there is alleged a failure of the Secretary of the Treasury to take action under section 9(e) of this Act.

(b) No action may be commenced under subsection (a) of this section—

(1) prior to 60 days after the plaintiff has given notice, in writing and under oath, to the alleged violator, the Secretary concerned, and the Attorney General; or

(2) if the Secretary has commenced enforcement or penalty action with respect to the alleged violation and is conducting such procedures diligently.

(c) Any suit brought under this section shall be brought—

(1) in a case concerning an onshore facility or port, in the United States district court for the judicial district where the onshore facility or port is located;

(2) in a case concerning an offshore facility or offshore structure under the jurisdiction of the United States, in the United States district court for the judicial district nearest the offshore facility or offshore structure;

(3) in a case concerning a ship, in the United States district court for any judicial district wherein the ship or its owner or operator may be found; or

(4) in any case, in the District Court for the District of Columbia.

(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including

reasonable attorney and expert witness fees) to any party including the Federal Government.

(e) In any action brought under this section, if the Secretary or Attorney General are not parties of record, the United States, through the Attorney General, shall have the right to intervene.

SEC. 12. On the effective date of this Act—

(a) the Oil Pollution Act, 1961, as amended (75 Stat. 402; 33 U.S.C. 1001 et seq.) is repealed. Any criminal or civil penalty proceeding under that Act for a violation which occurred prior to the effective date of this Act may be initiated or continued to conclusion as though that Act had not been repealed; and

(b) the Oil Pollution Act Amendments of 1973 (87 Stat. 428, Public Law 93-119) are repealed. 33 USC 1001 *et seq.*

SEC. 13. (a) Section 4417a of the Revised Statutes of the United States (46 U.S.C. 391a) is amended as follows—

(1) by amending subparagraph (C) of paragraph (2) by deleting the word "or" in clause (ii); by deleting the period at the end of clause (iii) and inserting "; or"; and by adding a new clause (iv) as follows:

"(iv) designated as a noxious liquid substance under Annex II of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973.";

(2) by amending subparagraph (E) of paragraph (3) to read as follows:

"(E) which is constructed or adapted to carry, or which carries, oil or any hazardous materials in bulk as cargo or in residue.".

(b) The Federal Water Pollution Control Act, as amended, is further amended in the first sentence of section 311(b)(3), after the words "except (A) in the case of such discharges", by striking the words "of oil"; and by striking the phrase "the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended" and inserting in lieu thereof the phrase "the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973". 33 USC 1321.

SEC. 14. (a) Except as provided in subsection (b) of this section, this Act is effective upon the date of enactment, or on the date the MARPOL Protocol becomes effective as to the United States, whichever is later. Effective date. 33 USC 1901 note.

(b) The Secretary and the heads of Federal departments shall have the authority to issue regulations, standards, and certifications under sections 3(c), 3(d), 4(b), 5(a), 6(a), 6(c), and 6(f) effective on the date of enactment of this Act. Section 13(a)(2) is effective upon the date of enactment of this Act.

(c) Any rights or liabilities existing on the effective date of this Act shall not be affected by this enactment. Any regulations or procedures promulgated or effected pursuant to the Oil Pollution Act, 1961, as amended, remain in effect until modified or superseded by regulations promulgated under the authority of the MARPOL Protocol or this Act. 33 USC 1001 note.

SEC. 15. Nothing in this Act shall be construed as limiting, diminishing, or otherwise restricting any of the authority of the Secretary under the Port and Tanker Safety Act of 1978 (Public Law 95-474). 33 USC 1911. 33 USC 1221 note.

SEC. 16. (a) Subsection (c) of section 4 of the Act of 1956 (16 U.S.C. 742c(c)) is amended—

(1) by striking out "September 30, 1980," each place it appears therein and inserting in lieu thereof "September 30, 1982,"; and

(2) by striking out the third, fourth, and fifth sentences thereof.

Effective date.
16 USC 742c note.

(b) The amendments made by subsection (a) shall take effect on September 1, 1980.

Approved October 21, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1224 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug 18, considered and passed House.
Sept. 23, considered and passed Senate, amended.
Sept. 30, House concurred in certain Senate amendments and in No. 15 with an amendment.
Oct. 1, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 43:
Oct. 21, Presidential statement.

Public Law 96-479
96th Congress

An Act

To provide for a national policy for materials and to strengthen the materials research, development, production capability, and performance of the United States, and for other purposes.

Oct. 21, 1980
[H.R. 2743]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Materials and Minerals Policy, Research and Development Act of 1980".

National Materials and Minerals Policy, Research and Development Act of 1980.
30 USC 1601 note.

FINDINGS

SEC. 2. (a) The Congress finds that— 30 USC 1601.

(1) the availability of materials is essential for national security, economic well-being, and industrial production;

(2) the availability of materials is affected by the stability of foreign sources of essential industrial materials, instability of materials markets, international competition and demand for materials, the need for energy and materials conservation, and the enhancement of environmental quality;

(3) extraction, production, processing, use, recycling, and disposal of materials are closely linked with national concerns for energy and the environment;

(4) the United States is strongly interdependent with other nations through international trade in materials and other products;

(5) technological innovation and research and development are important factors which contribute to the availability and use of materials;

(6) the United States lacks a coherent national materials policy and a coordinated program to assure the availability of materials critical for national economic well-being, national defense, and industrial production, including interstate commerce and foreign trade; and

(7) notwithstanding the enactment of the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a), the United States does not have a coherent national materials and minerals policy.

(b) As used in this Act, the term "materials" means substances, including minerals, of current or potential use that will be needed to supply the industrial, military, and essential civilian needs of the United States in the production of goods or services, including those which are primarily imported or for which there is a prospect of shortages or uncertain supply, or which present opportunities in terms of new physical properties, use, recycling, disposal or substitution, with the exclusion of food and of energy fuels used as such. "Materials."

DECLARATION OF POLICY

SEC. 3. The Congress declares that it is the continuing policy of the United States to promote an adequate and stable supply of materials 30 USC 1602.

necessary to maintain national security, economic well-being and industrial production with appropriate attention to a long-term balance between resource production, energy use, a healthy environment, natural resources conservation, and social needs. The Congress further declares that implementation of this policy requires that the President shall, through the Executive Office of the President, coordinate the responsible departments and agencies to, among other measures—

(1) identify materials needs and assist in the pursuit of measures that would assure the availability of materials critical to commerce, the economy, and national security;

(2) establish a mechanism for the coordination and evaluation of Federal materials programs, including those involving research and development so as to complement related efforts by the private sector as well as other domestic and international agencies and organizations;

(3) establish a long-range assessment capability concerning materials demands, supply and needs, and provide for the policies and programs necessary to meet those needs;

(4) promote a vigorous, comprehensive, and coordinated program of materials research and development consistent with the policies and priorities set forth in the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.);

(5) promote cooperative research and development programs with other nations for the equitable and frugal use of materials and energy;

(6) promote and encourage private enterprise in the development of economically sound and stable domestic materials industries; and

(7) encourage Federal agencies to facilitate availability and development of domestic resources to meet critical materials needs.

IMPLEMENTATION OF POLICY

30 USC 1603.

SEC. 4. For the purpose of implementing the policies set forth in section 3 and the provisions of section 5 of this Act, the Congress declares that the President shall, through the Executive Office of the President, coordinate the responsible departments and agencies, and shall—

(1) direct that the responsible departments and agencies identify, assist, and make recommendations for carrying out appropriate policies and programs to ensure adequate, stable, and economical materials supplies essential to national security, economic well-being, and industrial production;

(2) support basic and applied research and development to provide for, among other objectives—

(A) advanced science and technology for the exploration, discovery, and recovery of nonfuel materials;

(B) enhanced methods or processes for the more efficient production and use of renewable and nonrenewable resources;

(C) improved methods for the extraction, processing, use, recovery, and recycling of materials which encourage the conservation of materials, energy, and the environment; and

(D) improved understanding of current and new materials performance, processing, substitution, and adaptability in engineering designs;

(3) provide for improved collection, analysis, and dissemination of scientific, technical and economic materials information and data from Federal, State, and local governments and other sources as appropriate;

(4) assess the need for and make recommendations concerning the availability and adequacy of supply of technically trained personnel necessary for materials research, development, extraction, harvest and industrial practice, paying particular regard to the problem of attracting and maintaining high quality materials professionals in the Federal service;

(5) establish early warning systems for materials supply problems;

(6) recommend to the Congress appropriate measures to promote industrial innovation in materials and materials technologies;

(7) encourage cooperative materials research and problem-solving by—

(A) private corporations performing the same or related activities in materials industries; and

(B) Federal and State institutions having shared interests or objectives;

(8) assess Federal policies which adversely or positively affect all stages of the materials cycle, from exploration to final product recycling and disposal including but not limited to, financial assistance and tax policies for recycled and virgin sources of materials and make recommendations for equalizing any existing imbalances, or removing any impediments, which may be created by the application of Federal law and regulations to the market for materials; and

(9) assess the opportunities for the United States to promote cooperative multilateral and bilateral agreements for materials development in foreign nations for the purpose of increasing the reliability of materials supplies to the Nation.

PROGRAM PLAN AND REPORT TO CONGRESS

SEC. 5. (a) Within 1 year after the date of enactment of this Act, the President shall submit to the Congress— 30 USC 1604.

(1) a program plan to implement such existing or prospective proposals and organizational structures within the executive branch as he finds necessary to carry out the provisions set forth in sections 3 and 4 of this Act. The plan shall include program and budget proposals and organizational structures providing for the following minimum elements:

(A) policy analysis and decision determination within the Executive Office of the President;

(B) continuing long-range analysis of materials use to meet national security, economic, industrial and social needs; the adequacy and stability of supplies; and the industrial and economic implications of supply shortages or disruptions;

(C) continuing private sector consultation in Federal materials programs; and

(D) interagency coordination at the level of the President's Cabinet;

(2) recommendations for the collection, analysis, and dissemination of information concerning domestic and international long-range materials demand, supply and needs, including con-

sideration of the establishment of a separate materials information agency patterned after the Bureau of Labor Statistics; and

(3) recommendations for legislation and administrative initiatives necessary to reconcile policy conflicts and to establish programs and institutional structures necessary to achieve the goals of a national materials policy.

(b) In accordance with the provisions of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.), the Director of the Office of Science and Technology Policy shall:

(1) through the Federal Coordinating Council for Science, Engineering, and Technology coordinate Federal materials research and development and related activities in accordance with the policies and objectives established in this Act;

(2) place special emphasis on the long-range assessment of national materials needs related to scientific and technological concerns and the research and development, Federal and private, necessary to meet those needs; and

(3) prepare an assessment of national materials needs related to scientific and technological changes over the next five years. Such assessment shall be revised on an annual basis. Where possible, the Director shall extend the assessment in 10- and 25-year increments over the whole expected lifetime of such needs and technologies.

(c) The Secretary of Commerce, in consultation with the Federal Emergency Management Administration, the Secretary of the Interior, the Secretary of Defense, the Director of the Central Intelligence Agency, and such other members of the Cabinet as may be appropriate shall—

(1) within 3 months after the date of enactment of this Act, identify and submit to the Congress a specific materials needs case related to national security, economic well-being and industrial production which will be the subject of the report required by paragraph (2) of this subsection;

(2) within 1 year after the date of enactment of this Act, submit to the Congress a report which assesses critical materials needs in the case identified in paragraph (1) of this subsection, and which recommends programs that would assist in meeting such needs, including an assessment of economic stockpiles; and

(3) continually thereafter identify and assess additional cases, as necessary, to ensure an adequate and stable supply of materials to meet national security, economic well-being and industrial production needs.

(d) The Secretary of Defense, together with such other members of the Cabinet as are deemed necessary by the President, shall prepare a report assessing critical materials needs related to national security and identifying the steps necessary to meet those needs. The report shall include an assessment of the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), and the Strategic and Critical Materials Stock Piling Act (50 U.S.C. App. 98 et seq.). Such report shall be made available to the Congress within 1 year after enactment of this Act and shall be revised periodically as deemed necessary.

(e) The Secretary of the Interior shall promptly initiate actions to—

(1) improve the capacity of the Bureau of Mines to assess international minerals supplies;

(2) increase the level of mining and metallurgical research by the Bureau of Mines in critical and strategic minerals; and

(3) improve the availability and analysis of mineral data in Federal land use decisionmaking.

A report summarizing actions required by this subsection shall be made available to the Congress within 1 year after the enactment of this Act.

(f) In furtherance of the policies of this Act, the Secretary of the Interior shall collect, evaluate, and analyze information concerning mineral occurrence, production, and use from industry, academia, and Federal and State agencies. Notwithstanding the provisions of section 552 of title 5, United States Code, data and information provided to the Department by persons or firms engaged in any phase of mineral or mineral-material production or large-scale consumption shall not be disclosed outside of the Department of the Interior in a nonaggregated form so as to disclose data and information supplied by a single person or firm, unless there is no objection to the disclosure of such data and information by the donor: *Provided, however,* That the Secretary may disclose nonaggregated data and information to Federal defense agencies, or to the Congress upon official request for appropriate purposes.

Nonaggregate data, disclosure.

THE MINING AND MINERALS POLICY ACT OF 1970

SEC. 6. Nothing in this Act shall be interpreted as changing in any manner or degree the provisions of and requirements of the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a). For the purposes of achieving the objectives set forth in section 3 of this Act, the Congress declares that the President shall direct (1) the Secretary of the Interior to act immediately within the Department's statutory authority to attain the goals contained in the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) and (2) the Executive Office of the President to act immediately to promote the goals contained in the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) among the various departments and agencies.

30 USC 1605.

SEC. 7. Section 1001(a) of title X of the Act of November 3, 1978 (Public Law 95-586), is revised to read as follows:

Geothermal resources, conveyance to Boise, Idaho.

"SEC. 1001. (a) The Congress hereby authorizes and directs that the rights to the geothermal resources, including minerals present in the geothermal fluid, presently vested in the United States of America in real property designated as Tract 37, located in sections 2 and 11, township 3 north, range 2 east, Boise meridian, Idaho, containing 4.13 acres more or less;

"Tract 38, located in sections 1, 2, 11, and 12, township 3 north, range 2 east, Boise meridian, Idaho, containing 449.16 acres more or less;

"Unofficial tract 39, located in section 2, township 3 north, range 2 east, Boise meridian, Idaho, described as follows: from the corner of sections 2, 3, 10 and 11, north 76 degrees 26 minutes 17 seconds, east, 1,705.44 feet, thence north 60 degrees 08 minutes east, 593.41 feet, thence north 25 degrees 28 minutes west, 911.46 feet to the southeast corner of tract 39 and point of beginning, thence north 25 degrees 28 minutes west, 660.0 feet, thence north 69 degrees 47 minutes west, 933.24 feet, thence south 26 degrees 24 minutes east, 544.50 feet, thence south 57 degrees 26 minutes east, 240.24 feet, thence north 64 degrees 32 minutes east, 795.30 feet and point of beginning, containing 14.644 acres more or less;

"Unofficial tract 40, located in section 11, township 3 north, range 2 east, Boise meridian, Idaho, described as follows: from the corner of sections 2, 3, 10, and 11, south 84 degrees 44 minutes east, 905.7 feet to the northwest corner of tract 40 and point of beginning, thence south

22 degrees 40 minutes east, 593.75 feet, thence north 84 degrees 45 minutes east, 940.20 feet, thence north 16 degrees 15 minutes west, 315.2 feet, thence north 87 degrees 45 minutes west, 516.6 feet, thence south 68 degrees 14 minutes west, 141.3 feet and point of beginning, containing 4.95 acres more or less;

"Unofficial tract 44, located in section 2, township 3 north, range 2 east, Boise meridian, Idaho, described as follows: from the corner of sections 2, 3, 10 and 11, north 76 degrees 26 minutes 17 seconds east, 1,705.44 feet to the southwest corner of tract 44 and point of beginning, thence north 60 degrees 08 minutes east, 593.41 feet, thence north 25 degrees 28 minutes west, 911.46 feet, thence south 64 degrees 32 minutes west, 795.30 feet, thence south 67 degrees 21 minutes east, 373.03 feet, thence north 58 degrees 18 minutes east, 264.53 feet, thence south 74 degrees 02 minutes east, 154.31 feet, thence south 14 degrees 50 minutes west, 585.02 feet, thence south 9 degrees 31 minutes east, 165.79 feet and point of beginning, containing 9.94 acres more or less; be transferred by the Secretary of the Interior in fee to the city of Boise upon payment by the city of Boise of the fair market value, as determined by the Secretary, of the rights conveyed.".

SEC. 8. Title X of the Act of November 3, 1978, is further amended by adding a new section 1003 to read as follows:

Boise District Office Site, geothermal resources utilization.

"SEC. 1003. The Secretary of the Interior, through the Bureau of Land Management, is authorized to utilize geothermal resources found under the parcel known as the Boise District Office Site, described as commencing at the southwest corner of the Old Fort Boise Military Reservation, thence north 70 degrees 0 minutes east, 1,448.2 feet; thence north 4 degrees 32 minutes east, 627 feet to the true point of beginning; thence the following courses and distances: south 87 degrees 8 minutes west, 696.5 feet; thence north 21 degrees 2 minutes west, 532 feet; thence south 69 degrees 4 minutes west, 21.9 feet; thence north 22 degrees 40 minutes west, 86.3 feet; thence north 84 degrees 50 minutes east, 993.6 feet; thence south 4 degrees 32 minutes west, 624.95 feet to the point of beginning; consisting of 11.53 acres, more or less, contained in section 11, township 3 north, range 2 east, Boise meridian, Idaho.".

Approved October 21, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-672 (Comm. on Science and Technology).
SENATE REPORTS: No. 96-897 (Comm. on Commerce, Science, and Transportation) and No. 96-937 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 3, 4, considered and passed House.
Vol. 126 (1980): Oct. 1, considered and passed Senate, amended.
Oct. 2, House concurred in Senate amendments.

Public Law 96-480
96th Congress

An Act

To promote United States technological innovation for the achievement of national economic, environmental, and social goals, and for other purposes.

Oct. 21, 1980
[S. 1250]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Stevenson-Wydler Technology Innovation Act of 1980".

Stevenson-Wydler Technology Innovation Act of 1980.
15 USC 3701 note.

SEC. 2. FINDINGS.

15 USC 3701.

The Congress finds and declares that:

(1) Technology and industrial innovation are central to the economic, environmental, and social well-being of citizens of the United States.

(2) Technology and industrial innovation offer an improved standard of living, increased public and private sector productivity, creation of new industries and employment opportunities, improved public services and enhanced competitiveness of United States products in world markets.

(3) Many new discoveries and advances in science occur in universities and Federal laboratories, while the application of this new knowledge to commercial and useful public purposes depends largely upon actions by business and labor. Cooperation among academia, Federal laboratories, labor, and industry, in such forms as technology transfer, personnel exchange, joint research projects, and others, should be renewed, expanded, and strengthened.

(4) Small businesses have performed an important role in advancing industrial and technological innovation.

(5) Industrial and technological innovation in the United States may be lagging when compared to historical patterns and other industrialized nations.

(6) Increased industrial and technological innovation would reduce trade deficits, stabilize the dollar, increase productivity gains, increase employment, and stabilize prices.

(7) Government antitrust, economic, trade, patent, procurement, regulatory, research and development, and tax policies have significant impacts upon industrial innovation and development of technology, but there is insufficient knowledge of their effects in particular sectors of the economy.

(8) No comprehensive national policy exists to enhance technological innovation for commercial and public purposes. There is a need for such a policy, including a strong national policy supporting domestic technology transfer and utilization of the science and technology resources of the Federal Government.

(9) It is in the national interest to promote the adaptation of technological innovations to State and local government uses. Technological innovations can improve services, reduce their costs, and increase productivity in State and local governments.

(10) The Federal laboratories and other performers of federally funded research and development frequently provide scientific

and technological developments of potential use to State and local governments and private industry. These developments should be made accessible to those governments and industry. There is a need to provide means of access and to give adequate personnel and funding support to these means.

(11) The Nation should give fuller recognition to individuals and companies which have made outstanding contributions to the promotion of technology or technological manpower for the improvement of the economic, environmental, or social well-being of the United States.

15 USC 3702.

SEC. 3. PURPOSE.

It is the purpose of this Act to improve the economic, environmental, and social well-being of the United States by—

(1) establishing organizations in the executive branch to study and stimulate technology;

(2) promoting technology development through the establishment of centers for industrial technology;

(3) stimulating improved utilization of federally funded technology developments by State and local governments and the private sector;

(4) providing encouragement for the development of technology through the recognition of individuals and companies which have made outstanding contributions in technology; and

(5) encouraging the exchange of scientific and technical personnel among academia, industry, and Federal laboratories.

15 USC 3703.

SEC. 4. DEFINITIONS.

As used in this Act, unless the context otherwise requires, the term—

(1) "Office" means the Office of Industrial Technology established under section 5 of this Act.

(2) "Secretary" means the Secretary of Commerce.

(3) "Director" means the Director of the Office of Industrial Technology, appointed pursuant to section 5 of this Act.

(4) "Centers" means the Centers for Industrial Technology established under section 6 or section 8 of this Act.

(5) "Nonprofit institution" means an organization owned and operated exclusively for scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(6) "Board" means the National Industrial Technology Board established pursuant to section 10.

(7) "Federal laboratory" means any laboratory, any federally funded research and development center, or any center established under section 6 or section 8 of this Act that is owned and funded by the Federal Government, whether operated by the Government or by a contractor.

(8) "Supporting agency" means either the Department of Commerce or the National Science Foundation, as appropriate.

Office of Industrial Technology, establishment. 15 USC 3704.

SEC. 5. COMMERCE AND TECHNOLOGICAL INNOVATION.

(a) IN GENERAL.—The Secretary shall establish and maintain an Office of Industrial Technology in accordance with the provisions, findings, and purposes of this Act.

(b) DIRECTOR.—The President shall appoint, by and with the advice and consent of the Senate, a Director of the Office, who shall be

compensated at the rate provided for level V of the Executive Schedule in section 5316 of title 5, United States Code.

(c) DUTIES.—The Secretary, through the Director, on a continuing basis, shall—

(1) determine the relationships of technological developments and international technology transfers to the output, employment, productivity, and world trade performance of United States and foreign industrial sectors;

(2) determine the influence of economic, labor and other conditions, industrial structure and management, and government policies on technological developments in particular industrial sectors worldwide;

(3) identify technological needs, problems, and opportunities within and across industrial sectors that, if addressed, could make a significant contribution to the economy of the United States;

(4) assess whether the capital, technical and other resources being allocated to domestic industrial sectors which are likely to generate new technologies are adequate to meet private and social demands for goods and services and to promote productivity and economic growth;

(5) propose and support studies and policy experiments, in cooperation with other Federal agencies, to determine the effectiveness of measures with the potential of advancing United States technological innovation;

(6) provide that cooperative efforts to stimulate industrial innovation be undertaken between the Director and other officials in the Department of Commerce responsible for such areas as trade and economic assistance;

(7) consider government measures with the potential of advancing United States technological innovation and exploiting innovations of foreign origin; and

(8) publish the results of studies and policy experiments.

(d) REPORT.—The Secretary shall prepare and submit to the President and Congress, within 3 years after the date of enactment of this Act, a report on the progress, findings, and conclusions of activities conducted pursuant to sections 5, 6, 8, 11, 12, and 13 of this Act and recommendations for possible modifications thereof. Submittal to President and Congress.

SEC. 6. CENTERS FOR INDUSTRIAL TECHNOLOGY. 15 USC 3705.

(a) ESTABLISHMENT.—The Secretary shall provide assistance for the establishment of Centers for Industrial Technology. Such Centers shall be affiliated with any university, or other nonprofit institution, or group thereof, that applies for and is awarded a grant or enters into a cooperative agreement under this section. The objective of the Centers is to enhance technological innovation through—

(1) the participation of individuals from industry and universities in cooperative technological innovation activities;

(2) the development of the generic research base, important for technological advance and innovative activity, in which individual firms have little incentive to invest, but which may have significant economic or strategic importance, such as manufacturing technology;

(3) the education and training of individuals in the technological innovation process;

(4) the improvement of mechanisms for the dissemination of scientific, engineering, and technical information among universities and industry;

(5) the utilization of the capability and expertise, where appropriate, that exists in Federal laboratories; and

(6) the development of continuing financial support from other mission agencies, from State and local government, and from industry and universities through, among other means, fees, licenses, and royalties.

(b) ACTIVITIES.—The activities of the Centers shall include, but need not be limited to—

(1) research supportive of technological and industrial innovation including cooperative industry-university basic and applied research;

(2) assistance to individuals and small businesses in the generation, evaluation and development of technological ideas supportive of industrial innovation and new business ventures;

(3) technical assistance and advisory services to industry, particularly small businesses; and

(4) curriculum development, training, and instruction in invention, entrepreneurship, and industrial innovation.

Each Center need not undertake all of the activities under this subsection.

(c) REQUIREMENTS.—Prior to establishing a Center, the Secretary shall find that—

(1) consideration has been given to the potential contribution of the activities proposed under the Center to productivity, employment, and economic competitiveness of the United States;

(2) a high likelihood exists of continuing participation, advice, financial support, and other contributions from the private sector;

(3) the host university or other nonprofit institution has a plan for the management and evaluation of the activities proposed within the particular Center, including:

(A) the agreement between the parties as to the allocation of patent rights on a nonexclusive, partially exclusive, or exclusive license basis to and inventions conceived or made under the auspices of the Center; and

(B) the consideration of means to place the Center, to the maximum extent feasible, on a self-sustaining basis;

(4) suitable consideration has been given to the university's or other nonprofit institution's capabilities and geographical location; and

(5) consideration has been given to any effects upon competition of the activities proposed under the Center.

(d) PLANNING GRANTS.—The Secretary is authorized to make available nonrenewable planning grants to universities or nonprofit institutions for the purpose of developing a plan required under subsection (c)(3).

Inventions, title acquisition.

(e) RESEARCH AND DEVELOPMENT UTILIZATION.—(1) To promote technological innovation and commercialization of research and development efforts, each Center has the option of acquiring title to any invention conceived or made under the auspices of the Center that was supported at least in part by Federal funds: *Provided,* That—

(A) the Center reports the invention to the supporting agency together with a list of each country in which the Center elects to file a patent application on the invention;

(B) said option shall be exercised at the time of disclosure of invention or within such time thereafter as may be provided in the grant or cooperative agreement;

(C) the Center intends to promote the commercialization of the invention and file a United States patent application;

(D) royalties be used for compensation of the inventor or for educational or research activities of the Center;

(E) the Center make periodic reports to the supporting agency, and the supporting agency may treat information contained in such reports as privileged and confidential technical, commercial, and financial information and not subject to disclosures under the Freedom of Information Act; and

(F) any Federal department or agency shall have the royalty-free right to practice, or have practiced on its behalf, the invention for governmental purposes.

The supporting agency shall have the right to acquire title to any patent on an invention in any country in which the Center elects not to file a patent application or fails to file within a reasonable time.

Applicant licensing requirement.

(2) Where a Center has retained title to an invention under paragraph (1) of this subsection the supporting agency shall have the right to require the Center or its licensee to grant a nonexclusive, partially exclusive, or exclusive license to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, if the supporting agency determines, after public notice and opportunity for hearing, that such action is necessary—

(A) because the Center or licensee has not taken and is not expected to take timely and effective action to achieve practical application of the invention;

(B) to meet health, safety, environmental, or national security needs which are not reasonably satisfied by the contractor or licensee; or

(C) because the granting of exclusive rights in the invention has tended substantially to lessen competition or to result in undue market concentration in the United States in any line of commerce to which the technology relates.

U.S. Courts of Claims, petition.

(3) Any individual, partnership, corporation, association, institution, or other entity adversely affected by a supporting agency determination made under paragraph (2) of this subsection may, at any time within 60 days after the determination is issued, file a petition to the United States Court of Claims which shall have jurisdiction to determine that matter de novo and to affirm, reverse, or modify as appropriate, the determination of the supporting agency.

Antitrust laws.

(f) ADDITIONAL CONSIDERATION.—The supporting agency may request the Attorney General's opinion whether the proposed joint research activities of a Center would violate any of the antitrust laws. The Attorney General shall advise the supporting agency of his determination and the reasons for it within 120 days after receipt of such request.

SEC. 7. GRANTS AND COOPERATIVE AGREEMENTS.

15 USC 3706.

(a) IN GENERAL.—The Secretary may make grants and enter into cooperative agreements according to the provisions of this section in order to assist any activity consistent with this Act, including activities performed by individuals. The total amount of any such grant or cooperative agreement may not exceed 75 percent of the total cost of the program.

(b) ELIGIBILITY AND PROCEDURE.—Any person or institution may apply to the Secretary for a grant or cooperative agreement available under this section. Application shall be made in such form and manner, and with such content and other submissions, as the Direc-

tor shall prescribe. The Secretary shall act upon each such application within 90 days after the date on which all required information is received.

(c) TERMS AND CONDITIONS.—

(1) Any grant made, or cooperative agreement entered into, under this section shall be subject to the limitations and provisions set forth in paragraph (2) of this subsection, and to such other terms, conditions, and requirements as the Secretary deems necessary or appropriate.

(2) Any person who receives or utilizes any proceeds of any grant made or cooperative agreement entered into under this section shall keep such records as the Secretary shall by regulation prescribe as being necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition by such recipient of such proceeds, the total cost of the program or project in connection with which such proceeds were used, and the amount, if any, of such costs which was provided through other sources.

15 USC 3707.

SEC. 8. NATIONAL SCIENCE FOUNDATION CENTERS FOR INDUSTRIAL TECHNOLOGY.

(a) ESTABLISHMENT AND PROVISIONS.—The National Science Foundation shall provide assistance for the establishment of Centers for Industrial Technology. Such Centers shall be affiliated with a university, or other nonprofit institution, or a group thereof. The objective of the Centers is to enhance technological innovation as provided in section 6(a) through the conduct of activities as provided in section 6(b). The provisions of sections 6(e) and 6(f) shall apply to Centers established under this section.

(b) PLANNING GRANTS.—The National Science Foundation is authorized to make available nonrenewable planning grants to universities or nonprofit institutions for the purpose of developing the plan, as described under section 6(c)(3).

(c) TERMS AND CONDITIONS.—Grants, contracts, and cooperative agreements entered into by the National Science Foundation in execution of the powers and duties of the National Science Foundation under this Act shall be governed by the National Science Foundation Act of 1950 and other pertinent Acts.

42 USC 1861 note.

15 USC 3708.

SEC. 9. ADMINISTRATIVE ARRANGEMENTS.

(a) COORDINATION.—The Secretary and the National Science Foundation shall, on a continuing basis, obtain the advice and cooperation of departments and agencies whose missions contribute to or are affected by the programs established under this Act, including the development of an agenda for research and policy experimentation. These departments and agencies shall include but not be limited to the Departments of Defense, Energy, Education, Health and Human Services, Housing and Urban Development, the Environmental Protection Agency, National Aeronautics and Space Administration, Small Business Administration, Council of Economic Advisers, Council on Environmental Quality, and Office of Science and Technology Policy.

(b) COOPERATION.—It is the sense of the Congress that departments and agencies, including the Federal laboratories, whose missions are affected by, or could contribute to, the programs established under this Act, should, within the limits of budgetary authorizations and appropriations, support or participate in activities or projects authorized by this Act.

(c) ADMINISTRATIVE AUTHORIZATION.—

(1) Departments and agencies described in subsection (b) are authorized to participate in, contribute to, and serve as resources for the Centers and for any other activities authorized under this Act.

(2) The Secretary and the National Science Foundation are authorized to receive moneys and to receive other forms of assistance from other departments or agencies to support activities of the Centers and any other activities authorized under this Act.

(d) COOPERATIVE EFFORTS.—The Secretary and the National Science Foundation shall, on a continuing basis, provide each other the opportunity to comment on any proposed program of activity under section 6, 8, or 13 of this Act before funds are committed to such program in order to mount complementary efforts and avoid duplication.

SEC. 10. NATIONAL INDUSTRIAL TECHNOLOGY BOARD. 15 USC 3709.

(a) ESTABLISHMENT.—There shall be established a committee to be known as the National Industrial Technology Board.

(b) DUTIES.—The Board shall take such steps as may be necessary to review annually the activities of the Office and advise the Secretary and the Director with respect to—

(1) the formulation and conduct of activities under section 5 of this title;

(2) the designation and operation of Centers and their programs under section 6 of this Act including assistance in establishing priorities;

(3) the preparation of the report required under section 5(d); and

(4) such other matters as the Secretary or Director refers to the Board, including the establishment of Centers under section 8 of this Act, for review and advice.

The Director shall make available to the Board such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties. The National Science Foundation shall make available to the Board such information and assistance as it may reasonably require to carry out its duties.

(c) MEMBERSHIP, TERMS, AND POWERS.—

(1) The Board shall consist of 15 voting members who shall be appointed by the Secretary. The Director shall serve as a nonvoting member of the Board. The members of the Board shall be individuals who, by reason of knowledge, experience, or training are especially qualified in one or more of the disciplines and fields dealing with technology, labor, and industrial innovation or who are affected by technological innovation. The majority of the members of the Board shall be individuals from industry and business.

(2) The term of office of a voting member of the Board shall be 3 years, except that of the original appointees, five shall be appointed for a term of 1 year, five shall be appointed for a term of 2 years, and five shall be appointed for a term of 3 years.

(3) Any individual appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. No individual may be appointed as a voting member after serving more than two full terms as such a member.

(4) The Board shall select a voting member to serve as the Chairperson and another voting member to serve as the Vice Chairperson. The Vice Chairperson shall perform the functions of the Chairperson in the absence or incapacity of the Chairperson.

(5) Voting members of the Board may receive compensation at a daily rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, when actually engaged in the performance of duties for such Board, and may be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

15 USC 3710.

SEC. 11. UTILIZATION OF FEDERAL TECHNOLOGY.

(a) POLICY.—It is the continuing responsibility of the Federal Government to ensure the full use of the results of the Nation's Federal investment in research and development. To this end the Federal Government shall strive where appropriate to transfer federally owned or originated technology to State and local governments and to the private sector.

Technology transfer.

(b) ESTABLISHMENT OF RESEARCH AND TECHNOLOGY APPLICATIONS OFFICES.—Each Federal laboratory shall establish an Office of Research and Technology Applications. Laboratories having existing organizational structures which perform the functions of this section may elect to combine the Office of Research and Technology Applications within the existing organization. The staffing and funding levels for these offices shall be determined between each Federal laboratory and the Federal agency operating or directing the laboratory, except that (1) each laboratory having a total annual budget exceeding $20,000,000 shall provide at least one professional individual full-time as staff for its Office of Research and Technology Applications, and (2) after September 30, 1981, each Federal agency which operates or directs one or more Federal laboratories shall make available not less than 0.5 percent of the agency's research and development budget to support the technology transfer function at the agency and at its laboratories, including support of the Offices of Research and Technology Applications. The agency head may waive the requirements set forth in (1) and/or (2) of this subsection. If the agency head waives either requirement (1) or (2), the agency head shall submit to Congress at the time the President submits the budget to Congress an explanation of the reasons for the waiver and alternate plans for conducting the technology transfer function at the agency.

Waiver.
Submittal to Congress.

(c) FUNCTIONS OF RESEARCH AND TECHNOLOGY APPLICATIONS OFFICES.—It shall be the function of each Office of Research and Technology Applications—

(1) to prepare an application assessment of each research and development project in which that laboratory is engaged which has potential for successful application in State or local government or in private industry;

(2) to provide and disseminate information on federally owned or originated products, processes, and services having potential application to State and local governments and to private industry;

(3) to cooperate with and assist the Center for the Utilization of Federal Technology and other organizations which link the research and development resources of that laboratory and the Federal Government as a whole to potential users in State and local government and private industry; and

(4) to provide technical assistance in response to requests from State and local government officials.

Agencies which have established organizational structures outside their Federal laboratories which have as their principal purpose the transfer of federally owned or originated technology to State and local government and to the private sector may elect to perform the functions of this subsection in such organizational structures. No Office of Research and Technology Applications or other organizational structures performing the functions of this subsection shall substantially compete with similar services available in the private sector.

(d) CENTER FOR THE UTILIZATION OF FEDERAL TECHNOLOGY.—There is hereby established in the Department of Commerce a Center for the Utilization of Federal Technology. The Center for the Utilization of Federal Technology shall— Establishment.

(1) serve as a central clearinghouse for the collection, dissemination and transfer of information on federally owned or originated technologies having potential application to State and local governments and to private industry;

(2) coordinate the activities of the Offices of Research and Technology Applications of the Federal laboratories;

(3) utilize the expertise and services of the National Science Foundation and the existing Federal Laboratory Consortium for Technology Transfer; particularly in dealing with State and local governments;

(4) receive requests for technical assistance from State and local governments and refer these requests to the appropriate Federal laboratories;

(5) provide funding, at the discretion of the Secretary, for Federal laboratories to provide the assistance specified in subsection (c)(4); and

(6) use appropriate technology transfer mechanisms such as personnel exchanges and computer-based systems.

(e) AGENCY REPORTING.—Each Federal agency which operates or directs one or more Federal laboratories shall prepare biennially a report summarizing the activities performed by that agency and its Federal laboratories pursuant to the provisions of this section. The report shall be transmitted to the Center for the Utilization of Federal Technology by November 1 of each year in which it is due.

SEC. 12. NATIONAL TECHNOLOGY MEDAL. 15 USC 3711.

(a) ESTABLISHMENT.—There is hereby established a National Technology Medal, which shall be of such design and materials and bear such inscriptions as the President, on the basis of recommendations submitted by the Office of Science and Technology Policy, may prescribe.

(b) AWARD.—The President shall periodically award the medal, on the basis of recommendations received from the Secretary or on the basis of such other information and evidence as he deems appropriate, to individuals or companies, which in his judgment are deserving of special recognition by reason of their outstanding contributions to the promotion of technology or technological manpower for the improvement of the economic, environmental, or social well-being of the United States.

(c) PRESENTATION.—The presentation of the award shall be made by the President with such ceremonies as he may deem proper.

15 USC 3712. **SEC. 13. PERSONNEL EXCHANGES.**

The Secretary and the National Science Foundation, jointly, shall establish a program to foster the exchange of scientific and technical personnel among academia, industry, and Federal laboratories. Such program shall include both (1) federally supported exchanges and (2) efforts to stimulate exchanges without Federal funding.

15 USC 3713. **SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**

(a) There is authorized to be appropriated to the Secretary for purposes of carrying out section 6, not to exceed $19,000,000 for the fiscal year ending September 30, 1981, $40,000,000 for the fiscal year ending September 30, 1982, $50,000,000 for the fiscal year ending September 30, 1983, and $60,000,000 for each of the fiscal years ending September 30, 1984, and 1985.

(b) In addition to authorizations of appropriations under subsection (a), there is authorized to be appropriated to the Secretary for purposes of carrying out the provisions of this Act, not to exceed $5,000,000 for the fiscal year ending September 30, 1981, $9,000,000 for the fiscal year ending September 30, 1982, and $14,000,000 for each of the fiscal years ending September 30, 1983, 1984, and 1985.

(c) Such sums as may be appropriated under subsections (a) and (b) shall remain available until expended.

(d) To enable the National Science Foundation to carry out its powers and duties under this Act only such sums may be appropriated as the Congress may authorize by law.

15 USC 3714. **SEC. 15. SPENDING AUTHORITY.**

No payments shall be made or contracts shall be entered into pursuant to this Act except to such extent or in such amounts as are provided in advance in appropriation Acts.

Approved October 21, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1199 (Comm. on Science and Technology).
SENATE REPORT No. 96-781 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 28, considered and passed Senate.
Sept. 8, considered and passed House, amended.
Sept. 26, Senate concurred in certain House amendments, disagreed to others, and concurred in remainder with amendments.
Oct. 1, House receded from amendments in disagreement and concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 43:
Oct. 21, Presidential statement.

Public Law 96-481
96th Congress

An Act

To amend the Small Business Act, to provide for the payment of the United States of certain fees and costs incurred by prevailing parties in Federal agency adjudications and in civil actions in courts of the United States, and for other purposes.

Oct. 21, 1980
[H.R. 5612]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small business programs and Federal litigation assistance.

PART A.—SMALL BUSINESS ADMINISTRATION MINORITY BUSINESS DEVELOPMENT PROGRAM AMENDMENTS

SEC. 101. Section 8(a) of the Small Business Act is amended by striking "September 30, 1980" wherever it appears and by substituting in lieu thereof "September 30, 1981". 15 USC 637.

SEC. 102. Section 202(b) of the Act entitled "An Act to amend the Small Business Act and the Small Business Investment Act of 1958" approved October 24, 1978 (15 U.S.C. 631) is amended by— 15 USC 637 note.

(a) redesignating subsection (b) as subsection (b)(1);

(b) striking "June 30, 1980" and inserting in lieu thereof "January 31, 1981"; and

(c) adding at the end thereof a new paragraph as follows: Quarterly reports to congressional committees.

"(2) The Small Business Administration and the agency designated pursuant to section 8(a)(1)(B) of the Small Business Act shall submit separate quarterly reports to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives. Such reports shall contain a review and evaluation of all activities conducted pursuant to section 8(a)(1)(B) of the Small Business Act during the previous three-month period including—

"(A) the number, dollar value, and description of all contracts awarded or being reserved for award pursuant to such section;

"(B) the status of all contracts awarded, including percent of completion and a description of problems incurred in the performance of such contracts;

"(C) the impact, if any, on small business concerns resulting from selection of any contract for award under such section; and

"(D) efforts made by the Administration to identify, match, and negotiate procurement requirements pursuant to such section.

The first such report shall be submitted commencing on January 2, 1981, for the preceding three-month period, and shall continue quarterly through, and include, the quarter ending September 30, 1981. The reports shall not be reviewed by any other agency or office prior to their submission.".

SEC. 103. Section 4(b) of the Small Business Act is amended by striking all after the phrase "Capital Ownership Development" through the period and inserting in lieu thereof "and shall be responsible to the Administrator for the formulation and execution of the policies and programs under sections 7(j) and 8(a) of this Act which provide assistance to minority small business concerns.". 15 USC 633. 15 USC 636, 637.

15 USC 636.

SEC. 104. The second sentence of section 7(j)(10) of the Small Business Act is amended to read as follows: "The program, and all other services and activities authorized under section 7(j) and 8(a) of this Act, shall be managed by the Associate Administrator for Minority Small Business and Capital Ownership Development under the supervision of, and responsible to, the Administrator.".

Prejudice or bias determination.
15 USC 637.

SEC. 105. Section 8(a)(8) of the Small Business Act is amended to read as follows:

"(8) All determinations made pursuant to paragraph (5) with respect to whether a group has been subjected to prejudice or bias shall be made by the Administrator after consultation with the Associate Administrator for Minority Small Business and Capital Ownership Development. All other determinations made pursuant to paragraphs (4), (5), (6), and (7) shall be made by the Associate Administrator for Minority Small Business and Capital Ownership Development under the supervision of, and responsible to, the Administrator.".

15 USC 636.

SEC. 106. (a) Section 7(j)(10)(A)(i) of the Small Business Act is amended by striking the semicolon at the end thereof and inserting in lieu thereof "for correcting the impairment of such concern's ability to compete, as determined for such concern pursuant to section 8(a)(6) of this Act, within a fixed period of time as mutually agreed upon by the applicant and the Administrator prior to acceptance in such program: *Provided,* That not less than one year prior to the expiration of such period, and upon the request of such concern, the Administration shall review such period and may extend such period as necessary and appropriate: *Provided further,* That no determination made under this paragraph shall be considered a denial of total participation for the purposes of section 8(a)(9) of this Act;".

Business plan, submittal.
15 USC 636 note.

(b) Notwithstanding the provisions of subsection (a) of this section, for concerns eligible to receive contracts pursuant to section 8(a) of the Small Business Act on the effective date of the amendment made by this section, each such concern shall submit to the Small Business Administration within two months after the promulgation of final regulations issued within one hundred and twenty days after the enactment of this Act the business plan required under section 7(j)(10)(A)(i) of the Small Business Act, as amended by subsection (a) of this section: *Provided however,* That the period of time required under section 7(j)(10)(A)(i) of the Small Business Act, as amended by subsection (a) of this section, shall be fixed as mutually agreed upon by the program participant and the Small Business Administration prior to the awarding or extending of contracts to such concern pursuant to section 8(a) of the Small Business Act after June 1, 1981, but the period shall be fixed in no case later than eighteen months after the effective date of this Act: *Provided further,* That no determination made under this paragraph shall be considered a denial of total participation for the purposes of section 8(a)(9) of the Small Business Act.

Small business concern contracts.
15 USC 636.
15 USC 637.

SEC. 107. Section 7(j)(10)(C) of the Small Business Act is amended to read as follows:

"(C) No small business concern shall receive a contract pursuant to section 8(a) of this Act unless—

"(i) the business plan required pursuant to section 7(j)(10)(A)(i) is approved by the Administration; and

"(ii) the program is able to provide such concern with, but not limited to, such management, technical and financial services as may be necessary to achieve the targets, objectives, and goals of such business.".

SEC. 108. The second sentence of section 3(a) of the Small Business Act is amended by striking "business." and inserting in lieu thereof "business: *Provided,* That the Administration shall not promulgate, amend, or rescind any rule regulation with respect to size standards prior to March 31, 1981.". 15 USC 632.

PART B—SMALL BUSINESS EXPORT FINANCING

Small Business Export Expansion Act of 1980.
15 USC 631 note.
15 USC 649 note.

SEC. 110. This part may be cited as the "Small Business Export Expansion Act of 1980".

SEC. 111. (a) The Congress finds and declares that—

(1) a strong export policy is essential to the health and well-being of the United States economy;

(2) exports of goods and services account for one out of every six jobs in the manufacturing sector and 10 per centum of the gross national product.

(3) every billion dollars in new exports is estimated to provide forty thousand jobs;

(4) there is increased and fierce competition in international markets to United States goods and services;

(5) small businesses account for no more than 10 per centum of all United States export sales;

(6) Federal Government programs are not sufficently responsive to the needs of small business for export education and development of overseas marketing opportunities necessary to insure that small businesses realize their potential; and

(7) it is in the national interest to systematically and consistently promote and encourage small business participation in international markets.

(b) It is therefore the purpose of this part to encourage and promote small business exporting by—

(1) providing educational and marketing assistance to small businesses;

(2) insuring better access to export information and assistance for small businesses by upgrading and expanding the export development programs and services of the Department of Commerce and the Small Business Administration; and

(3) promoting the competitive viability of such firms in export trade and encouraging increased tourism in the United States by creating a program to provide limited financial, technical, and management assistance as may be necessary.

Extensions and revolving lines of credit.
15 USC 636.

SEC. 112. Section 7(a) of the Small Business Act is amended by inserting before the phrase "The foregoing powers shall be subject, however," the following new sentences: "The Administration is further empowered, only to such extent and in such amounts as are provided in appropriation Acts, to make or effect either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis extensions and revolving lines of credit for export purposes to enable small business concerns to develop foreign markets and for preexport financing: *Provided, however,* That no such extension or revolving line of credit may be made for a period or periods exceeding eighteen months. A bank or participating lending institution may establish the rate of interest on extensions and revolving lines of credit as may be legal and reasonable."

SEC. 113. The Small Business Act is amended by adding after section 21 the following new section.

Office of International Trade, establishment. 15 USC 649.

"SEC. 22. (a) There is established within the Administration an Office of International Trade which shall implement the programs pursuant to this section.

"(b) The Office shall promote sales opportunities for small business goods and services abroad. To accomplish this objective the office shall—

Export information.

"(1) provide small businesses with access to current and complete export information by—

"(A) making available, at the Adminstration's regional offices through cooperation with the Department of Commerce, export information, including, but not limited to, the worldwide information and trade system and world trade data reports;

"(B) maintaining a current list of financial institutions that finance export operations;

"(C) maintaining a current directory of all Federal, regional, State and private sector programs that provide export information and assistance to small businesses; and

"(D) preparing and publishing such reports as it determines to be necessary concerning market conditions, sources of financing, export promotion programs, and other information pertaining to the needs of small business exporting firms so as to insure that the maximum information is made available to small businesses in a readily usable form;

Trade fairs, shows, and missions.

"(2) encourage through cooperation with the Department of Commerce, greater small business participation in trade fairs, shows, missions, and other domestic and overseas export development activities of the Department of Commerce; and

Export development specialists.

"(3) facilitate decentralized delivery of export information and assistance to small businesses by assigning full-time export development specialists to each Administration regional office and assigning primary responsibility for export development to one person in each district office. Such specialists shall—

"(A) assist small businesses in obtaining export information and assistance from other Federal departments and agencies;

"(B) maintain a current directory of all programs which provide export information and assistance to small businesses within the region;

"(C) encourage financial institutions to develop and expand programs for export financing;

"(D) provide advice to Administration personnel involved in granting loans, loan guarantees, and extensions and revolving lines of credit, and providing other forms of assistance to small businesses engaged in exports; and

"(E) within one hundred and eighty days of their appointment, participate in training programs designed by the Administrator, in conjunction with the Department of Commerce and other Federal departments and agencies, to study export programs and to examine small businesses' needs for export information and assistance.".

Effective date. 15 USC 649 note.

(b) The amendment made by subsection (a) shall take effect on October 1, 1980, or the date of enactment of this Act, whichever occurs later.

TITLE II—EQUAL ACCESS TO JUSTICE ACT

Equal Access to Justice Act.

SEC. 201. This title may be cited as the "Equal Access to Justice Act". 5 USC 504 note.

FINDINGS AND PURPOSE

SEC. 202. (a) The Congress finds that certain individuals, partnerships, corporations, and labor and other organizations may be deterred from seeking review of, or defending against, unreasonable governmental action because of the expense involved in securing the vindication of their rights in civil actions and in administrative proceedings. 5 USC 504 note.

(b) The Congress further finds that because of the greater resources and expertise of the United States the standard for an award of fees against the United States should be different from the standard governing an award against a private litigant, in certain situations.

(c) It is the purpose of this title—

(1) to diminish the deterrent effect of seeking review of, or defending against, governmental action by providing in specified situations an award of attorney fees, expert witness fees, and other costs against the United States; and

(2) to insure the applicability in actions by or against the United States of the common law and statutory exceptions to the "American rule" respecting the award of attorney fees.

AWARD OF FEES AND OTHER EXPENSES IN CERTAIN AGENCY ACTIONS

SEC. 203. (a)(1) Subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 504. Costs and fees of parties 5 USC 504.

"(a)(1) An agency that conducts an adversary adjudication shall award, to a prevailing party other than the United States, fees and other expenses incurred by that party in connection with that proceeding, unless the adjudicative officer of the agency finds that the position of the agency as a party to the proceeding was substantially justified or that special circumstances make an award unjust.

"(2) A party seeking an award of fees and other expenses shall, within thirty days of a final disposition in the adversary adjudication, submit to the agency an application which shows that the party is a prevailing party and is eligible to receive an award under this section, and the amount sought, including an itemized statement from any attorney, agent, or expert witness representing or appearing in behalf of the party stating the actual time expended and the rate at which fees and other expenses were computed. The party shall also allege that the position of the agency was not substantially justified. Application for fees and expenses, submittal.

"(3) The adjudicative officer of the agency may reduce the amount to be awarded, or deny an award, to the extent that the party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy. The decision of the adjudicative officer of the agency under this section shall be made a part of the record containing the final decision of the agency and shall include written findings and conclusions and the reason or basis therefor.

"(b)(1) For the purposes of this section— Definitions.

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the agency to be necessary for the preparation of the party's case, and reasonable attorney or agent fees (The amount of fees awarded under this section shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the agency involved, and (ii) attorney or agent fees shall not be awarded in excess of $75 per hour unless the agency determines by regulation that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys or agents for the proceedings involved, justifies a higher fee.);

5 USC 551.

"(B) 'party' means a party, as defined in section 551(3) of this title, which is an individual, partnership, corporation, association, or public or private organization other than an agency, but excludes (i) any individual whose net worth exceeded $1,000,000 at the time the adversary adjudication was initiated, and any sole owner of an unincorporated business, or any partnership, corporation, association, or organization whose net worth exceeded $5,000,000 at the time the adversary adjudication was initiated, except that an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of the Code and a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association, and (ii) any sole owner of an unincorporated business, or any partnership, corporation, association, or organization, having more than 500 employees at the time the adversary adjudication was initiated;

26 USC 501.

"(C) 'adversary adjudication' means an adjudication under section 554 of this title in which the position of the United States is represented by counsel or otherwise, but excludes an adjudication for the purpose of establishing or fixing a rate or for the purpose of granting or renewing a license; and

5 USC 554.

"(D) 'adjudicative officer' means the deciding official, without regard to whether the official is designated as an administrative law judge, a hearing officer or examiner, or otherwise, who presided at the adversary adjudication.

"(2) Except as otherwise provided in paragraph (1), the definitions provided in section 551 of this title apply to this section.

Applications, uniform procedures.

"(c)(1) After consultation with the Chairman of the Administrative Conference of the United States, each agency shall by rule establish uniform procedures for the submission and consideration of applications for an award of fees and other expenses. If a court reviews the underlying decision of the adversary adjudication, an award for fees and other expenses may be made only pursuant to section 2412(d)(3) of title 28, United States Code.

Fee determination, review.

"(2) A party dissatisfed with the fee determination made under subsection (a) may petition for leave to appeal to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adversary adjudication. If the court denies the petition for leave to appeal, no appeal may be taken from the denial. If the court grants the petition, it may modify the determination only if it finds that the failure to make an award, or the calculation of the amount of the award, was an abuse of discretion.

"(d)(1) Fees and other expenses awarded under this section may be paid by any agency over which the party prevails from any funds made available to the agency, by appropriation or otherwise, for such purpose. If not paid by any agency, the fees and other expenses shall be paid in the same manner as the payment of final judgments is made pursuant to section 2414 of title 28, United States Code.

"(2) There is authorized to be appropriated to each agency for each of the fiscal years 1982, 1983, and 1984, such sums as may be necessary to pay fees and other expenses awarded under this section in such fiscal years. Appropriation authorization.

"(e) The Chairman of the Administrative Conference of the United States, after consultation with the Chief Counsel for Advocacy of the Small Business Administration, shall report annually to the Congress on the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this section. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards. Each agency shall provide the Chairman with such information as is necessary for the Chairman to comply with the requirements of this subsection.". Report to Congress.

(2) The table of sections of subchapter I of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"504. Costs and fees of parties.".

(b) Section 202 of the Act entitled "An Act to amend the Small Business Act and Small Business Investment Act of 1958 to provide additional assistance under such Acts, to create a pollution control financing program for small business, and for other purposes" approved June 4, 1976 (15 U.S.C. 634b), is amended—

(1) by striking out "and" after the semicolon in paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(11) advise, cooperate with, and consult with, the Chairman of the Administrative Conference of the United States with respect to section 504(e) of title 5 of the United States Code.". *Ante*, p. 2325.

(c) Effective October 1, 1984, section 504, and the item relating to section 504 in the table of sections, of title 5, United States Code, as added by subsection (a) of this section, are repealed, except that the provisions of such section shall continue to apply through final disposition of any adversary adjudication as defined in subsection (b)(1)(C) of such section, initiated before the date of repeal. Repeal. 5 USC 504.

AWARD OF FEES AND OTHER EXPENSES IN CERTAIN JUDICIAL PROCEEDINGS

SEC. 204. (a) Section 2412 of title 28, United States Code, is amended to read as follows:

"§ 2412. Costs and fees

"(a) Except as otherwise specifically provided by statute, a judgment for costs, as enumerated in section 1920 of this title, but not including the fees and expenses of attorneys, may be awarded to the prevailing party in any civil action brought by or against the United States or any agency and any official of the United States acting in his or her official capacity in any court having jurisdiction of such action. A judgment for costs when taxed against the United States 28 USC 1920.

shall, in an amount established by statute, court rule, or order, be limited to reimbursing in whole or in part the prevailing party for the costs incurred by such party in the litigation.

"(b) Unless expressly prohibited by statute, a court may award reasonable fees and expenses of attorneys, in addition to the costs which may be awarded pursuant to subsection (a), to the prevailing party in any civil action brought by or against the United States or any agency and any official of the United States acting in his or her official capacity in any court having jurisdiction of such action. The United States shall be liable for such fees and expenses to the same extent that any other party would be liable under the common law or under the terms of any statute which specifically provides for such an award.

Judgment payments.

"(c)(1) Any judgment against the United States or any agency and any official of the United States acting in his or her official capacity for costs pursuant to subsection (a) shall be paid as provided in sections 2414 and 2517 of this title and shall be in addition to any relief provided in the judgment.

28 USC 2414, 2517.

"(2) Any judgment against the United States or any agency and any official of the United States acting in his or her official capacity for fees and expenses of attorneys pursuant to subsection (b) shall be paid as provided in sections 2414 and 2517 of this title, except that if the basis for the award is a finding that the United States acted in bad faith, then the award shall be paid by any agency found to have acted in bad faith and shall be in addition to any relief provided in the judgment.

"(d)(1)(A) Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses, in addition to any costs awarded pursuant to subsection (a), incurred by that party in any civil action (other than cases sounding in tort) brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

Fee and expense applications, submittal.

"(B) A party seeking an award of fees and other expenses shall, within thirty days of final judgment in the action, submit to the court an application for fees and other expenses which shows that the party is a prevailing party and is eligible to receive an award under this subsection, and the amount sought, including an itemized statement from any attorney or expert witness representing or appearing in behalf of the party stating the actual time expended and the rate at which fees and other expenses were computed. The party shall also allege that the position of the United States was not substantially justified.

Awards, reduction or denial.

"(C) The court, in its discretion, may reduce the amount to be awarded pursuant to this subsection, or deny an award, to the extent that the prevailing party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy.

Definitions.

"(2) For the purposes of this subsection—

"(A) 'fees and other expenses' includes the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and reasonable attorney fees (The amount of fees awarded under this subsection shall be based upon prevailing market rates for the kind and quality of the services furnished, except that (i) no expert witness shall be compensated at a rate in excess of the

highest rate of compensation for expert witnesses paid by the United States; and (ii) attorney fees shall not be awarded in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee.);

"(B) 'party' means (i) an individual whose net worth did not exceed $1,000,000 at the time the civil action was filed, (ii) a sole owner of an unincorporated business, or a partnership, corporation, association, or organization whose net worth did not exceed $5,000,000 at the time the civil action was filed, except that an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of the Code and a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association, or (iii) a sole owner of an unincorporated business, or a partnership, corporation, association, or organization, having not more than 500 employees at the time the civil action was filed; and

"(C) 'United States' includes any agency and any official of the United States acting in his or her official capacity.

"(3) In awarding fees and other expenses under this subsection to a prevailing party in any action for judicial review of an adversary adjudication, as defined in subsection (b)(1)(C) of section 504 of title 5, United States Code, or an adversary adjudication subject to the Contract Disputes Act of 1978, the court shall include in that award fees and other expenses to the same extent authorized in subsection (a) of such section, unless the court finds that during such adversary adjudication the position of the United States was substantially justified, or that special circumstances make an award unjust.

Ante, p. 2325.
41 USC 601 note.

"(4)(A) Fees and other expenses awarded under this subsection may be paid by any agency over which the party prevails from any funds made available to the agency, by appropriation or otherwise, for such purpose. If not paid by any agency, the fees and other expenses shall be paid in the same manner as the payment of final judgments is made in accordance with sections 2414 and 2517 of this title.

28 USC 2414, 2517.

"(B) There is authorized to be appropriated to each agency for each of the fiscal years 1982, 1983, and 1984, such sums as may be necessary to pay fees and other expenses awarded pursuant to this subsection in such fiscal years.

Appropriation authorization.

"(5) The Director of the Administrative Office of the United States Courts shall include in the annual report prepared pursuant to section 604 of this title, the amount of fees and other expenses awarded during the preceding fiscal year pursuant to this subsection. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards.".

Report to Congress.
28 USC 604.

(b) The item relating to section 2412 in the table of sections for chapter 161 of title 28, United States Code, is amended to read as follows:

"2412. Costs and fees.".

(c) Effective October 1, 1984, subsection (d) of section 2412, as added by subsection (a) of this section, is repealed, except that the provisions of that subsection shall continue to apply through final disposition of any action commenced before the date of repeal.

28 USC 2412.

TECHNICAL AND CONFORMING AMENDMENTS

Repeal.
28 USC app.

SEC. 205. (a) Subdivision (f) of rule 37 of the Federal Rules of Civil Procedure is repealed.

(b) The table of rules of the Federal Rules of Civil Procedure is amended by deleting the item relating to subdivision (f) of rule 37.

(c) Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended by striking out "or in any civil action or proceeding by or on behalf of the United States of America, to enforce, or charging a violation of a provision of the United States Internal Revenue Code,".

26 USC 1.

EFFECT ON OTHER LAWS

28 USC 2412 note.
Ante, p. 2327.

SEC. 206. Nothing in section 2412(d) of title 28, United States Code, as added by section 204(a) of this title, alters, modifies, repeals, invalidates, or supersedes any other provision of Federal law which authorizes an award of such fees and other expenses to any party other than the United States that prevails in any civil action brought by or against the United States.

LIMITATION

5 USC 504 note.

SEC. 207. The payment of judgments, fees and other expenses in the same manner as the payment of final judgments as provided in this Act is effective only to the extent and in such amounts as are provided in advance in appropriations Acts.

EFFECTIVE DATE AND APPLICATION

5 USC 504 note.

SEC. 208. This title and the amendments made by this title shall take effect of October 1, 1981, and shall apply to any adversary adjudication, as defined in section 504(b)(1)(C) of title 5, United States Code, and any civil action or adversary adjudication described in section 2412 of title 28, United States Code, which is pending on, or commenced on or after, such date.

Ante, p. 2325.

TITLE III—SMALL BUSINESS EXPORT EXPANSION ASSISTANCE

Export promotion center, establishment.
15 USC 649a.

SEC. 301. (a) The Secretary of Commerce, after consultation with the Administrator of the Small Business Administration, the President of the Export-Import Bank of the United States, the President of the Overseas Private Investment Corporation, and the Director of the Internal Revenue Service, shall establish an export promotion center in each of two district offices of the International Trade Administration of the Department of Commerce which are located in metropolitan areas where district offices of the Small Business Administration and the Internal Revenue Service exist.

Representatives, designation.

(b) The Export-Import Bank of the United States, the Internal Revenue Service, the Overseas Private Investment Corporation, the Department of Commerce, and the Small Business Administration shall each designate at least one full-time employee to serve as such agency's full-time representative in each such center. Each person designated shall be familiar with the needs and problems of small business exporting and shall serve without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Each export promotion center shall serve as a one-stop

5 USC 5101 *et seq.*
5 USC 5331.

information center on Federal Government export assistance, financing programs available to small business, and other provisions of law governing exporting for small business.

(c) Not later than six months after the enactment of this title, the Secretary of Commerce shall report to the Select Committee on Small Business and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Small Business and the Committee on Foreign Affairs of the House of Representatives on the progress made in implementing the provisions of this section. Report to congressional committees.

(d) Within two years after the date of enactment of this title, the Secretary of Commerce shall evaluate these export promotion centers, including, but not limited to, an analysis of the effectiveness of the centers in developing and expanding small business exports, and a comparison of the effectiveness of the centers in relation to district offices of the Department of Commerce which do not have an export promotion center. Such evaluation shall be submitted to the committees of the Senate and the House of Representatives referred to in subsection (c). Evaluations, submittal to congressional committees.

(e) This section shall take effect on October 1, 1980, or on the date of the enactment of this section whichever occurs later and shall expire on October 1, 1983. Effective date. 15 USC 649a note.

SEC. 302. (a) The Secretary of Commerce (hereinafter referred to as the "Secretary") is authorized to make grants (including contracts and cooperative agreements) to a qualified applicant to encourage the development and implementation of a small business international marketing program (hereinafter referred to as "the program"). Each qualified applicant under this title may receive a Federal grant not to exceed $150,000 annually for each of three years: *Provided,* That not more than one-third of these Federal funds may be used for the purpose of hiring personnel. Nothing in this section shall be construed as authorizing the Secretary to enter into contracts or incur obligations except to such extent and in such amounts as are provided in appropriation Acts. Grants, contracts, and cooperative agreements. 15 USC 649b.

(b)(1) To be eligible for a grant under this section, an applicant proposing to carry out a small business international marketing program must submit to the Secretary an application demonstrating, at a minimum: Application requirements.

(A) the geographical area to be served;

(B) the number of firms to be assisted;

(C) the staff required to administer the program;

(D) the means to counsel small businesses interested in pursuing export sales, including providing information concerning available financing, credit insurance, tax treatment, potential markets and marketing assistance, export pricing, shipping, documentation, and foreign financing and business customs;

(E) the ability to provide market analysis of the export potential of small business concerns; and

(F) the capability for developing contacts with potential foreign customers and distributors for small business and their products, including arrangements and sponsorship of foreign trade missions for small business concerns to meet with identified potential customers, distributors, sales representatives, and organizations interested in licensing or joint ventures: *Provided, however,* That no portion of any Federal funds may be used to directly underwrite any small business participation in foreign trade missions abroad.

(2) Program services shall be provided to small business concerns through outreach services at the most local level practicable. Program outreach services.

(3) Each small business international marketing program shall have a full-time staff director to manage program activities, and access to export specialists to counsel and to assist small business clients in international marketing.

Advisory board establishment.

(c)(1) Each small business international marketing program shall establish an advisory board of nine members to be appointed by the staff director of the program, not less than five members of whom shall be small business persons or representatives of small business associations.

(2) Each advisory board shall elect a chairman and shall advise, counsel, and confer with the staff director of the program on all policy matters pertaining to the operation of the program (including who may be eligible to receive assistance, ways to promote the sale of United States products and services in foreign markets or to encourage tourism in the United States, and how to maximize local and regional private consultant participation in the program).

Grant requirements.

(d) The Secretary shall require, as a condition to any grant (or amendment or modification thereof) made to an applicant under this section, that a sum equal to the amount of such grant be provided from sources other than the Federal Government: *Provided,* That the additional amount shall not include any amount of indirect costs or in-kind contributions paid for under any Federal program, nor shall indirect costs or in-kind contributions exceed 50 per centum of the non-Federal additional amount.

Program evaluation.

(e) The Secretary shall develop a plan to evaluate programs approved under this section which shall only—

(1) determine the impact of small business international marketing programs on those small businesses assisted;

(2) determine the amount of export sales generated by small businesses assisted through such programs; and

Report to Congress.

(3) make recommendations concerning continuation and/or expansion of the program and possible improvements in the program structure. Such evaluation shall be submitted to the Congress by October 1, 1982.

(f) For the purpose of the evaluation under subsection (e), the Secretary is authorized to require any small business international marketing program, or party receiving assistance under this section, to furnish such information as is deemed appropriate to complete the required evaluation.

"Applicant."

(g) As used in this section, the term "applicant" means any State government or agency or instrumentality thereof, any Small Business Administration—designated small business development center, any for profit small business, any nonprofit corporation, any regional commission, or any combination of such entities, which will carry out a small business international marketing program.

Contract authority.

(h) The authority to enter into contracts shall be in effect for each fiscal year only to the extent or in the amounts as are provided in advance in appropriation Acts.

15 USC 649c.

SEC. 303. At least one small business international program shall be established within each region of the Department of Commerce.

Appropriation authorization.

There are authorized to be appropriated to the Secretary $1,500,000 for each fiscal year 1981, 1982, and 1983, to carry out the program established in section 302.

SEC. 304. The Secretary through the International Trade Administration, shall, only to such extent and in such amounts as are provided in appropriation Acts on and after October 1, 1980, maintain a central clearinghouse to provide for the collection, dissemination, and exchange of information between programs established pursuant to sections 301 and 302 of this title, the Office of International Trade of the Small Business Administration, and other interested concerns.". Central information clearinghouse. 15 USC 649d.

Approved October 21, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1004 (Comm. on Small Business) and No. 96-1434 (Comm. of Conference).
SENATE REPORT: No. 96-974 (Select Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 9, 10, considered and passed House.
Sept. 26, considered and passed Senate, amended.
Sept. 30, Senate agreed to conference report.
Oct. 1, House receded and concurred in Senate amendments with amendments; Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 43:
Oct. 21, Presidential statement.

Public Law 96-482
96th Congress

An Act

Oct. 21, 1980
[S. 1156]

To amend and reauthorize the Solid Waste Disposal Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Solid Waste Disposal Act Amendments of 1980.

SECTION 1. This Act may be cited as the "Solid Waste Disposal Act Amendments of 1980".

42 USC 6901 note.

SEC. 2. (a) Section 1004(14) of the Solid Waste Disposal Act is amended to read as follows:

Definitions.
42 USC 6903.

"(14) The term 'open dump' means any facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria promulgated under section 4004 and which is not a facility for disposal of hazardous waste."

42 USC 6944.

(b) Section 1004(19) of such Act is amended to read as follows:

"(19) The term 'recovered material' means waste material and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process.".

42 USC 6905.

SEC. 3. Section 1006 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

Regulation review.
30 USC 1201 note.

"(c) INTEGRATION WITH THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977.—(1) No later than 90 days after the date of enactment of the Solid Waste Disposal Act Amendments of 1980, the Administrator shall review any regulations applicable to the treatment, storage, or disposal of any coal mining wastes or overburden promulgated by the Secretary of the Interior under the Surface Mining and Reclamation Act of 1977. If the Administrator determines that any requirement of final regulations promulgated under any section of subtitle C relating to mining wastes or overburden is not adequately addressed in such regulations promulgated by the Secretary, the Administrator shall promptly transmit such determination, together with suggested revisions and supporting documentation, to the Secretary.

30 USC 1201 note.
42 USC 6921.

Administrative responsibility.
42 USC 6921.

"(2) The Secretary of the Interior shall have exclusive responsibility for carrying out any requirement of subtitle C of this Act with respect to coal mining wastes or overburden for which a surface coal mining and reclamation permit is issued or approved under the Surface Mining Control and Reclamation Act of 1977. The Secretary shall, with the concurrence of the Administrator, promulgate such regulations as may be necessary to carry out the purposes of this subsection and shall integrate such regulations with regulations promulgated under the Surface Mining Control and Reclamation Act of 1977.".

30 USC 1201 note.
Regulations.

SEC. 4. (a) The heading for section 2001 of the Solid Waste Disposal Act is amended by adding the following at the end thereof: "AND INTERAGENCY COORDINATING COMMITTEE".

42 USC 6911.

(b) The item in the table of contents relating to section 2001 of such Act is amended by adding the following at the end thereof: "and interagency coordinating committee".

(c) Section 2001 of such Act is amended by inserting "(a) OFFICE OF SOLID WASTE.—" after "2001." and by inserting a new subsection (b) as follows at the end thereof: Establishment. 42 USC 6911.

"(b) INTERAGENCY COORDINATING COMMITTEE.—(1) There is hereby established an Interagency Coordinating Committee on Federal Resource Conservation and Recovery Activities which shall have the responsibility for coordinating all activities dealing with resource conservation and recovery from solid waste carried out by the Environmental Protection Agency, the Department of Energy, the Department of Commerce, and all other Federal agencies which conduct such activities pursuant to this or any other Act. For purposes of this subsection, the term 'resource conservation and recovery activities' shall include, but not be limited to, all research, development and demonstration projects on resource conservation or energy, or material, recovery from solid waste, and all technical or financial assistance for State or local planning for, or implementation of, projects related to resource conservation or energy or material, recovery from solid waste. The Committee shall be chaired by the Administrator of the Environmental Protection Agency or such person as the Administrator may designate. Members of the Committee shall include representatives of the Department of Energy, the Department of Commerce, the Department of the Treasury, and each other Federal agency which the Administrator determines to have programs or responsibilities affecting resource conservation or recovery. "Resource conservation and recovery activities."

"(2) The Interagency Coordinating Committee shall include oversight of the implementation of Oversight functions.

"(A) the May 1979 Memorandum of Understanding on Energy Recovery from Municipal Solid Waste between the Environmental Protection Agency and the Department of Energy;

"(B) the May 30, 1978, Interagency Agreement between the Department of Commerce and the Environmental Protection Agency on the Implementation of the Resource Conservation and Recovery Act; and

"(C) any subsequent agreements between these agencies or other Federal agencies which address Federal resource recovery or conservation activities.

"(3) The Interagency Coordinating Committee shall submit to the Congress by March 1, 1981, and on March 1 each year thereafter, a five-year action plan for Federal resource conservation or recovery activities which shall identify means and propose programs to encourage resource conservation or material and energy recovery and increase private and municipal investment in resource conservation or recovery systems, especially those which provide for material conservation or recovery as well as energy conservation or recovery. Such plan shall describe, at a minimum, a coordinated and nonduplicatory plan for resource recovery and conservation activities for the Environmental Protection Agency, the Department of Energy, the Department of Commerce, and all other Federal agencies which conduct such activities.". Five-year action plan, submittal to Congress.

SEC. 5. Section 2002(a) of the Solid Waste Disposal Act is amended as follows: 42 USC 6912.

(1) in paragraph (4), by striking out "and" at the end thereof;

(2) in paragraph (5), by striking the period and inserting in lieu thereof "; and"; and

Authority delegation.

(3) by adding the following new paragraph at the end thereof:

"(6) to delegate to the Secretary of Transportation the performance of any inspection or enforcement function under this Act relating to the transportation of hazardous waste where such delegation would avoid unnecessary duplication of activity and would carry out the objectives of this Act and of the Hazardous Materials Transportation Act.".

42 USC 6901 note. 49 USC 1801 note.

SEC. 6. (a) Section 2006(b) of the Solid Waste Disposal Act is amended by inserting after "subsection (a)" a comma and the phrase "or $5,000,000 per fiscal year, whichever is less,".

42 USC 6916.

(b) Section 2006 of such Act is amended by adding the following new subsection at the end thereof:

"(d) STATE AND LOCAL SUPPORT.—Not less than 25 per centum of the total amount appropriated under this title, up to the amount authorized in section 4008(a)(1), shall be used only for purposes of support to State, regional, local, and interstate agencies in accordance with subtitle D of this Act other than section 4008(a)(2) or 4009.".

Post, p. 2352.

42 USC 6941, 6948, 6949.

SEC. 7. Subsection (b) of section 3001 of the Solid Waste Disposal Act is amended by inserting "(1)" after "(b)" and by adding the following new paragraphs at the end of such subsection:

42 USC 6921.

"(2)(A) Notwithstanding the provisions of paragraph (1) of this subsection, drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy shall be subject only to existing State or Federal regulatory programs in lieu of subtitle C until at least 24 months after the date of enactment of the Solid Waste Disposal Act Amendments of 1980 and after promulgation of the regulations in accordance with subparagraphs (B) and (C) of this paragraph. It is the sense of the Congress that such State or Federal programs should include, for waste disposal sites which are to be closed, provisions requiring at least the following:

42 USC 6921.

Ante, p. 2334.

Disposal site closings, program provisions.

"(i) The identification through surveying, platting, or other measures, together with recordation of such information on the public record, so as to assure that the location where such wastes are disposed of can be located in the future; except however, that no such surveying, platting, or other measure identifying the location of a disposal site for drilling fluids and associated wastes shall be required if the distance from the disposal site to the surveyed or platted location to the associated well is less than two hundred lineal feet; and

"(ii) A chemical and physical analysis of a produced water and a composition of a drilling fluid suspected to contain a hazardous material, with such information to be acquired prior to closure and to be placed on the public record.

"(B) Not later than six months after completion and submission of the study required by section 8002(m) of this Act, the Administrator shall, after public hearings and opportunity for comment, determine either to promulgate regulations under this subtitle for drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy or that such regulations are unwarranted. The Administrator shall publish his decision in the Federal Register accompanied by an explanation and justification of the reasons for it. In making the decision under this paragraph, the Administrator shall utilize the information developed or accumulated pursuant to the study required under section 8002(m).

Post, p. 2349.

Publication in Federal Register.

Post, p. 2349.

"(C) The Administrator shall transmit his decision, along with any regulations, if necessary, to both Houses of Congress. Such regulations shall take effect only when authorized by Act of Congress. Transmittal to Congress.

"(3)(A) Notwithstanding the provisions of paragraph (1) of this subsection, each waste listed below shall, except as provided in subparagraph (B) of this paragraph, be subject only to regulation under other applicable provisions of Federal or State law in lieu of this subtitle until at least six months after the date of submission of the applicable study required to be conducted under subsection (f), (n), (o), or (p) of section 8002 of this Act and after promulgation of regulations in accordance with subparagraph (C) of this paragraph: Waste material regulation. *Post*, p. 2349.

"(i) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels.

"(ii) Solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore.

"(iii) Cement kiln dust waste.

"(B)(i) Owners and operators of disposal sites for wastes listed in subparagraph (A) may be required by the Administrator, through regulations prescribed under authority of section 2002 of this Act— 42 USC 6912.

"(I) as to disposal sites for such wastes which are to be closed, to identify the locations of such sites through surveying, platting, or other measures, together with recordation of such information on the public record, to assure that the locations where such wastes are disposed of are known and can be located in the future, and Disposal site identification.

"(II) to provide chemical and physical analysis and composition of such wastes, based on available information, to be placed on the public record. Waste composition and analysis.

"(ii)(I) In conducting any study under subsection (f), (n), (o), or (p), of section 8002 of this Act, any officer, employee, or authorized representative of the Environmental Protection Agency, duly designated by the Administrator, is authorized, at reasonable times and as reasonably necessary for the purposes of such study, to enter any establishment where any waste subject to such study is generated, stored, treated, disposed of, or transported from; to inspect, take samples, and conduct monitoring and testing; and to have access to and copy records relating to such waste. Each such inspection shall be commenced and completed with reasonable promptness. If the officer, employee, or authorized representative obtains any samples prior to leaving the premises, he shall give to the owner, operator, or agent in charge a receipt describing the sample obtained and if requested a portion of each such sample equal in volume or weight to the portion retained. If any analysis is made of such samples, or monitoring and testing performed, a copy of the results shall be furnished promptly to the owner, operator, or agent in charge. EPA investigations. *Post*, p. 2349.

"(II) Any records, reports, or information obtained from any person under subclause (I) shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or particular part thereof, to which the Administrator has access under this subparagraph if made public, would divulge information entitled to protection under section 1905 of title 18 of the United States Code, the Administrator shall consider such information or particular portion thereof confidential in accordance with the purposes of that section, except that such record, report, document, or information may be disclosed to other officers, employees, or authorized representatives of the United States con- Information, availability to public.

Disclosure penalty.

cerned with carrying out this Act. Any person not subject to the provisions of section 1905 of title 18 of the United States Code who knowingly and willfully divulges or discloses any information entitled to protection under this subparagraph shall, upon conviction, be subject to a fine of not more than $5,000 or to imprisonment not to exceed one year, or both.

Radiation exposure prevention.

"(iii) The Administrator may prescribe regulations, under the authority of this Act, to prevent radiation exposure which presents an unreasonable risk to human health from the use in construction or land reclamation (with or without revegetation) of (I) solid waste from the extraction, beneficiation, and processing of phosphate rock or (II) overburden from the mining of uranium ore.

Violations.

"(iv) Whenever on the basis of any information the Administrator determines that any person is in violation of any requirement of this subparagraph, the Administrator shall give notice to the violator of his failure to comply with such requirement. If such violation extends beyond the thirtieth day after the Administrator's notification, the Administrator may issue an order requiring compliance within a specified time period or the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction.

Regulation determination.

Post, p. 2349.

"(C) Not later than six months after the date of submission of the applicable study required to be conducted under subsection (f), (n), (o), or (p), of section 8002 of this Act, the Administrator shall, after public hearings and opportunity for comment, either determine to promulgate regulations under this subtitle for each waste listed in subparagraph (A) of this paragraph or determine that such regulations are unwarranted. The Administrator shall publish his determination, which shall be based on information developed or accumulated pursuant to such study, public hearings, and comment, in the Federal Register accompanied by an explanation and justification of the reasons for it.".

Publication in Federal Register.

42 USC 6922.

SEC. 8. Section 3002(5) of the Solid Waste Disposal Act is amended by inserting "and any other reasonable means necessary" after "use of a manifest system", and by inserting ", and arrives at," after "disposal in".

42 USC 6924.

SEC. 9. Section 3004 of the Solid Waste Disposal Act is amended by inserting after the first sentence thereof "In establishing such standards the Administrator shall, where appropriate, distinguish in such standards between requirements appropriate for new facilities and for facilities in existence on the date of promulgation of such regulations.".

42 USC 6925.

SEC. 10. Section 3005(e) of the Solid Waste Disposal Act is amended by striking "facility is in existence on the date of enactment of this Act," and inserting in lieu thereof "facility is in existence on November 19, 1980,".

SEC. 11. Section 3005 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

"(f) COAL MINING WASTES AND RECLAMATION PERMITS.—Notwithstanding subsection (a) through (e) of this section, any surface coal mining and reclamation permit covering any coal mining wastes or overburden which has been issued or approved under the Surface Mining Control and Reclamation Act of 1977 shall be deemed to be a permit issued pursuant to this section with respect to the treatment, storage, or disposal of such wastes or overburden. Regulations promulgated by the Administrator under this subtitle shall not be

30 USC 1201 note.

applicable to treatment, storage, or disposal of coal mining wastes and overburden which are covered by such a permit."

SEC. 12. (a) Section 3007(a) of the Solid Waste Disposal Act is amended as follows: 42 USC 6927.

(1) by striking "subtitle" and inserting in lieu thereof "title";

(2) by striking "maintained by any person" after "establishment or other place";

(3) by inserting "or has handled" after "otherwise handles";

(4) by striking "any officer or employee" and inserting in lieu thereof "any officer, employee or representative";

(5) by striking "duly designated officer employee" and inserting in lieu thereof "duly designated officer, employee or representative";

(6) by striking "furnish or permit" and inserting in lieu thereof "furnish information relating to such wastes and permit";

(7) by striking out "such officers or employees" and inserting in lieu thereof "such officers, employees or representatives";

(8) by inserting "or have been" after "where hazardous wastes are"; and

(9) by striking "officer or employee obtains" and inserting in lieu thereof "officer, employee or representative obtains".

(b) Section 3007(b) of such Act is amended as follows:

(1) by inserting "or any officer, employee or representative thereof" before "has access under this section";

(2) by striking "the Administrator (or the State, as the case may be) shall consider such information or portion thereof" and inserting in lieu thereof "such information or particular portion thereof shall be considered";

(3) by inserting "(1)" before "Any records" and adding at the end thereof the following new paragraphs:

"(2) Any person not subject to the provisions of section 1905 of title 18 of the United States Code who knowingly and willfully divulges or discloses any information entitled to protection under this subsection shall, upon conviction, be subject to a fine of not more than $5,000 or to imprisonment not to exceed one year, or both. Information disclosure, penalty.

"(3) In submitting data under this Act, a person required to provide such data may— Data submittal.

"(A) designate the data which such person believes is entitled to protection under this subsection, and

"(B) submit such designated data separately from other data submitted under this Act.

A designation under this paragraph shall be made in writing and in such manner as the Administrator may prescribe.

"(4) Notwithstanding any limitation contained in this section or any other provision of law, all information reported to, or otherwise obtained by, the Administrator (or any representative of the Administrator) under this Act shall be made available, upon written request of any duly authorized committee of the Congress, to such committee."; and Availability to congressional committees.

(4) by inserting "(including records, reports, or information obtained by representatives of the Environmental Protection Agency)".

SEC. 13. Section 3008 of the Solid Waste Disposal Act is amended as follows: 42 USC 6928.

(1) in subsection (a)(1), by striking "the Administrator shall give notice to the violator of his failure to comply with such requirement. If such violation extends beyond the thirtieth day

after the Administrator's notification," and by inserting "immediately or" after "compliance" ;

(2) in subsection (a)(2), by striking "thirty days";

(3) in subsection (b), by striking "or any suspension or revocation of a permit" and "or notice of the suspension or revocation";

(4) in subsection (c), by inserting "may include a suspension or revocation of a permit issued under this subtitle, and" after "Any order issued under this section"; and

(5) by striking out subsection (d) and substituting:

"(d) CRIMINAL PENALTIES.—Any person who—

"(1) knowingly transports any hazardous waste identified or listed under this subtitle to a facility which does not have a permit under section 3005 (or 3006 in case of a State program), or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052),

42 USC 6925, 6926.

33 USC 1411.

"(2) knowingly treats, stores, or disposes of any hazardous waste identified or listed under this subtitle either—

"(A) without having obtained a permit under section 3005 (or 3006 in the case of a State program) or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052); or

"(B) in knowing violation of any material condition or requirement of such permit;

"(3) knowingly makes any false material statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained, or used for purposes of compliance with this subtitle; or

"(4) knowingly generates, stores, treats, transports, disposes of, or otherwise handles any hazardous waste (whether such activity took place before or takes place after the date of the enactment of this paragraph) and who knowingly destroys, alters, or conceals any record required to be maintained under regulations promulgated by the Administrator under this subtitle

shall, upon conviction, be subject to a fine of not more than $25,000 ($50,000 in the case of a violation of paragraph (1) or (2)) for each day of violation, or to imprisonment not to exceed one year (two years in the case of a violation of paragraph (1) or (2)), or both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

"(e) KNOWING ENDANGERMENT.—Any person who knowingly transports, treats, stores, or disposes of any hazardous waste identified or listed under this subtitle—

"(1)(A) in violation of paragraphs (1) or (2) of subsection (d) of this section, or

"(B) having applied for a permit under section 3005 or 3006, and knowingly either—

"(i) has failed to include in his application material information required under regulations promulgated by the Administrator, or

"(ii) fails to comply with the applicable interim status regulations and standards promulgated pursuant to this subtitle,

who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, and

"(2)(A) if his conduct in the circumstances manifests an unjustified and inexcusable disregard for human life, or

"(B) if his conduct in the circumstances manifests an extreme indifference for human life.

shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment for not more than 2 years, or both, except that any person who violates subsection (e)(2)(B) shall, upon conviction, be subject to a fine of not more than $250,000 or imprisonment for not more than 5 years, or both. A defendant that is an organization shall, upon conviction of violating this subsection, be subject to a fine of not more than $1,000,000. Penalties.

"(f) SPECIAL RULES.—For the purposes of subsection (e)—

"(1) A person's state of mind is knowing with respect to—

"(A) his conduct, if he is aware of the nature of his conduct;

"(B) an existing circumstance, if he is aware or believes that the circumstance exists; or

"(C) a result of his conduct, if he is aware or believes that his conduct is substantially certain to cause danger of death or serious bodily injury.

"(2) In determining whether a defendant who is a natural person knew that his conduct placed another person in imminent danger of death or serious bodily injury—

"(A) the person is responsible only for actual awareness or actual belief that he possessed; and

"(B) knowledge possessed by a person other than the defendant but not by the defendant himself may not be attributed to the defendant;

Provided, That in proving the defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield himself from relevant information.

"(3) It is an affirmative defense to a prosecution that the conduct charged was consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—

"(A) an occupation, a business, or a profession; or

"(B) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent.

The defendant may establish an affirmative defense under this subsection by a preponderance of the evidence.

"(4) All general defenses, affirmative defenses, and bars to prosecution that may apply with respect to other Federal criminal offenses may apply under subsection (e) and shall be determined by the courts of the United States according to the principles of common law as they may be interpreted in the light of reason and experience. Concepts of justification and excuse applicable under this section may be developed in the light of reason and experience.

"(5) The term 'organization' means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons. "Organization."

"(6) The term 'serious bodily injury' means— "Serious bodily injury."

"(A) bodily injury which involves a substantial risk of death;

"(B) unconsciousness;

"(C) extreme physical pain;

"(D) protracted and obvious disfigurement; or

"(E) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(g) CIVIL PENALTY.—Any person who violates any requirement of this subtitle shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day of such violation shall, for purposes of this subsection, constitute a separate violation.".

42 USC 6929. SEC. 14. Section 3009 of the Solid Waste Disposal Act is amended by adding at the end thereof the following new sentence: "Nothing in this title shall be construed to prohibit any State or political subdivision thereof from imposing any requirements, including those for site selection, which are more stringent than those imposed by such regulations.".

42 USC 6930. SEC. 15. Section 3010(a) of the Solid Waste Disposal Act is amended by striking out "or revision" and by inserting the following at the end of the first sentence thereof: "In revising any regulation under

42 USC 6921. section 3001 identifying additional characteristics of hazardous waste or listing any additional substance as hazardous waste subject to this subtitle, the Administrator may require any person referred to in the preceding sentence to file with the Administrator (or with States having authorized hazardous waste permit programs under section

42 USC 6926. 3006) the notification described in the preceding sentence.".

42 USC 6931. SEC. 16. Section 3011 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

"(c) ACTIVITIES INCLUDED.—State hazardous waste programs for which grants may be made under subsection (a) may include (but shall not be limited to) planning for hazardous waste treatment, storage and disposal facilities, and the development and execution of programs to protect health and the environment from inactive facilities which may contain hazardous waste.".

SEC. 17. (a) Subtitle C of the Solid Waste Disposal Act is amended by adding the following new sections at the end thereof:

"HAZARDOUS WASTE SITE INVENTORY

42 USC 6933. "SEC. 3012. (a) STATE INVENTORY PROGRAMS.—Each State shall, as expeditiously as practicable, undertake a continuing program to compile, publish, and submit to the Administrator an inventory describing the location of each site within such State at which hazardous waste has at any time been stored or disposed of. Such inventory shall contain—

"(1) a description of the location of the sites at which any such storage or disposal has taken place before the date on which

42 USC 6925. permits are required under section 3005 for such storage or disposal;

"(2) such information relating to the amount, nature, and toxicity of the hazardous waste at each such site as may be practicable to obtain and as may be necessary to determine the extent of any health hazard which may be associated with such site;

"(3) the name and address, or corporate headquarters of, the owner of each such site, determined as of the date of preparation of the inventory;

"(4) an identification of the types or techniques of waste treatment or disposal which have been used at each such site; and

"(5) information concerning the current status of the site, including information respecting whether or not hazardous waste is currently being treated or disposed of at such site (and if not, the date on which such activity ceased) and information respecting the nature of any other activity currently carried out at such site.

Information compilation, assistance to States.

For purposes of assisting the States in compiling information under this section, the Administrator shall make available to each State undertaking a program under this section such information as is available to him concerning the items specified in paragraphs (1) through (5) with respect to the sites within such State, including such information as the Administrator is able to obtain from other agencies or departments of the United States and from surveys and studies carried out by any committee or subcommittee of the Congress. Any State may exercise the authority of section 3007 for purposes of this section in the same manner and to the same extent as provided in such section in the case of States having an authorized hazardous waste program, and any State may by order require any person to submit such information as may be necessary to compile the data referred to in paragraphs (1) through (5).

42 USC 6927.

"(b) ENVIRONMENTAL PROTECTION AGENCY PROGRAM.—If the Administrator determines that any State program under subsection (a) is not adequately providing information respecting the sites in such State referred to in subsection (a), the Administrator shall notify the State. If within ninety days following such notification, the State program has not been revised or amended in such manner as will adequately provide such information, the Administrator shall carry out the inventory program in such State. In any such case—

"(1) the Administrator shall have the authorities provided with respect to State programs under subsection (a);

"(2) the funds allocated under subsection (c) for grants to States under this section may be used by the Administrator for carrying out such program in such State; and

"(3) no further expenditure may be made for grants to such State under this section until such time as the Administrator determines that such State is carrying out, or will carry out, an inventory program which meets the requirements of this section.

"(c) GRANTS.—(1) Upon receipt of an application submitted by any State to carry out a program under this section, the Administrator may make grants to the States for purposes of carrying out such a program. Grants under this section shall be allocated among the several States by the Administrator based upon such regulations as he prescribes to carry out the purposes of this section. The Administrator may make grants to any State which has conducted an inventory program which effectively carried out the purposes of this section before the date of the enactment of the Solid Waste Disposal Act Amendments of 1980 to reimburse such State for all, or any portion of, the costs incurred by such State in conducting such program.

Ante, p. 2334.

Appropriation authorization.

"(2) There are authorized to be appropriated to carry out this section $20,000,000.

"(d) NO IMPEDIMENT TO IMMEDIATE REMEDIAL ACTION.—Nothing in this section shall be construed to provide that the Administrator or any State should, pending completion of the inventory required under this section, postpone undertaking any enforcement or remedial action with respect to any site at which hazardous waste has been treated, stored, or disposed of.

"MONITORING, ANALYSIS, AND TESTING

42 USC 6934.

"SEC. 3013. (a) AUTHORITY OF ADMINISTRATOR.—If the Administrator determines, upon receipt of any information, that—

"(1) the presence of any hazardous waste at a facility or site at which hazardous waste is, or has been, stored, treated, or disposed of, or

"(2) the release of any such waste from such facility or site

may present a substantial hazard to human health or the environment, he may issue an order requiring the owner or operator of such facility or site to conduct such monitoring, testing, analysis, and reporting with respect to such facility or site as the Administrator deems reasonable to ascertain the nature and extent of such hazard.

"(b) PREVIOUS OWNERS AND OPERATORS.—In the case of any facility or site not in operation at the time a determination is made under subsection (a) with respect to the facility or site, if the Administrator finds that the owner of such facility or site could not reasonably be expected to have actual knowledge of the presence of hazardous waste at such facility or site and of its potential for release, he may issue an order requiring the most recent previous owner or operator of such facility or site who could reasonably be expected to have such actual knowledge to carry out the actions referred to in subsection (a).

"(c) PROPOSAL.—An order under subsection (a) or (b) shall require the person to whom such order is issued to submit to the Administrator within 30 days from the issuance of such order a proposal for carrying out the required monitoring, testing, analysis, and reporting. The Administrator may, after providing such person with an opportunity to confer with the Administrator respecting such proposal, require such person to carry out such monitoring, testing, analysis, and reporting in accordance with such proposal, and such modifications in such proposal as the Administrator deems reasonable to ascertain the nature and extent of the hazard.

"(d) MONITORING, ETC., CARRIED OUT BY ADMINISTRATOR.—(1) If the Administrator determines that no owner or operator referred to in subsection (a) or (b) is able to conduct monitoring, testing, analysis, or reporting satisfactory to the Administrator, if the Administrator deems any such action carried out by an owner or operator to be unsatisfactory, or if the Administrator cannot initially determine that there is an owner or operator referred to in subsection (a) or (b) who is able to conduct such monitoring, testing, analysis, or reporting, he may—

"(A) conduct monitoring, testing, or analysis (or any combination thereof) which he deems reasonable to ascertain the nature and extent of the hazard associated with the site concerned, or

"(B) authorize a State or local authority or other person to carry out any such action,

and require, by order, the owner or operator referred to in subsection (a) or (b) to reimburse the Administrator or other authority or person for the costs of such activity.

"(2) No order may be issued under this subsection requiring reimbursement of the costs of any action carried out by the Administrator which confirms the results of an order issued under subsection (a) or (b).

"(3) For purposes of carrying out this subsection, the Administrator or any authority or other person authorized under paragraph (1), may exercise the authorities set forth in section 3007.

42 USC 6927.

"(e) ENFORCEMENT.—The Administrator may commence a civil action against any person who fails or refuses to comply with any

order issued under this section. Such action shall be brought in the United States district court in which the defendant is located, resides, or is doing business. Such court shall have jurisdiction to require compliance with such order and to assess a civil penalty of not to exceed $5,000 for each day during which such failure or refusal occurs.".

(b) The table of contents for such subtitle C is amended by inserting the following new items at the end thereof:

"Sec. 3012. Hazardous waste site inventory.
"Sec. 3013. Monitoring, analysis, and testing.".

SEC. 18. (a) Section 4003(2) of the Solid Waste Disposal Act is amended by striking out "section 4005(c)" and inserting in lieu thereof "sections 4004(b) and 4005(a)". 42 USC 6943.

(b) Section 4003(5) of such Act is amended by inserting "State or" after "The plan shall provide that no", and by striking the period after "resource recovery facilities", and substituting the following: ", from entering into long-term contracts for the operation of such facilities, or from securing long-term markets for material and energy recovered from such facilities.". 42 USC 6944, *Infra.* *Post,* p. 2353.

SEC. 19. (a) Section 4005 of the Solid Waste Disposal Act is amended by deleting subsection (a) in its entirety and by redesignating subsection (c) as (a). 42 USC 6945.

(b)(1) Section 4005(a) of the Solid Waste Disposal Act, as redesignated by this section, is amended by striking "Any" and inserting in lieu thereof "Upon promulgation of criteria under section 1008(a)(3), any"; by inserting "and 4003(3)" after "4003(2)"; by striking "the inventory under subsection (b)" after "not to exceed 5 years from the date of publication of" and inserting in lieu thereof "criteria under section 1008(a)(3)". 42 USC 6907.

(2) Section 4005(b) of the Solid Waste Disposal Act is amended by striking "Not" and inserting in lieu thereof "To assist the States in complying with section 4003(3), not". 42 USC 6945. 42 USC 6943.

(b) Section 4006(b)(1)(B) of such Act is amended by striking out "functions" wherever it appears and inserting in lieu thereof "management activities". 42 USC 6946.

SEC. 20. Section 4008(e) of the Solid Waste Disposal Act is amended by— 42 USC 6948.

(1) striking out "identify communities" in paragraph (1) thereof and substituting "identify local governments";

(2) striking out clause (A) thereof and redesignating clauses (B) and (C) as (A) and (B), respectively;

(3) striking out "solid waste disposal facilities in which more than 75 per centum of the solid waste disposed of is from areas outside the jurisdiction of the communities" in paragraph (1) thereof and substituting "a solid waste disposal facility (i) which is owned by the unit of local government, (ii) for which an order has been issued by the State to cease receiving solid waste for treatment, storage, or disposal, and (iii) which is subject to a State-approved end-use recreation plan";

(4) striking out "which have" in clause (B) of paragraph (1), as redesignated by paragraph (2) of this section, and substituting the following "which are located over an aquifer which is the source of drinking water for any person or public water system and which has";

(5) inserting before the period at the end of paragraph (1): ", including possible methane migration";

(6) striking out "each of the fiscal years 1978 and 1979" in paragraph (2) and substituting "the fiscal year 1980 and $1,500,000 for each of the fiscal years 1981 and 1982";

(7) striking out "the conversion, improvement" in the first sentence of paragraph (2) and all that follows down to the period at the end of such sentence and substituting "containment and stabilization of solid waste located at the disposal sites referred to in paragraph (1)";

(8) inserting the following new sentence at the end of paragraph (2): "No unit of local government shall be eligible for grants under this paragraph with respect to any site which exceeds 65 acres in size."; and

(9) striking out paragraph (3) thereof.

42 USC 6952. SEC. 21. (a) Section 5002 of the Solid Waste Disposal Act is amended by striking out "the date of the enactment of this Act" and inserting in lieu thereof "September 1, 1979".

42 USC 6953. (b) Section 5003 of such Act is amended by striking out "the enactment of this Act" and inserting in lieu thereof "September 1, 1979,".

(c)(1) Subtitle E of such Act is amended by inserting the following new section after section 5004:

"NONDISCRIMINATION REQUIREMENT

Marketing policies, establishment. 42 USC 6955. "SEC. 5005. In establishing any policies which may affect the development of new markets for recovered materials and in making any determination concerning whether or not to impose monitoring or other controls on any marketing or transfer of recovered materials, the Secretary of Commerce may consider whether to establish the same or similar policies or impose the same or similar monitoring or other controls on virgin materials.".

(2) The table of contents for such Act is amended by inserting the following new item after the item relating to section 5004:

"Sec. 5005. Nondiscrimination requirement.".

42 USC 6962. SEC. 22. Section 6002 of the Solid Waste Disposal Act is amended as follows:

(1) in subsection (c)(1), by deleting the first sentence and inserting in lieu thereof the following: "After the date specified in applicable guidelines prepared pursuant to subsection (e) of this section, each procuring agency which procures any items designated in such guidelines shall procure such items composed of the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, considering such guidelines.";

(2) in subsection (c)(1)(C), by striking "clause (ii)" and inserting in lieu thereof "subparagraph (B)";

(3) in subsection (c)(2), by deleting "recovered material and recovered-material-derived fuel" and inserting in lieu thereof the following: "energy or fuels derived from solid waste";

(4) in subsection (c)(3), by deleting everything after "vendors" and inserting in lieu thereof a colon and the following:

"(A) certify that the percentage of recovered materials to be used in the performance of the contract will be at least the amount required by applicable specifications or other contractual requirements and

"(B) estimate the percentage of the total material utilized for the performance of the contract which is recovered materials.";

(5) by amending subsection (d), to read as follows:

Federal procurement items.

"(d) SPECIFICATIONS.—All Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items procured by Federal agencies shall—

"(1) as expeditiously as possible but in any event no later than five years after the date of enactment of this Act, eliminate from such specifications—

"(A) any exclusion of recovered materials and

"(B) any requirement that items be manufactured from virgin materials; and

"(2) within one year after the date of publication of applicable guidelines under subsection (e), or as otherwise specified in such guidelines, assure that such specifications require the use of recovered materials to the maximum extent possible without jeopardizing the intended end use of the item.".

(6) in subsection (e), by deleting the second sentence and inserting in lieu thereof the following: "Such guidelines shall—

"(1) designate those items which are or can be produced with recovered materials and whose procurement by procuring agencies will carry out the objectives of this section; and

"(2) set forth recommended practices with respect to the procurement of recovered materials and items containing such materials and with respect to certification by vendors of the percentage of recovered materials used,

and shall provide information as to the availability, relative price, and performance of such materials and items and where appropriate shall recommend the level of recovered material to be contained in the procured product. The Administrator shall prepare final guidelines for at least three product categories, including paper, by May 1, 1981, and for two additional product categories, including construction materials, by September 30, 1982. In making the designation under paragraph (1), the Administrator shall consider, but is not limited in his considerations, to—

Product categories, guidelines.

"(A) the availability of such items;

"(B) the impact of the procurement of such items by procuring agencies on the volume of solid waste which must be treated, stored or disposed of;

"(C) the economic and technological feasibility of producing and using such items; and

" (D) other uses for such recovered materials.".

SEC. 23. Section 6004 of the Solid Waste Disposal Act is amended by— 42 USC 6964.

(1) inserting immediately after "an executive agency (as defined in section 105 of title 5, United States Code)" in subsection (a)(1), "or any unit of the legislative branch of the Federal Government";

(2) inserting after "Each Executive agency" in subsection (a)(2), "or any unit of the legislative branch of the Federal Government"; and

(3) inserting after "The President" in subsection (a)(4) "or the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate with regard to any unit of the legislative branch of the Federal Government".

SEC. 24. Section 7001 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof: 42 USC 6971.

"(f) OCCUPATIONAL SAFETY AND HEALTH.—In order to assist the Secretary of Labor and the Director of the National Institute for

29 USC 651 note.

Occupational Safety and Health in carrying out their duties under the Occupational Safety and Health Act of 1970, the Administrator shall—

"(1) provide the following information, as such information becomes available, to the Secretary and the Director:

"(A) the identity of any hazardous waste generation, treatment, storage, disposal facility or site where cleanup is planned or underway;

"(B) information identifying the hazards to which persons working at a hazardous waste generation, treatment, storage, disposal facility or site or otherwise handling hazardous waste may be exposed, the nature and extent of the exposure, and methods to protect workers from such hazards; and

"(C) incidents of worker injury or harm at a hazardous waste generation, treatment, storage or disposal facility or site; and

"(2) notify the Secretary and the Director of the Administrator's receipt of notifications under section 3010 or reports under sections 3002, 3003, and 3004 of this title and make such notifications and reports available to the Secretary and the Director.".

42 USC 6930.
42 USC 6922–6924.

42 USC 6973.

SEC. 25. Section 7003 of the Solid Waste Disposal Act is amended by—

(1) inserting "(a) AUTHORITY OF ADMINISTRATOR.—" after "7003";

(2) striking out "is presenting" and inserting in lieu thereof "may present";

(3) striking out "the alleged disposal" and inserting in lieu thereof "such handling, storage, treatment, transportation or disposal"; and

(4) adding the following at the end thereof: "The Administrator may also, after notice to the affected State, take other action under this section including, but not limited to, issuing such orders as may be necessary to protect public health and the environment.

"(b) VIOLATIONS.—Any person who willfully violates, or fails or refuses to comply with, any order of the Administrator under subsection (a) may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than $5,000 for each day in which such violation occurs or such failure to comply continues.".

Facility permit issuance, notification.
42 USC 6974.

SEC. 26. Section 7004(b) of the Solid Waste Disposal Act is amended by inserting "(1)" after "PUBLIC PARTICIPATION.—" and by inserting the following new paragraph at the end thereof:

"(2) Before the issuing of a permit to any person with any respect to any facility for the treatment, storage, or disposal of hazardous wastes under section 3005, the Administrator shall—

42 USC 6925.

"(A) cause to be published in major local newspapers of general circulation and broadcast over local radio stations notice of the agency's intention to issue such permit, and

"(B) transmit in writing notice of the agency's intention to issue such permit to each unit of local government having jurisdiction over the area in which such facility is proposed to be located and to each State agency having any authority under State law with respect to the construction or operation of such facility.

Hearing.

If within 45 days the Administrator receives written notice of opposition to the agency's intention to issue such permit and a request for a hearing, or if the Administrator determines on his own

initiative, he shall hold an informal public hearing (including an opportunity for presentation of written and oral views) on whether he should issue a permit for the proposed facility. Whenever possible the Administrator shall schedule such hearing at a location convenient to the nearest population center to such proposed facility and give notice in the aforementioned manner of the date, time, and subject matter of such hearing. No State program which provides for the issuance of permits referred to in this paragraph may be authorized by the Administrator under section 3006 unless such program provides for the notice and hearing required by the paragraph.". 42 USC 6926.

SEC. 27. (a) Section 7006 of the Solid Waste Disposal Act is amended as follows: 42 USC 6976.

(1) by inserting "(a) REVIEW OF FINAL REGULATIONS AND CERTAIN PETITIONS.—" before "Any";

(2) by adding after "pursuant to this Act" the following: "and the Administrator's denial of any petition for the promulgation, amendment, or repeal of any regulation under this Act";

(3) by adding after "or requirement under this Act" the following: "or denying any petition for the promulgation, amendment or repeal of any regulation under this Act";

(4) by striking out "Columbia. Any" and substituting "Columbia, and";

(5) by inserting "or denial" after "date of such promulgation";

(6) by inserting "for review" after "date of such petition";

(7) by striking out ". Action" in paragraph (1) thereof and substituting "; action"; and

(8) by striking out "proper. The" in paragraph (2) thereof and substituting "proper; the".

(b) Such section 7006 is further amended by adding the following new subsection (b) at the end thereof:

"(b) REVIEW OF CERTAIN ACTIONS UNDER SECTIONS 3005 AND 3006.— Review of the Administrator's action (1) in issuing, denying, modifying, or revoking any permit under section 3005, or (2) in granting, denying, or withdrawing authorization or interim authorization under section 3006, may be had by any interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts such business upon application by such person. Any such application shall be made within ninety days from the date of such issuance, denial, modification, revocation, grant, or withdrawal, or after such date only if such application is based solely on grounds which arose after such ninetieth day. Such review shall be in accordance with sections 701 through 706 of title 5 of the United States Code.". 42 USC 6925, 6926. Application.

SEC. 28. Section 7009 of the Solid Waste Disposal Act is amended by striking out "unless the Secretary" and substituting "unless the Administrator". 42 USC 6979.

SEC. 29. Section 8002 of the Solid Waste Disposal Act is amended by— Study. 42 USC 6982.

(1) by striking out the last sentence of subsection (f) of such section and inserting in lieu thereof the following: "Not later than thirty-six months after the date of the enactment of the Solid Waste Disposal Act Amendments of 1980 the Administrator shall publish a report of such study and shall include appropriate findings and recommendations for Federal and non-Federal actions concerning such effects. Such report shall be submitted to the Committee on Environment and Public Works of the United States Senate and the Committee on Interstate and *Ante*, p. 2334. Report to congressional committees.

Foreign Commerce of the United States House of Representatives."; and

(2) by inserting the following new subsections after subsection (l) and by redesignating subsection (m) as (q):

Study.

"(m) DRILLING FLUIDS, PRODUCED WATERS, AND OTHER WASTES ASSOCIATED WITH THE EXPLORATION, DEVELOPMENT, OR PRODUCTION OF CRUDE OIL OR NATURAL GAS OR GEOTHERMAL ENERGY.—(1) The Administrator shall conduct a detailed and comprehensive study and submit a report on the adverse effects, if any, of drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy on human health and the environment, including, but not limited to, the effects of such wastes on humans, water, air, health, welfare, and natural resources and on the adequacy of means and measures currently employed by the oil and gas and geothermal drilling and production industry, Government agencies, and others to dispose of and utilize such wastes and to prevent or substantially mitigate such adverse effects. Such study shall include an analysis of—

"(A) the sources and volume of discarded material generated per year from such wastes;

"(B) present disposal practices;

"(C) potential danger to human health and the environment from the surface runoff or leachate;

"(D) documented cases which prove or have caused danger to human health and the environment from surface runoff or leachate;

"(E) alternatives to current disposal methods;

"(F) the cost of such alternatives; and

"(G) the impact of those alternatives on the exploration for, and development and production of, crude oil and natural gas or geothermal energy.

Review.

In furtherance of this study, the Administrator shall, as he deems appropriate, review studies and other actions of other Federal agencies concerning such wastes with a view toward avoiding duplication

Report.

of effort and the need to expedite such study. The Administrator shall publish a report of such study and shall include appropriate findings and recommendations for Federal and non-Federal actions concerning such effects.

Submittal to congressional committees.

"(2) The Administrator shall complete the research and study and submit the report required under paragraph (1) not later than twenty-four months from the date of enactment of the Solid Waste Disposal Act Amendments of 1980. Upon completion of the study, the Administrator shall prepare a summary of the findings of the study, a plan for research, development, and demonstration respecting the findings of the study, and shall submit the findings and the study, along with any recommendations resulting from such study, to the Committee on Environment and Public Works of the United States Senate and the Committee on Interstate and Foreign Commerce of the United States House of Representatives.

Ante, p. 2334.

Appropriation authorization.

"(3) There are authorized to be appropriated not to exceed $1,000,000 to carry out the provisions of this subsection.

Study.

"(n) MATERIALS GENERATED FROM THE COMBUSTION OF COAL AND OTHER FOSSIL FUELS.—The Administrator shall conduct a detailed and comprehensive study and submit a report on the adverse effects on human health and the environment, if any, of the disposal and utilization of fly ash waste, bottom ash waste, slag waste, flue gas emission control waste, and other byproduct materials generated

primarily from the combustion of coal or other fossil fuels. Such study shall include an analysis of—

"(1) the source and volumes of such material generated per year;

"(2) present disposal and utilization practices;

"(3) potential danger, if any, to human health and the environment from the disposal and reuse of such materials;

"(4) documented cases in which danger to human health or the environment from surface runoff or leachate has been proved;

"(5) alternatives to current disposal methods;

"(6) the costs of such alternatives;

"(7) the impact of those alternatives on the use of coal and other natural resources; and

"(8) the current and potential utilization of such materials.

In furtherance of this study, the Administrator shall, as he deems appropriate, review studies and other actions of other Federal and State agencies concerning such material and invite participation by other concerned parties, including industry and other Federal and State agencies, with a view toward avoiding duplication of effort. The Administrator shall publish a report on such study, which shall include appropriate findings, not later than twenty-four months after the enactment of the Solid Waste Disposal Act Amendments of 1980. Such study and findings shall be submitted to the Committee on Environment and Public Works of the United States Senate and the Committee on Interstate and Foreign Commerce of the United States House of Representatives. Review. Report. *Ante*, p. 2334. Submittal to congressional committees.

"(o) CEMENT KILN DUST WASTE.—The Administrator shall conduct a detailed and comprehensive study of the adverse effects on human health and the environment, if any, of the disposal of cement kiln dust waste. Such study shall include an analysis of— Study.

"(1) the source and volumes of such materials generated per year;

"(2) present disposal practices;

"(3) potential danger, if any, to human health and the environment from the disposal of such materials;

"(4) documented cases in which danger to human health or the environment has been proved;

"(5) alternatives to current disposal methods;

"(6) the costs of such alternatives;

"(7) the impact of those alternatives on the use of natural resources; and

"(8) the current and potential utilization of such materials.

In furtherance of this study, the Administrator shall, as he deems appropriate, review studies and other actions of other Federal and State agencies concerning such waste or materials and invite participation by other concerned parties, including industry and other Federal and State agencies, with a view toward avoiding duplication of effort. The Administrator shall publish a report of such study, which shall include appropriate findings, not later than thirty-six months after the date of enactment of the Solid Waste Disposal Act Amendments of 1980. Such report shall be submitted to the Committee on Environment and Public Works of the United States Senate and the Committee on Interstate and Foreign Commerce of the United States House of Representatives. Review. Report. *Ante*, p. 2334. Submittal to congressional committees.

"(p) MATERIALS GENERATED FROM THE EXTRACTION, BENEFICIATION, AND PROCESSING OF ORES AND MINERALS, INCLUDING PHOSPHATE ROCK AND OVERBURDEN FROM URANIUM MINING.—The Administrator shall conduct a detailed and comprehensive study on the adverse Study.

effects on human health and the environment, if any, of the disposal and utilization of solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from uranium mining. Such study shall be conducted in conjunction with the study of mining wastes required by subsection (f) of this section and shall include an analysis of—

"(1) the source and volumes of such materials generated per year;

"(2) present disposal and utilization practices;

"(3) potential danger, if any, to human health and the environment from the disposal and reuse of such materials;

"(4) documented cases in which danger to human health or the environment has been proved;

"(5) alternatives to current disposal methods;

"(6) the costs of such alternatives;

"(7) the impact of those alternatives on the use of phosphate rock and uranium ore, and other natural resources; and

"(8) the current and potential utilization of such materials.

Review. In furtherance of this study, the Administrator shall, as he deems appropriate, review studies and other actions of other Federal and State agencies concerning such waste or materials and invite participation by other concerned parties, including industry and other Federal and State agencies, with a view toward avoiding duplication

Report. of effort. The Administrator shall publish a report of such study, which shall include appropriate findings, in conjunction with the publication of the report of the study of mining wastes required to be

Submittal to congressional committees. conducted under subsection (f) of this section. Such report and findings shall be submitted to the Committee on Environment and Public Works of the United States Senate and the Committee on Interstate and Foreign Commerce of the United States House of Representatives.".

Repeal. 42 USC 6981 note. SEC. 30. Section 3 of the Resource Conservation and Recovery Act of 1976 is hereby repealed.

42 USC 6916. SEC. 31. (a) Section 2006(a) of the Solid Waste Disposal Act is amended by striking "and" and inserting before the period "$70,000,000 for the fiscal year ending September 30, 1980, $80,000,000 for the fiscal year ending September 30, 1981, and $80,000,000 for the fiscal year ending September 30, 1982".

42 USC 6931. (b) Section 3011(a) of the Solid Waste Disposal Act is amended by inserting after "1979" the following: "$20,000,000 for fiscal year 1980, $35,000,000 for fiscal year 1981, and $40,000,000 for fiscal year 1982".

Appropriation, authorization. 42 USC 6948. (c) Section 4008(a)(1) of the Solid Waste Disposal Act is amended to read as follows:

"(1) There are authorized to be appropriated $30,000,000 for fiscal year 1978, $40,000,000 for fiscal year 1979, $20,000,000 for fiscal year 1980, $15,000,000 for fiscal year 1981, and $20,000,000 for fiscal year 1982 for purposes of financial assistance to States and local, regional, and interstate authorities for the development and implementation of plans approved by the Administrator under this subtitle (other than the provisions of such plans

Post, p. 2353. referred to in section 4003(b), relating to feasibility planning for municipal waste energy and materials conservation and recovery).".

Appropriation authorization. (d) Section 4008(a)(2)(C) of the Solid Waste Disposal Act is amended by adding at the end thereof: "There are authorized to be appropriated $10,000,000 for fiscal year 1980, $10,000,000 for fiscal year 1981, and $10,000,000 for fiscal year 1982 for purposes of this paragraph.".

(e) Section 4009(d) of the Solid Waste Disposal Act is amended by adding at the end thereof: "There are authorized to be appropriated $10,000,000 for the fiscal year 1980 and $15,000,000 for each of the fiscal years 1981 and 1982 to carry out this section.". Appropriation authorization. 42 USC 6949.

(f)(1) Subtitle E of the Solid Waste Disposal Act is amended by adding the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 5006. There are authorized to be appropriated to the Secretary of Commerce $5,000,000 for each of fiscal years 1980, 1981, and 1982 to carry out the purposes of this subtitle.". 42 USC 6956.

(2) The table of contents for such subtitle E is amended by adding the following new item at the end thereof:

"Sec. 5006. Authorization of appropriations.".

ENERGY AND MATERIALS CONSERVATION AND RECOVERY

SEC. 32. (a) The Congress finds that— 42 USC 6941a.

(1) significant savings could be realized by conserving materials in order to reduce the volume or quantity of material which ultimately becomes waste;

(2) solid waste contains valuable energy and material resources which can be recovered and used thereby conserving increasingly scarce and expensive fossil fuels and virgin materials;

(3) the recovery of energy and materials from municipal waste, and the conservation of energy and materials contributing to such waste streams, can have the effect of reducing the volume of the municipal waste stream and the burden of disposing of increasing volumes of solid waste;

(4) the technology to conserve resources exists and is commercially feasible to apply;

(5) the technology to recover energy and materials from solid waste is of demonstrated commercial feasibility; and

(6) various communities throughout the nation have different needs and different potentials for conserving resources and for utilizing techniques for the recovery of energy and materials from waste, and Federal assistance in planning and implementing such energy and materials conservation and recovery programs should be available to all such communities on an equitable basis in relation to their needs and potential.

(b) Section 4001 of the Solid Waste Disposal Act (relating to objectives) is amended by inserting "including energy and materials which are recoverable from solid waste" after "valuable resources". 42 USC 6941.

(c) Section 4002(c) of the Solid Waste Disposal Act (relating to guidelines for State plans) is amended in paragraph (11) by inserting after "recovered material" the following: "and energy and energy resources recovered from solid waste as well as methods for conserving such materials and energy". 42 USC 6942.

(d)(1) Section 4003 of the Solid Waste Disposal Act is amended by inserting "negotiating and" after "from" in paragraph (5) thereof and by adding the following before the period at the end thereof: "or for conserving materials or energy by reducing the volume of waste". 42 USC 6943. *Ante*, p. 2345.

(2) Section 4003 of the Solid Waste Disposal Act (relating to minimum requirements for State plans) is amended by inserting "(a) MINIMUM REQUIREMENTS.—" after "4003" and by adding the following new subsection at the end thereof:

"(b) ENERGY AND MATERIALS CONSERVATION AND RECOVERY FEASIBILITY PLANNING AND ASSISTANCE.—(1) A State which has a plan approved under this subtitle or which has submitted a plan for such approval shall be eligible for assistance under section 4008(a)(3) if the Administrator determines that under such plan the State will—

Infra.

"(A) analyze and determine the economic and technical feasibility of facilities and programs to conserve resources which contribute to the waste stream or to recover energy and materials from municipal waste;

"(B) analyze the legal, institutional, and economic impediments to the development of systems and facilities for conservation of energy or materials which contribute to the waste stream or for the recovery of energy and materials from municipal waste and make recommendations to appropriate governmental authorities for overcoming such impediments;

"(C) assist municipalities within the State in developing plans, programs, and projects to conserve resources or recover energy and materials from municipal waste; and

"(D) coordinate the resource conservation and recovery planning under subparagraph (C).

Analysis.

"(2) The analysis referred to in paragraph (1)(A) shall include—

"(A) the evaluation of, and establishment of priorities among, market opportunities for industrial and commercial users of all types (including public utilities and industrial parks) to utilize energy and materials recovered from municipal waste;

"(B) comparisons of the relative costs of energy recovered from municipal waste in relation to the costs of energy derived from fossil fuels and other sources;

"(C) studies of the transportation and storage problems and other problems associated with the development of energy and materials recovery technology, including curbside source separation;

"(D) the evaluation and establishment of priorities among ways of conserving energy or materials which contribute to the waste stream;

"(E) comparison of the relative total costs between conserving resources and disposing of or recovering such waste; and

"(F) studies of impediments to resource conservation or recovery, including business practices, transportation requirements, or storage difficulties.

Such studies and analyses shall also include studies of other sources of solid waste from which energy and materials may be recovered or minimized.".

42 USC 6948.

(e)(1) Section 4008(a)(2)(B) of such Act is amended by adding the following at the end thereof: "Applicants for technical and financial assistance under this section shall not preclude or foreclose consideration of programs for the recovery of recyclable materials through source separation or other resource recovery techniques.".

Appropriation authorization.

(2) Section 4008(a) of such Act is amended by adding the following new paragraph at the end thereof:

"(3)(A) There is authorized to be appropriated for the fiscal year beginning October 1, 1981, and for each fiscal year thereafter before October 1, 1986, $4,000,000 for purposes of making grants to States to carry out section 4003(b). No amount may be appropriated for such purposes for the fiscal year beginning on October 1, 1986, or for any fiscal year thereafter.

Ante, p. 2353.

"(B) Assistance provided by the Administrator under this paragraph shall be used only for the purposes specified in section 4003(b).

Such assistance may not be used for purposes of land acquisition, final facility design, equipment purchase, construction, startup or operation activities.

"(C) Where appropriate, any State receiving assistance under this paragraph may make all or any part of such assistance available to municipalities within the State to carry out the activities specified in section 4003(b)(1) (A) and (B).".

Ante, p. 2353.

(3) Section 4008 of such Act is amended by adding the following new subsection at the end thereof:

Grants.
42 USC 6948.

"(f) ASSISTANCE TO MUNICIPALITIES FOR ENERGY AND MATERIALS CONSERVATION AND RECOVERY PLANNING ACTIVITIES.—(1) The Administrator is authorized to make grants to municipalities, regional authorities, and intermunicipal agencies to carry out activities described in subparagraphs (A) and (B) of section 4003(b)(1). Such grants may be made only pursuant to an application submitted to the Administrator by the municipality which application has been approved by the State and determined by the State to be consistent with any State plan approved or submitted under this subtitle or any other appropriate planning carried out by the State.

"(2) There is authorized to be appropriated for the fiscal year beginning October 1, 1981, and for each fiscal year thereafter before October 1, 1986, $8,000,000 for purposes of making grants to municipalities under this subsection. No amount may be appropriated for such purposes for the fiscal year beginning on October 1, 1986, or for any fiscal year thereafter.".

Appropriation authorization.

"(3) Assistance provided by the Administrator under this subsection shall be used only for the purposes specified in paragraph (1). Such assistance may not be used for purposes of land acquisition, final facility design, equipment purchase, construction, startup or operation activities.".

(f) Section 4008(d) of the Solid Waste Disposal Act is amended by inserting "(1)" after "TECHNICAL ASSISTANCE.—" and by adding the following new paragraph at the end thereof:

"(2) In carrying out this subsection, the Administrator is authorized to provide technical assistance to States, municipalities, regional authorities, and intermunicipal agencies upon request, to assist in the removal or modification of legal, institutional, and economic impediments which have the effect of impeding the development of systems and facilities to recover energy and materials from municipal waste or to conserve energy or materials which contribute to the waste stream. Such impediments may include—

"(A) laws, regulations, and policies, including State and local procurement policies, which are not favorable to resource conservation and recovery policies, systems, and facilities;

"(B) impediments to the financing of facilities to conserve or recover energy and materials from municipal waste through the exercise of State and local authority to issue revenue bonds and the use of State and local credit assistance; and

"(C) impediments to institutional arrangements necessary to undertake projects for the conservation or recovery of energy and materials from municipal waste, including the creation of special districts, authorities, or corporations where necessary having the power to secure the supply of waste of a project, to conserve resources, to implement the project, and to undertake related activities.".

(g) Section 6003 of the Solid Waste Disposal Act is amended to read as follows:

"COOPERATION WITH THE ENVIRONMENTAL PROTECTION AGENCY

42 USC 6963.

"SEC. 6003. (a) GENERAL RULE.—All Federal agencies shall assist the Administrator in carrying out his functions under this Act and shall promptly make available all requested information concerning past or present Agency waste management practices and past or present Agency owned, leased, or operated solid or hazardous waste facilities. This information shall be provided in such format as may be determined by the Administrator.

"(b) INFORMATION RELATING TO ENERGY AND MATERIALS CONSERVATION AND RECOVERY.—The Administrator shall collect, maintain, and disseminate information concerning the market potential of energy and materials recovered from solid waste, including materials obtained through source separation, and information concerning the savings potential of conserving resources contributing to the waste stream. The Administrator shall identify the regions in which the increased substitution of such energy for energy derived from fossil fuels and other sources is most likely to be feasible, and provide information on the technical and economic aspects of developing integrated resource conservation or recovery systems which provide for the recovery of source-separated materials to be recycled or the conservation of resources. The Administrator shall utilize the authorities of subsection (a) in carrying out this subsection.".

NATIONAL ADVISORY COMMISSION ON RESOURCE CONSERVATION AND RECOVERY

Establishment.
42 USC 6981 note.

SEC. 33. (a)(1) There is hereby established in the executive branch of the United States the National Advisory Commission on Resource Conservation and Recovery, hereinafter in this section referred to as the "Commission".

(2) The Commission shall be composed of nine members to be appointed by the President. Such members shall be qualified by reason of their education, training, or experience to represent the view of consumer groups, industry associations, and environmental and other groups concerned with resource conservation and recovery and at least two shall be elected or appointed State or local officials. Members shall be appointed for the life of the Commission.

(3) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(4) Five members of the Commission shall constitute a quorum for transacting business of the Commission except that a lesser number may hold hearings and conduct information-gathering meetings.

(5) The Chairperson of the Commission shall be designated by the President from among the members.

Report to President and Congress.

(6) Upon the expiration of the two-year period beginning on (A) the date when all initial members of the Commission have been appointed or when (B) the date when initial funds become available to carry out this section, whichever is later, the Commission shall transmit to the President, and to each House of the Congress, a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable.

Interim reports.

42 USC 6901 note.

(7) The Commission shall submit an interim report on February 15, 1982, and the Commission may also submit, for legislative and administrative actions relating to the Solid Waste Disposal Act, other interim reports prior to the submission of its final report.

(8) The Commission shall cease to exist 30 days after submission of its final report. Termination.

(b) The Commission shall— Functions.

(1) after consultation with the appropriate Federal agencies, review budgetary priorities relating to resource conservation and recovery, determine to what extent program goals relating to resource conservation and recovery are being realized, and make recommendations concerning the appropriate program balance and priorities;

(2) review any existing or proposed resource conservation and recovery guidelines or regulations;

(3) determine the economic development or savings potential of resource conservation and recovery, including the availability of markets for recovered energy and materials, for economic materials savings through conservation, and make recommendations concerning the utilization of such potential;

(4) identify, and make recommendations addressing, institutional obstacles impeding the development of resource conservation and resource recovery; and

(5) evaluate the status of resource conservation and recovery technology and systems including both materials and energy recovery technologies, recycling methods, and other innovative methods for both conserving energy and materials extractable from solid waste.

The review referred to in paragraph (1) should include but not be limited to an assessment of the effectiveness of the technical assistance panels, the public participation program and other program activities under the Solid Waste Disposal Act. 42 USC 6901 note.

(c)(1) Members of the Commission while serving on business of the Commission, shall be compensated at a rate not to exceed the rate specified at the time of such service for grade GS-16 of the General Schedule for each day they are engaged in the actual performance of Commission duties, including travel time; and while so serving away from their homes or regular places of business, all members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently. Personnel, compensation. 5 USC 5332 note.

(2) Subject to such rules as may be adopted by the Commission, the Chairperson, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power to— 5 USC 5101 *et seq.*, 5331.

(A) appoint a Director, who shall be paid at a rate not to exceed the rate of basic pay for level I, GS-16 of the General Schedule; and

(B) appoint and fix the compensation of not more than 5 additional staff personnel.

(3) This Commission is authorized to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-16 in section 5332 of such title. Experts and consultants may be employed without compensation if they agree to do so in advance. 5 USC 5332 note.

(4) Upon request of the Commission, the head of any Federal agency is authorized to detail on a reimbursable or nonreimbursable

basis any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.

(5) The Commission is exempt from the requirements of sections 4301 through 4308 of title 5, United States Code.

Contracts.

(6) The Commission is authorized to enter into contracts with Federal and State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties and responsibilities.

(7) In order to expedite matters pertaining to the planning for, and work of, the Commission, the Commission is authorized to make purchases and contracts without regard to section 252 of title 41 of the United States Code, pertaining to advertising and competitive bidding, and may arrange for the printing of any material pertaining to the work of the Commission without regard to the Government Printing and Binding Regulations and any related laws or regulations.

(8) The Commission may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

(9) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties and functions. Upon request of the Chairperson, the head of any such Federal agency shall furnish such information to the Commission subject to applicable law.

GSA-provided services.

(10) Financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) shall be provided to the Commission by the General Services Administration for which payment shall be made in advance, or by reimbursement, from funds of the Commission, in such amounts as may be agreed upon by the Chairperson of the Commission and the Administrator of General Services.

Hearings.

(d) In carrying out its duties under this section the Commission, or any duly authorized committee thereof, is authorized to hold such hearings and take testimony, with respect to matters to which it has a responsibility under this section as the Commission may deem advisable. The Chairperson of the Commission or any member authorized by him may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

(e) From the amounts authorized to be appropriated under the Solid Waste Disposal Act for the fiscal years 1981 and 1982, not more than $1,000,000 may be used to carry out the provisions of this section.

Appropriation authorization.

Approved October 21, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-191 accompanying H.R. 3994 (Comm. on Interstate and Foreign Commerce) and No. 96-1444 (Comm. of Conference).

SENATE REPORTS: No. 96-172 (Comm. on Environment and Public Works) and No. 96-1010 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 125 (1979): June 4, considered and passed Senate.

Vol. 126 (1980): Feb. 20, H.R. 3994 considered and passed House; passage vacated and S. 1156, amended, passed in lieu.

Oct. 1, Senate agreed to conference report.

Oct. 2, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 43 (1980): Oct. 21, Presidential statement.

Public Law 96-483
96th Congress

An Act

Oct. 21, 1980
[S. 2725]

To extend certain authorizations in the Clean Water Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 104(u) of the Federal Water Pollution Control Act is amended—

Clean Water Act, amendment. Appropriation authorization. 33 USC 1254.

(1) in paragraph (1), by inserting after "September 30, 1980," the following: "and not to exceed $20,697,000 for the fiscal year ending September 30, 1981, and not to exceed $22,770,000 for the fiscal year ending September 30, 1982,";

(2) in paragraph (2), by striking out "and $3,000,000 for fiscal year 1980" and by inserting in lieu thereof "$3,000,000 for fiscal year 1980, $3,000,000 for fiscal year 1981, and $3,000,000 for fiscal year 1982"; and

(3) in paragraph (3), by striking out "and $1,500,000 for fiscal year 1980" and inserting in lieu thereof "$1,500,000 for fiscal year 1980, "$1,500,000 for fiscal year 1981, and $1,500,000 for fiscal year 1982".

33 USC 1256. (b) Section 106(a)(2) of the Federal Water Pollution Control Act is amended by inserting after "1980" a comma and the following: "$75,000,000 per fiscal year for the fiscal years 1981 and 1982".

33 USC 1262. (c) Section 112(c) of the Federal Water Pollution Control Act is amended by striking out "and $7,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$7,000,000 for the fiscal year ending September 30, 1980, $7,000,000 for the fiscal year ending September 30, 1981, and $7,000,000 for the fiscal year ending September 30, 1982".

33 USC 1288. (d) Section 208(f)(3) of the Federal Water Pollution Control Act is amended by inserting after "1980" a comma and the following: "and not to exceed $100,000,000 per fiscal year for the fiscal years ending September 30, 1981, and September 30, 1982".

(e) Section 208(j)(9) of the Federal Water Pollution Control Act is amended by striking out "and $400,000,000 for fiscal year 1980" and inserting in lieu thereof ", $400,000,000 for fiscal year 1980, $100,000,000 for fiscal year 1981, and $100,000,000 for fiscal year 1982".

33 USC 1324. (f) Section 314(c)(2) of the Federal Water Pollution Control Act is amended by striking out "and $60,000,000 for fiscal year 1980" and inserting in lieu thereof "$60,000,000 for fiscal year 1980, $30,000,000 for fiscal year 1981, and $30,000,000 for fiscal year 1982".

33 USC 1376. (g) Section 517 of the Federal Water Pollution Control Act is amended by striking out "and $150,000,000 for the fiscal year ending September 30, 1980" and inserting in lieu thereof "$150,000,000 for the fiscal year ending September 30, 1980, $150,000,000 for the fiscal year ending September 30, 1981, and $161,000,000 for the fiscal year ending September 30, 1982".

33 USC 1284. SEC. 2. (a) Paragraph (1) of subsection (b) of section 204 of the Federal Water Pollution Control Act is amended by striking out

clause (B) in its entirety and striking out "(C)" and inserting in lieu thereof "(B)".

(b) Subsection (b) of section 204 of the Federal Water Pollution Control Act is amended by striking out paragraph (3) in its entirety and paragraph (6) in its entirety and renumbering paragraphs (4) and (5) as paragraphs (3) and (4), respectively. 33 USC 1284.

(c) The Administrator of the Environmental Protection Agency shall take such action as may be necessary to remove from any grant made under section 201(g)(1) of the Federal Water Pollution Control Act after March 1, 1973, and prior to the date of enactment of this Act, any condition or requirement no longer applicable as a result of the repeals made by subsections (a) and (b) of this section or release any grant recipient of the obligations established by such conditions of other requirement. Grants. 33 USC 1284 note. 33 USC 1281.

(d) Section 201(h) of the Federal Water Pollution Control Act is amended by striking out the last sentence. 33 USC 1281.

(e) The second sentence of section 213(d) of the Federal Water Pollution Control Act is amended by striking out "(1) all or any portion of the funds retained by such grantee under section 204(b)(3) of this Act, and (2)". 33 USC 1293.

(f)(1) Section 75(b) of the Federal Water Pollution Control Act of 1977 (91 Stat. 1610) is hereby repealed. 33 USC 1284. Repeal. 33 USC 1284 note.

(2) Section 75(d) of the Clean Water Act of 1977 (91 Stat. 1610) is hereby repealed. Repeal. 33 USC 1284 note.

(g) The amendments made by this section shall take effect on December 27, 1977. Effective date. 33 USC 1281 note.

SEC. 3. Section 201 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection: Grants.

"(k) No grant made after November 15, 1981, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of any industrial user into such treatment works in excess of a flow per day equivalent to fifty thousand gallons per day of sanitary waste. This subsection shall not apply to any project proposed by a grantee which is carrying out an approved project to prepare construction plans and specifications for a facility to treat wastewater, which received its grant approval before May 15, 1980.". 33 USC 1281.

SEC. 4. The Administrator of the Environmental Protection Agency shall study and report to the Congress not later than March 15, 1981, on the effect of the amendment made by section 3 on the construction of publicly owned treatment works, industrial participation in publicly owned treatment works, treatment of industrial discharges, and the appropriate degree of Federal and non-Federal participation in the funding of publicly owned treatment works. Report to Congress.

SEC. 5. Section 206(f)(1) of the Federal Water Pollution Control Act is amended— 33 USC 1286.

(1) by striking out "In any case where all funds allotted to a State under this title have been obligated under section 203 of this Act" and inserting in lieu thereof "In any case where a substantial portion of the funds allotted to a State for the current fiscal year under this title have been obligated under section 201(g), or will be so obligated in a timely manner (as determined by the Administrator)"; and 33 USC 1283. 33 USC 1281.

(2) by striking out the last sentence thereof and inserting in lieu the following:

"The Administrator may not approve an application under this subsection unless an authorization is in effect for the first fiscal year Applications.

in the period for which the application requests payment and such requested payment for that fiscal year does not exceed the State's expected allotment from such authorization. The Administrator shall not be required to make such requested payment for any fiscal year—

"(A) to the extent that such payment would exceed such State's allotment of the amount appropriated for such fiscal year; and

"(B) unless such payment is for a project which, on the basis of an approved funding priority list of such State, is eligible to receive such payment based on the allotment and appropriation for such fiscal year.

To the extent that sufficient funds are not appropriated to pay the full Federal share with respect to a project for which obligations under the provisions of this subsection have been made, the Administrator shall reduce the Federal share to such amount less than 75 per centum as such appropriations do provide.".

33 USC 1283. SEC. 6. Section 203(a) of the Federal Water Pollution Control Act is amended (1) by striking out "$2,000,000" and inserting in lieu thereof "$4,000,000", and (2) by striking out "$3,000,000" and inserting in lieu thereof "$5,000,000".

33 USC 1285 note. SEC. 7. Notwithstanding section 205(d) of the Federal Water Pollution Control Act (33 U.S.C. 1285), sums allotted to the States for the fiscal year 1979 shall remain available for obligation for the fiscal year for which authorized and for the period of the next succeeding twenty-four months. The amount of any allotment not obligated by the end of such thirty-six month period shall be immediately reallotted by the Administrator on the basis of the same ratio as applicable to sums allotted for the then current fiscal year, except that none of the funds reallotted by the Administrator for fiscal year 1979 shall be allotted to any State which failed to obligate any of the funds being reallotted. Any sum made available to a State by reallotment under this section shall be in addition to any funds otherwise allotted to such State for grants under title II of the Federal Water Pollution Control Act during any fiscal year. This section shall take effect on September 30, 1980.

Effective date.

33 USC 1321. SEC. 8. Section 311(k) of the Federal Water Pollution Control Act is amended—

(1) by inserting "(1)" after "(k)"; and

(2) by adding the following new paragraph at the end thereof:

Congressional notification.

"(2) The Secretary of Transportation shall notify the Congress whenever the unobligated balance of the fund is less than $12,000,000, and shall include in such notification a recommendation for a supplemental appropriation relating to the sums that are needed to maintain the fund at the level provided in paragraph (1).".

33 USC 1282. SEC. 9. (a) The first sentence of section 202(a)(1) of the Federal Water Pollution Control Act is amended by striking the period and inserting in lieu thereof a comma and the following: "unless modified to a lower percentage rate uniform throughout a State by the Governor of that State with the concurrence of the Administrator. Within ninety days after the enactment of this sentence the Administrator shall issue guidelines for concurrence in any such modification, which shall provide for the consideration of the unobligated balance of sums allocated to the State under section 205 of this Act, the need for assistance under this title in such State, and the availability of State grant assistance to replace the Federal share reduced by such modification. The payment of any such reduced Federal share shall not constitute an obligation on the part of the United States or a claim on the part of any State or grantee to

Guidelines.

33 USC 1285.

reimbursement for the portion of the Federal share reduced in any such State.".

(b) The first sentence of section 202(a)(2) of the Federal Water Pollution Control Act is amended by inserting before the period a comma and the following: "unless modified by the Governor of the State with the concurrence of the Administrator to a percentage rate no less than 15 per centum greater than the modified uniform percentage rate in which the Administrator has concurred pursuant to paragraph (1) of this subsection". 33 USC 1282.

SEC. 10. Title I of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new section:

"HUDSON RIVER PCB RECLAMATION DEMONSTRATION PROJECT

"SEC. 116. (a) The Administrator is authorized to enter into contracts and other agreements with the State of New York to carry out a project to demonstrate methods for the selective removal of polychlorinated biphenyls contaminating bottom sediments of the Hudson River, treating such sediments as required, burying such sediments in secure landfills, and installing monitoring systems for such landfills. Such demonstration project shall be for the purpose of determining the feasibility of indefinite storage in secure landfills of toxic substances and of ascertaining the improvement of the rate of recovery of a toxic contaminated national waterway. No pollutants removed pursuant to this paragraph shall be placed in any landfill unless the Administrator first determines that disposal of the pollutants in such landfill would provide a higher standard of protection of the public health, safety, and welfare than disposal of such pollutants by any other method including, but not limited to, incineration or a chemical destruction process. Contracts and agreements. 33 USC 1266.

"(b) The Administrator is authorized to make grants to the State of New York to carry out this section from funds allotted to such State under section 205(a) of this Act, except that the amount of any such grant shall be equal to 75 per centum of the cost of the project and such grant shall be made on condition that non-Federal sources provide the remainder of the cost of such project. The authority of this section shall be available until September 30, 1983. Funds allotted to the State of New York under section 205(a) shall be available under this subsection only to the extent that funds are not available, as determined by the Administrator, to the State of New York for the work authorized by this section under section 115 or 311 of this Act or a comprehensive hazardous substance response and clean up fund. Any funds used under the authority of this subsection shall be deducted from any estimate of the needs of the State of New York prepared under section 616(b) of this Act. The Administrator may not obligate or expend more than $20,000,000 to carry out this section.". Grants. 33 USC 1285. 33 USC 1265, 1321.

SEC. 11. The first sentence of section 205(g)(1) of the Federal Water Pollution Control Act is amended by inserting "of the amount authorized under section 207 of this title for purposes" after "2 per centum". 33 USC 1285.

SEC. 12. The Administrator of the Environmental Protection Agency is authorized to make grants to States to undertake a demonstration program for the cleanup of State-owned abandoned mines which can be used as hazardous waste disposal sites. The State shall pay 10 per centum of project costs. At a minimum, the Administrator shall undertake projects under such program in the States of Ohio, Illinois, and West Virginia. There are authorized to be Cleanup grants. 33 USC 1257a. Appropriation authorization.

appropriated $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1982, September 30, 1983, and September 30, 1984, to carry out this section. Such projects shall be undertaken in accordance with all applicable laws and regulations.

Approved October 21, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-744 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 25, considered and passed Senate.
Oct. 1, considered and passed House, amended; Senate concurred in House amendment.

Public Law 96-484
96th Congress

An Act

To ratify a settlement agreement in a land dispute between the Pamunkey Indian Tribe and the Southern Railway Company, and for other purposes.

Nov. 24, 1980
[H.R. 7212]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares that:

Pamunkey Indian Tribe. Land dispute with Southern Railway Co.

(1) The Pamunkey Indian Tribe of King William County, Virginia (hereafter in this Act referred to as the "Tribe") and the Southern Railway Company, a public common carrier by railroad (hereafter in this Act referred to as the "Railroad"), seek to resolve a dispute concerning the title and use of certain lands located in King William County, Virginia, and used by the Railroad in its operations as a common carrier by railroad.

(2) The claims of the Tribe are based in part on the doctrine of aboriginal title and in part on section 2116 of the Revised Statutes of the United States (25 U.S.C. 177).

Settlement Agreement, provisions.

(3) The Tribe and the Railroad have executed a Settlement Agreement, dated November 21, 1979, to resolve the dispute referred to in paragraph (1). Such Settlement Agreement requires ratification by the Congress as a condition to its effectiveness, and provides generally that—

(A) all claims of the Tribe or any of its members against the Railroad arising from the acquisition or use by the Railroad or any predecessor railroad of certain described lands for its operations as a common carrier by railroad are waived and surrendered;

(B) the Railroad shall have a right to continued and perpetual use of certain described lands used by the Railroad as a railroad right-of-way;

(C) the Railroad shall pay to the Tribe $100,000;

(D) the Railroad shall make to the Tribe an annual payment based on a certain fair rental value amount, commencing November 21, 1989; and

(E) all rights and title of the Railroad in certain described lands shall revert to the Tribe if and when the Railroad shall abandon and no longer use those lands.

(4) The terms of the Settlement Agreement fairly resolve the dispute between the Tribe and the Railroad, and assure that the Railroad will be able to continue its present common carrier operations on the disputed lands.

Definitions.

SEC. 2. As used in this Act, the term "lands" shall include any interest in or right involving lands, waters, or lands submerged by waters, including rights-of-way thereon; the term "transfer" shall include the creation or continuance of any such interest; and the term "Settlement Agreement" shall mean the Settlement Agreement described in paragraph (3) of the first section of this Act.

Congressional approval and ratification.

SEC. 3. The Congress hereby approves and ratifies the Settlement Agreement and all transfers of land provided for in the Settlement Agreement. All such transfers shall be deemed to have been made in accordance with all laws of the United States that are specifically applicable to transfers of lands from, by or on behalf of any Indian, Indian nation, or tribe of Indians including section 2116 of the Revised Statutes of the United States (25 U.S.C. 177).

Claims.

SEC. 4. All claims, including claims for trespass damages and claims arising out of use and occupancy, of the Tribe or any of its members, whether brought by themselves or by the United States or any other person or entity on behalf of such Tribe or its members, against the United States with respect to the lands which are the subject matter of the Settlement Agreement or against the Railroad arising before the Settlement Agreement becomes effective, shall be waived and surrendered when the Settlement Agreement becomes effective.

Waiver.

SEC. 5. The United States hereby accepts the waiver executed by the Tribe on May 31, 1980, of all claims (including but not limited to trespass damages, claims based on use and occupancy, breach of trust or the right to just compensation) against the United States, its officers or agents, any State or subdivision thereof, or any other person or entity, with respect to the lands which are the subject matter of the Settlement Agreement, arising before the Settlement Agreement becomes effective or out of the enactment of this Act.

26 USC 1 *et seq.*

SEC. 6. For purposes of chapter 1 of the Internal Revenue Code of 1954, the gross income of the Tribe shall not include any amount received or accrued by such Tribe under the Settlement Agreement, including the $100,000 referred to in paragraph (3)(C) of the first section of this Act, and the payments referred to in paragraph (3)(D) of such section. Nothing in the preceding sentence shall be construed to prevent the inclusion in the gross income of any individual of any amount so received or accrued which is distributed to such individual.

Leasing terms.

SEC. 7. Notwithstanding any restriction of Federal law which may be applicable to the transfer of lands of the Tribe, the Tribe is hereby authorized, by resolution of its duly constituted council or in a manner as provided by its laws and customs, to lease for a term not to exceed twenty-five years with a renewal for one additional term of not to exceed twenty-five years with the consent of both parties, lands owned by the Tribe; or to grant easements or rights-of-way across lands owned by the Tribe. Any other transfer shall be subject to any Federal restriction which may be applicable to the transfer of lands of the Tribe.

SEC. 8. Nothing in this Act constitutes recognition or acknowledgement of the Pamunkey Indians as a tribe subject to the plenary control of Congress or affects the rights of the Pamunkey Indians to petition the Secretary of the Interior for acknowledgement of their status as an Indian tribe and to seek entitlement to all rights, privileges, and immunities enjoyed by other recognized or acknowledged tribes. Nothing in this Act imposes any trust responsibility on the United States with respect to the Tribe.

SEC. 9. To the extent that there may be any conflict between any provisions of this Act and any other applicable Federal law or laws, the provisions of this Act shall govern.

Approved November 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1144 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-1001 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 18, considered and passed House.
Nov. 12, considered and passed Senate.

79-194 O—81—pt. 2——69 : QL3

Public Law 96-485
96th Congress

Joint Resolution

Nov. 26, 1980
[S.J. Res. 156]

To authorize the President to issue a proclamation designating the week of November 23 through 29, 1980, as "National Family Week".

National Family Week.
Designation authorization.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the week of November 23 through 29, 1980, as "National Family Week", and inviting the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

Approved November 26, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
June 25, considered and passed Senate.
Nov. 21, considered and passed House.

Public Law 96-486
96th Congress

An Act

To eliminate the amount in controversy requirement for Federal question jurisdiction.

Dec. 1, 1980
[S. 2357]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Question Jurisdictional Amendments Act of 1980".

Federal Question Jurisdictional Amendments Act of 1980.
28 USC 1 note.

SEC. 2. (a) Section 1331 of title 28, United States Code, is amended to read as follows:

"§ 1331. Federal question

"The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.".

(b) The item relating to section 1331 in the table of sections for chapter 85 of title 28, United States Code, is amended by striking out "; amount in controversy; costs.".

SEC. 3. (a) Section 23(a) of the Consumer Product Safety Act (15 U.S.C. 2072(a)) is amended—

(1) by striking out "subject to the provisions of section 1331 of title 28, United States Code, as to the amount in controversy,"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof ": *Provided,* That the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs, unless such action is brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity.".

(b) Section 23 of the Consumer Product Safety Act (15 U.S.C. 2072) is amended by redesignating subsection (b) as subsection (c) and by inserting immediately after subsection (a) the following new subsection:

Plaintiff's costs.

"(b) Except when express provision is made in a statute of the United States, in any case in which the plaintiff is finally adjudged to be entitled to recover less than the sum or value of $10,000, computed without regard to any setoff or counterclaim to which the defendant may be adjudged to be entitled, and exclusive of interests and costs, the district court may deny costs to the plaintiff and, in addition, may impose costs on the plaintiff.".

28 USC 1331 note.

SEC. 4. This Act shall apply to any civil action pending on the date of enactment of this Act.

Approved December 1, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1461 (Comm. on the Judiciary).
SENATE REPORT No. 96-827 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 28, considered and passed Senate.
Nov. 17, considered and passed House.

Public Law 96-487
96th Congress

An Act

To provide for the designation and conservation of certain public lands in the State of Alaska, including the designation of units of the National Park, National Wildlife Refuge, National Forest, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

Dec. 2, 1980
[H.R. 39]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Alaska National Interest Lands Conservation Act".

Alaska National Interest Lands Conservation Act.
16 USC 3101 note.

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TITLE I—PURPOSES, DEFINITIONS, AND MAPS

PURPOSES

16 USC 3101.

SEC. 101. (a) In order to preserve for the benefit, use, education, and inspiration of present and future generations certain lands and waters in the State of Alaska that contain nationally significant natural, scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values, the units described in the following titles are hereby established.

(b) It is the intent of Congress in this Act to preserve unrivaled scenic and geological values associated with natural landscapes; to provide for the maintenance of sound populations of, and habitat for, wildlife species of inestimable value to the citizens of Alaska and the Nation, including those species dependent on vast relatively undeveloped areas; to preserve in their natural state extensive unaltered arctic tundra, boreal forest, and coastal rainforest ecosystems; to protect the resources related to subsistence needs; to protect and preserve historic and archeological sites, rivers, and lands, and to preserve wilderness resource values and related recreational opportunities including but not limited to hiking, canoeing, fishing, and sport hunting, within large arctic and subarctic wildlands and on

freeflowing rivers; and to maintain opportunities for scientific research and undisturbed ecosystems.

(c) It is further the intent and purpose of this Act consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each conservation system unit is established, designated, or expanded by or pursuant to this Act, to provide the opportunity for rural residents engaged in a subsistence way of life to continue to do so.

(d) This Act provides sufficient protection for the national interest in the scenic, natural, cultural and environmental values on the public lands in Alaska, and at the same time provides adequate opportunity for satisfaction of the economic and social needs of the State of Alaska and its people; accordingly, the designation and disposition of the public lands in Alaska pursuant to this Act are found to represent a proper balance between the reservation of national conservation system units and those public lands necessary and appropriate for more intensive use and disposition, and thus Congress believes that the need for future legislation designating new conservation system units, new national conservation areas, or new national recreation areas, has been obviated thereby.

DEFINITIONS

SEC. 102. As used in this Act (except that in titles IX and XIV the following terms shall have the same meaning as they have in the Alaska Native Claims Settlement Act, and the Alaska Statehood Act)— 16 USC 3102. *Post*, pp. 2430, 2491. 43 USC 1601 note. 48 USC note prec. 21.

(1) The term "land" means lands, waters, and interests therein.

(2) The term "Federal land" means lands the title to which is in the United States after the date of enactment of this Act.

(3) The term "public lands" means land situated in Alaska which, after the date of enactment of this Act, are Federal lands, except—

(A) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(B) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(C) lands referred to in section 19(b) of the Alaska Native Claims Settlement Act. 43 USC 1618.

(4) The term "conservation system unit" means any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers Systems, National Trails System, National Wilderness Preservation System, or a National Forest Monument including existing units, units established, designated, or expanded by or under the provisions of this Act, additions to such units, and any such unit established, designated, or expanded hereafter.

(5) The term "Alaska Native Claims Settlement Act" means "An Act to provide for the settlement of certain land claims of Alaska Natives, and for other purposes", approved December 18, 1971 (85 Stat. 688), as amended. 43 USC 1601 note.

(6) The term "Native Corporation" means any Regional Corporation, any Village Corporation, any Urban Corporation, and any Native Group.

(7) The term "Regional Corporation" has the same meaning as such term has under section 3(g) of the Alaska Native Claims Settlement Act.

43 USC 1602.

(8) The term "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act.

(9) The term "Urban Corporation" means those Native entities which have incorporated pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act.

43 USC 1613.

(10) The term "Native Group" has the same meaning as such term has under sections 3(d) and 14(h)(2) of the Alaska Native Claims Settlement Act.

(11) The term "Native land" means land owned by a Native Corporation or any Native Group and includes land which, as of the date of enactment of this Act, had been selected under the Alaska Native Claims Settlement Act by a Native Corporation or Native Group and had not been conveyed by the Secretary (except to the extent such selection is determined to be invalid or has been relinquished) and land referred to in section 19(b) of the Alaska Native Claims Settlement Act.

43 USC 1601 note.

43 USC 1618.

(12) The term "Secretary" means the Secretary of the Interior, except that when such term is used with respect to any unit of the National Forest System, such term means the Secretary of Agriculture.

(13) The terms "wilderness" and "National Wilderness Preservation System" have the same meaning as when used in the Wilderness Act (78 Stat. 890).

16 USC 1131 note.

(14) The term "Alaska Statehood Act" means the Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (72 Stat. 339), as amended.

48 USC note prec. 21.

(15) The term "State" means the State of Alaska.

(16) The term "Alaska Native" or "Native" has the same meaning as the term "Native" has in section 3(b) of the Alaska Native Claims Settlement Act.

43 USC 1602.

(17) The term "fish and wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or part thereof.

(18) The term "take" or "taking" as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

MAPS

Public inspection. 16 USC 3103.

SEC. 103. (a) The boundary maps described in this Act shall be on file and available for public inspection in the office of the Secretary or the Secretary of Agriculture with regard to the National Forest System. In the event of discrepancies between the acreages specified in this Act and those depicted on such maps, the maps shall be controlling, but the boundaries of areas added to the National Park, Wildlife Refuge and National Forest Systems shall, in coastal areas

not extend seaward beyond the mean high tide line to include lands owned by the State of Alaska unless the State shall have concurred in such boundary extension and such extension is accomplished under the notice and reporting requirements of this Act.

Publication in Federal Register. Filing with Speaker of House and President of Senate.

(b) As soon as practicable after enactment of this Act, a map and legal description of each change in land management status effected by this Act, including the National Wilderness Preservation System, shall be published in the Federal Register and filed with the Speaker of the House of Representatives and the President of the Senate, and each such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Secretary. Whenever possible boundaries shall follow hydrographic divides or embrace other topographic or natural features. Following reasonable notice in writing to the Congress of his intention to do so the Secretary and the Secretary of Agriculture may make minor adjustments in the boundaries of the areas added to or established by this Act as units of National Park, Wildlife Refuge, Wild and Scenic Rivers, National Wilderness Preservation, and National Forest Systems and as national conservation areas and national recreation areas. For the purposes of this subsection, a minor boundary adjustment shall not increase or decrease the amount of land within any such area by more than 23,000 acres.

Minor boundary adjustments, notification to Congress.

(c) Only those lands within the boundaries of any conservation system unit which are public lands (as such term is defined in this Act) shall be deemed to be included as a portion of such unit. No lands which, before, on, or after the date of enactment of this Act, are conveyed to the State, to any Native Corporation, or to any private party shall be subject to the regulations applicable solely to public lands within such units. If the State, a Native Corporation, or other owner desires to convey any such lands, the Secretary may acquire such lands in accordance with applicable law (including this Act), and any such lands shall become part of the unit, and be administered accordingly.

TITLE II—NATIONAL PARK SYSTEM

ESTABLISHMENT OF NEW AREAS

Administration by Interior Secretary. 16 USC 410hh.

SEC. 201. The following areas are hereby established as units of the National Park System and shall be administered by the Secretary under the laws governing the administration of such lands and under the provisions of this Act:

Aniakchak National Monument. 16 USC 431 note.

(1) Aniakchak National Monument, containing approximately one hundred and thirty-eight thousand acres of public lands, and Aniakchak National Preserve, containing approximately three hundred and seventy-six thousand acres of public lands, as generally depicted on map numbered ANIA-90,005, and dated October 1978. The monument and preserve shall be managed for the following purposes, among others: To maintain the caldera and its associated volcanic features and landscape, including the Aniakchak River and other lakes and streams, in their natural state; to study, interpret, and assure continuation of the natural process of biological succession; to protect habitat for, and populations of, fish and wildlife, including, but not limited to, brown/grizzly bears, moose, caribou, sea lions, seals, and other marine

mammals, geese, swans, and other waterfowl and in a manner consistent with the foregoing, to interpret geological and biological processes for visitors. Subsistence uses by local residents shall be permitted in the monument where such uses are traditional in accordance with the provisions of title VIII.

Bering Land Bridge National Preserve.

(2) Bering Land Bridge National Preserve, containing approximately two million four hundred and fifty-seven thousand acres of public land, as generally depicted on map numbered BELA-90,005, and dated October 1978. The preserve shall be managed for the following purposes, among others: To protect and interpret examples of arctic plant communities, volcanic lava flows, ash explosions, coastal formations, and other geologic processes; to protect habitat for internationally significant populations of migratory birds; to provide for archeological and paleontological study, in cooperation with Native Alaskans, of the process of plant and animal migration, including man, between North America and the Asian Continent; to protect habitat for, and populations of, fish and wildlife including, but not limited to, marine mammals, brown/grizzly bears, moose, and wolves; subject to such reasonable regulations as the Secretary may prescribe, to continue reindeer grazing use, including necessary facilities and equipment, within the areas which on January 1, 1976, were subject to reindeer grazing permits, in accordance with sound range management practices; to protect the viability of subsistence resources; and in a manner consistent with the foregoing, to provide for outdoor recreation and environmental education activities including public access for recreational purposes to the Serpentine Hot Springs area. The Secretary shall permit the continuation of customary patterns and modes of travel during periods of adequate snow cover within a one-hundred-foot right-of-way along either side of an existing route from Deering to the Taylor Highway, subject to such reasonable regulations as the Secretary may promulgate to assure that such travel is consistent with the foregoing purposes.

Cape Krusenstern National Monument. 16 USC 431 note.

(3) Cape Krusenstern National Monument, containing approximately five hundred and sixty thousand acres of public lands, as generally depicted on map numbered CAKR-90,007, and dated October 1979. The monument shall be managed for the following purposes, among others: To protect and interpret a series of archeological sites depicting every known cultural period in arctic Alaska; to provide for scientific study of the process of human population of the area from the Asian Continent; in cooperation with Native Alaskans, to preserve and interpret evidence of prehistoric and historic Native cultures; to protect habitat for seals and other marine mammals; to protect habitat for and populations of, birds, and other wildlife, and fish resources; and to protect the viability of subsistence resources. Subsistence uses by local residents shall be permitted in the monument in accordance with the provisions of title VIII.

Gates of the Arctic National Park.

(4)(a) Gates of the Arctic National Park, containing approximately seven million fifty-two thousand acres of public lands, Gates of the Arctic National Preserve, containing approximately nine hundred thousand acres of Federal lands, as generally depicted on map numbered GAAR-90,011, and dated July 1980. The park and preserve shall be managed for the following purposes, among others: To maintain the wild and undeveloped character of the area, including opportunities for visitors to experience solitude, and the natural environmental integrity

and scenic beauty of the mountains, forelands, rivers, lakes, and other natural features; to provide continued opportunities, including reasonable access, for mountain climbing, mountaineering, and other wilderness recreational activities; and to protect habitat for and the populations of, fish and wildlife, including, but not limited to, caribou, grizzly bears, Dall sheep, moose, wolves, and raptorial birds. Subsistence uses by local residents shall be permitted in the park, where such uses are traditional, in accordance with the provisions of title VIII. *Post*, p. 2422.

(b) Congress finds that there is a need for access for surface transportation purposes across the Western (Kobuk River) unit of the Gates of the Arctic National Preserve (from the Ambler Mining District to the Alaska Pipeline Haul Road) and the Secretary shall permit such access in accordance with the provisions of this subsection.

(c) Upon the filing of an application pursuant to section 1104 (b), and (c) of this Act for a right-of-way across the Western (Kobuk River) unit of the preserve, including the Kobuk Wild and Scenic River, the Secretary shall give notice in the Federal Register of a thirty-day period for other applicants to apply for access. Publication in Federal Register.

(d) The Secretary and the Secretary of Transportation shall jointly prepare an environmental and economic analysis solely for the purpose of determining the most desirable route for the right-of-way and terms and conditions which may be required for the issuance of that right-of-way. This analysis shall be completed within one year and the draft thereof within nine months of the receipt of the application and shall be prepared in lieu of an environmental impact statement which would otherwise be required under section 102(2)(C) of the National Environmental Policy Act. Such analysis shall be deemed to satisfy all requirements of that Act and shall not be subject to judicial review. Such environmental and economic analysis shall be prepared in accordance with the procedural requirements of section 1104(e). *Post*, p. 2459. The Secretaries in preparing the analysis shall consider the following— Environmental and economic analysis. 42 USC 4332.

(i) Alternative routes including the consideration of economically feasible and prudent alternative routes across the preserve which would result in fewer or less severe adverse impacts upon the preserve.

(ii) The environmental and social and economic impact of the right-of-way including impact upon wildlife, fish, and their habitat, and rural and traditional lifestyles including subsistence activities, and measures which should be instituted to avoid or minimize negative impacts and enhance positive impacts.

(e) Within 60 days of the completion of the environmental and economic analysis, the Secretaries shall jointly agree upon a route for issuance of the right-of-way across the preserve. Such right-of-way shall be issued in accordance with the provisions of section 1107 of this Act.

(5) Kenai Fjords National Park, containing approximately five hundred and sixty-seven thousand acres of public lands, as generally depicted on map numbered KEFJ-90,007, and dated October 1978. The park shall be managed for the following purposes, among others: To maintain unimpaired the scenic and environmental integrity of the Harding Icefield, its outflowing glaciers, and coastal fjords and islands in their natural state; and Kenai Fjords National Park.

to protect seals, sea lions, other marine mammals, and marine and other birds and to maintain their hauling and breeding areas in their natural state, free of human activity which is disruptive to their natural processes. In a manner consistent with the foregoing, the Secretary is authorized to develop access to the Harding Icefield and to allow use of mechanized equipment on the icefield for recreation.

Kobuk Valley National Park.

(6) Kobuk Valley National Park, containing approximately one million seven hundred and ten thousand acres of public lands as generally depicted on map numbered KOVA-90,009, and dated October 1979. The park shall be managed for the following purposes, among others: To maintain the environmental integrity of the natural features of the Kobuk River Valley, including the Kobuk, Salmon, and other rivers, the boreal forest, and the Great Kobuk Sand Dunes, in an undeveloped state; to protect and interpret, in cooperation with Native Alaskans, archeological sites associated with Native cultures; to protect migration routes for the Arctic caribou herd; to protect habitat for, and populations of, fish and wildlife including but not limited to caribou, moose, black and grizzly bears, wolves, and waterfowl; and to protect the viability of subsistence resources. Subsistence uses by local residents shall be permitted in the park in accordance with the provisions of title VIII. Except at such times when, and locations where, to do so would be inconsistent with the purposes of the park, the Secretary shall permit aircraft to continue to land at sites in the upper Salmon River watershed.

Post, p. 2422.

Lake Clark National Park.

(7)(a) Lake Clark National Park, containing approximately two million four hundred thirty-nine thousand acres of public lands, and Lake Clark National Preserve, containing approximately one million two hundred and fourteen thousand acres of public lands, as generally depicted on map numbered LACL-90,008, and dated October 1978. The park and preserve shall be managed for the following purposes, among others: To protect the watershed necessary for perpetuation of the red salmon fishery in Bristol Bay; to maintain unimpaired the scenic beauty and quality of portions of the Alaska Range and the Aleutian Range, including active volcanoes, glaciers, wild rivers, lakes, waterfalls, and alpine meadows in their natural state; and to protect habitat for and populations of fish and wildlife including but not limited to caribou, Dall sheep, brown/grizzly bears, bald eagles, and peregrine falcons.

(b) No lands conveyed to the Nondalton Village Corporation shall be considered to be within the boundaries of the park or preserve; if the corporation desires to convey any such lands, the Secretary may acquire such lands with the consent of the owner, and any such lands so acquired shall become part of the park or preserve, as appropriate. Subsistence uses by local residents shall be permitted in the park where such uses are traditional in accordance with the provisions of title VIII.

Post, p. 2422.

Noatak National Preserve.

(8)(a) Noatak National Preserve, containing approximately six million four hundred and sixty thousand acres of public lands, as generally depicted on map numbered NOAT-90,004, and dated July 1980. The preserve shall be managed for the following purposes, among others: To maintain the environmental integrity of the Noatak River and adjacent uplands within the preserve in such a manner as to assure the continuation of geological and biological processes unimpaired by adverse human activity; to protect habitat for, and populations of, fish

and wildlife, including but not limited to caribou, grizzly bears, Dall sheep, moose, wolves, and for waterfowl, raptors, and other species of birds; to protect archeological resources; and in a manner consistent with the foregoing, to provide opportunities for scientific research. The Secretary may establish a board consisting of scientists and other experts in the field of arctic research in order to assist him in the encouragement and administration of research efforts within the preserve.

(b) All lands located east of centerline of the main channel of the Noatak River which are—

(1) within

(A) any area withdrawn under the Alaska Native Claims Settlement Act for selection by the village of Noatak, and 43 USC 1601 note.

(B) any village deficiency withdrawal under section 11(a)(3)(A) of such Act which is adjacent to the area described in subparagraph (i) of this paragraph, 43 USC 1610.

(2) adjacent to public lands within a unit of the National Park System as designated under this Act, and

(3) not conveyed to such Village or other Native Corporation before the final conveyance date, shall, on such final conveyance date, be added to and included within, the adjacent unit of the National Park System (notwithstanding the applicable acreage specified in this paragraph) and managed in the manner provided in the foregoing provisions of this paragraph. For purposes of the preceding sentence the term "final conveyance date" means the date of the conveyance of lands under the Alaska Native Claims Settlement Act, or by operation of this Act, to the Village of Noatak, or to any other Native Corporation which completes the entitlement of such Village or other Corporation to conveyance of lands from the withdrawals referred to in subparagraph (1).

(9) Wrangell-Saint Elias National Park, containing approximately eight million one hundred and forty-seven thousand acres of public lands, and Wrangell-Saint Elias National Preserve, containing approximately four million one hundred and seventy-one thousand acres of public lands, as generally depicted on map numbered WRST-90,007, and dated August 1980. The park and preserve shall be managed for the following purposes, among others: To maintain unimpaired the scenic beauty and quality of high mountain peaks, foothills, glacial systems, lakes, and streams, valleys, and coastal landscapes in their natural state; to protect habitat for, and populations of, fish and wildlife including but not limited to caribou, brown/grizzly bears, Dall sheep, moose, wolves, trumpeter swans and other waterfowl, and marine mammals; and to provide continued opportunities, including reasonable access for mountain climbing, mountaineering, and other wilderness recreational activities. Subsistence uses by local residents shall be permitted in the park, where such uses are traditional, in accordance with the provisions of title VIII. Wrangell-Saint Elias National Park. *Post*, p. 2422.

(10) Yukon-Charley Rivers National Preserve, containing approximately one million seven hundred and thirteen thousand acres of public lands, as generally depicted on map numbered YUCH-90,008, and dated October 1978. The preserve shall be managed for the following purposes, among others: To maintain the environmental integrity of the entire Charley River basin, Yukon-Charley Rivers National Preserve.

including streams, lakes and other natural features, in its undeveloped natural condition for public benefit and scientific study; to protect habitat for, and populations of, fish and wildlife, including but not limited to the peregrine falcons and other raptorial birds, caribou, moose, Dall sheep, grizzly bears, and wolves; and in a manner consistent with the foregoing, to protect and interpret historical sites and events associated with the gold rush on the Yukon River and the geological and paleontological history and cultural prehistory of the area. Except at such times when and locations where to do so would be inconsistent with the purposes of the preserve, the Secretary shall permit aircraft to continue to land at sites in the Upper Charley River watershed.

ADDITIONS TO EXISTING AREAS

16 USC 410hh-1.

SEC. 202. The following units of the National Park System are hereby expanded:

Glacier Bay National Monument.

(1) Glacier Bay National Monument, by the addition of an area containing approximately five hundred and twenty-three thousand acres of Federal land. Approximately fifty-seven thousand acres of additional public land is hereby established as Glacier Bay National Preserve, both as generally depicted on map numbered GLBA-90,004, and dated October 1978; furthermore, the monument is hereby redesignated as "Glacier Bay National Park". The monument addition and preserve shall be managed for the following purposes, among others: To protect a segment of the Alsek River, fish and wildlife habitats and migration routes, and a portion of the Fairweather Range including the northwest slope of Mount Fairweather. Lands, waters, and interests therein within the boundary of the park and preserve which were within the boundary of any national forest are hereby excluded from such national forest and the boundary of such national forest is hereby revised accordingly.

Katmai National Monument.

(2) Katmai National Monument, by the addition of an area containing approximately one million and thirty-seven thousand acres of public land. Approximately three hundred and eight thousand acres of additional public land is hereby established as Katmai National Preserve, both as generally depicted on map numbered 90,007, and dated July 1980; furthermore, the monument is hereby redesignated as "Katmai National Park". The monument addition and preserve shall be managed for the following purposes, among others: To protect habitats for, and populations of, fish and wildlife including, but not limited to, high concentrations of brown/grizzly bears and their denning areas; to maintain unimpaired the water habitat for significant salmon populations; and to protect scenic, geological, cultural and recreational features.

Mount McKinley National Park.

(3)(a) Mount McKinley National Park, by the addition of an area containing approximately two million four hundred and twenty-six thousand acres of public land, and approximately one million three hundred and thirty thousand acres of additional public land is hereby established as Denali National Preserve, both as generally depicted on map numbered DENA-90,007, and dated July 1980 and the whole is hereby redesignated as Denali National Park and Preserve. The park additions and preserve shall be managed for the following purposes, among others: To protect and interpret the entire mountain massif, and additional scenic mountain peaks and formations; and to protect habitat

for, and populations of fish and wildlife including, but not limited to, brown/grizzly bears, moose, caribou, Dall sheep, wolves, swans and other waterfowl; and to provide continued opportunities, including reasonable access, for mountain climbing, mountaineering and other wildnerness recreational activities. That portion of the Alaska Railroad right-of-way within the park shall be subject to such laws and regulations applicable to the protection of fish and wildlife and other park values as the Secretary, with the concurrence of the Secretary of Transportation, may determine. Subsistence uses by local residents shall be permitted in the additions to the park where such uses are traditional in accordance with the provisions in title VIII.

Post, p. 2422.

(b) The Alaska Land Use Council shall, in cooperation with the Secretary, conduct a study of the Kantishna Hills and Dunkle Mine areas of the park as generally depicted on a map entitled "Kantishna Hills/Dunkle Mine Study Area", dated October 1979, and report thereon to the Congress not later than three years from the date of enactment of this Act. The study and report shall evaluate the resources of the area, including but not limited to, fish and wildlife, public recreation opportunities, wilderness potential, historic resources, and minerals, and shall include those recommendations respecting resources and other relevant matters which the Council determines are necessary. In conjunction with the study required by this section, the Council, in consultation with the Secretary, shall compile information relating to the mineral potential of the areas encompassed within the study, the estimated cost of acquiring mining properties, and the environmental consequences of further mineral development.

Study.
Report to Congress.

(c) During the period of the study, no acquisition of privately owned land shall be permitted within the study area, except with the consent of the owner, and the holders of valid mining claims shall be permitted to operate on their claims, subject to reasonable regulations designed to minimize damage to the environment: *Provided, however,* That such lands or claims shall be subject to acquisition without the consent of the owner or holder if the Secretary determines, after notice and opportunity for hearing, if such notice and hearing are not otherwise required by applicable law or regulation, that activities on such lands or claims will significantly impair important scenic, wildlife, or recreational values of the public lands which are the subject of the study.

Land acquisition, notice and hearing.

GENERAL ADMINISTRATION

SEC. 203. Subject to valid existing rights, the Secretary shall administer the lands, waters, and interests therein added to existing areas or established by the foregoing sections of this title as new areas of the National Park System, pursuant to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.), and, as appropriate, under section 1313 and the other applicable provisions of this Act: *Provided, however,* That hunting shall be permitted in areas designated as national preserves under the provisions of this Act. Subsistence uses by local residents shall be allowed in national preserves and, where specifically permitted by this Act, in national monuments and parks. Lands, waters, and interests therein withdrawn or reserved for the former Katmai and Glacier Bay National Monuments are hereby incorporated within and made a part of Katmai National Park or Glacier Bay National

16 USC 410hh-2.

Post, p. 2483.

Park, as appropriate. Any funds available for the purposes of such monuments are hereby made available for the purposes of Katmai National Park and Preserve or Glacier Bay National Park and Preserve, as appropriate. Notwithstanding any other provision of law, no fees shall be charged for entrance or admission to any unit of the National Park System located in Alaska.

NATIVE SELECTIONS

16 USC 410hh-3. SEC. 204. Valid Native Corporation selections, or lands identified for selection by Regional Corporations pursuant to section 17(d)(2)(E) 43 USC 1616. of the Alaska Native Claims Settlement Act, within the boundaries of the Wrangell-Saint Elias National Park and Preserve as established under this Act, are hereby recognized and shall be honored and conveyed by the Secretary in accordance with the Alaska Native 43 USC 1601 note. Claims Settlement Act and this Act.

COMMERCIAL FISHING

16 USC 410hh-4. SEC. 205. With respect to the Cape Krusenstern National Monument, the Malaspina Glacier Forelands area of Wrangell-Saint Elias National Preserve and the Dry Bay area of Glacier Bay National Preserve, the Secretary may take no action to restrict unreasonably the exercise of valid commercial fishing rights or privileges obtained pursuant to existing law, including the use of public lands for campsites, cabins, motorized vehicles, and aircraft landings on existing airstrips, directly incident to the exercise of such rights or privileges, except that this prohibition shall not apply to activities which the Secretary, after conducting a public hearing in the affected locality, finds constitute a significant expansion of the use of park lands beyond the level of such use during 1979.

WITHDRAWAL FROM MINING

16 USC 410hh-5. SEC. 206. Subject to valid existing rights, and except as explicitly provided otherwise in this Act, the Federal lands within units of the National Park System established or expanded by or pursuant to this Act are hereby withdrawn from all forms of appropriation or disposal under the public land laws, including location, entry, and patent under the United States mining laws, disposition under the mineral leasing laws, and from future selections by the State of Alaska and Native Corporations.

TITLE III—NATIONAL WILDLIFE REFUGE SYSTEM

DEFINITIONS

SEC. 301. For purposes of this title—

(1) The term "existing", if used in referring to any unit of the National Wildlife Refuge System in the State, means the unit as it existed on the day before the date of enactment of the Alaska 43 USC 1601 note. Native Claims Settlement Act except as specifically modified by 43 USC 1611 note. section 12(b)(1) of Public Law 94-204 and section 1432(c) of this Act.

Post, p. 2543. (2) The term "refuge" means—

(A) any unit of the National Wildlife Refuge System established by section 302 or 303 of this Act;

(B) any existing unit of the National Wildlife Refuge System in Alaska not included within any unit referred to in subparagraph (A);

(C) any unit of the National Wildlife Refuge System established in Alaska after the date of the enactment of this Act; or

(D) any addition to any unit described in subparagraphs (A), (B), or (C) above.

ESTABLISHMENT OF NEW REFUGES

SEC. 302. The following are established as units of the National Wildlife Refuge System:

(1) ALASKA PENINSULA NATIONAL WILDLIFE REFUGE.—(A) The Alaska Peninsula National Wildlife Refuge shall consist of the approximately three million five hundred thousand acres of public lands as generally depicted on the map entitled "Alaska Peninsula National Wildlife Refuge", dated October 1979 and shall include the lands on the Alaska Peninsula transferred to and made part of the refuge pursuant to section 1427 of this Act. 16 USC 668dd note.

(B) The purposes for which the Alaska Peninsula National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, brown bears, the Alaska Peninsula caribou herd, moose, sea otters and other marine mammals, shorebirds and other migratory birds, raptors, including bald eagles and peregrine falcons, and salmonoids and other fish;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii) above, the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(2) BECHAROF NATIONAL WILDLIFE REFUGE.—(A) The Becharof National Wildlife Refuge shall consist of the approximately one million two hundred thousand acres of public lands generally depicted on the map entitled "Becharof National Wildlife Refuge", dated July 1980. 16 USC 668dd note.

(B) The purposes for which the Becharof National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, brown bears, salmon, migratory birds, the Alaskan Peninsula caribou herd and marine birds and mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph

(i), water quality and necessary water quantity within the refuge.

16 USC 668dd note.

(3) INNOKO NATIONAL WILDLIFE REFUGE.—(A) The Innoko National Wildlife Refuge shall consist of the approximately three million eight hundred and fifty thousand acres of public lands generally depicted on the map entitled "Innoko National Wildlife Refuge", dated October 1978.

(B) The purposes for which the Innoko National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl, peregrine falcons, other migratory birds, black bear, moose, furbearers, and other mammals and salmon;

(ii) to fulfill international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

16 USC 668dd note.

(4) KANUTI NATIONAL WILDLIFE REFUGE.—(A) The Kanuti National Wildlife Refuge shall consist of the approximately one million four hundred and thirty thousand acres of public lands generally depicted on the map entitled "Kanuti National Wildlife Refuge", dated July 1980.

(B) The purposes for which the Kanuti National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, white-fronted geese and other waterfowl and migratory birds, moose, caribou (including participation in coordinated ecological studies and management of the Western Arctic caribou herd), and furbearers;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

16 USC 668dd note.

(5) KOYUKUK NATIONAL WILDLIFE REFUGE.—(A) The Koyukuk National Wildlife Refuge shall consist of the approximately three million five hundred and fifty thousand acres of public lands generally depicted on the map entitled "Koyukuk National Wildlife Refuge", dated July 1980.

(B) The purposes for which the Koyukuk National Wildlife Refuge is established and shall be managed include—

(i) to conserve the fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl and other migratory birds, moose, caribou (including participation in coordinated ecological studies and management of the Western Arctic caribou herd), furbearers, and salmon;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(6) NOWITNA NATIONAL WILDLIFE REFUGE.—(A) The Nowitna National Wildlife Refuge shall consist of the approximately one million five hundred and sixty thousand acres of public lands generally depicted on a map entitled "Nowitna National Wildlife Refuge", dated July 1980. 16 USC 668dd note.

(B) The purposes for which the Nowitna National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, trumpeter swans, white-fronted geese, canvasbacks and other waterfowl and migratory birds, moose, caribou, martens, wolverines and other furbearers, salmon, sheefish, and northern pike;

(ii) to fulfill international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(7) SELAWIK NATIONAL WILDLIFE REFUGE.—(A) The Selawik National Wildlife Refuge shall consist of the approximately two million one hundred and fifty thousand acres of public land generally depicted on the map entitled "Selawik National Wildlife Refuge", dated July 1980. No lands conveyed to any Native Corporation shall be considered to be within the boundaries of the refuge; except that if any such corporation desires to convey any such lands, the Secretary may acquire such lands with the consent of the owner and any such acquired lands shall become public lands of the refuge. 16 USC 668dd note.

(B) The purposes for which the Selawik National Wildlife Refuge is established and shall be managed include—

(i) to conserve the fish and wildlife populations and habitats in their natural diversity including, but not limited to, the Western Arctic caribou herd (including participation in coordinated ecological studies and management of these caribou), waterfowl, shorebirds and other migratory birds, and salmon and sheefish;

(ii) to fulfill international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph

(i), water quality and necessary water quantity within the refuge.

(C) The Secretary shall administer the refuge in such a manner as will permit reindeer grazing uses, including the construction and maintenance of necessary facilities and equipment within the areas, which on January 1, 1976, were subject to reindeer grazing permits.

16 USC 668dd note.

(8) TETLIN NATIONAL WILDLIFE REFUGE.—(A) The Tetlin National Wildlife Refuge shall consist of the approximately seven hundred thousand acres of public land as generally depicted on a map entitled "Tetlin National Wildlife Refuge", dated July 1980. The northern boundary of the refuge shall be a line parallel to, and three hundred feet south, of the centerline of the Alaska Highway.

(B) The purposes for which the Tetlin National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl, raptors and other migratory birds, furbearers, moose, caribou (including participation in coordinated ecological studies and management of the Chisana caribou herd), salmon and Dolly Varden;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge; and

(v) to provide, in a manner consistent with subparagraphs (i) and (ii), opportunities for interpretation and environmental education, particularly in conjunction with any adjacent State visitor facilities.

16 USC 668dd note.

(9) YUKON FLATS NATIONAL WILDLIFE REFUGE.—(A) The Yukon Flats National Wildlife Refuge shall consist of approximately eight million six hundred and thirty thousand acres of public lands as generally depicted on the map entitled "Yukon Flats National Wildlife Refuge", dated July 1980.

(B) The purposes for which the Yukon Flats National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, canvasbacks and other migratory birds, Dall sheep, bears, moose, wolves, wolverines and other furbearers, caribou (including participation in coordinated ecological studies and management of the Porcupine and Fortymile caribou herds) and salmon;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph

(i), water quality and necessary water quantity within the refuge.

ADDITIONS TO EXISTING REFUGES

SEC. 303. The following areas, consisting of existing refuges and the additions made thereto, are established or redesignated as units of the National Wildlife Refuge System:

(1) ALASKA MARITIME NATIONAL WILDLIFE REFUGE.—(A) The Alaska Maritime National Wildlife Refuge shall consist of eleven existing refuges, including all lands (including submerged lands), waters and interests therein which were a part of such refuges and are hereby redesignated as subunits of the Alaska Maritime National Wildlife Refuge; approximately four hundred and sixty thousand acres of additional public lands on islands, islets, rocks, reefs, spires and designated capes and headlands in the coastal areas and adjacent seas of Alaska, and an undetermined quantity of submerged lands, if any, retained in Federal ownership at the time of statehood around Kodiak and Afognak Islands, as generally depicted on the map entitled "Alaska Maritime National Wildlife Refuge", dated October 1979, including the— 16 USC 668dd note.

(i) Chukchi Sea Unit—including Cape Lisburne, Cape Thompson, the existing Chamisso National Wildlife Refuge, and all other public lands on islands, islets, rocks, reefs, spires, and designated capes and headlands in the Chukchi Sea, but excluding such other offshore public lands within the Bering Land Bridge National Preserve. That portion of the public lands on Cape Lisburne shall be named and appropriately identified as the "Ann Stevens-Cape Lisburne" subunit of the Chukchi Sea Unit; Chukchi Sea Unit.

(ii) Bering Sea Unit—including the existing Bering Sea and Pribilof (Walrus and Otter Islands) National Wildlife Refuges, Hagemeister Island, Fairway Rock, Sledge Island, Bluff Unit, Besboro Island, Punuk Islands, Egg Island, King Island, and all other public lands on islands, islets, rocks, reefs, spires and designated capes and headlands in the Bering Sea; Bering Sea Unit

(iii) Aleutian Islands Unit—including the existing Aleutian Islands and Bogoslof National Wildlife Refuges, and all other public lands in the Aleutian Islands; Aleutian Islands Unit.

(iv) Alaska Peninsula Unit—including the existing Simeonof and Semidi National Wildlife Refuges, the Shumagin Islands, Sutwik Island, the islands and headlands of Puale Bay, and all other public lands on islands, islets, rocks, reefs, spires and designated capes and headlands south of the Alaska Peninsula from Katmai National Park to False Pass including such offshore lands incorporated in this unit under section 1427; and Alaska Peninsula Unit.

(v) Gulf of Alaska Unit—including the existing Forrester Island, Hazy Islands, Saint Lazaria and Tuxedni National Wildlife Refuges, the Barren Islands, Latax Rocks, Harbor Island, Pye and Chiswell Islands, Ragged, Natoa, Chat, Chevel, Granite and Middleton Islands, the Trinity Islands, all named and unnamed islands, islets, rocks, reefs, spires, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood surrounding Kodiak and Afognak Islands and all other such public lands on islands, islets, rocks, reefs, spires and designated capes and headlands within the Gulf of Alaska, but excluding such Gulf of Alaska Unit.

lands within existing units of the National Park System, Nuka Island and lands within the National Forest System except as provided in section 1427 of this Act.

(B) The purposes for which the Alaska Maritime National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to marine mammals, marine birds and other migratory birds, the marine resources upon which they rely, bears, caribou and other mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents;

(iv) to provide, in a manner consistent with subparagraphs (i) and (ii), a program of national and international scientific research on marine resources; and

(v) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(C) Any lands acquired pursuant to section 1417 of this Act shall be included as public lands of the Alaska Maritime National Wildlife Refuge.

16 USC 668dd note.

(2) ARCTIC NATIONAL WILDLIFE REFUGE.—(A) The Arctic National Wildlife Refuge shall consist of the existing Arctic National Wildlife Range including lands, waters, interests, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood and an addition of approximately nine million one hundred and sixty thousand acres of public lands, as generally depicted on a map entitled "Arctic National Wildlife Refuge", dated August 1980.

(B) The purposes for which the Arctic National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, the Porcupine caribou herd (including participation in coordinated ecological studies and management of this herd and the Western Arctic caribou herd), polar bears, grizzly bears, muskox, Dall sheep, wolves, wolverines, snow geese, peregrine falcons and other migratory birds and Arctic char and grayling;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

16 USC 668dd note.

(3) IZEMBEK NATIONAL WILDLIFE REFUGE.—(A) The existing Izembek National Wildlife Range including the lands, waters and interests of that unit which shall be redesignated as the Izembek National Wildlife Refuge.

(B) The purposes for which the Izembek National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl, shorebirds and other migratory birds, brown bears and salmonoids;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(4) KENAI NATIONAL WILDLIFE REFUGE.—(A) The Kenai National Wildlife Refuge shall consist of the existing Kenai National Moose Range, including lands, waters, interests, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood, which shall be redesignated as the Kenai National Wildlife Refuge, and an addition of approximately two hundred and forty thousand acres of public lands as generally depicted on the map entitled "Kenai National Wildlife Refuge", dated October 1978, excluding lands described in P.L.O. 3953, March 21, 1966, and P.L.O. 4056, July 22, 1966, withdrawing lands for the Bradley Lake Hydroelectric Project. 16 USC 668dd note.

(B) The purposes for which the Kenai National Wildlife Refuge is established and shall be managed, include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, moose, bears, mountain goats, Dall sheep, wolves and other furbearers, salmonoids and other fish, waterfowl and other migratory and nonmigratory birds;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge;

(iv) to provide in a manner consistent with subparagraphs (i) and (ii), opportunities for scientific research, interpretation, environmental education, and land management training; and

(v) to provide, in a manner compatible with these purposes, opportunities for fish and wildlife-oriented recreation.

(5) KODIAK NATIONAL WILDLIFE REFUGE.—(A) The Kodiak National Wildlife Refuge shall consist of the existing Kodiak National Wildlife Refuge, including lands, waters, interests, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood, which is redesignated as the Kodiak Island Unit of the Kodiak National Wildlife Refuge, and the addition of all public lands on Afognak and Ban Islands of approximately fifty thousand acres as generally depicted on the map entitled "Kodiak National Wildlife Refuge", dated October 1978. The described public lands on Afognak Island are those incorporated in this refuge from section 1427 of this Act. 16 USC 668dd note.

(B) The purposes for which the Kodiak National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations habitats in their natural diversity including, but not limited to, Kodiak brown bears, salmonoids, sea otters, sea lions and other marine mammals and migratory birds;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

16 USC 668dd note.

(6) TOGIAK NATIONAL WILDLIFE REFUGE.—(A) The Togiak National Wildlife Refuge shall consist of the existing Cape Newenham National Wildlife Refuge, including lands, waters, and interests therein, which shall be redesignated as a unit of the Togiak National Wildlife Refuge, and an addition of approximately three million eight hundred and forty thousand acres of public lands, as generally depicted on the map entitled "Togiak National Wildlife Refuge", dated April 1980.

(B) The purposes for which the Togiak National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, salmonoids, marine birds and mammals, migratory birds and large mammals (including their restoration to historic levels);

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

16 USC 668dd note.

(7) YUKON DELTA NATIONAL WILDLIFE REFUGE.—(A) The Yukon Delta National Wildlife Refuge shall consist of the existing Clarence Rhode National Wildlife Range, Hazen Bay National Wildlife Refuge, and Nunivak National Wildlife Refuge, including lands, waters, interests, and whatever submerged lands, if any, were retained in Federal ownership at the time of statehood, which shall be redesignated as units of the Yukon Delta National Wildlife Refuge and the addition of approximately thirteen million four hundred thousand acres of public lands, as generally depicted on the map entitled "Yukon Delta National Wildlife Refuge", dated April 1980.

(B) The purposes for which the Yukon Delta National Wildlife Refuge is established and shall be managed include—

(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, shorebirds, seabirds, whistling swans, emperor, white-fronted and Canada geese, black brant and other migratory birds, salmon, muskox, and marine mammals;

(ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;

(iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and

(iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

(C) Subject to such reasonable regulations as the Secretary may prescribe, reindeer grazing, including necessary facilities and equipment, shall be permitted within areas where such use is, and in a manner which is, compatible with the purposes of this refuge.

(D) Subject to reasonable regulation, the Secretary shall administer the refuge so as to not impede the passage of navigation and access by boat on the Yukon and Kuskokwim Rivers.

ADMINISTRATION OF REFUGES

SEC. 304. (a) Each refuge shall be administered by the Secretary, subject to valid existing rights, in accordance with the laws governing the administration of units of the National Wildlife Refuge System, and this Act.

Refuge use or easements.

(b) In applying section 4(d) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) with respect to each refuge, the Secretary may not permit any use, or grant easements for any purpose described in such section 4(d) unless such use (including but not limited to any oil and gas leasing permitted under paragraph (2)) or purpose is compatible with the purposes of the refuge. The Secretary shall prescribe such regulations and impose such terms and conditions as may be necessary and appropriate to ensure that activities carried out under any use or easement granted under any authority are so compatible.

Regulations.

(c) All public lands (including whatever submerged lands, if any, beneath navigable waters of the United States (as that term is defined in section 1301(a) of title 43, United States Code) were retained in Federal ownership at the time of statehood) in each National Wildlife Refuge and any other National Wildlife Refuge System unit in Alaska are hereby withdrawn, subject to valid existing rights, from future selections by the State of Alaska and Native Corporations, from all forms of appropriation or disposal under the public land laws, including location, entry and patent under the mining laws but not from operation of mineral leasing laws.

Commercial fishing rights or privileges.

(d) The Secretary shall permit within units of the National Wildlife Refuge System designated, established, or enlarged by this Act, the exercise of valid commercial fishing rights or privileges obtained pursuant to existing law and the use of Federal lands, subject to reasonable regulation, for campsites, cabins, motorized vehicles, and aircraft landings directly incident to the exercise of such rights or privileges: *Provided,* That nothing in this section shall require the Secretary to permit the exercise of rights or privileges or uses of the Federal lands directly incident to such exercise, which he determines, after conducting a public hearing in the affected locality, to be inconsistent with the purposes of a unit of the National Wildlife Refuge System as described in this section and to be a significant

expansion of commercial fishing activities within such unit beyond the level of such activities during 1979.

(e) Where compatible with the purposes of the refuge unit, the Secretary may permit, subject to reasonable regulations and in accord with sound fisheries management principles, scientifically acceptable means of maintaining, enhancing, and rehabilitating fish stock.

Cooperative management agreements.

(f)(1) The Secretary is authorized to enter into cooperative management agreements with any Native Corporation, the State, any political subdivision of the State, or any other person owning or occupying land which is located within, or adjacent or near to, any national wildlife refuge. Each cooperative management agreement (hereinafter in this section referred to as an "agreement") shall provide that the land subject to the agreement shall be managed by the owner or occupant in a manner compatible with the major purposes of the refuge to which such land pertains including the opportunity for continuation of subsistence uses by local rural residents.

(2) Each agreement shall—

(A) set forth such uses of the land subject to the agreement which are compatible with the management goals set forth in subsection (f)(1);

(B) permit the Secretary reasonable access to such land for purposes relating to the administration of the refuge and to carry out the obligations of the Secretary under the agreement;

(C) permit reasonable access to such land by officers of the State for purposes of conserving fish and wildlife;

(D) set forth those services or other consideration which the Secretary agrees to provide the owner or occupant in return for the owner or occupant entering into the agreement, which services may include technical and other assistance with respect to fire control, trespass control, law enforcement, resource and land use planning, the conserving of fish and wildlife and the protection, maintenance and enhancement of any special values of the land subject to the agreement;

(E) set forth such additional terms and conditions as the Secretary and the owner or occupant may agree to as being necessary and appropriate to carry out the management goals as set forth in subsection (f)(1); and

(F) specify the effective period of the agreement.

Comprehensive conservation plan.

(g)(1) The Secretary shall prepare, and from time to time, revise, a comprehensive conservation plan (hereinafter in this subsection referred to as the "plan") for each refuge.

(2) Before developing a plan for each refuge, the Secretary shall identify and describe—

(A) the populations and habitats of the fish and wildlife resources of the refuge;

(B) the special values of the refuge, as well as any other archeological, cultural, ecological, geological, historical, paleontological, scenic, or wilderness value of the refuge;

(C) areas within the refuge that are suitable for use as administrative sites or visitor facilities, or for visitor services, as provided for in sections 1305 and 1306 of this Act;

(D) present and potential requirements for access with respect to the refuge, as provided for in title XI; and

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(E) significant problems which may adversely affect the populations and habitats of fish and wildlife identified and described under subparagraph (A).

(3) Each plan shall—

(A) be based upon the identifications and the descriptions required to be made under paragraph (2)—

(i) designate areas within the refuge according to their respective resources and values;

(ii) specify the programs for conserving fish and wildlife and the programs relating to maintaining the values referred to in paragraph (2)(B), proposed to be implemented within each such area; and

(iii) specify the uses within each such area which may be compatible with the major purposes of the refuge; and

(B) set forth those opportunities which will be provided within the refuge for fish and wildlife-oriented recreation, ecological research, environmental education and interpretation of refuge resources and values, if such recreation, research, education, and interpretation is compatible with the purposes of the refuge.

Public hearings.

(4) In preparing each plan and revisions thereto, the Secretary shall consult with the appropriate State agencies and Native Corporations, and shall hold public hearings in such locations in the State as may be appropriate to insure that residents of local villages and political subdivisions of the State which will be primarily affected by the administration of the refuge concerned have opportunity to present their views with respect to the plan or revisions.

Publication in Federal Register.

(5) Before adopting a plan for any refuge, the Secretary shall issue public notice of the proposed plan in the Federal Register, make copies of the plan available at each regional office of the United States Fish and Wildlife Service and provide opportunity for public views and comment on the plan.

(6) With respect to refuges established, redesignated, or expanded by section 302 or 303 the Secretary shall prepare plans for—

(A) not less than five refuges within three years after the date of the enactment of this Act;

(B) not less than ten refuges within five years after such date;

(C) all refuges within seven years after such date. With respect to any refuge established in the State after the date of the enactment of this Act, the Secretary shall prepare a plan for the refuge within two years after the date of its establishment; and

Conservation plan, submittal to congressional committees.

(D) in the case of any refuge established, redesignated, or expanded by this title with respect to which a wilderness review is required under this Act, at the same time the President submits his recommendation concerning such unit under such section to the Congress, the Secretary shall submit to the appropriate committees of the Congress the conservation plan for that unit.

PRIOR AUTHORITIES

SEC. 305. All proclamations, Executive orders, public land orders, and other administrative actions in effect on the day before the date of the enactment of this Act with respect to units of the National Wildlife Refuge System in the State shall remain in force and effect except to the extent that they are inconsistent with this Act or the Alaska Native Claims Settlement Act and, in any such case, the provisions of such Acts shall prevail. All land within the boundaries described or depicted in any such action shall, if the unit of the National Wildlife Refuge System concerned is incorporated within any refuge established or redesignated by or described in section 302 or 303, be included within such refuge. All funds available on such date of enactment for administration of any refuge shall remain available for the administration of such refuge.

43 USC 1601 note.

SPECIAL STUDY

Caribou.
16 USC 3145 note.

SEC. 306. (a) The Congress finds that the barren-ground caribou are a migratory species deserving of careful study and special protection, and that the Western Arctic and the Porcupine herds of such caribou are of national and international significance.

(b) The Secretary of the Interior shall conduct, and the Governor of Alaska is urged to cooperate with the Secretary in conducting, an ecological study of the barren-ground caribou herds north of the Yukon River and the herds that have been known to migrate between the United States and Canada, including, but not limited to, a determination of the seasonal migration patterns, reproduction and mortality rates, composition and age structure, behavioral characteristics, habitats (including but not limited to calving, feeding, summering and wintering areas, and key migration routes) that are critical to their natural stability and productivity and the effects on the herds of development by man, predation, and disease. In conducting this study the Secretary shall review the experience of other Arctic circumpolar countries with caribou and is authorized to enter into such contracts as he deems necessary to carry out portions or all of this study.

Review.
Contracts.

TITLE IV—NATIONAL CONSERVATION AREA AND NATIONAL RECREATION AREA

ESTABLISHMENT OF STEESE NATIONAL CONSERVATION AREA

16 USC 460mm.

SEC. 401. (a) In order to provide for the immediate and future protection of the lands in Federal ownership within the framework of a program of multiple use and sustained yield and for the maintenance of environmental quality, the Steese National Conservation Area is hereby established.

(b) The Steese National Conservation Area shall include approximately one million two hundred twenty thousand acres of public lands, as generally depicted on the map entitled "Steese National Conservation Area—proposed", and dated October 1978. Special values to be considered in planning and management of the area are: caribou range and Birch Creek.

ADMINISTRATIVE PROVISIONS

Land use plan, development.
16 USC 460mm-1.

43 USC 1701 note.

SEC. 402. (a) Subject to valid existing rights, the Secretary, through the Bureau of Land Management, shall administer the Steese National Conservation Area established in section 401 pursuant to the applicable provisions of the Federal Land Policy and Management Act of 1976 dealing with the management and use of land in Federal ownership, and shall, within five years of the date of enactment of this Act, develop a land use plan for each such area, and for the area established in section 403.

(b) No public lands within the national conservation area shall be transferred out of Federal ownership except by exchange pursuant to section 206 of the Federal Land Policy and Management Act. Where consistent with the land use plans for the area, mineral development may be permitted pursuant to the Mineral Leasing Act of 1920, as amended, and supplemented (30 U.S.C. 181-287) or the Materials Act of 1947, as amended (30 U.S.C. 601-603). Subject to valid existing rights, the minerals in Federal lands within national conservation areas are hereby withdrawn from location, entry, and patent under the United States mining laws (30 U.S.C. 22-54). Where consistent

43 USC 1716.

with the land use plan for the area, the Secretary may classify lands within national conservation areas as suitable for locatable mineral exploration and development and open such lands to entry, location, and patent under the United States mining laws (30 U.S.C. 22-54).

(c) Subject to valid existing rights, all mining claims located within any such unit shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the area and any patent issued after the date of enactment of this Act shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations as the Secretary may prescribe as aforesaid.

ESTABLISHMENT OF WHITE MOUNTAINS NATIONAL RECREATION AREA

SEC. 403. There is hereby established the White Mountains National Recreation Area containing approximately one million acres of public lands, as generally depicted on the map entitled "White Mountains National Recreation Area—proposed", and dated October 1978. Subject to valid existing rights, the Secretary shall administer the area in accordance with the provisions of section 1312 and other applicable provisions of this Act, the Federal Land Policy and Management Act of 1976, and other applicable law. In planning for the recreational use and management of this area, the Secretary shall work closely with the State of Alaska.

16 USC 460mm-2.

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43 USC 1701 note.

RIGHTS OF HOLDERS OF UNPERFECTED MINING CLAIMS

SEC. 404. (a) The term "unperfected mining claim" as used in this section, means a mining claim which is located on lands within the boundaries of the White Mountains National Recreation Area or Steese National Conservation Area established pursuant to this title with respect to which a valid mineral discovery within the meaning of the mining laws of the United States, was not made as of the date of the withdrawal of such area from further appropriation under the mining laws of the United States.

"Unperfected mining claim." 16 USC 460 mm-3.

(b) MORATORIUM ON CONTEST PROCEEDINGS.—Any holder of an unperfected mining claim seeking to protect such claim pursuant to this section must have maintained and must continue to maintain such claim in compliance with applicable Federal and State laws, and where applicable, must have obtained and complied with any mining access permit requirements imposed by the Department of the Interior during the 1979 mining season. Prior to September 30, 1982, no unperfected mining claim which has been maintained in accordance with this subsection shall be contested by the United States for failure to have made a valid mineral discovery within the meaning of the mining laws of the United States: *Provided,* That such claim shall be diligently prosecuted during this moratorium on contest proceedings as a condition for the moratorium. Any mining operation undertaken pursuant to this subsection, including but not limited to exploration, development, and extraction, shall be subject to such reasonable regulations as the Secretary may prescribe to assure that such operations will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the Steese National Conservation Area or the White Mountains National Recreation Area or any affected conservation system units established or expanded by this Act.

(c) VALID MINERAL DISCOVERY.—If the holder of an unperfected mining claim notifies the Secretary by filing an application for a patent that, as a result of mining operations in compliance with the requirements of subsection (b), he has made a valid mineral discovery on such claim within the meaning of the mining laws of the United States, and if the Secretary determines that such claim contains a valid mineral discovery, the holder of such claim shall be entitled to the issuance of a patent only to the minerals in such claim pursuant to the mining laws of the United States. The holder of such a patent shall also be entitled to the use of so much of the surface estate of the lands comprising the claim as may be necessary for mining purposes: *Provided,* That all mining operations conducted upon a claim after such a valid mineral discovery has been made, shall be in accordance with such reasonable regulations as may be issued by the Secretary pursuant to the authority granted in subsection (b) of this section.

(d) VALIDITY DETERMINATION.—If an application for a patent is filed by the holder of an unperfected mining claim pursuant to subsection (c) or if a contest proceeding is initiated by the United States after September 30, 1982, the validity of each claim shall be determined as of the date of the patent application or September 30, 1982, whichever is earlier. The holder of an unperfected mining claim not subject to a patent application filed prior to September 30, 1982, shall submit to the Secretary within one hundred and eighty days after such date all mineral data compiled during the contest proceeding moratorium which would support a valid mineral discovery within the meaning of the mining laws of the United States. Failure to submit such data within the one-hundred-and-eighty-day period shall preclude its consideration in a subsequent determination of the validity of each affected claim. Except as specifically provided for in this section, nothing shall alter the criteria applied under the general mining laws of the United States to adjudicate the validity of unperfected mining claims.

(e) ACCESS TO CLAIMS.—Pursuant to the provisions of this section and section 1110 of this Act, reasonable access shall be granted to an unperfected mining claim for purposes of making a valid discovery of mineral until September 30, 1982.

(f) PREFERENCE RIGHTS.—The holder of any unperfected mining claim which was, prior to November 16, 1978, located, recorded, and maintained in accordance with applicable Federal and State laws on lands located within the boundaries of the Steese National Conservation Area, or the White Mountains National Recreation Area established by this title, shall be entitled during a two-year period after the date that the Secretary exercises his authority under section 402 or 1312 to open an area containing such claim to mining, (1) to a preference right to rerecord his claim under applicable law and to develop such claim under section 402 or (2) to obtain a lease to remove nonleasable minerals from the claim under section 1312.

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TITLE V—NATIONAL FOREST SYSTEM

ADDITIONS TO EXISTING NATIONAL FORESTS

16 USC 539.

SEC. 501. (a) The following units of the National Forest System are hereby expanded:

Chugach National Forest.

(1) Chugach National Forest by the addition of four areas, Nellie Juan, College Fjord, Copper/Rude River, and Controller Bay, containing approximately one million nine hundred thousand acres of public land, as generally depicted on the map

entitled "Chugach National Forest additions—proposed", and dated October 1978; and

(2) Tongass National Forest by the addition of three areas, Kates Needle, Juneau Icefield, and Brabazon Range, containing approximately one million four hundred and fifty thousand acres of public lands, as generally depicted on the map entitled "Tongass National Forest additions—proposed", and dated October 1978. Tongass National Forest.

(b) Subject to valid existing rights, lands added to the Tongass and Chugach National Forests by this section shall be administered by the Secretary in accordance with the applicable provisions of this Act and the laws, rules, and regulations applicable to the national forest system: *Provided,* That the conservation of fish and wildlife and their habitat shall be the primary purpose for the management of the Copper/Rude River addition and the Copper River-Bering River portion of the existing Chugach National Forest, as generally depicted on the map appropriately referenced and dated October 1978: *Provided,* That the taking of fish and wildlife shall be permitted within zones established by this subsection pursuant to the provisions of this Act and other applicable State and Federal law. Multiple use activities shall be permitted in a manner consistent with the conservation of fish and wildlife and their habitat as set forth in special regulations which shall be promulgated by the Secretary. Special regulations.

MINING AND MINERAL LEASING ON CERTAIN NATIONAL FOREST LANDS

SEC. 502. Subject to valid exisiting rights, the minerals in public lands within the Copper River addition to the Chugach National Forest, are hereby withdrawn from location, entry, and patent under the United States mining laws. With respect to such areas, the Secretary, under such reasonable regulations as he deems appropriate, may permit the removal of nonleasable minerals from the lands in the manner prescribed by Reorganization Plan Numbered 3 of 1946 and the Act of March 4, 1917 (39 Stat. 1150; 16 U.S.C. 520), and the removal of leasable minerals from such lands in accordance with the mineral leasing laws, if the Secretary finds that such disposition would not have significant adverse effects on the administration of the area. All receipts derived from disposal of nonleasable minerals under this section shall be paid into the same funds or accounts in the Treasury of the United States and shall be distributed in the same manner as provided for receipts from national forests. 16 USC 539a. 5 USC app.

MISTY FJORDS AND ADMIRALTY ISLAND NATIONAL MONUMENTS

SEC. 503. (a) There is hereby established within the Tongass National Forest, the Misty Fjords National Monument, containing approximately two million two hundred and eighty-five thousand acres of public lands as generally depicted on a map entitled "Misty Fjords National Monument—Proposed", dated July 1980. 16 USC 431 note.

(b) There is hereby established within the Tongass National Forest, the Admiralty Island National Monument, containing approximately nine hundred and twenty-one thousand acres of public lands as generally depicted on a map entitled "Admiralty Island National Monument—Proposed", dated July 1980. 16 USC 431 note.

(c) Subject to valid existing rights and except as provided in this section, the National Forest Monuments (hereinafter in this section referred to as the "Monuments") shall be managed by the Secretary of Agriculture as units of the National Forest System to protect Management by Agriculture Secretary.

objects of ecological, cultural, geological, historical, prehistorical, and scientific interest.

(d) Within the Monuments, the Secretary shall not permit the sale of harvesting of timber: *Provided,* That nothing in this subsection shall prevent the Secretary from taking measures as may be necessary in the control of fire, insects, and disease.

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(e) For the purposes of granting rights-of-way to occupy, use or traverse public land within the Monuments pursuant to title XI, the provisions of section 1106(b) of this Act shall apply.

(f)(1) Subject to valid existing rights and the provisions of this Act, the lands within the Monuments are hereby withdrawn from all forms of entry or appropriation or disposal under the public land laws, including location, entry, and patent under United States mining laws, disposition under the mineral leasing laws, and from future selections by the State of Alaska and Native Corporations;

Valid mining claims.

(2)(A) After the date of enactment of this Act, any person who is the holder of any valid mining claim on public lands located within the boundaries of the Monuments, shall be permitted to carry out activities related to the exercise of rights under such claim in accordance with reasonable regulations promulgated by the Secretary to assure that such activities are compatible, to the maximum extent feasible, with the purposes for which the Monuments were established.

(B) For purposes of determining the validity of a mining claim containing a sufficient quantity and quality of mineral as of November 30, 1978, to establish a valuable deposit within the meaning of the mining laws of the United States within the Monuments, the requirements of the mining laws of the United States shall be construed as if access and mill site rights associated with such claim allow the present use of the Monuments' land as such land could have been used on November 30, 1978.

90 Stat. 1342.

(g) MINING IN THE PARKS ACT.—The Act of September 28, 1976 (Public Law 94-249), shall not apply to the Monuments.

(h)(1) Any special use permit for a surface access road for bulk sampling of the mineral deposit at Quartz Hill in the Tongass National Forest shall be issued in accordance with this subsection.

Mining development analysis document.

(2) The Secretary of Agriculture, in consultation with the Secretaries of Commerce and the Interior and the State of Alaska, shall prepare a document which analyzes mine development, concepts prepared by United States Borax and Chemical Corporation on the proposed development of a molybdenum mine in the Quartz Hill area of the Tongass National Forest. The draft of such document shall be completed within six months after the date of enactment of this Act and be made available for public comment. The analysis shall be completed within nine months after the date of enactment and the results made available to the public. This analysis shall include detailed discussions of but not necessarily be limited to—

Public availability.

(A) the concepts which are under consideration for mine development;

(B) the general foreseeable potential environmental impacts of each mine development concept and the studies which are likely to be needed to evaluate and otherwise address those impacts; and

(C) the likely surface access needs and routes for each mine development concept.

Environmental impact statement. 42 USC 4321 note.

(3) The Secretary shall prepare an environmental impact statement (EIS) under the National Environmental Policy Act of 1969 which covers an access road for bulk sampling purposes and the bulk

sampling phase proposed by United States Borax and Chemical Corporation in the Quartz Hill area. A draft of such EIS shall be completed within twelve months after the date of enactment of this Act. This EIS shall incorporate all relevant data and other information included in the EIS previously prepared by the Secretary on access to the Quartz Hill area. Such EIS shall also include but not necessarily be limited to—

(A) an evaluation of alternative surface access routes which may minimize the overall impact on fisheries of both access for bulk sampling and mine development access;

(B) an evaluation of the impacts of the alternatives on fish, wildlife, and their habitats, and measures which may be instituted to avoid or minimize negative impacts and to enhance positive impacts;

(C) an evaluation of the extent to which the alternatives can be used for, and the likelihood of each alternative being used as a mine development road, including the impacts of widening a road, realinements and other design and placement options; and

(D) plans to evaluate the water quality and water quantity, fishery habitat, and other fishery values of the affected area, and to evaluate, to the maximum extent feasible and relevant, the sensitivity to environmental degradation from activities carried out under a plan of operations of the fishery habitat as it affects the various life stages of anadromous fish and other foodfish and their major food chain components.

Administrative review

(4)(A) Within four months after the publication of the final environmental impact statement required in subsection (h)(3), the Secretary shall complete any administrative review of a decision on the proposal covered by the EIS and shall issue to the applicant a special use permit for a surface access road for bulk sampling unless he shall determine that construction or use of such a road would cause an unreasonable risk of significant irreparable damage to the habitats of viable populations of fish management indicator species and the continued productivity of such habitats. If the applicant should seek judicial review of any denial of the permit for a surface access road, the burden of proof on the issue of denying the permit shall be on the Secretary.

(B) The Secretary shall not issue a special use permit until after he has determined that the full field season of work for gathering base line data during 1981 has ended.

Judicial review.

42 USC 4321 note.

(5) It is the intent of Congress that any judicial review of any administrative action pursuant to this section, including compliance with the National Environmental Policy Act of 1969, shall be expedited to the maximum extent possible. Any proceeding before a Federal court in which an administrative action pursuant to this section, including compliance with the National Environmental Policy Act of 1969, is challenged shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way by such court, and such court shall render its final decision relative to any challenge within one hundred and twenty days after the date the response to such challenge is filed unless such court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(6) Upon application of the United States Borax and Chemical Corporation or its successors in interest, the Secretary shall permit the use by such applicant of such limited areas within the Misty Fjords National Monument Wilderness as the Secretary determines to be necessary for activities, including but not limited to the

installation, maintenance, and use of navigation aids, docking facilities, and staging and transfer facilities, associated with the development of the mineral deposit at Quartz Hill. Such activities shall not include mineral extraction, milling, or processing. Such activities shall be subject to reasonable regulations issued by the Secretary to protect the values of the monument wilderness.

(7) Within the Misty Fjords National Monument Wilderness the Secretary of Agriculture shall, to the extent he finds necessary, allow salvage, cleanup, or other activity related to the development of the mineral deposit at Quartz Hill, including activities necessary due to emergency conditions.

(8) Designation by section 703 of this Act of the Misty Fjords National Monument Wilderness shall not be deemed to enlarge, diminish, add, or waive any substantive or procedural requirements otherwise applicable to the use of offshore waters adjacent to the Monument Wilderness for activities related to the development of the mineral deposit at Quartz Hill, including, but not limited to, navigation, access, and the disposal of mine tailings produced in connection with such development.

Mineral deposits, mining or milling leases.

(i)(1) With respect to the mineral deposits at Quartz Hill and Greens Creek in the Tongass National Forest, the holders of valid mining claims under subsection (f)(2)(B) shall be entitled to a lease (and necessary associated permits) on lands under the Secretary's jurisdiction (including lands within any conservation system unit) at fair market value for use for mining or milling purposes in connection with the milling of minerals from such claims situated within the Monuments only if the Secretary determines—

(A) that milling activities necessary to develop such claims cannot be feasibly carried out on such claims or on other land owned by such holder;

(B) that the use of the site to be leased will not cause irreparable harm to the Misty Fjords or the Admiralty Island National Monument; and

(C) that the use of such leased area for such purposes will cause less environmental harm than the use of any other reasonably available location.

With respect to any lease issued under this subsection, the Secretary shall limit the size of the area covered by such lease to an area he determines to be adequate to carry out the milling process for the mineral bearing material on such claims.

(2) A lease under this subsection shall be subject to such reasonable terms and conditions as the Secretary deems necessary.

Lease termination.

(3) A lease under this subsection shall terminate—

(A) at such time as the mineral deposit is exhausted; or

(B) upon failure of the lessee to use the leased site for two consecutive years unless such nonuse is waived annually by the Secretary.

(j) SPECIAL USE PERMITS AND FACILITIES.—The Special Use Permit for Thayer Lake Lodge shall be renewed as necessary for the longest of either—

(1) fifteen years after the date of enactment of this Act, or

(2) the lifetime of the permittee, as designated in such permit as of January 1, 1979, or the surviving spouse or child of such permittee, whoever lives longer,

so long as the management of the lodge remains consistent with the purposes of the Admiralty Island National Monument.

UNPERFECTED MINING CLAIMS IN MISTY FJORDS AND ADMIRALTY ISLAND NATIONAL MONUMENTS

SEC. 504. (a) DEFINITIONS.—As used in this section:

(1) The term "unperfected claim" means a mining claim:

(A) which is within the Misty Fjords or Admiralty Island National Monuments;

(B) with respect to which a valid mineral discovery, within the meaning of the mining laws of the United States, was not made as of November 30, 1978; and

(C) which was, as of such date, properly located, recorded, and maintained.

(2) The term "core claim" means—

(A) a patented mining claim; or

(B) an unpatented mining claim which—

(i) contained a valid mineral discovery within the meaning of the mining laws of the United States as of November 30, 1978, and

(ii) was, as of such date, properly located, recorded, and maintained.

(b) ENTITLEMENT.—Any holder of an unperfected mining claim who meets the requirements of this section shall be entitled as provided in this section—

(1) to receive an exploration permit with respect to such claim, and

(2) to receive a patent only to the minerals upon making a valid mineral discovery on such claim within the meaning of the mining laws of the United States.

(c) EXPLORATION PERMITS.—

(1) Permits authorizing the exploration of an unperfected mining claim shall be issued by the Secretary under this section upon application under subsection (d) if the Secretary determines that—

(A) an application for such permit has been submitted within two-hundred-seventy days after the date of the enactment of this Act and such application meets the requirements of subsection (d);

(B) the unperfected claim is within three-quarters of a mile of the exterior boundary of one or more core claims, and both the unperfected claim and core claim were held by the applicant as of May 1, 1979 (or were acquired by such applicant after such date by inheritance or devise); and

(C) the core claim and the unperfected claim which is within the area referred to in subsection (B) are properly located, recorded, and maintained, to the extent required by law, as of the date of the Secretary's determination under this subsection.

(2)(A) Each exploration permit issued under this section shall terminate on the date five years after the date of the enactment of this Act, or where applicable, the date provided under subparagraph (c)(2)(B). Termination.

(B) For any permit applicant, with respect to which the Secretary fails to meet the eighteen-month deadline under subsection (d) for any reason (including delays caused by administrative or judicial proceedings) beyond the control of the applicant, the exploration permit issued under this section shall terminate at the end of the period (after expiration of the five-years

referred to in subparagraph (c)(2)(A)) as is equal to the time during which the Secretary failed to meet such deadline.

(3) Any permit under this section shall include such reasonable conditions and stipulations as may be required by the Secretary.

(d) APPLICATIONS FOR EXPLORATION PERMITS.—An application under subsection (b) shall contain—

(1) the applicant's name, address, and telephone number;

(2) the name of the claim, the date of location of the claim, the date of recordation of the claim, and the serial number assigned to such claim under the Federal Land Policy and Management Act of 1976; and

(3) evidence that the requirements of subparagraphs (B) and (C) of subsection (c)(1) are met.

Upon the Secretary's determination that the requirements of subsection (c) are met with respect to any claim, the Secretary shall issue an exploration permit for such claim not later than eighteen months after the date on which he receives the application under this subsection concerning such claim.

(e) VALID MINERAL DISCOVERY.—

(1) If the holder of an unperfected mining claim for which an exploration permit was issued under this section notifies the Secretary before the expiration of such permit, that he has made a valid mineral discovery within the meaning of the mining laws of the United States on such claim, and if it is determined that such claim contains a valid mineral discovery, the holder of such claim shall be entitled to the issuance of a patent only to the minerals in such claim pursuant to the mining laws of the United States, together with a right to use so much of the surface of the lands on such claim as may be necessary for mining and milling purposes, subject to such reasonable regulations as the Secretary may prescribe for general application to mining and milling activities within the National Forest System.

(2) Any unperfected claim for which an exploration permit under this section was issued shall be conclusively presumed to be abandoned and shall be void upon expiration of such permit unless the owner of such claim has notified the Secretary in writing as provided in paragraph (e)(1).

(f) LEASES FOR MILLING PURPOSES.—

(1) The Secretary may issue leases (and necessary associated permits) on lands under the jurisdiction (including lands within any conservation system unit) at fair market value for use for mining or milling purposes in connection with the milling of minerals from any valid mining claim situated within the Misty Fjords or Admiralty Island National Monuments.

(2) A lease may be issued under this subsection if the Secretary determines—

(A) that the use of the site to be leased will not cause irreparable harm to the Monument; and

(B) that the use of such leased area for such purposes will cause less environmental harm than the use of any other reasonably available location.

(3) A lease under this subsection shall be subject to such reasonable terms and conditions as the Secretary deems necessary.

Termination.

(4) A lease under this subsection shall terminate—

(A) at such time as the mineral deposit is exhausted; or

(B) upon failure of the lessee to use the leased site for two consecutive years unless such nonuse is waived annually by the Secretary.

(g) ACCESS TO MINING CLAIMS.—The holder of an unperfected mining claim with respect to which a valid mineral discovery is made under an exploration permit under this section shall be entitled to the same access rights as the holder of a valid mining claim is entitled to under section 1110. The holder of the unperfected claim with respect to which an exploration permit is in effect under this section shall be entitled to such adequate access, as described in section 1110 as may be necessary to carry out exploration under such permit. *Post*, p. 2464.

(h) PUBLIC NOTICE.—The Secretary shall provide public notice of the requirements of this section not later than ninety days after the date of the enactment of this Act.

(i) SAVINGS PROVISION.—

(1) Nothing in this section shall impair any valid existing right.

(2) Nothing in this section diminishes authorities of the Secretary under any other provision of law to regulate mining activities.

(3) Nothing in this section shall be construed to affect, in any way, any other provision of Federal law outside the State of Alaska.

(j) This section shall not apply to any unperfected mining claim which is located within one mile of the center line of the Blossom River from its headwaters to its confluence with the Wilson Arm.

FISHERIES ON NATIONAL FOREST LANDS IN ALASKA

SEC. 505. (a) The Secretary of Agriculture shall, in consultation with the Secretaries of Commerce and the Interior, and with the State of Alaska, pursuant to his existing authority to manage surface resources, promulgate such reasonable regulations as he determines necessary after consideration of existing laws and regulations to maintain the habitats, to the maximum extent feasible, of anadromous fish and other foodfish, and to maintain the present and continued productivity of such habitat when such habitats are affected by mining activities on national forest lands in Alaska. The Secretary of Agriculture, in consultation with the State, shall assess the effects on the populations of such fish in determinations made pursuant to this subsection. Regulations. 16 USC 539b. Assessment.

(b) Because of the large scale of contemplated mining operations and the proximity of such operations to important fishery resources, with respect to mining operations in the Quartz Hill area of the Tongass National Forest, the regulations of the Secretary shall, pursuant to this subsection, include a requirement that all mining operations involving significant surface disturbance shall be in accordance with an approved plan of operations. Before approving any proposed plan or distinct stages of such plan of operations for any such claims when any fishery habitat or fishery value may be affected, the Secretary shall, in consultation with the Secretaries of Commerce and the Interior and the State of Alaska, determine— Approved plan of operations, requirement.

(1) that such plan or stages of such plan are based upon and shall include studies or information which he determines are adequate for—

(A) evaluating the water quality and water quantity, fishery habitat, and other fishery values of the affected area; and

(B) evaluating to the maximum extent feasible and relevant, the sensitivity to environmental degradation from activities carried out under such plan of the fishery habitat as it affects the various life stages of anadromous fish and other foodfish and their major food chain components;

Risk and benefit identification.

(2) that such plan adequately identifies the risks the operations under such plan or such stages might pose to and the benefits the operations under such plan might provide to—

(A) the natural stability and the present and continued productivity of anadromous fish and other foodfish;

(B) fishery habitat, including but not limited to water quality and water quantity; and

(C) other fishery values;

(3) that such plan includes provisions which he determines are adequate for the purposes of—

(A) preventing significant adverse environmental impacts to the fishery habitat (including but not limited to water quality and water quantity) or other fishery values; and

(B) maintaining present and continued productivity of the habitat of anadromous fish and other foodfish which might be affected by the mining and other activities proposed to be conducted in accordance with such plan or such stages of the plan of operations;

(4)(A) the Secretary shall ensure, to the maximum extent feasible, that the cumulative effects of activities carried out under the operating plan will not interfere with the ability to collect baseline information needed by the Secretary to evaluate the effects of various stages of the operating plan on the fishery habitat and productivity of such habitats;

Review.

(B) the Secretary shall review such plan and mining activities on at least an annual basis. With respect to any mining or associated activities, the Secretary, if he determines upon notice and hearing, that the activities are harmful to the continued productivity of anadromous fish, or other foodfish populations or fishery habitat, shall require a modification of the plan to eliminate or mitigate, if necessary, the harmful effects of such activities; and

Activity suspension.

(5) upon a finding by the Secretary that a mining activity conducted as a part of a mining operation exists which constitutes a threat of irreparable harm to anadromous fish, or other foodfish populations or their habitat, and that immediate correction is required to prevent such harm, he may require such activity to be suspended for not to exceed seven days, provided the activity may be resumed at the end of said seven-day period unless otherwise required by a United States district court.

(c) Nothing in this section shall enlarge or diminish the responsibility and authority of the State of Alaska to manage fish and wildlife or to exercise its other responsibilities under applicable law.

(d) Except as specifically provided in subsection (b)(5), nothing in this section shall enlarge or diminish the responsibilities and authorities of the Secretary of Agriculture to manage the national forests.

ADMIRALTY ISLAND LAND EXCHANGES

SEC. 506. (a)(1) Congress hereby recognizes the necessity to reconcile the national need to preserve the natural and recreational values of the Admiralty Island National Monument with the economic and cultural needs and expectations of Kootznoowoo, Incorporated, and

Sealaska, Incorporated, as provided by the Alaska Native Claims Settlement Act and this Act. 43 USC 1601 note.

(2) Nothing in this section shall affect the continuation of the opportunity for subsistence uses by residents of Admiralty Island, consistent with title VIII of this Act.

(3) Subject to valid existing rights, there is hereby granted to Kootznoowoo, Incorporated— Kootznoowoo, Inc.

(A) all right, title, and interest in and to the following described lands, rocks, pinnacles, islands, and islets above mean high tide:

Copper River Base and Meridian

Township 50 south, range 67 east, sections 25, 26, 35, 36;

Township 50 south, range 68 east, sections 30, 31, and that portion of section 32 south of Favorite Bay;

Township 51 south, range 67 east, sections 1, 2, 11, 12, and 13;

Township 51 south, range 68 east, that portion of section 5 south of Favorite Bay, sections 6, 7, and 8, west half of section 9, northwest quarter of section 16; and north half of section 17; subject to those subsurface interests granted to Sealaska, Incorporated, in paragraph 7 herein, and subject to any valid existing Federal administrative sites within the area.

(B) The right to develop hydroelectric resources on Admiralty Island within township 49 south, range 67 east, and township 50 south, range 67 east, Copper River Base and Meridian, subject to such conditions as the Secretary of Agriculture shall prescribe for the protection of water, fishery, wildlife, recreational, and scenic values of Admiralty Island.

(C) All rights, title, and interest in and to the rocks, pinnacles, islands, and islets, and all the land from the mean high tide mark to a point six hundred and sixty feet inland of all shorelands, excluding the shores of lakes, in and adjacent to the inland waters from Kootznahoo Inlet to the rangeline separating range 68 east and range 69 east, Copper River Base and Meridian, and including those parts of Mitchell, Kanalku, and Favorite Bay west of that line, subject to the following reserved rights of the United States:

(i) All timber rights are reserved subject to subsistence uses consistent with title VIII of this Act.

(ii) The right of public access and use within such area, subject to regulation by the Secretary of Agriculture to insure protection of the resources, and to protect the rights of quiet enjoyment of Kootznoowoo, Incorporated, granted by law, including subsistence uses consistent with title VIII of this Act.

(iii) The subsurface estate.

(iv) The development rights, except that the Secretary of Agriculture is authorized to permit construction, maintenance, and use of structures and facilities on said land which he determines to be consistent with the management of the Admiralty Island National Monument: *Provided,* That all structures and facilities so permitted shall be constructed of materials which blend and are compatible with the immediate and surrounding landscape.

(D) Any right or interest in land granted or reserved in paragraphs (3) (A, B, and C) shall not be subject to the provisions of the Wilderness Act. 16 USC 1131 note.

(E) The Secretary of Agriculture shall consult and cooperate with Kootznoowoo, Incorporated, in the management of Mitchell, Kanalku, and Favorite Bays, and their immediate environs, and the Secretary is authorized to enter into such cooperative arrangements as may further the purposes of this Act and other provisions of law, concerning, but not limited to: permits for any structures and facilities, and the allocation of revenues therefrom; regulation of public uses; and management of the recreational and natural values of the area.

(4) Subject to valid existing rights, Kootznoowoo, Incorporated is granted all right, title, and interest to the surface estate of twenty acres to be selected in one reasonably compact contiguous block in Basket Bay, township 48 south, range 65 east, sections 29, 30, 31, 32, and 33. Upon selection, the Secretary of the Interior shall issue an appropriate instrument of conveyance, subject to any trail easement which the Secretary of Agriculture may designate.

(5) Subject to valid existing rights, there is hereby withdrawn for the herein provided selection by Kootznoowoo, Incorporated, the following lands described by Value Comparison Units (VCU's) in the Tongass National Forest Land Management Plan: VCU's 677, 678, 680, 681, 682, and that portion of VCU 679 outside the area of the Lancaster Cove-Kitkun Bay Timber Sale, as such sale has been delineated by the United States Forest Service.

(A) Within one year of this Act, Kootznoowoo, Incorporated, shall select the surface estate to twenty-one thousand four hundred and forty acres from the lands withdrawn. The selection of such lands will be in compact tracts described in aliquot parts in accordance with the Alaska Native Claims Settlement Act land selection regulations of the Bureau of Land Management: *Provided,* That the Secretary of Agriculture may reserve for the benefit of the United States such easements as he deems necessary for access to and utilization of adjacent Federal or State lands. All timber within the confines of such easements shall be the property of Kootznoowoo, Incorporated; all rock, sand, and gravel within such easements shall be available to the Secretary of Agriculture without charge. The Secretary of the Interior shall issue appropriate documents of conveyance subject to and incorporating any easements designated by the Secretary of Agriculture. After conveyance to Kootznoowoo, Incorporated, of the twenty-one thousand four hundred and forty acres, with any designated easements, the herein provided withdrawal on the remaining public lands shall terminate.

43 USC 1601 note.

(B) Subject to valid existing rights, the subsurface estate in the lands conveyed to Kootznoowoo, Incorporated, pursuant to paragraph (5) shall be granted to Sealaska, Incorporated.

(6) Nothing in this Act shall restrict the authority of the Secretary of Agriculture to exchange lands or interests therein with Kootznoowoo, Incorporated, pursuant to section 22(f) of the Alaska Native Claims Settlement Act, or other land acquisition or exchange authority applicable to the National Forest System.

Sealaska, Inc.

(7) Subject to valid existing rights, all right, title, and interest to the subsurface estate to the following described lands shall be granted to Sealaska, Incorporated:

Copper River Base and Meridian

Township 50 south, range 67 east, sections 25, 26, 35, and 36;
Township 50 south, range 68 east, sections 30, 31;

Township 51 south, range 67 east, sections 1, 2, 11, 12, and 13; and

Township 51 south, range 68 east, sections 6 and 7; comprising one thousand six hundred acres, more or less.

(8)(A) The provisions of this section shall take effect upon ratification by appropriate resolution of all its terms by Kootznoowoo, Incorporated, or by its failure to take any action, within one hundred and eighty days of enactment of this Act. In the event that Kootznoowoo, Incorporated, disapproves by appropriate resolution the provisions of this section, this section shall be of no force and effect and Kootznoowoo, Incorporated, shall be entitled to its previous land selections on Admiralty Island pursuant to section 16 of the Alaska Native Claims Settlement Act. 43 USC 1615.

(B) In the event that the provisions of this section are duly ratified by Kootznoowoo, Incorporated, the lands, interests therein, and rights conveyed by this section shall constitute full satisfaction of the land entitlement rights of Kootznoowoo, Incorporated, and Sealaska, Incorporated, and be deemed to have been conveyed pursuant to the Alaska Native Claims Settlement Act, and shall supersede and void all previous land selections of Kootznoowoo, Incorporated, pursuant to section 16 of that Act, and any previous subsurface rights of Sealaska, Incorporated on Admiralty Island not otherwise conveyed by this Act. 43 USC 1601 note.

(C) Prior to the issuance of any instruments of conveyance, the Secretary of Agriculture and Kootznoowoo, Incorporated, may, by mutual agreement, modify the legal descriptions herein to correct clerical errors.

(b) The Secretary is authorized and directed to convey to Goldbelt, Incorporated, representing the Natives of Juneau with respect to their land entitlements under section 14(h)(3) of the Alaska Natives Claims Settlement Act, and to Sealaska, Incorporated, the lands and interests in lands described in paragraphs A and C of the Exchange Agreement, dated April 11, 1979, between those Corporations and the Departments of Agriculture and of the Interior on the terms of and conditions set forth in such agreement. Such conveyances shall not be subject to the provisions of the National Environment Policy Act of 1969 (83 Stat. 852), as amended. The terms of the Exchange Agreement, as filed with the Committee on Interior and Insular Affairs of the House of Representatives, are hereby ratified as to the duties and obligations of the United States and its agencies, Goldbelt, Incorporated, and Sealaska, Incorporated, as a matter of Federal law: *Provided,* That the agreement may be modified or amended, upon the written agreement of all parties thereto and appropriate notification in writing to the appropriate committees of the Congress, without further action by the Congress. 43 USC 1613. 42 USC 4321 note. Notification of Congress.

(c)(1) In satisfaction of the rights of the Natives of Sitka, as provided in section 14(h)(3) of the Alaska Native Claims Settlement Act, the Secretary of the Interior, upon passage of this Act, shall convey subject to valid existing rights and any easements designated by the Secretary of Agriculture, the surface estate in the following described lands on Admiralty Island to Shee Atika, Incorporated: Shee Atika, Inc.

Copper River Meridian, Alaska

Township 45 south, range 66 east,

Sections 21, south half of the southeast quarter; 22, east half of the southwest quarter and southwest quarter of the southwest quarter; 26, southwest quarter of the southwest

quarter; 27, south half of the south half, and northwest quarter of the southwest quarter, and the west half of the northwest quarter; 28, all; 29, south half and the south half of the north half; 33, east half and east half of the west half and the southwest quarter of the southwest quarter; 34, all, excluding Peanut Lake; 35, west half of the west half;

Township 46 south, range 66 east,

Sections 1, southeast quarter of the southeast quarter, and the south half of the northwest quarter, and the north half of the southeast quarter, and the southwest quarter excluding Lake Kathleen; 2, south half excluding Lake Kathleen, and the south half of the north half excluding Lake Kathleen, and the northwest quarter of the northwest quarter; 3, all excluding Peanut Lake and Lake Kathleen; 4, west half, and the west half of the east half, and southeast quarter of the southeast quarter, and the east half of the northeast quarter, excluding Peanut Lake; 10, east half, excluding Lake Kathleen; 11, northwest quarter of the northwest quarter, excluding Lake Kathleen, and the northeast quarter of the northeast quarter, and south half of the southwest quarter; 12, north half excluding Lake Kathleen; 14, west half and southwest quarter of the southeast quarter; 15, north half of the northeast quarter and southeast quarter of the northeast quarter; 22, east half of the northeast quarter and northeast quarter of the southeast quarter; 23, west half and southeast quarter, and south half of the northeast quarter and northwest quarter of the northeast quarter; 24, southwest quarter of the southwest quarter; 25, all; 26, northeast quarter; 35, east half and east half of the southwest quarter, and southeast quarter of the northwest quarter; 36, north half, and north half of the south half;

Township 47 south, range 66 east,

Sections 2, east half and the east half of the west half; 11, south half excluding Lake Florence, and northeast quarter, and east half of the northwest quarter; 12, south half excluding Lake Florence, and the south half of the northwest quarter; 13, south half and the south half of the northeast quarter, and the southeast quarter of the northwest quarter, and the north half of the northwest quarter, excluding Lake Florence, and the northeast quarter of the northeast quarter, excluding Lake Florence; 14, north half of the north half excluding Lake Florence, and the east half of the southeast quarter; 23, northeast quarter of the northeast quarter; 24, north half of the north half;

Township 45 south, range 67 east,

Sections 21, southeast quarter of the southeast quarter; 22, south half of the southwest quarter; 27, west half of the west half, and east half of the northwest quarter, and the northeast quarter of the southwest quarter; 28, southeast quarter, and the south half of the northeast quarter, and the northeast quarter of the northeast quarter; 31, south half of the southeast quarter; 32, south half; 33, southwest quarter, and the south half of the northwest quarter, and the northeast quarter, and the north half of the southeast quarter, and the southwest quarter of the southeast quarter; 34, northwest quarter of the northwest quarter;

Township 46 south, range 67 east,

Sections 4, northwest quarter, and the west half of the northeast quarter; 5, north half and the north half of the south half, and the southwest quarter of the southwest quarter; 6, south half, and the northeast quarter, and the southeast quarter of the northwest quarter; 7, north half of the north half; 8, northwest quarter of the northwest quarter; 11, south half of the south half, and the north half of the southeast quarter, and the southeast quarter of the northeast quarter; 12, north half of the south half, and the south half of the north half; 14, west half, and the northeast quarter, and the northwest quarter of the southeast quarter; 15, southeast quarter, and the southeast quarter of the northeast quarter, and the southeast quarter of the southwest quarter; 19, south half of the south half, and the north half of the southeast quarter, and the northeast quarter of the southwest quarter; 20, south half; 21, south half, and south half of the north half; 22, west half, and the west half of the east half, and the east half of the northeast quarter, and the northeast quarter of the southeast quarter; 23, west half, and the southeast quarter, and the southwest quarter of the northeast quarter; 26, north half of the northeast quarter; 27, north half of the northwest quarter, and the northwest quarter of the northeast quarter; 28, north half, and the north half of the southwest quarter, and the northwest quarter of the southeast quarter, and the southwest quarter of the southwest quarter; 29, all; 30, all; 31, northwest quarter and the west half of the northeast quarter;

Township 47 south, range 67 east,

Sections 1, northwest quarter, and the west half of the northeast quarter; 2, north half of the south half, and the south half of the north half; 3, south half, and the southeast quarter of the northeast quarter; 7, north half of the northeast quarter, and the northeast quarter of the northwest quarter, and the south half excluding Lake Florence, and the south half of the north half excluding Lake Florence; 8, all, excluding Lake Florence; 9, southwest quarter excluding Lake Florence, and the west half of the northwest quarter excluding Lake Florence, and the northeast quarter of the northwest quarter excluding Lake Florence, and the west half of the east half, and the east half of the northeast quarter, and the southeast quarter of the southeast quarter; 10, north half of the northwest quarter; 15, west half of the southwest quarter; 16, west half, and the west half of the northeast quarter, and the north half of the southeast quarter, and the southeast quarter of the southeast quarter; 17, all; 18, all.

Concurrently with this conveyance, the Secretary shall convey the subsurface estate in the above described lands to Sealaska, Incorporated. As a condition to such conveyances, Shee Atika, Incorporated, shall release any claim to land selections on Admiralty Island other than those lands described in this subsection, and Sealaska, Incorporated, shall release any claim to subsurface rights on Admiralty Island which correspond to the land selection rights released by Shee Atika.

(2) In the instrument of conveyance provided for in paragraph (1), the Secretary of the Interior shall reserve such easements as are described in section 17(b)(1) of the Alaska Native Claims Settlement

43 USC 1616.

Act, as the Secretary of Agriculture may designate for public access to and utilization of the adjacent Federal lands.

Land selection costs, reimbursement.

(d) In recognition of the considerable land selection costs incurred by Shee Atika, Incorporated, Goldbelt, Incorporated, and Kootznoowoo, Incorporated, in determining the validity of land withdrawals on Admiralty Island under section 14(h)(3) of the Alaska Native Claims Settlement Act, and in identifying suitable lands for exchange outside Admiralty Island, the Secretary of the Interior shall reimburse those corporations for such reasonable and necessary land selection costs, including all costs for negotiating land exchanges, court costs, and reasonable attorney's and consultant's fees, incurred prior to the date of conveyance of land to such Native Corporations. Authorization for payment of such land selection costs shall begin in the fiscal year 1981, but shall include earlier costs. There is authorized to be appropriated an amount not to exceed $2,000,000, for the purposes of this subsection.

43 USC 1613.

Appropriation authorization.

COOPERATIVE FISHERIES PLANNING

16 USC 539c.

SEC. 507. (a) The Secretary of Agriculture is directed to implement a cooperative planning process for the enhancement of fisheries resources through fish hatchery and aquaculture facilities and activities in the Tongass National Forest. Participation in this process shall include but not be limited to the State of Alaska and appropriate nonprofit aquaculture corporations. The Secretary may contract with private, nonprofit associations for services in such planning.

(b) Each subsequent revision of National Forest management plans under the Forest and Rangeland Renewable Resources Planning Act of 1974 and the National Forest Management Act of 1976 shall contain a report on the status of the planning process undertaken under this paragraph, including, but not limited to, a description of current hatchery and aquaculture projects, an analysis of the success of these projects, and a prioritized list of projects anticipated for the duration of the management plan. The report shall be submitted by the Secretary to the Congress with recommendations for any legislative action which the Secretary may deem necessary to implement the proposed hatchery and aquaculture projects.

16 USC 1600 note.

Report to Congress.

TITLE VI—NATIONAL WILD AND SCENIC RIVERS SYSTEM

PART A—WILD AND SCENIC RIVERS WITHIN NATIONAL PARK SYSTEM

ADDITIONS

SEC. 601. DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1274(a)), is further amended by adding the following new paragraphs:

"(25) ALAGNAK, ALASKA.—That segment of the main stem and the major tributary to the Alagnak, the Nonvianuk River, within Katmai National Preserve; to be administered by the Secretary of the Interior.

"(26) ALATNA, ALASKA.—The main stem within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(27) ANIAKCHAK, ALASKA.—That portion of the river, including its major tributaries, Hidden Creek, Mystery Creek, Albert Johnson Creek, and North Fork Aniakchak River, within the Aniakchak

National Monument and National Preserve; to be administered by the Secretary of the Interior.

"(28) CHARLEY, ALASKA.—The entire river, including its major tributaries, Copper Creek, Bonanza Creek, Hosford Creek, Derwent Creek, Flat-Orthmer Creek, Crescent Creek, and Moraine Creek, within the Yukon-Charley Rivers National Preserve; to be administered by the Secretary of the Interior.

"(29) CHILIKADROTNA, ALASKA.—That portion of the river within the Lake Clark National Park and Preserve; to be administered by the Secretary of the Interior.

"(30) JOHN, ALASKA.—That portion of the river within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(31) KOBUK, ALASKA.—That portion within the Gates of the Arctic National Park and Preserve; to be administered by the Secretary of the Interior.

"(32) MULCHATNA, ALASKA.—That portion within the Lake Clark National Park and Preserve; to be administered by the Secretary of the Interior.

"(33) NOATAK, ALASKA.—The river from its source in the Gates of the Arctic National Park to its confluence with the Kelly River in the Noatak National Preserve; to be administered by the Secretary of the Interior.

"(34) NORTH FORK OF THE KOYUKUK, ALASKA.—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(35) SALMON, ALASKA.—That portion within the Kobuk Valley National Park; to be administered by the Secretary of the Interior.

"(36) TINAYGUK, ALASKA.—That portion within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"(37) TLIKAKILA, ALASKA.—That portion within the Lake Clark National Park; to be administered by the Secretary of the Interior.".

PART B—WILD AND SCENIC RIVERS WITHIN NATIONAL WILDLIFE REFUGE SYSTEM

ADDITIONS

SEC. 602. DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1274(a)), is further amended by adding the following new paragraphs:

"(38) ANDREAFSKY, ALASKA.—That portion from its source, including all headwaters, and the East Fork, within the boundary of the Yukon Delta National Wildlife Refuge; to be administered by the Secretary of the Interior.

"(39) IVISHAK, ALASKA.—That portion from its source, including all headwaters and an unnamed tributary from Porcupine Lake within the boundary of the Arctic National Wildlife Range; to be administered by the Secretary of the Interior.

"(40) NOWITNA, ALASKA.—That portion from the point where the river crosses the west limit of township 18 south, range 22 east, Kateel River meridian, to its confluence with the Yukon River within the boundaries of the Nowitna National Wildlife Refuge; to be administered by the Secretary of the Interior.

"(41) SELAWIK, ALASKA.—That portion from a fork of the headwaters in township 12 north, range 10 east, Kateel River meridian to the

confluence of the Kugarak River; within the Selawik National Wildlife Refuge to be administered by the Secretary of the Interior.

"(42) SHEENJEK, ALASKA.—The segment within the Arctic National Wildlife Refuge; to be administered by the Secretary of the Interior.

"(43) WIND, ALASKA.—That portion from its source, including all headwaters and one unnamed tributary in township 13 south, within the boundaries of the Arctic National Wildlife Refuge; to be administered by the Secretary of the Interior.".

PART C—ADDITION TO NATIONAL WILD AND SCENIC RIVERS SYSTEM LOCATED OUTSIDE NATIONAL PARK SYSTEM UNITS AND NATIONAL WILDLIFE REFUGES

ADDITIONS

SEC. 603. DESIGNATION.—Section 3(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1274(a)) is further amended by adding the following paragraphs:

"(44) ALAGNAK, ALASKA.—Those segments or portions of the main stem and Nonvianuk tributary lying outside and westward of the Katmai National Park/Preserve and running to the west boundary of township 13 south, range 43 west; to be administered by the Secretary of the Interior.

"(45) BEAVER CREEK, ALASKA.—The segment of the main stem from the vicinity of the confluence of the Bear and Champion Creeks downstream to its exit from the northeast corner of township 12 north, range 6 east, Fairbanks meridian within the White Mountains National Recreation Area, and the Yukon Flats National Wildlife Refuge, to be administered by the Secretary of the Interior.

"(46) BIRCH CREEK, ALASKA.—The segment of the main stem from the south side of Steese Highway in township 7 north, range 10 east, Fairbanks meridian, downstream to the south side of the Steese Highway in township 10 north, range 16 east; to be administered by the Secretary of the Interior.

"(47) DELTA, ALASKA.—The segment from and including all of the Tangle Lakes to a point one-half mile north of Black Rapids; to be administered by the Secretary of the Interior.

"(48) FORTYMILE, ALASKA.—The main stem within the State of Alaska; O'Brien Creek; South Fork; Napoleon Creek, Franklin Creek, Uhler Creek, Walker Fork downstream from the confluence of Liberty Creek; Wade Creek; Mosquito Fork downstream from the vicinity of Kechumstuk; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; North Fork; Hutchison Creek; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek; to be administered by the Secretary of the Interior.

"(49) GULKANA, ALASKA.—The main stem from the outlet of Paxson Lake in township 12 north, range 2 west, Copper River meridian to the confluence with Sourdough Creek; the south branch of the west fork from the outlet of an unnamed lake in sections 10 and 15, township 10 north, range 7 west, Copper River meridian to the confluence with the west fork; the north branch from the outlet of two unnamed lakes, one in sections 24 and 25, the second in sections 9 and 10, township 11 north, range 8 west, Copper River meridian to the confluence with the west fork; the west fork from its confluence with the north and south branches downstream to its confluence with the main stem; the middle fork from the outlet of Dickey Lake in

township 13 north, range 5 west, Copper River meridian to the confluence with the main stem; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(50) UNALAKLEET, ALASKA.—The segment of the main stem from the headwaters in township 12 south, range 3 west, Kateel River meridian extending downstream approximately 65 miles to the western boundary of township 18 south, range 8 west; to be administered by the Secretary of the Interior.".

DESIGNATION FOR STUDY

SEC. 604. Section 5(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271), is further amended as follows: 16 USC 1276.

(a) After paragraph (76) insert the following new paragraphs: *Ante*, p. 68.

"(77) Colville, Alaska.
"(78) Etivluk-Nigu, Alaska.
"(79) Utukok, Alaska.
"(80) Kanektok, Alaska.
"(81) Kisaralik, Alaska.
"(82) Melozitna, Alaska.
"(83) Sheenjek (lower segment), Alaska.
"(84) Situk, Alaska.
"(85) Porcupine, Alaska.
"(86) Yukon (Ramparts section), Alaska.
"(87) Squirrel, Alaska.
"(88) Koyuk, Alaska.".

(b) Section 5(b) of such Act is amended by adding the follcwing paragraphs:

"(4) The studies of the rivers in paragraphs (77) through (88) shall be completed and reports transmitted thereon not later than three full fiscal years from date of enactment of this paragraph. For the rivers listed in paragraphs (77), (78), and (79) the studies prepared and transmitted to the Congress pursuant to section 105(c) of the Naval Petroleum Reserves Production Act of 1976 (Public Law 94-258) shall satisfy the requirements of this section. 42 USC 6505.

"(5) Studies of rivers listed in paragraphs (80) and (81) shall be completed, and reports submitted within and not later than the time when the Bristol Bay Cooperative Region Plan is submitted to Congress in accordance with section 1204 of the Alaska National Interest Lands Conservation Act.". River studies, submittal to Congress.

ADMINISTRATIVE PROVISIONS

SEC. 605. (a) Rivers in paragraphs (25) through (37) in units of the National Park System, and (38) through (43) in units of the National Wildlife Refuge System are hereby classified and designated and shall be administered as wild rivers pursuant to the Wild and Scenic Rivers Act. 16 USC 1274 note. *Ante*, p. 2412. *Ante*, p. 2413.

(b) The Alagnak, Beaver Creek, Birch Creek, Gulkana, and Unalakleet components as well as the segment of the Delta component from the lower lakes area to a point opposite milepost 212 on the Richardson Highway; the Mosquito Fork downstream from the vicinity of Kechemstuk to Ingle Creek, North Fork, Champion Creek, Middle Fork downstream from the confluence of Joseph Creek, and Joseph Creek segments of the Fortymile component, are hereby classified and designated and shall be administered as wild river areas pursuant to the Wild and Scenic Rivers Act. The classification as wild river areas of certain segments of the Fortymile by this subsection shall 16 USC 1271 note.

not preclude such access across those river segments as the Secretary determines to be necessary to permit commercial development in an environmentally sound manner, of asbestos deposits in the North Fork drainage.

(c) The following segments of the Fortymile River component are hereby classified and shall be administered as scenic river areas pursuant to such Act: the main stem within the State of Alaska; O'Brien Creek, South Fork; Napoleon Creek; Franklin Creek; Uhler Creek; Walker Fork downstream from the confluence of Liberty Creek; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; and Hutchinson Creek. The Wade Creek unit of the Fortymile component and the segment of the Delta River from opposite milepost 212 on the Richardson Highway to a point one-half mile north of Black Rapids are classified and shall be administered as recreational river areas pursuant to such Act.

16 USC 1274.

(d) The Secretary of the Interior shall take such action as is provided for under section 3(b) of the Wild and Scenic Rivers Act to establish detailed boundaries and formulate detailed development and management plans within three years after the date of enactment of this title with respect to the Alagnak, Beaver Creek, Birch Creek, the Delta, Fortymile, Gulkana, and Unalakleet components. With respect to the river components designated in parts A and B of this title, the Secretary shall take such action under said section 3(b) at the same time as, and in coordination with, the submission of the applicable conservation and management plans for the conservation system units in which such components are located.

Ante, p. 2412, 2413.

Cooperative agreements.

(e) The Secretary may seek cooperative agreements with the owners of non-public lands adjoining the wild and scenic rivers established by this title to assure that the purpose of designating such rivers as wild and scenic rivers is served to the greatest extent feasible.

OTHER AMENDMENTS TO THE WILD AND SCENIC RIVERS ACT

SEC. 606. (a) The Wild and Scenic Rivers Act, as amended, is further amended by inserting the following after section 14 and redesignating sections 15 and 16 as sections 16 and 17, respectively:

16 USC 1286, 1287.

"SEC. 15. Notwithstanding any other provision to the contrary in sections 3 and 9 of this Act, with respect to components of the National Wild and Scenic Rivers System in Alaska designated by paragraphs (38) through (50) of section 3(a) of this Act—

16 USC 1285b.
16 USC 1274, 1280.
Ante, p. 2413.

"(1) the boundary of each such river shall include an average of not more than six hundred and forty acres per mile on both sides of the river. Such boundary shall not include any lands owned by the State or a political subdivision of the State nor shall such boundary extend around any private lands adjoining the river in such manner as to surround or effectively surround such private lands; and

"(2) the withdrawal made by paragraph (iii) of section 9(a) shall apply to the minerals in Federal lands which constitute the bed or bank or are situated within one-half mile of the bank of any river designated a wild river by the Alaska National Interest Lands Conservation Act.".

Ante, p. 2371.

16 USC 1280.

(b) Section 9(b) of such Act is amended by adding the following at the end thereof: "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which

constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 5(a), are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto, during the periods specified in section 7(b) of this Act.". *Ante*, p. 2415.

16 USC 1278.

(c) Section 8(b) of such Act is amended by adding the following at the end thereof: "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, subject only to valid existing rights, including valid Native selection rights under the Alaska Native Claims Settlement Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (77) through (88) of section 5(a) are hereby withdrawn from entry, sale, State selection or other disposition under the public land laws of the United States for the periods specified in section 7(b) of this Act.". 16 USC 1279.

43 USC 1601 note.

TITLE VII—NATIONAL WILDERNESS PRESERVATION SYSTEM

DESIGNATION OF WILDERNESS WITHIN NATIONAL PARK SYSTEM

SEC. 701. In accordance with subsection 3(c) of the Wilderness Act (78 Stat. 892), the public lands within the boundaries depicted as "Proposed Wilderness" on the maps referred to in sections 201 and 202 of this Act are hereby designated as wilderness, with the nomenclature and approximate acreage as indicated below: 16 USC 1132.

(1) Denali Wilderness of approximately one million nine hundred thousand acres; 16 USC 1132 note.

(2) Gates of the Arctic Wilderness of approximately seven million and fifty-two thousand acres; 16 USC 1132 note.

(3) Glacier Bay Wilderness of approximately two million seven hundred and seventy thousand acres; 16 USC 1132 note.

(4) Katmai Wilderness of approximately three million four hundred and seventy-three thousand acres; 16 USC 1132 note.

(5) Kobuk Valley Wilderness of approximately one hundred and ninety thousand acres; 16 USC 1132 note.

(6) Lake Clark Wilderness of approximately two million four hundred and seventy thousand acres; 16 USC 1132 note.

(7) Noatak Wilderness of approximately five million eight hundred thousand acres; and 16 USC 1132 note.

(8) Wrangell-Saint Elias Wilderness of approximately eight million seven hundred thousand acres. 16 USC 1132 note.

DESIGNATION OF WILDERNESS WITHIN NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 702. In accordance with subsection 3(c) of the Wilderness Act (78 Stat. 892), the public lands within the boundaries depicted as "Proposed Wilderness" on the maps referred to in sections 302 and 303 of this Act or the maps specified below are hereby designated as wilderness, with the nomenclature and approximate acreage as indicated below: 16 USC 1132.

(1) Aleutian Islands Wilderness of approximately one million three hundred thousand acres as generally depicted on a map entitled "Aleutian Islands Wilderness", dated October 1978; 16 USC 1132 note.

16 USC 1132 note.

(2) Andreafsky Wilderness of approximately one million three hundred thousand acres as generally depicted on a map entitled "Yukon Delta National Wildlife Refuge" dated April 1980;

16 USC 1132 note.

(3) Arctic Wildlife Refuge Wilderness of approximately eight million acres as generally depicted on a map entitled "Arctic National Wildlife Refuge" dated August 1980;

16 USC 1132 note.

(4) Becharof Wilderness of approximately four hundred thousand acres as generally depicted on a map entitled "Becharof National Wildlife Refuge" dated July 1980;

16 USC 1132 note.

(5) Innoko Wilderness of approximately one million two hundred and forty thousand acres as generally depicted on a map entitled "Innoko National Wildlife Refuge", dated October 1978;

16 USC 1132 note.

(6) Izembek Wilderness of approximately three hundred thousand acres as generally depicted on a map entitled "Izembek Wilderness", dated October 1978;

16 USC 1132 note.

(7) Kenai Wilderness of approximately one million three hundred and fifty thousand acres as generally depicted on a map entitled "Kenai National Wildlife Refuge", dated October 1978;

16 USC 1132 note.

(8) Koyukuk Wilderness of approximately four hundred thousand acres as generally depicted on a map entitled "Koyukuk National Wildlife Refuge", dated July 1980;

16 USC 1132 note.

(9) Nunivak Wilderness of approximately six hundred thousand acres as generally depicted on a map entitled "Yukon Delta National Wildlife Refuge", dated July 1980;

16 USC 1132 note.

(10) Togiak Wilderness of approximately two million two hundred and seventy thousand acres as generally depicted on a map entitled "Togiak National Wildlife Refuge", dated July 1980;

16 USC 1132 note.

(11) Semidi Wilderness of approximately two hundred and fifty thousand acres as generally depicted on a map entitled "Semidi Wilderness", dated October 1978;

16 USC 1132 note.

(12) Selawik Wilderness of approximately two hundred and forty thousand acres as generally depicted on a map entitled "Selawik Wildlife Refuge", dated July 1980; and

16 USC 1132 note.

(13) Unimak Wilderness of approximately nine hundred and ten thousand acres, as generally depicted on a map entitled "Unimak Wilderness", dated October 1978.

DESIGNATION OF WILDERNESS WITHIN NATIONAL FOREST SYSTEM

16 USC 1132.

SEC. 703. (a) In accordance with subsection 3(c), of the Wilderness Act (78 Stat. 892), the public lands within the Tongass National Forest within the boundaries depicted as "Proposed Wilderness" on the maps referred to in the following paragraphs are hereby designated as wilderness, with the nomenclature and approximate acreage as indicated below:

16 USC 1132 note.

(1) Admiralty Island National Monument Wilderness of approximately nine hundred thousand acres, as generally depicted on a map entitled "Admiralty Island Wilderness", dated July 1980;

16 USC 1132 note.

(2) Coronation Island Wilderness of approximately nineteen thousand one hundred and twenty-two acres, as generally depicted on a map entitled "Coronation-Warren-Maurille Islands Wilderness", dated October 1978;

16 USC 1132 note.

(3) Endicott River Wilderness of approximately ninety-four thousand acres, as generally depicted on a map entitled "Endicott River Wilderness", dated October 1978;

(4) Maurille Islands Wilderness of approximately four thousand four hundred and twenty-four acres, as generally depicted on a map entitled "Coronation-Warren-Maurille Islands Wilderness", dated October 1978; 16 USC 1132 note.

(5) Misty Fjords National Monument Wilderness of approximately two million one hundred and thirty-six thousand acres, as generally depicted on a map entitled "Misty Fjords Wilderness", dated July 1980; 16 USC 1132 note.

(6) Petersburg Creek-Duncan Salt Chuck Wilderness of approximately fifty thousand acres, as generally depicted on a map entitled "Petersburg Creek-Duncan Salt Chuck Wilderness", dated October 1978; 16 USC 1132 note.

(7) Russell Fjord Wilderness of approximately three hundred and seven thousand acres, as generally depicted on a map entitled "Russell Fjord Wilderness", dated July 1980; 16 USC 1132 note.

(8) South Baranof Wilderness of approximately three hundred and fourteen thousand acres, as generally depicted on a map entitled "South Baranof Wilderness", dated October 1978; 16 USC 1132 note.

(9) South Prince of Wales Wilderness of approximately ninety-seven thousand acres, as generally depicted on a map entitled "South Prince of Wales Wilderness", dated October 1978; 16 USC 1132 note.

(10) Stikine-LeConte Wilderness of approximately four hundred and forty-three thousand acres, as generally depicted on a map entitled "Stikine-LeConte Wilderness", dated October 1978; 16 USC 1132 note.

(11) Tebenkof Bay Wilderness of approximately sixty-five thousand acres, as generally depicted on a map entitled "Tebenkof Bay Wilderness", dated October 1978; 16 USC 1132 note.

(12) Tracy Arm-Fords Terror Wilderness of approximately six hundred and fifty-six thousand acres, as generally depicted on a map entitled "Tracy Arm-Fords Terror Wilderness", dated January 1979; 16 USC 1132 note.

(13) Warren Island Wilderness of approximately eleven thousand three hundred and fifty-three acres, as generally depicted on a map entitled "Coronation-Warren-Maurelle Islands Wilderness", dated October 1978; and 16 USC 1132 note.

(14) West Chichagof-Yakobi Wilderness of approximately two hundred and sixty-five thousand acres, as generally depicted on a map entitled "West Chichagof-Yakobi Wilderness", dated October 1978. 16 USC 1132 note.

(b) Existing mechanized portage equipment located at the head of Semour Canal on Admiralty Island may continue to be used.

DESIGNATION OF WILDERNESS STUDY AREA WITHIN NATIONAL FOREST SYSTEM

SEC. 704. In furtherance of the purposes of the Wilderness Act the Secretary of Agriculture shall review the public lands depicted as "Wilderness Study" on the following described map and within three years report to the President and the Congress in accordance with section 3 (c) and (d) of the Wilderness Act, his recommendations as to the suitability or nonsuitability of all areas within such wilderness study boundaries for preservation of wilderness: Nellie Juan-College Fiord, Chugach National Forest as generally depicted on a map entitled "Nellie Juan-College Fiord Study Area", dated October 1978. 16 USC 1132 note. 16 USC 1132.

NATIONAL FOREST TIMBER UTILIZATION PROGRAM

16 USC 539d.

SEC. 705. (a) The Congress authorizes and directs that the Secretary of the Treasury shall make available to the Secretary of Agriculture the sum of at least $40,000,000 annually or as much as the Secretary of Agriculture finds is necessary to maintain the timber supply from the Tongass National Forest to dependent industry at a rate of four billion five hundred million foot board measure per decade. Such sums will be drawn from receipts from oil, gas, timber, coal, and other natural resources collected by the Secretary of Agriculture and the Secretary of the Interior notwithstanding any other law providing for the distribution of such receipts: *Provided,* That such funds shall not be subject to deferral or rescission under the Budget Impoundment and Control Act of 1974, and such funds shall not be subject to annual appropriation.

31 USC 1401 note.

Forest materials purchasers, loan program.

(b)(1) The Secretary is authorized and directed to establish a special program of insured or guaranteed loans to purchasers of national forest materials in Alaska to assist such purchasers in the acquisition of equipment and the implementation of new technologies which lead to the utilization of wood products which might otherwise not be utilized. The Secretary is authorized to promulgate such regulations as he deems appropriate to define eligibility requirements for the participation in the loan program and the terms and conditions applicable to loans made under the program. Except as otherwise provided in this section or regulations promulgated specifically for this loan program, such program shall be carried out in a manner which is consistent with other authorities available to the Secretary.

Appropriation authorization.

(2) To carry out the special loan program established by this section, there are hereby authorized beginning after the fiscal year 1980 to be appropriated $5,000,000 from National Forest Fund receipts, to be deposited in a special fund in the Treasury of the United States to remain available until expended. Repayments of principal and interest and other recoveries on loans authorized by this section shall be credited to this fund and shall remain available until expended in order to carry out the purposes of this section.

Study, transmittal to Congress.

(c) Within three years after the date of enactment of this Act, the Secretary shall prepare and transmit to the Senate and House of Representatives a study of opportunities (consistent with the laws and regulations applicable to the management of the National Forest System) to increase timber yields on national forest lands in Alaska.

(d) The provisions of this section shall apply notwithstanding the provisions of section 6(k) of the National Forest Management Act of 1976 (90 Stat. 2949).

16 USC 1604.

REPORTS

Transmittal to congressional committees.
16 USC 539e.

SEC. 706. (a) The Secretary is directed to monitor timber supply and demand in southeastern Alaska and report annually thereon to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. If, at any time after the date of enactment of this Act, the Secretary finds that the available land base in the Tongass National Forest is inadequate to maintain the timber supply from the Tongass National Forest to dependent industry at the rate of four billion five hundred million foot board measure per decade, he shall include such information in his report.

Review and report to Congress.

(b) Within five years from the date of enactment of this Act and every two years thereafter, the Secretary shall review and report to Congress on the status of the Tongass National Forest in southeast-

ern Alaska. This report shall include, but not be limited to, (1) the timber harvest levels in the forest since the enactment of this Act; (2) the impact of wilderness designation on the timber, fishing, and tourism industry in southeast Alaska; (3) measures instituted by the Forest Service to protect fish and wildlife in the forest; and (4) the status of the small business set aside program in the Tongass Forest.

(c) The study required by this section shall be conducted in cooperation and consultation with the State, affected Native Corporations, the southeast Alaska timber industry, the Southeast Alaska Conservation Council, and the Alaska Land Use Council.

ADMINISTRATION

SEC. 707. Except as otherwise expressly provided for in this Act wilderness designated by this Act shall be administered in accordance with applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture for areas designated in sections 701 and 702 shall, as applicable, be deemed to be a reference to the Secretary of the Interior. 16 USC 1132 note.

RARE II RELEASE

SEC. 708. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest system roadless areas in Alaska and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to national forest lands in States other than Alaska, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Alaska;

(2) with respect to the National Forest lands in the State of Alaska which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), except those lands remaining in further planning upon enactment of this Act or the area listed in section 704 of this Act, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle; 16 USC 1600 note. 16 USC 1600 note.

(3) areas reviewed in such Final Environmental Statement and not designated as wilderness or for study by this Act or remaining in further planning upon enactment of this Act need not be

managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Alaska for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

TITLE VIII—SUBSISTENCE MANAGEMENT AND USE

FINDINGS

16 USC 3111.

SEC. 801. The Congress finds and declares that—

(1) the continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives, on the public lands and by Alaska Natives on Native lands is essential to Native physical, economic, traditional, and cultural existence and to non-Native physical, economic, traditional, and social existence;

(2) the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply rural residents dependent on subsistence uses;

(3) continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources, and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management;

(4) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and its constitutional authority under the property clause and the commerce clause to protect and provide the opportunity for continued subsistence uses on the public lands by Native and non-Native rural residents; and

43 USC 1601 note.

(5) the national interest in the proper regulation, protection, and conservation of fish and wildlife on the public lands in Alaska and the continuation of the opportunity for a subsistence way of life by residents of rural Alaska require that an administrative structure be established for the purpose of enabling rural residents who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska.

POLICY

16 USC 3112.

SEC. 802. It is hereby declared to be the policy of Congress that—

(1) consistent with sound management principles, and the conservation of healthy populations of fish and wildlife, the utilization of the public lands in Alaska is to cause the least adverse impact possible on rural residents who depend upon subsistence uses of the resources of such lands; consistent with management of fish and wildlife in accordance with recognized

scientific principles and the purposes for each unit established, designated, or expanded by or pursuant to titles II through VII of this Act, the purpose of this title is to provide the opportunity for rural residents engaged in a subsistence way of life to do so; *Ante*, p. 2377.

(2) nonwasteful subsistence uses of fish and wildlife and other renewable resources shall be the priority consumptive uses of all such resources on the public lands of Alaska when it is necessary to restrict taking in order to assure the continued viability of a fish or wildlife population or the continuation of subsistence uses of such population, the taking of such population for nonwasteful subsistence uses shall be given preference on the public lands over other consumptive uses; and

(3) except as otherwise provided by this Act or other Federal laws, Federal land managing agencies, in managing subsistence activities on the public lands and in protecting the continued viability of all wild renewable resources in Alaska, shall cooperate with adjacent landowners and land managers, including Native Corporations, appropriate State and Federal agencies, and other nations.

DEFINITIONS

SEC. 803. As used in this Act, the term "subsistence uses" means the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade. For the purposes of this section, the term— 16 USC 3113.

(1) "family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) "barter" means the exchange of fish or wildlife or their parts, taken for subsistence uses—

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money

if the exchange is of a limited and noncommercial nature.

PREFERENCE FOR SUBSISTENCE USES

SEC. 804. Except as otherwise provided in this Act and other Federal laws, the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes. Whenever it is necessary to restrict the taking of populations of fish and wildlife on such lands for subsistence uses in order to protect the continued viability of such populations, or to continue such uses, such priority shall be implemented through appropriate limitations based on the application of the following criteria: 16 USC 3114. Priority criteria.

(1) customary and direct dependence upon the populations as the mainstay of livelihood;

(2) local residency; and

(3) the availability of alternative resources.

LOCAL AND REGIONAL PARTICIPATION

16 USC 3115.

SEC. 805. (a) Except as otherwise provided in subsection (d) of this section, one year after the date of enactment of this Act, the Secretary in consultation with the State shall establish—

(1) at least six Alaska subsistence resource regions which, taken together, include all public lands. The number and boundaries of the regions shall be sufficient to assure that regional differences in subsistence uses are adequately accommodated;

(2) such local advisory committees within each region as he finds necessary at such time as he may determine, after notice and hearing, that the existing State fish and game advisory committees do not adequately perform the functions of the local committee system set forth in paragraph (3)(D)(iv) of this subsection; and

(3) a regional advisory council in each subsistence resource region.

Regional advisory council, authority.

Each regional advisory council shall be composed of residents of the region and shall have the following authority:

(A) the review and evaluation of proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife within the region;

(B) the provision of a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife within the region;

(C) the encouragement of local and regional participation pursuant to the provisions of this title in the decisionmaking process affecting the taking of fish and wildlife on the public lands within the region for subsistence uses;

Annual report to Secretary.

(D) the preparation of an annual report to the Secretary which shall contain—

(i) an identification of current and anticipated subsistence uses of fish and wildlife populations within the region;

(ii) an evaluation of current and anticipated subsistence needs for fish and wildlife populations within the region;

(iii) a recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs; and

(iv) recommendations concerning policies, standards, guidelines, and regulations to implement the strategy. The State fish and game advisory committees or such local advisory committees as the Secretary may establish pursuant to paragraph (2) of this subsection may provide advice to, and assist, the regional advisory councils in carrying out the functions set forth in this paragraph.

(b) The Secretary shall assign adequate qualified staff to the regional advisory councils and make timely distribution of all available relevant technical and scientific support data to the regional advisory councils and the State fish and game advisory committees or such local advisory committees as the Secretary may establish pursuant to paragraph (2) of subsection (a).

(c) The Secretary, in performing his monitoring responsibility pursuant to section 806 and in the exercise of his closure and other administrative authority over the public lands, shall consider the report and recommendations of the regional advisory councils concerning the taking of fish and wildlife on the public lands within their respective regions for subsistence uses. The Secretary may choose not to follow any recommendation which he determines is not supported

by substantial evidence, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs. If a recommendation is not adopted by the Secretary, he shall set forth the factual basis and the reasons for his decision.

(d) The Secretary shall not implement subsections (a), (b), and (c) of this section if within one year from the date of enactment of this Act, the State enacts and implements laws of general applicability which are consistent with, and which provide for the definition, preference, and participation specified in, sections 803, 804, and 805, such laws, unless and until repealed, shall supersede such sections insofar as such sections govern State responsibility pursuant to this title for the taking of fish and wildlife on the public lands for subsistence uses. Laws establishing a system of local advisory committees and regional advisory councils consistent with section 805 shall provide that the State rulemaking authority shall consider the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses. The regional councils may present recommendations, and the evidence upon which such recommendations are based, to the State rulemaking authority during the course of the administrative proceedings of such authority. The State rulemaking authority may choose not to follow any recommendation which it determines is not supported by substantial evidence presented during the course of its administrative proceedings, violates recognized principles of fish and wildlife conservation or would be detrimental to the satisfaction of rural subsistence needs. If a recommendation is not adopted by the State rulemaking authority, such authority shall set forth the factual basis and the reasons for its decision. Implementation.

(e)(1) The Secretary shall reimburse the State, from funds appropriated to the Department of the Interior for such purposes, for reasonable costs relating to the establishment and operation of the regional advisory councils established by the State in accordance with subsection (d) and the operation of the State fish and game advisory committees so long as such committees are not superseded by the Secretary pursuant to paragraph (2) of subsection (a). Such reimbursement may not exceed 50 per centum of such costs in any fiscal year. Such costs shall be verified in a statement which the Secretary determines to be adequate and accurate. Sums paid under this subsection shall be in addition to any grants, payments, or other sums to which the State is entitled from appropriations to the Department of the Interior. Reimbursement to States.

(2) Total payments to the State under this subsection shall not exceed the sum of $5,000,000 in any one fiscal year. The Secretary shall advise the Congress at least once in every five years as to whether or not the maximum payments specified in this subsection are adequate to ensure the effectiveness of the program established by the State to provide the preference for subsistence uses of fish and wildlife set forth in section 804. Report to Congress.

FEDERAL MONITORING

SEC. 806. The Secretary shall monitor the provisions by the State of the subsistence preference set forth in section 804 and shall advise the State and the Committee on Interior and Insular Affairs and on Merchant Marine and Fisheries of the House of Representatives and the Committees on Energy and Natural Resources and Environment and Public Works of the Senate annually and at such other times as Report to congressional committees. 16 USC 3116.

he deems necessary of his views on the effectiveness of the implementation of this title including the State's provision of such preference, any exercise of his closure or other administrative authority to protect subsistence resources or uses, the views of the State, and any recommendations he may have.

JUDICIAL ENFORCEMENT

Civil actions. 16 USC 3117.

SEC. 807. (a) Local residents and other persons and organizations aggrieved by a failure of the State or the Federal Government to provide for the priority for subsistence uses set forth in section 804 (or with respect to the State as set forth in a State law of general applicability if the State has fulfilled the requirements of section 805(d)) may, upon exhaustion of any State or Federal (as appropriate) administrative remedies which may be available, file a civil action in the United States District Court for the District of Alaska to require such actions to be taken as are necessary to provide for the priority. In a civil action filed against the State, the Secretary may be joined as a party to such action. The court may grant preliminary injunctive relief in any civil action if the granting of such relief is appropriate under the facts upon which the action is based. No order granting preliminary relief shall be issued until after an opportunity for hearing. In a civil action filed against the State, the court shall provide relief, other than preliminary relief, by directing the State to submit regulations which satisfy the requirements of section 804; when approved by the court, such regulations shall be incorporated as part of the final judicial order, and such order shall be valid only for such period of time as normally provided by State law for the regulations at issue. Local residents and other persons and organizations who are prevailing parties in an action filed pursuant to this section shall be awarded their costs and attorney's fees.

Hearing.

(b) A civil action filed pursuant to this section shall be assigned for hearing at the earliest possible date, shall take precedence over other matters pending on the docket of the United States district court at that time, and shall be expedited in every way by such court and any appellate court.

(c) This section is the sole Federal judicial remedy created by this title for local residents and other residents who, and organizations which, are aggrieved by a failure of the State to provide for the priority of subsistence uses set forth in section 804.

PARK AND PARK MONUMENT SUBSISTENCE RESOURCE COMMISSIONS

16 USC 3118.

SEC. 808. (a) Within one year from the date of enactment of this Act, the Secretary and the Governor shall each appoint three members to a subsistence resources commission for each national park or park monument within which subsistence uses are permitted by this Act. The regional advisory council established pursuant to section 805 which has jurisdiction within the area in which the park or park monument is located shall appoint three members to the commission each of whom is a member of either the regional advisory council or a local advisory committee within the region and also engages in subsistence uses within the park or park monument. Within eighteen months from the date of enactment of this Act, each commission shall devise and recommend to the Secretary and the Governor a program for subsistence hunting within the park or park monument. Such program shall be prepared using technical information and other pertinent data assembled or produced by necessary field studies or

Subsistence hunting program.

investigations conducted jointly or separately by the technical and administrative personnel of the State and the Department of the Interior, information submitted by, and after consultation with the appropriate local advisory committees and regional advisory councils, and any testimony received in a public hearing or hearings held by the commission prior to preparation of the plan at a convenient location or locations in the vicinity of the park or park monument. Each year thereafter, the commission, after consultation with the appropriate local committees and regional councils, considering all relevant data and holding one or more additional hearings in the vicinity of the park or park monument, shall make recommendations to the Secretary and the Governor for any changes in the program or its implementation which the commission deems necessary.

Program and recommendation implementation.

(b) The Secretary shall promptly implement the program and recommendations submitted to him by each commission unless he finds in writing that such program or recommendations violates recognized principles of wildlife conservation, threatens the conservation of healthy populations of wildlife in the park or park monument, is contrary to the purposes for which the park or park monument is established, or would be detrimental to the satisfaction of subsistence needs of local residents. Upon notification by the Governor, the Secretary shall take no action on a submission of a commission for sixty days during which period he shall consider any proposed changes in the program or recommendations submitted by the commission which the Governor provides him.

(c) Pending the implementation of a program under subsection (a) of this section, the Secretary shall permit subsistence uses by local residents in accordance with the provisions of this title and other applicable Federal and State law.

COOPERATIVE AGREEMENTS

SEC. 809. The Secretary may enter into cooperative agreements or otherwise cooperate with other Federal agencies, the State, Native Corporations, other appropriate persons and organizations, and, acting through the Secretary of State, other nations to effectuate the purposes and policies of this title. 16 USC 3119.

SUBSISTENCE AND LAND USE DECISIONS

SEC. 810. (a) In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the effect of such use, occupancy, or disposition on subsistence uses and needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. No such withdrawal, reservation, lease, permit, or other use, occupancy or disposition of such lands which would significantly restrict subsistence uses shall be effected until the head of such Federal agency— 16 USC 3120.

(1) gives notice to the appropriate State agency and the appropriate local committees and regional councils established pursuant to section 805;

(2) gives notice of, and holds, a hearing in the vicinity of the area involved; and Hearing.

(3) determines that (A) such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands, (B) the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition, and (C) reasonable steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions.

Notice and hearings.
42 USC 4332.

(b) If the Secretary is required to prepare an environmental impact statement pursuant to section 102(2)(C) of the National Environmental Policy Act, he shall provide the notice and hearing and include the findings required by subsection (a) as part of such environmental impact statement.

(c) Nothing herein shall be construed to prohibit or impair the ability of the State or any Native Corporation to make land selections and receive land conveyances pursuant to the Alaska Statehood Act or the Alaska Native Claims Settlement Act.

48 USC note prec. 21.
43 USC 1601 note.

(d) After compliance with the procedural requirements of this section and other applicable law, the head of the appropriate Federal agency may manage or dispose of public lands under his primary jurisdiction for any of those uses or purposes authorized by this Act or other law.

ACCESS

16 USC 3121.

SEC. 811. (a) The Secretary shall ensure that rural residents engaged in subsistence uses shall have reasonable access to subsistence resources on the public lands.

(b) Notwithstanding any other provision of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to reasonable regulation.

RESEARCH

16 USC 3122.

SEC. 812. The Secretary, in cooperation with the State and other appropriate Federal agencies, shall undertake research on fish and wildlife and subsistence uses on the public lands; seek data from, consult with and make use of, the special knowledge of local residents engaged in subsistence uses; and make the results of such research available to the State, the local and regional councils established by the Secretary or State pursuant to section 805, and other appropriate persons and organizations.

PERIODIC REPORTS

Submittal to Speaker of House and President of Senate.
16 USC 3123.

SEC. 813. Within four years after the date of enactment of this Act, and within every three-year period thereafter, the Secretary, in consultation with the Secretary of Agriculture, shall prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives on the implementation of this title. The report shall include—

(1) an evaluation of the results of the monitoring undertaken by the Secretary as required by section 806;

(2) the status of fish and wildlife populations on public lands that are subject to subsistence uses;

(3) a description of the nature and extent of subsistence uses and other uses of fish and wildlife on the public lands;

(4) the role of subsistence uses in the economy and culture of rural Alaska;

(5) comments on the Secretary's report by the State, the local advisory councils and regional advisory councils established by the Secretary or the State pursuant to section 805, and other appropriate persons and organizations;

(6) a description of those actions taken, or which may need to be taken in the future, to permit the opportunity for continuation of activities relating to subsistence uses on the public lands; and

(7) such other recommendations the Secretary deems appropriate.

A notice of the report shall be published in the Federal Register and the report shall be made available to the public. Publication in Federal Register.

REGULATIONS

SEC. 814. The Secretary shall prescribe such regulations as are necessary and appropriate to carry out his responsibilities under this title. 16 USC 3124.

LIMITATIONS, SAVINGS CLAUSES

SEC. 815. Nothing in this title shall be construed as— 16 USC 3125.

(1) granting any property right in any fish or wildlife or other resource of the public lands or as permitting the level of subsistence uses of fish and wildlife within a conservation system unit to be inconsistent with the conservation of healthy populations, and within a national park or monument to be inconsistent with the conservation of natural and healthy populations, of fish and wildlife. No privilege which may be granted by the State to any individual with respect to subsistence uses may be assigned to any other individual;

(2) permitting any subsistence use of fish and wildlife on any portion of the public lands (whether or not within any conservation system unit) which was permanently closed to such uses on January 1, 1978, or enlarging or diminishing the Secretary's authority to manipulate habitat on any portion of the public lands;

(3) authorizing a restriction on the taking of fish and wildlife for nonsubsistence uses on the public lands (other than national parks and park monuments) unless necessary for the conservation of healthy populations of fish and wildlife, for the reasons set forth in section 816, to continue subsistence uses of such populations, or pursuant to other applicable law; or

(4) modifying or repealing the provisions of any Federal law governing the conservation or protection of fish and wildlife, including the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927; 16 U.S.C. 668dd-jj), the National Park Service Organic Act (39 Stat. 535, 16 U.S.C. 1, 2, 3, 4), the Fur Seal Act of 1966 (80 Stat. 1091; 16 U.S.C. 1187), the Endangered Species Act of 1973 (87 Stat. 884; 16 U.S.C. 1531-1543), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. 1361-1407), the Act entitled "An Act for the Protection of the Bald Eagle", approved June 8, 1940 (54 Stat. 250; 16 U.S.C. 742a-754), the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703-711), the Federal Aid in Wildlife Restoration Act (50 Stat. 917; 16 U.S.C. 669-669i), the Fishery Conservation and Management Act of 1976 (90 Stat. 331; 16 U.S.C. 1801-1882), the Federal

16 USC 1151 note.

16 USC 668-668d.

Post, p. 3300.

Aid in Fish Restoration Act (64 Stat. 430; 16 U.S.C. 777-777K), or any amendments to any one or more of such Acts.

CLOSURE TO SUBSISTENCE USES

16 USC 3126.

SEC. 816. (a) All national parks and park monuments in Alaska shall be closed to the taking of wildlife except for subsistence uses to the extent specifically permitted by this Act. Subsistence uses and sport fishing shall be authorized in such areas by the Secretary and carried out in accordance with the requirements of this title and other applicable laws of the United States and the State of Alaska.

(b) Except as specifically provided otherwise by this section, nothing in this title is intended to enlarge or diminish the authority of the Secretary to designate areas where, and establish periods when, no taking of fish and wildlife shall be permitted on the public lands for reasons of public safety, administration, or to assure the continued viability of a particular fish or wildlife population. Notwithstanding any other provision of this Act or other law, the Secretary, after consultation with the State and adequate notice and public hearing, may temporarily close any public lands (including those within any conservation system unit), or any portion thereof, to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. If the Secretary determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular fish or wildlife population, the Secretary may immediately close the public lands, or any portion thereof, to the subsistence uses of such population and shall publish the reasons justifying the closure in the Federal Register. Such emergency closure shall be effective when made, shall not extend for a period exceeding sixty days, and may not subsequently be extended unless the Secretary affirmatively establishes, after notice and public hearing, that such closure should be extended.

Publication in Federal Register.

TITLE IX—IMPLEMENTATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT AND ALASKA STATEHOOD ACT

SUBMERGED LANDS STATUTE OF LIMITATION

43 USC 1631.

43 USC 1601 note.

SEC. 901. (a) Notwithstanding any other provision of law, the ownership by a Native Corporation or Native Group of a parcel of submerged land conveyed to such Corporation or Group pursuant to the Alaska Native Claims Settlement Act or this Act, or a decision by the Secretary of the Interior that the water covering such parcel is not navigable, shall not be subject to judicial determination unless a civil action is filed in the United States District Court within five years after the date of execution of the interim conveyance if the interim conveyance was executed after the date of enactment of this Act, or within seven years after the date of enactment of this Act if the interim conveyance was executed on or before the date of enactment of this Act. If a parcel of submerged land was conveyed by a patent rather than an interim conveyance, the civil action described in the preceding sentence shall be filed within five years after the date of execution of the patent if the patent was executed after the date of enactment of this Act, or within seven years after the date of enactment of this Act if the patent was executed on or before the date of enactment of this Act. The civil action described in this

subsection shall be a de novo determination of the ownership of the parcel which is the subject of the action.

(b) No agency or board of the Department of the Interior other than the Bureau of Land Management shall have authority to determine the navigability of water covering a parcel of submerged land selected by a Native Corporation or Native Group pursuant to the Alaska Native Claims Settlement Act unless a determination by the Bureau of Land Management that the water covering a parcel of submerged land is not navigable was validly appealed to such agency or board prior to the date of enactment of this Act. The execution of an interim conveyance or patent (whichever is executed first) by the Bureau of Land Management conveying a parcel of submerged land to a Native Corporation or Native Group shall be the final agency action with respect to a decision by the Secretary of the Interior that the water covering such parcel is not navigable, unless such decision was validly appealed prior to the date of enactment of this Act to an agency or board of the Department of the Interior other than the Bureau of Land Management.

43 USC 1601 note.

(c) If the court determines that a parcel of submerged land which is the subject of a civil action described in subsection (a) is owned by the Native Corporation or Native Group to which it was conveyed pursuant to the Alaska Native Claims Settlement Act or this Act, each defendant Native Corporation and Native Group shall be awarded a money judgment against the plaintiffs in an amount equal to its costs and attorney's fees, including costs and attorney's fees incurred on appeal.

Costs and attorney fees.

43 USC 1601 note.

(d) No Native Corporation or Native Group shall be determined to have been conveyed its acreage entitlement under the Alaska Native Claims Settlement Act until—

(1) the statutes of limitation set forth in subsection (a) have expired with respect to every parcel of submerged land conveyed to such Corporation or Group; and

(2) a final judgment or order not subject to an appeal has been obtained in every civil action filed pursuant to subsection (a).

(e)(1) Whenever a parcel of submerged land to be conveyed to a Native Corporation or Native Group is located outside the boundaries of a conservation system unit such Corporation or Group and the State of Alaska may mutually agree that such parcel may be selected by and conveyed to the State under the provisions of section 6(b) of the Alaska Statehood Act.

Agreements or reconveyances with State.

48 USC note prec. 21.

(2) In any instance in which the State could have selected a parcel of submerged land pursuant to an agreement between the State and a Native Corporation or Native Group pursuant to paragraph (1) if such parcel had not previously been conveyed to such Corporation or Group, such Corporation or Group is authorized to reconvey such parcel to the Secretary, and the Secretary shall accept such reconveyance. If the surface estate and subsurface estate of such parcel are owned by different Native Corporations or Native Groups, every Corporation and Group with an interest in such parcel shall reconvey its entire interest in such parcel to the Secretary.

(3) In any agreement made between a Native Corporation or Native Group and the State of Alaska pursuant to paragraph (1), and in any reconveyance executed by a Native Corporation or Native Group pursuant to paragraph (2), each affected Corporation or Group shall disclaim its interest in the parcel which is the subject of the agreement or reconveyance. If such parcel underlies a lake having a surface area of fifty acres or greater or a stream having a width of three chains or greater, the Secretary shall determine the acreage

contained in the parcel. If such parcel underlies a lake having a surface area of less than fifty acres or a stream having a width of less than three chains, the Secretary, the State, and the affected Native Corporation or Native Group shall determine the acreage contained in the parcel by mutual agreement. The affected Native Corporation or Native Group shall receive replacement lands in an amount equal to the acreage of the parcel as determined by the processes set forth in this paragraph.

(4) Upon receipt by the Secretary of an agreement executed pursuant to paragraph (1) or a reconveyance executed pursuant to paragraph (2), the parcel which is the subject of the agreement or reconveyance shall be deemed vacant, unappropriated, and unreserved public land available for selection by the State pursuant to section 6 of the Alaska Statehood Act, and the State is authorized to file a land selection application for such parcel pursuant to section 6(b) of the Alaska Statehood Act. The acreage within such parcel shall be charged against the State's land entitlement. If the water covering a parcel of submerged land selected by or conveyed to the State pursuant to this subsection is later determined (without regard to the statutes of limitation contained in this section) by a court of competent jurisdiction to be navigable and title to such parcel to be vested in the State pursuant to section 6(m) of the Alaska Statehood Act, such selection or conveyance shall not diminish the State's land entitlement under section 6(b) of the Alaska Statehood Act, nor shall such judicial determination of navigability affect the land entitlement of any Native Corporation or Native Group pursuant to the Alaska Native Claims Settlement Act. Land selections made by the State pursuant to this subsection shall not be subject to the size limitations of section 6(g) of the Alaska Statehood Act or this Act. Notwithstanding the survey requirements of section 6(g) of the Alaska Statehood Act and section 13 of the Alaska Native Claims Settlement Act, no ground survey or monumentation shall be required on any parcel selected by and conveyed to the State or excluded from a conveyance to any Native Corporation or Native Group pursuant to this subsection.

48 USC note prec. 21.

43 USC 1601 note.

43 USC 1612.

Replacement acreage.

(5) Any Native Corporation or Native Group which is entitled to receive conveyance of replacement acreage in lieu of acreage within a parcel of submerged land relinquished or reconveyed pursuant to this subsection shall receive conveyance of such replacement acreage from among existing selections made by such Corporation or Group pursuant to the Alaska Native Claims Settlement Act or this Act. If such selections are insufficient to fulfill the acreage entitlement of such Corporation or Group pursuant to the Alaska Native Claims Settlement Act, the provisions of section 1410 shall apply to such Corporation or Group, but no land within the boundaries of a conservation system unit shall be withdrawn for such Corporation or Group pursuant to section 1410 unless such land was withdrawn under section 11(a) of the Alaska Native Claims Settlement Act. Any replacement acreage conveyed to a Native Corporation or Native Group from lands withdrawn pursuant to section 1410 shall be subject to the provisions of sections 12, 14, 16, 17, and 22 of the Alaska Native Claims Settlement Act.

43 USC 1601 note. *Post*, p. 2496.

43 USC 1610.

43 USC 1611, 1613, 1615, 1616, 1621.

(f) The procedures and statutes of limitation set forth in this section shall not apply to administrative or judicial determinations of the navigability of water covering a parcel of submerged land other than a parcel conveyed to a Native Corporation or Native Group pursuant to the Alaska Native Claims Settlement Act or this Act.

43 USC 1601 note.

(g) As used in this section, the terms "navigable" and "navigability" mean navigable for the purpose of determining title to lands beneath navigable waters, as between the United States and the several States, pursuant to the Submerged Lands Act of 1953 (67 Stat. 29), and section 6(m) of the Alaska Statehood Act. "Navigable." "Navigability." 43 USC 1301 note.

(h) Notwithstanding any other provision of law, any civil action contesting the legality or authority of the United States to legislate on the subject matter of this section shall be barred unless the complaint is filed within one year after the date of enactment of this Act. The purpose of this limitation on suits is to ensure that, after the expiration of a reasonable period of time, the right, title, and interest of Native Corporations and Native Groups in submerged lands conveyed to them under the Alaska Native Claims Settlement Act and this Act will vest with certainty and finality and may be relied upon by such Corporations and Groups and all other persons in their relations among themselves and with the State and the United States. 48 USC note prec. 21. 43 USC 1601 note.

STATUTE OF LIMITATIONS

SEC. 902. (a) Except for administrative determinations of navigability for purposes of determining ownership of submerged lands under the Submerged Lands Act, a decision of the Secretary under this title or the Alaska Native Claims Settlement Act shall not be subject to judicial review unless such action is initiated before a court of competent jurisdiction within two years after the day the Secretary's decision becomes final or the date of enactment of this Act, whichever is later: *Provided,* That the party seeking such review shall first exhaust any administrative appeal rights. 43 USC 1632. 43 USC 1301 note.

(b) Decisions made by a Village Corporation to reconvey land under section 14(c) of the Alaska Native Claims Settlement Act shall not be subject to judicial review unless such action is initiated before a court of competent jurisdiction within one year after the date of the filing of the map of boundaries as provided for in regulations promulgated by the Secretary. 43 USC 1613.

ADMINISTRATIVE PROVISIONS

SEC. 903. (a) LIMITATIONS CONCERNING EASEMENTS.—With respect to lands conveyed to Native Corporations or Native Groups the Secretary shall reserve only those easements which are described in section 17(b)(1) of the Alaska Native Claims Settlement Act and shall be guided by the following principles: 43 USC 1633. 43 USC 1616.

(1) all easements should be designed so as to minimize their impact on Native life styles, and on subsistence uses; and

(2) each easement should be specifically located and described and should include only such areas as are necessary for the purpose or purposes for which the easement is reserved.

(b) ACQUISITION OF FUTURE EASEMENTS.—Whenever, after a conveyance has been made by this Act or under the Alaska Native Claims Settlement Act, the Secretary determines that an easement not reserved at the time of conveyance or by operation of subsection (a) of this section is required for any purpose specified in section 17(b)(1) of the Alaska Native Claims Settlement Act, he is authorized to acquire such easement by purchase or otherwise. The acquisition of such an easement shall be deemed a public purpose for which the Secretary may exercise his exchange authority pursuant to section 22(f) of the Alaska Native Claims Settlement Act. 43 USC 1601 note. 43 USC 1621.

(c) STATUS OF CERTAIN LEASE OFFERS.—Offers for noncompetitive oil and gas leases under the Mineral Leasing Act of 1920 which were 30 USC 181 note.

filed but which did not result in the issuance of a lease on or before December 18, 1971, on lands selected by, and conveyed before, on, or after the date of enactment of this Act to, Native Corporations or to individual Natives under paragraph (5) or (6) of section 14(h) as part of the entitlement to receive land under the Alaska Native Claims Settlement Act shall not constitute valid existing rights under section 14(g) of such Act or under this Act.

43 USC 1613.

(d) LIMITATION.—This Act is not intended to modify, repeal, or otherwise affect any provision of the Act of January 2, 1976 (89 Stat. 1145), as amended or supplemented by Public Laws 94-456 and 95-178, and shall not be construed as imposing any additional restriction on the use or management of those lands described in section 22(k) of the Alaska Native Claims Settlement Act.

43 USC 1604, note, 1605 note, 1611 note, 1613 and note, 1615, 1616, 1618 note, 1620, 1621, 1625 and note, 1626, 1627, 1628.

TAX MORATORIUM EXTENSION

43 USC 1621.

SEC. 904. Subsection (d) of section 21 of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1620(d)), is amended to read:

"(d)(1) Real property interests conveyed, pursuant to this Act, to a Native individual, Native Group, Village or Regional Corporation or corporation established pursuant to section 14(h)(3) which are not developed or leased to third parties or which are used solely for the purposes of exploration shall be exempt from State and local real property taxes for a period of twenty years from the vesting of title pursuant to the Alaska National Interest Lands Conservation Act or the date of issuance of an interim conveyance or patent, whichever is earlier, for those interests to such individual, group, or corporation: *Provided,* That municipal taxes, local real property taxes, or local assessments may be imposed upon any portion of such interest within the jurisdiction of any governmental unit under the laws of the State which is leased or developed for purposes other than exploration for so long as such portion is leased or being developed: *Provided further,* That easements, rights-of-way, leaseholds, and similar interests in such real property may be taxed in accordance with State or local law. All rents, royalties, profits, and other revenues or proceeds derived from such property interests shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

43 USC 1613.

Ante, p. 2371.

"(2) Any real property interest, not developed or leased to third parties, acquired by a Native individual, Native Group, Village or Regional Corporation, or corporation established pursuant to section 14(h)(3) in exchange for real property interests which are exempt from taxation pursuant to paragraph (1) of this subsection shall be deemed to be a property interest conveyed pursuant to this Act and shall be exempt from taxation as if conveyed pursuant to this Act, when such an exchange is made with the Federal Government, the State government, a municipal government, or another Native Corporation, or, if neither party to the exchange receives a cash value greater than 25 per centum of the value of the land exchanged, a private party. In the event that a Native Corporation simultaneously exchanges two or more tracts of land having different periods of tax exemption pursuant to subsection (d), the periods of tax exemption for the exchanged lands received by such Native Corporation shall be determined (A) by calculating the percentage that the acreage of each tract given up bears to the total acreage given up, and (B) by applying such percentages and the related periods of tax exemption to the acreage received in exchange.".

ALASKA NATIVE ALLOTMENTS

SEC. 905. (a)(1) Subject to valid existing rights, all Alaska Native allotment applications made pursuant to the Act of May 17, 1906 (34 Stat. 197, as amended) which were pending before the Department of the Interior on or before December 18, 1971, and which describe either land that was unreserved on December 13, 1968, or land within the National Petroleum Reserve—Alaska (then identified as Naval Petroleum Reserve No. 4) are hereby approved on the one hundred and eightieth day following the effective date of this Act, except where provided otherwise by paragraph (3), (4), (5), or (6) of this subsection, or where the land description of the allotment must be adjusted pursuant to subsection (b) of this section, in which cases approval pursuant to the terms of this subsection shall be effective at the time the adjustment becomes final. The Secretary shall cause allotments approved pursuant to this section to be surveyed and shall issue trust certificates therefor. 43 USC 1634. 43 USC 270-1—270-3.

(2) All applications approved pursuant to this section shall be subject to the provisions of the Act of March 8, 1922 (43 U.S.C. 270-11). Applications.

(3) When on or before the one hundred and eightieth day following the effective date of this Act the Secretary determines by notice or decision that the land described in an allotment application may be valuable for minerals, excluding oil, gas, or coal, the allotment application shall be adjudicated pursuant to the provision of the Act of May 17, 1906, as amended, requiring that land allotted under said Act be nonmineral: *Provided,* That "nonmineral", as that term is used in such Act, is defined to include land valuable for deposits of sand or gravel. "Nonmineral."

(4) Where an allotment application describes land within the boundaries of a unit of the National Park System established on or before the effective date of this Act and the described land was not withdrawn pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act, or where an allotment application describes land which has been patented or deeded to the State of Alaska or which on or before December 18, 1971, was validly selected by or tentatively approved or confirmed to the State of Alaska pursuant to the Alaska Statehood Act and was not withdrawn pursuant to section 11(a)(1)(A) of the Alaska Native Claims Settlement Act from those lands made available for selection by section 11(a)(2) of the Act by any Native Village certified as eligible pursuant to section 11(b) of such Act, paragraph (1) of this subsection and subsection (d) of this section shall not apply and the application shall be adjudicated pursuant to the requirements of the Act of May 17, 1906, as amended, the Alaska Native Claims Settlement Act, and other applicable law. 43 USC 1610. 43 USC 270-1—270-3. 43 USC 1601 note.

(5) Paragraph (1) of this subsection and subsection (d) shall not apply and the Native allotment application shall be adjudicated pursuant to the requirements of the Act of May 17, 1906, as amended, if on or before the one hundred and eightieth day following the effective date of this Act—

(A) A Native Corporation files a protest with the Secretary stating that the applicant is not entitled to the land described in the allotment application, and said land is withdrawn for selection by the Corporation pursuant to the Alaska Native Claims Settlement Act; or

(B) The State of Alaska files a protest with the Secretary stating that the land described in the allotment application is necessary for access to lands owned by the United States, the

State of Alaska, or a political subdivision of the State of Alaska, to resources located thereon, or to a public body of water regularly employed for transportation purposes, and the protest states with specificity the facts upon which the conclusions concerning access are based and that no reasonable alternatives for access exist; or

(C) A person or entity files a protest with the Secretary stating that the applicant is not entitled to the land described in the allotment application and that said land is the situs of improvements claimed by the person or entity.

(6) Paragraph (1) of this subsection and subsection (d) shall not apply to any application pending before the Department of the Interior on or before December 18, 1971, which was knowingly and voluntarily relinquished by the applicant thereafter.

Conflicting allotment applications.

(b) Where a conflict between two or more allotment applications exists due to overlapping land descriptions, the Secretary shall adjust the descriptions to eliminate conflicts, and in so doing, consistent with other existing rights, if any, may expand or alter the applied-for allotment boundaries or increase or decrease acreage in one or more of the allotment applications to achieve an adjustment which, to the extent practicable, is consistent with prior use of the allotted land and is beneficial to the affected parties: *Provided,* That the Secretary shall, to the extent feasible, implement an adjustment proposed by the affected parties: *Provided further,* That the Secretary's decision concerning adjustment of conflicting land descriptions shall be final and unreviewable in all cases in which the reduction, if any, of the affected allottee's claim is less than 30 percent of the acreage contained in the parcel originally described and the adjustment does not exclude from the allotment improvements claimed by the allottee: *Provided further,* That where an allotment application describes more than one hundred and sixty acres, the Secretary shall at any time prior to or during survey reduce the acreage to one hundred and sixty acres and shall attempt to accomplish said reduction in the manner least detrimental to the applicant.

Amended land descriptions.

(c) An allotment applicant may amend the land description contained in his or her application if said description designates land other than that which the applicant intended to claim at the time of application and if the description as amended describes the land originally intended to be claimed. If the allotment application is amended, this section shall operate to approve the application or to require its adjudication, as the case may be, with reference to the amended land description only: *Provided,* That the Secretary shall notify the State of Alaska and all interested parties, as shown by the records of the Department of the Interior, of the intended correction of the allotment's location, and any such party shall have until the one hundred and eightieth day following the effective date of this Act or sixty days following mailing of the notice, whichever is later, to file with the Department of the Interior a protest as provided in subsection (a)(5) of this section, which protest, if timely, shall be deemed filed within one hundred and eighty days of the effective date of this Act notwithstanding the actual date of filing: *Provided further,* That the Secretary may require that all allotment applications designating land in a specified area be amended, if at all, prior to a date certain, which date shall be calculated to allow for orderly adoption of a plan of survey for the specified area, and the Secretary shall mail notification of the final date for amendment to each affected allotment applicant, and shall provide such other notice as the Secretary deems appropriate, at least sixty days prior to said date: *Provided further,*

That no allotment application may be amended for location following adoption of a final plan of survey which includes the location of the allotment as described in the application or its location as desired by amendment.

(d) Where the land described in an allotment application pending before the Department of the Interior on or before December 18, 1971 (or such an application as adjusted or amended pursuant to subsection (b) or (c) of this section), was on that date withdrawn, reserved, or classified for powersite or power-project purposes, notwithstanding such withdrawal, reservation, or classification the described land shall be deemed vacant, unappropriated, and unreserved within the meaning of the Act of May 17, 1906, as amended, and, as such, shall be subject to adjudication or approval pursuant to the terms of this section: *Provided, however,* That if the described land is included as part of a project licensed under part I of the Federal Power Act of June 10, 1920 (41 Stat. 24), as amended, or is presently utilized for purposes of generating or transmitting electrical power or for any other project authorized by Act of Congress, the foregoing provision shall not apply and the allotment application shall be adjudicated pursuant to the Act of May 17, 1906, as amended: *Provided further,* That where the allotment applicant commenced use of the land after its withdrawal or classification for powersite purposes, the allotment shall be made subject to the right of reentry provided the United States by section 24 of the Federal Power Act, as amended: *Provided further,* That any right of reentry reserved in a certificate of allotment pursuant to this section shall expire twenty years after the effective date of this Act if at that time the allotted land is not subject to a license or an application for a license under part I of the Federal Power Act, as amended, or actually utilized or being developed for a purpose authorized by that Act, as amended, or other Act of Congress.

43 USC 270-1—270-3.

41 Stat. 1063. 16 USC 791a.

16 USC 818.

16 USC 791a.

(e) Prior to issuing a certificate for an allotment subject to this section, the Secretary shall identify and adjudicate any record entry or application for title made under an Act other than the Alaska Native Claims Settlement Act, the Alaska Statehood Act, or the Act of May 17, 1906, as amended, which entry or application claims land also described in the allotment application, and shall determine whether such entry or application represents a valid existing right to which the allotment application is subject. Nothing in this section shall be construed to affect rights, if any, acquired by actual use of the described land prior to its withdrawal or classification, or as affecting national forest lands.

43 USC 1601 note, 48 USC note prec. 21, 43 USC 270-1—270-3.

STATE SELECTIONS AND CONVEYANCES

SEC. 906. (a) EXTENSION OF SELECTION PERIOD.—(1) In furtherance and confirmation of the State of Alaska's entitlement to certain national forest and other public lands in Alaska for community development and expansion purposes, section 6(a) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years".

48 USC note prec. 21.

48 USC note prec. 21.

(2) EXTENSION OF SELECTION PERIOD.—In furtherance and confirmation of the State of Alaska's entitlement to certain public lands in Alaska, section 6(b) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years".

(b) SCHOOL LANDS SETTLEMENT.—(1) In full and final settlement of any and all claims by the State of Alaska arising under the Act of March 4, 1915 (38 Stat. 1214), as confirmed and transferred in section 6(k) of the Alaska Statehood Act, the State is hereby granted seventy-

43 USC 1635.

five thousand acres which it shall be entitled to select until January 4, 1994, from vacant, unappropriated, and unreserved public lands. In exercising the selection rights granted herein, the State shall be deemed to have relinquished all claims to any right, title, or interest to any school lands which failed to vest under the above statutes at the time Alaska became a State (January 3, 1959), including lands unsurveyed on that date or surveyed lands which were within Federal reservations or withdrawals on that date.

(2) Except as provided herein, such selections shall be made in conformance with the provisions for selections under section 6(b) of the Alaska Statehood Act. Selections made under this subsection shall be in units of whole sections as shown on the official survey plats of the Bureau of Land Management, including protraction diagrams, unless part of the section is unavailable or the land is otherwise surveyed, or unless the Secretary waives the whole section requirement.

48 USC note prec. 21.

(3) Lands selected and conveyed to the State under this subsection shall be subject to the provisions of subsections (j) and (k) of section 6 of the Alaska Statehood Act.

(c) PRIOR TENTATIVE APPROVALS.—(1) All tentative approvals of State of Alaska land selections pursuant to the Alaska Statehood Act are hereby confirmed, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, and the United States hereby confirms that all right, title, and interest of the United States in and to such lands is deemed to have vested in the State of Alaska as of the date of tentative approval; except that this subsection shall not apply to tentative approvals which, prior to the date of enactment of this Act, have been relinquished by the State, or have been finally revoked by the United States under authority other than authority under section 11(a)(2), 12(a), or 12(b) of the Alaska Native Claims Settlement Act.

43 USC 1601 note.

43 USC 1610, 1611.

(2) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

Land patents.

(3) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election.

(4) Future tentative approvals of State land selections, when issued, shall have the same force and effect as those existing tentative approvals which are confirmed by this subsection and shall be processed for patent by the same administrative procedures as specified in paragraphs (2) and (3) of this subsection.

(d) PRIOR STATE SELECTIONS.—(1) In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, all right, title and interest of the United States in and to all vacant, unappropriated, and unreserved lands, including lands subject to subsection (l) of this section, which are specified in the list entitled "Prior State of Alaska Selections to be Conveyed by Congress", dated July 24, 1978, submitted by the State of Alaska and on file in the Office of the Secretary except those Federal lands which are specified in a list dated October 19, 1979, submitted by the State of Alaska and on file with the Office of the Secretary. If any of those townships listed above contain lands within the bound-

48 USC note prec. 21.

43 USC 1601 note.

aries of any conservation system unit, national conservation area, national recreation area, new national forest or forest addition, established, designated, or expanded by this Act, then only those lands within such townships which have been previously selected by the State of Alaska shall be conveyed pursuant to this subsection.

(2) In furtherance of the State's entitlement to lands under section 6(a) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, all right, title and interest of the United States in and to all valid land selections made from the national forests under authority of said section 6(a) which have been approved by the Secretary of Agriculture prior to July 1, 1979. 48 USC note prec. 21. 43 USC 1601 note.

(3) As soon as practicable after the date of enactment of this Act, the Secretary shall issue tentative approvals to such State selections as required by the Alaska Statehood Act and pursuant to subsection (i) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State. Tentative approvals. 48 USC note prec. 21.

(4) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(5) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. Land patents.

(6) Future valid State land selections shall be subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act. 43 USC 1601 note.

(e) FUTURE "TOP FILINGS".—Subject to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, the State, at its option, may file future selection applications and amendments thereto, pursuant to section 6 (a) or (b) of the Alaska Statehood Act or subsection (b) of this section, for lands which are not, on the date of filing of such applications, available within the meaning of section 6 (a) or (b) of the Alaska Statehood Act, other than lands within any conservation system unit or the National Petroleum Reserve—Alaska. Each such selection application, if otherwise valid, shall become an effective selection without further action by the State upon the date the lands included in such application become available within the meaning of subsection (a) or (b) of section 6 regardless of whether such date occurs before or after expiration of the State's land selection rights. Selection applications heretofore filed by the State may be refiled so as to become subject to the provisions of this subsection; except that no such refiling shall prejudice any claim of validity which may be asserted regarding the original filing of such application. Nothing contained in this subsection shall be construed to prevent the United States from transferring a Federal reservation or appropriation from one Federal agency to another Federal agency for the use and benefit of the Federal Government. 48 USC note prec. 21.

(f) RIGHT TO OVERSELECT.—(1) The State of Alaska may select lands exceeding by not more than 25 per centum in total area the amount of State entitlement which has not been patented or tentatively approved under each grant or confirmation of lands to the State contained in the Alaska Statehood Act or other law. If its selections

under a particular grant exceed such remaining entitlement, the State shall thereupon list all selections for that grant which have not been tentatively approved in desired priority order of conveyance, in blocks no larger than one township in size; except that the State may alter such priorities prior to receipt of tentative approval. Upon receipt by the State of subsequent tentative approvals, such excess selections shall be reduced by the Secretary pro rata by rejecting the lowest prioritized selection blocks necessary to maintain a maximum excess selection of 25 per centum of the entitlement which has not yet been tentatively approved or patented to the State under each grant.

Relinquishments.

(2) The State of Alaska may, by written notification to the Secretary, relinquish any selections of land filed under the Alaska Statehood Act or subsection (b) of this section prior to receipt by the State of tentative approval, except that lands conveyed pursuant to subsection (g) of this section may not be relinquished pursuant to this paragraph.

48 USC note prec. 21.

48 USC note prec. 21.

(3) Section 6(g) of the Alaska Statehood Act is amended by adding at the end thereof the following new sentence: "As to all selections made by the State after January 1, 1979, pursuant to section 6(b) of this Act, the Secretary of the Interior, in his discretion, may waive the minimum tract selection size where he determines that such a reduced selection size would be in the national interest and would result in a better land ownership pattern.".

(g) CONVEYANCE OF SPECIFIED LANDS.—In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska all right, title, and interest of the United States in and to all vacant, unappropriated, and unreserved lands, including lands subject to subsection (e) of this section but which lie within those townships outside the boundaries of conservation system units, National Conservation Areas, National Recreation Areas, new national forests and forest additions, established, designated, or expanded by this Act, which are specified in the list entitled "State Selection Lands May 15, 1978", dated July 24, 1978, submitted by the State of Alaska and on file in the office of the Secretary of the Interior. The denomination of lands in such list which are not, on the date of enactment of this Act, available lands within the meaning of section 6(b) of the Alaska Statehood Act and this Act shall be treated as a future selection application pursuant to subsection (e) of this section, to the extent such an application could have been filed under such subsection (e).

(h) LIMITATION OF CONVEYANCES OF SPECIFIED LANDS TENTATIVE APPROVALS; SURVEYS.—(1) Lands identified in subsection (g) are conveyed to the State subject to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act. All right, title, and interest of the United States in and to such lands shall vest in the State of Alaska as of the date of enactment of this Act, subject to those reservations specified in subsection (l) of this section.

43 USC 1601 note.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall issue to the State tentative approvals to such lands as required by the Alaska Statehood Act and pursuant to subsection (i) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State.

(3) Upon approval of a land survey by the Secretary, those lands identified in subsection (g) shall be patented to the State of Alaska.

(4) If the State elects to receive patent to any of the lands which are identified in subsection (g) on the basis of protraction surveys in lieu

of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election.

(i) ADJUDICATION.—Nothing contained in this section shall relieve the Secretary of the duty to adjudicate conflicting claims regarding the lands specified in subsection (g) of this section, or otherwise selected under authority of the Alaska Statehood Act, subsection (b) of this section, or other law, prior to the issuance of tentative approval. 48 USC note prec. 21.

(j) CLARIFICATION OF LAND STATUS OUTSIDE UNITS.—As to lands outside the boundaries of a conservation system unit, National Recreation Areas, National Conservation Areas, new national forests and forest additions, the following withdrawals, classifications, or designations shall not, of themselves, remove the lands involved from the status of vacant, unappropriated, and unreserved lands for the purposes of subsection (d) or (g) of this section and future State selections pursuant to the Alaska Statehood Act or subsection (b) of this section:

(1) withdrawals for classification pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act; except that, in accordance with the Memorandum of Understanding between the United States and the State of Alaska dated September 2, 1972, to the extent that Public Land Orders Numbered 5150, 5151, 5181, 5182, 5184, 5187, 5190, 5194, and 5388 by their terms continue to prohibit State selections of certain lands, such lands shall remain unavailable for future State selection except as provided by subsection (e) of this Act; 43 USC 1616.

(2) withdrawals pursuant to section 11 of the Alaska Native Claims Settlement Act, which are not finally conveyed pursuant to section 12, 14, or 19 of such Act; 43 USC 1610. 43 USC 1611, 1613, 1618.

(3) classifications pursuant to the Classification and Multiple Use Act (78 Stat. 987);

(4) classifications or designations pursuant to the National Forest Management Act (90 Stat. 2949) as amended; and 16 USC 1600 note.

(5) classifications, withdrawals exceeding 5,000 acres (except withdrawals exceeding 5,000 acres which the Congress, by concurrent resolution, approves within 180 days of the withdrawal or the effective date of this Act, whichever occurs later), or designations pursuant to the Federal Land Policy and Management Act (90 Stat. 2743). 43 USC 1701 note.

(k) INTERIM PROVISIONS.—Notwithstanding any other provision of law, on lands selected by, or granted or conveyed to, the State of Alaska under section 6 of the Alaska Statehood Act or this Act, but not yet tentatively approved to the State: 48 USC note prec. 21.

(1) The Secretary is authorized to make contracts and grant leases, licenses, permits, rights-of-way, or easements, and any tentative approval or patent shall be subject to such contract, lease, license, permit, right-of-way, or easement; except that (A) the authority granted the Secretary by this subsection is that authority the Secretary otherwise would have had under existing laws and regulations had the lands not been selected by the State, and (B) the State has concurred prior to such action by the Secretary. Contracts.

(2) On and after the date of enactment of this Act, 90 per centum of any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements or from trespasses

originating after the date of selection by the State shall be held by the Secretary until such lands have been tentatively approved to the State. As such lands are tentatively approved, the Secretary shall pay to the State from such account the proceeds allocable to such lands which are derived from contracts, leases, licenses, permits, rights-of-way, easements, or trespasses. The proceeds derived from contracts, leases, licenses, permits, rights-of-way, easements or trespasses and deposited to the account pertaining to lands selected by the State but not tentatively approved due to rejection or relinquishment shall be paid as would have been required by law were it not for the provisions of this Act. In the event that the tentative approval does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the State shall only be entitled to the proportionate amount of the proceeds derived from such contract, lease, license, permit, right-of-way, or easement, which results from multiplying the total of such proceeds by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the tentative approval and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the State shall be entitled to the proportionate share of the proceeds in relation to the damages occurring on the respective lands.

(3) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act or the fourth sentence of section 6(h) of the Alaska Statehood Act.

43 USC 1608.
48 USC note prec. 21.

(l) EXISTING RIGHTS.—(1) All conveyances to the State under section 6 of the Alaska Statehood Act, this Act, or any other law, shall be subject to valid existing rights, to Native selection rights under the Alaska Native Claims Settlement Act, and to any right-of-way or easement reserved for or appropriated by the United States prior to selection of the underlying lands by the State of Alaska.

43 USC 1601 note.

(2) Where, prior to a conveyance to the State, a right-of-way or easement has been reserved for or appropriated by the United States or a contract, lease, permit, right-of-way, or easement has been issued for the lands, the conveyance shall contain provisions making it subject to the right-of-way or easement reserved or appropriated and to the contract, lease, license, permit, right-of-way, or easement issued or granted, and also subject to the right of the United States, contractee, lessee, licensee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits previously granted, issued, reserved, or appropriated. Upon issuance of tentative approval, the State shall succeed and become entitled to any and all interests of the United States as contractor, lessor, licensor, permittor, or grantor, in any such contracts, leases, licenses, permits, rights-of-way, or easements, except those reserved to the United States in the tentative approval.

Administration.

(3) The administration of rights-of-way or easements reserved to the United States in the tentative approval shall be in the United States, including the right to grant an interest in such right-of-way or easement in whole or in part.

(4) Where the lands tentatively approved do not include all of the land involved with any contract, lease, license, permit, right-of-way, or easement issued or granted, the administration of such contract, lease, license, permit, right-of-way, or easement shall remain in the

United States unless the agency responsible for administration waives such administration.

(5) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act or the fourth sentence of section 6(h) of the Alaska Statehood Act. 43 USC 1608. 48 USC note prec. 21.

(m) EXTINGUISHMENT OF CERTAIN TIME EXTENSIONS.—Any extensions of time periods granted to the State pursuant to section 17(d)(2)(E) of the Alaska Native Claims Settlement Act are hereby extinguished, and the time periods specified in subsections (a) and (b) of this section shall hereafter be applicable to State selections. 43 USC 1616.

(n) EFFECT ON THIRD-PARTY RIGHTS.—(1) Nothing in this section shall alter the rights or obligations of any party with regard to section 12 of the Act of January 2, 1976 (Public Law 94-204), sections 4 and 5 of the Act of October 4, 1976 (Public Law 94-456), or section 3 of the Act of November 15, 1977 (Public Law 94-178). 43 USC 1611 note. 43 USC 1611 note.

(2) Any conveyance of land to or confirmation of prior selections of the State made by this Act or selections allowed under this Act shall be subject to the rights of Cook Inlet Region, Incorporated, to nominate lands outside of its region with such nominations to be superior to any selection made by the State after July 18, 1975, including any lands conveyed to the State pursuant to subsection (g) of this section, and to the duty of the Secretary, with consent of the State, to make certain lands within the Cook Inlet Region available to the Corporation, both in accordance with the provisions of section 12(b) of the Act of January 2, 1976 (Public Law 94-204), as amended. 43 USC 1611 note.

(3) Nothing in this title shall prejudice a claim of validity or invalidity regarding any third-party interest created by the State of Alaska prior to December 18, 1971, under authority of section 6(g) of the Alaska Statehood Act or otherwise. 48 USC note prec. 21.

(4) Nothing in this Act shall affect any right of the United States or Alaska Natives to seek and receive damages against any party for trespass against, or other interference with, aboriginal interests if any, occurring prior to December 18, 1971.

(o) STATUS OF LANDS WITHIN UNITS.—(1) Notwithstanding any other provision of law, subject to valid existing rights any land withdrawn pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act and within the boundaries of any conservation system unit, National Recreation Area, National Conservation Area, new national forest or forest addition, shall be added to such unit and administered accordingly unless, before, on, or after the date of the enactment of this Act, such land has been validly selected by and conveyed to a Native Corporation, or unless before the date of the enactment of this Act, such land has been validly selected by, and after the date of enactment of this Act is conveyed to the State. At such time as the entitlement of any Native Corporation to land under the Alaska Native Claims Settlement Act is satisfied, any land within a conservation system unit selected by such Native Corporation shall, to the extent that such land is in excess of its entitlement, become part of such unit and administered accordingly: *Provided*, That nothing in this subsection shall necessarily preclude the future conveyance to the State of those Federal lands which are specified in a list dated October 19, 1979, submitted by the State of Alaska and on file with the Office of the Secretary: *Provided further*, That nothing in this subsection shall affect any conveyance to the State pursuant to subsections (b), (c), (d), or (g) of this section. 43 USC 1616. 43 USC 1601 note.

(2) Until conveyed, all Federal lands within the boundaries of a conservation system unit, National Recreation Area, National Con-

servation Area, new national forest or forest addition, shall be administered in accordance with the laws applicable to such unit.

48 USC note prec. 21.

(p) PYK LINE.—The second proviso of section 6(b) of the Alaska Statehood Act regarding Presidential approval of land selection north and west of the line described in section 10 of such Act shall not apply to any conveyance of land to the State pursuant to subsections (c), (d), and (g) of this section but shall apply to future State selections.

48 USC note prec. 21.

ALASKA LAND BANK

43 USC 1636.

SEC. 907. (a) ESTABLISHMENT: AGREEMENTS.—(1) In order to enhance the quantity and quality of Alaska's renewable resources and to facilitate the coordinated management and protection of Federal, State, and Native and other private lands, there is hereby established the Alaska Land Bank Program. Any private landowner is authorized as provided in this section to enter into a written agreement with the Secretary if his lands adjoin, or his use of such lands would directly affect, Federal land, Federal and State land, or State land if the State is not participating in the program. Any private landowner described in subsection (c)(2) whose lands do not adjoin, or whose use of such lands would not directly affect either Federal or State lands also is entitled to enter into an agreement with the Secretary. Any private landowner whose lands adjoin, or whose use of such lands would directly affect, only State, or State and private lands, is authorized as provided in this section to enter into an agreement with the State of Alaska if the State is participating in the program. If the Secretary is the contracting party with the private landowner, he shall afford the State an opportunity to participate in negotiations and become a party to the agreement. An agreement may include all or part of the lands of any private landowner: *Provided*, That lands not owned by landowners described in subsection (c)(2) shall not be included in the agreement unless the Secretary, or the State, determines that the purposes of the program will be promoted by their inclusion.

(2) If a private landowner consents to the inclusion in an agreement of the stipulations provided in subsections (b)(1), (b)(2), (b)(4), (b)(5), and (b)(7), and if such owner does not insist on any additional terms which are unacceptable to the Secretary or the State, as appropriate, the owner shall be entitled to enter into an agreement pursuant to this section. If an agreement is not executed within one hundred and twenty days of the date on which a private landowner communicates in writing his consent to the stipulations referred to in the preceding sentence, the appropriate Secretary or State agency head shall execute an agreement. Upon such execution, the private owner shall receive the benefits provided in subsection (c) hereof.

(3) No agreement under this section shall be construed as affecting any land, or any right or interest in land, of any owner not a party to such agreement.

(b) TERMS OF AGREEMENT.—Each agreement referred to in subsection (a) shall have an initial term of ten years, with provisions, if any, for renewal for additional periods of five years. Such agreement shall contain the following terms:

(1) The landowner shall not alienate, transfer, assign, mortgage, or pledge the lands subject to the agreement except as provided in section 14(c) of the Alaska Native Claims Settlement Act, or permit development or improvement on such lands except as provided in the agreement. For the purposes of this section only, each agreement entered into with a landowner described in

43 USC 1613.

subsection (c)(2) shall constitute a restriction against alienation imposed by the United States upon the lands subject to the agreement.

(2) Lands subject to the agreement shall be managed by the owner in a manner compatible with the management plan, if any, for the adjoining Federal or State lands, and with the requirements of this subsection. If lands subject to the agreement do not adjoin either Federal or State lands, they shall be managed in a manner compatible with the management plan, if any, of Federal or State lands which would be directly affected by the use of such private lands. If no such plan has been adopted, or if the use of such private lands would not directly affect either Federal or State lands, the owner shall manage such lands in accordance with the provisions in paragraph (1) of this subsection. Except as provided in (3) of this subsection, nothing in this section or the management plan of any Federal or State agency shall be construed to require a private landowner to grant public access on or across his lands. Land management.

(3) If the surface landowner so consents, such lands may be made available for local or other recreational use: *Provided,* That the refusal of a private landowner to permit the uses referred to in this subsection shall not be grounds for the refusal of the Secretary or the State to enter into an agreement with the landowner under this section.

(4) Appropriate Federal and/or State agency heads shall have reasonable access to such privately owned land for purposes relating to the administration of the adjoining Federal or State lands, and to carry out their obligations under the agreement.

(5) Reasonable access to such land by officers of the State shall be permitted for purposes of conserving fish and wildlife.

(6) Those services or other consideration which the appropriate Secretary or the State shall provide to the owner pursuant to subsection (c)(1) shall be set forth.

(7) All or part of the lands subject to the agreement may be withdrawn from the Alaska land bank program not earlier than ninety days after the landowner— Program withdrawal.

(A) submits written notice thereof to the other parties which are signatory to the agreement; and

(B) pays all Federal, State and local property taxes and assessments which, during the particular term then in effect, would have been incurred except for the agreement, together with interest on such taxes and assessments in an amount to be determined at the highest rate of interest charged with respect to delinquent property taxes by the Federal, State or local taxing authority, if any.

(8) The agreement may contain such additional terms, which are consistent with the provisions of this section, as seem desirable to the parties entering into the agreement: *Provided,* That the refusal of the landowner to agree to any additional terms shall not be grounds for the refusal of the Secretary or the State to enter into an agreement with the landowner under this section.

(c) BENEFITS TO PRIVATE LANDOWNERS.—So long as the landowner is in compliance with the agreement, he shall, as to lands encompassed by the agreement, be entitled to the benefits set forth below:

(1) In addition to any requirement of applicable law, the appropriate Secretary is authorized to provide technical and other assistance with respect to fire control, trespass control,

resource and land use planning, the management of fish and wildlife, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement, all with or without reimbursement as agreed upon by the parties.

(2) As to Native Corporations and all other persons or groups that have received or will receive lands or interests therein pursuant to the Alaska Native Claims Settlement Act or sections 901 and 902 of this title, immunity from—

43 USC 1601 note.

(A) adverse possession;

(B) real property taxes and assessments by the United States, the State, or any political subdivision of the State: *Provided,* That such immunity shall cease if the lands involved are leased or developed, as such terms are used in section 21(d) of the Alaska Native Claims Settlement Act;

Ante, p. 2434.

(C) judgment in any action at law or equity to recover sums owed or penalties incurred by any Native Corporation or Native Group or any officer, director, or stockholder of any such Corporation or Group. On or before January 31 of each year beginning the fourth year after the date of enactment of this Act, the Secretary shall publish in the Federal Register and in at least three newspapers of general circulation in the State the percentage of conveyed land entitlement which each Native Corporation or Group has elected to include in the Alaska Land Bank Program as of the end of the preceding year.

Publication in Federal Register.

(3) If the State enacts laws of general applicability which are consistent with this section and which offer any or all of the benefits provided in subsection (c)(2) hereof, as to private landowners who enter into an agreement referred to in subsection (a) to which agreement the State is a party, such laws, unless and until repealed, shall supersede the relevant subparagraph of subsection (c)(2) and shall govern the grant of the benefit so provided: *Provided,* That the enactment of such State laws shall not be construed as repealing, modifying, or otherwise affecting the applicability of the immunity from Federal real property taxes and assessments provided in subsection (c)(2)(B) or the immunity from judgments in any Federal action at law or equity provided in subsections (c)(2)(C).

(4)(A) Except as provided in subsection (c)(2), nothing in this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.

(B) Privately owned lands included in the Alaska Land Bank Program shall be subject to condemnation for public purposes in accordance with the provisions of this Act and other applicable law.

(d) INTERIM GRANT OF BENEFITS.—Notwithstanding any other provision of this section, unless the landowner decides otherwise, the benefits specified in subsection (c)(2) shall apply to lands conveyed pursuant to the Alaska Native Claims Settlement Act, or sections 901 and 902 of this title for a period of three years from the date of conveyance or the date of enactment of this Act, whichever is later: *Provided,* That this subsection shall not apply to any lands which on the date of enactment of this Act are the subject of a mortgage, pledge or other encumbrance.

43 USC 1601 note.

(e) REVENUE-SHARING, FIRE PROTECTION, ETC.—The provisions of section 21(e) of the Alaska Native Claims Settlement Act shall apply to all lands which are subject to an agreement under this section so long as the parties to the agreement are in compliance therewith.

43 USC 1620.

(f) EXISTING CONTRACTS.—Nothing in this section shall be construed as impairing, or otherwise affecting in any manner, any contract or other obligation which was entered into prior to the enactment of this Act or which (1) applies to any land which is subject to an agreement, and (2) was entered into before the agreement becomes effective.

PROTECTION OF NATIVE LANDS IN CONTINGENCY AREAS UNDER TIMBER SALES

SEC. 908. Section 15 of the Alaska Native Claims Settlement Act is amended by inserting "(a)" after "SEC. 15." and by adding at the end of such section the following new subsection: 43 USC 1614.

"(b) No land conveyed to a Native Corporation pursuant to this Act or by operation of the Alaska National Interest Lands Conservation Act which is within a contingency area designated in a timber sale contract let by the United States shall thereafter be subject to such contract or to entry or timbering by the contractor. Until a Native Corporation has received conveyances to all of the land to which it is entitled to receive under the appropriate section or subsection of this Act, for which the land was withdrawn or selected, no land in such a contingency area that has been withdrawn and selected, or selected, by such Corporation under this Act shall be entered by the timber contractor and no timber shall be cut thereon, except by agreement with such Corporation. For purposes of this subsection, the term 'contingency area' means any area specified in a timber sale contract as an area from which the timber contractor may harvest timber if the volume of timber specified in the contract cannot be obtained from one or more areas definitely designated for timbering in the contract.". *Ante*, p. 2371. "Contingency area."

USE OF PROTRACTION DIAGRAMS

SEC. 909. With the agreement of the party to whom a patent is to be issued under this title, or the Alaska Native Claims Settlement Act, the Secretary, in his discretion, may base such patent on protraction diagrams in lieu of field surveys. Any person or corporation receiving a patent under this title or the Alaska Native Claims Settlement Act on the basis of a protraction diagram shall receive any gain or bear any loss of acreage due to errors, if any, in such protraction diagram. 43 USC 1637. 43 USC 1601 note.

NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 910. The National Environmental Policy Act of 1969 (83 Stat. 852) shall not be construed, in whole or in part, as requiring the preparation or submission of an environmental impact statement for withdrawals, conveyances, regulations, orders, easement determinations, or other actions which lead to the issuance of conveyances to Natives or Native Corporations, pursuant to the Alaska Native Claims Settlement Act, or this Act. Nothing in this section shall be construed as affirming or denying the validity of any withdrawals by the Secretary under section 14(h)(3) of the Alaska Native Claims Settlement Act. 43 USC 1638. 42 USC 4321 note. 43 USC 1613.

TECHNICAL AMENDMENT TO PUBLIC LAW 94-204

SEC. 911. Section 15(a) of the Act of January 2, 1976 (Public Law 94-204, 89 Stat. 1154-1155), is amended— 43 USC 1611 note.

(1) by striking out the description beginning with "Township 36 south, range 52 west;" and all that follows through "Township

41 south, range 53 west, sections 1, 2, 11, 12, 13 S. M., Alaska, notwithstanding;" and inserting in lieu thereof the following:

"Township 36 south, range 52 west, all;

"Township 37 south, range 51 west, all;

"Township 37 south, range 52 west, all;

"Township 37 south, range 53 west, sections 1 through 4, 9 through 16, 21 through 24, and the north half of sections 25 through 28;

"Township 38 south, range 51 west, sections 1 through 5, 9, 10, 12, 13, 18, 24, and 25;

"Township 38 south, range 52 west, sections 1 through 35;

"Township 38 south, range 53 west, sections 1, 12, 13, 24, 25, and 26;

"Township 39 south, range 51 west, sections 1, 6, 7, 16 through 21, 28 through 33, and 36;

"Township 39 south, range 52 west, sections 1, 2, 11 through 15, and 22 through 24;

"Township 39 south, range 53 west, sections 33 through 36, and the south half of section 26;

"Township 40 south, range 51 west, sections 2 and 6;

"Township 40 south, range 52 west, sections 6 through 10, 15 through 21, and 27 through 36;

"Township 40 south, range 53 west, sections 1 through 19, 21 through 28, and 34 through 36;

"Township 40 south, range 54 west, sections 1 through 34;

"Township 41 south, range 52 west, sections 7, 8, 9, 16, 17, and 18;

"Township 41 south, range 53 west, sections 1, 4, 5, 8, 9, 11, 12, and 16;

"Township 41 south, range 54 west, section 6, S. M., Alaska;"; and

(2) by striking out "The" in the undesignated paragraph immediately following such description and inserting in lieu thereof "Notwithstanding the".

TITLE X—FEDERAL NORTH SLOPE LANDS STUDIES, OIL AND GAS LEASING PROGRAM AND MINERAL ASSESSMENTS

OVERALL STUDY PROGRAM

16 USC 3141.

SEC. 1001. (a) The Secretary shall initiate and carry out a study of all Federal lands (other than submerged lands on the Outer Continental Shelf) in Alaska north of 68 degrees north latitude and east of the western boundary of the National Petroleum Reserve—Alaska, other than lands included in the National Petroleum Reserve—Alaska and in conservation system units established by this Act.

(b) The study shall utilize a systematic interdisciplinary approach to—

(1) assess the potential oil and gas resources of these lands and make recommendations concerning future use and management of those resources including an evaluation of alternative transportation routes needed for oil and gas development;

(2) review the wilderness characteristics, and make recommendations for wilderness designation, of these lands; and

(3) study, and make recommendations for protection of, the wildlife resources of these lands.

(c) After completion of the study, the Secretary shall make findings on—

(1) the potential oil and gas resources of these lands;

(2) the impact of oil and gas development on the wildlife resources on these lands, particularly the Arctic and Porcupine caribou herds and the polar bear;

(3) the national need for development of the oil and gas resources of all or any portion of these lands;

(4) the national interest in preservation of the wilderness characteristics of these lands; and

(5) the national interest in protection of the wildlife resources of these lands.

(d) In the course of the study, the Secretary shall consult with the Secretary of Energy and other Federal agencies, the State of Alaska, Native Village and Regional Corporations, the North Slope Borough, the Alaska Land Use Council and the Government of Canada. The Secretary shall provide an opportunity for public review and comment on a draft study and proposed findings prior to their final approval. Public review and comment.

(e) The Secretary shall submit the study and his findings to the President and the Congress no later than eight years after the date of enactment of this Act. The Secretary shall submit annual reports to Congress on the progress in carrying out this title. Report to President and Congress.

(f) Nothing in this title shall be construed as impeding, delaying, or otherwise affecting the selection and conveyance of land to the State pursuant to the Alaska Statehood Act, or any other Federal law referred to in section 102(3)(A) of this Act, and to the Natives pursuant to the Alaska Native Claims Settlement Act and this Act. 48 USC note prec. 21. 43 USC 1601 note.

ARCTIC NATIONAL WILDLIFE REFUGE COASTAL PLAIN RESOURCE ASSESSMENT

SEC. 1002. (a) PURPOSE.—The purpose of this section is to provide for a comprehensive and continuing inventory and assessment of the fish and wildlife resources of the coastal plain of the Arctic National Wildlife Refuge; an analysis of the impacts of oil and gas exploration, development, and production, and to authorize exploratory activity within the coastal plain in a manner that avoids significant adverse effects on the fish and wildlife and other resources. 16 USC 3142.

(b) DEFINITIONS.—As used in this section—

(1) The term "coastal plain" means that area identified as such in the map entitled "Arctic National Wildlife Refuge", dated August 1980.

(2) The term "exploratory activity" means surface geological exploration or seismic exploration, or both, for oil and gas within the coastal plain.

(c) BASELINE STUDY.—The Secretary, in consultation with the Governor of the State, Native Village and Regional Corporations, and the North Slope Borough within the study area and interested persons, shall conduct a continuing study of the fish and wildlife (with special emphasis on caribou, wolves, wolverines, grizzly bears, migratory waterfowl, musk oxen, and polar bears) of the coastal plain and their habitat. In conducting the study, the Secretary shall—

(A) assess the size, range, and distribution of the populations of the fish and wildlife;

(B) determine the extent, location and carrying capacity of the habitats of the fish and wildlife;

(C) assess the impacts of human activities and natural processes on the fish and wildlife and their habitats;

(D) analyze the potential impacts of oil and gas exploration, development, and production on such wildlife and habitats; and

(E) analyze the potential effects of such activities on the culture and lifestyle (including subsistence) of affected Native and other people.

Results and revisions, publication.

Within eighteen months after the enactment date of this Act, the Secretary shall publish the results of the study as of that date and shall thereafter publish such revisions thereto as are appropriate as new information is obtained.

(d) GUIDELINES.—(1) Within two years after the enactment date of this Act, the Secretary shall by regulation establish initial guidelines governing the carrying out of exploratory activities. The guidelines shall be based upon the results of the study required under subsection (c) and such other information as may be available to the Secretary. The guidelines shall include such prohibitions, restrictions, and conditions on the carrying out of exploratory activities as the Secretary deems necessary or appropriate to ensure that exploratory activities do not significantly adversely affect the fish and wildlife, their habitats, or the environment, including, but not limited to—

(A) a prohibition on the carrying out of exploratory activity during caribou calving and immediate post-calving seasons or during any other period in which human activity may have adverse effects;

(B) temporary or permanent closing of appropriate areas to such activity;

(C) specification of the support facilities, equipment and related manpower that is appropriate in connection with exploratory activity; and

(D) requirements that exploratory activities be coordinated in such a manner as to avoid unnecessary duplication.

(2) The initial guidelines prescribed by the Secretary to implement this subsection shall be accompanied by an environmental impact statement on exploratory activities. The initial guidelines shall thereafter be revised to reflect changes made in the baseline study and other appropriate information made available to the Secretary.

(e) EXPLORATION PLANS.—(1) After the initial guidelines are prescribed under subsection (d), any person including the United States Geological Survey may submit one or more plans for exploratory activity (hereinafter in this section referred to as "exploration plans") to the Secretary for approval. An exploration plan must set forth such information as the Secretary may require in order to determine whether the plan is consistent with the guidelines, including, but not limited to—

(A) a description and schedule of the exploratory activity proposed to be undertaken;

(B) a description of the equipment, facilities, and related manpower that would be used in carrying out the activity;

(C) the area in which the activity would be undertaken; and

(D) a statement of the anticipated effects that the activity may have on fish and wildlife, their habitats and the environment.

Publication in Federal Register.

(2) Upon receiving any exploration plan for approval, the Secretary shall promptly publish notice of the application and the text of the plan in the Federal Register and newspapers of general circulation in the State. The Secretary shall determine, within one hundred and twenty days after any plan is submitted for approval, if the plan is consistent with the guidelines established under subsection (d). If the

Secretary determines that the plan is so consistent, he shall approve the plan: except that no plan shall be approved during the two-year period following the date of enactment of this Act. Before making the determination, the Secretary shall hold at least one public hearing in the State for purposes of receiving the comments and views of the public on the plan. The Secretary shall not approve of any plan submitted by the United States Geological Survey unless he determines that (1) no other person has submitted a plan for the area involved which meets established guidelines and (2) the information which would be obtained is needed to make an adequate report under subsection (h). The Secretary, as a condition of approval of any plan under this section—

Public hearing.

Approval condition.

(A) may require that such modifications be made to the plan as he considers necessary and appropriate to make it consistent with the guidelines;

(B) shall require that all data and information (including processed, analyzed and interpreted information) obtained as a result of carrying out the plan shall be submitted to the Secretary; and

(C) shall make such data and information available to the public except that any processed, analyzed and interpreted data or information shall be held confidential by the Secretary for a period of not less than two years following any lease sale including the area from which the information was obtained.

(f) MODIFICATION TO EXPLORATION PLANS.—If at any time while exploratory activity is being carried out under an exploration plan approved under subsection (e), the Secretary, on the basis of information available to him, determines that continuation of further activities under the plan or permit will significantly adversely affect fish or wildlfe, their habitat, or the environment, the Secretary may suspend the carrying out of activities under the plan or permit for such time, make such modifications to the plan or to the terms and conditions of the permit (or both suspend and so modify) as he determines necessary and appropriate.

(g) CIVIL PENALTIES.—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have violated any provision of a plan approved under subsection (e) or any term or condition of a permit issued under subsection (f), or to have committed any act prohibited under subsection (d) shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $10,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed, and, with respect to the violator, the history of any prior offenses, his demonstrated good faith in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The

Review.

findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.

(3) If any person fails to pay an assessment of a civil penalty against him under paragraph (1) after it has become final, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this subsection unless the matter is pending in court for judicial review or recovery of assessment.

(h) REPORT TO CONGRESS.—Not earlier than five years after the enactment date of this Act and not later than five years and nine months after such date, the Secretary shall prepare and submit to Congress a report containing—

(1) the identification by means other than drilling of exploratory wells of those areas within the coastal plain that have oil and gas production potential and estimate of the volume of the oil and gas concerned;

(2) the description of the fish and wildlife, their habitats, and other resources that are within the areas identified under paragraph (1);

(3) an evaluation of the adverse effects that the carrying out of further exploration for, and the development and production of, oil and gas within such areas will have on the resources referred to in paragraph (2);

(4) a description of how such oil and gas, if produced within such area, may be transported to processing facilities;

(5) an evaluation of how such oil and gas relates to the national need for additional domestic sources of oil and gas; and

(6) the recommendations of the Secretary with respect to whether further exploration for, and the development and production of, oil and gas within the coastal plain should be permitted and, if so, what additional legal authority is necessary to ensure that the adverse effects of such activities on fish and wildlife, their habitats, and other resources are avoided or minimized.

(i) EFFECT OF OTHER LAWS.—Until otherwise provided for in law enacted after the enactment date of this Act, all public lands within the coastal plain are withdrawn from all forms of entry or appropriation under the mining laws, and from operation of the mineral leasing laws, of the United States.

PROHIBITION ON DEVELOPMENT

16 USC 3143.

SEC. 1003. Production of oil and gas from the Arctic National Wildlife Refuge is prohibited and no leasing or other development leading to production of oil and gas from the range shall be undertaken until authorized by an Act of Congress.

WILDERNESS PORTION OF STUDY

Report to President. 16 USC 3144.

SEC. 1004. (a) As part of the study, the Secretary shall review the suitability or nonsuitability for preservation as wilderness of the

Federal lands described in section 1001 and report his findings to the President.

(b) The President shall advise the Senate and the House of Representatives of his recommendations with respect to the designation of the area or any part thereof as wilderness together with a map thereof and a definition of its boundaries. Presidential recommendations to Congress.

(c) Subject to valid existing rights and the provisions of section 1002 of this Act, the wilderness study area designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System. Already established uses may be permitted to continue, subject to such restrictions as the Secretary deems desirable, in the manner and degree in which the same were being conducted on the date of enactment of this Act.

WILDLIFE RESOURCES PORTION OF STUDY

SEC. 1005. The Secretary shall work closely with the State of Alaska and Native Village and Regional Corporations in evaluating the impact of oil and gas exploration, development, production, and transportation and other human activities on the wildlife resources of these lands, including impacts on the Arctic and Porcupine caribou herds, polar bear, muskox, grizzly bear, wolf, wolverine, seabirds, shore birds, and migratory waterfowl. In addition the Secretary shall consult with the appropriate agencies of the Government of Canada in evaluating such impacts particularly with respect to the Porcupine caribou herd. 16 USC 3145. Consultation with Canadian Government.

TRANSPORTATION ALTERNATIVES PORTION OF STUDY

SEC. 1006. In studying oil and gas alternative transportation systems, the Secretary shall consult with the Secretary of Transportation and shall consider— 16 USC 3146.

(1) the extent to which environmentally and economically feasible alternative routes could be established;

(2) the prospective oil and gas production potential of this area of Alaska for each alternative transportation route; and

(3) the environmental and economic costs and other values associated with such alternative routes.

ARCTIC RESEARCH STUDY

SEC. 1007. (a) The Secretary, the Secretary of Defense, and the Secretary of Energy shall initiate and carry out a study of the mission, facilities and administration of the Naval Arctic Research Laboratory (NARL), at Point Barrow, Alaska. The study shall review the historical responsibilities carried out at NARL and their contribution to applied and basic Arctic research. The study shall specifically address and the Secretary shall make recommendations on the need for redirecting the United States Arctic research policy and the role of the NARL facilities in developing and implementing that policy. 16 USC 3147.

(b) The Secretaries shall assess the future use of NARL in— Naval Arctic Research Laboratory, assessment.

(1) developing relevant scientific information on the Arctic environment and utilizing applied research to (A) deal with the unique problems the Arctic presents in providing public services; (B) minimize the impact of resource development on the environ-

ment and the culture of the Native people; and (C) promote international cooperation among the Nations which share responsibility for the Arctic environment;

(2) assessing the impact of oil and gas exploration, development, and transportation on the Arctic environment, including impact on fish, marine and land mammals, and migratory waterfowl;

(3) developing advanced design technologies, operational practices, and transportation systems to improve the environmental safety and efficiency of oil and gas exploration and production in the Arctic, including offshore activities;

(4) enlarging the body of knowledge on Arctic ice conditions and developing practical and efficient means of dealing with potential oil spills and other hazards associated with resource development in Alaska's Arctic; and

(5) developing a comprehensive Arctic policy for the Federal Government that will accommodate the need for development and use of Arctic resources with appropriate recognition and consideration given to the unique nature of the Arctic environment and the needs of its Native residents.

(c) After completion of the study, the Secretaries shall make recommendations on—

(1) changes in the mission and management of NARL necessary to accomplish the research and policy goals addressed in the study;

(2) the appropriate Federal agency or agencies that should have primary responsibility for management of NARL;

(3) changes in the organizational structure of NARL that would allow greater involvement by State and private organizations in the use, management and/or funding of NARL; and

(4) the appropriate level of Federal funding for scientific and technological research on the Arctic environment and its uses.

Consultation.

(d) In the course of the study, the Secretaries shall consult with representatives of the Department of Navy, the National Oceanic and Atmospheric Administration, the National Science Foundation, the Smithsonian Institution, the State of Alaska, local governments, representatives of public and private institutions conducting Arctic research, and Native Village and Regional Corporations in the areas now affected by the activities of NARL. The Secretaries shall provide an opportunity for public review and comment on the draft report and proposed recommendations prior to final approval, and shall include any recommendations of the local community in the final study.

Public review and comment.

Study submittal to Congress.

(e) The Secretaries shall submit the study and their recommendations to the Congress no later than one year after the date of enactment of this Act.

(f) Pending submission of the study to the Congress, the President is directed to continue the operation of NARL at the level of funding provided for in fiscal year 1979.

OIL AND GAS LEASING PROGRAM FOR NON-NORTH SLOPE FEDERAL LANDS

16 USC 3148.
30 USC 181 note.

SEC. 1008. (a) The Secretary shall establish, pursuant to the Mineral Leasing Act of 1920, as amended, an oil and gas leasing program on the Federal lands of Alaska not subject to the study required by section 1001 of this Act, other than lands included in the National Petroleum Reserve—Alaska. Such program shall not be

undertaken by the Secretary on those lands where applicable law prohibits such leasing or on those units of the National Wildlife Refuge System where the Secretary determines, after having considered the national interest in producing oil and gas from such lands, that the exploration for and development of oil or gas would be incompatible with the purpose for which such unit was established.

(b)(1)(A) In such areas as the Secretary deems favorable for the discovery of oil or gas, he shall conduct a study, or studies, or collect and analyze information obtained by permittees authorized to conduct studies under this section, of the oil and gas potential of such lands and those environmental characteristics and wildlife resources which would be affected by the exploration for and development of such oil and gas. Study.

(B) The Secretary is authorized to issue permits for study, including geological, geophysical, and other assessment activities, if such activities can be conducted in a manner which is consistent with the purposes for which each affected area is managed under applicable law. Permits.

(2) The Secretary shall consult with the Secretary of Energy regarding the national interest involved in exploring for and developing oil and gas from such lands and shall seek the views of the Governor of the State of Alaska, Alaskan local governments, Native Regional and Village Corporations, the Alaska Land Use Council, representatives of the oil and gas industry, conservation groups, and other interested groups and individuals in determining which land should be studied and/or leased for the exploration and development of oil and gas. Consultation.

(3) The Secretary shall encourage the State to undertake similar studies on lands associated, either through geological or other land values or because of possible transportation needs, with Federal lands. The Secretary shall integrate these studies, to the maximum extent practicable, with studies on Federal lands so that needs for cooperation between the Federal Government and the State of Alaska in managing energy and other natural resources, including fish and wildlife, can be established early in the program.

(4) The Secretary shall report to the Congress by October 1, 1981, and yearly thereafter, on his efforts pursuant to this Act regarding the leasing of, and exploration and development activities on, such lands. Report to Congress.

(c) At such time as the studies requested in subsection (b)(4) are completed by the Secretary, or at such time as the Secretary determines that sufficient interest has been indicated in exploring an area for oil or gas, and leasing should be commenced, he shall identify those areas which he determines to be favorable for the discovery of oil or gas (hereinafter referred to as "favorable petroleum geological provinces"). In making such determination, the Secretary shall utilize all information obtained in studies conducted under subsection (b) of this section as well as any other information he may develop or require by regulation to be transmitted.

(d) Pursuant to the Mineral Leasing Act of 1920, as amended, the Secretary is authorized to issue leases, on the Federal lands described in this section, under such terms and conditions as he may, by regulation, prescribe. Areas which are determined by the Secretary to be within favorable petroleum geological provinces shall be leased only by competitive bidding. 30 USC 181 note.

(e) At such time as paying quantities of oil or gas are discovered under a noncompetitive lease issued pursuant to the Mineral Leasing Act of 1920, the Secretary shall suspend all further noncompetitive

leasing in the area and shall determine the favorable petroleum geological province in proximity to such discovery. All further leasing in such area shall be in accordance with the requirements of subsection (d) of this section.

Exploration plan.

(f) Prior to any exploration activities on a lease issued pursuant to this section, the Secretary shall require the lessee to describe exploration activities in an exploration plan. He shall approve such plan if such activities can be conducted in conformity with such requirements as may be made by the Secretary for the protection and use of the land for the purpose for which it is managed under applicable law.

(g) Subsequent to a discovery of oil or gas in paying quantities, and prior to developing and producing such oil and gas, the Secretary shall require the lessee to describe development and production activities in a development and production plan. He shall approve such plan if such activities may be conducted in conformity with such requirements as may be made by the Secretary for the protection and use of the land for the purpose for which it is managed under applicable law.

(h) The Secretary shall monitor the performance of the lessee and, if he determines that due to significant changes in circumstances regarding that operation, including environmental or economic changes, new requirements are needed, he may require a revised development and production plan.

Operation suspension and cancellation.

(i) If the Secretary determines that immediate and irreparable damage will result from continuation in force of a lease, that the threat will not disappear and that the advantages of cancellation outweigh the advantages of continuation in force of a lease, he shall suspend operations for up to five years. If such a threat persists beyond such five-year suspension period, he shall cancel a lease and provide compensation to the lease under such terms as the Secretary establishes, by regulation, to be appropriate.

OIL AND GAS LEASE APPLICATIONS

16 USC 3149.

SEC. 1009. (a) Notwithstanding any other provision of law or regulation, whenever the Secretary receives an application for an oil and gas lease pursuant to the Mineral Leasing Act of 1920 for lands in Alaska within a unit of the National Wildlife Refuge System which are not also part of the National Wilderness Preservation System he shall, in addition to any other requirements of applicable law, follow the procedures set forth in this section.

30 USC 181 note.

(b) Any decision to issue or not to issue a lease shall be accompanied by a statement setting forth the reasons for the decision, including the reasons why oil and gas leasing would be compatible or incompatible with the purposes of the refuge.

(c) If the Secretary determines that the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 do not apply to his decision, the Secretary shall render his decision within six months after receipt of a lease application. If such requirements are applicable to the Secretary's decision, he shall render his decision within three months after publication of the final environmental impact statement.

42 USC 4332.

ALASKA MINERAL RESOURCE ASSESSMENT PROGRAM

16 USC 3150.

SEC. 1010. (a) MINERAL ASSESSMENTS.—The Secretary shall, to the full extent of his authority, assess the oil, gas, and other mineral

potential on all public lands in the State of Alaska in order to expand the data base with respect to the mineral potential of such lands. The mineral assessment program may include, but shall not be limited to, techniques such as side-looking radar imagery and, on public lands other than such lands within the national park system, core and test drilling for geologic information, notwithstanding any restriction on such drilling under the Wilderness Act. For purposes of this Act, core and test drilling means the extraction by drilling of subsurface geologic samples in order to assess the metalliferous or other mineral values of geologic terrain, but shall not be construed as including exploratory drilling of oil and gas test wells. To the maximum extent practicable, the Secretary shall consult and exchange information with the State of Alaska regarding the responsibilities of the Secretary under this section and similar programs undertaken by the State. In order to carry out mineral assessments authorized under this or any other law, including but not limited to the National Uranium Resource Evaluation program, the Secretary shall allow for access by air for assessment activities permitted in this subsection to all public lands involved in such study. He shall consult with the Secretary of Energy and heads of other Federal agencies carrying out such programs, to determine such reasonable requirements as may be necessary to protect the resources of such area, including fish and wildlife. Such requirements may provide that access will not occur during nesting, calving, spawning or such other times as fish and wildlife in the specific area may be especially vulnerable to such activities. The Secretary is authorized to enter into contracts with public or private entities to carry out all or any portion of the mineral assessment program. This section shall not apply to the lands described in section 1001 of this Act.

16 USC 1131 note.

Consultation.

Contracts.

(b) REGULATIONS.—Activities carried out in conservation system units under subsection (a) shall be subject to regulations promulgated by the Secretary. Such regulations shall ensure that such activities are carried out in an environmentally sound manner—

(1) which does not result in lasting environmental impacts which appreciably alter the natural character of the units or biological or ecological systems in the units; and

(2) which is compatible with the purposes for which such units are established.

PRESIDENTIAL TRANSMITTAL

SEC. 1011. On or before October 1, 1982, and annually thereafter, the President shall transmit to the Congress all pertinent public information relating to minerals in Alaska gathered by the United States Geological Surveys, Bureau of Mines, and any other Federal agency.

Mineral information, transmittal to Congress.
16 USC 3151.

TITLE XI—TRANSPORTATION AND UTILITY SYSTEMS IN AND ACROSS, AND ACCESS INTO, CONSERVATION SYSTEM UNITS

FINDINGS

SEC. 1101. Congress finds that—

16 USC 3161.

(a) Alaska's transportation and utility network is largely undeveloped and the future needs for transportation and utility systems in Alaska would best be identified and provided for through an orderly,

continuous decisionmaking process involving the State and Federal Governments and the public;

(b) the existing authorities to approve or disapprove applications for transportation and utility systems through public lands in Alaska are diverse, dissimilar, and, in some cases, absent; and

(c) to minimize the adverse impacts of siting transportation and utility systems within units established or expanded by this Act and to insure the effectiveness of the decisionmaking process, a single comprehensive statutory authority for the approval or disapproval of applications for such systems must be provided in this Act.

DEFINITIONS

16 USC 3162.

SEC. 1102. For purposes of this title—

(1) The term "applicable law" means any law of general applicability (other than this title) under which any Federal department or agency has jurisdiction to grant any authorization (including but not limited to, any right-of-way, permit, license, lease, or certificate) without which a transportation or utility system cannot, in whole or in part, be established or operated.

(2) The term "applicant" means any public or private person, including, but not limited to, any Federal department or agency.

(3) The term "Federal agency" means any Federal department or agency that has any function or duty under applicable law.

(4)(A) The term "transportation or utility system" means any type of system described in subparagraph (B) if any portion of the route of the system will be within any conservation system unit, national recreation area, or national conservation area in the State (and the system is not one that the department or agency having jurisdiction over the unit or area is establishing incident to its management of the unit or area).

(B) The types of systems to which subparagraph (A) applies are as follows:

(i) Canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other systems for the transportation of water.

(ii) Pipelines and other systems for the transportation of liquids other than water, including oil, natural gas, synthetic liquid and gaseous fuels, and any refined product produced therefrom.

(iii) Pipelines, slurry and emulsion systems and conveyor belts for the transportation of solid materials.

(iv) Systems for the transmission and distribution of electric energy.

(v) Systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication.

(vi) Improved rights-of-way for snow machines, air cushion vehicles, and other all-terrain vehicles.

(vii) Roads, highways, railroads, tunnels, tramways, airports, landing strips, docks, and other systems of general transportation.

Any system described in this subparagraph includes such related structures and facilities (both temporary and permanent) along the route of the system as may be minimally necessary for the construction, operation, and maintenance of the system. Such related structures and facilities shall be described in the application required by section 1104, and shall be approved or disapproved in accordance with the procedures set forth in this title.

EFFECT OF TITLE

SEC. 1103. Except as specifically provided for in this title, applicable law shall apply with respect to the authorization and administration of transportation or utility systems. 16 USC 3163.

PROCEDURAL REQUIREMENTS

SEC. 1104. (a) IN GENERAL.—Notwithstanding any provision of applicable law, no action by any Federal agency under applicable law with respect to the approval or disapproval of the authorization, in whole or in part, of any transportation or utility system shall have any force or effect unless the provisions of this section are complied with. 16 USC 3164.

(b)(1) CONSOLIDATED APPLICATIONS.—Within one hundred and eighty days after the date of enactment of this Act, the Secretary, the Secretary of Agriculture, and the Secretary of Transportation, in consultation with the heads of other appropriate Federal agencies, shall jointly prescribe and publish a consolidated application form to be used for applying for the approval of each type of transportation or utility system. Each such application form shall be designed to elicit such information as may be necessary to meet the requirements of this title and the applicable law with respect to the type of system concerned.

(2) For purposes of this section, the heads of all appropriate Federal agencies, including the Secretary of Transportation, shall share decisionmaking responsibility in the case of any transportation or utility system described in section 1102(4)(B) (ii), (iii), or (vii); but with respect to any such system for which he does not have programmatic responsibility, the Secretary of Transportation shall provide to the other Federal agencies concerned such planning and other assistance as may be appropriate.

(c) FILING.—Each applicant for the approval of any transportation or utility system shall file on the same day an application with each appropriate Federal agency. The applicant shall utilize the consolidated form prescribed under subsection (b) for the type of transportation or utility system concerned.

(d) AGENCY NOTICE.—(1) Within sixty days after the receipt of an application filed pursuant to subsection (c), the head of each Federal agency with whom the application was filed shall inform the applicant in writing that, on its face—

(A) the application appears to contain the information required by this title and applicable law insofar as that agency is concerned; or

(B) the application does not contain such information.

(2) Any notice provided under paragraph (1)(B) shall specify what additional information the applicant must provide. If the applicant provides additional information, the head of the Federal agency must inform the applicant in writing, within thirty days after receipt of such information, whether the information is sufficient.

(e) ENVIRONMENTAL IMPACT STATEMENT.—The draft of any environmental impact statement required under the National Environmental Policy Act of 1969 in connection with any application filed under this section shall be completed, within nine months from the date of filing, by the head of the Federal agency assigned lead responsibility for the statement. Any such statement shall be jointly prepared by all Federal agencies with which the application was filed under subsection (c). The final environmental impact statement shall be com- 42 USC 4321 note.

Publication in Federal Register.

pleted within one year from the date of such filing. Such nine-month and one-year periods may be extended for good cause by the Federal agency head assigned lead responsibility for the preparation of such statement if he determines that additional time is necessary for such preparation, notifies the applicant in writing of such determination, and publishes notice of such determination, together with the reasons therefor, in the Federal Register. The provisions of section 304 of the Federal Land Policy and Management Act of 1976 shall apply to each environmental impact statement under this subsection in the same manner as such provisions apply to applications relating to the public lands referred to in such section 304. The Federal agency assigned lead responsibility shall, in conjunction with such other Federal agencies before which the application is pending, hold public hearings in the District of Columbia and an appropriate location in the State on each draft joint environmental impact statement and the views expressed therein shall be considered by all Federal agencies concerned before publication of the final joint environmental impact statement.

43 USC 1734.

(f) OTHER VIEWS.—During both the nine-month period, and the succeeding three-month period plus any extension thereof provided for in subsection (e), the heads of the Federal agencies concerned shall solicit and consider the views of other Federal departments and agencies, the Alaska Land Use Council, the State, affected units of local government in the State, and affected corporations formed pursuant to the Alaska Native Claims Settlement Act, and, after public notice, shall receive and consider statements and recommendations regarding the application submitted by interested individuals and organizations.

(g) AGENCY DECISION.—(1) Within four months after the final environmental impact statement is published in accordance with subsection (e) with respect to any transportation or utility system, each Federal agency shall make a decision to approve or disapprove, in accordance with applicable law, each authorization that applies with respect to the system and that is within the jurisdiction of that agency.

(2) The head of each Federal agency, in making a decision referred to in paragraph (1), shall consider, and make detailed findings supported by substantial evidence, with respect to—

(A) the need for, and economic feasibility of, the transportation or utility system;

(B) alternative routes and modes of access, including a determination with respect to whether there is any economically feasible and prudent alternative to the routing of the system through or within a conservation system unit, national recreation area, or national conservation area and, if not, whether there are alternative routes or modes which would result in fewer or less severe adverse impacts upon the conservation system unit;

(C) the feasibility and impacts of including different transportation or utility systems in the same area;

(D) short- and long-term social, economic, and environmental impacts of national, State, or local significance, including impacts on fish and wildlife and their habitat, and on rural, traditional lifestyles;

(E) the impacts, if any, on the national security interests of the United States, that may result from approval or denial of the application for a transportation or utility system;

(F) any impacts that would affect the purposes for which the Federal unit or area concerned was established;

(G) measures which should be instituted to avoid or minimize negative impacts; and

(H) the short- and long-term public values which may be adversely affected by approval of the transportation or utility system versus the short- and long-term public benefits which may accrue from such approval.

STANDARDS FOR GRANTING CERTAIN AUTHORIZATIONS

SEC. 1105. In any case in which there is no applicable law with respect to a transportation or utility system, the head of the Federal agency concerned shall, within four months after the date of filing of any final Environmental Impact Statement, make recommendations, for purposes of section 1106(b), to grant such authorizations as may be necessary to establish such system, in whole or in part, within the conservation system unit concerned if he determines that— 16 USC 3165.

(1) such system would be compatible with the purposes for which the unit was established; and

(2) there is no economically feasible and prudent alternative route for the system.

AGENCY, PRESIDENTIAL, AND CONGRESSIONAL ACTIONS

SEC. 1106. (a)(1) AGENCY ACTION IN CASES OTHER THAN THOSE INVOLVING SECTION 1105 OR WILDERNESS AREAS.—In the case of any application for the approval of any transportation or utility system to which section 1105 does not apply or that does not occupy, use, or traverse any area within the National Wilderness Preservation System, if, in compliance with section 1104— 16 USC 3166.

(A) each Federal agency concerned decides to approve each authorization within its jurisdiction with respect to that system, then the system shall be deemed to be approved and each such agency shall promptly issue, in accordance with applicable law, such rights-of-way, permits, licenses, leases, certificates, or other authorizations as are necessary with respect to the establishment of the system; or

(B) one or more Federal agencies decide to disapprove any authorization within its jurisdiction with respect, to that system, then the system shall be deemed to be disapproved and the applicant for the system may appeal the disapproval to the President.

(2) If an applicant appeals under paragraph (1)(B), the President, within four months after receiving the appeal, shall decide whether to approve or deny the application. The President shall approve the application if he finds, after consideration of the factors set forth in section 1104(g)(2), that such approval would be in the public interest and that (1) such system would be compatible with the purposes for which the unit was established; and (2) there is no economically feasible and prudent alternative route for the system. In making a decision, the President shall consider any environmental impact statement prepared pursuant to section 1104(e), comments of the public and Federal agencies received during the preparation of such statement, and the findings and recommendations, if any, of each Federal agency that rendered a decision with respect to the application. The President's decision to approve or deny the application shall be published in the Federal Register, together with a statement of the reasons for his determination. Appeals, Presidential review.

Publication in Federal Register.

(3) If the President approves an application under paragraph (2), each Federal agency concerned shall promptly issue, in accordance with applicable law, such rights-of-way, permits, licenses, leases, certificates, or other authorizations as are necessary with respect to the establishment of the system.

Judicial review.

(4) If the President denies an application under paragraph (2), the applicant shall be deemed to have exhausted his administrative remedies and may file suit in any appropriate Federal court to challenge such decision.

Presidential notification.

(b) AGENCY ACTION IN CASES INVOLVING SECTION 1105 OR WILDERNESS AREAS.—(1) In the case of any application for the approval of a transportation or utility system to which section 1105 applies or that proposes to occupy, use, or traverse any area within the National Wilderness Preservation System, each Federal agency concerned shall promptly submit to the President notification whether the agency tentatively approved or disapproved each authorization within its jurisdiction that applies with respect to the system. Such notification shall be accompanied by a statement of the reasons and findings supporting the agency position.

Presidential determination and recommendation to Congress.

(2) Within four months after receiving all notification referred to in paragraph (1) and after considering such notifications, any environmental impact statement prepared pursuant to section 1104(e), and the comments of the public and Federal agencies received during the preparation of such statement, the President shall decide whether or not the application for the system concerned should be approved. If the President denies an application the applicant shall be deemed to have exhausted his administrative remedies, and may file suit in any appropriate Federal court to challenge such decision. If the President approves the application, he shall submit to Congress his recommendation for approval of the transportation or utility system covered, whereupon the Congress shall consider the application as provided in subsection (c). The President shall include with his recommendation to Congress—

(A) the application which is the subject of his recommendation;

(B) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(C) the joint environmental impact statement;

(D) a statement of the conditions and stipulations which would govern the use of the system if approved by the Congress.

(c) CONGRESSIONAL APPROVAL.—(1) No application for any transportation or utility system with respect to which the President makes a recommendation for approval under subsection (b) shall be approved unless the Senate and House of Representatives approve a resolution described in paragraph (4) within the first period of one hundred and twenty calendar days of continuous session of the Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such recommendation.

(2) For purposes of this subsection—

(A) continuity of session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

(3) This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of each House of the Congress respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions

described by paragraph (6) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(4) For the purposes of this subsection, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the application for under title XI of the Alaska National Interest Lands Conservation Act submitted by the President to the Congress on , 19."; the first blank space therein to be filled in with the appropriate transportation or utility system and the second blank therein to be filled with the date on which the President submits the application to the House of Representatives and the Senate. "Resolution."

(5) Except as otherwise provided in this subsection, the provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of the resolution. 15 USC 719f.

(6) After an application for a transportation or utility system has been approved under subsection 1106(a), the appropriate Federal agencies shall issue appropriate authorizations in accordance with applicable law. In any case in which an application for a transportation or utility system has been approved pursuant to section 1106(b), the appropriate Federal agencies shall issue appropriate authorizations in accordance with title V of the Federal Lands Policy Management Act or other applicable law. After issuance pursuant to this subsection, the appropriate land managing agency shall administer the right-of-way in accordance with relevant management authorities of the land managing agency and title V of the Federal Lands Policy Management Act. 43 USC 1761.

RIGHTS-OF-WAY TERMS AND CONDITIONS

SEC. 1107. (a) TERMS AND CONDITIONS.—The Secretary, or the Secretary of Agriculture where national forest wilderness is involved, shall include in any right-of-way issued pursuant to an application under this title, terms and conditions which shall include, but not be limited to— 16 USC 3167.

(1) requirements to insure that, to the maximum extent feasible, the right-of-way is used in a manner compatible with the purposes for which the affected conservation system unit, national recreation area, or national conservation area was established or is managed;

(2) requirements for restoration, revegatation, and curtailment of erosion of the surface of the land;

(3) requirements to insure that activities in connection with the right-of-way will not violate applicable air and water quality standards and related facility siting standards established pursuant to law;

(4) requirements, including the minimum necessary width, designed to control or prevent—

(A) damage to the environment (including damage to fish and wildlife habitat),

(B) damage to public or private property, and

(C) hazards to public health and safety;

(5) requirements to protect the interests of individuals living in the general area of the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes; and

(6) requirements to employ measures to avoid or minimize adverse environmental, social or economic impacts.

(b) WILD AND SCENIC RIVERS SYSTEM.—Any transportation or utility system approved pursuant to this title which occupies, uses, or traverses any area within the boundaries of a unit of the National Wild and Scenic Rivers System shall be subject to such conditions as may be necessary to assure that the stream flow of, and transportation on, such river are not interfered with or impeded, and that the transportation or utility system is located and constructed in an environmentally sound manner.

(c) PIPELINE RIGHTS-OF-WAYS.—In the case of a pipeline described in section 28(a) of the Mineral Leasing Act of 1920, a right-of-way issued pursuant to this title shall be issued in the same manner as a right-of-way is granted under section 28, and the provisions of subsections (c) through (j), (l) through (q), and (u) through (y) of such section 28 shall apply to rights-of-way issued pursuant to this title.

30 USC 185.

EXPEDITED JUDICIAL REVIEW

16 USC 3168.

SEC. 1108. (a) It is the intent of Congress that any judicial review of any administrative actions, including compliance with the National Environmental Policy Act of 1969, pursuant to this title shall be expedited to the maximum extent possible.

42 USC 4321 note.

(b) Any proceeding before a Federal court in which an administrative action, including compliance with the National Environmental Policy Act of 1969, pursuant to this title is challenged shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way by such court, and such court shall render its final decision relative to any challenge within one hundred and twenty days from the date such challenge is brought unless such court determines that a longer period of time is required to satisfy the requirements of the United States Constitution.

(c) No court shall have jurisdiction to grant any injunctive relief lasting longer than ninety days against any action pursuant to this title except in conjunction with a final judgment entered in a case involving an action pursuant to this title.

VALID EXISTING RIGHTS

16 USC 3169.

SEC. 1109. Nothing in this title shall be construed to adversely affect any valid existing right of access.

SPECIAL ACCESS AND ACCESS TO INHOLDINGS

16 USC 3170.

SEC. 1110. (a) Notwithstanding any other provision of this Act or other law, the Secretary shall permit, on conservation system units, national recreation areas, and national conservation areas, and those public lands designated as wilderness study, the use of snowmachines (during periods of adequate snow cover, or frozen river conditions in the case of wild and scenic rivers), motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities (where such activities are permitted by this Act or other law) and for travel to and from villages and homesites. Such use shall be subject to reasonable regulations by the Secretary to protect the natural and other values of the conservation system units, national recreation

areas, and national conservation areas, and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area, the Secretary finds that such use would be detrimental to the resource values of the unit or area. Nothing in this section shall be construed as prohibiting the use of other methods of transportation for such travel and activities on conservation system lands where such use is permitted by this Act or other law.

(b) Notwithstanding any other provisions of this Act or other law, in any case in which State owned or privately owned land, including subsurface rights of such owners underlying public lands, or a valid mining claim or other valid occupancy is within or is effectively surrounded by one or more conservation system units, national recreation areas, national conservation areas, or those public lands designated as wilderness study, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate and feasible access for economic and other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the natural and other values of such lands.

TEMPORARY ACCESS

SEC. 1111. (a) IN GENERAL.—Notwithstanding any other provision of this Act or other law the Secretary shall authorize and permit temporary access by the State or a private landowner to or across any conservation system unit, national recreation area, national conservation area, the National Petroleum Reserve—Alaska or those public lands designated as wilderness study or managed to maintain the wilderness character or potential thereof, in order to permit the State or private landowner access to its land for purposes of survey, geophysical, exploratory, or other temporary uses thereof whenever he determines such access will not result in permanent harm to the resources of such unit, area, Reserve or lands. 16 USC 3171.

(b) STIPULATIONS AND CONDITIONS.—In providing temporary access pursuant to subsection (a), the Secretary may include such stipulations and conditions he deems necessary to insure that the private use of public lands is accomplished in a manner that is not inconsistent with the purposes for which the public lands are reserved and which insures that no permanent harm will result to the resources of the unit, area, Reserve or lands.

NORTH SLOPE HAUL ROAD

SEC. 1112. (a) IN GENERAL.—So long as that section of the North Slope Haul Road referred to in subsection (c) is closed to public use, but not including regulated local traffic north of the Yukon River, regulated industrial traffic and regulated high occupancy buses, such regulation to occur under State law, except that the Secretary, after consultation with the Secretary of Transportation, and the Governor of Alaska shall agree on the number of vehicles and seasonality of use, such section shall be free from any and all restrictions contained in title 23, United States Code, as amended or supplemented, or in any regulations thereunder. Prior to executing an agreement pursuant to this subsection, the Secretary and the Governor of Alaska shall consult with the head of any unit of local government which encompasses lands located adjacent to the route of the North Slope Haul Road. The State of Alaska shall have the authority to limit access, 16 USC 3172.

impose restrictions and impose tolls, notwithstanding any provision of Federal law.

(b) RELEASE.—The removal of restrictions shall not be conditioned upon repayment by the State of Alaska to the Treasurer of the United States of any Federal-aid highway funds paid on account of the section of highway described in subsection (c), and the obligation of the State of Alaska to repay these amounts is hereby released so long as the road remains closed as set forth in subsection (a).

(c) APPLICATION OF SECTION.—The provisions of this section shall apply to that section of the North Slope Haul Road, which extends from the southern terminus of the Yukon River Bridge to the northern terminus of the Road at Prudhoe Bay.

STIKINE RIVER REGION

Consultation with Canadian Government and report to Congress.
16 USC 3173.

SEC. 1113. Congress finds that there is a need to study the effect of this Act upon the ability of the Government of Canada to obtain access in the Stikine River region of southeast Alaska. Accordingly, within five years from the date of enactment of this Act, the President shall consult with the Government of Canada and shall submit a report to the Congress containing his findings and recommendations concerning the need, if any, to provide for such access. Such report shall include, among other things, an analysis of the need for access and the social, environmental and economic impacts which may result from various forms of access including, but not limited to, a road along the Stikine and Iskut Rivers, or other alternative routes, should such access be permitted.

TITLE XII—FEDERAL-STATE COOPERATION

ALASKA LAND USE COUNCIL

16 USC 3181.

SEC. 1201. (a) ESTABLISHMENT.—There is hereby established the Alaska Land Use Council (hereinafter in this title referred to as the "Council").

Presidential appointment.

(b) COCHAIRMEN.—The Council shall have Cochairmen. The Federal Cochairman shall be appointed by the President of the United States with the advice and consent of the Senate. The State Cochairman shall be the Governor of Alaska.

(c) MEMBERS.—In addition to the Cochairmen, the Council shall consist of the following members:

(1) the head of the Alaska offices of each of the following Federal agencies: National Park Service, United States Fish and Wildlife Service, United States Forest Service, Bureau of Land Management, Heritage Conservation and Recreation Service, National Oceanic and Atmospheric Administration, and Department of Transportation;

(2) the Commissioners of the Alaska Departments of Natural Resources, Fish and Game, Environmental Conservation, and Transportation; and

(3) two representatives selected by the Alaska Native Regional Corporations (in consultation with their respective Village Corporations) which represent the twelve geographic regions described in section 7(a) of the Alaska Native Claims Settlement Act.

43 USC 1606.

Any vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(d) STATE DECISION NOT TO PARTICIPATE.—If the State elects not to participate on the Council or elects to end its participation prior to termination of the Council, the Council shall be composed of the Federal Cochairman, the agencies referred to in subsection (c)(1) and the representatives of the Alaska Native Regional Corporations referred to in subsection (c)(3). The Council, so composed, shall carry out the administrative functions required by this title and shall make recommendations to Federal officials with respect to the matters referred to in subsections (i) and (j). In addition, the Council may make recommendations from time to time to State officials and private landowners concerning such matters.

(e) COMPENSATION AND EXPENSES.—

(1) The Federal Cochairman shall be compensated at a rate to be determined by the President but not in excess of that provided for level IV of the Executive Schedule contained in title V, United States Code. 5 USC 5315.

(2) The other members of the Council who are Federal employees shall receive no additional compensation for service on the Council.

(3) While away from their homes or regular places of business in the performance of services for the Council, members of the Council who are Federal employees, or members of the Council referred to in subsection (c)(3), shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(4) The State Cochairman and other State members of the Council have been compensated in accordance with applicable State law.

(f) ADMINISTRATIVE AUTHORITY.—

(1) The Cochairmen, acting jointly, shall have the authority to create and abolish employments and positions, including temporary and intermittent employments; to fix and provide for the qualification, appointment, removal, compensation, pension, and retirement rights of Council employees; and to procure needed office space, supplies, and equipment.

(2) The office of the Council shall be located in the State of Alaska.

(3) Except as provided in subsection (d), within any one fiscal year, the Federal Government shall pay only 50 per centum of the costs and other expenses other than salaries, benefits, et cetera of members, incurred by the Council in carrying out its duties under this Act. Federal costs and expenses.

(4) The Council is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement. Each department and agency of the Federal Government is authorized and directed to cooperate fully in making its services, equipment, personnel, and facilities available to the Council. Personnel detailed to the Council in accordance with the provisions of this subsection shall be under the direction of the Cochairman during any period such staff is so detailed.

(5) The Council is authorized to accept donations, gifts, and other contributions and to utilize such donations, gifts, and contributions in carrying out its functions under this Act.

(6) The Council shall keep and maintain complete accounts and records of its activities and transactions, and such accounts and records shall be available for public inspection.

(g) MEETINGS; AUTHORITIES; REPORTS.—The Council shall meet at the call of the Cochairmen, but not less than four times each year. In addition, the Council may, for the purpose of carrying out the provisions of this section, hold such hearings, take such testimony, receive such evidence and print or otherwise reproduce and distribute reports concerning so much of its proceedings as the Council deems advisable. No later than February 1 of each calendar year following the calendar year in which the Council is established, the Cochairmen shall submit to the President, the Congress, the Governor of Alaska, and the Alaska Legislature, in writing, a report on the activities of the Council during the previous year, together with their recommendations, if any, for legislative or other action in furtherance of the purposes of this section.

Publication in Federal Register.

(h) RULES.—The Council shall adopt such internal rules of procedure as it deems necessary. All Council meetings shall be open to the public, and at least fifteen days prior to the date when any meeting of the Council is to take place the Cochairman shall publish public notice of such meeting in the Federal Register and in newspapers of general circulation in various areas throughout Alaska.

(i) FUNCTIONS OF THE COUNCIL.—

(1) The Council shall conduct studies and advise the Secretary, the Secretary of Agriculture, other Federal agencies, the State, local governments, and Native Corporations with respect to ongoing, planned, and proposed land and resources uses in Alaska, including transportation planning, land use designation, fish and wildlife management, tourism, agricultural development, coastal zone management, preservation of cultural and historical resources, and such other matters as may be submitted for advice by the members.

(2) It shall be the function of the Council—

(A) to make recommendations to appropriate officials of the United States and the State of Alaska with respect to—

(i) proposed regulations promulgated by the United States to carry out its responsibilities under this Act;

(ii) management plans and studies required by this Act including, but not limited to, plans and studies for conservation system units, wild and scenic rivers, and wilderness areas;

(iii) proposed regulations promulgated by the State of Alaska to carry out its responsibilities under this Act and other State and Federal laws;

(B) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to ways to improve coordination and consultation between said governments in wildlife management, transportation planning, wilderness review, and other governmental activities which appear to require regional or statewide coordination;

(C) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to ways to insure that economic development is orderly and planned and is compatible with State and national economic, social, and environmental objectives;

(D) to make recommendations to appropriate officials of the governments of the United States and the State of

Alaska with respect to those changes in laws, policies, and programs relating to publicly owned lands and resources which the Council deems necessary;

(E) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to the inventory, planning, classification, management, and use of Federal and State lands, respectively, and to provide such assistance to Native Corporations upon their request;

(F) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to needed modifications in existing withdrawals of Federal and State lands; and

(G) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to the programs and budgets of Federal and State agencies responsible for the administration of Federal and State lands; and

(H) to make recommendations to appropriate officials of the governments of the United States, the State of Alaska, and Native Corporations for land exchanges between or among them.

(j) COOPERATIVE PLANNING.—

(1) The Council shall recommend cooperative planning zones, consisting of areas of the State in which the management of lands or resources by one member materially affects the management of lands or resources of another member or members including, but not limited to, such areas as the Northwest Arctic, the North Slope, and Bristol Bay. Federal members of the Council are authorized and encouraged to enter into cooperative agreements with Federal agencies, with State and local agencies, and with Native Corporations providing for mutual consultation, review, and coordination of resource management plans and programs within such zones. Cooperative agreements.

(2) With respect to lands, waters, and interests therein which are subject to a cooperative agreement in accordance with this subsection, the Secretary, in addition to any requirement of applicable law, may provide technical and other assistance to the landowner with respect to fire control, trespass control, law enforcement, resource use, and planning. Such assistance may be provided without reimbursement if the Secretary determines that to do so would further the purposes of the cooperative agreement and would be in the public interest.

(3) Cooperative agreements established pursuant to this section shall include a plan for public participation consistent with the guidelines established by the Council pursuant to subsection (m).

(k) NONACCEPTANCE OF COUNCIL RECOMMENDATIONS.—If any Federal or State agency does not accept a recommendation made by the Council pursuant to subsection (i) or (j), such agency, within thirty days of receipt of the recommendation, shall inform the Council, in writing, of its reason for such action.

(l) TERMINATION.—Unless extended by the Congress, the Council shall terminate ten years after the date of enactment of this Act. No later than one year prior to its termination date, the Cochairmen shall submit in writing to the Congress a report on the accomplishments of the Council together with their recommendations as to whether the Council should be extended or any other recommenda- Report to Congress.

tions for legislation or other action which they determine should be taken following termination of the Council to continue carrying out the purposes for which the Council was established.

(m) PUBLIC PARTICIPATION.—The Council shall establish and implement a public participation program to assist the Council to carry out its responsibilities and functions under this section. Such program shall include, but is not limited to—

(1) A committee of land-use advisors appointed by the Cochairmen made up of representatives of commercial and industrial land users in Alaska, recreational land users, wilderness users, environmental groups, Native Corporations, and other public and private organizations. To the maximum extent practicable, the membership of the committee shall provide a balanced mixture of national, State, and local perspective and expertise on land and resource use issues; and

(2) A system for (A) the identification of persons and communities, in rural and urban Alaska, who or which may be directly or significantly affected by studies conducted, or advice and recommendations given by the Council pursuant to this section, and (B) guidelines for, and implementation of, a system for effective public participation by such persons or communities in the development of such studies, advice and recommendations by the Council.

FEDERAL COORDINATION COMMITTEE

Establishment. 16 USC 3182.

SEC. 1202. There is hereby established a Federal Coordination Committee composed of the Secretaries (or their designees) of Agriculture, Energy, the Interior, and Transportation; the Administrators of the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration; and the Federal and State Cochairmen of the Council. Such Committee shall meet at least once every four months in order to coordinate those programs and functions of their respective agencies which could affect the administration of lands and resources in Alaska. The Federal Cochairman shall be the Chairman of the Committee. He shall be responsible for formulating an agenda for each meeting, after consultation with the other agency heads referred to herein, for providing any necessary staff support, and for preparing a brief summary of the disposition of matters discussed at each meeting. Such summary shall be published in the Federal Register.

Publication in Federal Register.

BRISTOL BAY COOPERATIVE REGION

16 USC 3183.

SEC. 1203. (a) DEFINITIONS.—For purposes of this section—

(1) The term "Governor" means the Governor of the State of Alaska.

(2) The term "region" means the land (other than any land within the National Park System) within the Bristol Bay Cooperative Region as generally depicted on the map entitled "Bristol Bay-Alaska Peninsula", dated October 1979.

Cooperative management plan.

(b) PURPOSE.—The purpose of this section is to provide for the preparation and implementation of a comprehensive and systematic cooperative management plan (hereinafter in this section referred to as the "plan"), agreed to by the United States and the State—

(1) to conserve the fish and wildlife and other significant natural and cultural resources within the region;

(2) to provide for the rational and orderly development of economic resources within the region in an environmentally sound manner;

(3) to provide for such exchanges of land among the Federal Government, the State, and other public or private owners as will facilitate the carrying out of paragraphs (1) and (2);

(4) to identify any further lands within the region which are appropriate for selections by the State under section 6 of the Alaska Statehood Act and this Act; and

(5) to identify any further lands within the region which may be appropriate for congressional designation as national conservation system units.

(c) FEDERAL-STATE COOPERATION IN PREPARATION OF PLANS.—(1) If within three months after the date of enactment of this Act, the Governor notifies the Secretary that the State wishes to participate in the preparation of the plan, and that the Governor will, to the extent of his authority, manage State lands within the region to conserve fish and wildlife during such preparation, the Secretary and the Governor shall undertake to prepare the plan which shall contain such provisions as are necessary and appropriate to achieve the purposes set forth in subsection (b), including but not limited to—

(A) the identification of the significant resources of the region;

(B) the identification of present and potential uses of land within the region;

(C) the identification of areas within the region according to their significant resources and the present or potential uses within each such area;

(D) the identification of land (other than any land within the National Park System) which should be exchanged in order to facilitate the conserving of fish and wildlife and the management and development of other resources within the region; and

(E) the specification of the uses which may be permitted in each area identified under paragraph (C) and the manner in which these uses shall be regulated by the Secretary or the State, as appropriate, if such plan is approved.

(2) The plan shall also—

(A) specify those elements of the plan, and its implementation, which the Secretary or the Governor:

(i) may modify without prior approval of both parties to the plan; and

(ii) may not modify without such prior approval; and

(B) include a description of the procedures which will be used to make modifications to which paragraph (A)(i) applies.

(d) ACTION BY SECRETARY IF STATE DOES NOT PARTICIPATE IN PLAN.—If—

(1) the Secretary does not receive notification under subsection (c) that the State will participate in the preparation of the plan; or

(2) after the State agrees to so participate, the Governor submits to the Secretary written notification that the State is terminating its participation;

the Secretary shall prepare a plan containing the provisions referred to in subsection (c)(1) (and containing a specification of those elements in the plan which the Secretary may modify without prior approval of Congress), and submit copies of such plan to the Congress, as provided in subsection (e)(2), within three years after the date of the enactment of this Act.

Cooperative management plan, submittal to Congress.

(e) TAKING EFFECT OF PLAN.—

(1) If within three years after the date of the enactment of this Act, a plan has been prepared under subsection (c) which is agreed to by the Secretary and the Governor, the plan shall take effect with respect to the United States and the State.

Proposed legislation, submittal to Congress and State Legislature.

(2) If the plan prepared pursuant to this section is agreed to by the Secretary and the Governor includes any recommendations regarding (i) the exchange of State lands, (ii) the management of Federal lands within any conservation system unit, or (iii) any other actions which require the approval of either the Congress or the Alaska State Legislature, then the Secretary and the Governor shall submit to the Congress and the State Legislature as appropriate, their proposals for legislation necessary to carry out the recommendations contained in the plan.

(f) TRANSITIONAL PROVISIONS.—On the date of the enactment of this Act, and for a period of three years thereafter, all Federal land within the region (except that land conveyed by title IX of this Act to the State of Alaska and Federal lands located within the boundaries of conservation system units) shall be withdrawn from all forms of appropriation under the public land laws, including selections by the State, and from location and entry under the mining laws and from leasing under the Mineral Leasing Act, and shall be managed by the Bureau of Land Management under its existing statutory authority and consistent with provisions of this section.

TITLE XIII—ADMINISTRATIVE PROVISIONS

MANAGEMENT PLANS

Transmittal to congressional committees. 16 USC 3191.

SEC. 1301. (a) Within five years from the date of enactment of this Act, the Secretary shall develop and transmit to the appropriate Committees of the Congress a conservation and management plan for each of the units of the National Park System established or to which additions are made by this Act.

(b) NATIONAL PARK SERVICE PLAN REQUIREMENTS.—Each plan for a unit established, redesignated, or expanded by title II shall identify management practices which will carry out the policies of this Act and will accomplish the purposes for which the concerned National Park System unit was established or expanded and shall include at least the following:

(1) Maps indicating areas of particular importance as to wilderness, natural, historical, wildlife, cultural, archeological, paleontological, geological, recreational, and similar resources and also indicating the areas into which such unit will be divided for administrative purposes.

(2) A description of the programs and methods that will be employed to manage fish and wildlife resources and habitats, cultural, geological, recreational, and wilderness resources, and how each conservation system unit will contribute to overall resources management goals of that region. Such programs should include research, protection, restoration, development, and interpretation as appropriate.

(3) A description of any areas of potential or proposed development, indicating types of visitor services and facilities to be provided, the estimated costs of such services and facilities, and whether or not such services and facilities could and should be provided outside the boundaries of such unit.

(4) A plan for access to, and circulation within, such unit, indicating the type and location of transportation routes and facilities, if any.

(5) A description of the programs and methods which the Secretary plans to use for the purposes of (A) encouraging the recognition and protection of the culture and history of the individuals residing, on the date of the enactment of this Act, in such unit and areas in the vicinity of such unit, and (B) providing and encouraging employment of such individuals.

(6) A plan for acquiring land with respect to such unit, including proposed modifications in the boundaries of such unit.

(7) A description (A) of privately owned areas, if any, which are within such unit, (B) of activities carried out in, or proposed for, such areas, (C) of the present and potential effects of such activities on such unit, (D) of the purposes for which such areas are used, and (E) of methods (such as cooperative agreements and issuance or enforcement of regulations) of controlling the use of such activities to carry out the policies of this Act and the purposes for which such unit is established or expanded.

(8) A plan indicating the relationship between the management of such unit and activities being carried out in, or proposed for, surrounding areas and also indicating cooperative agreements which could and should be entered into for the purpose of improving such management.

(c) CONSIDERATION OF FACTORS.—In developing, preparing, and revising a plan under this section the Secretary shall take into consideration at least the following factors:

(1) The specific purposes for which the concerned conservation system unit was established or expanded.

(2) Protection and preservation of the ecological, environmental, wildlife, cultural, historical, archeological, geological, recreational, wilderness, and scenic character of the concerned unit and of areas in the vicinity of such unit.

(3) Providing opportunities for Alaska Natives residing in the concerned unit and areas adjacent to such unit to continue performing in such unit activities which they have traditionally or historically performed in such unit.

(4) Activities being carried out in areas adjacent to, or surrounded by, the concerned unit.

(d) HEARING AND PARTICIPATION.—In developing, preparing, and revising a plan under this section the Secretary shall hold at least one public hearing in the vicinity of the concerned conservation unit, hold at least one public hearing in a metropolitan area of Alaska, and, to the extent practicable, permit the following persons to participate in the development, preparation, and revision of such plan:

(1) The Alaska Land Use Council and officials of Federal agencies whose activities will be significantly affected by implementation of such plan.

(2) Officials of the State and of political subdivisions of the State whose activities will be significantly affected by implementation of such plan.

(3) Officials of Native Corporations which will be significantly affected by implementation of such plan.

(4) Concerned local, State, and National organizations and interested individuals.

LAND ACQUISITION AUTHORITY

16 USC 3192.

SEC. 1302. (a) GENERAL AUTHORITY.—Except as provided in subsections (b) and (c) of this section, the Secretary is authorized, consistent with other applicable law in order to carry out the purposes of this Act, to acquire by purchase, donation, exchange, or otherwise any lands within the boundaries of any conservation system unit other than National Forest Wilderness.

(b) RESTRICTIONS.—Lands located within the boundaries of a conservation system unit which are owned by—

(A) the State or a political subdivision of the State;

(B) a Native Corporation or Native Group which has Natives as a majority of its stockholders;

(C) the actual occupant of a tract, title to the surface estate of which was on, before, or after the date of enactment of this Act conveyed to such occupant pursuant to subsections 14(c)(1) and 14(h)(5) of the Alaska Native Claims Settlement Act, unless the Secretary determines that the tract is no longer occupied for the purpose described in subsections 14(c)(1) or 14(h)(5) for which the tract was conveyed and that activities on the tract are or will be detrimental to the purposes of the unit in which the tract is located; or

Post, pp. 2493, 2494.

(D) a spouse or lineal descendant of the actual occupant of a tract described in subparagraph (C), unless the Secretary determines that activities on the tract are or will be detrimental to the purposes of the unit in which the tract is located—

may not be acquired by the Secretary without the consent of the owner.

(c) EXCHANGES.—Lands located within the boundaries of a conservation system unit (other than National Forest Wilderness) which are owned by persons or entities other than those described in subsection (b) of this section shall not be acquired by the Secretary without the consent of the owner unless prior to final judgment on the value of the acquired land, the owner, after being offered appropriate land of similar characteristics and like value (if such land is available from public lands located outside the boundaries of any conservation system unit), chooses not to accept the exchange. In identifying public lands for exchange pursuant to this subsection, the Secretary shall consult with the Alaska Land Use Council.

(d) IMPROVED PROPERTY.—No improved property shall be acquired under subsection (a) without the consent of the owner unless the Secretary first determines that such acquisition is necessary to the fulfillment of the purposes of this Act or to the fulfillment of the purposes for which the concerned conservation system unit was established or expanded.

(e) RETAINED RIGHTS.—The owner of an improved property on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or recreational purposes, as the case may be, for a definite term of not more than twenty-five years, or in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the owner's interest in the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his

determination that such right is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(f) DEFINITION.—For the purposes of this section, the term "improved property" means— "Improved property."

(1) a detached single family dwelling, the construction of which was begun before January 1, 1980 (hereinafter referred to as the "dwelling"), together with the land on which the dwelling is situated to the extent that such land—

(A) is in the same ownership as the dwelling or is Federal land on which entry was legal and proper, and

(B) is designated by the Secretary to be necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, or

(2) property developed for noncommercial recreational uses, together with any structures accessory thereto which were so used on or before January 1, 1980, to the extent that entry onto such property was legal and proper.

In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1980, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed before such date.

(g) CONSIDERATION OF HARDSHIP.—The Secretary shall give prompt and careful consideration to any offer made by the owner of any property within a conservation system unit to sell such property, if such owner notifies the Secretary that the continued ownership is causing, or would result in, undue hardship.

(h) EXCHANGE AUTHORITY.—Notwithstanding any other provision of law, in acquiring lands for the purposes of this Act, the Secretary is authorized to exchange lands (including lands within conservation system units and within the National Forest System) or interests therein (including Native selection rights) with the corporations organized by the Native Groups, Village Corporations, Regional Corporations, and the Urban Corporations, and other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any Federal agency. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value. 48 USC note prec. 21.

(i)(1) The Secretary is authorized to acquire by donation or exchange, lands (A) which are contiguous to any conservation system unit established or expanded by this Act, and (B) which are owned or validly selected by the State of Alaska.

(2) Any such lands so acquired shall become a part of such conservation system unit.

USE OF CABINS AND OTHER SITES OF OCCUPANCY ON CONSERVATION SYSTEM UNITS

16 USC 3193.

SEC. 1303. (a) IMPROVED PROPERTY ON NATIONAL PARK SYSTEM LANDS.—

(1) On public lands within the boundaries of any unit of the National Park System created or enlarged by this Act, cabins or other structures existing prior to December 18, 1973, may be occupied and used by the claimant to these structures pursuant to a renewable, nontransferable permit. Such use and occupancy shall be for terms of five years each: *Provided,* That the claimant of the structure by application:

(A) Reasonably demonstrates by affidavit, bill of sale or other documentation, proof of possessory interest or right of occupancy in the cabin or structure;

(B) Submits a sketch or photograph of the cabin or structure and a map showing its geographic location;

(C) Agrees to vacate the cabin and to remove all personal property from the cabin or structure upon expiration of the permit; and

(D) Acknowledges in the permit that the applicant has no interest in the real property on which the cabin or structure is located.

(2) On public lands within the boundaries of any unit of the National Park System created or enlarged by this Act, cabins or other structures, the occupancy or use of which commenced between December 18, 1973, and December 1, 1978, may be used and occupied by the claimant of such structure pursuant to a nontransferable, nonrenewable permit. Such use and occupancy shall be for a maximum term of one year: *Provided, however,* That the claimant, by application:

(A) Reasonably demonstrates by affidavit, bill of sale, or other documentation proof of possessory interest or right of occupancy in the cabin or structure;

(B) Submits a sketch or photograph of the cabin or structure and a map showing its geographic location;

(C) Agrees to vacate the cabin or structure and to remove all personal property from it upon expiration of the permit; and

(D) Acknowledges in the permit that the applicant has no legal interest in the real property on which the cabin or structure is located.

The Secretary may, on a case by case basis, subject to reasonable regulations, extend such permit term beyond one year for such reasons as the Secretary deems equitable and just.

(3) Cabins or other structures not under permit as specified herein shall be used only for official government business: *Provided, however,* That during emergencies involving the safety of human life or where designated for public use by the Secretary, these cabins may be used by the general public.

(4) The Secretary may issue a permit under such conditions as he may prescribe for the temporary use, occupancy, construction and maintenance of new cabins or other structures if he determines that the use is necessary to reasonably accommodate subsistence uses or is otherwise authorized by law.

(b) IMPROVED PROPERTY ON OTHER UNITS OR AREAS ESTABLISHED OR EXPANDED BY THIS ACT.—The following conditions shall apply regarding the construction, use and occupancy of cabins and related

structures on Federal lands within conservation system units or areas not provided for in subsection (a) of this section:

New cabins, construction.

(1) The construction of new cabins is prohibited except as may be authorized pursuant to a nontransferable, five-year special use permit issued by the Secretary. Such special use permit shall only be issued upon a determination that the proposed use, construction, and maintenance of a cabin is compatible with the purposes for which the unit or area was established and that the use of the cabin is either directly related to the administration of the unit or area or is necessary to provide for a continuation of an ongoing activity or use otherwise allowed within the unit or area where the permit applicant has no reasonable alternative site for constructing a cabin. No special use permit shall be issued to authorize the construction of a cabin for private recreational use.

Existing cabins and structures, special use permits.

(2) Traditional and customary uses of existing cabins and related structures on Federal lands within a unit or area may be allowed to continue in accordance with a nontransferable, renewable five-year special use permit issued by the Secretary. Such special use permit shall be issued only upon a determination that the traditional and customary uses are compatible with the purposes for which the unit or area was established. No special use permits shall be issued to authorize the use of an existing cabin constructed for private recreational use.

(3) No special use permit shall be issued under subsections (b)(1) or (2) unless the permit applicant:

(A) In the case of existing cabins or structures, reasonably demonstrates by affidavit, bill of sale or other documentation, proof of possessory interests or right of occupancy in the cabin or structure;

(B) Submits a sketch or photograph of the existing or proposed cabin or structure and a map showing its geographic location;

(C) Agrees to vacate the cabin or structure and remove, within a reasonable time period established by the Secretary, all personal property from it upon nonrenewal or revocation of the permit; and

(D) Acknowledges in the permit application that the applicant has no interest in the real property on which the cabin or structure is located or will be constructed.

New structures, Federal ownership.

(4) The United States shall retain ownership of all new cabins and related structures on Federal lands within a unit or area specified in this subsection, and no proprietary rights or privileges shall be conveyed through the issuance of the special use permit authorized by paragraphs (1) or (2) of this subsection. Cabins or other structures not under permit shall be used only for official Government business: *Provided, however,* That during emergencies involving the safety of human life or where designated for public use by the unit or area manager, such cabins may be used by the general public.

(c) PERMITS TO BE RENEWED FOR LIFE OF CLAIMANT AND IMMEDIATE FAMILY.—

(1) Whenever issuance of a nontransferable renewable five-year special use permit is authorized by subsections (a) or (b) of this section, said permit shall be renewed every five years until the death of the last immediate family member of the claimant residing in the cabin or structure, or unless the Secretary has revoked the special use permit in accordance with the criteria established in this section.

(2) Notwithstanding any other provision of this section, the Secretary, after notice and hearing, may revoke a permit provided for in this section if he determines, on the basis of substantial evidence in the administrative record as a whole, that the use under the permit is causing or may cause significant detriment to the principal purposes for which the unit was established.

(d) EXISTING CABIN LEASES OR PERMITS.—Nothing in this Act shall preclude the renewal or continuation of valid leases or permits in effect on the date of enactment of this Act for cabins, homesites, or similar structures on Federal lands. Unless the Secretary, or in the case of national forest lands, the Secretary of Agriculture, issues specific findings following notice and an opportunity for the leaseholder or permittee to respond, that renewal or continuation of such valid permit or lease constitutes a direct threat to or a significant impairment to the purposes for which a conservation system unit was established (in the case of a structure located within a conservation system unit) or the public domain or national forest (in case of a structure located outside conservation system units), he shall renew such valid leases or permits upon their expiration in accordance with the provisions of the original lease or permit, subject to such reasonable regulations as he may prescribe. Subject to the provisions of the original lease or permit, nothing in this Act or subsection shall necessarily preclude the appropriate Secretary from transferring such a lease or permit to another person at the election or death of the original permittee or leasee.

ARCHEOLOGICAL AND PALEONTOLOGICAL SITES

Designations and acquisitions. 16 USC 3194.

SEC. 1304. Notwithstanding any acreage or boundary limitations contained in this Act with respect to the Cape Krusenstern National Monument, the Bering Land Bridge National Preserve, the Yukon-Charley Rivers National Preserve, and the Kobuk Valley National Park, the Secretary may designate Federal lands or he may acquire by purchase with the consent of the owner, donation, or exchange any significant archeological or paleontological site in Alaska located outside of the boundaries of such areas and containing resources which are closely associated with any such area. If any such site is so designated or acquired, it shall be included in and managed as part of such area. Not more than seven thousand five hundred acres of land may be designated or acquired under this section for inclusion in any single area. Before designation or acquisition of any property in excess of one hundred acres under the provisions of this section, the Secretary shall—

Submittal to congressional committees. Publication in Federal Register.

(1) submit notice of such proposed designation or acquisition to the appropriate committees of the Congress; and

(2) publish notice of such proposed designation or acquisition in the Federal Register.

COOPERATIVE INFORMATION/EDUCATION CENTERS

16 USC 3195.

SEC. 1305. The Secretary is authorized in consultation with other Federal agencies, to investigate and plan for an information and education center for visitors to Alaska on not to exceed one thousand acres of Federal land at a site adjacent to the Alaska Highway, and to investigate and plan for similar centers in Anchorage and Fairbanks, Alaska. For the purposes of this investigation, the Secretary shall seek participation in the program planning and/or operation of such

centers from appropriate agencies of the State of Alaska, and he is authorized to accept contributions of funds, personnel, and planning and program assistance from such State agencies, other Federal agencies, and Native representatives. The Secretary of Agriculture is authorized to investigate and plan for, in a similar manner, an information and education center for visitors to Alaska in either Juneau, Ketchikan, or Sitka, Alaska. No information center shall be developed pursuant to investigations and plans conducted under authority of this section unless and until such development is specifically authorized by Congress.

ADMINISTRATIVE SITES AND VISITOR FACILITIES

SEC. 1306. (a) ESTABLISHMENT.—In conformity with the conservation and management plans prepared for each unit and the purposes of assuring the preservation, protection, and proper management of any conservation system unit, the Secretary may establish sites and visitor facilities— 16 USC 3196.

(1) within the unit, if compatible with the purposes for which the unit is established, expanded, or designated by this Act, and the other provisions of this Act, or

(2) outside the boundaries of, and in the vicinity of, the unit.

To the extent practicable and desirable, the Secretary shall attempt to locate such sites and facilities on Native lands in the vicinity of the unit.

(b) AUTHORITIES OF SECRETARY.—For the purpose of establishing administrative sites and visitor facilities under subsection (a)—

(1) the Secretary and the head of the Federal agency having primary authority over the administration of any Federal land which the Secretary determines is suitable for use in carrying out such purpose may enter into agreements permitting the Secretary to use such land for such purposes;

(2) notwithstanding any other provision of law, the Secretary, under such terms and conditions as he determines are reasonable, may lease or acquire by purchase, donation, exchange, or any other method (except condemnation) real property (other than Federal land), office space, housing, and other necessary facilities which the Secretary determines to be suitable for carrying out such purposes; and

(3) the Secretary may construct, operate, and maintain such permanent and temporary buildings and facilities as he deems appropriate on land which is within, or in the vicinity of, any conservation system unit and with respect to which the Secretary has acquired authority under this subsection to use the property for the purpose of establishing an administrative site or visitor facility under subsection (a), except that the Secretary may not begin construction of buildings and facilities on land not owned by the United States until the owner of such land has entered into an agreement with the Secretary, the terms of which assure the continued use of such buildings and facilities in furtherance of the purposes of this Act.

REVENUE-PRODUCING VISITOR SERVICES

SEC. 1307. (a) CONTINUATION OF EXISTING VISITOR SERVICES.—Notwithstanding any other provision of law, the Secretary, under such terms and conditions as he determines are reasonable, shall permit any persons who, on or before January 1, 1979, were engaged 16 USC 3197.

in adequately providing any type of visitor service within any area established as or added to a conservation system unit to continue providing such type of service and similar types of visitor services within such area if such service or services are consistent with the purposes for which such unit is established or expanded.

(b) PREFERENCE.—Notwithstanding provisions of law other than those contained in subsection (a), in selecting persons to provide (and in contracting for the provision of) any type of visitor service for any conservation system unit, except sport fishing and hunting guiding activities, the Secretary—

(1) shall give preference to the Native Corporation which the Secretary determines is most directly affected by the establishment or expansion of such unit by or under the provisions of this Act;

(2) shall give preference to persons whom he determines, by rule, are local residents; and

(3) shall, consistent with the provisions of this section, offer to Cook Inlet Region, Incorporated, in cooperation with Village Corporations within the Cook Inlet Region when appropriate, the right of first refusal to provide new revenue producing visitor services within the Kenai National Moose Range or that portion of the Lake Clark National Park and Preserve within the boundaries of the Cook Inlet Region that right to remain open for a period of ninety days as agreed to in paragraph VIII of the document referred to in section 12 of the Act of January 2, 1976 (Public Law 94-204).

43 USC 1611 note. "Visitor service."

(c) DEFINITION.—As used in this section, the term "visitor service" means any service made available for a fee or charge to persons who visit a conservation system unit, including such services as providing food, accommodations, transportation, tours, and guides excepting the guiding of sport hunting and fishing. Nothing in this Act shall limit or affect the authority of the Federal Government or the State of Alaska to license and regulate transportation services.

LOCAL HIRE

16 USC 3198.

SEC. 1308. (a) PROGRAM.—After consultation with the Office of Personnel Management, the Secretary shall establish a program under which any individual who, by reason of having lived or worked in or near a conservation system unit, has special knowledge or expertise concerning the natural or cultural resources of such unit and the management thereof (as determined by the Secretary) shall be considered for selection for any position within such unit without regard to—

(1) any provision of the civil service laws or regulations thereunder which require minimum periods of formal training or experience,

(2) any such provision which provides an employment preference to any other class of applicant in such selection, and

(3) any numerical limitation on personnel otherwise applicable.

Individuals appointed under this subsection shall not be taken into account in applying any personnel limitation described in paragraph (3).

Submittal to Congress.

(b) REPORTS.—The Secretary shall from time to time prepare and submit to the Congress reports indicating the actions taken in carrying out the provisions of subsection (a) of this section together

with any recommendations for legislation in furtherance of the purposes of this section.

KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK

SEC. 1309. The second sentence of subsection (b)(1) of the first section of the Act entitled "An Act to authorize the Secretary of the Interior to establish the Klondike Gold Rush National Historical Park in the States of Alaska and Washington, and for other purposes", approved June 30, 1976 (90 Stat. 717), is amended to read as follows: "Lands or interests in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation or exchange, and notwithstanding the provisions of subsection 6(i) of the Act of July 7, 1958 (72 Stat. 339, 342), commonly known as the Alaska Statehood Act, the State may include the minerals in any such transaction.". 16 USC 410bb. 16 USC 410bb.

NAVIGATION AIDS AND OTHER FACILITIES

SEC. 1310. (a) EXISTING FACILITIES.—Within conservation system units established or expanded by this Act, reasonable access to, and operation and maintenance of, existing air and water navigation aids, communications sites and related facilities and existing facilities for weather, climate, and fisheries research and monitoring shall be permitted in accordance with the laws and regulations applicable to units of such systems, as appropriate. Reasonable access to and operation and maintenance of facilities for national defense purposes and related air and water navigation aids within or adjacent to such areas shall continue in accordance with the laws and regulations governing such facilities notwithstanding any other provision of this Act. Nothing in the Wilderness Act shall be deemed to prohibit such access, operation and maintenance within wilderness areas designated by this Act. 16 USC 3199.

(b) NEW FACILITIES.—The establishment, operation, and maintenance within any conservation system unit of new air and water navigation aids and related facilities, facilities for national defense purposes, and related air and water navigation aids, and facilities for weather, climate, and fisheries research and monitoring shall be permitted but only (1) after consultation with the Secretary or the Secretary of Agriculture, as appropriate, by the head of the Federal department or agency undertaking such establishment, operation, or maintenance, and (2) in accordance with such terms and conditions as may be mutually agreed in order to minimize the adverse effects of such activities within such unit.

SCENIC HIGHWAY STUDY

SEC. 1311. (a) WITHDRAWAL.—Subject to valid existing rights, all public lands within an area, the centerline of which is the centerline of the Parks Highway from the entrance to Denali National Park to the Talkeetna junction which is one hundred and thirty-six miles south of Cantwell, the Denali Highway between Cantwell and Paxson, the Richardson Highway and Edgerton Highway between Paxson and Chitina, and the existing road between Chitina and McCarthy (as those highways and road are depicted on the official maps of the department of transportation of the State of Alaska) and the boundaries of which are parallel to the centerline and one mile distant therefrom on either side, are hereby withdrawn from all 16 USC 3200.

forms of entry or appropriation under the mining laws and from operation of the mineral leasing laws of the United States. Nothing in this section shall be construed to preclude minor road realignment, minor road improvement, or the extraction of gravel for such purposes from lands withdrawn or affected by the study mandated herein.

(b) STUDY.—During the three-year period beginning on the date of enactment of this Act, the Secretary shall study the desirability of establishing a Denali Scenic Highway to consist of all or part of the lands described in subsection (a) of this section. In conducting the studies, the Secretary, through a study team which includes representatives of the Secretary of Transportation, the National Park Service, the Bureau of Land Management, the State, and of each Regional Corporation within whose area of operation the lands described in subsection (a) are located, shall consider the scenic and recreational values of the lands withdrawn under this section, the importance of providing protection to those values, the desirability of providing a symbolic and actual physical connection between the national parks in south central Alaska, and the desirability of enhancing the experience of persons traveling between those parks by motor vehicles. Members of the study team who are not Federal employees shall receive from the Secretary per diem (in lieu of expenses) and travel allowances at the rates provided for employees of the Bureau of Indian Affairs in Alaska in grade GS-15.

(c) COOPERATION NOTICE: HEARINGS.—In conducting the studies required by this section, the Secretary shall cooperate with the State and shall consult with each Village Corporation within whose area of operation lands described in this section are located and to the maximum extent practicable with the owner of any lands adjoining the lands described in subsection (a) concerning the desirability of establishing a Denali Scenic Highway. The Secretary, through the National Park Service, shall also give such public notice of the study as he deems appropriate, including at least publication in a newspaper or newspapers having general circulation in the area or areas of the lands described in subsection (a), and shall hold a public hearing or hearings at one or more locations convenient to the areas affected.

(d) REPORT.—Within three years after the date of enactment of this Act, the Secretary shall report to the President the results of the studies carried out pursuant to this section together with his recommendation as to whether the scenic highway studied should be established and, if his recommendation is to establish the scenic highway, the lands described in subsection (a) which should be included therein. Such report shall include the views and recommendations of all members of the study team. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations and those of the Governor of Alaska with respect to creation of the scenic highways, together with maps thereof, a definition of boundaries thereof, an estimate of costs, recommendations on administration, and proposed legislation to create such a scenic highway, if creation of one is recommended.

Presidential recommendations to Congress.

(e) PERIOD OF WITHDRAWAL.—The lands withdrawn under subsection (a) of this section shall remain withdrawn until such time as the Congress acts on the President's recommendation, but not to exceed two years after the recommendation is transmitted to the Congress.

ADMINISTRATION OF THE WHITE MOUNTAINS NATIONAL RECREATION AREA

SEC. 1312. (a) The White Mountains National Recreation Area established by this Act shall be administered by the Secretary in order to provide for public outdoor recreation use and enjoyment and for the conservation of the scenic, scientific, historic, fish and wildlife, and other values contributing to public enjoyment of such area. Except as otherwise provided in this Act, the Secretary shall administer the recreation area in a manner which in his judgment will best provide for (1) public outdoor recreation benefits; (2) conservation of scenic, scientific, historic, fish and wildlife, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of natural resources and the continuation of such existing uses and developments as will promote, or are compatible with, or do not significantly impair public recreation and conservation of the scenic, scientific, historic, fish and wildlife, or other values contributing to public enjoyment. In administering the recreation area, the Secretary may utilize such statutory authorities available to him for the conservation and management of natural resources as he deems appropriate for recreation and preservation purposes and for resource development compatible therewith. 16 USC 460mm-4.

(b) The lands within the recreation area, subject to valid existing rights, are hereby withdrawn from State selection under the Alaska Statehood Act or other law, and from location, entry, and patent under the United States mining laws. The Secretary under such reasonable regulations as he deems appropriate, may permit the removal of the nonleasable minerals from lands or interests in lands within the recreation area in the manner described by section 10 of the Act of August 4, 1939, as amended (43 U.S.C. 387), and he may permit the removal of leasable minerals from lands or interests in lands within the recreation areas in accordance with the mineral leasing laws, if he finds that such disposition would not have significant adverse effects on the administration of the recreation areas. Land withdrawal and nonleasable mineral removal. 48 USC note prec. 21.

(c) All receipts derived from permits and leases issued on lands or interest in lands within the recreation area under the mineral leasing laws shall be disposed of as provided in such laws; and receipts from the disposition of nonleasable minerals within the recreation area shall be disposed of in the same manner as moneys received from the sale of public lands. Permit and lease receipts, disposal.

ADMINISTRATION OF NATIONAL PRESERVES

SEC. 1313. A National Preserve in Alaska shall be administered and managed as a unit of the National Park System in the same manner as a national park except as otherwise provided in this Act and except that the taking of fish and wildlife for sport purposes and subsistence uses, and trapping shall be allowed in a national preserve under applicable State and Federal law and regulation. Consistent with the provisions of section 816, within national preserves the Secretary may designate zones where and periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral and faunal protection, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting, fishing, or trapping shall be put into effect only after consultation with the appropriate State agency having responsibility over hunting, fishing, and trapping activities. 16 USC 3201. *Ante*, p. 2430.

TAKING OF FISH AND WILDLIFE

16 USC 3202.

SEC. 1314. (a) Nothing in this Act is intended to enlarge or diminish the responsibility and authority of the State of Alaska for management of fish and wildlife on the public lands except as may be provided in title VIII of this Act, or to amend the Alaska constitution.

Ante, p. 2422.

(b) Except as specifically provided otherwise by this Act, nothing in this Act is intended to enlarge or diminish the responsibility and authority of the Secretary over the management of the public lands.

(c) The taking of fish and wildlife in all conservation system units, and in national conservation areas, national recreation areas, and national forests, shall be carried out in accordance with the provisions of this Act and other applicable State and Federal law. Those areas designated as national parks or national park system monuments in the State shall be closed to the taking of fish and wildlife, except that—

(1) notwithstanding any other provision of this Act, the Secretary shall administer those units of the National Park System, and those additions to existing units, established by this Act and which permit subsistence uses, to provide an opportunity for the continuance of such uses by local rural residents; and

(2) fishing shall be permitted by the Secretary in accordance with the provisions of this Act and other applicable State and Federal law.

WILDERNESS MANAGEMENT

16 USC 3203.

SEC. 1315. (a) APPLICATION ONLY TO ALASKA.—The provisions of this section are enacted in recognition of the unique conditions in Alaska. Nothing in this section shall be construed to expand, diminish, or modify the provisions of the Wilderness Act or the application or interpretation of such provisions with respect to lands outside of Alaska.

16 USC 1131 note.

Fishery research and management activities.

(b) AQUACULTURE.—In accordance with the goal of restoring and maintaining fish production in the State of Alaska to optimum sustained yield levels and in a manner which adequately assures protection, preservation, enhancement, and rehabilitation of the wilderness resource, the Secretary of Agriculture may permit fishery research, management, enhancement, and rehabilitation activities within national forest wilderness and national forest wilderness study areas designated by this Act. Subject to reasonable regulations, permanent improvements and facilities such as fishways, fish weirs, fish ladders, fish hatcheries, spawning channels, stream clearance, egg planting, and other accepted means of maintaining, enhancing, and rehabilitating fish stocks may be permitted by the Secretary to achieve this objective. Any fish hatchery, fishpass or other aquaculture facility authorized for any such area shall be constructed, managed, and operated in a manner that minimizes adverse impacts on the wilderness character of the area. Developments for any such activities shall involve those facilities essential to these operations and shall be constructed in such rustic manner as to blend into the natural character of the area. Reasonable access solely for the purposes of this subsection, including temporary use of motorized equipment, shall be permitted in furtherance of research, management, rehabilitation and enhancement activities subject to reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.

(c) EXISTING CABINS.—Previously existing public use cabins within wilderness designated by this Act, may be permitted to continue and may be maintained or replaced subject to such restrictions as the Secretary deems necessary to preserve the wilderness character of the area.

(d) NEW CABINS.—Within wilderness areas designated by this Act, the Secretary or the Secretary of Agriculture as appropriate, is authorized to construct and maintain a limited number of new public use cabins and shelters if such cabins and shelters are necessary for the protection of the public health and safety. All such cabins or shelters shall be constructed of materials which blend and are compatible with the immediate and surrounding wilderness landscape. The Secretary or the Secretary of Agriculture, as appropriate, shall notify the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources of his intention to remove an existing or construct a new public use cabin or shelter.

Notification of congressional committees.

(e) TIMBER CONTRACTS.—The Secretary of Agriculture is hereby directed to modify any existing national forest timber sale contracts applying to lands designated by this Act as wilderness by substituting, to the extent practicable, timber on the other national forest lands approximately equal in volume, species, grade, and accessibility for timber or relevant lands within such units.

(f) BEACH LOG SALVAGE.—Within National Forest wilderness and national forest monuments desginated by this Act, the Secretary of Agriculture may permit or otherwise regulate the recovery and salvage of logs from coastlines.

ALLOWED USES

SEC. 1316. (a) On all public lands where the taking of fish and wildlife is permitted in accordance with the provisions of this Act or other applicable State and Federal law the Secretary shall permit, subject to reasonable regulation to insure compatibility, the continuance of existing uses, and the future establishment, and use, of temporary campsites, tent platforms, shelters, and other temporary facilities and equipment directly and necessarily related to such activities. Such facilities and equipment shall be constructed, used, and maintained in a manner consistent with the protection of the area in which they are located. All new facilities shall be constructed of materials which blend with, and are compatible with, the immediately surrounding landscape. Upon termination of such activities and uses (but not upon regular or seasonal cessation), such structures or facilities shall, upon written request, be removed from the area by the permittee.

Public lands. 16 USC 3204.

(b) Notwithstanding the foregoing provisions, the Secretary may determine, after adequate notice, that the establishment and use of such new facilities or equipment would constitute a significant expansion of existing facilities or uses which would be detrimental to the purposes for which the affected conservation system unit was established, including the wilderness character of any wilderness area within such unit, and may thereupon deny such proposed use or establishment.

GENERAL WILDERNESS REVIEW PROVISION

SEC. 1317. (a) Within five years from the date of enactment of this Act, the Secretary shall, in accordance with the provisions of section

Report to President. 16 USC 3205.

16 USC 1132.

3(d) of the Wilderness Act relating to public notice, public hearings, and review by State and other agencies, review, as to their suitability or nonsuitability for preservation as wilderness, all lands within units of the National Park System and units of the National Wildlife Refuge System in Alaska not designated as wilderness by this Act and report his findings to the President.

Presidential recommendations to Congress.

(b) The Secretary shall conduct his review, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of sections 3 (c) and (d) of the Wilderness Act. The President shall advise the Congress of his recommendations with respect to such areas within seven years from the date of enactment of this Act.

(c) Nothing in this section shall be construed as affecting the administration of any unit of the National Park System or unit of National Wildlife Refuge System in accordance with this Act or other applicable provisions of law unless and until Congress provides otherwise by taking action on any Presidential recommendation made pursuant to subsection (b) of this section.

STATEWIDE CULTURAL ASSISTANCE PROGRAM

16 USC 3206.

SEC. 1318. In furtherance of the national policy set forth in the first section of the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666), and in furtherance of the need to protect and interpret for the public benefit cultural and archeological resources and objects of national significance relating to prehistoric and historic human use and occupation of lands and waters in Alaska, the Secretary may, upon the application of a Native Corporation or Native Group, provide advice, assistance, and technical expertise to the applicant in the preservation, display, and interpretation of cultural resources, without regard as to whether title to such resources is in the United States. Such assistance may include making available personnel to assist in the planning, design, and operation of buildings, facilities, and interpretive displays for the public and personnel to train individuals in the identification, recovery, preservation, demonstration, and management of cultural resources.

16 USC 461.

EFFECT ON EXISTING RIGHTS

16 USC 3207.

SEC. 1319. Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or—

(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on lands within the State of Alaska;

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control; or

(3) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources or to exercise licensing or regulatory functions in relation thereto.

BUREAU OF LAND MANAGEMENT LAND REVIEWS

SEC. 1320. Notwithstanding any other provision of law, section 603 of the Federal Land Policy and Management Act of 1976 shall not apply to any lands in Alaska. However, in carrying out his duties under section 201 and section 202 of such Act and other applicable laws, the Secretary may identify areas in Alaska which he determines are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the National Wilderness Preservation System, pursuant to the provisions of the Wilderness Act. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with the applicable land use plans and applicable provisions of law.

43 USC 1784.
43 USC 1782.
Recommendations to Congress.
43 USC 1711, 1712.

AUTHORIZATION FOR APPROPRIATION

SEC. 1321. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for fiscal years beginning after the fiscal year 1980. No authority to enter into contracts or to make payments or to expend previously appropriated funds under this Act shall be effective except to the extent or in such amounts as are provided in advance in appropriation Acts.

16 USC 3208.

EFFECT ON PRIOR WITHDRAWALS

SEC. 1322. (a) The withdrawals and reservations of the public lands made by Public Land Orders No. 5653 of November 16, 1978, 5654 of November 17, 1978, Public Land Orders numbered 5696 through 5711 inclusive of February 12, 1980, Federal Register Documents No. 34051, of December 5, 1978 and No. 79-17803 of June 8, 1979 and Proclamations No. 4611 through 4627, inclusive, of December 1, 1978, were promulgated to protect these lands from selection, appropriation, or disposition prior to the enactment of this Act. As to all lands not within the boundaries established by this Act of any conservation system unit, national conservation area, national recreation area, or national forest addition, the aforesaid withdrawals and reservations are hereby rescinded on the effective date of this Act, and such lands shall be managed by the Secretary pursuant to the Federal Land Policy and Management Act of 1976, or in the case of lands within a national forest, by the Secretary of Agriculture pursuant to the laws applicable to the national forests, unless otherwise specified by this Act. As to the Federal lands which are within the aforesaid boundaries, the aforesaid withdrawals and reservations are, on the effective date of this Act, hereby rescinded and superseded by the withdrawals and reservations made by this Act. Notwithstanding any provision to the contrary contained in any other law, the Federal lands within the aforesaid boundaries established by this Act shall not be deemed available for selection, appropriation, or disposition except as expressly provided by this Act.

16 USC 3209.
43 USC 431 note.
43 USC 1701 note.

(b) This section shall become effective upon the relinquishment by the State of Alaska of selections made on November 14, 1978, pursuant to the Alaska Statehood Act which are located within the boundaries of conservation system units, national conservation areas, national recreation areas, and forest additions, established, designated, or expanded by this Act.

48 USC note prec. 21.

ACCESS

Nonfederally owned lands. 16 USC 3210.

SEC. 1323. (a) Notwithstanding any other provision of law, and subject to such terms and conditions as the Secretary of Agriculture may prescribe, the Secretary shall provide such access to nonfederally owned land within the boundaries of the National Forest System as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: *Provided,* That such owner comply with rules and regulations applicable to ingress and egress to or from the National Forest System.

(b) Notwithstanding any other provision of law, and subject to such terms and conditions as the Secretary of the Interior may prescribe, the Secretary shall provide such access to nonfederally owned land surrounded by public lands managed by the Secretary under the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701-82) as the Secretary deems adequate to secure to the owner the reasonable use and enjoyment thereof: *Provided,* That such owner comply with rules and regulations applicable to access across public lands.

YUKON FLATS NATIONAL WILDLIFE REFUGE AGRICULTURAL USE

16 USC 3211.

SEC. 1324. Nothing in this Act or other existing law shall be construed as necessarily prohibiting or mandating the development of agricultural potential within the Yukon Flats National Wildlife Refuge pursuant to existing law. The permissibility of such development shall be determined by the Secretary on a case-by-case basis under existing law. Any such development permitted within the Yukon Flats National Wildlife Refuge shall be designed and conducted in such a manner as to minimize to the maximum extent possible any adverse effects of the natural values of the unit.

TERROR LAKE HYDROELECTRIC PROJECT IN KODIAK NATIONAL WILDLIFE REFUGE

16 USC 3212.

SEC. 1325. Nothing in this Act or the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd) shall be construed as necessarily prohibiting or mandating the construction of the Terror Lake Hydroelectric Project within the Kodiak National Wildlife Refuge. The permissibility of such development shall be determined by the Secretary on a case-by-case basis under existing law.

FUTURE EXECUTIVE ACTIONS

16 USC 3213.

SEC. 1326. (a) No future executive branch action which withdraws more than five thousand acres, in the aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.

Publication in Federal Register; notification of Congress.

(b) No further studies of Federal lands in the State of Alaska for the single purpose of considering the establishment of a conservation system unit, national recreation area, national conservation area, or for related or similar purposes shall be conducted unless authorized by this Act or further Act of Congress.

ALASKA GAS PIPELINE

SEC. 1327. Nothing in this Act shall be construed as imposing any additional requirements in connection with the construction and operation of the transportation system designated by the President and approved by the Congress pursuant to the Alaska Natural Gas Transportation Act of 1976 (Public Law 94-586; 90 Stat. 2903), or as imposing any limitations upon the authority of the Secretary concerning such system. 16 USC 3214. 15 USC 719 note.

PUBLIC LAND ENTRIES IN ALASKA

SEC. 1328. (a)(1) Subject to valid existing rights, all applications made pursuant to the Acts of June 1, 1938 (52 Stat. 609), May 3, 1927 (44 Stat. 1364), May 14, 1898 (30 Stat. 413), and March 3, 1891 (26 Stat. 1097), which were filed with the Department of the Interior within the time provided by applicable law, and which describe land in Alaska that was available for entry under the aforementioned statutes when such entry occurred, are hereby approved on the one hundred and eightieth day following the effective date of this Act, except where provided otherwise by paragraph (3) or (4) of this subsection, or where the land description of the entry must be adjusted pursuant to subsection (b) of this section, in which cases approval pursuant to the terms of this subsection shall be effective at the time the adjustment becomes final. Application approval. 16 USC 3215.

(2) Where an application describes land within the boundaries of a unit of the National Park System or a unit of the National Wildlife Refuge System, or a unit of the National Wilderness Preservation System in the Tongass or Chugach National Forests established before the effective date of this Act or by this Act, and the described land was not withdrawn pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act, or where an application describes land which has been patented or deeded to the State of Alaska or which on or before the date of entry was validly selected by, tentatively approved, patented, deeded or confirmed to the State of Alaska pursuant to applicable law and was not withdrawn pursuant to section 11(a)(1)(A) of the Alaska Native Claims Settlement Act from those lands made available for selection by section 11(a)(2) of the Act by any Native Village certified as eligible pursuant to section 11(b) of such Act, paragraph (1) of this subsection and subsection (c) of this section shall not apply and the application shall be adjudicated pursuant to the requirements of the Acts referred to in section 1328(a)(1) hereof, the Alaska Native Claims Settlement Act, and other applicable law. Adjudication. 43 USC 1610. 43 USC 1601 note.

(3) Paragraph (1) of this subsection and subsection (c) shall not apply and the application shall be adjudicated pursuant to the requirements of the Acts referred to in section 1328(a)(1) hereof, if on or before the one hundred and eightieth day following the effective date of the Act—

(A) a Native Corporation files a protest with the Secretary of the Interior (the Secretary) stating that the applicant is not entitled to the land described in the application, and said land is withdrawn for selection by the corporation pursuant to the Alaska Native Claims Settlement Act; or

(B) the State of Alaska files a protest with the Secretary stating that the land described in the application is necessary for access to lands owned by the United States, the State of Alaska, or a political subdivision of the State of Alaska, to resources located thereon, or to a public body of water regularly employed for

transportation purposes, and the protest states with specificity the facts upon which the conclusions concerning access are based and that no reasonable alternatives for access exist; or

(C) a person or entity files a protest with the Secretary stating that the applicant is not entitled to the land described in the application and that said land is the situs of improvements claimed by the person or entity; or

(D) the State of Alaska files a protest with the Secretary respecting an entry which was made prior to a valid selection tentative approval, patent, deed, or confirmation to the State of Alaska pursuant to applicable law; or

(E) regarding public land entries within units of the National Wildlife Refuge System established or expanded in this Act, any such entry not properly made under applicable law, or not the subject of an application filed within the time required by applicable law, or not properly maintained thereafter under applicable law shall be adjudicated pursuant to the Act under which the entry was made.

(4) Paragraph (1) of this subsection and subsection (c) shall not apply to any application which was knowingly and voluntarily relinquished by the applicant.

Application land descriptions, amendments.

(b) An applicant may amend the land description contained in his or her application if said description designates land other than that which the applicant intended to claim at the time of application and if the description as amended describes the land originally intended to be claimed. If the application is amended, this section shall operate to approve the application or to require its adjudication, as the case may be, with reference to the amended land description only: *Provided,* That the Secretary shall notify the State of Alaska and all interested parties, as shown by the records of the Department of the Interior of the intended correction of the entry's location, and any such party shall have until the one hundred and eightieth day following the effective date of this Act or sixty days following mailing of the notice, whichever is later, to file with the Department of the Interior a protest as provided in subsection (a)(3) of this section, which protest, if timely, shall be deemed filed within one hundred and eighty days of the effective date of this Act notwithstanding the actual date of filing: *Provided, further,* That the Secretary may require that all applications designating land in a specific area be amended, if at all, prior to a date certain which date shall be calculated to allow for orderly adoption of a plan or survey for the specified area, and the Secretary shall mail notification of the final date for amendment to each affected applicant, and shall provide such other notice as the Secretary deems appropriate, at least sixty days prior to said date: *Provided further,* That no application may be amended for location following adoption of a final plan of survey which includes the location of the entry as described in the application or its location as desired by amendment.

Powersites and power-projects.

(c) Where the land described in application (or such an application as adjusted or amended pursuant to subsection (b) or (c) of this section), was on that date withdrawn, reserved, or classified for powersite or power-project purposes, notwithstanding such withdrawal, reservation, or classification the described land shall be deemed vacant, unappropriated, and unreserved within the meaning of the Acts referred to in section 1328(a)(1) hereof, and, as such, shall be subject to adjudication or approval pursuant to the terms of this section: *Provided, however,* That if the described land is included as part of a project licensed under part I of the Federal Power Act of

June 10, 1920 (41 Stat. 24), as amended, or is presently utilized for purposes of generating or transmitting electrical power or for any other project authorized by Act of Congress, the foregoing provision shall not apply and the application shall be adjudicated pursuant to the appropriate Act: *Provided further,* That where the applicant commenced occupancy of the land after its withdrawal or classification for powersite purposes, the entry shall be made subject to the right of reentry provided the United States by section 24 of the Federal Power Act, as amended: *Provided further,* That any right of reentry reserved in a patent pursuant to this section shall expire twenty years after the effective date of this Act if at that time the land involved is not subject to a license or an application for a license under part I of the Federal Power Act, as amended, or actually utilized or being developed for a purpose authorized by that Act, as amended or other Act of Congress. 16 USC 791a. 16 USC 818. 16 USC 791a.

(d) Prior to issuing a patent for an entry subject to this section, the Secretary shall identify and adjudicate any record entry or application for title to land described in the application, other than the Alaska Native Claims Settlement Act, the Alaska Statehood Act, or the Act of May 17, 1906, as amended, which entry or application claims land also described in the application, and shall determine whether such entry or application represents a valid existing right to which the application is subject. Nothing in this section shall be construed to affect rights, if any, acquired by actual use of the described land prior to its withdrawal or classification, as affecting National Forest lands. Existing rights, identification and adjudication. 43 USC 1601 note. 48 USC note prec. 21. 34 Stat. 197.

TITLE XIV—AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT AND RELATED PROVISIONS

PART A—AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

STOCK ALIENATION

SEC. 1401. (a) Section 7(h)(3) of the Alaska Native Claims Settlement Act is amended to read as follows: 43 USC 1606.

"(3)(A) On December 18, 1991, all stock previously issued shall be deemed to be canceled, and shares of stock of the appropriate class shall be issued to each stockholder share for share subject only to such restrictions as may be provided by the articles of incorporation of the corporation, or agreements between corporations and individual shareholders.

"(B) If adopted by December 18, 1991, restrictions provided by amendment to the articles of incorporation may include, in addition to any other legally permissible restrictions— Stock issuance, restrictions.

"(i) the denial of voting rights to any holder of stock who is not a Native, or a descendant of a Native, and

"(ii) the granting to the corporation, or to the corporation and a stockholder's immediate family, on reasonable terms, the first right to purchase a stockholder's stock (whether issued before or after the adoption of the restriction) prior to the sale or transfer of such stock (other than a transfer by inheritance) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance.

"(C) Notwithstanding any provision of Alaska law to the contrary— Regional and native corporation articles of incorporation.

"(i) any amendment to the articles of incorporation of a regional corporation to provide for any of the restrictions speci-

fied in clause (i) or (ii) of subparagraph (B) shall be approved if such amendment receives the affirmative vote of the holders of a majority of the outstanding shares entitled to be voted of the corporation, and

"(ii) any amendment to the articles of incorporation of a Native Corporation which would grant voting rights to stockholders who were previously denied such voting rights shall be approved only if such amendment receives, in addition to any affirmative vote otherwise required, a like affirmative vote of the holders of shares entitled to be voted under the provisions of the articles of incorporation.".

43 USC 1607.

(b) Section 8(c) of such Act is amended to read as follows:

"(c) The provisions concerning stock alienation, annual audit, and transfer of stock ownership on death or by court decree provided for regional corporations in section 7, including the provisions of section 7(h)(3), shall apply to Village Corporations Urban Corporations and Native Groups; except that audits need not be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives or to the Committee on Energy and Natural Resources of the Senate.".

43 USC 1606.

(c) At the end of section 1696(h)(1) of title 43, United States Code, insert immediately before the period the words: "or by stockholder who is a member of a professional organization, association, or board which limits the ability of that stockholder to practice his profession because of holding stock issued under this Act".

"Native Corporation."
43 USC 1602.

(d) Section 3 of the Alaska Native Claims Settlement Act is amended by the addition of a new subsection as follows:

"(m) 'Native Corporation' means any Regional Corporation, any Village Corporation, any Urban Corporation, and any Native Group.".

SELECTION REQUIREMENTS

SEC. 1402. Subsection (a)(2) of section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(a)(2)), is amended by adding to the end of that subsection the following: *"Provided,* That the Secretary in his discretion and upon the request of the concerned Village Corporation, may waive the whole section requirement where—

"(A)(i) a portion of available public lands of a section is separated from other available public lands in the same section by lands unavailable for selection or by a meanderable body of water;

"(ii) such waiver will not result in small isolated parcels of available public land remaining after conveyance of selected lands to Native Corporations; and

"(iii) such waiver would result in a better land ownership pattern or improved land or resource management opportunity; or

"(B) the remaining available public lands in the section have been selected and will be conveyed to another Native Corporation under this Act.".

RETAINED MINERAL ESTATE

SEC. 1403. Section 12(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(c)) is amended by adding a new paragraph (4) to read as follows:

"(4) Where the public lands consist only of the mineral estate, or portion thereof, which is reserved by the United States upon patent of the balance of the estate under one of the public land laws, other than this Act, the Regional Corporations may select as follows:

"(A) Where such public lands were not withdrawn pursuant to subsection 11(a)(3), but are surrounded by or contiguous to lands withdrawn pursuant to said subsection and filed upon for selection by a Regional Corporation, the Corporation may, upon request, have such public land included in its selection and considered by the Secretary to be withdrawn and properly selected. 43 USC 1610.

"(B) Where such public lands were withdrawn pursuant to subsection 11(a)(1) and are required to be selected by paragraph (3) of this subsection, the Regional Corporation may, at its option, exclude such public lands from its selection.

"(C) Where the Regional Corporation elects to obtain such public lands under subparagraph (A) or (B) of this paragraph, it may select, within ninety days of receipt of notice from the Secretary, the surface estate in an equal acreage from other public lands withdrawn by the Secretary for that purpose. Such selections shall be in units no smaller than a whole section, except where the remaining entitlement is less than six hundred and forty acres, or where an entire section is not available. Where possible, selections shall be of lands from which the subsurface estate was selected by that Regional Corporation pursuant to subsection 12(a)(1) or 14(h)(9) of this Act, and, where possible, all selections made under this section shall be contiguous to lands already selected by the Regional Corporation or a Village Corporation. The Secretary is authorized, as necessary, to withdraw up to two times the acreage entitlement of the in lieu surface estate from vacant, unappropriated, and unreserved public lands from which the Regional Corporation may select such in lieu surface estate except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to subsection 17(d)(1). 43 USC 1611, *Post*, p. 2494. 43 USC 1616.

"(D) No mineral estate or in lieu surface estate shall be available for selection within the National Petroleum Reserve—Alaska or within Wildlife Refuges as the boundaries of those refuges exist on the date of enactment of this Act.".

VESTING DATE FOR RECONVEYANCES

SEC. 1404. (a) Section 14(c)(1) of the Alaska Native Claims Settlement Act is amended by inserting "as of December 18, 1971 (except that occupancy of tracts located in the Pribilof Islands shall be determined as of the date of initial conveyance of such tracts to the appropriate Village Corporation)" after "title to the surface estate in the tract occupied". 43 USC 1613.

(b) Section 14(c)(2) of such Act is amended by inserting "as of December 18, 1971" after "title to the surface estate in any tract occupied".

(c) Section 14(c)(4) of such Act is amended to read:

"(4) the Village Corporation shall convey to the Federal Government, State, or to the appropriate Municipal Corporation, title to the surface estate for airport sites, airway beacons, and other navigation aids as such existed on December 18, 1971, together with such additional acreage and/or easements as are necessary to provide related governmental services and to insure

safe approaches to airport runways as such airport sites, runways, and other facilities existed as of December 18, 1971.".

RECONVEYANCE TO MUNICIPAL CORPORATIONS

43 USC 1613.

SEC. 1405. Section 14(c)(3) of the Alaska Native Claims Settlement Act is amended by striking out the semicolon at the end and inserting in lieu thereof the following new language: "unless the Village Corporation and the Municipal Corporation or the State in trust can agree in writing on an amount which is less than one thousand two hundred and eighty acres: *Provided further,* That any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed pursuant to this subsection shall be paid to the Village Corporation by the Municipal Corporation or the State in trust: *Provided, however,* That the word "sale", as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the Municipal Corporation or the State in trust, nor shall it include the issuance of free use permits or other authorization for such purposes;".

CONVEYANCE OF PARTIAL ESTATES

Cemetery sites and historical places.

SEC. 1406. (a) Section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) is amended by replacing the existing paragraph with the following paragraph to read as follows:

"(1) The Secretary may withdraw and convey to the appropriate Regional Corporation fee title to existing cemetery sites and historical places. Only title to the surface estate shall be conveyed for lands located in a Wildlife Refuge, when the cemetery or historical site is greater than 640 acres.".

(b) Sections 14(h)(2) and 14(h)(5) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613 (h)(2) and (h)(5)) are amended by adding to the end of each section "unless the lands are located in a Wildlife Refuge".

Reserved minerals.

(c) Section 14(h)(6) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(h)(6)) is modified by adding at the end thereof the following sentence: "Any minerals reserved by the United States pursuant to the Act of March 8, 1922 (42 Stat. 415), as amended, in a Native Allotment approved pursuant to section 18 of this Act during the period December 18, 1971, through December 18, 1975, shall be conveyed to the appropriate Regional Corporation, unless such lands are located in a Wildlife Refuge or in the Lake Clark areas as provided in section 12 of the Act of January 2, 1976 (Public Law 94-204), as amended.".

43 USC 270-11.

43 USC 1611 note.

(d) Section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)) is amended by adding at the end thereof the following new paragraphs:

Subsurface and retained mineral estates.

"(9) Where the Regional Corporation is precluded from receiving the subsurface estate in lands selected and conveyed pursuant to paragraph (1), (2), (3), or (5), or the retained mineral estate, if any, pursuant to paragraph (6), it may select the subsurface estate in an equal acreage from other lands withdrawn for such selection by the Secretary, or, as to Cook Inlet Region, Incorporated, from those areas designated for in lieu selection in paragraph I.B.(2) of the document identified in section 12(b) of Public Law 94-204. Selections made under this paragraph shall be contiguous and in reasonably compact tracts except as separated by unavailable lands, and shall be in whole sections, except

43 USC 1611 note.

where the remaining entitlement is less than six hundred and forty acres. The Secretary is authorized to withdraw, up to two times the Corporation's entitlement, from vacant, unappropriated, and unreserved public lands, including lands solely withdrawn pursuant to section 17(d)(1), and the Regional Corporation shall select such entitlement of subsurface estate from such withdrawn lands within ninety days of receipt of notification from the Secretary. 43 USC 1616.

"(10) Notwithstanding the provisions of subsection 22(h), the Secretary, upon determining that specific lands are available for withdrawal and possible conveyance under this subsection, may withdraw such lands for selection by and conveyance to an appropriate applicant and such withdrawal shall remain until revoked by the Secretary. Withdrawals. 43 USC 1621.

"(11) For purposes set forth in subsections (h) (1), (2), (3), (5), and (6), the term Wildlife Refuges refers to Wildlife Refuges as the boundaries of those refuges exist on the date of enactment of this Act.".

(e) Any Regional Corporation which asserts a claim with the Secretary to the subsurface estate of lands selectable under section 14(h) of the Alaska Native Claims Settlement Act which are in a Wildlife Refuge shall not be entitled to any in lieu surface or subsurface estate provided by subsections 12(c)(4) and 14(h)(9) of such Act. Any such claim must be asserted within one hundred and eighty days after the date of enactment of this Act. Failure to assert such claim within the one-hundred-and-eighty-day period shall constitute a waiver of any right to such subsurface estate in a Wildlife Refuge as the boundaries of the refuge existed on the date of enactment of the Alaska Native Claims Settlement Act. Wildlife refuge subsurface estate. 43 USC 1613 note. 43 USC 1613. *Ante*, pp. 2492, 2494. 43 USC 1601 note.

SHAREHOLDER HOMESITES

SEC. 1407. Section 21 of the Alaska Native Claims Settlement Act is amended by adding a new subsection at the end thereof, as follows: 43 USC 1620.

"(j) A real property interest distributed prior to December 18, 1991, by a Village Corporation to a shareholder of such Corporation pursuant to a program to provide homesites to its shareholders, shall be deemed conveyed and received pursuant to this Act: *Provided,* That the land received is restricted by covenant for a period not less than ten years to single-family (including traditional extended family customs) residential occupancy, and by such other covenants and retained interests as the Village Corporation deems appropriate: *Provided further,* That the land conveyed does not exceed one and one-half acres: *Provided further,* That the shareholder receiving the homesite, if the shareholder subdivides the land received, shall pay all Federal, State, and local taxes which would have been incurred but for this subsection, together with simple interest at six percent per annum calculated from the date of receipt of the land to be paid to the appropriate taxing authority.".

BASIS IN THE LAND

SEC. 1408. Section 21(c) of the Alaska Native Claims Settlement Act is amended to read as follows: Property value.

"(c) The receipt of land or any interest therein pursuant to this Act or of cash in order to equalize the values of properties exchanged pursuant to subsection 22(f) shall not be subject to any form of Federal, State, or local taxation. The basis for determining gain or 43 USC 1621.

loss from the sale or other disposition of such land or interest in land for purposes of any Federal, State, or local tax imposed on or measured by income shall be the fair value of such land or interest in land at the time of receipt, adjusted as provided in section 1016 of the Internal Revenue Code of 1954, as amended: *Provided, however,* That the basis of any such land or interest therein attributable to an interest in a mine, well, other natural deposit, or block of timber shall be not less than the fair value of such mine, well, natural deposit, or block of timber (or such interest therein as the Secretary shall convey) at the time of the first commercial development thereof, adjusted as provided in section 1016 of such Code. For purposes of this subsection, the time of receipt of land or any interest therein shall be the time of the conveyance by the Secretary of such land or interest (whether by interim conveyance or patent).".

26 USC 1016.

FIRE PROTECTION

SEC. 1409. Subsection (e) of section 21 of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(e)) is amended by inserting the words "corporation organized under section 14(h)(3)," after "Native group," by replacing the comma following the citation "(64 Stat. 967, 1100)" with a period, and by making a revised sentence out of the remaining phrase by striking the words "and" and "also", replacing the comma after the word "lands" with the words "they shall", and replacing the word "forest" with "wildland".

INTERIM CONVEYANCES AND UNDERSELECTIONS

43 USC 1621.

SEC. 1410. Section 22(j) of the Alaska Native Claims Settlement Act is amended to read as follows:

"(j)(1) Where lands to be conveyed to a Native, Native Corporation, or Native group pursuant to this Act as amended and supplemented have not been surveyed, the same may be conveyed by the issuance of an 'interim conveyance' to the party entitled to the lands. Subject to valid existing rights and such conditions and reservations authorized by law as are imposed, the force and effect of such an interim conveyance shall be to convey to and vest in the recipient exactly the same right, title, and interest in and to the lands as the recipient would have received had he been issued a patent by the United States. Upon survey of lands covered by an interim conveyance a patent thereto shall be issued to the recipient. The boundaries of the lands as defined and conveyed by the interim conveyance shall not be altered but may then be redescribed, if need be, in reference to the plat of survey. The Secretary shall make appropriate adjustments to insure that the recipient receives his full entitlement. Where the term 'patent,' or a derivative thereof, is used in this Act, unless the context precludes such construction, it shall be deemed to include 'interim conveyance,' and the conveyances of land to Natives and Native Corporations provided for this Act shall be as fully effectuated by the issuance of interim conveyances as by the issuance of patents.

"(2) Where lands selected and conveyed, or to be conveyed to a Village Corporation are insufficient to fulfill the Corporation's entitlement under subsection 12(b), 14(a), 16(b), or 16(d), the Secretary is authorized to withdraw twice the amount of unfulfilled entitlement and provide the Village Corporation ninety days from receipt of notice from the Secretary to select from the lands withdrawn the land it desires to fulfill its entitlement. In making the withdrawal, the Secretary shall first withdraw public lands that were formerly

43 USC 1611, 1613, 1615.

withdrawn for selection by the concerned Village Corporation by or pursuant to subsection 11(a)(1), 11(a)(3), 16(a), or 16(d). Should such lands no longer be available, the Secretary may withdraw public lands that are vacant, unreserved, and unappropriated, except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to subsection 17(d)(1). Any subsequent selection by the Village Corporation shall be in the manner provided in this Act for such original selections.". 43 USC 1610, 1615. 43 USC 1616.

ESCROW ACCOUNT

SEC. 1411. (a) Subsection (a) of section 2 of Public Law 94-204 (89 Stat. 1146) is amended to read as follows:

"SEC. 2. (a)(1) During the period of the appropriate withdrawal for selection pursuant to the Settlement Act, any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements, or from trespass occurring after the date of withdrawal of the lands for selection, pertaining to lands or resources of lands withdrawn for Native selection pursuant to the Settlement Act shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to that Act have been conveyed to the selecting Corporation or individual entitled to receive benefits under such Act. Payments. 43 USC 1613 note.

"(2) Such proceeds which were received, if any, subsequent to the date of withdrawal of the land for selection, but were not deposited in the escrow account shall be identified by the Secretary within two years of the date of conveyance or this Act, whichever is later, and shall be paid, together with interest payable on the proceeds from the date of receipt by the United States to the date of payment to the appropriate Corporation or individual to which the land was conveyed by the United States: *Provided,* That interest shall be paid on the basis of a semiannual computation from the date of receipt of the proceeds by the United States to the date of payment with simple interest at the rate determined by the Secretary of the Treasury to be the rate payable on short-term obligations of the United States prevailing at the time of payment: *Provided further,* That any rights of a Corporation or individual under this section to such proceeds shall be limited to proceeds actually received by the United States plus interest: *And provided further,* That moneys for such payments have been appropriated as provided in subsection (e) of this section.

"(3) Such proceeds which have been deposited in the escrow account shall be paid, together with interest accrued by the Secretary to the appropriate Corporation or individual upon conveyance of the particular withdrawn lands. In the event that a conveyance does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the Corporation or individual shall only be entitled to the proportionate amount of the proceeds, including interest accrued, derived from such contract, lease, license, permit, right-of-way, or easement, which results from multiplying the total of such proceeds, including interest accrued, by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the conveyance and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the conveyee shall be entitled to the proportionate share of the proceeds, including a proportionate share of interest accrued, in relation to the damages occurring on the respective lands during the period the lands were withdrawn for selection.

"(4) Such proceeds which have been deposited in the escrow account pertaining to lands withdrawn but not selected pursuant to such Act, or selected but not conveyed due to rejection or relinquishment of the selection, shall be paid, together with interest accrued, as would have been required by law were it not for the provisions of this Act.

"(5) Lands withdrawn under this subsection include all Federal lands identified under appendices A, B-1 and B-2 of the document referred to in section 12 of the Act of January 2, 1976 (Public Law 94-204) for Cook Inlet Region, Incorporated, and are deemed withdrawn as of the date established in subsection (a) of section 2 of the Act of January 2, 1976.".

43 USC 1611 note.

43 USC 1613 note.

(b) Section 2 of Public Law 94-204 (89 Stat. 1146) is amended by adding a new subsection to read as follows:

"(e) There is authorized to be appropriated such sums as are necessary to carry out the purposes of this section.".

LIMITATIONS

43 USC 1639. 43 USC 1601 note.

SEC. 1412. Except as specifically provided in this Act, (i) the provisions of the Alaska Native Claims Settlement Act are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.

PART B—OTHER RELATED PROVISIONS

SUPPLEMENTAL APPROPRIATION FOR NATIVE GROUPS

Grants. 43 USC 1618 note. *Ante*, p. 2494.

SEC. 1413. The Secretary shall pay by grant to each of the Native Group Corporations established pursuant to section 14(h)(2) of the Alaska Native Claims Settlement Act and finally certified as a Native Group, an amount not more than $100,000 or less than $50,000 adjusted according to population of each Group. Funds authorized under this section may be used only for planning, development, and other purposes for which the Native Group Corporations are organized under the Settlement Act.

FISCAL YEAR ADJUSTMENT ACT

Funds, disposition. 43 USC 1605 note.

SEC. 1414. (a) Moneys appropriated for deposit in the Alaska Native Fund for the fiscal year following the enactment of this Act, shall, for the purposes of section 5 of Public Law 94-204 only, be deposited into the Alaska Native Fund on the first day of the fiscal year for which the moneys are appropriated, and shall be distributed at the end of the first quarter of the fiscal year in accordance with section 6(c) of the Alaska Native Claims Settlement Act notwithstanding any other provision of law.

43 USC 1605.

(b) For the fiscal year in which this Act is enacted, the money appropriated shall be deposited within 10 days of enactment, unless it has already been deposited in accordance with existing law, and shall be distributed no later than the end of the quarter following the quarter in which the money is deposited: *Provided,* That if the money is already deposited at the time of enactment of this Act, it must be distributed at the end of the quarter in which this Act is enacted.

43 USC 1605.

(c) Notwithstanding section 38 of the Fiscal Year Adjustment Act or any other provisions of law, interest earned from the investment of appropriations made pursuant to the Act of July 31, 1976 (Public Law 94-373; 90 Stat. 1051), and deposited in the Alaska Native Fund on or

after October 1, 1976, shall be deposited in the Alaska Native Fund within thirty days after enactment of this Act and shall be distributed as required by section 6(c) of the Alaska Native Claims Settlement Act. 43 USC 1605.

RELINQUISHMENT OF SELECTIONS PARTLY WITHIN CONSERVATION UNITS

SEC. 1415. Whenever a valid State or Native selection is partly in and partly out of the boundary of a conservation system unit, notwithstanding any other provision of law to the contrary, the State or any Native Corporation may relinquish its rights in any portion of any validly selected Federal land, including land underneath waters, which lies within the boundary of the conservation system unit. Upon relinquishment, the Federal land (including land underneath waters) so relinquished within the boundary of the conservation system unit shall become, and be administered as, a part of the conservation system unit. The total land entitlement of the State or Native Corporation shall not be affected by such relinquishment. In lieu of the lands and waters relinquished by the State, the State may select pursuant to the Alaska Statehood Act as amended by this Act, an equal acreage of other lands available for such purpose. The Native Corporation may retain an equal acreage from overselection lands on which selection applications were otherwise properly and timely filed. A relinquishment pursuant to this section shall not invalidate an otherwise valid State or Native Corporation land selection outside the boundaries of the conservation system unit, on the grounds that, after such relinquishment, the remaining portion of the land selection no longer meets applicable requirements of size, compactness, or contiguity, or that the portion of the selection retained immediately outside the conservation system unit does not follow section lines along the boundary of the conservation system unit. The validity of the selection outside such boundary shall not be adversely affected by the relinquishment. 43 USC 1640. 48 USC note prec. 21.

BRISTOL BAY GROUP CORPORATION LANDS

SEC. 1416. (a) Congress finds that the individual Natives enrolled to Port Alsworth are enrolled at-large in the Bristol Bay Native Corporation. The roll prepared by the Secretary shall be determinative of this fact and such enrollment shall be final. Acreage entitlements.

(b) The individual Natives enrolled to Port Alsworth have formed a group corporation which shall hereafter be referred to as Tanalian Incorporated. The benefits bestowed by this section upon these Natives shall accrue to such group corporation, regardless of its name.

(c) If Tanalian Incorporated is certified as a group under the Alaska Native Claims Settlement Act, Tanalian Incorporated shall be entitled to make selections in accordance with subsection (d) hereof. 43 USC 1601 note.

(d)(1) Tanalian Incorporated if certified shall be entitled to make selections of the surface estate of public lands as that term is described in section 3(e) of the Alaska Native Claims Settlement Act from the following described lands, except it may not select any land of Power Site Reserve 485 (the Kontrashibuna Power Site), land acquired by the United States after January 1, 1979, or land subject to a valid existing right, in the amount agreed to by Bristol Native Corporation (not to exceed 320 acres per person or 2,240 acres, whichever is less) and charged against Bristol Bay Native Corpora- 43 USC 1602.

43 USC 1613.

tion's rights to select under section 14(h) as provided for in 43 CFR 2653.1(b):

Seward Meridian

Township 1 north, Range 29 west, sections 3, 4, 5, 8, 9, 10, 16, 17, 18, 19, 20, and 21.

(2) If Tanalian Incorporated is certified as a group, the Secretary shall give written notice within sixty days of such certification to Bristol Bay Native Corporation.

(3) If such notice is given, Bristol Bay Native Corporation shall, within sixty days thereafter, give written notice to the Secretary and Tanalian Incorporated as to the amount of acreage Tanalian Incorporated may select.

(4) Within one hundred and eighty days after receipt of such notice, Tanalian Incorporated may select, pursuant to section 14(h)(2) of the Alaska Native Claims Settlement Act, the lands withdrawn pursuant to subsection (d)(1).

Ante, p. 2494.

(5) Within one hundred and eighty days after Tanalian Incorporated makes selections in accordance with subsection (d)(1) hereof, Bristol Bay Native Corporation may select subject to any valid existing right an amount of subsurface estate from public lands as defined in the Alaska Native Claims Settlement Act previously withdrawn under sections 11(a)(1) or 11(a)(3) of the Alaska Native Claims Settlement Act within its boundaries equal to the surface estate entitlement of Tanalian Incorporated. Bristol Bay Native Corporation will forego in lieu subsurface selections in that portion of the Nondalton withdrawal area which falls within the Lake Clark Preserve. Selections made by Bristol Bay Native Corporation shall have priority over any selections made by the State after December 18, 1975. Such subsurface selections shall be in a single contiguous and reasonably compact tract and the exterior boundaries of such selections shall be in conformity with the public lands survey system.

43 USC 1601 note.

43 USC 1610.

(e) If there is any conflict between selections made by Tanalian Incorporated pursuant to this section and valid Cook Inlet Region, Incorporated or Cook Inlet Region Village selections, the selections of Cook Inlet Region, Incorporated or the Cook Inlet Region Village shall prevail.

Land conveyance.

(f) The Secretary shall convey to Tanalian Incorporated and to Bristol Bay Native Corporation the surface and subsurface estate, respectively, of the acreage selected by the corporation pursuant to this section.

(g) Nothing contained in this section, or done pursuant to authorizations made by this section, shall alter or affect the acreage entitlements of Cook Inlet Region, Incorporated, or Bristol Bay Native Corporation pursuant to section 12(c) of the Alaska Native Claims Settlement Act nor the boundaries of Cook Inlet Region, Incorporated or Bristol Bay Native Corporation, respectively.

43 USC 1611.

PRIBILOF ISLANDS ACQUISITION AUTHORITY

SEC. 1417. (a) Congress finds and declares that—

(1) certain cliff areas on Saint Paul Island and Saint George Island of the Pribilof Islands group in the Bering Sea and the entirety of Otter Island, and Walrus Island, are used by numerous species of migratory birds, several of them unique, as rookeries;

(2) these areas are of singularly high value for such birds;

(3) these cliff areas, from the line of mean high tide to and including the bluff and areas inland from them, and the entirety of Otter Island, and Walrus Island, aggregating approximately eight thousand acres, properly ought to be made and be managed as a part or parts of the Alaska Maritime National Wildlife Refuge free of any claims of Native Corporation ownership; and

(4) this can best be accomplished through purchase by the United States.

(b) The Secretary is authorized and directed to acquire the lands described in subsection (a)(3) of this section on the terms of and conditions set forth in the Agreement known as the "Pribilof Terms and Conditions", between Tanadgusix, Incorporated, Tanaq, Incorporated, the Aleut Corporation, and the Department of the Interior, incorporated as an Attachment of the letter of the Director, Fish and Wildlife Service, Department of the Interior, dated August 4, 1980, file reference FWS 1366, addressed to the Aleut, Tanadgusix, and Tanaq Corporations. The "Pribilof Terms and Conditions," as referenced in this subsection, are hereby ratified as to the duties and obligations of the United States and its agencies, Tanadgusix, Incorporated, Tanaq, Incorporated, and the Aleut Corporation: *Provided,* That the "Pribilof Terms and Conditions" may be modified or amended, upon the written agreement of all parties thereto and appropriate notification in writing to the appropriate committees of the Congress, without further action by the Congress. Upon acquisition by the United States, the lands described in such subsection (a)(3) shall be incorporated within, and made a subunit of, the Alaska Maritime National Wildlife Refuge and administered accordingly.

(c) There are hereby authorized to be appropriated for the purposes of this section, out of any money in the Treasury not otherwise appropriated, for the acquisition of such lands, not to exceed $7,500,000, to remain available until expended, and without regard to fiscal year limitation. Appropriation authorization.

(d) The land or money exchanged under this section shall be deemed to be property exchanged within the meaning of section 21(c) of the Alaska Native Claims Settlement Act. 43 USC 1620.

NANA/COOK INLET REGIONAL CORPORATION LANDS

SEC. 1418. (a) The following lands are hereby withdrawn for selection pursuant to the provisions of section 14(h)(8) of the Alaska Native Claims Settlement Act and this section: 43 USC 1613.

Kateel River Meridian

Township 32 north, range 18 west, sections 3 through 10, 13 through 36, except those lands within the Kelly River drainage;

Township 32 north, range 17 west, sections 29 through 32, except those lands within the Kelly River drainage;

Township 31 north, range 18 west;

Township 31 north, range 17 west, sections 5 through 8, except those lands within the Kelly River drainage, 17 through 20, 29 through 32;

Township 30 north, range 19 west, sections 1 through 18;

Township 30 north, range 18 west, sections 1 through 9; and

Township 30 north, range 17 west, section 6.

(b)(1) On or prior to one hundred and eighty days from the date of enactment of this Act, NANA Regional Corporation, Incorporated, may select, pursuant to section 14(h)(8) of the Alaska Native Claims

43 USC 1613.

Settlement Act, from the lands withdrawn pursuant to subsection (a). In addition, on or prior to such date, Cook Inlet Region, Incorporated, if it receives the written consent of NANA Regional Corporation, Incorporated, and of the State of Alaska, may select from such lands, such selections to be credited against the Secretary's obligation under paragraph I(C)(1) of the document entitled, "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area as Clarified August 31, 1976", and any such selections conveyed shall be conveyed in partial satisfaction of the entitlement of Cook Inlet Region, Incorporated, under section 12 of Public Law 94-204, as amended.

43 USC 1611 note.

(2) The lands selected by NANA Regional Corporation, Incorporated, or Cook Inlet Region, Incorporated, unless otherwise provided in a waiver of this paragraph (b)(2) by the Secretary, shall consist of tracts which—

(A) contain not less than eight sections or 5,120 acres, whichever is less; and

(B) have boundaries which follow section lines, except where such boundary is the border of a meanderable body of water, with no segment of an exterior line less than two miles in length (except where shorter segments are necessary (1) to follow section lines where township lines are offset along standard parallels caused by the convergence of meridians, (2) to conform to section lines where a section is less than standard size, or (3) to avoid crossing the boundary lines of conservation system units created by this Act, or of lands which are unavailable for selection).

Land conveyance.

(c) The Secretary shall convey the surface and subsurface estate of the acreage selected pursuant to subsection (b). Conveyances pursuant to this section shall be subject to valid existing rights and the provisions of the Alaska Native Claims Settlement Act.

(d) Nothing in this section shall be deemed to increase or decrease the acreage entitlement of either NANA Regional Corporation, Incorporated, or Cook Inlet Region, Incorporated under any section of the Alaska Native Claims Settlement Act.

(e) Any lands withdrawn under subsection (a) and not selected by either NANA Regional Corporation, Incorporated or Cook Inlet Region, Incorporated, shall return to the public domain subject to any prior withdrawals made by the Secretary pursuant to subsection 17(d)(1) of the Alaska Native Claims Settlement Act and the provisions of section 906(k) of this Act.

43 USC 1616.
Ante, p. 2437.

(f) Nothing in this section shall be construed as granting or denying to any Regional Corporation, including NANA Regional Corporation, Incorporated, or Cook Inlet Region, Incorporated, the right to select land pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act outside the areas withdrawn by sections 11 and 16 of such Act.

43 USC 1613.
43 USC 1610, 1615.

DOYON REGIONAL CORPORATION LANDS

SEC. 1419. LAND EXCHANGE.—(a)(1) The Secretary is authorized, on the terms and conditions provided in this section and in section 1420, to accept from Doyon, Limited, a Regional Corporation organized pursuant to the Alaska Native Claims Settlement Act, a relinquishment of all selections filed by that corporation under sections 12(c) and 14(h)(8) of such Act which—

43 USC 1601 note.
43 USC 1611, 1613.

(A) lie within the watershed of the Charley River, were withdrawn for selection by Doyon pursuant to section 11(a)(3) of such Act and lie within the following townships: 43 USC 1610.

Fairbanks Meridian

Township 2 north, range 23, 24, 25, and 26 east;
Township 3 north, range 23, 24, 25, and 26 east;
Township 4 north, range 24, 25, and 26 east; and
Township 2 south, range 20 east.

(B) lie in the following townships outside, but adjacent to, the Charley River watershed:

Fairbanks Meridian

Township 2 north, range 23 east; and
Township 2 north, range 24 east, sections 19 through 21, 28 through 33, inclusive.

(C) lie within the following townships inside the Kanuti National Wildlife Refuge:

Fairbanks Meridian

Township 15 north, range 20 west, sections 4 through 9, 16 through 18, inclusive;
Township 17 north, range 23 west.

(D) lie within the following townships along the Yukon River:

Kateel River Meridian

Township 19 south, range 3 west. That portion lying west of the mean high water line of the Yukon River;
Township 20 south, range 3 west. All except the Yukon River and Bullfrog Island;
Township 21 south, range 3 west. That portion of sections 7, 8, and 9 lying south of Honeymoon Slough, and sections 16, 17, and 18; and
Township 21 south, range 4 west. Sections 12 and 13 above the mean high water line of the Yukon River, and sections 2, 3, 10, 11, 14, 15, 19 through 23, and 27 through 34 all lying west of the mean high water line of the Yukon River.

(2) Doyon, Limited, shall have ninety days after the date of enactment of this Act to effect the relinquishment of all the land selections described in subsection (a) hereof, and shall not be entitled to any of the benefits of subsections (b), (c), and (d) hereof or of section 1420 of this Act if the relinquishment of all such selections does not occur during that period.

(3) Following the relinquishment by Doyon, Limited, of all the land selections described in subsection (a) hereof, the Secretary shall determine the acreage so relinquished by such measuring techniques, including aerial photography but not ground surveys, upon which he and Doyon may agree.

(b)(1) In exchange for the lands relinquished pursuant to subsection (a) hereof, the Secretary shall convey to Doyon, Limited, pursuant to the provisions of the Alaska Native Claims Settlement Act, subject to valid existing rights and on the terms and conditions hereinafter set forth, such lands as Doyon may select, within one year after the Secretary's acreage determination pursuant to subsection (a)(3) Land conveyance. 43 USC 1601 note.

hereof, on an acre-for-acre basis up to the total acreage so relinquished, from the following described lands:

Fairbanks Meridian

Township 35 north, range 7 west, sections 19 through 36;
Township 34 north, range 7 west, sections 1 through 21, and 28 through 33;
Township 29 north, range 13 west, sections 1 through 3, and 10 through 15;
Township 20 north, range 10 west, within the study area delineated in section 1420;
Township 20 north, range 11 west, within the study area delineated in section 1420;
Township 20 north, range 12 west, within the study area delineated in section 1420 and all remaining lands in the township which are outside of the Hodzana River watershed;
Township 21 north, range 10 west, within the study area delineated in section 1420;
Township 21 north, range 11 west, within the study area delineated in section 1420 and all the remaining lands in the township which are outside of the Hodzana River watershed;
Township 21 north, range 12 west, within the study area delineated in section 1420 and all remaining lands in the township which are outside of the Hodzana River watershed;
Township 1 north, range 25 east, sections 13, 14, 15, 21 through 28, and 33 through 36: *Provided,* That Doyon may not receive a land conveyance within any of the following watersheds:
(1) Arctic Creek, a tributary of Flume Creek;
(2) Diamond Fork of the Seventy-mile River; and
(3) Copper Creek, a tributary of the Charley River.
Township 1 south, range 25 east, sections 1, 2, 3, 10 through 14, 23, 24, and 25: *Provided,* That Doyon may not receive a land conveyance within the watershed of Copper Creek, a tributary of the Charley River;
Township 3 south, range 30 east, sections 20 through 29 and 32 through 36;
Township 4 south, range 28 east, sections 10 through 15, 22 through 28, 33 and 36: *Provided,* That Doyon may not receive a land conveyance any closer than one mile to the mean high water line of the North Fork of the Fortymile River, nor any closer than one-half mile to Champion Creek;
Township 4 south, range 29 east, sections 18 through 22, and 25 through 36: *Provided,* That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Champion Creek;
Township 4 south, range 30 east, sections 1, 2, 11, 12, 13, 24, 25, and 28 through 36: *Provided,* That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Champion Creek;
Township 4 south, range 31 east, sections 6, 7, 8, 17 through 20, and 29 through 32: *Provided,* That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Champion Creek;
Township 5 south, range 30 east, sections 1 through 6, 11, and 12: *Provided,* That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Champion Creek;

Township 5 south, range 31 east, sections 4 through 9: *Provided,* That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Champion Creek;

Township 5 south, range 25 east, sections 12, 13, and 24: *Provided,* That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of the Middle Fork of the Fortymile River;

Township 5 south, range 26 east, sections 7, 8, and 17 through 20: *Provided,* That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of the Middle Fork of the Fortymile River;

Township 6 south, range 18 east, sections 4 through 9 and 16 through 18;

Township 7 south, range 17 east, sections 12, 13, 24, 25, 26, and 36;

Township 7 south, range 18 east, sections 7, 8, 17 through 20, and 29 through 32;

Township 8 south, range 18 east, sections 1 through 4, 9 through 16, 21 through 28, and 33 through 36;

Township 6 south, range 28 east, sections 31 through 33: *Provided,* That Doyon may not receive a land conveyance any closer than one-half mile to the mean high water line of Hutchison Creek;

Township 7 south, range 28 east, sections 4 through 9, 14 through 23, and 26 through 35;

Township 8 south, range 28 east, sections 2 through 11, and 14 through 18;

Township 7 south, range 21 east, sections 11 through 14, 23 through 26, 35, and 36; and

Township 7 south, range 22 east, sections 2 through 11.

Copper River Meridian

Township 27 north, range 6 east, sections 1, 2, 11, and 12;
Township 27 north, range 7 east, sections 1 through 12;
Township 28 north, range 7 east, sections 31 through 36; and
Township 28 north, range 6 east, sections 35 and 36.

(2) Unless a waiver of any such requirement is obtained from the Secretary, the lands selected by Doyon pursuant to subsection (b)(1) shall consist of tracts which: (a) contain not less than eight sections or five thousand one hundred and twenty acres, whichever is smaller, except for the last tract required to complete Doyon's land entitlement; and (b) have boundaries which follow section lines, except where such boundary is the border of a navigable body of water, with no segment of an exterior line less than two miles in length (except where shorter segments are necessary to follow section lines where township lines are offset along standard parallels caused by the convergence of meridians, to conform to section lines where a section is less than standard size, or to avoid crossing the boundary lines of conservation system units created by this Act, or of lands which are unavailable for selection). Selections under subsection (b)(1), subsection (c), and section 1420 shall not be subject to or charged against the maximum acreage limitations set forth in paragraph 3B(2) (a) and (b) of the Stipulation and Agreement entered into by Doyon and the Secretary in Doyon, Limited against Morton, civil action numbered 1586-73, in the United States District Court for the District of Columbia.

(3) The lands selected by Doyon, Limited, and conveyed by the Secretary pursuant to subsection (b) hereof shall be treated as if such lands had been withdrawn pursuant to section 11(a)(3) of the Alaska Native Claims Settlement Act and had been selected by Doyon pursuant to section 12(c) of that Act. A failure by Doyon, Limited, to select its total land entitlement under subsection (b)(1) shall not affect Doyon's total land entitlement under sections 12(c) and 14(h)(8) of such Act.

43 USC 1610.
43 USC 1611.
43 USC 1611, 1613.

(4) Beginning on the date of enactment of this Act, the lands described in subsection (b)(1) hereof shall be withdrawn from all forms of appropriation under the public land laws as if such lands had been withdrawn pursuant to section 11(a) of the Alaska Native Claims Settlement Act. The Secretary is authorized to terminate such withdrawal with respect to lands not selected by Doyon, Limited, either one year after the Secretary's acreage determination pursuant to subsection (a)(3) hereof or, with respect to the lands subject to such release, upon the giving of notice by Doyon to the Secretary that the corporation is releasing its selection rights under this paragraph to all or part of the withdrawn lands, whichever first occurs. Such withdrawal shall not prevent reasonable surface studies or mineral exploration, including core drilling, by Doyon or its assigns on the lands withdrawn, subject to such rules and regulations as the Secretary may prescribe: *Provided,* That the issuance of regulations under this subparagraph, or any permits thereunder, shall not be subject to any requirement for preparation or submission of an environmental impact statement contained in the National Environmental Policy Act of 1969.

43 USC 1610.

(c)(1) During the withdrawal period specified in subsection (b)(4) hereof, the lands so withdrawn shall also be available for selection by Doyon, Limited, subject to the requirements of subsection (b)(2), in whole or partial satisfaction of its land entitlement under section 14(h)(8) of the Alaska Native Claims Settlement Act, and the period of withdrawal shall be extended with respect to any lands so selected until the date of conveyance pursuant to section 14(e) of such Act. The Secretary shall issue a decision to convey title to the lands selected by Doyon pursuant to this subparagraph, subject to valid existing rights, within one hundred and eighty days after each selection.

Land conveyance decision, issuance.

Land entitlement and conveyance.

(2) At any time after enactment of this Act, but no later than six months after termination of the withdrawal provided in subsection (b)(4) hereof, any or all of the land entitlement of Doyon, Limited, under section 14(h)(8) of the Alaska Native Claims Settlement Act may be satisfied by Doyon's identification of the appropriate acreage within lands withdrawn pursuant to section 11(a)(3) of the Alaska Native Claims Settlement Act, which were selected by Doyon on or before December 18, 1975, under section 12(c) of such Act, and have not been relinquished. Upon identification by Doyon, Limited, under this paragraph, such acreage shall no longer be deemed a section 12(c) selection, shall be charged against Doyon's section 14(h)(8) land entitlement and shall be conveyed by the Secretary to Doyon in accordance with the provisions of the Alaska Native Claims Settlement Act.

(3) In the event Doyon, Limited, effects a relinquishment under subsection (a) hereof, and the provisions of this paragraph thus become operative, the corporation shall not thereafter make selections under section 14(h)(8) of the Alaska Native Claims Settlement Act on lands which were (a) withdrawn pursuant to section 11(a), but not selected under section 12(c) of such Act and (b) lie within a conservation system unit created or expanded pursuant to this Act:

Provided, That all Doyon's other selection rights under section 14(h)(8) shall not be affected.

Rights-of-way applications.

(d)(1) In recognition of the potential need of Doyon, Limited, for access in a southerly direction from its landholdings in the watersheds of the Kandik and Nation Rivers across the Yukon River, the Secretary shall review applications submitted by Doyon, Limited, for one or more rights-of-way which, in order to provide such access, would pass through public lands within the Yukon-Charley National Preserve.

(2) The Secretary shall approve an application reviewed under paragraph (1) of this subsection, and shall grant the right-of-way requested in such application, if he determines that there exists no economically feasible or otherwise reasonably available alternative route.

(3) Each right-of-way granted under this subsection shall be subject to such reasonable regulations issued by the Secretary as are necessary to minimize the adverse impact of such right-of-way upon any conservation system unit.

(4) No rights-of-way shall be granted under this subsection which would cross the Charley River or which would involve any lands within the watershed of the Charley River.

HODZANA RIVER STUDY AREA

SEC. 1420. (a) Subject to the provisions of section 1419 (b) and (c) of this Act, the following described lands, during the period of withdrawal specified in section 1419(b)(4), shall be set aside and managed as a study area by the United States Fish and Wildlife Service in cooperation with Doyon, Limited:

Beginning at elevation point 2970 which lies within the northeast one-quarter of section 10, township 21 north, range 9 west Fairbanks meridian;

thence westerly following the crest of the ridgeline of which elevation point 2970 is a part through sections 10, 9, 8, 7, and 6 of township 21 north, range 9 west Fairbanks meridian to the true point of beginning which is the intersection of the crest of the ridgeline of which elevation point 2970 is a part with the township line which separates section 6, township 21 north, range 9 west Fairbanks meridian and section 1, township 21 north, range 10 west Fairbanks meridian;

thence from the true point of beginning; westerly following the crest of the ridgeline of which elevation point 2970 is a part through sections 1, 2, 3, 4, 9, 8, 5, 7, and 6 of township 21 north, range 10 west Fairbanks meridian, and through sections 1, 2, and 3 of township 21 north, range 11 west Fairbanks meridian to the intersection of the crest of the aforementioned ridgeline with the crest of the ridgeline which is the watershed boundary between the Hodzana River and west flowing tributaries of the South Fork of the Koyukuk River;

thence southerly and westerly along the crest of this watershed boundary through sections 3, 10, 15, 16, 17, 20, 21, 29, 32, and 31 of township 21 north, range 11 west Fairbanks meridian, section 36 of township 21 north, range 12 west Fairbanks meridian, sections 1, 2, 11, 12, 13, 14, 23, 24, 25, 26, 36, 34, and 35 of township 20 north, range 12 west Fairbanks meridian, and to the northeast one-quarter of section 3, township 19 north, range 12 west Fairbanks meridian where the crest of the watershed of the Hodzana River turns in an easterly direction and becomes, first

the divide between the watershed of the Hodzana and Kanuti Rivers and then the divide between the Hodzana and Dall Rivers;

thence easterly along the crest of this watershed to the peak of Dall Mountain which lies within the southeast one-quarter of section 1, township 19 north, range 11 west Fairbanks meridian;

thence northeasterly along the crest of Dall Mountain to the intersection of the crest of Dall Mountain with the line between township 20 north, range 9 west Fairbanks meridian and township 20 north, range 10 west Fairbanks meridian which intersection lies approximately on elevation point 3491, the highest point of Dall Mountain on the eastern line of section 36 township 20 north, range 10 west Fairbanks meridian;

thence north along the township line between townships 20 and 21 north, ranges 9 and 10 west Fairbanks meridian to the true point of beginning at the intersection of the crest of the heretofore described west trending ridgeline and this township line, which point lies between section 6 township 21 north, range 9 west Fairbanks meridian and section 1 township 21 north, range 10 west Fairbanks meridian.

This description is based upon United States Geological Survey Quadrangle Beaver, Alaska, 1956 with minor revisions 1972, on which land lines represent unsurveyed and unmarked locations predetermined by the Bureau of Land Management folios F-2, F-3, F-6, and F-7 Fairbanks meridian, and United States Geological Survey Quadrangle Bettles, Alaska, 1956 with minor revisions 1973, on which land lines represent unsurveyed and unmarked locations predetermined by the Bureau of Land Management folios F-3, F-4, F-5, and F-6. The use of these quadrangles and the protracted land lines thereon is for purposes of convenience in describing the lands within the Hodzana River Study Area. The actual area is to be within the above-described basin, and should any discrepancy appear upon on the ground determination of the location of the watershed boundary, the watershed boundary shall control, not the land lines protracted upon the aforementioned United States Geological Survey Quadrangles.

(b) During the study period herein provided, Doyon, Limited, may, under such reasonable rules and regulations as the Secretary finds necessary to protect the water quality and quantity of the Hodzana River, conduct such investigations within the study area, including core drilling, which will not materially disturb the land surface, as are required to determine the extent of mineralization therein. During the study period, the Fish and Wildlife Service is authorized to undertake such studies of the Hodzana River and its environs as are required to determine the measures to undertake and the regulations necessary to protect and maintain the water quality and quantity of the Hodzana River should lands in its watershed be selected by Doyon, Limited and the minerals therein be developed. Upon agreement with Doyon, Limited, the Secretary is authorized to extend the study period up to an additional two years; if so, the duration of the withdrawal from appropriation for the lands described in subsection (1) hereof and the time during which Doyon, Limited may select such lands or identify such lands for conveyance shall be extended for a like period.

Land conveyances, selections, and identifications.

(c) The right of Doyon, Limited to land conveyances within the study area shall be limited to twenty-three thousand and forty acres. Any selections or land identifications by the corporation within the study area also shall be subject to the provisions of subsection 1419(b)(2) of this Act, unless the results of the study indicate, and

Doyon and the Secretary agree, that some or all of such requirements should be waived.

(d) In the event Doyon receives conveyance in the study area, the corporation shall have those rights of access to the lands involved as are reasonably necessary for the economic operation of such mineral developments. Upon final termination of mining activity, Doyon shall restore any access roads as may be agreed upon by Doyon and the Secretary. Rights of access.

(e) The National Environmental Policy Act of 1969 shall not be construed, in whole or in part, as requiring the preparation or submission of an environmental impact statement before the issuance of regulations under this paragraph, or any permit relating to mineral development, the conduct of any investigation in the study area, the conveyance of interests therein to Doyon or the grant of any easement or right-of-way to the lands involved. The Secretary, however, is authorized to promulgate such regulations as may reasonably be necessary to protect the water quality and quantity, and to prevent substantial adverse environmental degradation, of the Hodzana River. Any such regulations shall be coordinated with, and shall not be more stringent than, the applicable requirements under the Federal Water Pollution Control Act. Regulations. 42 USC 4321 note.

CONVEYANCE TO THE STATE OF ALASKA

SEC. 1421. In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act and regardless of whether such lands lie within the boundaries of a conservation system unit established, designated, redesignated, or expanded by this Act, the United States shall, upon Doyon's meeting the terms and conditions set forth in section 1419(a)(1), convey to the State of Alaska all right, title and interest of the United States in: 48 USC note prec. 21.

(1) the following lands located south of Circle on the Yukon River:

Fairbanks Meridian

Township 8 north, range 18 east, section 1;

Township 8 north, range 19 east, That portion of sections 1 through 18, inclusive, lying south and west of the mean high water line of the Yukon River;

Township 8 north, range 20 east, That portion of sections 7 and 18 lying west of the mean high water line of the Yukon River;

Township 9 north, range 17 east;

Township 9 north, range 18 east, That portion lying south and west of the mean high water line of the Yukon River; and

Township 9 north, range 19 east, That portion lying south and west of the mean high water line of the Yukon River.

(2) Upon relinquishment by Doyon, Limited of all land selections pursuant to section 1419(a) of this Act, the lands described in subparagraphs 1419(a)(1)(D).

DOYON AND FORTYMILE RIVER

SEC. 1422. (a) Subject to the provisions of subsections (b) and (c) of this section, Doyon, Limited shall have the right within one year after the date of enactment of this Act to identify some or all of the following described lands, previously selected by such corporation, in Land identification rights.

partial satisfaction of its entitlement under section 12(c) of the Alaska Native Claims Settlement Act:

43 USC 1611.

(1) Lands withdrawn pursuant to section 17(d)(1) and formerly withdrawn pursuant to section 17(d)(2), of the Alaska Native Claims Settlement Act:

43 USC 1616.

Fairbanks Meridian

Township 1 south, range 27 east, sections 24, 25, 34, 35, 36;
Township 1 south, range 28 east, sections 19, 20, 21, 28 through 32;
Township 2 south, range 27 east, sections 1 through 4, 8 through 12, 14 through 17, 19 through 22, 27 through 33;
Township 3 south, range 24 east, sections 20 through 25, 27 through 34;
Township 3 south, range 25 east, sections 2 through 5, 8 through 10, 15 through 22, 27 through 34;
Township 3 south, range 26 east, sections 13, 22 through 28, 31 through 36;
Township 3 south, range 27 east, sections 4 through 8, 17, 18;
Township 3 south, range 28 east, sections 1 through 5, 9 through 11, 14 through 16, 21 through 23, 26, 27;
Township 3 south, range 29 east, sections 11 through 15, 20 through 24, 26 through 34;
Township 4 south, range 25 east, sections 1 through 5, 8 through 17;
Township 4 south, range 26 east, sections 2 through 10, 17, 18;
Township 4 south, range 28 east, sections 1, 2;
Township 4 south, range 29 east, sections 1 through 18;
Township 5 south, range 25 east, sections 1, 4 through 10, 12 through 17, 20 through 24, 28, 29;
Township 5 south, range 26 east, sections 4 through 8, 17 through 19;
Township 6 south, range 23 east, section 34;
Township 6 south, range 25 east, sections 22, 27, 28, 32 through 35;
Township 7 south, range 22 east, sections 23 through 26, 35, 36;
Township 7 south, range 23 east, sections 3 through 9, 17 through 19, 30, 31;
Township 7 south, range 24 east, sections 1, 2, 10 through 16, 21 through 24, 26 through 29, 31 through 34;
Township 7 south, range 25 east, sections 6 through 8, 17 through 21, 28 through 33;
Township 8 south, range 21 east, sections 13, 23 through 28, 33 through 36; and
Township 8 south, range 22 east, sections 1 through 4, 8 through 23, 28 through 33.

Copper River Meridian

Township 19 north, range 16 east, sections 3 through 9, 17 through 20;
Township 20 north, range 14 east, sections 1 through 18, 20 through 22;

Township 20 north, range 15 east, sections 2 through 11, 13 through 17, 21 through 28, 32 through 36;
Township 20 north, range 16 east, sections 13, 14, 21 through 29, 31 through 36;
Township 21 north, range 12 east, sections 2 through 10, 17 through 20, 30;
Township 21 north, range 13 east, sections 1 through 5, 10 through 14, 23 through 24;
Township 21 north, range 15 east, sections 30, 31, 32;
Township 22 north, range 12 east, sections 4 through 11, 13 through 27, and 36;
Township 22 north, range 13 east, sections 18 through 21, 26 through 36;
Township 24 north, range 11 east, sections 22 through 27, 34 through 36;
Township 24 north, range 12 east, sections 3 through 33;
Township 24 north, range 13 east, sections 2 through 4, 7 through 11, 14 through 23, 30;
Township 25 north, range 11 east, sections 4 through 10, 14 through 18, 20 through 28, 34 through 36;
Township 25 north, range 12 east, sections 31, 32, 33;
Township 25 north, range 13 east, sections 1 through 3, 9 through 16, 21 through 23, 26 through 28, 32 through 35;
Township 26 north, range 13 east, sections 1 through 3, 12;
Township 26 north, range 14 east, sections 4 through 10, 14 through 18, 20 through 23, 26, 27, 31 through 36;
Township 27 north, range 9 east, sections 1 through 3, 9 through 12, 14 through 16, 20 through 23, 26 through 29, 32 through 34;
Township 27 north, range 10 east, sections 2 through 4, 9 through 11, 14 through 16, 21 through 27, 34 through 36;
Township 27 north, range 13 east, sections 3 through 10, 14 through 17, 21 through 28, 34 through 36;
Township 27 north, range 14 east, sections 30, 31, 32;
Township 28 north, range 9 east, sections 35, 36; and
Township 28 north, range 10 east, sections 31 through 35.

(2) Lands withdrawn pursuant to section 17(d)(2) of the Alaska Native Claims Settlement Act some or all of which may not be included within the boundaries of the Fortymile Wild, Scenic and/or Recreational River. 43 USC 1616.

Fairbanks Meridian

Township 3 south, range 27 east, sections 19 through 36;
Township 3 south, range 28 east, sections 28 through 34;
Township 4 south, range 28 east, sections 3 through 6, 8 through 17, 19 through 33, 36;
Township 4 south, range 29 east, sections 19 through 22, 25 through 36;
Township 4 south, range 30 east, sections 1, 2, 11 through 13, 24, 25, 28 through 36;
Township 4 south, range 31 east, sections 6 through 8, 17 through 20, 29 through 32;
Township 5 south, range 25 east, sections 25 through 27, 33 through 36;
Township 5 south, range 26 east, sections 13 through 15, 20 through 35;

Township 5 south, range 27 east, sections 7 through 24, 29, 30;
Township 5 south, range 28 east, sections 2 through 5, 7 through 10, 15 through 23, 25 through 30, 33 through 36;
Township 5 south, range 29 east, sections 29 through 32;
Township 5 south, range 30 east, sections 1 through 6, 11, 12;
Township 5 south, range 31 east, sections 4 through 9;
Township 5 south, range 32 east, sections 24 through 27, 34 through 36;
Township 5 south, range 33 east, sections 2 through 4, 8 through 11, 14 through 22, 28 through 32;
Township 6 south, range 23 east, sections 2, 3, 10 through 15, 22 through 27, 35, 36;
Township 6 south, range 24 east, sections 13, 14, 17 through 36;
Township 6 south, range 25 east, sections 2 through 5, 7 through 11, 15 through 21, 29, 30;
Township 6 south, range 32 east, sections 1 through 5, 8 through 11, 14 through 17, 20 through 22, 27 through 29, 32 through 35;
Township 7 south, range 31 east, sections 13 through 17, 19 through 34;
Township 7 south, range 32 east, sections 3 through 5, 7 through 10, 13 through 30, 34 through 36;
Township 7 south, range 33 east, sections 13, 19, 24 through 27, 29 through 36; and
Township 7 south, range 34 east, sections 4, 7 through 9, 16 through 21, 28 through 33.

Copper River Meridian

Township 26 north, range 14 east, sections 12, 13, 24, 25.

Land identification and conveyance.

(b) Doyon, Limited shall have a right to identify only those lands described in subsection (a) hereof which are not included within a conservation system unit pursuant to this Act, and each selection so identified shall be subject to the provisions of subsection 1419(b)(2) of this Act. The Secretary shall convey title to the land promptly after its identification by Doyon, Limited, subject to valid existing rights.

Effective date.

(c) The provisions of this section shall take effect only upon the execution and filing of a stipulation by Doyon, Limited, consenting to the dismissal, with prejudice, of Doyon, Limited against Andrus, Civil Action numbered 78-1148 in the United States District Court for the District of Columbia, within sixty days after the effective date of this Act.

AHTNA REGIONAL CORPORATION LANDS

SEC. 1423. (a) The following lands are hereby withdrawn for selection pursuant to the provisions of section 14(h)(8) of the Alaska Native Claims Settlement Act and this section:

43 USC 1613.

Fairbanks Meridian

Township 20 south, range 5 west, sections 7 through 9, 11 through 14, 16 through 21, 23 through 26, 28 through 33, 35, 36;
Township 20 south, range 6 west, sections 1 through 36;
Township 20 south, range 7 west, sections 1 through 5, 8 through 14, 23 through 36;

Township 20 south, range 8 west, sections 1 through 28, 33 through 36; and

Township 20 south, range 9 west, sections 22 through 27, 34 through 36.

(b)(1) On or prior to one hundred and eighty days from the date of enactment of this Act, Ahtna, Incorporated, may select, pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act, from the lands withdrawn pursuant to subsection (a). Land selection. 43 USC 1613.

(2) The lands selected by Ahtna, Incorporated, unless otherwise provided in a waiver of this paragraph (b)(2) by the Secretary shall consist of tracts which:

(A) contain not less than eight sections or one thousand two hundred and eighty acres, whichever is less; and

(B) have boundaries which follow section lines, except where such boundary is the border of a navigable body of water, with no segment of an exterior line less than two miles in length (except where shorter segments are necessary (1) to follow section lines where township lines are offset along standard parallels caused by the conveyance of meridians, (2) to conform to section lines where a section is less than standard size, or (3) to avoid crossing the boundary lines of conservation system units created by this Act, or of lands which are unavailable for selection).

(c) The Secretary shall convey the surface and subsurface estate of the acreage selected pursuant to subsection (b). Conveyances pursuant to this section shall be subject to valid existing rights and the provisions of the Alaska Native Claims Settlement Act. Land conveyance. 43 USC 1601 note.

(d) Nothing in this section shall be deemed to increase or decrease the acreage entitlement of Ahtna, Incorporated, under any section of the Alaska Native Claims Settlement Act.

(e) Any lands withdrawn under subsection (a) and not selected by and conveyed to Ahtna, Incorporated, shall return to the public domain subject to any prior withdrawals made by the Secretary pursuant to subsection 17(d)(1) of the Alaska Native Claims Settlement Act and the provisions of section 906(k) of this Act. 43 USC 1616. *Ante*, p. 2437.

BERING STRAITS REGIONAL CORPORATION LANDS

SEC. 1424. (a) The following lands are hereby withdrawn for selection pursuant to the provisions of section 14(h)(8) of the Alaska Native Claims Settlement Act and this section: 43 USC 1613.

Kateel River Meridian

Tract one—Township 6 north, range 36 west, sections 2, 3, 4, 9, 10, 11, 14, 15, 16;

Tract two—Township 1 north, range 40 west, sections 19, 20, 21, 28-33;

Tract three—Township 3 south, range 21 west, sections 23, 26, 35;

Township 4 south, range 21 west, sections 1, 2, 3;

Tract four—Township 7 south, range 35 west, sections 11, 14, 23, 26, 34, 35, 36;

Township 8 south, range 35 west, sections 1, 2, 3;

Tract five—Township 8 south, range 33 west, sections 19, 20, 21, 27-34;

Tract six—Township 10 south, range 9 west, section 31;

Township 10 south, range 10 west, sections 35, 36;

Township 11 south, range 9 west, sections 6, 7;

Township 11 south, range 10 west, sections 1, 2, 11, 12;
Tract seven—Township 16 south, range 13 west, sections 5, 6, 7, 8; and
Tract eight—Fairway Rock located within Teller Quadrangle 65 degrees 35 minutes north, 165 degrees 45 minutes west.

Land selection.

(b)(1) On or prior to one hundred and eighty days from the date of enactment of this Act, Bering Straits Native Corporation may select, pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act, from the lands withdrawn pursuant to subsection (a).

43 USC 1613.

(2) The lands selected by Bering Straits Native Corporation unless otherwise provided in a waiver of this paragraph (b)(2) by the Secretary shall consist of tracts which—

(A) are not less than the lesser of (1) the entire area within any single tract withdrawn pursuant to subsection (a), or (2) eight sections, or (3) five thousand one hundred and twenty acres; and

(B) have boundaries which follow section lines, except where such boundary is the border of a navigable body of water, with no segment of an exterior line less than two miles in length (except where shorter segments are necessary (1) to follow section lines where township lines are offset along standard parallels caused by the convergence of meridians, (2) to conform to section lines where a section is less than standard size or (3) to avoid crossing the boundary lines of conservation system units created by this Act, or of lands which are unavailable for selection).

Land conveyance.

(c) The Secretary shall convey the surface and subsurface estate of the acreage selected pursuant to subsection (b). Conveyance pursuant to this section shall be subject to valid existing rights and the provisions of the Alaska Native Claims Settlement Act.

(d) Nothing in this section shall be deemed to increase or decrease the acreage entitlement of Bering Straits Native Corporation under any section of the Alaska Native Claims Settlement Act.

(e) Any lands withdrawn under subsection (a) and not selected by and conveyed to Bering Straits Native Corporation shall return to the public domain subject to any prior withdrawals made by the Secretary pursuant to subsection 17(d)(1) of the Alaska Native Claims Settlement Act and the provisions of section 906(k) of this Act.

43 USC 1616.
Ante, p. 2437.

(f) Any selection pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act of any land withdrawn by subsection (a) of this section shall preempt any prior selection of the same lands by Bering Straits Native Corporation under any other authority of law. Failure to select under section 14(h)(8) of the Alaska Native Claims Settlement Act any particular lands withdrawn by subsection (a) of this section will not affect any prior valid selection under section 14(h)(1) of the Alaska Native Claims Settlement Act but such prior selection shall be adjudicated and conveyed, if valid, pursuant to the Alaska Native Claims Settlement Act and any applicable regulations.

43 USC 1613.

Punuk Islands, land conveyance.

(g) In recognition that the Punuk Islands are located within the boundary of the former Saint Lawrence Island Reindeer Reserve, pursuant to section 19(b) of the Alaska Native Claims Settlement Act there is hereby conveyed to and vested in the Gambell Native Corporation and Savoonga Native Corporation all of the right, title, and interest of the United States in and to said Islands, including adjacent islets and rocks, located at Kateel River Meridian, Saint Lawrence Quadrangle, 63 degrees, 5 minutes north latitude, 168 degrees, 50 minutes west longitude.

43 USC 1618.

EKLUTNA VILLAGE CORPORATION LANDS

SEC. 1425. EKLUTNA-STATE AGREEMENTS AND NEGOTIATIONS.—(a) The purpose of this section is to provide for the settlement of certain claims and litigation, and in so doing to consolidate ownership among the United States, the State of Alaska, the Municipality of Anchorage, Eklutna, Incorporated, and Cook Inlet Region, Incorporated, thereby facilitating land management, a fair implementation of the Alaska Native Claims Settlement Act, the protection of State public park lands and resources, and appropriate development patterns in and about Anchorage, Alaska.

Claims and litigation, settlement.

43 USC 1601 note.

(b) The Secretary shall accept relinquishments and make conveyances of selections in accordance with the specific terms, conditions, covenants, reservations, and other restrictions set forth in any agreement respecting the lands described in subparagraph (1) below, executed by the State of Alaska, by the Municipality of Anchorage, and by Eklutna, Incorporated, and hereafter submitted to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs and filed with the Secretary, the execution and implementation of which agreement are hereby authorized as to those duties and obligations of the United States, the State of Alaska, the Municipality of Anchorage, and Eklutna, Incorporated, which arise under Federal law: *Provided, however,* That any conveyance under such agreement of lands to Eklutna, Incorporated, shall be only of the surface estate, with a subsequent conveyance to Cook Inlet Region, Incorporated, of the subsurface estate except as otherwise provided in subsection (h). In aid thereof:

Agreements, submittal to congressional committees.

(1) The following lands located within the townships described in sections 11(a) (1) and (2) of the Alaska Native Claims Settlement Act with respect to the Native Village of Eklutna are withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and including Public Law 94-204, except section 12 thereof, and from selection under the Alaska Statehood Act, or any statutes authorizing selections by the State of Alaska: (A) lands withdrawn or reserved for national defense purposes; and (B) lands determined by the Secretary under section 3(e)(1) of the Alaska Native Claims Settlement Act not to be public lands for purposes of the Alaska Native Claims Settlement Act. This withdrawal and the agreement shall not affect the administrative jurisdiction of the Department of Defense or any other holding agency over the lands withdrawn, but all forms of disposition other than in accordance with this section and the agreement are prohibited: *Provided,* That the foregoing to the contrary notwithstanding, lands placed prior to July 15, 1979, in the pool contemplated by part I.C.(2) of the document entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area as clarified 8-13-76", but only to the extent authorized by that document under section 12 of Public Law 94-204 as amended heretofore and in accordance with the procedures and with the consents and approvals required by laws, regulations and Executive orders in effect on such date of placement, may be selected by Cook Inlet Region, Incorporated, free of the effects of the agreement pursuant to this section; if the lands placed in that pool are not thereafter selected in accordance with part I.C.(2) of that document any agreement pursuant to this section shall govern: *Provided further,* That neither the revocation of certain withdrawals of lands made by subsection (b) effective upon the filing of the agreement, nor the expiration of the withdrawal made by subsection (b) in the event no agreement is

Withdrawal. 43 USC 1610.

43 USC 1604 note, 1611 note. 48 USC note prec. 21.

43 USC 1602.

43 USC 1611 note.

reached, shall be deemed an action causing those lands affected thereby to be subject to disposition under such section 12. The withdrawal made by this subsection (b) will expire March 15, 1982, if an executed agreement described in this section is not filed by the parties thereto on or before that date with the Secretary in the Alaska State Office of the Bureau of Land Management; but if an agreement is so executed, rights under the agreement shall vest as of the effective date of this Act, and this withdrawal shall become permanent, except as otherwise provided in the agreement. The agreement shall not impose upon the United States obligations or outlays of funds, except as reasonable in the ordinary course of business, or impose any procedural requirements or require the reassignment of personnel; and any of its provisions to the extent to the contrary shall be void as against the Secretary.

Land conveyance.

(2) Upon termination or revocation of any national defense withdrawal or reservation or of any other withdrawal in effect December 18, 1971, respecting lands described in subsection (b)(1), or upon declaration of their excess status in whole or in part, whichever first occurs, but not before, and from time to time, the lands excessed or as to which the withdrawal is terminated or revoked shall be conveyed to Eklutna, Incorporated, as to the surface estate and Cook Inlet Region, Incorporated as to the subsurface estate, or to the State of Alaska (for reconveyance by the State of Alaska in whole or in part to the Municipality of Anchorage), as may be provided in the agreement described in this subsection: *Provided, however,* That such conveyence shall not be made of lands in the pool established under part I.C.(2) of the document entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area as clarified 8-31-76" under section 12 of Public Law 94-204 as amended heretofore, unless and until removed from that pool in accordance with such part I.C.(2). This section and the agreement shall preempt the procedures of the Federal Property Act (40 U.S.C. 471, et seq., and of 41 CFR 101-47.000 et seq.), (other than as to fixtures and personalty) and the preference right for State selection of section 6(g) of the Alaska Statehood Act. The conveyances to Eklutna, Incorporated, of lands withdrawn by this subsection called for by the agreement shall not be subject to section 1613(c) of title 43, United States Code. This section shall revoke PLO 5187 as it pertains to any lands withdrawn by this subsection and any power project withdrawals other than Power Project 350 as to such lands, effective upon the date of filing of the agreement. Lands conveyed to the State of Alaska, the surface estate of lands conveyed to Eklutna, Incorporated, and the subsurface estate conveyed to Cook Inlet Region, Incorporated, pursuant to this section and the agreement, shall be charged against their respective entitlements under sections 12 and 14 of the Settlement Act and be considered conveyed and received pursuant to the Settlement Act, and section 6 of the Alaska Statehood Act or section 906(c) of this Act.

43 USC 1611 note.

43 USC 1611, 1613.
43 USC 1601 note.

(c) If an agreement to the following effect executed by the State of Alaska and Eklutna, Incorporated, is hereafter filed with the Secretary in the Alaska State Office of the Bureau of Land Management on or before April 2, 1982, the public lands as defined in the Settlement Act, located within township 17 north, range 3 east, Seward Meridian, Alaska, shall be deemed to have been withdrawn pursuant to section 11(a) of the Settlement Act as of December 18, 1971, and, selections heretofore made by Eklutna, Incorporated, with respect to lands therein shall be processed by the Secretary as though said selections had been made within a township heretofore validly withdrawn pursuant to section 11(a). If no such agreement is filed,

48 USC note prec. 21.
Agreements filed.

43 USC 1601 note.

43 USC 1610.

this subsection shall not be held to affect the validity or invalidity of such selections. Whether or not any agreement is filed, this subsection shall not be held to affect the validity or invalidity of any third party interest heretofore created by the State of Alaska.

(d) Notwithstanding other provisions of this Act, the State and Eklutna, Incorporated, are each authorized to relinquish, in whole or in part, pursuant to either or both of the agreements contemplated by subsections (b) and (c), any one or more land selections affecting lands to be conveyed under the agreement to the other whether or not such selections have been previously approved or tentatively approved. The lands affected by the State selections so relinquished shall be deemed public lands as of December 18, 1971, as that term is defined in the Settlement Act.

(e) Eklutna, Incorporated, and the Secretary shall stipulate to dismiss cause number A-78-24 Civil in the United States District Court for the District of Alaska, when the Secretary tenders to Eklutna, Incorporated, a conveyance of all lands in township 17 north, range 3 east, Seward Meridian, which are to be conveyed to Eklutna, Incorporated, under the agreement referred to in subsection (c).

(f) Eklutna, Incorporated, and the Secretary shall stipulate to dismiss cause number A-78-192 Civil in the United States District Court for the District of Alaska except as to the lands affected thereby which under the agreement referred to in subsection (b) are to remain in litigation in that cause, if any, when the Secretary tenders to Eklutna, Incorporated, a conveyance of all those lands which under the agreement the State agrees are to be conveyed to Eklutna, Incorporated, from among those selected at one time by the State under the authority of the Mental Health Enabling Act of 1956 (70 Stat. 709).

(g) The Secretary shall convey to Eklutna, Incorporated, its entitlement without regard to the acreage or interests which may ultimately be conveyed to Eklutna, Incorporated, under the agreement from within lands withdrawn by subsection (b). The agreement shall, however, require Eklutna, Incorporated, to subject to section 907 of this Act one or more compact tracts of lands of at least equal acreage to that ultimately to be conveyed to Eklutna, Incorporated, under the agreement from those withdrawn by subsection (b). The agreement shall require Eklutna, Incorporated, to reconvey to the State lands from those subject to section 907 in an amount provided by the agreement, upon the occasion of each receipt of lands by Eklutna, Incorporated, from among those withdrawn by subsection (b). Lands received by the State in such a reconveyance from Eklutna, Incorporated, shall be charged, to the extent of the acreage received by Eklutna, Incorporated, in the relevant conveyance to it, against the State's entitlement under section 6 of the Alaska Statehood Act, or section 906(c) of this Act, as the State may elect. If thereby the State receives more than its entitlements under the Act elected, it shall reconvey to the United States a compact tract of unencumbered State lands of equal acreage contiguous to lands belonging to the United States. Eklutna, Incorporated, shall also subject to section 907 of this Act, once an agreement under subsection (c) exists and thereafter from time to time, one or more compact tracts which equals the acreage amount by which Eklutna, Incorporated's entitlement would be over satisfied considering the acreage already conveyed to Eklutna, Incorporated; to the extent such a risk of over entitlement abates the lands may be withdrawn from the Land Bank.

Ante, p. 2444.

48 USC note prec. 21.
Ante, p. 2437.

Ante, p. 2444.

(h) In the event that Eklutna, Incorporated, receives a conveyance from the United States of the surface estate in lands withdrawn by subsection (b) pursuant to the agreement authorized in that subsection, and if a reconveyance from Eklutna, Incorporated, of the surface estate in land to the State from those subject to section 907 of this Act is thereby occasioned, a conveyance of the subsurface estate in the lands conveyed to Eklutna, Incorporated, shall be withheld until the Secretary ascertains to whom the subsurface estate is to be conveyed under this subsection. The entity owning the subsurface estate in those reconveyed lands shall retain that interest, unless it in the agreement or separately consents to convey the same to the State. In the event such entity so consents to convey the subsurface to the State, the Secretary shall convey the subsurface estate in the lands conveyed to Eklutna, Incorporated, to that entity; if such entity does not so consent, the subsurface estate in the lands conveyed to Eklutna, Incorporated, shall be conveyed to the State.

Ante, p. 2444.

EKLUTNA-STATE ANCHORAGE AGREEMENT

Claims and litigation, settlement.

SEC. 1426. (a) The purpose of this section is to provide for the settlement of certain claims and litigation, and in so doing to implement section 14 of the Settlement Act under the unique circumstances of the Native Village of Eklutna, with respect to the municipality of Anchorage.

(b) The terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled "Agreement of Compromise and Settlement" submitted to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs, executed by Eklutna, Incorporated, and the municipality of Anchorage, acting by its mayor, and to be executed by the State of Alaska, acting by the commissioner of the department of community and regional affairs, are hereby ratified as to the rights, duties, and obligations of the State of Alaska, the municipality of Anchorage, and Eklutna, Incorporated, which arise among them under section 14(c) (2) and (3) of the Settlement Act, and Eklutna, Incorporated, is discharged accordingly from section 14(c)(3) thereof as to all lands heretofore selected by it.

(c) If, for any reason, the foregoing agreement is not executed by the State of Alaska this section shall be of no force and effect.

KONIAG VILLAGE AND REGIONAL CORPORATION LANDS

Definitions.

SEC. 1427. (a) As used in this section, the term—

(1) "Afognak Island" means Afognak Island, and Bear, Teck, Hogg, and Murphy Islands, above the line of mean high tide within the exterior boundaries of the Chugach National Forest. Murphy Island is that unnamed island shown on USGS Topographical Map, Scale 1:63360 entitled "Afognak B-2, 1952, Rev. 1967", lying in Seward Meridian, Alaska, Township 21 south, Range 19 west, that shares the common corner of sections 27, 28, 33, and 34.

(2) "Deficiency village acreage on the Alaska Peninsula" means the aggregate number of acres of public land to which "Koniag deficiency Village Corporations" are entitled, under section 14(a) of the Alaska Native Claims Settlement Act, to a conveyance of the surface estate on account of deficiencies in available lands on Kodiak Island, and to which Koniag, Incorporated is entitled under section 14(f) of that Act to conveyance of the subsurface estate.

43 USC 1613.

(3) "12(b) acreage on the Alaska Peninsula" means the aggregate number of acres of public lands to which "Koniag 12(b) Village Corporations" are entitled under section 14(a) of the Alaska Native Claims Settlement Act by reason of section 12(b) of that Act, to conveyance of the surface estate and to which Koniag, Incorporated, under section 14(f) of that Act, is entitled to conveyance of the subsurface estate, less the aggregate acreage of 12(b) lands on Kodiak Island as to which Koniag 12(b) Village Corporations will receive conveyances, the latter being estimated to be approximately fifteen thousand acres. 43 USC 1613, 1611.

(4) "Koniag deficiency village corporation" means any or all of the following:

Afognak Native Corporation;
Nu-Nachk-Pit, Incorporated;
Ouzinkie Native Corporation; and
Leisnoi, Incorporated.

(5) "Koniag 12(b) Village Corporation" means the village corporations listed in subparagraph (4) above, if within sixty days of the effective date of this Act, Koniag, Incorporated, by a resolution duly adopted by its Board of Directors, designates them as such as a class, and all of the following: Natives of Akhiok, Incorporated, Old Harbor Native Corporation, Kaguyak, Inc., Karluk Native Corporation and each of the corporations listed in subsection (e)(2) of this section which files a release as provided for in subsection (e)(1) of this section.

(6) "Koniag region" means the geographic area of Koniag, Incorporated, under the Alaska Native Claims Settlement Act. 43 USC 1601 note.

(7) "Koniag village" means a Native village under the Alaska Native Claims Settlement Act which is within the Koniag region.

(8) "Koniag Village Corporation" means a corporation formed under section 8 of the Alaska Native Claims Settlement Act to represent the Natives of a Koniag village and any Village Corporation listed in subsection (e)(2) of this section which has filed a release as provided in subsection (e)(1) of this section. 43 USC 1607.

(9) "Koniag 14(h)(8) lands on the Alaska Peninsula" means the aggregate number of acres of public lands to which Koniag, Incorporated Regional Native Corporation is entitled under section 14(h)(8) of the Alaska Native Claims Settlement Act, less the acreage of lands withdrawn for conveyance to that corporation by Public Land Order Numbered 5627 (42 F.R. 63170) and conveyed to that corporation. 43 USC 1613.

(10) Any term defined in subsection 3(e) of the Alaska Native Claims Settlement Act has the meaning therein defined. 43 USC 1602.

(11) "Alaska Peninsula" means the Alaska Peninsula and all islands adjacent thereto which are withdrawn pursuant to section 11(a)(3) of the Alaska Native Claims Settlement Act for Koniag Village Corporations and Koniag, Incorporated, including but not limited to Sutwik, Hartman, Terrace, Nakchamik, and West and East Channel Islands, except those islands selected by Koniag, Inc. pursuant to section 15 of Public Law 94-204. 43 USC 1610.

(b)(1) In full satisfaction of (A) the right of Koniag, Incorporated, Regional Native Corporation to conveyance of Koniag 14(h)(8) lands on the Alaska Peninsula under the Alaska Native Claims Settlement Act; (B) the right of each Koniag Deficiency Village Corporation to conveyance under that Act of the surface estate of deficiency village acreage on the Alaska Peninsula; (C) the right of each Koniag 12(b) Village Corporation to conveyance under the Alaska Native Claims Settlement Act of surface estate of 12(b) acreage on the Alaska Peninsula; (D) the right of Koniag, Incorporated under the Alaska Native Claims Settlement Act to conveyances of the subsurface estate 43 USC 1611 note. Land conveyances. 43 USC 1601 note.

of the deficiency village acreage on the Alaska Peninsula and of the 12(b) acreage on the Alaska Peninsula; and (E) the right of Koniag, Incorporated, to receive the minerals in the subsurface estates that, under subsection (g)(3) of this section and sections 12(a)(1) and 14(f) of the Alaska Native Claims Settlement Act, it will be conveyed on the Alaska Peninsula, other than oil and gas and sand and gravel that it will be conveyed as provided in subsection (l) of this section; and in lieu of conveyances thereof otherwise, the Secretary of the Interior shall, under the terms and conditions set forth in this section, convey as provided in subsection (c) of this section the surface estate of all of the public lands on Afognak Island except those lands referred to in subparagraphs 2 (A), (B), (C), and (D) of this subsection, and simultaneously therewith, the Secretary shall, under the terms and conditions set forth in this section, convey the subsurface estate of such lands to Koniag, Incorporated.

43 USC 1611, 1613.

(2) There are excepted from the conveyances provided for in subparagraph (1) of this subsection:

(A) Selections of the State of Alaska on Afognak Island heretofore made under section 6(a) of the Alaska Statehood Act and described as follows:

48 USC note prec. 21.

Seward Meridian, Alaska

Parcel I

Township 22 south, range 17 west, section 30, 31 fractional all southwest quarter;

Township 22 south, range 18 west, section 36, southeast quarter;

Township 23 south, range 17 west, sections 6, northeast quarter, 7, west half; 18, west half; 19, west half and southeast quarter; 20, southwest quarter; 29, west half, 30 all; and

Township 23 south, range 18 west, section 1, east half; 12, east half; 13 all; 24 all; 25 all.

Parcel II

Township 22 south, range 17 west, section 30, all; 31 all;

Township 22 south, range 17 west, section 6, northeast quarter;

(B) Surface estate of lands on Afognak Island to which Afognak Native Corporation, Ouzinkie Native Corporation and Natives of Kodiak, Incorporated are entitled pursuant to the Alaska Native Claims Settlement Act and the subsurface estate of such lands;

(C) The lands on Afognak Island referred to in subsection (d) of this section if conveyed as therein provided; and

(D) The following described lands:

Seward Meridian, Alaska

Beginning at the point for the meander corner of sections 7 and 18, township 22 south, range 21 west, Seward meridian at the line of mean high tide on the easterly shore of Foul Bay, southeasterly of Ban Island;

thence easterly, between sections 7 and 18, 8 and 17, 9 and 16, approximately 2¼ miles to the corner of sections 9, 10, 15, and 16, township 22 south, range 21 west, Seward meridian;

thence northerly, between sections 9 and 10, approximately 1 mile to the corner of sections 3, 4, 9 and 10, township 22 south, range 21 west, Seward meridian;

thence easterly, between sections 3 and 10, 2 and 11, approximately 2 miles to the corner of sections 1, 2, 11 and 12, township 22 south, range 21 west, Seward meridian;

thence northerly, between sections 1 and 2, approximately one-half mile to the one-quarter section corner of sections 1 and 2, township 22 south, range 21 west, Seward meridian;

thence easterly, on the east-west centerline of section 1, approximately one-half mile to the center one-quarter section corner of section 1, township 22 south, range 21 west, Seward meridian;

thence northerly, on the north-south centerlines of sections 1 and 36, approximately 1 mile to the center one-quarter section corner of section 36, township 21 south, range 21 west, Seward meridian;

thence easterly, on the east-west centerline of section 36, approximately one-half mile to the one-quarter section corner of sections 31 and 36, township 21 south, ranges 20 and 21 west, Seward meridian;

thence northerly, between ranges 20 and 21 west, approximately 2½ miles to the corner of sections 13, 18, 19, and 24, township 21 south, ranges 20 and 21 west, Seward meridian;

thence easterly, between sections 18 and 19, 17 and 20, approximately 1½ miles to the one-quarter section corner of sections 17 and 20, township 21 south, range 20 west, Seward meridian;

thence northerly, on the north-south centerline of section 17, approximately one-half mile to the center one-quarter section corner of section 17, township 21 south, range 20 west, Seward meridian;

thence easterly, on the east-west centerline of section 17, approximately one-half mile to the one-quarter section corner of sections 16 and 17, township 21 south, range 20 west, Seward meridian;

thence northerly, between sections 16 and 17, approximately one-half mile to the corner of sections 8, 9, 16, and 17, township 21 south, range 20 west, Seward meridian;

thence easterly, between sections 9 and 16, approximately one-half mile to the one-quarter section corner of sections 9 and 16, township 21 south, range 20 west, Seward meridian;

thence northerly, on the north-south centerlines of sections 4 and 9, approximately 2 miles to the closing subdivision corner of section 4, township 21 south, range 20 west, Seward meridian;

thence westerly, on the fifth standard parallel south, approximately 2½ miles to the standard corner of sections 31 and 32, township 20 south, range 20 west, Seward meridian;

thence northerly, between sections 31 and 32, approximately 1 mile to the corner of sections 29, 30, 31, and 32, township 20 south, range 20 west, Seward meridian;

thence westerly, between sections 30 and 31, approximately one-half mile to the one-quarter section corner of sections 30 and 31, township 20 south, range 20 west, Seward meridian;

thence northerly, on the north-south centerline of section 30, approximately one-half mile to the center one-quarter section corner of section 30, township 20 south, range 20 west, Seward meridian;

thence westerly, on the east-west centerline of section 30, approximately one-half mile to the one-quarter section corner of sections 25 and 30, township 20 south, ranges 20 and 21 west, Seward meridian;

thence southerly, between ranges 20 and 21 west, approximately one-half mile to the corner of sections 25, 30, 31, and 36, township 20 south, ranges 20 and 21 west, Seward meridian;

thence westerly, between sections 25 and 36, approximately 1 mile to the corner of sections 25, 26, 35, and 36, township 20 south, range 21 west, Seward meridian;

thence northerly, between sections 25 and 26, approximately one-half mile to the point for the meander corner of sections 25 and 26, township 20 south, range 21 west, Seward meridian, at the line of mean high tide of the southerly arm of Bluefox Bay;

thence westerly, northerly, southerly and easterly along the line of mean high tide of Afognak Island to the point for the intersection of the north-south centerline of section 29, township 20 south, range 21 west, Seward meridian on the northerly shore of Devil Inlet;

thence southerly, on the north-south centerline of section 29, township 20 south, range 21 west, Seward meridian, across Devil Inlet, to the line of mean high tide on the southerly shore of Devil Inlet; and

thence westerly, northerly, southerly and easterly along the line of mean high tide of Afognak Island to the point of beginning.

43 USC 1610.

(3) All public lands on the Alaska Peninsula withdrawn pursuant to section 11(a)(3) of the Alaska Native Claims Settlement Act for Koniag Village Corporations and for Koniag, Incorporated and all lands conveyed to such corporations subject to reconveyance to the United States upon enactment of this section; are hereby withdrawn, subject to valid existing rights and Native selection rights under that Act as modified by this Act, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act and shall remain so withdrawn subject to the provisions of section 1203 of this Act. Following the filing with the Secretary of the Interior of (A) all resolutions pursuant to subparagraph (4) of this subsection, (B) the joint venture agreement referred to in subsection (c) of this section, (C) releases by such of the Koniag Village Corporations referred to in subsection (e)(2) of this section as file releases as provided in subsection (e)(1) of this section, and (D) all reconveyances of lands and interests in lands to the United States required by agreements with the Secretary of the Interior upon enactment of this section; and upon the conveyances by the Secretary of the Interior of all public lands on Afognak Island to be conveyed as provided in subsection (c) of this section, all Native selection rights in and to public lands on the Alaska Peninsula withdrawn under section 11(a)(3) of the Alaska Native Claims Settlement Act for Koniag Village Corporations and for Koniag, Incorporated, shall, except as provided in subsection (g) of this section, be extinguished and all claims thereto arising under this Act or the Alaska Native Claims Settlement Act shall be barred, and such public lands (except as provided in subsection (g) of this section) shall be included within the Alaska Peninsula National Wildlife Refuge and administered accordingly.

48 USC note prec. 21.
Ante, p. 2470.

43 USC 1610.

43 USC 1601 note.

(4) As a condition precedent to the conveyances provided for by subparagraph (1) of this subsection, Koniag, Incorporated, each Koniag Deficiency Village Corporation and each Koniag 12(b) Village

Corporation shall file with the Secretary of the Interior resolutions duly adopted by their respective boards of directors accepting the conveyances provided for in this subsection as being in full satisfaction of their respective entitlements to conveyances of Koniag 14(h)(8) lands on the Alaska Peninsula, of deficiency village acreage on the Alaska Peninsula and of 12(b) acreage on the Alaska Peninsula, and Koniag, Incorporated, shall further file with the Secretary of the Interior a resolution duly adopted by its board of directors accepting the provisions of subsection (1) of this section.

Afognak Island, recreational and commercial uses.

(5) The lands on Afognak Island required to be conveyed pursuant to paragraph (1) of this subsection shall remain open and available to sport hunting and fishing and other recreational uses by the public under applicable law (but without liability on the part of Koniag, Incorporated or any Koniag Village Corporation, except for willful acts, to any user by reason of such use), subject only to such reasonable restrictions which may be imposed by Koniag, Incorporated and the affected Koniag Village Corporations for the purposes of limiting or prohibiting such public uses in the immediate vicinity of logging or other commercial operations which may be undertaken by the corporations upon the affected lands. Such restrictions shall comprise only those restrictions necessary to insure public safety and to minimize conflicts between recreational and commercial uses. Koniag, Incorporated and the affected Koniag Village Corporations shall permit access to the lands on Afognak Island conveyed to them by employees of the State for purposes of managing fish and wildlife and by other State officers and employees, and employees of political subdivisions of the State, for the purposes of carrying out this subsection.

Cooperative agreements.

(6) To further accomplish the purposes of paragraph (5), Koniag, Incorporated and the Koniag Villages are authorized to enter into cooperative agreements regarding lands on Afognak Island with the Secretary of the Interior, the State of Alaska, and those political subdivisions of the State which desire to participate and which have jurisdiction over the portions of Afognak Island affected. Each such agreement shall—

(A) permit the Secretary of the Interior reasonable access to such land to carry out the obligations of the Secretary under the agreement;

(B) set forth those services which any other party agrees to provide, which services may include technical and other assistance with respect to fire control, trespass control, law enforcement, resource and land use planning, the conserving of fish and wildlife, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement;

(C) set forth such additional terms and conditions as the parties may agree to as being necessary and appropriate to carry out the terms of the agreement; and

(D) specify the effective period of the agreement.

Afognak Island, land conveyance.

(c) The Secretary of the Interior shall convey the surface estate on Afognak Island to be conveyed under subsection (b)(1) of this section to a joint venture providing for the development of the surface estate on Afognak Island to be conveyed under this subsection, consisting of the Koniag Deficiency Village Corporations, the Koniag 12(b) Village Corporations and Koniag, Incorporated (or wholly owned subsidiaries thereof), in which (1) the share of the Koniag Deficiency Village Corporations as a class in the costs and revenues of such joint venture is determined on the basis of a fraction, the numerator of which is the deficiency village acreage on the Alaska Peninsula and the denomi-

nator is the sum of the deficiency village acreage on the Alaska Peninsula plus the 12(b) acreage on the Alaska Peninsula plus the Koniag 14(h) acreage on the Alaska Peninsula, which fraction shall be multiplied by the number of acres on Afognak Island to be conveyed by reason of subparagraph (b)(1) of this subsection; (2) the share of the Koniag 12(b) Village Corporations as a class is determined on the basis of a fraction, the numerator of which is the 12(b) acreage on the Alaska Peninsula and the denominator of which is the denominator referred to in (1) above, which fraction shall be multiplied by the number of acres on Afognak Island referred to (1) above; and (3) the share of Koniag, Incorporated is determined on the basis of a fraction, the numerator of which is the Koniag 14(h) acreage on the Alaska Peninsula and the denominator of which is the denominator referred to in (1) above which fraction shall be multiplied by the number of acres on Afognak Island to in (1) above. In such joint venture, each Koniag Deficiency Village Corporation shall participate in the share of the Koniag Deficiency Village Corporations as a class in the ratio that the entitlement of each to deficiency village acreage on the Alaska Peninsula bears to the total deficiency village acreage on the Alaska Peninsula and each Koniag 12(b) Village Corporation shall participate in the share of the Koniag 12(b) Village Corporations as a class in the ratio that the number of Natives enrolled under the Alaska Native Claims Settlement Act to the village that corporation represents bears to the number of Natives enrolled to all villages represented by Koniag 12(b) Village Corporations. The conveyance shall be made as soon as practicable after there has been filed with the Secretary of the Interior a duly executed joint venture agreement with provisions for sharing of and entitlements in costs and revenues of such venture as provided in this subsection. The conveyance shall not indicate the respective interests of each of the corporations in the surface estate conveyed but such interests shall be as provided in this subsection which shall be incorporated by reference into the conveyance. The subsurface estate in the foregoing lands shall be conveyed simultaneously to Koniag, Incorporated. Neither the joint venture, and Koniag Village Corporation having an interest in the joint venture or the lands conveyed thereto, nor Koniag, Incorporated shall take or permit any action which may be inimical to bear denning activities on the Tonki Cape Peninsula.

16 USC 1601 note.

Land conveyance.

(d) In the event the Ouzinkie Native Corporation and Koniag, Incorporated, within ninety days after the effective date of this Act, enter into an agreement to convey to the Kodiak Island Borough their respective rights, titles, and interests in and to the surface and subsurface estate respectively in the following described land:

Seward Meridian, Alaska

Township 27 south, range 20 west;

Sections 9 through 12 inclusive, all;

Sections 13, north half, excluding Monashka Bay; southwest quarter; north half southeast quarter, excluding Monashka Bay; southwest quarter south east quarter;

Sections 14, 15, and 16, all;

Sections 21 and 22, all;

Section 23, north half, north half southwest quarter, southwest quarter southwest quarter, northwest quarter southeast quarter;

Section 24, north half northwest quarter; and

Section 27, north half, southwest quarter, west half southeast quarter.

the Secretary of the Interior shall convey to Ouzinkie Native Corporation the surface estate and to Koniag, Incorporated the subsurface estate in the following described land on Afognak Island:

Seward Meridian, Alaska

Township 22 south, range 19 west;
Sections 6, 7, 15, all;
Section 18, west half;
Sections 19, 22, 28, all;
Sections 31 through 35 inclusive, all; and
Section 36, south half.

The agreement between Kodiak Island Borough, Ouzinkie Native Corporation and Koniag, Incorporated may contain the provisions agreed to by the parties including, but not limited, to easements across the lands to be conveyed to the Kodiak Island Borough.

(e)(1) Each village listed in paragraph (2) of this subsection which, through the Koniag Village Corporation listed alongside it, files with the Secretary of the Interior, within sixty days from the effective date of this Act, a release duly authorized by its board of directors releasing, in consideration of the benefits provided for in this section, the United States, its officers, employees, and agents from all claims of the village and the Village Corporations to lands and interests therein arising under the Alaska Native Claims Settlement Act or compensation in any form therefor (except as provided in paragraph (3) of this subsection) along with a release by Koniag, Incorporated, duly authorized by its board of directors, releasing the United States, its officers, employees, and agents, from Koniag's claims to subsurface estate under the Alaska Native Claims Settlement Act arising out of the claims of such village or compensation in any form therefor (except as provided in paragraph (3) of this subsection) shall be deemed an eligible village under the Alaska Native Claims Settlement Act. This section shall be inoperative as to any such village which does not file such a release but shall be operative as to each of such villages which files such a release. Claims releases. 43 USC 1601 note.

(2) The villages and Koniag Village Corporations referred to in the foregoing paragraph are:

Anton Larsen Bay	Anton Larsen, Incorporated
Bells Flats	Bells Flats Natives, Incorporated
Uganik	Uganik Natives, Incorporated
Litnik	Litnik, Incorporated
Port William	Shuyak, Incorporated
Ayakulik	Ayakulik, Incorporated
Uyak	Uyak Natives, Incorporated

(3)(A) When Uyak Natives, Incorporated, Uganik Natives Incorporated, or Ayakulik, Incorporated (and Koniag, Incorporated in respect of such corporations) executes a release as provided for in paragraph (1) of this subsection, the Secretary of the Interior shall convey to each Village Corporation executing such release the Land conveyance.

surface estate of the one square mile of land excluded from the Kodiak Island National Wildlife Refuge by Public Land Order Numbered 1634 on account of the village it represents. The Secretary of the Interior shall by reason of conveyance of surface estate to a Village Corporation under this paragraph (3) convey to Koniag, Incorporated the subsurface estate in such lands.

(B) Upon conveyance of each Koniag Village Corporation of that land described in subparagraph (A), such Village Corporation shall comply with the requirements of subsection (f) of this section, except that it shall be required to convey twenty acres to the State in trust for any Municipal Corporation established in the Native village in the future for community expansion and appropriate rights of way for public use, and other foreseeable community needs.

Revenue entitlement.

(4) There shall vest in the Native Village Corporation representing each village that files a release as provided for in subsection (e)(1) of this section the right to all revenues received by Koniag, Incorporated from the Alaska Native Fund which would have been distributed to it by Koniag, Incorporated under subsections (j) and (k) of section 7 of the Alaska Native Claims Settlement Act (subject to subsection (l) of section 7 of that Act) had such village been determined to be eligible at the time of such distributions, less amounts heretofore paid by Koniag, Incorporated under subsection (m) of section 7 of that Act to stockholders of such corporations as members of the class of at-large stockholders of Koniag, Incorporated. Each corporation representing a village that files a release as provided for in subsection (e)(1) of this section shall hereafter be entitled to share pro rata with all other Koniag Village Corporations in distributions of funds to Village Corporations made by Koniag, Incorporated out of funds hereafter received by Koniag, Incorporated from the Alaska Native Fund or from any other source and shall be eligible for all other rights and privileges to which Alaska Native Village Corporations are entitled under any applicable laws, except as limited by this subsection. Nothing in this paragraph shall prohibit Koniag, Incorporated from withholding out of funds otherwise due a Village Corporation that files a release as provided for in subsection (e)(1) of this section, such sums as may be required to reimburse Koniag, Incorporated for an equitable portion of expenses incurred by Koniag, Incorporated in connection with or arising out of the defense of or assertion of the eligibility of the village represented by such corporation for benefits under the Alaska Native Claims Settlement Act, including costs incident to land selection therefor.

43 USC 1606.

43 USC 1601 note.

(f) All conveyances made by reason of this section shall be subject to the terms and conditions of the Alaska Native Claims Settlement Act as if such conveyances (including patents) had been made or issued pursuant to that Act.

(g) Nothing in this section shall be deemed to affect (1) section 15 of the Act of January 2, 1976 (Public Law 94-204) as amended by section 911 of this Act; (2) the right, subject to subsection (l) of this section, of Koniag, Incorporated to in lieu subsurface estate on the Alaska Peninsula under sections 12(a)(1) and 14(f) of the Alaska Native Claims Settlement Act, less the acreage of such in lieu subsurface estate conveyed to Koniag, Incorporated under the provisions of law referred to in subdivision (1) of this subsection; or (3) the right under the Alaska Native Claims Settlement Act of Koniag, Incorporated, subject to subsection (l) of this section, to subsurface estate in and to the following described land:

43 USC 1611 note.
Ante, p. 2447.

43 USC 1611, 1613.

43 USC 1601 note.

Seward Meridian, Alaska

Township 37 south, range 48 west;
Section 9;
Sections 15 through 17 inclusive;
Sections 20 through 22 inclusive; and
Sections 28, 33;
Township 37 south, range 49 west;
Sections 21 through 23 inclusive;
Sections 26 through 28 inclusive; and
Sections 33 through 35 inclusive;
Township 38 south, range 48 west;
Sections 4 through 9 inclusive;
Township 38 south, range 49 west;
Sections 1 through 4 inclusive;
Sections 6 through 23 inclusive; and
Sections 26 through 34 inclusive;
Township 38 south, range 50 west;
Sections 1 through 3 inclusive;
Sections 10 through 12 inclusive;
Sections 13 through 15 inclusive;
Sections 22 through 26 inclusive; and
Sections 35, 36;
Township 39 south, range 49 west;
Sections 3 through 7 inclusive;
Sections 9 through 10 inclusive; and
Sections 18, 19, 30;
Township 38 south, range 50 west;
Sections 1, 2, 7, 8, 12, 13;
Sections 15 through 18 inclusive;
Sections 20 through 22 inclusive;
Sections 24 through 27 inclusive; and
Section 35.

(h) All public lands on Afognak Island, other than those lands referred to in subsections (b)(2) (A) and (B) of this section are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act as amended, and shall remain so withdrawn until and unless conveyed pursuant to this Act. Any such lands not conveyed under this section except those lands described in subsection (b)(2)(D) may be opened by the Secretary of the Interior to the extent he deems appropriate. Withdrawal. 48 USC note prec. 21.

(i) As additional consideration for the relinquishment by Koniag Village Corporations of rights to surface estate on the Alaska Peninsula and by Koniag, Incorporated of rights to surface and subsurface estate thereon as provided in subsection (b)(4) of this section, Koniag, Incorporated shall, solely for purpose of prospecting for, extraction and removal of subsurface resources retained by it under subsection (l) of this section on the Alaska Peninsula, have the same rights of access and use of surface estate, after consultation with the surface owner, as are now provided for in 50 CFR 29.32. Rights of access and use.

(j) The acreage to be allocated to Koniag, Incorporated under section 12(b) of the Alaska Native Claims Settlement Act shall be determined as though each village listed in subparagraph (e)(2) of this section had selected 69,120 acres under section 12(a) of the Alaska Native Claims Settlement Act. Acreages allotted to other regional corporations under section 12(b) of the Alaska Native Claims Settle- Acreage allocation. 43 USC 1611.

ment Act shall be determined on the basis of the acreages actually conveyed to such villages under this section or the Alaska Native Claims Settlement Act.

Timber resources.

(k) Koniag, Incorporated's interest in the timber resources of the joint venture referred to in subsection (c) of this section, determined as therein provided, shall for purposes of section 7(i) of the Alaska Native Claims Settlement Act be deemed to be Koniag's timber resources. Koniag, Incorporated shall be entitled to deduct from its share of proceeds therefrom any and all expenses of the kind and nature which Regional Corporations are entitled to deduct from revenues from timber resources prior to the distributions required by said section 7(i).

43 USC 1606.

Land conveyance.

(l) In conveying subsurface estate to Koniag, Incorporated on the Alaska Peninsula, whether under subsection (g)(3) of this section or as in lieu subsurface estate as provided in sections 12(a)(1) and 14(f) of the Alaska Native Claims Settlement Act, the Secretary of the Interior shall retain all minerals other than oil and gas and sand and gravel used in connection with prospecting for, extracting, storing or removing oil and gas: *Provided,* That removal of oil and gas and sand and gravel shall, after consultation with the surface owner, be accomplished as now provided in 50 CFR section 29.32. Koniag, Incorporated may in its discretion enter into agreements with the owner of the surface estate in such lands for the conveyance of the subsurface estate to the surface owner without compensation, but this provision shall not be construed to require such conveyances without Koniag, Incorporated's agreement.

43 USC 1611, 1613.

Alaska Maritime National Wildlife Refuge.
Kodiak National Wildlife Refuge.

(m) All public lands, including submerged lands, adjacent to and seaward of Afognak Island from the line of mean high tide to the exterior boundary of the former "Afognak Forest and Fish Culture Reserve", part of the existing Chugach National Forest, as reserved by proclamation dated December 24, 1892, and as shown on the diagram forming a part of the proclamation dated February 23, 1909, are hereby included within the Alaska Maritime National Wildlife Refuge and the lands described in subdivision (D) of subsection (b)(2) of this section are hereby included within the Kodiak National Wildlife Refuge: *Provided,* That notwithstanding the inclusion of Delphin and Discover Islands in the Alaska Maritime National Wildlife Refuge, the joint venture provided for in subsection (c) of this section shall be entitled to and there shall be conveyed to the joint venture in the conveyance provided for in subsection (c) hereof, the right to timber resources on such islands: *Provided,* That management and harvest of such timber resources shall be only in accordance with management plans jointly developed by the joint venture and the Secretary of the Interior.

(n) Section 22(j)(2) of the Alaska Native Claims Settlement Act as amended by section 1410 shall not apply to Koniag, Incorporated or to any Koniag Village Corporation.

Ante, p. 2496.

(o) Nothing in this section shall abrogate any existing Forest Service timber contract on Afognak Island or revoke existing cabin leases or term special use permits on Afognak Island.

CHUGACH VILLAGE CORPORATION LANDS

Land conveyance.

SEC. 1428. (a) Notwithstanding the restrictions applicable to the Village Corporation selections under section 12(b) of the Alaska Native Claims Settlement Act imposed by section 12(a) of the Settlement Act, including but not limited to the sixty-nine thousand one hundred and twenty-acre conveyance limitation placed on land

43 USC 1611.

selected by Village Corporations within the National Forest, National Wildlife Refuge System, or State selected lands, the Secretary shall convey under section 14(a) of the Alaska Native Claims Settlement Act from lands previously selected from lands withdrawn pursuant to section 11 of such Act in the Chugach National Forest by the Village Corporations created by the enrolled residents of the villages of Chenega, Eyak, and Tatitlek, those additional entitlement acreages which are reallocated to these corporations under section 12(b) of such Settlement Act by the Regional Corporation for the Chugach region.

43 USC 1613.
43 USC 1610.
43 USC 1611.

(b) Within ninety days after the enactment of this act, the three Village Corporations referred to in subsection (a) of this section shall file with the Secretary a list of those lands selected by each of them under section 12(b) from lands withdrawn pursuant to section 11 of the Settlement Act from within the Chugach National Forest, in the order of priority in which they wish to receive conveyance to such lands: *Provided, however,* That the village of Chenega shall not be able to receive conveyance to lands selected pursuant to section 12(b) of the Settlement Act on the mainland in the area of Icy Bay and Whale Bay, as depicted on the map entitled "Areas not available for Chenega 12(b) conveyance", dated April 1979: *Provided further,* That the village of Eyak shall not be able to receive conveyance to lands selected pursuant to section 12(b) of the Settlement Act in the area east of Mountain Slough and in the area more than a thousand feet south of the centerline of the Copper River Highway as depicted on the map entitled "Areas not available for Eyak 12(b) conveyance", dated April 1979.

Chugach National Forest Land selection.
43 USC 1611.
43 USC 1610.
43 USC 1611.

(c) The Board of Directors of Chugach Natives, Incorporated, shall, within ninety days after the enactment of this Act, file with the Secretary a resolution indicating the number of acres allocated to each of these Village Corporations under the Regional Corporation's existing sixty-four thousand four hundred-acre 12(b) allocation, and the basis on which future 12(b) allocations made by the Secretary, if any, are to be reallocated among the Village Corporations in the Chugach region.

Acreage allocation.

(d) The Secretary shall process the lands for conveyance in the priority listed, and subject to the requirements of the settlement act for selection, tract size, compactness, and contiguity, convey to the corporations such acreage to which they are entitled: *Provided, however,* That applicants for selection filed by the State of Alaska under section 6(a) of the Alaska Statehood Act, as amended, shall take precedence over such Chugach Village Corporation 12(b) selections within the Chugach National Forest, except in the area of Windy and Cedar Bays on Hawkins Islands, where applications for State selections in township 15 south, ranges 4 and 5 west of the Copper River Meridian, shall be subordinated to 12(b) selections filed by the Eyak Corporation; and except further in the area of Boswell Bay on Hinchenbrook Island, where State applications for selection in township 17 south, range 5 west of the Copper River meridian, except for those in sections 10 and 15 of said township, shall be subordinated to 12(b) selections filed by the Eyak Corporation. State applications for selection of any of the above-described lands which are not subordinated to Chugach village selections shall be adjudicated and approved or disapproved pursuant to section 6(a) of the Alaska Statehood Act: *Provided, however,* That any disapproval of such State selections shall not vest any selection right in any Chugach Village Corporation.

48 USC note prec. 21.

(e) Should the corporations fail to timely file the information required by subsections (b) and (c) of this section or if the priority listing submitted under subsection (b) does not meet the tract size, compactness, or contiguity requirements of the Settlement Act, the Secretary may provide the corporations thirty days from the date of notice to file the information to make the necessary corrections.

(f) If any Chugach Village Corporation voluntarily relinquishes any selection of lands within the boundaries of a conservation system unit, such lands shall be added to such unit and administered accordingly.

CHUGACH REGIONAL CORPORATION LANDS

SEC. 1429. (a) Subject to valid existing rights, within one hundred and eighty days after the enactment of this Act, Chugach Natives, Incorporated, shall be entitled to select public lands not reserved for purposes other than National Forests from within the Chugach Region under section 14(h)(8) of the Alaska Native Claims Settlement Act from within the boundaries of the Chugach National Forest. Chugach Natives, Incorporated, shall make no selection of lands within the areas identified on the maps entitled "Western Prince William Sound Areas Not Available for Chugach 14(h)(8) Selection" and "Copper River Delta Area Not Available for Chugach 14(h)(8) selection", both dated April 1979.

43 USC 1613.

Adjudication.

(b) The Secretary shall receive and adjudicate such selections as though they were timely filed pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act, as though such lands were available for selection under such provision.

(c) The Secretary shall convey such lands selected pursuant to this authorization which otherwise comply with the applicable statutes and regulations: *Provided, however,* That the corporation shall make no selection of lands, which overlap selection applications filed by the State of Alaska under section 6(a) of the Alaska Statehood Act as amended, on or before September 1, 1978, and that any disapproval of such selection applications shall not vest any selection right in Chugach Natives, Incorporated.

48 USC note prec. 21.

(d) If Chugach Natives, Incorporated, elects to select any or all of its lands to which it is entitled under section 14(h)(8) of the Settlement Act from lands within the Chugach National Forest made available pursuant to this authority, the following lands within the Carbon Mountain regional deficiency area shall be adjudicated as though they were timely filed by Chugach Natives, Incorporated, under section 12(c) of the Settlement Act, notwithstanding any prior relinquishment of 12(c) selections and subsequent selection of these lands by Chugach Natives, Incorporated, under section 14(h)(8) of the Settlement Act:

43 USC 1611.

43 USC 1613.

Township 16 south, range 9 east, sections 7 through 10, 16 through 31;

Township 19 south, range 9 east, sections 1 through 36;

Township 20 south, range 9 east, sections 1 through 36; and

Township 20 south, range 10 east, sections 5 through 8, 17 through 20, 29 through 32.

(e) If legislation is enacted or a proposal implemented pursuant to section 1430 of this Act, selections by the Chugach Natives, Incorporated, under this section shall also be subject to the provisions of such legislation or proposal.

Land conveyance processing.

(f) The Secretary shall process the lands for conveyance under this section subject to the requirements of the Settlement Act for selection, tract size, and compactness. These selections shall also be

subject to any requirements regarding contiguity which are agreed to as a result of the study established by section 1430.

CHUGACH REGION STUDY

SEC. 1430. (a) PARTICIPANTS; PURPOSES.—The Secretary of the Interior, the Secretary of Agriculture, and the Alaska Land Use Council, in conjunction with Chugach Natives, Incorporated, and the State of Alaska, if the State chooses to participate, are directed to study the land ownership and use patterns in the Chugach region. The objectives of the study are: to identify lands, pursuant to guidelines contained in section 1302(h) of this Act, and in section 22(f) of the Settlement Act, as amended, which can be made available for conveyance to Chugach Natives, Incorporated; for the purpose of consolidation of land ownership patterns in the Chugach region; to improve the boundaries of and identify new conservation system units; to obtain a fair and just land settlement for the Chugach people; and realization of the intent, purpose and promise of the Alaska Native Claims Settlement Act by the Chugach Natives, Incorporated. The study participants are directed to identify in-region and out-of-region lands, including lands within the Chugach National Forest and State lands but excluding lands in private ownership, which can be made available to Chugach Natives, Incorporated, in satisfaction of its regional land entitlement pursuant to section 12(c) of the Alaska Native Claims Settlement Act, to consider monetary payment in lieu of land and to consider all other options which the participants in the study consider to be appropriate to achieve the objectives set forth above.

43 USC 1601 note.

43 USC 1611.

(b) LANDS.—Lands identified to meet the study objectives outlined in subsection (a) shall be, to the maximum extent possible, lands of like kind and character to those traditionally used and occupied by the Chugach people and shall be, to the maximum extent possible, coastal accessible, and economically viable. The inclusion of lands within the areas designated as conservation system units or for wilderness study by this Act within the Chugach region shall not preclude the identification of those lands to meet the study objectives outlined in subsection (a).

(c) PROCEDURE.—The study participants shall hold at least three public hearings, at least one of which shall be in Anchorage and at least two of which shall be in the Chugach region. In conducting the study, the study participants shall seek review and comment from the public, including the residents of the Chugach region, and all meetings of the study participants shall be open to the public.

Public hearings.

(d) REPORT.—The study shall be completed and the President shall report to the Congress within one year of the date of enactment of this Act. He shall also transmit with the report any legislation necessary to implement the study recommendations.

Presidential report to Congress.

(e) DEADLINE.—If legislation is necessary to implement the recommendations of the study submitted by the President, then any selection deadlines for Chugach Natives, Incorporated, under section 12(c) of the Alaska Native Claims Settlement Act or section 14(h)(8) of such Act pursuant to section 1429 of this Act will be extended for one year following the date of enactment of the legislation enacted to implement the recommendations of the study submitted by the President.

43 USC 1611.
43 USC 1613.

(f)(1) LAND STATUS DURING STUDY.—Until Congress takes final action on any legislation transmitted by the President which is necessary to implement the study or until the recommendations of

48 USC note prec. 21. *Ante*, p. 2430.

the study are implemented, whichever occurs first, all State selections filed after July 21, 1979 pursuant to section 6 of the Alaska Statehood Act or title 9 of this Act within the Chugach region shall be considered timely filed but shall not be adjudicated or conveyed except as provided in this section: *Provided,* That nothing in this section shall impede or be interpreted so as to restrict the adjudication and conveyance of State selections filed before September 1, 1978: State selections filed after July 21, 1979 within the Chugach region shall be subordinate to the results of the study as implemented or to legislation enacted to implement the study as to the land as affected and any such selection which is in conflict with the results of the study as implemented shall thereupon be denied.

(2) Except for lands within the areas designated as conservation system units or for wilderness study by this Act, the Secretary of the Interior is hereby authorized to withdraw, subject to valid existing rights, any Federal lands identified for possible selection and conveyance or exchange to Chugach in the proposed study report submitted by the President. The Secretary shall specify all forms of appropriation or disposal, if any, prohibited on such lands in such withdrawals, including but not limited to selections by the State of Alaska, appropriations under the mining laws; leasing under the mineral leasing laws or appropriations under any other public land laws. The consent of the head of any agency administering the land in the area to be withdrawn shall not be necessary prior to such withdrawal. Such withdrawal shall remain in force and effect for one year following the date of enactment of the legislation authorizing implementation of the recommendations in the study report signed by the President unless the Secretary shall earlier determine that the lands of any part thereof included in the withdrawal no longer need the protection of the withdrawal. If lands are selected by Chugach Natives, Incorporated, the withdrawals of the selected lands shall remain in force and effect until the selection is conveyed or finally rejected. The withdrawal and any modification, amendment or revocation thereof shall be published in the Federal Register and shall be effective on the date of publication in the Federal Register.

Publication in Federal Register.

(3) Prior to conveyance, any lands selected by Chugach Natives, Incorporated pursuant to the study or legislation implementing the study, shall be subject to administration by the Secretary of the Interior or by the Secretary of Agriculture in the case of national forest lands under applicable laws and regulations, and their authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by the withdrawal: *Provided, however,* That the Secretary shall not make any contract or grant any lease, permit, right-of-way or easement without prior consultation with Chugach Natives, Incorporated. Any lands irrevocably selected by Chugach Natives, Incorporated, shall not be subject to any contract, lease, permit, right-of-way or easement without the prior consent of Chugach Natives, Incorporated. However, the Secretary shall not be prohibited, if otherwise authorized, from issuing permits without prior consultation with Chugach Natives, Incorporated, or without the consent of Chugach Natives, Incorporated, on lands irrevocably selected by Chugach Natives, Incorporated, to the Prince William Sound Fisheries Management Council for aquaculture sites identified to the Secretary by the Prince William Sound Fisheries Management Council and Chugach Natives, Incorporated, within thirty days after the enactment of this Act.

(4) Lands withdrawn pursuant to this section shall not be construed to be "lands held for the benefit of Indians, Aleuts, and Eskimos"

pursuant to section 103(e)(2) of Public Law 94-579 (43 U.S.C. 1702 (1976)).

(5) All lands withdrawn under this subsection shall be subject to section 2 of Public Law 94-204 (43 U.S.C. 1613).

43 USC 1613 note.

(g) INTERIM MANAGEMENT.—Until Congress takes final action on any legislation transmitted by the President pursuant to this section or until lands agreed to by the participants in the study are conveyed, whichever comes first, the Secretary of the Interior and the Secretary of Agriculture shall manage lands under their control in the Chugach region in close consultation with Chugach Natives, Incorporated, and, to the maximum extent possible, in such a manner so as not to adversely affect or preclude any option which the participants in the study may consider.

(h) RELINQUISHED AREAS.—Any lands within the exterior boundaries of a conservation system unit or a national forest previously selected by Chugach Natives, Incorporated, but relinquished by Chugach Natives, Incorporated, shall, upon receipt of any such relinquishment become a part of the unit and administered accordingly.

(i) CONVEYANCE OF EXISTING SELECTIONS.—Prior to the enactment of new legislation to implement the recommendations of the study, nothing in this section shall be construed to prevent Chugach Natives, Incorporated, from notifying the Secretary of its desire to receive conveyance of lands previously selected or the power of the Secretary to adjudicate such selections and to convey those lands properly selected.

ARCTIC SLOPE REGIONAL CORPORATION LANDS

SEC. 1431 (a) PURPOSES; REFERENCE DOCUMENT.—In order to further the purposes of:

(1) satisfying land entitlements in the Arctic Slope Region;

(2) consolidating and exchanging land holdings for the mutual benefit of the United States and the Native Corporations within the Arctic Slope region; and

(3) providing for oil and gas operations in the Kurupa Lake area, consistent with environmental protection;

Congress enacts this section. The specific terms, conditions, procedures, covenants, reservations and other restrictions set forth in the document entitled "Terms and Conditions for Land Exchanges and Resolution of Conveyancing Issues in Arctic Slope Region, Between the Department of the Interior and Arctic Slope Regional Corporation" (hereafter in this section referred to as "Terms and Conditions"), which was executed on June 29, 1979, and subsequently submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, are hereby incorporated in this section, and are ratified, as to the duties and obligations of the United States and the Arctic Slope Regional Corporation, as a matter of Federal law.

(b) TRANSFER TO THE UNITED STATES.—The Secretary is authorized to accept from Arctic Slope Regional Corporation a relinquishment of all right, title, and interest of Arctic Slope Regional Corporation in the following described lands:

Fairbanks Meridian

Township 34 north, range 21 west, sections 4 through 9, 16 through 18;

Township 34 north, range 22 west, sections 1 through 6, 11 through 14;
Township 35 north, range 20 west, sections 1 through 24;
Township 35 north, range 21 west, sections 1 through 4, 9 through 16, 21 through 24, 28 through 33;
Township 35 north, range 22 west, sections 1 through 12, 17 through 20, 27 through 34;
Township 35 north, range 23 west, sections 1 through 3, 10 through 17, 20 through 24, 28, 29, 32, 33;
Township 36 north, range 21 west, sections 1 through 4, 9 through 20, 23 through 26, 29 through 32, 35, 36;
Township 36 north, range 22 west, sections 5 through 8, 25 through 36;
Township 36 north, range 23 west, sections 1, 5 through 8, 12 through 30, 34 through 36;
Township 36 north, range 24 west, sections 1 through 3, 10 through 12;
Township 37 north, range 21 west, sections 25 through 36;
Township 37 north, range 22 west, sections 25 through 36;

Umiat Meridian

Township 12 south, range 11 west, sections 17 through 20, 29, 30;
Township 12 south, range 12 west, sections 13 through 16, 21 through 28;
Township 17 south, range 2 west, partial, sections 3 through 6; and
Township 17 south, range 3 west, partial, sections 1 through 4.

Kateel River Meridian

Township 34 north, range 18 east, sections 9 through 16, 21 through 24.

(c) LAND EXCHANGE.—As a land exchange, contingent upon Arctic Slope Regional Corporation's relinquishment of lands described in subsection (b) and upon conveyance of lands described in paragraph (4) below, and subject to valid existing rights, (1) the Secretary shall convey to Arctic Slope Regional Corporation all right, title, and interest of the United States in the following described lands, subject to valid existing rights and to the terms, conditions, procedures, covenants, reservations, and restrictions specified in the "Terms and Conditions":

Umiat Meridian

Township 13 south, range 4 east, sections 1 through 36;
Township 14 south, range 3 east, sections 9 through 16, 21 through 28, 32 through 36;
Township 15 south, range 3 east, sections 25 through 30, 33 through 36;
Township 15 south, range 4 east, sections 6, 7, 18 through 36; and
Township 16 south, range 3 east, sections 1 through 3, 6, 7, 9 through 16, 18 through 30.

(2) Subject to valid existing rights, the Secretary shall convey to Arctic Slope Regional Corporation all right, title and interest of the United States in the following described lands subject to the terms,

conditions, procedures, covenants, reservations and restrictions specified in the "Terms and Conditions":

Umiat Meridian

Township 12 south, range 11 west, sections 17 through 20, 29, 30; and
Township 12 south, range 12 west, sections 13 through 16, 21 through 28.

Kateel River Meridian

Township 34 north, range 18 east, sections 9 through 16, 21 through 24.

The Secretary shall except and reserve access easements for park-related purposes from Kurupa Lake to federally owned lands within Gates of the Arctic National Park limited to: The right to land and store aircraft at Kurupa Lake, the right to ingress and egress from the Lake along specific corridors leading to federally owned lands in Gates of the Arctic National Park and the right to camp overnight at the lakeshore and along the specific easement corridors. The conveyance shall be subject to the following covenants: The requirement for a plan of oil and gas operations prior to any exploration or development activities, the authority of the Secretary to modify or revoke any plan of operations for oil and gas exploration which does not utilize available technologies least damaging to the resources of the Kurupa Lake area and surrounding Federal lands and the authority of the Secretary to require good faith consultations to develop a plan of operations for oil and gas development which utilizes available technologies minimizing damage to the resources of the Kurupa Lake area and surrounding Federal lands. Such exceptions, reservations, and covenants shall be binding on Arctic Slope Regional Corporation, its successors and assigns.

(3) Subject to valid existing rights, the Secretary shall convey to Arctic Slope Regional Corporation all right, title, and interest of the United States, except sand and gravel, in the subsurface estate of the following described lands, subject to the terms, conditions, procedure, covenants, reservations, and restrictions specified in the "Terms and Conditions".

Umiat Meridian

Township 12 south, range 9 east, sections 1 through 31;
Township 12 south, range 10 east, sections 1 through 18;

(4) The Secretary is authorized to accept from Arctic Slope Regional Corporation a conveyance of all right, title, and interest of Arctic Slope Regional Corporation in the following described lands:

Umiat Meridian

Township 13 south, range 1 west, sections 31 through 36;
Township 13 south, range 1 east, sections 31 through 36;
Township 14 south, range 2 east, sections 6, 7, 18, 19, 30, 31;
Township 14 south, range 4 east, sections 1 through 3, 10 through 15, 22 through 27, 33 through 36;
Township 15 south, range 1 west, sections 1 through 6, 11, 12, 19, 20, 27 through 34;
Township 15 south, range 1 east, sections 5 through 8, 17 through 20;
Township 16 south, range 2 east, sections 13 through 15, 22 through 27, 34 through 36;

Township 16 south, range 4 east, sections 1 through 4, 9 through 16, 19 through 36;
Township 17 south, range 1 west, sections 1, 2, 5, 6, partial;
Township 17 south, range 1 east, partial;
Township 17 south, range 3 east, partial;
Township 16 south, range 2 west, sections 19 through 36;
Township 16 south, range 3 west, sections 19 through 28, 33 through 36;
Township 15 south, range 4 west, sections 2 through 4, 9 through 11, 14 through 16, 19 through 23, 26 through 32; and
Township 16 south, range 4 west, sections 5 through 8, 17 through 24.

(d) TRANSFERS TO NATIVE CORPORATION.—The Secretary shall convey to Arctic Slope Regional Corporation all right, title, and interest of the United States in the following described lands selected or identified for selection pursuant to the Alaska Native Claims Settlement Act, and to the extent such lands lie outside the boundaries of the National Petroleum Reserve in Alaska:

Umiat Meridian

Township 3 south, range 6 west, sections 24 through 26, 33 through 36;
Township 4 south, range 6 west, sections 1 through 5, 7 through 36;
Township 4 south, range 7 west, sections 11 through 16, 19 through 36;
Township 4 south, range 8 west, sections 23 through 29, 32 through 36;
Township 5 south, range 6 west, sections 1 through 18;
Township 5 south, range 7 west, sections 1 through 36;
Township 5 south, range 8 west, sections 1 through 5, 7 through 36;
Township 5 south, range 9 west, sections 25 through 27, 34 through 36;
Township 6 south, range 6 west, sections 19, 30, 31;
Township 6 south, range 7 west, sections 1 through 18, 22 through 27, 34 through 36;
Township 7 south, range 6 west, sections 5 through 8, 17 through 20, 29 through 32;
Township 7 south, range 7 west, sections 1, 2, 11 through 14, 19 through 36;
Township 7 south, range 8 west, sections 19 through 36;
Township 7 south, range 9 west, sections 22 through 27, 34 through 36;
Township 8 south, range 6 west, sections 4 through 9, 16 through 36;
Township 8 south, range 7 west, sections 1 through 36;
Township 8 south, range 8 west, sections 1 through 18, 22 through 27, 34 through 36;
Township 9 south, range 6 west, sections 1 through 36;
Township 9 south, range 7 west, sections 1 through 36;
Township 9 south, range 8 west, sections 1 through 36;
Township 10 south, range 5 west, sections 19 through 36;
Township 10 south, range 6 west, sections 1 through 36;
Township 10 south, range 7 west, sections 1 through 36;
Township 10 south, range 8 west, sections 1 through 36;
Township 10 south, range 9 west, sections 19 through 36;

Township 10 south, range 10 west, sections 19 through 36;
Township 11 south, range 5 west, sections 1 through 18;
Township 11 south, range 6 west, sections 1 through 18;
Township 11 south, range 7 west, sections 1 through 21, 28 through 33;
Township 11 south, range 8 west, sections 1 through 36;
Township 11 south, range 9 west, sections 1 through 36;
Township 11 south, range 10 west, sections 1 through 36;
Township 11 south, range 11 west, sections 1 through 36;
Township 11 south, range 12 west, sections 1 through 36;
Township 11 south, range 13 west, sections 1 through 36;
Township 12 south, range 8 west, partial, sections 1 through 24;
Township 12 south, range 9 west, partial, sections 1 through 24;
Township 12 south, range 10 west, partial, sections 1 through 24;
Township 12 south, range 11 west, sections 1 through 16, 21 through 28;
Township 12 south, range 12 west, sections 1 through 12, 17 through 20, 29, 30;
Township 12 south, range 13 west, sections 1 through 30;

Kateel River Meridian

Township 34 north, range 16 east, sections 7 through 24;
Township 34 north, range 17 east, sections 7 through 24; and
Township 34 north, range 18 east, sections 7, 8, 17 through 20.

(e) ACQUISITION AND EXCHANGE AUTHORITY.—(1) The Secretary is authorized, in order to carry out the purposes of this Act, to acquire by purchase or exchange any of the following described lands which have been or may hereafter be conveyed to Arctic Slope Regional Corporation pursuant to subsection (c)(2) of this section or pursuant to the Alaska Native Claims Settlement Act: 43 USC 1601 note.

Umiat Meridian

Township 12 south, range 8 east, sections 1 through 36;
Township 12 south, range 7 east, sections 7 through 36;
Township 12 south, range 6 east, sections 10 through 15, 22 through 27, 34 through 36;
Township 13 south, range 7 east, sections 1 through 18;
Township 13 south, range 6 east, sections 1 through 18;
Township 12 south, range 11 west, sections 17 through 20, 29, 30; and
Township 12 south, range 12 west, sections 13 through 16, 21 through 28.

Kateel River Meridian

Township 34 north, range 18 east, sections 9 through 16, 21 through 24.

(2) Lands specified in paragraph (1) of this subsection may be acquired for such purposes only with the consent of Arctic Slope Regional Corporation. If such lands are so acquired by the Secretary, or if any such lands are not conveyed to Arctic Slope Regional Corporation, such lands shall become, and be administered as, a part of Gates of the Arctic National Park; the boundaries of the Park shall thereby be deemed to include such lands to the same extent as if the lands were included within such boundaries by this Act: *Provided,* That no such boundary change shall take effect until ninety days after the Secretary provides notice in writing to the Congress of his Boundary change, notification to Congress.

intention to consummate an acquisition that would result in such boundary change.

(3) To facilitate an exchange provided for in this subsection, the Secretary is authorized to make available to Arctic Slope Regional Corporation lands, or interests therein, from public lands within the Arctic Slope Region, as determined pursuant to section 7(a) of the Alaska Native Claims Settlement Act, including lands, or interests therein, within the National Petroleum Reserve—Alaska in the event that lands within the reserve are made subject to leasing under the Mineral Leasing Act of 1920, as amended, or are otherwise made available for purposes of development of oil, gas, or other minerals.

43 USC 1606.

30 USC 181 note.

(f) LAND EXCHANGE.—As a land exchange:

(1) contingent upon Arctic Slope Regional Corporation conveying the lands described in paragraph (2) below and upon receiving interim conveyances to the following described lands:

Umiat Meridian

Township 9 south, range 2 west, sections 22 through 27, 34 through 36;

Township 9 south, range 3 west, sections 1 through 3, 10 through 12;

Township 9 south, range 12 west, sections 1 through 18; and

Township 9 south, range 13 west, sections 1 through 3, 10 through 15, 22 through 24.

the Secretary shall convey to Arctic Slope Regional Corporation all right, title and interest of the United States in the following described lands:

Umiat Meridian

Township 9 south, range 12 west, sections 19 through 24;

Township 9 south, range 11 west, sections 4 through 9, 16 through 21;

Township 9 south, range 3 west, sections 13 through 15, 22 through 27; and

Township 9 south, range 2 west, sections 28, 33.

(2) the Secretary is authorized to accept from Arctic Slope Regional Corporation a relinquishment of all right, title and interest of Arctic Slope Regional Corporation in the following described lands:

Umiat Meridian

Township 8 south, range 11 west, sections 13 through 15, 22 through 27; and

Township 8 south, range 10 west, sections 7 through 11, 13 through 21, 28 through 33.

(g) KAKTOVIK EXCHANGE.—As a land exchange, contingent upon Kaktovik Inupiat Corporation conveying the lands described in paragraph (1) of this subsection and upon the Arctic Slope Regional Corporation conveying the lands described in paragraph (4) of this subsection—

(1) the Secretary is authorized to accept from Kaktovik Inupiat Corporation all right, title and interest of Kaktovik Inupiat Corporation in the surface estate of the following described lands:

Umiat Meridian

Township 2 south, range 23 east, sections 25 through 28, 33 through 36; and

Township 2 south, range 24 east, sections 1 through 24, 29 through 32.

(2) the Secretary shall convey to Kaktovik Inupiat Corporation all right, title and interest of the United States in the surface estate of the following described lands:

All those lands on Kaktovik Island—Barter Island Group, Alaska, which were not properly selected by Kaktovik Inupiat Corporation on or before December 18, 1975, and which were not on January 1, 1979, in a defense withdrawal: *Provided,* That such lands when conveyed to Kaktovik Inupiat Corporation shall be subject to the provisions of the Alaska Native Claims Settlement Act, including section 22(g) of said Act, except that the acreage limitation for Village Corporation selection of lands within the National Wildlife Refuge System shall not apply; 43 USC 1601 note, 1621.

(3) Kaktovik Inupiat Corporation shall identify additional lands it desires to acquire pursuant to this exchange from within the following described lands, and to the extent necessary to acquire the surface estate of an aggregate total of twenty-three thousand and forty acres, including the lands conveyed by the Secretary to Kaktovik Inupiat Corporation pursuant to subsection (g)(2) hereof:

Umiat Meridian

Township 7 north, ranges 32 through 36 east;

Township 8 north, ranges 32 through 36 east; and

Township 9 north, ranges 33 through 34 east;

or such other adjacent lands as the Secretary and Kaktovik Inupiat Corporation may mutually agree upon. Upon the concurrence of the Secretary in the lands identified, he shall convey to Kaktovik Inupiat Corporation all right, title and interest of the United States in the surface estate of the lands so identified: *Provided,* That such lands shall be contiguous to lands previously conveyed to Kaktovik Inupiat Corporation pursuant to section 14(a) of the Alaska Native Claims Settlement Act: *Provided further,* That such lands when conveyed to Kaktovik Inupiat Corporation shall be subject to the provisions of the Alaska Native Claims Settlement Act, including section 22(g) of said Act, except that the acreage limitation for Village Corporation selection of lands within the National Wildlife Refuge System shall not apply; 43 USC 1613.

(4) the Secretary is authorized to accept from Arctic Slope Regional Corporation a conveyance of all right, title and interest of Arctic Slope Regional Corporation in the subsurface estate of the following described lands:

Umiat Meridian

Township 2 south, range 23 east, sections 25 through 28, 33 through 36; and

Township 2 south, range 24 east, sections 1 through 24, 29 through 32.

(h) WEYUK LANDS TRANSFER.—Upon the concurrence of the Secretary of Defense, the Secretary shall convey to Arctic Slope Regional

Corporation all right, title and interest of the United States in all or part of the following described lands:

Beginning at Weyuk, United States Coast and Geodetic Survey Survey Mark (1586) north 62 degrees east 2,900 feet, more or less, the true point of beginning of this description, thence north 1,100 feet, more or less, thence easterly, meandering along the coast approximately 2,000 feet, more or less, thence south 700 feet, more or less, thence west 1,800 feet, more or less, to the true point of beginning.

(i) NAVAL ARCTIC RESEARCH LABORATORY.—The Secretary shall convey to Ukpeagvik Inupiat Corporation all right, title and interest of the United States in the surface estate of the following described lands:

Umiat Meridian

Township 23 north, range 18 west, sections 13 fractional excluding interim conveyance numbered 045, 14 excluding northwest quarter; southwest quarter; west half southeast quarter, 23 excluding northwest quarter; west half northeast quarter; southwest quarter, southeast quarter, 24 excluding east half, southwest quarter and interim conveyance numbered 045, 28 excluding northeast quarter; southeast quarter, 29 fractional, 32 fractional, excluding United States Survey 4615, United States Survey 1432, and interim conveyance numbered 045, 33 excluding northeast quarter; east half east half northwest quarter; northeast quarter southeast quarter; northeast quarter northwest quarter southeast quarter and interim conveyance numbered 045.

(j) RIGHTS-OF-WAY, ETC.—(1) In recognition that Arctic Slope Regional Corporation has a potential need for access in an easterly direction from its landholdings in the Kurupa Lake area and the watershed of the Killik River to the Trans-Alaska Pipeline corridor, the Secretary is authorized and directed, upon application by Arctic Slope Regional Corporation for a right-of-way in this region, to grant to such corporation, its successors and assigns, according to the provisions of section 28 of the Mineral Leasing Act of 1920, as amended, a right-of-way across the following public lands, or such other public lands as the Secretary and Arctic Slope Regional Corporation may mutually agree upon, for oil and gas pipelines, related transportation facilities and such other facilities as are necessary for the construction, operation and maintenance of such pipelines:

30 USC 185.

Umiat Meridian

Township 11 south, range 10 west;
Township 10 south, ranges 8 through 10 west;
Township 10 south, range 7 west, sections 19 through 36;
Township 11 south, range 7 west, sections 1 through 18;
Township 11 south, range 6 west;
Township 11 south, range 5 west, sections 1 through 18;
Township 10 south, range 5 west, sections 19 through 36;
Township 10 south, ranges 1 through 4 west; and
Township 10 south, ranges 1 through 10 east.

The final alignment and location of all facilities across public lands shall be in the discretion of the Secretary.

(2) The Secretary shall make available to Arctic Slope Regional Corporation, its successors and assigns, such sand and gravel as is reasonably necessary for the construction or maintenance of any pipeline or facility and use of rights-of-way appurtenant to the exercise of the rights granted under this subsection, such sand and gravel to be provided to Arctic Slope Regional Corporation, its successors and assigns, for fair market value by negotiated sale.

(k) NEPA.—The National Environmental Policy Act of 1969 (83 Stat. 852) shall not be construed, in whole or in part, as requiring the preparation or submission of any environmental document for any action taken by the Secretary or the Secretary of Defense pursuant to this section. 42 USC 4321 note.

(l) SURFACE USES, ETC.—(1) With respect to the following described lands, the subsurface estate of which is to be conveyed to Arctic Slope Regional Corporation pursuant to subsection (c) hereof:

Umiat Meridian

Township 12 south, range 9 east, sections 1 through 31; and
Township 12 south, range 10 east, sections 1 through 18.

Arctic Slope Regional Corporation shall have such use of the surface estate, including such right of access thereto, as is reasonably necessary to the exploration for and removal of oil and gas from said subsurface estate, subject to such rules and regulations by the Secretary that are applicable to the National Park System.

(2) The Secretary shall identify for Arctic Slope Regional Corporation, its successors and assigns, reasonably available sand and gravel which may be used without cost to the United States in the construction and maintenance of facilities and use of rights-of-way appurtenant to the exercise of the rights conveyed under this subsection, notwithstanding the provisions of section 601 et seq., title 30, United States Code, and sand and gravel shall be made available at no charge to Arctic Slope Regional Corporation.

(m) RELATION TO ENTITLEMENTS.—(1) The Secretary shall reduce the acreage charged against the entitlement of Arctic Slope Regional Corporation pursuant to section 12(c) of the Alaska Native Claims Settlement Act by the amount of acreage determined by the Secretary to be conveyed by Arctic Slope Regional Corporation to the United States pursuant to subsection (c)(4) of this section. 43 USC 1611.

(2) The Secretary shall charge against the entitlement of Arctic Slope Regional Corporation pursuant to section 12(c) of the Alaska Native Claims Settlement Act the lands conveyed by the Secretary to Arctic Slope Regional Corporation pursuant to subsections (c)(1), (c)(2), (d), (f) (1) and (h) of this section.

(3) The Secretary shall reduce the acreage charged against the entitlement of Arctic Slope Regional Corporation pursuant to section 12(a)(1) of the Alaska Native Claims Settlement Act by the amount of acreage determined by the Secretary to be conveyed by Arctic Slope Regional Corporation to the United States pursuant to subsection (g)(4) of this section.

(4) Notwithstanding the exception by the United States of sand and gravel, the Secretary shall charge against the entitlement of Arctic Slope Regional Corporation pursuant to section 12(a)(1) of the Alaska Native Claims Settlement Act the lands conveyed by the Secretary to Arctic Slope Regional Corporation pursuant to subsection (c)(3) of this section.

(5) The Secretary shall reduce the acreage charged against the entitlement of Kaktovik Inupiat Corporation pursuant to section

43 USC 1611.

12(a) of the Alaska Native Claims Settlement Act by the amount of acreage determined by the Secretary to be conveyed by Kaktovik Inupiat Corporation to the United States pursuant to subsection (g)(1) of this section.

(6) The Secretary shall charge against the entitlement of Kaktovik Inupiat Corporation pursuant to section 12(a) of the Alaska Native Claims Settlement Act the lands conveyed by the Secretary to Kaktovik Inupiat Corporation pursuant to subsection (g) (2) and (3) of this section.

(7) The Secretary shall charge against the entitlement of Ukpeagvik Inupiat Corporation pursuant to section 12(a) of the Alaska Native Claims Settlement Act the lands conveyed by the Secretary to Ukpeagvik Inupiat Corporation pursuant to subsection (i) of this section.

(8) In no event shall the conveyances issued by the Secretary to Arctic Slope Regional Corporation, Kaktovik Inupiat Corporation, and Ukpeagvik Inupiat Corporation pursuant to the Alaska Native Claims Settlement Act and this section exceed the total entitlements of such Corporations under the Alaska Native Claims Settlement Act, except as expressly provided for in subsection (g) of this section.

43 USC 1601 note.

(n) RESERVED LANDS.—(1) Congress finds that it is in the public interest to reserve in public ownership the submerged lands in the bed of the Colville River adjacent to lands selected by Kuupik Corporation and in the beds of the Nechelik Channel, Kupigruak Channel, Elaktoveach Channels, Tamayayak Channel, and Sakoonang Channel from the Colville River to the Arctic Ocean, and (2) notwithstanding any other provision of law, conveyance of the surface estate of lands selected by Kuukpik Corporation pursuant to section 12 (a) and (b) of the Alaska Native Claims Settlement Act and associated conveyance of the subsurface estate to Arctic Slope Regional Corporation pursuant to section 14(f) of such Act shall not include conveyance of the beds of the Colville River and of the channels named in this subsection, and the acreage represented by the beds of such river and of such named channels shall not be charged against the land entitlement of Kuukpik Corporation and Arctic Slope Regional Corporation pursuant to the provisions of the Alaska Native Claims Settlement Act.

43 USC 1613.

(o) FUTURE OPTION TO EXCHANGE, ETC.—(1) Whenever, at any time within forty years after the date of enactment of this Act, public lands in the National Petroleum Reserve—Alaska or in the Arctic National Wildlife Range, within seventy-five miles of lands selected by a Village Corporation pursuant to the provisions of section 12(a)(1) of the Alaska Native Claims Settlement Act, are opened for purposes of commercial development (rather than exploration) of oil or gas, Arctic Slope Regional Corporation shall be entitled, at its option, within five years of the date of such opening, to consolidate lands by exchanging the in-lieu subsurface lands which it selected pursuant to the provisions of section 12(a)(1) of the Act for an equal acreage of the subsurface estate, identified by Arctic Slope Regional Corporation, beneath the lands selected by the Village Corporation. Prior to the exercise of such option, Arctic Slope Regional Corporation shall obtain the concurrence of the affected Village Corporation. The subsurface estate identified for receipt by Arctic Slope Regional Corporation pursuant to this subsection shall be contiguous and in reasonably compact tracts, except as separated by lands which are unavailable for selection, and shall be in whole sections and, wherever feasible, in units of not less than five thousand seven hundred and sixty acres.

43 USC 1611.

(2) Arctic Slope Regional Corporation shall not be entitled to exchange, pursuant to the provisions of paragraph (1) of this subsection, any in-lieu subsurface estate which the corporation has developed for purposes of commercial extraction of subsurface resources; unless the Secretary determines such an exchange to be in the national interest.

(3) The Secretary shall take such steps as may be necessary to effectuate an exchange sought by Arctic Slope Regional Corporation in accordance with the provisions of paragraph (1).

(4) With regard to subsurface estates acquired by Arctic Slope Regional Corporation pursuant to this subsection, the Secretary may promulgate such regulations as may be necessary to protect the environmental values of the Reserve or Range and consistent with the regulations governing the development of those lands within the Reserve or Range which have been opened for purposes of development, including, but not limited to, regulations issued pursuant to section 22(g) of the Alaska Native Claims Settlement Act. 43 USC 1621.

(p) CONDITIONS.—All lands or interests in lands conveyed by the Secretary in subsections (d), (f)(1), (g)(2), (g)(3), (h), and (i) of this section to Arctic Slope Regional Corporation or a Village Corporation, as the case may be, shall be subject to valid existing rights, and in accordance with, and subject to, the provisions of the Alaska Native Claims Settlement Act, as amended, as though the lands were originally conveyed to such corporation under the provisions of such Act. 43 USC 1601 note.

COOK INLET VILLAGE SETTLEMENT

SEC. 1432. The Secretary is directed to:

(a) Terminate the review of the eligibility of Salamatof Native Association, Incorporated and withdraw any determination that said village corporation is not eligible for benefits under section 14(a) of this Act.

(b) Implement the agreement among the Secretary, Cook Inlet Region, Incorporated and Salamatof Native Association, Incorporated, which agreement dated August 17, 1979, had been filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs in the House of Representatives, the terms of which are hereby authorized.

(c) Remove from the Kenai National Moose Range the surface estate of any land, therein to be conveyed to Salamatof and the subsurface estate of any lands therein conveyed or to be conveyed to Cook Inlet Region, Incorporated, pursuant to the agreement authorized to be implemented under subparagraph (ii) of this paragraph.

(d) Implement an agreement among Cook Inlet Region, Incorporated, the corporation representing the Village of Alexander Creek, the corporation representing the group of Alexander Creek and the United States, if such agreement is filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives prior to December 18, 1979, the terms of which are hereby authorized, and upon performance of the conditions precedent set forth in said agreement, certify Alexander Creek, Incorporated, as a group corporation, eligible for land and other benefits under the Alaska Native Claims Settlement Act and this Act.

(e) Treat lands conveyed to Alexander Creek as lands conveyed to Village Corporations for the limited purpose of calculating the acreage to be charged against the entitlement of Cook Inlet Region under section 4 of Public Law 94-456. 43 USC 1611 note.

(f) Accept any lands that are tendered by the State of Alaska for the purpose of implementing the agreement described in subparagraph (i) of this paragraph, such tender not to be subject to the provisions of section 6(i) of the Alaska Statehood Act (72 Stat. 339).

48 USC note prec. 21.

BRISTOL BAY NATIVE CORPORATION LANDS

SEC. 1433. (a) The following lands are hereby withdrawn for selection pursuant to the provisions of section 14 (h)(8) of the Alaska Native Claims Settlement Act and this section:

43 USC 1613.

Seward Meridian

Township 14 south, range 56 west, sections 6, 7, 18, 19, and 30.

(b) On or prior to one hundred and eighty days from the date of enactment of this Act, Bristol Bay Native Corporation may select pursuant to section 14(h)(8) of the Alaska Native Claims Settlement Act, the lands withdrawn pursuant to subsection (a).

(c) The Secretary shall convey to Bristol Bay Native Corporation the surface and subsurface estate of the acreage selected by it Conveyances pursuant to this section shall be subject to valid existing rights and the provisions of the Alaska Native Claims Settlement Act.

43 USC 1601 note.

(d) Nothing in this section shall be deemed to increase or decrease the acreage entitlement of Bristol Bay Native Corporation, under any section of the Alaska Native Claims Settlement Act.

(e) Any lands withdrawn under subsection (a) and not conveyed to Bristol Bay Native Corporation, shall return to the public domain subject to any prior withdrawals made by the Secretary pursuant to subsection 17(d)(1) of the Alaska Native Claims Settlement Act, subsection 204(e) of the Federal Land Policy and Management Act, and the provisions of section 906(k) of this Act.

43 USC 1616.
43 USC 1714.
Ante, p. 2437.

SHEE ATIKA-CHARCOAL AND ALICE ISLAND CONVEYANCE

SEC. 1434. In partial satisfaction of the rights of Shee Atika, Incorporated, under section 14(h)(3) of the Alaska Native Claims Settlement Act, the Secretary of the Interior shall convey to Shee Atika, Incorporated, subject to reservation of easements as provided in section 17(b)(3) of that Act, the surface estate, and to Sealaska Corporation the subsurface estate, in and to the land owned by the United States in section 1, township 56 S, range 63 E, Copper River meridian, comprising Charcoal and Alice Islands, excluding, however, the land therein occupied under Federal permit by the Mount Edgecombe Grade School, the lands comprising the Mausoleum of the United States Public Health Service, as designated by that Service, and the lands comprising the maintenance and warehouse buildings of the Bureau of Indian Affairs, Department of the Interior, as designated by the Bureau of Indian Affairs, and approximately 1.5 acres, heretofore declared excess to the needs of the United States Public Health Service and transferred to the General Services Administration. Shee Atika, Incorporated, shall designate from the land heretofore selected by or conveyed to it pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act, a block of land equal in acreage to the lands to be conveyed to it under this provision, and all claims and rights of Shee Atika, Incorporated, in and to the surface estate, and all claims and rights of Sealaska Corporation, in

43 USC 1613.

and to the subsurface estate of such designated lands shall be deemed extinguished.

AMENDMENT TO PUBLIC LAW 94-204

SEC. 1435. Section 12(b) of the Act of January 2, 1976 (Public Law 94-204), as amended by section 4 of the Act of October 4, 1976 (Public Law 94-456) and section 3 of the Act of November 15, 1977 (Public Law 95-178) is hereby amended to add the following new paragraphs:

Cook Inlet Region, Inc., surplus property. 43 USC 1611 note.

"12(b)(7)(i) Until the obligations of the Secretary and the Administrator of General Services under subsection 12(b)(6) of this Act are otherwise fulfilled: (a) Cook Inlet Region, Incorporated, may, by crediting the account established in subsection 12(b)(7)(ii), bid, as any other bidder for surplus property, wherever located, in accordance with the Federal Property and Administrative Services Act of 1949 (40 U.S.C. sec. 484), as amended. No preference right of any type will be offered to Cook Inlet Region Incorporated, for bidding for General Services Administration surplus property under this subparagraph and no additional advertising shall be required other than that prescribed in title 40, United States Code, section 484(e)(2) of the Federal Property and Administrative Services Act; (b) the Administrator of General Services may, at the discretion of the Administrator, tender to the Secretary any surplus property otherwise to be disposed of pursuant to 40 U.S.C. 484(e)(3) to be offered Cook Inlet Region, Incorporated for a period of 90 days so as to aid in the fulfillment of the Secretary's program purposes under the Alaska Native Claims Settlement Act: *Provided,* That nothing in this subsection 12(b)(7)(i)(b) shall be construed to establish, enlarge or diminish authority of the Administrator or the Secretary within the State of Alaska. If the Region accepts such property, it shall be in exchange for acres or acre-equivalents as provided in subparagraph I(C)(2)(e) of the document, referred to in subsection (b) of this section. Prior to any disposition under subsection 12(b)(7)(i)(b), the Administrator shall notify the governing body of the locality where such property is located and any appropriate State agency, and no such disposition shall be made if such governing body or State agency, within ninety days of such notification formally advises the Administrator that it objects to the proposed disposition.

43 USC 1601 note.

"(ii) The Secretary of the Treasury shall establish a Cook Inlet Region, Incorporated surplus property account, which shall be available for the purpose of bidding on Federal surplus property. The balance of the account shall be the acre-equivalent exchange value established by paragraph I(C)(2)(e) of the document referred to in this subsection, of the unfulfilled entitlement of Cook Inlet Region, Incorporated, the effective date of this subsection to acre or acre-equivalents under paragraph I(C)(2)(g) of the document referred to in this subsection and shall be adjusted to reflect transfers or successful bids under subsection 12(b)(6) of this section.

"(iii) The amount charged against the Treasury account established under subsection (ii) shall be treated as proceeds of dispositions of surplus property for the purpose of determining the basis for calculating direct expenses pursuant to 40 U.S.C. 485(b), as amended.

"(iv) The basis for computing gain or loss on subsequent sale or other disposition of lands or interests in land conveyed to Cook Inlet Region, Incorporated, under this subsection, for purposes of any Federal, State or local tax imposed on or measured by income, shall be the fair value of such land or interest in land at the time of receipt. The amount charged against Cook Inlet's entitlement under I(C)(2)(e)

of the document referred to in subsection (b) of this section shall be prima facie evidence of such fair value.

Report to Congress.

"12(b)(8) Cook Inlet Region, Incorporated, the Secretary and/or the Administrator shall have until July 15, 1982, to complete the nomination of lands for the pool described in subsection 12(b)(6): *Provided, however,* That the Secretary shall report to Congress on January 15, 1982, as to:

"(i) Such studies and inquiries as shall have been initiated by the Secretary and the Administrator of General Services, or have been prepared by other holding agencies, to determine what lands, within the exterior boundaries of the Cook Inlet Region, or elsewhere can be made available to the Cook Inlet Region, Incorporated, to the extent of its entitlement;

"(ii) The feasibility and appropriate nature of reimbursement to Cook Inlet Region, Incorporated, for its unfulfilled entitlement as valued in paragraph I(C)(2)(e) of the document referred to in this subsection;

"(iii) The extent to which implementation to the mechanisms established in subsection 12(b)(7) promise to meet said unfulfilled commitment; and

"(iv) Such other remedial legislation on administrative action as may be needed.

INALIK NATIVE CORPORATION LANDS

SEC. 1436. (a) Upon the filing of a valid relinquishment by the State of Alaska of its selections of the following described lands, said lands are hereby withdrawn, subject to valid existing rights for a period of one year for selection by the Inalik Native Corporation:

Kateel River Meridian

Township 1 south, range 41 west;
Township 1 south, range 42 west; and
Township 1 south, range 43 west.

(b) The Inalik Native Corporation is authorized to select the lands described in subsection (a) in partial satisfaction of its entitlement under section 14 of the Alaska Native Claims Settlement Act. The Secretary shall receive and adjudicate such selections as though they were timely filed pursuant to section 12 of the Alaska Native Claims Settlement Act, and shall convey said lands to the Inalik Native Corporation and the Bering Straits Native Corporation pursuant to section 14 of the Alaska Native Claims Settlement Act.

43 USC 1613.

43 USC 1611.

(c) Nothing in this section shall be deemed to increase or decrease the acreage entitlement of the Inalik Native Corporation and Bering Straits Native Corporation under any section of the Alaska Native Claims Settlement Act.

43 USC 1601 note.

CONVEYANCES TO VILLAGE CORPORATIONS

43 USC 1641.

SEC. 1437. (a) OPTIONAL PROCEDURE.—The provisions of this section shall be applicable only to the conveyance of Federal lands described herein to a Native Corporation which within one hundred and eighty days after the date of enactment of this Act or the date of eligibility determination, whichever is later, files a document with the Secretary setting forth its election to receive conveyance pursuant to this section.

(b) "CORE" TOWNSHIPS ETC.—(1)(A) Except to the extent that conveyance of a surface estate would be inconsistent with section 12(a), 14(a), 14(b), or 22(l) of the Alaska Native Claims Settlement Act, subject to valid existing rights and section 903(a) of this Act, there is hereby conveyed to and vested in each Village Corporation for a Native Village which is determined by the Secretary to be eligible for land under section 11 or 16 of the Alaska Native Claims Settlement Act, and which did not elect to acquire a former reserve under section 19(b) of such Act, all of the right, title, and interest of the United States in and to the surface estate in the public lands, as defined in such Act, in the township or townships withdrawn pursuant to section 11(a)(1) or 16(a) of such Act in which all or any part of such Village is located. As used in this paragraph the term "Native Village" has the same meaning such term has in section 3(c) of the Alaska Native Claims Settlement Act.

Surface estates conveyances.

43 USC 1611, 1613, 1621.
Ante, p. 2433.

43 USC 1610, 1615.

43 USC 1602.

(B) Where two or more Village Corporations are entitled to the same land by virtue of the same township or townships embracing all or part of the Native Villages, the conveyance made by paragraph (A) shall not be effective as to such lands until an arbitration decision or other binding agreement between or among the Corporations is filed with and published by the Secretary. Within thirty days of receipt of such decision or agreement, the Secretary shall publish notice of the decision or agreement in the Federal Register. Effective with such publication, title to the lands conveyed by subparagraph (A) shall vest in the Village Corporation as specified in the decision or agreement. For purposes of section 902, until title vests in the Village Corporation pursuant to this subparagraph, the Secretary shall consider the entire acreage involved chargeable to each Corporation's entitlement.

Publication in Federal Register.

(2) Except to the extent that conveyance of a surface estate would be inconsistent with section 12(a), 14(a), or 22(l) of the Alaska Native Claims Settlement Act, subject to valid existing rights and section 903(a) of this Act, there is hereby conveyed to and vested in each Village Corporation for a Native Village which is determined by the Secretary to be eligible for land under section 11 of such Act, and which did not elect to acquire a former reserve under section 19(b) of such Act, all of the right, title, and interest of the United States in and to the surface estate in the township or townships withdrawn pursuant to section 11(a)(2) of such Act in which all or any part of such village is located: *Provided,* That any such land reserved to or selected by the State of Alaska under the Acts of March 4, 1915 (38 Stat. 1214), as amended, January 21, 1929 (45 Stat. 1091), as amended, or July 28, 1956 (70 Stat. 709), and lands selected by the State which have been tentatively approved to the State under section 6(g) of the Alaska Statehood Act and as to which the State, prior to December 18, 1971, had conditionally granted title to, or contracts to purchase, the surface estate to third parties, including cities and boroughs within the State, and such reservations, selections, grants, and contracts had not expired or been relinquished or revoked by the date of this Act, shall not be conveyed by operation of this paragraph: *And provided further,* That the provisions of subparagraph (1)(B) of this subsection shall apply to the conveyances under this paragraph.

43 USC 1611, 1613, 1621.
Ante, p. 2433.

43 USC 1610.

43 USC 1618.

48 USC 353 note.
43 USC 852 note.
48 USC 46-1 note.
48 USC note prec. 21.

(3) Subject to valid existing rights and section 903(a) of this Act, there is hereby conveyed to and vested in each Village Corporation which, by the date of enactment of this Act, is determined by the Secretary to be eligible under the Alaska Native Claims Settlement Act to, and has elected to, acquire title to any estate pursuant to section 19(b) of the Alaska Native Claims Settlement Act, all of the

43 USC 1601 note.
43 USC 1618.

right, title, and interest of the United States in and to the estates in a reserve, as such reserve existed on December 18, 1971, which was set aside for the use or benefit of the stockholders or members of such Corporation before the date of enactment of the Alaska Native Claims Settlement Act. Nothing in this paragraph shall apply to the Village Corporation for the Native village of Klukwan, which Corporation shall receive those rights granted to it by the Act of January 2, 1976 (Public Law 94-204) as amended by the Act of October 4, 1976 (Public Law 94-456).

43 USC 1601 note.

43 USC 1604 note, 1605 note, 1611 note, 1613 note, 1615, 1616, 1618 note, 1620, 1621, 1625 and note, 1626, 1627.

(4) Subject to valid existing rights and section 903(a) of this Act, and except where such lands are within a National Wildlife Refuge or the National Petroleum Reserve—Alaska, for which the Regional Corporation obtains in-lieu rights pursuant to section 12(a)(1) of the Alaska Native Claims Settlement Act, there is hereby conveyed to and vested in each Regional Corporation which, as a result of a conveyance of a surface estate by operation of paragraphs (1) and (2) of this subsection, is entitled under section 14(f) of the Alaska Native Claims Settlement Act to receive the subsurface estate corresponding to such surface estate, all of the right, title, and interest of the United States in and to such subsurface estate.

43 USC 1611.

43 USC 1613.

(c) DOCUMENTS.—As soon as possible after the date of enactment of this Act, the Secretary shall issue to each Native Corporation referred to in subsection (b) interim conveyances or patents to the estate or estates conveyed to such Corporation by such subsection, but title shall be deemed to have passed on the date of the filing of a document of election described in subsection (a), notwithstanding any delay in the issuance of the interim conveyances or patents.

(d) RECONVEYANCES; DISPUTES.—A Village Corporation's obligation to reconvey lands under section 14(c) of the Alaska Native Claims Settlement Act shall arise only upon receipt of an interim conveyance or patent, whichever is earlier, under subsection (c) of this section or under such Act. For purposes of the Alaska Native Claims Settlement Act, legislative conveyances made by, or interim conveyances and patents issued pursuant to, this title shall have the same effect as if issued pursuant to sections 14(a), 14(b), 14(f), and 19(b) of the Alaska Native Claims Settlement Act and shall be deemed to have been so issued. Disputes between or among Native Corporations arising from conveyances under this Act shall be resolved by a board of arbitrators of a type described in section 12(e) of the Alaska Native Claims Settlement Act pertaining to disputes over land selection rights and the boundaries of Village Corporations.

43 USC 1601 note.

43 USC 1613, 1618.

43 USC 1611.

(e) EXISTING RIGHTS.—All conveyances made by operation of this section shall be subject to the terms and conditions of the Alaska Native Claims Settlement Act as if such conveyances or patents had been made or issued pursuant to that Act.

(f) EASEMENTS.—For a period of one year from the date of enactment of this Act, the Secretary may identify and issue a decision to reserve in the patent those easements, pursuant to section 17(b)(3) of the Alaska Native Claims Settlement Act, which are described in section 17(b)(1) of such Act on lands conveyed by this section, but the Secretary shall not reserve a greater number of easements or more land for a particular easement or easements than is reasonably necessary and he shall be guided by the principles of section 903 of this Act. Upon the finality of the decision so issued, such easements shall be reserved in the conveyance document or documents issued by the Secretary as required by this section.

43 USC 1616.

(g) DEFINITION.—For purposes of this section, the term "Native Corporation" means Village Corporations and Regional Corporations.

TITLE XV—NATIONAL NEED MINERAL ACTIVITY RECOMMENDATION PROCESS

AREAS SUBJECT TO THE NATIONAL NEED RECOMMENDATION PROCESS

SEC. 1501. The process contained in this title shall apply to all public lands within Alaska except for lands within units of the National Park System and the Arctic National Wildlife Refuge. 16 USC 3231.

RECOMMENDATIONS OF THE PRESIDENT TO CONGRESS

SEC. 1502. (a) RECOMMENDATION.—At any time after the date of enactment of this Act the President may transmit a recommendation to the Congress that mineral exploration, development, or extraction not permitted under this Act or other applicable law shall be permitted in a specified area of the lands referred to in section 1501. Notice of such transmittal shall be published in the Federal Register. No recommendation of the President under this section may be transmitted to the Congress before ninety days after publication in the Federal Register of notice of his intention to submit such recommendation. 16 USC 3232. Publication in Federal Register.

(b) FINDINGS.—A recommendation may be transmitted to the Congress under subsection (a) if the President finds that, based on the information available to him—

(1) there is an urgent national need for the mineral activity; and

(2) such national need outweighs the other public values of the public lands involved and the potential adverse environmental impacts which are likely to result from the activity.

(c) REPORT.—Together with his recommendation, the President shall submit to the Congress— Submittal to Congress.

(1) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(2) a statement of the conditions and stipulations which would govern the activity if approved by the Congress; and

(3) in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969, a statement which complies with the requirements of section 102(2)(C) of such Act. In the case of any recommendation for which an environmental impact statement is not required under section 102(2)(C) of the National Environmental Policy Act of 1969, the President may, if he deems it desirable, include such a statement in his transmittal to the Congress. 42 USC 4321 note. 42 USC 4332.

(d) APPROVAL.—Any recommendation under this section shall take effect only upon enactment of a joint resolution approving such recommendation within the first period of one hundred and twenty calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such recommendation. Any recommendation of the President submitted to Congress under subsection (a) shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(e) ONE-HUNDRED-AND-TWENTY-DAY COMPUTATION.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

EXPEDITED CONGRESSIONAL REVIEW

16 USC 3233.

SEC. 1503. (a) RULEMAKING.—This subsection is enacted by Congress—

(1) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by subsection (b) of this section and it supersedes other rules only to the extent that it is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(b) RESOLUTION.—For purposes of this section, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the recommendation of the President for in submitted to the Congress on 19 .", the first blank space therein to be filled in with appropriate activity, the second blank space therein to be filled in with the name or description of the area of land affected by the activity, and the third blank space therein to be filled with the date on which the President submits his recommendation to the House of Representatives and the Senate. Such resolution may also include material relating to the application and effect of the National Environmental Policy Act of 1969 to the recommendation.

42 USC 4321 note.

(c) REFERRAL.—A resolution once introduced with respect to such Presidential recommendation shall be referred to one or more committees (and all resolutions with respect to the same Presidential recommendation shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(d) OTHER PROCEDURES.—Except as otherwise provided in this section the provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of the resolution. 15 USC 719f.

Approved December 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-97, pt. I (Comm. on Interior and Insular Affairs) and pt. II (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 96-413 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): May 4, 10, 15, 16 considered and passed House.
Vol. 126 (1980): July 21-25, Aug. 4, 5, 18, 19, considered and passed Senate, amended.
Nov. 12, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 16, No. 49 (1980): December 2, Presidential statement.

Public Law 96-488
96th Congress

An Act

Dec. 2, 1980
[H.R. 8329]

To allow the obsolete aircraft carrier United States ship Intrepid to be transferred to the Intrepid Museum Foundation, Incorporated, before the expiration of the otherwise applicable sixty-day congressional review period.

U.S.S. *Intrepid.*
Transfer to museum.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clauses (2) and (3) of section 7308(c) of title 10, United States Code, shall not apply with respect to the transfer by the Secretary of the Navy under section 7308(a) of such title of the obsolete aircraft carrier United States ship Intrepid to the Intrepid Museum Foundation, Incorporated, a nonprofit corporation organized under the laws of the State of New York.

Approved December 2, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Nov. 13, considered and passed House.
Nov. 19, considered and passed Senate.

Public Law 96-489
96th Congress

An Act

To promote safety and health in skiing and other outdoor winter recreational activities.

Dec. 2, 1980
[S. 43]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Skiing and winter recreational activities, safety promotion.

CHARTER

SECTION 1. National Ski Patrol System, Incorporated, a corporation organized under the laws of the States of New York and Colorado is hereby recognized as such and granted a Federal charter.

National Ski Patrol System, Incorporated.
36 USC 1501.

POWERS

SEC. 2. National Ski Patrol System, Incorporated (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the States where it is incorporated.

36 USC 1502.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The purposes of the corporation shall be to promote, in any and all ways, patriotic, scientific, educational and civic improvement activities, public safety in skiing, including, without limiting the generality of the foregoing, the dissemination of information with respect thereto and the formation of volunteer local patrols, consisting of competent skiers trained in the administration of first aid, for the purpose of preventing accidents and rendering speedy assistance to persons sustaining accidents; to solicit contributions of money, services, and other property for, and generally to encourage and assist in carrying out, the foregoing purposes in every way.

36 USC 1503.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

36 USC 1504.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be as provided in the bylaws of the corporation.

36 USC 1505.

BOARD OF DIRECTORS: COMPOSITION: RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States where incorporated.

36 USC 1506.

OFFICERS OF CORPORATION

36 USC 1507.

SEC. 7. The officers of the corporation and the election of such officers shall be the same as is provided for in the articles of incorporation of the corporation and in conformity with the laws of the State or States where incorporated.

RESTRICTIONS

36 USC 1508.

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

LIABILITY

36 USC 1509.

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

BOOKS AND RECORDS: INSPECTION

36 USC 1510.

SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. However, nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(51) National Ski Patrol System, Incorporated".

ANNUAL REPORT

Submittal to Congress.
36 USC 1511.

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding calendar year. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress. 36 USC 1512.

DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States. 36 USC 1513.

TAX EXEMPT STATUS

SEC. 15. The corporation shall retain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to retain such status, the charter granted hereby shall expire. 36 USC 1514.

Approved December 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1398 accompanying H.R. 2279 (Comm. on the Judiciary).
SENATE REPORT No. 96-411 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 16, considered and passed Senate.
Vol. 126 (1980): Nov. 17, H.R. 2279, considered and passed House; passage vacated and S. 43, amended, passed in lieu.
Nov. 19, Senate concurred in House amendment.

Public Law 96-490
96th Congress

An Act

Dec. 2, 1980
[H.R. 7942]

To approve and implement the protocol to the trade agreement relating to customs valuation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Customs valuation. Trade agreement protocol, approval and implementation. 19 USC 2503 note.

SECTION 1. APPROVAL OF PROTOCOL TO THE TRADE AGREEMENT RELATING TO CUSTOMS VALUATION.

(a) APPROVAL OF PROTOCOL.—In accordance with the provisions of sections 102 and 151 of the Trade Act of 1974 (19 U.S.C. 2112 and 2191), the Congress approves—

(1) the trade agreement entitled "Protocol to the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade" (hereinafter in this Act referred to as the "Protocol") submitted to the Congress on August 1, 1980; and

(2) the statement of administrative action proposed to implement such trade agreement submitted to the Congress on that date.

(b) ACCEPTANCE OF PROTOCOL BY THE PRESIDENT.—

(1) IN GENERAL.—Subject to paragraph (2), the President may accept the Protocol for the United States.

(2) LIMITATION ON ACCEPTANCE OF PROTOCOL.—Paragraph (3) of section 2(b) of the Trade Agreements Act of 1979 (19 U.S.C. 2503(b)(3)) (relating to the limitation on acceptance of trade agreements concerning major industrial countries) applies to the Protocol and for such purpose the Protocol shall be treated as a trade agreement that is referred to in such paragraph (3).

(c) APPLICATION OF PROTOCOL.—Paragraph (2) of section 2(b) of such Act of 1979 (19 U.S.C. 2503(b)(2)) (relating to the application of agreements between the United States and other countries) applies to the Protocol and for such purpose the Protocol shall be treated as a trade agreement that is accepted by the President under paragraph (1) of such section 2(b).

(d) RELATIONSHIP OF PROTOCOL TO UNITED STATES LAW.—Subsections (a), (b), (c), and (f) of section 3 of such Act of 1979 (19 U.S.C. 2504 (a), (b), (c), and (f)) (relating to the priority of domestic law in case of conflict, implementing regulations, statutory changes to implement agreement amendments, and disclaimer regarding the creation of any private right of action or remedy) apply to the Protocol and for such purpose the Protocol shall be treated as a trade agreement approved by the Congress under section 2(a) of such Act of 1979.

19 USC 2503.

19 USC 1401a note.

SEC. 2. CONSEQUENTIAL AMENDMENT TO UNITED STATES LAW RELATING TO CUSTOMS VALUATION.

Effective on the latest of—

(1) the date on which the amendments made by title II of the Trade Agreements Act of 1979 (except the amendments made by section 223(b)) take effect,

93 Stat. 194.
19 USC 1202.

(iv) by amending the article description for item 404.32 to read as follows: "Naphthalic anhydride; Phthalic acid; and 4-Sulfo-1,8-naphthalic anhydride";

(v) by striking out "p-Aminobenzoylaminonaphthalene sulfonic acid;" "Aminophenol, substituted;", "3-(N-Ethylanilino)propionic acid, methyl ester;", "1-(p-Nitrophenyl)-2-amino-1,3-propanediol;", and "Toluidine carbonate;" in item 404.84:

(vi) by amending item 404.92—

(I) by striking out "p-Acetaminobenzaldehyde;",

(II) by inserting "3-(N-Ethylanilino)propionic acid, methyl ester;" immediately after "4-Dimethylaminobenzaldehyde;",

(III) by inserting "1-(p-Nitrophenyl)-2-amino-1,3-propanediol;" immediately after "2-Methyl-p-anisidine [NH_2=1];",

(IV) by striking out "Nitra acid amide (1-Amino-9,10-dihydro-N-(3-methoxypropyl)-4-nitro-9,10-dioxo-2-anthramide); and "; and

(V) by inserting "; and Toluidine carbonate" immediately after "λ-Phenylalanine";

(vii) by amending item 405.28—

(I) by inserting "p-Acetaminobenzaldehyde;" immediately before "p-Acetanisidide;",

(II) by inserting "p-Aminobenzoylaminonaphthalenesulfonic acid;" immediately after "p-Aminobenzoic acid isooctylamide;",

(III) by inserting "2-(m-Hydroxyanilino)acetamide;" immediately after "Gentisamide;",

(IV) by striking out "and" after "N-(7-Hydroxy-1-naphthyl)acetamide;", and

(V) by inserting "Nitra acid amide (1-amino-9,10-dihydro-N-(3-methoxypropyl)-4-nitro-9,10-dioxo-2-anthramide); and" immediately before "Phenacetin, technical";

(viii) by striking out "2-Amino-5-nitrobenzonitrile;" in item 405.56;

(ix) by inserting immediately after item 405.84 the following new item:

"	405.85	4,4'-Diphenyl-bis-phosphonous acid, di(2',2",4',4"-di-tert-butyl)phenyl ester.....	1.7¢ per lb. + 12.5% ad val.	7¢ per lb. + 40% ad val.	";

(x) by amending item 406.36—

(I) by inserting "3-(5-Amino-3-methyl-1-H-pyrazol-1-yl)benzenesulfonic acid;" immediately after "Aminomethylphenylpyrazole (Phenylmethylaminopyrazole);",

(II) by inserting "4-[[4,6-Bis(octylthio)-1,3,5-triazine-2-yl]amino]-2,6-di-tert-butyl-phenol;" immediately after "3-Amino-1-(2,4,6-trichloro-phenyl)-5-pyrazolone;",

(III) by inserting "1-(o-Ethylphenyl)-3-methyl-2-pyrazolin-5-one;" immediately after "6-Ethoxy-2-benzothiazolethiol;", and

(IV) by striking out "4-Chloro-1-methylpiperidine hydrochloride;", "1,4-Dimethyl-6-hydroxy-3-cyanpyri-

Public Law 96-491
96th Congress

An Act

To provide for certain lands to be held in trust for the Moapa Band of Paiutes and to be considered to be part of the Moapa Indian Reservation.

Dec. 2, 1980
[S. 1135]

Moapa Band of Paiutes.
Lands in trust.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That beginning on the date of the enactment of this Act, the following lands shall, subject to section 2 of this Act, be held in trust by the United States for the benefit and use of the Moapa Band of Paiutes and shall be considered to be a part of the Moapa Indian Reservation in Moapa, Nevada:

Township 15 south, Range 65 east, Mount Diablo Meridian, Nevada

Section 1: Lot 1; south half northwest quarter, south half 439.89 acres.
Section 2: All 639.56 acres.
Section 3: All 639.28 acres.
Section 4: All 638.48 acres.
Section 5: All 638.44 acres.
Section 6: All 638.41 acres.
Section 7: All 640.16 acres.
Section 8: All 640.00 acres.
Section 9: All 640.00 acres.
Section 10: All 640.00 acres.
Section 11: All 640.00 acres.
Section 12: All 640.00 acres.
Section 13: All 640.00 acres.
Section 14: All 640.00 acres.
Section 15: All 640.00 acres.
Section 16: All 640.00 acres.
Section 17: All 640.00 acres.
Section 18: All 640.28 acres.
Section 19: All 640.24 acres.
Section 20: All 640.00 acres.
Section 21: All 640.00 acres.
Section 22: All 640.00 acres.
Section 23: All 640.00 acres.
Section 24: All 640.00 acres.
Section 25: All 640.00 acres.
Section 26: All 640.00 acres.
Section 27: All 640.00 acres.
Section 28: All 640.00 acres.
Section 29: All 640.00 acres.
Section 30: All 640.12 acres.
Section 31: All 640.80 acres.
Section 32: All 640.00 acres.
Section 33: All 640.00 acres.
Section 34: All 640.00 acres.
Section 35: All 640.00 acres.

Section 36: All 640.00 acres.
Total acreage 22,835.66.

Township 16 south, Range 65 east, Mount Diablo Meridian, Nevada

Section 1: All 640.36 acres.
Section 2: All 640.76 acres.
Section 3: All 640.86 acres.
Section 4: All 640.96 acres.
Section 5: All 641.02 acres.
Section 6: All 640.74 acres.
Section 7: All 639.24 acres.
Section 8: All 640.00 acres.
Section 9: All 640.00 acres.
Section 10: All 640.00 acres.
Section 11: All 640.00 acres.
Section 12: All 640.00 acres.
Section 13: All 640.00 acres.
Section 14: All 640.00 acres.
Section 15: All 640.00 acres.
Section 16: All 640.00 acres.
Section 17: All 640.00 acres.
Section 18: All 639.26 acres.
Section 19: All 639.20 acres.
Section 20: All 640.00 acres.
Section 21: All 640.00 acres.
Section 22: All 640.00 acres.
Section 23: All 640.00 acres.
Section 24: All 640.00 acres.
Section 25: All 640.00 acres.
Section 26: All 640.00 acres.
Section 27: All 640.00 acres.
Section 28: All 640.00 acres.
Section 29: All 640.00 acres.
Section 30: All 639.32 acres.
Section 31: Lots 3, 4; east half west half, east half 559.93 acres.
Section 32: All 640.00 acres.
Section 33: All 640.00 acres.
Section 34: All 640.00 acres.
Section 35: All 640.00 acres.
Section 36: All 640.00 acres.
Total acreage 22,961.65.

Township 16 south, Range 64 east, Mount Diablo Meridian, Nevada

Section 1: All 640.48 acres.
Section 2: All 641.00 acres.
Section 3: All 641.10 acres.
Section 4: All 641.26 acres.
Section 5: All 641.52 acres.
Section 6: All 642.52 acres.
Section 7: All 641.40 acres.
Section 8: All 640.00 acres.
Section 9: All 640.00 acres.
Section 10: All 640.00 acres.
Section 11: All 640.00 acres.
Section 12: All 640.00 acres.
Section 13: All 640.00 acres.

Section 14: All 640.00 acres.
Section 15: All 640.00 acres.
Section 16: All 640.00 acres.
Section 17: All 640.00 acres.
Section 18: Lots 1, 2, 3, 4; north half northeast quarter, northeast quarter southeast quarter northeast quarter, northwest quarter southwest quarter northeast quarter, east half west half, southwest quarter northwest quarter southeast quarter, southwest quarter southeast quarter 471.16 acres.
Section 19: All 640.94 acres.
Section 20: All 640.00 acres.
Section 21: All 640.00 acres.
Section 22: All 640.00 acres.
Section 23: All 640.00 acres.
Section 24: All 640.00 acres
Section 25: All 640.00 acres.
Section 26: All 640.00 acres.
Section 27: All 640.00 acres.
Section 28: All 640.00 acres.
Section 29: All 640.00 acres.
Section 30: All 640.78 acres.
Section 31: All 640.36 acres.
Section 32: All 640.00 acres.
Section 33: All 640.00 acres.
Section 34: All 640.00 acres.
Section 35: All 640.00 acres.
Section 36: All 640.00 acres.
Total acreage 22,882.52.

Township 14 south, Range 66 east, Mount Diablo Meridian, Nevada

Section 29: West half 320.00 acres.
Section 30: All 630.38 acres.
Section 31: East half of Lot 1; east half, east half northwest quarter, southwest quarter northwest quarter, northeast quarter southwest quarter 499.99 acres.
Section 32: West half 320.00 acres.
Total acreage 1,769.87.

Township 17 south, Range 64 east, Mount Diablo Meridian, Nevada

Section 7: Lots 5 and 6; south half northeast quarter 115.76 acres.

SEC. 2. (a) Nothing in this Act shall—

(1) deprive any person or entity of any valid existing right-of-way, mining claim, grazing permit, water right (including any water rights with respect to the Muddy River as decreed by order of the district court of the State of Nevada on March 12, 1920, in "In the matter of the determination of the relative rights in and to the waters of the Muddy River and its tributaries in Clark County, State of Nevada"), or other right or interest which such person or entity may have in any land described in the first section of this Act; or

(2) deprive any person of the rights provided under the Act entitled "An Act to provide for the sale of desert lands in certain States and Territories", approved March 3, 1877 (43 U.S.C. 321 et seq.), commonly referred to as the Desert Land Act, with respect to desert lands regarding which such person has filed a declaration, before the date of the enactment of this Act, under the first

section of the Desert Land Act stating his intention to reclaim such lands.

Right-of-way.

(b) The transfer of lands under the first section of this Act shall be subject to the reservation to the United States of a right-of-way extending 1,500 feet westerly of the right-of-way for the Reid Gardner-Pecos transmission lines through the area 1,500 feet easterly of the right-of-way for the Navajo-McCullough transmission line. The right-of-way shall be administered by the Secretary of the Interior, who may grant rights-of-way over, upon, under, or through the area described in the preceding sentence only for such transportation or other systems or facilities as are described under paragraph (1) through paragraph (7) of section 501(a) of the Federal Land Policy Management Act of 1976 or under section 28 of the Act of February 25, 1920, commonly referred to as the Mineral Leasing Act. The Secretary of the Interior may enforce all terms and conditions of the right-of-way upon its termination.

43 USC 1761.
30 USC 185.

Fees.

(c) In administering the right-of-way described under subsection (c) of this section, the Secretary of the Interior shall be responsible for establishing and collecting fees for the use of such right-of-way. Any payment of such fees to the Secretary after the date of the enactment of this Act shall be made for the benefit of the Moapa Band of Paiutes.

Mineral rights.

(d) Lands transferred under the first section of this Act shall be subject to a reservation to the United States of all minerals subject to the Act of February 25, 1920, commonly referred to as the Mineral Leasing Act, and a reservation of the right to enter upon such lands to mine and remove such minerals. The Secretary of the Interior shall collect and deposit fees, rentals, royalties, and other revenues for the mining and removal of such minerals in accordance with the Mineral Leasing Act.

30 USC 181 note.

SEC. 3. The second sentence of subsection (a) of the first section of the Act entitled "An Act to authorize the leasing of restricted Indian Lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases", approved August 9, 1955 (69 Stat. 539; 25 U.S.C. 415) is amended by inserting "the Moapa Indian reservation," after "the Dania Reservation,".

Conflict of interest.
42 USC 7474.

SEC. 4. The provisions relating to redesignation of areas contained in section 164 of the Act of July 14, 1955, shall be applied without regard to the transfer of lands under the first section of this Act.

Approved December 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1458 accompanying H.R. 5584 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-951 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 23, considered and passed Senate.
Nov. 17, H.R. 5584, considered and passed House; passage vacated and S. 1135, amended, passed in lieu.
Nov. 20, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 49:
Dec. 5, Presidential statement.

Public Law 96-492
96th Congress

An Act

To require the Secretary of the Interior to convey a parcel of land located in Colorado and certain mineral interests to the Ute Mountain Ute Tribe and to pay an amount to such tribe for energy development.

Dec. 2, 1980
[H.R. 8112]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) within the thirty-day period beginning on the date of the enactment of this Act the Secretary of the Interior shall convey, without consideration, to the Ute Mountain Ute Tribe all right, title, and interest of the United States in and to the parcel of land located in the State of Colorado described in section 3, except the right, title, and interest of the United States in and to any minerals located on or under such parcel of land.

Ute Mountain Ute Tribe.
Land conveyance.

(b) The parcel of land described in section 3 shall not be considered Indian country for any purpose and shall be subject to State and local governmental jurisdiction and taxation.

(c) The Secretary of the Interior shall consult with the Ute Mountain Ute Tribe before the United States does any exploration for, development of, or production of minerals located on or under the parcel of land described in section 3.

SEC. 2. (a) The Secretary of the Interior shall pay to the Ute Mountain Ute Tribe for the development by the tribe of energy sources on lands owned by such tribe, from sums appropriated for such purpose, the sum of $4,000,000 in accordance with an energy development program submitted to the Secretary by the Ute Mountain Ute Tribe and approved by the Secretary.

(b) None of the funds paid by the Secretary to the Ute Mountain Ute Tribe pursuant to this section may be used to pay any attorney or agent for services rendered to the tribe with respect to the parcel of land described in section 3 or to pay any funds directly to any individual member of the tribe. Any person violating this subsection shall be fined not more than $1,000 for each violation.

Funds, restrictions.

Penalty.

SEC. 3. The lands transferred pursuant to section 1 of this Act are the following:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO

Township 48 North, Range 3 West

Section 19:
Lot 1,
Lot 2,
West half northeast quarter,
East half northwest quarter,
West half southeast quarter,
Section 30:
Lot 1,
Northwest quarter northeast quarter,
Northeast quarter northwest quarter,

Township 47 North, Range 4 West

Section 10: Northeast quarter northwest quarter,
Section 15: West half northwest quarter,
Section 16:
Southeast quarter northeast quarter,
East half southeast quarter,
Section 20: Southeast quarter southeast quarter,
Section 21:
Lot 6,
Lot 7,
Lot 9,
Lot 10,
North half northeast quarter,
Southwest quarter northeast quarter,
Section 27: Northwest quarter southeast quarter,
Section 29: Lot 1,

Township 48 North, Range 4 West

Section 9:
South half northeast quarter,
East half northwest quarter,
North half southeast quarter,
Section 10:
Northwest quarter northeast quarter,
Southeast quarter northeast quarter,
South half,
Section 11:
South half northeast quarter,
Northeast quarter southeast quarter,
South half southeast quarter,
Section 13:
Northeast quarter,
North half northwest quarter,
East half southeast quarter,
Section 14:
Southwest quarter northwest quarter,
East half southeast quarter,
Section 15:
West half northeast quarter,
South half southwest quarter,
Section 16: Northeast quarter southeast quarter,
Section 17: Southeast quarter southeast quarter,
Section 20: Northeast quarter northeast quarter,
Section 21: Northeast quarter southeast quarter,
Section 23:
Northeast quarter northeast quarter,
North half southwest quarter,
Section 26:
West half east half,
Southeast quarter northeast quarter,
Section 29: East half northeast quarter.

Claims against U.S.

SEC. 4. The enactment of this Act shall fully satisfy all claims against the United States by the Ute Mountain Ute Tribe relating to the dispute over ownership of lands located in New Mexico and described as townships 31 and 32, range 16 west of the New Mexico principal meridian.

SEC. 5. Effective October 1, 1981, there is authorized to be appropriated to the Secretary of the Interior the sum of $4,000,000 to carry out section 2. Any sums appropriated under the authority contained in this section shall remain available until expended by the Secretary. Appropriation authorization.

Approved December 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1407 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Nov. 17, considered and passed House.
Nov. 19, considered and passed Senate.

Public Law 96-493
96th Congress

An Act

Dec. 2, 1980
[S. 2251]

To amend the Clayton Act to prohibit restrictions on the use of credit instruments in the purchase of gasohol.

Gasohol Competition Act of 1980.
15 USC 1 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Gasohol Competition Act of 1980".

15 USC 27.
15 USC 26a.

SEC. 2. The Clayton Act is amended by redesignating section 26 as section 27 and by inserting after section 25 the following new section:

"SEC. 26. (a) Except as provided in subsection (b), it shall be unlawful for any person engaged in commerce, in the course of such commerce, directly or indirectly to impose any condition, restriction, agreement, or understanding that—

"(1) limits the use of credit instruments in any transaction concerning the sale, resale, or transfer of gasohol or other synthetic motor fuel of equivalent usability in any case in which there is no similar limitation on transactions concerning such person's conventional motor fuel; or

"(2) otherwise unreasonably discriminates against or unreasonably limits the sale, resale, or transfer of gasohol or other synthetic motor fuel of equivalent usability in any case in which such synthetic or conventional motor fuel is sold for use, consumption, or resale within the United States.

Credit fee.

"(b)(1) Nothing in this section or in any other provision of law in effect on the date of the enactment of this Act which is specifically applicable to the sale of petroleum products shall preclude any person referred to in subsection (a) from imposing a reasonable fee for credit on the sale, resale, or transfer of the gasohol or other synthetic motor fuel referred to in subsection (a) if such fee equals no more than the actual costs to such person of extending that credit.

"(2) The prohibitions in this section shall not apply to any person who makes available sufficient supplies of gasohol and other synthetic motor fuels of equivalent usability to satisfy his customers' needs for such products, if the gasohol and other synthetic fuels are made available on terms and conditions which are equivalent to the terms and conditions on which such person's conventional motor fuel products are made available.

"(3) Nothing in this section shall—

"(A) preclude any person referred to in subsection (a) from requiring reasonable labeling of pumps dispensing the gasohol or other synthetic motor fuel referred to in subsection (a) to indicate, as appropriate, that such gasohol or other synthetic motor fuel is not manufactured, distributed, or sold by such person;

"(B) preclude such person from issuing appropriate disclaimers of product liability for damage resulting from use of the gasohol or other synthetic motor fuel;

"(C) require such person to provide advertising support for the gasohol or other synthetic motor fuel; or

"(D) require such person to furnish or provide, at such person's own expense, any additional pumps, tanks, or other related facilities required for the sale of the gasohol or other synthetic motor fuel.

"(c) As used in this section, 'United States' includes the several States, the District of Columbia, any territory of the United States, and any insular possession or other place under the jurisdiction of the United States.". "United States."

Approved December 2, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1464 accompanying H.R. 7873 (Comm. on the Judiciary).
SENATE REPORT No. 96-868 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 20, considered and passed Senate.
Nov.17, H.R. 7873 considered and passed House; passage vacated and S. 2251, amended, passed in lieu.
Nov. 19, Senate concurred in House amendment.

Public Law 96-494
96th Congress

An Act

Dec. 3, 1980
[H.R. 3765]

To increase the minimum price support loan rates for wheat, feed grains, and soybeans, to improve the farmer-held reserve program for wheat and feed grains, to establish a five-year food security wheat reserve, and for other purposes.

Agricultural Act of 1980.
7 USC 4001 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Act of 1980".

TITLE I—WALNUT AND OLIVE MARKETING ORDERS

7 USC 601 note.

SEC. 101. Section 8c(6)(I) of the Agricultural Adjustment Act (7 U.S.C. 608c(6)(I)), as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by inserting "walnuts," before "or tomatoes"; and

(2) by inserting "walnuts, olives," before "and Florida Indian River grapefruit".

Agricultural Trade Suspension Adjustment Act of 1980

TITLE II—AGRICULTURAL TRADE SUSPENSION ADJUSTMENT ACT OF 1980

SHORT TITLE

7 USC 4001 note.

SEC. 201. This title may be cited as the "Agricultural Trade Suspension Adjustment Act of 1980".

1981 CROPS OF FEED GRAINS, WHEAT, AND SOYBEANS

7 USC 1444c.

SEC. 202. (a)(1) Section 105A(a) of the Agricultural Act of 1949 is amended by (A) striking out the comma after "$2.00 per bushel", and (B) striking out "through 1981 crops of corn," and inserting in lieu thereof "through 1980 crops of corn, and not less than $2.25 per bushel for the 1981 crop of corn,".

(2) Section 105A(f)(1) of the Agricultural Act of 1949 is amended by striking out "November 15" and inserting in lieu thereof "November 1".

7 USC 1445b.

(b) Section 107A(a) of the Agricultural Act of 1949 is amended by striking out "through 1981 crops of wheat," and inserting in lieu thereof "through 1980 crops of wheat, and not less than $3.00 per bushel for the 1981 crop of wheat,".

7 USC 1446.

(c) Section 201(e) of the Agricultural Act of 1949 is amended by inserting the following before the period at the end thereof: ": *Provided further,* That the 1981 crop of soybeans shall be supported through loans and purchases at not less than $5.02 per bushel".

ADJUSTED PRICE SUPPORT LOAN LEVELS UNDER THE FARMER-HELD RESERVE PROGRAM FOR THE 1980 AND 1981 CROPS OF WHEAT AND FEED GRAINS

SEC. 203. (a) Section 110(b) of the Agricultural Act of 1949 is amended by— 7 USC 1445e.

(1) inserting the following before the period at the end of the first sentence: ": *Provided,* That the Secretary shall make available to producers for the 1980 and 1981 crops of wheat and feed grains price support loans under the producer storage program at such levels as the Secretary determines necessary to mitigate the adverse effects of the restrictions on the export of agricultural products to the Union of Soviet Socialist Republics imposed on January 4, 1980, on the market prices producers receive for their crops, but at not less than $3.30 per bushel for wheat, $2.40 per bushel for corn, and such levels for the other feed grains as the Secretary determines are fair and reasonable in relation to the minimum level for corn, taking into consideration, for barley, oats, and rye, the feeding value of the commodity in relation to corn and other factors specified in section 401(b) of this Act and, 7 USC 1421.
for grain sorghums, the feeding value and average transportation costs to market of grain sorghums in relation to corn: *Provided further,* That the levels at which loans for the 1980 and 1981 crops of wheat and feed grains are made available to producers under the preceding proviso shall not be used in determining the levels at which producers may repay loans and redeem commodities prior to the maturity dates of the loans under clause (5) of the second sentence of this subsection, or the levels at which the Secretary may call for the repayment of loans prior to their maturity dates under clause (6) of the second sentence of this subsection"; and

(2) in clause (3) of the second sentence after "except that the Secretary may waive or adjust such interest", inserting a comma and the following: "and the Secretary shall waive such interest on loans made on the 1980 and 1981 crops of wheat and feed grains".

(b) Subsection (a) of this section shall become effective October 1, 1980, and any producers who, prior to such date, receive loans on the 1980 crop of the commodity as computed under the Agricultural Act of 1949, as amended prior to the enactment of this Act, may elect after September 30, 1980, to receive loans as authorized under subsection (a) of this section. Effective date. 7 USC 1445e note.

ADJUSTMENT OF THE RELEASE AND CALL LEVELS UNDER THE FARMER-HELD RESERVE PROGRAM

SEC. 204. Section 110(b) of the Agricultural Act of 1949 is amended by amending clauses (5) and (6) of the second sentence to read as follows: "(5) conditions designed to induce producers to redeem and market the wheat or feed grains securing such loans without regard to the maturity dates thereof whenever the Secretary determines that the market price for the commodity has attained a specified level, as determined by the Secretary; and (6) conditions prescribed by the Secretary under which the Secretary may require producers to repay such loans, plus accrued interest thereon, refund amounts paid for storage, and pay such additional interest and other charges as may be required by regulation, whenever the Secretary determines that the market price for the commodity is not less than such appropriate level, as determined by the Secretary.". 7 USC 1445e.

MINIMUM LEVELS AT WHICH THE COMMODITY CREDIT CORPORATION MAY SELL STOCKS OF WHEAT AND FEED GRAINS

7 USC 1445e.

SEC. 205. Section 110(e) of the Agricultural Act of 1949 is amended by—

(1) after "Notwithstanding any other provision of law,", inserting "except as otherwise provided under section 302 of the Food Security Wheat Reserve Act of 1980 and section 208 of the Agricultural Trade Suspension Adjustment Act of 1980,";

Post, p. 2578.
Post, p. 2573.

(2) striking out "150 per centum of the then current level of price support for such commodity" and inserting in lieu thereof "105 per centum of the then current level at which the Secretary may call for repayment of producer storage loans on the commodity prior to the maturity dates of the loans, as determined under clause (6) of the second sentence of subsection (b) of this section"; and

(3) amending clause (3) to read as follows:

"(3) sales of corn for use in the production of alcohol for motor fuel at facilities that—

"(A) begin operation after January 4, 1980, and

"(B) whenever supplies of corn are not readily available, can produce alcohol from agricultural or forestry biomass feedstocks other than corn,

when sold at not less than the price at which producers may repay producer storage loans and redeem corn prior to the maturity dates of loans, as determined under clause (5) of the second sentence of subsection (b) of this section, or, whenever the fuel conversion price (as defined in section 212 of the Agricultural Trade Suspension Adjustment Act of 1980) for corn exceeds such price, at not less than the fuel conversion price.".

Post, p. 2578.

AUTHORITY TO USE THE FUNDS, FACILITIES, AND AUTHORITIES OF THE COMMODITY CREDIT CORPORATION TO PURCHASE AGRICULTURAL PRODUCTS INTENDED TO BE EXPORTED TO THE SOVIET UNION

15 USC 714c note.

SEC. 206. Notwithstanding any other provision of law, the Secretary of Agriculture may use, subject to such terms and conditions as the Secretary may deem appropriate, the funds, facilities, and authorities of the Commodity Credit Corporation in purchasing and handling agricultural products, other than grains, that—

(1) were intended to be exported to the Union of Soviet Socialist Republics under contracts entered into prior to January 5, 1980, but

(2) cannot be exported under such contracts due to the imposition, on January 4, 1980, of restrictions on the export of agricultural products to the Union of Soviet Socialist Republics,

in the same manner and under the same conditions as the Secretary purchases and handles grains under similar contracts and subject to the imposition of the same restrictions.

SUPPLEMENTAL SET-ASIDE AUTHORITY

SEC. 207. Effective for the 1981 crops of wheat, feed grains, upland cotton, and rice, the Agricultural Act of 1949 is amended by adding at the end of title I a new section 113 as follows:

SUPPLEMENTAL SET-ASIDE AUTHORITY

"SEC. 113. Notwithstanding any other provision of law or prior announcement made by the Secretary to the contrary, effective for one or more of the 1981 crops of wheat, feed grains, upland cotton, and rice, the Secretary may announce and provide for a set-aside of cropland under section 101(h), 103(f)(11), 105A(f), or 107A(f) of this title if the Secretary determines that such action is in the public interest as a result of the imposition of restrictions on the export of any such commodity by the President or other member of the executive branch of Government. In order to carry out effectively a set-aside program authorized under this section, the Secretary may make such modifications and adjustments in such program as the Secretary determines necessary because of any delay in instituting such program.". 7 USC 1445h. 7 USC 1441, 1444, 1444c, 1445b.

TRADE SUSPENSION RESERVES

SEC. 208. Notwithstanding any other provision of law— 7 USC 4001.

(a) Whenever the President or other member of the executive branch of Government causes the export of any agricultural commodity to any country or area of the world to be suspended or restricted for reasons of national security or foreign policy under the Export Administration Act of 1979 or any other provision of law and the Secretary of Agriculture determines that such suspension or restriction will result in a surplus supply of such commodity that will adversely affect prices producers receive for the commodity, the Secretary may establish a gasohol feedstock reserve or a food security reserve, or both, of the commodity, as provided in subsections (c) and (d) of this section, if the commodity is suitable for stockpiling in a reserve. 50 USC app. 2401 note.

(b) Within thirty days after the export of any agricultural commodity to a country or area is suspended or restricted as described in subsection (a) of this section, the Secretary of Agriculture shall announce whether a gasohol feedstock reserve or a food security reserve of the commodity, or both, will be established under this section and shall include in such announcement the amount of the commodity that will be placed in such reserves, which shall be that portion of the estimated exports of the commodity affected by the suspension or restriction, as determined by the Secretary, that should be removed from the market to prevent the accumulation of a surplus supply of the commodity that will adversely affect prices producers receive for the commodity. Gasohol feedstock or food security reserves.

(c)(1) To establish a gasohol feedstock reserve under this section, the Secretary of Agriculture may acquire agricultural commodities (the export of which is suspended or restricted as described in subsection (a) of this section) that are suitable for use in the production of alcohol for motor fuel through purchases from producers or in the market and by designation by the Secretary of stocks of the commodities held by the Commodity Credit Corporation, and to pay such storage, transportation, and related costs as may be necessary to permit maintenance of the commodities in the reserve for the purposes of this section and disposition of the commodities as provided in paragraph (2) of this subsection. Agricultural commodities, acquisition.

(2) The Secretary of Agriculture may dispose of stocks of agricultural commodities acquired under paragraph (1) of this subsection only through sale— Commodity stock disposal.

(A) for use in the production of alcohol for motor fuel, at not less than the fuel conversion price (as defined in section 212 of

this title) for the commodity involved: *Provided,* That, for wheat and feed grains, if the fuel conversion price for the commodity involved is less than the then current release price at which producers may repay producer storage loans on the commodity and redeem the commodity prior to the maturity dates of the loans, as determined under clause (5) of the second sentence of section 110(b) of the Agricultural Act of 1949, the Secretary may dispose of stocks of the commodity for such use only through sale at not less than the release price: *Provided further,* That such sales shall only be made to persons for use in the production of alcohol for motor fuel at facilities that, whenever supplies of the commodity are not readily available, can produce alcohol from other agricultural or forestry biomass feedstocks; or

Post, p. 2578.

7 USC 1445e.

(B) for any other use, when sales for use under clause (A) of this paragraph are impracticable, (i) if there is a producer storage program in effect for the commodity, at not less than 105 per centum of the then current level at which the Secretary may call for repayment of producer storage loans on the commodity prior to the maturity dates of the loans, as determined under clause (6) of the second sentence of section 110(b) of the Agricultural Act of 1949, or, (ii) if there is no producer storage program in effect for the commodity, at not less than the average market price producers received for the commodity at the time the trade suspension was imposed.

Agricultural commodities, acquisition.

(d)(1) To establish a food security reserve under this section, the Secretary of Agriculture may acquire agricultural commodities (the export of which is suspended or restricted as described in subsection (a) of this section) that are suitable for use in providing emergency food assistance and urgent humanitarian relief through purchases from producers or in the market and by designation by the Secretary of stocks of the commodities held by the Commodity Credit Corporation, and to pay such storage, transportation, and related costs as may be necessary to permit maintenance of the commodities in the reserve for the purposes of this section and disposition of the commodities as provided in paragraph (2) of this subsection.

(2) The provisions of subsections (c), (d), (e), (f), and (g)(2) of section 302 of the Food Security Wheat Reserve Act of 1980 shall apply to commodities in any reserve established under paragraph (1) of this subsection, and (except for the last sentence of subsection (c) of section 302) the references to "wheat" in such subsections of section 302 shall be deemed to be references to "agricultural commodities".

Post, p. 2578.

Determinations.

(3) Any determination by the President or the Secretary of Agriculture under this section shall be final.

(e) The funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary of Agriculture in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of Commodity Credit Corporation owned or controlled commodities shall not apply with respect to the acquisition, storage, or disposition of agricultural commodities under this section.

(f) The Secretary of Agriculture shall establish safeguards to ensure that stocks of agricultural commodities held in the reserves established under this section shall not be used in any manner or under any circumstance to unduly depress, manipulate, or curtail the free market.

Stock replenishment.

(g) Whenever stocks of agricultural commodities are disposed of or released from reserves established under this section, as provided in

subsections (c)(2) and (d)(2) of this section, the reserves may not be replenished with replacement stocks.

(h) The provisions of this section shall become effective with respect to any suspension of, or restriction on, the export of agricultural commodities, as described in subsection (a) of this section, implemented after the date of enactment of this Act.

ALCOHOL PROCESSOR GRAIN RESERVE

SEC. 209. (a) As used in this section— Definitions. 7 USC 4002.

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "processor" means any person engaged within the United States in the business of manufacturing grain into alcohol for use as a fuel either by itself or in combination with some other product.

(3) The terms "agricultural grain" and "grain" mean any agricultural commodity (A) that is suitable for processing into alcohol for use as a fuel, and (B) with respect to which a price support operation is in effect.

(4) The term "producer storage program" means the producer storage program provided for under section 110 of the Agricultural Act of 1949. 7 USC 1445e.

(5) The term "small scale biomass energy project" shall have the same meaning as defined in section 203(19) of the Energy Security Act. *Ante*, p. 683.

(b) To assist processors in obtaining a dependable supply of grain at reasonable prices, the Secretary may formulate and administer a program under which processors purchasing and storing grain needed by them for manufacturing into alcohol for use as a fuel may obtain a loan from the Secretary on such grain. Loans under this section may be made available only to processors that (1) operate small scale biomass energy projects financed in whole or in part by the United States Government or any agency thereof, and (2) as determined by the Secretary, are otherwise unable to obtain a dependable supply of grain at reasonable prices for use in such projects. Loans.

(c) Except as otherwise provided in this section, loans made under this section to carry out the processor grain reserve program may be made on the same terms and conditions as loans made to carry out the producer storage program.

(d) The amount of the loan that the Secretary may make to an eligible processor at any time on any quantity of grain purchased by the processor shall be determined by multiplying the price support loan rate in effect for such grain at the time the loan is made times the quantity of grain purchased by the processor. The quantity of grain on which one or more loans may be outstanding at any time in the case of any processor may not exceed the estimated quantity of grain needed by such processor for one year of operation.

(e) Whenever any quantity of grain stored in the processor grain reserve under this section is removed from storage by a processor, the processor may be required to replace such grain with an equal quantity, within such period of time as the Secretary shall prescribe by regulation, or repay that portion of the loan represented by the quantity of grain removed from storage. Regulations.

(f) Grain on which an eligible processor has received a loan under this section may not be used for any purpose other than the manufacture of alcohol for use as a fuel, and the Secretary shall establish such safeguards as the Secretary deems necessary to assure that such Grain usage.

grain is not used for any other purpose and is not used in any manner that would unduly depress, manipulate, or curtail the free market in such grain.

Loans.

(g) Loans made under this section shall be made subject to such terms and conditions and subject to such security as the Secretary deems appropriate, except that such loans may not be made as nonrecourse loans.

Authority of Agriculture Secretary.

(h) In carrying out the processor grain reserve program under this section, the Secretary may—

(1) provide for the payment to processors of such amounts as the Secretary determines appropriate to cover the cost of storing grain held in the processor grain reserve, except that in no event may the rate of the payment paid under this clause for any period exceed the rate paid by the Secretary under the producer storage program for the same period; and

(2) prescribe conditions under which the Secretary may require processors to repay loans made under this section, plus accrued interest thereon, refund amounts paid to the processors for storage, and require the processors to pay such additional interest and other charges as may be required by regulation in the event any processor fails to abide by the terms and conditions of the loan or any regulation prescribed under this section.

(i) The Secretary shall announce the terms and conditions of the processor grain reserve program as far in advance of making loans as practicable.

(j) The Secretary may use the facilities of the Commodity Credit Corporation to carry out this section.

(k) There are authorized to be appropriated such sums as may be necessary to carry out this section. Any loans made under this section shall be made to such extent and such amounts as provided in appropriation Acts. The authority to make loans under this section shall expire five years after the effective date of this title.

STUDY OF THE POTENTIAL FOR EXPANSION OF UNITED STATES AGRICULTURAL EXPORT MARKETS AND THE USE OF AGRICULTURAL EXPORTS IN OBTAINING NEEDED MATERIALS

7 USC 4003.

SEC. 210. (a) The Secretary of Agriculture, in consultation with the United States Trade Representative and any other appropriate agency of the United States Government as determined by the Secretary, shall perform a study of the potential for expansion of United States agricultural export markets and the use of agricultural exports in obtaining natural resources or other commodities and products needed by the United States. The Secretary shall complete the study and submit to the President and Congress a report on the study before June 30, 1981.

Report to President and Congress.

Contents.

(b) In performing the study, the Secretary shall determine for the next five years—

(1) world food, feed, and fiber needs;

(2) estimated United States and world food, feed, and fiber production capabilities;

(3) potential new or expanded foreign markets for United States agricultural products;

(4) the potential for the development of international agreements for the exchange of United States agricultural products for natural resources, including energy sources, or other commodities and products needed by the United States; and

(5) the steps that the United States must take to (A) increase agricultural export trade, and (B) obtain needed natural resources or other commodities and products in exchange for agricultural products, to the maximum extent feasible.

FOOD BANK DEMONSTRATION PROJECTS

SEC. 211. (a) The Secretary of Agriculture shall carry out demonstration projects to provide agricultural commodities and other foods that might not otherwise be used, or might be more effectively used by organizations assisted under this section, to community food banks for emergency food box distribution to needy individuals and families. Notwithstanding any other provisions of law, the Secretary shall make available for purposes of such demonstration projects, agricultural commodities and other foods available to the Secretary under section 416 of the Agricultural Act of 1949, section 709 of the Food and Agriculture Act of 1965, and section 32 of the Act of August 24, 1935 (7 U.S.C. 612c). For purposes of distributing agricultural commodities and other foods to community food banks under this section, the Secretary may, in consultation with State agencies, use food distribution systems currently used to distribute agricultural commodities and other foods under the National School Lunch Act and Child Nutrition Act of 1966. The Secretary shall select food banks, in consultation with the Director of the Community Services Administration, for participation in the demonstration projects under this section. Food banks shall be selected for participation so as to ensure adequate geographic distribution of emergency food box programs in at least two but not more than seven Department of Agriculture regions.

7 USC 4004.

7 USC 1431.
7 USC 1446a-1.

42 USC 1751 note.
42 USC 1771 note.

(b)(1) No food bank may participate in the demonstration projects conducted under this section unless an application therefor is submitted to and approved by the Secretary. Such application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

Applications.

(2) Each food bank participating in the demonstration projects under this section shall establish a recordkeeping system and internal procedures to monitor the use of agricultural commodities and other foods provided under this section. The Secretary shall develop standards by which the feasibility and effectiveness of the projects shall be measured, and shall conduct an ongoing review of the effectiveness of the projects.

Recordkeeping and review.

(c) The Secretary shall determine the quantities and types of agricultural commodities and other foods to be made available under this section. The Secretary may prescribe regulations regarding the designation of eligible participants in the projects and any other regulations necessary to carry out this section.

(d) The Secretary shall submit a report to Congress on October 1, 1982, regarding the demonstration projects carried out under this section. Such report shall include an analysis and evaluation of Federal participation in food bank emergency food programs, the effectiveness of such participation, and the feasibility of continuing such participation. The Secretary shall also include in such report any recommendations regarding improvements in Federal assistance to community food banks, including assistance for administrative expenses and transportation.

Report to Congress.

(e) The sale of food provided under this section shall be prohibited and any person who receives any remuneration in exchange for food

Food sales, prohibition.

provided under this section shall be subject to a fine of not more than $1,000 or imprisonment for not more than six months, or both.

Appropriation authorization.

(f) There is authorized to be appropriated to carry out this section $356,000.

DEFINITION OF FUEL CONVERSION PRICE

7 USC 4005.

SEC. 212. As used in this title, the phrase "fuel conversion price" means the price for an agricultural commodity determined by the Secretary of Agriculture that will permit gasoline-alcohol mixtures using alcohol produced from the commodity to be competitive in price with unleaded gasoline priced at the point it leaves the refinery, adjusted for differences in octane rating, taking into consideration the energy value of the commodity and other appropriate values designed to represent, on a national average basis, the value of byproducts also recoverable from the commodity; the direct costs and capital recovery costs for a grain alcohol distillery capable of producing forty million gallons of alcohol and recovering byproducts annually; and Federal tax and other Federal incentives applicable to alcohol used for fuel.

EFFECTIVE DATE

7 USC 4001 note.

SEC. 213. Except as otherwise provided herein, this title shall become effective October 1, 1980, or the date of enactment, whichever is later.

Food Security Wheat Reserve Act of 1980.

TITLE III—FOOD SECURITY WHEAT RESERVE ACT OF 1980

SHORT TITLE

7 USC 1736f-1 note.

SEC. 301. This title may be cited as the "Food Security Wheat Reserve Act of 1980".

FOOD SECURITY WHEAT RESERVE

7 USC 1736f-1.

SEC. 302. (a) To provide for a wheat reserve solely for emergency humanitarian food needs in developing countries, the President shall establish a reserve stock of wheat of up to four million metric tons for use for the purposes specified in subsection (c) of this section.

(b)(1) The reserve stock of wheat under this section shall be established initially by designation for that purpose by the Secretary of Agriculture of wheat owned by the Commodity Credit Corporation.

(2) Subject to the provisions of subsection (i) of this section, stocks of wheat to replenish the reserve may be acquired (A) through purchases from producers or in the market if the Secretary of Agriculture determines that such purchases will not unduly disrupt the market, and (B) by designation by the Secretary of stocks of wheat otherwise acquired by the Commodity Credit Corporation. Any use of funds to acquire wheat through purchases from producers or in the market to replenish the reserve must be authorized in appropriation Acts.

Release of Wheat.

(c) Notwithstanding any other provision of law, stocks of wheat designated or acquired for the reserve under this section may be released by the President to provide, on a donation or sale basis, emergency food assistance to developing countries at any time that the domestic supply of wheat is so limited that quantities of wheat cannot be made available for disposition under the Agricultural Trade Development and Assistance Act of 1954, except for urgent humanitarian purposes, under the criteria of section 401(a) of that Act. Notwithstanding the provisions of the preceding sentence, up to

7 USC 1691 note.

7 USC 1731.

three hundred thousand metric tons of wheat may be released from the reserve under this section in any fiscal year, without regard to the domestic supply situation, for use under title II of the Agricultural Trade Development and Assistance Act of 1954 in providing urgent humanitarian relief in any developing country suffering a major disaster, as determined by the President, whenever the wheat needed for relief cannot be programed for such purpose in a timely manner under the normal means of obtaining commodities for food assistance due to circumstances of unanticipated and exceptional need. Wheat released from the reserve may be processed in the United States and shipped to a developing country in the form of flour when conditions in the recipient country require such processing in the United States. 7 USC 1721.

(d) Wheat released from the reserve for the purposes of subsection (c) of this section shall be made available under the Agricultural Trade Development and Assistance Act of 1954 to meet famine or other urgent or extraordinary relief requirements, except that section 401(a) of that Act, with respect to determinations of availability, shall not be applicable thereto. 7 USC 1691 note. 7 USC 1731.

(e) The Secretary of Agriculture shall provide for the management of stocks of wheat in the reserve as to location and class of wheat needed to meet emergency situations and for the periodic rotation of stocks of wheat in the reserve to avoid spoilage and deterioration of such stocks, using programs authorized by the Agricultural Trade Development and Assistance Act of 1954 and any other provision of law, but any quantity of wheat removed from the reserve for the purposes of this subsection shall be promptly replaced with an equivalent quantity of wheat.

(f) Stocks of wheat in the reserve shall not be considered a part of the total domestic supply (including carryover) for the purposes of subsection (c) of this section or for the purposes of administering the Agricultural Trade Development and Assistance Act of 1954 and shall not be subject to any quantitative limitations on exports that may be imposed under section 7 of the Export Administration Act of 1979. 50 USC app. 2406.

(g)(1) The funds, facilities, and authorities of the Commodity Credit Corporation shall be used by the Secretary of Agriculture in carrying out this section, except that any restriction applicable to the acquisition, storage, or disposition of Commodity Credit Corporation owned or controlled commodities shall not apply with respect to the acquisition, storage, or disposal of wheat for or in the reserve.

(2) Effective beginning October 1, 1981, the Commodity Credit Corporation shall be reimbursed from funds made available for carrying out the Agricultural Trade Development and Assistance Act of 1954 for wheat released from the reserve that is made available under such Act, such reimbursement to be made on the basis of actual costs incurred by the Commodity Credit Corporation with respect to such wheat or the export market price of wheat (as determined by the Secretary) as of the time the wheat is released from the reserve for such purpose, whichever is lower. Such reimbursement may be made from funds appropriated for that purpose in subsequent years. 7 USC 1691 note.

(h) Any determination by the President or the Secretary of Agriculture under this section shall be final. Determinations.

(i) The authority to replace stocks of wheat to maintain the reserve under this section shall expire September 30, 1985, after which stocks released from the reserve may not be replenished. Stocks of wheat remaining in the reserve after September 30, 1985, shall be disposed of by release for use in providing for emergency food needs in developing countries as provided in this section. Stock replenishment, expiration date.

EFFECTIVE DATE

7 USC 1736f-1 note.

SEC. 303. Except as otherwise provided herein, this title shall become effective October 1, 1980, or the date of enactment, whichever is later.

Approved December 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1276 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 15, considered and passed House.
Oct. 1, considered and passed Senate, amended.
Nov. 17, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 49:
Dec. 3, Presidential statement.

Public Law 96-495
96th Congress

An Act

To provide for a cooperative agreement between the Secretary of the Interior and the State of California to improve and manage the Suisun Marsh in California.

Dec. 3, 1980
[H.R. 4084]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Suisun Marsh Preservation and Restoration Act of 1979".

Suisun Marsh Preservation and Restoration Act of 1979.

SEC. 2. It is the purpose of this Act to—

(1) provide for partial mitigation of the adverse effects on the fish and wildlife resources of the Suisun Marsh in Solano County, California of the Central Valley project; and

(2) assist in the preservation and restoration of the fish and wildlife resources of the Marsh by authorizing the Secretary of the Interior to enter into a cooperative agreement with the State of California for the planning, design, construction, operation and maintenance of certain facilities for the Marsh which will not materially enhance the overall resources of the Marsh; and

(3) to provide for such facilities as part of the more extensive system of preservation and restoration facilities to be developed for the Solano County region by the State of California, the Secretary of the Interior, or both.

SEC. 3. The Secretary of the Interior, acting through the Commissioner of Reclamation, is authorized to enter into a cooperative agreement with the State of California (hereinafter in this Act referred to as the "State") to provide for mitigation of the adverse effects of the Central Valley project on the fish and wildlife resources of the Suisun Marsh, Solano County, California, and for the preservation and restoration of these resources. The cooperative agreement shall include the following provisions:

Cooperative agreement.

(1) The State shall design, construct, operate, and maintain certain channels, levees, and control structures in the Marsh in a manner which substantially conforms to the provisions of the development plan contained in the Report on the Suisun Marsh Interim Facilities (dated May 1978), prepared by the State of California with the assistance of the Water and Power Resources Service and the Fish and Wildlife Service. The State may enter into contracts with appropriate non-Federal public agencies within the State for the operation and maintenance of such facilities.

Contracts.

(2) The Secretary of the Interior shall pay to the State the Federal share of the costs of the activities described in paragraph (1), whether such costs are incurred before or after the date the cooperative agreement is entered into, upon a determination that such activities are in substantial conformity with the development plan referred to in such paragraph.

Costs, Federal share.

(3) A study shall be conducted by the State, the Secretary of the Interior, or both parties, for the purpose of identifying manage-

Water-use study.

ment techniques which could result in more efficient water use on the managed wetlands of the Marsh.

(4) Appropriate arrangements shall be made by the Secretary of the Interior and the State to provide for the monitoring of the salinity levels in the Marsh.

Costs, Federal share.

(5) The Federal share of the costs of the activities referred to in paragraphs (1) through (4) shall be 50 per centum: *Provided,* That the Federal share may be altered when the system of preservation and restoration facilities referred to in section 2, subsection (3) is authorized: *And provided further,* That any such altered division of costs shall be made retroactively applicable to the cost of the facilities herein provided for.

SEC. 4. The authority to enter into cooperative agreements under this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.

Appropriation authorization.

SEC. 5. There are authorized to be appropriated $2,500,000 for the fiscal year ending September 30, 1981 for the Federal share of the costs of the construction and the initial operation and maintenance of the facilities described in section 3(1) of this Act. Sums appropriated under this section shall remain available until expended.

Approved December 3, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-597, Pt. 1 (Comm. on Interior and Insular Affairs) and No. 96-597, Pt. 2 (Comm. on Merchant Marine and Fisheries).

SENATE REPORT No. 96-928 (Comm. on Environment and Public Works) and (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Dec. 10, considered and passed House.

Vol. 126 (1980): Oct. 1, considered and passed Senate, amended.

Nov. 18, House concurred in Senate amendments.

Public Law 96-496
96th Congress

An Act

Dec. 4, 1980
[S. 1386]

To amend the National Foundation on the Arts and the Humanities Act of 1965 and the Museum Services Act to extend the authorizations of appropriations contained in such Acts, to amend the Arts and Artifacts Indemnity Act to make certain changes in the coverage provisions of such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Arts and Humanities Act of 1980.

SHORT TITLE

SECTION 1. This Act may be cited as the "Arts and Humanities Act of 1980". 20 USC 951 note.

TITLE I—AMENDMENTS TO NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965

DEFINITIONS

SEC. 101. (a) Section 3(a) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 952(a)) is amended by striking out "theory, and practice" and inserting in lieu thereof "and theory".

(b) Section 3(d)(1)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 952(d)(1)(B)) is amended by inserting "or the National Council on the Humanities, as the case may be" after "Arts".

(c) Section 3(g) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 952(g)) is amended by inserting "the Northern Mariana Islands," after "American Samoa,".

NATIONAL ENDOWMENT FOR THE ARTS

SEC. 102. (a) Section 5(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(c)) is amended—

(1) by inserting "or loans" after "grants-in-aid";

(2) in paragraph (1) thereof, by inserting "and cultural diversity" after "American creativity";

(3) by redesignating paragraph (5) thereof as paragraph (6) thereof, and by inserting after paragraph (4) thereof the following new paragraph:

"(5) programs for the arts at the local level; and"; and

(4) by adding at the end thereof the following new sentence: "Any loans made by the Chairman under this subsection shall be made in accordance with terms and conditions approved by the Secretary of the Treasury.".

(b)(1) Section 5(g)(2)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(g)(2)(A)) is amended by striking out ", except that" and all that follows through the end thereof and inserting in lieu thereof a semicolon.

(2) Section 5(g)(4) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(g)(4)) is amended by adding at the end thereof the following new subparagraph:

"State." "(E) For purposes of paragraph (3)(B), the term 'State' includes, in addition to the several States of the Union, only those special jurisdictions specified in section 3(g) which have a population of 200,000 or more, according to the latest decennial census.".

Ante, p. 2583.

Interagency agreements. (c) Section 5(k) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(k)) is amended by adding at the end thereof the following new sentence: "The Chairman may enter into interagency agreements to promote or assist with the arts-related activities of other Federal agencies, on a reimbursable or nonreimbursable basis, and may use funds authorized to be appropriated for the purposes of subsection (c) for the costs of such activities.".

(d) Section 5(l)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(l)(1)) is amended—

(1) by inserting ", on a national, State, or local level," after "private nonprofit organizations";

(2) by inserting "strengthening quality by" after "for the purpose of"; and

(3) by redesignating subparagraph (D) and subparagraph (E) as subparagraph (E) and subparagraph (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) providing additional support for cooperative efforts undertaken by State arts agencies with local arts groups to promote effective arts activity at the State and local level, including support of professional artists in community-based residencies;".

(e) Section 5 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954) is amended by striking out subsection (m).

NATIONAL COUNCIL ON THE ARTS

SEC. 103. Section 6(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(c)) is amended by inserting after the first sentence thereof the following new sentence: "The terms of office of all Council members shall expire on the third day of September in the year of expiration.".

NATIONAL ENDOWMENT FOR THE HUMANITIES

SEC. 104. (a)(1) Section 7(f)(2) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(2)) is amended to read as follows:

"(2)(A) Whenever a State desires to designate or to provide for the establishment of a State agency as the sole agency for the administration of the State plan, such State shall designate the humanities council in existence on the date of the enactment of the Arts and Humanities Act of 1980, as the State agency, and shall match from State funds a sum equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved. In any State in which the State selects the option described in this subparagraph, the State shall submit, before the beginning of each fiscal year, an

Ante, p. 2583.

Grants, application and plan.

application for grants and accompany such application with a plan which the Chairman finds—

"(i) designates or provides for the establishment of a State agency (hereinafter in this section referred to as the 'State agency') as the sole agency for the administration of the State plan;

"(ii) provides that the chief executive of the State will appoint new members to the State humanities council designated under the provisions of this subparagraph, as vacancies occur as a result of the expiration of the terms of members of such council, until the chief executive has appointed all of the members of such council;

"(iii) provides, from State funds, an amount equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved;

"(iv) provides that funds paid to the State under this subsection will be expended solely on programs approved by the State agency which carry out the objectives of subsection (c) and which are designed to bring the humanities to the public;

"(v) provides assurances that State funds will be newly appropriated for the purpose of meeting the requirements of this subparagraph; and

"(vi) provides that the State agency will make such reports, in such form and containing such information, as the Chairman may require. Reports.

"(B) In any State in which the chief executive officer of the State fails to submit an application under subparagraph (A), the grant recipient in such State shall— Grant recipient, application procedure.

"(i) establish a procedure which assures that four members of the governing body of such grant recipient shall be appointed by an appropriate officer or agency of such State, except that in no event may the number of such members exceed 20 per centum of the total membership of such governing body; and

"(ii) provide, from any source, an amount equal to the amount of Federal financial assistance received by such grant recipient under this subsection for the fiscal year involved.".

(2) Section 7(f)(3) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(3)) is amended to read as follows: Federal assistance, application and plan.

"(3) Whenever a State selects to receive Federal financial assistance under this subsection for any fiscal year under paragraph (2)(B), any appropriate entity desiring to receive such assistance shall submit an application for such assistance at such time as shall be specified by the Chairman. Each such application shall be accompanied by a plan which the Chairman finds—

"(A) provides assurances that the grant recipient will comply with the requirements of paragraph (2)(B);

"(B) provides that funds paid to the grant recipient will be expended solely on programs which carry out the objectives of subsection (c);

"(C) establishes a membership policy which is designed to assure broad public representation with respect to programs administered by such grant recipient;

"(D) provides a nomination process which assures opportunities for nomination to membership from various groups within the State involved and from a variety of segments of the population of such State, and including individuals who by reason of their achievement, scholarship, or creativity in the humanities, are especially qualified to serve;

"(E) provides for a membership rotation process which assures the regular rotation of the membership and officers of such grant recipient;

"(F) establishes reporting procedures which are designed to inform the chief executive officer of the State involved, and other appropriate officers and agencies, of the activities of such grant recipient;

"(G) establishes procedures to assure public access to information relating to such activities; and

Reports.

"(H) provides that such grant recipient will make reports to the Chairman, in such form, at such times, and containing such information, as the Chairman may require.".

(3)(A) The first sentence of section 7(f)(4) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(4)) is amended by inserting "State and each" before "grant recipient".

(B) The second sentence of section 7(f)(4) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(4)) is amended by inserting "States and" before "grant recipients".

Funds, allotment percentages.

(C) Section 7(f)(4) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(4)) is amended by striking out subparagraph (A) and subparagraph (B) and inserting in lieu thereof the following new subparagraphs:

"(A) 34 per centum of the amount of such excess for such fiscal year shall be available to the Chairman for making grants under this subsection to States and regional groups and entities applying for such grants;

"(B) 44 per centum of the amount of such excess for such fiscal year shall be allotted in equal amounts among the States and grant recipients which have plans approved by the Chairman; and

"(C) 22 per centum of the amount of such excess for such fiscal year shall be allotted among the States and grant recipients which have plans approved by the Chairman in amounts which bear the same ratio to such excess as the population of the State for which the plan is approved (or, in the case of a grant recipient other than a State, the population of the State in which such grant recipient is located) bears to the population of all the States.".

(4)(A) Section 7(f)(5)(A) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 956(f)(5)(A)) is amended by striking out "Whenever the provisions of paragraph (3)(B) of this subsection apply in any State, that part of any" and inserting in lieu thereof the following: "The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State or grant recipient, which has a plan or application approved by the Chairman in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any".

(B) Section 7(f)(5)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(5)(B)) is amended by inserting "State agency or" before "grant recipient".

(C) Section 7(f)(5) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(5)) is amended by adding at the end thereof the following new subparagraph: "State." "Grant recipient."

"(E) For purposes of paragraph (4)(B), the term 'State' and the term 'grant recipient' include, in addition to the several States of the Union, only those special jurisdictions specified in section 3(g) which have a population of 200,000 or more, according to the latest decennial census.".

(5) Section 7(f)(7) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 956(f)(7)) is amended—

(A) in subparagraph (A) thereof, by inserting "group or" before "grant recipient";

(B) in subparagraph (B) thereof, by inserting "State agency or" before "grant recipient", and by striking out "plan" and inserting in lieu thereof "State plan or grant recipient application";

(C) in subparagraph (C) thereof, by inserting "group or State agency or" before "grant recipient"; and

(D) in the matter following subparagraph (C) thereof, by inserting "group, State agency, or" before "grant recipient" each place it appears therein.

(6) Section 7(f)(8) of the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 956(f)(8)) is amended by striking out "paragraphs (4), (5), and (6)" and inserting in lieu thereof "the third sentence of paragraph (4), and paragraphs (5) and (6)".

(b) Section 7(g) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(g)) is amended by inserting "agency or" before "entity".

(c) Section 7 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956) is amended by adding at the end thereof the following new subsection: Interagency agreements.

"(i) The Chairman may enter into interagency agreements to promote or assist with the humanities-related activities of other Federal agencies, on either a reimbursable or nonreimbursable basis, and may use funds authorized to be appropriated for the purposes of subsection (c) for the costs of such activities.".

NATIONAL COUNCIL ON THE HUMANITIES

SEC. 105. Section 8(f) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 957(f)) is amended by striking out "$17,500" and inserting in lieu thereof "$30,000".

FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES

SEC. 106. (a) Section 9(b) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958(b)) is amended by inserting "the Commissioner on Aging," after "Services Administration,".

(b) Section 9(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958(c)) is amended—

(1) in paragraph (4) thereof, by striking out "and" at the end thereof;

(2) in paragraph (5) thereof, by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) undertake studies and make reports which address the state of the arts and humanities, particularly with respect to their economic needs and problems.".

(c) Section 9 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958) is amended by adding at the end thereof the following new subsections:

Study.

"(d)(1) The Council shall conduct a study of the state of employment opportunities for professional artists. Such study shall be undertaken in cooperation and consultation with the Secretary of Labor and shall address in particular (A) the effectiveness of existing Federal programs, such as programs administered under the Comprehensive Employment and Training Act, in serving and enhancing the employment opportunities of professional artists; and (B) the need for new programs to serve and enhance the employment opportunities of professional artists.

29 USC 801 note.

Report to President and Congress. *Ante*, p. 2583.

"(2) Not later than one year after the date of the enactment of the Arts and Humanities Act of 1980, the Chairman of the Council shall submit a report to the President and to the Congress relating to the results of the study required in paragraph (1), including such findings and recommendations (including legislative recommendations) as may be appropriate. Any recommendation involving changes in Federal legislation shall be accompanied by draft legislation.

"(3) Notwithstanding any other provision of law, no Federal agency or officer of the Federal Government shall have any authority to require the Council to submit the report required in paragraph (2) to any Federal agency or officer of the Federal Government for approval, comments, or review, before submission of such report to the Congress. The President may make such additional comments and recommendations with respect to the contents of such report as he may deem appropriate.

Study.

"(e)(1) The Council shall conduct a study of (A) the effectiveness of the program authorized by the Arts and Artifacts Indemnity Act (20 U.S.C. 971 et seq.); (B) the impact and feasibility of expanding the existing indemnity program to include the indemnification of objects loaned by lenders located in the United States for exhibition exclusively in the United States; and (C) other means to encourage and facilitate the wider sharing within the United States of the items described in section 3(a) of the Arts and Artifacts Indemnity Act (20 U.S.C. 972(a)), such as the development of standardized insurance policies and the development of a Federal technical assistance program to improve the curatorial facilities and personnel of museums.

Report to President and Congress. *Ante*, p. 2583.

"(2) Not later than one year after the date of the enactment of the Arts and Humanities Act of 1980, the Chairman of the Council shall submit a report to the President and to the Congress relating to the results of the study required in paragraph (1), including such findings and recommendations (including legislative recommendations) as may be appropriate. Any recommendation involving changes in Federal legislation shall be accompanied by draft legislation.".

ADMINISTRATIVE PROVISIONS

SEC. 107. (a) Section 10(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 959(a)(4)) is amended by inserting "and culturally diverse" after "geographic".

(b) Section 10(b) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 959(b)) is amended by striking out "January" and inserting in lieu thereof "April".

(c) Section 10(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 959(c)) is amended by striking our "January" and inserting in lieu thereof "April".

(d) Section 10 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 959) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities each shall conduct a study of the use, sale, or other disposal of property under subsection (a)(2) for the purpose of carrying out sections 5(c) and 7(c). Each such study shall assess in particular (A) the effectiveness of such use, sale, or other disposal of property as an incentive for increasing the levels of non-Federal support; and (B) the extent to which activities carried out by each such Chairman under subsection (a)(2) result in undue administrative and financial burdens upon grant recipients. Study. *Ante*, p. 2583. 20 USC 956.

"(2) Not later than two years after the date of the enactment of the Arts and Humanities Act of 1980, each Chairman shall submit a report to the President and to the Congress relating to the results of the studies required in paragraph (1), including such findings and recommendations (including legislative recommendations) as may be appropriate. Any recommendation involving changes in Federal legislation shall be accompanied by draft legislation.". Report to President and Congress. *Ante*, p. 2583.

AUTHORIZATION OF APPROPRIATIONS

SEC. 108. (a) The first sentence of section 11(a)(1)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)(A)) is amended to read as follows: "For the purpose of carrying out section 5(c), there are authorized to be appropriated to the National Endowment for the Arts $115,500,000 for fiscal year 1981, $127,000,000 for fiscal year 1982, $140,000,000 for fiscal year 1983, $154,000,000 for fiscal year 1984, and $170,000,000 for fiscal year 1985.". *Ante*, p. 2583.

(b) The first sentence of section 11(a)(1)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)(B)) is amended to read as follows: "For the purpose of carrying out section 7(c), there are authorized to be appropriated to the National Endowment for the Humanities $114,500,000 for fiscal year 1981, $126,000,000 for fiscal year 1982, $138,500,000 for fiscal year 1983, $152,000,000 for fiscal year 1984, and $167,500,000 for fiscal year 1985.". 20 USC 956.

(c) Section 11(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(2)) is amended to read as follows:

"(2)(A) There are authorized to be appropriated for each fiscal year ending before October 1, 1985, to the National Endowment for the Arts an amount equal to the sum of—

"(i) the total amounts received by such Endowment under section 10(a)(2), including the value of property donated, bequeathed, or devised to such Endowment; and 20 USC 959.

"(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out projects and other activities under paragraph (1) through paragraph (5) of section 5(c); *Ante*, p. 2583.

except that the amounts so appropriated to the National Endowment for the Arts shall not exceed $18,500,000 for fiscal year 1981, $18,500,000 for fiscal year 1982, $18,500,000 for fiscal year 1983, $20,000,000 for fiscal year 1984, and $22,500,000 for fiscal year 1985.

"(B) There are authorized to be appropriated for each fiscal year ending before October 1, 1985, to the National Endowment for the Humanities an amount equal to the sum of—

20 USC 959. "(i) the total amounts received by such Endowment under section 10(a)(2), including the value of property donated, bequeathed, or devised to such Endowment; and

"(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under paragraph (1) through paragraph

20 USC 956. (7) of section 7(c);

except that the amounts so appropriated to the National Endowment for the Humanities shall not exceed $12,500,000 for fiscal year 1981, $14,000,000 for fiscal year 1982, $15,000,000 for fiscal year 1983, $16,500,000 for fiscal year 1984, and $18,500,000 for fiscal year 1985.".

(d) Section 11(a)(3)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(3)(A)) is amended to read as follows:

"(3)(A) There are authorized to be appropriated for each fiscal year ending before October 1, 1985, to the National Endowment for the Arts an amount equal to the sum of—

"(i) the total amounts received by such Endowment, including the value of property donated, bequeathed, or devised to such

Ante, p. 2584. Endowment, for the purposes set forth in section 5(l)(1) pursuant

20 USC 959. to the authority of section 10(a)(2); and

"(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under subparagraph (A) through subpara-

Ante, p. 2584. graph (F) of section 5(l)(1);

except that the amounts so appropriated to such Endowment shall not exceed $27,000,000 for fiscal year 1981, $30,000,000 for fiscal year 1982, $32,500,000 for fiscal year 1983, $36,000,000 for fiscal year 1984, and $40,000,000 for fiscal year 1985.".

(e) Section 11(a)(3)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(3)(B)) is amended to read as follows:

"(B) There are authorized to be appropriated for each fiscal year ending before October 1, 1985, to the National Endowment for the Humanities an amount equal to the sum of—

"(i) the total amounts received by such Endowment, including the value of property donated, bequeathed, or devised to such

20 USC 956. Endowment, for the purposes set forth in section 7(h)(1) pursuant to the authority of section 10(a)(2); and

"(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under subparagraph (A) through subparagraph (F) of section 7(h)(1);

except that the amounts so appropriated to such Endowment shall not exceed $30,000,000 for fiscal year 1981, $33,000,000 for fiscal year 1982, $36,000,000 for fiscal year 1983, $40,000,000 for fiscal year 1984, and $44,000,000 for fiscal year 1985.".

(f) Section 11(a)(4) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(4)) is amended to read as follows:

"(4) The Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities, as the

case may be, shall issue guidelines to implement the provisions of paragraph (2) and paragraph (3). Such guidelines shall be consistent with the requirements of section 5(e), section 5(l)(2), section 7(f), and section 7(h)(2), as the case may be, regarding total Federal support of activities, programs, projects, or productions carried out under authority of this Act.". 20 USC 954, 956.

(g) Section 11(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(c)) is amended to read as follows:

"(c)(1) There are authorized to be appropriated to the National Endowment for the Arts $14,000,000 for fiscal year 1981, $15,000,000 for fiscal year 1982, $16,000,000 for fiscal year 1983, $17,000,000 for fiscal year 1984, and $18,000,000 for fiscal year 1985, to administer the provisions of this Act, or any other program for which the Chairman of the National Endowment for the Arts is responsible, including not to exceed $35,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for any fiscal year through the use of appropriated funds or any other source of funds shall not exceed $35,000.

"(2) There are authorized to be appropriated to the National Endowment for the Humanities $13,000,000 for fiscal year 1981, $14,500,000 for fiscal year 1982, $15,500,000 for fiscal year 1983, $16,500,000 for fiscal year 1984, and $17,500,000 for fiscal year 1985, to administer the provisions of this Act, or any other program for which the Chairman of the National Endowment for the Humanities is responsible, including not to exceed $35,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for any fiscal year through the use of appropriated funds or any other source of funds shall not exceed $35,000.".

TECHNICAL AMENDMENTS

SEC. 109. (a) The last sentence of section 5(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(c)) is amended by striking out "Labor and Public Welfare" and inserting in lieu thereof "Labor and Human Resources".

(b) Section 5(g)(4)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(g)(4)(A)) is amended by striking out "project" the last place it appears therein and inserting in lieu thereof "projects".

(c) The last sentence of section 7(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(c)) is amended by striking out "Labor and Public Welfare" and inserting in lieu thereof "Labor and Human Resources".

(d) Section 9(b) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958(b)) is amended by striking out "United States Commissioner of Education" and inserting in lieu thereof "Secretary of Education".

TITLE II—MUSEUM SERVICES

AMENDMENTS TO MUSEUM SERVICES ACT

SEC. 201. (a) Section 203 of the Museum Services Act (20 U.S.C. 962) is amended by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Education".

(b) Section 204(a)(2)(A)(v) of the Museum Services Act (20 U.S.C. 963(a)(2)(A)(v)) is amended by striking out "Commissioner of Education" and inserting in lieu thereof "Secretary of Education".

20 USC 964.

(c)(1) Section 205(a)(2) of the Museum Services Act (20 U.S.C. 963(a)(2)) is amended by striking out "to the Secretary of Health, Education, and Welfare" and inserting in lieu thereof "directly to the Secretary of Education".

20 USC 964.

(2) Section 205(b) of the Museum Services Act (20 U.S.C. 963(b)) is amended by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Education".

Competitive service employees.
20 USC 964.
5 USC 101.

(3) Section 205 of the Museum Services Act (20 U.S.C. 963) is amended by adding at the end thereof the following new subsection:

"(c) The Director may appoint without regard to the provisions of title 5, United States Code, governing appointment in the competitive service and may compensate without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates not to exceed one-fifth of the number of full-time regular technical or professional employees of the Institute. The rate of basic compensation for such employees may not equal or exceed the rate prescribed for GS–16 of the General Schedule under section 5332 of title 5, United States Code.".

5 USC 5101 *et seq.*, 5331.

5 USC 5332 note.

Contracts and cooperative agreements.

(d)(1) Section 206 of the Museum Services Act (20 U.S.C. 965) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b)(1) The Director, subject to the policy direction of the National Museum Services Board, is authorized to enter into contracts and cooperative agreements with professional museum organizations to provide financial assistance to such organizations in order to enable such organizations to undertake projects designed to strengthen museum services, except that any contracts or cooperative agreements entered into pursuant to this subsection shall be effective only to such extent or in such amounts as are provided in appropriations Acts.

"(2)(A) No financial assistance may be provided under this subsection for any project for a period in excess of one year.

"(B) No financial assistance may be provided under this subsection to pay for the operational expenses of any professional museum organization.

"(3) The aggregate amount of financial assistance made under this subsection to professional museum organizations shall not exceed 5 percent of the amount appropriated under this Act for such fiscal year.

"Professional museum organization."

"(4) For purposes of this subsection, the term 'professional museum organization' means a private, nonprofit professional museum-related organization, institution, or association which engages in activities designed to advance the well-being of museums and the museum profession.".

(2) Section 206(c) of the Museum Services Act, as so redesignated in paragraph (1), is amended—

(A) by inserting ", contracts, and cooperative agreements" after "Grants";

(B) by inserting "or financial assistance" after "grant"; and

(C) by inserting "or financial assistance" after "grants".

Review and evaluation procedures.

(3) Section 206 of the Museum Services Act, as amended in paragraph (1), is further amended by adding at the end thereof the following new subsection:

"(d) The Director shall establish procedures for reviewing and evaluating grants, contracts, and cooperative agreements made or

entered into under this section. Procedures for reviewing grant applications or contracts and cooperative agreements for financial assistance under this section shall not be subject to any review outside of the Institute.".

(e)(1) Section 209(a) of the Museum Services Act (20 U.S.C. 967(a)) is amended to read as follows: Appropriation authorization.

"SEC. 209. (a) For the purpose of making grants under section 206(a), there are authorized to be appropriated $25,000,000 for fiscal year 1981, $30,000,000 for fiscal year 1982, $35,000,000 for fiscal year 1983, $40,000,000 for fiscal year 1984, and $45,000,000 for fiscal year 1985.".

(2) Section 209(d) of the Museum Services Act (20 U.S.C. 967(d)) is amended by striking out "1980" and inserting in lieu thereof "1985".

AMENDMENTS TO DEPARTMENT OF EDUCATION ORGANIZATION ACT

SEC. 202. Section 413(b)(1) of the Department of Education Organization Act (20 U.S.C. 3473(b)(1)) is amended by inserting "and" at the end of subparagraph (L), by striking out subparagraph (M), and by redesignating subparagraph (N) as subparagraph (M).

TITLE III—AMENDMENTS TO ARTS AND ARTIFACTS INDEMNITY ACT

AGGREGATE AMOUNTS COVERED UNDER INDEMNITY AGREEMENTS

SEC. 301. Section 5(b) of the Arts and Artifacts Indemnity Act (20 U.S.C. 974(b)) is amended by striking out "$250,000,000" and inserting in lieu thereof "$400,000,000".

DEDUCTIBLE AMOUNTS UNDER INDEMNITY AGREEMENTS

SEC. 302. Section 5(d) of the Arts and Artifacts Indemnity Act (20 U.S.C. 974(d)) is amended to read as follows:

"(d) If the estimated value of the items covered by an indemnity agreement for a single exhibition is—

"(1) $2,000,000 or less, then coverage under this Act shall extend only to loss or damage in excess of the first $15,000 of loss or damage to items covered;

"(2) more than $2,000,000 but less than $10,000,000, then coverage under this Act shall extend only to loss or damage in excess of the first $25,000 of loss or damage to items covered; or

"(3) $10,000,000 or more, then coverage under this Act shall extend only to loss or damage in excess of the first $50,000 of loss or damage to items covered.".

Approved December 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-937 accompanying H.R. 7153 (Comm. on Education and Labor).
SENATE REPORT No. 96-557 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 7, considered and passed Senate.
Nov. 17, H.R. 7153 considered and passed House; passage vacated and S. 1386, amended, passed in lieu.
Nov. 20, Senate concurred in House amendments.

Public Law 96-497
96th Congress

An Act

To incorporate the Gold Star Wives of America.

Dec. 4, 1980
[S. 1179]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Gold Star Wives of America.
Federal charter.

CHARTER

SECTION 1. Gold Star Wives of America, a corporation organized and operating under the laws of the State of New York, is hereby recognized as such and granted a Federal charter. 36 USC 1601.

POWERS

SEC. 2. Gold Star Wives of America (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated. 36 USC 1602.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation shall be, solely, that it is— 36 USC 1603.

(a) organized and operated in the public interest, as a nonpartisan and nonprofit organization, with terms of membership and requirements for holding office within the organization which does not discriminate on the basis of race, color, religion, or national origin;

(b) organized and operated solely for patriotic, charitable, literary, educational, scientific, or civic improvement purposes; and

(c) organized for those purposes stated in its articles of incorporation which are not inconsistent with any of the foregoing objects and purposes.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes. 36 USC 1604.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall, except as provided in this Act, be as provided in the articles of incorporation and the bylaws of the corporation. 36 USC 1605.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

36 USC 1606.

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States where incorporated.

OFFICERS OF CORPORATION

36 USC 1607.

SEC. 7. The officers of the corporation and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States where incorporated.

RESTRICTIONS

36 USC 1608.

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

LIABILITY

36 USC 1609.

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority and in accordance with the laws of the States in which it carries on its activities.

BOOKS AND RECORDS; INSPECTION

36 USC 1610.

SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right to vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. However, nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

36 USC 1101.

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (Public Law 88-504; 78 Stat. 635; 36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(52) Gold Star Wives of America".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding calendar year. The report shall not be printed as a public document. 36 USC 1611.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress. 36 USC 1612.

DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States. 36 USC 1613.

TAX EXEMPT STATUS—EXPIRATION OF CHARTER

SEC. 15. The corporation shall retain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to retain such status, or if it fails to comply with the provisions of this Act, the charter granted hereby shall expire. 36 USC 1614.

Approved December 4, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1397 accompanying H.R. 154 (Comm. on the Judiciary).
SENATE REPORT No. 96-479 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 20, considered and passed Senate.
Vol. 126 (1980): Nov. 17, considered and passed House, amended, in lieu of H.R. 154.
Nov. 21, Senate concurred in House amendment.

Public Law 96-498
96th Congress

An Act

Dec. 4, 1980
[S. 3193]

To designate the Jacob K. Javits Federal Building.

Jacob K. Javits Federal Building.

Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 26 Federal Plaza in the Borough of Manhattan, New York City, New York (commonly known as the Federal Building), shall hereafter be known and designated as the "Jacob K. Javits Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the Jacob K. Javits Federal Building.

Effective date.

SEC. 2. This Act shall take effect January 3, 1981.

Approved December 4, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Nov. 13, considered and passed Senate.
Nov. 21, considered and passed House.

Public Law 96-499
96th Congress

An Act

To provide for reconciliation pursuant to section 3 of the First Concurrent Resolution on the Budget for the fiscal year 1981.

Dec. 5, 1980
[H.R. 7765]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Reconciliation Act of 1980.

TITLE I—SHORT TITLE AND DECLARATION OF PURPOSE

SHORT TITLE

SECTION 101. This Act may be cited as the "Omnibus Reconciliation Act of 1980".

PURPOSE

SEC. 102. It is the purpose of this Act to implement the recommendations which were made by specified committees of the House of Representatives and the Senate pursuant to directions contained in section 3 of the First Concurrent Resolution on the Budget for the fiscal year 1981 (H. Con. Res. 307, 96th Congress), and pursuant to the reconciliation requirements which were imposed by such concurrent resolution as provided in section 310 of the Congressional Budget Act of 1974. 31 USC 1331.

TITLE II—SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS

Subtitle A—Savings Under the School Lunch and Child Nutrition Programs

REDUCTION IN GENERAL REIMBURSEMENT

SEC. 201. (a) Notwithstanding section 4 of the National School Lunch Act, for the fiscal year ending September 30, 1981, the national average payment per lunch under such Act for such fiscal year, after being adjusted under section 11(a) of such Act, shall be reduced by 2½ cents for any school food authority under which less than 60 percent of the lunches served in the school lunch program were served free or at reduced price during the second preceding school year. The amount of State administrative expense funds to be made available to the States by the Secretary of Agriculture under section 7 of the Child Nutrition Act of 1966 for the fiscal year ending September 30, 1983, and the amount of State revenues appropriated or used for meeting the requirements under section 7 of the National School Lunch Act for the school year ending June 30, 1982, shall not be reduced because of a reduction in the amount of Federal funds expended as a result of

42 USC 1753 note.

42 USC 1759a.

42 USC 1776.

42 USC 1756.

"School food authority.".

the preceding sentence. For the purpose of this section, the term "school food authority" means the governing body that is responsible for the administration of one or more schools and has the legal authority to operate a school lunch or school breakfast program.

42 USC 1776.

(b) Section 7 of the Child Nutrition Act of 1966 is amended by—

(1) in subsection (e), striking out "and the succeeding fiscal year" and inserting in lieu thereof "and for the five succeeding fiscal years"; and

(2) in subsection (i), striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1984".

REDUCTION IN COMMODITY ASSISTANCE

42 USC 1755 note.

SEC. 202. (a) For the fiscal year ending September 30, 1981, the national average value of donated foods, or cash payments in lieu thereof, as determined under section 6(e) of the National School Lunch Act, shall be reduced by 2 cents.

42 USC 1755.

42 USC 1755.

(b) Section 6 of the National School Lunch Act is amended by adding at the end thereof a new subsection (f) as follows:

"(f) Beginning with the school year ending June 30, 1981, the Secretary shall not offer commodity assistance based upon the number of breakfasts served to children under section 4 of the Child Nutrition Act of 1966.".

42 USC 1773.

42 USC 1762a.

(c) Section 14(a) of the National School Lunch Act is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1984.".

INCOME ELIGIBILITY GUIDELINES

42 USC 1758 note.

SEC. 203. (a) During the fiscal year ending September 30, 1981, the income poverty guidelines for the purposes of section 9 of the National School Lunch Act shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d) for the forty-eight States.

42 USC 1758.

Household income computation.

(b) In computing household income under section 9(b) of the National School Lunch Act for the fiscal year ending September 30, 1981—

(1) in States other than Alaska, Hawaii, and Guam, the Secretary shall allow a standard deduction of $60 each month for each household, which shall be adjusted to the nearest $5 on July 1, 1980, to reflect changes in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor, for items other than food for the period beginning September 1977 and ending March 1980;

(2) the monthly standard deduction allowed in Alaska shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Alaska bear to the applicable income poverty guidelines for such States; and

(3) the monthly standard deduction allowed in Hawaii and Guam shall bear the same ratio to the standard deduction allowed in the contiguous States as the applicable income poverty guidelines for Hawaii bear to the applicable income poverty guidelines for such States.

(c) For the school year ending June 30, 1981, the Secretary may prescribe procedures for implementing the revisions in the income poverty guidelines for free and reduced price lunches contained in

this section that may allow school food authorities to (1) use applications distributed at the beginning of the school year when making eligibility determinations based on the revised income poverty guidelines or (2) distribute new applications containing the revised income poverty guidelines and make eligibility determinations using the new applications.

(d) Section 17 of the Child Nutrition Act of 1966 is amended by— 42 USC 1786.

(1) in subsection (c)(2), striking out "for the fiscal years ending September 30, 1981, and September 30, 1982" and inserting in lieu thereof "for the fiscal year ending September 30, 1981, and for each succeeding fiscal year ending on or before September 30, 1984";

(2) in the first sentence of subsection (g), striking out "$950,000,000 for the fiscal year ending September 30, 1982" and inserting in lieu thereof "such sums as may be necessary for the three subsequent fiscal years"; and

(3) in subsection (h)(2), striking out "1982" and inserting in lieu thereof "1984".

SPECIAL ASSISTANCE

SEC. 204. (a) Section 11(a) of the National School Lunch Act is amended by striking out in the fifth sentence ": *Provided*, That if in any State all schools charge students a uniform price for reduced-price lunches, and such price is less than 20 cents, the special assistance factor prescribed for reduced-price lunches in such State shall be equal to the special assistance factor for free lunches reduced by either 10 cents or the price charged for reduced-price lunches in such State, whichever is greater". 42 USC 1759a.

(b) During the fiscal year ending September 30, 1981— 42 USC 1759a note.

(1) no semiannual adjustment required under the sixth sentence of section 11(a) of the National School Lunch Act shall be made on January 1 of such fiscal year; and 42 USC 1759a.

(2) the adjustment required under the second proviso in the sixth sentence of section 11(a) of the National School Lunch Act which is to be made on July 1 of such fiscal year shall reflect the changes in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor, for lunches served during the preceding 12-month period.

MISCELLANEOUS PROVISIONS AND DEFINITIONS, NATIONAL SCHOOL LUNCH ACT

SEC. 205. Section 12(d) of the National School Lunch Act is amended by inserting in paragraph (6) ", but excluding Job Corps Centers funded by the Department of Labor" after "retarded". 42 USC 1760.

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 206. Section 13 of the National School Lunch Act is amended by— 42 USC 1761.

(1) amending subsection (b)(2) to read as follows:

"(2) Any service institution may only serve lunch and either breakfast or a meal supplement during each day of operation, except that any service institution that is a camp or that serves meals primarily to migrant children may serve up to four meals during each day of operation, if (A) the service institution has the administrative capability and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the

service period of different meals does not coincide or overlap. The meals that camps and migrant programs may serve shall include a breakfast, a lunch, a supper, and meal supplements."; and

(2) in subsection (p), striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1984".

AMENDMENT TO THE CHILD CARE FOOD PROGRAM

42 USC 1766.

SEC. 207. (a) Section 17(a) of the National School Lunch Act is amended in the second sentence by inserting before the period at the end thereof the following: "; and such term shall also mean any other private organization providing nonresidential day care services for which it receives compensation from amounts granted to the States under title XX of the Social Security Act".

42 USC 1397.

42 USC 1766 note.

(b) The amendment made by subsection (a) of this section shall apply with respect to all fiscal years beginning on or after October 1, 1980.

ADJUSTMENTS

42 USC 1766 note.

SEC. 208. (a) During the fiscal year ending September 30, 1981, in determining the national average payment rate for supplements served in institutions (other than family or group day care home sponsoring organizations) participating in the child care food program under paragraphs (1) through (3) of section 17(c) of the National School Lunch Act—

(1) no adjustment under such paragraphs shall be made on January 1 of such fiscal year; and

(2) the adjustment under such paragraphs required to be made on July 1 of such fiscal year shall be computed to the nearest one-fourth cent based on changes, measured over the preceding twelve-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor.

42 USC 1766.

(b) Section 17(c) of the National School lunch Act is amended by inserting the following at the end of paragraphs (1), (2), and (3): "The average payment rate for supplements served in such institutions shall be 3 cents lower than the adjusted rate prescribed by the Secretary in accordance with the adjustment formula contained in this paragraph.".

(c) Section 17(n)(1) of the National School Lunch Act is amended by striking out "$6,000,000" and inserting in lieu thereof "$4,000,000".

SPECIAL MILK PROGRAM

42 USC 1772.

SEC. 209. Section 3 of the Child Nutrition Act of 1966 is amended by inserting the following after the seventh sentence: "Notwithstanding the preceding two sentences, the rate of reimbursement per half-pint of milk, which is served to children who are not eligible for free milk in schools, child care institutions, and summer camps participating in meal service programs under the National School Lunch Act and this Act, shall be 5 cents.".

PAYMENTS FOR FREE BREAKFASTS

42 USC 1773 note.

SEC. 210. Notwithstanding section 4(b)(2)(B)(ii) of the Child Nutrition Act of 1966, in determining the maximum payment for free breakfasts under such section for the fiscal year ending September 30, 1981—

(1) no adjustment under such section shall be made on January 1 of such fiscal year; and

(2) the adjustment under such section required to be made on July 1 of such fiscal year shall be computed to the nearest one-fourth cent based on changes, measured over the preceding twelve-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, Department of Labor.

FOOD SERVICE EQUIPMENT ASSISTANCE

SEC. 211. Section 5 of the Child Nutrition Act of 1966 is amended by— 42 USC 1774.

(1) amending subsection (a) to read as follows:

"(a) There is authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1981, $30,000,000 for the fiscal year ending September 30, 1982, $35,000,000 for the fiscal year ending September 30, 1983, and $40,000,000 for each succeeding fiscal year, to enable the Secretary to formulate and carry out a program to assist the States through grants-in-aid and other means to supply schools drawing attendance from areas in which poor economic conditions exist with equipment, other than land or buildings, for the storage, preparation, transportation, and serving of food to enable such schools to establish, maintain, and expand school food service programs. In the case of a nonprofit private school, such equipment shall be for use of such school principally in connection with child feeding programs authorized in this Act and in the National School Lunch Act."; and Appropriation authorization. 42 USC 1751 note.

(2) in subsection (e), striking out "fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980" and inserting in lieu thereof "fiscal year ending September 30, 1978, and for each succeeding fiscal year ending on or before September 30, 1984";

MISCELLANEOUS PROVISIONS AND DEFINITIONS, CHILD NUTRITION ACT OF 1966

SEC. 212. Section 15(c) of the Child Nutrition Act of 1966 is amended by inserting ", but excluding Job Corps Centers funded by the Department of Labor" after "retarded". 42 USC 1784.

NUTRITION EDUCATION AND TRAINING

SEC. 213. Section 19(j)(2) of the Child Nutrition Act of 1966 is amended by— 42 USC 1788.

(1) striking out "For the fiscal year beginning October 1, 1979" and inserting in lieu thereof "For the fiscal year ending September 30, 1980, and for each succeeding fiscal year ending on or before September 30, 1984";

(2) inserting after the first sentence the following: "For the fiscal year beginning October 1, 1980, and subsequent fiscal years, there is authorized to be appropriated for the grants referred to in the preceding sentence not more than $15,000,000."; and

(3) striking out "preceding sentence" and inserting in lieu thereof "second preceding sentence".

TITLE III—STUDENT LOAN PROGRAMS

SAVINGS ACHIEVED

SEC. 301. For other provisions of law which reduce spending for fiscal year 1981 in satisfaction of the reconciliation requirements imposed by sections 3(a)(2) and 3(a)(18) of H. Con. Res. 307 (96th Congress), see the Education Amendments of 1980 (Public Law 96-374).

Ante, p. 1367.

DISCLOSURE OF LOCATION OF BORROWERS WHO HAVE DEFAULTED ON STUDENT LOANS

26 USC 6103.

SEC. 302. (a) Paragraph (4) of section 6103(m) of the Internal Revenue Code of 1954 (relating to individuals who have defaulted on student loans) is amended to read as follows:

"(4) INDIVIDUALS WHO HAVE DEFAULTED ON STUDENT LOANS.—

"(A) IN GENERAL.—Upon written request by the Secretary of Education, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan—

"(i) made under part B or E of title IV of the Higher Education Act of 1965, or

20 USC 1071, 1088.

"(ii) made pursuant to section 3(a)(1) of the Migration and Refugee Assistance Act of 1962 to a student at an institution of higher education,

22 USC 2602.

for use only by officers, employees, or agents of the Department of Education for purposes of locating such taxpayer for purposes of collecting such loan.

"(B) DISCLOSURE TO EDUCATIONAL INSTITUTIONS, ETC.—Any mailing address disclosed under subparagraph (A)(i) may be disclosed by the Secretary of Education to—

"(i) any lender, or any State or nonprofit guarantee agency, which is participating under part B of title IV of the Higher Education Act of 1965, or

20 USC 1071.

"(ii) any educational institution with which the Secretary of Education has an agreement under part E of title IV of such Act,

20 USC 1088.

for use only by officers, employees, or agents of such lender, guarantee agency, or institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made under such loan programs for purposes of collecting such loans.".

26 USC 7213.

(b) The first sentence of section 7213(a)(2) of such Code (relating to unauthorized disclosure of information by State and other employees) is amended to read as follows: "It shall be unlawful for any person (not described in paragraph (1)) willfully to disclose to any person, except as authorized in this title, any return or return information (as defined in section 6103(b)) acquired by him or another person under subsection (d), (l) (6) or (7), or (m)(4) of section 6103.".

26 USC 6103.

Effective date.
26 USC 6103 note.

(c) The amendments made by subsections (a) and (b) of this section shall take effect on the date of the enactment of this Act.

TITLE IV—CIVIL SERVICE, POSTAL SERVICE, AND RELATED PROGRAMS

Subtitle A—Savings Under the Civil Service Program

ELIMINATION OF RETROACTIVE ANNUITY ADJUSTMENT; PRORATION OF INITIAL ADJUSTMENT

SEC. 401. (a) Section 8340(c) of title 5, United States Code, relating to cost-of-living adjustments, is amended—

(1) by striking out paragraph (1) thereof; and

(2) by inserting in lieu thereof the following new paragraph:

"(1) The first increase (if any) made under subsection (b) of this section to an annuity which is payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member, shall be equal to the product (adjusted to the nearest 1/10 of 1 percent) of—

"(A) 1/6 of the applicable percent change computed under subsection (b) of this section, multiplied by

"(B) the number of full months for which the annuity was payable from the Fund before the effective date of the increase (counting any portion of a month as a full month).".

(b)(1) The amendment made by subsection (a)(1) shall apply with respect to annuities commencing after the 45th day after the date of the enactment of this Act. 5 USC 8340 note.

(2) The amendment made by subsection (a)(2) shall take effect with respect to any annuity increase which takes effect after the date of the enactment of this Act.

ELIMINATION OF CREDIT FOR HOLIDAYS IN CALCULATING LUMP-SUM LEAVE PAYMENTS

SEC. 402. (a) Section 5551(a) of title 5, United States Code, relating to lump-sum payment at separation for accumulated leave, is amended by adding at the end thereof the following new sentence: "The period of leave used for calculating the lump-sum payment shall not be extended due to any holiday occurring after separation.".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to employees separating from the service on or after such date. Effective date. 5 USC 5551 note.

DISABILITY RETIREMENT ELIGIBILITY

SEC. 403. (a) Section 8337(a) of title 5, United States Code, relating to disability retirement, is amended to read as follows:

"(a) An employee who completes 5 years of civilian service and has become disabled shall be retired on the employee's own application or on application by the employee's agency. Any employee shall be considered to be disabled only if the employee if found by the Office of Personnel Management to be unable, because of disease or injury, to render useful and efficient service in the employee's position and is not qualified for reassignment, under procedures prescribed by the Office, to a vacant position which is in the agency at the same grade or level and in which the employee would be able to render useful and efficient service. For the purpose of the preceding sentence, an employee of the United States Postal Service shall be considered not qualified for a reassignment described in that sentence if the reas-

signment is to a position in a different craft or is inconsistent with the terms of a collective bargaining agreement covering the employee. A Member who completes 5 years of Member service and is found by the Office to be disabled for useful and efficient service as a Member because of disease or injury shall be retired on the Member's own application. An annuity authorized by this section is computed under section 8339(g) of this title, unless the employee or Member is eligible for a higher annuity computed under section 8339(a)-(e) or (n).".

Infra.

(b) Section 8331 of title 5, United States Code, is amended by striking out paragraph (6).

Effective date.
5 USC 8331 note.

(c) The amendments made by this section shall take effect on the 90th day after the date of the enactment of this Act.

MINIMUM DISABILITY RETIREMENT ANNUITY

SEC. 404. (a) Section 8339(g) of title 5, United States Code, is amended by adding at the end thereof the following: "However, if an employee or Member retiring under section 8337 of this title is receiving retired pay or retainer pay for military service (except that specified in section 8332(c) (1) or (2) of this title) or Veterans' Administration pension or compensation in lieu of such retired or retainer pay, the annuity of that employee or Member shall be computed under subsection (a), (b), or (c) of this section, as appropriate, excluding credit for military service from that computation. If the amount of the annuity so computed, plus the retired or retainer pay which is received, or which would be received but for the application of the limitation in section 5532 of this title, or the Veterans' Administration pension or compensation in lieu of such retired or retainer pay, is less than the smaller of the annuity otherwise payable under paragraph (1) or (2) of this subsection, an amount equal to the difference shall be added to the annuity payable under subsection (a), (b), or (c) of this section, as appropriate.".

5 USC 8337.

5 USC 8332.

5 USC 5532.

(b) Section 8347 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(m) Notwithstanding any other provision of law, for the purpose of ensuring the accuracy of information used in the administration of this chapter, at the request of the Director of the Office of Personnel Management—

"(1) the Secretary of Defense or the Secretary's designee shall provide information on retired or retainer pay provided under title 10; and

10 USC 101.

"(2) the Administrator of Veterans Affairs shall provide information on pensions or compensation provided under title 38.

38 USC 101.

Information, safeguards.

The Director shall request only such information as the Director determines is necessary. The Director, in consultation with the officials from whom information is requested, shall establish, by regulation and otherwise, such safeguards as are necessary to ensure that information made available under this subsection is used only for the purpose authorized.".

Effective date.
5 USC 8339 note.

(c) The amendments made by this section shall take effect on the date of the enactment of this Act.

EXEMPTION OF LIFE INSURANCE PREMIUMS FROM STATE TAXATION

SEC. 405. (a) Section 8714 of title 5, United States Code, relating to Employees' Life Insurance Fund, is amended by adding at the end thereof the following new subsection:

"(c)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, on, or with respect to, any premium paid under an insurance policy purchased under this chapter.

"(2) Paragraph (1) of this subsection shall not be construed to exempt any company issuing a policy of insurance under this chapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that company from business conducted under this chapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to premiums paid on or after such date.

Effective date.
5 USC 8714 note.

Subtitle B—Savings Under the Postal Service Program

AUTHORIZATIONS FOR PUBLIC SERVICE APPROPRIATIONS

SEC. 411. Section 2401(b)(1)(C) of title 39, United States Code, is amended by striking out "an amount equal to 8 percent of such sum for fiscal year 1971" and inserting in lieu thereof "$486,000,000".

CONTINUATION OF SIX-DAY MAIL DELIVERY

SEC. 412. During the period from the date of enactment of this Act until October 1, 1981, the Postal Service shall take no action to reduce or to plan to reduce during that period of time the number of days each week for regular mail delivery.

AUTHORIZATION FOR REVENUE FOREGONE APPROPRIATIONS

SEC. 413. (a) Notwithstanding the provisions of sections 2401(c) and 3626 of title 39, United States Code, the authorization for appropriations for fiscal year 1981 for revenue foregone for mail matter described in former sections 4452 (b) and (c) of title 39, United States Code, shall be $50,000,000 less than would be authorized if this section were not enacted.

(b) The reduction in authorization made by subsection (a) of this section may be deemed a failure of appropriation for the purposes of section 3627 of title 39, United States Code.

RECONCILIATION APPROPRIATIONS

SEC. 414. (a) Section 2401(c) of title 39, United States Code, is amended by adding at the end thereof the following new sentence: "In requesting an appropriation under this subsection for a fiscal year, the Postal Service shall include an amount to reconcile sums authorized to be appropriated for prior fiscal years on the basis of estimated mail volume with sums which would have been authorized to be appropriated if based on the final audited mail volume.".

(b) The request for a reconciliation appropriation described in subsection (a) of this section which was submitted by the Postal Service for fiscal year 1981 shall be resubmitted for fiscal year 1982.

EFFECTIVE DATE

39 USC 2401 note.

SEC. 415. The provisions of this subtitle, including the amendments made by this subtitle, shall take effect on the date of the enactment of this Act.

Subtitle C—Savings Under the Federal Employees' Compensation Act

AMENDMENTS

SEC. 421. (a) Subsection (a) of section 8146a of title 5, United States Code, is amended to read as follows:

"(a) Compensation payable on account of disability or death which occurred more than one year before March 1 of each year shall be annually increased on that date by the amount determined by the Secretary of Labor to represent the percent change in the price index published for December of the preceding year over the price index published for the December of the year prior to the preceding year, adjusted to the nearest one-tenth of 1 percent.".

(b) Section 8101 of title 5, United States Code, is amended by striking out paragraph (19), and by redesignating paragraphs (20) and (21) as paragraphs (19) and (20), respectively.

EFFECTIVE DATE

5 USC 8101 note.

SEC. 422. The amendments made by section 421 shall take effect on the date of the enactment of this Act with respect to any adjustments which are to be made on or after that date; except that the period specified in such section as extending from December to December shall, with respect to the adjustment to be made on March 1, 1981, extend instead from the last month in which the price index resulted in an adjustment prior to enactment to December of 1980.

TITLE V—HIGHWAY, RAIL, AND RELATED PROGRAMS

Subtitle A—Highway Programs

SEC. 501. Notwithstanding any other provision of law, the total of all obligations for "State and Community Highway Safety" (23 U.S.C. 402) for the fiscal year ending September 30, 1981, shall not exceed $150,405,000.

Subtitle B—Other Programs

SEC. 511. If the Senate and the House of Representatives approve a conference report on the bill (S. 1159) to authorize appropriations for the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act, and for other purposes, which includes an authorization for fiscal year 1981 pursuant to section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 that exceeds $53,800,000, then the Secretary of the Senate is directed to include the following provision in the enrolled copy of such bill: "Of the funds authorized to be appropriated pursuant to section 121 of the National Traffic Motor Vehicle Safety Act of 1966

15 USC 1381 note.
15 USC 1901 note.
15 USC 1409.
Appropriation authorization.

(15 U.S.C. 1409) not more than $53,800,000 is authorized to be appropriated in fiscal year 1981.".

SEC. 512. (a) For provisions of law which reduce spending for fiscal year 1981 under the railroad rehabilitation and improvement financing program established under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 in satisfaction of the reconciliation requirements imposed by sections 3(a)(3) and 3(a)(13) of H. Con. Res. 307 (96th Congress), see the Staggers Rail Act of 1980 (Public Law 96-448). 45 USC 821. *Ante*, p. 1895.

(b) For provisions of law which further reduce spending for fiscal year 1981 in satisfaction of the reconciliation requirements imposed by sections 3(a)(3) and 3(a)(13) of H. Con. Res. 307 (96th Congress), see the Passenger Railroad Rebuilding Act of 1980 (Public Law 96-254). *Ante*, p. 410.

TITLE VI—AIRPORT AND AIRWAY IMPROVEMENT ACT

SEC. 601. Notwithstanding any other provision of law, the total amount of grants which the Secretary is authorized to make from the Airport and Airway Trust Fund for airport development and airport planning and for grants under section 104(e) of the Airport Safety and Noise Abatement Act of 1979, as amended, for the fiscal year ending September 30, 1981, shall not exceed $725,000,000.

TITLE VII—VETERANS' PROGRAMS

SEC. 701. For provisions of law which reduce spending for fiscal year 1981 in veterans' programs in satisfaction of the reconciliation requirements imposed by sections 3(a)(7) and 3(a)(20) of H. Con. Res. 307 (96th Congress), see section 401 of the Veterans' Administration Health-Care Amendments of 1980 (Public Law 96-330), section 504 of the Veterans' Disability Compensation and Housing Benefits Amendments of 1980 (Public Law 96-385), and sections 201, 202, 211, 212, and 802(b), and title VI, of the Veterans' Rehabilitation and Education Amendments of 1980 (Public Law 96-466). *Ante*, p. 1051. *Ante*, p. 1534. *Ante*, pp. 2187-2190, 2217, 2208.

TITLE VIII—SMALL BUSINESS PROGRAMS

SEC. 801. For provisions of law which reduce spending for fiscal 1981 in small business programs in satisfaction of the reconciliation requirements imposed by sections 3(a)(6) and 3(a)(19) of H. Con. Res. 307 (96th Congress), see Public Law 96-302 (the Small Business Development Act of 1980). *Ante*, p. 833.

TITLE IX—MEDICARE AND MEDICAID RELATED PROVISIONS

Medicare and Medicaid Amendments of 1980.

SHORT TITLE; TABLE OF CONTENTS OF TITLE

SEC. 900. This title may be cited as the "Medicare and Medicaid Amendments of 1980". 42 USC 1305 note.

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PART A—PROVISIONS RELATING TO MEDICARE AND MEDICAID

Subpart I—Provider Reimbursement Changes

NONPROFIT HOSPITAL PHILANTHROPY

SEC. 901. (a) Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

"NONPROFIT HOSPITAL PHILANTHROPY

"SEC. 1134. For purposes of determining, under titles V, XVIII, and XIX of this Act, the reasonable costs of services provided by nonprofit hospitals, the following items shall not be deducted from the operating costs of such hospitals: 42 USC 1320b-4. 42 USC 701, 1395, 1396.

"(1) A grant, gift, or endowment, or income therefrom, which is to or for such a hospital and which has not been designated by the donor for paying any specific operating costs.

"(2) A grant or similar payment which is to such a hospital, which was made by a governmental entity, and which is not available under the terms of the grant or payment for use as operating funds.

"(3) Those types of donor designated grants and gifts (including grants and similar payments which are made by a governmental entity), and income therefrom, which the Secretary determines, in the best interests of needed health care, should be encouraged.

"(4) The proceeds from the scale or mortgage of any real estate or other capital asset of such a hospital, which real estate or asset the hospital acquired through gift or grant, if such proceeds are not available for use as operating funds under the terms of the gift or grant.

Paragraph (4) shall not apply to the recovery of the appropriate share of depreciation when gains or losses are realized from the disposal of depreciable assets.".

(b) The amendment made by subsection (a) shall apply to grants, gifts, and endowments, and income therefrom, made or established after the date of the enactment of this Act. 42 USC 1320b-4 note.

REIMBURSEMENT FOR INAPPROPRIATE INPATIENT HOSPITAL SERVICES

42 USC 1395x.

SEC. 902. (a)(1) Section 1861(v)(1) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(G)(i) In any case in which a hospital provides inpatient services to an individual that would constitute post-hospital extended care services if provided by a skilled nursing facility and a Professional Standards Review Organization (or, in the absence of such a qualified organization, an organization or agency with review responsibility as is otherwise provided for under part A of title XI) determines that inpatient hospital services for the individual are not medically necessary but post-hospital extended care services for the individual are medically necessary and such extended care services are not otherwise available to the individual (as determined in accordance with criteria established by the Secretary) at the time of such determination, payment for such services provided to the individual shall continue to be made under this title at the payment rate described in clause (ii) during the period in which—

42 USC 1301.

"(I) such post-hospital extended care services for the individual are medically necessary and not otherwise available to the individual (as so determined),

"(II) inpatient hospital services for the individual are not medically necessary, and

"(III) the individual is entitled to have payment made for post-hospital extended care services under this title,

except that if the Secretary determines that the hospital had (during the immediately preceding calendar year) an average daily occupancy rate of 80 percent or more, such payment shall be made (during such period) on the basis of the reasonable cost of inpatient hospital services.

"(ii)(I) Except as provided in subclause (II), the payment rate referred to in clause (i) is a rate equal to the estimated adjusted State-wide average rate per patient-day paid for services provided in skilled nursing facilities under the State plan approved under title XIX for the State in which such hospital is located, or, if the State in which the hospital is located does not have a State plan approved under title XIX, the estimated adjusted State-wide average allowable costs per patient-day for extended care services under this title in that State.

42 USC 1396.

"(II) If a hospital has a unit which is a skilled nursing facility, the payment rate referred to in clause (i) for the hospital is a rate equal to the lesser of the rate described in subclause (I) or the allowable costs in effect under this title for extended care services provided to patients of such unit.

"(iii) Any day on which an individual receives inpatient services for which payment is made under this subparagraph shall, for purposes of this Act (other than this subparagraph), be deemed to be a day on which the individual received inpatient hospital services.

Occupancy rate.

"(iv) For the purpose of determining the occupancy rate with respect to hospitals under clause (i)—

"(I) public hospitals under common ownership may elect (with the approval of the Secretary) to be treated as a single hospital, and

"(II) beginning two years after the date this subparagraph is first applied with respect to a hospital, the Secretary, to the extent feasible, shall not treat as an inpatient an individual with respect to whom payment is made to the hospital only because of this subparagraph or section 1902(h).".

42 USC 1396a.

(2) For amendment to section 1158(a) of the Social Security Act relating to these provisions, see section 931(h) of this title. *Post*, p. 2633.

(3) Section 1158(d) of such Act is amended by adding at the end the following new sentence: "In the case of disapproval of inpatient hospital services where payment for inpatient services is continued under section 1861(v)(1)(G) or section 1902(h), the previous sentence shall not apply with respect to such disapproval.". 42 USC 1320-7. *Ante*, p. 2612, *infra*..

(b)(1) Section 1902(a)(13)(D) of such Act is amended— 42 USC 1396a.

(A) by inserting "(i)" after "(D)",

(B) by striking out the semicolon and inserting in lieu thereof a comma, and

(C) by inserting at the end thereof the following new clause: "(ii) for payment of the reasonable cost of inappropriate inpatient services (described in subsection (h)(1)) for which payment is provided only because of subsection (h) at the rate of payment for such services provided for under such subsection, and".

(2) Section 1902 of such Act is further amended by adding at the end the following new subsection: 42 USC 1396a.

"(h)(1) In any case in which a hospital provides inpatient services to an individual that would constitute skilled nursing facility services if provided by a skilled nursing facility or that would constitute intermediate care facility services if provided by an intermediate care facility and a Professional Standards Review Organization (or, in the absence of such a qualified organization, an organization or agency with review responsibility as is otherwise provided for under part A of title XI) determines that inpatient hospital services for the individual are not medically necessary but skilled nursing facility services or intermediate care facility services, respectively, for the individual are medically necessary and such type of facility services are not otherwise available to the individual (as determined in accordance with criteria established by the Secretary) at the time of such determination, payment for inpatient hospital services shall continue to be made under the State plan approved under this title at the payment rate described in paragraph (2) for such type of services during the period in which— 42 USC 1301.

"(A) such skilled nursing facility services or intermediate care facility services (as the case may be) for the individual are medically necessary and not otherwise available to the individual (as so determined),

"(B) inpatient hospital services for the individual are not medically necessary, and

"(C) the individual is entitled to receive medical assistance with respect to such facility services under the State plan,

except that if the Secretary determines that the hospital had (during the immediately preceding calendar year) an average daily occupancy rate of 80 percent or more, such payment shall be made (during such period) on the same basis as otherwise used under the State's plan for payments for providing inpatient hospital services.

"(2)(A) Except as provided in subparagraph (B), the payment rate referred to in paragraph (1), in the case of skilled nursing facility services or intermediate care facility services, is the estimated adjusted State-wide average rate per patient-day paid for such respective type of services provided under the State plan.

"(B) If a hospital has a unit which is a skilled nursing facility or intermediate care facility, the payment rate referred to in paragraph (1), in the case of inpatient services which constitute skilled nursing facility services or intermediate care facility services, is a rate equal to the lesser of the rate described in subparagraph (A) or the

allowable costs in effect under the State plan for such type of inpatient services provided to patients of such unit.

"(3) Any day on which an individual receives inpatient services for which payment is made under this subsection shall, for purposes of this Act (other than this subsection), be deemed to be a day on which the individual received inpatient hospital services.

"(4) For the purpose of determining the occupancy rate with respect to hospitals under paragraph (2)—

"(A) public hospitals under common ownership may elect (with the approval of the Secretary) to be treated as a single hospital, and

"(B) beginning two years after the date this subsection is first applied with respect to a hospital, the Secretary, to the extent feasible, shall not treat as an inpatient an individual with respect to whom payment is made to the hospital only because of this subsection or section 1861(v)(1)(G).".

Effective date. 42 USC 1320c-7 note.

(c) The amendments made by this section shall become effective on the date of which final regulations, promulgated by the Secretary to implement such amendments, are first issued; and those regulations shall be issued not later than the first day of the sixth month following the month in which this Act is enacted.

CONTINUED USE OF DEMONSTRATION PROJECT REIMBURSEMENT SYSTEMS

42 USC 1395f.

SEC. 903. (a) Section 1814(b) of the Social Security Act is amended—

(1) by inserting "except as provided in paragraph (3)," in paragraph (1) before "the lesser",

(2) by striking out "or" at the end of paragraph (1),

(3) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or", and

(4) by adding at the end thereof the following new paragraph:

"(3) if some or all of the hospitals in a State have been reimbursed for services (for which payment may be made under this part) pursuant to a reimbursement system approved as a demonstration project under section 402 of the Social Security Amendments of 1967 or section 222 of the Social Security Amendments of 1972, if the rate of increase in such hospitals in their costs per hospital inpatient admission of individuals entitled to benefits under this part over the duration of such project was equal to or less than such rate of increase for admissions of such individuals with respect to all hospitals in the United States during such period, and if either the State has legislative authority to operate such system and the State elects to have reimbursement to such hospitals made in accordance with this paragraph or the system is operated through a voluntary agreement of hospitals and such hospitals elect to have reimbursement to those hospitals made in accordance with this paragraph, then the Secretary may provide for continuation of reimbursement to such hospitals under such system until the Secretary determines that—

42 USC 1395b-1, 1395*ll*. 42 USC 1395b-1 and note, 1395*ll*.

"(A) a third-party payor reimburses such a hospital on a basis other than under such system, or

"(B) the rate of increase for the previous three-year period in such hospitals in costs per hospital inpatient admission of individuals entitled to benefits under this part is greater than such rate of increase for admissions of such individuals

with respect to all hospitals in the United States for such period.

In the case of any State which has had such a demonstration project reimbursement system in continuous operation since July 1, 1977, the Secretary shall provide under paragraph (3) for continuation of reimbursement to hospitals in the State under such system until the Secretary determines that either of the conditions described in subparagraph (A) or (B) of such paragraph has occurred.".

(b) Section 1902(a)(13)(D)(i) of such Act, as amended by section 902(b)(1) of this title, is amended by inserting after "title XVIII" the following: ", except that in the case of hospitals reimbursed for services under part A of title XVIII in accordance with section 1814(b)(3), the plan must provide for payment of inpatient hospital services provided in such hospitals under the plan in accordance with the reimbursement system used under such section". 42 USC 1396a. 42 USC 1395. *Ante*, p. 2614.

(c) Notwithstanding any other provision of law, the Secretary of Health and Human Services (hereinafter in this title referred to as the "Secretary") may not provide for more than a total of six Statewide medicare hospital reimbursement demonstration projects under the authority of section 402 of the Social Security Amendments of 1967 or of section 222 of the Social Security Amendments of 1972, including any such projects provided for before the date of the enactment of this Act. 42 USC 1395b-1 note. 42 USC 1395b-1 and note, 1395*ll*.

HOSPITAL PROVIDERS OF LONG-TERM CARE SERVICES ("SWING-BEDS")

SEC. 904. (a)(1) Title XVIII of the Social Security Act is amended by adding after section 1882 the following new section:

"HOSPITAL PROVIDERS OF EXTENDED CARE SERVICES

"SEC. 1883. (a)(1) Any hospital (other than a hospital which has in effect a waiver under subparagraph (A) of the last sentence of section 1861(e)) which has an agreement under section 1866 may (subject to subsection (b)) enter into an agreement with the Secretary under which its inpatient hospital facilities may be used for the furnishing of services of the type which, if furnished by a skilled nursing facility, would constitute extended care services. 42 USC 1395 tt. *Post*, p. 2645, 42 USC 1395cc.

"(2)(A) Notwithstanding any other provision of this title, payment to any hospital for services furnished under an agreement entered into under this section shall be based upon the reasonable cost of the services as determined under subparagraph (B).

"(B)(i) The reasonable cost of the services consists of the reasonable cost of routine services (determined under clause (ii)) and the reasonable cost of ancillary services (determined under clause (iii)).

"(ii) The reasonable cost of routine services furnished during any calendar year by a hospital under an agreement under this section is equal to the product of—

"(I) the number of patient-days during the year for which the services were furnished, and

"(II) the average reasonable cost per patient-day, such average reasonable cost per patient-day being the average rate per patient-day paid for routine services during the previous calendar year under the State plan (of the State in which the hospital is located) under title XIX to skilled nursing facilities located in the State and which meet the requirements specified in section 1902(a)(28), or, in the case of a hospital located in a State which does not have such a State plan, the average rate per patient-day 42 USC 1396. 42 USC 1396a.

paid for routine services during the previous calendar year under this title to skilled nursing facilities in such State.

"(iii) The reasonable cost of ancillary services shall be determined in the same manner as the reasonable cost of ancillary services provided for inpatient hospital services.

"(b) The Secretary may not enter into an agreement under this section with any hospital unless—

"(1) except as provided under subsection (g), the hospital is located in a rural area and has less than 50 beds, and

"(2) the hospital has been granted a certificate of need for the provision of long-term care services from the State health planning and development agency (designated under section 1521 of the Public Health Service Act) for the State in which the hospital is located.

42 USC 300m.

"(c) An agreement with a hospital under this section shall, except as otherwise provided under regulations of the Secretary, be of the same duration and subject to termination on the same conditions as are agreements with skilled nursing facilities under section 1866 and shall, where not inconsistent with any provision of this section, impose the same duties, responsibilities, conditions, and limitations, as those imposed under such agreements entered into under section 1866; except that no such agreement with any hospital shall be in effect for any period during which the hospital does not have in effect an agreement under section 1866, or during which there is in effect for the hospital a waiver under subparagraph (A) of the last sentence of section 1861(e). A hospital with respect to which an agreement under this section has been terminated shall not be eligible to enter into a new agreement until a two-year period has elapsed from the termination date.

42 USC 1395cc.

Post, p. 2645.

"(d) Any agreement with a hospital under this section shall provide that payment for services will be made only for services for which payment would be made as post-hospital extended care services if those services had been furnished by a skilled nursing facility under an agreement entered into under section 1866; and any individual who is furnished services, for which payment may be made under an agreement under this section, shall, for purposes of this title (other than this section), be deemed to have received post-hospital extended care services in like manner and to the same extent as if the services furnished to him had been post-hospital extended care services furnished by a skilled nursing facility under an agreement under section 1866.

"(e) During a period for which a hospital has in effect an agreement under this section, in order to allocate routine costs between hospital and long-term care services for purposes of determining payment for inpatient hospital services, the total reimbursement due for routine services from all classes of long-term care patients (including title XVIII, title XIX, and private pay patients) shall be subtracted from the hospital's total routine costs before calculations are made to determine title XVIII reimbursement for routine hospital services.

42 USC 1395, 1396.

"(f) A hospital which enters into an agreement with the Secretary under this section shall be required to meet those conditions applicable to skilled nursing facilities relating to discharge planning and the social services function (and staffing requirements to satisfy it) which are promulgated by the Secretary under section 1861(j)(15). Services furnished by such a hospital which would otherwise constitute post-hospital extended care services if furnished by a skilled nursing facility shall be subject to the same requirements applicable to such services when furnished by a skilled nursing facility except for those

42 USC 1395x.

requirements the Secretary determines are inappropriate in the case of these services being furnished by a hospital under this section.

"(g) The Secretary may enter into an agreement under this section on a demonstration basis with any hospital which does not meet the requirement of subsection (b)(1), if the hospital otherwise meets the requirements of this section.".

(b) Title XIX of such Act is amended by adding after section 1912 the following new section:

"HOSPITAL PROVIDERS OF SKILLED NURSING AND INTERMEDIATE CARE SERVICES

"SEC. 1913. (a) Notwithstanding any other provision of this title, payment may be made, in accordance with this section, under a State plan approved under this title for skilled nursing facility services and intermediate care facility services furnished by a hospital which has in effect an agreement under section 1883. 42 USC 1396*l*.

"(b)(1) Payment to any such hospital, for any skilled nursing or intermediate care facility services furnished pursuant to subsection (a), shall be at a rate equal to the average rate per patient-day paid for routine services during the previous calendar year under the State plan to skilled nursing and intermediate care facilities, respectively, located in the State in which the hospital is located. The reasonable cost of ancillary services shall be determined in the same manner as the reasonable cost of ancillary services provided for inpatient hospital services.

"(2) With respect to any period for which a hospital has an agreement under section 1883, in order to allocate routine costs between hospital and long-term care services, the total reimbursement for routine services due from all classes of long-term care patients (including title XVIII, title XIX, and private pay patients) shall be subtracted from the hospital total routine costs before calculations are made to determine reimbursement for routine hospital services under the State plan.". *Ante*, p. 2615. 42 USC 1395, 1396.

(c) Within three years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Congress a report evaluating the programs established by the amendments made by this section and shall include in such report an analysis of— Report to Congress. 42 USC 1395tt note.

(1) the extent and effect of the agreements under such programs on availability and effective and economical provision of long-term care services,

(2) whether such programs should be continued,

(3) the results of any demonstration projects conducted under such programs, and

(4) whether eligibility to participate in such programs should be extended to other hospitals, regardless of bed size or geographic location, where there is a shortage of long-term care beds.

(d) The amendments made by this section shall become effective on the date on which final regulations, promulgated by the Secretary to implement such amendments, are first issued; and those regulations shall be issued not later than the first day of the sixth month following the month in which this Act is enacted. 42 USC 1395tt note.

WITHHOLDING OF FEDERAL SHARE OF PAYMENTS TO MEDICAID PROVIDERS TO RECOVER MEDICARE OVERPAYMENTS

42 USC 1396a.
Post, p. 2650.
Infra.

SEC. 905. (a) Subparagraphs (D)(i) and (E) of section 1902(a)(13) of the Social Security Act are each amended by inserting "(except where the State agency is subject to an order under section 1914)" after "payment".

42 USC 1396b.

(b) Section 1903(a)(1) of such Act is amended by striking out "subject to subsections (g) and (h)" and inserting in lieu thereof "subject to subsections (g), (h), and (j)".

(c)(1) Section 1903(j) of such Act is amended to read a follows:

"(j) Notwithstanding the preceding provisions of this section, the amount determined under subsection (a)(1) for any State for any quarter shall be adjusted in accordance with section 1914.".

Infra.

(2) Section 1903(n) of such Act is amended by striking out "or is subject to a suspension of payment order issued under subsection (j)".

(d) Title XIX of such Act is amended by adding after section 1913 (added by section 904(b) of this title) the following new section:

"WITHHOLDING OF FEDERAL SHARE OF PAYMENTS FOR CERTAIN MEDICARE PROVIDERS

42 USC 1396m.

"SEC. 1914. (a) The Secretary may adjust, in accordance with this section, the Federal matching payment to a State with respect to expenditures for medical assistance for care or services furnished in any quarter by—

42 USC 1395cc.
42 USC 1395.

"(1) an institution (A) which has or previously had in effect an agreement with the Secretary under section 1866; and (B)(i) from which the Secretary has been unable to recover overpayments made under title XVIII, or (ii) from which the Secretary has been unable to collect the information necessary to enable him to determine the amount (if any) of the overpayments made to such institution under title XVIII; and

42 USC 1395u.

"(2) any person (A) who (i) has previously accepted payment on the basis of an assignment under section 1842(b)(3)(B)(ii), and (ii) during the annual period immediately preceding such quarter submitted no claims for payment under title XVIII, or submitted claims for payment under title XVIII which aggregated less than the amount of overpayments made to him, and (B)(i) from whom the Secretary has been unable to recover overpayments received in violation of the terms of such assignment, or (ii) from whom the Secretary has been unable to collect the information necessary to enable him to determine the amount (if any) of the overpayments made to such person under title XVIII.

"(b) The Secretary may (subject to the remaining provisions of this section) reduce payment to a State under this title for any quarter by an amount equal to the lesser of the Federal matching share of payments to any institution or person specified in subsection (a), or the total overpayments to such institution or person under title XVIII, and may require the State to reduce its payment to such institution or person by such amount.

Notice.

"(c) The Secretary shall not make any adjustment in the payment to a State, nor require any adjustment in the payment to an institution or person, pursuant to subsection (b) until after he has provided adequate notice (which shall be not less than 60 days) to the State agency and the institution or person.

Implementation procedures.

"(d) The Secretary shall by regulation provide procedures for implementation of this section, which procedures shall (1) determine

the amount of the Federal payment to which the institution or person would otherwise be entitled under this section which shall be treated as a setoff against overpayments under title XVIII, and (2) assure the restoration to the institution or person of amounts withheld under this section which are ultimately determined to be in excess of overpayments under title XVIII and to which the institution or person would otherwise be entitled under this title. 42 USC 1395.

"(e) The Secretary shall restore to the trust funds established under sections 1817 and 1841, as appropriate, amounts recovered under this section as setoffs against overpayments under title XVIII. 42 USC 1395i, 1395t.

"(f) Notwithstanding any other provision of this title, an institution or person shall not be entitled to recover from any State any amount in payment for medical care and services under this title which is withheld by the State agency pursuant to an order by the Secretary under subsection (b).".

Subpart II—Other Administrative Provisions

QUALITY ASSURANCE PROGRAMS FOR CLINICAL LABORATORIES

SEC. 911. Section 1123(a) of the Social Security Act is amended by striking out "1977" and inserting in lieu thereof "1981". 42 USC 1320a-2.

REQUIREMENTS CONCERNING REPORTING OF FINANCIAL INTEREST

SEC. 912. (a) Section 1124(a)(3)(A)(ii) of the Social Security Act is amended to read as follows: 42 USC 1320a-3.

"(ii) is the owner of a whole or part interest in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof, which whole or part interest is equal to or exceeds $25,000 or 5 per centum of the total property and assets of the entity; or".

(b) Section 1902(a)(35) of such Act is amended to read as follows: 42 USC 1396a.

"(35) provide that any disclosing entity (as defined in section 1124(a)(2)) receiving payments under such plan complies with the requirements of section 1124;". 42 USC 1320a-3.

EXCLUSION OF HEALTH CARE PROFESSIONALS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

SEC. 913. (a) Part A of title XI of the Social Security Act is amended by inserting after section 1127 the following new section:

"EXCLUSION OF CERTAIN INDIVIDUALS CONVICTED OF MEDICARE- OR MEDICAID-RELATED CRIMES

"SEC. 1128. (a) Whenever the Secretary determines that a physician or other individual has been convicted (on or after October 25, 1977, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to such individual's participation in the delivery of medical care or services under title XVIII, XIX, or XX, the Secretary— 42 USC 1320a-7. 42 USC 1395, 1396, 1397.

"(1) shall bar from participation in the program under title XVIII, for such period as he may deem appropriate, each such individual otherwise eligible to participate in such program;

"(2)(A) shall promptly notify each appropriate State agency administering or supervising the administration of a State plan approved under title XIX or title XX, of the fact and circumstances of such determination, and (except as provided in subpar- Notice.

agraph (B)) require each such agency to bar such individual from participation in such plan for such period as he shall specify, which in the case of an individual specified in paragraph (1) shall be the period established pursuant to paragraph (1);

Waiver.

"(B) may waive the requirement under subparagraph (A) to bar an individual from participation in a State plan under title XIX or title XX, where he receives and approves a request for such a waiver with respect to that individual from the State agency administering or supervising the administration of such plan; and

42 USC 1396, 1397.

Notice.

"(3) shall promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of such individual of the fact and circumstances of such determination, request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and request that such State or local agency or authority keep the Secretary and the Inspector General of the Department of Health and Human Services fully and currently informed with respect to any actions taken in response to such request.

"(b) A determination made by the Secretary under this section shall be effective at such time and upon such reasonable notice to the public and to the person furnishing the services involved as may be specified in regulations. Such determination shall be effective with respect to services furnished to an individual on or after the effective date of such determination (except that in the case of inpatient hospital services, post-hospital extended care services, and home health services furnished under title XVIII, such determination shall be effective in the manner provided in paragraphs (3) and (4) of section 1866(b) with respect to terminations of agreements), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

42 USC 1395.

42 USC 1395cc.

Notice and hearing.

"(c) Any person who is the subject of an adverse determination made by the Secretary under subsection (a) shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).".

42 USC 405.

42 USC 1395y.

(b) Section 1862(e) of such Act is amended to read as follows:

"(e) No payment may be made under this title with respect to any item or service furnished by a physician or other individual during the period when he is barred pursuant to section 1128 from participation in the program under this title.".

Ante, p. 2619.

42 USC 1396a.

(c) Section 1902(a)(39) of such Act is amended to read as follows:

"(39) provide that the State agency shall bar any specified individual from participation in the program under the State plan for the period specified by the Secretary, when required by him to do so pursuant to section 1128, and provide that no payment may be made under the plan with respect to any item or service furnished by such individual during such period;".

Repeal.

42 USC 1396a.

42 USC 1397b.

(d) Section 1902(g) of such Act is repealed.

(e) Section 2003(d)(1) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (I),

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof "; and", and

(3) by inserting after subparagraph (J) the following new subparagraph:

"(K) provides that the State will bar any specified individual from participation in the program for the period specified by the Secretary when required by him to do so pursuant to section 1128, and provides that no payment may be made under the program with respect to any item or service furnished by such individual during such period.". *Ante*, p. 2619.

COORDINATED AUDITS UNDER THE SOCIAL SECURITY ACT

SEC. 914. (a) Title XI of the Social Security Act is amended by inserting after section 1128 (added by section 913(a) of this title the following new section:

"COORDINATED AUDITS

"SEC. 1129. (a) If an entity provides services reimbursable on a cost-related basis under title V or XIX, as well as services reimbursable on such a basis under title XVIII, the Secretary shall require, as a condition for payment to any State under title V or XIX with respect to administrative costs incurred in the performance of audits of the books, accounts, and records of that entity, that these audits be coordinated through common audit procedures with audits performed with respect to the entity for purposes of title XVIII. The Secretary shall specify by regulation such methods as he finds feasible and equitable for the apportionment of the cost of coordinated audits between the program established under title V or XIX and the program established under title XVIII. Where the Secretary finds that a State has declined to participate in such a common audit with respect to title V or XIX, he shall reduce the payments otherwise due such State under such title by an amount which he estimates to be in excess of the amount that would have been apportioned to the State under the title (for the expenses of the Sate incurred in the common audit) if it had participated in the common audit. 42 USC 1320a-8. 42 USC 701, 1396. 42 USC 1395.

"(b)(1) In the case of entities which have audits coordinated under subsection (a), the Secretary shall establish one or more projects to demonstrate the feasibility of creating a single coordinated appeal hearing to adjudicate those administrative cost items which are determined under such a coordinated audit and which such entities dispute and appeal. Demonstration projects.

"(2) In the case of a demonstration project under this subsection, the Secretary may waive such requirements of title V, XVIII, or XIX as would prevent carrying out the project or would require duplicative activity or otherwise create unnecessary administrative burdens in carrying out the project. Waiver.

"(3) The Secretary shall report to Congress not later than December 31, 1982, with respect to demonstration projects conducted under this subsection, including the reaction of the entities involved and estimates of any savings effected through reduction of duplication of appeal hearings, and shall include in such report recommendations for such legislation as the Secretary deems appropriate to insure the maximum feasible coordination of such appeal hearings. Report to Congress.

"(4) The Secretary shall also provide for the review of the feasibility of establishing a single coordinated process for the collection of overpayments established in a coordinated audit under subsection (a). The Secretary shall report to Congress not later than December 31, 1981, on such review and on such recommendations for changes in legislation as the Secretary deems appropriate.". Review, report to Congress.

(b)(1) Section 1902(a) of such Act is amended— 42 USC 1396a.

(A) by striking out "and" at the end of paragraph (40);

(B) by striking out the period at the end of paragraph (41) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (41) the following new paragraph:

"(42) provide (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for such entities also providing services under title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such part, and (C) for payment of such proportion of costs of each such common audit as is determined under methods specified by the Secretary under section 1129(a).".

42 USC 1395.

Ante, p. 2621.

(2)(A) The amendments made by paragraph (1) shall (except as provided under subparagraph (B)) apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter beginning more than 30 days after the date of the enactment of this Act.

42 USC 1396a note.

42 USC 1396.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by paragraph (1), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(c)(1) Section 505(a) of such Act is amended—

42 USC 705.

(A) by striking out "and" at the end of paragraph (14);

(B) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (15) the following new paragraph:

"(16) provides (A) that the records of any entity participating in the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan, (B) that such audits, for entities also providing services under title XVIII, will be coordinated and conducted jointly (to such extent and in such manner as the Secretary shall prescribe) with audits conducted for purposes of such part, and (C) for payment of such proportion of costs of each such common audit as is determined under methods specified by the Secretary under section 1129(a).".

42 USC 1395.

(2) The amendments made by paragraph (1) shall apply to services provided, under a State plan approved under title V of the Social Security Act, on and after the first day of the first calendar quarter beginning more than 30 days after the date of the enactment of this Act.

42 USC 705 note.

42 USC 701.

Report to Congress.

(d) The Secretary shall report to the Congress, not later than December 31, 1981, on actions the Secretary has taken (1) to coordinate the conduct of institutional audits and inspections which are required under the programs funded under title V, XVIII, or XIX of the Social Security Act, and (2) to coordinate such audits and inspections with those conducted by other cost payers, and he shall include in such report recommendations for such legislation as he

42 USC 1320a-8 note.

42 USC 701, 1395, 1396.

deems appropriate to assure the maximum feasible coordination of such institutional audits and inspections.

LIFE SAFETY CODE REQUIREMENTS

SEC. 915. (a) Section 1861(j)(13) of the Social Security Act is amended by striking out "the Life Safety Code of the National Fire Protection Association (23d edition, 1973)" and inserting in lieu thereof "such edition (as is specified by the Secretary in regulations) of the Life Safety Code of the National Fire Protection Association". 42 USC 1395x.

(b) Any institution (or part of an institution) which complied with the requirements of section 1861(j)(13) of the Social Security Act on the day before the date of the enactment of this Act shall, so long as such compliance is maintained (either by meeting the applicable provisions of the Life Safety Code (21st edition, 1967, or 23d edition, 1973), with or without waivers of specific provisions, or by meeting the applicable provisions of a fire and safety code imposed by State law as provided for in such section 1861(j)(13)), be considered (for purposes of titles XVIII or XIX of such Act) to be in compliance with the requirements of such section 1861(j)(13), as it is amended by subsection (a) of this section. 42 USC 1395x note. 42 USC 1395, 1396.

ALTERNATIVE TO DECERTIFICATION OF LONG-TERM CARE FACILITIES OUT OF COMPLIANCE WITH CONDITIONS OF PARTICIPATION; LOOK BEHIND AUTHORITY

SEC. 916. (a) Section 1866 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 1395cc.

"(f)(1) Where the Secretary determines that a skilled nursing facility which has filed an agreement pursuant to subsection (a)(1) or which has been certified for participation in a plan approved under title XIX no longer substantially meets the provisions of section 1861(j), and further determines that the facility's deficiencies— 42 USC 1396. 42 USC 1395x.

"(A) immediately jeopardize the health and safety of its patients, the Secretary shall provide for the termination of the agreement or of the certification of the facility and shall provide, or

"(B) do not immediately jeopardize the health and safety of its patients, the Secretary may, in lieu of terminating the agreement or certification of the facility, provide

that no payment shall be made under this title (and order a State agency established or designated pursuant to section 1902(a)(5) of this Act to administer or supervise the administration of the State plan under title XIX of this Act to deny payment under such title XIX) with respect to any individual admitted to such facility after a date specified by him. 42 USC 1396a.

"(2) The Secretary shall not make such a decision with respect to a facility until such facility has had a reasonable opportunity, following the initial determination that it no longer substantially meets the provisions of section 1861(j), to correct its deficiencies, and, following this period, has been given reasonable notice and opportunity for a hearing. Notice and hearing.

"(3) The Secretary's decision to deny payment may be made effective only after such notice to the public and to the facility as may be prescribed in regulations, and its effectiveness shall terminate (A) when the Secretary finds that the facility is in substantial compliance (or is making good faith efforts to achieve substantial compliance) with the provisions of section 1861(j), or (B) in the case described in Notice.

paragraph (1)(B), with the end of the eleventh month following the month such decision is made effective, whichever occurs first. If a facility to which clause (B) of the previous sentence applies still fails to substantially meet the provisions of section 1861(j) on the date specified in such clause, the Secretary shall terminate such facility's agreement or provide for termination of such facility's certification, notwithstanding the provisions of paragraph (2) of subsection (b), effective with the first day of the first month following the month specified in such clause.".

42 USC 1395x.

42 USC 1396a.

(b)(1)(A) Section 1902 of such Act is amended by adding after subsection (h) (added by section 902(b)(2) of this title) the following new subsection:

"(i)(1) In addition to any other authority under State law, where a State determines that a skilled nursing facility or intermediate care facility which is certified for participation under its plan no longer substantially meets the provisions of section 1861(j) or section 1905(c), respectively, and further determines that the facility's deficiencies—

42 USC 1396d.

"(A) immediately jeopardize the health and safety of its patients, the State shall provide for the termination of the facility's certification for participation under the plan and may provide, or

"(B) do not immediately jeopardize the health and safety of its patients, the State may, in lieu of providing for terminating the facility's certification for participation under the plan, provide that no payment will be made under the State plan with respect to any individual admitted to such facility after a date specified by the State.

Notice and hearing.

"(2) The State shall not make such a decision with respect to a facility until the facility has had a reasonable opportunity, following the initial determination that it no longer substantially meets the provisions of section 1861(j) or section 1905(c) (as the case may be), to correct its deficiencies, and, following this period, has been given reasonable notice and opportunity for a hearing.

"(3) The State's decision to deny payment may be made effective only after such notice to the public and to the facility as may be provided for by the State, and its effectiveness shall terminate (A) when the State finds that the facility is in substantial compliance (or is making good faith efforts to achieve substantial compliance) with the provisions of section 1861(j) or section 1905(c) (as the case may be), or (B) in the case described in paragraph (1)(B), with the end of the eleventh month following the month such decision is made effective, whichever occurs first. If a facility to which clause (B) of the previous sentence applies still fails to substantially meet the provisions of the respective section on the date specified in such clause, the State shall terminate such facility's certification for participation under the plan effective with the first day of the first month following the month specified in such clause.".

(B) Such section is further amended by inserting before the semicolon at the end of subsection (a)(33)(B) the following: ", except that, if the Secretary has cause to question the adequacy of such determinations, the Secretary is authorized to validate State determinations and, on that basis, make independent and binding determinations concerning the extent to which individual institutions and agencies meet the requirements for participation".

42 USC 1396i.

(2) Section 1910 of such Act is amended by adding at the end thereof the following new subsection:

"(c)(1) The Secretary may cancel approval of any skilled nursing or intermediate care facility at any time if he finds on the basis of a

determination made by him as provided in section 1902(a)(33)(B) that a facility fails to meet the requirements contained in section 1902(a)(28) or section 1905(c), or if he finds grounds for termination of his agreement with the facility pursuant to section 1866(b). In that event the Secretary shall notify the State agency and the skilled nursing facility or intermediate care facility that approval of eligibility of the facility to participate in the programs established by this title and title XVIII shall be terminated at a time specified by the Secretary. The approval of eligibility of any such facility to participate in such programs may not be reinstated unless the Secretary finds that the reason for termination has been removed and there is reasonable assurance that it will not recur. 42 USC 1396a. 42 USC 1396d. 42 USC 1395cc. 42 USC 1395.

"(2) Any skilled nursing facility or intermediate care facility which is dissatisfied with a determination by the Secretary that it no longer qualifies as a skilled nursing facility or intermediate care facility for purposes of this title, shall be entitled to a hearing by the Secretary to the same extent as is provided in section 205(b) and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g). Any agreement between such facility and the State agency shall remain in effect until the period for filing a request for a hearing has expired or, if a request has been filed, until a decision has been made by the Secretary; except that the agreement shall not be extended if the Secretary makes a written determination, specifying the reasons therefor, that the continuation of provider status constitutes an immediate and serious threat to the health and safety of patients, and the Secretary certifies that the facility has been notified of its deficiencies and has failed to correct them.". Hearing and judicial review. 42 USC 405.

CRIMINAL STANDARDS FOR CERTAIN MEDICARE- AND MEDICAID-RELATED CRIMES

SEC. 917. Paragraphs (1) and (2) of section 1877(b) of the Social Security Act and of section 1909(b) of such Act are each amended by inserting "knowingly and willfully" after "Whoever". 42 USC 1395nn, 1396h.

REIMBURSEMENT OF CLINICAL LABORATORIES

SEC. 918. (a)(1) Section 1842 of the Social Security Act is amended by inserting at the end the following new subsection: 42 USC 1395u.

"(h) If a physician's bill or request for payment for a physician's services includes a charge to a patient for a laboratory test for which payment may be made under this part, the amount payable with respect to the test shall be determined as follows:

"(1) If the bill or request for payment indicates that the physician who submitted the bill or for whose services the request for payment was made personally performed or supervised the performance of the test or that another physician with whom the physician shares his practice personally performed or supervised the test, the payment shall be the reasonable charge for the test (less the applicable deductible and coinsurance amounts).

"(2) If the bill or request for payment indicates that the test was performed by a laboratory, identifies the laboratory, and indicates the amount the laboratory charged the physician who submitted the bill or for whose services the request for payment was made, payment for the test shall be the lower of—

"(A) the laboratory's reasonable charge to individuals enrolled under this part for the test, or

"(B) the amount the laboratory charged the physician for the test,

plus a nominal fee (where the physician bills for such a service) to cover the physician's costs in collecting and handling the sample on which the test was performed (less the applicable deductible and coinsurance amounts).

"(3) If the bill or request for payment (A) does not indicate who performed the test, or (B) indicates that the test was performed by a laboratory but does not identify the laboratory or include the amount charged by the laboratory, payment shall be the lowest charged at which the carrier estimates the test could have been secured by a physician from a laboratory serving the locality (less the applicable deductible and coinsurance amounts).".

Publication in Federal Register. 42 USC 1395u note.

(2) The amendment made by paragraph (1) shall apply to bills submitted and requests for payment made on or after such date (not later than April 1, 1981) as the Secretary of Health and Human Services prescribes by a notice published in the Federal Register.

Report to Congress. 42 USC 1395u note.

(3) Not later than 24 months after the effective date specified in paragraph (2), the Secretary shall report to the Congress—

(A) the proportion of bills and requests for payment submitted (during the 18-month period beginning on such effective date) under title XVIII of the Social Security Act for laboratory tests which did not identify who performed the tests,

42 USC 1395.

(B) the proportion of bills and requests for payment submitted during such period for laboratory tests with respect to which the amount paid under such title was less than the amount that would otherwise have been payable in the absence of section 1842(h) of such Act,

Ante, p. 2625.

(C) with respect to requests for payment described in subparagraph (B) which were submitted by patients, the average additional cost per laboratory test to patients resulting from reductions in payment that would otherwise have been made for such tests in the absence of such section 1842(h), and

(D) with respect to bills described in subparagraph (B) which were submitted by physicians, the average reduction in payment per laboratory test to physicians resulting from the application of such section 1842(h).

42 USC 1395*l*.

(4) Section 1833(a)(1)(D) of the Social Security Act is amended by striking out "subsection (g)" and inserting in lieu thereof "subsection (h)".

42 USC 1396a.

(b)(1) Section 1902(a) of the Social Security Act (as amended by section 914(b)(1) of this Act) is further amended—

(A) by striking out "and" at the end of paragraph (41);

(B) by striking out the period at the end of paragraph (42) and inserting in lieu thereof "; and"; and

(C) by adding after paragraph (42) the following new paragraph:

"(43) if the State plan makes provision for payment to a physician for laboratory services the performance of which such physician (or any other physician with whom he shares his practice) did not personally perform or supervise, include provision to insure that payment under the State plan for such laboratory services not exceed the payment authorized for such services by section 1842(h).".

42 USC 1396a note.

(2)(A) The amendments made by paragraph (1) shall (except as otherwise provided in subparagraph (B)) apply to medical assistance provided, under a State plan approved under title XIX of the Social

Security Act, on and after the first day of the first calendar quarter that begins more than six months after the date of the enactment of this Act. 42 USC 1396.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by paragraph (1), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

STUDY OF NEED FOR DUAL PARTICIPATION OF SKILLED NURSING FACILITIES

SEC. 919. (a)(1) The Secretary of Health and Human Services shall conduct a study of the availability and need for skilled nursing facility services covered under part A of title XVIII of the Social Security Act and under State plans approved under title XIX of such Act. 42 USC 1395b-1 note. 42 USC 1395c. 42 USC 1396.

(2) Such study shall include— Contents.

(A) an investigation of the desirability and feasibility of imposing a requirement that skilled nursing facilities (i) which furnish services to patients covered under State plans approved under title XIX of the Social Security Act also furnish such services to patients covered under part A of title XVIII of such Act, and (ii) which furnish services to patients covered under such title XVIII also furnish such services to patients covered under such State plans,

(B) an evaluation of the impact of existing laws and regulations on skilled nursing facilities and individuals covered under such State plans and under part A of such title XVIII, and an evaluation of the extent to which existing laws and regulations encourage skilled nursing facilities to accept only title XVIII beneficiaries or title XIX recipients, and

(C) an investigation of possible changes in regulations and legislation which would result in encouraging a greater availability of skilled nursing facility services.

(3) In developing such study, the Secretary shall consult with professional organizations, health experts, private insurers, nursing home providers, and consumers of skilled nursing facility services. Consultation.

(b) Within one year after the date of the enactment of this Act, the Secretary shall complete such study and shall submit to the Congress a full and complete report thereon, together with recommendations with respect to the matters covered by such study (including any recommendations for administrative or legislative changes). Report to Congress.

Subpart III—Provisions Relating to Professional Standards Review Organizations (PSROs)

EXPANDED MEMBERSHIP OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

SEC. 921. Section 1152(b)(1)(A) of the Social Security Act is amended— 42 USC 1320c-1.

(1) by inserting "and, if the organization so elects, of other health care practitioners engaged in the practice of their professions in such area who hold independent hospital admitting privileges," after the comma at the end of clause (ii); and

(2) by inserting "(except as otherwise provided under section 1155(c))" after "does not" in clause (vi).

42 USC 1320c-4.

REGISTERED NURSE AND DENTIST MEMBERSHIP ON STATEWIDE COUNCIL ADVISORY GROUP

42 USC 1320c-11.

SEC. 922. (a) Section 1162(e)(1) of the Social Security Act is amended by inserting "(including at least one registered professional nurse and at least one doctor of dental surgery or of dental medicine)" after "representatives".

Effective date. 42 USC 1320c-11 note.

(b) The amendment made by this section shall become effective 180 days after the date of the enactment of this Act.

NONPHYSICIAN MEMBERSHIP ON NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

42 USC 1320c-12.

SEC. 923. (a) Section 1163(a)(1) of the Social Security Act is amended by inserting "one doctor of dental surgery or of dental medicine, one registered professional nurse, and one other health practitioner (other than a physician as defined in section 1861(r)(1))," after "physicians,".

42 USC 1395x.

(b) Section 1163(a)(2) of such Act is amended by striking out "four members" and inserting in lieu thereof "five members".

(c) Section 1163(a)(3) of such Act is amended by inserting "physician" before "members".

(d) Section 1163(b) of such Act is amended by striking out "Members" and inserting in lieu thereof "Physician members".

42 USC 1320c-22. 42 USC 1320c-4, 1320c-12.

(e) Section 1173 of such Act is amended by striking out "(except sections 1155(c) and 1163)" and inserting in lieu thereof "(except section 1155(c))".

42 USC 1320c-12 note.

(f) The amendments made by this section shall become effective 180 days after the date of the enactment of this Act.

REQUIRED ACTIVITIES OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

42 USC 1320c-3.

SEC. 924. (a)(1) Subsection (b) of section 1154 of the Social Security Act is amended—

(A) by striking out "in addition to review of health care services provided by or in institutions, only such of the duties and functions required under this part of Professional Standards Review Organization as he determines such organization to be capable of performing" in the first sentence and inserting in lieu thereof "in addition to review of health care services (other than ancillary, ambulatory care, and long-term care services) provided by or in hospitals and to review of alcohol detoxification facility services, only such of the duties and functions as he requires the organization to perform under subsection (f)(2) or subsection (f)(4) and which the organization is capable of performing"; and

(B) by striking out "only if the Secretary finds that it is substantially carrying out in a satisfactory manner, the activities and functions required of Professional Standards Review Organizations under this part with respect to the review of health care services provided by or in institutions (including ancillary serv-

ices) and, in addition, review of such other health care services as the Secretary may require" in the second sentence and inserting in lieu thereof "only if the Secretary finds that it is substantially carrying out in a satisfactory manner the activities and functions required of that Professional Standards Review Organization under this part".

(2) Subsection (c) of such section is amended by inserting "of that organization" after "required under this part".

(3) Such section if further amended by adding at the end the following new subsection:

"(f)(1) The Secretary shall establish a program (hereinafter in this subsection referred to as the 'program') for the evaluation of the cost-effectiveness of review of particular health care services by Professional Standards Review Organizations. Review program.

"(2) In order to demonstrate the cost-effectiveness of requiring review of particular health care services before such review is generally required, the program shall be designed in a manner so that the Secretary will require particular Professional Standards Review Organizations, chosen by a statistically valid method that will permit a valid evaluation of the cost-effectiveness of such review, to review particular health care services.

"(3) The program shall provide for the evaluation of cost-effectiveness of the review of particular health care services under the program, particularly in comparison with areas in which such review was not required or performed.

"(4) Based upon such evaluation, or upon an evaluation of comparable statistical validity, and a finding that review of particular health care services is cost-effective or yields other significant benefits, the Secretary shall specify such particular health care services which Professional Standards Review Organizations (either generally or under such conditions and circumstances as the Secretary may specify) have the duty and function of reviewing under this part.

"(5) For purposes of this subsection, the term 'particular health care services' does not include health care services (other than ancillary, ambulatory care, and long-term care services) provided by or in hospitals or alcohol detoxification facility services.". "Particular health care services."

(b) Section 1155(a) of such Act is amended— 42 USC 1320c-4.

(1) by striking out "at the earliest date practicable" in paragraph (1) and inserting in lieu thereof "to the extent and at the time specified by the Secretary under section 1154(f)"; *Ante*, p. 2628.

(2) by inserting ", consistent with section 1154(f)," in paragraph (7)(A) after "only"; and

(3) by inserting "(consistent with section 1154(f))" in paragraph (7)(B) after "to the extent".

(c) Subsection (g) of section 1155 of such Act is repealed. Repeal.

(d) Section 1155 of such Act is amended by adding at the end thereof the following new subsection: 42 USC 1320c-4.

"(h) If the Secretary has designated an organization (other than under section 1154) as a Professional Standards Review Organization, but that organization has not assumed responsibility for the review of particular activities in its area included in subsection (a)(1), the Secretary may designate another qualified Professional Standards Review Organization (in reasonable proximity to the providers and practitioners whose services are to be reviewed) to assume the responsibility for the review of some or all of those particular activities.". 42 USC 1320c-3.

EFFICIENCY IN DELEGATED REVIEW

42 USC 1320c-4. SEC. 925. Section 1155(e) of the Social Security Act is amended by striking out "effectively and in timely fashion" and inserting in lieu thereof "effectively, efficiently, and in timely fashion".

REVIEW OF ROUTINE HOSPITAL ADMISSION SERVICES AND PREOPERATIVE HOSPITAL STAYS BY PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

42 USC 1320c-4. SEC. 926. Section 1155(a)(2) of the Social Security Act is amended to read as follows:

"(2) Each Professional Standards Review Organization shall have the authority to determine, in advance, in the case of—

"(A) any elective admission to a hospital or other health care facility (including admissions occurring on weekends), and

"(B) any routine diagnostic services furnished in connection with such an admission,

whether such service, if provided, or if provided by a particular health care practitioner or by a particular hospital or other health care facility, organization, or agency, would meet the criteria specified in subparagraphs (A) and (C) of paragraph (1). Each such Organization may be directed by the Secretary to excercise such authority where the Secretary finds (consistent with section 1154(f)) that such determinations can be made on a timely basis by the Organization and appropriate procedures will be applied to assure prompt notification of such determinations to providers, physicians, practitioners, and persons on whose behalf payment may be made under this Act for services and items.".

Ante, p. 2628.

CONSULTATION BY PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS WITH HEALTH CARE PRACTITIONERS

42 USC 1320c-4. SEC. 927. (a) Section 1155(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(8) Each Professional Standards Review Organization shall consult (with such frequency and in such manner as may be prescribed by the Secretary) with representatives of health care practitioners (other than physicians described in section 1861(r)(1)) and of institutional and noninstitutional providers of health care services, in relation to the Professional Standards Review Organization's responsibility for the review under paragraph (1) of the professional activities of such practitioners and providers.".

42 USC 1395x.

42 USC 1320c-11. (b) Section 1162(e) of such Act is amended by striking out the first parenthetical material in paragraph (1) and the parenthetical material in paragraph (2).

Effective date. 42 USC 1320c-4 note. (c) The amendments made by this section shall become effective 180 days after the date of the enactment of this Act.

RESPONSE OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS TO FREEDOM OF INFORMATION ACT REQUESTS

42 USC 1320c-15 note. SEC. 928. No Professional Standards Review Organization designated (conditionally or otherwise) under part B of title XI of the Social Security Act shall be required to make available any records pursuant to a request made under section 552 of title 5, United States Code, until the later of (1) one year after the date of entry of a final court order requiring that such records be made available, or (2) the last date of the Congress during which the court order was entered.

42 USC 1320c.

STUDY OF PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS NORMS, STANDARDS, AND CRITERIA

SEC. 929. The Secretary of Health and Human Services shall, in consultation with the National Professional Standards Review Council, conduct a nationwide study of the differences in medical criteria and length-of-stay norms utilized by Professional Standards Review Organizations in the various regions of the country. The study shall include an assessment of the rationale that contributes to these regional differences. The Secretary shall report the findings and conclusions made with respect to the study to the Congress within one year after the date of the enactment of this Act. 42 USC 1320c note. Report to Congress.

PART B—PROVISIONS RELATING TO MEDICARE

Subpart I—Changes in Services or Benefits

HOME HEALTH SERVICES

SEC. 930. (a) Section 1811 of the Social Security Act is amended by striking out "and related post-hospital services" and inserting in lieu thereof ", related post-hospital, and home health services". 42 USC 1395c.

(b) Section 1812(a)(3) of such Act is amended to read as follows: 42 USC 1395d.

"(3) home health services.".

(c) Section 1812(d) of such Act is repealed. Repeal.

(d) Section 1812(e) of such Act is amended—

(1) by striking out "(b), (c), and (d)" and inserting in lieu thereof "(b) and (c)"; and

(2) by striking out "post-hospital extended care services, and post-hospital home health services" and inserting in lieu thereof "and post-hospital extended care services".

(e) Sections 1814(a) and 1835(a) of such Act are amended by adding the following new sentence at the end of each such section: "With respect to the physician certification required by paragraph (2) for home health services furnished to any individual by a home health agency (other than an agency which is a governmental entity) and with respect to the establishment and review of a plan for such services, the Secretary shall prescribe regulations which shall become effective no later than July 1, 1981, and which prohibit a physician who has a significant ownership interest in, or a significant financial or contractural relationship with, such home health agency from performing such certification and from establishing or reviewing such plan.". Regulations. 42 USC 1395f, 1395n.

(f) Section 1814(a)(2)(D) of such Act is amended— 42 USC 1395f.

(1) by striking out "post-hospital home health services" and inserting in lieu thereof "home health services";

(2) by inserting ", occupational," after "or physical"; and

(3) by striking out ", for any of the conditions" and all that follows through "extended care services".

(g) Section 1832(a)(2)(A) of such Act is amended by striking out "for up to 100 visits during a calendar year". 42 USC 1395k.

(h) Section 1833(b) of such Act is amended— 42 USC 1395*l*.

(1) by striking out "and" at the end of clause (1) in the first sentence; and

(2) by inserting before the period at the end of the first sentence the following: ", (3) such deductible shall not apply with respect to home health services".

(i) Section 1834 of such Act is repealed. Repeal. 42 USC 1395m.

42 USC 1395n.

(j) Section 1835(a)(2)(A) of such Act is amended by inserting ", occupational," after "or physical".

42 USC 1395x.

(k) Section 1861(e) of such Act is amended—

(1) by striking out "subsections (i) and (n)" in the material preceding paragraph (1) and inserting in lieu thereof "subsection (i)", and

(2) by striking out "subsections (i) and (n)" in the third sentence and inserting in lieu thereof "subsection (i)".

(l) Section 1861(m)(4) of such Act is amended by inserting the following before the semicolon: "who has successfully completed a training program approved by the Secretary".

Repeal.

(m) Section 1861(n) of such Act is repealed.

(n) Section 1861(o) of such Act is amended—

(1) by striking out "and" at the end of paragraph (5), by inserting "and" at the end of paragraph (6), and by adding the following new paragraph after paragraph (6):

"(7) meets such additional requirements (including conditions relating to bonding or establishing of escrow accounts as the Secretary finds necessary for the financial security of the program) as the Secretary finds necessary for the effective and efficient operation of the program;"; and

(2) by striking out "except that" the first place it appears in the material following paragraph (6) and all that follows through "regulations; and"

42 USC 1395h.

(o) Section 1816(e) of such Act is amended—

(1) by inserting "(subject to the provisions of paragraph (4))" after "the Secretary may" in paragraph (2); and

(2) by adding the following new paragraph at the end thereof:

"(4) Notwithstanding subsections (a) and (d) and paragraphs (1), (2), and (3) of this subsection, the Secretary shall designate regional agencies or organizations which have entered into an agreement with him under this section to perform functions under such agreement with respect to home health agencies (as defined in section 1861(o)) in the region, except that in assigning such agencies to such designated regional agencies or organizations the Secretary shall assign a home health agency which is a subdivision of a hospital (and such agency and hospital are affiliated or under common control) only if, after applying such criteria relating to administrative efficiency and effectiveness as he shall promulgate, he determines that such assignment would result in the more effective and efficient administration of this title.".

42 USC 1395x.

(p) Section 1861(v)(1) of such Act is amended by adding after subparagraph (G) (as added by section 902(a)(1) of this title) the following new subparagraph:

Reasonable costs, determination.

"(H) In determining such reasonable cost with respect to home health agencies, the Secretary may not include—

"(i) any costs incurred in connection with bonding or establishing an escrow account by any such agency as a result of the financial security requirement described in subsection (o)(7);

"(ii) in the case of home health agencies to which the financial security requirement described in subsection (o)(7) applies, any costs attributed to interest charged such an agency in connection with amounts borrowed by the agency to repay overpayments made under this title to the agency, except that such costs may be included in reasonable cost if the Secretary determines that the agency was acting in good faith in borrowing the amounts;

"(iii) in the case of contracts entered into by a home health agency after the date of the enactment of this subparagraph for

the purpose of having services furnished for or on behalf of such agency, any cost incurred by such agency pursuant to any such contract (I) which is entered into for a period exceeding five years, or (II) which determines the amount payable by the home health agency on the basis of a percentage of the agency's reimbursement or claim for reimbursement for services furnished by the agency; and

"(iv) in the case of contracts entered into by a home health agency before the date of the enactment of this subparagraph for the purpose of having services furnished for or on behalf of such agency, any cost incurred by such agency pursuant to any such contract, which determines the amount payable by the home health agency on the basis of a percentage of the agency's reimbursement or claim for reimbursement for services furnished by the agency, to the extent that such cost exceeds the reasonable value of the services furnished on behalf of such agency.".

(q) Section 226(c)(1) of such Act is amended— 42 USC 426.

(1) by striking out "and post-hospital home health services" and inserting in lieu thereof "and home health services"; and

(2) by striking out "or post-hospital home health services" in clause (B).

(r) Section 7(d)(1) of the Railroad Retirement Act of 1974 is amended by striking out "posthospital home health services" and inserting in lieu thereof "home health services". 45 USC 231f.

(s)(1) the amendments made by this section shall become effective with respect to services furnished on or after July 1, 1981, except that the amendments made by subsections (n)(1) and (o) shall become effective on the date of the enactment of this Act. 42 USC 1395x note.

(2) The Secretary of Health and Human Services shall take administrative action to assure that improvements, in accordance with the amendment made by subsection (n)(1), will be made not later than June 30, 1981.

ALCOHOL DETOXIFICATION FACILITY SERVICES

SEC. 931. (a) Section 1812(a) of the Social Security Act is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and by adding after paragraph (3) the following new paragraph: 42 USC 1395d.

"(4) alcohol detoxification facility services.".

(b) Section 1814(a)(2) of such Act is amended by striking out "or" at the end of subparagraph (D), by inserting "or" at the end of subparagraph (E), and by adding after subparagraph (E) the following new subparagraph: 42 USC 1395f.

"(F) in the case of alcohol detoxification facility services, such services are required on an inpatient basis (based upon an examination by such certifying physician made prior to initiation of alcohol detoxification);".

(c) Section 1861(u) of such Act is amended by inserting "detoxification facility," after "home health agency,". 42 USC 1395x.

(d) Section 1861 of such Act is further amended by adding after subsection (aa) the following new subsection:

"Alcohol Detoxification Facility Services

"(bb)(1) The term 'alcohol detoxification facility services' means services provided by a detoxification facility in order to reduce or

eliminate the amount of alcohol in the body, but only to the extent that such services would be covered under subsection (b) if furnished as inpatient services by a hospital, or are physicians' services covered under subsection (s).

"(2) The term 'detoxification facility' means a public or voluntary community-based nonprofit facility, other than a hospital, which—

"(A) is engaged in furnishing to inpatients the services described in paragraph (1);

"(B) is accredited by the Joint Commission on the Accreditation of Hospitals as meeting the Accreditation Program for Psychiatric Facilities standards (1979 edition), or is found by the Secretary to meet such standards;

"(C) has arrangements with one or more hospitals, having agreements in effect under section 1866, for the referral and admission of patients requiring services not available at the facility; and

42 USC 1395cc.

"(D) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by the facility.".

Effective date.
42 USC 1395d note.

(e) The amendments made by subsections (a) through (d) of this section shall become effective on April 1, 1981.

Study.
42 USC 1395*ll* note.

(f) The Secretary of Health and Human Services shall conduct a study and make recommendations, within 18 months after the date of the enactment of this Act, concerning the appropriateness of extending medicare coverage to drug detoxification, postdetoxification rehabilitation, and to outpatient detoxification and concerning incentives for the use of lower-cost detoxification facilities.

42 USC 1320c-4.

(g) Section 1155 of the Social Security Act is amended by adding after subsection (h) (added by section 924(d) of this title) the following new subsection:

"(i) Any Professional Standards Review Organization which has assumed responsibility under this section for review of inpatient hospital services in an area shall also assume responsibility in such area for review of detoxification facility services.".

42 USC 1320c-7.

(h) Section 1158 of such Act is amended—

(1) by striking out "section 1159 and subsection (d)" in subsection (a) and inserting in lieu thereof "subsections (d) and (e) of this section and in sections 1159, 1861(v)(1)(G), and 1902(h)", and

(2) by adding after subsection (d) the following new subsection:

"(e) Subsection (a) of this section shall not apply to a determination by a Professional Standards Review Organization under section 1155(a)(1)(C) that detoxification services provided or proposed to be provided in a hospital on an inpatient basis could be more economically provided in a detoxification facility.".

42 USC 1320c-4.

PREADMISSION DIAGNOSTIC TESTING

42 USC 1395*l*.

SEC. 932. (a)(1) Section 1833(a)(1) of the Social Security Act is amended—

(A) by striking out "and (E)" and inserting in lieu thereof "(E)", and

(B) by inserting the following after "section 1881," at the end of clause (E): "(F) with respect to expenses incurred for physicians' services (furnished by a physician who has an agreement in effect with the Secretary by which the physician agrees to accept an assignment described in section 1842(b)(3)(B)(ii) with respect to payment for all physicians' services which are preadmission diagnostic services furnished by the physician to individuals

42 USC 1395u.

enrolled under this part) which are preadmission diagnostic services for which payment may be made under this part and which are furnished (i) in the outpatient department of a hospital within seven days of such individual's admission to the same hospital as an inpatient or, to the extent practicable as determined by regulations prescribed by the Secretary, to another hospital, or (ii) to the extent practicable as determined by regulations prescribed by the Secretary, in a physician's office within seven days of such individual's admission to a hospital as an inpatient, the amounts paid shall be equal to the reasonable charges for such services,".

(2) For amendment to section 1833(a) of the Social Security Act, with respect to the amount of payment for hospital outpatient preadmission diagnostic services, see section 942 of this title.

(b) The Secretary of Health and Human Services shall transmit to the Congress, no later than one year after the date of the enactment of this Act, a report describing the policy which has been developed and is being or will be implemented with respect to the amendments made by subsection (a)(1) of this section and by section 942 of this title as they concern expenses incurred for preadmission diagnostic testing furnished to an individual at a hospital within seven days of an individual's admission to another hospital.

Report to Congress.
42 USC 1395*l* note.

COMPREHENSIVE OUTPATIENT REHABILITATION FACILITY SERVICES

SEC. 933. (a) Section 1832(a)(2) of the Social Security Act is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon, and by adding the following new subparagraph at the end thereof:

42 USC 1395k.

"(E) comprehensive outpatient rehabilitation facility services; and".

(b) Section 1835(a)(2) of such Act is amended by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon, and by inserting the following new subparagraph after subparagraph (D):

42 USC 1395n.

"(E) in the case of comprehensive outpatient rehabilitation facility services, (i) such services are or were required because the individual needed skilled rehabilitation services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician; and".

(c) Section 1861(u) of such Act is amended by inserting "comprehensive outpatient rehabilitation facility," immediately after "skilled nursing facility,".

42 USC 1395x.

(d) Section 1861(z) of such Act is amended by striking out "extended care facility," and inserting in lieu thereof "skilled nursing facility, comprehensive outpatient rehabilitation facility,".

(e) Section 1861 of such Act is amended by adding after subsection (bb) (added by section 931(d) of this title) the following new subsection:

"Comprehensive Outpatient Rehabilitation Facility Services

"(cc)(1) The term 'comprehensive outpatient rehabilitation facility services' means the following items and services furnished by a physician or other qualified professional personnel (as defined in regulations by the Secretary) to an individual who is an outpatient of

a comprehensive outpatient rehabilitation facility under a plan (for furnishing such items and services to such individual) established and periodically reviewed by a physician—

"(A) physicians' services;

"(B) physical therapy, occupational therapy, speech pathology services, and respiratory therapy;

"(C) prosthetic and orthotic devices, including testing, fitting, or training in the use of prosthetic and orthotic devices;

"(D) social and psychological services;

"(E) nursing care provided by or under the supervision of a registered professional nurse;

"(F) drugs and biologicals which cannot, as determined in accordance with regulations, be self administered;

"(G) supplies, appliances, and equipment, including the purchase or rental of equipment; and

"(H) such other items and services as are medically necessary for the rehabilitation of the patient and are ordinarily furnished by comprehensive outpatient rehabilitation facilities,

excluding, however, any item or service if it would not be included under subsection (b) if furnished to an outpatient of a hospital.

"(2) The term 'comprehensive outpatient rehabilitation facility' means a facility which—

"(A) is primarily engaged in providing (by or under the supervision of physicians) diagnostic, therapeutic, and restorative services to outpatients for the rehabilitation of injured, disabled, or sick persons;

"(B) provides at least the following comprehensive outpatient rehabilitation services: (i) physicians' services (rendered by physicians, as defined in section 1861(r)(1), who are available at the facility on a full- or part-time basis); (ii) physical therapy; and (iii) social or psychological services;

42 USC 1395x.

"(C) maintains clinical records on all patients;

"(D) has policies established by a group of professional personnel (associated with the facility), including one or more physicians defined in subsection (r)(1) to govern the comprehensive outpatient rehabilitation services it furnishes, and provides for the carrying out of such policies by a full- or part-time physician referred to in subparagraph (B)(i);

"(E) has a requirement that every patient must be under the care of a physician;

"(F) in the case of a facility in any State in which State or applicable local law provides for the licensing of facilities of this nature (i) is licensed pursuant to such law, or (ii) is approved by the agency of such State or locality, responsible for licensing facilities of this nature, as meeting the standard establishment for such licensing;

"(G) has in effect a utilization review plan in accordance with regulations prescribed by the Secretary;

"(H) has in effect an overall plan and budget that meets the requirements of subsection (z); and

"(I) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such facility, including conditions concerning qualifications of personnel in these facilities.".

42 USC 1395z.

(f) Section 1863 of such Act is amended by striking out "and (o)(6)" in the first sentence and inserting in lieu thereof "(o)(6), and (cc)(2)(I)".

(g) Section 1864(a) of such Act is amended— 42 USC 1395aa.

(1) by inserting "or a comprehensive outpatient rehabilitation facility as defined in section 1861(cc)(2)" after "section 1861(aa)(2)" in the first sentence; and *Ante*, p. 2635.

(2) by inserting "comprehensive outpatient rehabilitation facility," after "rural health clinic," each place it appears in the second and fifth sentences.

(h) The amendments made by this section shall become effective with respect to a comprehensive outpatient rehabilitation facility's first accounting period which begins on or after July 1, 1981. 42 USC 1395k note.

OUTPATIENT SURGERY

SEC. 934. (a) Section 1832(a)(2) of the Social Security Act is amended by adding after subparagraph (E) (added by section 933(a) of this title) the following new subparagraph: 42 USC 1395k.

"(F) facility services furnished in connnection with surgical procedures specified by the Secretary—

"(i) pursuant to section 1833(i)(1)(A) and performed in an ambulatory surgical center (which meets health, safety, and other standards specified by the Secretary in regulations) if the center has an agreement in effect with the Secretary by which the center agrees to accept the amount determined under section 1833(i)(2)(A) as full payment for such services and to accept an assignment described in section 1842(b)(3)(B)(ii) with respect to payment for all such services furnished by the center to individuals enrolled under this part, or *Infra.* 42 USC 1395u.

"(ii) pursuant to section 1833(i)(1)(B) and performed by a physician, described in section 1861(r)(1), in his office, if the Secretary has determined that— 42 USC 1395x.

"(I) a Professional Standards Review Organization (designated, conditionally or otherwise, under part B of title XI of this Act) is willing, able, and has agreed to carry out a review (on a sample or other reasonable basis) of the physician's performing such procedures in the physician's office, 42 USC 1320c.

"(II) the particular physician involved has agreed to make available to such Organization such records as the Secretary determines to be necessary to carry out the review, and

"(III) the physician is authorized to perform the procedure in a hospital located in the area in which the office is located,

and if the physician agrees to accept the amount determined under section 1833(i)(2)(B) as full payment for such services and to accept an assignment described in section 1842(b)(3)(B)(ii) with respect to payment for all services (including all pre- and post-operative services) described in paragraphs (1) and (2)(A) of section 1861(s) and furnished in connection with such surgical procedure to individuals enrolled under this part.". *Infra.* 42 USC 1395u. 42 USC 1395x.

(b) Section 1833 of such Act is amended by adding at the end the following new subsection: 42 USC 1395*l*.

"(i)(1) The Secretary shall, in consultation with the National Professional Standards Review Council and appropriate medical organizations—

"(A) specify those surgical procedures which are appropriately (when considered in terms of the proper utilization of hospital inpatient facilities) performed on an inpatient basis in a hospital but which also can be performed safely on an ambulatory basis in an ambulatory surgical center (meeting the standards specified under section 1832(a)(2)(F)(i)) or hospital outpatient department, and

Ante, p. 2637.

"(B) specify those surgical procedures which are appropriately (when considered in terms of the proper utilization of hospital inpatient facilities) performed on an inpatient basis in a hospital but which also can be performed safely on an ambulatory basis in a physician's office.

"(2)(A) The amount of payment to be made for facility services furnished in connection with a surgical procedure specified pursuant to paragraph (1)(A) and furnished to an individual in an ambulatory surgical center described in such paragraph shall be equal to a standard overhead amount established by the Secretary (with respect to each such procedure) on the basis of the Secretary's estimate of a fair fee which—

"(i) takes into account the costs incurred by such centers, or classes of centers, generally in providing services furnished in connection with the performance of such procedure, and

"(ii) takes such costs into account in such a manner as will assure that the performance of the procedure in such a center will result in substantially less amounts paid under this title than would have been paid if the procedure had been performed on an inpatient basis in a hospital.

Each amount so established shall be reviewed periodically and may be adjusted by the Secretary, when appropriate, to take account of varying conditions in different areas.

"(B) The amount of payment to be made under this part for facility services furnished, in connection with a surgical procedure specified pursuant to paragraph (1)(B), in a physician's office shall be equal to a standard overhead amount established by the Secretary (with respect to each such procedure) on the basis of the Secretary's estimate of a fair fee which—

"(i) takes into account additional costs, not usually included in the professional fee, incurred by physicians in securing, maintaining, and staffing the facilities and ancillary services appropriate for the performance of such procedure in the physician's office, and

"(ii) takes such items into account in such a manner which will assure that the performance of such procedure in the physician's office will result in substantially less amounts paid under this title than would have been paid if the services had been furnished on an inpatient basis in a hospital.

Each amount so established shall be reviewed periodically and may be adjusted by the Secretary, when appropriate, to take account of varying conditions in different areas.

"(3) In the case of services (including all pre- and post-operative services) described in paragraphs (1) and (2)(A) of section 1861(s) and furnished in connection with surgical procedures (specified pursuant to paragraph (1) of this subsection) in a physician's office, an ambulatory surgical center described in such paragraph, or a hospital outpatient department, payment for such services shall be determined in accordance with subsection (a)(1)(G) if the physician accepts an assignment described in section 1842(b)(3)(B)(ii) with respect to payment for such services.

42 USC 1395x.

42 USC 1395u.

"(4)(A) The Secretary is authorized to provide by regulations that in the case of a surgical procedure, specified by the Secretary pursuant to paragraph (1)(A), performed in an ambulatory surgical center described in such paragraph, there shall be paid (in lieu of any amounts otherwise payable under this part) with respect to the facility services furnished by such center and with respect to all related services (including physicians' services, laboratory, X-ray, and diagnostic services) a single all-inclusive fee established pursuant to subparagraph (B), if all parties furnishing all such services agree to accept such fee (to be divided among the parties involved in such manner as they shall have previously agreed upon) as full payment for the services furnished.

"(B) In implementing this paragraph, the Secretary shall establish with respect to each surgical procedure specified pursuant to paragraph (1)(A) the amount of the all-inclusive fee for such procedure, taking into account such factors as may be appropriate. The amount so established with respect to any surgical procedure shall be reviewed periodically and may be adjusted by the Secretary, when appropriate, to take account of varying conditions in different areas.".

(c)(1) Section 1863 of the Social Security Act is amended by inserting "or by ambulatory surgical centers under section 1832(a)(2)(F)(i)," after "section 1861,". 42 USC 1395z.

(2) Section 1864(a) of such Act is amended— *Ante*, p. 2637, 42 USC 1395x.

(A) by inserting before the period at the end of the first sentence the following: ", or whether an ambulatory surgical center meets the standards specified under section 1832(a)(2)(F)(i)"; and 42 USC 1395aa. *Ante*, p. 2637.

(B) by inserting "ambulatory surgical center," in the fifth sentence after "health care facility," each place it appears.

(d)(1) Section 1833(a)(1) of such Act, as amended by section 932(a)(1) of this title, is further amended by inserting after the comma at the end of clause (F) the following new clause: "and (G) with respect to expenses incurred for services described in subsection (i)(3) under the conditions specified in such subsection, the amounts paid shall be the reasonable charge for such services,". 42 USC 1395*l*.

(2) For an additional amendment to section 1833(a) of the Social Security Act with respect to the amount of payment for outpatient surgical procedures, see section 942 of this title.

(3) The first sentence of section 1833(b) of such Act, as amended by section 930(h) of this title, is further amended by adding before the period at the end the following: ", and (4) such total amount shall not include expenses incurred for services the amount of payment for which is determined under subsection (a)(1)(G) or under subsection (i)(2) or (i)(4)".

OUTPATIENT PHYSICAL THERAPY SERVICES

SEC. 935. (a) Section 1833(g) of the Social Security Act is amended by striking out "$100" and inserting in lieu thereof "$500". 42 USC 1395*l*.

(b) The amendment made by subsection (a) shall apply to expenses incurred in calendar years beginning with calendar year 1982. 42 USC 1395*l* note.

DENTISTS' SERVICES

SEC. 936. (a) Clause (2) of the first sentence of section 1861(r) of the Social Security Act is amended to read as follows: "(2) a doctor of dental surgery or of dental medicine who is legally authorized to 42 USC 1395x.

practice dentistry by the State in which he performs such function and who is acting within the scope of his license when he performs such functions,".

42 USC 1395f. (b) Section 1814(a)(2)(E) of such Act is amended to read as follows:

"(E) in the case of inpatient hospital services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, the individual, because of his underlying medical condition and clinical status or because of the severity of the dental procedure, requires hospitalization in connection with the provision of such services; or".

42 USC 1395y. (c) Section 1862(a)(12) of such Act is amended by inserting "or because of the severity of the dental procedure," after "clinical status".

42 USC 1395f note. (d) The amendments made by this section shall apply with respect to services provided on or after July 1, 1981.

OPTOMETRISTS' SERVICES

42 USC 1395x. SEC. 937. (a) Clause (4) of the first sentence of section 1861(r) of the Social Security Act is amended by striking out "but only with respect to establishing the necessity for prosthetic lenses," and inserting in lieu thereof "but only with respect to services related to the condition of aphakia,".

Recommendations, submittal to Congress. 42 USC 1395ll note. (b) The Secretary of Health and Human Services shall submit to the Congress by January 1, 1982, legislative recommendations with respect to reimbursement under title XVIII of the Social Security Act for services furnished by optometrists in connection with cataracts and such other services which they are legally authorized to perform.

42 USC 1395. 42 USC 1395x note. (c) The amendment made by subsection (a) shall apply to services furnished on on after July 1, 1981.

ANTIGENS

42 USC 1395x. SEC. 938 (a). Section 1861(s)(2) of the Social Security Act is amended by striking out "and" at the end of subparagraph (E), by adding "and" after the semicolon at the end of subparagraph (F), and by inserting the following new subparagraph after subparagraph (F):

"(G) antigens (subject to quantity limitations prescribed in regulations by the Secretary) prepared by a physician, as defined in section 1861(r)(1), for a particular patient, including antigens so prepared which are forwarded to another qualified person (including a rural health clinic) for administration to such patient, from time to time, by or under the supervision of another such physician;".

42 USC 1395x note. (b) The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1981.

TREATMENT OF PLANTAR WARTS

42 USC 1395y. SEC. 939. (a) Section 1862(a)(13)(C) of the Social Security Act is amended by striking out ", warts,".

42 USC 1395y note. (b) The amendment made by subsection (a) shall apply with respect to services furnished on or after July 1, 1981.

Subpart II—Administrative Changes and Miscellaneous Provisions

PRESUMED COVERAGE PROVISIONS

SEC. 941. (a) Section 1814 of the Social Security Act is amended by striking out subsections (h) and (i) and by redesignating subsection (j) as subsection (h). 42 USC 1395f.

(b) Section 1814(c) of such Act is amended by striking out "subsection (j)" and inserting in lieu thereof "subsection (h)". 42 USC 1395f note.

(c) The amendments made by this section shall take effect on January 1, 1981.

PAYMENT TO PROVIDERS OF SERVICES

SEC. 942. Section 1833(a) of such Act is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following: 42 USC 1395l.

"(2) in the case of services described in section 1832(a)(2) (except those services described in subparagraphs (D), (E), and (F) of such section and in paragraph (5) of this subsection and unless otherwise specified in section 1881)— 42 USC 1395k. 42 USC 1395rr.

"(A) with respect to home health services, the reasonable cost of such services, as determined under section 1861(v); 42 USC 1395x.

"(B) with respect to other services (except those described in subparagraph (C) of this paragraph), the reasonable costs of such services, as so determined, less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), but in no case may the payment for such other services exceed 80 percent of such costs; and 42 USC 1395cc.

"(C) with respect to services described in the second sentence of section 1861(p), 80 percent of the reasonable charges for such services; 42 USC 1395x.

"(3) in the case of services described in subparagraphs (D) and (E) of section 1832(a)(2), the costs which are reasonable and related to the cost of furnishing such services or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations, including those authorized under section 1861(v)(1)(A), less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), but in no case may the payment for such services exceed 80 percent of such costs; 42 USC 1395k. 42 USC 1395x. 42 USC 1395cc.

"(4) in the case of facility services described in subparagraph (F) of section 1832(a)(2), the applicable amount described in paragraph (2) of section 1833(i); and 42 USC 1395k. *Ante*, p. 2637.

"(5) in the case of preadmission diagnostic services described in section 1861(s)(2)(C) which are furnished to an individual by the outpatient department of a hospital within 7 days of such individual's admission to the same hospital as an inpatient or (to the extent practicable as determined by regulations prescribed by the Secretary) to another hospital, the reasonable costs for such services.". 42 USC 1395x.

LIMITATION ON PAYMENTS TO RADIOLOGISTS AND PATHOLOGISTS

SEC. 943. (a) Subsections (a)(1)(B) and (b)(2) of section 1833 of the Social Security Act are each amended by inserting after "pathology" the following: "who has in effect an agreement with the Secretary by which the physician agrees to accept an assignment (as provided for in section 1842(b)(3)(B)(ii)) for all physicians' services furnished by him to hospital inpatients enrolled under this part". 42 USC 1395l. 42 USC 1395u.

42 USC 1395l note.

(b) The amendments made by subsection (a) shall apply to services furnished after the sixth calendar month beginning after the date of the enactment of this Act.

PHYSICIAN TREATMENT PLAN FOR SPEECH PATHOLOGY

42 USC 1395n.

SEC. 944. (a) Section 1835(a)(2)(D)(ii) of the Social Security Act is amended by inserting after "established" the following: "by a physician or by the speech pathologist providing such services".

42 USC 1395n note.

(b) The amendment made by subsection (a) shall apply to plans for furnishing services established on or after January 1, 1981.

REENROLLMENT AND OPEN ENROLLMENT IN PART B

Repeal. 42 USC 1395p.

SEC. 945. (a) Subsection (b) of section 1837 of the Social Security Act is repealed.

(b)(1) Subsection (e) of such section is amended to read as follows:

"(e) There shall be a general enrollment period which is any period after the period described in subsection (d).".

(2) Subsection (g)(3) of such section is amended by striking out "the earlier of the then current" and all that follows through "subsection (e) of this section)" and inserting in lieu thereof "the month in which the individual files an application establishing such entitlement".

42 USC 1395q.

(c)(1) Section 1838(a)(2)(E) of such Act is amended by striking out "the July 1" and inserting in lieu thereof "the first day of the third month".

42 USC 1395r.

(2) The second sentence of subsection (d) of section 1839 of such Act is amended by striking out "who enrolls for the second time) (2)" and all that follows through "in which he enrolled for the second time" and inserting in lieu therof "who reenrolls) (2) the months which elapsed between the date of termination of a previous coverage period and the month after the month in which he reenrolled".

42 USC 1395p note.

(d) The amendments made by subsections (a), (b), and (c) shall apply to enrollments occurring on or after April 1, 1981.

42 USC 1395v.

(e) Section 1843 of the Social Security Act is amended by inserting "or during 1981," in subsections (a), (g)(1), and (h)(1) after "January 1, 1970," each place it appears.

DETERMINATION OF REASONABLE CHARGE

42 USC 1395u.

SEC. 946. (a) The third sentence of section 1842(b)(3) of the Social Security Act is amended by striking out "in which the bill is submitted or the request for payment is made" and inserting in lieu thereof "in which the service is rendered".

(b) Such section is further amended by striking out "and" at the end of subparagraph (D), by inserting "and" after the semicolon at the end of subparagraph (E), and by inserting after subparagraph (E) the following new subparagraph:

"(F) will take such action as may be necessary to assure that where payment under this part for a service rendered is on a charge basis, such payment shall be determined on the basis of the charge that is determined in accordance with this section on the basis of customary and prevailing charge levels in effect at the time the service was rendered or, in the case of services rendered more than 12 months before the year (ending on June 30) in which the bill is submitted or request for payment is made, on the basis of such levels in effect for the 12-month period preceding such year;".

(c) The amendments made by subsections (a) and (b) shall become effective with respect to bills submitted or requests for payment made on or after July 1, 1981. 42 USC 1395u note.

SHORTENED PART B TERMINATION PERIOD FOR CERTAIN INDIVIDUALS WHOSE PREMIUMS MEDICAID HAS CEASED TO PAY

SEC. 947. (a) Section 1843(e) of the Social Security Act is amended by adding at the end thereof the following: "The coverage period under this part of any such individual who (in the last month of his coverage period attributable to the State agreement or in any of the following six months) files notice that he no longer wishes to participate in the insurance program established by this part, shall terminate at the close of the month in which the notice is filed.". 42 USC 1395v.

(b) The second sentence of section 1838(b) of such Act is amended by inserting "(except as otherwise provided in section 1843(e))" after "shall". 42 USC 1395q.

(c) Section 1843(g)(2) of such Act is amended— 42 USC 1395v.

(1) by adding "and" at the end of clause (A);

(2) by striking out ", and" at the end of clause (B) and inserting in lieu thereof a period; and

(3) by striking out clause (C).

(d) The amendments made by this section apply to notices filed after the third calendar month beginning after the date of the enactment of this Act. 42 USC 1395v note.

(e) The coverage period under part B of title XVIII of the Social Security Act of an individual whose coverage period attributable to a State agreement under section 1843 of such Act is terminated and who has filed notice before the end of the third calendar month beginning after the date of the enactment of this Act that he no longer wishes to participate in the insurance program established by part B of title XVIII shall terminate on the earlier of (1) the day specified in section 1838 without the amendments made by this section, or (2) (unless the individual files notice before the day specified in this clause that he wishes his coverage period to terminate as provided in clause (1)) the day on which his coverage period would terminate if the individual filed notice in the fourth calendar month beginning after the date of the enactment of this Act. 42 USC 1395v note. 42 USC 1395j. 42 USC 1395v. 42 USC 1395j. 42 USC 1395q.

REIMBURSEMENT OF PHYSICIANS' SERVICES IN TEACHING HOSPITALS

SEC. 948. (a)(1) Paragraph (7) of section 1861(b) of the Social Security Act is amended to read as follows: 42 USC 1395x.

"(7) a physician where the hospital has a teaching program approved as specified in paragraph (6), if (A) the hospital elects to receive any payment due under this title for reasonable costs of such services, and (B) all physicians in such hospital agree not to bill charges for professional services rendered in such hospital to individuals covered under the insurance program established by this title.".

(2) Section 1832(a)(2)(B)(i)(II) of such Act is amended by striking out ", unless either clause (A) or (B) of paragraph (7) of such section is met" and inserting in lieu thereof "where the conditions specified in paragraph (7) of such section are met". 42 USC 1395k.

(b) Section 1842(b) of the Social Security Act is amended by adding at the end the following new paragraph: 42 USC 1395u.

"(6)(A) In the case of physicians' services furnished to a patient in a hospital with a teaching program approved as specified in section

42 USC 1395x. *Ante*, p. 2643.

1861(b)(6) but which does not meet the conditions described in section 1861(b)(7), the carrier shall not provide (except on the basis described in subparagraph (C)) for payment for such services under this part—

"(i) unless—

"(I) the physician renders sufficient personal and identifiable physicians' services to the patient to exercise full, personal control over the management of the portion of the case for which the payment is sought,

"(II) the services are of the same character as the services the physician furnishes to patients not entitled to benefits under this title, and

"(III) at least 25 percent of the hospital's patients (during a representative past period, as determined by the Secretary) who were not entitled to benefits under this title and who were furnished services described in subclauses (I) and (II) paid all or a substantial part of charges (other than nominal charges) imposed for such services; and

"(ii) to the extent that the amount of the payment exceeds the reasonable charge for the services (with the customary charge determined consistent with subparagraph (B)).

"(B) The customary charge for such services in a hospital shall be determined in accordance with regulations issued by the Secretary and taking into account the following factors:

"(i) In the case of a physician who has a substantial practice outside the teaching setting, the carrier shall take into account the amounts the physician charges for similar services in the physician's outside practice.

"(ii) In the case of a physician who does not have a practice described in clause (i), if the hospital, its physicians, or other appropriate billing entity has established one or more schedules of charges which are collected for medical and surgical services, the carrier shall base payment under this title on the greater of—

"(I) the charges (other than nominal charges) which are most frequently collected in full or substantial part with respect to patients who were not entitled to benefits under this title and who were furnished services described in subclauses (I) and (II) of subparagraph (A)(i), or

"(II) the mean of the charges (other than nominal charges) which were collected in full or substantial part with respect to such patients.

"(C) In the case of physicians' services furnished to a patient in a hospital with a teaching program approved as specified in section 1861(b)(6) but which does not meet the conditions described in section 1861(b)(7), if the conditions described in subclauses (I) and (II) of subparagraph (A)(i) are met and if the physician elects payment to be determined under this subparagraph, the carrier shall provide for payment for such services under this part on the basis of regulations of the Secretary governing reimbursement for the services of hospital-based physicians (and not on any other basis).".

42 USC 1395x note.

(c)(1) The amendments made by subsection (a) shall apply with respect to cost accounting periods beginning on or after October 1, 1978. A hospital's election under section 1861(b)(7)(A) of the Social Security Act (as administered in accordance with section 15 of Public Law 93-233) as of September 30, 1978, shall constitute such hospital's election under such section (as amended by subsection (a)(1)) on and after October 1, 1978, until otherwise provided by the hospital.

Ante, p. 2643. 42 USC 1395k, 1395x and note.

(2) The amendment made by subsection (b) shall apply with respect to cost accounting periods beginning on or after January 1, 1981. 42 USC 1395u note.

FLEXIBILITY IN APPLICATION OF STANDARDS TO RURAL HOSPITALS

SEC. 949. Section 1861(e) of the Social Security Act is amended by adding the following new sentence at the end thereof: "The term 'hospital' also includes a facility of fifty beds or less which is located in an area determined by the Secretary to meet the definition relating to a rural area described in subparagraph (A) of paragraph (5) of this subsection and which meets the other requirements of this subsection, except that— 42 USC 1395x.

"(A) with respect to the requirements for nursing services applicable after December 31, 1978, such requirements shall provide for temporary waiver of the requirements, for such period as the Secretary deems appropriate, where (i) the facility's failure to fully comply with the requirements is attributable to a temporary shortage of qualified nursing personnel in the area in which the facility is located, (ii) a registered professional nurse is present on the premises to render or supervise the nursing service provided during at least the regular daytime shift, and (iii) the Secretary determines that the employment of such nursing personnel as are available to the facility during such temporary period will not adversely affect the health and safety of patients;

"(B) with respect to the health and safety requirements promulgated under paragraph (9), such requirements shall be applied by the Secretary to a facility herein defined in such manner as to assure that personnel requirements take into account the availability of technical personnel and the educational opportunities for technical personnel in the area in which such facility is located, and the scope of services rendered by such facility; and the Secretary, by regulations, shall provide for the continued participation of such a facility where such personnel requirements are not fully met, for such period as the Secretary determines that (i) the facility is making good faith efforts to fully comply with the personnel requirements, (ii) the employment by the facility of such personnel as are available to the facility will not adversely affect the health and safety of patients, and (iii) if the Secretary has determined that because of the facility's waiver under this subparagraph the facility should limit its scope of services in order not to adversely affect the health and safety of the facility's patients, the facility is so limiting the scope of services it provides; and

"(C) with respect to the fire and safety requirements promulgated under paragraph (9), the Secretary may (i), waive, for such period as he deems appropriate, specific provisions of such requirements which if rigidly applied would result in unreasonable hardship for such a facility and which, if not applied, would not jeopardize the health and safety of patients, and (ii) may accept a facility's compliance with all applicable State codes relating to fire and safety in lieu of compliance with the fire and safety requirements promulgated under paragraph (9), if he determines that such State has in effect fire and safety codes, imposed by State law, which adequately protect patients."

HOSPITAL TRANSFER REQUIREMENT FOR SKILLED NURSING FACILITY COVERAGE

42 USC 1395x.

SEC. 950. Section 1861(i) of the Social Security Act is amended—

(1) by striking out "14 days" each place it appears and inserting in lieu thereof "30 days"; and

(2) by striking out ", or (B) within 28 days" and all that follows through "he resides, or (C)" and inserting in lieu thereof ", or (B)".

CERTIFICATION AND UTILIZATION REVIEW BY PODIATRISTS

42 USC 1395x.

SEC. 951. (a) Section 1861(r)(3) of the Social Security Act is amended to read as follows: "(3) a doctor of podiatric medicine for the purposes of subsection (s) of this section but only with respect to functions which he is legally authorized to perform as such by the State in which he performs them; and for the purposes of subsections (k) and (m) of this section and sections 1814(a) and 1835 but only if his performance of functions under subsections (k) and (m) and sections 1814(a) and 1835 is consistent with the policy of the institution or agency with respect to which he performs them and with the functions which he is legally authorized to perform,".

Ante, p. 2631, 42 USC 1395n.

42 USC 1395x.

(b) Section 1861(k)(2)(A) of such Act is amended by inserting after "two or more physicians" the following: "(of which at least two must be physicians described in subsection (r)(1) of this section)".

Effective date. 42 USC 1395x note.

(c) The amendments made by this section shall take effect on January 1, 1981.

ACCESS TO BOOKS AND RECORDS OF SUBCONTRACTORS

42 USC 1395x.

SEC. 952. Section 1861(v)(1) of the Social Security Act is amended by adding after subparagraph (H) (added by section 930(p) of this title) the following new subparagraph:

"(I) In determining such reasonable cost, the Secretary may not include any costs incurred by a provider with respect to any services furnished in connection with matters for which payment may be made under this title and furnished pursuant to a contract between the provider and any of its subcontractors which is entered into after the date of the enactment of this subparagraph and the value or cost of which is $10,000 or more over a twelve-month period unless the contract contains a clause to the effect that—

"(i) until the expiration of four years after the furnishing of such services pursuant to such contract, the subcontractor shall make available, upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives, the contract, and books, documents and records of such subcontractor that are necessary to certify the nature and extent of such costs, and

"(ii) if the subcontractor carries out any of the duties of the contract through a subcontract, with a value or cost of $10,000 or more over a twelve-month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives, the subcontract, and books, documents and

records of such organization that are necessary to verify the nature and extent of such costs.

The Secretary shall prescribe in regulation criteria and procedures which the Secretary shall use in obtaining access to books, documents, and records under clauses required in contracts and subcontracts under this subparagraph.".

MEDICARE LIABILITY SECONDARY WHERE PAYMENT CAN BE MADE UNDER LIABILITY OR NO FAULT INSURANCE

SEC. 953. Section 1862(b) of the Social Security Act is amended— 42 USC 1395y.

(1) by inserting "or under an automobile or liability insurance policy or plan (including a self-insured plan) or under no fault insurance" before the period at the end of the first sentence;

(2) by inserting ", policy, plan, or insurance" before the period at the end of the second sentence; and

(3) by adding at the end the following new sentence: "The Secretary may waive the provisions of this subsection in the case of an individual claim if he determines that the probability of recovery or amount involved in such claim does not warrant the pursuing of the claim.".

PAYMENT FOR PHYSICIANS' SERVICES WHERE BENEFICIARY HAS DIED

SEC. 954. (a) Section 1870(f) of the Social Security Act is amended to read as follows: 42 USC 1395gg.

"(f) If an individual who received medical and other health services for which payment may be made under section 1832(a)(1) dies, and no assignment of the right to payment for such services was made by such individual before his death, and payment for such services has not been made— 42 USC 1395k.

"(1) if the person or persons who furnished the services agree that the reasonable charge is the full charge for the services, payment for such services shall be made to such person or persons, and

"(2) if the person or persons who furnished the services do not agree that the reasonable charge is the full charge for the services, payment for such services shall be made on the basis of an itemized bill to the person who has agreed to assume the legal obligation to make payment for such services and files a request for payment (with such accompanying evidence of such legal obligation as may be required in regulations),

but only in such amount and subject to such conditions as would be applicable if the individual who received the services had not died.".

(b) The amendment made by this section shall apply only to claims filed on or after January 1, 1981. 42 USC 1395gg note.

PROVIDER REIMBURSEMENT REVIEW BOARD

SEC. 955. Section 1878(f)(1) of the Social Security Act is amended by inserting the following after the second sentence thereof: "Providers shall also have the right to obtain judicial review of any action of the fiscal intermediary which involves a question of law or regulations relevant to the matters in controversy whenever the Board determines (on its own motion or at the request of a provider of services as described in the following sentence) that it is without authority to decide the question, by a civil action commenced within sixty days of the date on which such determination is rendered. If a provider of 42 USC 1395oo.

services may obtain a hearing under subsection (a) and has filed a request for such a hearing, such provider may file a request for a determination by the Board of its authority to decide the question of law or regulations relevant to the matters in controversy (accompanied by such documents and materials as the Board shall require for purposes of rendering such determination). The Board shall render such determination in writing within thirty days after the Board receives the request and such accompanying documents and materials, and the determination shall be considered a final decision and not subject to review by the Secretary. If the Board fails to render such determination within such period, the provider may bring a civil action (within sixty days of the end of such period) with respect to the matter in controversy contained in such request for a hearing.".

PAYMENT WHERE BENEFICIARY NOT AT FAULT

42 USC 1395pp.

SEC. 956. (a) Section 1879 of the Social Security Act is amended by adding the following new subsection at the end thereof:

"(e) Where payment for inpatient hospital services or extended care services may not be made under part A of this title on behalf of an individual entitled to benefits under such part solely because of an unintentional, inadvertent, or erroneous action with respect to the transfer of such individual from a hospital or skilled nursing facility that meets the requirements of section 1861 (e) or (j) by such a provider of services acting in good faith in accordance with the advice of a utilization review committee, professional standards review organization, or fiscal intermediary, or on the basis of a clearly erroneous administrative decision by a provider of services, the Secretary shall take such action with respect to the payment of such benefits as he determines may be necessary to correct the effects of such unintentional, inadvertent, or erroneous action.".

Effective date. 42 USC 1395pp note.

(b) The amendment made by subsection (a) shall take effect on January 1, 1981.

TECHNICAL RENAL DISEASE AMENDMENTS

42 USC 1395rr.

SEC. 957. (a) Section 1881(e) of the Social Security Act is amended—

(1) by striking out "and" the first place it appears in paragraph (1) and inserting a comma in lieu thereof;

(2) by inserting "and nonprofit entities which the Secretary finds can furnish equipment economically and efficiently," after "renal dialysis facilities," in paragraph (1);

(3) by striking out "such providers and facilities" and inserting in lieu thereof "such providers, facilities, and nonprofit entities"; and

(4) by striking out "or facility will—" in paragraph (2) and inserting in lieu thereof ", facility, or other entity will—".

42 USC 1395rr.

(b) Section 1881(g) of such Act is amended by striking out "April" each place it appears and inserting in lieu thereof "July".

STUDIES AND DEMONSTRATION PROJECTS

42 USC 1395*ll* note.

SEC. 958. (a) The Secretary of Health and Human Services shall develop and carry out a demonstration project to determine (1) the extent to which the commencement of nutritional therapy in early renal failure, utilizing (but not limited to) controlled protein substances, can retard or arrest the progression of the disease with a resultant substantive deferment of dialysis, and (2) the administra-

tive, financial, and other aspects of making such nutritional therapy generally available as part of the benefits received under title XVIII of the Social Security Act. 42 USC 1395.

(b) The Secretary shall submit, to the Congress, within one year after the date of the enactment of this Act, a report on the demonstration projects being conducted by the Secretary with respect to waiving the applicable cost sharing amounts which beneficiaries under title XVIII of the Social Security Act have to pay for obtaining a second opinion on having surgery performed. Such report shall include any recommendations for legislative changes in such title which the Secretary finds desirable as a result of such demonstration projects. Report to Congress.

(c) The Secretary shall conduct a study of the circumstances and conditions under which services furnished by registered dietitians should be covered as a home health benefit under title XVIII of the Social Security Act.

(d) The Secretary shall develop and carry out demonstration projects to determine the administrative, financial, and other aspects of making the services of clinical social workers more generally available as part of the benefits received under title XVIII of the Social Security Act.

(e) The Secretary shall, in consultation with appropriate professional organizations, conduct a comprehensive study of methods for providing coverage under part B of title XVIII of the Social Security Act for orthopedic shoes for individuals with disabling or deforming conditions who require special fitting considerations to help protect against increasing disability or serious medical complications or who require special shoes in conjunction with the use of an orthosis or foot support. The Secretary shall submit to the Congress, no later than July 1, 1981, a report on the findings of this study and such specific legislative recommendations as is appropriate with respect to the utilization, cost control, quality of care, and equitable and efficient administration of such an extension of coverage. 42 USC 1395j. Report to Congress.

(f) The Secretary shall conduct a study of the circumstances and conditions under which services furnished with respect to respiratory therapy should be covered as a home health benefit under title XVIII of the Social Security Act.

(g) The Secretary shall conduct a study involving a comprehensive analysis of the cost effects of alternative approaches to improving coverage under title XVIII of the Social Security Act for the treatment of various types of foot conditions.

(h) The Secretary shall submit a report on each of the demonstration projects and studies described in subsections (a), (c), (d), (f), and (g). Each such report shall be submitted within twenty-four months of the date of the enactment of this Act and shall contain any recommendations for legislative changes which the Secretary finds desirable as a result of conducting the demonstration project or study with respect to which the report is submitted. Report.

(i) Where any study or demonstration project conducted under this section relates to payments with respect to services furnished by independent practitioners, such study or project shall include an evaluation of the effect of such payments on coordination of care, cost, quality, and the organization in the provision of services and the utilization of services.

(j) Grants, payments under contracts, and other expenditures made for studies and demonstration projects under this section shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act) and the 42 USC 1395i.

42 USC 1395t.

Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act). Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section. With respect to any such grant, payment, or other expenditure, the amount to be paid from each of such trust funds shall be determined by the Secretary, giving due regard to the purposes of the experiment or project involved.

TEMPORARY DELAY IN PERIODIC INTERIM PAYMENTS

42 USC 1395g note.

SEC. 959. Notwithstanding section 1815(a) of the Social Security Act, in the case of a hospital which is paid periodic interim payments under such section, the Secretary of Health and Human Services shall provide that with respect to the last twenty-one days for which such payments would otherwise be made during fiscal year 1981, such payments shall be deferred until fiscal year 1982.

PART C—PROVISIONS RELATING TO MEDICAID

DISPUTED MEDICAID CLAIMS

42 USC 1396b.

SEC. 961. (a) Section 1903(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(5) In any case in which the Secretary estimates that there has been an overpayment under this section to a State on the basis of a claim by such State that has been disallowed by the Secretary under section 1116(d), and such State disputes such disallowance, the amount of the Federal payment in controversy shall, at the option of the State, be retained by such State or recovered by the Secretary pending a final determination with respect to such payment amount. If such final determination is to the effect that any amount was properly disallowed, and the State chose to retain payment of the amount in controversy, the Secretary shall offset, from any subsequent payments made to such State under this title, an amount equal to the proper amount of the disallowance plus interest on such amount disallowed for the period beginning on the date such amount was disallowed and ending on the date of such final determination (but not to exceed a period of twelve months with respect to disallowances made prior to October 1, 1981, or six months with respect to disallowances made thereafter) at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day treasury bill auction rates during such period.".

42 USC 1316.

42 USC 1396b note.

(b) The amendment made by subsection (a) shall be effective with respect to expenditures for services furnished on or after October 1, 1980.

REIMBURSEMENT RATES UNDER MEDICAID FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITY SERVICES

42 USC 1396a.

SEC. 962. (a) Section 1902(a)(13)(E) of the Social Security Act is amended to read as follows:

"(E) for payment of the skilled nursing facility and intermediate care facility services provided under the plan through the use of rates (determined in accordance with methods and standards developed by the State) which the State finds, and makes

assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations, and quality and safety standards; and such State makes further assurances, satisfactory to the Secretary, for the filing of uniform cost reports by each skilled nursing or intermediate care facility and periodic audits by the State of such reports; and".

(b) The amendment made by subsection (a) shall become effective on October 1, 1980. 42 USC 1396a note.

EXTENSION OF INCREASED FUNDING FOR STATE MEDICAID FRAUD CONTROL UNITS

SEC. 963. Section 1903(a)(6) of the Social Security Act is amended by striking out "an amount equal to" and all that follows through "with respect to costs incurred" and inserting in lieu thereof the following: 42 USC 1396b.

"an amount equal to—

"(A) 90 per centum of the sums expended during such a quarter within the twelve-quarter period beginning with the first quarter in which a payment is made to the State pursuant to this paragraph, and

"(B) 75 per centum of the sums expended during each succeeding calendar quarter,

with respect to costs incurred".

CHANGE IN CALENDAR QUARTER FOR WHICH SATISFACTORY UTILIZATION REVIEW MUST BE SHOWN TO RECEIVE WAIVER OF MEDICAID REDUCTION

SEC. 964. Section 1903(g)(3)(B) of the Social Security Act is amended— 42 USC 1396b.

(1) by striking out "October 1, 1977" and inserting in lieu thereof "January 1, 1978"; and

(2) by striking out "the calendar quarter ending on December 31, 1977" and inserting in lieu thereof "any calendar quarter ending on or before December 31, 1978".

REIMBURSEMENT UNDER MEDICAID FOR SERVICES FURNISHED BY NURSE-MIDWIVES

SEC. 965. (a)(1) Subsection (a) of section 1905 of the Social Security Act is amended— 42 USC 1396d.

(A) by striking out "and" at the end of paragraph (16);

(B) by redesignating paragraph (17) as paragraph (18); and

(C) by inserting after paragraph (16) the following new paragraph:

"(17) services furnished by a nurse-midwife (as defined in subsection (m)) which he is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not he is under the supervision of, or associated with, a physician or other health care provider; and".

(2) Such section is further amended by adding at the end thereof the following new subsection:

"(m) The term 'nurse-midwife' means a registered nurse who has successfully completed a program of study and clinical experience meeting guidelines prescribed by the Secretary, or has been certified "Nurse-midwife."

by an organization recognized by the Secretary, and performs services in the area of management of the care of mothers and babies (throughout the maternity cycle) which he is legally authorized to perform in the State in which he performs such services.".

42 USC 1396a. (b) Section 1902(a) of such Act is amended—

(1) by striking out "clauses (1) through (5)" in paragraph (13)(B) and inserting in lieu thereof "paragraphs (1) through (5) and (17)";

(2) by striking out "clauses (1) through (5)" in paragraph (13)(C)(i) and inserting in lieu thereof "paragraphs (1) through (5) and (17)";

(3) by striking out "clauses numbered (1) through (16)" in paragraph (13)(C)(ii) and inserting in lieu thereof "paragraphs numbered (1) through (17)"; and

(4) by striking out "clauses (1) through (5) and (7)" in paragraph (14)(A)(i) and inserting in lieu thereof "paragraphs (1) through (5), (7), and (17)".

42 USC 1396a note. (c)(1) The amendments made by this section shall (except as provided under paragraph (2)) be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning more than one hundred and twenty days after the date of the enactment of this Act.

42 USC 1396.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

DEMONSTRATION PROJECTS RELATING TO THE TRAINING OF AFDC RECIPIENTS AS HOME HEALTH AIDES

42 USC 632a. SEC. 966. (a) The Secretary of Health and Human Services shall enter into agreements with States, selected at his discretion, for the purpose of conducting demonstration projects for the training and employment of eligible participants as homemakers or home health aides, who shall provide authorized services to elderly or disabled individuals, or other individuals in need of such services, to whom such services, are not otherwise reasonably and actually available or provided, and who would, without the availability of such services, be reasonably anticipated to require institutional care.

"Eligible participant." (b) For purposes of this section, the term "eligible participant" means an individual who has voluntarily applied for participation and who, at the time such individual enters the project established under this section, has been certified by the appropriate agency of State or local government as being eligible for financial assistance under a State plan approved under part A of title IV of the Social Security Act and as having continuously received such financial assistance during the ninety-day period which immediately precedes the date on which such individual enters such project and who, within such ninety-day period, had not been employed as a homemaker or home health aide.

42 USC 601.

(c)(1) The Secretary shall enter into agreements under this section with no more than twelve States. Priority shall be given to States

which have demonstrated interest in providing services of the type authorized under this section.

(2) A State may apply to enter into an agreement under this section in such manner and at such time as the Secretary may prescribe.

(3) Any State entering into an agreement with the Secretary under this section must—

(A) provide that the demonstration project shall be administered by a State health services agency designated for this purpose by the Governor (which may be the State agency administering or responsible for the administration of the State plan for medical assistance under title XIX of the Social Security Act); 42 USC 1396.

(B) provide that the agency designated pursuant to subparagraph (A) shall, to the maximum extent feasible, arrange for coordinating its activities under the agreement with activities of other State agencies having related responsibilities;

(C) establish a formal training program, which meets such standards as the Secretary may establish to assure the adequacy of such program, to prepare eligible participants to provide part-time and intermittent homemaker services or home health aide services to individuals who are elderly, disabled, or otherwise in need of such services;

(D) provide for the full-time employment of those eligible participants who successfully complete the training program with one or more public agencies (or, by contract, with private bona fide nonprofit agencies) as homemakers or home health aides, rendering authorized services, under the supervision of persons determined by the State to be qualified to supervise the performance of such services, to individuals described in subsection (a) at wage levels comparable to the prevailing wage levels in the area for similar work;

(E) provide that such services provided under subparagraph (D) shall be made available without regard to income of the individual requiring such services, but that a reasonable fee will be charged (on a sliding scale basis) for such services provided to individuals who have income in excess of 200 percent of the needs standard in such State under the State plan approved under part A of title IV of the Social Security Act for a household of the same size as such individual's household; 42 USC 601.

(F) provide for a system of continuing independent professional review by an appropriate panel, which is not affiliated with the entity providing the services involved, to assure that services are provided only to individuals reasonably determined to be in need of such supportive services;

(G) provide for evaluation of the project and review of all agencies providing services under the project;

(H) submit periodic reports to the Secretary as he may require; and

(I) meet such other requirements as the Secretary may establish for the proper and efficient implementation of the project.

(4) The number of participants in any project shall not exceed that number which the Secretary determines to be reasonable, based upon the capability of the agencies involved to train, employ, and properly utilize eligible participants. Such number may be appropriately modified, subsequently, with the approval of the Secretary.

(5) Any contract with a private bona fide nonprofit agency entered into pursuant to paragraph (3)(D) shall provide for reasonable reimbursement of such agencies for services on a basis proportionate to

the amount of time allocated to individuals eligible to receive such services under this section (and, in case such agency is an institution, the amount of the reimbursement shall not exceed the amount of reimbursement which would have been payable if the services involved had been provided by a free-standing agency).

(6) For purposes of this section, a facility of the Veterans' Administration shall, at the request of the Administrator of Veterans' Affairs, be considered to be a public agency. In the case of any such facility which is so considered to be a public agency, of the costs determined under this section which are attributable to such facility, 90 percent shall be paid by the State and 10 percent by the Veterans' Administration.

(d)(1) For purposes of this section, authorized homemaker and home health aide services include part-time or intermittent—

(A) personal care, such as bathing, grooming, and toilet care;
(B) assisting patients having limited mobility;
(C) feeding and diet assistance;
(D) home management, housekeeping, and shopping;
(E) health-oriented recordkeeping;
(F) family planning services; and
(G) simple procedures for identifying potential health problems.

(2) Such authorized services do not include any services performed in an institution, or any services provided under circumstances where institutionalization would be substantially more efficient as a means of providing such services.

(e)(1) Agreements shall be entered into under this section between the Secretary and the State agency designated by the Governor. Under such agreement the Secretary shall pay to the State, as an additional payment under section 1903 of the Social Security Act for each quarter, an amount equal to 90 percent of the reasonable costs incurred (less the Federal share of any related fees collected) by such State during such quarter in carrying out a demonstration project under this section, including reasonable wages and other employment costs of eligible participants employed full time under such project (and, for purposes of determining the amount of such additional payment, the 10 percent referred to in subsection (c)(6), paid by the Veterans' Administration, shall be deemed to be a cost incurred by the State in carrying out such a project).

42 USC 1396b.

(2) Demonstration projects under this section shall be of a maximum duration of four years, plus an additional time period of up to six months for planning and development, and up to six months for final evaluation and reporting. Federal funding under this subsection shall not be available for the employment of any eligible participant under the project after such participant has been employed for a period of three years.

(f) For purposes of title IV of the Social Security Act, any eligible participant taking part in a training program under a project authorized under this section shall be deemed to be participating in a work incentive program established by part C of such title.

42 USC 601.

42 USC 630.

(g) For the first year (and such additional immediately succeeding period as the State may specify) during which an eligible participant is employed under the project established under this section, such participant shall, notwithstanding any other provision of law, retain any eligibility for medical assistance under a State plan approved under title XIX of the Social Security Act, and any eligibility for social and supportive services provided under the State plan approved under part A of title IV of such Act, which such participant

42 USC 1396.

42 USC 601.

had at the time such participant entered the training program established under this section.

(h) The Secretary shall submit annual reports to the Congress evaluating the demonstration projects carried out under this section, and shall submit a final report to the Congress not more than six months after he has received the final reports from all States participating in such projects.

(i) The Secretary shall, and is hereby authorized to, waive such requirements, including formal solicitation and approval requirements, as will further expeditious and effective implementation of this section.

TITLE X—OTHER SOCIAL SECURITY ACT PROGRAMS; UNEMPLOYMENT COMPENSATION

Subtitle A—Public Assistance

FEDERAL DAY CARE REGULATIONS

SEC. 1001. (a) Section 2002(a)(9) of the Social Security Act is amended by adding at the end thereof the following new subparagraph: 42 USC 1397a.

"(D) The requirements imposed by this paragraph or by any regulations promulgated by the Department of Health and Human Services to carry out this paragraph shall be inapplicable to child day care services provided after June 30, 1980, and prior to July 1, 1981, which meet applicable standards of State and local law.".

(b) The provisions of section 3(f) of Public Law 93-647 shall not apply with respect to child day care services provided after June 30, 1980, and prior to July 1, 1981, which meet applicable standards of State and local law. 42 USC 1397a note.

(c) The Department of Health and Human Services shall assist each State in conducting a systematic assessment of current practices in day care programs funded under title XX of the Social Security Act. Upon completion of such assessments, but not later than June 1, 1981, the Secretary shall provide a summary report of the results of such assessments to the Congress. 42 USC 1397.

ADDITIONAL SAVINGS

SEC. 1002. For provisions of law which reduce spending for fiscal year 1981 under public assistance programs under the Social Security Act in satisfaction of reconciliation requirements imposed by sections 3(a)(8) and 3(a)(15) of H. Con. Res. 307 (96th Congress), see the Social Security Disability Amendments of 1980 (Public Law 96-265) and the Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272). *Post*, p. 3655. *Ante*, p. 441. *Ante*, p. 500.

Subtitle B—Old-Age, Survivors, and Disability Insurance Program

LIMIT ON RETROACTIVE BENEFITS

SEC. 1011. (a) The first sentence of section 202(j)(1) of the Social Security Act is amended by striking out "prior to the end of the 42 USC 402.

twelfth month immediately succeeding such month." and inserting in lieu thereof the following: "prior to—

"(A) the end of the twelfth month immediately succeeding such month in any case where the individual (i) is filing application for a benefit under subsection (e) or (f), and satisfies paragraph (1)(B) of such subsection by reason of clause (ii) thereof, or (ii) is filing application for a benefit under subsection (b), (c), or (d) on the basis of the wages and self-employment income of a person entitled to disability insurance benefits, or

"(B) the end of the sixth month immediately succeeding such month in any case where subparagraph (A) does not apply.".

42 USC 402 note.

(b) The amendment made by subsection (a) shall be effective with respect to applications filed on or after the first day of the first month which begins 60 days or more after the date of the enactment of this Act.

ADDITIONAL SAVINGS

SEC. 1012. For provisions of law which reduce spending for fiscal year 1981 under the old-age, survivors, and disability insurance program in satisfaction of reconciliation requirements imposed by sections 3(a)(8) and 3(a)(15) of H. Con. Res. 307 (96th Congress), see section 5 of Public Law 96-473, and the Social Security Disability Amendments of 1980 (Public Law 96-265).

Post, p. 3655
Ante, p. 2264.
Ante, p. 441.

Subtitle C—Unemployment Compensation Provisions

TERMINATION OF PROVISIONS PROVIDING REIMBURSEMENT FOR UNEMPLOYMENT BENEFITS PAID ON THE BASIS OF PUBLIC SERVICE EMPLOYMENT

SEC. 1021. Part B of title II of the Emergency Jobs and Unemployment Assistance Act of 1974 is amended by adding at the end thereof the following new section:

"TERMINATION

"Public service wages."
26 USC 3304 note.

"SEC. 224. Notwithstanding any other provision of this part, the term 'public service wages' shall not include remuneration for services performed in weeks which begin after the date of the enactment of this section."

WAITING PERIOD FOR BENEFITS

26 USC 3304 note.

SEC. 1022. (a) Section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended—

(1) by inserting "(A)" after "compensation", and

(2) by inserting immediately before the period the following: ", or (B) paid for the first week in an individual's eligibility period for which extended compensation or sharable regular compensation is paid, if the State law of such State provides for payment (at any time or under any circumstances) of regular compensation to an individual for his first week of otherwise compensable unemployment".

26 USC 3304 note.

(b)(1) Except as provided in paragraph (2), the amendments made by this section shall apply in the case of compensation paid to individuals during eligibility periods beginning on or after the date of the enactment of this Act.

(2) In the case of a State with respect to which the Secretary of Labor has determined that State legislation is required in order to eliminate its current policy of paying regular compensation to an individual for his first week of otherwise compensable unemployment, the amendments made by this section shall apply in the case of compensation paid to individuals during eligibility periods beginning after the end of the first regularly scheduled session of the State legislature ending more than thirty days after the date of the enactment of this Act.

BENEFITS ON ACCOUNT OF FEDERAL SERVICE TO BE PAID BY EMPLOYING FEDERAL AGENCY

SEC. 1023. (a) Title IX of the Social Security Act is amended by adding at the end thereof the following new section:

"FEDERAL EMPLOYEES COMPENSATION ACCOUNT

"SEC. 909. There is hereby established in the Unemployment Trust Fund a Federal Employees Compensation Account which shall be used for the purposes specified in section 8509 of title 5, United States Code. For the purposes provided for in section 904(e), such account shall be maintained as a separate book account.". 42 USC 1109. 42 USC 1104.

(b) Subchapter I of chapter 85, title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 8509. Federal Employees Compensation Account 5 USC 8509.

"(a) The Federal Employees Compensation Account (as established by section 909 of the Social Security Act, and hereafter in this section referred to as the 'Account') in the Unemployment Trust Fund (as established by section 904 of such Act) shall consist of— *Supra.* 42 USC 1104.

"(1) funds appropriated to or transferred thereto, and

"(2) amounts deposited therein pursuant to subsection (c).

"(b) Moneys in the Account shall be available only for the purpose of making payments to States pursuant to agreements entered into under this subchapter and making payments of compensation under this subchapter in States which do not have in effect such an agreement.

"(c)(1) Each employing agency shall deposit into the Account amounts equal to the expenditures incurred under this subchapter on account of Federal service performed by employees and former employees of that agency.

"(2) Deposits required by paragraph (1) shall be made during each calendar quarter and the amount of the deposit to be made by any employing agency during any quarter shall be based on a determination by the Secretary of Labor as to the amounts of payments, made prior to such quarter from the Account based on Federal service performed by employees of such agency after December 31, 1980, with respect to which deposit has not previously been made. The amount to be deposited by any employing agency during any calendar quarter shall be adjusted to take account of any overpayment or underpayment of deposit during any previous quarter for which adjustment has not already been made.

"(d) The Secretary of Labor shall certify to the Secretary of the Treasury the amount of the deposit which each employing agency is required to make to the Account during any calendar quarter, and the Secretary of the Treasury shall notify the Secretary of Labor as to

the date and amount of any deposit made to such Account by any such agency.

"(e) Prior to the beginning of each fiscal year (commencing with the fiscal year which begins October 1, 1981) the Secretary of Labor shall estimate—

"(1) the amount of expenditures which will be made from the Account during such year, and

"(2) the amount of funds which will be available during such year for the making of such expenditures,

and if, on the basis of such estimate, he determines that the amount described in paragraph (2) is in excess of the amount necessary—

"(3) to meet the expenditures described in paragraph (1), and

"(4) to provide a reasonable contingency fund so as to assure that there will, during all times in such year, be sufficient sums available in the Account to meet the expenditures described in paragraph (1),

he shall certify the amount of such excess to the Secretary of the Treasury and the Secretary of the Treasury shall transfer, from the Account to the general fund of the Treasury, an amount equal to such excess.

"(f) The Secretary of Labor is authorized to establish such rules and regulations as may be necessary or appropriate to carry out the provisions of this section.

"(g) Any funds appropriated after the establishment of the Account, for the making of payments for which expenditures are authorized to be made from moneys in the Account, shall be made to the Account; and there are hereby authorized to be appropriated to the Account, from time to time, such sums as may be necessary to assure that there will, at all times, be sufficient sums available in the Account to meet the expenditures authorized to be made from moneys therein.".

5 USC 8509 note.

(c) All funds appropriated which are available for the making of payments to States after December 31, 1980, pursuant to agreements entered into under subchapter I of chapter 85 of title 5, United States Code, or for the making of payments after such date of compensation under such subchapter in States which do not have in effect such an agreement, shall be transferred on January 1, 1981, to the Federal Employees Compensation Account established by section 909 of the Social Security Act. On and after such date, all payments described in the preceding sentence shall be made from such Account as provided by section 8509 of title 5, United States Code.

5 USC 8501.

Ante, p. 2657.

LIMITATION ON EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM

26 USC 3304 note.

SEC. 1024. (a) Section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new paragraphs:

"(3)(A) Notwithstanding the provisions of paragraph (2), payment of extended compensation under this Act shall not be made to any individual for any week of unemployment in his eligibility period—

"(i) during which he fails to accept any offer of suitable work (as defined in subparagraph (c)) or fails to apply for any suitable work to which he was referred by the State agency; or

"(ii) during which he fails to actively engage in seeking work.

"(B) If any individual is ineligible for extended compensation for any week by reason of a failure described in clause (i) or (ii) of subparagraph (A), the individual shall be ineligible to receive

extended compensation for any week which begins during a period which—

"(i) begins with the week following the week in which such failure occurs, and

"(ii) does not end until such individual has been employed during at least 4 weeks which begin after such failure and the total of the remuneration earned by the individual for being so employed is not less than the product of 4 multiplied by the individual's average weekly benefit amount (as determined for purposes of subsection (b)(1)(c)) for his benefit year.

"(C) For purposes of this paragraph, the term 'suitable work' means, with respect to any individual, any work which is within such individual's capabilities; except that, if the individual furnishes evidence satisfactory to the State agency that such individual's prospects for obtaining work in his customary occupation within a reasonably short period are good, the determination of whether any work is suitable work with respect to such individual shall be made in accordance with the applicable State law. "Suitable work."

"(D) Extended compensation shall not be denied under clause (i) of subparagraph (A) to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work—

"(i) if the gross average weekly remuneration payable to such individual for the position does not exceed the sum of—

"(I) the individual's average weekly benefit amount (as determined for purposes of subsection (b)(1)(C)) for his benefit year, plus

"(II) the amount (if any) of supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D) of the Internal Revenue Code of 1954) payable to such individual for such week; 26 USC 501.

"(ii) if the position was not offered to such individual in writing and was not listed with the State employment service;

"(iii) if such failure would not result in a denial of compensation under the provisions of the applicable State law to the extent that such provisions are not inconsistent with the provisions of subparagraphs (C) and (E); or

"(iv) if the position pays wages less than the higher of—

"(I) the minimum wage provided by section 6(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or 29 USC 206.

"(II) any applicable State or local minimum wage.

"(E) For purposes of this paragraph, an individual shall be treated as actively engaged in seeking work during any week if—

"(i) the individual has engaged in a systematic and sustained effort to obtain work during such week, and

"(ii) the individual provides tangible evidence to the State agency that he has engaged in such an effort during such week.

"(F) For purposes of section 3304(a)(11) of the Internal Revenue Code of 1954, a State law shall provide for referring applicants for benefits under this Act to any suitable work to which clauses (i), (ii), (iii), and (iv) of subparagraph (D) would not apply. 26 USC 3304.

"(4) No provision of State law which terminates a disqualification for voluntarily leaving employment, being discharged for misconduct, or refusing suitable employment shall apply for purposes of determining eligiblity for extended compensation unless such termination is based upon employment subsequent to the date of such disqualification.

"(5) No payment shall be made under this Act to any State in respect of any sharable regular compensation paid to any individual for any week if, under the rules of paragraphs (3) and (4), extended compensation would not have been payable to such individual for such week.".

26 USC 3304 note.

(b) The amendment made by this section shall apply with respect to weeks of unemployment beginning after March 31, 1981.

CERTIFICATION OF STATE UNEMPLOYMENT LAWS

26 USC 3304 note.
26 USC 3304.

SEC. 1025. On October 31 of any taxable year after 1980, the Secretary of Labor shall not certify any State, as provided in section 3304(c) of the Internal Revenue Code of 1954, which, after reasonable notice and opportunity for a hearing to the State agency, the Secretary of Labor finds has failed to amend its law so that it contains each of the provisions required by reason of the enactment of the preceding provisions of this subtitle to be included therein, or has with respect to the 12-month period ending on such October 31, failed to comply substantially with any such provision.

ADDITIONAL SAVINGS

SEC. 1026. For provisions of law which reduce spending for fiscal year 1981 under the unemployment compensation program in satisfaction of reconciliation requirements imposed by sections 3(a)(8) and 3(a)(15) of H. Con. Res. 307 (96th Congress), see sections 415 and 416 of the Multiemployer Pension Plan Amendments Act of 1980 (Public Law 96-364).

Post, p. 3655

Ante, p. 1310.

TITLE XI—REVENUE MEASURES

Revenue Adjustments Act of 1980.

26 USC 1 note.

SEC. 1100. SHORT TITLE.

This title may be cited as the "Revenue Adjustments Act of 1980".

Subtitle A—Housing Bonds

Mortgage Subsidy Bond Tax Act of 1980.

26 USC 1 note.

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the "Mortgage Subsidy Bond Tax Act of 1980".

SEC. 1102. MORTGAGE SUBSIDY BONDS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by inserting after section 103 the following new section:

26 USC 103A.

"SEC. 103A. MORTGAGE SUBSIDY BONDS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, any mortgage subsidy bond shall be treated as an obligation not described in subsection (a) (1) or (2) of section 103.

26 USC 103.

"(b) MORTGAGE SUBSIDY BOND DEFINED.—

"(1) IN GENERAL.—For purposes of this title, the term 'mortgage subsidy bond' means any obligation which is issued as part of an issue a significant portion of the proceeds of which are to be used directly or indirectly for mortgages on owner-occupied residences.

"(2) EXCEPTIONS.—The following shall not be treated as mortgage subsidy bonds:

"(A) any qualified mortgage bond; and

"(B) any qualified veterans' mortgage bond.

"(c) QUALIFIED MORTGAGE BOND; QUALIFIED MORTGAGE ISSUE; QUALIFIED VETERANS' MORTGAGE BOND.—

"(1) QUALIFIED MORTGAGE BOND DEFINED.—

"(A) IN GENERAL.—For purposes of this title, the term 'qualified mortgage bond' means an obligation which is issued as part of a qualified mortgage issue.

"(B) TERMINATION DECEMBER 31, 1983.—No obligation issued after December 31, 1983, may be treated as a qualified mortgage bond.

"(2) QUALIFIED MORTGAGE ISSUE DEFINED.—

"(A) DEFINITION.—For purposes of this title, the term 'qualified mortgage issue' means an issue by a State or political subdivision thereof of 1 or more obligations, but only if—

"(i) all proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are to be used to finance owner-occupied residences, and

"(ii) such issue meets the requirements of subsections (d), (e), (f), (g), (h), (i), and (j).

"(B) GOOD FAITH EFFORT TO COMPLY WITH MORTGAGE ELIGIBILITY REQUIREMENTS.—An issue which fails to meet 1 or more of the requirements of subsections (d), (e), and (f) and paragraphs (2) and (3) of subsection (j) shall be treated as meeting such requirements if—

"(i) the issuer in good faith attempted to meet all such requirements before the mortgages were executed,

"(ii) 95 percent or more of the proceeds devoted to owner-financing was devoted to residences with respect to which (at the time the mortgages were executed) all such requirements were met, and

"(iii) any failure to meet the requirements of such subsections and paragraphs is corrected within a reasonable period after such failure is first discovered.

"(C) GOOD FAITH EFFORT TO COMPLY WITH OTHER REQUIREMENTS.—An issue which fails to meet 1 or more of the requirements of subsections (g), (h), and (i), and paragraph (1) of subsection (j) shall be treated as meeting such requirements if—

"(i) the issuer in good faith attempted to meet all such requirements, and

"(ii) any failure to meet such requirements is due to inadvertent error after taking reasonable steps to comply with such requirements.

"(3) QUALIFIED VETERANS' MORTGAGE BOND DEFINED.—For purposes of this section, the term 'qualified veterans' mortgage bond' means any obligation—

"(A) which is issued in registered form as part of an issue substantially all of the proceeds of which are to be used to provide residences for veterans,

"(B) the payment of the principal and interest on which is secured by the general obligation of a State, and

"(C) which is part of an issue which meets the requirements of subsection (j)(2).

"(d) RESIDENCE REQUIREMENTS.—

"(1) FOR A RESIDENCE.—A residence meets the requirements of this subsection only if—

"(A) it is a single-family residence which can reasonably be expected to become the principal residence of the mortgagor within a reasonable time after the financing is provided, and

"(B) it is located within the jurisdiction of the authority issuing the obligation.

"(2) FOR AN ISSUE.—An issue meets the requirements of this subsection only if all of the residences for which owner-financing is provided under the issue meet the requirements of paragraph (1).

"(e) 3-YEAR REQUIREMENT.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if each mortgagor to whom financing is provided under the issue had a present ownership interest in a principal residence of such mortgagor at no time during the 3-year period ending on the date the mortgage is executed. For purposes of the preceding sentence, the mortgagor's interest in the residence with respect to which the financing is being provided shall not be taken into account.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to—

"(A) any financing provided with respect to a targeted area residence,

"(B) any qualified home improvement loan, and

"(C) any qualified rehabilitation loan.

"(f) PURCHASE PRICE REQUIREMENT.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is to be provided under the issue does not exceed 90 percent of the average area purchase price applicable to such residence.

"(2) AVERAGE AREA PURCHASE PRICE.—For purposes of paragraph (1), the term 'average area purchase price' means, with respect to any residence, the average purchase price of single family residences (in the statistical area in which the residence is located) which were purchased during the most recent 12-month period for which sufficient statistical information is available. The determination under the preceding sentence shall be made as of the date on which the commitment to provide the financing is made (or, if earlier, the date of the purchase of the residence).

"(3) SEPARATE APPLICATION TO NEW RESIDENCES AND OLD RESIDENCES.—For purposes of this subsection, the determination of average area purchase price shall be made separately with respect to—

"(A) residences which have not been previously occupied, and

"(B) residences which have been previously occupied.

"(4) SPECIAL RULE FOR 2 TO 4 FAMILY RESIDENCES.—For purposes of this subsection, to the extent provided in regulations, the average area purchase price shall be made separately with respect to 1 family, 2 family, 3 family, and 4 family residences.

"(5) SPECIAL RULE FOR TARGETED AREA RESIDENCES.—In the case of a targeted area residence, paragraph (1) shall be applied by substituting '110 percent' for '90 percent'.

"(6) EXCEPTION FOR QUALIFIED HOME IMPROVEMENT LOANS.—Paragraph (1) shall not apply with respect to any qualified home improvement loan.

"(g) LIMITATION ON AGGREGATE AMOUNT OF QUALIFIED MORTGAGE BONDS ISSUED DURING ANY CALENDAR YEAR.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if the aggregate amount of bonds issued pursuant thereto, when added to the aggregate amount of qualified mortgage bonds previously issued by the issuing authority during the calendar year, does not exceed the applicable limit for such authority for such calendar year.

"(2) APPLICABLE LIMIT FOR STATE HOUSING AGENCY.—For purposes of this subsection—

"(A) IN GENERAL.—The applicable limit for any State housing finance agency for any calendar year shall be 50 percent of the State ceiling for such year.

"(B) SPECIAL RULE WHERE MORE THAN 1 AGENCY.—If any State has more than 1 State housing finance agency, all such agencies shall be treated as a single agency.

"(3) APPLICABLE LIMIT FOR OTHER ISSUERS.—For purposes of this subsection—

"(A) IN GENERAL.—The applicable limit for any issuing authority (other than a State housing finance agency) for any calendar year is an amount which bears the same ratio to 50 percent of the State ceiling for such year as—

"(i) the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences located within the jurisdiction of such issuing authority, bears to

"(ii) an average determined in the same way for the entire State.

"(B) OVERLAPPING JURISDICTIONS.—For purposes of subparagraph (A)(i), if an area is within the jurisdiction of 2 or more governmental units, such area shall be treated as only within the jurisdiction of the unit having jurisdiction over the smallest geographical area unless such unit agrees to surrender all or part of such jurisdiction for such calendar year to the unit with overlapping jurisdiction which has the next smallest geographical area.

"(4) STATE CEILING.—For purposes of this subsection, the State ceiling applicable to any State for any calendar year shall be the greater of—

"(A) 9 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences located within the jurisdiction of such State, or

"(B) $200,000,000.

"(5) SPECIAL RULE FOR STATES WITH CONSTITUTIONAL HOME RULE CITIES.—For purposes of this subsection—

"(A) IN GENERAL.—The applicable limit for any constitutional home rule city for any calendar year shall be determined under subparagraph (A) of paragraph (3) by substituting '100 percent' for '50 percent'.

"(B) COORDINATION WITH PARAGRAPHS (2) AND (3).—In the case of any State which contains 1 or more constitutional home rule cities, for purposes of applying paragraphs (2) and (3) with respect to issuing authorities in such State other than constitutional home rule cities, the State ceiling for any calendar year shall be reduced by the aggregate applicable

limits determined for such year for all constitutional home rule cities in such State.

"(C) CONSTITUTIONAL HOME RULE CITY.—For purposes of this subsection, the term 'constitutional home rule city' means, with respect to any calendar year, any political subdivision of a State which, under a State constitution which was adopted in 1970 and effective on July 1, 1971, had home rule powers on the first day of the calendar year.

"(6) STATE MAY PROVIDE FOR DIFFERENT ALLOCATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (C), a State may, by law enacted after the date of the enactment of this section, provide a different formula for allocating the State ceiling among the governmental units in such State having authority to issue qualified mortgage bonds.

"(B) INTERIM AUTHORITY FOR GOVERNOR.—

"(i) IN GENERAL.—Except as otherwise provided in subparagraph (C), the Governor of any State may proclaim a different formula for allocating the State ceiling among the governmental units in such State having authority to issue qualified mortgage bonds.

"(ii) TERMINATION OF AUTHORITY.—The authority provided in clause (i) shall not apply after the earlier of—

"(I) the first day of the first calendar year beginning after the first calendar year after 1980 during which the legislature of the State met in regular session, or

"(II) the effective date of any State legislation with respect to the allocation of the State ceiling enacted after the date of the enactment of this section.

"(C) STATE MAY NOT ALTER ALLOCATION TO CONSTITUTIONAL HOME RULE CITIES.—Except as otherwise provided in a State constitutional amendment (or law changing the home rule provision adopted in the manner provided by the State constitution), the authority provided in this paragraph shall not apply to that portion of the State ceiling which is allocated to any constitutional home rule city in the State unless such city agrees to such different allocation.

"(7) TRANSITIONAL RULES.—In applying this subsection to any calendar year, there shall not be taken into account any bond which, by reason of section 1104 of the Mortgage Subsidy Bond Tax Act of 1980, receives the same tax treatment as bonds issued on or before April 24, 1979.

Ante, p. 2660.

"(h) PORTION OF LOANS REQUIRED TO BE PLACED IN TARGETED AREAS.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if at least 20 percent of the proceeds of the issue which are devoted to providing owner-financing is made available (with reasonable diligence) for owner-financing of targeted area residences for at least 1 year after the date on which owner-financing is first made available with respect to targeted area residences.

"(2) LIMITATION.—Nothing in paragraph (1) shall be treated as requiring the making available of an amount which exceeds 40 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences

located in targeted areas within the jurisdiction of the issuing authority.

"(i) REQUIREMENTS RELATED TO ARBITRAGE.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if such issue meets the requirements of paragraphs (2), (3), and (4) of this subsection. Such requirements shall be in addition to the requirements of section 103(c). 26 USC 103.

"(2) EFFECTIVE RATE OF MORTGAGE INTEREST CANNOT EXCEED BOND YIELD BY MORE THAN 1 PERCENTAGE POINT.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph only if the excess of—

"(i) the effective rate of interest on the mortgages provided under the issue, over

"(ii) the yield on the issue,

is not greater than 1 percentage point.

"(B) EFFECTIVE RATE OF MORTGAGE INTEREST.—

"(i) IN GENERAL.—In determining the effective rate of interest on any mortgage for purposes of this paragraph, there shall be taken into account all fees, charges, and other amounts borne by the mortgagor which are attributable to the mortgage or to the bond issue.

"(ii) SPECIFICATION OF SOME OF THE AMOUNTS TO BE TREATED AS BORNE BY THE MORTGAGOR.—For purposes of clause (i), the following items (among others) shall be treated as borne by the mortgagor:

"(I) all points or similar charges paid by the seller of the property, and

"(II) the excess of the amounts received from any person other than the mortgagor by any person in connection with the acquisition of the mortgagor's interest in the property over the usual and reasonable acquisition costs of a person acquiring like property where owner-financing is not provided through the use of qualified mortgage bonds.

"(iii) SPECIFICATION OF SOME OF THE AMOUNTS TO BE TREATED AS NOT BORNE BY THE MORTGAGOR.—For purposes of clause (i), the following items shall not be taken into account:

"(I) any expected rebate of arbitrage profits, and

"(II) any application fee, survey fee, credit report fee, insurance charge, or similar amount to the extent such amount does not exceed amounts charged in such area in cases where owner-financing is not provided through the use of qualified mortgage bonds.

Subclause (II) shall not apply to origination fees, points, or similar amounts.

"(iv) PREPAYMENT ASSUMPTION.—In determining the effective rate of interest, it shall be assumed that the mortgage prepayment rate will be the rate set forth in the most recent mortgage maturity experience table published by the Federal Housing Administration for the State (or, if available, the area within the State) in which the residences are located.

"(C) YIELD ON THE ISSUE.—For purposes of this subsection, the yield on the issue shall be determined on the basis of—

"(i) the issue price (within the meaning of section 1232(b)(2)), and 26 USC 1232.

"(ii) an expected maturity for the bonds which is consistent with the assumption required under subparagraph (B)(iv).

"(3) NON-MORTGAGE INVESTMENT REQUIREMENTS.—

"(A) IN GENERAL.—An issue meets the requirements of this paragraph only if—

"(i) at no time during any bond year may the amount invested in non-mortgage investments with a yield higher than the yield on the issue exceed 150 percent of the debt service on the issue for the bond year, and

"(ii) the aggregate amount invested as provided in clause (i) is promptly and appropriately reduced as mortgages are repaid.

"(B) EXCEPTION FOR TEMPORARY PERIODS.—Subparagraph (A) shall not apply to—

"(i) proceeds of the issue invested for an initial temporary period until such proceeds are needed for mortgages, and

"(ii) temporary investment periods related to debt service.

"(C) DEBT SERVICE DEFINED.—For purposes of subparagraph (A), the debt service on the issue for any bond year is the scheduled amount of interest and amortization of principal payable for such year with respect to such issue. For purposes of the preceding sentence, there shall not be taken into account amounts scheduled with respect to any bond which has been retired before the beginning of the bond year.

"(4) ARBITRAGE AND INVESTMENT GAINS TO BE USED TO REDUCE COSTS OF OWNER-FINANCING.—

"(A) IN GENERAL.—An issue shall be treated as meeting the requirements of this paragraph only if an amount equal to the sum of—

"(i) the excess of—

"(I) the amount earned on all non-mortgage investments (other than investments attributable to an excess described in this clause), over

"(II) the amount which would have been earned if the investments were invested at a rate equal to the yield on the issue, plus

"(ii) any income attributable to the excess described in clause (i),

shall be paid or credited to the mortgagors as rapidly as may be practicable.

"(B) INVESTMENT GAINS AND LOSSES.—For purposes of subparagraph (A), in determining the amount earned on all non-mortgage investments, any gain or loss on the disposition of such investments shall be taken into account.

"(j) OTHER REQUIREMENTS.—

"(1) OBLIGATIONS MUST BE REGISTERED.—An issue meets the requirements of this subsection only if each obligation issued pursuant to such issue is in registered form.

"(2) MORTGAGES MUST BE NEW MORTGAGES.—

"(A) IN GENERAL.—An issue meets the requirements of this subsection only if no part of the proceeds of such issue is to be used to acquire or replace existing mortgages.

"(B) EXCEPTIONS.—Under regulations prescribed by the Secretary, the replacement of—

"(i) construction period loans,

"(ii) bridge loans or similar temporary initial financing, and

"(iii) in the case of a qualified rehabilitation, an existing mortgage,

shall not be treated as the acquisition or replacement of an existing mortgage for purposes of subparagraph (A).

"(3) CERTAIN REQUIREMENTS MUST BE MET WHERE MORTGAGE IS ASSUMED.—An issue meets the requirements of this subsection only if a mortgage with respect to which owner-financing has been provided under such issue may be assumed only if the requirements of subsections (d), (e), and (f), are met with respect to such assumption.

"(k) TARGETED AREA RESIDENCES.—

"(1) IN GENERAL.—For purposes of this section, the term 'targeted area residence' means a residence in an area which is either—

"(A) a qualified census tract, or

"(B) an area of chronic economic distress.

"(2) QUALIFIED CENSUS TRACT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified census tract' means a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income.

"(B) DATA USED.—The determination under subparagraph (A) shall be made on the basis of the most recent decennial census for which data are available.

"(3) AREA OF CHRONIC ECONOMIC DISTRESS.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'area of chronic economic distress' means an area of chronic economic distress—

"(i) designated by the State as meeting the standards established by the State for purposes of this subsection, and

"(ii) the designation of which has been approved by the Secretary and the Secretary of Housing and Urban Development.

"(B) CRITERIA TO BE USED IN APPROVING STATE DESIGNATIONS.—The criteria used by the Secretary and the Secretary of Housing and Urban Development in evaluating any proposed designation of an area for purposes of this subsection shall be—

"(i) the condition of the housing stock, including the age of the housing and the number of abandoned and substandard residential units,

"(ii) the need of area residents for owner-financing under this section, as indicated by low per capita income, a high percentage of families in poverty, a high number of welfare recipients, and high unemployment rates,

"(iii) the potential for use of owner-financing under this section to improve housing conditions in the area, and

"(iv) the existence of a housing assistance plan which provides a displacement program and a public improvements and services program.

"(l) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MORTGAGE.—The term 'mortgage' includes any other owner-financing.

"(2) BOND.—The term 'bond' includes any obligation.

"(3) STATE.—The term 'State' includes a possession of the United States and the District of Columbia.

"(4) STATISTICAL AREA.—

"(A) IN GENERAL.—The term 'statistical area' means—

"(i) a standard metropolitan statistical area, and

"(ii) any county (or the portion thereof) which is not within a standard metropolitan statistical area.

"(B) STANDARD METROPOLITAN STATISTICAL AREA.—The term 'standard metropolitan statistical area' means the area in and around a city of 50,000 inhabitants or more (or equivalent area) as defined by the Secretary of Commerce.

"(C) DESIGNATION WHERE ADEQUATE STATISTICAL INFORMATION NOT AVAILABLE.—For purposes of this paragraph, if there is insufficient recent statistical information with respect to a county (or portion thereof) described in subparagraph (A)(ii), the Secretary may substitute for such county (or portion thereof) another area for which there is sufficient recent statistical information.

"(D) DESIGNATION WHERE NO COUNTY.—In the case of any portion of a State which is not within a county, subparagraphs (A)(ii) and (C) shall be applied by substituting for 'county' an area designated by the Secretary which is the equivalent of a county.

"(5) ACQUISITION COST.—

"(A) IN GENERAL.—The term 'acquisition cost' means the cost of acquiring the residence as a completed residential unit.

"(B) EXCEPTIONS.—The term 'acquisition cost' does not include—

"(i) usual and reasonable settlement or financing costs,

"(ii) the value of services performed by the mortgagor or members of his family in completing the residence, and

"(iii) the cost of land which has been owned by the mortgagor for at least 2 years before the date on which construction of the residence begins.

"(C) SPECIAL RULE FOR QUALIFIED REHABILITATION LOANS.—In the case of a qualified rehabilitation loan, for purposes of subsection (f), the term 'acquisition cost' includes the cost of the rehabilitation.

"(6) QUALIFIED HOME IMPROVEMENT LOAN.—The term 'qualified home improvement loan' means the financing (in an amount which does not exceed $15,000)—

"(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

"(B) only of such items as substantially protect or improve the basic livability or energy efficiency of the property.

"(7) QUALIFIED REHABILITATION LOAN.—

"(A) IN GENERAL.—The term 'qualified rehabilitation loan' means any owner-financing provided in connection with—

"(i) a qualified rehabilitation, or

"(ii) the acquisition of a residence with respect to which there has been a qualified rehabilitation,

but only if the mortgagor to whom such financing is provided is the first resident of the residence after the completion of the rehabilitation.

"(B) QUALIFIED REHABILITATION.—For purposes of subparagraph (A), the term 'qualified rehabilitation' means any rehabilitation of a building if—

"(i) there is a period of at least 20 years between the date on which the building was first used and the date on which the physical work on such rehabilitation begins,

"(ii) 75 percent or more of the existing external walls of such building are retained in place as external walls in the rehabilitation process, and

"(iii) the expenditures for such rehabilitation are 25 percent or more of the mortgagor's adjusted basis in the residence.

For purposes of clause (iii), the mortgagor's adjusted basis shall be determined as of the completion of the rehabilitation or, if later, the date on which the mortgagor acquires the residence.

"(8) DETERMINATIONS ON ACTUARIAL BASIS.—All determinations of yield, effective interest rates, and amounts required to be paid or credited to mortgagors under subsection (i)(4)(A) shall be made on an actuarial basis taking into account the present value of money.

"(9) SINGLE-FAMILY AND OWNER-OCCUPIED RESIDENCES INCLUDE CERTAIN RESIDENCES WITH 2 TO 4 UNITS.—Except for purposes of subsections (g) and (h)(2), the terms 'single-family' and 'owner-occupied', when used with respect to residences, include 2, 3, or 4 family residences—

"(A) one unit of which is occupied by the owner of the units, and

"(B) which were first occupied at least 5 years before the mortgage is executed.

"(m) SPECIAL RULE FOR ISSUE USED FOR OWNER-OCCUPIED HOUSING AND RENTAL HOUSING.—In the case of an issue—

"(1) part of the proceeds of which are to be used for mortgages on owner-occupied residences in a manner which meets the requirements of this section, and

"(2) part of the proceeds of which are to be used for rental housing which meets the requirements of section 103(b)(4)(A), under regulations prescribed by the Secretary, each such part shall be treated as a separate issue.

"(n) ADVANCE REFUNDING OF MORTGAGE SUBSIDY BONDS NOT PERMITTED.—On and after the date of the enactment of this section, no obligation may be issued for the advance refunding of a mortgage subsidy bond (determined without regard to subsection (b)(2))."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by inserting after the item relating to section 103 the following new item:

"Sec. 103A. Mortgage subsidy bonds."

SEC. 1103. INDUSTRIAL DEVELOPMENT BONDS FOR HOUSING PURPOSES LIMITED TO LOW- OR MODERATE-INCOME RENTAL HOUSING.

(a) IN GENERAL.—Subparagraph (A) of paragraph (4) of section 103(b) of the Internal Revenue Code of 1954 (relating to industrial development bonds) is amended to read as follows: 26 USC 103.

"(A) projects for residential rental property if each obligation issued pursuant to the issue is in registered form and if—

"(i) 15 percent or more in the case of targeted area projects, or

"(ii) 20 percent or more in the case of any other project,

of the units in each project are to be occupied by individuals of low or moderate income (within the meaning of section 167(k)(3)(B)),".

26 USC 167.

26 USC 103.

(b) TARGETED AREA PROJECT DEFINED.—Paragraph (4) of section 103(b) of such Code is amended by inserting before the last sentence the following new sentence:

"For purposes of subparagraph (A), the term 'targeted area project' means a project located in a qualified census tract (within the meaning of section 103A(k)(2)) or an area of chronic economic distress (within the meaning of section 103A(k)(3))."

Ante, p. 2660.

26 USC 103.

(c) TECHNICAL AMENDMENT.—Paragraph (6) of section 103(b) of such Code (relating to exemption for certain small issues) is amended by adding at the end thereof the following new subparagraph:

"(J) ISSUES FOR RESIDENTIAL PURPOSES.—This paragraph shall not apply to any obligation which is issued as a part of an issue a significant portion of the proceeds of which are to be used directly or indirectly to provide residential real property for family units."

SEC. 1104. EFFECTIVE DATES FOR BOND PROVISIONS.

26 USC 103A note.

(a) GENERAL RULE.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by sections 1102 and 1103 shall apply to obligations issued after April 24, 1979.

(2) EXCEPTIONS FOR CERTAIN OBLIGATIONS ISSUED BEFORE JANUARY 1, 1981.—The amendments made by sections 1102 and 1103 shall not apply to obligations issued before January 1, 1981, if such obligations are part of an issue substantially all the proceeds of which (exclusive of issuance costs and a reasonably required reserve) are, before the date which is 1 year after the date of issue of the obligations, committed—

(A) except as provided in subparagraph (B), by firm commitment letters (similar to those used in financing not provided with tax-exempt bonds), and

(B) in the case of rental housing, by the commencement of construction of the project or by the acquisition of the project.

(b) EXCEPTION FOR OFFICIAL ACTION TAKEN BEFORE APRIL 25, 1979.—

(1) IN GENERAL.—The amendments made by sections 1102 and 1103 shall not apply to obligations if official action before April 25, 1979, of the governing body of the unit having authority to issue such obligations indicated an intent to issue such obligations.

(2) ACTION BY STAFF OF HOUSING AUTHORITY TREATED AS ACTION OF AUTHORITY IN CERTAIN CASES.—For purposes of paragraph (1), if, before April 25, 1979—

(A) the permanent professional staff of a State or local housing authority performed substantial work on a bond issue, and

(B) it was reasonable to expect that the bond issue, as developed by the staff, would be promptly approved by the governing body of the housing authority,

then such action by such staff shall be treated as the official action of such governing body.

(3) SPECIAL RULES RELATING TO SIZE OF ISSUE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an issue does not qualify for the exception provided by paragraph (1) if the issue size exceeds the intended issue size.

(B) EXCEPTION.—In the case of an issue to provide owner-financing for residences for which as of April 24, 1979, there was no documentation relating to intended issue size, paragraph (1) shall not apply unless—

(i) substantially all of the proceeds of the issue (exclusive of issuance costs and a reasonably required reserve) are to be used to provide owner-financing for one to four family residences (one unit of which is owner occupied) and not to acquire or replace existing mortgages (within the meaning of section 103A(j)(2) of the Internal Revenue Code of 1954), and

Ante, p. 2660.

(ii) substantially all of the proceeds referred to in clause (i) are committed by firm commitment letters (similar to those used in owner-financing not provided with tax-exempt bonds) to such owner-financing before the day which is 9 months after the date of issue of the obligations.

(C) ISSUE SIZE DEFINED.—For purposes of this paragraph, the term "issue size" means the aggregate face amount of obligations issued pursuant to the issue.

(D) INTENDED ISSUE SIZE.—For purposes of this paragraph, the term "intended issue size" means the aggregate face amount of obligations which a reasonable individual would reasonably conclude from the documentation before April 25, 1979, was the issue size which the governing body of the issuing authority intended to issue.

(4) LOCAL REFERENDUM HELD BEFORE JUNE 13, 1979.—

(A) IN GENERAL.—For purposes of paragraph (1), if—

(i) on April 25, 1979, legislation was pending in a State legislature,

(ii) on April 27, 1979, such legislation was amended to authorize local governmental units to issue tax-exempt obligations,

(iii) before June 13, 1979, such legislation was enacted and a local governmental unit in such State held a referendum with respect to the issuance of obligations to finance owner-occupied residences, and

(iv) any action with respect to the issuance of such obligations by the governing body of such local governmental unit would have met the requirements of paragraph (1) if such legislation had been in effect, and such referendum had been held, when that action was taken,

then such legislation shall be treated as in effect, and such referendum shall be treated as having been held, at the time when such action was taken.

(B) DOLLAR LIMIT FOR LOCAL GOVERNMENTAL UNITS.—The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising

any local governmental area by reason of subparagraph (A) may not exceed—

(i) $35,000,000, reduced by

(ii) the aggregate amount of obligations which are issued (before, on, or after the issue under this paragraph) by local governmental units with respect to such area after April 24, 1979, and to which the amendments made by this subtitle do not apply solely by reason of this subsection (determined without regard to the application of subparagraph (A) of this paragraph).

(C) MORTGAGE REQUIREMENTS.—Subparagraph (A) shall not apply with respect to any issue unless such issue meets the requirements of paragraph (3)(A) of subsection (c).

(5) CERTAIN LOCAL ACTION PURSUANT TO LEGISLATION ENACTED BEFORE SEPTEMBER 29, 1979.—

(A) IN GENERAL.—For purposes of paragraph (1), if—

(i) on April 25, 1979, legislation was pending in a State legislature authorizing a local governmental unit to issue tax-exempt obligations for owner-occupied residences,

(ii) before September 29, 1979, such legislation was enacted, and

(iii) any action with respect to the issuance of such obligations by the local governing body would have met the requirements of paragraph (1) if such legislation had been in effect when that action was taken,

then such legislation shall be treated as in effect at the time when such action was taken.

(B) DOLLAR LIMIT FOR LOCAL GOVERNMENTAL UNITS.—The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising any local governmental area by reason of subparagraph (A) may not exceed the lesser of—

(i) the aggregate amount authorized by the legislation referred to in subparagraph (A), or

(ii) $150,000,000.

(C) MORTGAGE REQUIREMENTS.—Subparagraph (A) shall not apply with respect to any issue unless such issue meets the requirements of paragraph (3)(A) of subsection (c).

(c) $150,000,000 EXCEPTION FOR STATE HOUSING FINANCE AGENCIES.—

(1) IN GENERAL.—To the extent of the limit set forth in paragraph (2), the amendments made by this subtitle shall not apply to obligations issued by a State housing finance agency.

(2) DOLLAR LIMIT FOR STATE HOUSING FINANCE AGENCIES.—The aggregate amount of obligations which may be issued by State housing finance agencies with respect to any State by reason of paragraph (1) may not exceed—

(A) $150,000,000, reduced by

(B) the aggregate amount of obligations which are issued (before, on, or after the issue under this subsection) by the housing finance agencies of such State after April 24, 1979, to finance owner-occupied residences and to which the amendments made by this subtitle do not apply solely by reason of subsection (b).

(3) COMMITMENTS.—Paragraph (1) shall not apply with respect to any issue unless substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve)—

(A) are to be used to provide owner-financing for 1 to 4 family residences (1 unit of which is owner-occupied) and not to acquire or replace existing mortgages (within the meaning of section 103A(j)(2) of the Internal Revenue Code of 1954), and

Ante, p. 2660.

(B) are committed by firm commitment letters (similar to those used in owner-financing not provided by tax-exempt bonds) to owner-financing before January 1, 1981.

(4) SPECIAL RULE FOR ACTION IN 1978 PURSUANT TO MORTGAGE PROGRAM ESTABLISHED IN 1970.—

(A) IN GENERAL.—If—

(i) in 1970 State legislation established a program to issue tax-exempt obligations to finance the purchase of existing mortgages from financial institutions,

(ii) in August 1978, as a step toward issuing obligations under such program, the governing body of the housing agency administering the program made a finding that there was a shortage of mortgage funds within the State,

(iii) moneys received by any financial institution on the purchase of mortgages will be reinvested within 90 days in new mortgages, and

(iv) the issue meets the requirements of subparagraphs (B) and (C),

then paragraph (3) shall not apply with respect to an issue of obligations pursuant to the program referred to in clause (i) and the finding referred to in clause (ii).

(B) DOWNPAYMENT REQUIREMENT.—An issue meets the requirements of this subparagraph only if 75 percent or more of the financing provided under the issue is financing for residences where such financing constitutes 95 percent or more of the acquisition cost of the residences.

(C) TARGETED AREA REQUIREMENT.—An issue meets the requirements of this subparagraph only if at least 20 percent of the financing provided under the issue is owner-financing of targeted area residences. For purposes of the preceding sentence, the term "targeted area residence" means a residence in an area which is a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income (determined on the basis of the most recent decennial census for which data are available).

(D) DOLLAR LIMIT.—The aggregate amount of obligations which may be issued by a State housing authority by reason of subparagraph (A) may not exceed $125,000,000.

(d) SPECIAL RULES.—

(1) COURT ACTION WAS PENDING TO DETERMINE SCOPE OF AUTHORIZING LEGISLATION.—

(A) IN GENERAL.—If—

(i) before April 25, 1979, a State had enacted a law under which counties were authorized to establish public trusts to issue tax-exempt obligations for public purposes,

(ii) on such date the question of whether or not that law authorized the issuance of obligations to finance certain owner-occupied residences was being litigated in a court of competent jurisdiction,

(iii) before July 31, 1979, the Supreme Court of such State held that the counties were so authorized, and

(iv) there is written evidence (which was in existence before April 25, 1979) that before April 25, 1979, the governing body of a county in such State had taken action indicating an intent to issue (or to establish a program for issuing) tax-exempt obligations to finance owner-occupied residences,

then the amendments made by section 1102 shall not apply to obligations issued by the public trust for such county.

(B) DOLLAR LIMIT.—The aggregate amount of obligations which may be issued with respect to any county by reason of subparagraph (A) may not exceed $50,000,000.

(2) STATE LEGISLATION ENACTED BEFORE JUNE 8, 1979, WHERE LOCALITY HAD ESTABLISHED INCOME LIMITATIONS BEFORE APRIL 25, 1979.—

(A) IN GENERAL.—If—

(i) on April 25, 1979, legislation was pending in a State legislature authorizing a local governmental unit to issue tax-exempt obligations for owner-occupied residences,

(ii) there is written evidence (which was in existence before April 25, 1979) that before April 25, 1979, the governing body of the local governmental unit had taken action indicating to its delegation to the State legislature what the income limitation would be for individuals who would be eligible for mortgages under the program, and

(iii) before June 8, 1979, the legislation referred to in clause (i) was enacted,

then the amendments made by section 1102 shall not apply to obligations issued by the local governmental unit.

(B) DOLLAR LIMIT.—The aggregate amount of obligations which may be issued with respect to any local governmental area by reason of subparagraph (A) may not exceed $150,000,000.

(3) RESOLUTIONS BEFORE CITY COUNCIL BEFORE ENACTMENT OF STATE AUTHORIZING LEGISLATION.—

(A) IN GENERAL.—If—

(i) before April 25, 1979, 2 resolutions were submitted to a city council the first of which would create an urban residential finance authority and the second of which would authorize the appointment of the members of such authority,

(ii) at the time such resolutions were submitted, State authorizing legislation had not been enacted,

(iii) before April 25, 1979, the State authorizing legislation was enacted, and

(iv) after April 24, 1979, and before May 17, 1979, a resolution was adopted by the city council which created an urban residential finance authority and which authorized the appointment of members of the authority,

then the amendments made by section 1102 shall not apply with respect to obligations issued on behalf of such city.

(B) DOLLAR LIMIT.—The aggregate amount of obligations which may be issued with respect to any city by reason of subparagraph (A) may not exceed $50,000,000.

(4) SPECIAL RULE WHERE CITY POSTPONED SECOND HALF OF AUTHORIZED ISSUE TO SAVE INTEREST.—If—

(A) on March 28, 1979, the council of a city adopted a resolution authorizing the issuance of not to exceed $30,000,000 of mortgage revenue bonds,

(B) on or about August 1, 1979, approximately one-half of the obligations authorized by such resolution were issued, and

(C) the reason why the remaining obligations were not issued at that time was to save interest payments until the money was actually needed,

then the amendments made by section 1102 shall not apply with respect to the issuance of the remaining obligations which were authorized by such March 28, 1979, resolution.

(5) STATE WAS IN PROCESS OF PERMITTING LOCALITIES TO ESTABLISH NONPROFIT CORPORATIONS.—

(A) IN GENERAL.—If—

(i) a State law enacted after April 24, 1979, and before June 16, 1979, provides that local governments may establish nonprofit corporations to issue tax-exempt obligations to finance owner-occupied residences,

(ii) pursuant to such State law, a local government establishes such a nonprofit corporation and designates it for purposes of this subsection, and

(iii) on November 7 or 14, 1979, an amount was specified by or for the local government as the maximum amount of obligations which the local government expected the nonprofit corporation to issue with respect to the area under any transitional authority provided by this subtitle,

then the amendments made by section 1102 shall not apply to obligations issued by the nonprofit corporation with respect to the area for which such local government has jurisdiction.

(B) DOLLAR LIMITS.—The aggregate amount of obligations which may be issued with respect to any area by reason of subparagraph (A) may not exceed the amount referred to in subparagraph (A)(iii) which was specified on November 7 or 14, 1979, by or for the local government.

(C) SUBSTITUTION OF HOUSING AUTHORITIES, ETC.—For purposes of applying so much of paragraph (7) as relates to subparagraph (A)—

(i) if the local housing authority had the intent referred to in paragraph (7), such local housing authority shall be substituted for the local government, and

(ii) if the governing body of the local government is a commissioners court, the county judge who was on April 24, 1979, the presiding officer of such court shall be treated as the governing body of such government.

(6) OBLIGATIONS ISSUED UNDER THIS SUBSECTION MUST MEET THE REQUIREMENTS OF SUBSECTION (c)(3).—No obligation may be issued under this subsection unless the issue meets the requirements of subsection (c)(3).

(7) GOVERNING BODY MUST FILE AFFIDAVITS SHOWING INTENT ON APRIL 24, 1979.—No obligation may be issued under this subsection with respect to any area unless a majority of the members of the governing body of the local governmental unit having jurisdiction over that area file affidavits with the Secretary of the

Treasury (or his delegate) indicating that it was their intent on April 24, 1979, either that tax-exempt obligations be issued to provide financing for owner-occupied residences or that a program be established to issue such obligations.

(8) LIMITATIONS REDUCED BY CERTAIN OTHER ISSUES.—Any limitation on the amount of obligations which may be issued by any issuer by reason of any paragraph of this subsection shall be reduced by the aggregate amount of obligations which are issued (before, on, or after the issue under this subsection) by local governmental units with respect to the area within the jurisdiction of such issuer after April 24, 1979, and to which the amendments made by this subtitle do not apply solely by reason of subsection (b).

(e) ONGOING LOCAL PROGRAMS FOR REHABILITATION LOANS.—

(1) IN GENERAL.—If before April 25, 1979, a local governmental unit had a qualified rehabilitation loan program, then the amendments made by this subtitle shall not apply to obligations issued by such governmental unit for qualified loans if substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are committed by firm commitment letters (similar to those used in owner financing not provided by tax-exempt bonds) to qualified loans before January 1, 1981.

(2) LIMITATION.—The aggregate amount of obligations which may be issued by reason of paragraph (1) by local governmental units with respect to the area comprising any local governmental area may not exceed the lesser of—

(A) $10,000,000, or

(B) the aggregate amount of loans made with respect to that area under the qualified rehabilitation loan program during the period beginning on January 1, 1977, and ending on April 24, 1979.

The limitation established by the preceding sentence shall be reduced by the aggregate amount of obligations (if any) which are issued (before, on, or after the issue under this subsection) under the qualified rehabilitation loan program after April 24, 1979, with respect to the same local governmental area and to which the amendments made by this subtitle do not apply solely by reason of subsection (b).

(3) QUALIFIED REHABILITATION LOAN PROGRAM.—For purposes of this subsection, the term "qualified rehabilitation loan program" means a program for the financing—

(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

(B) only of such items as substantially protect or improve the basic livability of the property.

(4) QUALIFIED LOAN.—For purposes of this subsection, the term "qualified loan" means the financing—

(A) of alterations, repairs, and improvements on or in connection with an existing 1 to 4 family residence (1 unit of which is owner-occupied) by the owner thereof, but

(B) only of such items as substantially protect or improve the basic livability of the property.

(5) DOLLAR LIMIT ON QUALIFIED LOANS.—For purposes of this subsection, a loan shall not be treated as a qualified loan if the financing is in an amount which exceeds $20,000 plus $2,500 for each unit in excess of 1.

(f) $50 PER CAPITA EXCEPTION FOR LOCAL GOVERNMENTS.—

(1) IN GENERAL.—To the extent of the limit set forth in paragraph (2), the amendments made by section 1102 shall not apply to mortgage subsidy bonds issued by local governmental units after April 24, 1979.

(2) LIMIT.—

(A) IN GENERAL.—The aggregate amount of obligations issued with respect to any area by reason of paragraph (1) shall not exceed—

(i) the amount equal to the product of $50 and the population of that area, reduced by

(ii) the aggregate amount of obligations which are issued (before, on, or after the issue under this subsection) by local governmental units after April 24, 1979, with respect to that area and to which the amendments made by this subtitle do not apply solely by reason of subsections (b), (d), and (e).

(B) DETERMINATION OF POPULATION.—For purposes of subparagraph (A), the population of any area shall be the population as of July 1, 1976, as determined for purposes of the State and Local Fiscal Assistance Act of 1972. 31 USC 1221 note.

(3) UNIT MUST ESTABLISH THAT ACTION WAS TAKEN BEFORE APRIL 25, 1979.—Paragraph (1) shall not apply with respect to any obligation issued by any local governmental unit unless—

(A) there is written evidence (which was in existence before April 25, 1979) that before April 25, 1979, the governing body of such local governmental unit had taken action indicating an intent to issue (or to establish a program for issuing) tax-exempt obligations to finance owner-occupied residences,

(B) on October 30, 1979, such local governmental unit had authority to issue obligations to finance owner-occupied residences, and

(C) a majority of the members of the governing body of the local governmental unit file with the Secretary of the Treasury (or his delegate) affidavits that the requirement of such subparagraph (A) is met.

For purposes of subparagraph (A), action of the governing body of a second local governmental unit with respect to the same area shall be treated as action of the issuing governmental unit.

(4) COMMITMENTS.—Paragraph (1) shall not apply with respect to any issue unless such issue meets the requirements of paragraph (3) of subsection (c).

(5) OVERLAPPING JURISDICTIONS.—For purposes of this subsection, if 2 or more local governmental units meet the requirements of paragraph (3) and have authority to issue mortgage subsidy bonds with respect to residences in the same area, only the unit having jurisdiction over the smallest geographical area shall be treated as having issuing authority with respect to such area unless such unit agrees to surrender part or all of the amount permitted under this subsection to the local governmental unit with overlapping jurisdiction which has the next smallest geographical area.

(g) ROLLOVER OF EXISTING TAX-EXEMPT OBLIGATIONS.—

(1) IN GENERAL.—The amendments made by sections 1102 and 1103 shall not apply to the issuance of obligations to refinance for the same purpose tax-exempt indebtedness which was outstand-

ing on April 24, 1979 (or indebtedness which had previously been refinanced pursuant to this subsection), but only if—

(A) on April 24, 1979, there was an agreed on period for the maturity of the mortgages or other financing, and

(B) the new obligations have a maturity date which does not exceed by more than 2 years the agreed on period referred to in subparagraph (A).

(2) AMOUNTS FOR RESERVES, ISSUE COSTS, ETC.—An issue which otherwise meets the requirements of paragraph (1) shall not be treated as failing to meet such requirements solely because the amount of the new indebtedness exceeds the amount of the old indebtedness by such amount as is reasonably necessary to cover construction period interest, reserves, and the costs of issuing the new indebtedness.

(h) SPECIAL RULES FOR PROJECTS UNDER DEVELOPMENT.—

(1) RENTAL HOUSING.—The amendment made by section 1103 shall not apply to a project which was in the development stage on April 24, 1979, if—

(A) a plan specifying the number and location of rental units was approved on or before such date by a governing body of a State or local government or by a State or local housing agency or similar agency, and

(B) substantial expenditures for site improvement for the project had been incurred on or before such date.

(2) RENTAL HOUSING PROJECTS APPROVED BY SECRETARY OF HUD.—The amendment made by section 1103 shall not apply to a project which was in the development stage on April 24, 1979, if—

(A) a plan specifying the number and location of rental units was preliminarily approved by the Secretary of Housing and Urban Development pursuant to section 221(d)(4) or section 232 of the National Housing Act on or before such date, and

12 USC 1715*l*, 1715w.

(B) fees for processing the project with the Department of Housing and Urban Development and other expenditures for the project had been incurred on or before such date.

(3) OWNER-OCCUPIED HOUSING.—The amendments made by section 1102 shall not apply to a project which was in the development stage on April 24, 1979, if on or before such date—

(A) substantial expenditures had been made for detailed plans and specifications, and

(B) either tax-exempt construction financing had been issued with respect to the project or there is written evidence that a governmental unit intended to issue tax-exempt obligations to finance the acquisition of the units by home buyers.

The amendment made by section 1103 shall not apply to construction or other initial temporary financing issued with respect to a project which meets the requirements of the preceding sentence if substantially all of the dwelling units in such project are to be owner-occupied residences.

(4) CERTAIN REDEVELOPMENT MORTGAGE BOND FINANCING PROJECTS.—Subparagraph (B) of paragraph (3) shall be treated as satisfied if, before April 25, 1979—

(A) the developer of a project acquired the land for such project,

(B) there was approval by the mayor's advisory committee of a city of a comprehensive proposal (under a State law

authorizing tax-exempt obligations for use only in redevelopment areas) for such project, subject to revisions to be made, and

(C) a revised proposal was submitted to the redevelopment agency and city council containing the revisions.

The aggregate amount of obligations which may be issued by local governmental units with respect to the area comprising any local governmental area by reason of this paragraph may not exceed $20,000,000.

(i) REGISTRATION REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of this section, the amendments made by sections 1102 and 1103, insofar as they require obligations to be in registered form, shall apply to obligations issued after December 31, 1981.

(2) BONDS UNDER TRANSITIONAL RULES.—Any obligation issued after December 31, 1981, by reason of this section shall be in registered form.

(j) ADVANCE REFUNDING.—Notwithstanding any other provision of this section—

(1) subsection (n) of section 103A of the Internal Revenue Code of 1954 (as added by section 1102) shall apply to obligations issued after the date of the enactment of this Act to refund obligations issued before, on, or after such date of enactment, and

(2) this section shall not apply to obligations issued after such date of enactment for the advance refunding of obligations issued before, on, or after such date of enactment.

(k) TRANSITIONAL RULE FOR LOW- AND MODERATE-INCOME REQUIREMENT.—In the case of obligations issued after April 24, 1979, and before January 1, 1984, the period for which the low- and moderate-income requirements of section 103(b)(4)(A) of the Internal Revenue Code of 1954 (as amended by section 1103 of this subtitle) is required to be met shall be 20 years.

(l) SUBSTITUTION OF GOVERNMENTAL INSTRUMENTALITY FOR CITY.—

(1) IN GENERAL.—If—

(A) a corporation was created on June 17, 1971, pursuant to State law to provide financing for the construction and rehabilitation of low-income housing,

(B) pursuant to a State law enacted in 1955 a city has made loans to housing developers from the proceeds of short-term bonds and notes issued by the city, and has secured 50-year mortgages from the developers, and

(C) the corporation agrees to acquire from the city certain of the loans referred to in subparagraph (B) by issuing obligations which will be secured by mortgages referred to in subparagraph (B) on 12 projects (11 of which projects are subsidized with interest-reduction subsidies under section 236 of the National Housing Act), 12 USC 1715z-1.

then the amendments made by this subtitle shall not apply to obligations issued by the corporation to acquire the loans (and mortgages) referred to in subparagraph (C).

(2) DOLLAR LIMIT.—The aggregate amount of obligations to which paragraph (1) applies shall not exceed $135,000,000.

(3) TIME LIMIT.—Paragraph (1) shall not apply to any obligation issued after December 31, 1980.

(m) STATE LEGISLATION WAS PENDING ON APRIL 1, 1979, AND ENACTED ON APRIL 26, 1979, WHERE LOCALITY HAD TAKEN ACTION TO UNDERTAKE A STUDY OF LOCAL MORTGAGE MARKET.—

(1) IN GENERAL.—If—

(A) on April 1, 1979, legislation was pending in a State legislature limiting the authority of local governments within such State to issue tax-exempt obligations for owner-occupied residence under existing home rule authority, and such legislation was enacted on April 26, 1979,

(B) there is written evidence (which was in existence before April 25, 1979) that not earlier than June 1, 1978, but before April 25, 1979, the governing body of a local government in such State had taken action authorizing the undertaking of a demographic or related study of the local mortgage market, which study was intended to serve as a basis for issuance of tax exempt obligations for owner-occupied residences,

(C) on December 20, 1979, an amount was specified by or for the local government as the range of obligations which it expected to issue with respect to the area under any transitional authority provided by the Act, and

(D) a majority of the members of the governing body of the local government certify that the city or county was waiting enactment of the legislation described in subparagraph (A) prior to determining to proceed towards the issuance of tax-exempt obligations for owner-occupied residences.

then the amendments made by section 1102 shall not apply to obligations issued by such city or county.

(2) DOLLAR LIMITS.—The aggregate amount of obligations which may be issued with respect to any area by reason of paragraph (1) may not exceed the maximum amount referred to in paragraph (1)(C) which was specified on December 20, 1979, by or for such local government.

(3) TIME LIMITS.—Paragraph (1) shall not apply with respect to any issue unless substantially all of the proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are committed by firm commitment letters (similar to those used in owner-financing not provided by tax-exempt bonds) to owner-financing before January 1, 1982.

(n) CERTAIN ADDITIONAL TRANSITIONAL AUTHORITY.—

(1) IN GENERAL.—The amendments made by sections 1102 and 1103 shall not apply to issues described in the following table:

City or county	Ceiling amount	Purpose of issue
Baltimore, Maryland	$100,000,000	Financing owner-occupied residences.
Port Arthur, Texas	175,000,000	For financing on New Town In Town project.
Minneapolis, Minnesota	25,000,000	Financing owner-occupied residences.
Minneapolis-St. Paul, Minnesota.	235,000,000	Joint program for financing owner-occupied residences involving some UDAG grants and private financing.
Detroit, Michigan	50,000,000	To issue obligations maturing before 1986 for construction on the Riverfront West project.
Brevard County, Florida	150,000,000	Financing owner-occupied residences.
Chicago, Illinois	235,000,000	For financing on the Presidential Towers project.

(2) ISSUING AUTHORITY.—The authority granted by this subsection with respect to any city or county may be used only by the appropriate issuing authority for that city or county.

(3) CEILING AMOUNT.—The ceiling amount specified in paragraph (1) with respect to any item shall be the maximum aggregate amount of obligations which may be issued by the appropriate issuing authority under the authority granted by such item.

(4) PURPOSE.—The authority under any item may be used to issue obligations only for the purpose set forth in paragraph (1) for such item.

(o) SPECIAL RULE FOR LOANS TO LENDERS PROGRAM.—

(1) IN GENERAL.—In the case of any obligations issued during 1981 or 1982 pursuant to a qualified loans to lender program—

(A) the amendments made by section 1103 shall not apply,

(B) subsection (i) of section 103A of the Internal Revenue Code of 1954 (other than the last sentence of paragraph (1) of such subsection) shall not apply, and

Ante, p. 2660.

(C) the determination of whether the requirements of subsections (d), (e), (f), (h), (j)(2), and (j)(3) of such section 103A are met with respect to such issue shall be made by taking into account the loans made by the financial institutions with the funds provided by the issue (in lieu of the mortgages acquired from the financial institutions with the proceeds of the issue).

(2) QUALIFIED LOANS TO LENDER PROGRAM.—For purposes of paragraph (1), the term "qualified loans to lender program" means any program established pursuant to legislation enacted by New York State in 1970 which finances the purchase of existing mortgages from financial institutions and requires any money received by a financial institution on the purchase of a mortgage to be reinvested within 90 days in new mortgages.

Subtitle B—Cash Management

SEC. 1111. ESTIMATED INCOME TAX PAYMENTS BY CORPORATIONS.

(a) GENERAL RULE.—Section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation to pay estimated income tax) is amended by adding at the end thereof the following new subsection:

26 USC 6655.

"(h) LARGE CORPORATIONS REQUIRED TO PAY AT LEAST 60 PERCENT OF CURRENT YEAR TAX.—

"(1) IN GENERAL.—In the case of a large corporation, the amount treated as the estimated tax for the taxable year under paragraphs (1) and (2) of subsection (d) shall in no event be less than 60 percent of—

"(A) the tax shown on the return for the taxable year, or

"(B) if no return was filed, the tax for such year.

"(2) LARGE CORPORATION.—For purposes of this subsection, the term 'large corporation' means any corporation if such corporation (or any predecessor corporation) had taxable income of $1,000,000 or more for any taxable year during the testing period.

"(3) RULES FOR APPLYING PARAGRAPH (2).—

"(A) TESTING PERIOD.—For purposes of this subsection, the term 'testing period' means the 3 taxable years immediately preceding the taxable year involved.

"(B) MEMBERS OF CONTROLLED GROUPS.—For purposes of applying paragraph (2) to any taxable year in the testing period with respect to corporations which are component members of a controlled group of corporations for such taxable year, the $1,000,000 amount specified in paragraph (2) shall be divided among such members under rules similar to the rules of section 1561."

26 USC 6655.

(b) TECHNICAL AMENDMENT.—Subsection (e) of section 6655 of such Code is amended by striking out "subsections (b) and (d)" and inserting in lieu thereof "subsections (b), (d), and (h)".

26 USC 6655 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980.

Foreign Investment in Real Property Tax Act of 1980.

Subtitle C—Taxation of Foreign Investment in United States Real Property

26 USC 1 note.

SEC. 1121. SHORT TITLE.

This subtitle may be cited as the "Foreign Investment in Real Property Tax Act of 1980".

SEC. 1122. TAX ON DISPOSITION OF FOREIGN INVESTMENT IN UNITED STATES REAL PROPERTY.

(a) IN GENERAL.—Subpart C of part II of subchapter N of chapter 1 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions with respect to nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

26 USC 897.

"SEC. 897. DISPOSITION OF INVESTMENT IN UNITED STATES REAL PROPERTY.

"(a) GENERAL RULE.—

"(1) TREATMENT AS EFFECTIVELY CONNECTED WITH UNITED STATES TRADE OR BUSINESS.—For purposes of this title, gain or loss of a nonresident alien individual or a foreign corporation from the disposition of a United States real property interest shall be taken into account—

"(A) in the case of a nonresident alien individual, under section 871(B)(1), or

26 USC 871.

"(B) in the case of a foreign corporation, under section 882(a)(1),

26 USC 882.

as if the taxpayer were engaged in a trade or business within the United States during the taxable year and as if such gain or loss were effectively connected with such trade or business.

"(2) 20-PERCENT MINIMUM TAX ON NONRESIDENT ALIEN INDIVIDUALS.—

"(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(a)(1)(A) for the taxable year shall not be less than 20 percent of whichever of the following is the least:

26 USC 55.

"(i) the individual's alternative minimum taxable income (as defined in section 55(b)(1)) for the taxable year,

"(ii) the individual's net United States real property gain for the taxable year, or

"(iii) $60,000.

"(B) NET UNITED STATES REAL PROPERTY GAIN.—For purposes of subparagraph (A), the term 'net United States real property gain' means the excess of—

"(i) the aggregate of the gains for the taxable year from dispositions of United States real property interests, over

"(ii) the aggregate of the losses for the taxable year from dispositions of such interests.

"(b) LIMITATION ON LOSSES OF INDIVIDUALS.—In the case of an individual, a loss shall be taken into account under subsection (a) only to the extent such loss would be taken into account under section 165(c) (determined without regard to subsection (a) of this section). 26 USC 165.

"(c) UNITED STATES REAL PROPERTY INTEREST.—For purposes of this section—

"(1) UNITED STATES REAL PROPERTY INTEREST.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'United States real property interest' means—

"(i) an interest in real property (including an interest in a mine, well, or other natural deposit) located in the United States, and

"(ii) any interest (other than an interest solely as a creditor) in any domestic corporation unless the taxpayer establishes (at such time and in such manner as the Secretary by regulations prescribes) that such corporation was at no time a United States real property holding corporation during the shorter of—

"(I) the period after June 18, 1980, during which the taxpayer held such interest, or

"(II) the 5-year period ending on the date of the disposition of such interest.

"(B) EXCLUSION FOR INTEREST IN CERTAIN CORPORATIONS.—The term 'United States real property interest' does not include any interest in a corporation if—

"(i) as of the date of the disposition of such interest, such corporation did not hold any United States real property interests, and

"(ii) all of the United States real property interests held by such corporation at any time during the shorter of the periods described in subparagraph (A)(ii)—

"(I) were disposed of in transactions in which the full amount of the gain (if any) was recognized, or

"(II) ceased to be United States real property interests by reason of the application of this subparagraph to 1 or more other corporations.

"(2) UNITED STATES REAL PROPERTY HOLDING CORPORATION.—The term 'United States real property holding corporation' means any corporation if—

"(A) the fair market value of its United States real property interests equals or exceeds 50 percent of

"(B) the fair market value of—

"(i) its United States real property interests,

"(ii) its interests in real property located outside the United States, plus

"(iii) any other of its assets which are used or held for use in a trade or business.

"(3) EXCEPTION FOR STOCK REGULARLY TRADED ON ESTABLISHED SECURITIES MARKETS.—If any class of stock of a corporation is regularly traded on an established securities market, stock of

such class shall be treated as a United States real property interest only in the case of a person who, at some time during the shorter of the periods described in paragraph (1)(A)(ii), held more than 5 percent of such class of stock.

"(4) INTERESTS HELD BY FOREIGN CORPORATIONS AND BY PARTNERSHIPS, TRUSTS, AND ESTATES.—For purposes of determining whether any corporation is a United States real property holding corporation—

"(A) FOREIGN CORPORATIONS.—Paragraph (1)(A)(ii) shall be applied by substituting 'any corporation (whether foreign or domestic)' for 'any domestic corporation'.

"(B) INTERESTS HELD BY PARTNERSHIPS, ETC.—United States real property interests held by a partnership, trust, or estate shall be treated as owned proportionately by its partners or beneficiaries.

"(5) TREATMENT OF CONTROLLING INTERESTS.—

"(A) IN GENERAL.—Under regulations, for purposes of determining whether any corporation is a United States real property holding corporation, if any corporation (hereinafter in this paragraph referred to as the 'first corporation') holds a controlling interest in a second corporation—

"(i) the stock which the first corporation holds in the second corporation shall not be taken into account,

"(ii) the first corporation shall be treated as holding a portion of each asset of the second corporation equal to the percentage of the fair market value of the stock of the second corporation represented by the stock held by the first corporation, and

"(iii) any asset treated as held by the first corporation by reason of clause (ii) which is used or held for use by the second corporation in a trade or business shall be treated as so used or held by the first corporation.

Any asset treated as held by the first corporation by reason of the preceding sentence shall be so treated for purposes of applying the preceding sentence successively to corporations which are above the first corporation in a chain of corporations.

"(B) CONTROLLING INTEREST.—For purposes of subparagraph (A), the term 'controlling interest' means 50 percent or more of the fair market value of all classes of stock of a corporation.

"(6) OTHER SPECIAL RULES.—

"(A) INTEREST IN REAL PROPERTY.—The term 'interest in real property' includes fee ownership and co-ownership of land or improvements thereon, leaseholds of land or improvements thereon, options to acquire land or improvements thereon, and options to acquire leaseholds of land or improvements thereon.

"(B) REAL PROPERTY INCLUDES ASSOCIATED PERSONAL PROPERTY.—The term 'real property' includes movable walls, furnishings, and other personal property associated with the use of the real property.

"(C) CONSTRUCTIVE OWNERSHIP RULES.—For purposes of determining under paragraph (3) whether any person holds more than 5 percent of any class of stock and of determining under paragraph (5) whether a person holds a controlling interest in any corporation, section 318(a) shall apply (except

that paragraphs (2)(C) and (3)(C) of section 318(a) shall be applied by substituting '5 percent' for '50 percent'). 26 USC 318.

"(d) TREATMENT OF DISTRIBUTIONS, ETC., BY FOREIGN CORPORATIONS.—

"(1) DISTRIBUTIONS.—

"(A) IN GENERAL.—Except to the extent otherwise provided in regulations, notwithstanding any other provision of this chapter, gain shall be recognized by a foreign corporation on the distribution (including a distribution in liquidation or redemption) of a United States real property interest in an amount equal to the excess of the fair market value of such interest (as of the time of the distribution) over its adjusted basis.

"(B) EXCEPTION WHERE THERE IS A CARRYOVER BASIS.—Subparagraph (A) shall not apply if the basis of the distributed property in the hands of the distributee is the same as the adjusted basis of such property before the distribution increased by the amount of any gain recognized by the distributing corporation.

"(2) SECTION 337 NOT TO APPLY.—Section 337 shall not apply to any sale or exchange of a United States real property interest by a foreign corporation. 26 USC 337.

"(e) COORDINATION WITH NONRECOGNITION PROVISIONS.—

"(1) IN GENERAL.—Except to the extent otherwise provided in subsection (d) and paragraph (2) of this subsection, any nonrecognition provision shall apply for purposes of this section to a transaction only in the case of an exchange of a United States real property interest for an interest the sale of which would be subject to taxation under this chapter.

"(2) REGULATIONS.—The Secretary shall prescribe regulations (which are necessary or appropriate to prevent the avoidance of Federal income taxes) providing—

"(A) the extent to which nonrecognition provisions shall, and shall not, apply for purposes of this section, and

"(B) the extent to which—

"(i) transfers of property in reorganization, and

"(ii) changes in interests in, or distributions from, a partnership, trust, or estate,

shall be treated as sales of property at fair market value.

"(3) NONRECOGNITION PROVISION DEFINED.—For purposes of this subsection, the term 'nonrecognition provision' means any provision of this title for not recognizing gain or loss.

"(f) DISTRIBUTIONS BY DOMESTIC CORPORATIONS TO FOREIGN SHAREHOLDERS.—If a domestic corporation distributes a Unted States real property interest to a nonresident alien individual or a foreign corporation in a distribution to which section 301 applies, notwithstanding any other provision of this chapter, the basis of such United States real property interest in the hands of such nonresident alien individual or foreign corporation shall not exceed— 26 USC 301.

"(1) the adjusted basis of such property before the distribution, increased by

"(2) the sum of—

"(A) any gain recognized by the distributing corporation on the distribution, and

"(B) any tax paid under this chapter by the distributee on such distribution.

"(g) SPECIAL RULE FOR SALES OF INTEREST IN PARTNERSHIPS, TRUSTS, AND ESTATES.—Under regulations prescribed by the Secretary, the

amount of any money, and the fair market value of any property, received by a nonresident alien individual or foreign corporation in exchange for all or part of its interest in a partnership, trust, or estate shall, to the extent attributable to United States real property interests, be considered as an amount received from the sale or exchange in the United States of such property.

"(h) SPECIAL RULES FOR REITS.—For purposes of this section—

"(1) LOOK-THROUGH OF DISTRIBUTIONS.—Any distribution by a REIT to a nonresident alien individual or a foreign corporation shall, to the extent attributable to gain from sales or exchanges by the REIT of United States real property interests, be treated as gain recognized by such nonresident alien individual or foreign corporation from the sale or exchange of a United States real property interest.

"United States real property interest."

"(2) SALE OF STOCK IN DOMESTICALLY-CONTROLLED REIT NOT TAXED.—The term 'United States real property interest' does not include any interest in a domestically-controlled REIT.

"(3) DISTRIBUTIONS BY DOMESTICALLY-CONTROLLED REITS.—In the case of a domestically-controlled REIT, rules similar to the rules of subsection (d) shall apply to the foreign ownership percentage of any gain.

"(4) DEFINITIONS.—

"(A) REIT.—The term 'REIT' means a real estate investment trust.

"(B) DOMESTICALLY-CONTROLLED REIT.—The term 'domestically-controlled REIT' means a REIT in which at all times during the testing period less than 50 percent in value of the stock was held directly or indirectly by foreign persons.

"(C) FOREIGN OWNERSHIP PERCENTAGE.—The term 'foreign ownership percentage' means that percentage of the stock of the REIT which was held (directly or indirectly) by foreign persons at the time during the testing period during which the direct and indirect ownership of stock by foreign persons was greatest.

"(D) TESTING PERIOD.—The term 'testing period' means whichever of the following periods is the shortest:

"(i) the period beginning on June 19, 1980, and ending on the date of the disposition or of the distribution, as the case may be,

"(ii) the 5-year period ending on the date of the disposition or of the distribution, as the case may be, or

"(iii) the period during which the REIT was in existence.

"(i) ELECTION BY FOREIGN CORPORATION TO BE TREATED AS DOMESTIC CORPORATION.—

"(1) IN GENERAL.—If—

"(A) a foreign corporation has a permanent establishment in the United States, and

"(B) under any treaty, such permanent establishment may not be treated less favorably than domestic corporations carrying on the same activities,

then such foreign corporation may make an election to be treated as a domestic corporation for purposes of this section and section 6039C.

Post, p. 2687.

"(2) REVOCATION ONLY WITH CONSENT.—Any election under paragraph (1), once made, may be revoked only with the consent of the Secretary.

"(3) MAKING OF ELECTION.—An election under paragraph (1) may be made only subject to such conditions as may be prescribed by the Secretary."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart C is amended by adding at the end thereof the following new item:

"SEC. 897. Disposition of investment in United States real property."

(c) CROSS REFERENCES.— 26 USC 871.

(1) Subsection (g) of section 871 of such Code (relating to tax on income of nonresident alien individuals) is amended by adding at the end thereof the following new paragraph:

"(8) For special tax treatment of gain or loss from the disposition by a nonresident alien individual of a United States real property interest, see section 897."

(2) Subsection (a) of section 882 of such Code (relating to tax on income of foreign corporation connected with United States business) is amended by adding at the end thereof the following new paragraph: 26 USC 882.

"(3) For special tax treatment of gain or loss from the disposition by a foreign corporation of a United States real property interest, see section 897."

SEC. 1123. REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Subpart A of part III of chapter 61 of the Internal Revenue Code of 1954 (relating to information returns concerning persons subject to special provisions) is amended by inserting after section 6039B the following new section:

"SEC. 6039C. RETURNS WITH RESPECT TO UNITED STATES REAL PROPERTY INTERESTS. 26 USC 6039C.

"(a) RETURN OF CERTAIN DOMESTIC CORPORATIONS HAVING FOREIGN SHAREHOLDERS.—

"(1) GENERAL RULE.—

"(A) RETURN REQUIREMENT.—If this subsection applies to a domestic corporation for the calendar year, such corporation shall make a return for the calendar year setting forth—

"(i) the name and address (if known by the corporation) of each person who was a shareholder at any time during the calendar year and who is known by the corporation to be a foreign person,

"(ii) such information with respect to transfers of stock in such corporation to or from foreign persons during the calendar year as the Secretary may by regulations prescribe, and

"(iii) such other information as the Secretary may by regulations prescribe.

"(B) CORPORATIONS TO WHICH SUBSECTION APPLIES.—This subsection applies to any domestic corporation for the calendar year if—

"(i) at any time during the calendar year 1 or more of the shareholders of such corporation is a foreign person, and

"(ii) at any time during the calendar year or during any of the 4 immediately preceding calendar years, such corporation was a United States real property holding corporation (as defined in section 897(c)(2)). *Ante*, p. 2682.

"(2) SUBSECTION DOES NOT APPLY TO PUBLICLY TRADED CORPORATIONS.—This subsection shall not apply to a corporation the stock of which is regularly traded on an established securities market at all times during the calendar year.

"STOCK HELD BY NOMINEES.—If—

"(A) a nominee holds stock in a domestic corporation for a foreign person, and

"(B) such foreign person does not furnish the information required to be furnished pursuant to paragraph (1)(A) with respect to such stock,

the nominee shall file a return under this subsection with respect to such stock.

"(b) RETURN OF CERTAIN PERSONS HOLDING UNITED STATES REAL PROPERTY INTERESTS.—

"(1) RETURN REQUIREMENT.—If any entity to which this subsection applies has at any time during the calendar year a substantial investor in United States real property, such entity shall make a return for the calendar year setting forth—

"(A) the name and address of each such substantial investor,

"(B) such information with respect to the assets of the entity during the calendar year as the Secretary may by regulations prescribe, and

"(C) such other information as the Secretary may by regulations prescribe.

"(2) EXCEPTION WHERE SECURITY FURNISHED.—This subsection shall not apply to any entity for the calendar year if such entity furnishes to the Secretary such security as the Secretary determines to be necessary to ensure that any tax imposed by chapter 1 with respect to United States real property interests held by such entity will be paid.

"(3) STATEMENTS TO BE FURNISHED TO SUBSTANTIAL INVESTOR IN UNITED STATES REAL PROPERTY.—Every entity making a return under paragraph (1) shall furnish to each substantial investor in United States real property a statement showing—

"(A) the name and address of the entity making such return,

"(B) such substantial investor's pro rata share of the United States real property interests held by such entity, and

"(C) such other information as the Secretary shall by regulations prescribe.

"(4) DEFINITIONS.—For purpose of this subsection—

"(A) ENTITIES TO WHICH THIS SUBSECTION APPLIES.—This subsection shall apply to any foreign corporation and to any partnership, trust, or estate (whether foreign or domestic).

"(B) SUBSTANTIAL INVESTOR IN UNITED STATES REAL PROPERTY.—

"(i) IN GENERAL.—The term 'substantial investor in United States real property' means any foreign person who at any time during the calendar year held an interest in the entity but only if the fair market value of such person's pro rata share of the United States real property interests held by such entity exceeded $50,000.

"(ii) SPECIAL RULE FOR CORPORATIONS.—In the case of any foreign corporation, clause (i) shall be applied by substituting 'person (whether foreign or domestic)' for 'foreign person'.

"(C) INDIRECT HOLDINGS.—The assets of any entity to which this subsection applies shall include its pro rata share of the United States real property interests held by any corporation in which the entity is a substantial investor in United States real property.

"(c) RETURN OF CERTAIN FOREIGN PERSONS HOLDING DIRECT INVESTMENTS IN UNITED STATES REAL PROPERTY INTERESTS.—

"(1) RETURN REQUIREMENT.—If this subsection applies to any foreign person for the calendar year, such person shall make a return for the calendar year setting forth—

"(A) the name and address of such person,

"(B) a description of all United States real property interests held by such person at any time during the calendar year, and

"(C) such other information as the Secretary may by regulations prescribe.

"(2) PERSONS TO WHOM THIS SUBSECTION APPLIES.—This subsection applies to any foreign person for the calendar year if—

"(A) such person did not engage in a trade or business in the United States at any time during the calendar year,

"(B) the fair market value of the United States real property interests held by such person at any time during such year equals or exceeds $50,000, and

"(C) such person is not required to file a return under subsection (b) of such year.

"(d) DEFINITIONS.—For purposes of this section—

"(1) UNITED STATES REAL PROPERTY INTEREST.—The term 'United States real property interest' has the meaning given to such term by section 897(c). *Ante*, p. 2682.

"(2) FOREIGN PERSON.—The term 'foreign person' means any person who is not a United States person."

"(e) SPECIAL RULES.—

"(1) ATTRIBUTION OF OWNERSHIP.—For purposes of subsections (b)(4) and (c)(2)(B)—

"(A) INTERESTS HELD BY PARTNERSHIPS, ETC.—United States real property interests held by a partnership, trust, or estate shall be treated as owned proportionately by its partners or beneficiaries.

"(B) INTERESTS HELD BY FAMILY MEMBERS.—United States real property interests held by the spouse or any minor child of an individual shall be treated as owned by such individual.

"(2) RETURNS, ETC.—All returns, statements, and information required to be made or furnished under this section shall be made or furnished at such time and in such manner as the Secretary shall by regulations prescribe."

(b) PENALTY FOR FAILURE TO FILE RETURN, ETC.—Section 6652 of such Code (relating to failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection: 26 USC 6652.

"(g) RETURNS, ETC., REQUIRED UNDER SECTION 6039C.— *Ante*, p. 2687.

"(1) IN GENERAL.—In the case of each failure—

"(A) to make a return required by section 6039C which contains the information required by such section, or

"(B) to furnish a statement required by section 6039C(b)(3), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the amount

determined under paragraph (2) shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to make such return or furnish such statement.

"(2) AMOUNT OF PENALTY.—For purposes of paragraph (1), the amount determined under this paragraph with respect to any failure shall be $25 for each day during which such failure continues.

"(3) LIMITATIONS.—

"(A) FOR FAILURE TO MEET REQUIREMENTS OF SUBSECTION (A) OR (B) OF SECTION 6039C.—The amount determined under paragraph (2) with respect to any person for failing to meet the requirements of subsection (a) or (b) of section 6039C for any calendar year shall not exceed $25,000 with respect to each such subsection.

Ante, p. 2687.

"(B) FOR FAILURE TO MEET REQUIREMENTS OF SECTION 6039C(c).—The amount determined under paragraph (2) with respect to any person for failing to meet the requirements of subsection (c) of section 6039C for any calendar year shall not exceed the lesser of $25,000 or 5 percent of the aggregate of the fair market value of the United States real property interests owned by such person at any time during such year. For purposes of the preceding sentence, fair market value shall be determined as of the end of the calendar year (or, in the case of any property disposed of during the calendar year, as of the date of such disposition)."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of chapter 61 of such Code is amended by inserting after the item relating to section 6039B the following new item:

"Sec. 6039C. Returns with respect to United States real property interests."

SEC. 1124. SOURCES WITHIN UNITED STATES.

26 USC 861.

Paragraph (5) of subsection (a) of section 861 of the Internal Revenue Code of 1954 (relating to income from sources within the United States) is amended to read as follows:

"(5) DISPOSITION OF UNITED STATES REAL PROPERTY INTEREST.—Gains, profits, and income from the disposition of a United States real property interest (as defined in section 897(c))."

Ante, p. 2682.

SEC. 1125. EFFECTIVE DATE.

26 USC 897 note.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall apply to dispositions after June 18, 1980.

(b) REPORTING.—The amendments made by section 1123 shall apply to 1980 and subsequent calendar years. In applying such amendments to 1980, such calendar year shall be treated as beginning on June 19, 1980, and ending on December 31, 1980.

(c) SPECIAL RULE FOR TREATIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), after December 31, 1984, nothing in section 894(a) or 7852(d) of the Internal Revenue Code of 1954 or in any other provision of law shall be treated as requiring, by reason of any treaty obligation of the United States, an exemption from (or reduction of) any tax imposed by section 871 or 882 of such Code on a gain described in section 897 of such Code.

26 USC 894, 7852.

26 USC 871, 882.

Ante, p. 2682.

(2) SPECIAL RULE FOR TREATIES RENEGOTIATED BEFORE 1985.—If—

(A) any treaty (hereinafter in this paragraph referrred to as the "old treaty") is renegotiated to resolve conflicts between such treaty and the provisions of section 897 of the Internal Revenue Code of 1954, and

Ante, p. 2682.

(B) the new treaty is signed before January 1, 1985, then paragraph (1) shall be applied with respect to obligations under the old treaty by substituting for "December 31, 1984" the date (not later than 2 years after the new treaty was signed) specified in the new treaty (or accompanying exchange of notes).

(d) ADJUSTMENT IN BASIS FOR CERTAIN TRANSACTIONS BETWEEN RELATED PERSONS.—

(1) IN GENERAL.—In the case of any disposition after December 31, 1979, of a United States real property interest (as defined in section 897(c) of the Internal Revenue Code of 1954) to a related person (within the meaning of section 453(f)(1) of such Code), the basis of the interest in the hands of the person acquiring it shall be reduced by the amount of any nontaxed gain.

Ante, p. 2682. 26 USC 453.

(2) NONTAXED GAIN.—For purposes of paragraph (1), the term "nontaxed gain" means any gain which is not subject to tax under section 871(b)(1) or 882(a)(1) of such Code—

26 USC 871, 882.

(A) because the disposition occurred before June 19, 1980, or

(B) because of any treaty obligation of the United States.

Subtitle D—Credit Against Crude Oil Windfall Profit Tax for Royalty Owners

SEC. 1131. CREDIT AGAINST CRUDE OIL WINDFALL PROFIT TAX FOR ROYALTY OWNERS.

(a) CREDIT AGAINST WINDFALL PROFIT TAX FOR ROYALTY OWNERS.—

(1) IN GENERAL.—Subchapter B of chapter 65 of the Internal Revenue Code of 1954 (relating to rules of special application for abatements, credits, and refunds) is amended by adding at the end thereof the following new section:

"SEC. 6429. CREDIT AND REFUND OF CHAPTER 45 TAXES PAID BY ROYALTY OWNERS.

26 USC 6429.

"(a) TREATMENT AS OVERPAYMENT.—In the case of a qualified royalty owner, that portion of the tax imposed by section 4986 which is paid in connection with qualified royalty production shall be treated as an overpayment of the tax imposed by section 4986.

26 USC 4986.

"(b) CREDITS AND REFUNDS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, any amount treated as an overpayment of tax under subsection (a) shall be credited against the tax imposed by section 4986 or refunded to the qualified royalty owner.

"(2) CLAIM FOR CREDIT OR REFUND.—Any claim for credit or refund under this section shall be filed in such form and manner, and at such time, as the Secretary may prescribe by regulations.

"(c) $1,000 LIMITATION ON CREDIT OR REFUND.—

"(1) IN GENERAL.—The aggregate amount which may be treated as an overpayment under subsection (a) with respect to any qualified royalty owner shall not exceed $1,000.

"(2) ALLOCATION WITHIN A FAMILY.—In the case of individuals who are members of the same family (within the meaning of section 4992(e)(3)(C)) at any time during the qualified period, the $1,000 amount in paragraph (1) shall be reduced for each such

26 USC 4992.

individual by allocating such amount among all such individuals in proportion to their respective qualified royalty production.

"(3) ALLOCATION BETWEEN CORPORATIONS AND INDIVIDUALS.—

"(A) IN GENERAL.—In the case of an individual who owns at any time during the qualified period stock in a qualified family farm corporation, the $1,000 amount in paragraph (1) applicable to such individual shall be reduced by the amount which bears the same ratio to the credit or refund allowable to the corporation under this section (determined after the application of paragraph (4)) as the fair market value of the shares owned by such individual during such period bears to the fair market value of all shares of the corporation.

"(B) SPECIAL RULE FOR FAMILY MEMBERS.—In the case of individuals who are members of the same family (within the meaning of section 4992(e)(3)(C)) at any time during the qualified period—

26 USC 4992.

"(i) for purposes of subparagraph (A), all such individuals shall be treated as 1 individual, and

"(ii) the amount allocated among such individuals under paragraph (2) shall be $1,000, reduced by the amount determined under subparagraph (A).

"(4) ALLOCATION BETWEEN CORPORATIONS.—If at any time after June 24, 1980, any individual owns stock in two or more qualified family farm corporations, the $1,000 amount in paragraph (1) shall be reduced for each such corporation by allocating such amount among all such corporations in proportion to their respective qualified royalty production.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED ROYALTY OWNER.—The term 'qualified royalty owner' means a producer (within the meaning of section 4996(a)(1)), but only if such producer is an individual, an estate, or a qualified family farm corporation.

26 USC 4996.

"(2) QUALIFIED ROYALTY PRODUCTION.—The term 'qualified royalty production' means, with respect to any qualified royalty owner, taxable crude oil which—

"(A) is attributable to an economic interest of such royalty owner other than an operating mineral interest (within the meaning of section 614(d)), and

26 USC 614.

"(B) is removed from the premises during the qualified period.

"(3) QUALIFIED PERIOD.—The term 'qualified period' means the period beginning March 1, 1980, and ending December 31, 1980.

"(4) QUALIFIED FAMILY FARM CORPORATION.—The term 'qualified family farm corporation' means a corporation—

"(A) which was in existence on June 25, 1980,

"(B) all of the outstanding shares of stock of which at all times after June 24, 1980, and before January 1, 1981, were held by members of the same family (within the meaning of section 2032A(e)(2)), and

26 USC 2032A.

"(C) 80 percent in value of the assets of which (other than royalty interests described in paragraph (2)(A)) were held by the corporation on such date for use for farming purposes (within the meaning of section 2032A(e)(5)).

"(e) CROSS REFERENCE.—

"For the holder of the economic interest in the case of a production payment, see section 636."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for subpart B of chapter 65 of such code is amended by adding at the end thereof the following new item:

"Sec. 6429. Credit and refund of chapter 45 taxes paid by royalty owners."

(d) DENIAL OF DEDUCTION.—

(1) IN GENERAL.—Part IX of subchapter B of chapter 1 of such Code (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280D. PORTION OF CHAPTER 45 TAXES FOR WHICH CREDIT OR REFUND IS ALLOWABLE UNDER SECTION 6429. 26 USC 280D.

"No deduction shall be allowed for that portion of the tax imposed by section 4986 for which a credit or refund is allowable under section 6429." 26 USC 4986. 26 USC 6429.

(2) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 280D. Portion of chapter 45 taxes for which credit or refund is allowable under section 6429."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after February 29, 1980. 26 USC 280D note.

Subtitle E—Inclusion in Wages for Purposes of Social Security and Unemployment Taxes of Employer

SEC. 1141. INCLUSION IN WAGES OF EMPLOYEE TAXES PAID BY EMPLOYER.

(a) SOCIAL SECURITY TAX.—

(1) AMENDMENT OF INTERNAL REVENUE CODE OF 1954.—Paragraph (6) of section 3121(a) of the Internal Revenue Code of 1954 (defining wages) is amended to read as follows: 26 USC 3121.

"(6) the payment by an employer (without deduction from the remuneration of the employee)—

"(A) of the tax imposed upon an employee under section 3101, or 26 USC 3101.

"(B) of any payment required from an employee under a State unemployment compensation law,

with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;".

(2) AMENDMENT OF SOCIAL SECURITY ACT.—Subsection (f) of section 209 of the Social Security Act is amended to read as follows: 42 USC 409.

"(f) The payment by an employer (without deduction from the remuneration of the employee)—

"(1) of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954, or 26 USC 3101.

"(2) of any payment required from an employee under a State unemployment compensation law,

with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;".

26 USC 3306.

(b) FEDERAL UNEMPLOYMENT TAX.—Paragraph (6) of section 3306(b) of the Internal Revenue Code of 1954 (defining wages) is amended to read as follows:

"(6) the payment by an employer (without deduction from the remuneration of the employee)—

"(A) of the tax imposed upon an employee under section 3101, or

26 USC 3101.

"(B) of any payment required from an employee under a State unemployment compensation law,

with respect to remuneration paid to an employee for domestic service in a private home of the employer or for agricultural labor;".

26 USC 3121 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to remuneration paid after December 31, 1980.

(2) EXCEPTION FOR STATE AND LOCAL GOVERNMENTS.—

(A) The amendments made by this section (insofar as they affect the application of section 218 of the Social Security Act) shall not apply to any payment made before January 1, 1984, by any governmental unit for positions of a kind for which all or a substantial portion of the social security employee taxes were paid by such governmental unit (without deduction from the remuneration of the employee) under the practices of such governmental unit in effect on October 1, 1980.

42 USC 418.

"Social security employee taxes."

(B) For purposes of subparagraph (A), the term "social security employee taxes" means the amount required to be paid under section 218 of the Social Security Act as the equivalent of the taxes imposed by section 3101 of the Internal Revenue Code of 1954.

42 USC 418.

26 USC 3101.

"Governmental unit."

(C) For purposes of subparagraph (A), the term "Governmental unit" means a State or political subdivision thereof within the meaning of section 218 of the Social Security Act.

26 USC 418.

Subtitle F—Telephone Tax

SEC. 1151. TELEPHONE TAX CONTINUED AT 2 PERCENT FOR 1981.

26 USC 4251.

(a) IN GENERAL.—The table contained in paragraph (2) of section 4251(a) of the Internal Revenue Code of 1954 (relating to imposition of tax on communication services) is amended by striking out the last 2 lines of such table and inserting in lieu thereof the following:

"During 1980 or 1981	2
During 1982	1".

(b) CONFORMING AMENDMENT.—Subsection (b) of section 4251 of such Code is amended by striking out "January 1, 1982" and inserting in lieu thereof "January 1, 1983".

Subtitle G—Increase Until 1993 in the Duties on Certain Imports of Ethyl Alcohol

SEC. 1161. INCREASE UNTIL 1993 IN THE DUTIES ON ETHYL ALCOHOL IMPORTED FOR FUEL USE.

(a) AMENDMENTS TO APPENDIX TO TSUS.—

(1) FOR 1981.—Effective with respect to articles entered on or after January 1, 1981, subpart A of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new item:

"	901.50	Ethyl alcohol (provided for in item 427.88, part 2D, schedule 4) when *imported to be used in producing* a mixture of gasoline and alcohol or a mixture of a special fuel and alcohol for use as fuel, or when imported to be used otherwise as fuel	10¢ per gal.	10¢ per gal.	On or before 12/31/81	".

(2) FOR 1982.—Effective with respect to articles entered on or after January 1, 1982, item 901.50 of the Tariff Schedules of the United States (as added by paragraph (1)) is amended by striking out "10" in columns numbered 1 and 2 and inserting in lieu thereof "20"; and by striking out "12/31/81" and inserting in lieu thereof "12/31/82".

(3) AFTER 1982 AND UNTIL 1993.—Effective with respect to articles entered on or after January 1, 1983, such item 901.50 is amended by striking out "20" in columns numbered 1 and 2 and inserting in lieu thereof "40", and by striking out "12/31/82" and inserting in lieu thereof "12/31/92".

(b) DEFINITION.—For purposes of subsection (a), the term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

Approved December 5, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1167 (Comm. on the Budget) and No. 96-1479 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 126 (1980):
June 30, S. 2885 considered and passed Senate.
July 23, S. 2939 considered and passed Senate.
Sept. 4, H.R. 7765 considered and passed House.
Sept. 17, passages of S. 2885 and S. 2939 vacated in Senate; H.R. 7765, amended, passed in lieu.
Sept. 18, House disagreed to Senate amendment and agreed to a conference.
Dec. 3, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 49:
Dec. 5, Presidential remarks.

79-194 O—81—pt. 2——90 : QL3

Public Law 96-500
96th Congress

An Act

Dec. 5, 1980
[H.R. 2510]

To amend title 5, United States Code, to permit Federal employees to obtain review of certain disability determinations made by the Office of Personnel Management under the civil service retirement and disability system.

Federal employees' disability determinations, review.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the second sentence of section 8347(c) of title 5, United States Code, is amended by striking out "The decisions of the Office" and inserting in lieu thereof "Except to the extent provided under subsection (d) of this section, the decisions of the Office".

(b) Section 8347(d) of title 5, United States Code, is amended—

(1) by striking out "An" and inserting in lieu thereof "(1) Subject to paragraph (2) of this subsection, an"; and

(2) by adding at the end thereof the following new paragraph:

"(2) In the case of any individual found by the Office to be disabled in whole or in part on the basis of the individual's mental condition, and that finding was made pursuant to an application by an agency for purposes of disability retirement under section 8337(a) of this title, the procedures under section 7701 of this title shall apply and the decision of the Board shall be subject to judicial review under section 7703 of this title.".

5 USC 8337.
5 USC 7701.
5 USC 7703.

SEC. 2. The amendments made by the first section of this Act shall apply with respect to determinations made by the Office of Personnel Management on or after the first day of the first month beginning after the date of the enactment of this Act.

5 USC 8347 note.

Approved December 5, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1080 (Comm. on Post Office and Civil Service).
SENATE REPORT No. 96-1004 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 16, 17, considered and passed House.
Nov. 14, considered and passed Senate, amended.
Nov. 21, House concurred in Senate amendment.

Public Law 96-501
96th Congress

An Act

To assist the electrical consumers of the Pacific Northwest through use of the Federal Columbia River Power System to achieve cost-effective energy conservation, to encourage the development of renewable energy resources, to establish a representative regional power planning process, to assure the region of an efficient and adequate power supply, and for other purposes.

Dec. 5, 1980
[S. 885]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

Pacific Northwest Electric Power Planning and Conservation Act.
16 USC 839 note.

SECTION 1. This Act, together with the following table of contents, may be cited as the "Pacific Northwest Electric Power Planning and Conservation Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.
Sec. 4. Regional planning and participation.
Sec. 5. Sale of power.
Sec. 6. Conservation and resource acquisition.
Sec. 7. Rates.
Sec. 8. Amendments to existing law.
Sec. 9. Administrative provisions.
Sec. 10. Savings provisions.
Sec. 11. Effective date.
Sec. 12. Severability.

PURPOSES

16 USC 839.

SEC. 2. The purposes of this Act, together with the provisions of other laws applicable to the Federal Columbia River Power System, are all intended to be construed in a consistent manner. Such purposes are also intended to be construed in a manner consistent with applicable environmental laws. Such purposes are:

(1) to encourage, through the unique opportunity provided by the Federal Columbia River Power System—

(A) conservation and efficiency in the use of electric power, and

(B) the development of renewable resources within the Pacific Northwest;

(2) to assure the Pacific Northwest of an adequate, efficient, economical, and reliable power supply;

(3) to provide for the participation and consultation of the Pacific Northwest States, local governments, consumers, customers, users of the Columbia River System (including Federal and State fish and wildlife agencies and appropriate Indian tribes), and the public at large within the region in—

(A) the development of regional plans and programs related to energy conservation, renewable resources, other resources, and protecting, mitigating, and enhancing fish and wildlife resources,

(B) facilitating the orderly planning of the region's power system, and

(C) providing environmental quality;

(4) to provide that the customers of the Bonneville Power Administration and their consumers continue to pay all costs necessary to produce, transmit, and conserve resources to meet the region's electric power requirements, including the amortization on a current basis of the Federal investment in the Federal Columbia River Power System;

(5) to insure, subject to the provisions of this Act—

(A) that the authorities and responsibilities of State and local governments, electric utility systems, water management agencies, and other non-Federal entities for the regulation, planning, conservation, supply, distribution, and use of electric power shall be construed to be maintained, and

(B) that Congress intends that this Act not be construed to limit or restrict the ability of customers to take actions in accordance with other applicable provisions of Federal or State law, including, but not limited to, actions to plan, develop, and operate resources and to achieve conservation, without regard to this Act; and

(6) to protect, mitigate and enhance the fish and wildlife, including related spawning grounds and habitat, of the Columbia River and its tributaries, particularly anadromous fish which are of significant importance to the social and economic well-being of the Pacific Northwest and the Nation and which are dependent on suitable environmental conditions substantially obtainable from the management and operation of the Federal Columbia River Power System and other power generating facilities on the Columbia River and its tributaries.

DEFINITIONS

16 USC 839a.

SEC. 3. As used in this Act, the term—

(1) "Acquire" and "acquisition" shall not be construed as authorizing the Administrator to construct, or have ownership of, under this Act or any other law, any electric generating facility.

(2) "Administrator" means the Administrator of the Bonneville Power Administration.

(3) "Conservation" means any reduction in electric power consumption as a result of increases in the efficiency of energy use, production, or distribution.

(4)(A) "Cost-effective", when applied to any measure or resource referred to in this Act, means that such measure or resource must be forecast—

(i) to be reliable and available within the time it is needed, and

(ii) to meet or reduce the electric power demand, as determined by the Council or the Administrator, as appropriate, of the consumers of the customers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative measure or resource, or any combination thereof.

(B) For purposes of this paragraph, the term "system cost" means an estimate of all direct costs of a measure or resource over its effective life, including, if applicable, the cost of distribution and transmission to the consumer and, among other factors,

waste disposal costs, end-of-cycle costs, and fuel costs (including projected increases), and such quantifiable environmental costs and benefits as the Administrator determines, on the basis of a methodology developed by the Council as part of the plan, or in the absence of the plan by the Administrator, are directly attributable to such measure or resource.

(C) In determining the amount of power that a conservation measure or other resource may be expected to save or to produce, the Council or the Administrator, as the case may be, shall take into account projected realization factors and plant factors, including appropriate historical experience with similar measures or resources.

(D) For purposes of this paragraph, the "estimated incremental system cost" of any conservation measure or resource shall not be treated as greater than that of any nonconservation measure or resource unless the incremental system cost of such conservation measure or resource is in excess of 110 per centum of the incremental system cost of the nonconservation measure or resource.

(5) "Consumer" means any end user of electric power.

(6) "Council" means, unless otherwise specifically provided, the members appointed to the Pacific Northwest Electric Power and Conservation Planning Council established pursuant to section 4.

(7) "Customer" means anyone who contracts for the purchase of power from the Administrator pursuant to this Act.

(8) "Direct service industrial customer" means an industrial customer that contracts for the purchase of power from the Administrator for direct consumption.

(9) "Electric power" means electric peaking capacity, or electric energy, or both.

(10) "Federal base system resources" means—

(A) the Federal Columbia River Power System hydroelectric projects;

(B) resources acquired by the Administrator under long-term contracts in force on the effective date of this Act; and

(C) resources acquired by the Administrator in an amount necessary to replace reductions in capability of the resources referred to in subparagraphs (A) and (B) of this paragraph.

(11) "Indian tribe" means any Indian tribe or band which is located in whole or in part in the region and which has a governing body which is recognized by the Secretary of the Interior.

(12) "Major resource" means any resource that—

(A) has a planned capability greater than fifty average megawatts, and

(B) if acquired by the Administrator, is acquired for a period of more than five years.

Such term does not include any resource acquired pursuant to section 11(b)(6) of the Federal Columbia River Transmission System Act. 16 USC 838i.

(13) "New large single load" means any load associated with a new facility, an existing facility, or an expansion of an existing facility—

(A) which is not contracted for, or committed to, as determined by the Administrator, by a public body, cooperative, investor-owned utility, or Federal agency customer prior to September 1, 1979, and

(B) which will result in an increase in power requirements of such customer of ten average megawatts or more in any consecutive twelve-month period.

(14) "Pacific Northwest", "region", or "regional" means—

(A) the area consisting of the States of Oregon, Washington, and Idaho, the portion of the State of Montana west of the Continental Divide, and such portions of the States of Nevada, Utah, and Wyoming as are within the Columbia River drainage basin; and

(B) any contiguous areas, not in excess of seventy-five air miles from the area referred to in subparagraph (A), which are a part of the service area of a rural electric cooperative customer served by the Administrator on the effective date of this Act which has a distribution system from which it serves both within and without such region.

(15) "Plan" means the Regional Electric Power and Conservation plan (including any amendments thereto) adopted pursuant to this Act and such plan shall apply to actions of the Administrator as specified in this Act.

(16) "Renewable resource" means a resource which utilizes solar, wind, hydro, geothermal, biomass, or similar sources of energy and which either is used for electric power generation or will reduce the electric power requirements of a consumer, including by direct application.

(17) "Reserves" means the electric power needed to avert particular planning or operating shortages for the benefit of firm power customers of the Administrator and available to the Administrator (A) from resources or (B) from rights to interrupt, curtail, or otherwise withdraw, as provided by specific contract provisions, portions of the electric power supplied to customers.

(18) "Residential use" or "residential load" means all usual residential, apartment, seasonal dwelling and farm electrical loads or uses, but only the first four hundred horsepower during any monthly billing period of farm irrigation and pumping for any farm.

(19) "Resource" means—

(A) electric power, including the actual or planned electric power capability of generating facilities, or

(B) actual or planned load reduction resulting from direct application of a renewable energy resource by a consumer, or from a conservation measure.

(20) "Secretary" means the Secretary of Energy.

REGIONAL PLANNING AND PARTICIPATION

Pacific Northwest Electric Power and Conservation Planning Council, establishment. 16 USC 839b.

SEC. 4. (a)(1) The purposes of this section are to provide for the prompt establishment and effective operation of the Pacific Northwest Electric Power and Conservation Planning Council, to further the purposes of this Act by the Council promptly preparing and adopting (A) a regional conservation and electric power plan and (B) a program to protect, mitigate, and enhance fish and wildlife, and to otherwise expeditiously and effectively carry out the Council's responsibilities and functions under this Act.

(2) To achieve such purposes and facilitate cooperation among the States of Idaho, Montana, Oregon, and Washington, and with the Bonneville Power Administration, the consent of Congress is given for an agreement described in this paragraph and not in conflict with this Act, pursuant to which—

(A) there shall be established a regional agency known as the "Pacific Northwest Electric Power and Conservation Planning Council" which (i) shall have its offices in the Pacific Northwest, (ii) shall carry out its functions and responsibilities in accordance with the provisions of this Act, (iii) shall continue in force and effect in accordance with the provisions of this Act, and (iv) except as otherwise provided in this Act, shall not be considered an agency or instrumentality of the United States for the purpose of any Federal law; and

(B) two persons from each State may be appointed, subject to the applicable laws of each such State, to undertake the functions and duties of members of the Council. Members, appointment.

The State may fill any vacancy occurring prior to the expiration of the term of any member. The appointment of six initial members, subject to applicable State law, by June 30, 1981, by at least three of such States shall constitute an agreement by the States establishing the Council and such agreement is hereby consented to by the Congress. Upon request of the Governors of two of the States, the Secretary shall extend the June 30, 1981, date for six additional months to provide more time for the States to make such appointments.

(3) Except as otherwise provided by State law, each member appointed to the Council shall serve for a term of three years, except that, with respect to members initially appointed, each Governor shall designate one member to serve a term of two years and one member to serve a term of three years. The members of the Council shall select from among themselves a chairman. The members and officers and employees of the Council shall not be deemed to be officers or employees of the United States for any purpose. The Council shall appoint, fix compensation, and assign and delegate duties to such executive and additional personnel as the Council deems necessary to fulfill its functions under this Act, taking into account such information and analyses as are, or are likely to be, available from other sources pursuant to provisions of this Act. The compensation of the members shall be fixed by State law. The compensation of the members and officers shall not exceed the rate prescribed for Federal officers and positions at step 1 of level GS-18 of the General Schedule. Terms of office. Compensation. 5 USC 5332 note.

(4) For the purpose of providing a uniform system of laws, in addition to this Act, applicable to the Council relating to the making of contracts, conflicts-of-interest, financial disclosure, open meetings of the Council, advisory committees, disclosure of information, judicial review of Council functions and actions under this Act, and related matters, the Federal laws applicable to such matters in the case of the Bonneville Power Administration shall apply to the Council to the extent appropriate, except that with respect to open meetings, the Federal laws applicable to open meetings in the case of the Federal Energy Regulatory Commission shall apply to the Council to the extent appropriate. In applying the Federal laws applicable to financial disclosure under the preceding sentence, such laws shall be applied to members of the Council without regard to the duration of their service on the Council or the amount of compensation received for such service. No contract, obligation, or other action of the Council shall be construed as an obligation of the United States or an obligation secured by the full faith and credit of the United States. For the purpose of judicial review of any action of the Council or challenging any provision of this Act relating to functions and responsibilities of the Council, notwithstanding any other provision

of law, the courts of the United States shall have exclusive jurisdiction of any such review.

(b)(1) If the Council is not established and its members are not timely appointed in accordance with subsection (a) of this section, or if, at any time after such Council is established and its members are appointed in accordance with subsection (a)—

(A) any provision of this Act relating to the establishment of the Council or to any substantial function or responsibility of the Council (including any function or responsibility under subsection (d) or (h) of this section or under section 6(c) of this Act) is held to be unlawful by a final determination of any Federal court, or

(B) the plan or any program adopted by such Council under this section is held by a final determination of such a court to be ineffective by reason of subsection (a)(2)(B),

the Secretary shall establish the Council pursuant to this subsection as a Federal agency. The Secretary shall promptly publish a notice thereof in the Federal Register and notify the Governors of each of the States referred to in subsection (a) of this section.

Notice, publication in Federal Register.

(2) As soon as practicable, but not more than thirty days after the publication of the notice referred to in paragraph (1) of this subsection, and thereafter within forty-five days after a vacancy occurs, the Governors of the States of Washington, Oregon, Idaho, and Montana may each (under applicable State laws, if any) provide to the Secretary a list of nominations from such State for each of the State's positions to be selected for such Council. The Secretary may extend this time an additional thirty days. The list shall include at least two persons for each such position. The list shall include such information about such nominees as the Secretary may request. The Secretary shall appoint the Council members from each Governor's list of nominations for each State's positions, except that the Secretary may decline to appoint for any reason any of a Governor's nominees for a position and shall so notify the Governor. The Governor may thereafter make successive nominations within forty-five days of receipt of such notice until nominees acceptable to the Secretary are appointed for each position. In the event the Governor of any such State fails to make the required nominations for any State position on such Council within the time specified for such nominations, the Secretary shall select from such State and appoint the Council member or members for such position. The members of the Council shall select from among themselves one member of the Council as Chairman.

Compensation.

5 USC 5332 note.

(3) The members of the Council established by this subsection who are not employed by the United States or a State shall receive compensation at a rate equal to the rate prescribed for offices and positions at level GS-18 of the General Schedule for each day such members are engaged in the actual performance of duties as members of such Council, except that no such member may be paid more in any calendar year than an officer or employee at step 1 of level GS-18 is paid during such year. Members of such Council shall be considered officers or employees of the United States for purposes of title II of the Ethics in Government Act of 1978 (5 U.S.C. app.) and shall also be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code. Such Council may appoint, and assign duties to, an executive director who shall serve at the pleasure of such Council and who shall be compensated at the rate established for GS-18 of the General Schedule. The executive director shall

Executive director.

exercise the powers and duties delegated to such director by such Council, including the power to appoint and fix compensation of additional personnel in accordance with applicable Federal law to carry out the functions and responsibilities of such Council.

Funds, documents and equipment, transfer.

(4) When a Council is established under this subsection after a Council was established pursuant to subsection (a) of this section, the Secretary shall provide, to the greatest extent feasible, for the transfer to the Council established by this subsection of all funds, books, papers, documents, equipment, and other matters in order to facilitate the Council's capability to achieve the requirements of subsections (d) and (h) of this section. In order to carry out its functions and responsibilities under this Act expeditiously, the Council shall take into consideration any actions of the Council under subsection (a) and may review, modify, or confirm such actions without further proceedings.

Termination.

(5)(A) At any time beginning one year after the plan referred to in such subsection (d) and the program referred to in such subsection (h) of this section are both finally adopted in accordance with this Act, the Council established pursuant to this subsection shall be terminated by the Secretary 90 days after the Governors of three of the States referred to in this subsection jointly provide for any reason to the Secretary a written request for such termination. Except as provided in subparagraph (B), upon such termination all functions and responsibilities of the Council under this Act shall also terminate.

Transfer of functions.

(B) Upon such termination of the Council, the functions and responsibilities of the Council set forth in subsection (h) of this section shall be transferred to, and continue to be funded and carried out, jointly, by the Administrator, the Secretary of the Interior, and the Administrator of the National Marine Fisheries Service, in the same manner and to the same extent as required by such subsection and in cooperation with the Federal and the region's State fish and wildlife agencies and Indian tribes referred to in subsection (h) of this section and the Secretary shall provide for the transfer to them of all records, books, documents, funds, and personnel of such Council that relate to subsection (h) matters. In order to carry out such functions and responsibilities expeditiously, the Administrator, the Secretary of the Interior, and the Administrator of the National Marine Fisheries Service shall take into consideration any actions of the Council under this subsection, and may review, modify, or confirm such actions without further proceedings. In the event the Council is terminated pursuant to this paragraph, whenever any action of the Administrator requires any approval or other action by the Council, the Administrator may take such action without such approval or action, except that the Administrator may not implement any proposal to acquire a major generating resource or to grant billing credits involving a major generating resource until the expenditure of funds for that purpose is specifically authorized by Act of Congress enacted after such termination.

(c)(1) The provisions of this subsection shall, except as specifically provided in this subsection, apply to the Council established pursuant to either subsection (a) or (b) of this section.

Quorum.

(2) A majority of the members of the Council shall constitute a quorum. Except as otherwise provided specifically in this Act, all actions and decisions of the Council shall be by majority vote of the members present and voting. The plan or any part thereof and any amendment thereto shall not be approved unless such plan or amendment receives the votes of—

(A) a majority of the members appointed to the Council, including the vote of at least one member from each State with members on the Council; or

(B) at least six members of the Council.

Council meeting.

(3) The Council shall meet at the call of the Chairman or upon the request of any three members of the Council. If any member of the Council disagrees with respect to any matter transmitted to any Federal or State official or any other person or wishes to express additional views concerning such matter, such member may submit a statement to accompany such matter setting forth the reasons for such disagreement or views.

Annual work program budget, availability.

(4) The Council shall determine its organization and prescribe its practices and procedures for carrying out its functions and responsibilities under this Act. The Council shall make available to the public a statement of its organization, practices, and procedures, and make available to the public its annual work program budget at the time the President submits his annual budget to Congress.

Personnel detail.

(5) Upon request of the Council established pursuant to subsection (b) of this section, the head of any Federal agency is authorized to detail or assign to the Council, on a reimbursable basis, any of the personnel of such agency to assist the Council in the performance of its functions under this Act.

Administrative services.

(6) At the Council's request, the Administrator of the General Services Administration shall furnish the Council established pursuant to subsection (b) of this section with such offices, equipment, supplies, and services in the same manner and to the same extent as such Administrator is authorized to furnish to any other Federal agency or instrumentality such offices, supplies, equipment, and services.

Information to Congress.

(7) Upon the request of the Congress or any committee thereof, the Council shall promptly provide to the Congress, or to such committee, any record, report, document, material, and other information which is in the possession of the Council.

(8) To obtain such information and advice as the Council determines to be necessary or appropriate to carry out its functions and responsibilities pursuant to this Act, the Council shall, to the greatest extent practicable, solicit engineering, economic, social, environmental, and other technical studies from customers of the Administrator and from other bodies or organizations in the region with particular expertise.

(9) The Administrator and other Federal agencies, to the extent authorized by other provisions of law, shall furnish the Council all information requested by the Council as necessary for performance of its functions, subject to such requirements of law concerning trade secrets and proprietary data as may be applicable.

Compensation and other expenses, payment.

(10)(A) At the request of the Council, the Administrator shall pay from funds available to the Administrator the compensation and other expenses of the Council as are authorized by this Act, including the reimbursement of those States with members on the Council for services and personnel to assist in preparing a plan pursuant to subsection (d) and a program pursuant to subsection (h) of this section, as the Council determines are necessary or appropriate for the performance of its functions and responsibilities. Such payments shall be included by the Administrator in his annual budgets submitted to Congress pursuant to the Federal Columbia River Transmission System Act and shall be subject to the requirements of that Act, including the audit requirements of section 11(d) of such Act. The records, reports, and other documents of the Council shall be availa-

16 USC 838 note.
16 USC 838i.
Document review.

ble to the Comptroller General for review in connection with such audit or other review and examination by the Comptroller General pursuant to other provisions of law applicable to the Comptroller General. Funds provided by the Administrator for such payments shall not exceed annually an amount equal to 0.02 mill multiplied by the kilowatt hours of firm power forecast to be sold by the Administrator during the year to be funded. In order to assist the Council's initial organization, the Administrator after the enactment of this Act shall promptly prepare and propose an amended annual budget to expedite payment for Council activities.

(B) Notwithstanding the limitation contained in the fourth sentence of subparagraph (A) of this paragraph, upon an annual showing by the Council that such limitation will not permit the Council to carry out its functions and responsibilities under this Act the Administrator may raise such limit up to any amount not in excess of 0.10 mill multiplied by the kilowatt hours of firm power forecast to be sold by the Administrator during the year to be funded.

(11) The Council shall establish a voluntary scientific and statistical advisory committee to assist in the development, collection, and evaluation of such statistical, biological, economic, social, environmental, and other scientific information as is relevant to the Council's development and amendment of a regional conservation and electric power plan.

Voluntary scientific and statistical advisory committee, establishment.

(12) The Council may establish such other voluntary advisory committees as it determines are necessary or appropriate to assist it in carrying out its functions and responsibilities under this Act.

(13) The Council shall ensure that the membership for any advisory committee established or formed pursuant to this section shall, to the extent feasible, include representatives of, and seek the advice of, the Federal, and the various regional, State, local, and Indian Tribal Governments, consumer groups, and customers.

(d)(1) Within two years after the Council is established and the members are appointed pursuant to subsection (a) or (b) of this section, the Council shall prepare, adopt, and promptly transmit to the Administrator a regional conservation and electric power plan. The adopted plan, or any portion thereof, may be amended from time to time, and shall be reviewed by the Council not less frequently than once every five years. Prior to such adoption, public hearings shall be held in each Council member's State on the plan or substantial, nontechnical amendments to the plan proposed by the Council for adoption. A public hearing shall also be held in any other State of the region on the plan or amendments thereto, if the Council determines that the plan or amendments would likely have a substantial impact on that State in terms of major resources which may be developed in that State and which the Administrator may seek to acquire. Action of the Council under this subsection concerning such hearings shall be subject to section 553 of title 5, United States Code and such procedure as the Council shall adopt.

Conservation and electric power plan, transmittal to Administrator.

Hearings.

(2) Following adoption of the plan and any amendment thereto, all actions of the Administrator pursuant to section 6 of this Act shall be consistent with the plan and any amendment thereto, except as otherwise specifically provided in this Act.

(e)(1) The plan shall, as provided in this paragraph, give priority to resources which the Council determines to be cost-effective. Priority shall be given: first, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat or generating resources of high fuel conversion efficiency; and fourth, to all other resources.

(2) The plan shall set forth a general scheme for implementing conservation measures and developing resources pursuant to section 6 of this Act to reduce or meet the Administrator's obligations with due consideration by the Council for (A) environmental quality, (B) compatibility with the existing regional power system, (C) protection, mitigation, and enhancement of fish and wildlife and related spawning grounds and habitat, including sufficient quantities and qualities of flows for successful migration, survival, and propagation of anadromous fish, and (D) other criteria which may be set forth in the plan.

(3) To accomplish the priorities established by this subsection, the plan shall include the following elements which shall be set forth in such detail as the Council determines to be appropriate:

(A) an energy conservation program to be implemented under this Act, including, but not limited to, model conservation standards;

(B) recommendation for research and development;

(C) a methodology for determining quantifiable environmental costs and benefits under section 3(4);

(D) a demand forecast of at least twenty years (developed in consultation with the Administrator, the customers, the States, including State agencies with ratemaking authority over electric utilities, and the public, in such manner as the Council deems appropriate) and a forecast of power resources estimated by the Council to be required to meet the Administrator's obligations and the portion of such obligations the Council determines can be met by resources in each of the priority categories referred to in paragraph (1) of this subsection which forecast (i) shall include regional reliability and reserve requirements, (ii) shall take into account the effect, if any, of the requirements of subsection (h) on the availability of resources to the Administrator, and (iii) shall include the approximate amounts of power the Council recommends should be acquired by the Administrator on a long-term basis and may include, to the extent practicable, an estimate of the types of resources from which such power should be acquired;

(E) an analysis of reserve and reliability requirements and cost-effective methods of providing reserves designed to insure adequate electric power at the lowest probable cost;

(F) the program adopted pursuant to subsection (h); and

(G) if the Council recommends surcharges pursuant to subsection (f) of this section, a methodology for calculating such surcharges.

Studies.

(4) The Council, taking into consideration the requirement that it devote its principal efforts to carrying out its responsibilities under subsections (d) and (h) of this section, shall undertake studies of conservation measures reasonably available to direct service industrial customers and other major consumers of electric power within the region and make an analysis of the estimated reduction in energy use which would result from the implementation of such measures as rapidly as possible, consistent with sound business practices. The Council shall consult with such customers and consumers in the conduct of such studies.

Model conservation standards.

(f)(1) Model conservation standards to be included in the plan shall include, but not be limited to, standards applicable to (A) new and existing structures, (B) utility, customer, and governmental conservation programs, and (C) other consumer actions for achieving conservation. Model conservation standards shall reflect geographic and climatic differences within the region and other appropriate considerations, and shall be designed to produce all power savings that are

cost-effective for the region and economically feasible for consumers, taking into account financial assistance made available to consumers under section 6(a) of this Act. These model conservation standards shall be adopted by the Council and included in the plan after consultation, in such manner as the Council deems appropriate, with the Administrator, States, and political subdivisions, customers of the Administrator, and the public.

(2) The Council by a majority vote of the members of the Council is authorized to recommend to the Administrator a surcharge and the Administrator may thereafter impose such a surcharge, in accordance with the methodology provided in the plan, on customers for those portions of their loads within the region that are within States or political subdivisions which have not, or on the Administrator's customers which have not, implemented conservation measures that achieve energy savings which the Administrator determines are comparable to those which would be obtained under such standards. Such surcharges shall be established to recover such additional costs as the Administrator determines will be incurred because such projected energy savings attributable to such conservation measures have not been achieved, but in no case may such surcharges be less than 10 per centum or more than 50 per centum of the Administrator's applicable rates for such load or portion thereof. Surcharge.

(g)(1) To insure widespread public involvement in the formulation of regional power policies, the Council and Administrator shall maintain comprehensive programs to—

(A) inform the Pacific Northwest public of major regional power issues,

(B) obtain public views concerning major regional power issues, and

(C) secure advice and consultation from the Administrator's customers and others.

(2) In carrying out the provisions of this section, the Council and the Administrator shall—

(A) consult with the Administrator's customers;

(B) include the comments of such customers in the record of the Council's proceedings; and

(C) recognize and not abridge the authorities of State and local governments, electric utility systems, and other non-Federal entities responsible to the people of the Pacific Northwest for the planning, conservation, supply, distribution, and use of electric power and the operation of electric generating facilities.

(3) In the preparation, adoption, and implementation of the plan, the Council and the Administrator shall encourage the cooperation, participation, and assistance of appropriate Federal agencies, State entities, State political subdivisions, and Indian tribes. The Council and the Administrator are authorized to contract, in accordance with applicable law, with such agencies, entities, tribes, and subdivisions individually, in groups, or through associations thereof to (A) investigate possible measures to be included in the plan, (B) provide public involvement and information regarding a proposed plan or amendment thereto, and (C) provide services which will assist in the implementation of the plan. In order to assist in the implementation of the plan, particularly conservation, renewable resource, and fish and wildlife activities, the Administrator, when requested and subject to available funds, may provide technical assistance in establishing conservation, renewable resource, and fish and wildlife objectives by individual States or subdivisions thereof or Indian tribes. Such objectives, if adopted by a State or subdivision thereof or Indian Contracts. Technical assistance.

tribes, may be submitted to the Council and the Administrator for review, and upon approval by the Council, may be incorporated as part of the plan.

Fish and wildlife protection program.

(h)(1)(A) The Council shall promptly develop and adopt, pursuant to this subsection, a program to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, on the Columbia River and its tributaries. Because of the unique history, problems, and opportunities presented by the development and operation of hydroelectric facilities on the Columbia River and its tributaries, the program, to the greatest extent possible, shall be designed to deal with that river and its tributaries as a system.

(B) This subsection shall be applicable solely to fish and wildlife, including related spawning grounds and habitat, located on the Columbia River and its tributaries. Nothing in this subsection shall alter, modify, or affect in any way the laws applicable to rivers or river systems, including electric power facilities related thereto, other than the Columbia River and its tributaries, or affect the rights and obligations of any agency, entity, or person under such laws.

(2) The Council shall request, in writing, promptly after the Council is established under either section 4(a) or 4(b) of this Act and prior to the development or review of the plan, or any major revision thereto, from the Federal, and the region's State, fish and wildlife agencies and from the region's appropriate Indian tribes, recommendations for—

(A) measures which can be expected to be implemented by the Administrator, using authorities under this Act and other laws, and other Federal agencies to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development and operation of any hydroelectric project on the Columbia River and its tributaries;

(B) establishing objectives for the development and operation of such projects on the Columbia River and its tributaries in a manner designed to protect, mitigate, and enhance fish and wildlife; and

(C) fish and wildlife management coordination and research and development (including funding) which, among other things, will assist protection, mitigation, and enhancement of anadromous fish at, and between, the region's hydroelectric dams.

(3) Such agencies and tribes shall have 90 days to respond to such request, unless the Council extends the time for making such recommendations. The Federal, and the region's, water management agencies, and the region's electric power producing agencies, customers, and public may submit recommendations of the type referred to in paragraph (2) of this subsection. All recommendations shall be accompanied by detailed information and data in support of the recommendations.

(4)(A) The Council shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Administrator, to the Federal, and the region's, State fish and wildlife agencies, to the appropriate Indian tribes, to Federal agencies responsible for managing, operating, or regulating hydroelectric facilities located on the Columbia River or its tributaries, and to any customer or other electric utility which owns or operates any such facility. Notice shall also be given to the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Council and shall be available for reproduction at reasonable cost.

(B) The Council shall provide for public participation and comment regarding the recommendations and supporting documents, including an opportunity for written and oral comments, within such reasonable time as the Council deems appropriate. Written and oral comments.

(5) The Council shall develop a program on the basis of such recommendations, supporting documents, and views and information obtained through public comment and participation, and consultation with the agencies, tribes, and customers referred to in subparagraph (A) of paragraph (4). The program shall consist of measures to protect, mitigate, and enhance fish and wildlife affected by the development, operation, and management of such facilities while assuring the Pacific Northwest an adequate, efficient, economical, and reliable power supply. Enhancement measures shall be included in the program to the extent such measures are designed to achieve improved protection and mitigation.

(6) The Council shall include in the program measures which it determines, on the basis set forth in paragraph (5), will—

(A) complement the existing and future activities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological objective exist, the alternative with the minimum economic cost;

(D) be consistent with the legal rights of appropriate Indian tribes in the region; and

(E) in the case of anadromous fish—

(i) provide for improved survival of such fish at hydroelectric facilities located on the Columbia River system; and

(ii) provide flows of sufficient quality and quantity between such facilities to improve production, migration, and survival of such fish as necessary to meet sound biological objectives.

(7) The Council shall determine whether each recommendation received is consistent with the purposes of this Act. In the event such recommendations are inconsistent with each other, the Council, in consultation with appropriate entities, shall resolve such inconsistency in the program giving due weight to the recommendations, expertise, and legal rights and responsibilities of the Federal and the region's State fish and wildlife agencies and appropriate Indian tribes. If the Council does not adopt any recommendation of the fish and wildlife agencies and Indian tribes as part of the program or any other recommendation, it shall explain in writing, as part of the program, the basis for its finding that the adoption of such recommendation would be—

(A) inconsistent with paragraph (5) of this subsection;

(B) inconsistent with paragraph (6) of this subsection; or

(C) less effective than the adopted recommendations for the protection, mitigation, and enhancement of fish and wildlife.

(8) The Council shall consider, in developing and adopting a program pursuant to this subsection, the following principles:

(A) Enhancement measures may be used, in appropriate circumstances, as a means of achieving offsite protection and mitigation with respect to compensation for losses arising from the development and operation of the hydroelectric facilities of the Columbia River and its tributaries as a system.

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(B) Consumers of electric power shall bear the cost of measures designed to deal with adverse impacts caused by the development and operation of electric power facilities and programs only.

(C) To the extent the program provides for coordination of its measures with additional measures (including additional enhancement measures to deal with impacts caused by factors other than the development and operation of electric power facilities and programs), such additional measures are to be implemented in accordance with agreements among the appropriate parties providing for the administration and funding of such additional measures.

(D) Monetary costs and electric power losses resulting from the implementation of the program shall be allocated by the Administrator consistent with individual project impacts and system-wide objectives of this subsection.

(9) The Council shall adopt such program or amendments thereto within one year after the time provided for receipt of the recommendations. Such program shall also be included in the plan adopted by the Council under subsection (d).

(10)(A) The Administrator shall use the Bonneville Power Administration fund and the authorities available to the Administrator under this Act and other laws administered by the Administrator to protect, mitigate, and enhance fish and wildlife to the extent affected by the development and operation of any hydroelectric project of the Columbia River and its tributaries in a manner consistent with the plan, if in existence, the program adopted by the Council under this subsection, and the purposes of this Act. Expenditures of the Administrator pursuant to this paragraph shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(B) The Administrator may make expenditures from such fund which shall be included in the annual or supplementary budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act. Any amounts included in such budget for the construction of capital facilities with an estimated life of greater than 15 years and an estimated cost of at least $1,000,000 shall be funded in the same manner and in accordance with the same procedures as major transmission facilities under the Federal Columbia River Transmission System Act.

16 USC 838 note.

(C) The amounts expended by the Administrator for each activity pursuant to this subsection shall be allocated as appropriate by the Administrator, in consultation with the Corps of Engineers and the Water and Power Resources Service, among the various hydroelectric projects of the Federal Columbia River Power System. Amounts so allocated shall be allocated to the various project purposes in accordance with existing accounting procedures for the Federal Columbia River Power System.

Allocation of funds.

(11)(A) The Administrator and other Federal agencies responsible for managing, operating, or regulating Federal or non-Federal hydroelectric facilities located on the Columbia River or its tributaries shall—

(i) exercise such responsibilities consistent with the purposes of this Act and other applicable laws, to adequately protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by such projects or facilities in a manner that provides equitable treatment for such fish and wildlife with the other purposes for which such system and facilities are managed and operated;

(ii) exercise such responsibilities, taking into account at each relevant stage of decisionmaking processes to the fullest extent practicable, the program adopted by the Council under this subsection. If, and to the extent that, such other Federal agencies as a result of such consideration impose upon any non-Federal electric power project measures to protect, mitigate, and enhance fish and wildlife which are not attributable to the development and operation of such project, then the resulting monetary costs and power losses (if any) shall be borne by the Administrator in accordance with this subsection.

(B) The Administrator and such Federal agencies shall consult with the Secretary of the Interior, the Administrator of the National Marine Fisheries Service, and the State fish and wildlife agencies of the region, appropriate Indian tribes, and affected project operators in carrying out the provisions of this paragraph and shall, to the greatest extent practicable, coordinate their actions.

Report to congressional committees.

(12)(A) Beginning on October 1 of the first fiscal year after all members to the Council are appointed initially, the Council shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate and to the Committees on Interstate and Foreign Commerce and on Interior and Insular Affairs of the House of Representatives. The report shall describe the actions taken and to be taken by the Council under this Act, including this subsection, the effectiveness of the fish and wildlife program, and potential revisions or modifications to the program to be included in the plan when adopted. At least ninety days prior to its submission of such report, the Council shall make available to such fish and wildlife agencies, and tribes, the Administrator and the customers a draft of such report. The Council shall establish procedures for timely comments thereon. The Council shall include as an appendix to such report such comments or a summary thereof.

(B) The Administrator shall keep such committees fully and currently informed of the actions taken and to be taken by the Administrator under this Act, including this subsection.

Review.

(i) The Council may from time to time review the actions of the Administrator pursuant to sections 4 and 6 of this Act to determine whether such actions are consistent with the plan and programs, the extent to which the plan and programs is being implemented, and to assist the Council in preparing amendments to the plan and programs.

(j)(1) The Council may request the Administrator to take an action under section 6 to carry out the Administrator's responsibilities under the plan.

(2) To the greatest extent practicable within ninety days after the Council's request, the Administrator shall respond to the Council in writing specifying—

(A) the means by which the Administrator will undertake the action or any modification thereof requested by the Council, or

(B) the reasons why such action would not be consistent with the plan, or with the Administrator's legal obligations under this Act, or other provisions of law, which the Administrator shall specifically identify.

Hearing.

(3) If the Administrator determines not to undertake the requested action, the Council, within sixty days after notice of the Administrator's determination, may request the Administrator to hold an informal hearing and make a final decision.

Conservation measures and resources, analysis.

(k)(1) Not later than October 1, 1987, or six years after the Council is established under this Act, whichever is later, the Council shall

complete a thorough analysis of conservation measures and conservation resources implemented pursuant to this Act during the five-year period beginning on the date the Council is established under this Act to determine if such measures or resources:

(A) have resulted or are likely to result in costs to consumers in the region greater than the costs of additional generating resources or additional fuel which the Council determines would be necessary in the absence of such measures or resources;

(B) have not been or are likely not to be generally equitable to all consumers in the region; or

(C) have impaired or are likely to impair the ability of the Administrator to carry out his obligations under this Act and other laws, consistent with sound business practices.

(2) The Administrator may determine that section 3(4)(D) shall not apply to any proposed conservation measure or resource if the Administrator finds after receipt of such analysis from the Council that such measure or resource would have any result or effect described in subparagraph (A), (B) or (C) of paragraph (1).

SALE OF POWER

16 USC 839c.

SEC. 5. (a) All power sales under this Act shall be subject at all times to the preference and priority provisions of the Bonneville Project Act of 1937 (16 U.S.C. 832 and following) and, in particular, sections 4 and 5 thereof. Such sales shall be at rates established pursuant to section 7.

16 USC 832c, 832d.

16 USC 832f.

(b)(1) Whenever requested, the Administrator shall offer to sell to each requesting public body and cooperative entitled to preference and priority under the Bonneville Project Act of 1937 and to each requesting investor-owned utility electric power to meet the firm power load of such public body, cooperative or investor-owned utility in the Region to the extent that such firm power load exceeds—

(A) the capability of such entity's firm peaking and energy resources used in the year prior to the enactment of this Act to serve its firm load in the region, and

(B) such other resources as such entity determines, pursuant to contracts under this Act, will be used to serve its firm load in the region.

In determining the resources which are used to serve a firm load, for purposes of subparagraphs (A) and (B), any resources used to serve a firm load under such subparagraphs shall be treated as continuing to be so used, unless such use is discontinued with the consent of the Administrator, or unless such use is discontinued because of obsolescence, retirement, loss of resource, or loss of contract rights.

(2) Contracts with investor-owned utilities shall provide that the Administrator may reduce his obligations under such contracts in accordance with section 5(a) of the Bonneville Project Act of 1937.

(3) In addition to his authorities to sell electric power under paragraph (1), the Administrator is also authorized to sell electric power to Federal agencies in the region.

(4) Sales under this subsection shall be made only if the public body, cooperative, Federal agency or investor-owned utility complies with the Administrator's standards for service in effect on the effective date of this Act or as subsequently revised.

(5) The Administrator shall include in contracts executed in accordance with this subsection provisions that enable the Administrator to restrict his contractual obligations to meet the loads referred to in this subsection in the future if the Administrator determines, after a

reasonable period of experience under this Act, that the Administrator cannot be assured on a planning basis of acquiring sufficient resources to meet such loads during a specified period of insufficiency. Any such contract with a public body, cooperative, or Federal agency shall specify a reasonable minimum period between a notice of restriction and the earliest date such restriction may be imposed.

(6) Contracts executed in accordance with this subsection with public body, cooperative, and Federal agency customers shall—

(A) provide that the restriction referred to in paragraph (5) shall not be applicable to any such customers until the operating year in which the total of such customers' firm loads to be served by the Administrator equals or exceeds the firm capability of the Federal base system resources;

(B) not permit restrictions which would reduce the total contractual entitlement of such customers to an amount less than the firm capability of the Federal base system resources; and

(C) contain a formula for determining annually, on a uniform basis, each such customer's contractual entitlement to firm power during such a period of restriction, which formula shall not consider customer resources other than those the customer has determined, as of the effective date of this Act, to be used to serve its own firm loads.

The formula referred to in subparagraph (C) shall obligate the Administrator to provide on an annual basis only firm power needed to serve the portion of such customer's firm load in excess of the capability of such customer's own firm resources determined by such customer under paragraph (1) of this subsection to be used to serve its firm load.

Purchase and exchange sale.

(c)(1) Whenever a Pacific Northwest electric utility offers to sell electric power to the Administrator at the average system cost of that utility's resources in each year, the Administrator shall acquire by purchase such power and shall offer, in exchange, to sell an equivalent amount of electric power to such utility for resale to that utility's residential users within the region.

Limitation.

(2) The purchase and exchange sale referred to in paragraph (1) of this subsection with any electric utility shall be limited to an amount not in excess of 50 per centum of such utility's Regional residential load in the year beginning July 1, 1980, such 50 per centum limit increasing in equal annual increments to 100 per centum of such load in the year beginning July 1, 1985, and each year thereafter.

Cost benefits.

(3) The cost benefits, as specified in contracts with the Administrator, of any purchase and exchange sale referred to in paragraph (1) of this subsection which are attributable to any electric utility's residential load within a State shall be passed through directly to such utility's residential loads within such State, except that a State which lies partially within and partially without the region may require that such cost benefits be distributed among all of the utility's residential loads in that State.

Termination.

(4) An electric utility may terminate, upon reasonable terms and conditions agreed to by the Administrator and such utility prior to such termination, its purchase and sale under this subsection if the supplemental rate charge provided for in section 7(b)(3) is applied and the cost of electric power sold to such utility under this subsection exceeds, after application of such rate charge, the average system cost of power sold by such utility to the Administrator under this subsection.

(5) Subject to the provisions of sections 4 and 6, in lieu of purchasing any amount of electric power offered by a utility under paragraph (1) of this subsection, the Administrator may acquire an equivalent amount of electric power from other sources to replace power sold to such utility as part of an exchange sale if the cost of such acquisition is less than the cost of purchasing the electric power offered by such utility.

(6) Exchange sales to a utility pursuant to this subsection shall not be restricted below the amounts of electric power acquired by the Administrator from, or on behalf of, such utility pursuant to this subsection.

"Average system cost."

(7) The "average system cost" for electric power sold to the Administrator under this subsection shall be determined by the Administrator on the basis of a methodology developed for this purpose in consultation with the Council, the Administrator's customers, and appropriate State regulatory bodies in the region. Such methodology shall be subject to review and approval by the Federal Energy Regulatory Commission. Such average system cost shall not include—

(A) the cost of additional resources in an amount sufficient to serve any new large single load of the utility;

(B) the cost of additional resources in an amount sufficient to meet any additional load outside the region occurring after the effective date of this Act; and

(C) any costs of any generating facility which is terminated prior to initial commercial operation.

(d)(1)(A) The Administrator is authorized to sell in accordance with this subsection electric power to existing direct service industrial customers. Such sales shall provide a portion of the Administrator's reserves for firm power loads within the region.

"Industrial firm power."

(B) After the effective date of this Act, the Administrator shall offer in accordance with subsection (g) of this section to each existing direct service industrial customer an initial long term contract that provides such customer an amount of power equivalent to that to which such customer is entitled under its contract dated January or April 1975 providing for the sale of "industrial firm power."

(2) The Administrator shall not sell electric power, including reserves, directly to new direct service industrial customers.

(3) The Administrator shall not sell amounts of electric power, including reserves, to existing direct service industrial customers in excess of the amount permitted under paragraph (1) unless the Administrator determines, after a plan has been adopted pursuant to section 4 of this Act, that such proposed sale is consistent with the plan and that—

(A) additional power system reserves are required for the region's firm loads,

(B) the proposed sale would provide a cost-effective method of supplying such reserves,

(C) such loads or loads of similar character cannot provide equivalent operating or planning benefits to the region if served by an electric utility under contractual arrangements providing reserves, and

(D) the Administrator has or can acquire sufficient electric power to serve such loads, and

unless the Council has determined such sale is consistent with the plan. After such determination by the Administrator and by the Council, the Administrator is authorized to offer to existing direct service industrial customers power in such amounts in excess of the

amount permitted under paragraph (1) of this subsection as the Administrator determines to be necessary to provide additional power system reserves to meet the region's firm loads.

(4)(A) As used in this section, the term "existing direct service industrial customer" means any direct service industrial customer of the Administrator which has a contract for the purchase of electric power from the Administrator on the effective date of this Act. Definitions.

(B) The term "new direct service industrial customer" means any industrial entity other than an existing direct service industrial customer.

(C)(i) Where a new contract is offered in accordance with subsection (g) to any existing direct service industrial customer which has not received electric power prior to the effective date of this Act from the Administrator pursuant to a contract with the Administrator existing on the date of the enactment of this Act, electric power delivered under such new contract shall be conditioned on the Administrator reasonably acquiring, in accordance with this Act and within such estimated period of time (as specified in the contract) as he deems reasonable, sufficient resources to meet, on a planning basis, the load requirement of such customer. Such contract shall also provide that the obligation of the Administrator to acquire such resources to meet such load requirement shall, except as provided in clause (ii) of this subparagraph, apply only to such customer and shall not be sold or exchanged by such customer to any other person. New contract.

(ii) Rights under a contract described in clause (i) of this subparagraph may be transferred by an existing direct service industrial customer referred to in clause (i) to a successor in interest in connection with a reorganization or other transfer of all major assets of such customer. Following such a transfer, such successor in interest (or any other subsequent successor in interest) may also transfer rights under such a contract only in connection with a reorganization or other transfer of all assets of such successor in interest. Contract rights, transfer.

(iii) The limitations of clause (i) of this subparagraph shall not apply to any customer referred to in clause (i) whenever the Administrator determines that such customer is receiving electric power pursuant to a contract referred to in such clause (ii).

(e)(1) The contractual entitlement to firm power of any customer from whom, or on whose behalf, the Administrator has acquired electric power pursuant to section 6 may not be restricted below the amount of electric power so acquired from, or on behalf of, such customer. If in any year such customer's requirements are less than such entitlement, any excess of such entitlement shall be first made available to increase the entitlement of other customers of the same class before being available for the entitlement of other customers. For purposes of this paragraph, the following entities shall each constitute a class:

(A) public bodies and cooperatives;
(B) Federal agencies;
(C) direct service industrial; and
(D) investor owned utilities.

(2) Any contractual entitlement to firm power which is based on electric power acquired from, or on behalf of, a customer pursuant to section 6 shall be in addition to any other contractual entitlement to firm power not subject to restriction that such customer may have under this section. For the purposes of this subsection, references to amounts of power acquired by the Administrator pursuant to section 6 shall be deemed to mean the amounts specified in the resource

acquisition contracts exclusive of any amounts recognized in such contracts as replacement for Federal base system resources.

(3) The Administrator shall, consistent with the provisions of this Act, insure that any restrictions upon any particular customer class made pursuant to this subsection and subsection (b) of this section are distributed equitably throughout the region.

(f) The Administrator is authorized to sell, or otherwise dispose of, electric power, including power acquired pursuant to this and other Acts, that is surplus to his obligations incurred pursuant to subsections (b), (c), and (d) of this section in accordance with this and other Acts applicable to the Administrator, including the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), and the Act of August 31, 1964 (16 U.S.C. 837-837h).

Long-term contracts.

(g)(1) As soon as practicable within nine months after the effective date of this Act, the Administrator shall commence necessary negotiations for, and offer, initial long-term contracts (within the limitations of the third sentence of section 5(a) of the Bonneville Project Act) simultaneously to—

16 USC 832d.

(A) existing public body and cooperative customers and investor-owned utility customers under subsection (b) of this section;

(B) Federal agency customers under subsection (b) of this section;

(C) electric utility customers under subsection (c) of this section; and

(D) direct service industrial customers under subsection (d)(1).

(2) Each customer offered a contract pursuant to this subsection shall have one year from the date of such offer to accept such contract. Such contract shall be effective as provided in this subsection.

(3) An initial contract with a public body, cooperative or investor-owned electric utility customer or a Federal agency customer pursuant to subsection (b) of this section shall be effective on the date executed by such customer, unless another effective date is otherwise agreed to by the Administrator and the customer.

(4) An initial contract with an electric utility customer pursuant to subsection (c) of this section shall be effective on the date executed by such customer, but no earlier than the first day of the tenth month after the effective date of this Act.

(5) An initial contract with a direct service industrial customer pursuant to subsection (d)(1), shall be effective on the date agreed upon by the Administrator and such customer, but no later than the first day of the tenth month after the effective date of this Act. When such contract is executed, it may for rate purposes be given retroactive effect to such first day.

(6) Initial contracts offered public body, cooperative and Federal agency customers in accordance with this subsection shall provide that during a period of insufficiency declared in accordance with subsection (b) of this section each customer's contractual entitlement shall, to the extent of its requirements on the Administrator, be no less than the amount of firm power received from the Administrator in the year immediately preceding the period of insufficiency.

(7) The Administrator shall be deemed to have sufficient resources for the purpose of entering into the initial contracts specified in paragraph (1) (A) through (D).

CONSERVATION AND RESOURCE ACQUISITION

SEC. 6. (a)(1) The Administrator shall acquire such resources through conservation, implement all such conservation measures, and acquire such renewable resources which are installed by a residential or small commercial consumer to reduce load, as the Administrator determines are consistent with the plan, or if no plan is in effect with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) and, in the case of major resources, in accordance with subsection (c) of this section. Such conservation measures and such resources may include, but are not limited to— 16 USC 839d.

(A) loans and grants to consumers for insulation or weatherization, increased system efficiency, and waste energy recovery by direct application,

(B) technical and financial assistance to, and other cooperation with, the Administrator's customers and governmental authorities to encourage maximum cost-effective voluntary conservation and the attainment of any cost-effective conservation objectives adopted by individual States or subdivisions thereof,

(C) aiding the Administrator's customers and governmental authorities in implementing model conservation standards adopted pursuant to section 4(f), and

(D) conducting demonstration projects to determine the cost effectiveness of conservation measures and direct application of renewable energy resources.

(2) In addition to acquiring electric power pursuant to section 5(c), or on a short-term basis pursuant to section 11(b)(6)(i) of the Federal Columbia River Transmission System Act, the Administrator shall acquire, in accordance with this section, sufficient resources— 16 USC 838i.

(A) to meet his contractual obligations that remain after taking into account planned savings from measures provided for in paragraph (1) of this subsection, and

(B) to assist in meeting the requirements of section 4(h) of this Act.

The Administrator shall acquire such resources without considering restrictions which may apply pursuant to section 5(b) of this Act.

(b)(1) Except as specifically provided in this section, acquisition of resources under this Act shall be consistent with the plan, as determined by the Administrator.

(2) The Administrator may acquire resources (other than major resources) under this Act which are not consistent with the plan, but which are determined by the Administrator to be consistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act.

(3) If no plan is in effect, the Administrator may acquire resources under this Act which are determined by the Administrator to be consistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act.

(4) The Administrator shall acquire any non-Federal resources to replace Federal base system resources only in accordance with the provisions of this section. The Administrator shall include in the contracts for the acquisition of any such non-Federal replacement resources provisions which will enable him to ensure that such non-Federal replacement resources are developed and operated in a manner consistent with the considerations specified in section 4(e)(2) of this Act.

(5) Notwithstanding any acquisition of resources pursuant to this section, the Administrator shall not reduce his efforts to achieve

conservation and to acquire renewable resources installed by a residential or small commercial consumer to reduce load, pursuant to subsection (a)(1) of this section.

(c)(1) For each proposal under subsection (a), (b), (f), (h), or (l) of this section to acquire a major resource, to implement a conservation measure which will conserve an amount of electric power equivalent to that of a major resource, to pay or reimburse investigation and preconstruction expenses of the sponsors of a major resource, or to grant billing credits or services involving a major resource, the Administrator shall—

Publication in Federal Register.

(A) publish notice of the proposed action in the Federal Register and provide a copy of such notice to the Council, the Governor of each State in which facilities would be constructed or a conservation measure implemented, and the Administrator's customers;

Public hearings.

(B) not less than sixty days following publication of such notice, conduct one or more public hearings, presided over by a hearing officer, at which testimony and evidence shall be received, with opportunity for such rebuttal and cross-examination as the hearing officer deems appropriate in the development of an adequate hearing record;

(C) develop a record to assist in evaluating the proposal which shall include the transcript of the public hearings, together with exhibits, and such other materials and information as may have been submitted to, or developed by, the Administrator; and

(D) following completion of such hearings, promptly provide to the Council and make public a written decision that includes, in addition to a determination respecting the requirements of subsection (a), (b), (f), (h), (l), or (m) of this section, as appropriate—

(i) if a plan is in effect, a finding that the proposal is either consistent or inconsistent with the plan or, notwithstanding its inconsistency with the plan, a finding that it is needed to meet the Administrator's obligations under this Act, or

(ii) if no plan is in effect, a finding that the proposal is either consistent or inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act or notwithstanding its inconsistency, a finding that it is needed to meet the Administrator's obligations under this Act.

In the case of subsection (f) of this section, such decision shall be treated as satisfying the applicable requirements of this subsection and of subsection (f) of this section, if it includes a finding of probable consistency, based upon the Administrator's evaluation of information available at the time of completion of the hearing under this paragraph. Such decision shall include the reasons for such finding.

(2) Within sixty days of the receipt of the Administrator's decision pursuant to paragraph (1)(D) of this subsection, the Council may determine by a majority vote of all members of the Council, and notify the Administrator—

(A) that the proposal is either consistent or inconsistent with the plan, or

(B) if no plan is in effect, that the proposal is either consistent or inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(3) The Administrator may not implement any proposal referred to in paragraph (1) that is determined pursuant to paragraph (1) or (2) by either the Administrator or the Council to be inconsistent with the

plan or, if no plan is in effect, with the criteria of section 4(e)(1) and the considerations of section 4(e)(2)—

(A) unless the Administrator finds that, notwithstanding such inconsistency, such resource is needed to meet the Administrator's obligations under this Act, and

(B) until the expenditure of funds for that purpose has been specifically authorized by Act of Congress enacted after the date of the enactment of this Act.

(4) Before the Administrator implements any proposal referred to in paragraph (1) of this subsection, the Administrator shall—

(A) submit to the appropriate committees of the Congress the administrative record of the decision (including any determination by the Council under paragraph (2)) and a statement of the procedures followed or to be followed for compliance with the National Environmental Policy Act of 1969,

(B) publish notice of the decision in the Federal Register, and

(C) note the proposal in the Administrator's annual or supplementary budget submittal made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following).

42 USC 4321 note. Publication in Federal Register.

The Administrator may not implement any such proposal until ninety days after the date on which such proposal has been noted in such budget or after the date on which such decision has been published in the Federal Register, whichever is later.

(5) The authority of the Council to make a determination under paragraph (2)(B) if no plan is in effect shall expire on the date two years after the establishment of the Council.

(d) The Administrator is authorized to acquire a resource, other than a major resource, whether or not such resource meets the criteria of section 4(e)(1) and the considerations of section 4(e)(2) but which he determines is an experimental, developmental, demonstration, or pilot project of a type with a potential for providing cost-effective service to the region. The Administrator shall make no obligation for the acquisition of such resource until it is included in the annual budgets submitted to the Congress pursuant to the Federal Columbia River Transmission System Act.

(e)(1) In order to effectuate the priority given to conservation measures and renewable resources under this Act, the Administrator shall, to the maximum extent practicable, make use of his authorities under this Act to acquire conservation measures and renewable resources, to implement conservation measures, and to provide credits and technical and financial assistance for the development and implementation of such resources and measures (including the funding of, and the securing of debt for, expenses incurred during the investigation and preconstruction of resources, as authorized in subsection (f) of this section).

(2) To the extent conservation measures or acquisition of resources require direct arrangements with consumers, the Administrator shall make maximum practicable use of customers and local entities capable of administering and carrying out such arrangements.

(f)(1) For resources which the Administrator determines may be eligible for acquisition under this section and satisfy the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act or, if a plan is in effect, to be consistent with the plan, the Administrator is authorized to enter into agreements with sponsors of—

(A) a renewable resource, other than a major resource, to fund or secure debt incurred in the investigation and initial development of such resource, or

(B) any other resource to provide for the reimbursement of the sponsor's investigation and preconstruction expenses concerning such resource (which expenses shall not include procurement of capital equipment or construction material for such resource).

In the case of any resource referred to in subparagraph (B) of this paragraph, such reimbursement is authorized only if—

(i) such resource is subsequently denied State siting approval or other necessary Federal or State permits, or approvals,

(ii) such investigation subsequently demonstrates, as determined by the Administrator, that such resource does not meet the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act or is not acceptable because of environmental impacts, or

(iii) after such investigation the Administrator determines not to acquire the resource and the sponsor determines not to construct the resource.

(2) The Administrator may exercise the authority of this subsection only after he determines that the failure to do so would result in inequitable hardship to the consumers of such sponsors. The Administrator may provide reimbursement under this subsection only for expenses incurred after the date of the enactment of this Act.

(3) Any agreement under paragraph (1) of this subsection shall provide the Administrator an option to acquire any such resource, including a renewable resource, and shall include such other provisions, as the Administrator deems appropriate, for the Administrator's recovery from such sponsors or any assignee of the sponsors, if such sponsor or assignee continues development of the resource, of any advances made by the Administrator pursuant to such agreement.

(4) The Administrator shall not reimburse any expense incurred by the sponsors (except necessary expenses involved in the liquidation of the resource) after the date of a final denial of application for State siting approval or after the date the Administrator determines that the resource to be inconsistent with the plan or the criteria of section 4(e)(1) and the considerations of section 4(e)(2).

(g) At the request of the appropriate State, any environmental impact statement which may be required with respect to a resource, to the extent determined possible by the Administrator in accordance with applicable law and regulations, may be prepared jointly and in coordination with any required environmental impact statement of the State or any other statement which serves the purpose of an environmental impact statement which is required by State law.

Billing credits.

(h)(1) If a customer so requests, the Administrator shall grant billing credits to such customer, and provide services to such customer at rates established for such services, for—

(A) conservation activities independently undertaken or continued after the effective date of this Act by such customer or political subdivision served by such customer which reduce the obligation of the Administrator that would otherwise have existed to acquire other resources under this Act, or

(B) resources constructed, completed, or acquired after the effective date of this Act by a customer, an entity acting on behalf of such customer, or political subdivision served by the customer which reduce the obligation of the Administrator to acquire resources under this Act. Such resources shall be renewable resources or multipurpose projects or other resources which are not inconsistent with the plan or, in the absence of a plan, not

inconsistent with the criteria of section 4(e)(1) and the considerations of section 4(e)(2) of this Act.

(2) The energy and capacity on which a credit under this subsection to a customer is based shall be the amount by which a conservation activity or resource actually changes the customer's net requirement for supply of electric power or reserves from the Administrator.

(3) The amount of credits for conservation under this subsection shall be set to credit the customer implementing or continuing the conservation activity for which the credit is granted for the savings resulting from such activity. The rate impact on the Administrator's other customers of granting the credit shall be equal to the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually saved by the activity for which the credit is granted.

(4) For resources other than conservation, the customer shall be credited for net costs actually incurred by such customer, an entity acting on behalf of such customer, or political subdivision served by such customer, in acquiring, constructing, or operating the resource for which the credit is granted. The rate impact to the Administrator's other customers of granting the credit shall be no greater than the rate impact such customers would have experienced had the Administrator been obligated to acquire resources in an amount equal to that actually produced by the resource for which the credit is granted.

(5) Retail rate structures which are voluntarily implemented by the Administrator's customers and which induce conservation or installation of consumer-owned renewable resources shall be considered, for purposes of this subsection, to be (A) conservation activities independently undertaken or carried on by such customers, or (B) customer-owned renewable resources, and shall qualify for billing credits upon the same showing as that required for other conservation or renewable resource activities.

(6) Prior to granting any credit or providing services pursuant to this subsection, the Administrator shall—

(A) comply with the notice provisions of subsection (c) of this section, and include in such notice the methodology the Administrator proposes to use in determining the amount of any such credit;

(B) include the cost of such credit in the Administrator's annual or amended budget submittal to the Congress made pursuant to the Federal Columbia River Transmission System Act (16 U.S.C. 838(j));

(C) require that resources in excess of customer's reasonable load growth shall have been offered to others for ownership, participation or other sponsorship pursuant to subsection (m) of this section, except in the case of conservation, multi-purpose projects uniquely suitable for development by the customer, or renewable resources; and

(D) require that the operators of any generating resource for which a billing credit is to be granted agree to operate such resource in a manner compatible with the planning and operation of the region's power system.

(i) Contracts for the acquisition of resources and for billing credits for major resources, including conservation activities, entered into pursuant to this section shall contain such terms and conditions, applicable after the contract is entered into, as will—

(1) insure timely construction, scheduling, completion, and operation of resources,

(2) insure that the costs of any acquisition are as low as reasonably possible, consistent (A) with sound engineering, operating, and safety practices, and (B) the protection, mitigation, and enhancement of fish and wildlife, including related spawning grounds and habitat affected by the development of such resources, and

(3) insure that the Administrator exercises effective oversight, inspection, audit, and review of all aspects of such construction and operation.

Such contracts shall contain provisions assuring that the Administrator has the authority to approve all costs of, and proposals for, major modifications in construction, scheduling or operations and to assure that the Administrator is provided with such current information as he deems necessary to evaluate such construction and operation.

(j)(1) All contractual and other obligations required to be carried out by the Administrator pursuant to this Act shall be secured solely by the Administrator's revenues received from the sale of electric power and other services. Such obligations are not, nor shall they be construed to be, general obligations of the United States, nor are such obligations intended to be or are they secured by the full faith and credit of the United States.

(2) All contracts entered into by the Administrator for the acquisition of resources pursuant to this Act shall require that, in the sale of any obligations, all offerings and promotional material for the sale of such obligations shall include the language contained in the second sentence of paragraph (1) of this subsection. The Administrator shall monitor and enforce such requirement.

(k) In the exercise of his authorities pursuant to this section, the Administrator shall, consistent with the provisions of this Act and the Administrator's obligations to particular customer classes, insure that benefits under this section, including financial and technical assistance, conduct of conservation demonstrations, and experimental projects, services, and billing credits, are distributed equitably throughout the region.

Investigations.

(l)(1) The Administrator is authorized and directed to investigate opportunities for adding to the region's resources or reducing the region's power costs through the accelerated or cooperative development of resources located outside the States of Idaho, Montana, Oregon, and Washington if such resources are renewable resources, and are now or in the future planned or considered for eventual development by nonregional agencies or authorities that will or would own, sponsor, or otherwise develop them. The Administrator shall keep the Council fully and currently informed of such investigations, and seek the Council's advice as to the desirability of pursuing such investigations.

(2) The Administrator is authorized and directed to investigate periodically opportunities for mutually beneficial interregional exchanges of electric power that reduce the need for additional generation or generating capacity in the Pacific Northwest and the regions with which such exchanges may occur. The Council shall take into consideration in formulating a plan such investigations.

(3) After the Administrator submits a report to Congress pursuant to paragraph (5) of this subsection, the Administrator is authorized to acquire resources consistent with such investigations and consistent with the plan or, if no plan is in effect, with the priorities of section 4(e)(1) and the considerations of section 4(e)(2). Such acquisitions shall be in accordance with the provisions of this subsection.

(4) The Administrator shall conduct the investigations and the acquisitions, if any, authorized under this subsection with the assistance of other Federal agencies as may be appropriate.

(5) No later than July 1, 1981, the Administrator shall submit to the Congress a report of the results of the investigations undertaken pursuant to this subsection, together with the prospects for obtaining additional resources under the authority granted by this subsection and for reductions in generation or generating capacity through exchanges. Report to Congress.

(m) Except as to resources under construction on the effective date of this Act, the Administrator shall determine in each case of a major resource acquisition that a reasonable share of the particular resource, or a reasonable equivalent, has been offered to each Pacific Northwest electric utility for ownership, participation, or other sponsorship, but not in excess of the amounts needed to meet such utility's Regional load.

RATES

SEC. 7. (a)(1) The Administrator shall establish, and periodically review and revise, rates for the sale and disposition of electric energy and capacity and for the transmission of non-Federal power. Such rates shall be established and, as appropriate, revised to recover, in accordance with sound business principles, the costs associated with the acquisition, conservation, and transmission of electric power, including the amortization of the Federal investment in the Federal Columbia River Power System (including irrigation costs required to be repaid out of power revenues) over a reasonable period of years and the other costs and expenses incurred by the Administrator pursuant to this Act and other provisions of law. Such rates shall be established in accordance with sections 9 and 10 of the Federal Columbia River Transmission System Act (16 U.S.C. 838), section 5 of the Flood Control Act of 1944, and the provisions of this Act. 16 USC 839e. 16 USC 838g, 838h.

(2) Rates established under this section shall become effective only, except in the case of interim rules as provided in subsection (i)(6), upon confirmation and approval by the Federal Energy Regulatory Commission upon a finding by the Commission, that such rates— 16 USC 825s.

(A) are sufficient to assure repayment of the Federal investment in the Federal Columbia River Power System over a reasonable number of years after first meeting the Administrator's other costs,

(B) are based upon the Administrator's total system costs, and

(C) insofar as transmission rates are concerned, equitably allocate the costs of the Federal transmission system between Federal and non-Federal power utilizing such system.

(b)(1) The Administrator shall establish a rate or rates of general application for electric power sold to meet the general requirements of public body, cooperative, and Federal agency customers within the Pacific Northwest, and loads of electric utilities under section 5(c). Such rate or rates shall recover the costs of that portion of the Federal base system resources needed to supply such loads until such sales exceed the Federal base system resources. Thereafter, such rate or rates shall recover the cost of additional electric power as needed to supply such loads, first from the electric power acquired by the Administrator under section 5(c) and then from other resources.

(2) After July 1, 1985, the projected amounts to be charged for firm power for the combined general requirements of public body, cooperative and Federal agency customers, exclusive of amounts charged such customers under subsection (g) for the costs of conservation,

resource and conservation credits, experimental resources and uncontrollable events, may not exceed in total, as determined by the Administrator, during any year after July 1, 1985, plus the ensuing four years, an amount equal to the power costs for general requirements of such customers if, the Administrator assumes that—

(A) the public body and cooperative customers' general requirements had included during such five-year period the direct service industrial customer loads which are—

(i) served by the Administrator, and

(ii) located within or adjacent to the geographic service boundaries of such public bodies and cooperatives;

(B) public body, cooperative, and Federal agency customers were served, during such five-year period, with Federal base system resources not obligated to other entities under contracts existing as of the effective date of this Act (during the remaining term of such contracts) excluding obligations to direct service industrial customer loads included in subparagraph (A) of this paragraph;

(C) no purchases or sales by the Administrator as provided in section 5(c) were made during such five-year period;

(D) all resources that would have been required, during such five-year period, to meet remaining general requirements of the public body, cooperative and Federal agency customers (other than requirements met by the available Federal base system resources determined under subparagraph (B) of this paragraph) were—

(i) purchased from such customers by the Administrator pursuant to section 6, or

(ii) not committed to load pursuant to section 5(b),

and were the least expensive resources owned or purchased by public bodies or cooperatives; and any additional needed resources were obtained at the average cost of all other new resources acquired by the Administrator; and

(E) the quantifiable monetary savings, during such five-year period, to public body, cooperative and Federal agency customers resulting from—

(i) reduced public body and cooperative financing costs as applied to the total amount of resources, other than Federal base system resources, identified under subparagraph (D) of this paragraph, and

(ii) reserve benefits as a result of the Administrator's actions under this Act

were not achieved.

(3) Any amounts not charged to public body, cooperative, and Federal agency customers by reason of paragraph (2) of this subsection shall be recovered through supplemental rate charges for all other power sold by the Administrator to all customers. Rates charged public body, cooperative, or Federal agency customers pursuant to this subsection shall not include any costs or benefits of a net revenue surplus or deficiency occurring for the period ending June 30, 1985, to the extent such surplus or deficiency is caused by—

(A) a difference between actual power deliveries and power deliveries projected for the purpose of establishing rates to direct service industrial customers under subsection (c)(1) of this subsection, and

(B) an overrecovery or underrecovery of the net costs incurred by the Administrator under section 5(c) as a result of such difference.

Any such revenue surplus or deficiency incurred shall be recovered from, or repaid to, customers over a reasonable period of time after July 1, 1985, through a supplemental rate charge or credit applied proportionately for all other power sold by the Administrator at rates established under other subsections of this section prior to July 1, 1985.

(4) The term "general requirements" as used in this section means the public body, cooperative or Federal agency customer's electric power purchased from the Administrator under section 5(b) of this Act, exclusive of any new large single load. "General requirements."

(c)(1) The rate or rates applicable to direct service industrial customers shall be established—

(A) for the period prior to July 1, 1985, at a level which the Administrator estimates will be sufficient to recover the cost of resources the Administrator determines are required to serve such customers' load and the net costs incurred by the Administrator pursuant to section 5(c) of this Act, based upon the Administrator's projected ability to make power available to such customers pursuant to their contracts, to the extent that such costs are not recovered through rates applicable to other customers; and

(B) for the period beginning July 1, 1985, at a level which the Administrator determines to be equitable in relation to the retail rates charged by the public body and cooperative customers to their industrial consumers in the region.

(2) The determination under paragraph (1)(B) of this subsection shall be based upon the Administrator's applicable wholesale rates to such public body and cooperative customers and the typical margins included by such public body and cooperative customers in their retail industrial rates but shall take into account—

(A) the comparative size and character of the loads served,

(B) the relative costs of electric capacity, energy, transmission, and related delivery facilities provided and other service provisions, and

(C) direct and indirect overhead costs,

all as related to the delivery of power to industrial customers, except that the Administrator's rates during such period shall in no event be less than the rates in effect for the contract year ending on June 30, 1985.

(3) The Administrator shall adjust such rates to take into account the value of power system reserves made available to the Administrator through his rights to interrupt or curtail service to such direct service industrial customers.

(d)(1) In order to avoid adverse impacts on retail rates of the Administrator's customers with low system densities, the Administrator shall, to the extent appropriate, apply discounts to the rate or rates for such customers.

(2) In order to avoid adverse impacts of increased rates pursuant to this Act on any direct service industrial customer using raw minerals indigenous to the region as its primary resource, the Administrator, upon request of such customer showing such impacts and after considering the effect of such request on his other obligations under this Act, is authorized, if the Administrator determines that such impacts will be significant, to establish a special rate applicable to such customer if all power sold to such customer may be interrupted, curtailed, or withdrawn to meet firm loads in the region. Such rate shall be established in accordance with this section and shall include such terms and conditions as the Administrator deems appropriate.

(e) Nothing in this Act prohibits the Administrator from establishing, in rate schedules of general application, a uniform rate or rates for sale of peaking capacity or from establishing time-of-day, seasonal rates, or other rate forms.

(f) Rates for all other firm power sold by the Administrator for use in the Pacific Northwest shall be based upon the cost of the portions of Federal base system resources, purchases of power under section 5(c) of this Act and additional resources which, in the determination of the Administrator, are applicable to such sales.

(g) Except to the extent that the allocation of costs and benefits is governed by provisions of law in effect on the effective date of this Act, or by other provisions of this section, the Administrator shall equitably allocate to power rates, in accordance with generally accepted ratemaking principles and the provisions of this Act, all costs and benefits not otherwise allocated under this section, including, but not limited to, conservation, fish and wildlife measures, uncontrollable events, reserves, the excess costs of experimental resources acquired under section 6, the cost of credits granted pursuant to section 6, operating services, and the sale of or inability to sell excess electric power.

(h) Notwithstanding any other provision of this section (except the provisions of subsection (a) of this section), the Administrator shall adjust power rates to include any surcharges arising under section 4(f) of this Act, and shall allocate any revenues from such charges in such manner as the Administrator determines will help achieve the purposes of section 4(f) of this Act.

(i) In establishing rates under this section, the Administrator shall use the following procedures:

Publication in Federal Register.

(1) Notice of the proposed rates shall be published in the Federal Register with a statement of the justification and reasons supporting such rates. Such notice shall include a date for a hearing in accordance with paragraph (2) of this subsection.

Hearings.

(2) One or more hearings shall be conducted as expeditiously as practicable by a hearing officer to develop a full and complete record and to receive public comment in the form of written and oral presentation of views, data, questions, and argument related to such proposed rates. In any such hearing—

(A) any person shall be provided an adequate opportunity by the hearing officer to offer refutation or rebuttal of any material submitted by any other person or the Administrator, and

(B) the hearing officer, in his discretion, shall allow a reasonable opportunity for cross examination, which, as determined by the hearing officer, is not dilatory, in order to develop information and material relevant to any such proposed rate.

(3) In addition to the opportunity to submit oral and written material at the hearings, any written views, data, questions, and arguments submitted by persons prior to, or before the close of, hearings shall be made a part of the administrative record.

Publication in Federal Register.

(4) After such a hearing, the Administrator may propose revised rates, publish such proposed rates in the Federal Register, and conduct additional hearings in accordance with this subsection.

(5) The Administrator shall make a final decision establishing a rate or rates based on the record which shall include the hearing transcript, together with exhibits, and such other materials and information as may have been submitted to, or devel-

oped by, the Administrator. The decision shall include a full and complete justification of the final rates pursuant to this section.

(6) The final decision of the Administrator shall become effective on confirmation and approval of such rates by the Federal Energy Regulatory Commission pursuant to subsection (a)(2) of this section. The Commission shall have the authority, in accordance with such procedures, if any, as the Commission shall promptly establish and make effective within one year after the enactment of this Act, to approve the final rate submitted by the Administrator on an interim basis, pending the Commission's final decision in accordance with such subsection. Pending the establishment of such procedures by the Commission, if such procedures are required, the Secretary is authorized to approve such interim rates during such one-year period in accordance with the applicable procedures followed by the Secretary prior to the effective date of this Act. Such interim rates, at the discretion of the Secretary, shall continue in effect until July 1, 1982. Interim rates.

(j) All rate schedules adopted, and all power billings rendered, by the Administrator pursuant to this section shall indicate—

(1) the approximate cost contribution of different resource categories to the Administrator's rates for the sale of energy and capacity, and

(2) the cost of resources acquired to meet load growth within the region and the relation of such cost to the average cost of resources available to the Administrator.

(k) Notwithstanding any other provision of this Act, all rates or rate schedules for the sale of nonfirm electric power within the United States, but outside the region, shall be established after the date of this Act by the Administrator in accordance with the procedures of subsection (i) of this section (other than the first sentence of paragraph (6) thereof) and in accordance with the Bonneville Project Act, the Flood Control Act of 1944, and the Federal Columbia River Transmission System Act. Notwithstanding section 201(f) of the Federal Power Act, such rates or rate schedules shall become effective after review by the Federal Energy Regulatory Commission for conformance with the requirements of such Acts and after approval thereof by the Commission. Such review shall be based on the record of proceedings established under subsection (i) of this section. The parties to such proceedings under subsection (i) shall be afforded an opportunity by the Commission for an additional hearing in accordance with the procedures established for ratemaking by the Commission pursuant to the Federal Power Act. Rate or rate schedules, establishment. 16 USC 832-832*l*; 16 USC 460d, 825s; 33 USC 701-1, 701a-1, 701b-1, 701c note, 708, 709; 43 USC 390. 16 USC 838 note. 16 USC 824.

(l) In order to further the purposes of this Act and to protect the consumers of the region, the Administrator may negotiate, or establish, rates for electric power sold by the Administrator to any entity not located in the United States which shall be equitable in relation to rates for all electric power which is, or may be, purchased by the Administrator or the Administrator's customers from entities outside the United States. In establishing rates other than by negotiation, the provisions of subsection (i) shall apply. In the case of any negotiation with an entity not located in the United States, the Administrator shall provide public notice of any proposal to negotiate such rates. Such negotiated rates shall be not less than the rates established under this Act for nonfirm power sold within the United States but outside the region. The Administrator shall also afford notice of any rates negotiated pursuant to this subsection. Negotiated rates outside U.S. Notice.

(m)(1) Beginning the first fiscal year after the plan and program required by section 4 (d) and (h) of this Act are finally adopted, the Payments.

Administrator may, subject to the provisions of this section, make annual impact aid payments to the appropriate local governments within the region with respect to major transmission facilities of the Administrator, as defined in section 3(c) of the Federal Columbia River Transmission Act—

16 USC 838a.

(A) which are located within the jurisdictional boundaries of such governments,

(B) which are determined by the Administrator to have a substantial impact on such governments, and

(C) where the construction of such facilities, or any modification thereof, is completed after the effective date of this Act, and, in the case of a modification of an existing facility, such modification substantially increases the capacity of such existing transmission facility.

Payment formula.

(2) Payments made under this subsection for any fiscal year shall be determined by the Administrator pursuant to a regionwide, uniform formula to be established by rule in accordance with the procedures set forth in subsection (i) of this section. Such rule shall become effective on its approval, after considering its effect on rates established pursuant to this section, by the Federal Energy Regulatory Commission. In developing such formula, the Administrator shall identify, and take into account, the local governmental services provided to the Administrator concerning such facilities and the associated costs to such governments as the result of such facilities.

(3) Payments made pursuant to this subsection shall be made solely from the fund established by section 11 of the Federal Columbia River Transmission System Act. The provisions of section 13 of such Act, and any appropriations provided to the Administrator under any law, shall not be available for such payments. The authorization of payments under this subsection shall not be construed as an obligation of the United States.

16 USC 838i, 838k.

(4) No payment may be made under this subsection with respect to any land or interests in land owned by the United States within the region and administered by any Federal agency (other than the Administrator), without regard to how the United States obtained ownership thereof, including lands or interests therein acquired or withdrawn by a Federal agency for purposes of such agency and subsequently made available to the Administrator for such facilities.

AMENDMENTS TO EXISTING LAW

16 USC 838i.

SEC. 8. (a) Section 11(b) of the Federal Columbia River Transmission System Act is amended by striking out "or" before "(iii)" in paragraph (6), by striking out the semicolon at the end of such paragraph (6) and inserting in lieu thereof ", or (iv) on a short term basis to meet the Administrator's obligations under section 4(h) of the Pacific Northwest Electric Power Planning and Conservation Act;".

Ante, p. 2700.

(b) Section 11(b) of the Federal Columbia River Transmission System Act is amended by striking out "and" at the end of paragraph (10), by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(12) making such payments, as shall be required to carry out the purposes and provisions of the Pacific Northwest Electric Power Planning and Conservation Act.".

16 USC 838k.

(c) Subsection (b) of section 13 of such Act is amended by striking out "and 11(b)(11)" and inserting in lieu thereof ", 11(b)(11), and 11(b)(12)".

(d)(1) The first sentence of subsection (a) of section 13 of such Act is amended by inserting after the word "system," the following: "to implement the Administrator's authority pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (including his authority to provide financial assistance for conservation measures, renewable resources, and fish and wildlife, but not including the authority to acquire under section 6 of that Act electric power from a generating facility having a planned capability greater than 50 average megawatts),". 16 USC 838k. *Ante*, p. 2697. *Ante*, p. 2717.

(2) The fourth sentence of such subsection (a) is amended by inserting the following before the period at the end thereof: "issued by Government corporations".

(3) Such subsection (a) is further amended by inserting the following before the period at the end thereof: "prior to October 1, 1981. Such aggregate principal limitation shall be increased by an additional $1,250,000,000 after October 1, 1981, as provided in advance in annual appropriation Acts, and such increased amount shall be reserved for the purpose of providing funds for conservation and renewable resource loans and grants in a special revolving account created therefor in the Fund. The funds from such revolving account shall not be deemed State or local funds".

(4) Such subsection (a) is further amended by inserting the following after the fourth sentence thereof: "Beginning in fiscal year 1982, if the Administrator fails to repay by the end of any fiscal year all of the amounts projected immediately prior to such year to be repaid to the Treasury by the end of such year under the repayment criteria of the Secretary of Energy and if such failure is due to reasons other than (A) a decrease in power sale revenues due to fluctuating streamflows or (B) other reasons beyond the control of the Administrator, the Secretary of the Treasury may increase the interest rate applicable to the outstanding bonds issued by the Administrator during such fiscal year. Such increase shall be effective commencing with the fiscal year immediately following the fiscal year during which such failure occurred and shall not exceed 1 per centum for each such fiscal year during which such repayments are not in accord with such criteria. The Secretary of the Treasury shall take into account amounts that the Administrator has repaid in advance of any repayment criteria in determining whether to increase such rate. Before such rate is increased, the Secretary of the Treasury, in consultation with the Administrator and the Federal Energy Regulatory Commission, must be satisfied that the Administrator will have the ability to pay such increased rate, taking into account the Administrator's obligations. Such increase shall terminate with the fiscal year in which repayments (including repayments of the increased rate) are in accordance with the repayment criteria of the Secretary of Energy.". Rate increase. Termination.

(e) Clause (2) of section 1(b) of the Act of August 31, 1964 (78 Stat. 756) is amended to read as follows: "(2) any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a rural electric cooperative served by the Administrator on the effective date of the Pacific Northwest Electric Power Planning and Conservation Act which has a distribution system from which it serves both within and without said region.". 16 USC 837. *Ante*, p. 2697.

ADMINISTRATIVE PROVISIONS

SEC. 9. (a) Subject to the provisions of this Act, the Administrator is authorized to contract in accordance with section 2(f) of the Bonne- 16 USC 839f.

ville Project Act of 1937 (16 U.S.C. 832a(f)). Other provisions of law applicable to such contracts on the effective date of this Act shall continue to be applicable.

(b) The Administrator shall discharge the executive and administrative functions of his office in accordance with the policy established by the Bonneville Project Act of 1937 (16 U.S.C. 832 and following), section 302(a) (2) and (3) of the Department of Energy Organization Act, and this Act. The Secretary of Energy, the Council, and the Administrator shall take such steps as are necessary to assure the timely implementation of this Act in a sound and business-like manner. Nothing in this Act shall be construed by the Secretary, the Administrator, or any other official of the Department of Energy to modify, alter, or otherwise affect the requirements and directives expressed by the Congress in section 302(a) (2) and (3) of the Department of Energy Organization Act or the operations of such officials as they existed prior to enactment of this Act.

42 USC 7152.

Contracts outside Pacific Northwest, limitations and conditions.

(c) Any contract of the Administrator for the sale or exchange of electric power for use outside the Pacific Northwest shall be subject to limitations and conditions corresponding to those provided in sections 2 and 3 of the Act of August 31, 1964 (16 U.S.C. 837a and 837b) for any contract for the sale, delivery, or exchange of hydroelectric energy or peaking capacity generated within the Pacific Northwest for use outside the Pacific Northwest. In applying such sections for the purposes of this subsection, the term "surplus energy" shall mean electric energy for which there is no market in the Pacific Northwest at any rate established for the disposition of such energy, and the term "surplus peaking capacity" shall mean electric peaking capacity for which there is no demand in the Pacific Northwest at the rate established for the disposition of such capacity. The authority granted, and duties imposed upon, the Secretary by sections 5 and 7 of such Act (16 U.S.C. 837e and 837f) shall also apply to the Administrator in connection with resources acquired by the Administrator pursuant to this Act. The Administrator shall, in making any determination, under any contract executed pursuant to section 5, of the electric power requirements of any Pacific Northwest customer, which is a non-Federal entity having its own generation, exclude, in addition to hydroelectric generated energy excluded from such requirements pursuant to section 3(d) of such Act (16 U.S.C. 837b(d)), any amount of energy included in the resources of such customer for service to firm loads in the region if (1) such amount was disposed of by such customer outside the region, and (2) as a result of such disposition, the firm energy requirements of such customer or other customers of the Administrator are increased. Such amount of energy shall not be excluded, if the Administrator determines that through reasonable measures such amount of energy could not be conserved or otherwise retained for service to regional loads. The Administrator may sell as replacement for any amount of energy so excluded only energy that would otherwise be surplus.

Definitions.

16 USC 837d.

(d) No restrictions contained in subsection (c) shall limit or interfere with the sale, exchange or other disposition of any power by any utility or group thereof from any existing or new non-Federal resource if such sale, exchange or disposition does not increase the amount of firm power the Administrator would be obligated to provide to any customer. In addition to the directives contained in subsections (i)(1)(B) and (i)(3) and subject to:

(1) any contractual obligations of the Administrator,

(2) any other obligations under existing law, and

(3) the availability of capacity in the Federal transmission system,

the Administrator shall provide transmission access, load factoring, storage and other services normally attendant thereto to such utilities and shall not discriminate against any utility or group thereof on the basis of independent development of such resource in providing such services.

(e)(1) For purposes of sections 701 through 706 of title 5, United States Code, the following actions shall be final actions subject to judicial review— Judicial review.

(A) adoption of the plan or amendments thereto by the Council under section 4, adoption of the program by the Council, and any determination by the Council under section 4(h);

(B) sales, exchanges, and purchases of electric power under section 5;

(C) the Administrator's acquisition of resources under section 6;

(D) implementation of conservation measures under section 6;

(E) execution of contracts for assistance to sponsors under section 6(f);

(F) granting of credits under section 6(h);

(G) final rate determinations under section 7; and

(H) any rule prescribed by the Administrator under section (7)(m)(2) of this Act.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with this Act. The scope of review of such actions without a hearing or after a hearing shall be governed by section 706 of title 5, United States Code, except that final determinations regarding rates under section 7 shall be supported by substantial evidence in the rulemaking record required by section 7(i) considered as a whole. The scope of review of an action under section 6(c) shall be governed by section 706 of title 5, United States Code. Nothing in this section shall be construed to require a hearing pursuant to section 554, 556, or 557 of title 5 of the United States Code.

(3) Nothing in this section shall be construed to preclude judicial review of other final actions and decisions by the Council or Administrator.

(4) For purposes of this subsection—

(A) major resources shall be deemed to be acquired upon publication in the Federal Register pursuant to section 6(c)(4)(B);

(B) resources, other than major resources, shall be deemed to be acquired upon execution of the contract therefor;

(C) conservation measures shall be deemed to be implemented upon execution of the contract or grant therefor; and

(D) rate determinations pursuant to section 7 shall be deemed final upon confirmation and approval by the Federal Energy Regulatory Commission.

(5) Suits to challenge the constitutionality of this Act, or any action thereunder, final actions and decisions taken pursuant to this Act by the Administrator or the Council, or the implementation of such final actions, whether brought pursuant to this Act, the Bonneville Project Act, the Act of August 31, 1964 (16 U.S.C. 837-837h), or the Federal Columbia River Transmission System Act (16 U.S.C. 838 and following), shall be filed in the United States court of appeals for the region. Such suits shall be filed within ninety days of the time such action or decision is deemed final, or, if notice of the action is required by this Act to be published in the Federal Register, within ninety days from Suits. 16 USC 832-832*l*. Notice, publication in Federal Register.

such notice, or be barred. In the case of a challenge of the plan or programs or amendments thereto, such suit shall be filed within sixty days after publication of a notice of such final action in the Federal Register. Such court shall have jurisdiction to hear and determine any suit brought as provided in this section. The plan and program, as finally adopted or portions thereof, or amendments thereto, shall not thereafter be reviewable as a part of any other action under this Act or any other law. Suits challenging any other actions under this Act shall be filed in the appropriate court.

(f) For purposes of enabling the Administrator to acquire resources necessary to meet the firm load of public bodies, cooperatives, and Federal agencies from a governmental unit at a cost no greater than the cost which would be applicable in the absence of such acquisition, the exemption from gross income of interest on certain governmental obligations provided in section 103(a)(1) of the Internal Revenue Code of 1954 shall not be affected by the Administrator's acquisition of such resources if—

26 USC 103.

(1) the Administrator, prior to contracting for such acquisition, certifies to his reasonable belief, that the persons for whom the Administrator is acquiring such resources for sale pursuant to section 5 of this Act are public bodies, cooperatives, and Federal agencies, unless the Administrator also certifies that he is unable to acquire such resources without selling a portion thereof to persons who are not exempt persons (as defined in section 103(b) of such Code), and

(2) based upon such certification, the Secretary of the Treasury determines in accordance with applicable regulations that less than a major portion of the resource is to be furnished to persons who are not exempt persons (as defined in section 103(b) of such Code).

The certification under paragraph (1) shall be made in accordance with this subsection and a procedure and methodology approved by the Secretary of the Treasury. For purposes of this subsection, the term "major portion" shall have the meaning provided by regulations issued by the Secretary of the Treasury.

"Major portion."

(g) When reviewing rates for the sale of power to the Administrator by an investor-owned utility customer under section 5(c) or 6, the Federal Energy Regulatory Commission shall, in accordance with section 209 of the Federal Power Act (16 U.S.C. 824h)—

(1) convene a joint State board, and

(2) invest such board with such duties and authority as will assist the Commission in its review of such rates.

(h)(1) No "company" (as defined in section 2(a)(2) of the Public Utility Holding Company Act of 1935; 15 U.S.C. 79b(a)(2)), which owns or operates facilities for the generation of electricity (together with associated transmission and other facilities) primarily for sale to the Administrator under section 6 shall be deemed an "electric utility company" (as defined in section 2(a)(3) of the Public Utility Holding Company Act of 1935; 15 U.S.C. 79b(a)(3)), within the meaning of any provision or provisions of chapter 2C of title 15 of the United States Code, if at least 90 per centum of the electricity generated by such company is sold to the Administrator under section 6, and if—

15 USC 79 *et seq.*

(A) the organization of such company is consistent with the policies of section 1 (b) and (c) of the Public Utility Holding Company Act of 1935, as determined by the Securities and Exchange Commission, with the concurrence of the Administrator, at the time of such organization; and

15 USC 79a.

(B) participation in any facilities of such "company" has been offered to public bodies and cooperatives in the region pursuant to section 6(m).

(2) The Administrator shall include in any contract for the acquisition of a major resource from such "company" provisions limiting the amount of equity investment, if any, in such "company" to that which the Administrator determines will be consistent with achieving the lowest attainable power costs attributable to such major resource.

(3) In the case of any "company" which meets the requirements of paragraph (1), the Administrator, with the concurrence of such Commission, shall approve all significant contracts entered into by, and between, such "company" and any sponsor company or any subsidiary of such sponsor company which are determined to be consistent with the policies of section 1 (b) and (c) of the Public Utility Holding Company Act of 1935 at the time such contracts are entered into. The Administrator and the Securities and Exchange Commission shall exercise such approval authority within sixty days after receipt of such contracts. Such contracts shall not be effective without such approval.

Contracts, approval.

15 USC 79a.

(4) Paragraph (1) of this subsection shall continue to apply to any such "company" unless the Administrator or the Securities and Exchange Commission, or both, through periodic review, (A) determine at any time that the "company" no longer operates in a manner consistent with the policies of section 1 (b) and (c) of the Public Utility Holding Company Act of 1935 and in accordance with this subsection, and (B) notify the "company" in writing of such preliminary determination. This subsection shall cease to apply to such "company" thirty days after receipt of notification of a final determination thereof. A final determination shall be made only after public notice of the preliminary determination and after a hearing completed not later than sixty days from the date of publication of such notice. Such final determination shall be made within thirty days after the date of completion of such hearing.

Notice and hearing.

(i)(1) At the request and expense of any customer or group of customers of the Administrator within the Pacific Northwest, the Administrator shall, to the extent practicable—

(A) acquire any electric power required by (i) any customer or group of customers to enable them to replace resources determined to serve firm load under section 5(b), or (ii) direct service industrial customers to replace electric power that is or may be curtailed or interrupted by the Administrator (other than power the Administrator is obligated to replace), with the cost of such replacement power to be distributed among the direct service industrial customers requesting such power; and

(B) dispose of, or assist in the disposal of, any electric power that a customer or group of customers proposes to sell within or without the region at rates and upon terms specified by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable laws.

(2) In implementing the provisions of subparagraphs (A) and (B) of paragraph (1), the Administrator may prescribe policies and conditions for the independent acquisition or disposition of electric power by any direct service industrial customer or group of such customers for the purpose of assuring each direct service industrial customer an opportunity to participate in such acquisition or disposition.

Electric power acquisition, policies and conditions.

(3) The Administrator shall furnish services including transmission, storage, and load factoring unless he determines such services cannot be furnished without substantial interference with his power marketing program, applicable operating limitations or existing contractual obligations. The Administrator shall, to the extent practicable, give priority in making such services available for the marketing, within and without the Pacific Northwest, of capability from projects under construction on the effective date of this Act, if such capability has been offered for sale at cost, including a reasonable rate of return, to the Administrator pursuant to this Act and such offer is not accepted within one year.

Report.

(j)(1) The Council, as soon as practicable after the enactment of this Act, shall prepare, in consultation with the Administrator, the customers, appropriate State regulatory bodies, and the public, a report and shall make recommendations with respect to the various retail rate designs which will encourage conservation and efficient use of electric energy and the installation of consumer-owned renewable resources on a cost-effective basis, as well as areas for research and development for possible application to retail utility rates within the region. Studies undertaken pursuant to this subsection shall not affect the responsibilities of any customer or the Administrator which may exist under the Public Utility Regulatory Policies Act of 1978.

16 USC 2601 note.

Functions.

(2) Upon request, and solely on behalf of customers so requesting, the Administrator is authorized to (A) provide assistance in analyzing and developing retail rate structures that will encourage cost-effective conservation and the installation of cost-effective consumer-owned renewable resources; (B) provide estimates of the probable power savings and the probable amount of billing credits under section 6(h) that might be realized by such customers as a result of adopting and implementing such retail rate structures; and (C) solicit additional information and analytical assistance from appropriate State regulatory bodies and the Administrator's other customers.

Conservation and renewable resources, position establishment.

(k) There is hereby established within the administration an executive position for conservation and renewable resources. Such executive shall be appointed by the Administrator and shall be assigned responsibility for conservation and direct-application renewable resource programs (including the administration of financial assistance for such programs). Such position is hereby established in the senior executive service in addition to the number of such positions heretofore established in accordance with other provisions of law applicable to such positions.

SAVINGS PROVISIONS

16 USC 839g.

SEC. 10. (a) Nothing in this Act shall be construed to affect or modify any right of any State or political subdivision thereof or electric utility to—

(1) determine retail electric rates, except as provided by section 5(c)(3);

(2) develop and implement plans and programs for the conservation, development, and use of resources; or

(3) make energy facility siting decisions, including, but not limited to, determining the need for a particular facility, evaluating alternative sites, and considering alternative methods of meeting the determined need.

(b) Nothing in this Act shall alter, diminish, or abridge the rights and obligations of the Administrator or any customer under any contract existing as of the effective date of this Act.

(c) Nothing in this Act shall alter, diminish, abridge, or otherwise affect the provisions of other Federal laws by which public bodies and cooperatives are entitled to preference and priority in the sale of federally generated electric power.

(d) If any provision of this Act is found to be unconstitutional, then any contract entered into by the Administrator, prior to such finding and in accordance with such provisions, to sell power, acquire or credit resources, or to reimburse investigation and preconstruction expenses pursuant to section 5, and section 6 (a), (f) or (h) of this Act shall not be affected by such finding.

(e) Nothing in this Act shall be construed to affect or modify any treaty or other right of an Indian tribe.

(f) The reservation under law of electric power primarily for use in the State of Montana by reason of the construction of Hungry Horse and Libby Dams and Reservoirs within that State is hereby affirmed. Such reservation shall also apply to 50 per centum of any electric power produced at Libby Reregulating Dam if built. Electric power so reserved shall be sold at the rate or rates set pursuant to section 7.

(g) Nothing in this Act shall be construed to affect or modify the right of any State to prohibit utilities regulated by the appropriate State regulatory body from recovering, through their retail rates, costs during any period of resource construction.

Water appropriation.

(h) Nothing in this Act shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this Act of any plan or program adopted pursuant to the Act (1) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any groundwater resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States, or (3) otherwise be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.

(i) Nothing in this Act shall be construed to affect the validity of any existing license, permit, or certificate issued by any Federal agency pursuant to any other Federal law.

EFFECTIVE DATE

16 USC 839 note.

SEC. 11. This Act shall be effective on the date of enactment, or October 1, 1980, whichever is later. For purposes of this Act, the term "date of the enactment of this Act" means such date of enactment or October 1, 1980, whichever is later.

SEVERABILITY

16 USC 839h.

SEC. 12. If any provision of section 4(a) through (c) of this Act or any other provision of this Act or the application thereof to any person, State, Indian tribe, entity, or circumstance is held invalid, neither the remainder of section 4 or any other provisions of this Act, nor the application of such provisions to other persons, States, Indian tribes, entities, or circumstances, shall be affected thereby.

Approved December 5, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-976, Pt. I (Comm. on Interstate and Foreign Commerce) and Pt. II (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-272 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Aug. 3, considered and passed Senate.
Vol. 126 (1980): Sept. 24, 29, Nov. 12-14, 17, considered and passed House, amended, in lieu of H.R. 8157.
Nov. 19, Senate concurred in House amendment.

Public Law 96-502
96th Congress

An Act

To amend the Safe Drinking Water Act, and for other purposes.

Dec. 5, 1980
[H.R. 8117]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Safe Drinking Water Act, amendment.
42 USC 300g-5.

SECTION 1. Section 1416(b)(2) of the Public Health Service Act is amended by striking out "1981" in subparagraph (A)(i) thereof and substituting "1984" and by striking out "1983" in subparagraph (B)(i) thereof and substituting "1986".

SEC. 2. (a) Part C of title XIV of the Public Health Service Act is amended by adding the following at the end thereof:

"OPTIONAL DEMONSTRATION BY STATES RELATING TO OIL OR NATURAL GAS

"SEC. 1425. (a) For purposes of the Administrator's approval or disapproval under section 1422 of that portion of any State underground injection control program which relates to— 42 USC 300h-4. 42 USC 300h-1.

"(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

"(2) any underground injection for the secondary or tertiary recovery of oil or natural gas,

in lieu of the showing required under subparagraph (A) of section 1422(b)(1) the State may demonstrate that such portion of the State program meets the requirements of subparagraphs (A) through (D) of section 1421(b)(1) and represents an effective program (including adequate recordkeeping and reporting) to prevent underground injection which endangers drinking water sources. 42 USC 300h.

"(b) If the Administrator revises or amends any requirement of a regulation under section 1421 relating to any aspect of the underground injection referred to in subsection (a), in the case of that portion of a State underground injection control program for which the demonstration referred to in subsection (a) has been made, in lieu of the showing required under section 1422(b)(1)(B) the State may demonstrate that, with respect to that aspect of such underground injection, the State program meets the requirements of subparagraphs (A) through (D) of section 1421(b)(1) and represents an effective program (including adequate recordkeeping and reporting) to prevent underground injection which endangers drinking water sources. 42 USC 300h-1. 42 USC 300h.

"(c)(1) Section 1422(b)(3) shall not apply to that portion of any State underground injection control program approved by the Administrator pursuant to a demonstration under subsection (a) of this section (and under subsection (b) of this section where applicable).

"(2) If pursuant to such a demonstration, the Administrator approves such portion of the State program, the State shall have primary enforcement responsibility with respect to that portion until such time as the Administrator determines, by rule, that such Enforcement.

demonstration is no longer valid. Following such a determination, the Administrator may exercise the authority of subsection (c) of section 1422 in the same manner as provided in such subsection with respect to a determination described in such subsection.

42 USC 300h-1.

Rules.

"(3) Before promulgating any rule under paragraph (2), the Administrator shall provide opportunity for public hearing respecting such rule.".

42 USC 300h-2.

(b) Section 1423(a)(1) of such Act is amended by inserting after "(within the meaning of section 1422(b)(3)" the following: "or section 1425(c)".

42 USC 300j-2.

(c) Section 1443(c)(2) of title XIV of the Public Health Service Act is amended by inserting the following at the end thereof: "Such term includes, where applicable, a program which meets the requirements of section 1425.".

42 USC 300h.

SEC. 3. Section 1421(d)(1) of the Public Health Service Act is amended by adding the following at the end thereof: "Such term does not include the underground injection of natural gas for purposes of storage.".

42 USC 300g-4.

SEC. 4. (a) Section 1415 of the Public Health Service Act is amended by inserting the following section heading at the beginning of such section: "Variances".

42 USC 300g-5.

(b) Section 1416(a)(2) of the Public Health Service Act is amended by inserting immediately after "requirement," the following: "or, for a system that was not in operation by that date, only if no reasonable alternative source of drinking water is available to such new system,".

42 USC 300h.

(c) Section 1421(b)(1)(A) of the Public Health Service Act is amended by striking out "effective three years after the date of the enactment of this title," and inserting in lieu thereof the following: "effective on the date on which the applicable underground injection control program takes effect,".

42 USC 300j-2.

(d) Section 1443(b)(2) of the Public Health Service Act is amended by striking out the second and third sentences therein and inserting in lieu thereof the following: "No grant may be made to any State under paragraph (1) unless the State has assumed primary enforcement responsibility within two years after the date the Administrator promulgates regulations for State underground injection control programs under section 1421.".

42 USC 300j-1.

SEC. 5. Section 1442 of title XIV of the Public Health Service Act is amended by inserting the following new subsection after subsection (d) and by redesignating subsection (e) as (f):

"(e) The Administrator is authorized to make grants to a public water system which is required, under State or local law, to meet standards relating to drinking water turbidity which are more stringent than the standards in effect pursuant to this title. Such grants shall be used by the public water system for the development and demonstration (including construction and installation) of any water filtration system which will demonstrate a new or improved method of meeting such more stringent standards.". Grants.

Approved December 5, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1348 (Comm. on Interstate and Foreign Commerce).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 22, 23, considered and passed House.
Nov. 19, considered and passed Senate.

Public Law 96-503
96th Congress

Joint Resolution

Dec. 5, 1980
[H.J. Res. 634]

To authorize the United States Secret Service to continue to furnish protection to the former Vice President or his spouse.

Former Vice President or spouse, Secret Service protection.
18 USC 3056 note.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Secret Service, in addition to other duties now provided by law, is authorized to furnish protection to (a) the person occupying the Office of Vice President of the United States immediately preceding January 20, 1981, or (b) his spouse, if the President determines that such person may thereafter be in significant danger: *Provided, however,* That protection of any such person shall continue only for such period as the President determines and shall not continue beyond July 20, 1981, unless otherwise permitted by law.

Approved December 5, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Nov. 21, considered and passed House and Senate.

Public Law 96-504
96th Congress

An Act

To amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes.

Dec. 5, 1980
[H.R. 2583]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8344 of title 5, United States Code, relating to annuities and payment on reemployment, is amended by adding at the end thereof the following new subsections:

Employment as U.S. justice or judge, annuity payment discontinuance.

"(f) Notwithstanding the provisions of subsection (a) of this section, if an annuitant receiving annuity from the Fund, except a Member receiving annuity from the Fund, becomes employed as a justice or judge of the United States, as defined by section 451 of title 28, annuity payments are discontinued during such employment and are resumed in the same amount upon resignation or retirement from regular active service as such a justice or judge.

28 USC 451.

"(g) A former employee or a former Member who becomes employed as a justice or judge of the United States, as defined by section 451 of title 28, may, at any time prior to resignation or retirement from regular active service as such a justice or judge, apply for and be paid, in accordance with section 8342(a) of this title, the amount (if any) by which the lump-sum credit exceeds the total annuity paid, notwithstanding the time limitation contained in such section for filing an application for payment.".

5 USC 8342.

Lump-sum refund, redeposit.
5 USC 8342 note.
5 USC 8331.

SEC. 2. A present or former justice or judge of the United States, as defined by section 451 of title 28, United States Code, who, prior to the effective date of this section, voided his right to receive an annuity under subchapter III of chapter 83 of title 5, United States Code, by applying for and receiving a refund of his lump-sum credit while serving as such a justice or judge may, upon application filed with the Office of Personnel Management within one year following the effective date of this section, redeposit such refund with interest computed under section 8334(e) of such title 5 and thereby reestablish his right to receive an annuity under such subchapter effective on the date he otherwise was eligible to receive an annuity. The surviving spouse of any such justice or judge who dies before the effective date of this section may apply to make such redeposit within one year following the effective date of this section and receive both (1) the amount of the annuity which the justice or judge would have been entitled to receive before his death had application been made by him for the annuity and (2) any survivor annuity the justice or judge could have provided under the provisions of law in effect at the time of separation from the service on which title to the annuity is based.

5 USC 8334.

Surviving spouse, redeposit rights.

Surviving spouse, annuity payment.
28 USC 376 note.

SEC. 3. (a) As of the first pay period beginning after the effective date of this Act, a surviving spouse, other than a surviving spouse who has remarried, of any Justice of the United States (as defined by section 451 of title 28, United States Code), who died before October 19, 1976, shall be paid an annuity in accordance with the provisions of section 376 of title 28, United States Code, at a rate of $20,000 per year

as if such Justice had elected to come within the provisions of, and having made the full deposit required by, section 376(d) of title 28, United States Code.

(b) Notwithstanding the provisions of section 376(h) of title 28, United States Code, such annuity shall be payable as provided in section 376(m) of title 28, United States Code, until the date of the death of any such spouse.

Judicial Survivors' Annuities Fund. 28 USC 376 note.

SEC. 4. (a) The Secretary of the Treasury shall determine, as of the effective date of this Act, in consultation with the Director of the Administrative Office of the United States Courts, the amount necessary to offset any actuarial deficiency in the Judicial Survivors' Annuities Fund, and, at the earliest time thereafter at which appropriated sums in that amount become available, the Secretary shall deposit such sums in a single payment into such Judicial Survivors' Annuities Fund.

Appropriation authorization.

(b) There are authorized to be appropriated such sums as may be necessary to carry out this section.

Repeal.

SEC. 5. Section 375 of title 28, United States Code, is repealed.

Effective date. 5 USC 8344 note.

SEC. 6. (a) The provisions of this Act shall take effect on—

(1) the date of the enactment of this Act, or

(2) October 1, 1980,

whichever date is later.

(b) The provisions of subsection (f) of section 8344 of title 5, United States Code, as added by the first section of this Act, shall apply only to an individual who becomes employed as a justice or judge of the United States on or after the effective date of this Act. The provisions of subsection (g) of such section, as added by the first section of this Act, shall apply to an individual employed as a justice or judge of the United States on the effective date of this Act and to an individual appointed as such a justice or judge on or after such effective date.

Approved December 5, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-467, Pt. 1 (Comm. on Post Office and Civil Service) and Pt. 2 (Comm. on Appropriations).

SENATE REPORT No. 96-905 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Oct. 29, considered and passed House.

Vol. 126 (1980): Oct. 1, considered and passed Senate, amended.

Nov. 21, House concurred in Senate amendments.

Public Law 96-505
96th Congress

An Act

To provide for the removal of the names of certain Alaska Natives from the Alaska Native Roll and to allow their enrollment with the Metlakatla Indian Community.

Dec. 5, 1980
[H.R. 5108]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Metlakatla Indian Community Enrollment Act of 1980."

Metlakatla Indian Community Enrollment Act of 1980.
43 USC 1601 note.

SEC. 2. Any Native whose name appears on the Alaska Native Roll established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) who is now or hereafter enrolled by the Metlakatla Indian Community, and who requests removal of his name from the Alaska Native Roll on a form approved by the Secretary of the Interior, shall have his name removed from the roll after receipt by the Secretary of the properly executed form and verification of his enrollment to the Metlakatla Indian Community, and shall no longer be entitled to benefits under the Alaska Native Claims Settlement Act, effective at the beginning of the next fiscal quarter after such receipt and verification. The Secretary shall notify the appropriate Native Corporations of the removal of the name from the roll. A Native who is or has been enrolled to the Metlakatla Indian Community must make his request for the removal of his name from the roll within two years after the date of the enactment of this Act, except that any such Native who is a minor may make his request any time within two years after he attains the age of eighteen years. A Native who is not and has not been enrolled to the Metlakatla Indian Community must make his request at the time he applies for enrollment to the Metlakatla Indian Community, except that any such Native who is a minor may make his request any time within two years after he attains the age of eighteen years.

Notification to Native Corporations.
Removal from roll, request.

SEC. 3. Stock previously issued by any Native Corporation established pursuant to the Alaska Native Claims Settlement Act to any Native who still retains the stock and whose name is removed from the Alaska Native Roll hereunder shall, upon the removal of the Native's name, be canceled by the issuing corporation without liability to it or to the Native. Stock of any such Native Corporation which is obtained in any manner, other than by gift or inheritance, and owned by any Native enrolled to the Metlakatla Indian Community may be canceled by the issuing corporation upon request of the Native without liability to it or to the Native.

Stock cancellation.

Land entitlements.

43 USC 1601 note.

SEC. 4. Removal of the name of a Native from the Alaska Native Roll pursuant to the provisions of this Act shall not be construed as increasing or decreasing regional or village enrollments for purposes of land entitlements pursuant to the Alaska Claims Settlement Act.

Approved December 5, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT: No. 96-1405 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Nov. 17, considered and passed House.
Nov. 20, considered and passed Senate.

Public Law 96-506
96th Congress

An Act

To amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965 to extend the authorization for such Acts for two additional years.

Dec. 8, 1980
[S. 3152]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.) is amended as follows:

Public Works and Economic Development Act of 1965, amendment.

(1) The first sentence of section 102 is amended by striking out "and September 30, 1979," and inserting in lieu thereof "September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982,".

Appalachian Regional Development Act of 1965, amendment.

(2) Section 105 is amended by striking out "and September 30, 1979." at the end of the first sentence and inserting in lieu thereof "September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.". Section 105 is further amended by striking out "and September 30, 1979," in the third sentence thereof and inserting in lieu thereof "September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982,". 42 USC 3132. 42 USC 3135.

(3) Section 201(c) is amended by striking out "and September 30, 1979." at the end thereof and inserting in lieu thereof "September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.". 42 USC 3141.

(4) Section 204(c) is amended by striking out "and September 30, 1979." and inserting in lieu thereof "September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.". 42 USC 3144.

(5) Section 303(a) is amended by striking out "and September 30, 1979." and inserting in lieu thereof "September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.". Section 303(b) is amended by striking out "and September 30, 1979," and inserting in lieu thereof "September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982,". 42 USC 3152.

(6) The first sentence of section 304(a) is amended by striking out "and September 30, 1979," and inserting in lieu thereof "September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982,". 42 USC 3153.

(7) Section 403(g) is amended by striking out "and September 30, 1979," and inserting in lieu thereof "September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982,". 42 USC 3171.

(8) Section 404 is amended by striking out "and September 30, 1979," and inserting in lieu thereof "September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982,". 42 USC 3172.

(9) Section 509(d)(1) is amended by striking out "and September 30, 1979," and inserting in lieu thereof "September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982,". Section 509(d)(2) is amended by striking out "and Septem- 42 USC 3188a.

ber 30, 1979," and inserting in lieu thereof "September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982,".

42 USC 3245. (10) Section 905 is amended by striking out "and September 30, 1979." and inserting in lieu thereof "September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.".

42 USC 3246g. (11) Section 1007 is amended by striking out "September 30, 1979." and inserting in lieu thereof "September 30, 1982.".

SEC. 2. Section 2 of the Act entitled "An Act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for titles I through IV through fiscal year 1971", approved July 6, 1970 (Public Law 91-304), as amended, is amended by striking out "September 30, 1979," and inserting in lieu thereof "September 30, 1982,".

42 USC 3162 note.

SEC. 3. The Appalachian Regional Development Act of 1965 is amended as follows:

40 USC app. 105. (1) Section 105(b) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and not to exceed $6,700,000 for the two-fiscal-year period ending September 30, 1981 (of such amount not to exceed $1,100,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff), and not to exceed $3,350,000 for the fiscal year ending September 30, 1982 (of such amount not to exceed $550,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff).".

40 USC app. 106. (2) Section 106(7) is amended by striking out "1979" and inserting in lieu thereof "1982".

40 USC app. 201. (3) Section 201(g) is amended by striking out "and $170,000,000" and inserting in lieu thereof "$215,000,000" and by inserting before the period at the end of such section the following: "; and $215,000,000 for fiscal year 1982".

40 USC app. 214. (4) Section 214(c) is amended by striking out "1978" and inserting in lieu thereof "1980".

40 USC app. 401. (5) Section 401 is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and $300,000,000 for the two-fiscal-year period ending September 30, 1981, and $140,000,000 for the fiscal year ending September 30, 1982.".

40 USC app. 405. (6) Section 405 is amended by striking out "1979" and inserting in lieu thereof "1982".

Approved December 8, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 26, considered and passed Senate.
Nov. 20, considered and passed House, amended; Senate concurred in House amendment.

Public Law 96-507
96th Congress

An Act

To repeal section 506 of the Communications Act of 1934.

Dec. 8, 1980
[H.R. 4892]

Communications Act of 1934, amendment.
Repeal.
47 U.S.C. 506, 507-509.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title V of the Communications Act of 1934 (47 U.S.C. 501 et seq.) is amended by striking out section 506, and by redesignating section 507 through section 509 as section 506 through section 508, respectively.

SEC. 2. (a) Section 317(b) of the Communications Act of 1934 (47 U.S.C. 317(b)) is amended by striking out "section 508" and inserting in lieu thereof "section 507".

(b) Section 503(b) of the Communications Act of 1934 (47 U.S.C. 503(b)) is amended—

(1) by striking out "509(a)" and inserting in lieu thereof "508(a)"; and

(2) by striking out "section 507" and inserting in lieu thereof "section 506".

(c) Section 504(b) of the Communications Act of 1934 (47 U.S.C. 504(b)) is amended by striking out "507" and inserting in lieu thereof "506".

Approved December 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT: No. 96-1378 (Comm. on Interstate and Foreign Commerce).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 30, Oct. 1, considered and passed House.
Nov. 21, considered and passed Senate.

Public Law 96-508
96th Congress

An Act

Dec. 8, 1980
[S. 2352]

To increase the authorization for the Council on Wage and Price Stability, to extend the duration of such Council, and for other purposes.

Council on Wage and Price Stability, appropriation authorization and extension.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2(b) of the Council on Wage and Price Stability Act (12 U.S.C. 1904 note) is amended by striking out the last sentence thereof and inserting in lieu thereof the following: "The Council shall be headed by a Chairperson who shall be appointed by the President, by and with the advise and consent of the Senate.".

12 USC 1904 note.

(b) The amendments made by subsection (a) shall apply only to individuals who are appointed, on or after the date of the enactment of this Act, as Chairperson of the Council on Wage and Price Stability.

Inflation reduction proposals, review.
12 USC 1904 note.
Report to Congress.

SEC. 2. Section 3(c) of the Council on Wage and Price Stability Act is amended to read as follows:

"(c) The Council shall review proposals which have been made for reducing inflation through tax-based incomes policies and shall submit a report containing its findings, along with recommendations and legislative proposals for such policies, to the Congress not later than January 15, 1981. Such review shall include, but not be limited to, tax-based incomes policies designed to provide incentives for compliance with wage, price, or profit-margin guidelines that could be provided through changes in personal income taxes, corporate income taxes, investment tax credits, or depreciation allowances. The Council shall also review the impact on inflation that might result from supply side income tax reductions and include in the report required by this subsection its findings pursuant to such review.".

12 USC 1904 note.

SEC. 3. Section 5 of the Council on Wage and Price Stability Act is amended by striking out "on a quarterly basis and not later than thirty days after the close of each calendar quarter" and inserting in lieu thereof "on an annual basis".

12 USC 1904 note.

SEC. 4. Section 6 of the Council on Wage and Price Stability Act is amended by striking out "not to exceed" and all that follows through the end thereof and inserting in lieu thereof "not to exceed $9,770,000 for the fiscal year ending September 30, 1981.".

12 USC 1904 note.

SEC. 5. Section 7 of the Council on Wage and Price Stability Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

Price guideline.
12 USC 1904 note.

SEC. 6. Section 3 of the Council on Wage and Price Stability Act is amended by adding at the end thereof the following:

"(d) The Council shall not prescribe an annual average price increase guideline lower than the percentage obtained by subtracting the average annual growth in nonfarm output per man-hour in the private sector since 1973, as measured by the Bureau of Labor Statistics and stated as a percentage, from the average annual wage increase permitted under the voluntary wage standard, stated as a percentage.".

SEC. 7. (a) Section 3 of the Council on Wage and Price Stability Act is amended by adding at the end thereof the following:

Federal regulations review, personnel increase. 12 USC 1904 note.

"(e) For the fiscal year ending September 30, 1981, the Council shall increase the number of positions which involve the review of proposed and existing Federal regulations by 50 per centum, over the number of positions allocated for such purpose for the fiscal year 1980. In conducting such review, the Council shall identify those regulations which have the greatest inflationary impact on the economy or on specific industry sectors, consistent with subsection (a)(8).".

(b) Section 5 of such Act is amended by adding at the end thereof the following: "The annual report shall also contain an evaluation of the inflationary impact reviews undertaken by the Council in the previous year pursuant to section 3(e), including a listing and description of all regulatory proceedings in which the Council participated, the Council's recommended action, the projected cost of each such regulation, the cumulative inflationary impact of such regulations and the final disposition of each such regulatory proceeding.".

Annual report. 12 USC 1904 note.

SEC. 8. Section 2 of the Council on Wage and Price Stability Act is amended by adding at the end thereof the following new subsection:

Office of Productivity, establishment. 12 USC 1904 note.

"(h) The Director shall establish an Office of Productivity which shall have as its prime responsibility improving private-sector productivity in the United States. Such office shall evaluate the impact of government regulations on productivity, shall inventory and evaluate Federal programs designed to improve productivity, and shall analyze the effects on United States productivity of the factors cited in section 3(a)(9) of this Act. The Office of Productivity shall annually issue a report to Congress containing the results of such evaluations, steps appropriate to improve the effectiveness of such Federal programs, and recommendations of new Federal programs and policies to increase private-sector productivity growth.".

12 USC 1904 note. Report to Congress.

SEC. 9. The Credit Control Act is amended by adding at the end thereof the following:

12 USC 1910.

"Sec. 211. Termination

"The authority conferred by this title expires at the close of June 30, 1982.".

SEC. 10. In the fiscal year beginning October 1, 1980, the aggregate amount of funds made available to the Senate shall not exceed 90 per centum of the aggregate amount of the funds made available for such purposes for the fiscal year beginning on October 1, 1979.

2 USC 60a note.

Approved December 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-972 accompanying H.R. 6777 (Comm. on Banking, Finance, and Urban Affairs).
SENATE REPORT No. 96-729 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 2, considered and passed Senate.
Sept. 24, H.R. 6777 considered and passed House.
Sept. 30, H.R. 6777 considered and passed Senate, amended.
Oct. 1, S. 2352 considered and passed House, amended.
Nov. 20, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 50:
Dec. 9, Presidential statement.

Public Law 96-509
96th Congress

An Act

Dec. 8, 1980
[S. 2441]

To amend the Juvenile Justice and Delinquency Prevention Act of 1974 to extend the authorization of appropriations for such Act, and for other purposes.

Juvenile Justice Amendments of 1980.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

42 USC 5601 note.

SECTION 1. This Act may be cited as the "Juvenile Justice Amendments of 1980".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) Section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)) is amended—

(1) by striking out "$150,000,000" and all that follows through "1979, and"; and

(2) by striking out "for the fiscal year ending September 30, 1980" and inserting in lieu thereof "for each of the fiscal years ending September 30, 1981, September 30, 1982, September 30, 1983, and September 30, 1984".

(b) Section 341(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5751(a)) is amended by striking out "June 30, 1975" and all that follows through "1980" and inserting in lieu thereof the following: "September 30, 1981, September 30, 1982, September 30, 1983, and September 30, 1984".

FINDINGS

SEC. 3. Section 101(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601(a)) is amended—

(1) in paragraph (4) thereof, by inserting "alcohol and other" after "abuse";

(2) in paragraph (6) thereof, by striking out "and" at the end thereof;

(3) in paragraph (7) thereof, by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(8) the juvenile justice system should give additional attention to the problem of juveniles who commit serious crimes, with particular attention given to the areas of sentencing, providing resources necessary for informed dispositions, and rehabilitation.".

PURPOSE

SEC. 4. (a) Section 102(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602(a)) is amended—

(1) in paragraph (6) thereof, by striking out "and" at the end thereof;

(2) in paragraph (7) thereof, by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(8) to assist State and local governments in removing juveniles from jails and lockups for adults.".

(b) Section 102(b)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602(b)(1)) is amended by inserting before the semicolon at the end thereof the following: ", including methods with a special focus on maintaining and strengthening the family unit so that juveniles may be retained in their homes".

DEFINITIONS

SEC. 5. (a) Section 103(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(1)) is amended by inserting "special education," after "training,".

(b) Section 103(4) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(4)) is amended to read as follows:

"(4)(A) the term 'Office of Justice Assistance, Research, and Statistics' means the office established by section 801(a) of the Omnibus Crime Control and Safe Streets Act of 1968; 42 USC 3781.

"(B) the term 'Law Enforcement Assistance Administration' means the administration established by section 101 of the Omnibus Crime Control and Safe Streets Act of 1968; 42 USC 3711.

"(C) the term 'National Institute of Justice' means the institute established by section 202(a) of the Omnibus Crime Control and Safe Streets Act of 1968; and 42 USC 3722.

"(D) the term 'Bureau of Justice Statistics' means the bureau established by section 302(a) of the Omnibus Crime Control and Safe Streets Act of 1968;". 42 USC 3732.

(c) Section 103(7) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(7)) is amended by striking out "and any territory or possession of the United States" and inserting in lieu thereof "the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands".

(d) Section 103(9) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(9)) is amended by striking out "law enforcement" and inserting in lieu thereof "juvenile justice and delinquency prevention".

(e) Section 103(12) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(12)) is amended to read as follows:

"(12) the term 'secure detention facility' means any public or private residential facility which—

"(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and

"(B) is used for the temporary placement of any juvenile who is accused of having committed an offense, of any nonoffender, or of any other individual accused of having committed a criminal offense;".

(f) Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) by redesignating paragraph (13) as paragraph (15); and

(2) by inserting after paragraph (12) the following new paragraphs:

"(13) the term 'secure correctional facility' means any public or private residential facility which—

"(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and

"(B) is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense, any nonoffender, or any other individual convicted of a criminal offense;

"(14) the term 'serious crime' means criminal homicide, forcible rape, mayhem, kidnapping, aggravated assault, robbery, larceny or theft punishable as a felony, motor vehicle theft, burglary or breaking and entering, extortion accompanied by threats of violence, and arson punishable as a felony; and".

42 USC 5603.

(g) Section 103(15) of the Juvenile Justice and Delinquency Prevention Act of 1974, as so redesignated in subsection (f)(1), is amended—

(1) by inserting "special education," after "educational,"; and

(2) by striking out "and benefit the addict" and all that follows through ", and his" and inserting in lieu thereof ", including services designed to benefit addicts and other users by eliminating their dependence on alcohol or other addictive or nonaddictive drugs or by controlling their dependence and".

OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 6. (a) Section 201(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(a)) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "under the general authority of the Attorney General".

(b) Section 201(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(d)) is amended—

(1) in the first sentence thereof, by striking out "direction of" and all that follows through "Administration" and inserting in lieu thereof "general authority of the Attorney General";

(2) in the second sentence thereof, by striking out ", subject to the direction of the Administrator,", and by inserting "prescribe regulations for," before "award";

(3) in the third sentence thereof—

(A) by inserting "of the Law Enforcement Assistance Administration and the Director of the National Institute of Justice" after "Administrator" the first place it appears therein; and

(B) by inserting "of the Office of Juvenile Justice and Delinquency Prevention" after "Administrator" the last place it appears therein; and

(4) by striking out the last sentence thereof.

(c) Section 201(e) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(e)) is amended by striking out "Administrator of the Law Enforcement Assistance Administration" and inserting in lieu thereof "Attorney General".

(d) Section 201(f) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(f)) is amended by striking out "Administrator" the last place it appears therein and inserting in lieu thereof "Attorney General".

CONCENTRATION OF FEDERAL EFFORTS

SEC. 7. (a) Section 204(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(b)) is amended—

(1) by striking out ", with the assistance of the Associate Administrator,"; and

(2) in paragraph (6) thereof, by inserting "and training assistance" after "technical assistance".

(b) Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended by adding at the end thereof the following new subsection:

"(m) To carry out the purposes of this section, there is authorized to be appropriated for each fiscal year an amount which does not exceed 7.5 percent of the total amount appropriated to carry out this title.". Appropriation authorization.

COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 8. (a) Section 206(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(1)) is amended—

(1) by inserting "the Secretary of Education, the Secretary of Housing and Urban Development, the Director of the Community Services Administration," after "Secretary of Labor,"; and

(2) by striking out "the Secretary of Housing and Urban Development," and inserting in lieu thereof "the Director of the Bureau of Prisons, the Commissioner of the Bureau of Indian Affairs, the Director for the Office of Special Education and Rehabilitation Services, the Commissioner for the Administration for Children, Youth, and Families, and the Director of the Youth Development Bureau,".

(b) Section 206(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(c)) is amended—

(1) by striking out "the Attorney General and";

(2) by inserting ", and to the Congress," after "President"; and

(3) by adding at the end thereof the following new sentence: "The Council shall review, and make recommendations with respect to, any joint funding proposal undertaken by the Office of Juvenile Justice and Delinquency Prevention and any agency represented on the Council.". Review and recommendations.

(c) Section 206(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(d)) is amended by striking out "a minimum of four times per year" and inserting in lieu thereof "at least quarterly".

(d) Section 206(e) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(e)) is amended by striking out "may" and inserting in lieu thereof "shall".

(e) Section 206(g) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(g)) is amended by inserting ", not to exceed $500,000 for each fiscal year" before the period at the end thereof.

NATIONAL ADVISORY COMMITTEE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 9. Part A of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by striking out section 207, section 208, and section 209, and inserting in lieu thereof the following new section: 42 USC 5617, 5618, 5619.

"NATIONAL ADVISORY COMMITTEE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Establishment and membership. 42 USC 5617.

"SEC. 207. (a)(1) There is hereby established a National Advisory Committee for Juvenile Justice and Delinquency Prevention (hereinafter in this Act referred to as the 'Advisory Committee') which shall consist of 15 members appointed by the President.

"(2) Members shall be appointed who have special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, such as juvenile or family court judges; probation, correctional, or law enforcement personnel; representatives of private, voluntary organizations and community-based programs, including youth workers involved with alternative youth programs; and persons with special training or experience in addressing the problems of youth unemployment, school violence and vandalism, and learning disabilities.

"(3) At least 5 of the individuals appointed as members of the Advisory Committee shall not have attained 24 years of age on or before the date of their appointment. At least 2 of the individuals so appointed shall have been or shall be (at the time of appointment) under the jurisdiction of the juvenile justice system. The Advisory Committee shall contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system.

"(4) The President shall designate the Chairman from members appointed to the Advisory Committee. No full-time officer or employee of the Federal Government may be appointed as a member of the Advisory Committee, nor may the Chairman be a full-time officer or employee of any State or local government.

Terms.

"(b)(1) Members appointed by the President shall serve for terms of 3 years. Of the members first appointed, 5 shall be appointed for terms of 1 year, 5 shall be appointed for terms of 2 years, and 5 shall be appointed for terms of 3 years, as designated by the President at the time of appointment. Thereafter, the term of each member shall be 3 years. The initial appointment of members shall be made not later than 90 days after the effective date of this section.

"(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term. The President shall fill a vacancy not later than 90 days after such vacancy occurs. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(c) The Advisory Committee shall meet at the call of the Chairman, but not less than quarterly. Ten members of the Advisory Committee shall constitute a quorum.

Functions.

"(d) The Advisory Committee shall—

"(1) review and evaluate, on a continuing basis, Federal policies regarding juvenile justice and delinquency prevention and activities affecting juvenile justice and delinquency prevention conducted or assisted by all Federal agencies;

"(2) advise the Administrator with respect to particular functions or aspects of the work of the Office;

"(3) advise, consult with, and make recommendations to the National Institute of Justice and the National Institute for Juvenile Justice and Delinquency Prevention concerning the overall policy and operations of each such Institute regarding juvenile justice and delinquency prevention research, evaluations, and training provided by each such Institute; and

"(4) make refinements in recommended standards for the administration of juvenile justice at the Federal, State, and local levels which have been reviewed under section 247, and recommend Federal, State, and local action to facilitate the adoption of such standards throughout the United States. 42 USC 5657.

"(e) Beginning in 1981, the Advisory Committee shall submit such interim reports as it considers advisable to the President and to the Congress, and shall submit an annual report to the President and to the Congress not later than March 31 of each year. Each such report shall describe the activities of the Advisory Committee and shall contain such findings and recommendations as the Advisory Committee considers necessary or appropriate. Report to President and Congress.

"(f) The Advisory Committee shall have staff personnel, appointed by the Chairman with the approval of the Advisory Committee, to assist it in carrying out its activities. The head of each Federal agency shall make available to the Advisory Committee such information and other assistance as it may require to carry out its activities. The Advisory Committee shall not have any authority to procure any temporary or intermittent services of any personnel under section 3109 of title 5, United States Code, or under any other provision of law.

"(g)(1) Members of the Advisory Committee shall, while serving on business of the Advisory Committee, be entitled to receive compensation at a rate not to exceed the daily rate specified for Grade GS-18 of the General Schedule in section 5332 of title 5, United States Code, including traveltime. Compensation.

"(2) Members of the Advisory Committee, while serving away from their places of residence or regular places of business, shall be entitled to reimbursement for travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703 of title 5, United States Code, for persons in the Federal Government service employed intermittently. Travel expense and per diem.

"(h) To carry out the purposes of this section, there is authorized to be appropriated such sums as may be necessary, not to exceed $500,000 for each fiscal year.". Appropriation authorization.

ALLOCATION

SEC. 10. The last sentence of section 222(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632(a)) is amended by striking out "and", and by inserting ", and the Commonwealth of the Northern Mariana Islands" after "Pacific Islands".

STATE PLANS

SEC. 11. (a)(1) Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)) is amended by striking out "consistent with the provisions" and all that follows through "such plan must" and inserting in lieu thereof the following: "applicable to a 3-year period. Such plan shall be amended annually to include new programs, and the State shall submit annual performance reports to the Administrator which shall describe progress in implementing programs contained in the original plan, and shall describe the status of compliance with State plan requirements. In accordance with regulations which the Administrator shall prescribe, such plan shall". Performance reports.

(2) Section 223(a)(3)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(3)(A)) is amended by striking

out "twenty-one" and inserting in lieu thereof "15", and by striking out "thirty-three" and inserting in lieu thereof "33".

(3) Section 223(a)(3)(B) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(3)(B)) is amended—

(A) by inserting "locally elected officials," after "include"; and

(B) by inserting "special education," after "education,".

(4) Section 223(a)(3)(E) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(3)(E)) is amended—

(A) by striking out "one-third" and inserting in lieu thereof "one-fifth";

(B) by striking out "twenty-six" and inserting in lieu thereof "24";

(C) by inserting ", and" after "appointment"; and

(D) by striking out "three of whom" and inserting in lieu thereof "3 of whose members".

(5) Section 223(a)(3)(F) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(3)(F)) is amended—

(A) by striking out "(ii) may advise" and all that follows through "requested;" and inserting in lieu thereof "(ii) shall submit to the Governor and the legislature at least annually recommendations with respect to matters related to its functions, including State compliance with the requirements of paragraph (12)(A) and paragraph (13);"; and

(B) by adding at the end thereof the following: "and (v) shall contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system;".

(6) Section 223(a)(3)(F)(iii) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(3)(F)(iii)) is amended by striking out "and" at the end thereof.

(7) Section 223(a)(8) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(8)) is amended to read as follows:

"(8) provide for (A) an analysis of juvenile crime problems and juvenile justice and delinquency prevention needs within the relevant jurisdiction, a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems and juvenile justice and delinquency prevention needs of the jurisdiction; (B) an indication of the manner in which the programs relate to other similar State or local programs which are intended to address the same or similar problems; and (C) a plan for the concentration of State efforts which shall coordinate all State juvenile delinquency programs with respect to overall policy and development of objectives and priorities for all State juvenile delinquency programs and activities, including provision for regular meetings of State officials with responsibility in the area of juvenile justice and delinquency prevention;".

(8) Section 223(a)(10) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(10)) is amended—

(A) by striking out "juvenile detention and correctional facilities" and inserting in lieu thereof "confinement in secure detention facilities and secure correctional facilities";

(B) by striking out "and" the fifth place it appears therein;

(C) by inserting after "standards" the following: ", and to provide programs for juveniles who have committed serious crimes, particularly programs which are designed to improve

sentencing procedures, provide resources necessary for informed dispositions, and provide for effective rehabilitation"; and

(D) by adding at the end thereof the following new subparagraph:

"(J) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of juvenile gangs and their members;".

(9) Section 223(a)(10)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(10)(A)) is amended by inserting "education, special education," after "home programs,".

(10) Section 223(a)(10)(E) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(10)(E)) is amended by striking out "keep delinquents and to", and by inserting "delinquent youth and" after "encourage".

(11) Section 223(a)(10)(H) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(10)(H)) is amended to read as follows:

"(H) statewide programs through the use of subsidies or other financial incentives to units of local government designed to—

"(i) remove juveniles from jails and lockups for adults;

"(ii) replicate juvenile programs designated as exemplary by the National Institute of Justice;

"(iii) establish and adopt, based upon the recommendations of the Advisory Committee, standards for the improvement of juvenile justice within the State; or

"(iv) increase the use of nonsecure community-based facilities and discourage the use of secure incarceration and detention;".

(12) Section 223(a)(10)(I) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(10)(I)) is amended to read as follows:

"(I) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist law enforcement and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped juveniles; and".

(13) Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(12)(A)) is amended—

(A) by inserting "or offenses which do not constitute violations of valid court orders" after "adult"; and

(B) by striking out "juvenile detention or correctional facilities" and inserting in lieu thereof "secure detention facilities or secure correctional facilities".

(14) Section 223(a)(15) of the Juvenile Justice and Delinquency Prevention Act of 1974, as so redesignated in paragraph (15)(A), is amended— *Post*, p. 2758.

(A) by striking out "paragraph (12)(A) and paragraph (13)" and inserting in lieu thereof "paragraph (12)(A), paragraph (13), and paragraph (14)"; and

(B) by inserting before the semicolon at the end thereof the following: ", except that such reporting requirements shall not apply in the case of a State which is in compliance with the other requirements of this paragraph, which is in compliance with the requirements in paragraph (12)(A) and paragraph (13), and which has enacted legislation which conforms to such requirements and

which contains, in the opinion of the Administrator, sufficient enforcement mechanisms to ensure that such legislation will be administered effectively".

(15) Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)), as amended by the foregoing provisions of this subsection, is further amended—

(A) by redesignating paragraph (14) through paragraph (21) as paragraph (15) through paragraph (22), respectively, and by inserting after paragraph (13) the following new paragraph:

"(14) provide that, beginning after the 5-year period following the date of the enactment of the Juvenile Justice Amendments of 1980, no juvenile shall be detained or confined in any jail or lockup for adults, except that the Administrator shall promulgate regulations which (A) recognize the special needs of areas characterized by low population density with respect to the detention of juveniles; and (B) shall permit the temporary detention in such adult facilities of juveniles accused of serious crimes against persons, subject to the provisions of paragraph (13), where no existing acceptable alternative placement is available;"; and

(B) by adding at the end thereof the following new sentence: "Such plan shall be modified by the State, as soon as practicable after the date of the enactment of the Juvenile Justice Amendments of 1980, in order to comply with the requirements of paragraph (14).".

(b) Section 223(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(c)) is amended—

(1) by striking out ", with the concurrence of the Associate Administrator,";

(2) by inserting after "juveniles" the following: "or through removal of 100 percent of such juveniles from secure correctional facilities"; and

(3) by adding at the end thereof the following new sentence: "Failure to achieve compliance with the requirements of subsection (a)(14) within the 5-year time limitation shall terminate any State's eligibility for funding under this subpart, unless the Administrator determines that (1) the State is in substantial compliance with such requirements through the achievement of not less than 75 percent removal of juveniles from jails and lockups for adults; and (2) the State has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time, not to exceed 2 additional years.".

(c) Section 223(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(d)) is amended—

(1) by inserting "endeavor to" after "the Administrator shall";

(2) by striking out "public and private" and all that follows through "section 224" and inserting in lieu thereof "local public and private nonprofit agencies within such State for use in carrying out the purposes of subsection (a)(12)(A), subsection (a)(13), or subsection (a)(14)";

(3) by striking out "endeavor to make such reallocated funds" and inserting in lieu thereof "make funds which remain available after disbursements are made by the Administrator under the preceding sentence, and any other unobligated funds,";

(4) by striking out "a preferential" and inserting in lieu thereof "an equitable";

(5) by striking out "to programs in nonparticipating States under section 224(a)(2) and";

(6) by striking out "substantial or"; and

(7) by striking out "subsection (a)(12)(A) requirement" and all that follows through "subsection (c)" and inserting in lieu thereof "requirements under subsection (a)(12)(A) and subsection (a)(13)".

SPECIAL EMPHASIS PREVENTION AND TREATMENT PROGRAMS

SEC. 12. (a) Section 224(a)(5) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5634(a)(5)) is amended to read as follows:

"(5) develop statewide programs through the use of subsidies or other financial incentives designed to—

"(A) remove juveniles from jails and lockups for adults;

"(B) replicate juvenile programs designated as exemplary by the National Institute of Justice; or

"(C) establish and adopt, based upon recommendations of the Advisory Committee, standards for the improvement of juvenile justice within the State;".

(b) Section 224(a)(11) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5634(a)(11)) is amended by inserting before the period at the end thereof the following: ", including on-the-job training programs to assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped juveniles".

(c) Section 224(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5634(a)) is amended—

(1) in paragraph (10) thereof, by striking out "and" at the end thereof;

(2) in paragraph (11) thereof, by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(12) develop and implement special emphasis prevention and treatment programs relating to juveniles who commit serious crimes.".

(d) Section 224 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5634) is amended by adding at the end thereof the following new subsections:

"(d) Assistance provided pursuant to this section shall be available on an equitable basis to deal with disadvantaged youth, including females, minority youth, and mentally retarded and emotionally or physically handicapped youth.

"(e) At least 5 percent of the funds available for grants and contracts made pursuant to this section shall be available for grants and contracts designed to address the special needs and problems of juvenile delinquency in the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.". Grants and contracts.

USE OF FUNDS

SEC. 13. (a) Section 227 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5637) is amended by adding at the end thereof the following new subsection:

"(c) Funds paid pursuant to section 223(a)(10)(D) and section 224(a)(7) to any public or private agency, organization, or institution 42 USC 5633. 42 USC 5634.

or to any individual (whether directly or through a State criminal justice council) shall not be used to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence a Member of the Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills, resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure by the Congress, any State legislature, any local council, or any similar governing body, except that this subsection shall not preclude such funds from being used in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved. The Administrator shall take such action as may be necessary to ensure that no funds paid under section 223(a)(10)(D) or section 224(a)(7) are used either directly or indirectly in any manner prohibited in this subsection.".

42 USC 5633, 5634.

PAYMENTS

SEC. 14. (a) Section 228 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5638) is amended—

(1) by striking out subsection (a) and subsection (b) thereof, and by striking out the section designation preceding subsection (a);

(2) by redesignating subsection (c) through subsection (g) as subsection (a) through subsection (e), respectively; and

(3) by inserting "SEC. 228." before subsection (a), as so redesignated in paragraph (2).

(b) Section 228(e) of the Juvenile Justice and Delinquency Prevention Act of 1974, as so redesignated in subsection (a), is amended—

(1) by inserting "subpart II of" after "applicant under"; and

(2) by striking out "under section 224" and inserting in lieu thereof "in an equitable manner to States which have complied with the requirements in section 223(a)(12)(A) and section 223(a)(13), under section 224(a)(5)".

DESIGNATION OF STATE AGENCIES

SEC. 15. Section 261 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of law, if the Administrator determines, in his discretion, that sufficient funds have not been appropriated for any fiscal year for the activities authorized in part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968, then the Administrator is authorized to—

42 USC 3741.

"(1) approve any appropriate State agency designated by the Governor of the State involved as the sole agency responsible for supervising the preparation and administration of the State plan submitted under section 223; and

42 USC 5633.

"(2) establish appropriate administrative and supervisory board membership requirements for any agency designated in accordance with paragraph (1), and permit the State advisory group appointed under section 223(a)(3) to operate as the supervisory board for such agency, at the discretion of the Governor.".

ADMINISTRATIVE PROVISIONS

SEC. 16. Section 262 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5672) is amended to read as follows:

"APPLICABILITY OF OTHER ADMINISTRATIVE PROVISIONS

"SEC. 262. (a) The administrative provisions of sections 802(a), 802(c), 803, 804, 805, 806, 807, 810, 812, 813, 814(a), 815(c), 817(a), 817(b), 817(c), 818(a), 818(b), and 818(d) of the Omnibus Crime Control and Safe Streets Act of 1968 are incorporated in this Act as administrative provisions applicable to this Act. References in the cited sections authorizing action by the Director of the Office of Justice Assistance, Research and Statistics, the Administrator of the Law Enforcement Assistance Administration, the Director of the National Institute of Justice, and the Director of the Bureau of Justice Statistics also shall be construed as authorizing the Administrator of the Office of Juvenile Justice and Delinquency Prevention to perform the same action. 42 USC 3782-3788, 3789a-3789d, 3789f, 3789g.

"(b) The Office of Justice Assistance, Research and Statistics shall directly provide staff support to, and coordinate the activities of, the Office of Juvenile Justice and Delinquency Prevention in the same manner as it is authorized to provide staff support and coordinate the activities of the Law Enforcement Assistance Administration, National Institute of Justice, and Bureau of Justice Statistics pursuant to section 801(b) of the Omnibus Crime Control and Safe Streets Act of 1968.". 42 USC 3781.

REPORT REGARDING CONFINEMENT OF JUVENILES IN JAILS FOR ADULTS

SEC. 17. (a) The Administrator of the Office of Juvenile Justice and Delinquency Prevention, not later than 18 months after the date of the enactment of this Act, shall submit a report to the Congress relating to the cost and implications of any requirement added to the Juvenile Justice and Delinquency Prevention Act of 1974 which would mandate the removal of juveniles from adults in all jails and lockups. 42 USC 5633 note. 42 USC 5601 note.

(b) The report required in subsection (a) shall include—

(1) an estimate of the costs likely to be incurred by the States in implementing the requirement specified in subsection (a);

(2) an analysis of the experience of States which currently require the removal of juveniles from adults in all jails and lockups;

(3) an analysis of possible adverse ramifications which may result from such requirement of removal, including an analysis of whether such requirement would lead to an expansion of the residential capacity of secure detention facilities and secure correctional facilities for juveniles, thus resulting in a net increase in the total number of juveniles detained or confined in such facilities; and

(4) recommendations for such legislative or administrative action as the Administrator considers appropriate.

RUNAWAY AND HOMELESS YOUTH

SEC. 18. (a) The heading for title III of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5701 et seq.) is amended to read as follows:

"TITLE III—RUNAWAY AND HOMELESS YOUTH".

42 USC 5601 note.

(b) Section 301 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5701 note) is amended by inserting "and Homeless" after "Runaway".

(c) Section 311 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5711) is amended—

(1) by inserting "(a)" after the section designation;

(2) by inserting "equitably among the States based upon their respective populations of youth under 18 years of age" after "shall be made";

(3) by inserting ", and their families," after "homeless youth";

(4) by inserting after "services." the following new sentence: "Grants also may be made for the provision of a national communications system for the purpose of assisting runaway and homeless youth in communicating with their families and with service providers."; and

(5) by adding at the end thereof the following new subsections:

Supplement grants.

"(b) The Secretary is authorized to provide supplemental grants to runaway centers which are developing, in cooperation with local juvenile court and social service agency personnel, model programs designed to provide assistance to juveniles who have repeatedly left and remained away from their homes or from any facilities in which they have been placed as the result of an adjudication.

On-the-job training.

"(c) The Secretary is authorized to provide on-the-job training to local runaway and homeless youth center personnel and coordinated networks of local law enforcement, social service, and welfare personnel to assist such personnel in recognizing and providing for learning disabled and other handicapped juveniles.".

(d)(1) Section 312(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5712(a)) is amended by striking out "house" and inserting in lieu thereof "center", and by inserting "or to other homeless juveniles" before the period at the end thereof.

(2) Section 312(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5712(b)) is amended—

(A) by striking out "house" each place it appears therein and inserting in lieu thereof "center"; and

(B) in paragraph (4) thereof, by inserting "social service personnel, and welfare personnel," after "personnel,".

(e) Section 313 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5713) is amended by striking out "$100,000" and inserting in lieu thereof "$150,000", and by striking out "any applicant whose program budget is smaller than $150,000" and inserting in lieu thereof "organizations which have a demonstrated experience in the provision of service to runaway and homeless youth and their families".

(f) Section 315 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5715) is amended by striking out "houses" and inserting in lieu thereof "centers".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 19. (a) Section 103(5) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(5)) is amended by striking out "section 101(b)" and all that follows through "amended" and inserting in lieu thereof "section 201(c)".

(b)(1) Section 201(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(c)) is amended—

(A) in the first sentence thereof, by striking out "Associate"; and

(B) by striking out the last sentence thereof.

(2) Section 201(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(d)) is amended by striking out "Associate" each place it appears therein.

(3) Section 201(e) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(e)) is amended by striking out "Associate" each place it appears therein, and by striking out "Office" the last place it appears therein and inserting in lieu thereof "office".

(4) Section 201(f) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(f)) is amended by striking out "Associate".

(c)(1) Section 202(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5612(c)) is amended by striking out "Associate".

(2) Section 202(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5612(d)) is amended by striking out "title I" and inserting in lieu thereof "title 5".

(d)(1) Section 204(d)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(d)(1)) is amended by striking out "Associate".

(2) Section 204(g) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(g)) is amended by striking out "Administration" and inserting in lieu thereof "Office".

(3) Section 204(i) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(i)) is amended by striking out "Associate".

(4) Section 204(k) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(k)) is amended by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services".

(5) Section 204(l)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(l)(1)) is amended by striking out "Associate".

(e) Section 205 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5615) is amended by striking out "Associate" each place it appears therein.

(f)(1) Section 206(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(1)) is amended—

(A) by striking out ", Education, and Welfare" and inserting in lieu thereof "and Human Services";

(B) by striking out "the Commissioner of the Office of Education,";

(C) by inserting "the Director of the Office of Justice Assistance, Research and Statistics, the Administrator of the Law Enforcement Assistance Administration," after "designees,";

(D) by striking out "Associate" each place it appears therein; and

(E) by inserting "the Director of the National Institute of Justice," after "Prevention," the last place it appears therein.

(2) Section 206(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(b)) is amended by striking out "Associate".

(3) Section 206(e) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(e)) is amended by striking out "Associate".

(g)(1) Section 223(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(1)) is amended—

(A) by striking out "planning agency" and inserting in lieu thereof "criminal justice council"; and

(B) by striking out "section 203 of such title I" and inserting in lieu thereof "section 402(b)(1) of the Omnibus Crime Control and Safe Streets Act of 1968".

42 USC 3742.

(2) Section 223(a)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(2)) is amended by striking out "planning agency" and inserting in lieu thereof "criminal justice council".

(3) Section 223(a)(3)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(3)(A)) is amended by striking out "a juvenile" and inserting in lieu thereof "juvenile".

(4) Section 223(a)(3)(F) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(3)(F)) is amended—

(A) in clause (i) thereof, by striking out "planning agency" and inserting in lieu thereof "criminal justice council";

(B) in clause (iii) thereof, by striking out "planning agency" and all that follows through "as amended" and inserting in lieu thereof "criminal justice council"; and

(C) in clause (iv) thereof—

(i) by striking out "planning agency and regional planning unit supervisory" and inserting in lieu thereof "criminal justice council and local criminal justice advisory"; and

(ii) by striking out "section 261(b) and section 502(b)" and inserting in lieu thereof "section 1002".

(5) Section 223(a)(11) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(11)) is amended by striking out "provides" and inserting in lieu thereof "provide".

(6) Section 223(a)(12)(B) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(12)(B)) is amended by striking out "Associate".

Ante, p. 2758.

(7) Section 223(a)(15) of the Juvenile Justice and Delinquency Prevention Act of 1974, as so redesignated in section 11(a)(15)(A), is amended by striking out "Associate".

(8) Section 223(a)(18)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as so redesignated in section 11(a)(15)(A), is amended by striking out "or" the first place it appears therein and inserting in lieu thereof "of".

(9) Section 223(a)(21) of the Juvenile Justice and Delinquency Prevention Act of 1974, as so redesignated in section 11(a)(15)(A), is amended—

(A) by striking out "planning agency" and inserting in lieu thereof "criminal justice council";

(B) by striking out "then" and inserting in lieu thereof "than"; and

(C) by striking out "Associate".

(10) Section 223(a)(22) of the Juvenile Justice and Delinquency Prevention Act of 1974, as so redesignated in section 11(a)(15)(A), is amended by striking out "Associate".

(11) Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)), as amended in section 11(a)(15)(B), is further amended (in the sentence preceding the last sentence thereof) by striking out "303(a)" and inserting in lieu thereof "section 403".

(12) Section 223(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(b)) is amended by striking out

"planning agency" and inserting in lieu thereof "criminal justice council".

(13) Section 223(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(d)) is amended by striking out "sections 509, 510, and 511" and inserting in lieu thereof "sections 803, 804, and 805".

(h) Section 224(a)(6) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5634(a)(6)) is amended by striking out "Commissioner" and inserting in lieu thereof "Secretary".

(i) Section 228(e) of the Juvenile Justice and Delinquency Prevention Act of 1974, as so redesignated in section 11(a), is amended by striking out "section 509" and inserting in lieu thereof "section 803". 42 USC 5638. *Ante*, p. 2760.

(j)(1) Section 241(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(b)) is amended by striking out "Associate" each place it appears therein.

(2) Section 241(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(c)) is amended by striking out "National Institute of Law Enforcement and Criminal Justice" and inserting in lieu thereof "National Institute of Justice".

(k) Section 244(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654(3)) is amended by striking out "sections 249, 250, and 251" and inserting in lieu thereof "sections 248, 249, and 250".

(l) Section 245 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5655) is amended by striking out "Associate".

(m) Section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5656) is amended by striking out "Associate" each place it appears therein.

(n) Section 248(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5658(a)) is amended by striking out "Associate" each place it appears therein. 42 USC 5659.

(o) Section 249 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5660) is amended by striking out "Associate".

(p)(1) Section 250(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5661(a)) is amended by striking out "Associate" each place it appears therein.

(2) Section 250(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5661(b)) is amended by striking out "Associate" each place it appears therein.

(3) Section 250(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5661(c)) is amended by striking out "section 5703(b)" and inserting in lieu thereof "section 5703".

Approved December 8, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-946 accompanying H.R. 6704 (Comm. on Education and Labor).
SENATE REPORT No. 96-705 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 20, considered and passed Senate.
Nov. 14, 19, H.R. 6704 considered and passed House; passage vacated and S. 2441, amended, passed in lieu.
Nov. 20, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 50:
Dec. 8, Presidential statement.

Public Law 96-510
96th Congress

An Act

Dec. 11, 1980
[H.R. 7020]

To provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That this Act may be cited as the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980".

Comprehensive Environmental Response, Compensation, and Liability Act of 1980
42 USC 9601 note.

TITLE I—HAZARDOUS SUBSTANCES RELEASES, LIABILITY, COMPENSATION

DEFINITIONS

SEC. 101. For purpose of this title, the term— 42 USC 9601.

(1) "act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight;

(2) "Administrator" means the Administrator of the United States Environmental Protection Agency;

(3) "barrel" means forty-two United States gallons at sixty degrees Fahrenheit;

(4) "claim" means a demand in writing for a sum certain;

(5) "claimant" means any person who presents a claim for compensation under this Act;

(6) "damages" means damages for injury or loss of natural resources as set forth in section 107(a) or 111(b) of this Act;

(7) "drinking water supply" means any raw or finished water source that is or may be used by a public water system (as defined in the Safe Drinking Water Act) or as drinking water by one or more individuals; 42 USC 201 note.

(8) "environment" means (A) the navigable waters, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the United States under the Fishery Conservation and Management Act of 1976, and (B) any other surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States; *Post,* p. 3300.

(9) "facility" means (A) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft, or (B) any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located; but does not include any consumer product in consumer use or any vessel;

(10) "federally permitted release" means (A) discharges in compliance with a permit under section 402 of the Federal Water Pollution Control Act, (B) discharges resulting from circumstances identified and reviewed and made part of the public record with respect to a permit issued or modified under section 402 of the Federal Water Pollution Control Act and subject to a condition of such permit, (C) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of the Federal Water Pollution Control Act, which are caused by events occurring within the scope of relevant operating or treatment systems, (D) discharges in compliance with a legally enforceable permit under section 404 of the Federal Water Pollution Control Act, (E) releases in compliance with a legally enforceable final permit issued pursuant to section 3005 (a) through (d) of the Solid Waste Disposal Act from a hazardous waste treatment, storage, or disposal facility when such permit specifically identifies the hazardous substances and makes such substances subject to a standard of practice, control procedure or bioassay limitation or condition, or other control on the hazardous substances in such releases, (F) any release in compliance with a legally enforceable permit issued under section 102 of section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, (G) any injection of fluids authorized under Federal underground injection control programs or State programs submitted for Federal approval (and not disapproved by the Administrator of the Environmental Protection Agency) pursuant to part C of the Safe Drinking Water Act, (H) any emission into the air subject to a permit or control regulation under section 111, section 112, title I part C, title I part D, or State implementation plans submitted in accordance with section 110 of the Clean Air Act (and not disapproved by the Administrator of the Environmental Protection Agency), including any schedule or waiver granted, promulgated, or approved under these sections, (I) any injection of fluids or other materials authorized under applicable State law (i) for the purpose of stimulating or treating wells for the production of crude oil, natural gas, or water, (ii) for the purpose of secondary, tertiary, or other enhanced recovery of crude oil or natural gas, or (iii) which are brought to the surface in conjunction with the production of crude oil or natural gas and which are reinjected, (J) the introduction of any pollutant into a publicly owned treatment works when such pollutant is specified in and in compliance with applicable pretreatment standards of section 307 (b) or (c) of the Clean Water Act and enforceable requirements in a pretreatment program submitted by a State or municipality for Federal approval under section 402 of such Act, and (K) any release of source, special nuclear, or byproduct material, as those terms are defined in the Atomic Energy Act of 1954, in compliance with a legally enforceable license, permit, regulation, or order issued pursuant to the Atomic Energy Act of 1954;

33 USC 1342.

33 USC 1344.

42 USC 6925.

33 USC 1412, 1413.

42 USC 300h.

42 USC 7411, 7412, 7470, 7501. 42 USC 7410.

33 USC 1317.

33 USC 1342.

42 USC 2014.

(11) "Fund" or "Trust Fund" means the Hazardous Substance Response Fund established by section 221 of this Act or, in the case of a hazardous waste disposal facility for which liability has been transferred under section 107(k) of this Act, the Post-closure Liability Fund established by section 232 of this Act;

Post, p. 2801.

Post, p. 2804.

(12) "ground water" means water in a saturated zone or stratum beneath the surface of land or water;

(13) "guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this Act;

(14) "hazardous substance" means (A) any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act, (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of this Act, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act, (E) any hazardous air pollutant listed under section 112 of the Clean Air Act, and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas);

33 USC 1321.

42 USC 6921.

42 USC 7412.

15 USC 2606.

(15) "navigable waters" or "navigable waters of the United States" means the waters of the United States, including the territorial seas;

(16) "natural resources" means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government;

Post, p. 3300.

(17) "offshore facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters, other than a vessel or a public vessel;

(18) "onshore facility" means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land or nonnavigable waters within the United States;

(19) "otherwise subject to the jurisdiction of the United States" means subject to the jurisdiction of the United States by virtue of United States citizenship, United States vessel documentation or numbering, or as provided by international agreement to which the United States is a party;

(20)(A) "owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, (ii) in the case of an onshore facility or an offshore facility, any person owning or operating such facility, and (iii) in the case of any abandoned facility, any person who owned, operated, or otherwise controlled activities at such facility immediately prior to such abandonment. Such term does not include a person, who, without participating in the management of a vessel or facility, holds indicia of ownership primarily to protect his security interest in the vessel or facility;

(B) in the case of a hazardous substance which has been accepted for transportation by a common or contract carrier and except as provided in section 107(a) (3) or (4) of this Act, (i) the term "owner or operator" shall mean such common carrier or other bona fide for hire carrier acting as an independent contractor during such transportation, (ii) the shipper of such hazardous substance shall not be considered to have caused or contributed to any release during such transportation which resulted solely from circumstances or conditions beyond his control;

(C) in the case of a hazardous substance which has been delivered by a common or contract carrier to a disposal or treatment facility and except as provided in section 107(a) (3) or (4) (i) the term "owner or operator" shall not include such common or contract carrier, and (ii) such common or contract carrier shall not be considered to have caused or contributed to any release at such disposal or treatment facility resulting from circumstances or conditions beyond its control;

(21) "person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, United States Government, State, municipality, commission, political subdivision of a State, or any interstate body;

(22) "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes (A) any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons, (B) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine, (C) release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of such Act, or, for the purposes of section 104 of this title or any other response action, any release of source byproduct, or special nuclear material from any processing site designated under section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978, and (D) the normal application of fertilizer;

42 USC 2011 note.

42 USC 2210.

42 USC 7912, 7942.

(23) "remove" or "removal" means the cleanup or removal of released hazardous substances from the environment, such actions as may be necessary taken in the event of the threat of release of hazardous substances into the environment, such actions as may be necessary to monitor, assess, and evaluate the release or threat of release of hazardous substances, the disposal of removed material, or the taking of such other actions as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or to the environment, which may otherwise result from a release or threat of release. The term includes, in addition, without being limited to, security fencing or other measures to limit access, provision of alternative water supplies, temporary evacuation and housing of threatened individuals not otherwise provided for, action taken under section 104(b) of this Act, and any emergency assistance which may be provided under the Disaster Relief Act of 1974;

42 USC 5121 note.

(24) "remedy" or "remedial action" means those actions consistent with permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of

a hazardous substance into the environment, to prevent or minimize the release of hazardous substances so that they do not migrate to cause substantial danger to present or future public health or welfare or the environment. The term includes, but is not limited to, such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous substances or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, onsite treatment or incineration, provision of alternative water supplies, and any monitoring reasonably required to assure that such actions protect the public health and welfare and the environment. The term includes the costs of permanent relocation of residents and businesses and community facilities where the President determines that, alone or in combination with other measures, such relocation is more cost-effective than and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition offsite of hazardous substances, or may otherwise be necessary to protect the public health or welfare. The term does not include offsite transport of hazardous substances, or the storage, treatment, destruction, or secure disposition offsite of such hazardous substances or contaminated materials unless the President determines that such actions (A) are more cost-effective than other remedial actions, (B) will create new capacity to manage, in compliance with subtitle C of the Solid Waste Disposal Act, hazardous substances in addition to those located at the affected facility, or (C) are necessary to protect public health or welfare or the environment from a present or potential risk which may be created by further exposure to the continued presence of such substances or materials;

42 USC 6921.

(25) "respond" or "response" means remove, removal, remedy, and remedial action;

(26) "transport" or "transportation" means the movement of a hazardous substance by any mode, including pipeline (as defined in the Pipeline Safety Act), and in the case of a hazardous substance which has been accepted for transportation by a common or contract carrier, the term "transport" or "transportation" shall include any stoppage in transit which is temporary, incidental to the transportation movement, and at the ordinary operating convenience of a common or contract carrier, and any such stoppage shall be considered as a continuity of movement and not as the storage of a hazardous substance;

49 USC 1671 note.

(27) "United States" and "State" include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction;

(28) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water;

(29) "disposal", "hazardous waste", and "treatment" shall have the meaning provided in section 1004 of the Solid Waste Disposal Act;

42 USC 6903.

(30) "territorial sea" and "contiguous zone" shall have the meaning provided in section 502 of the Federal Water Pollution Control Act.

33 USC 1362.

(31) "national contingency plan" means the national contingency plan published under section 311(c) of the Federal Water Pollution Control Act or revised pursuant to section 105 of this Act; and

33 USC 1321.

(32) "liable" or "liability" under this title shall be construed to be the standard of liability which obtains under section 311 of the Federal Water Pollution Control Act.

REPORTABLE QUANTITIES AND ADDITIONAL DESIGNATIONS

Regulations.
42 USC 9602.

SEC. 102. (a) The Administrator shall promulgate and revise as may be appropriate, regulations designating as hazardous substances, in addition to those referred to in section 101(14) of this title, such elements, compounds, mixtures, solutions, and substances which, when released into the environment may present substantial danger to the public health or welfare or the environment, and shall promulgate regulations establishing that quantity of any hazardous substance the release of which shall be reported pursuant to section 103 of this title. The Administrator may determine that one single quantity shall be the reportable quantity for any hazardous substance, regardless of the medium into which the hazardous substance is released.

(b) Unless and until superseded by regulations establishing a reportable quantity under subsection (a) of this section for any hazardous substance as defined in section 101(14) of this title, (1) a quantity of one pound, or (2) for those hazardous substances for which reportable quantities have been established pursuant to section 311(b)(4) of the Federal Water Pollution Control Act, such reportable quantity, shall be deemed that quantity, the release of which requires notification pursuant to section 103 (a) or (b) of this title.

33 USC 1321.

NOTICES, PENALTIES

42 USC 9603.

SEC. 103. (a) Any person in charge of a vessel or an offshore or an onshore facility shall, as soon as he has knowledge of any release (other than a federally permitted release) of a hazardous substance from such vessel or facility in quantities equal to or greater than those determined pursuant to section 102 of this title, immediately notify the National Response Center established under the Clean Water Act of such release. The National Response Center shall convey the notification expeditiously to all appropriate Government agencies, including the Governor of any affected State.

33 USC 1251 note.

(b) Any person—

(1) in charge of a vessel from which a hazardous substance is released, other than a federally permitted release, into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or

(2) in charge of a vessel from which a hazardous substance is released, other than a federally permitted release, which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), and who is otherwise subject to the jurisdiction of the United States at the time of the release, or

Post, p. 3300.

(3) in charge of a facility from which a hazardous substance is released, other than a federally permitted release, in a quantity equal to or greater than that determined pursuant to section 102 of this title who fails to notify immediately the appropriate agency of the United States Government as soon as he has knowledge of such release shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than one year, or both. Notification received pursuant to this paragraph or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

(c) Within one hundred and eighty days after the enactment of this Act, any person who owns or operates or who at the time of disposal owned or operated, or who accepted hazardous substances for transport and selected, a facility at which hazardous substances (as defined in section 101(14)(C) of this title) are or have been stored, treated, or disposed of shall, unless such facility has a permit issued under, or has been accorded interim status under, subtitle C of the Solid Waste Disposal Act, notify the Administrator of the Environmental Protection Agency of the existence of such facility, specifying the amount and type of any hazardous substance to be found there, and any known, suspected, or likely releases of such substances from such facility. The Administrator may prescribe in greater detail the manner and form of the notice and the information included. The Administrator shall notify the affected State agency, or any department designated by the Governor to receive such notice, of the existence of such facility. Any person who knowingly fails to notify the Administrator of the existence of any such facility shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both. In addition, any such person who knowingly fails to provide the notice required by this subsection shall not be entitled to any limitation of liability or to any defenses to liability set out in section 107 of this Act: *Provided, however,* That notification under this subsection is not required for any facility which would be reportable hereunder solely as a result of any stoppage in transit which is temporary, incidental to the transportation movement, or at the ordinary operating convenience of a common or contract carrier, and such stoppage shall be considered as a continuity of movement and not as the storage of a hazardous substance. Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against any such person in any criminal case, except a prosecution for perjury or for giving a false statement.

42 USC 6921.

(d)(1) The Administrator of the Environmental Protection Agency is authorized to promulgate rules and regulations specifying, with respect to—

Rules and regulations.

(A) the location, title, or condition of a facility, and

(B) the identity, characteristics, quantity, origin, or condition (including containerization and previous treatment) of any hazardous substances contained or deposited in a facility;

the records which shall be retained by any person required to provide the notification of a facility set out in subsection (c) of this section. Such specification shall be in accordance with the provisions of this subsection.

(2) Beginning with the date of enactment of this Act, for fifty years thereafter or for fifty years after the date of establishment of a record (whichever is later), or at any such earlier time as a waiver if obtained under paragraph (3) of this subsection, it shall be unlawful for any

such person knowingly to destroy, mutilate, erase, dispose of, conceal, or otherwise render unavailable or unreadable or falsify any records identified in paragraph (1) of this subsection. Any person who violates this paragraph shall, upon conviction, be fined not more than $20,000, or imprisoned for not more than one year, or both.

(3) At any time prior to the date which occurs fifty years after the date of enactment of this Act, any person identified under paragraph (1) of this subsection may apply to the Administrator of the Environmental Protection Agency for a waiver of the provisions of the first sentence of paragraph (2) of this subsection. The Administrator is authorized to grant such waiver if, in his discretion, such waiver would not unreasonably interfere with the attainment of the purposes and provisions of this Act. The Administrator shall promulgate rules and regulations regarding such a waiver so as to inform parties of the proper application procedure and conditions for approval of such a waiver.

Rules and regulations.

(4) Notwithstanding the provisions of this subsection, the Administrator of the Environmental Protection Agency may in his discretion require any such person to retain any record identified pursuant to paragraph (1) of this subsection for such a time period in excess of the period specified in paragraph (2) of this subsection as the Administrator determines to be necessary to protect the public health or welfare.

(e) This section shall not apply to the application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act or to the handling and storage of such a pesticide product by an agricultural producer.

7 USC 136 note.

(f) No notification shall be required under subsection (a) or (b) of this section for any release of a hazardous substance—

(1) which is required to be reported (or specifically exempted from a requirement for reporting) under subtitle C of the Solid Waste Disposal Act or regulations thereunder and which has been reported to the National Response Center, or

42 USC 6921.

(2) which is a continuous release, stable in quantity and rate, and is—

(A) from a facility for which notification has been given under subsection (c) of this section, or

(B) a release of which notification has been given under subsections (a) and (b) of this section for a period sufficient to establish the continuity, quantity, and regularity of such release:

Provided, That notification in accordance with subsections (a) and (b) of this paragraph shall be given for releases subject to this paragraph annually, or at such time as there is any statistically significant increase in the quantity of any hazardous substance or constituent thereof released, above that previously reported or occurring.

RESPONSE AUTHORITIES

42 USC 9604.

SEC. 104. (a)(1) Whenever (A) any hazardous substance is released or there is a substantial threat of such a release into the environment, or (B) there is a release or substantial threat of release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare, the President is authorized to act, consistent with the national contingency plan, to remove or arrange for the removal of, and provide for remedial action relating to such hazardous substance, pollutant, or contaminant at any time (including its removal from any contami-

nated natural resource), or take any other response measure consistent with the national contingency plan which the President deems necessary to protect the public health or welfare or the environment, unless the President determines that such removal and remedial action will be done properly by the owner or operator of the vessel or facility from which the release or threat of release emanates, or by any other responsible party.

"Pollutant or contaminant."

(2) For the purposes of this section, "pollutant or contaminant" shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring. The term does not include petroleum, including crude oil and any fraction thereof which is not otherwise specifically listed or designated as hazardous substances under section 101(14) (A) through (F) of this title, nor does it include natural gas, liquefied natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas).

(b) Whenever the President is authorized to act pursuant to subsection (a) of this section, or whenever the President has reason to believe that a release has occurred or is about to occur, or that illness, disease, or complaints thereof may be attributable to exposure to a hazardous substance, pollutant, or contaminant and that a release may have occurred or be occurring, he may undertake such investigations, monitoring, surveys, testing, and other information gathering as he may deem necessary or appropriate to identify the existence and extent of the release or threat thereof, the source and nature of the hazardous substances, pollutants or contaminants involved, and the extent of danger to the public health or welfare or to the environment. In addition, the President may undertake such planning, legal, fiscal, economic, engineering, architectural, and other studies or investigations as he may deem necessary or appropriate to plan and direct response actions, to recover the costs thereof, and to enforce the provisions of this Act.

(c)(1) Unless (A) the President finds that (i) continued response actions are immediately required to prevent, limit, or mitigate an emergency, (ii) there is an immediate risk to public health or welfare or the environment, and (iii) such assistance will not otherwise be provided on a timely basis, or (B) the President has determined the appropriate remedial actions pursuant to paragraph (2) of this subsection and the State or States in which the source of the release is located have complied with the requirements of paragraph (3) of this subsection, obligations from the Fund, other than those authorized by subsection (b) of this section, shall not continue after $1,000,000 has been obligated for response actions or six months has elapsed from the date of initial response to a release or threatened release of hazardous substances.

(2) The President shall consult with the affected State or States before determining any appropriate remedial action to be taken pursuant to the authority granted under subsection (a) of this section.

(3) The President shall not provide any remedial actions pursuant to this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the President providing assurances deemed adequate by the President that (A) the State

will assure all future maintenance of the removal and remedial actions provided for the expected life of such actions as determined by the President; (B) the State will assure the availability of a hazardous waste disposal facility acceptable to the President and in compliance with the requirements of subtitle C of the Solid Waste Disposal Act for any necessary offsite storage, destruction, treatment, or secure disposition of the hazardous substances; and (C) the State will pay or assure payment of (i) 10 per centum of the costs of the remedial action, including all future maintenance, or (ii) at least 50 per centum or such greater amount as the President may determine appropriate, taking into account the degree of responsibility of the State or political subdivision, of any sums expended in response to a release at a facility that was owned at the time of any disposal of hazardous substances therein by the State or a political subdivision thereof. The President shall grant the State a credit against the share of the costs for which it is responsible under this paragraph for any documented direct out-of-pocket non-Federal funds expended or obligated by the State or a political subdivision thereof after January 1, 1978, and before the date of enactment of this Act for cost-eligible response actions and claims for damages compensable under section 111 of this title relating to the specific release in question: *Provided, however,* That in no event shall the amount of the credit granted exceed the total response costs relating to the release.

42 USC 6921.

(4) The President shall select appropriate remedial actions determined to be necessary to carry out this section which are to the extent practicable in accordance with the national contingency plan and which provide for that cost-effective response which provides a balance between the need for protection of public health and welfare and the environment at the facility under consideration, and the availability of amounts from the Fund established under title II of this Act to respond to other sites which present or may present a threat to public health or welfare or the environment, taking into consideration the need for immediate action.

Post, p. 2796.

(d)(1) Where the President determines that a State or political subdivision thereof has the capability to carry out any or all of the actions authorized in this section, the President may, in his discretion, enter into a contract or cooperative agreement with such State or political subdivision to take such actions in accordance with criteria and priorities established pursuant to section 105(8) of this title and to be reimbursed for the reasonable response costs thereof from the Fund. Any contract made hereunder shall be subject to the cost-sharing provisions of subsection (c) of this section.

(2) If the President enters into a cost-sharing agreement pursuant to subsection (c) of this section or a contract or cooperative agreement pursuant to this subsection, and the State or political subdivision thereof fails to comply with any requirements of the contract, the President may, after providing sixty days notice, seek in the appropriate Federal district court to enforce the contract or to recover any funds advanced or any costs incurred because of the breach of the contract by the State or political subdivision.

(3) Where a State or a political subdivision thereof is acting in behalf of the President, the President is authorized to provide technical and legal assistance in the administration and enforcement of any contract or subcontract in connection with response actions assisted under this title, and to intervene in any civil action involving the enforcement of such contract or subcontract.

(4) Where two or more noncontiguous facilities are reasonably related on the basis of geography, or on the basis of the threat, or

potential threat to the public health or welfare or the environment, the President may, in his discretion, treat these related facilities as one for purposes of this section.

(e)(1) For purposes of assisting in determining the need for response to a release under this title or enforcing the provisions of this title, any person who stores, treats, or disposes of, or, where necessary to ascertain facts not available at the facility where such hazardous substances are located, who generates, transports, or otherwise handles or has handled, hazardous substances shall, upon request of any officer, employee, or representative of the President, duly designated by the President, or upon request of any duly designated officer, employee, or representative of a State, where appropriate, furnish information relating to such substances and permit such person at all reasonable times to have access to, and to copy all records relating to such substances. For the purposes specified in the preceding sentence, such officers, employees, or representatives are authorized—

(A) to enter at reasonable times any establishment or other place where such hazardous substances are or have been generated, stored, treated, or disposed of, or transported from;

(B) to inspect and obtain samples from any person of any such substance and samples of any containers or labeling for such substances. Each such inspection shall be commenced and completed with reasonable promptness. If the officer, employee, or representative obtains any samples, prior to leaving the premises, he shall give to the owner, operator, or person in charge a receipt describing the sample obtained and if requested a portion of each such sample equal in volume of weight to the portion retained. If any analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or person in charge.

(2)(A) Any records, reports, or information obtained from any person under this section (including records, reports, or information obtained by representatives of the President) shall be available to the public, except that upon a showing satisfactory to the President (or the State, as the case may be) by any person that records, reports, or information, or particular part thereof (other than health or safety effects data), to which the President (or the State, as the case may be) or any officer, employee, or representative has access under this section if made public would divulge information entitled to protection under section 1905 of title 18 of the United States Code, such information or particular portion thereof shall be considered confidential in accordance with the purposes of that section, except that such record, report, document or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act.

(B) Any person not subject to the provisions of section 1905 of title 18 of the United States Code who knowingly and willfully divulges or discloses any information entitled to protection under this subsection shall, upon conviction, be subject to a fine of not more than $5,000 or to imprisonment not to exceed one year, or both.

(C) In submitting data under this Act, a person required to provide such data may (i) designate the data which such person believes is entitled to protection under this subsection and (ii) submit such designated data separately from other data submitted under this Act. A designation under this paragraph shall be made in writing and in such manner as the President may prescribe by regulation.

(D) Notwithstanding any limitation contained in this section or any other provision of law, all information reported to or otherwise obtained by the President (or any representative of the President) under this Act shall be made available, upon written request of any duly authorized committee of the Congress, to such committee.

(f) In awarding contracts to any person engaged in response actions, the President or the State, in any case where it is awarding contracts pursuant to a contract entered into under subsection (d) of this section, shall require compliance with Federal health and safety standards established under section 301(f) of this Act by contractors and subcontractors as a condition of such contracts.

Post, p. 2805.

(g)(1) All laborers and mechanics employed by contractors or subcontractors in the performance of construction, repair, or alteration work funded in whole or in part under this section shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The President shall not approve any such funding without first obtaining adequate assurance that required labor standards will be maintained upon the construction work.

40 USC 276a note.

(2) The Secretary of Labor shall have, with respect to the labor standards specified in paragraph (1), the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 276c of title 40 of the United States Code.

5 USC app.

(h) Notwithstanding any other provision of law, subject to the provisions of section 111 of this Act, the President may authorize the use of such emergency procurement powers as he deems necessary to effect the purpose of this Act. Upon determination that such procedures are necessary, the President shall promulgate regulations prescribing the circumstances under which such authority shall be used and the procedures governing the use of such authority.

Agency for Toxic Substances and Disease Registry. Establishment.

(i) There is hereby established within the Public Health Service an agency, to be known as the Agency for Toxic Substances and Disease Registry, which shall report directly to the Surgeon General of the United States. The Administrator of said Agency shall, with the cooperation of the Administrator of the Environmental Protection Agency, the Commissioner of the Food and Drug Administration, the Directors of the National Institute of Medicine, National Institute of Environmental Health Sciences, National Institute of Occupational Safety and Health, Centers for Disease Control, the Administrator of the Occupational Safety and Health Administration, and the Administrator of the Social Security Administration, effectuate and implement the health related authorities of this Act. In addition, said Administrator shall—

(1) in cooperation with the States, establish and maintain a national registry of serious diseases and illnesses and a national registry of persons exposed to toxic substances;

(2) establish and maintain inventory of literature, research, and studies on the health effects of toxic substances;

(3) in cooperation with the States, and other agencies of the Federal Government, establish and maintain a complete listing of areas closed to the public or otherwise restricted in use because of toxic substance contamination;

(4) in cases of public health emergencies caused or believed to be caused by exposure to toxic substances, provide medical care and testing to exposed individuals, including but not limited to tissue sampling, chromosomal testing, epidemiological studies,

or any other assistance appropriate under the circumstances; and

(5) either independently or as part of other health status survey, conduct periodic survey and screening programs to determine relationships between exposure to toxic substances and illness. In cases of public health emergencies, exposed persons shall be eligible for admission to hospitals and other facilities and services operated or provided by the Public Health Service.

NATIONAL CONTINGENCY PLAN

SEC. 105. Within one hundred and eighty days after the enactment of this Act, the President shall, after notice and opportunity for public comments, revise and republish the national contingency plan for the removal of oil and hazardous substances, originally prepared and published pursuant to section 311 of the Federal Water Pollution Control Act, to reflect and effectuate the responsibilities and powers created by this Act, in addition to those matters specified in section 311(c)(2). Such revision shall include a section of the plan to be known as the national hazardous substance response plan which shall establish procedures and standards for responding to releases of hazardous substances, pollutants, and contaminants, which shall include at a minimum: 42 USC 9605. 33 USC 1321.

(1) methods for discovering and investigating facilities at which hazardous substances have been disposed of or otherwise come to be located;

(2) methods for evaluating, including analyses of relative cost, and remedying any releases or threats of releases from facilities which pose substantial danger to the public health or the environment;

(3) methods and criteria for determining the appropriate extent of removal, remedy, and other measures authorized by this Act;

(4) appropriate roles and responsibilities for the Federal, State, and local governments and for interstate and nongovernmental entities in effectuating the plan;

(5) provision for identification, procurement, maintenance, and storage of response equipment and supplies;

(6) a method for and assignment of responsibility for reporting the existence of such facilities which may be located on federally owned or controlled properties and any releases of hazardous substances from such facilities;

(7) means of assuring that remedial action measures are cost-effective over the period of potential exposure to the hazardous substances or contaminated materials;

(8)(A) criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action. Criteria and priorities under this paragraph shall be based upon relative risk or danger to public health or welfare or the environment, in the judgment of the President, taking into account to the extent possible the population at risk, the hazard potential of the hazardous substances at such facilities, the potential for contamination of drinking water supplies, the potential for direct human contact, the potential for destruction of sensitive ecosystems, State pre-

paredness to assume State costs and responsibilities, and other appropriate factors;

(B) based upon the criteria set forth in subparagraph (A) of this paragraph, the President shall list as part of the plan national priorities among the known releases or threatened releases throughout the United States and shall revise the list no less often than annually. Within one year after the date of enactment of this Act, and annually thereafter, each State shall establish and submit for consideration by the President priorities for remedial action among known releases and potential releases in that State based upon the criteria set forth in subparagraph (A) of this paragraph. In assembling or revising the national list, the President shall consider any priorities established by the States. To the extent practicable, at least four hundred of the highest priority facilities shall be designated individually and shall be referred to as the "top priority among known response targets", and, to the extent practicable, shall include among the one hundred highest priority facilities at least one such facility from each State which shall be the facility designated by the State as presenting the greatest danger to public health or welfare or the environment among the known facilities in such State. Other priority facilities or incidents may be listed singly or grouped for response priority purposes; and

(9) specified roles for private organizations and entities in preparation for response and in responding to releases of hazardous substances, including identification of appropriate qualifications and capacity therefor.

The plan shall specify procedures, techniques, materials, equipment, and methods to be employed in identifying, removing, or remedying releases of hazardous substances comparable to those required under section 311(c)(2) (F) and (G) and (j)(1) of the Federal Water Pollution Control Act. Following publication of the revised national contingency plan, the response to and actions to minimize damage from hazardous substances releases shall, to the greatest extent possible, be in accordance with the provisions of the plan. The President may, from time to time, revise and republish the national contingency plan.

33 USC 1321.

Revision and republication.

ABATEMENT ACTION

42 USC 9606.

SEC. 106. (a) In addition to any other action taken by a State or local government, when the President determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from a facility, he may require the Attorney General of the United States to secure such relief as may be necessary to abate such danger or threat, and the district court of the United States in the district in which the threat occurs shall have jurisdiction to grant such relief as the public interest and the equities of the case may require. The President may also, after notice to the affected State, take other action under this section including, but not limited to, issuing such orders as may be necessary to protect public health and welfare and the environment.

Notice.

(b) Any person who willfully violates, or fails or refuses to comply with, any order of the President under subsection (a) may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than $5,000 for each day in which such violation occurs or such failure to comply continues.

(c) Within one hundred and eighty days after enactment of this Act, the Administrator of the Environmental Protection Agency shall, after consultation with the Attorney General, establish and publish guidelines for using the imminent hazard, enforcement, and emergency response authorities of this section and other existing statutes administered by the Administrator of the Environmental Protection Agency to effectuate the responsibilities and powers created by this Act. Such guidelines shall to the extent practicable be consistent with the national hazardous substance response plan, and shall include, at a minimum, the assignment of responsibility for coordinating response actions with the issuance of administrative orders, enforcement of standards and permits, the gathering of information, and other imminent hazard and emergency powers authorized by (1) sections 311(c)(2), 308, 309, and 504(a) of the Federal Water Pollution Control Act, (2) sections 3007, 3008, 3013, and 7003 of the Solid Waste Disposal Act, (3) sections 1445 and 1431 of the Safe Drinking Water Act, (4) sections 113, 114, and 303 of the Clean Air Act, and (5) section 7 of the Toxic Substances Control Act.

Guidelines.

33 USC 1321, 1318, 1319, 1364. 42 USC 6927, 6928; *Ante*, p. 2344; 42 USC 6973. 42 USC 300j-4, 300i. 42 USC 7413, 7414, 7603. 15 USC 2606. 42 USC 9607.

LIABILITY

SEC. 107. (a) Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this section—

(1) the owner and operator of a vessel (otherwise subject to the jurisdiction of the United States) or a facility,

(2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of,

(3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility owned or operated by another party or entity and containing such hazardous substances, and

(4) any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities or sites selected by such person, from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance, shall be liable for—

(A) all costs of removal or remedial action incurred by the United States Government or a State not inconsistent with the national contingency plan;

(B) any other necessary costs of response incurred by any other person consistent with the national contingency plan; and

(C) damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss resulting from such a release.

(b) There shall be no liability under subsection (a) of this section for a person otherwise liable who can establish by a preponderance of the evidence that the release or threat of release of a hazardous substance and the damages resulting therefrom were caused solely by—

(1) an act of God;

(2) an act of war;

(3) an act or omission of a third party other than an employee or agent of the defendant, or than one whose act or omission occurs in connection with a contractual relationship, existing

directly or indirectly, with the defendant (except where the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail), if the defendant establishes by a preponderance of the evidence that (a) he exercised due care with respect to the hazardous substance concerned, taking into consideration the characteristics of such hazardous substance, in light of all relevant facts and circumstances, and (b) he took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from such acts or omissions; or

(4) any combination of the foregoing paragraphs.

(c)(1) Except as provided in paragraph (2) of this subsection, the liability under this section of an owner or operator or other responsible person for each release of a hazardous substance or incident involving release of a hazardous substance shall not exceed—

(A) for any vessel which carries any hazardous substance as cargo or residue, $300 per gross ton, or $5,000,000, whichever is greater;

(B) for any other vessel, $300 per gross ton, or $500,000, whichever is greater;

49 USC 2001 note.

(C) for any motor vehicle, aircraft, pipeline (as defined in the Hazardous Liquid Pipeline Safety Act of 1979), or rolling stock, $50,000,000 or such lesser amount as the President shall establish by regulation, but in no event less than $5,000,000 (or, for releases of hazardous substances as defined in section 101(14)(A) of this title into the navigable waters, $8,000,000). Such regulations shall take into account the size, type, location, storage, and handling capacity and other matters relating to the likelihood of release in each such class and to the economic impact of such limits on each such class; or

(D) for any facility other than those specified in subparagraph (C) of this paragraph, the total of all costs of response plus $50,000,000 for any damages under this title.

(2) Notwithstanding the limitations in paragraph (1) of this subsection, the liability of an owner or operator or other responsible person under this section shall be the full and total costs of response and damages, if (A)(i) the release or threat of release of a hazardous substance was the result of willful misconduct or willful negligence within the privity or knowledge of such person, or (ii) the primary cause of the release was a violation (within the privity or knowledge of such person) of applicable safety, construction, or operating standards or regulations; or (B) such person fails or refuses to provide all reasonable cooperation and assistance requested by a responsible public official in connection with response activities under the national contingency plan with respect to regulated carriers subject to the provisions of title 49 of the United States Code or vessels subject to the provisions of title 33 or 46 of the United States Code, subparagraph (A)(ii) of this paragraph shall be deemed to refer to Federal standards or regulations.

(3) If any person who is liable for a release or threat of release of a hazardous substance fails without sufficient cause to properly provide removal or remedial action upon order of the President pursuant to section 104 or 106 of this Act, such person may be liable to the United States for punitive damages in an amount at least equal to, and not more than three times, the amount of any costs incurred by the Fund as a result of such failure to take proper action. The President is authorized to commence a civil action against any such person to recover the punitive damages, which shall be in addition to

any costs recovered from such person pursuant to section 112(c) of this Act. Any moneys received by the United States pursuant to this subsection shall be deposited in the Fund.

(d) No person shall be liable under this title for damages as a result of actions taken or omitted in the course of rendering care, assistance, or advice in accordance with the national contingency plan or at the direction of an onscene coordinator appointed under such plan, with respect to an incident creating a danger to public health or welfare or the environment as a result of any release of a hazardous substance or the threat thereof. This subsection shall not preclude liability for damages as the result of gross negligence or intentional misconduct on the part of such person. For the purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.

(e)(1) No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from the owner or operator of any vessel or facility or from any person who may be liable for a release or threat of release under this section, to any other person the liability imposed under this section. Nothing in this subsection shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this section.

(2) Nothing in this title, including the provisions of paragraph (1) of this subsection, shall bar a cause of action that an owner or operator or any other person subject to liability under this section, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

(f) In the case of an injury to, destruction of, or loss of natural resources under subparagraph (C) of subsection (a) liability shall be to the United States Government and to any State for natural resources within the State or belonging to, managed by, controlled by, or appertaining to such State: *Provided, however,* That no liability to the United States or State shall be imposed under subparagraph (C) of subsection (a), where the party sought to be charged has demonstrated that the damages to natural resources complained of were specifically identified as an irreversible and irretrievable commitment of natural resources in an environmental impact statement, or other comparable environment analysis, and the decision to grant a permit or license authorizes such commitment of natural resources, and the facility or project was otherwise operating within the terms of its permit or license. The President, or the authorized representative of any State, shall act on behalf of the public as trustee of such natural resources to recover for such damages. Sums recovered shall be available for use to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government or the State government, but the measure of such damages shall not be limited by the sums which can be used to restore or replace such resources. There shall be no recovery under the authority of subparagraph (C) of subsection (a) where such damages and the release of a hazardous substance from which such damages resulted have occurred wholly before the enactment of this Act.

(g) Each department, agency, or instrumentality of the executive, legislative, and judicial branches of the Federal Government shall be subject to, and comply with, this Act in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity, including liability under this section.

(h) The owner or operator of a vessel shall be liable in accordance with this section and as provided under section 114 of this Act

notwithstanding any provision of the Act of March 3, 1851 (46 U.S.C. 183ff).

(i) No person (including the United States or any State) may recover under the authority of this section for any response costs or damages resulting from the application of a pesticide product registered under the Federal Insecticide, Fungicide, and Rodenticide Act. Nothing in this paragraph shall affect or modify in any way the obligations or liability of any person under any other provision of State or Federal law, including common law, for damages, injury, or loss resulting from a release of any hazardous substance or for removal or remedial action or the costs of removal or remedial action of such hazardous substance.

7 USC 136 note.

(j) Recovery by any person (including the United States or any State) for response costs or damages resulting from a federally permitted release shall be pursuant to existing law in lieu of this section. Nothing in this paragraph shall affect or modify in any way the obligations or liability of any person under any other provision of State or Federal law, including common law, for damages, injury, or loss resulting from a release of any hazardous substance or for removal or remedial action or the costs of removal or remedial action of such hazardous substance. In addition, costs of response incurred by the Federal Government in connection with a discharge specified in section 101(10) (B) or (C) shall be recoverable in an action brought under section 309(b) of the Clean Water Act.

33 USC 1319.

(k)(1) The liability established by this section or any other law for the owner or operator of a hazardous waste disposal facility which has received a permit under subtitle C of the Solid Waste Disposal Act, shall be transferred to and assumed by the Post-closure Liability Fund established by section 232 of this Act when—

Post, p. 2804.

(A) such facility and the owner and operator thereof has complied with the requirements of subtitle C of the Solid Waste Disposal Act and regulations issued thereunder, which may affect the performance of such facility after closure; and

42 USC 6921.

(B) such facility has been closed in accordance with such regulations and the conditions of such permit, and such facility and the surrounding area have been monitored as required by such regulations and permit conditions for a period not to exceed five years after closure to demonstrate that there is no substantial likelihood that any migration offsite or release from confinement of any hazardous substance or other risk to public health or welfare will occur.

(2) Such transfer of liability shall be effective ninety days after the owner or operator of such facility notifies the Administrator of the Environmental Protection Agency (and the State where it has an authorized program under section 3006(b) of the Solid Waste Disposal Act) that the conditions imposed by this subsection have been satisfied. If within such ninety-day period the Administrator of the Environmental Protection Agency or such State determines that any such facility has not complied with all the conditions imposed by this subsection or that insufficient information has been provided to demonstrate such compliance, the Administrator or such State shall so notify the owner and operator of such facility and the administrator of the Fund established by section 232 of this Act, and the owner and operator of such facility shall continue to be liable with respect to such facility under this section and other law until such time as the Administrator and such State determines that such facility has complied with all conditions imposed by this subsection. A determination by the Administrator or such State that a facility has not

42 USC 6926.

complied with all conditions imposed by this subsection or that insufficient information has been supplied to demonstrate compliance, shall be a final administrative action for purposes of judicial review. A request for additional information shall state in specific terms the data required.

(3) In addition to the assumption of liability of owners and operators under paragraph (1) of this subsection, the Post-closure Liability Fund established by section 232 of this Act may be used to pay costs of monitoring and care and maintenance of a site incurred by other persons after the period of monitoring required by regulations under subtitle C of the Solid Waste Disposal Act for hazardous waste disposal facilities meeting the conditions of paragraph (1) of this subsection. 42 USC 6921.

(4)(A) Not later than one year after the date of enactment of this Act, the Secretary of the Treasury shall conduct a study and shall submit a report thereon to the Congress on the feasibility of establishing or qualifying an optional system of private insurance for postclosure financial responsibility for hazardous waste disposal facilities to which this subsection applies. Such study shall include a specification of adequate and realistic minimum standards to assure that any such privately placed insurance will carry out the purposes of this subsection in a reliable, enforceable, and practical manner. Such a study shall include an examination of the public and private incentives, programs, and actions necessary to make privately placed insurance a practical and effective option to the financing system for the Post-closure Liability Fund provided in title II of this Act.

(B) Not later than eighteen months after the date of enactment of this Act and after a public hearing, the President shall by rule determine whether or not it is feasible to establish or qualify an optional system of private insurance for postclosure financial responsibility for hazardous waste disposal facilities to which this subsection applies. If the President determines the establishment or qualification of such a system would be infeasible, he shall promptly publish an explanation of the reasons for such a determination. If the President determines the establishment or qualification of such a system would be feasible, he shall promptly publish notice of such determination. Not later than six months after an affirmative determination under the preceding sentence and after a public hearing, the President shall by rule promulgate adequate and realistic minimum standards which must be met by any such privately placed insurance, taking into account the purposes of this Act and this subsection. Such rules shall also specify reasonably expeditious procedures by which privately placed insurance plans can qualify as meeting such minimum standards.

(C) In the event any privately placed insurance plan qualifies under subparagraph (B), any person enrolled in, and complying with the terms of, such plan shall be excluded from the provisions of paragraphs (1), (2), and (3) of this subsection and exempt from the requirements to pay any tax or fee to the Post-closure Liability Fund under title II of this Act.

(D) The President may issue such rules and take such other actions as are necessary to effectuate the purposes of this paragraph. Rules.

FINANCIAL RESPONSIBILITY

SEC. 108. (a)(1) The owner or operator of each vessel (except a non-self-propelled barge that does not carry hazardous substances as cargo) over three hundred gross tons that uses any port or place in the 42 USC 9608.

United States or the navigable waters or any offshore facility, shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility of $300 per gross ton (or for a vessel carrying hazardous substances as cargo, or $5,000,000, whichever is greater). Financial responsibility may be established by any one, or any combination, of the following: insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In cases where an owner or operator owns, operates, or charters more than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

(2) The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States of any vessel subject to this subsection that does not have certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

46 USC 91.

(3) The Secretary of Transportation, in accordance with regulations issued by him, shall (A) deny entry to any port or place in the United States or navigable waters to, and (B) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States, any vessel subject to this subsection that, upon request, does not produce certification furnished by the President that the financial responsibility provisions of paragraph (1) of this subsection have been complied with.

(b)(1) Beginning not earlier than five years after the date of enactment of this Act, the President shall promulgate requirements (for facilities in addition to those under subtitle C of the Solid Waste Disposal Act and other Federal law) that classes of facilities establish and maintain evidence of financial responsibility consistent with the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances. Not later than three years after the date of enactment of the Act, the President shall identify those classes for which requirements will be first developed and publish notice of such identification in the Federal Register. Priority in the development of such requirements shall be accorded to those classes of facilities, owners, and operators which the President determines present the highest level of risk of injury.

42 USC 6921.

Publication in Federal Register

(2) The level of financial responsibility shall be initially established, and, when necessary, adjusted to protect against the level of risk which the President in his discretion believes is appropriate based on the payment experience of the Fund, commercial insurers, courts settlements and judgments, and voluntary claims satisfaction. To the maximum extent practicable, the President shall cooperate with and seek the advice of the commercial insurance industry in developing financial responsibility requirements.

(3) Regulations promulgated under this subsection shall incrementally impose financial responsibility requirements over a period of not less than three and no more than six years after the date of promulgation. Where possible, the level of financial responsibility which the President believes appropriate as a final requirement shall be achieved through incremental, annual increases in the requirements.

(4) Where a facility is owned or operated by more than one person, evidence of financial responsibility covering the facility may be

established and maintained by one of the owners or operators, or, in consolidated form, by or on behalf of two or more owners or operators. When evidence of financial responsibility is established in a consolidated form, the proportional share of each participant shall be shown. The evidence shall be accompanied by a statement authorizing the applicant to act for and in behalf of each participant in submitting and maintaining the evidence of financial responsibility.

(5) The requirements for evidence of financial responsibility for motor carriers covered by this Act shall be determined under section 30 of the Motor Carrier Act of 1980, Public Law 96-296. *Ante*, p. 820.

(c) Any claim authorized by section 107 or 111 may be asserted directly against any guarantor providing evidence of financial responsibility as required under this section. In defending such a claim, the guarantor may invoke all rights and defenses which would be available to the owner or operator under this title. The guarantor may also invoke the defense that the incident was caused by the willful misconduct of the owner or operator, but such guarantor may not invoke any other defense that such guarantor might have been entitled to invoke in a proceeding brought by the owner or operator against him.

(d) Any guarantor acting in good faith against which claims under this Act are asserted as a guarantor shall be liable under section 107 or section 112(c) of this title only up to the monetary limits of the policy of insurance or indemnity contract such guarantor has undertaken or of the guaranty of other evidence of financial responsibility furnished under section 108 of this Act, and only to the extent that liability is not excluded by restrictive endorsement: *Provided*, That this subsection shall not alter the liability of any person under section 107 of this Act.

PENALTY

SEC. 109. Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of section 108, the regulations issued thereunder, or with any denial or detention order shall be liable to the United States for a civil penalty, not to exceed $10,000 for each day of violation. 42 USC 9609.

EMPLOYEE PROTECTION

SEC. 110. (a) No person shall fire or in any other way discriminate against, or cause to be fired or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has provided information to a State or to the Federal Government, filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act. 42 USC 9610.

(b) Any employee or a representative of employees who believes that he has been fired or otherwise discriminated against by any person in violation of subsection (a) of this section may, within thirty days after such alleged violation occurs, apply to the Secretary of Labor for a review of such firing or alleged discrimination. A copy of the application shall be sent to such person, who shall be the respondent. Upon receipt of such application, the Secretary of Labor shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to

present information relating to such alleged violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5, United States Code. Upon receiving the report of such investigation, the Secretary of Labor shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein and his findings, requiring the party committing such violation to take such affirmative action to abate the violation as the Secretary of Labor deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary of Labor under this subparagraph shall be subject to judicial review in the same manner as orders and decisions are subject to judicial review under this Act.

(c) Whenever an order is issued under this section to abate such violation, at the request of the applicant a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) determined by the Secretary of Labor to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

(d) This section shall have no application to any employee who acting without discretion from his employer (or his agent) deliberately violates any requirement of this Act.

(e) The President shall conduct continuing evaluations of potential loss of shifts of employment which may result from the administration or enforcement of the provisions of this Act, including, where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement. Any employee who is discharged, or laid off, threatened with discharge or layoff, or otherwise discriminated against by any person because of the alleged results of such administration or enforcement, or any representative of such employee, may request the President to conduct a full investigation of the matter and, at the request of any party, shall hold public hearings, require the parties, including the employer involved, to present information relating to the actual or potential effect of such administration or enforcement on employment and any alleged discharge, layoff, or other discrimination, and the detailed reasons or justification therefore. Any such hearing shall be of record and shall be subject to section 554 of title 5, United States Code. Upon receiving the report of such investigation, the President shall make findings of fact as to the effect of such administration or enforcement on employment and on the alleged discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. Nothing in this subsection shall be construed to require or authorize the President or any State to modify or withdraw any action, standard, limitation, or any other requirement of this Act.

USES OF FUND

42 USC 9611.

SEC. 111. (a) The President shall use the money in the Fund for the following purposes:

(1) payment of governmental response costs incurred pursuant to section 104 of this title, including costs incurred pursuant to the Intervention on the High Seas Act; 33 USC 1471 note.

(2) payment of any claim for necessary response costs incurred by any other person as a result of carrying out the national contingency plan established under section 311(c) of the Clean Water Act and amended by section 105 of this title: *Provided, however,* That such costs must be approved under said plan and certified by the responsible Federal official; 33 USC 1321.

(3) payment of any claim authorized by subsection (b) of this section and finally decided pursuant to section 112 of this title, including those costs set out in subsection 112(c)(3) of this title; and

(4) payment of costs specified under subsection (c) of this section.

The President shall not pay for any administrative costs or expenses out of the Fund unless such costs and expenses are reasonably necessary for and incidental to the implementation of this title.

(b) Claims asserted and compensable but unsatisfied under provisions of section 311 of the Clean Water Act, which are modified by section 304 of this Act may be asserted against the Fund under this title; and other claims resulting from a release or threat of release of a hazardous substance from a vessel or a facility may be asserted against the Fund under this title for injury to, or destruction or loss of, natural resources, including cost for damage assessment: *Provided, however,* That any such claim may be asserted only by the President, as trustee, for natural resources over which the United States has sovereign rights, or natural resources within the territory or the fishery conservation zone of the United States to the extent they are managed or protected by the United States, or by any State for natural resources within the boundary of that State belonging to, managed by, controlled by, or appertaining to the State. *Post,* p. 2809.

(c) Uses of the Fund under subsection (a) of this section include—

(1) the costs of assessing both short-term and long-term injury to, destruction of, or loss of any natural resources resulting from a release of a hazardous substance;

(2) the costs of Federal or State efforts in the restoration, rehabilitation, or replacement or acquiring the equivalent of any natural resources injured, destroyed, or lost as a result of a release of a hazardous substance;

(3) subject to such amounts as are provided in appropriation Acts, the costs of a program to identify, investigate, and take enforcement and abatement action against releases of hazardous substances;

(4) the costs of epidemiologic studies, development and maintenance of a registry of persons exposed to hazardous substances to allow long-term health effect studies, and diagnostic services not otherwise available to determine whether persons in populations exposed to hazardous substances in connection with a release or a suspected release are suffering from long-latency diseases;

(5) subject to such amounts as are provided in appropriation Acts, the costs of providing equipment and similar overhead, related to the purposes of this Act and section 311 of the Clean Water Act, and needed to supplement equipment and services available through contractors or other non-Federal entities, and of establishing and maintaining damage assessment capability, for any Federal agency involved in strike forces, emergency task

forces, or other response teams under the national contingency plan; and

(6) subject to such amounts as are provided in appropriation Acts, the costs of a program to protect the health and safety of employees involved in response to hazardous substance releases. Such program shall be developed jointly by the Environmental Protection Agency, the Occupational Safety and Health Administration, and the National Institute for Occupational Safety and Health and shall include, but not be limited to, measures for identifying and assessing hazards to which persons engaged in removal, remedy, or other response to hazardous substances may be exposed, methods to protect workers from such hazards, and necessary regulatory and enforcement measures to assure adequate protection of such employees.

(d)(1) No money in the Fund may be used under subsection (c) (1) and (2) of this section, nor for the payment of any claim under subsection (b) of this section, where the injury, destruction, or loss of natural resources and the release of a hazardous substance from which such damages resulted have occurred wholly before the enactment of this Act.

(2) No money in the Fund may be used for the payment of any claim under subsection (b) of this section where such expenses are associated with injury or loss resulting from long-term exposure to ambient concentrations of air pollutants from multiple or diffuse sources.

(e)(1) Claims against or presented to the Fund shall not be valid or paid in excess of the total money in the Fund at any one time. Such claims become valid only when additional money is collected, appropriated, or otherwise added to the Fund. Should the total claims outstanding at any time exceed the current balance of the Fund, the President shall pay such claims, to the extent authorized under this section, in full in the order in which they were finally determined.

(2) In any fiscal year, 85 percent of the money credited to the Fund under title II of this Act shall be available only for the purposes specified in paragraphs (1), (2), and (4) of subsection (a) of this section.

(3) No money in the Fund shall be available for remedial action, other than actions specified in subsection (c) of this section, with respect to federally owned facilities.

(4) Paragraphs (1) and (4) of subsection (a) of this section shall in the aggregate be subject to such amounts as are provided in appropriation Acts.

Regulations.

(f) The President is authorized to promulgate regulations designating one or more Federal officials who may obligate money in the Fund in accordance with this section or portions thereof. The President is also authorized to delegate authority to obligate money in the Fund or to settle claims to officials of a State operating under a contract or cooperative agreement with the Federal Government pursuant to section 104(d) of this title.

(g) The President shall provide for the promulgation of rules and regulations with respect to the notice to be provided to potential injured parties by an owner and operator of any vessel, or facility from which a hazardous substance has been released. Such rules and regulations shall consider the scope and form of the notice which would be appropriate to carry out the purposes of this title. Upon promulgation of such rules and regulations, the owner and operator of any vessel or facility from which a hazardous substance has been released shall provide notice in accordance with such rules and regulations. With respect to releases from public vessels, the President shall provide such notification as is appropriate to potential

injured parties. Until the promulgation of such rules and regulations, the owner and operator of any vessel or facility from which a hazardous substance has been released shall provide reasonable notice to potential injured parties by publication in local newspapers serving the affected area.

(h)(1) In accordance with regulations promulgated under section 301(c) of this Act, damages for injury to, destruction of, or loss of natural resources resulting from a release of a hazardous substance, for the purposes of this Act and section 311(f) (4) and (5) of the Federal Water Pollution Control Act, shall be assessed by Federal officials designated by the President under the national contingency plan published under section 105 of the Act, and such officials shall act for the President as trustee under this section and section 311(f)(5) of the Federal Water Pollution Control Act. 33 USC 1321.

(2) Any determination or assessment of damages for injury to, destruction of, or loss of natural resources for the purposes of this Act and section 311(f) (4) and (5) of the Federal Water Pollution Control Act shall have the force and effect of a rebuttable presumption on behalf of any claimant (including a trustee under section 107 of this Act or a Federal agency) in any judicial or adjudicatory administrative proceeding under this Act or section 311 of the Federal Water Pollution Control Act.

(i) Except in a situation requiring action to avoid an irreversible loss of natural resources or to prevent or reduce any continuing danger to natural resources or similar need for emergency action, funds may not be used under this Act for the restoration, rehabilitation, or replacement or acquisition of the equivalent of any natural resources until a plan for the use of such funds for such purposes has been developed and adopted by affected Federal agencies and the Governor or Governors of any State having sustained damage to natural resources within its borders, belonging to, managed by or appertaining to such State, after adequate public notice and opportunity for hearing and consideration of all public comment.

(j) The President shall use the money in the Post-closure Liability Fund for any of the purposes specified in subsection (a) of this section with respect to a hazardous waste disposal facility for which liability has transferred to such fund under section 107(k) of this Act, and, in addition, for payment of any claim or appropriate request for costs of response, damages, or other compensation for injury or loss under section 107 of this Act or any other State or Federal law, resulting from a release of a hazardous substance from such a facility.

(k) The Inspector General of each department or agency to which responsibility to obligate money in the Fund is delegated shall provide an audit review team to audit all payments, obligations, reimbursements, or other uses of the Fund, to assure that the Fund is being properly administered and that claims are being appropriately and expeditiously considered. Each such Inspector General shall submit to the Congress an interim report one year after the establishment of the Fund and a final report two years after the establishment of the Fund. Each such Inspector General shall thereafter provide such auditing of the Fund as is appropriate. Each Federal agency shall cooperate with the Inspector General in carrying out this subsection. Report to Congress.

(l) To the extent that the provisions of this Act permit, a foreign claimant may assert a claim to the same extent that a United States claimant may assert a claim if—

(1) the release of a hazardous substance occurred (A) in the navigable waters or (B) in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident;

(2) the claimant is not otherwise compensated for his loss;

(3) the hazardous substance was released from a facility or from a vessel located adjacent to or within the navigable waters or was discharged in connection with activities conducted under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.) or the Deepwater Port Act of 1974, as amended (33 U.S.C. 1501 et seq.); and

(4) recovery is authorized by a treaty or an executive agreement between the United States and foreign country involved, or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants.

CLAIMS PROCEDURE

42 USC 9612.

SEC. 112. (a) All claims which may be asserted against the Fund pursuant to section 111 of this title shall be presented in the first instance to the owner, operator, or guarantor of the vessel or facility from which a hazardous substance has been released, if known to the claimant, and to any other person known to the claimant who may be liable under section 107 of this title. In any case where the claim has not been satisfied within sixty days of presentation in accordance with this subsection, the claimant may elect to commence an action in court against such owner, operator, guarantor, or other person or to present the claim to the Fund for payment.

(b)(1) The President shall prescribe appropriate forms and procedures for claims filed hereunder, which shall include a provision requiring the claimant to make a sworn verification of the claim to the best of his knowledge. Any person who knowingly gives or causes to be given any false information as a part of any such claim shall, upon conviction, be fined up to $5,000 or imprisoned for not more than one year, or both.

(2)(A) Upon receipt of any claim, the President shall as soon as practicable inform any known affected parties of the claim and shall attempt to promote and arrange a settlement between the claimant and any person who may be liable. If the claimant and alleged liable party or parties can agree upon a settlement, it shall be final and binding upon the parties thereto, who will be deemed to have waived all recourse against the Fund.

(B) Where a liable party is unknown or cannot be determined, the claimant and the President shall attempt to arrange settlement of any claim against the Fund. The President is authorized to award and make payment of such a settlement, subject to such proof and procedures as he may promulgate by regulation.

(C) Except as provided in subparagraph (D) of this paragraph, the President shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in implementing this subsection and may contract to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), upon a showing by the President that advertising is not reasonably practicable. When the services of a State agency are used hereunder, no payment may be made on a claim asserted on behalf of that State or

any of its agencies or subdivisions unless the payment has been approved by the President.

(D) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the President may use Federal personnel to implement this subsection.

(3) If no settlement is reached within forty-five days of filing of a claim through negotiation pursuant to this section, the President may, if he is satisfied that the information developed during the processing of the claim warrants it, make and pay an award of the claim. If the claimant is dissatisfied with the award, he may appeal it in the manner provided for in subparagraph (G) of paragraph (4) of this subsection. If the President declines to make an award, he shall submit the claim for decision to a member of the Board of Arbitrators established pursuant to paragraph (4).

(4)(A) Within ninety days of the enactment of this Act, the President shall establish a Board of Arbitrators to implement this subsection. The Board shall consist of as many members as the President may determine will be necessary to implement this subsection expeditiously, and he may increase or decrease the size of the Board at any time in his discretion in order to enable it to respond to the demands of such implementation. Each member of the Board shall be selected through utilization of the procedures of the American Arbitration Association: *Provided, however,* That no regular employee of the President or any of the Federal departments, administrations, or agencies to whom he delegated responsibilities under this Act shall act as a member of the Board.

(B) Hearings conducted hereunder shall be public and shall be held in such place as may be agreed upon by the parties thereto, or, in the absence of such agreement, in such place as the President determines, in his discretion, will be most convenient for the parties thereto.

(C) Hearings before a member of the Board shall be informal, and the rules of evidence prevailing in judicial proceedings need not be required. Each member of the Board shall have the power to administer oaths and to subpena the attendance and testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues presented to him for decision. Testimony may be taken by interrogatory or deposition. Each person appearing before a member of the Board shall have the right to counsel. Subpenas shall be issued and enforced in accordance with procedures in subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the President. If a person fails or refuses to obey a subpena, the President may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things.

(D) In any proceeding before a member of the Board, the claimant shall bear the burden of proving his claim. Should a member of the Board determine that further investigations, monitoring, surveys, testing, or other information gathering would be useful and necessary in deciding the claim, he may request the President in writing to undertake such activities pursuant to section 104(b) of this title. The President shall dispose of such a request in his sole discretion, taking into account various competing demands and the availability of the technical and financial capacity to conduct such studies, monitoring, and investigations. Should the President decide to undertake the

requested actions, all time requirements for the processing and deciding of claims hereunder shall be suspended until the President reports the results thereof to the member of the Board.

(E) All costs and expenses approved by the President attributable to the employment of any member of the Board shall be payable from the Fund, including fees and mileage expenses for witnesses summoned by such members on the same basis and to the same extent as if such witnesses were summoned before a district court of the United States.

(F) All decisions rendered by members of the Board shall be in writing, with notification to all appropriate parties, and shall be rendered within ninety days of submission of a claim to a member, unless all the parties to the claim agree in writing to an extension or unless the President extends the time limit pursuant to subparagraph (I) of this subsection.

(G) All decisions rendered by members of the Board shall be final, and any party to the proceeding may appeal such a decision within thirty days of notification of the award or decision. Any such appeal shall be made to the Federal district court for the district where the arbitral hearing took place. In any such appeal, the award or decision of the member of the Board shall be considered binding and conclusive, and shall not be overturned except for arbitrary or capricious abuse of the member's discretion: *Provided, however,* That no such award or decision shall be admissible as evidence of any issue of fact or law in any proceeding brought under any other provision of this Act or under any other provision of law. Nor shall any prearbitral settlement reached pursuant to subsection (b)(2)(A) of this section be admissible as evidence in any such proceeding.

(H) Within twenty days of the expiration of the appeal period for any arbitral award or decision, or within twenty days of the final judicial determination of any appeal taken pursuant to this subsection, the President shall pay any such award from the Fund. The President shall determine the method, terms, and time of payment.

(I) If at any time the President determines that, because of a large number of claims arising from any incident or set of incidents, it is in the best interests of the parties concerned, he may extend the time for prearbitral negotiation or for rendering an arbitral decision pursuant to this subsection by a period not to exceed sixty days. He may also group such claims for submission to a member of the Board of Arbitrators.

(c)(1) Payment of any claim by the Fund under this section shall be subject to the United States Government acquiring by subrogation the rights of the claimant to recover those costs of removal or damages for which it has compensated the claimant from the person responsible or liable for such release.

(2) Any person, including the Fund, who pays compensation pursuant to this Act to any claimant for damages or costs resulting from a release of a hazardous substance shall be subrogated to all rights, claims, and causes of action for such damages and costs of removal that the claimant has under this Act or any other law.

(3) Upon request of the President, the Attorney General shall commence an action on behalf of the Fund to recover any compensation paid by the Fund to any claimant pursuant to this title, and, without regard to any limitation of liability, all interest, administrative and adjudicative costs, and attorney's fees incurred by the Fund by reason of the claim. Such an action may be commenced against any owner, operator, or guarantor, or against any other person who is

liable, pursuant to any law, to the compensated claimant or to the Fund, for the damages or costs for which compensation was paid.

(d) No claim may be presented, nor may an action be commenced for damages under this title, unless that claim is presented or action commenced within three years from the date of the discovery of the loss or the date of enactment of this Act, whichever is later: *Provided, however,* That the time limitations contained herein shall not begin to run against a minor until he reaches eighteen years of age or a legal representative is duly appointed for him, nor against an incompetent person until his incompetency ends or a legal representative is duly appointed for him.

(e) Regardless of any State statutory or common law to the contrary, no person who asserts a claim against the Fund pursuant to this title shall be deemed or held to have waived any other claim not covered or assertable against the Fund under this title arising from the same incident, transaction, or set of circumstances, nor to have split a cause of action. Further, no person asserting a claim against the Fund pursuant to this title shall as a result of any determination of a question of fact or law made in connection with that claim be deemed or held to be collaterally estopped from raising such question in connection with any other claim not covered or assertable against the Fund under this title arising from the same incident, transaction, or set of circumstances.

LITIGATION, JURISDICTION AND VENUE

SEC. 113. (a) Review of any regulation promulgated under this Act may be had upon application by any interested person only in the Circuit Court of Appeals of the United States for the District of Columbia. Any such application shall be made within ninety days from the date of promulgation of such regulations. Any matter with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or to obtain damages or recovery of response costs. 42 USC 9613.

(b) Except as provided in subsection (a) of this section, the United States district courts shall have exclusive original jurisdiction over all controversies arising under this Act, without regard to the citizenship of the parties or the amount in controversy. Venue shall lie in any district in which the release or damages occurred, or in which the defendant resides, may be found, or has his principal office. For the purposes of this section, the Fund shall reside in the District of Columbia.

(c) The provisions of subsections (a) and (b) of this section shall not apply to any controversy or other matter resulting from the assessment of collection of any tax, as provided by title II of this Act, or to the review of any regulation promulgated under the Internal Revenue Code of 1954. 26 USC 1 *et seq.*

(d) No provision of this Act shall be deemed or held to moot any litigation concerning any release of any hazardous substance, or any damages associated therewith, commenced prior to enactment of this Act.

RELATIONSHIP TO OTHER LAW

SEC. 114. (a) Nothing in this Act shall be construed or interpreted as preempting any State from imposing any additional liability or 42 USC 9614.

requirements with respect to the release of hazardous substances within such State.

(b) Any person who receives compensation for removal costs or damages or claims pursuant to this Act shall be precluded from recovering compensation for the same removal costs or damages or claims pursuant to any other State or Federal law. Any person who receives compensation for removal costs or damages or claims pursuant to any other Federal or State law shall be precluded from receiving compensation for the same removal costs or damages or claims as provided in this Act.

(c) Except as provided in this Act, no person may be required to contribute to any fund, the purpose of which is to pay compensation for claims for any costs of response or damages or claims which may be compensated under this title. Nothing in this section shall preclude any State from using general revenues for such a fund, or from imposing a tax or fee upon any person or upon any substance in order to finance the purchase or prepositioning of hazardous substance response equipment or other preparations for the response to a release of hazardous substances which affects such State.

(d) Except as provided in this title, no owner or operator of a vessel or facility who establishes and maintains evidence of financial responsibility in accordance with this title shall be required under any State or local law, rule, or regulation to establish or maintain any other evidence of financial responsibility in connection with liability for the release of a hazardous substance from such vessel or facility. Evidence of compliance with the financial responsibility requirements of this title shall be accepted by a State in lieu of any other requirement of financial responsibility imposed by such State in connection with liability for the release of a hazardous substance from such vessel or facility.

AUTHORITY TO DELEGATE, ISSUE REGULATIONS

42 USC 9615.

SEC. 115. The President is authorized to delegate and assign any duties or powers imposed upon or assigned to him and to promulgate any regulations necessary to carry out the provisions of this title.

Hazardous Substance Response Revenue Act of 1980.

TITLE II—HAZARDOUS SUBSTANCE RESPONSE REVENUE ACT OF 1980

26 USC 1 note.

SEC. 201. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This title may be cited as the "Hazardous Substance Response Revenue Act of 1980".

26 USC 1 *et seq.*

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

Subtitle A—Imposition of Taxes on Petroleum and Certain Chemicals

SEC. 211. IMPOSITION OF TAXES.

(a) GENERAL RULE.—Subtitle D (relating to miscellaneous excise taxes) is amended by inserting after chapter 37 the following new chapter:

"CHAPTER 38—ENVIRONMENTAL TAXES

"SUBCHAPTER A. Tax on petroleum.
"SUBCHAPTER B. Tax on certain chemicals.

"Subchapter A—Tax on Petroleum

"Sec. 4611. Imposition of tax.
"Sec. 4612. Definitions and special rules.

"SEC. 4611. IMPOSITION OF TAX. 26 USC 4611.

"(a) GENERAL RULE.—There is hereby imposed a tax of 0.79 cent a barrel on—

"(1) crude oil received at a United States refinery, and

"(2) petroleum products entered into the United States for consumption, use, or warehousing.

"(b) TAX ON CERTAIN USES AND EXPORTATION.—

"(1) IN GENERAL.—If—

"(A) any domestic crude oil is used in or exported from the United States, and

"(B) before such use or exportation, no tax was imposed on such crude oil under subsection (a),

then a tax of 0.79 cent a barrel is hereby imposed on such crude oil.

"(2) EXCEPTION FOR USE ON PREMISES WHERE PRODUCED.—Paragraph (1) shall not apply to any use of crude oil for extracting oil or natural gas on the premises where such crude oil was produced.

"(c) PERSONS LIABLE FOR TAX.—

"(1) CRUDE OIL RECEIVED AT REFINERY.—The tax imposed by subsection (a)(1) shall be paid by the operator of the United States refinery.

"(2) IMPORTED PETROLEUM PRODUCT.—The tax imposed by subsection (a)(2) shall be paid by the person entering the product for consumption, use, or warehousing.

"(3) TAX ON CERTAIN USES OR EXPORTS.—The tax imposed by subsection (b) shall be paid by the person using or exporting the crude oil, as the case may be.

"(d) TERMINATION.—The taxes imposed by this section shall not apply after September 30, 1985, except that if on September 30, 1983, or September 30, 1984—

"(1) the unobligated balance in the Hazardous Substance Response Trust Fund as of such date exceeds $900,000,000, and

"(2) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that such unobligated balance will exceed $500,000,000 on September 30 of the following year if no tax is imposed under section 4611 or 4661 during the calendar year following the date referred to above, *Post*, p. 2798.

then no tax shall be imposed by this section during the first calendar year beginning after the date referred to in paragraph (1).

26 USC 4612.

"SEC. 4612. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) CRUDE OIL.—The term 'crude oil' includes crude oil condensates and natural gasoline.

"(2) DOMESTIC CRUDE OIL.—The term 'domestic crude oil' means any crude oil produced from a well located in the United States.

"(3) PETROLEUM PRODUCT.—The term 'petroleum product' includes crude oil.

"(4) UNITED STATES.—

"(A) IN GENERAL.—The term 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, any possession of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(B) UNITED STATES INCLUDES CONTINENTAL SHELF AREAS.—The principles of section 638 shall apply for purposes of the term 'United States'.

26 USC 638.

"(C) UNITED STATES INCLUDES FOREIGN TRADE ZONES.—The term 'United States' includes any foreign trade zone of the United States.

"(5) UNITED STATES REFINERY.—The term 'United States refinery' means any facility in the United States at which crude oil is refined.

"(6) REFINERIES WHICH PRODUCE NATURAL GASOLINE.—In the case of any United States refinery which produces natural gasoline from natural gas, the gasoline so produced shall be treated as received at such refinery at the time so produced.

"(7) PREMISES.—The term 'premises' has the same meaning as when used for purposes of determining gross income from the property under section 613.

"(8) BARREL.—The term 'barrel' means 42 United States gallons.

"(9) FRACTIONAL PART OF BARREL.—In the case of a fraction of a barrel, the tax imposed by section 4611 shall be the same fraction of the amount of such tax imposed on a whole barrel.

"(b) ONLY 1 TAX IMPOSED WITH RESPECT TO ANY PRODUCT.—No tax shall be imposed by section 4611 with respect to any petroleum product if the person who would be liable for such tax establishes that a prior tax imposed by such section has been imposed with respect to such product.

Ante, p. 2797.

"(c) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4611.

"Subchapter B—Tax on Certain Chemicals

"Sec. 4661. Imposition of tax.
"Sec. 4662. Definitions and special rules.

26 USC 4661.

"SEC. 4661. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any taxable chemical sold by the manufacturer, producer, or importer thereof.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be determined in accordance with the following table:

"In the case of:	The tax is the following amount per ton
Acetylene	$4.87
Benzene	4.87
Butane	4.87
Butylene	4.87
Butadiene	4.87
Ethylene	4.87
Methane	3.44
Naphthalene	4.87
Propylene	4.87
Toluene	4.87
Xylene	4.87
Ammonia	2.64
Antimony	4.45
Antimony trioxide	3.75
Arsenic	4.45
Arsenic trioxide	3.41
Barium sulfide	2.30
Bromine	4.45
Cadmium	4.45
Chlorine	2.70
Chromium	4.45
Chromite	1.52
Potassium dichromate	1.69
Sodium dichromate	1.87
Cobalt	4.45
Cupric sulfate	1.87
Cupric oxide	3.59
Cuprous oxide	3.97
Hydrochloric acid	0.29
Hydrogen fluoride	4.23
Lead oxide	4.14
Mercury	4.45
Nickel	4.45
Phosphorus	4.45
Stannous chloride	2.85
Stannic chloride	2.12
Zinc chloride	2.22
Zinc sulfate	1.90
Potassium hydroxide	0.22
Sodium hydroxide	0.28
Sulfuric acid	0.26
Nitric acid	0.24

"(c) TERMINATION.—No tax shall be imposed under this section during any period during which no tax is imposed under section 4611(a). *Ante*, p. 2797.

"SEC. 4662. DEFINITIONS AND SPECIAL RULES. 26 USC 4662.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) TAXABLE CHEMICAL.—Except as provided in subsection (b), the term 'taxable chemical' means any substance—

"(A) which is listed in the table under section 4661(b), and *Ante*, p. 2798.

"(B) which is manufactured or produced in the United States or entered into the United States for consumption, use, or warehousing.

"(2) UNITED STATES.—The term 'United States' has the meaning given such term by section 4612(a)(4). *Ante*, p. 2798.

"(3) IMPORTER.—The term 'importer' means the person entering the taxable chemical for consumption, use, or warehousing.

"(4) TON.—The term 'ton' means 2,000 pounds. In the case of any taxable chemical which is a gas, the term 'ton' means the amount of such gas in cubic feet which is the equivalent of 2,000 pounds on a molecular weight basis.

"(5) FRACTIONAL PART OF TON.—In the case of a fraction of a ton, the tax imposed by section 4661 shall be the same fraction of the amount of such tax imposed on a whole ton.

Ante, p. 2798.

"(b) EXCEPTIONS; OTHER SPECIAL RULES.—For purposes of this subchapter—

"(1) METHANE OR BUTANE USED AS A FUEL.—Under regulations prescribed by the Secretary, methane or butane shall be treated as a taxable chemical only if it is used otherwise than as a fuel (and, for purposes of section 4661(a), the person so using it shall be treated as the manufacturer thereof).

"(2) SUBSTANCES USED IN THE PRODUCTION OF FERTILIZER.—

"(A) IN GENERAL.—In the case of nitric acid, sulfuric acid, ammonia, or methane used to produce ammonia which is a qualified substance, no tax shall be imposed under section 4661(a).

"(B) QUALIFIED SUBSTANCE.—For purposes of this section, the term 'qualified substance' means any substance—

"(i) used in a qualified use by the manufacturer, producer, or importer,

"(ii) sold for use by the purchaser in a qualified use, or

"(iii) sold for resale by the purchaser to a second purchaser for use by such second purchaser in a qualified use.

"(C) QUALIFIED USE.—For purposes of this subsection, the term 'qualified use' means any use in the manufacture or production of a fertilizer.

"(3) SULFURIC ACID PRODUCED AS A BYPRODUCT OF AIR POLLUTION CONTROL.—In the case of sulfuric acid produced solely as a byproduct of and on the same site as air pollution control equipment, no tax shall be imposed under section 4661.

"(4) SUBSTANCES DERIVED FROM COAL.—For purposes of this subchapter, the term 'taxable chemical' shall not include any substance to the extent derived from coal.

"(c) USE BY MANUFACTURER, ETC., CONSIDERED SALE.—If any person manufactures, produces, or imports a taxable chemical and uses such chemical, then such person shall be liable for tax under section 4661 in the same manner as if such chemical were sold by such person.

"(d) REFUND OR CREDIT FOR CERTAIN USES.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, if—

"(A) a tax under section 4661 was paid with respect to any taxable chemical, and

"(B) such chemical was used by any person in the manufacture or production of any other substance the sale of which by such person would be taxable under such section,

then an amount equal to the tax so paid shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by such section. In any case to which this paragraph applies, the amount of any such credit or refund shall not exceed the amount of tax imposed by such section on the other substance manufactured or produced.

"(2) USE AS FERTILIZER.—Under regulations prescribed by the Secretary, if—

"(A) a tax under section 4661 was paid with respect to nitric acid, sulfuric acid, ammonia, or methane used to make ammonia without regard to subsection (b)(2), and

"(B) any person uses such substance, or sells such substance for use, as a qualified substance,

then an amount equal to the excess of the tax so paid over the tax determined with regard to subsection (b)(2) shall be allowed as a credit or refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section.

"(e) DISPOSITION OF REVENUES FROM PUERTO RICO AND THE VIRGIN ISLANDS.—The provisions of subsections (a)(3) and (b)(3) of section 7652 shall not apply to any tax imposed by section 4661.". 26 USC 7652.

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by inserting after the item relating to chapter 37 the following new item: *Ante*, p. 2798.

"CHAPTER 38. Environmental taxes.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1981. 26 USC 4611 note.

Subtitle B—Establishment of Hazardous Substance Response Trust Fund

SEC. 221. ESTABLISHMENT OF HAZARDOUS SUBSTANCE RESPONSE TRUST FUND. 42 USC 9631.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Hazardous Substance Response Trust Fund" (hereinafter in this subtitle referred to as the "Response Trust Fund"), consisting of such amounts as may be appropriated or transferred to such Trust Fund as provided in this section.

(b) TRANSFERS TO RESPONSE TRUST FUND.—

(1) AMOUNTS EQUIVALENT TO CERTAIN TAXES, ETC.—There are hereby appropriated, out of any money in the Treasury not otherwise appropriated, to the Response Trust Fund amounts determined by the Secretary of the Treasury (hereinafter in this subtitle referred to as the "Secretary") to be equivalent to—

(A) the amounts received in the Treasury under section 4611 or 4661 of the Internal Revenue Code of 1954, *Ante*, pp. 2797, 2798.

(B) the amounts recovered on behalf of the Response Trust Fund under this Act,

(C) all moneys recovered or collected under section 311(b)(6)(B) of the Clean Water Act, 33 USC 1321.

(D) penalties assessed under title I of this Act, and

(E) punitive damages under section 107(c)(8) of this Act.

(2) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to the Emergency Response Trust Fund for fiscal year—

(A) 1981, $44,000,000,

(B) 1982, $44,000,000,

(C) 1983, $44,000,000,

(D) 1984, $44,000,000, and

(E) 1985, $44,000,000, plus an amount equal to so much of the aggregate amount authorized to be appropriated under subparagraphs (A), (B), (C), and (D) as has not been appropriated before October 1, 1984.

(3) TRANSFER OF FUNDS.—There shall be transferred to the Response Trust Fund—

(A) one-half of the unobligated balance remaining before the date of the enactment of this Act under the Fund in section 311 of the Clean Water Act, and

33 USC 1321.

(B) the amounts appropriated under section 504(b) of the Clean Water Act during any fiscal year.

(c) EXPENDITURES FROM RESPONSE TRUST FUND.—

(1) IN GENERAL.—Amounts in the Response Trust Fund shall be available in connection with releases or threats of releases of hazardous substances into the environment only for purposes of making expenditures which are described in section 111 (other than subsection (j) thereof) of this Act, as in effect on the date of the enactment of this Act, including—

(A) response costs,

(B) claims asserted and compensable but unsatisfied under section 311 of the Clean Water Act,

(C) claims for injury to, or destruction or loss of, natural resources, and

(D) related costs described in section 111(c) of this Act.

(2) LIMITATIONS ON EXPENDITURES.—At least 85 percent of the amounts appropriated to the Response Trust Fund under subsection (b)(1)(A) and (2) shall be reserved—

(A) for the purposes specified in paragraphs (1), (2), and (4) of section 111(a) of this Act, and

(B) for the repayment of advances made under section 223(c), other than advances subject to the limitation of section 223(c)(2)(C).

42 USC 9632.

SEC. 222. LIABILITY OF UNITED STATES LIMITED TO AMOUNT IN TRUST FUND.

(a) GENERAL RULE.—Any claim filed against the Response Trust Fund may be paid only out of such Trust Fund. Nothing in this Act (or in any amendment made by this Act) shall authorize the payment by the United States Government of any additional amount with respect to any such claim out of any source other than the Response Trust Fund.

(b) ORDER IN WHICH UNPAID CLAIMS ARE TO BE PAID.—If at any time the Response Trust Fund is unable (by reason of subsection (a) or the limitation of section 221(c)(2)) to pay all of the claims payable out of such Trust Fund at such time, such claims shall, to the extent permitted under subsection (a), be paid in full in the order in which they were finally determined.

42 USC 9633.

SEC. 223. ADMINISTRATIVE PROVISIONS.

(a) METHOD OF TRANSFER.—The amounts appropriated by section 221(b)(1) shall be transferred at least monthly from the general fund of the Treasury to the Response Trust Fund on the basis of estimates made by the Secretary of the amounts referred to in such section. Proper adjustments shall be made in the amount subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(b) MANAGEMENT OF TRUST FUND.—

(1) REPORT.—The Secretary shall be the trustee of the Response Trust Fund, and shall report to the Congress for each fiscal year ending on or after September 30, 1981, on the financial condition and the results of the operations of such Trust Fund during such fiscal year and on its expected condition and operations during the next 5 fiscal years. Such report shall be printed as a House

document of the session of the Congress to which the report is made.

(2) INVESTMENT.—It shall be the duty of the Secretary to invest such portion of such Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of such Trust Fund and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of such Trust Fund.

(c) AUTHORITY TO BORROW.—

(1) IN GENERAL.—There are authorized to be appropriated to the Response Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund. Appropriation authorization.

(2) LIMITATIONS ON ADVANCES TO RESPONSE TRUST FUND.—

(A) AGGREGATE ADVANCES.—The maximum aggregate amount of repayable advances to the Response Trust Fund which is outstanding at any one time shall not exceed an amount which the Secretary estimates will be equal to the sum of the amounts which will be appropriated or transferred to such Trust Fund under paragraph (1)(A) of section 221(b) of this Act for the following 12 months, and

(B) ADVANCES FOR PAYMENT OF RESPONSE COSTS.—No amount may be advanced after March 31, 1983, to the Response Trust Fund for the purpose of paying response costs described in section 111(a) (1), (2), or (4), unless such costs are incurred incident to any spill the effects of which the Secretary determines to be catastrophic.

(C) ADVANCES FOR OTHER COSTS.—The maximum aggregate amount advanced to the Response Trust Fund which is outstanding at any one time for the purpose of paying costs other than costs described in section 111(a) (1), (2), or (4) shall not exceed one-third of the amount of the estimate made under subparagraph (A).

(D) FINAL REPAYMENT.—No advance shall be made to the Response Trust Fund after September 30, 1985, and all advances to such Fund shall be repaid on or before such date.

(3) REPAYMENT OF ADVANCES.—Advances made pursuant to this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Trust Fund to which the advance was made. Such interest shall be at rates computed in the same manner as provided in subsection (b) and shall be compounded annually.

Subtitle C—Post-Closure Tax and Trust Fund

SEC. 231. IMPOSITION OF TAX.

(a) IN GENERAL.—Chapter 38, as added by section 211, is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Tax on Hazardous Wastes

"Sec. 4681. Imposition of tax.
"Sec. 4682. Definitions and special rules.

26 USC 4681. "SEC. 4681. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on the receipt of hazardous waste at a qualified hazardous waste disposal facility.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be equal to $2.13 per dry weight ton of hazardous waste.

26 USC 4682. "SEC. 4682. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) HAZARDOUS WASTE.—The term 'hazardous waste' means any waste—

"(A) having the characteristics identified under section 3001 of the Solid Waste Disposal Act, as in effect on the date of the enactment of this Act (other than waste the regulation of which under such Act has been suspended by Act of Congress on that date), or

42 USC 6921.

"(B) subject to the reporting or recordkeeping requirements of sections 3002 and 3004 of such Act, as so in effect.

42 USC 6922, 6924.

"(2) QUALIFIED HAZARDOUS WASTE DISPOSAL FACILITY.—The term 'qualified hazardous waste disposal facility' means any facility which has received a permit or is accorded interim status under section 3005 of the Solid Waste Disposal Act.

42 USC 6925.

"(b) TAX IMPOSED ON OWNER OR OPERATOR.—The tax imposed by section 4681 shall be imposed on the owner or operator of the qualified hazardous waste disposal facility.

"(c) TAX NOT TO APPLY TO CERTAIN WASTES.—The tax imposed by section 4681 shall not apply to any hazardous waste which will not remain at the qualified hazardous waste disposal facility after the facility is closed.

"(d) APPLICABILITY OF SECTION.—The tax imposed by section 4681 shall apply to the receipt of hazardous waste after September 30, 1983, except that if, as of September 30 of any subsequent calendar year, the unobligated balance of the Post-closure Liability Trust Fund exceeds $200,000,000, no tax shall be imposed under such section during the following calendar year.".

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 38 is amended by adding at the end thereof the following new item:

"SUBCHAPTER C—Tax on Hazardous Wastes.".

42 USC 9641. SEC. 232. POST-CLOSURE LIABILITY TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Post-closure Liability Trust Fund", consisting of such amounts as may be appropriated, credited, or transferred to such Trust Fund.

(b) EXPENDITURES FROM POST-CLOSURE LIABILITY TRUST FUND.—Amounts in the Post-closure Liability Trust Fund shall be available only for the purposes described in sections 107(k) and 111(j) of this Act (as in effect on the date of the enactment of this Act).

(c) ADMINISTRATIVE PROVISIONS.—The provisions of sections 222 and 223 of this Act shall apply with respect to the Trust Fund established under this section, except that the amount of any repayable advances outstanding at any one time shall not exceed $200,000,000.

TITLE III—MISCELLANEOUS PROVISIONS

REPORTS AND STUDIES

SEC. 301. (a)(1) The President shall submit to the Congress, within four years after enactment of this Act, a comprehensive report on experience with the implementation of this Act, including, but not limited to— 42 USC 9651.

(A) the extent to which the Act and Fund are effective in enabling Government to respond to and mitigate the effects of releases of hazardous substances;

(B) a summary of past receipts and disbursements from the Fund;

(C) a projection of any future funding needs remaining after the expiration of authority to collect taxes, and of the threat to public health, welfare, and the environment posed by the projected releases which create any such needs;

(D) the record and experience of the Fund in recovering Fund disbursements from liable parties;

(E) the record of State participation in the system of response, liability, and compensation established by this Act;

(F) the impact of the taxes imposed by title II of this Act on the Nation's balance of trade with other countries;

(G) an assessment of the feasibility and desirability of a schedule of taxes which would take into account one or more of the following: the likelihood of a release of a hazardous substance, the degree of hazard and risk of harm to public health, welfare, and the environment resulting from any such release, incentives to proper handling, recycling, incineration, and neutralization of hazardous wastes, and disincentives to improper or illegal handling or disposal of hazardous materials, administrative and reporting burdens on Government and industry, and the extent to which the tax burden falls on the substances and parties which create the problems addressed by this Act. In preparing the report, the President shall consult with appropriate Federal, State, and local agencies, affected industries and claimants, and such other interested parties as he may find useful. Based upon the analyses and consultation required by this subsection, the President shall also include in the report any recommendations for legislative changes he may deem necessary for the better effectuation of the purposes of this Act, including but not limited to recommendations concerning authorization levels, taxes, State participation, liability and liability limits, and financial responsibility provisions for the Response Trust Fund and the Post-closure Liability Trust Fund;

(H) an exemption from or an increase in the substances or the amount of taxes imposed by section 4661 of the Internal Revenue Code of 1954 for copper, lead, and zinc oxide, and for feedstocks when used in the manufacture and production of fertilizers, based upon the expenditure experience of the Response Trust Fund; *Ante*, p. 2798.

(I) the economic impact of taxing coal-derived substances and recycled metals.

(2) The Administrator of the Environmental Protection Agency (in consultation with the Secretary of the Treasury) shall submit to the Congress (i) within four years after enactment of this Act, a report identifying additional wastes designated by rule as hazardous after the effective date of this Act and pursuant to section 3001 of the Solid

42 USC 6921.

Waste Disposal Act and recommendations on appropriate tax rates for such wastes for the Post-closure Liability Trust Fund. The report shall, in addition, recommend a tax rate, considering the quantity and potential danger to human health and the environment posed by the disposal of any wastes which the Administrator, pursuant to subsection 3001(b)(2)(B) and subsection 3001(b)(3)(A) of the Solid Waste Disposal Act of 1980, has determined should be subject to regulation under subtitle C of such Act, (ii) within three years after enactment of this Act, a report on the necessity for and the adequacy of the revenue raised, in relation to estimated future requirements, of the Post-closure Liability Trust Fund.

Ante, p. 2336.

(b) The President shall conduct a study to determine (1) whether adequate private insurance protection is available on reasonable terms and conditions to the owners and operators of vessels and facilities subject to liability under section 107 of this Act, and (2) whether the market for such insurance is sufficiently competitive to assure purchasers of features such as a reasonable range of deductibles, coinsurance provisions, and exclusions. The President shall submit the results of his study, together with his recommendations, within two years of the date of enactment of this Act, and shall submit an interim report on his study within one year of the date of enactment of this Act.

Ante, p. 2781.

Regulations.

(c)(1) The President, acting through Federal officials designated by the National Contingency Plan published under section 105 of this Act, shall study and, not later than two years after the enactment of this Act, shall promulgate regulations for the assessment of damages for injury to, destruction of, or loss of natural resources resulting from a release of oil or a hazardous substance for the purposes of this Act and section 311(f) (4) and (5) of the Federal Water Pollution Control Act.

Ante, p. 2779.

33 USC 1321.

(2) Such regulations shall specify (A) standard procedures for simplified assessments requiring minimal field observation, including establishing measures of damages based on units of discharge or release or units of affected area, and (B) alternative protocols for conducting assessments in individual cases to determine the type and extent of short- and long-term injury, destruction, or loss. Such regulations shall identify the best available procedures to determine such damages, including both direct and indirect injury, destruction, or loss and shall take into consideration factors including, but not limited to, replacement value, use value, and ability of the ecosystem or resource to recover.

Review and revision.

(3) Such regulations shall be reviewed and revised as appropriate every two years.

(d) The Administrator of the Environmental Protection Agency shall, in consultation with other Federal agencies and appropriate representatives of State and local governments and nongovernmental agencies, conduct a study and report to the Congress within two years of the date of enactment of this Act on the issues, alternatives, and policy considerations involved in the selection of locations for hazardous waste treatment, storage, and disposal facilities. This study shall include—

(A) an assessment of current and projected treatment, storage, and disposal capacity needs and shortfalls for hazardous waste by management category on a State-by-State basis;

(B) an evaluation of the appropriateness of a regional approach to siting and designing hazardous waste management facilities and the identification of hazardous waste management regions,

interstate or intrastate, or both, with similar hazardous waste management needs;

(C) solicitation and analysis of proposals for the construction and operation of hazardous waste management facilities by nongovernmental entities, except that no proposal solicited under terms of this subsection shall be analyzed if it involves cost to the United States Government or fails to comply with the requirements of subtitle C of the Solid Waste Disposal Act and other applicable provisions of law; 42 USC 6921.

(D) recommendations on the appropriate balance between public and private sector involvement in the siting, design, and operation of new hazardous waste management facilities;

(E) documentation of the major reasons for public opposition to new hazardous waste management facilities; and

(F) an evaluation of the various options for overcoming obstacles to siting new facilities, including needed legislation for implementing the most suitable option or options.

(e)(1) In order to determine the adequacy of existing common law and statutory remedies in providing legal redress for harm to man and the environment caused by the release of hazardous substances into the environment, there shall be submitted to the Congress a study within twelve months of enactment of this Act.

(2) This study shall be conducted with the assistance of the American Bar Association, the American Law Institute, the Association of American Trial Lawyers, and the National Association of State Attorneys General with the President of each entity selecting three members from each organization to conduct the study. The study chairman and one reporter shall be elected from among the twelve members of the study group.

(3) As part of their review of the adequacy of existing common law and statutory remedies, the study group shall evaluate the following:

(A) the nature, adequacy, and availability of existing remedies under present law in compensating for harm to man from the release of hazardous substances;

(B) the nature of barriers to recovery (particularly with respect to burdens of going forward and of proof and relevancy) and the role such barriers play in the legal system;

(C) the scope of the evidentiary burdens placed on the plaintiff in proving harm from the release of hazardous substances, particularly in light of the scientific uncertainty over causation with respect to—

(i) carcinogens, mutagens, and teratogens, and

(ii) the human health effects of exposure to low doses of hazardous substances over long periods of time;

(D) the nature and adequacy of existing remedies under present law in providing compensation for damages to natural resources from the release of hazardous substances;

(E) the scope of liability under existing law and the consequences, particularly with respect to obtaining insurance, of any changes in such liability;

(F) barriers to recovery posed by existing statutes of limitations.

(4) The report shall be submitted to the Congress with appropriate recommendations. Such recommendations shall explicitly address—

(A) the need for revisions in existing statutory or common law, and

(B) whether such revisions should take the form of Federal statutes or the development of a model code which is recommended for adoption by the States.

(5) The Fund shall pay administrative expenses incurred for the study. No expenses shall be available to pay compensation, except expenses on a per diem basis for the one reporter, but in no case shall the total expenses of the study exceed $300,000.

(f) The President, acting through the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Administrator of the Occupational Safety and Health Administration, and the Director of the National Institute for Occupational Safety and Health shall study and, not later than two years after the enactment of this Act, shall modify the national contingency plan to provide for the protection of the health and safety of employees involved in response actions.

EFFECTIVE DATES, SAVINGS PROVISION

42 USC 9652.

SEC. 302. (a) Unless otherwise provided, all provisions of this Act shall be effective on the date of enactment of this Act.

33 USC 1321.

(b) Any regulation issued pursuant to any provisions of section 311 of the Clean Water Act which is repealed or superseded by this Act and which is in effect on the date immediately preceding the effective date of this Act shall be deemed to be a regulation issued pursuant to the authority of this Act and shall remain in full force and effect unless or until superseded by new regulations issued thereunder.

(c) Any regulation—

(1) respecting financial responsibility,

(2) issued pursuant to any provision of law repealed or superseded by this Act, and

(3) in effect on the date immediately preceding the effective date of this Act shall be deemed to be a regulation issued pursuant to the authority of this Act and shall remain in full force and effect unless or until superseded by new regulations issued thereunder.

(d) Nothing in this Act shall affect or modify in any way the obligations or liabilities of any person under other Federal or State law, including common law, with respect to releases of hazardous substances or other pollutants or contaminants. The provisions of this Act shall not be considered, interpreted, or construed in any way as reflecting a determination, in part or whole, of policy regarding the inapplicability of strict liability, or strict liability doctrines, to activities relating to hazardous substances, pollutants, or contaminants or other such activities.

EXPIRATION, SUNSET PROVISION

42 USC 9653.

SEC. 303. Unless reauthorized by the Congress, the authority to collect taxes conferred by this Act shall terminate on September 30, 1985, or when the sum of the amounts received in the Treasury under section 4611 and under 4661 of the Internal Revenue Code of 1954 total $1,380,000,000, whichever occurs first. The Secretary of the Treasury shall estimate when this level of $1,380,000,000 will be reached and shall by regulation, provide procedures for the termination of the tax authorized by this Act and imposed under sections 4611 and 4661 of the Internal Revenue Code of 1954.

Ante, pp. 2797, 2798.

CONFORMING AMENDMENTS

SEC. 304. (a) Subsection (b) of section 504 of the Federal Water Pollution Control Act is hereby repealed. 33 USC 1364.

(b) One-half of the unobligated balance remaining before the date of the enactment of this Act under subsection (k) of section 311 of the Federal Water Pollution Control Act and all sums appropriated under section 504(b) of the Federal Water Pollution Control Act shall be transferred to the Fund established under title II of this Act. 42 USC 9654. 33 USC 1321.

(c) In any case in which any provision of section 311 of the Federal Water Pollution Control Act is determined to be in conflict with any provisions of this Act, the provisions of this Act shall apply.

LEGISLATIVE VETO

SEC. 305. (a) Notwithstanding any other provision of law, simultaneously with promulgation or repromulgation of any rule or regulation under authority of title I of this Act, the head of the department, agency, or instrumentality promulgating such rule or regulation shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subsection (b) of this section, the rule or regulation shall not become effective, if— 42 USC 9655.

(1) within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule or regulation promulgated by the dealing with the matter of , which rule or regulation was transmitted to Congress on .", the blank spaces therein being appropriately filled; or

(2) within sixty calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within thirty calendar days of continuous session of Congress after such transmittal.

(b) If, at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in subsection (a) of this section.

(c) For purposes of subsections (a) and (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of thirty, sixty, and ninety calendar days of continuous session of Congress.

(d) Congressional inaction on, or rejection of, a resolution of disapproval shall not be deemed an expression of approval of such rule or regulation.

TRANSPORTATION

42 USC 9656.
Ante, p. 2767.

SEC. 306. (a) Each hazardous substance which is listed or designated as provided in section 101(14) of this Act shall, within ninety days after the date of enactment of this Act or at the time of such listing or designation, whichever is later, be listed as a hazardous material under the Hazardous Materials Transportation Act.

49 USC 1801 note.

(b) A common or contract carrier shall be liable under other law in lieu of section 107 of this Act for damages or remedial action resulting from the release of a hazardous substance during the course of transportation which commenced prior to the effective date of the listing of such substance as a hazardous material under the Hazardous Materials Transportation Act, or for substances listed pursuant to subsection (a) of this section, prior to the effective date of such listing: *Provided, however,* That this subsection shall not apply where such a carrier can demonstrate that he did not have actual knowledge of the identity or nature of the substance released.

Ante, p. 2781.

(c) Section 11901 of title 49, United States Code, is amended by—

(1) redesignating subsection (h) as subsection (i);

(2) by inserting "and subsection (h)" after "subsection (g)" in subsection (i)(2) as so redesignated by paragraph (1) of this subsection; and

(3) by inserting the following new subsection (h):

"(h) A person subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, or an officer, agent, or employee of that person, and who is required to comply with section 10921 of this title but does not so comply with respect to the transportation of hazardous wastes as defined by the Environmental Protection Agency pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Congress) shall, in any action brought by the Commission, be liable to the United States for a civil penalty not to exceed $20,000 for each violation.".

49 USC 10521.

ASSISTANT ADMINISTRATOR FOR SOLID WASTE

42 USC 6911.

SEC. 307. (a) Section 2001 of the Solid Waste Disposal Act is amended by striking out "a Deputy Assistant" and inserting in lieu thereof "an Assistant".

42 USC 6911a.

(b) The Assistant Administrator of the Environmental Protection Agency appointed to head the Office of Solid Waste shall be in addition to the five Assistant Administrators of the Environmental Protection Agency provided for in section 1(d) of Reorganization Plan Numbered 3 of 1970 and the additional Assistant Administrator provided by the Toxic Substances Control Act, shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate provided for Level IV of the Executive Schedule pay rates under section 5315 of title 5, United States Code.

5 USC app; 42 USC 4321 note. 15 USC 2601 note.

Effective date. 42 USC 6911 note.

(c) The amendment made by subsection (a) shall become effective ninety days after the date of the enactment of this Act.

SEPARABILITY

SEC. 308. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances and the remainder of this Act shall not be affected thereby. 42 USC 9657.

Approved December 11, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1016, pt. I (Comm. on Interstate and Foreign Commerce) and Pt. II (Comm. on Ways and Means).
SENATE REPORT No. 96-848 accompanying S. 1480 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 18, 19, 23, considered and passed House.
Nov. 24, considered and passed Senate, amended, in lieu of S. 1480.
Dec. 3, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 50:
Dec. 11, Presidential statement.

Public Law 96-511
96th Congress

An Act

Dec. 11, 1980
[H.R. 6410]

To reduce paperwork and enhance the economy and efficiency of the Government and the private sector by improving Federal information policymaking, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Paperwork Reduction Act of 1980".

Paperwork Reduction Act of 1980.
44 USC 101 note.

SEC. 2. (a) Chapter 35 of title 44, United States Code, is amended to read as follows:

"CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

"Sec.
"3501. Purpose.
"3502. Definitions.
"3503. Office of Information and Regulatory Affairs.
"3504. Authority and functions of Director.
"3505. Assignment of tasks and deadlines.
"3506. Federal agency responsibilities.
"3507. Public information collection activities—submission to Director; approval and delegation.
"3508. Determination of necessity for information; hearing.
"3509. Designation of central collection agency.
"3510. Cooperation of agencies in making information available.
"3511. Establishment and operation of Federal Information Locator System.
"3512. Public protection.
"3513. Director review of agency activities; reporting; agency response.
"3514. Responsiveness to Congress.
"3515. Administrative powers.
"3516. Rules and regulations.
"3517. Consultation with other agencies and the public.
"3518. Effect on existing laws and regulations.
"3519. Access to information.
"3520. Authorization of appropriations.

44 USC 3501.

"§ 3501. Purpose

"The purpose of this chapter is—

"(1) to minimize the Federal paperwork burden for individuals, small businesses, State and local governments, and other persons;

"(2) to minimize the cost to the Federal Government of collecting, maintaining, using, and disseminating information;

"(3) to maximize the usefulness of information collected by the Federal Government;

"(4) to coordinate, integrate and, to the extent practicable and appropriate, make uniform Federal information policies and practices;

"(5) to ensure that automatic data processing and telecommunications technologies are acquired and used by the Federal Government in a manner which improves service delivery and program management, increases productivity, reduces waste and fraud, and, wherever practicable and appropriate, reduces the

information processing burden for the Federal Government and for persons who provide information to the Federal Government; and

"(6) to ensure that the collection, maintenance, use and dissemination of information by the Federal Government is consistent with applicable laws relating to confidentiality, including section 552a of title 5, United States Code, known as the Privacy Act.

"§ 3502. Definitions 44 USC 3502.

"As used in this chapter—

"(1) the term 'agency' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include the General Accounting Office, Federal Election Commission, the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions, or Government-owned contractor-operated facilities including laboratories engaged in national defense research and production activities;

"(2) the terms 'automatic data processing,' 'automatic data processing equipment,' and 'telecommunications' do not include any data processing or telecommunications system or equipment, the function, operation or use of which—

"(A) involves intelligence activities;

"(B) involves cryptologic activities related to national security;

"(C) involves the direct command and control of military forces;

"(D) involves equipment which is an integral part of a weapon or weapons system; or

"(E) is critical to the direct fulfillment of military or intelligence missions, provided that this exclusion shall not include automatic data processing or telecommunications equipment used for routine administrative and business applications such as payroll, finance, logistics, and personnel management;

"(3) the term 'burden' means the time, effort, or financial resources expended by persons to provide information to a Federal agency;

"(4) the term 'collection of information' means the obtaining or soliciting of facts or opinions by an agency through the use of written report forms, application forms, schedules, questionnaires, reporting or recordkeeping requirements, or other similar methods calling for either—

"(A) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or

"(B) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes;

"(5) the term 'data element' means a distinct piece of information such as a name, term, number, abbreviation, or symbol;

"(6) the term 'data element dictionary' means a system containing standard and uniform definitions and cross references for commonly used data elements;

"(7) the term 'data profile' means a synopsis of the questions contained in an information collection request and the official name of the request, the location of information obtained or to be obtained through the request, a description of any compilations, analyses, or reports derived or to be derived from such information, any record retention requirements associated with the request, the agency responsible for the request, the statute authorizing the request, and any other information necessary to identify, obtain, or use the data contained in such information;

"(8) the term 'Director' means the Director of the Office of Management and Budget;

"(9) the term 'directory of information resources' means a catalog of information collection requests, containing a data profile for each request;

"(10) the term 'independent regulatory agency' means the Board of Governors of the Federal Reserve System, the Civil Aeronautics Board, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Home Loan Bank Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

"(11) the term 'information collection request' means a written report form, application form, schedule, questionnaire, reporting or recordkeeping requirement, or other similar method calling for the collection of information;

"(12) the term 'information referral service' means the function that assists officials and persons in obtaining access to the Federal Information Locator System;

"(13) the term 'information systems' means management information systems;

"(14) the term 'person' means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, or local government or branch thereof, or a political subdivision of a State, territory, or local government or a branch of a political subdivision;

"(15) the term 'practical utility' means the ability of an agency to use information it collects, particularly the capability to process such information in a timely and useful fashion; and

"(16) the term 'recordkeeping requirement' means a requirement imposed by an agency on persons to maintain specified records.

44 USC 3503.

"§ 3503. Office of Information and Regulatory Affairs

Establishment.

"(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

"(b) There shall be at the head of the Office an Administrator who shall be appointed by, and who shall report directly to, the Director. The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information policy. Administrator, appointment.

"§ 3504. Authority and functions of Director 44 USC 3504.

"(a) The Director shall develop and implement Federal information policies, principles, standards, and guidelines and shall provide direction and oversee the review and approval of information collection requests, the reduction of the paperwork burden, Federal statistical activities, records management activities, privacy of records, interagency sharing of information, and acquisition and use of automatic data processing telecommunications, and other technology for managing information resources. The authority under this section shall be exercised consistent with applicable law.

"(b) The general information policy functions of the Director shall include—

"(1) developing and implementing uniform and consistent information resources management policies and overseeing the development of information management principles, standards, and guidelines and promoting their use;

"(2) initiating and reviewing proposals for changes in legislation, regulations, and agency procedures to improve information practices, and informing the President and the Congress on the progress made therein;

"(3) coordinating, through the review of budget proposals and as otherwise provided in this section, agency information practices;

"(4) promoting, through the use of the Federal Information Locator System, the review of budget proposals and other methods, greater sharing of information by agencies;

"(5) evaluating agency information management practices to determine their adequacy and efficiency, and to determine compliance of such practices with the policies, principles, standards, and guidelines promulgated by the Director; and

"(6) overseeing planning for, and conduct of research with respect to, Federal collection, processing, storage, transmission, and use of information.

"(c) The information collection request clearance and other paperwork control functions of the Director shall include— Paperwork control functions.

"(1) reviewing and approving information collection requests proposed by agencies;

"(2) determining whether the collection of information by an agency is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility for the agency;

"(3) ensuring that all information collection requests—

"(A) are inventoried, display a control number and, when appropriate, an expiration date;

"(B) indicate the request is in accordance with the clearance requirements of section 3507; and *Post*, p. 2819.

"(C) contain a statement to inform the person receiving the request why the information is being collected, how it is to be used, and whether responses to the request are voluntary, required to obtain a benefit, or mandatory;

"(4) designating as appropriate, in accordance with section 3509, a collection agency to obtain information for two or more agencies;

Post, p. 2820.

"(5) setting goals for reduction of the burdens of Federal information collection requests;

"(6) overseeing action on the recommendations of the Commission on Federal Paperwork; and

"(7) designing and operating, in accordance with section 3511, the Federal Information Locator System.

Post, p. 2822.

"(d) The statistical policy and coordination functions of the Director shall include—

"(1) developing long range plans for the improved performance of Federal statistical activities and programs;

"(2) coordinating, through the review of budget proposals and as otherwise provided in this section, the functions of the Federal Government with respect to gathering, interpreting, and disseminating statistics and statistical information;

"(3) developing and implementing Government-wide policies, principles, standards, and guidelines concerning statistical collection procedures and methods, statistical data classifications, and statistical information presentation and dissemination; and

"(4) evaluating statistical program performance and agency compliance with Government-wide policies, principles, standards, and guidelines.

"(e) The records management functions of the Director shall include—

"(1) providing advice and assistance to the Administrator of General Services in order to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information policies, principles, standards, and guidelines established under this chapter;

44 USC 2901 *et seq.*, 3101 *et seq.*, 3301 *et seq.*

"(2) reviewing compliance by agencies with the requirements of chapters 29, 31, and 33 of this title and with regulations promulgated by the Administrator of General Services thereunder; and

"(3) coordinating records management policies and programs with related information programs such as information collection, statistics, automatic data processing and telecommunications, and similar activities.

"(f) The privacy functions of the Director shall include—

"(1) developing and implementing policies, principles, standards, and guidelines on information disclosure and confidentiality, and on safeguarding the security of information collected or maintained by or on behalf of agencies;

"(2) providing agencies with advice and guidance about information security, restriction, exchange, and disclosure; and

"(3) monitoring compliance with section 552a of title 5, United States Code, and related information management laws.

"(g) The Federal automatic data processing and telecommunications functions of the Director shall include—

"(1) developing and implementing policies, principles, standards, and guidelines for automatic data processing and telecommunications functions and activities of the Federal Government, and overseeing the establishment of standards under section 111(f) of the Federal Property and Administrative Services Act of 1949;

40 USC 759.

"(2) monitoring the effectiveness of, and compliance with, directives issued pursuant to sections 110 and 111 of such Act of

1949 and reviewing proposed determinations under section 111(g) of such Act; 40 USC 757, 759.

"(3) providing advice and guidance on the acquisition and use of automatic data processing and telecommunications equipment, and coordinating, through the review of budget proposals and other methods, agency proposals for acquisition and use of such equipment;

"(4) promoting the use of automatic data processing and telecommunications equipment by the Federal Government to improve the effectiveness of the use and dissemination of data in the operation of Federal programs; and

"(5) initiating and reviewing proposals for changes in legislation, regulations, and agency procedures to improve automatic data processing and telecommunications practices, and informing the President and the Congress of the progress made therein.

"(h)(1) As soon as practicable, but no later than publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information requirement and upon request, information necessary to make the determination required pursuant to this section.

"(2) Within sixty days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 on the collection of information requirement contained in the proposed rule. *Post*, p. 2821.

"(3) When a final rule is published in the Federal Register, the agency shall explain how any collection of information requirement contained in the final rule responds to the comments, if any, filed by the Director or the public, or explain why it rejected those comments.

"(4) The Director has no authority to disapprove any collection of information requirement specifically contained in an agency rule, if he has received notice and failed to comment on the rule within sixty days of the notice of proposed rulemaking.

"(5) Nothing in this section prevents the Director, in his discretion—

"(A) from disapproving any information collection request which was not specifically required by an agency rule;

"(B) from disapproving any collection of information requirement contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection; or

"(C) from disapproving any collection of information requirement contained in a final agency rule, if the Director finds within sixty days of the publication of the final rule that the agency's response to his comments filed pursuant to paragraph (2) of this subsection was unreasonable.

"(D) from disapproving any collection of information requirement where the Director determines that the agency has substantially modified in the final rule the collection of information requirement contained in the proposed rule where the agency has not given the Director the information required in paragraph (1), with respect to the modified collection of information requirement, at least sixty days before the issuance of the final rule.

"(6) The Director shall make publicly available any decision to disapprove a collection of information requirement contained in an agency rule, together with the reasons for such decision.

"(7) The authority of the Director under this subsection is subject to the provisions of section 3507(c). *Post*, 2819.

"(8) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

"(9) There shall be no judicial review of any kind of the Director's decision to approve or not to act upon a collection of information requirement contained in an agency rule.

44 USC 3505.

"§ 3505. Assignment of tasks and deadlines

"In carrying out the functions under this chapter, the Director shall—

"(1) upon enactment of this Act—

"(A) set a goal to reduce the then existing burden of Federal collections of information by 15 per centum by October 1, 1982; and

"(B) for the year following, set a goal to reduce the burden which existed upon enactment by an additional 10 per centum;

"(2) within one year after the effective date of this Act—

"(A) establish standards and requirements for agency audits of all major information systems and assign responsibility for conducting Government-wide or multiagency audits, except the Director shall not assign such responsibility for the audit of major information systems used for the conduct of criminal investigations or intelligence activities as defined in section 4-206 of Executive Order 12036, issued January 24, 1978, or successor orders, or for cryptologic activities that are communications security activities;

50 USC 401 note.

"(B) establish the Federal Information Locator System;

"(C) identify areas of duplication in information collection requests and develop a schedule and methods for eliminating duplication;

"(D) develop a proposal to augment the Federal Information Locator System to include data profiles of major information holdings of agencies (used in the conduct of their operations) which are not otherwise required by this chapter to be included in the System; and

"(E) identify initiatives which may achieve a 10 per centum reduction in the burden of Federal collections of information associated with the administration of Federal grant programs; and

"(3) within two years after the effective date of this Act—

"(A) establish a schedule and a management control system to ensure that practices and programs of information handling disciplines, including records management, are appropriately integrated with the information policies mandated by this chapter;

"(B) identify initiatives to improve productivity in Federal operations using information processing technology;

"(C) develop a program to (i) enforce Federal information processing standards, particularly software language standards, at all Federal installations; and (ii) revitalize the standards development program established pursuant to section 759(f)(2) of title 40, United States Code, separating it from peripheral technical assistance functions and directing it to the most productive areas;

"(D) complete action on recommendations of the Commission on Federal Paperwork by implementing, implementing with modification or rejecting such recommendations

including, where necessary, development of legislation to implement such recommendations;

"(E) develop, in consultation with the Administrator of General Services, a five-year plan for meeting the automatic data processing and telecommunications needs of the Federal Government in accordance with the requirements of section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) and the purposes of this chapter; and Five-year plan.

"(F) submit to the President and the Congress legislative proposals to remove inconsistencies in laws and practices involving privacy, confidentiality, and disclosure of information.

"§ 3506. Federal agency responsibilities 44 USC 3506.

"(a) Each agency shall be responsible for carrying out its information management activities in an efficient, effective, and economical manner, and for complying with the information policies, principles, standards, and guidelines prescribed by the Director.

"(b) The head of each agency shall designate, within three months after the effective date of this Act, a senior official or, in the case of military departments, and the Office of the Secretary of Defense, officials who report directly to such agency head to carry out the responsibilities of the agency under this chapter. If more than one official is appointed for the military departments the respective duties of the officials shall be clearly delineated.

"(c) Each agency shall—

"(1) systematically inventory its major information systems and periodically review its information management activities, including planning, budgeting, organizing, directing, training, promoting, controlling, and other managerial activities involving the collection, use, and dissemination of information;

"(2) ensure its information systems do not overlap each other or duplicate the systems of other agencies;

"(3) develop procedures for assessing the paperwork and reporting burden of proposed legislation affecting such agency;

"(4) assign to the official designated under subsection (b) the responsibility for the conduct of and accountability for any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759); and

"(5) ensure that information collection requests required by law or to obtain a benefit, and submitted to nine or fewer persons, contain a statement to inform the person receiving the request that the request is not subject to the requirements of section 3507 of this chapter. *Infra.*

"(d) The head of each agency shall establish such procedures as necessary to ensure the compliance of the agency with the requirements of the Federal Information Locator System, including necessary screening and compliance activities. Procedures, establishment.

"§ 3507. Public information collection activities—submission to Director; approval and delegation 44 USC 3507.

"(a) An agency shall not conduct or sponsor the collection of information unless, in advance of the adoption or revision of the request for collection of such information—

"(1) the agency has taken actions, including consultation with the Director, to—

"(A) eliminate, through the use of the Federal Information Locator System and other means, information collections which seek to obtain information available from another source within the Federal Government;

"(B) reduce to the extent practicable and appropriate the burden on persons who will provide information to the agency; and

"(C) formulate plans for tabulating the information in a manner which will enhance its usefulness to other agencies and to the public;

"(2) the agency (A) has submitted to the Director the proposed information collection request, copies of pertinent regulations and other related materials as the Director may specify, and an explanation of actions taken to carry out paragraph (1) of this subsection, and (B) has prepared a notice to be published in the Federal Register stating that the agency has made such submission; and

"(3) the Director has approved the proposed information collection request, or the period for review of information collection requests by the Director provided under subsection (b) has elapsed.

"(b) The Director shall, within sixty days of receipt of a proposed information collection request, notify the agency involved of the decision to approve or disapprove the request and shall make such decisions publicly available. If the Director determines that a request submitted for review cannot be reviewed within sixty days, the Director may, after notice to the agency involved, extend the review period for an additional thirty days. If the Director does not notify the agency of an extension, denial, or approval within sixty days (or, if the Director has extended the review period for an additional thirty days and does not notify the agency of a denial or approval within the time of the extension), a control number shall be assigned without further delay, the approval may be inferred, and the agency may collect the information for not more than one year.

"(c) Any disapproval by the Director, in whole or in part, of a proposed information collection request of an independent regulatory agency, or an exercise of authority under section 3504(h) or 3509 concerning such an agency, may be voided, if the agency by a majority vote of its members overrides the Director's disapproval or exercise of authority. The agency shall certify each override to the Director, shall explain the reasons for exercising the override authority. Where the override concerns an information collection request, the Director shall without further delay assign a control number to such request, and such override shall be valid for a period of three years.

Ante, p. 2815; *post*, p. 2821.

"(d) The Director may not approve an information collection request for a period in excess of three years.

"(e) If the Director finds that a senior official of an agency designated pursuant to section 3506(b) is sufficiently independent of program responsibility to evaluate fairly whether proposed information collection requests should be approved and has sufficient resources to carry out this responsibility effectively, the Director may, by rule in accordance with the notice and comment provisions of chapter 5 of title 5, United States Code, delegate to such official the authority to approve proposed requests in specific program areas, for specific purposes, or for all agency purposes. A delegation by the Director under this section shall not preclude the Director from reviewing individual information collection requests if the Director

Ante, p. 2819.

5 USC 500 *et seq.*

determines that circumstances warrant such a review. The Director shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Director, any official to whom approval authority has been delegated under this section shall comply fully with the rules and regulations promulgated by the Director.

"(f) An agency shall not engage in a collection of information without obtaining from the Director a control number to be displayed upon the information collection request.

"(g) If an agency head determines a collection of information (1) is needed prior to the expiration of the sixty-day period for the review of information collection requests established pursuant to subsection (b), (2) is essential to the mission of the agency, and (3) the agency cannot reasonably comply with the provisions of this chapter within such sixty-day period because (A) public harm will result if normal clearance procedures are followed, or (B) an unanticipated event has occurred and the use of normal clearance procedures will prevent or disrupt the collection of information related to the event or will cause a statutory deadline to be missed, the agency head may request the Director to authorize such collection of information prior to expiration of such sixty-day period. The Director shall approve or disapprove any such authorization request within the time requested by the agency head and, if approved, shall assign the information collection request a control number. Any collection of information conducted pursuant to this subsection may be conducted without compliance with the provisions of this chapter for a maximum of ninety days after the date on which the Director received the request to authorize such collection.

"§ 3508. Determination of necessity for information; hearing 44 USC 3508.

"Before approving a proposed information collection request, the Director shall determine whether the collection of information by an agency is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. Before making a determination the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent, if any, that the Director determines that the collection of information by an agency is unnecessary, for any reason, the agency may not engage in the collection of the information.

"§ 3509. Designation of central collection agency 44 USC 3509.

"The Director may designate a central collection agency to obtain information for two or more agencies if the Director determines that the needs of such agencies for information will be adequately served by a single collection agency, and such sharing of data is not inconsistent with any applicable law. In such cases the Director shall prescribe (with reference to the collection of information) the duties and functions of the collection agency so designated and of the agencies for which it is to act as agent (including reimbursement for costs). While the designation is in effect, an agency covered by it may not obtain for itself information which it is the duty of the collection agency to obtain. The Director may modify the designation from time to time as circumstances require. The authority herein is subject to the provisions of section 3507(c) of this chapter. *Ante*, p. 2819.

44 USC 3510.

"§ 3510. Cooperation of agencies in making information available

"(a) The Director may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained pursuant to an information collection request if the disclosure is not inconsistent with any applicable law.

"(b) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties which relate to the unlawful disclosure of information) apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information. The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

44 USC 3511.

"§ 3511. Establishment and operation of Federal Information Locator System

"(a) There is established in the Office of Information and Regulatory Affairs a Federal Information Locator System (hereafter in this section referred to as the 'System') which shall be composed of a directory of information resources, a data element dictionary, and an information referral service. The System shall serve as the authoritative register of all information collection requests.

Functions.

"(b) In designing and operating the System, the Director shall—

"(1) design and operate an indexing system for the System;

"(2) require the head of each agency to prepare in a form specified by the Director, and to submit to the Director for inclusion in the System, a data profile for each information collection request of such agency;

"(3) compare data profiles for proposed information collection requests against existing profiles in the System, and make available the results of such comparison to—

"(A) agency officials who are planning new information collection activities; and

"(B) on request, members of the general public; and

"(4) ensure that no actual data, except descriptive data profiles necessary to identify duplicative data or to locate information, are contained within the System.

44 USC 3512.

"§ 3512. Public protection

"Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain or provide information to any agency if the information collection request involved was made after December 31, 1981, and does not display a current control number assigned by the Director, or fails to state that such request is not subject to this chapter.

44 USC 3513.

"§ 3513. Director review of agency activities; reporting; agency response

"(a) The Director shall, with the advice and assistance of the Administrator of General Services, selectively review, at least once every three years, the information management activities of each agency to ascertain their adequacy and efficiency. In evaluating the adequacy and efficiency of such activities, the Director shall pay

particular attention to whether the agency has complied with section 3506.

Ante, p. 2819.

"(b) The Director shall report the results of the reviews to the appropriate agency head, the House Committee on Government Operations, the Senate Committee on Governmental Affairs, the House and Senate Committees on Appropriations, and the committees of the Congress having jurisdiction over legislation relating to the operations of the agency involved.

Report to congressional committees.

"(c) Each agency which receives a report pursuant to subsection (b) shall, within sixty days after receipt of such report, prepare and transmit to the Director, the House Committee on Government Operations, the Senate Committee on Governmental Affairs, the House and Senate Committees on Appropriations, and the committees of the Congress having jurisdiction over legislation relating to the operations of the agency, a written statement responding to the Director's report, including a description of any measures taken to alleviate or remove any problems or deficiencies identified in such report.

Written statement, submittal to congressional committees.

"§ 3514. Responsiveness to Congress

44 USC 3514.

"(a) The Director shall keep the Congress and its committees fully and currently informed of the major activities under this chapter, and shall submit a report thereon to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as the Director determines necessary. The Director shall include in any such report—

Report to President of the Senate and Speaker of the House.

"(1) proposals for legislative action needed to improve Federal information management, including, with respect to information collection, recommendations to reduce the burden on individuals, small businesses, State and local governments, and other persons;

"(2) a compilation of legislative impediments to the collection of information which the Director concludes that an agency needs but does not have authority to collect;

"(3) an analysis by agency, and by categories the Director finds useful and practicable, describing the estimated reporting hours required of persons by information collection requests, including to the extent practicable the direct budgetary costs of the agencies and identification of statutes and regulations which impose the greatest number of reporting hours;

"(4) a summary of accomplishments and planned initiatives to reduce burdens of Federal information collection requests;

"(5) a tabulation of areas of duplication in agency information collection requests identified during the preceding year and efforts made to preclude the collection of duplicate information, including designations of central collection agencies;

"(6) a list of each instance in which an agency engaged in the collection of information under the authority of section 3507(g) and an identification of each agency involved;

Ante, p. 2819.

"(7) a list of all violations of provisions of this chapter and rules, regulations, guidelines, policies, and procedures issued pursuant to this chapter; and

"(8) with respect to recommendations of the Commission on Federal Paperwork—

"(A) a description of the specific actions taken on or planned for each recommendation;

"(B) a target date for implementing each recommendation accepted but not implemented; and

"(C) an explanation of the reasons for any delay in completing action on such recommendations.

"(b) The preparation of any report required by this section shall not increase the collection of information burden on persons outside the Federal Government.

44 USC 3515.

"§ 3515. Administrative powers

"Upon the request of the Director, each agency (other than an independent regulatory agency) shall, to the extent practicable, make its services, personnel, and facilities available to the Director for the performance of functions under this chapter.

44 USC 3516.

"§ 3516. Rules and regulations

"The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this chapter.

44 USC 3517.

"§ 3517. Consultation with other agencies and the public

"In development of information policies, plans, rules, regulations, procedures, and guidelines and in reviewing information collection requests, the Director shall provide interested agencies and persons early and meaningful opportunity to comment.

44 USC 3518.

"§ 3518. Effect on existing laws and regulations

"(a) Except as otherwise provided in this chapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information activities is subject to the authority conferred on the Director by this chapter.

"(b) Nothing in this chapter shall be deemed to affect or reduce the authority of the Secretary of Commerce or the Director of the Office of Management and Budget pursuant to Reorganization Plan No. 1 of 1977 (as amended) and Executive order, relating to telecommunications and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

5 USC app.

"(c)(1) Except as provided in paragraph (2), this chapter does not apply to the collection of information—

"(A) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

"(B) during the conduct of (i) a civil action to which the United States or any official or agency thereof is a party or (ii) an administrative action or investigation involving an agency against specific individuals or entities;

"(C) by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980; or

15 USC 1311 note.
Ante, p. 380.

"(D) during the conduct of intelligence activities as defined in section 4-206 of Executive Order 12036, issued January 24, 1978, or successor orders, or during the conduct of cryptologic activities that are communications security activities.

50 USC 401 note.

"(2) This chapter applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

"(d) Nothing in this chapter shall be interpreted as increasing or decreasing the authority conferred by Public Law 89-306 on the Administrator of the General Services Administration, the Secretary

40 USC 759.

of Commerce, or the Director of the Office of Management and Budget.

"(e) Nothing in this chapter shall be interpreted as increasing or decreasing the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and programs of departments, agencies and offices, including the substantive authority of any Federal agency to enforce the civil rights laws.

"§ 3519. Access to information 44 USC 3519.

"Under the conditions and procedures prescribed in section 313 of the Budget and Accounting Act of 1921, as amended, the Director and personnel in the Office of Information and Regulatory Affairs shall furnish such information as the Comptroller General may require for the discharge of his responsibilities. For this purpose, the Comptroller General or representatives thereof shall have access to all books, documents, papers and records of the Office. *Ante*, p. 312.

"§ 3520. Authorization of appropriations 44 USC 3520.

"There are hereby authorized to be appropriated to carry out the provisions of this chapter, and for no other purpose, sums—

"(1) not to exceed $8,000,000 for the fiscal year ending September 30, 1981;

"(2) not to exceed $8,500,000 for the fiscal year ending September 30, 1982; and

"(3) not to exceed $9,000,000 for the fiscal year ending September 30, 1983."

(b) The item relating to chapter 35 in the table of chapters for such title is amended to read as follows:

"35. Coordination of Federal Information Policy.".

(c)(1) Section 2904(10) of such title is amended to read as follows: 44 USC 2904.

"(10) report to the appropriate oversight and appropriations committees of the Congress and to the Director of the Office of Management and Budget annually and at such other times as the Administrator deems desirable (A) on the results of activities conducted pursuant to paragraphs (1) through (9) of this section, (B) on evaluations of responses by Federal agencies to any recommendations resulting from inspections or studies conducted under paragraphs (8) and (9) of this section, and (C) to the extent practicable, estimates of costs to the Federal Government resulting from the failure of agencies to implement such recommendations."

(2) Section 2905 of such title is amended by redesignating the text thereof as subsection (a) and by adding at the end of such section the following new subsection: 44 USC 2905.

"(b) The Administrator of General Services shall assist the Administrator for the Office of Information and Regulatory Affairs in conducting studies and developing standards relating to record retention requirements imposed on the public and on State and local governments by Federal agencies.". Studies.

SEC. 3. (a) The President and the Director of the Office of Management and Budget shall delegate to the Administrator for the Office of Information and Regulatory Affairs all functions, authority, and responsibility under section 103 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 18b). 44 USC 3503 note.

(b) The Director of the Office of Management and Budget shall delegate to the Administrator for the Office of Information and

Regulatory Affairs all functions, authority, and responsibility of the Director under section 552a of title 5, United States Code, under Executive Order 12046 and Reorganization Plan No. 1 for telecommunications, and under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759).

47 USC 305 note, 50 USC app. 2251 note and 2271 note.

SEC. 4. (a) Section 400A of the General Education Provisions Act is amended by (1) striking out "and" after "institutions" in subsection (a)(1)(A) and inserting in lieu thereof "or", and (2) by amending subsection (a)(3)(B) to read as follows:

20 USC 1221-3.

"(B) No collection of information or data acquisition activity subject to such procedures shall be subject to any other review, coordination, or approval procedure outside of the relevant Federal agency, except as required by this subsection and by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, United States Code. If a requirement for information is submitted pursuant to this Act for review, the timetable for the Director's approval established in section 3507 of the Paperwork Reduction Act of 1980 shall commence on the date the request is submitted, and no independent submission to the Director shall be required under such Act.".

Ante, p. 2812.

Ante, p. 2819.

Repeal.

(b) Section 201(e) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1211) is repealed.

Repeal.

(c) Section 708(f) of the Public Health Service Act (42 U.S.C. 292h(f)) is repealed.

(d) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.".

Effective date.

SEC. 5. This Act shall take effect on April 1, 1981.

44 USC 3501 note.

Approved December 11, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-835 (Comm. on Government Operations).
SENATE REPORT No. 96-930 accompanying S. 1411 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 24, considered and passed House.
Nov. 19, S. 1411 considered and passed Senate; passage vacated and H.R. 6410, amended, passed in lieu.
Dec. 1, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 50:
Dec. 11, Presidential statement.

Public Law 96-512
96th Congress

An Act

Entitled the "Methane Transportation Research, Development, and Demonstration Act of 1980".

Dec. 12, 1980
[H.R. 6889]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Methane Transportation Research, Development, and Demonstration Act of 1980".

Methane Transportation Research, Development, and Demonstration Act of 1980.
15 USC 3801 note.

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds and declares that—

(1) gasoline and diesel fuel for vehicular use are in short supply and constitute a sizable portion of domestic petroleum consumption;

(2) methane use in fleet-operated vehicles would result in substantial reduction in oil imports;

(3) methane is in more abundant domestic supply than petroleum products, is the primary component of natural gas and can be derived in increased quantities from coal, biomass, waste products, and other renewable resources;

(4) recoverable methane presently available in the United States is not fully utilized;

(5) test results to date indicate that methane use as a substitute for gasoline as a motor fuel can result in emission reductions;

(6) experience to date has shown methane to be a safe motor fuel in properly modified vehicles and is therefore particularly suitable as fuel for fleet vehicles; and

(7) the introduction into commerce of methane-fueled vehicles would be expedited and facilitated by the establishment of a Federal program of research, development, and demonstration to explore and refine technologies related to methane use as a vehicular fuel.

15 USC 3801.

(b) It is therefore declared to be the policy of the Congress in this Act to—

(1) provide for and support advanced and accelerated research into, and development of, methane vehicle design, and related technologies;

(2) demonstrate the economic and technological practicalities of methane-fueled vehicles for fleet use and of methane-fueled farm equipment;

(3) facilitate, and remove barriers to, the use of methane-fueled vehicles in lieu of gasoline- or diesel-powered motor vehicles where practicable;

(4) promote the substitution of methane-fueled vehicles for gasoline- and diesel-powered vehicles currently used on farms and in fleet operations, particularly in areas where such substitution would facilitate plans to meet air quality standards set under the Clean Air Act, as amended; and

42 USC 7401 note.

(5) supplement, but neither supplant nor duplicate, the automotive propulsion system research and development efforts of private industry.

DEFINITIONS

15 USC 3802. SEC. 3. For purposes of this Act—

15 USC 3301. (a) the term "methane" means either natural gas (as defined in section 2(1) of the Natural Gas Policy Act of 1978), gas derived from coal, liquefied natural gas, or any gaseous transportation fuel produced from biomass, waste products, and other renewable resources;

(b) the term "Secretary" means the Secretary of Energy;

(c) the term "public entities" means any unit or units of State and/or local governments;

(d) the term "private entities" means any person, such as any organization incorporated under State law, for profit or not-for-profit, or a consortium of such organizations, but does not include public entities;

(e) the term "vehicle" means any truck, van, station wagon, bus, or car used on public roads or highways as well as off-road agricultural equipment, such as tractors, harvesters, and so forth, which presently burn gasoline or diesel fuel; and

(f) the terms "facilities for the transmission and storage of methane", "methane transmission, storage and dispensing facilities", and any variant thereof means such facilities which are (1) directly necessary for the conduct of a demonstration, (2) for the exclusive use of a demonstration and (3) reasonably incidental to a demonstration.

DUTIES OF THE SECRETARY

15 USC 3803. SEC. 4. (a) The Secretary shall designate prior to February 1, 1981, an appropriate organizational entity within the Department of Energy to manage the methane vehicle research, development, and demonstration program.

Agreements with agencies. (b) The Secretary shall have the responsibility for monitoring and assuring proper management of the program. The Secretary may enter into agreements or arrangements with the National Aeronautics and Space Administration, the Department of Transportation, the Environmental Protection Agency, or any other Federal department or agency, pursuant to which such department or agency shall conduct specified parts or aspects of the program as the Secretary deems necessary or appropriate and within the particular competence of such agency, to the extent that such agency has capabilities which would enable it to contribute to the success of the program and attainment of the purposes of this Act.

(c) In assuring the effective management of this program, the Secretary shall have specific responsibility to ascertain that the program includes activities to—

(1) promote basic and applied research on methane-fueled vehicle construction, modification, and safety;

(2) conduct research and development on optimum overall specifications for methane-fueled vehicles;

(3) determine appropriate means and facilities for safely and economically storing, transporting, and dispensing methane for use as a vehicular fuel;

(4) conduct demonstration projects with respect to the feasibility of methane-fueled vehicles and methane transmission, stor-

age and dispensing facilities (A) by providing necessary financial or technical assistance for the construction, modification, or operation of motor vehicles to be methane-fueled for practical use or of methane transmission, storage and dispensing facilities, and (B) by entering into agreements or arrangements with other entities, governmental and nongovernmental, for the demonstration of such vehicles and facilities;

(5) gather performance data, including but not limited to emissions data, on methane-fueled vehicles and related transmission and storage facilities;

(6) determine that the participants in each demonstration assisted under this Act have made satisfactory arrangements to obtain an adequate supply of methane for vehicular use in the project;

(7) ascertain the need for modifications in available methane-fueled vehicles to improve their efficiency and performance and to facilitate their widespread use by fleet owners; and

(8) ascertain and report to the Congress on any changes in fuel supply patterns, tax policies, and standards governing the manufacture of vehicles which are needed to facilitate the manufacture and use of methane-fueled vehicles. Report to Congress.

(d)(1) The Secretary of Energy shall insure that the conduct of the research and development program of this Act—

(A) supplements the automotive propulsion system research and development efforts of industry;

(B) is not formulated in a manner that will supplant private industry research and development or displace or lessen industry's research and development; and

(C) avoids duplication of private research and development.

(2) To that end, the Secretary of Energy shall issue administrative regulations, within 60 days after the date of the enactment of this Act, which shall specify procedures, standards, and criteria for the timely review for compliance of each new contract, grant, Department of Energy project, or other agency project funded or to be funded under the authority of this Act. Such regulations shall require that the Secretary of Energy or his designee shall certify that each such contract, grant, or project satisfies the requirement of this subsection, and shall include in such certification a discussion of the relationship of any related or comparable industry research and development, in terms of this subsection, to the proposed research and development under the authority of this Act. The discussion shall also address related issues, such as cost sharing and patent rights. Regulations.

(3) Such certifications shall be available to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The provisions of chapter 5 of title 5, United States Code, shall not apply to such certifications and no court shall have any jurisdiction to review the preparation or adequacy of such certifications; but section 553 of title 5, United States Code, and section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended, shall apply to public disclosure of such certifications. Certifications, availability to congressional committees. 5 USC 500 *et seq.* 42 USC 5916.

(4) The Secretary of Energy also shall include in the report required by section 9 of this Act a detailed discussion of how each research and development contract, grant, or project funded under the authority of this Act satisfies the requirement of this subsection.

(5) Further, the Secretary of Energy in each annual budget submission to the Congress, or amendment thereto, for the programs authorized by this Act shall describe how each identified research

and development effort in such submission satisfies the requirements of this subsection.

(6) The provisions and requirements of this subsection shall not apply with respect to any contract, grant, or project which was entered into, made, or formally approved and initiated prior to the enactment of this Act, or with respect to any renewal or extension thereof.

COORDINATION WITH OTHER AGENCIES

15 USC 3804.

SEC. 5. (a) In carrying out the programs established under sections 4 and 7, the Secretary shall assure, to the maximum extent practicable, that the functions of this program are coordinated with related regulatory activities and other responsibilities of the Department of Energy and any other Federal departments or agencies.

(b) Each department, agency, and instrumentality of the executive branch of the Federal Government shall carefully consider any written request from the Secretary, the head of any organizational entity designated by the Secretary pursuant to section 4(a), or the head of any agency which is party to an agreement or arrangement pursuant to section 4(b), to furnish such assistance, on a reimbursable basis, as the Secretary or such head deems necessary to carry out the program and to achieve the purposes of this Act. Such assistance may include transfer of personnel with their consent and without prejudice to their position and rating.

RESEARCH AND DEVELOPMENT

15 USC 3805.

SEC. 6. The Secretary, acting through appropriate agencies and contractors, shall initiate and provide for the conduct of research and development in areas relating to methane-fueled vehicles, including but not limited to—

(1) flammability and combustibility of methane under conditions likely to develop in storage or during vehicular use;

(2) handling, storage, and distribution of methane for vehicular propulsion purposes;

(3) comprehensive assessment of the relative hazards under identical circumstances of methane, propane, gasoline, and diesel fuel;

(4) feasibility, economy, and efficiency of technologies for the production and recovery of methane from unconventional and supplemental sources, as provided for in other authorization Acts;

(5) engine and fuel tank design including, but not limited to, optimum design for dual fuel capacity vehicles;

(6) total vehicle construction and design;

(7) the nature and quantities of emissions, and alterations in or alternatives to emission control systems presently in use; and

(8) overcoming institutional barriers to widespread use, including but not limited to restrictions on the transportation of methane for vehicular use through tunnels, and the potential expansion of the distribution of methane for vehicular purposes.

DEMONSTRATIONS

15 USC 3806.

SEC. 7. (a) Not later than January 1, 1982, the Secretary shall develop data assessing the current state-of-the-art with respect to

vehicles fueled by methane to serve as baseline data to be utilized in evaluating improvements in methane-fueled vehicle technologies.

(b) Not later than April 1, 1982, the Secretary shall have promulgated necessary and appropriate guidelines for demonstrations and issued an initial request for proposals for technical and financial assistance to support public and private entities in developing and implementing demonstration projects to gather data on the operation of methane-fueled vehicles and methane transmission, storage and dispensing facilities, under differing climatic, atmospheric, and operating conditions and on design and technical modifications of those vehicles and facilities: Guidelines.

(1) In the case of public entities, the Secretary is authorized to provide—

(A) technical assistance reasonably associated with the modification or acquisition of vehicles to be fueled by methane or with dual fuel capacity, the installation of methane transmission, storage and dispensing facilities, and compliance with data acquisition and reporting requirements under this Act; and

(B) grants to cover up to 50 per centum of reasonable and necessary costs associated with the installation of methane transmission, storage and dispensing facilities: *Provided,* That the Secretary shall be authorized to direct and require recipients of assistance under this section to enter into cooperative agreements for the planning and use of such facilities with other recipients of assistance under this section, under a cost-sharing agreement where appropriate and economical.

(2)(A) In the case of private entities, the Secretary is authorized to provide—

(i) technical assistance reasonably associated with the modification or acquisition of vehicles to be fueled by methane or with dual fuel capacity, the installation of methane transmission, storage and dispensing facilities, and compliance with data acquisition and reporting requirements under this Act; and

(ii) loans to cover up to 50 per centum of reasonable and necessary costs associated with the installation of methane transmission, storage and dispensing facilities: *Provided,* That the Secretary shall be authorized to direct and require recipients of assistance under this section to enter into cooperative agreements for the planning and use of such facilities with other recipients of assistance under this section under a cost-sharing agreement where appropriate and economical.

(B) Loans issued under this section shall bear interest at such rate as the Secretary may determine, giving consideration to the needs and capacities of the recipient and the prevailing rates of interest (public and private), except that such rate shall not be less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the average maturities of such loans. No loan shall be made unless the Secretary shall have determined that there is reasonable prospect of repayment. Loans, interest rate.

(C) The terms and conditions of loans issued under this section shall take into account the scope of the particular demonstration and any particular conditions which might reasonably be Terms and conditions.

expected to result in additional costs to the recipient, and shall reflect the relative costs of gasoline and diesel fuel and methane and the projected savings in fuel costs to the recipient as a result of participating in the demonstration. In no instance shall a loan issued under this section be for a period in excess of five years.

(3) The Secretary shall provide for appropriate assistance to defray costs associated with complying with data acquisition and reporting requirements under this Act.

(4) In the case of an organization comprised of both public and private entities, a package of technical and financial assistance shall be designed to the maximum extent feasible, in such a manner as to assist its public components as provided for in paragraph (1) and to assist its private components as provided for in paragraph (2) of this section.

(c) Not fewer than fifty demonstrations shall be assisted under this section with not fewer than ten being initiated in the fiscal year ending September 30, 1982, and not fewer than twenty being initiated in each of the fiscal years ending September 30, 1983, and September 30, 1984. In the case of demonstrations initiated under this Act after the first fiscal year in which demonstrations are funded, the Secretary shall ascertain that plans for such demonstrations take into consideration information and findings included in reports filed on other demonstrations assisted under this Act.

(d) Each demonstration shall have a duration of at least three years during which time records including, but not limited to, fuel efficiency indicators, emissions data, repair statistics, and detailed reports of any accidents, shall be maintained and reports made to the Secretary in accordance with guidelines promulgated by the Secretary prior to issuance of the first loan or grant under this section and amended no more often than twice annually.

(e) In selecting proposed demonstrations to be supported under this section, the Secretary shall, to the maximum extent practicable, assure representation of diverse operating conditions and vehicle types including, but not limited to—

(1) altitude and topography,
(2) climatic conditions,
(3) air quality conditions,
(4) industrial, commercial, and agricultural uses,
(5) varying vehicular structures, and
(6) average trip lengths:

Provided, however, That not fewer than two demonstrations initiated in each year shall be located in a county or standard metropolitan statistical area designated by the Secretary upon recommendation of the Administrator of the Environmental Protection Agency based on severity or uniqueness of air quality conditions: *And provided further,* That the fleet or portions of fleets participating in each demonstration with funding under this Act shall consist of not fewer than fifty vehicles, except in the case of one demonstration each year involving methane-fueled off-road agricultural equipment.

USE OF METHANE-FUELED VEHICLES BY FEDERAL AGENCIES

Consultation.
15 USC 3807.

SEC. 8. The Secretary shall consult with the Postmaster General of the United States Postal Service, the Administrator of the General Services Administration, the Secretary of Defense, and the heads of other Federal agencies where appropriate to—

(a) determine the practicability of using methane vehicles in the performance of certain or all of the functions of their

agencies based in counties and standard metropolitan statistical areas in which demonstrations under section 7 of this Act are being conducted; and

(b) arrange for appropriate use of methane-fueled vehicles at the earliest practicable date.

REPORTS TO THE CONGRESS

SEC. 9. The Secretary shall submit to the Senate and the House of Representatives, for referral to the appropriate committees, such reports as the Secretary deems appropriate including an annual report on all activities being undertaken or carried out pursuant to the provisions of the Act, including— 15 USC 3808.

(1) such projections and estimates as may be necessary to evaluate the progress of the program and to indicate the extent to which, and the pace at which, the objectives of this Act are being achieved;

(2) an assessment of what problems exist and of the need for further research and development oriented toward the resolution of those problems;

(3) an assessment of the potential for commercialization of methane-fueled vehicles in various markets; and

(4) any recommendations which the Secretary may deem appropriate for legislation or administrative action which would further the purposes of this Act or facilitate expanded commercial use of methane-fueled vehicles.

AUTHORIZATIONS FOR APPROPRIATIONS

SEC. 10. There are authorized to be appropriated to the Secretary for purposes of carrying out this Act, not to exceed $3,000,000 for the fiscal year ending September 30, 1982, not less than one-half of which shall be for the purpose of making loans under section 7(b); not to exceed $5,000,000 for the fiscal year ending September 30, 1983, not less than one-half of which shall be for the purpose of making loans under section 7(b); not to exceed $5,000,000 for the fiscal year ending September 30, 1984, not less than one-half of which shall be for the purpose of making loans under section 7(b); and such sums as may be necessary for the fiscal years ending September 30, 1985, and September 30, 1986. Any amount appropriated pursuant to this section shall remain available until expended. 15 USC 3809.

RELATIONSHIP TO OTHER LAWS

SEC. 11. (a) Nothing in this Act shall be construed as authorizing the Secretary or any other official with respect to any activity pursuant to this Act to modify or waive the application of any Federal, State or local laws dealing with the production, transportation, storage, safety, use or pricing of methane. 15 USC 3810.

(b) Nothing in this Act shall be construed as granting the Secretary or any other Federal official any authority to promulgate rules of general application to regulate the production, transportation, storage, safety, use or pricing of methane as a transportation fuel or vehicles which use methane as a transportation fuel.

Approved December 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1237 (Comm. on Science and Technology).
SENATE REPORT No. 96-1006 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 25, considered and passed House.
Nov. 20, considered and passed Senate, amended.
Nov. 21, passage vitiated; reconsidered and passed Senate, amended; House concurred in Senate amendments.

Public Law 96-513
96th Congress

An Act

Dec. 12, 1980
[S. 1918]

To amend title 10, United States Code, to revise and standardize the provisions of law relating to appointment, promotion, separation, and mandatory retirement of regular commissioned officers of the Army, Navy, Air Force, and Marine Corps, to establish the permanent grade of commodore admiral in the Navy, to equalize the treatment of female commissioned officers with that of male commissioned officers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Defense Officer Personnel Management Act.

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Defense Officer Personnel Management Act". 10 USC 101 note.

(b) The table of contents for this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. References to title 10, United States Code.

TITLE I—AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE—GENERAL MILITARY LAW

Sec. 101. Definitions.
Sec. 102. Exclusion of certain personnel from annual end-strengths; annual report on estimated officer personnel requirements for next five years.
Sec. 103. Officer strength and distribution in grade.
Sec. 104. Original appointments in regular commissioned officer grades.
Sec. 105. Temporary appointments in officer grades and promotion, separation, and involuntary retirement of officers on the active-duty list.
Sec. 106. Authority to order retired members of regular components to active duty; grade in which reserve officers ordered to active duty.
Sec. 107. Rank of commissioned officers among themselves.
Sec. 108. Right of retired officers to command.
Sec. 109. Separation pay upon involuntary discharge or release from active duty.
Sec. 110. Involuntary separation of regular officers for substandard performance of duty or for certain other reasons.
Sec. 111. Retirement of regular commissioned officers at age 62.
Sec. 112. Requirement of three years service in grade for voluntary retirement.
Sec. 113. Computation of retired pay for regular officers retiring for age or years of service.
Sec. 114. Officers attending Uniformed Services University of the Health Sciences to be counted against authorized military strengths.
Sec. 115. Repeal of certain gender-based differences in treatment of dependents.
Sec. 116. Extension of restrictions on performance of civil functions to all officers on active duty.
Sec. 117 Permanent authority for certain provisions relating to disability retirement.

TITLE II—AMENDMENTS TO SUBTITLES B AND D OF TITLE 10, UNITED STATES CODE—THE ARMY AND THE AIR FORCE

PART A—AMENDMENTS RELATING TO OFFICER APPOINTMENT, PROMOTION, SEPARATION, AND MANDATORY RETIREMENT

Sec. 201. Repeal of sections providing for temporary appointments in grades of general and lieutenant general.
Sec. 202. Repeal of sections relating to the authorized strength of the Army and of the Air Force.
Sec. 203. Authorized strength in grade for general officers.
Sec. 204. Repeal of sections relating to appointments of commissioned officers in the Regular Army and in the Regular Air Force.
Sec. 205. Service credit upon original appointment of reserve commissioned officers.
Sec. 206. Exclusion of reserve officers on the active-duty list from certain provisions relating to appointments of reserve officers.
Sec. 207. Repeal of sections relating to temporary appointments of commissioned officers.
Sec. 208. Repeal of sections relating to temporary appointments of warrant officers.
Sec. 209. Grade in which reserve officers are ordered to active duty.
Sec. 210. Retired regular members ordered to active duty.
Sec. 211. Repeal of sections relating to rank and command.
Sec. 212. Command by commissioned officers of the Army Medical Department and by commissioned officers of the Air Force in certain categories.
Sec. 213. Repeal of chapters providing for involuntary separation of regular officers for unsatisfactory performance of duty and for certain other reasons.
Sec. 214. Repeal of sections authorizing discharge of regular officers during three-year probationary period.
Sec. 215. Retention in an active status of certain reserve officers until age 60.
Sec. 216. Repeal of chapters relating to retirement for age of regular commissioned officers.
Sec. 217. Repeal of sections relating to retirement for length of service.
Sec. 218. Director of admissions of United States Military Academy; Registrar of the United States Air Force Academy.

PART B—MISCELLANEOUS AMENDMENTS

Sec. 231. Authority to establish new staff corps in the Army.
Sec. 232. Personnel detailed outside the Department of Defense to be counted in computing strengths.
Sec. 233. Officers serving as Chief of Staff to the President.
Sec. 234. Grade of the Special Assistant to Comptroller of the Department of Defense.
Sec. 235. Rank, pay, and allowances of Assistant to the Chief of Engineers.
Sec. 236. Repeal of sections authorizing termination of appointment or enlistment of regular female members.
Sec. 237. Repeal of prohibition on women being enlisted as aviation cadets in the Regular Air Force.

TITLE III—AMENDMENTS TO SUBTITLE C OF TITLE 10, UNITED STATES CODE—THE NAVY AND MARINE CORPS

PART A—PERMANENT GRADE OF COMMODORE ADMIRAL IN THE NAVY

Sec. 301. Establishment of permanent commodore admiral grade.
Sec. 302. Number of Navy staff corps officers serving in grades of commodore admiral and rear admiral.

PART B—AMENDMENTS RELATING TO OFFICER STRENGTH AND DISTRIBUTION IN GRADE

Sec. 311. Repeal of sections relating to the strength of the Navy and Marine Corps.
Sec. 312. Personnel detailed outside the Department of Defense to be counted in computing strength.
Sec. 313. Amendments relating to number and distribution in grade of flag and general officers.
Sec. 314. Repeal of sections relating to lineal lists.

PART C—AMENDMENTS RELATING TO ORIGINAL APPOINTMENTS OF COMMISSIONED OFFICERS IN THE NAVY AND MARINE CORPS

Sec. 321. Repeal of certain sections of chapter 539 relating to original appointments in the Navy and Marine Corps superseded by new chapter 36.
Sec. 322. Repeal of section providing for appointment of graduates of the United States Naval Academy.
Sec. 323. Repeal of sections limiting number of ensigns appointed annually in certain staff corps.
Sec. 324. Original appointments in the Regular Navy of officers designated for engineering, aeronautical, and special duty.
Sec. 325. Original appointments of regular officers designated for limited duty.
Sec. 326. Temporary appointments in warrant officer grades and of officers designated for limited duty.
Sec. 327. Repeal of sections authorizing temporary appointments of Navy and Marine Corps officers.
Sec. 328. Service credit upon original appointment of reserve commissioned officers.
Sec. 329. Repeal of section authorizing direct procurement of ensigns and second lieutenants.

PART D—AMENDMENTS RELATING TO PROMOTIONS, SEPARATION, AND INVOLUNTARY RETIREMENT OF COMMISSIONED OFFICERS

Sec. 331. Repeal of chapter providing for appointments to fleet commands and other positions of importance and responsibility.
Sec. 332. Abolishment for regular officers of Navy running mate system and assignment of running mates to reserve officers.
Sec. 333. Repeal of chapters relating to selection boards, promotion of officers, and examinations for promotions.
Sec. 334. Temporary appointment of certain Navy lieutenants.
Sec. 335. Repeal of sections relating to involuntary retirement, separation, and furlough.
Sec. 336. Retirement or discharge of regular limited duty officers.
Sec. 337. Elimination of reserve officers from active status.
Sec. 338. Elimination from active status in the Naval Reserve of officers in the Nurse Corps.

PART E—AMENDMENTS RELATING TO SPECIFIC POSITIONS

Sec. 341. Rank and privileges of retirement of the Director of the Office of Budget and Reports.
Sec. 342. Grade of the Chief of Dental Division, Bureau of Medicine and Surgery.
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Sec. 344. Abolishment of positions of Assistant to the Chief of Naval Personnel for Women and Director of Women Marines.

PART F—ABOLISHMENT OF CERTAIN NAVY STAFF CORPS; AUTHORITY TO ESTABLISH NEW STAFF CORPS IN THE NAVY

Sec. 351. Authority to establish new staff corps in the Navy.
Sec. 352. Abolishment of Medical Service Corps and Nurse Corps.
Sec. 353. Composition of Medical Department of the Navy.

PART G—AMENDMENTS RELATING TO RETIRED OFFICERS

Sec. 361. Right of retired officers to command.
Sec. 362. Recall and retired pay of retired officers of the Regular Navy and Regular Marine Corps.
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PART H—MISCELLANEOUS AMENDMENTS

Sec. 371. Definitions.
Sec. 372. Repeal of limitation on assignment of Regular Navy officers to shore duty.
Sec. 373. Repeal of certain provisions providing different treatment of women members of the Navy and Marine Corps.
Sec. 374. Repeal of authorization for appointment of Reserve naval aviators as regular officers.

TITLE IV—AMENDMENTS TO TITLE 37, UNITED STATES CODE—PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

PART A—PAY FOR OFFICERS OF THE ARMED FORCES

Sec. 401. Repeal of assignment of certain officers in the Navy and Marine Corps to the pay grade for rear admirals.
Sec. 402. Computation of creditable service.
Sec. 403. Effective date for pay and allowances of commissioned officers receiving promotions.

PART B—MISCELLANEOUS AMENDMENTS RELATING TO PAY AND ALLOWANCES

Sec. 411. Subsistence allowance for enlisted members while performing certain travel.
Sec. 412. Elimination of differences of treatment in provision of initial uniform allowance to officers.
Sec. 413. Reimbursement of expenses in connection with certain mess operations.
Sec. 414. Repeal of provisions of title 37, United States Code, superseded by section 805 of the Mental Health Systems Act.
Sec. 415. Special pay for reserve medical officers.

TITLE V—TECHNICAL AND CLERICAL AMENDMENTS

PART A—AMENDMENTS REQUIRED BY THIS ACT

Sec. 501. Amendments to subtitle A of title 10, United States Code.
Sec. 502. Amendments to subtitle B of title 10, United States Code.
Sec. 503. Amendments to subtitle C of title 10, United States Code.
Sec. 504. Amendments to subtitle D of title 10, United States Code.
Sec. 505. Amendments to title 14, United States Code.
Sec. 506. Amendments to title 37, United States Code.
Sec. 507. Amendments to other laws.

PART B—AMENDMENTS TO MAKE TECHNICAL CORRECTIONS IN TITLES 10, 32, AND 37 OF THE UNITED STATES CODE OTHER THAN CORRECTIONS REQUIRED BY THIS ACT

Sec. 511. Amendments to subtitle A of title 10, United States Code.
Sec. 512. Amendments to subtitle B of title 10, United States Code.
Sec. 513. Amendments to subtitle C of title 10, United States Code.
Sec. 514. Amendments to subtitle D of title 10, United States Code.
Sec. 515. Amendments to title 32, United States Code.
Sec. 516. Amendments to title 37, United States Code.

TITLE VI—TRANSITION PROVISIONS

PART A—TRANSITION PROVISIONS RELATING ONLY TO THE ARMY AND AIR FORCE

Sec. 601. Regular officers serving in a higher temporary grade below lieutenant general or recommended for promotion to a higher grade.
Sec. 602. Reserve officers serving in a higher temporary grade below lieutenant general or recommended for promotion to a higher grade.
Sec. 603. Regular officers once failed of selection for promotion.
Sec. 604. Regular officers twice failed of selection for promotion.
Sec. 605. Reserve officers once failed of selection for promotion.
Sec. 606. Reserve officers twice failed of selection for promotion.
Sec. 607. Entitlement to severance pay or separation pay of officers separated or discharged pursuant to this part.
Sec. 608. Special tenure provisions for officers serving in temporary grades of brigadier general and major general.
Sec. 609. Right of majors and colonels to complete years of service allowed under prior law.
Sec. 610. Regular officers whose retirement has been deferred.

PART B—TRANSITION PROVISIONS RELATING ONLY TO THE NAVY AND MARINE CORPS

Sec. 611. Officers serving in a temporary grade below vice admiral or lieutenant general or recommended for promotion.
Sec. 612. Officers failed of selection for promotion.
Sec. 613. Right of certain officers to retire under prior law.

Sec. 614. Transition provisions to new commodore admiral grade.
Sec. 615. Female officers.
Sec. 616. Limited-duty officers.
Sec. 617. Certain Navy lieutenants holding temporary appointments in the grade of lieutenant commander.
Sec. 618. Director of Budget and Reports of the Navy.

PART C—GENERAL TRANSITION PROVISIONS

Sec. 621. Establishment of initial active-duty lists.
Sec. 622. Officers serving in the same temporary grade and permanent grade; date of rank.
Sec. 623. Officers serving in grades above major general or rear admiral.
Sec. 624. Years of service for involuntary retirement or discharge.
Sec. 625. Savings provision for constructive service previously granted.
Sec. 626. Miscellaneous provisions relating to years of service.
Sec. 627. Transition to officer grade-strength tables during fiscal year 1981.
Sec. 628. Right of commissioned officers with permanent enlisted or warrant officer status to retire in highest enlisted or warrant officer grade held.
Sec. 629. Savings provision for retired grade for officers not subsequently promoted.
Sec. 630. Exemption of certain officers from selective early retirement provisions.
Sec. 631. Savings provision for entitlement to readjustment pay or severance pay under prior provisions of law.
Sec. 632. Officers on active duty in grade above general.
Sec. 633. Definitions.

PART D—ADJUSTMENTS TO TRANSITION PROVISIONS FOR HEALTH PROFESSIONALS SPECIAL PAY

Sec. 641. Preservation of entitlement for reserve medical officers.
Sec. 642. Preservation of level of pay for senior dental officers.

TITLE VII—EFFECTIVE DATES AND GENERAL SAVINGS PROVISIONS

Sec. 701. Effective dates.
Sec. 702. Preservation of suspended status of law in suspended status on effective date.
Sec. 703. General savings provision.

REFERENCES TO TITLE 10, UNITED STATES CODE

SEC. 2. Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 10, United States Code.

TITLE I—AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE—GENERAL MILITARY LAW

DEFINITIONS

SEC. 101. Section 101, relating to definitions, is amended by adding at the end thereof the following new paragraphs: 10 USC 101.

"(37) 'Active-duty list' means a single list for the Army, Navy, Air Force, or Marine Corps (required to be maintained under section 620 of this title) which contains the names of all officers of that armed force, other than officers described in section 641 of this title, who are serving on active duty. *Post*, p. 2855. *Post*, p. 2866.

"(38) 'Medical officer' means an officer of the Medical Corps of the Army, an officer of the Medical Corps of the Navy, or an officer in the Air Force designated as a medical officer.

"(39) 'Dental officer' means an officer of the Dental Corps of the Army, an officer of the Dental Corps of the Navy, or an officer of the Air Force designated as a dental officer.

"(40) 'General officer' means an officer of the Army, Air Force, or Marine Corps serving in or having the grade of general, lieutenant general, major general, or brigadier general.

"(41) 'Flag officer' means an officer of the Navy serving in or having the grade of admiral, vice admiral, rear admiral, or commodore admiral.".

EXCLUSION OF CERTAIN PERSONNEL FROM ANNUAL END-STRENGTHS; ANNUAL REPORT ON ESTIMATED OFFICER PERSONNEL REQUIREMENTS FOR NEXT FIVE YEARS

10 USC 138.

SEC. 102. (a) Paragraph (1) of section 138(c), relating to the authorization of active-duty and civilian personnel, is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) In counting active-duty personnel for the purpose of the end-strengths authorized pursuant to subparagraph (A), persons in the following categories shall be excluded:

"(i) Members of the Ready Reserve ordered to active duty under section 673 of this title.

"(ii) Members of the Selected Reserve of the Ready Reserve ordered to active duty under section 673b of this title.

"(iii) Members of the National Guard called into Federal service under section 3500 or 8500 of this title.

"(iv) Members of the militia called into Federal service under chapter 15 of this title.

"(v) Members of reserve components on active duty for training for 180 days or less.

"(vi) Members of reserve components on active duty for 180 days or less to perform special work.

"(C) The authorized strength of the Navy is increased by the authorized strength of the Coast Guard during any period when the Coast Guard is operating as a service in the Navy.".

(b) Subparagraph (D) of paragraph (3) of such section is amended to read as follows:

"(D) The Secretary of Defense shall also include in such report with respect to each armed force under the jurisdiction of the Secretary of a military department—

"(i) the number of positions that require warrant officers or commissioned officers serving on active duty in each of the officer grades during the current fiscal year and the estimated number of such positions for each of the next five fiscal years;

"(ii) the estimated number of officers that will be serving on active duty in each grade on the last day of the current fiscal year and the estimated numbers of officers that will be needed on active duty on the last day of each of the next five fiscal years;

"(iii) an estimate and analysis for the current fiscal year and for each of the next five fiscal years of gains to and losses from the number of members on active duty in each officer grade, including a tabulation of—

"(I) retirements displayed by year of active commissioned service and active military service;

"(II) discharges;

"(III) other separations;

"(IV) deaths;

"(V) promotions; and

"(VI) reserve and regular officers ordered to active duty; and

"(iv) an analysis of the distribution of each of the following categories of officers serving on active duty on the last day of the preceding fiscal year by grade in which serving and years of active commissioned service:

"(I) Regular officers.

"(II) Reserve officers on the active-duty list.

"(III) Reserve officers described in clauses (B) and (C) of section 523(b)(1) of this title. *Post*, p. 2842.

"(IV) Officers other than those specified in subclauses (I), (II), and (III) serving in a temporary grade.".

OFFICER STRENGTH AND DISTRIBUTION IN GRADE

SEC. 103. Part II of subtitle A is amended by inserting after chapter 31 the following new chapter:

"CHAPTER 32—OFFICER STRENGTH AND DISTRIBUTION IN GRADE

"Sec.
"521. Authority to prescribe total strengths of officers on active duty and officer strengths in various categories.
"522. Authorized total strengths: regular commissioned officers on active duty.
"523. Authorized strengths: commissioned officers on active duty in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain.
"524. Authorized strengths: reserve officers on active duty for administration of the reserves in grades of major, lieutenant colonel, and colonel and Navy grades of lieutenant commander, commander, and captain.
"525. Distribution of commissioned officers on active duty in general officer and flag officer grades.
"526. Authority to suspend sections 523, 524, and 525.

"§ 521. Authority to prescribe total strengths of officers on active duty and officer strengths in various categories

10 USC 521.

"(a) Whenever the needs of the services require, but at least once each fiscal year, the Secretary of Defense shall prescribe the total authorized active-duty strength as of the end of the fiscal year for officers in grades above warrant officer (W-4) for each of the armed forces under the jurisdiction of the Secretary of a military department.

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary of each military department may, for an armed force under his jurisdiction, prescribe the strength of any category of officers that may serve on active duty.

"§ 522. Authorized total strengths: regular commissioned officers on active duty

"The authorized strengths of the Army, Navy, Air Force, and Marine Corps in regular officers (other than retired officers) in grades above chief warrant officer (W-4) are as follows:

"Army	63,000
"Navy	48,000
"Air Force	69,425
"Marine Corps	13,000

"(2) is able to complete 20 years of active commissioned service before his fifty-fifth birthday;

"(3) is of good moral character;

"(4) is physically qualified for active service; and

"(5) has such other special qualifications as the Secretary of the military department concerned may prescribe by regulation.

Medical or dental officers.

"(b)(1) Original appointments in the Regular Army in the Medical Corps or Dental Corps, and original appointments in the Regular Air Force with a view to designation of an officer as a medical or dental officer, may be made in the grades of first lieutenant through colonel. Original appointments in the Regular Navy in the Medical Corps or Dental Corps may be made in the grades of lieutenant (junior grade) through captain. Such appointments may be made only from persons who are qualified doctors of medicine, osteopathy, or dentistry.

Doctors of osteopathy.

"(2) To be eligible for an original appointment as a medical officer, a doctor of osteopathy must—

"(A) be a graduate of a college of osteopathy whose graduates are eligible to be licensed to practice medicine or surgery in a majority of the States;

"(B) be licensed to practice medicine, surgery, or osteopathy in a State or in the District of Columbia;

"(C) under regulations prescribed by the Secretary of Defense, have completed a number of years of osteopathic and preosteopathic education equal to the number of years of medical and premedical education prescribed for persons entering recognized schools of medicine who become doctors of medicine and who would be qualified for an original appointment in the grade for which that person is being considered for appointment; and

"(D) have such other qualifications as the Secretary of the military department concerned prescribes after considering the recommendations, if any, of the Surgeon General of the armed force concerned.

Limited duty.

"(c) Original appointments in the Regular Navy or Regular Marine Corps of officers designated for limited duty shall be made under section 5589 or 5596 of this title.

Post, pp. 2893, 2894.

"(d) A person receiving an original appointment as a medical officer or dental officer or as a chaplain is not subject to clause (2) of subsection (a).

10 USC 533.

"§ 533. Service credit upon original appointment as a commissioned officer

"(a)(1) For the purpose of determining the grade and rank within grade of a person receiving an original appointment in a commissioned grade (other than a warrant officer grade) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, such person shall be credited at the time of such appointment with any active commissioned service (other than service as a commissioned warrant officer) that he performed in any armed force before such appointment.

Regulations.

"(2) The Secretary of Defense shall prescribe regulations, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, to authorize the Secretary of the military department concerned to limit the amount of prior active commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b).

"(b)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned shall credit a person who is receiving an original appointment in a commissioned grade (other than a commissioned warrant officer grade) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps and who has advanced education or training or special experience with constructive service for such education, training, or experience as follows:

"(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed in officer categories requiring such advanced education or an advanced degree as a prerequisite for appointment as a commissioned officer. (Except as provided in clause (E), in determining the years of constructive service under this clause, the Secretary concerned shall grant credit for only the number of years normally required to complete the advanced education or receive the advanced degree.)

"(B) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for appointment as an officer, if such advanced education will be directly used by the armed force concerned.

"(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a specialty required by the armed forces.

"(D) Additional credit, in unusual cases, based on special experience in a particular field.

"(E) Additional credit of one year for advanced education in a health profession if the number of years of baccalaureate education completed by 75 percent or more of the students entering advanced training in that health profession exceeds, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees in that health profession. The percentage of such persons shall be computed on an annual basis for each health profession from the data for the year in which the person being appointed was admitted to a professional school. However, a person may not receive additional credit under this clause if the amount of his baccalaureate education does not exceed, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees for that health profession, determined on the basis prescribed in the preceding sentence.

"(F) Additional credit for experience as a physician or dentist, if appointed as a medical or dental officer in the Army or Navy or, in the case of the Air Force, with a view to designation as a medical or dental officer.

"(2) Except as authorized by the Secretary concerned in individual cases and under regulations prescribed by the Secretary of Defense in the case of a medical or dental officer, the amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment in the grade of major in the Army, Air Force, or Marine Corps or lieutenant commander in the Navy. Limitation.

"(3) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer.

"(c) Constructive service credited an officer under subsection (b) shall be used only for determining the officer's—

"(1) initial grade as a regular officer;

"(2) rank in grade; and

"(3) service in grade for promotion eligibility.

"(d)(1) Constructive service may not be credited under subsection (b) for education, training, or experience obtained while serving as a commissioned officer (other than a warrant officer) on active duty or in an active status.

"(2) A graduate of the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy is not entitled to service credit under this section for service performed, or education, training, or experience obtained, before graduation from such Academy.

Judge advocates.

"(e) If the Secretary of Defense determines that the number of qualified judge advocates serving on active duty in the Army, Navy, Air Force, or Marine Corps in grades below major or lieutenant commander is critically below the number needed by such armed force in such grades, he may authorize the Secretary of the military department concerned to credit any person receiving an original appointment in the Judge Advocate General's Corps of the Army or Navy, or any person receiving an original appointment in the Air Force or Marine Corps with a view to designation as a judge advocate, with a period of constructive service in such an amount (in addition to any period of service credited such person under subsection (b)(1)) as will result in the grade of such person being that of captain or, in the case of an officer of the Navy, lieutenant and the date of rank of such person being junior to that of all other officers of the same grade serving on active duty.

"(f) An officer of a reserve component who receives an original appointment as an officer (other than a warrant officer) in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps shall be appointed in the grade and with the date of rank to which he would have been entitled had he been serving on active duty as an officer of a reserve component on the date of such original appointment as a regular officer.".

(b) Such chapter is further amended by inserting after section 541 the following:

"SUBCHAPTER II—APPOINTMENTS OF REGULAR WARRANT OFFICERS

"Sec.
"555. Warrant officers: grades.
"556. Warrant officers: original appointment; service credit.
"557. Warrant officers: promotion; qualifications.
"558. Warrant officers: promotion; selection boards.
"559. Warrant officers: eligibility for promotion.
"560. Warrant officers: promotion; selection procedure.
"561. Warrant officers: effect of failure of selection for promotion.
"562. Warrant officers: disapproval of promotion by Secretary concerned, President, or Senate.
"563. Warrant officers: promotion; effective date.
"564. Warrant officers: effect of second failure of promotion.
"565. Warrant officers: suspension of laws for promotion or mandatory retirement or separation during war or emergency.".

TEMPORARY APPOINTMENTS IN OFFICER GRADES AND PROMOTION, SEPARATION, AND INVOLUNTARY RETIREMENT OF OFFICERS ON THE ACTIVE-DUTY LIST

SEC. 105. Part II of subtitle A is amended by redesignating chapter 35 as chapter 34 and by inserting after such chapter the following new chapters: 10 USC prec. 591.

"CHAPTER 35—TEMPORARY APPOINTMENTS IN OFFICER GRADES

"Sec.
"601. Positions of importance and responsibility: generals and lieutenant generals; admirals and vice admirals.
"602. Warrant officers: temporary promotions.
"603. Commissioned officer grades: time of war or national emergency.

"§ 601. Positions of importance and responsibility: generals and lieutenant generals; admirals and vice admirals 10 USC 601.

"(a) The President may designate positions of importance and responsibility to carry the grade of general or admiral or lieutenant general or vice admiral. The President may assign to any such position an officer of the Army, Navy, Air Force, or Marine Corps who is serving on active duty in any grade above colonel or, in the case of an officer of the Navy, any grade above captain. An officer assigned to any such position has the grade specified for that position if he is appointed to that grade by the President, by and with the advice and consent of the Senate. Except as provided in subsection (b), the appointment of an officer to a grade under this section for service in a position of importance and responsibility ends on the date of the termination of the assignment of the officer to that position.

"(b) If the assignment of an officer who is serving in a position designated to carry the grade of general, admiral, lieutenant general, or vice admiral is terminated—

"(1) by the assignment of such officer to another position designated to carry one of those grades, such officer shall hold, during the period beginning on the day of that termination and ending on the day before the day on which he assumes the other position, the grade that he held on the day before the termination;

"(2) by the hospitalization of such officer, such officer shall hold, during the period beginning on the day of that termination and ending on the day he is discharged from the hospital, but not for more than 180 days, the grade that he held on the day before the termination; or Hospitalization.

"(3) by the retirement of such officer, such officer shall hold, during the period beginning on the day of that termination and ending on the day before his retirement, but not for more than 90 days, the grade that he held on the day before the termination. Retirement.

"(c)(1) An appointment of an officer under subsection (a) does not vacate the permanent grade held by the officer.

"(2) An officer serving in a grade above major general or rear admiral who holds the permanent grade of brigadier general or commodore admiral shall be considered for promotion to the permanent grade of major general or rear admiral, as appropriate, as if he were serving in his permanent grade. Promotion.

"§ 602. Warrant officers: temporary promotions

"A warrant officer serving on active duty in the Army, Navy, Air Force, or Marine Corps may be given a temporary appointment to a

higher warrant officer grade under such regulations as the Secretary of the military department concerned may prescribe.

Presidential appointment. 10 USC 603.

"§ 603. Commissioned officer grades: time of war or national emergency

"(a) In time of war, or of national emergency declared by the Congress or the President after November 30, 1980, the President may appoint any qualified person (whether or not already a member of the armed forces) to any commissioned officer grade in the Army, Navy, Air Force, or Marine Corps, except that appointments under this section may not be made in warrant officer grades or in grades above major general or rear admiral. Appointments under this section shall be made by the President alone.

Temporary appointment.

"(b) Any appointment under this section is a temporary appointment and may be vacated by the President at any time.

Service credit.

"(c)(1) Any person receiving an original appointment under this section is entitled to service credit as authorized under section 533 of this title.

Ante, p. 2846.

"(2) An appointment under this section of a person who is not on active duty becomes effective when that person begins active duty under that appointment.

"(d) An appointment under this section does not change the permanent status of a member of the armed forces so appointed. A member who is appointed under this section shall not incur any reduction in the pay and allowances to which the member was entitled, by virtue of his permanent status, at the time of his appointment under this section.

"(e)(1) An officer who receives an appointment to a higher grade under this section is considered to have accepted such appointment on the date of the order announcing the appointment unless he expressly declines the appointment.

Oath.

"(2) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under this section.

Termination.

"(f) Unless sooner terminated, an appointment under this section terminates—

"(1) on the second anniversary of the appointment;

"(2) at the end of the six-month period beginning on the last day of the war or national emergency during which the appointment was made; or

"(3) on the date the person appointed is released from active duty;

whichever is earliest.

"CHAPTER 36—PROMOTION, SEPARATION, AND INVOLUNTARY RETIREMENT OF OFFICERS ON THE ACTIVE-DUTY LIST

"Subchapter	Sec.
"I. Selection Boards	611
"II. Promotions	619
"III. Failure of Selection for Promotion and Retirement for Years of Service	627
"IV. Continuation on Active Duty and Selective Early Retirement	637
"V. Additional Provisions Relating to Promotion, Separation, and Retirement	641

"SUBCHAPTER I—SELECTION BOARDS

"Sec.
"611. Convening of selection boards.
"612. Composition of selection boards.
"613. Oath of members of selection boards.
"614. Notice of convening of selection boards; communications with boards.
"615. Information furnished to selection boards.
"616. Recommendations for promotion by selection boards.
"617. Reports of selection boards.
"618. Action on reports of selection boards.

"§ 611. Convening of selection boards

10 USC 611.

"(a) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned, whenever the needs of the service require, shall convene selection boards to recommend for promotion to the next higher permanent grade, under subchapter II of this chapter, officers on the active-duty list in each permanent grade from first lieutenant through brigadier general in the Army, Air Force, or Marine Corps and from lieutenant (junior grade) through commodore admiral in the Navy.

Post, p. 2854.

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned, whenever the needs of the service require, may convene selection boards to recommend officers for continuation on active duty under section 637 of this title or for early retirement under section 638 of this title.

Post, p. 2863.
Post, p. 2864.

"§ 612. Composition of selection boards

"(a)(1) Members of selection boards shall be appointed by the Secretary of the military department concerned in accordance with this section. A selection board shall consist of five or more officers who are on the active-duty list of the same armed force as the officers under consideration by the board. Each member of a selection board must be serving in a grade higher than the grade of the officers under consideration by the board, except that no member of a board may be serving in a grade below major or lieutenant commander.

"(2) A selection board shall include at least one officer from each competitive category of officers to be considered by the board.

"(3) When reserve officers of an armed force are to be considered by a selection board, the membership of the board shall include at least one reserve officer of that armed force, except that in the case of a board which is considering officers in the grade of colonel or brigadier general or, in the case of officers of the Navy, captain or commodore admiral, no reserve officer need be included if there are no reserve officers of that armed force on active duty in the next higher grade.

Reserve officers.

"(4) Except as provided in paragraph (3), if qualified officers on the active-duty list are not available in sufficient numbers to comprise a selection board, the Secretary of the military department concerned shall complete the membership of the board by appointing as members of the board retired officers of the same armed force who hold a retired grade higher than the grade of the officers under consideration by the board. A retired general or flag officer who is on active duty for the purpose of serving on a selection board shall not, while so serving, be counted against any limitation on the number of general and flag officers who may be on active duty.

Retired officers.

"(b) No officer may be a member of two successive selection boards for the consideration of officers of the same competitive category and grade.

"§ 613. Oath of members of selection boards

"Each member of a selection board shall swear that he will perform his duties as a member of the board without prejudice or partiality

and having in view both the special fitness of officers and the efficiency of his armed force.

10 USC 614.

"§ 614. Notice of convening of selection boards; communications with boards

"(a) At least 30 days before a selection board is convened under section 611(a) of this title to recommend officers in a grade for promotion to the next higher grade, the Secretary concerned (1) shall notify in writing the officers eligible for consideration for promotion of the date on which the board is to convene and the name and date of rank of the junior officer, and of the senior officer, in the promotion zone as of the date of the notification, or (2) shall issue a general written notice to the armed force concerned regarding the convening of the board, the names of the officers eligible for consideration by the board as of the date of the notification, the convening date of the board, and the name and date of rank of the junior officer, and of the senior officer, in the promotion zone as of the date of the notification.

"(b) An officer eligible for consideration by a selection board convened under section 611(a) of this title may send a written communication to the board, to arrive not later than the date the board convenes, calling attention to any matter concerning himself that the officer considers important to his case. The selection board shall give consideration to any timely communication under this subsection.

"§ 615. Information furnished to selection boards

"The Secretary of the military department concerned shall furnish each selection board convened under section 611(a) of this title with—

"(1) the maximum number, as determined in accordance with section 622 of this title, of officers in each competitive category under consideration that the board may recommend for promotion to the next higher grade;

Post, p. 2856.

"(2) the names of all officers in each competitive category to be considered by the board for promotion;

"(3) the pertinent records (as determined by the Secretary) of each officer whose name is furnished to the board;

"(4) information relating to the needs of the armed force concerned for officers having particular skills; and

"(5) such other information and guidelines as may be necessary to enable the board to properly perform its functions.

"§ 616. Recommendations for promotion by selection boards

"(a) A selection board convened under section 611(a) of this title shall recommend for promotion to the next higher grade those officers considered by the board whom the board, giving due consideration to the needs of the armed force concerned for officers with particular skills, considers best qualified for promotion within each competitive category considered by the board.

Number of officers.

"(b) The Secretary of the military department concerned shall establish the number of officers such a selection board may recommend for promotion from among officers being considered from below the promotion zone in any competitive category. Such number may not exceed the number equal to 10 percent of the maximum number of officers that the board is authorized to recommend for promotion in such competitive category, except that the Secretary of Defense may authorize a greater number, not to exceed 15 percent of the total number of officers that the board is authorized to recommend for promotion, if the Secretary of Defense determines that the needs of

the service so require. If the number determined under this subsection is less than one, the board may recommend one such officer. The number of officers recommended for promotion from below the promotion zone does not increase the maximum number of officers which the board is authorized under section 615 of this title to recommend for promotion.

"(c) A selection board convened under section 611(a) of this title may not recommend an officer for promotion unless—

"(1) the officer receives the recommendation of a majority of the members of the board; and

"(2) a majority of the members of the board finds that the officer is fully qualified for promotion.

"(d) Except as otherwise provided by law, an officer on the active-duty list may not be promoted to a higher grade under this chapter unless he is considered and recommended for promotion to that grade by a selection board convened under this chapter.

"§ 617. Reports of selection boards

10 USC 617.

"(a) Each selection board convened under section 611(a) of this title shall submit to the Secretary of the military department concerned a written report, signed by each member of the board, containing a list of the names of the officers it recommends for promotion and certifying (1) that the board has carefully considered the record of each officer whose name was furnished to it under section 615 of this title, and (2) that, in the opinion of a majority of the members of the board, the officers recommended for promotion by the board are best qualified for promotion to meet the needs of the armed force concerned among those officers whose names were furnished to the selection board.

Submittal to Secretary.

"(b) A selection board convened under section 611(a) of this title shall include in its report to the Secretary concerned the name of any regular officer before it for consideration for promotion whose record, in the opinion of a majority of the members of the board, indicates that the officer should be required under chapter 60 of this title to show cause for his retention on active duty.

Active-duty retention.

Post, p. 2872.

"§ 618. Action on reports of selection boards

"(a) If, after reviewing the report of a selection board submitted to him under section 617(a) of this title, the Secretary of the military department concerned determines that the board has acted contrary to law or regulation, the Secretary shall return the report to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this subsection, the selection board (or a subsequent selection board convened under section 611(a) of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report and shall resubmit the report, as revised, to the Secretary in accordance with section 617 of this title.

"(b)(1) After his final review of the report of a selection board, the Secretary concerned shall submit the report, with his recommendations thereon, to the Secretary of Defense for transmittal to the President for his approval, modification, or disapproval.

Submittal to Defense Secretary; transmittal to President.

"(2) The Secretary concerned may submit to a board of officers convened under section 1181 of this title the name of any officer who is named in the report of a selection board as having a record which indicates that the officer should be required to show cause for his retention on active duty.

Active-duty retention.

Post, p. 2872.

"(c) The name of an officer recommended for promotion by a selection board may be removed from the report of the selection board only by the President.

"(d) Upon approval by the President of the report of a selection board, the names of the officers recommended for promotion by the selection board (other than any name removed by the President) may be disseminated to the armed force concerned. If such names have not been sooner disseminated, such names (other than the name of any officer whose promotion the Senate failed to confirm) shall be promptly disseminated to the armed force concerned upon confirmation by the Senate.

Proceedings, disclosure.

"(e) Except as authorized or required by this section, proceedings of a selection board convened under section 611(a) of this title may not be disclosed to any person not a member of the board.

"SUBCHAPTER II—PROMOTIONS

"Sec.
"619. Eligibility for consideration for promotion.
"620. Active-duty lists.
"621. Competitive categories for promotion.
"622. Numbers to be recommended for promotion.
"623. Establishment of promotion zones.
"624. Promotions: how made.
"625. Authority to vacate promotions to grades of brigadier general and commodore admiral.
"626. Acceptance of promotions; oath of office.

In-grade service period.
10 USC 619.

"§ 619. Eligibility for consideration for promotion

"(a)(1) An officer who is on the active-duty list of the Army, Air Force, or Marine Corps and holds a permanent appointment in the grade of second lieutenant or first lieutenant or is on the active-duty list of the Navy and holds a permanent appointment in the grade of ensign or lieutenant (junior grade) may not be promoted to the next higher permanent grade until he has completed the following period of service in the grade in which he holds a permanent appointment:

"(A) Eighteen months, in the case of an officer holding a permanent appointment in the grade of second lieutenant or ensign.

"(B) Two years, in the case of an officer holding a permanent appointment in the grade of first lieutenant or lieutenant (junior grade).

"(2) Subject to paragraph (4), an officer who is on the active-duty list of the Army, Air Force, or Marine Corps and holds a permanent appointment in a grade above first lieutenant or is on the active-duty list of the Navy and holds a permanent appointment in a grade above lieutenant (junior grade) may not be considered for selection for promotion to the next higher permanent grade until he has completed the following period of service in the grade in which he holds a permanent appointment:

"(A) Three years, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of captain, major, or lieutenant colonel or of an officer of the Navy holding a permanent appointment in the grade of lieutenant, lieutenant commander, or commander.

"(B) One year, in the case of an officer of the Army, Air Force, or Marine Corps holding a permanent appointment in the grade of colonel or brigadier general or of an officer of the Navy holding a permanent appointment in the grade of captain or commodore admiral.

"(3) When the needs of the service require, the Secretary of the military department concerned may prescribe a longer period of service in grade for eligibility for promotion, in the case of officers to whom paragraph (1) applies, or for eligibility for consideration for promotion, in the case of officers to whom paragraph (2) applies.

"(4) The Secretary of the military department concerned may waive paragraph (2) to the extent necessary to assure that officers described in clause (A) of such paragraph have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone. Waiver.

"(5) In computing service in grade for purposes of this section, service in a grade held as a result of assignment to a position is counted as service in the grade in which the officer would have served except for such assignment or appointment.

"(b) An officer who has failed of selection for promotion to the next higher grade remains eligible for consideration for promotion to that grade as long as he continues on active duty in other than a retired status and is not promoted. Continued eligibility.

"(c)(1) Each time a selection board is convened under section 611(a) of this title for consideration of officers in a competitive category for promotion to the next higher grade, each officer in the promotion zone (except as provided under paragraph (2)), and each officer above the promotion zone, for the grade and competitive category under consideration shall be considered for promotion.

"(2) The Secretary of the military department concerned—

"(A) may, by regulation, prescribe procedures to limit the officers to be considered by a selection board—

"(i) from below the promotion zone; or

"(ii) in the case of a selection board to recommend officers for promotion to the grade of brigadier general or commodore admiral,

to those officers who are determined to be exceptionally well qualified for promotion; and

"(B) may, by regulation, prescribe criteria for determining which officers below the promotion zone or in the grades of colonel and, in the case of officers of the Navy, captain are exceptionally well qualified for promotion.

"(d) A selection board convened under section 611(a) of this title may not consider for promotion to the next higher grade— Exceptions.

"(1) an officer whose name is on a promotion list for that grade as a result of his selection for promotion to that grade by an earlier selection board convened under that section; or

"(2) an officer of the Navy or Marine Corps who is an officer designated for limited duty and who holds a grade above lieutenant commander or major.

"§ 620. Active-duty lists 10 USC 620.

"(a) The Secretary of the military department concerned shall maintain a single list of all officers (other than officers described in section 641 of this title) who are on active duty for each armed force under his jurisdiction (other than the Coast Guard when it is operating as a service in the Navy). *Post*, p. 2866.

"(b) Officers shall be carried on the active-duty list of the armed force of which they are members in the order of seniority of the grade in which they are serving on active duty. Officers serving in the same grade shall be carried in the order of their rank in that grade.

"(c) An officer whose position on the active-duty list results from service under a temporary appointment or in a grade held by reason

of assignment to a position has, when that appointment or assignment ends, the grade and position on the active-duty list that he would have held if he had not received that appointment or assignment.

10 USC 621.

"§ 621. Competitive categories for promotion

"Under regulations prescribed by the Secretary of Defense, the Secretary of each military department shall establish competitive categories for promotion. Each officer whose name appears on an active-duty list shall be carried in a competitive category of officers. Officers in the same competitive category shall compete among themselves for promotion.

"§ 622. Numbers to be recommended for promotion

"Before convening a selection board under section 611(a) of this title for any grade and competitive category, the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, shall determine (1) the number of positions needed to accomplish mission objectives which require officers of such competitive category in the grade to which the board will recommend officers for promotion, (2) the estimated number of officers needed to fill vacancies in such positions during the period in which it is anticipated that officers selected for promotion will be promoted, and (3) the number of officers authorized by the Secretary of the military department concerned to serve on active duty in the grade and competitive category under consideration. Based on such determinations, the Secretary of the military department concerned shall determine the maximum number of officers in such competitive category which the selection board may recommend for promotion.

"§ 623. Establishment of promotion zones

"(a) Before convening a selection board under section 611(a) of this title to consider officers for promotion to any grade above first lieutenant or lieutenant (junior grade), the Secretary of the military department concerned shall establish a promotion zone for officers serving in each grade and competitive category to be considered by the board.

"(b) The Secretary concerned shall determine the number of officers in the promotion zone for officers serving in any grade and competitive category from among officers who are eligible for promotion in that grade and competitive category. Such determination shall be made on the basis of an estimate of—

Estimate.

"(1) the number of officers needed in that competitive category in the next higher grade in each of the next five years;

"(2) the number of officers to be serving in that competitive category in the next higher grade in each of the next five years;

"(3) in the case of a promotion zone for officers to be promoted to a grade to which section 523 of this title is applicable, the number of officers authorized for such grade under such section to be on active duty on the last day of each of the next five fiscal years; and

Ante, p. 2842.

"(4) the number of officers that should be placed in that promotion zone in each of the next five years to provide to officers in those years relatively similar opportunity for promotion.

"§ 624. Promotions: how made 10 USC 624.

"(a)(1) When the report of a selection board convened under section 611(a) of this title is approved by the President, or in the case of officers selected for promotion to the grade of first lieutenant or lieutenant (junior grade), when a list of officers selected for promotion is approved by the President, the Secretary of the military department concerned shall place the names of all officers approved for promotion within a competitive category on a single list for that competitive category, to be known as a promotion list, in the order of the seniority of such officers on the active-duty list.

"(2) Except as provided in subsection (d), officers on a promotion list for a competitive category shall be promoted to the next higher grade when additional officers in that grade and competitive category are needed. Promotions shall be made in the order in which the names of officers appear on the promotion list and after officers previously selected for promotion in that competitive category have been promoted.

"(b)(1) A regular officer who is promoted under this section is appointed in the regular grade to which promoted and a reserve officer who is promoted under this section is appointed in the reserve grade to which promoted.

"(2) The date of rank of an officer appointed to a higher grade under this section is determined under section 741(d) of this title. *Post*, p. 2869.

"(c) Appointments under this section shall be made by the President, by and with the advice and consent of the Senate, except that appointments in the grade of first lieutenant or lieutenant (junior grade) under this section shall be made by the President alone. Presidential appointment.

"(d)(1) The Secretary concerned may delay the appointment of an officer under this section if— Appointment delay.

"(A) sworn charges against the officer have been received by an officer exercising general court-martial jurisdiction over the officer and such charges have not been disposed of;

"(B) an investigation is being conducted to determine whether disciplinary action of any kind should be brought against the officer;

"(C) a board of officers has been convened under chapter 60 of this title to review the record of the officer; or

"(D) a criminal proceeding in a Federal or State court is pending against the officer.

If no disciplinary action is taken against the officer, if the charges against the officer are withdrawn or dismissed, if the officer is not ordered removed from active duty by the Secretary concerned under chapter 60 of this title, or if the officer is acquitted of the charges brought against him, as the case may be, the officer shall be retained on the promotion list and shall, upon promotion to the next higher grade, have the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the active-duty list as he would have had if no delay had intervened. Retention on list. *Post*, p. 2872.

"(2) The Secretary concerned may also delay the appointment of an officer to the next higher grade under this section in any case in which the Secretary finds that there is cause to believe that the officer is mentally, physically, morally, or professionally unqualified to perform the duties of the grade for which he was selected for promotion. If the Secretary concerned later determines that the officer is qualified for promotion to such grade, the officer shall, upon such promotion, have the same date of rank, the same effective date

for pay and allowances in the higher grade to which appointed, and the same position on the active-duty list as he would have had if no delay had intervened.

Delay, written notice.

"(3) The appointment of an officer may not be delayed under this subsection unless the officer has been given written notice of the grounds for the delay. An officer whose promotion has been delayed under this subsection shall be afforded an opportunity to make a written statement to the Secretary concerned in response to the action taken by the Secretary. Any such statement shall be given careful consideration by the Secretary.

Time limitation.

"(4) An appointment of an officer may not be delayed under the subsection for more than six months after the date on which the officer would otherwise have been appointed unless the Secretary concerned specifies a further period of delay. An officer's appointment may not be delayed more than 90 days after final action has been taken in any criminal case against such officer in a Federal or State court, more than 90 days after final action has been taken in any court-martial case against such officer, or more than 18 months after the date on which such officer would otherwise have been appointed, whichever is later.

10 USC 625.

"§ 625. Authority to vacate promotions to grades of brigadier general and commodore admiral

"(a) The President may vacate the promotion to the grade of brigadier general or commodore admiral of an officer who has served less than 18 months in that grade after promotion to that grade under this chapter.

"(b) An officer of the Army, Air Force, or Marine Corps whose promotion is vacated under this section holds the regular grade of colonel, if he is a regular officer, or the reserve grade of colonel, if he is a reserve officer. An officer of the Navy whose promotion is vacated under this section holds the regular grade of captain, if he is a regular officer, or the reserve grade of captain, if he is a reserve officer.

"(c) The position on the active-duty list of an officer whose promotion is vacated under this section is the position he would have held had he not been promoted to the grade of brigadier general or commodore admiral.

"§ 626. Acceptance of promotions; oath of office

"(a) An officer who is appointed to a higher grade under section 624 of this title is considered to have accepted such appointment on the date on which the appointment is made unless he expressly declines the appointment.

"(b) An officer who has served continuously since he subscribed to the oath of office prescribed in section 3331 of title 5 is not required to take a new oath upon appointment to a higher grade under section 624 of this title.

"SUBCHAPTER III—FAILURE OF SELECTION FOR PROMOTION AND RETIREMENT FOR YEARS OF SERVICE

"Sec.
"627. Failure of selection for promotion.
"628. Special selection boards.
"629. Removal from a list of officers recommended for promotion.
"630. Discharge of regular commissioned officers with less than five years of active commissioned service or found not qualified for promotion for first lieutenant or lieutenant (junior grade).

"631. Effect of failure of selection for promotion: regular first lieutenants and lieutenants (junior grade).
"632. Effect of failure of selection for promotion: regular captains and majors of the Army, Air Force, and Marine Corps and regular lieutenants and lieutenant commanders of the Navy.
"633. Retirement for years of service: regular lieutenant colonels and commanders.
"634. Retirement for years of service: regular colonels and Navy captains.
"635. Retirement for years of service: regular brigadier generals and commodore admirals.
"636. Retirement for years of service: regular major generals and rear admirals.

"§ 627. Failure of selection for promotion 10 USC 627.

"An officer in a grade below the grade of colonel or, in the case of an officer of the Navy, captain who is in or above the promotion zone established for his grade and competitive category under section 623 of this title and is considered but not selected for promotion by a selection board convened under section 611(a) of this title shall be considered to have failed of selection for promotion.

"§ 628. Special selection boards

"(a)(1) In the case of an officer who is eligible for promotion who the Secretary of the military department concerned determines was not considered for selection for promotion by a selection board because of administrative error, the Secretary concerned, under regulations prescribed by the Secretary of Defense, shall convene a special selection board under this subsection (composed in accordance with section 612 of this title) to determine whether such officer should be recommended for promotion.

"(2) A special selection board convened under paragraph (1) shall consider the record of the officer as his record would have appeared to the board that should have considered him. That record shall be compared with a sampling of the records of those officers of the same competitive category who were recommended for promotion, and those officers who were not recommended for promotion, by the board that should have considered him. Officer's record.

"(3) If a special selection board convened under paragraph (1) does not recommend for promotion an officer in a grade below the grade of colonel or, in the case of an officer of the Navy, captain whose name was referred to it for consideration, the officer shall be considered to have failed of selection for promotion.

"(b)(1) In the case of an officer who is eligible for promotion who was considered for selection for promotion by a selection board but was not selected, the Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense, may convene a special selection board under this subsection (composed in accordance with section 612 of this title) to determine whether such officer should be recommended for promotion if the Secretary concerned determines that—

"(A) the action of the board which considered the officer was contrary to law or involved material error of fact or material administrative error; or

"(B) the board did not have before it for its consideration material information.

"(2) A special selection board convened under paragraph (1) shall consider the record of the officer as his record, if corrected, would have appeared to the board that considered him. That record shall be compared with the records of a sampling of those officers of the same competitive category who were recommended for promotion, and those officers who were not recommended for promotion, by the board that considered him. Officer's record.

"(3) If a special selection board convened under paragraph (1) does not recommend for promotion an officer whose name was referred to it for consideration, the officer incurs no additional failure of selection for promotion.

Report, submittal to Secretary.

"(c)(1) Each special selection board convened under this section shall submit to the Secretary of the military department concerned a written report, signed by each member of the board, containing the name of each officer it recommends for promotion and certifying that the board has carefully considered the record of each officer whose name was referred to it.

"(2) The provisions of sections 617(b) and 618 of this title apply to the report and proceedings of a special selection board convened under this section in the same manner as they apply to the report and proceedings of a selection board convened under section 611(a) of this title.

"(d)(1) If the report of a special selection board convened under this section, as approved by the President, recommends for promotion to the next higher grade an officer whose name was referred to it for consideration, such officer shall, as soon as practicable, be appointed to the next higher grade in accordance with subsections (b), (c), and (d) of section 624 of this title.

"(2) An officer who is promoted to the next higher grade as the result of the recommendation of a special selection board convened under this section shall, upon such promotion, have the same date of rank, the same effective date for the pay and allowances of that grade, and the same position on the active-duty list as he would have had if he had been recommended for promotion to that grade by the board which should have considered, or which did consider, him.

"(e) The provisions of section 613 of this title apply to members of special selection boards convened under this section.

10 USC 629.

"§ 629. Removal from a list of officers recommended for promotion

"(a) The President may remove the name of any officer from a list of officers recommended for promotion by a selection board convened under this chapter.

"(b) If, after consideration of a list of officers approved for promotion by the President, the Senate does not give its advice and consent to the appointment of an officer whose name is on the list, that officer's name shall be removed from the list.

Continued eligibility.

"(c)(1) An officer whose name is removed from a list under subsection (a) or (b) continues to be eligible for consideration for promotion. If he is recommended for promotion by the next selection board convened for his grade and competitive category and he is promoted, the Secretary of the military department concerned may, upon such promotion, grant him the same date of rank, the same effective date for the pay and allowances of the grade to which promoted, and the same position on the active-duty list as he would have had if his name had not been so removed.

"(2) If such an officer who is in a grade below the grade of colonel or, in the case of the Navy, captain is not recommended for promotion by the next selection board convened for his grade and competitive category, or if his name is again removed from the list of officers recommended for promotion, or if the Senate again does not give its advice and consent to his promotion, he shall be considered for all purposes to have twice failed of selection for promotion.

"§ 630. Discharge of regular commissioned officers with less than five years of active commissioned service or found not qualified for promotion for first lieutenant or lieutenant (junior grade)

10 USC 630.

"The Secretary of the military department concerned, under regulations prescribed by the Secretary of Defense—

"(1) may discharge any regular officer on the active-duty list who—

"(A) has less than five years of active commissioned service; or

"(B) is serving in the grade of second lieutenant or ensign and has been found not qualified for promotion to the regular grade of first lieutenant or lieutenant (junior grade); and

"(2) shall, unless the officer has been promoted, discharge any officer described in clause (1)(B) at the end of the eighteen-month period beginning on the date on which the officer is first found not qualified for promotion.

"§ 631. Effect of failure of selection for promotion: regular first lieutenants and lieutenants (junior grade)

"(a) Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 5596(e) or 6383 of this title applies), each officer of the Regular Army, Regular Air Force, or Regular Marine Corps who holds the regular grade of first lieutenant and has failed of selection for promotion to the regular grade of captain for the second time, and each officer of the Regular Navy who holds the regular grade of lieutenant (junior grade) and has failed of selection for promotion to the regular grade of lieutenant for the second time, whose name is not on a list of officers recommended for promotion to the next higher regular grade shall—

Post, pp. 2894, 2898, 2932.

"(1) be discharged on the date requested by him and approved by the Secretary of the military department concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the board which considered him for the second time;

Discharge.

"(2) if he is eligible for retirement under any provision of law, be retired under that law on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the board which considered him for the second time; or

Retirement.

"(3) if on the date on which he is to be discharged under clause (1) he is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, be retained on active duty until he is qualified for retirement and then be retired under that section, unless he is sooner retired or discharged under another provision of law.

Retirement, active duty status.

"(b) The retirement or discharge of an officer pursuant to this section shall be considered to be an involuntary retirement or discharge for purposes of any other provision of law.

Involuntary retirement or discharge.

10 USC 632.

"§ 632. Effect of failure of selection for promotion: regular captains and majors of the Army, Air Force, and Marine Corps and regular lieutenants and lieutenant commanders of the Navy

"(a) Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 5596(e) or 6383 of this title applies) and except as provided under section 637(a) of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps who holds the regular grade of captain or major, and each officer of the Regular Navy who holds the regular grade of lieutenant or lieutenant commander, who has failed of selection for promotion to the next higher regular grade for the second time and whose name is not on a list of officers recommended for promotion to the next higher regular grade shall—

Post, pp. 2894, 2898, 2932.

Discharge.

"(1) be discharged on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the board which considered him for the second time;

Retirement.

"(2) if he is eligible for retirement under any provision of law, be retired under that law on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the board which considered him for the second time; or

Retirement, active duty status.

"(3) if on the date on which he is to be discharged under clause (1) he is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, be retained on active duty until he is qualified for retirement and then retired under that section, unless he is sooner retired or discharged under another provision of law.

Involuntary retirement or discharge.

"(b) The retirement or discharge of an officer pursuant to this section shall be considered to be an involuntary retirement or discharge for purposes of any other provision of law.

"§ 633. Retirement for years of service: regular lieutenant colonels and commanders

Post, pp. 2894, 2898, 2932.

"Except an officer of the Navy and Marine Corps who is an officer designated for limited duty (to whom section 5596(e) or 6383 of this title applies) and except as provided under section 637(b) of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps who holds the regular grade of lieutenant colonel, and each officer of the Regular Navy who holds the regular grade of commander, who is not on a list of officers recommended for promotion to the regular grade of colonel or captain, respectively, shall, if not earlier retired, be retired on the first day of the month after the month in which he completes twenty-eight years of active commissioned service.

"§ 634. Retirement for years of service: regular colonels and Navy captains

"Except as provided under section 637(b) of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps who holds the regular grade of colonel, and each officer of the Regular Navy who holds the regular grade of captain, who is not on a list of officers recommended for promotion to the regular grade of brigadier general or commodore admiral, respectively, shall, if not earlier

retired, be retired on the first day of the month after the month in which he completes thirty years of active commissioned service.

"§ 635. Retirement for years of service: regular brigadier generals and commodore admirals

10 USC 635.

"Except as provided under section 637(b) of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps who holds the regular grade of brigadier general, and each officer of the Regular Navy who holds the regular grade of commodore admiral, who is not on a list of officers recommended for promotion to the regular grade of major general or rear admiral, respectively, shall, if not earlier retired, be retired on the first day of the first month beginning after the date of the fifth anniversary of his appointment to that grade or on the first day of the month after the month in which he completes thirty years of active commissioned service, whichever is later.

"§ 636. Retirement for years of service: regular major generals and rear admirals

"Except as provided under section 637(b) of this title, each officer of the Regular Army, Regular Air Force, or Regular Marine Corps who holds the regular grade of major general, and each officer of the Regular Navy who holds the regular grade of rear admiral, shall, if not earlier retired, be retired on the first day of the first month beginning after the date of the fifth anniversary of his appointment to that grade or on the first day of the month after the month in which he completes thirty-five years of active commissioned service, whichever is later.

"SUBCHAPTER IV—CONTINUATION ON ACTIVE DUTY AND SELECTIVE EARLY RETIREMENT

"Sec.
"637. Selection of regular officers for continuation on active duty.
"638. Selective early retirement.
"639. Continuation on active duty to complete disciplinary action.
"640. Deferment of retirement or separation for medical reasons.

"§ 637. Selection of regular officers for continuation on active duty

"(a)(1) An officer subject to discharge or retirement in accordance with section 632 of this title may, subject to the needs of the service, be continued on active duty if he is selected for continuation on active duty by a selection board convened under section 611(b) of this title.

Discharge or retirement.

"(2) An officer who holds the regular grade of captain in the Army, Air Force, or Marine Corps, or the regular grade of lieutenant in the Navy, and who is subject to discharge or retirement in accordance with section 632 of this title may not be continued on active duty under this subsection for a period which extends beyond the last day of the month in which he completes twenty years of active commissioned service unless he is promoted to the regular grade of major or lieutenant commander, respectively.

"(3) An officer who holds the regular grade of major or lieutenant commander who is subject to discharge or retirement in accordance with section 632 of this title may not be continued on active duty under this subsection for a period which extends beyond the last day of the month in which he completes twenty-four years of active commissioned service unless he is promoted to the regular grade of lieutenant colonel or commander, respectively.

"(4) An officer who is selected for continuation on active duty under this subsection but declines to continue on active duty shall be discharged, retired, or retained on active duty, as appropriate, in accordance with section 632 of this title.

"(5) Each officer who is continued on active duty under this subsection, is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion to the next higher regular grade shall, unless sooner retired or discharged under another provision of law—

"(A) be discharged upon the expiration of his period of continued service; or

"(B) if he is eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which he completes his period of continued service.

Notwithstanding the provisions of clause (A), any officer who would otherwise be discharged under such clause and is within two years of qualifying for retirement under section 3911, 6323, or 8911 of this title, shall, unless he is sooner retired or discharged under some other provision of law, be retained on active duty until he is qualified for retirement under that section and then be retired.

Involuntary retirement or discharge.

"(6) The retirement or discharge of an officer pursuant to this subsection shall be considered to be an involuntary retirement or discharge for purposes of any other provision of law.

Deferred retirement.

"(b)(1) An officer subject to retirement under section 633, 634, 635, or 636 of this title may, subject to the needs of the service, have his retirement deferred and be continued on active duty if he is selected for continuation on active duty by a selection board convened under section 611(b) of this title.

"(2) An officer subject to retirement under section 635 or 636 of this title who is serving in a grade above major general or rear admiral may, subject to the needs of the service, have his retirement deferred and be continued on active duty by the President.

"(3) Any deferral of retirement and continuation on active duty under this subsection shall be for a period not to exceed five years, but such period may not (except as provided under section 1251(b) of this title) extend beyond the date of the officer's sixty-second birthday.

Post, p. 2875.

Secretary's approval.

"(c) Continuation of an officer on active duty under this section pursuant to the action of a selection board convened under section 611(b) of this title is subject to the approval of the Secretary of the military department concerned.

Regulations.

"(d) The Secretary of Defense shall prescribe regulations for the administration of this section.

10 USC 638.

"§ 638. Selective early retirement

"(a) A regular officer on the active-duty list of the Army, Navy, Air Force, or Marine Corps—

"(1) who holds the regular grade of lieutenant colonel or commander and has failed of selection for promotion to the grade of colonel or, in the case of an officer of the Navy, captain two or more times and whose name is not on a list of officers recommended for promotion;

"(2) who holds the regular grade of colonel or, in the case of an officer of the Navy, captain and has served at least four years of active duty in that grade and whose name is not on a list of officers recommended for promotion;

"(3) who holds the regular grade of brigadier general or commodore admiral and has served at least four years of active

duty in that grade and whose name is not on a list of officers recommended for promotion; or

"(4) who holds the regular grade of major general or rear admiral and has served at least four years of active duty in that grade,

may be considered for early retirement by a selection board convened under section 611(b) of this title. The Secretary of the military department concerned shall specify the number of officers described in clauses (1) and (2) which such a board may recommend for early retirement, but such number may not be more than 30 percent of the number of officers considered in each grade in each competitive category.

"(b)(1) An officer in a grade below brigadier general or commodore admiral who is recommended for early retirement under this section and whose early retirement is approved by the Secretary concerned shall—

"(A) be retired, under any provision of law under which he is eligible to retire, on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the seventh calendar month beginning after the month in which the Secretary concerned approves the report of the board which recommended the officer for early retirement; or

"(B) if the officer is not eligible for retirement under any provision of law, be retained on active duty until he is qualified for retirement under section 3911, 6323, or 8911 of this title, and then be retired under that section, unless he is sooner retired or discharged under some other provision of law.

Retirement, active duty status.
10 USC 3911, 6323, 8911.

"(2) An officer who holds the regular grade of brigadier general, major general, commodore admiral, or rear admiral who is recommended for early retirement under this section and whose early retirement is approved by the Secretary concerned shall be retired, under any provision of law under which he is eligible to retire, on the date requested by him and approved by the Secretary concerned, which date shall be not later than the first day of the tenth calendar month beginning after the month in which the Secretary concerned approved the report of the board which recommended the officer for early retirement.

"(c) So long as an officer in a grade below brigadier general or commodore admiral holds the same grade, he may not be considered for early retirement under this section more than once in any five-year period.

"(d) The retirement of an officer pursuant to this section shall be considered to be an involuntary retirement for purposes of any other provision of law.

Involuntary retirement.

"(e) The Secretary of Defense shall prescribe regulations for the administration of this section. Such regulations shall require that when the Secretary of the military department concerned submits a list of officers to a selection board convened under section 611(b) of this title to consider officers for selection for early retirement under this section, such list shall include each officer on the active-duty list in the same grade and competitive category whose position on the active-duty list is between that of the most junior officer in that grade and competitive category whose name is submitted to the board and that of the most senior officer in that grade and competitive category whose name is submitted to the board.

Regulations.

10 USC 639.

"§ 639. Continuation on active duty to complete disciplinary action

"When any action has been commenced against an officer with a view to trying such officer by court-martial and such officer is to be separated or retired in accordance with this chapter, the Secretary of the military department concerned may delay the separation or retirement of the officer, without prejudice to such action, until the completion of the action.

"§ 640. Deferment of retirement or separation for medical reasons

"The Secretary of the military department concerned may defer the retirement or separation under this title of any officer if the evaluation of the physical condition of the officer and determination of the officer's entitlement to retirement or separation for physical disability require hospitalization or medical observation that cannot be completed before the date on which the officer would otherwise be required to retire or be separated under this title.

"SUBCHAPTER V—ADDITIONAL PROVISIONS RELATING TO PROMOTION, SEPARATION, AND RETIREMENT

"Sec.
"641. Applicability of chapter.
"642. Entitlement of officers discharged or retired under this chapter to separation pay or retired pay.
"643. Chaplains: discharge or retirement upon loss of professional qualifications.
"644. Authority to suspend officer personnel laws.
"645. Definitions.

"§ 641. Applicability of chapter

"Officers in the following categories are not subject to this chapter (other than section 640):

"(1) Reserve officers—

"(A) on active duty for training;

"(B) on active duty under section 175, 265, 3015, 3019, 3033, 3496, 5251, 5252, 8019, 8033, or 8496 of this title or section 708 of title 32;

"(C) on active duty under section 672(d) of this title or under section 502 or 503 of title 32 in connection with organizing, administering, recruiting, instructing, or training the reserve components;

"(D) on active duty to pursue special work;

"(E) ordered to active duty under section 673b of this title; or

"(F) on active duty under section 10(b)(2) of the Military Selective Service Act (50 U.S.C. App. 460(b)(2)) for the administration of the Selective Service System.

"(2) The director of admissions, dean, and permanent professors at the United States Military Academy and the registrar, dean, and permanent professors at the United States Air Force Academy.

"(3) Warrant officers.

"(4) Retired officers on active duty.

"(5) Students at the Uniformed Services University of the Health Sciences.

"§ 642. Entitlement of officers discharged or retired under this chapter to separation pay or retired pay

10 USC 642.

"(a) An officer who is discharged under this chapter is entitled, if eligible therefor, to separation pay under section 1174 of this title.

Post, p. 2870.

"(b) An officer who is retired under this chapter is entitled to retired pay computed under chapter 71 of this title.

10 USC 1401 *et seq.*

"§ 643. Chaplains: discharge or retirement upon loss of professional qualifications

"Under regulations prescribed by the Secretary of Defense, a commissioned officer on the active-duty list of the Army, Navy, or Air Force who is appointed or designated as a chaplain may, if he fails to maintain the qualifications needed to perform his professional function, be discharged or, if eligible for retirement, may be retired.

"§ 644. Authority to suspend officer personnel laws

War or national emergency.

"In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of this chapter or of any other law relating to the promotion, involuntary retirement, or separation of commissioned officers of the Army, Navy, Air Force, or Marine Corps. So long as such war or national emergency continues, any such suspension may be extended by the President. Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621-1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency.

"§ 645. Definitions

"In this chapter:

"(1) 'Promotion zone' means a promotion eligibility category consisting of the officers on an active-duty list in the same grade and competitive category—

"(A) who—

"(i) in the case of officers in grades below colonel, for officers of the Army, Air Force, and Marine Corps, or captain, for officers of the Navy, have neither (I) failed of selection for promotion to the next higher grade, nor (II) been removed from a list of officers recommended for promotion to that grade; or

"(ii) in the case of officers in the grade of colonel or brigadier general, for officers of the Army, Air Force, and Marine Corps, or captain or commodore admiral, for officers of the Navy, have neither (I) not been recommended for promotion to the next higher grade when considered in the promotion zone, nor (II) been removed from a list of officers recommended for promotion to that grade; and

"(B) are senior to the officer designated by the Secretary of the military department concerned to be the junior officer

eligible for consideration for promotion to the next higher grade in the promotion zone.

"(2) 'Officers above the promotion zone' means a group of officers on an active-duty list in the same grade and competitive category who—

"(A) are eligible for consideration for promotion to the next higher grade;

"(B) are in the same grade as those officers in the promotion zone for that competitive category; and

"(C) are senior to the senior officer in the promotion zone for that competitive category.

"(3) 'Officers below the promotion zone' means a group of officers on the active-duty list in the same grade and competitive category who—

"(A) are eligible for consideration for promotion to the next higher grade;

"(B) are in the same grade as the officers in the promotion zone for that competitive category; and

"(C) are junior to the junior officer in the promotion zone for that competitive category.".

AUTHORITY TO ORDER RETIRED MEMBERS OF REGULAR COMPONENTS TO ACTIVE DUTY; GRADE IN WHICH RESERVE OFFICERS ORDERED TO ACTIVE DUTY

SEC. 106. Chapter 39, relating to service on active duty, is amended by adding at the end thereof the following new sections:

Active duty.
10 USC 688.

"§ 688. Regular components: retired members

"(a) Under regulations prescribed by the Secretary of Defense, a retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps may be ordered to active duty by the Secretary of the military department concerned at any time. The Secretary concerned may, to the extent consistent with other provisions of law, assign a member ordered to active duty under this section to such duties as the Secretary considers necessary in the interests of national defense.

"(b) A retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps who, while on active duty, is promoted to a grade that is higher than his retired grade is entitled, upon his release from that tour of active duty, to placement on the retired list in the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

"(c) Except in time of war, or of national emergency declared by the Congress or the President after November 30, 1980, not more than fifteen retired general officers of the Army, Air Force, or Marine Corps, and not more than fifteen retired flag officers of the Navy, may be on active duty at any one time. For the purposes of this subsection a retired officer ordered to active duty for a period of sixty days or less is not counted.

"§ 689. Reserve officers: grade in which ordered to active duty

"A reserve officer who is ordered to active duty shall be ordered to active duty in his reserve grade.".

RANK OF COMMISSIONED OFFICERS AMONG THEMSELVES

SEC. 107. Section 741 is amended to read as follows:

"§ 741. Rank: commissioned officers of the Army, Navy, Air Force, and Marine Corps 10 USC 741.

"(a) Among the grades listed below, the grades of general and admiral are equivalent and are senior to other grades and the grades of second lieutenant and ensign are equivalent and are junior to other grades. Intermediate grades rank in the order listed as follows:

"Army, Air Force, and Marine Corps:	Navy
General	Admiral.
Lieutenant general	Vice admiral.
Major general	Rear admiral.
Brigadier general	Commodore admiral.
Colonel	Captain.
Lieutenant colonel	Commander.
Major	Lieutenant commander.
Captain	Lieutenant.
First lieutenant	Lieutenant (junior grade).
Second lieutenant	Ensign.

"(b) Rank among officers of the same grade or of equivalent grades is determined by comparing dates of rank. An officer whose date of rank is earlier than the date of rank of another officer of the same or equivalent grade is senior to that officer.

"(c) Rank among officers of the same grade or of equivalent grades who have the same date of rank is determined by regulations prescribed by the Secretary of Defense which shall apply uniformly among the the Army, Navy, Air Force, and Marine Corps.

"(d)(1) The date of rank of an officer who holds a grade as the result of an original appointment shall be determined by the Secretary of the military department concerned at the time of such appointment. The date of rank of an officer who holds a grade as the result of an original appointment and who at the time of such appointment was awarded service credit for prior commissioned service or constructive credit for advanced education or training, or special experience shall be determined so as to reflect such prior commissioned service or constructive service. Determinations by the Secretary concerned under this paragraph shall be made under regulations prescribed by the Secretary of Defense which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps.

"(2) Except as otherwise provided by law, the date of rank of an officer who holds a grade as the result of a promotion is the date of his appointment to that grade.

"(3) Under regulations prescribed by the Secretary of Defense, which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps, the date of rank of a reserve commissioned officer (other than a warrant officer) who is to be placed on the active-duty list and who has not been on continuous active duty since his original appointment as a reserve commissioned officer in a grade above warrant officer (W-4) may, effective on the date on which he is placed on the active-duty list, be changed by the Secretary concerned to a later date to reflect such officer's qualifications and experience.".

RIGHT OF RETIRED OFFICERS TO COMMAND

SEC. 108. Chapter 43, relating to rank and command, is amended by adding at the end thereof the following new section:

10 USC 750.

"§ 750. Command: retired officers

"A retired officer has no right to command except when on active duty.".

SEPARATION PAY UPON INVOLUNTARY DISCHARGE OR RELEASE FROM ACTIVE DUTY

Repeal.

SEC. 109. (a) Section 687, relating to readjustment pay for nonregulars, is repealed.

(b)(1) The second sentence of section 1165, relating to separation of regular warrant officers during their probationary period, is amended to read as follows: "A warrant officer who is separated under this section is entitled, if eligible therefor, to separation pay under section 1174 or he may be enlisted under section 515 of this title. If such a warrant officer is enlisted under section 515 of this title, he is not entitled to separation pay.".

Infra.

(2) Section 1166(a), relating to elimination of regular warrant officers for unfitness or unsatisfactory performance, is amended—

(A) by striking out "be separated with severance pay computed under section 1167(b) of this title" in the second sentence and inserting in lieu thereof a comma and the following: "if eligible therefor, be separated with separation pay under section 1174 of this title or severance pay under section 286a of title 14, as appropriate"; and

Infra.

Infra.
Post, p. 2918.

(B) by inserting "separation pay or" in the third sentence after "being paid".

Repeal.

(3) Section 1167, relating to severance pay of regular warrant officers, is repealed.

(c) Chapter 59 is amended by adding at the end thereof the following new section:

"§ 1174. Separation pay upon involuntary discharge or release from active duty

"(a) A regular officer who is discharged under chapter 36 of this title (except under section 630(1)(A) or 643 of such chapter), under section 564 or 6383 of this title, or under section 603 or 604 of the Defense Officer Personnel Management Act and who has completed five or more, but less than twenty, years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1).

Ante, pp. 2850, 2861, 2867.
Post, pp. 2898, 2932.
Post, p. 2941.

"(b) A regular commissioned officer of the Army, Navy, Air Force, or Marine Corps who is discharged under section 630(1)(A), 643, or 1186 of this title, and a regular warrant officer of the Army, Navy, Air Force, or Marine Corps who is separated under section 1165 or 1166 of this title, who has completed five or more, but less than twenty, years of active service immediately before that discharge or separation is entitled to separation pay computed under subsection (d)(1) or (d)(2), as determined by the Secretary of the military department concerned, unless the Secretary concerned determines that the conditions under which the officer is discharged or separated do not warrant payment of such pay.

Ante, pp. 2861, 2867, *post*, p. 2874.

"(c) A member of an armed force other than a regular member who on or after the effective date of the Defense Officer Personnel

Management Act is discharged or released from active duty and who has completed five or more, but less than twenty, years of active service immediately before that discharge or release is entitled, unless the Secretary concerned determines that the conditions under which the member is discharged or separated do not warrant such pay, to separation pay computed under subsection (d)(1) or (d)(2), as determined by the Secretary concerned, if— *Ante*, p. 2835.

"(1) such member's discharge or release from active duty is involuntary; or

"(2) such member was not accepted for an additional tour of active duty for which he volunteered.

"(d) The amount of separation pay which may be paid to a member under this section is— Pay computation.

"(1) 10 percent of the product of (A) his years of active service, and (B) 12 times the monthly basic pay to which he was entitled at the time of his discharge or release from active duty or $30,000, whichever is less; or

"(2) one-half of the amount computed under clause (1), but in no event more than $15,000.

"(e) A member who— Ineligibility.

"(1) is discharged or released from active duty at his request;

"(2) is released from active duty for training; or

"(3) upon discharge or release from active duty, is immediately eligible for retired or retainer pay based on his military service; is not eligible for separation pay under this section.

"(f) In determining a member's years of active service for the purpose of computing separation pay under this section, a part of a year that is six months or more is counted as a whole year and a part of a year that is less than six months is disregarded.

"(g)(1) A period for which a member has previously received separation pay under this section or severance pay or readjustment pay under any other provision of law based on service in the armed forces may not be included in determining the years of service that may be counted in computing the separation pay of the member under this section.

"(2) The total amount that a member may receive in separation pay under this section and severance pay and readjustment pay under any other provision of law based on service in the armed forces may not exceed $30,000. Total pay, limitation.

"(h)(1) A member who has received separation pay under this section, or severance pay or readjustment pay under any other provision of law, based on service in the armed forces, and who later qualifies for retired or retainer pay under this title or title 14 shall have deducted from each payment of such retired or retainer pay so much of such pay as is based on the service for which he received separation pay under this section or severance pay or readjustment pay under any other provision of law until the total amount deducted is equal to the total amount of separation pay, severance pay, and readjustment pay received. Retired or retainer pay, deductions. 14 USC 1.

"(2) A member who has received separation pay under this section, or severance pay or readjustment pay under any other provision of law, based on service in the armed forces shall not be deprived, by reason of his receipt of such separation pay, severance pay, or readjustment pay, of any disability compensation to which he is entitled under the laws administered by the Veterans' Administration, but there shall be deducted from that disability compensation an amount equal to the total amount of separation pay, severance pay, and readjustment pay received. Notwithstanding the preceding Disability pay, deductions.

sentence, no deduction may be made from disability compensation for the amount of any separation pay, severance pay, or readjustment pay received because of an earlier discharge or release from a period of active duty if the disability which is the basis for that disability compensation was incurred or aggravated during a later period of active duty.

Regulations. "(i) The Secretary of Defense shall prescribe regulations, which shall be uniform for the Army, Navy, Air Force, and Marine Corps, for the administration of this section.".

INVOLUNTARY SEPARATION OF REGULAR OFFICERS FOR SUBSTANDARD PERFORMANCE OF DUTY OR FOR CERTAIN OTHER REASONS

SEC. 110. Part II of subtitle A is amended by inserting after chapter 59 the following new chapter:

"CHAPTER 60—SEPARATION OF REGULAR OFFICERS FOR SUBSTANDARD PERFORMANCE OF DUTY OR FOR CERTAIN OTHER REASONS

"Sec.
"1181. Authority to convene boards of officers to consider separation of officers for substandard performance of duty or for certain other reasons.
"1182. Boards of inquiry.
"1183. Boards of review.
"1184. Removal of officer: action by Secretary upon recommendation of board of review.
"1185. Rights and procedures.
"1186. Officer considered for removal: voluntary retirement or discharge.
"1187. Officers eligible to serve on boards.

10 USC 1181.

"§ 1181. Authority to convene boards of officers to consider separation of officers for substandard performance of duty or for certain other reasons

"(a) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may at any time convene a board of officers to review the record of any commissioned officer (other than a commissioned warrant officer or a retired officer) of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps to determine whether such officer shall be required, because his performance of duty has fallen below standards prescribed by the Secretary of Defense, to show cause for his retention on active duty.

"(b) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may at any time convene a board of officers to review the record of any commissioned officer (other than a commissioned warrant officer or a retired officer) of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps to determine whether such officer should be required, because of misconduct, because of moral or professional dereliction, or because his retention is not clearly consistent with the interests of national security, to show cause for his retention on active duty.

"§ 1182. Boards of inquiry

"(a) The Secretary of the military department concerned shall convene boards of inquiry at such times and places as the Secretary may prescribe to receive evidence and make findings and recommendations as to whether an officer who is required under section 1181 of this title to show cause for retention on active duty should be retained on active duty. Each board of inquiry shall be composed of not less

than three officers having the qualifications prescribed by section 1187 of this title.

"(b) A board of inquiry shall give a fair and impartial hearing to each officer required under section 1181 of this title to show cause for retention on active duty.

"(c) If a board of inquiry determines that the officer has failed to establish that he should be retained on active duty, it shall send the record of its proceedings to a board of review convened under section 1183 of this title. Review board.

"(d)(1) If a board of inquiry determines that the officer has established that he should be retained on active duty, the officer's case is closed.

"(2) An officer who is required to show cause for retention on active duty under subsection (a) of section 1181 of this title and who is determined under paragraph (1) to have established that he should be retained on active duty may not again be required to show cause for retention on active duty under such subsection within the one-year period beginning on the date of that determination.

"(3)(A) Subject to subparagraph (B), an officer who is required to show cause for retention on active duty under subsection (b) of section 1181 of this title and who is determined under paragraph (1) to have established that he should be retained on active duty may again be required to show cause for retention at any time.

"(B) An officer who has been required to show cause for retention on active duty under subsection (b) of section 1181 of this title and who is thereafter retained on active duty may not again be required to show cause for retention on active duty under such subsection solely because of conduct which was the subject of the previous proceedings, unless the findings or recommendations of the board of inquiry that considered his case are determined to have been obtained by fraud or collusion.

"§ 1183. Boards of review 10 USC 1183.

"(a) The Secretary of the military department concerned shall convene boards of review at such times as the Secretary may prescribe to review the cases of officers who a board of inquiry has determined have failed to establish that they should be retained on active duty. Each board of review shall be composed of not less than three officers having the qualifications prescribed by section 1187 of this title.

"(b) If, after reviewing the record of the case of any officer, a board of review determines that the officer has failed to establish that he should be retained on active duty, the board of review shall recommend to the Secretary concerned that the officer not be retained on active duty. Recommendation to Secretary.

"(c)(1) If, after reviewing the record of the case of any officer, a board of review determines that the officer has established that he should be retained on active duty, the officer's case is closed.

"(2) An officer who is required to show cause for retention under subsection (a) of section 1181 of this title and who is determined under paragraph (1) to have established that he should be retained on active duty may not again be required to show cause for retention under such subsection within the one-year period beginning on the date of that determination.

"(3)(A) Subject to subparagraph (B), an officer who is required to show cause for retention under subsection (b) of section 1181 of this title and who is determined under paragraph (1) to have established

that he should be retained on active duty may again be required to show cause for retention at any time.

"(B) An officer who has been required to show cause for retention as a result of proceedings under subsection (b) of section 1181 of this title and who is thereafter retained on active duty may not again be required to show cause for retention on active duty under such subsection solely because of conduct which was the subject of the previous proceeding, unless the findings or recommendations of the board of inquiry or board of review that considered his case are determined to have been obtained by fraud or collusion.

10 USC 1184.

"§ 1184. Removal of officer: action by Secretary upon recommendation of board of review

"The Secretary of the military department concerned may remove an officer from active duty if the removal of such officer from active duty is recommended by a board of review convened under section 1183 of this title.

"§ 1185. Rights and procedures

"(a) Under regulations prescribed by the Secretary of Defense, each officer required under section 1181 of this title to show cause for retention on active duty—

"(1) shall be notified in writing, at least 30 days before the hearing of his case by a board of inquiry, of the reasons for which he is being required to show cause for retention on active duty;

"(2) shall be allowed a reasonable time, as determined by the board of inquiry, to prepare his showing of cause for his retention on active duty;

"(3) shall be allowed to appear in person and to be represented by counsel at proceedings before the board of inquiry; and

"(4) shall be allowed full access to, and shall be furnished copies of, records relevant to his case, except that the board of inquiry shall withhold any record that the Secretary concerned determines should be withheld in the interest of national security.

Withheld records.

"(b) When a record is withheld under subsection (a)(4), the officer whose case is under consideration shall, to the extent that the interest of national security permits, be furnished a summary of the record so withheld.

"§ 1186. Officer considered for removal: voluntary retirement or discharge

"(a) At any time during proceedings under this chapter with respect to the removal of an officer from active duty, the Secretary of the military department concerned may grant a request by the officer—

"(1) for voluntary retirement, if the officer is qualified for retirement; or

"(2) for discharge in accordance with subsection (b)(2).

"(b) An officer removed from active duty under section 1184 of this title shall—

"(1) if eligible for voluntary retirement under any provision of law on the date of such removal, be retired in the grade and with the retired pay for which he would be eligible if retired under such provision; and

"(2) if ineligible for voluntary retirement under any provision of law on the date of such removal—

"(A) be honorably discharged in the grade then held, in the case of an officer whose case was brought under subsection (a) of section 1181 of this title; or

"(B) be discharged in the grade then held, in the case of an officer whose case was brought under subsection (b) of section 1181 of this title.

"(c)" An officer who is discharged under subsection (b)(2) is entitled, if eligible therefor, to separation pay under section 1174(b) of this title.

Ante, p. 2870.

"§ 1187. Officers eligible to serve on boards

10 USC 1187.

"(a)(1) Each officer who serves on a board convened under this chapter shall be an officer of the same armed force as the officer being required to show cause for retention on active duty.

"(2) Except as provided in paragraph (3), an officer may not serve on a board under this chapter unless such officer is serving on active duty in a grade above lieutenant colonel or commander and is senior in grade and rank to any officer considered by that board.

"(3) If qualified officers on active duty are not available in sufficient numbers to comprise a board convened under this chapter, the Secretary of the military department concerned shall complete the membership of the board by appointing retired officers of the same armed force who are retired in a grade above lieutenant colonel or commander and whose retired grade is senior to the grade of any officer considered by the board. A retired general or flag officer who is on active duty for the purpose of serving on a board convened under this chapter shall not, while so serving, be counted against any limitation on the number of general and flag officers who may be on active duty.

Retired officers.

"(b) No person may be a member of more than one board convened under this chapter to consider the same officer.".

RETIREMENT OF REGULAR COMMISSIONED OFFICERS AT AGE 62

SEC. 111. Chapter 63, relating to retirement for age, is amended by inserting before section 1263 the following new section:

"§ 1251. Age 62: regular commissioned officers; exceptions

"(a) Unless retired or separated earlier, each regular commissioned officer of the Army, Navy, Air Force, or Marine Corps (other than an officer who is a permanent professor, director of admissions, or registrar of the United States Military Academy or United States Air Force Academy or a commissioned warrant officer) shall be retired on the first day of the month following the month in which he becomes 62 years of age. An officer who is a permanent professor at the United States Military Academy or United States Air Force Academy, the director of admissions at the United States Military Academy, or the registrar of the United States Air Force Academy shall be retired on the first day of the month following the month in which he becomes 64 years of age.

"(b) Notwithstanding subsection (a), the President may defer the retirement of an officer serving in a position that carries a grade above major general or rear admiral, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 64 years of age. Not more than ten deferments of retirement under this subsection may be in effect at any one time.".

Retirement, Presidential deferment.

REQUIREMENT OF THREE YEARS SERVICE IN GRADE FOR VOLUNTARY RETIREMENT

SEC. 112. Chapter 69, relating to retired grade, is amended by inserting before section 1371 the following new section:

10 USC 1370.

"§ 1370. Commissioned officers: general rule; exceptions

"(a)(1) Unless entitled to a higher retired grade under some other provision of law, a commissioned officer (other than a commissioned warrant officer) of the Army, Navy, Air Force, or Marine Corps who retires under any provision of law other than chapter 61 or chapter 67 of this title shall, except as provided in paragraph (2), be retired in the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

10 USC 1201 *et seq.*, 1331 *et seq.*

"(2) In order to be eligible for voluntary retirement under any provision of this title in a grade above major or lieutenant commander and below lieutenant general or vice admiral, a commissioned officer of the Army, Navy, Air Force, or Marine Corps must have served on active duty in that grade for not less than three years. The President may waive the preceding sentence in individual cases involving extreme hardship or exceptional or unusual circumstances. The authority of the President under the preceding sentence may not be delegated.

"(3) A reserve or temporary officer who is notified that he will be released from active duty without his consent and thereafter requests retirement under section 3911, 6323, or 8911 of this title and is retired pursuant to that request is considered for purposes of this section, to have been retired involuntarily. An officer retired pursuant to section 1186(b)(1) of this title is considered for purposes of this section to have been retired voluntarily.

Ante, p. 2874.

"(b) An officer whose length of service in the highest grade he held while on active duty does not meet the service in grade requirements specified in subsection (a) shall be retired in the next lower grade in which he served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than six months.

"(c) Upon retirement an officer of the Army, Navy, Air Force, or Marine Corps who is serving in or has served in a position of importance and responsibility designated by the President to carry the grade of general or admiral or lieutenant general or vice admiral under section 601 of this title may, in the discretion of the President, be retired, by and with the advice and consent of the Senate, in the highest grade held by him while serving on active duty.".

Ante, p. 2849.

COMPUTATION OF RETIRED PAY FOR REGULAR OFFICERS RETIRING FOR AGE OR YEARS OF SERVICE

Post, p. 2924.

SEC. 113. (a)(1) Section 1401, relating to computation of retired pay, is amended by adding at the end of the table contained in such section the following new formula:

"5	633 634 635 636 1251	Monthly basic pay[1] of member's retired grade.[5]	2½% of years of service credited under section 1405.[3]	.....	Excess over 75% of pay upon which computation is based.".

(2) Section 1401 is further amended by adding after the last footnote to the table contained in such section the following new footnote: 10 USC 1401.

"[5] For the purposes of this section, determine an officer's retired grade as if sections 3962(b) and 8962(b) did not apply.".

(b) Section 1405, relating to years of service for computation of retired pay, is amended to read as follows:

"§ 1405. Years of service

"For the purposes of section 1401 (formulas 4 and 5), 3991 (formula B), 6151(b), 6323(e), 6325 (a)(2) and (b)(2), 6383(c)(2), or 8991 (formula B) of this title, the years of service of a member of the armed forces are computed by adding— *Post*, pp. 2910, 2932, 2917.

"(1) his years of active service;

"(2) the years of service, not included in clause (1), with which he was entitled to be credited on May 31, 1958, in computing his basic pay; and

"(3) the years of service, not included in clause (1) or (2), with which he would be entitled to be credited under section 1333 of this title if he were entitled to retired pay under section 1331 of this title.". *Post*, p. 2924.

(c) Section 1407(b)(4), relating to retired pay base, is amended by inserting "633, 634, 635, 636, 1251," before "1263,".

OFFICERS ATTENDING UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES TO BE COUNTED AGAINST AUTHORIZED MILITARY STRENGTHS

SEC. 114. The second sentence of section 2114(b), relating to students attending the Uniformed Services University of the Health Sciences, is amended by striking out ", but shall not be counted against any prescribed military strengths". *Post*, p. 2926.

REPEAL OF CERTAIN GENDER-BASED DIFFERENCES IN TREATMENT OF DEPENDENTS

SEC. 115. (a) Section 101, relating to definitions for purposes of title 10, is amended by striking out paragraph (36).

(b) Section 1072(2), relating to definitions for purposes of chapter 55 (medical and dental care), is amended—

(1) by striking out "wife" in clause (A) and inserting in lieu thereof "spouse";

(2) by striking out clause (C) and redesignating clauses (D), (E), and (F) as clauses (C), (D), and (E); and

(3) by striking out all of clause (C) (as redesignated by clause (B) of this paragraph) after "widower" and inserting in lieu thereof a semicolon.

EXTENSION OF RESTRICTIONS ON PERFORMANCE OF CIVIL FUNCTIONS TO ALL OFFICERS ON ACTIVE DUTY

10 USC 973.

SEC. 116. (a) Subsection (a) of section 973, relating to restrictions on performance of civil functions by officers, is amended by striking out "on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard" and inserting in lieu thereof "of an armed force on active duty".

(b) Subsection (b) of such section is amended by striking out "officer on the active list of the Regular Army, Regular Navy, Regular Air Force, Regular Marine Corps, or Regular Coast Guard" and inserting in lieu thereof "regular officer of an armed force on active duty".

(c) The heading of such section is amended to read as follows:

"§ 973. Duties: officers on active duty; performance of civil functions restricted".

PERMANENT AUTHORITY FOR CERTAIN PROVISIONS RELATING TO DISABILITY RETIREMENT

SEC. 117. Sections 1201(3)(B)(iv), 1203(4)(A)(iii), and 1203(4)(C)(iii) are each amended by striking out "during the period beginning on" and all that follows through "to that effect" and inserting in lieu thereof "after September 14, 1978".

TITLE II—AMENDMENTS TO SUBTITLES B AND D OF TITLE 10, UNITED STATES CODE—THE ARMY AND THE AIR FORCE

PART A—AMENDMENTS RELATING TO OFFICER APPOINTMENT, PROMOTION, SEPARATION, AND MANDATORY RETIREMENT

REPEAL OF SECTIONS PROVIDING FOR TEMPORARY APPOINTMENTS IN GRADES OF GENERAL AND LIEUTENANT GENERAL

SEC. 201. Sections 3066 and 8066, relating to generals and lieutenant generals, are repealed.

REPEAL OF SECTIONS RELATING TO THE AUTHORIZED STRENGTH OF THE ARMY AND OF THE AIR FORCE

SEC. 202. The following sections of chapters 331 and 831, relating to the strength of the Army and Air Force, are repealed: sections 3201 and 8201, 3203 and 8203, 3204 and 8204, 3205 and 8205, 3206 and 8206, 3207 and 8207, 8208, 3209 and 8209, 3211 and 8211, 3213 and 8213, 3214 and 8214, 8215, and 3216.

AUTHORIZED STRENGTH IN GRADE FOR GENERAL OFFICERS

SEC. 203. (a) Section 3202, relating to the authorized strength of the Army in officers on active duty in certain grades, is amended to read as follows:

"§ 3202. Army: strength in grade; general officers 10 USC 3202.

"(a) The authorized strength of the Army in general officers on active duty on the last day of each fiscal year, exclusive of officers on active duty for training only and officers serving with other departments or agencies on a reimbursable basis, is based on the total number of officers authorized for the Army in all commissioned grades under section 521 of this title as follows: *Ante*, p. 2841.

"If the total number of officers authorized in all commissioned grades is—	The authorized strength for general officers is—
50,000	350
60,000	400
70,000	425
80,000	450
90,000	475
100,000	495
110,000	510
120,000	520
130,000	530
140,000	540
150,000	550.

If the total number of officers authorized in all commissioned grades is between two of the figures listed in the first column of the table, the authorized strength for general officers is determined by mathematical interpolation between the respective authorized strengths listed in the table. If such number is more than 150,000, the Secretary of the Army shall fix the corresponding authorized strength in general officers in general conformity with the table.

"(b) Whenever the number of general officers is less than the number authorized under this section, the difference between the two numbers may be applied to increase the number authorized under section 523 of this title for any lower grade to which such section is applicable. *Ante*, p. 2842.

"(c) In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of this section. So long as such war or national emergency continues, any such suspension may be extended by the President. Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621-1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency.".

(b) Section 8202, relating to the authorized strength of the Air Force in officers on active duty in certain grades, is amended to read as follows:

"§ 8202. Air Force: strength in grade; general officers

"(a) The authorized strength of the Air Force in general officers on active duty on the last day of each fiscal year, exclusive of officers on active duty for training only and officers serving with other departments or agencies on a reimbursable basis, is based on the total number of officers authorized for the Air Force in all commissioned grades under section 521 of this title on active duty as follows:

"If the total number of officers authorized in all commissioned grades is—	The authorized strength for general officers is—
50,000	312
60,000	324
70,000	336
80,000	349
90,000	363
100,000	380
110,000	398
120,000	416
130,000	434
140,000	452
150,000	470
160,000	478
170,000	486
180,000	495.

If the actual strength in commissioned officers on active duty is between two of the figures listed in the first column of the table, the authorized strength for general officers is determined by mathematical interpolation between the respective authorized strengths listed in the table. If such strength is more than 180,000, the Secretary of the Air Force shall fix the corresponding strength in general officers in general conformity with the table.

"(b) Whenever the number of general officers is less than the number authorized under this section, the difference between the two numbers may be applied to increase the number authorized under section 523 of this title for any lower grade to which such section is applicable.

Ante, p. 2842.

"(c) In time of war, or of national emergency declared by Congress or the President after November 30, 1980, the President may suspend the operation of any provision of this section. So long as such war or national emergency continues, any such suspension may be extended by the President. Any such suspension shall, if not sooner ended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621-1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency.".

REPEAL OF SECTIONS RELATING TO APPOINTMENTS OF COMMISSIONED OFFICERS IN THE REGULAR ARMY AND IN THE REGULAR AIR FORCE

SEC. 204. The following sections of chapters 335 and 835, relating to appointments in the Regular Army and Regular Air Force, are repealed: sections 3284 and 8284, 3285 and 8285, 3286 and 8286, 3287 and 8287, 3288 and 8288, 3289 and 8289, 3290, 3291, 3292, 3293 and 8293, 3294 and 8294, 3295 and 8295, 3296 and 8296, 3297 and 8297, 3298 and 8298, 3299 and 8299, 3300 and 8300, 8301, 3302 and 8302, 3303 and 8303, 3305 and 8305, 3306 and 8306, 3307 and 8307, 3308 and 8308, 3309 and 8309, 3312 and 8312, 3313 and 8313, and 3314 and 8314.

SERVICE CREDIT UPON ORIGINAL APPOINTMENT OF RESERVE COMMISSIONED OFFICERS

SEC. 205. (a) Section 3353, relating to the appointment and service credit of reserve commissioned officers of the Army, is amended to read as follows:

"§ 3353. Commissioned officers: service credit upon original appointment 10 USC 3353.

"(a)(1) For the purpose of chapters 337 and 363 of this title and under regulations prescribed by the Secretary of Defense, a person receiving an original appointment as a reserve commissioned officer in the Army shall be credited at the time of such appointment with any service as a commissioned officer, except service as a commissioned warrant officer, that he performed in an active status in any armed force before such appointment. 10 USC 3351 *et seq.*, 3843 *et seq.*

"(2) The Secretary of Defense shall prescribe regulations to authorize the Secretary of the Army to limit the amount of prior commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b).

"(b)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of the Army shall credit a person who is receiving an original appointment as a reserve commissioned officer in the Army and who has advanced education or training or special experience with constructive service for such education, training, or experience as follows:

"(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed in officer categories requiring such advanced education or an advanced degree as a prerequisite for appointment as a commissioned officer. (Except as provided in clause (E), in determining the years of constructive service under this clause, the Secretary of the Army shall grant credit for only the number of years normally required to complete the advanced education or receive the advanced degree.)

"(B) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for appointment as an officer, if such advanced education will be directly used by the Army.

"(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a specialty required by the Army.

"(D) Additional credit, in unusual cases, based on special experience in a particular field.

"(E) Additional credit of one year for advanced education in a health profession if the number of years of baccalaureate education completed by 75 percent or more of the students entering advanced training in that health profession exceeds, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees in that health profession. The percentage of such persons shall be computed on an annual basis for each health profession from the

data for the year in which the person being appointed was admitted to a professional school. However, a person may not receive additional credit under this clause if the amount of his baccalaureate education does not exceed, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees for that health profession, determined on the basis prescribed in the preceding sentence.

"(F) Additional credit for experience as a physician or dentist, if appointed in the Medical or Dental Corps.

"(2) Except as authorized by the Secretary of the Army in individual cases and under regulations prescribed by the Secretary of Defense in the case of a medical or dental officer, the amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment in the grade of major.

"(3) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer.

"(c) Constructive service may not be credited under subsection (b) for education, training, or experience obtained while serving in an active status.

"(d) If the Secretary of Defense determines that the number of qualified judge advocates serving on active duty in the Army in grades below major is critically below the number needed by the Army in such grades, he may authorize the Secretary of the Army to credit any person receiving an original appointment in the Judge Advocate General's Corps with a view to an immediate call to active duty with a period of constructive service in such an amount (in addition to any period of service credited such person under subsection (b)(1)) as will result in the grade of such person being that of captain and the date of rank of such person being junior to that of all other officers of the same grade serving on active duty.".

(b) Section 8353, relating to the appointment and service credit of reserve commissioned officers of the Air Force, is amended to read as follows:

10 USC 8353.

"§ 8353. Commissioned officers: service credit upon original appointment

10 USC 3351 *et seq.*, 3843 *et seq.*

"(a)(1) For the purpose of chapters 337 and 363 of this title and under regulations prescribed by the Secretary of Defense, a person receiving an original appointment as a reserve commissioned officer in the Air Force shall be credited at the time of such appointment with any service as a commissioned officer, except service as a commissioned warrant officer, that he performed in an active status in any armed force before such appointment.

Regulations.

"(2) The Secretary of Defense shall prescribe regulations to authorize the Secretary of the Air Force to limit the amount of prior commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b).

"(b)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of the Air Force shall credit a person who is receiving an original appointment as a reserve commissioned officer in the Air Force and who has advanced education or training or special experi-

ence with constructive service for such education, training, or experience as follows:

"(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed in officer categories requiring such advanced education or an advanced degree as a prerequisite for appointment as a commissioned officer. (Except as provided in clause (E), in determining the years of constructive service under this clause, the Secretary of the Air Force shall grant credit for only the number of years normally required to complete the advanced education or receive the advanced degree.)

"(B) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for appointment as an officer, if such advanced education will be directly used by the Air Force.

"(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a specialty required by the Air Force.

"(D) Additional credit, in unusual cases, based on special experience in a particular field.

"(E) Additional credit of one year for advanced education in a health profession if the number of years of baccalaureate education completed by 75 percent or more of the students entering advanced training in that health profession exceeds, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees in that health profession. The percentage of such persons shall be computed on an annual basis for each health profession from the data for the year in which the person being appointed was admitted to a professional school. However, a person may not receive additional credit under this clause if the amount of his baccalaureate education does not exceed, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees for that health profession, determined on the basis prescribed in the preceding sentence.

"(F) Additional credit for experience as a physician or dentist, if appointed with a view to designation as a medical or dental officer.

"(2) Except as authorized by the Secretary of the Air Force in individual cases and under regulations prescribed by the Secretary of Defense in the case of an officer appointed with a view to designation as a medical or dental officer, the amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment in the grade of major.

"(3) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer.

"(c) Constructive service may not be credited under subsection (b) for education, training, or experience obtained while serving in an active status.

"(d) If the Secretary of Defense determines that the number of qualified judge advocates serving on active duty in the Air Force in grades below major is critically below the number needed by the Air Force in such grades, he may authorize the Secretary of the Air Force to credit any person receiving an original appointment in the Judge Advocate General's Corps with a period of constructive service in such an amount (in addition to any period of service credited such person under subsection (b)(1)) as will result in the grade of such person being that of captain and the date of rank of such person being junior to that of all other officers of the same grade serving on active duty.".

EXCLUSION OF RESERVE OFFICERS ON THE ACTIVE-DUTY LIST FROM CERTAIN PROVISIONS RELATING TO APPOINTMENTS OF RESERVE OFFICERS

SEC. 206. (a) Chapter 337, relating to appointments as reserve officers of the Army, is amended by adding at the end thereof the following new section:

10 USC 3396.

"§ 3396. Exclusion of officers on the active-duty list

"The preceding sections of this chapter, except section 3353, do not apply to reserve officers on the active-duty list.".

(b) Chapter 837, relating to appointments as reserve officers of the Air Force, is amended by adding at the end thereof the following new section:

"§ 8396. Exclusion of officers on the active-duty list

"The preceding sections of this chapter, except section 8353, do not apply to reserve officers on the active-duty list.".

REPEAL OF SECTIONS RELATING TO TEMPORARY APPOINTMENTS OF COMMISSIONED OFFICERS

SEC. 207. The following sections of chapters 339 and 839, relating to temporary appointments of commissioned officers, are repealed: sections 3441 and 8441, 3442 and 8442, 3444 and 8444, 3445 and 8445, 3447 and 8447, 3451 and 8451, and 3452 and 8452.

REPEAL OF SECTIONS RELATING TO TEMPORARY APPOINTMENTS OF WARRANT OFFICERS

SEC. 208. Sections 3448 and 8448, relating to temporary appointments of warrant officers, and 3449 and 8449, relating to temporary promotions of warrant officers, are repealed.

GRADE IN WHICH RESERVE OFFICERS ARE ORDERED TO ACTIVE DUTY

Repeal.

SEC. 209. (a) Sections 3494 and 8494, relating to the grade in which reserve commissioned officers of the Army and Air Force are ordered to active duty, are repealed.

RETIRED REGULAR MEMBERS ORDERED TO ACTIVE DUTY

Repeal.

SEC. 210. Sections 3504 and 8504, relating to the ordering of retired regular members of the Army and Air Force to active duty, are repealed.

REPEAL OF SECTIONS RELATING TO RANK AND COMMAND

SEC. 211. The following sections of chapters 345 and 845, relating to rank and command, are repealed: sections 3571 and 8571, 3573 and 8573, 3574 and 8574, and 3582 and 8582.

COMMAND BY COMMISSIONED OFFICERS OF THE ARMY MEDICAL DEPARTMENT AND BY COMMISSIONED OFFICERS OF THE AIR FORCE IN CERTAIN CATEGORIES

SEC. 212. (a) Section 3579, relating to the exercise of command by officers of the Army Medical Department, is amended—

(1) by striking out ", other than an officer of the Army Nurse Corps or Army Medical Specialist Corps," in subsection (a);

(2) by striking out subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

(b) The text of section 8579, relating to the exercise of command by Air Force officers in certain designated categories, is amended to read as follows:

"An officer designated as a medical, dental, veterinary, medical service, or biomedical sciences officer or as a nurse is not entitled to exercise command because of rank, except within the categories prescribed in subsection (a), (b), (c), (d), (e), (f), or (i) of section 8067 of this title, or over persons placed under his charge."

Post, p. 2916.

REPEAL OF CHAPTERS PROVIDING FOR INVOLUNTARY SEPARATION OF REGULAR OFFICERS FOR UNSATISFACTORY PERFORMANCE OF DUTY AND FOR CERTAIN OTHER REASONS

SEC. 213. Chapters 359 and 859, relating to separation from the Regular Army and from the Regular Air Force for substandard performance of duty, and 360 and 860, relating to separation from the Regular Army and from the Regular Air Force for moral or professional dereliction or in interests of national security, are repealed.

10 USC 3781 *et seq.*, 8781 *et seq.*
10 USC 3791 *et seq.*, 8791 *et seq.*

REPEAL OF SECTIONS AUTHORIZING DISCHARGE OF REGULAR OFFICERS DURING THREE-YEAR PROBATIONARY PERIOD

SEC. 214. Sections 3814 and 8814, relating to the discharge of regular commissioned officers with less than three years of commissioned service, are repealed.

RETENTION IN AN ACTIVE STATUS OF CERTAIN RESERVE OFFICERS UNTIL AGE 60

SEC. 215. (a) Section 3855, relating to the retention in active status of certain reserve officers until age 60, is amended—

(1) by inserting "the podiatry specialty in the Medical Allied Sciences Section of the Medical Service Corps, the Optometry Section of the Medical Service Corps," after "Veterinary Corps," and

(2) by adding at the end thereof the following new sentence: "An officer may be retained in an active status under the authority of this section only to fill a mission-based requirement.".

(b) Section 8855, relating to the retention in active status of certain officers until age 60, is amended—

(1) by inserting "optometrist, podiatrist," after "veterinary officer,";

(2) by striking out "Air Force medical specialist" and inserting in lieu thereof "biomedical sciences officer"; and

(3) by adding at the end thereof the following new sentence: "An officer may be retained in an active status under the authority of this section only to fill a mission-based requirement.".

REPEAL OF CHAPTERS RELATING TO RETIREMENT FOR AGE OF REGULAR COMMISSIONED OFFICERS

SEC. 216. Chapters 365 and 865, relating to retirement for age of regular commissioned officers, are repealed.

REPEAL OF SECTIONS RELATING TO RETIREMENT FOR LENGTH OF SERVICE

10 USC 3883 *et seq.*, 8883 *et seq.*

SEC. 217. (a) The following sections of chapters 367 and 867, relating to retirement for length of service, are repealed: sections 3913 and 8913, 3915, 3916 and 8916, 3919 and 8919, 3921 and 8921, 3922 and 8922, 3923 and 8923, and 3927 and 8927.

DIRECTOR OF ADMISSIONS OF UNITED STATES MILITARY ACADEMY; REGISTRAR OF THE UNITED STATES AIR FORCE ACADEMY

SEC. 218. (a) Section 4336, relating to the director of admissions at the United States Military Academy, is amended by striking out subsection (c).

(b) Section 9336, relating to the registrar at the United States Air Force Academy, is amended by striking out subsection (c).

PART B—MISCELLANEOUS AMENDMENTS

AUTHORITY TO ESTABLISH NEW STAFF CORPS IN THE ARMY

SEC. 231. Section 3064, relating to the special branches of the Army, is amended—

(1) in subsection (a)—

(A) by striking out "and" at the end of clause (2);

(B) by striking out the period at the end of clause (3) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new clause:

"(4) such other special branches as may be established by the Secretary of the Army under subsection (b).";

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) The Secretary of the Army may establish special branches for the Army and may appoint commissioned officers in, and may assign members to, such branches.".

PERSONNEL DETAILED OUTSIDE THE DEPARTMENT OF DEFENSE TO BE COUNTED IN COMPUTING STRENGTHS

Repeals.

SEC. 232. Sections 3230 and 8230, relating to personnel detailed outside the Department of Defense, are repealed.

OFFICERS SERVING AS CHIEF OF STAFF TO THE PRESIDENT

SEC. 233. (a) Section 3531, relating to the appointment of an Army general officer as the Chief of Staff to the President, is repealed. Repeal. 10 USC 3531.

(b) Section 8531, relating to the appointment of an Air Force general officer as the Chief of Staff to the President, is repealed. Repeal.

GRADE OF THE SPECIAL ASSISTANT TO COMPTROLLER OF THE DEPARTMENT OF DEFENSE

SEC. 234. Section 3532, relating to the grade of the Special Assistant to the Comptroller of the Department of Defense, is repealed. Repeal.

RANK, PAY, AND ALLOWANCES OF ASSISTANT TO THE CHIEF OF ENGINEERS

SEC. 235. Section 3535, relating to the rank, pay, and allowances of the Assistant to the Chief of Engineers in charge of civil works, is repealed. Repeal.

REPEAL OF SECTIONS AUTHORIZING TERMINATION OF APPOINTMENT OR ENLISTMENT OF REGULAR FEMALE MEMBERS

SEC. 236. Section 3818 and 8818, relating to the termination of appointments and enlistments of female members, are repealed.

REPEAL OF PROHIBITION ON WOMEN BEING ENLISTED AS AVIATION CADETS IN THE REGULAR AIR FORCE

SEC. 237. Section 8257, relating to qualifications of aviation cadets in the Regular Air Force, is amended by striking out "male" both places it appears in such section.

TITLE III—AMENDMENTS TO SUBTITLE C OF TITLE 10, UNITED STATES CODE—THE NAVY AND MARINE CORPS

PART A—PERMANENT GRADE OF COMMODORE ADMIRAL IN THE NAVY

ESTABLISHMENT OF PERMANENT COMMODORE ADMIRAL GRADE

SEC. 301. Section 5501 is amended to read as follows:

"§ 5501. Navy: grades above chief warrant officer, W-4

"The commissioned grades in the Navy above the grade of chief warrant officer, W-4, are the following:

"(1) Admiral.
"(2) Vice admiral.
"(3) Rear admiral.
"(4) Commodore admiral.
"(5) Captain.
"(6) Commander.
"(7) Lieutenant commander.
"(8) Lieutenant.
"(9) Lieutenant (junior grade).
"(10) Ensign.".

NUMBER OF NAVY STAFF CORPS OFFICERS SERVING IN GRADES OF COMMODORE ADMIRAL AND REAR ADMIRAL

SEC. 302. Section 5444 is amended to read as follows:

10 USC 5444.

"§ 5444. Navy: staff corps officers on active duty; commodore admirals and rear admirals

"(a) The total number of officers serving on active duty in the grades of commodore admiral and rear admiral in the staff corps of the Navy excluding any flag officer serving as a Chief of Bureau, may not exceed a number appropriate to the total number of officers in all the staff corps serving on active duty, as set forth in the following table. If the total number of officers on active duty in all the staff corps falls between two strengths shown in the first column of the table, the number of rear admirals and commodore admirals is determined by proportionate interpolation between the numbers of the two strengths.

"Total number of officers in all the staff corps on active duty:	Number of rear admirals and commodore admirals
9,000	44
13,000	53
19,000	57
27,000	61
32,000	64
37,000	67

Computation.

"(b) The Secretary of the Navy, whenever the needs of the service require but at least once annually, shall compute the number of officers authorized under subsection (a) for the grades of commodore admiral and rear admiral in all the staff corps. The number so computed is the number of officers on active duty specified for the grades of commodore admiral and rear admiral in all the staff corps. If the Secretary determines at the time of making any such computation that the number of officers required to meet the needs of the service in the grades of commodore admiral and rear admiral for all the staff corps is less than the specified number for such grades for all the staff corps, the lesser number becomes the specified number for such grades for all the staff corps and the reduction may be applied as an increase in the authorized number for any lower grade of the Navy under section 523 of this title.

Ante, p. 2842.

"(c) Each officer in a staff corps who serves as a chief of bureau and who, before or during that service, is appointed to the grade of commodore admiral or rear admiral under section 624 of this title shall, upon termination of his appointment as chief of bureau, be carried in excess of the prescribed number until the next vacancy occurs in his grade in his corps.

Ante, p. 2857.

"(d) The prescribed number of officers computed or determined under this section may not be varied between computations.

"(e) For the purpose of this section, each officer is counted in the grade in which he is serving, whether under a permanent or a temporary appointment. However, each officer serving under an appointment in the grade of admiral or vice admiral and each officer in a grade to which he was appointed under section 603 of this title is

Ante, p. 2850.

counted in the grade he would hold had he not been so appointed or promoted.

"(f) The Secretary shall prescribe the number of rear admirals in each staff corps. The total of the prescribed numbers of rear admirals for all the staff corps may not exceed 50 percent of the total number computed under subsection (b). The Secretary shall further prescribe the number of commodore admirals in each staff corps. The prescribed number of rear admirals for any staff corps may not exceed the prescribed number of commodore admirals for that staff corps. Staff corps, limitation.

"(g) For the purpose of computing the total number of flag officers in the staff corps of the Navy, flag officers of the Judge Advocate General's Corps shall be considered additional numbers in grade.".

PART B—AMENDMENTS RELATING TO OFFICER STRENGTH AND DISTRIBUTION IN GRADE

REPEAL OF SECTIONS RELATING TO THE STRENGTH OF THE NAVY AND MARINE CORPS

SEC. 311. (a) The following sections of chapter 531, relating to the authorized strength of the Navy and Marine Corps, are repealed: sections 5401, 5402, 5403, 5404, 5405, 5406, 5407, 5408, 5409, 5412, 5415, and 5417.

(b) The heading of such chapter is amended to read as follows:

"CHAPTER 531—STRENGTH OF NAVAL RESERVE AND MARINE CORPS RESERVE".

PERSONNEL DETAILED OUTSIDE THE DEPARTMENT OF DEFENSE TO BE COUNTED IN COMPUTING STRENGTH

SEC. 312. Section 5416, relating to personnel detailed outside the Department of Defense, is repealed. Repeal. 10 USC 5416.

AMENDMENTS RELATING TO NUMBER AND DISTRIBUTION IN GRADE OF FLAG AND GENERAL OFFICERS

SEC. 313. (a) Section 5441, relating to the terms "prescribed number" and "vacancy", is amended by striking out "or combination of grades" each place it appears.

(b) Section 5442, relating to the number of Navy line officers on active duty, is amended to read as follows:

"§ 5442. Navy: line officers on active duty; commodore admirals and rear admirals

"(a) Of the total number of officers serving on active duty in the line of the Navy in the grade of ensign and above (excluding officers in categories specified in section 523(b) of this title), the number of officers who may serve in the grades of commodore admiral and rear admiral may not, except as provided in subsection (b), exceed a number appropriate to the number set forth in the following table. If the total number of officers serving on active duty in the line of the Navy in the grade of ensign and above (excluding officers in categories specified in section 523(b) of this title) falls between two strengths shown in the first column of the table, the number for the grades of commodore admiral and rear admiral is determined by proportionate interpolation between the respective numbers for the two strengths.

"Total number of line officers serving on active duty in the grade of ensign and above (excluding officers carried as additional numbers in grade):	Number of commodore admirals and rear admirals
32,000	215
40,000	222
50,000	228
60,000	237
70,000	244
80,000	252
90,000	259
100,000	262
125,000	291
150,000	305
175,000	323
200,000	342
250,000	379.

Computation.

"(b)(1) The Secretary of the Navy, whenever the needs of the service require, but at least once annually, shall compute the number of officers authorized under subsection (a) for the grades of commodore admiral and rear admiral. The number so computed for such grades shall be the number of officers on active duty (excluding officers in categories specified in section 523(b) of this title) specified for such grades. If at the time of making computations under this subsection the Secretary determines that the number of officers required to meet the needs of the service in the grades of commodore admiral and rear admiral is less than the specified number for such grades, the lesser number becomes the specified number for such grades. Any reduction under this subsection may be applied as an increase in the prescribed number for any lower grade.

Ante, p. 2842.

"(2) When making a computation under this subsection, the Secretary shall prescribe a number for the grade of rear admiral. The number prescribed for the grade of commodore admiral is the number specified in this subsection less the number prescribed for the grade of rear admiral.

"(c)(1) Whenever the needs of the service require but at least once annually, the Secretary of the Navy shall specify the total number of officers designated for engineering duty, aeronautical engineering duty, and special duty who may be serving on active duty in the grades of commodore admiral and rear admiral. Such number may not exceed 13 percent of the number of officers specified in subsection (b) for the grades of commodore admiral and rear admiral. If at the time of making a specification under this subsection, the Secretary determines that the total number of such officers required to meet the needs of the service in the grades of commodore admiral and rear admiral is less than the specified number for such grades as specified under this subsection, the lesser number becomes the specified numbers for officers in such grades. Any reduction under this subsection may be applied as an increase in the prescribed number for any lower grade.

Limitation.

"(2) When making a specification under this subsection, the Secretary shall prescribe a number for the grade of rear admiral. The number prescribed for the grade of commodore admiral shall be the number specified in this subsection less the number prescribed for the grade of rear admiral.

"(3) For the purpose of subsection (a), all officers designated for engineering duty, aeronautical engineering duty, and special duty are additional numbers in grade.

"(d) The prescribed numbers of officers computed or determined under this section may not be varied between computations. However, the prescribed number for a grade is temporarily increased during the period between one computation and the next succeeding computation by—

"(1) the number of officers of the Naval Reserve ordered to active duty in that grade during that period; and

"(2) the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.

"(e) For the purpose of this section, each officer is counted in the grade in which he is serving, whether under a permanent or a temporary appointment. However, each officer serving under an appointment in the grade of admiral or vice admiral, and each officer serving in the grade of commodore admiral or rear admiral who was appointed under section 603 of this title or promoted under section 624 of this title, is counted in the grade he would hold had he not been so appointed or promoted.

Ante, p. 2850.
Ante, p. 2857.

"(f) The sum of the prescribed numbers for the grade of rear admiral under subsections (b) and (c) may not exceed 50 percent of the sum of the numbers specified under such subsections for the grades of commodore admiral and rear admiral.".

(c)(1) Subsection (a) of section 5443, relating to the number of officers of the Marine Corps on active duty, is amended to read as follows:

10 USC 5443.

"(a) Except as provided in subsection (b), the number of officers in the Marine Corps who may serve on active duty in the grades of brigadier general and major general may not exceed a number appropriate to the total number of officers serving on active duty in the Marine Corps in the grade of second lieutenant or above as set forth in the following table. If the total number of officers serving on active duty in the grade of second lieutenant or above (excluding officers in categories specified in section 523(b) of this title) falls between two strengths shown in the first column of the table, the number for the grades of brigadier general and major general is determined by interpolation between the respective numbers for the two strengths.

Ante, p. 2842.

"Total number of officers serving on active duty in the grade of second lieutenant and above:	Number of brigadier generals and major generals
10,000	58
12,500	62
15,000	69
17,500	72
20,000	75
22,500	79
25,000	82
27,500	84
30,000	85
32,500	87
35,000	89".

(2) The last sentence of subsection (b) of such section is amended by striking out "subsection (c)" and inserting in lieu thereof "section 523(a)(1) of this title".

(3) Subsections (c), (d), (e), and (f) of such section are repealed.

Repeals.

(4) Subsection (g) of such section is redesignated as subsection (c) and is amended by striking out clause (1) and redesignating clauses (2) and (3) as clauses (1) and (2), respectively.

(5) Subsection (h) of such section is redesignated as subsection (d), and the second sentence of such subsection is amended to read as follows: "However, each officer serving under an appointment in the grade of general or lieutenant general, and each officer serving in the grade of brigadier general or major general who was appointed under section 603 of this title, is counted in the grade he would hold had he not been so appointed or promoted.".

Ante, p. 2850.

(6) The heading of such section is amended to read as follows:

"§ 5443. Marine Corps: officers on active duty; brigadier generals and major generals".

Repeals.
10 USC 5445.

(d)(1) Section 5445, relating to the suspension of sections 5442, 5443, and 5444, is repealed.

(2) Section 5447, relating to the permanent grade distribution of Navy line officers on the active list, is repealed.

(3) Section 5448, relating to the permanent grade distribution of Marine Corps officers of the active list, is repealed.

(4) Section 5449, relating to the number of Navy staff corps officers on the active list in the permanent grade of rear admiral, is repealed.

(e) Section 5457(a), relating to the authorized strength of the Naval Reserve in officers in an active status in the grade of rear admiral, is amended—

(1) by striking out "grade of rear admiral" and inserting in lieu thereof "grades of commodore admiral and rear admiral"; and

(2) by adding at the end thereof the following new sentence: "Not more than 50 percent of the officers in an active status authorized under this subsection may serve in the grade of rear admiral.".

REPEAL OF SECTIONS RELATING TO LINEAL LISTS

SEC. 314. Sections 5504, relating to the maintenance of lineal lists, and 5505, relating to changes on the position on the lineal list of reserve officers, are repealed.

PART C—AMENDMENTS RELATING TO ORIGINAL APPOINTMENTS OF COMMISSIONED OFFICERS IN THE NAVY AND MARINE CORPS

REPEAL OF CERTAIN SECTIONS OF CHAPTER 539 RELATING TO ORIGINAL APPOINTMENTS IN THE NAVY AND MARINE CORPS SUPERSEDED BY NEW CHAPTER 36

SEC. 321. The following sections of chapter 539, relating to original appointments in the Navy and Marine Corps, are repealed: sections 5571, 5572, 5573a, 5574, 5575, 5576, 5577, 5578, 5578a, 5579, 5580, 5583, 5584, and 5586.

REPEAL OF SECTION PROVIDING FOR APPOINTMENT OF GRADUATES OF THE UNITED STATES NAVAL ACADEMY

SEC. 322. Section 5573, relating to appointment of graduates of the Naval Academy, is repealed.

REPEAL OF SECTIONS LIMITING NUMBER OF ENSIGNS APPOINTED ANNUALLY IN CERTAIN STAFF CORPS

SEC. 323. (a) Section 5591, relating to the maximum number of ensigns that may be appointed annually in the Supply Corps of the Regular Navy, is repealed. 10 USC 5591.

(b) Section 5592, relating to the maximum number of ensigns that may be appointed annually in the Civil Engineer Corps of the Regular Navy, is repealed.

(c) Section 5593, relating to the maximum number of ensigns that may be appointed annually in the Medical Service Corps of the Regular Navy, is repealed.

(d) Section 5594, relating to the maximum number of ensigns that may be appointed annually in the Nurse Corps of the Regular Navy, is repealed.

(e) Section 5595, relating to restrictions on the appointment of former midshipmen and cadets in the Regular Marine Corps, is repealed.

ORIGINAL APPOINTMENTS IN THE REGULAR NAVY OF OFFICERS DESIGNATED FOR ENGINEERING, AERONAUTICAL, AND SPECIAL DUTY

SEC. 324. (a) Subsection (a) of section 5587, relating to officers designated for engineering, aeronautical engineering, and special duty, is amended to read as follows:

"(a) Persons may be originally appointed in the line of the Navy as regular officers designated for engineering duty, aeronautical engineering duty, or special duty.".

(b) Subsection (b) of such section is amended by striking out "any officer on the active list" and inserting in lieu thereof "a regular officer".

(c) The third sentence of subsection (c) of such section is amended by striking out "public information, psychology," and inserting in lieu thereof "public affairs, psychology, geophysics, cryptography,".

(d) Subsection (d) of such section is amended by striking out "are additional numbers in grade. They".

ORIGINAL APPOINTMENTS OF REGULAR OFFICERS DESIGNATED FOR LIMITED DUTY

SEC. 325. Section 5589, relating to Regular Navy and Regular Marine Corps officers designated for limited duty, is amended—

(1) by striking out that portion of subsection (a) preceding clause (1) and inserting in lieu thereof the following:

"(a) Original appointments as regular officers of the Navy in a grade below lieutenant commander in the line and in staff corps established by the Secretary of the Navy under section 5155(b) of this title and designated by the Secretary for the purposes of this section may be made from—"; *Post*, p. 2902.

(2) by striking out that portion of subsection (b) preceding clause (1) and inserting in lieu thereof the following:

"(b) Original appointments as regular officers of the Marine Corps in a grade below major may be made from—"; and

(3) by inserting "the qualifications specified in section 532(a) of this title and have" in subsection (c) after "must have". *Ante*, p. 2845.

TEMPORARY APPOINTMENTS IN WARRANT OFFICER GRADES AND OF OFFICERS DESIGNATED FOR LIMITED DUTY

SEC. 326. Section 5596, relating to temporary appointments, is amended to read as follows:

10 USC 5596.

"§ 5596. Navy and Marine Corps: temporary appointments of warrant officers and officers designated for limited duty

"(a) Under such regulations as he may prescribe, the Secretary of the Navy may make temporary appointments—

"(1) in warrant officer grades; and

"(2) of officers designated for limited duty in the Regular Navy in grades not above lieutenant and in the Regular Marine Corps in grades not above captain from sources authorized under section 5589 of this title.

Such appointments shall be made by warrant if in the grade of warrant officer, W-1, and by commission if in a higher grade.

"(b) Temporary appointments under this section do not change the permanent, probationary, or acting status of members so appointed, prejudice them in regard to promotion or appointment, or abridge their rights or benefits. A person receiving a temporary appointment under this section may not suffer any reduction in the pay and allowances to which he was entitled because of his permanent status at the time of his temporary appointment, or any reduction in the pay and allowances to which he was entitled under a prior temporary appointment in a lower grade.

Ineligibility.

"(c) The following members of the naval service are ineligible for temporary appointments under this section:

"(1) Retired members.

"(2) Members of the Naval Reserve and the Marine Corps Reserve ordered to active duty for training.

"(3) Members of the Naval Reserve and the Marine Corps Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve or the Marine Corps Reserve.

"(4) Members of the Naval Reserve and the Marine Corps Reserve ordered to temporary active duty to prosecute special work.

"(d) Officers designated for limited duty under subsection (a)(2) may be temporarily appointed by the Secretary of the Navy in a higher grade not above commander in the Regular Navy or lieutenant colonel in the Regular Marine Corps under such regulations as the Secretary may prescribe. Regulations prescribed under this section shall to the greatest extent practicable conform to the procedures prescribed in chapter 36 of this title for selection for promotion and promotion to higher permanent grades.

Ante, p. 2850.

Termination.

"(e) The Secretary of the Navy may terminate any appointment made under this section.".

REPEAL OF SECTIONS AUTHORIZING TEMPORARY APPOINTMENTS OF NAVY AND MARINE CORPS OFFICERS

SEC. 327. Sections 5597, 5598, and 5599, relating to temporary appointments in the Navy and Marine Corps during a war or national emergency, are repealed.

SERVICE CREDIT UPON ORIGINAL APPOINTMENT OF RESERVE COMMISSIONED OFFICERS

SEC. 328. Section 5600, relating to service credit upon original appointment to the Naval Reserve and Marine Corps Reserve, is amended to read as follows:

"§ 5600. Naval Reserve and Marine Corps Reserve: service credit upon original appointment 10 USC 5600.

"(a)(1) Under regulations prescribed by the Secretary of Defense, for the purpose of determining the grade, seniority in grade, and eligibility for promotion of a person who is originally appointed as a commissioned officer in a permanent grade above chief warrant officer, W-4, in the Naval Reserve or Marine Corps Reserve, such person shall be credited at the time of such appointment with any service as a commissioned officer, other than a commissioned warrant officer, that he performed in an active status in any armed force before such appointment.

"(2) The Secretary of Defense shall prescribe regulations to authorize the Secretary of the Navy to limit the amount of prior commissioned service with which a person receiving an original appointment may be credited under paragraph (1), or to deny any such credit, in the case of a person who at the time of such appointment is credited with constructive service under subsection (b). Regulations.

"(b)(1) Under regulations prescribed by the Secretary of Defense, the Secretary of the Navy shall credit a person who is receiving an original appointment as a reserve commissioned officer in the Navy or Marine Corps and who has advanced education or training or special experience with constructive service for such education, training, or experience as follows:

"(A) One year for each year of advanced education beyond the baccalaureate degree level, for persons appointed in officer categories requiring such advanced education or an advanced degree as a prerequisite for appointment as a commissioned officer. (Except as provided in clause (E), in determining the years of constructive service under this clause, the Secretary of the Navy shall grant credit for only the number of years normally required to complete the advanced education or receive the advanced degree.)

"(B) Credit for any period of advanced education in a health profession (other than medicine and dentistry) beyond the baccalaureate degree level which exceeds the basic education criteria for appointment as an officer, if such advanced education will be directly used by the Navy or Marine Corps, as appropriate.

"(C) Additional credit of (i) not more than one year for internship or equivalent graduate medical, dental, or other formal professional training required by the armed forces, and (ii) not more than one year for each additional year of such graduate-level training or experience creditable toward certification in a specialty required by the Navy or Marine Corps, as appropriate.

"(D) Additional credit, in unusual cases, based on special experience in a particular field.

"(E) Additional credit of one year for advanced education in a health profession if the number of years of baccalaureate education completed by 75 percent or more of the students entering advanced training in that health profession exceeds, by one or more, the minimum number of years of preprofessional educa-

tion required by a majority of institutions which award degrees in that health profession. The percentage of such persons shall be computed on an annual basis for each health profession from the data for the year in which the person being appointed was admitted to a professional school. However, a person may not receive additional credit under this clause if the amount of his baccalaureate education does not exceed, by one or more, the minimum number of years of preprofessional education required by a majority of institutions which award degrees for that health profession, determined on the basis prescribed in the preceding sentence.

Medical or dental experience, credit.

"(F) Additional credit for experience as a physician or dentist, if appointed in the Medical or Dental Corps.

"(2) Except as authorized by the Secretary of the Navy in individual cases and under regulations prescribed by the Secretary of Defense in the case of a medical or dental officer, the amount of constructive service credited an officer under this subsection may not exceed the amount required in order for the officer to be eligible for an original appointment in the grade of lieutenant commander or major.

"(3) Constructive service credited an officer under this subsection is in addition to any service credited that officer under subsection (a) and shall be credited at the time of the original appointment of the officer.

"(c) Constructive service may not be credited under subsection (b) for education, training, or experience obtained while serving in an active status.

"(d) If the Secretary of Defense determines that the number of qualified judge advocates serving on active duty in the Navy or the Marine Corps in grades below lieutenant commander or major is critically below the number needed by the Navy or Marine Corps, respectively, in such grades, he may authorize the Secretary of the Navy to credit any person to whom this section applies who is receiving an original appointment in the Judge Advocate General's Corps of the Navy, or who is receiving an original appointment in the Marine Corps with a view to designation as a judge advocate, with a period of constructive service in such an amount (in addition to any amount credited such person under subsection (b)) as will result in the grade of such person, if ordered to active duty, being that of lieutenant, in the case of an officer of the Navy, or captain, in the case of an officer of the Marine Corps, and the date of rank of such person being junior to that of all other officers of the same grade serving on active duty in the Navy or Marine Corps, as the case may be."

REPEAL OF SECTION AUTHORIZING DIRECT PROCUREMENT OF ENSIGNS AND SECOND LIEUTENANTS

SEC. 329. Section 6909, relating to direct procurement of ensigns and second lieutenants, is repealed.

PART D—AMENDMENTS RELATING TO PROMOTIONS, SEPARATION, AND INVOLUNTARY RETIREMENT OF COMMISSIONED OFFICERS

REPEAL OF CHAPTER PROVIDING FOR APPOINTMENTS TO FLEET COMMANDS AND OTHER POSITIONS OF IMPORTANCE AND RESPONSIBILITY

10 USC 5231 *et seq.*

SEC. 331. Chapter 517, relating to certain positions carrying the grade of admiral, vice admiral, general, or lieutenant general, is repealed.

ABOLISHMENT FOR REGULAR OFFICERS OF NAVY RUNNING MATE SYSTEM AND ASSIGNMENT OF RUNNING MATES TO RESERVE OFFICERS

SEC. 332. Chapter 541, relating to running mates, is amended to read as follows:

"CHAPTER 541—RUNNING MATES FOR RESERVE OFFICERS

"Sec.
"5665. Naval Reserve and Marine Corps Reserve: active status officers in permanent grades above chief warrant officer, W-4.

"§ 5665. Naval Reserve and Marine Corps Reserve: active status officers in permanent grades above chief warrant officer, W-4

10 USC 5665.

"(a) While in the grade of lieutenant (junior grade) or in a higher grade, each officer in an active status in the Naval Reserve who is not on an active-duty list has a running mate of the same grade from the active-duty list who shall be assigned under regulations prescribed by the Secretary of the Navy.

"(b) While in the grade of first lieutenant or a higher grade, each officer in an active status in the Marine Corps Reserve who is not on an active-duty list has a running mate of the same grade from the active-duty list who shall be assigned under regulations prescribed by the Secretary of the Navy.".

REPEAL OF CHAPTERS RELATING TO SELECTION BOARDS, PROMOTION OF OFFICERS, AND EXAMINATIONS FOR PROMOTIONS

SEC. 333. Chapters 543, relating to selection boards, 545, relating to promotion of officers, and 547, relating to examinations for promotion of officers, are repealed.

10 USC 5701 *et seq.*, 5751 *et seq.*, 5861 *et seq.*

TEMPORARY PROMOTIONS OF CERTAIN NAVY LIEUTENANTS

SEC. 334. Part II of subtitle C is amended by inserting after chapter 541 (as amended by section 332) the following new chapter:

"CHAPTER 544—TEMPORARY APPOINTMENTS

"Sec.
"5721. Temporary promotions of certain Navy lieutenants.

"§ 5721. Temporary promotions of certain Navy lieutenants

"(a) An officer in the line of the Navy in the grade of lieutenant who—

"(1) has a skill in which the Navy has a critical shortage of personnel (as determined by the Secretary of the Navy); and

"(2) is serving in a position (as determined by the Secretary of the Navy) which (A) is designated to be held by a lieutenant commander, and (B) requires that an officer serving in such position have the skill possessed by such officer,

may be temporarily promoted to the grade of lieutenant commander under regulations to be prescribed by the Secretary of the Navy. Appointments under this section shall be made by the President alone.

"(b)(1) An appointment under this section does not change the position on the active-duty list or the permanent, probationary, or acting status of the officer so appointed, prejudice the officer in

regard to other promotions or appointments, or abridge the rights or benefits of the officer.

Ante, p. 2842.

"(2) For the purposes of section 523 of this title, an officer holding an appointment under this section is considered as serving in the grade of lieutenant commander.

Temporary promotion.

"(c) A temporary promotion under this section may be made only upon the recommendation of a board of officers convened by the Secretary of the Navy for the purpose of recommending officers for such promotions.

"(d) Each appointment under this section, unless expressly declined, is, without formal acceptance, regarded as accepted on the date such appointment is made, and a member so appointed is entitled to the pay and allowances of the grade of lieutenant commander from the date the appointment is made.

Appointment, termination.

"(e) Unless sooner terminated, an appointment under this section terminates—

"(1) on the date the officer who received the appointment is promoted to the permanent grade of lieutenant commander; or

"(2) on the date the officer is detached from a position described in subsection (a)(2), unless the officer is on a promotion list to the permanent grade of lieutenant commander, in which case the appointment terminates on the date the officer is promoted to that grade.

Authority termination.

"(f) The authority to make appointments under this section terminates on September 30, 1983.".

REPEAL OF SECTIONS RELATING TO INVOLUNTARY RETIREMENT, SEPARATION, AND FURLOUGH

SEC. 335. The following sections of chapter 573 are repealed: sections 6371, 6372, 6373, 6374, 6376, 6377, 6378, 6379, 6380, 6381, 6382, 6384, 6385, 6386, 6387, 6388, 6390, 6392, 6394, 6395, 6396, 6398, 6400, 6401, 6402, and 6407.

RETIREMENT OR DISCHARGE OF REGULAR LIMITED DUTY OFFICERS

10 USC 6383.

SEC. 336. (a) Subsection (a) of section 6383, relating to retirement and discharge of officers designated for limited duty, is amended by striking out "Each officer designated for limited duty on the active list of the Navy or Marine Corps" and inserting in lieu thereof "Except as provided in subsection (i), each regular officer of the Navy or Marine Corps designated for limited duty".

(b) Subsection (b) of such section is amended to read as follows:

"(b) Except as provided in subsection (i), each regular officer on the active-duty list of the Navy serving in the grade of lieutenant commander who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of major who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of commander or lieutenant colonel, respectively, for the second time and whose name is not on a promotion list shall be retired, if eligible to retire, or be discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of commander or lieutenant colonel for the second time.".

(c) Subsection (c)(1) of such section is amended by striking out "in which he was serving at the time of retirement" and inserting in lieu thereof "determined under section 1370 of this title". *Ante*, p. 2876.

(d) Subsections (d) and (e) of such section are amended to read as follows:

"(d) Each regular officer on the active-duty list of the Navy serving in the grade of lieutenant who is an officer designated for limited duty, and each regular officer on the active duty list of the Marine Corps serving in the grade of captain who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time and whose name is not on a list of officers recommended for promotion shall be honorably discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of lieutenant commander or major for the second time.

"(e)(1) Each regular officer on the active-duty list of the Navy serving in the grade of lieutenant (junior grade) who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of first lieutenant who is an officer designated for limited duty, who is considered as having failed of selection for promotion to the grade of lieutenant (in the case of an officer of the Navy) or captain (in the case of an officer of the Marine Corps) for the second time shall be honorably discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed of selection for promotion to the grade of lieutenant or captain, respectively, for the second time.

"(2) Each regular officer on the active-duty list of the Navy serving in the grade of ensign who is an officer designated for limited duty, and each regular officer on the active-duty list of the Marine Corps serving in the grade of second lieutenant who is an officer designated for limited duty, who is found not qualified for promotion to the grade of lieutenant (junior grade) (in the case of an officer of the Navy) or first lieutenant (in the case of an officer of the Marine Corps) shall be honorably discharged on the date requested by the officer and approved by the Secretary of the Navy, but not later than the first day of the seventh calendar month beginning after the month in which the officer was found not qualified for promotion.".

(e) Subsection (f) of such section is repealed. Repeal.

(f) Subsection (g) of such section is redesignated as subsection (f) and is amended—

(1) by striking out "retirement or discharge under subsections (b), (d)," in the first sentence and inserting in lieu thereof "discharge under subsection (d)"; and

(2) by striking out "retired or" in the first and second sentences.

(g) Subsection (h) of such section is redesignated as subsection (g).

(h) Such section is further amended by adding at the end thereof the following new subsections:

"(h) An officer discharged under this section is entitled, if eligible therefor, to separation pay under section 1174(a) of this title. Separation pay. *Ante*, p 2870.

"(i) Under such regulations as he may prescribe, whenever the needs of the service require, the Secretary of the Navy may defer the retirement under subsection (a) or (b) of any officer designated for limited duty upon recommendation of a board of officers convened under section 611(b) of this title and with the consent of the officer concerned. An officer whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond 24 years active commissioned service, if in the grade of lieutenant commander or major or 28 years active commissioned service, if in the grade of commander or lieutenant colonel, or beyond age 62, whichever is earlier.

Ante, p. 2851.

"(j) This section does not apply to officers designated for limited duty under section 5596 of this title.".

Ante, p. 2894.

(i) The heading of such section is amended by striking out the penultimate and ante-penultimate words.

ELIMINATION OF RESERVE OFFICERS FROM ACTIVE STATUS

10 USC 6389.

SEC. 337. (a)(1) Subsection (b) of section 6389, relating to elimination of reserve officers from active status, is amended by inserting "or (f)" in the first sentence after "subsection (a)".

(2) The second sentence of subsection (d) of such section is amended to read as follows: "Each other officer is considered to have for this purpose as much total commissioned service as the years of active commissioned service of any regular officer on the active-duty list of the Navy not restricted in the performance of duty, or any regular officer on the active-duty list of the Marine Corps not restricted in the performance of duty, as appropriate, who has served continuously since original appointment as an ensign on the active-duty list of the Navy or as a second lieutenant on the active-duty list of the Marine Corps, has not lost numbers or precedence, and is, or has been after September 6, 1947, junior to that other officer.".

(3) Subsection (e) of such section is amended to read as follows: "(e) This section does not apply to women reserve officers or to reserve officers in the Nurse Corps.".

(4) Such section is amended by adding at the end thereof the following new subsection:

"(f)(1) Each officer of the Naval Reserve in an active status in the permanent grade of commodore admiral and each officer of the Marine Corps Reserve in an active status in the permanent grade of brigadier general shall, 30 days after he completes 30 years of service computed under subsection (d), or on the fifth anniversary of the date of his appointment to that grade, whichever is later—

"(A) be transferred to the Retired Reserve, if he is qualified and applies therefor, or

"(B) if he is not qualified or does not apply therefor, be discharged from his reserve component.

An officer who has been recommended for promotion, and who would otherwise be removed from an active status under this section, shall be retained in that status until he is appointed or refused appointment to the next higher grade.

"(2) Each officer of the Naval Reserve in an active status in the permanent grade of rear admiral and each officer of the Marine Corps Reserve in an active status in the permanent grade of major general shall, 30 days after he completes 35 years of service computed under subsection (d), or on the fifth anniversary of the date of his appointment to that grade, whichever is later—

"(A) be transferred to the Retired Reserve, if he is qualified and applies therefor; or

"(B) if he is not qualified or does not apply therefor, be discharged from his reserve component.

"(3) An officer in the Naval Reserve in an active status serving in the grade of commodore admiral or rear admiral and an officer in the Marine Corps Reserve in an active status serving in the grade of brigadier general or major general may be considered for early retirement by a continuation board convened under section 6410 of this title.".

ELIMINATION FROM ACTIVE STATUS IN THE NAVAL RESERVE OF OFFICERS IN THE NURSE CORPS

SEC. 338. Subsection (a) of section 6397, relating to the elimination of reserve officers in the Nurse Corps from active status, is amended to read as follows: 10 USC 6397.

"(a) An officer of the Naval Reserve in any grade in the Nurse Corps may be eliminated from an active status under the conditions prescribed in this title for the separation from the active-duty list of a regular officer in the same grade.".

PART E—AMENDMENTS RELATING TO SPECIFIC POSITIONS

RANK AND PRIVILEGES OF RETIREMENT OF THE DIRECTOR OF THE OFFICE OF BUDGET AND REPORTS

SEC. 341. Section 5064, relating to the Director and Assistant Director of the Office of Budget and Reports, is amended by striking out subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

GRADE OF THE CHIEF OF DENTAL DIVISION, BUREAU OF MEDICINE AND SURGERY

SEC. 342. Section 5138(a), relating to the grade of the Chief of the Dental Division in the Bureau of Medicine and Surgery, is amended by striking out "in the grade of rear admiral" and inserting in lieu thereof "not below the grade of commodore admiral".

RANK AND GRADE OF JUDGE ADVOCATE GENERAL OF THE NAVY

SEC. 343. Section 5148(b), relating to the Judge Advocate General of the Navy, is amended by adding at the end thereof the following new sentence: "While so serving, the Judge Advocate General of the Navy shall be entitled to the rank and grade of rear admiral or major general, as appropriate, unless entitled to a higher rank and grade under another provision of law.".

ABOLISHMENT OF POSITIONS OF ASSISTANT TO THE CHIEF OF NAVAL PERSONNEL FOR WOMEN AND DIRECTOR OF WOMEN MARINES

SEC. 344. (a) Section 5143, relating to the Assistant to the Chief of Naval Personnel for Women, is repealed. Repeal.

(b) Section 5206, relating to the Director of Women Marines, is repealed. Repeal.

PART F—ABOLISHMENT OF CERTAIN NAVY STAFF CORPS; AUTHORITY TO ESTABLISH NEW STAFF CORPS IN THE NAVY

AUTHORITY TO ESTABLISH NEW STAFF CORPS IN THE NAVY

SEC. 351. Chapter 513, relating to bureaus and certain offices in the Navy, is amended by adding at the end thereof the following new section:

10 USC 5155.

"§ 5155. Staff corps of the Navy

"(a) The staff corps of the Navy are—
"(1) the Medical Corps;
"(2) the Dental Corps;
"(3) the Judge Advocate General's Corps;
"(4) the Chaplain Corps; and
"(5) such other staff corps as may be established by the Secretary of the Navy under subsection (b).

Establishment.

"(b)(1) The Secretary of the Navy may establish staff corps of the Navy in addition to the Medical Corps, the Dental Corps, the Judge Advocate General's Corps, and the Chaplain Corps. The Secretary may designate commissioned officers in, and may assign members to, any such staff corps.

"(2) Subject to subsection (c), the Secretary of the Navy may provide for the appointment of the chief of any staff corps established under this subsection.

"(c) The Secretary of the Navy, whenever the needs of the service require, may convene a selection board under section 611(a) of this title to select an officer in the Nurse Corps or Medical Service Corps for promotion to the grade of commodore admiral or rear admiral, as appropriate. An officer so selected shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years to serve in the position, respectively, of Director of the Nurse Corps or Director of the Medical Service Corps.".

ABOLISHMENT OF MEDICAL SERVICE CORPS AND NURSE CORPS

Repeals.

SEC. 352. (a) Section 5139, relating to the Medical Service Corps, and 5140, relating to the Nurse Corps, are repealed.

Repeal.

(b) Section 6028, relating to the Medical Service Corps, is repealed.

COMPOSITION OF MEDICAL DEPARTMENT OF THE NAVY

SEC. 353. Section 6027 is amended to read as follows:

10 USC 6027.

"§ 6027. Medical Department: composition

"The Medical Corps and Dental Corps, and such other staff corps as the Secretary of the Navy may establish under section 5155(b) of this title and designate to be in the Medical Department of the Navy, are in the Medical Department of the Navy.".

PART G—AMENDMENTS RELATING TO RETIRED OFFICERS

RIGHT OF RETIRED OFFICERS TO COMMAND

Repeal.

SEC. 361. (a) Section 5955, relating to the withdrawal of retired officers from command, is repealed.

Repeal.

(b) Section 5982, relating to the detail of retired officers to command of ships and squadrons, is repealed.

RECALL AND RETIRED PAY OF RETIRED OFFICERS OF THE REGULAR NAVY AND REGULAR MARINE CORPS

SEC. 362. (a) Section 6481, relating to authority to recall retired officers of the Regular Navy and Regular Marine Corps, is repealed. Repeal. 10 USC 6481.

(b) Section 6487 of such title, relating to the retired pay of retired rear admirals, is repealed. Repeal.

(c) Section 6488, relating to grade upon release from active duty of members receiving wartime appointments or promotions, is repealed. Repeal.

GRADE OF RETIRED MEMBERS WHEN ORDERED TO ACTIVE DUTY

SEC. 363. Section 6483, relating to the grade of retired members when ordered to active duty, is amended by striking out subsection (a) and striking out the subsection designation "(b)" at the beginning of subsection (b).

PART H—MISCELLANEOUS AMENDMENTS

DEFINITIONS

SEC. 371. Section 5001(a), relating to definitions for purposes of subtitle C, is amended by striking out clauses (9) and (10).

REPEAL OF LIMITATION ON ASSIGNMENT OF REGULAR NAVY OFFICERS TO SHORE DUTY

SEC. 372. Section 6018, relating to limitations on assignment of Regular Navy officers to shore duty, is repealed.

REPEAL OF CERTAIN PROVISIONS PROVIDING DIFFERENT TREATMENT OF WOMEN MEMBERS OF THE NAVY AND MARINE CORPS

SEC. 373. (a) Section 5446(b), relating to the applicability of provisions of law providing for grade distribution of officers on active duty, is amended by striking out clauses (1) and (2) and redesignating clauses (3), (4), (5), and (6) as clauses (1), (2), (3), and (4), respectively.

(b) Section 5452, relating to women line officers on active duty in the Navy and women officers on active duty in the Marine Corps, is repealed.

(c) Section 5581, relating to the original appointment of women in the Naval Reserve in the Medical Corps, Judge Advocate General's Corps, the Dental Corps, and the Medical Service Corps, is repealed.

(d) The text of section 5582, relating to transfers between the line and staff corps, is amended to read as follows:

"(a) A regular officer of the Navy in a staff corps in a grade not above lieutenant commander may be appointed in the line of the Navy to the same grade.

"(b) A regular officer in the line of the Navy in a grade not above lieutenant commander may be appointed to the same grade in a staff corps under regulations prescribed by the Secretary of Defense.".

(e) Section 5590, relating to original appointments of women officers in the Regular Navy and Regular Marine Corps, is repealed.

(f) Section 6911, relating to enlistment and designation of aviation cadets, is amended by striking out "male" both places it appears.

(g) Section 6294, relating to the termination of enlistment of women in the Regular Navy and Regular Marine Corps, is repealed.

(h) Section 6393, relating to the termination of appointments of Regular Navy and Regular Marine Corps women officers, is repealed.

REPEAL OF AUTHORIZATION FOR APPOINTMENT OF RESERVE NAVAL AVIATORS AS REGULAR OFFICERS

10 USC 6914.

SEC. 374. Section 6914, relating to the appointment of reserve naval aviators as regular officers, is repealed.

TITLE IV—AMENDMENTS TO TITLE 37, UNITED STATES CODE—PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

PART A—PAY FOR OFFICERS OF THE ARMED FORCES

REPEAL OF ASSIGNMENT OF CERTAIN OFFICERS IN THE NAVY AND MARINE CORPS TO THE PAY GRADE FOR REAR ADMIRALS

SEC. 401. (a) Section 202 of title 37, United States Code, relating to assignment of officers of the Navy and Coast Guard holding certain positions to pay grade of rear admiral of the upper half, is amended—

(1) by striking out subsections (a) through (d);

(2) by redesignating subsection (e) as subsection (a) and striking out "the Navy or" in such subsection;

(3) by redesignating subsection (f) as subsection (b); and

(4) by striking out subsections (g), (h), (i), (j), (k), and (l).

(b) The heading of such section is amended to read as follows:

"§ 202. Pay grades: assignment to; rear admirals (upper half) of the Coast Guard".

COMPUTATION OF CREDITABLE SERVICE

SEC. 402. (a) Subsection (a) of section 205 of title 37, United States Code, relating to service creditable for purposes of computing basic pay, is amended—

(1) by striking out "subsections (b)–(d)" and inserting in lieu thereof "subsections (b) and (c)";

(2) by inserting "and" at the end of clause (6);

(3) by striking out clauses (7) and (8) and redesignating clause (9) as clause (7);

(4) by striking out "section 1402(b)–(d) and section 1402a(a)–(d)" in the second sentence and inserting in lieu thereof "subsections (b), (c), and (d) of section 1402 and subsections (b), (c), and (d) of section 1402a"; and

(5) by striking out "clauses (2)–(9)" in the second sentence and inserting in lieu thereof "clauses (2) through (7)";

(b) Subsection (b) of such section is amended by striking out the second sentence thereof.

(c) Subsection (c) of such section is repealed, and subsections (d) and (e) of such section are redesignated as subsections (c) and (d), respectively.

EFFECTIVE DATE FOR PAY AND ALLOWANCES OF COMMISSIONED OFFICERS RECEIVING PROMOTIONS

Repeal.

SEC. 403. (a) Section 904 of title 37, United States Code, relating to the effective date for pay and allowances for certain promotions of Navy and Marine Corps officers, is repealed.

(b) Section 905 of title 37, United States Code, relating to the effective date for pay and allowances for certain promotions of

Reserve Navy and Marine Corps officers, is amended to read as follows:

"§ 905. Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances 37 USC 905.

"(a) A reserve officer who is promoted under chapter 549 of title 10 to a grade above lieutenant (junior grade) in the Naval Reserve or above first lieutenant in the Marine Corps Reserve is entitled to the pay and allowances of the grade to which promoted for duty performed from the date on which he becomes eligible for promotion to that grade. 10 USC 5891 *et seq.*

"(b) A reserve officer who is promoted under section 5908 of title 10 to the grade of lieutenant (junior grade) in the Naval Reserve or first lieutenant in the Marine Corps Reserve is entitled to the pay and allowances of the higher grade for duty performed from the date given him as his date of rank.".

(c) Chapter 19 of title 37, United States Code, relating to administration of pay and allowances, is amended by adding at the end thereof the following new section:

"§ 1010. Commissioned officers: promotion; effective date for pay and allowances 37 USC 1010.

"An officer of a uniformed service who is promoted to a grade above second lieutenant or ensign is entitled to the pay and allowances of the grade to which promoted on the effective date of the promotion.".

PART B—MISCELLANEOUS AMENDMENTS RELATING TO PAY AND ALLOWANCES

SUBSISTENCE ALLOWANCE FOR ENLISTED MEMBERS WHILE PERFORMING CERTAIN TRAVEL

SEC. 411. (a) The third sentence of subsection (b) of section 402 of title 37, United States Code, relating to basic allowance for subsistence, is amended to read as follows: "An enlisted member is entitled to the allowance while on an authorized leave of absence, while confined in a hospital, or while performing travel under orders away from his designated post of duty other than field duty or sea duty.".

(b) Subsection (e) of such section is amended by inserting ", including definitions of the terms 'field duty' and 'sea duty' for purposes of the third sentence of subsection (b) of this section" after "of this section".

ELIMINATION OF DIFFERENCES OF TREATMENT IN PROVISION OF INITIAL UNIFORM ALLOWANCE TO OFFICERS

SEC. 412. Section 415 of title 37, United States Code, relating to the initial allowance of officers for purchase of uniforms, is amended—

(1) by striking out "a reserve" in the first sentence of subsection (a) and inserting in lieu thereof "an";

(2) by striking out ", an officer of the Army or the Air Force without specification of component, or a regular officer of an armed force appointed under section 2106 or 2107 of title 10" in subsection (a);

(3) by striking out subsections (c) and (e); and

(4) by redesignating subsection (d) as subsection (c).

REIMBURSEMENT OF EXPENSES IN CONNECTION WITH CERTAIN MESS OPERATIONS

SEC. 413. Chapter 19 of title 37, United States Code, relating to administration of pay and allowances, is amended by adding after section 1010 (as added by section 403) the following new section:

37 USC 1011.

"§ 1011. Mess operation: reimbursement of expenses

"(a) The Secretary of Defense shall, by regulation, establish rates for meals sold at messes to officers, civilians, or enlisted members entitled to a per diem transportation allowance determined under section 404(d)(2) of this title. Such rates shall be established at a level sufficient to provide reimbursement of operating expenses and food costs to the appropriations concerned, but members of the uniformed services and civilians in a travel status receiving a per diem allowance in lieu of subsistence shall be charged at a rate of not less than $2.50 per day.

"(b) For the purposes of this section, payment for meals at the rates established under this section may be made in cash or, in the case of enlisted members or civilian employees, by deduction from pay. Members of organized nonprofit youth groups sponsored at either the national or local level, when extended the privilege of visiting a military installation and permitted to eat in the general mess by the commanding officer of the installation, shall pay the commuted ration cost of such meal or meals.".

REPEAL OF PROVISIONS OF TITLE 37, UNITED STATES CODE, SUPERSEDED BY SECTION 805 OF THE MENTAL HEALTH SYSTEMS ACT

SEC. 414. (a) Sections 302c and 313 of title 37, United States Code, relating to special pay for medical officers of the Public Health Service, are repealed.

(b)(1) Section 311(a) of such title, relating to continuation pay for dentists, is amended by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2).

(2) The heading of such section is amended to read as follows:

"§ 311. Special pay: continuation pay for dentists in the armed forces".

SPECIAL PAY FOR RESERVE MEDICAL OFFICERS

SEC. 415. Section 302 of title 37, United States Code, relating to special pay for medical officers, is amended by adding at the end thereof the following new subsection:

"(h)(1) Any reserve officer who is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer—

"(A) who has served on active duty as a medical officer for not less than one year; and

"(B) is not on active duty under a call or order to active duty for a period of not less than one year;

is entitled to special pay in accordance with this subsection.

"(2) An officer described in paragraph (1) of this subsection is entitled to special pay at the rate of—

"(A) $100 a month for each month of active duty, if he has not completed two years of active duty; or

"(B) $350 a month for each month of active duty, if he has completed at least two years of active duty.".

TITLE V—TECHNICAL AND CLERICAL AMENDMENTS

PART A—AMENDMENTS REQUIRED BY THIS ACT

AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE

SEC. 501. Subtitle A is amended as follows: 10 USC 101.

(1) The table of chapters at the beginning of subtitle A and the table of chapters at the beginning of part II of such subtitle are amended—

(A) by striking out the items relating to chapters 33 and 35 and inserting in lieu thereof the following new items:

"32. Officer Strength and Distribution in Grade 521
"33. Appointments in Regular Components 531
"34. Appointments as Reserve Officers 591
"35. Temporary Appointments in Officer Grades 601
"36. Promotion, Separation, and Involuntary Retirement of Officers on the Active-Duty List ..... 611";

(B) by inserting after the item relating to chapter 59 the following new item:

"60. Separation of Regular Officers for Substandard Performance of Duty and for Certain Other Reasons ..... 1181";

(C) by striking out "1255" in the item relating to chapter 63 and inserting in lieu thereof "1251";

(D) by inserting "of Warrant Officers" in the item relating to chapter 65 after "Retirement"; and

(E) by striking out "1371" in the item relating to chapter 69 and inserting in lieu thereof "1370".

(2) Section 101(22) is amended by striking out "duty on the active list,".

(3) Section 123(a) is amended by striking out "3571,", "5867,", and "8571,". *Post*, p. 2920.

(4) Section 266(a) is amended by striking out "Each" and inserting in lieu thereof "Except as provided in section 612(a)(3) of this title, each".

(5) Section 280 is amended by striking out "35" both places it appears and inserting in lieu thereof "34". *Post*, p. 2920.

(6) Section 564(a)(3) is amended—

(A) by inserting "(1)" after "with"; and

(B) by striking out "1167 of this title" and inserting in lieu thereof "286a of title 14, or (2) separation pay computed under section 1174 of this title, as appropriate".

(7) Section 593(a) is amended by striking out "section 3352 or 8352" in the second sentence and inserting in lieu thereof "section 624, 3352, or 8352".

(8) The table of sections at the beginning of chapter 39 is amended—

(A) by striking out the item relating to section 687; and

(B) by adding at the end thereof the following new items:

"688. Regular components: retired members.
"689. Reserve officers: grade in which ordered to active duty.".

(9)(A) Chapter 41 is amended by adding at the end thereof the following new section:

"§ 720. Chief of Staff to President: appointment

"The President, by and with the advice and consent of the Senate, may appoint a general officer of the Army, Air Force, or Marine

Corps or a flag officer of the Navy as the Chief of Staff to the President and may designate such position as a position of importance and responsibility under section 601 of this title.".

Ante, p. 2849.

(B) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"720. Chief of Staff to President: appointment.".

(10) The table of sections at the beginning of chapter 43 is amended—

(A) by striking out the item relating to section 741 and inserting in lieu thereof:

"741. Rank: commissioned officers of the Army, Navy, Air Force, and Marine Corps.";

and

(B) by adding at the end thereof the following new item:

"750. Command: retired officers.".

10 USC 743.

(11) Section 743 is amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(12) The item relating to section 973 in the table of sections at the beginning of chapter 49 is amended to read as follows:

"973. Duties: officers on active duty; performance of civil functions restricted.".

(13) Section 1079(d) is amended by striking out ", (C), or (E)" and inserting in lieu thereof "or (D)".

(14) Section 1086(c) is amended by striking out "1072(2)(F)" in clauses (1) and (2) and inserting in lieu thereof "1072(2)(E)".

(15) The table of sections at the beginning of chapter 59 is amended—

(A) by striking out the item relating to section 1167; and

(B) by adding after the item relating to section 1173 the following new item:

"1174. Separation pay upon involuntary discharge or release from active duty.".

(16) Section 1208(a)(1) is amended by striking out "or mandatory elimination from the active list" and inserting in lieu thereof ", discharge, or retirement for length of service".

(17) Section 1211(a)(1) is amended by striking out "active list of his regular component" and inserting in lieu thereof "active-duty list".

(18) The table of sections at the beginning of chapter 63 is amended by inserting before the item relating to section 1263 the following new item:

"1251. Age 62: regular commissioned officers; exceptions.".

(19) The heading of chapter 65 is amended by inserting "OF WARRANT OFFICERS" after "RETIREMENT".

(20) The table of sections at the beginning of chapter 69 is amended by inserting before the item relating to section 1371 the following new item:

"1370. Commissioned officers: general rule; exceptions.".

(21) Section 1407(d)(1) is amended by striking out "6381, 6383, 6390, 6394, 6396, 6398, or 6400" and inserting in lieu thereof "or 6383".

(22) Section 2126(2) is amended by striking out ", other than subsection (a)(7) and (8),".

AMENDMENTS TO SUBTITLE B OF TITLE 10, UNITED STATES CODE

10 USC 3001.

SEC. 502. Subtitle B is amended as follows:

(1) The table of chapters at the beginning of subtitle B and the table of chapters at the beginning of part II of such subtitle are amended by striking out the items relating to chapters 359, 360, and 365.

(2) Section 3034(b) is amended by striking out "and is counted as one of the officers authorized to serve in a grade above lieutenant general under section 3066 of this title". 10 USC 3034.

(3) The table of sections at the beginning of chapter 307 is amended by striking out the items relating to section 3066.

(4) The table of sections at the beginning of chapter 331 is amended—

(A) by striking out the item relating to section 3202 and inserting in lieu thereof the following:

"3202. Army: strength in grade; general officers.";

(B) by striking out the item relating to section 3212 and inserting in lieu thereof the following:

"3212. Army Reserve; Army National Guard of the United States: strength in grade; temporary increases.";

and

(C) by striking out the items relating to sections 3201, 3203, 3204, 3205, 3206, 3207, 3209, 3211, 3213, 3214, 3216, and 3230.

(5) Section 3210 is amended—

(A) by striking out "active list" each place it appears in subsections (a) and (b) and inserting in lieu thereof "active-duty list";

(B) by striking out the second sentence of subsection (a);

(C) by striking out clauses (1), (2), (3), and (4) of subsection (b) and inserting in lieu thereof the following:

"(1) each corps of the Army Medical Department; and

"(2) the Chaplains;"; and

(D) by striking out subsections (d) and (e).

(6)(A) The first sentence of section 3212 is amended to read as follows: "The authorized strength in any reserve grade, as prescribed under this chapter, is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under section 1211(a), 3036, 3365(a), or 3366 of this title.".

(B) The heading of such section is amended to read as follows:

"§ 3212. Army Reserve; Army National Guard of the United States: strength in grade; temporary increases".

(7) Sections 3222 and 3225 are each amended—

(A) by striking out "of 837,000"; and

(B) by striking out "in section 3201(a) of this title".

(8) The table of sections at the beginning of chapter 335 is amended by striking out the items relating to sections 3284, 3285, 3286, 3287, 3288, 3289, 3290, 3291, 3292, 3293, 3294, 3295, 3296, 3297, 3298, 3299, 3300, 3302, 3303, 3305, 3306, 3307, 3308, 3309, 3312, 3313, and 3314.

(9) The table of sections at the beginning of chapter 337 is amended—

(A) by striking out the item relating to section 3353 and inserting in lieu thereof the following:

"3353. Commissioned officers: service credit upon original appointment.";

and

(B) by adding at the end thereof the following new item:

"3396. Exclusion of certain officers.".

10 USC 3360.

(10) Section 3360(b)(1) is amended by striking out "on the active list" and inserting in lieu thereof "as a regular officer on the active list or on the active-duty list".

(11) The table of sections at the beginning of chapter 339 is amended by striking out the items relating to sections 3441, 3442, 3444, 3445, 3447, 3448, 3449, 3451, and 3452.

(12) The table of sections at the beginning of chapter 341 is amended by striking out the items relating to sections 3494 and 3504.

(13) The table of sections at the beginning of chapter 343 is amended by striking out the items relating to sections 3531, 3532, and 3535.

(14) The table of sections at the beginning of chapter 345 is amended by striking out the items relating to sections 3571, 3573, 3574, and 3582.

(15) The table of sections at the beginning of chapter 361 is amended by striking out the items relating to sections 3814 and 3818.

(16) The table of sections at the beginning of chapter 367 is amended by striking out the items relating to sections 3913, 3916, 3919, 3921, 3923, and 3927.

(17) Section 3924(a) is amended by striking out "3786" and inserting in lieu thereof "1186".

(18) The text of section 3961 is amended to read as follows:

"(a) The retired grade of a regular commissioned officer of the Army who retires other than for physical disability, and the retired grade of a reserve commissioned officer of the Army who retires other than for physical disability or for nonregular service under chapter 67 of this title, is determined under section 1370 of this title.

10 USC 1331 *et seq.*

"(b) Unless entitled to a higher retired grade under some other provision of law, a Regular or Reserve of the Army not covered by subsection (a) who retires other than for physical disability retires in the regular or reserve grade that he holds on the date of his retirement.".

Ante, p. 2876.

(19) Section 3962 is amended—

(A) by striking out "(4) in a position of importance and responsibility designated by the President to carry the grade of general or lieutenant general under section 8066 of this title, or (5)" in subsection (a) and inserting in lieu thereof "or (4)";

(B) by striking out subsection (b); and

(C) by redesignating subsection (c) as subsection (b).

(20) Section 3963 is amended by striking out subsection (a) and by striking out "(b)" before "Upon retirement".

Post, p. 2929.

(21) The table contained in section 3991 is amended—

(A) by striking out the designation "A" under the column headed "Formula";

(B) by striking out the matter opposite such designation under each of the other columns in the table; and

(C) by redesignating the designations "B", "C", and "D" under the column headed "Formula" as "A", "B", and "C", respectively.

(22) Footnote numbered 1 to the table contained in section 3991 is amended by striking out "3962(c)" and inserting in lieu thereof "3962(b)".

(23) Section 4301(b) is amended by striking out "active list" in the first sentence and inserting in lieu thereof "active-duty list".

(24) Section 4333(d) is amended—

(A) by striking out "regular or temporary" in the first sentence; and

(B) by striking out "applicable promotion list" in the second sentence and inserting in lieu thereof "active-duty list".

(25) Section 4336 is amended— 10 USC 4336.

(A) by striking out "a promotion-list officer" in subsections (a) and (b) and inserting in lieu thereof "a regular officer"; and

(B) by inserting "or active-duty list" in subsections (a) and (b) after "on the promotion list".

(26) Section 4353 is amended by inserting "under section 531 of this title" after "Regular Army".

AMENDMENTS TO SUBTITLE C OF TITLE 10, UNITED STATES CODE

SEC. 503. Subtitle C is amended as follows:

(1) The table of chapters at the beginning of subtitle C is amended—

(A) by striking out the item relating to chapter 517;

(B) by striking out the item relating to chapter 531 and inserting in lieu thereof the following:

"531. Strength of Naval Reserve and Marine Corps Reserve ..... 5401";

and

(C) by striking out the items relating to chapters 541, 543, 545, and 547 and inserting in lieu thereof the following:

"541. Running Mates for Reserve Officers 5651
"544. Temporary Appointments ..... 5721".

(2) The table of chapters at the beginning of part I of subtitle C is amended by striking out the item relating to chapter 517.

(3) Sections 5064(a) and 5081(a) are amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(4) Section 5085 is amended—

(A) by striking out "active list" in subsection (a) and inserting in lieu thereof "active-duty list"; and

(B) by striking out subsection (d).

(5) Section 5086 is amended—

(A) by striking out "active list" in subsection (a) and inserting in lieu thereof "active-duty list"; and

(B) by striking out subsection (c).

(6) Section 5087(a) is amended by striking out "active list" both places it appears and inserting in lieu thereof "active-duty list".

(7) Section 5088 is amended—

(A) by striking out "active list" in subsection (a) and inserting in lieu thereof "active-duty list"; and

(B) by striking out subsection (d).

(8) The table of sections at the beginning of chapter 513 is amended—

(A) by striking out the items relating to sections 5139, 5140, and 5143; and

(B) by adding at the end thereof the following new item:

"5155. Staff Corps of the Navy.".

(9) Section 5133(b) is amended—

(A) by striking out the second sentence, and

(B) by inserting "or active-duty list" in the third sentence after "active list".

10 USC 5137.

(10) Section 5137 is amended by striking out "active list" in the first sentence of subsection (a) and in subsection (b) and inserting in lieu thereof "active-duty list".

(11) Subsections (a) and (b) of section 5141 are each amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(12) Subsections (b) and (d) of section 5150 are each amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(13) Section 5149 is amended—

(A) by striking out "(upper half)" in the second sentence of subsection (a);

(B) by striking out "rear admiral (lower half)" in the second and third sentences of subsection (b) and inserting in lieu thereof "commodore admiral"; and

(C) by striking out the last sentence of subsection (b) and inserting in lieu thereof the following: "If he is retired as a commodore admiral, he is entitled to the retired pay of that grade, unless entitled to higher pay under another provision of law.".

(14) The table of sections at the beginning of chapter 515 is amended by striking out the item relating to section 5206.

(15) Sections 5201(a) and 5202(a) are each amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(16) The table of chapters at the beginning of part II of subtitle C is amended—

(A) by striking out the item relating to chapter 531 and inserting in lieu thereof the following:

"531. Strength of Naval Reserve and Marine Corps Reserve ..... 5401";

and

(B) by striking out the items relating to chapters 541, 543, 545, and 547 and inserting in lieu thereof the following:

"541. Running Mates for Reserve Officers 5651
"544. Temporary Appointments ..... 5721".

(17) The table of sections at the beginning of chapter 531 is amended by striking out the items relating to sections 5401, 5402, 5403, 5404, 5405, 5406, 5407, 5408, 5409, 5412, 5415, 5416, and 5417.

(18) The table of sections at the beginning of chapter 533 is amended—

(A) by striking out the items relating to sections 5442, 5443, and 5444 and inserting in lieu thereof the following:

"5442. Navy: line officers on active duty; commodore admirals and rear admirals.
"5443. Marine Corps: officers on active duty; brigadier generals and major generals.
"5444. Navy: staff corps officers on active duty; commodore admirals and rear admirals."; and

(B) by striking out the items relating to sections 5445, 5447, 5448, 5449, and 5452.

Ante, p. 2888.

(19) Section 5444(d) is amended by striking out "section 5772 or section 5781" and inserting in lieu thereof "section 624 of this title".

(20) Section 5446 is amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(21) Section 5450 is amended—

(A) by striking out "(a)";

(B) by striking out "officers of the Regular Navy in the grade of rear admiral and above" and inserting in lieu thereof "flag officers of the Regular Navy"; and

(C) by striking out subsection (b).

(22) Section 5451(b) is amended by striking out "relating to officers serving in grades above lieutenant in the Navy or captain in the Marine Corps". 10 USC 5451.

(23) Section 5455 is amended by striking out "5449, or 5452" and inserting in lieu thereof "or 5449".

(24) Section 5455 is further amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(25) The table of sections at the beginning of chapter 535 is amended by striking out the items relating to sections 5504 and 5505.

(26) Section 5506 is amended—

(A) by striking out "Officers" in the first sentence and inserting in lieu thereof "Subject to section 741 of this title, officers"; and

(B) by striking out "When" in the second sentence and inserting in lieu thereof "Subject to section 741 of this title, when".

(27) Section 5508 is amended—

(A) in subsection (a)—

(i) by striking out "(a)";

(ii) by striking out "a lineal" in the first sentence and inserting in lieu thereof "an active-duty"; and

(iii) by striking out the second sentence; and

(B) by striking out subsection (b).

(28) The table of sections at the beginning of chapter 539 is amended by striking out the items relating to sections 5571, 5572, 5573, 5574, 5575, 5576, 5577, 5578, 5578a, 5579, 5580, 5581, 5583, 5584, 5586, 5590, 5591, 5592, 5593, 5594, 5595, 5597, 5598, 5599, and 5601.

(29) Section 5585 is amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(30) The text of section 5587a is amended to read as follows: "With the approval of the Secretary of the Navy, any regular officer on the active-duty list of the Marine Corps who is qualified under section 827(b) of this title may, upon his application, be designated as a judge advocate.".

(31) The table of sections at the beginning of chapter 541 is amended by striking out the items relating to sections 5651, 5652, 5652a, 5652b, 5652c, 5653, 5654, 5655, 5656, 5657, 5658, 5659, 5660, 5661, 5662, 5663, 5664, and 5666.

(32) Section 5891 is amended—

(A) by striking out "(c), (d), and (e), a reserve officer who is on the lineal list maintained under section 5504" in subsection (b) and inserting in lieu thereof "(c) and (d), a reserve officer who is on the active-duty list maintained under section 620";

(B) by striking out subsections (c) and (g) and redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively;

(C) by striking out "chapter 543" in subsections (d) and (e), as redesignated by clause (2), and inserting in lieu thereof "chapter 36"; and

(D) by striking out "the lineal list" and "a lineal list" each place they appear in subsections (d) and (e), as redesignated

by clause (2), and inserting in lieu thereof "the active-duty list".

10 USC 5892.

(33) Section 5892 is amended by striking out "prescribed for line and staff corps officers on the active list of the Navy" in the fourth sentence and inserting in lieu thereof "established by the Secretary for regular line and staff corps officers on the active-duty list under other provisions of this title".

(34) Sections 5896, 5897, and 5898(b) are each amended by inserting "before the effective date of the Defense Officer Personnel Management Act" after "section 5581 of this title" each place it appears.

(35) Section 5899 is amended—

(A) by inserting "before the effective date of the Defense Officer Personnel Management Act" after "section 5581 of this title" each place it appears;

(B) by striking out "section 5764" in subsections (a) and (c) and inserting in lieu thereof "chapter 36";

(C) by inserting "or above" after "captain" in the second sentence of subsection (a);

(D) by striking out "section 5765" in subsections (b) and (d) and inserting in lieu thereof "chapter 36";

(E) by striking out "lineal list" in subsections (b) and (e) and inserting in lieu thereof "active-duty list";

(F) by striking out "section 5702" in subsection (e) and inserting in lieu thereof "chapter 36"; and

(G) by striking out "chapter 543" in subsection (f) and inserting in lieu thereof "chapter 36".

(36) Section 5901 is amended by striking out subsection (c).

(37) Subsections (b) and (c) of section 5902 are amended by striking out "chapter 545" and inserting in lieu thereof "chapter 36".

(38) Section 5905(c) is amended by striking out "lineal rank and" in the second sentence.

(39) Section 5906 is amended by striking out "chapter 543" and inserting in lieu thereof "chapter 36".

(40) The second sentence of subsection (a) of section 5910 and the second sentence of subsection (b) of such section are amended by striking out "active list" and inserting in lieu thereof "active-duty list".

(41) The table of sections at the beginning of chapter 551 is amended by striking out the item relating to section 5955.

(42) The table of sections at the beginning of chapter 553 is amended by striking out the item relating to section 5982.

(43) The table of sections at the beginning of chapter 555 is amended by striking out the items relating to sections 6018 and 6028.

(44) Section 6015 is amended by striking out "appointed under section 5590 of this title".

(45) Section 6151(a) is amended by inserting "and subject to sections 688 and 1370 of this title" after "retired grade".

(46) The table of sections at the beginning of chapter 569 is amended by striking out the item relating to section 6294.

(47)(A) Section 6323(c) is amended to read as follows:

"(c) The retired grade of an officer retired under this section is the grade determined under section 1370 of this title.".

(B) Section 6325 is amended—

(i) by inserting "or section 1370 of this title" in subsection (a) after "subsection (b)"; and

(ii) by striking out "5231 or 5232" in subsection (b) and inserting in lieu thereof "601".

(48) The table of sections at the beginning of chapter 573 is amended—

(A) by striking out the items relating to sections 6371, 6372, 6373, 6374, 6376, 6377, 6378, 6379, 6380, 6381, 6382, 6384, 6385, 6386, 6387, 6388, 6390, 6392, 6393, 6394, 6395, 6396, 6398, 6400, 6401, 6402, and 6407;

(B) by striking out the item relating to section 6383 and inserting in lieu thereof the following:

"6383. Regular Navy and Regular Marine Corps; officers designated for limited duty: retirement for length of service or failures of selection for promotion; discharge for failures of selection for promotion; reversion to prior status; retired grade; retired pay.";

and

(C) by striking out the item relating to section 6404 and inserting in lieu thereof the following:

"6404. Treatment of fractions of years of service in computing retired pay and separation pay.".

(49) Section 6403 is amended— 10 USC 6403.

(A) by inserting "before the effective date of the Defense Officer Personnel Management Act" after "section 5581 of this title" in subsection (a);

(B) by inserting "or chapter 36" after "this chapter" in subsections (a) and (b);

(C) by inserting "regular" after "woman line" in subsection (a); and

(D) by striking out "active list" in subsections (a) and (b) and inserting in lieu thereof "active-duty list".

(50)(A) Section 6404 is amended by striking out "lump-sum payments" and inserting in lieu thereof "separation pay".

(B) The heading of such section is amended to read as follows:

"§ 6404. Treatment of fractions of years of service in computing retired pay and separation pay".

(51) The table of sections at the beginning of chapter 575 is amended by striking out the items relating to sections 6481, 6487, and 6488.

(52) The table of sections at the beginning of chapter 601 is amended by striking out the items relating to sections 6909 and 6914.

(53) Section 7042(a) is amended by striking out "active list" and inserting in lieu thereof "active-duty list".

AMENDMENTS TO SUBTITLE D OF TITLE 10, UNITED STATES CODE

SEC. 504. Subtitle D is amended as follows:

(1) The table of chapters at the beginning of subtitle D and the table of chapters at the beginning of part II of such subtitle are amended by striking out the items relating to chapters 859, 860, and 865.

(2) Section 8034(b) is amended by striking out "and is counted as one of the officers authorized to serve in a grade above lieutenant general under section 8066 of this title".

(3) The table of sections at the beginning of chapter 807 is amended by striking out the item relating to section 8066.

10 USC 8062.

(4) Section 8062(e) is amended by striking out "and chapter 831" and inserting in lieu thereof ", chapter 831 of this title, and the strength authorized by law pursuant to section 138".

(5) Section 8067 is amended—

(A) by striking out "in conformity with section 8289 or 8294 of this title," in subsection (a);

(B) by striking out "in conformity with section 8294 of this title," in subsection (b);

(C) by striking out "in conformity with section 8291 of this title," in subsection (e);

(D) in subsection (f)—

(i) by striking out "Medical specialist functions" and inserting in lieu thereof "Biomedical science functions"; and

(ii) by striking out "medical specialists" and inserting in lieu thereof "biomedical science officers"; and

(E) by striking out "in conformity with section 8293 of this title," in subsection (h).

(6) The table of sections at the beginning of chapter 831 is amended—

(A) by striking out the item relating to section 8202 and inserting in lieu thereof the following:

'8202. Air Force: strength in grade.";

(B) by striking out the item relating to section 8212 and inserting in lieu thereof the following:

"8212. Air Reserve; Air National Guard of the United States: strength in grade; temporary increases.";

and

(C) by striking out the items relating to sections 8201, 8203, 8204, 8205, 8206, 8207, 8208, 8209, 8211, 8213, 8214, 8215, and 8230.

(7) Section 8210 is amended by striking out "active list" each place it appears in subsections (a) and (c) and inserting in lieu thereof "active-duty list".

(8)(A) The first sentence of section 8212 is amended to read as follows: "The authorized strength in any reserve grade, as prescribed under this chapter, is automatically increased to the minimum extent necessary to give effect to each appointment made in that grade under section 1211(a), 8365 (a) and (c), 8366 (a) and (d), 8375, 8376, 8380, or 8381 of this title.".

(B) The heading of such section is amended to read as follows:

"§ 8212. Air Reserve; Air National Guard of the United States: strength in grade; temporary increases".

(9) Sections 8222 and 8225 are each amended—

(A) by striking out "of 502,000"; and

(B) by striking out "in section 8201(a) of this title".

(10) The table of sections at the beginning of chapter 835 is amended by striking out the items relating to sections 8284, 8285, 8286, 8287, 8288, 8289, 8293, 8294, 8295, 8296, 8297, 8298, 8299, 8300, 8301, 8302, 8303, 8305, 8306, 8307, 8308, 8309, 8312, 8313, and 8314.

(11) The table of sections at the beginning of chapter 837 is amended—

(A) by striking out the item relating to section 8353 and inserting in lieu thereof the following:

"8353. Commissioned officers: service credit upon original appointment.";

and

(B) by adding at the end thereof the following new item:

"8396. Exclusion of certain officers.".

(12) The table of sections at the beginning of chapter 839 is amended by striking out the items relating to sections 8441, 8442, 8444, 8445, 8447, 8448, 8449, 8451, and 8452.

(13) The table of sections at the beginning of chapter 841 is amended by striking out the items relating to sections 8494 and 8504.

(14) The table of sections at the beginning of chapter 843 is amended by striking out the item relating to section 8531.

(15) The table of sections at the beginning of chapter 845 is amended by striking out the items relating to sections 8571, 8573, 8574, and 8582.

(16) The table of sections at the beginning of chapter 861 is amended by striking out the items relating to sections 8814 and 8818.

(17) The table of sections at the beginning of chapter 867 is amended by striking out the items relating to sections 8913, 8915, 8916, 8919, 8921, 8922, 8923, and 8927.

(18) Section 8924(a) is amended by striking out "8786" and inserting in lieu thereof "1186". 10 USC 8924.

(19) The text of section 8961 is amended to read as follows:

"(a) The retired grade of a regular commissioned officer of the Air Force who retires other than for physical disability, and the retired grade of a reserve commissioned officer of the Air Force who retires other than for physical disability or for nonregular service under chapter 67 of this title, is determined under section 1370 of this title. 10 USC 1331 *et seq.*

"(b) Unless entitled to a higher retired grade under some other provision of law, a Regular or Reserve of the Air Force not covered by subsection (a) who retires other than for physical disability retires in the regular or reserve grade that he holds on the date of his retirement.". *Ante*, p. 2876.

(20) Section 8962(a) is amended by striking out "(4) in a position of importance and responsibility designated by the President to carry the grade of general or lieutenant general under section 8066 of this title, or (5)" and inserting in lieu thereof "or (4)". *Ante*, p. 2878.

(21) Section 8963 is amended by striking out subsection (a) and by striking out "(b)" before "Upon retirement".

(22) The table contained in section 8991 is amended— *Post*, p. 2935.

(A) by striking out the designation "A" under the column headed "Formula";

(B) by striking out the matter opposite such designation under each of the other columns in the table; and

(C) by redesignating the designations "B", "C", and "D" under the column headed "Formula" as "A", "B", and "C", respectively.

(23) Section 9301(b) is amended by striking out "active list" in the first sentence and inserting in lieu thereof "active-duty list".

(24) Section 9336 is amended—

(A) by striking out "a promotion-list officer" in subsections (a) and (b) and inserting in lieu thereof "a regular officer"; and

(B) by inserting "or active-duty list" in subsections (a) and (b) after "on the promotion list".

(25) Section 9353 is amended by inserting "under section 531 of this title" after "Regular Air Force". *Ante*, p. 2845.

AMENDMENTS TO TITLE 14, UNITED STATES CODE

SEC. 505. (a)(1) Chapter 11 of title 14, United States Code, is amended by inserting after section 286 the following new section:

14 USC 286a.

"§ 286a. Regular warrant officers: severance pay

Ante, p. 2907.

"(a) The severance pay of a regular warrant officer of the Coast Guard who is separated under section 564(a)(3) of title 10 is computed by multiplying his years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended, but not more than 12, by twice the monthly basic pay to which he is entitled at the time of separation.

10 USC 564 note.

"(b) The severance pay of a regular warrant officer of the Coast Guard who is separated under section 1166 of title 10 is computed by multiplying his years of active service that could be credited to him under section 511 of the Career Compensation Act of 1949, as amended, but not more than 12, by the monthly basic pay to which he is entitled at the time of separation.

"(c) For the purposes of this section, a part of the year that is six months or more is counted as a whole year, and a part of a year that is less than six months is disregarded.

Retirement pay deductions.

"(d) The acceptance of severance pay under this section does not deprive a person of any retirement benefits from the United States. However, there shall be deducted from each of his retirement payments so much thereof as is based on the service for which he has received severance pay under this section, until the total deductions equal the amount of such severance pay. However, no person is entitled to severance pay under this section in an amount that is more than $15,000.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 286 the following new item:

"286a. Regular warrant officers: severance pay.".

(b) Section 438 of title 14, United States Code, is amended by striking out "1167, 1255" and inserting in lieu thereof "1166".

AMENDMENTS TO TITLE 37, UNITED STATES CODE

SEC. 506. Title 37, United States Code, is amended as follows:

37 USC 101.

(1) Section 101(18) is amended by striking out "duty on the active list,".

(2) The item relating to section 202 in the table of sections at the beginning of chapter 3 is amended to read as follows:

"202. Pay grades: assignment to; rear admirals (upper half) of the Coast Guard.".

(3) The table contained in section 201(a) is amended—

(A) by striking out "Environmental Science Services Administration" in the heading of the third column and inserting in lieu thereof "National Oceanic and Atmospheric Administration";

(B) by striking out "Rear admiral (upper half)" in the third column and inserting in lieu thereof "Rear admiral (Navy) and Rear admiral (upper half) (Coast Guard and National Oceanic and Atmospheric Administration)"; and

(C) by striking out "Rear admiral (lower half) and commodore" in the third column and inserting in lieu thereof "Commodore admiral (Navy) and Rear admiral (lower half)

and commodore (Coast Guard and National Oceanic and Atmospheric Administration)".

(4) Section 204(a) is amended by striking out "Except for members covered by section 202(i) of this title, the" and inserting in lieu thereof "The". 37 USC 204.

(5) The table of sections at the beginning of chapter 5 is amended—

(A) by striking out the items relating to sections 302c and 313; and

(B) by striking out the item relating to section 311 and inserting in lieu thereof the following:

"311. Special pay: continuation pay for dentists in the armed forces.".

(6) Section 303a is amended—

(A) by striking out "302c, 303, 311, and 313" in subsection (a) and inserting in lieu thereof "303, and 311";

(B) by striking out "302c," in the first sentence of subsection (b); and

(C) by inserting "separation pay," after "retired pay," in the second sentence of subsection (b).

(7) Section 406 is amended—

(A) by inserting "separation pay or" before "severance pay" in subsections (d)(2) and (g)(2); and

(B) by inserting "separation pay or" before "readjustment pay" in subsections (d)(2) and (g)(2).

(8) The table of sections at the beginning of chapter 17 is amended by striking out the items relating to sections 904 and 905 and inserting in lieu thereof the following:

"905. Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances.".

(9) The table of sections at the beginning of chapter 19 is amended by adding at the end thereof the following new items:

"1010. Commissioned officers: promotions; effective date for pay and allowances.
"1011. Mess operations: reimbursement of expenses.".

AMENDMENTS TO OTHER LAWS

SEC. 507. (a) Section 101(12) of title 32, United States Code, is amended by striking out "duty on the active list,".

(b) Section 502(a) of the National Emergencies Act (50 U.S.C. 1651(a)(8)) is amended by striking out paragraph (8).

(c) Section 6(d) of the Act entitled "An Act to establish an Office of Selective Service Records to liquidate the Selective Service System following the termination of its functions on March 31, 1947, and to preserve and service the Selective Service records, and for other purposes", approved March 31, 1947 (50 U.S.C. App. 326(d)), is amended—

(1) by striking out "on the active or retired list of the Army, Navy, Marine Corps, or Coast Guard, or of any Reserve component thereof," and inserting in lieu thereof "of the Armed Forces" and

(2) by striking out "in the Army, Navy, Marine Corps, or Coast Guard or Reserve component thereof," and inserting in lieu thereof "of the Armed Forces".

(d) Section 10(b)(4) of the Military Selective Service Act (50 U.S.C. App. 460(b)(4)) is amended—

(1) by striking out "on the active or retired list of the armed forces, or any reserve component thereof with his consent," and inserting in lieu thereof "of the armed forces" and

(2) by striking out "or reserve component thereof,".

Repeal. (e) Section 302 of the Department of Defense Appropriation Authorization Act, 1974 (Public Law 93-155; 87 Stat. 607) is repealed.

(f)(1) Section 3(a)(3) of the Act of August 10, 1956 (70A Stat. 619; 33 U.S.C. 857a(a)(3)), is amended by inserting "1370," after "except sections".

(2) Section 221(a)(3) of the Public Health Service Act (42 U.S.C. 213a(a)(3)) is amended by inserting "1370," after "except sections".

PART B—AMENDMENTS TO MAKE TECHNICAL CORRECTIONS IN TITLES 10, 32, AND 37 OF THE UNITED STATES CODE OTHER THAN CORRECTIONS REQUIRED BY THIS ACT

AMENDMENTS TO SUBTITLE A OF TITLE 10, UNITED STATES CODE

SEC. 511. Subtitle A is amended as follows:

10 USC 123. (1) Section 123 is amended by striking out "3847," "8370,", and "8847,".

(2) Section 126(b) is amended by striking out "Director of the Bureau of the Budget" and inserting in lieu thereof "President".

(3) Section 133(b) is amended by striking out "section 401 of title 50" and inserting in lieu thereof "section 2 of the National Security Act of 1947 (50 U.S.C. 401)".

(4) Section 138(f) is amended—

(A) by striking out "(71 Stat. 556)" and inserting in lieu thereof "(42 U.S.C. 1594i)"; and

(B) by striking out "In subsection (f)" and inserting in lieu thereof "In subsection (e)".

(5) Section 139(a) is amended by striking out "section 11 of title 31" and inserting in lieu thereof "section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)".

(6) Section 176 is amended—

(A) in subsection (a)(3), by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services"; and

(B) in subsection (b)(1)(A), by inserting "of this title" after "section 177".

(7) Section 270 is amended—

(A) in subsection (a), by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation"; and

(B) in subsection (c), by striking out "the enactment of this subsection" and inserting in lieu thereof "October 4, 1961".

(8) Section 272 is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(9) Section 274(1) is amended by striking out "section 232" and inserting in lieu thereof "section 291".

(10) Section 280 is amended—

(A) by striking out "3685," and "8685,"; and

(B) by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(11)(A) Section 335 is amended to read as follows:

"§ 335. Guam and Virgin Islands included as 'State'

"For purposes of this chapter, the term 'State' includes the unincorporated territories of Guam and the Virgin Islands.".

(B) Section 336 is repealed. Repeal. 10 USC 336.

(C) The table of sections at the beginning of chapter 15 is amended by adding after the item relating to section 334 the following new item:

"335. Guam and Virgin Islands included as 'State'.".

(12) Section 351(c) is amended by striking out "Section 463 of title 22" and inserting in lieu thereof "Section 16 of the Act of March 4, 1909 (22 U.S.C. 463)".

(13) Section 510(b)(1) is amended by striking out "chapter 12 of title 8" and inserting in lieu thereof "the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)".

(14) Section 511(d) is amended by striking out "Military Selective Service Act of 1967 (50 App. U.S.C. 451-473)" and inserting in lieu thereof "Military Selective Service Act (50 U.S.C. App. 451 et seq.)".

(15) Section 512 is amended by striking out "sections 451-473 of title 50, appendix" both places it appears and inserting in lieu thereof "the Military Selective Service Act (50 U.S.C. App. 451 et seq.)".

(16) Section 591(b) is amended—

(A) by striking out "except as provided in section 454(i)(7) of title 50, appendix,"; and

(B) by striking out "chapter 12 of title 8" and inserting in lieu thereof "the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)".

(17) Section 595(a) is amended by striking out "sections 451-473 of title 50, appendix" both places it appears and inserting in lieu thereof "the Military Selective Service Act (50 U.S.C. App. 451 et seq.)".

(18) Section 651(a) is amended—

(A) by striking out "section 456(d)(1) of title 50, appendix" and inserting in lieu thereof "section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1))"; and

(B) by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(19) Section 679(c) is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(20) Section 702(b) is amended by striking out "Sections 701, 702(a), 703, and 704 of this chapter" and inserting in lieu thereof "Sections 701, 703, and 704 of this title and subsection (a)".

(21) Section 711a is amended by striking out "(a)".

(22) Section 717 is amended—

(A) by striking out "the Treasury" each place it appears and inserting in lieu thereof "Transportation";

(B) by striking out "subsections (d), (e), and (f)" in subsection (c) and inserting in lieu thereof "subsections (c), (d), and (e)"; and

(C) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

(23)(A) Section 719 is amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(B) The heading of such section is amended to read as follows:

"§ 719. Department of Commerce: assignment or detail of members of the armed forces to National Oceanic and Atmospheric Administration".

(C) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

"719. Department of Commerce: assignment or detail of members of the armed forces to National Oceanic and Atmospheric Administration.".

10 USC 802.

(24) Section 802(a)(8) is amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(25) Sections 865(c) and 888 are amended by striking out "the Treasury" and inserting in lieu thereof "Transportation".

(26) The table of sections at the beginning of chapter 48 is amended by adding at the end thereof the following new item:

"955. Prisoners transferred to or from foreign countries.".

(27) Section 951(d) is amended by striking out "as" the second place it appears and inserting in lieu thereof "at".

(28) Section 955(a) is amended—

(A) by striking out "said" both places it appears and inserting in lieu thereof "such";

(B) by striking out "Said" and inserting in lieu thereof "Such"; and

(C) by striking out ", United States Code".

(29) The items relating to chapter 51 in the table of chapters at the beginning of subtitle A, and in the table of chapters at the beginning of part II of such subtitle, are amended to read as follows:

"51. Reserve Components: Standards and Procedures for Retention and Promotion ..... 1001".

(30) Section 1006(e) is amended by striking out "the Act enacting this section" and inserting in lieu thereof "Public Law 85-861".

(31) Section 1037(c) is amended by striking out "Department of the Treasury" and inserting in lieu thereof "Department of Transportation".

(32) Subsection (d) of the first section 1040 is amended—

(A) by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation"; and

(B) by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(33)(A) The second section 1040 (added by Public Law 90-235) is redesignated as section 1041.

(B) The item relating to such section in the table of sections at the beginning of chapter 53 is amended to read as follows:

"1041. Replacement of certificate of discharge.".

(34)(A) Sections 1071, 1072, 1073, and 1084 are amended by striking out "sections 1071-1087 of this title" and inserting in lieu thereof "this chapter".

(B) The heading of section 1071 is amended to read as follows:

"§ 1071. Purpose of this chapter".

(C)(i) The heading of section 1073 is amended to read as follows:

"§ 1073. Administration of this chapter".

(ii) Such section is further amended by striking out "those sections" and "them" and inserting in lieu thereof "this chapter".

(D)(i) The item relating to section 1071 in the table of sections at the beginning of chapter 55 is amended to read as follows:

"1071. Purpose of this chapter.".

(ii) The item relating to section 1073 in such table is amended to read as follows:

"1073. Administration of this chapter.".

(iii) The item relating to section 1086 in such table is amended to read as follows:

"1086. Contracts for health benefits for certain members, former members, and their dependents.".

(35) Section 1072(1) and 1073 are amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration". 10 USC 1072, 1073.

(36) Sections 1072(2)(E)(iii), 1073, 1074, 1076, 1078, 1079, 1080, 1081, 1083, 1084, 1085, and 1086 are amended by striking out "Secretary of Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Secretary of Health and Human Services".

(37) Sections 1074(b) and 1085 are amended by striking out "Bureau of the Budget" and inserting in lieu thereof "President".

(38) Section 1079 is amended—

(A) in subsection (a), by striking out "that:" and inserting in lieu thereof "that—";

(B) in subsection (b), by striking out "per centum" both places it appears and inserting in lieu thereof "percent";

(C) in subsection (e), by striking out the period in the matter preceding clause (1) and inserting in lieu thereof "as follows:"; and

(D) in subsection (g), by striking out ", United States Code,".

(39) Section 1086 is amended—

(A) in subsection (b), by striking out "per centum" each place it appears and inserting in lieu thereof "percent"; and

(B) in subsection (c), by striking out "title I of the Social Security Amendments of 1965 (79 Stat. 286)" and inserting in lieu thereof "part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.)". *Ante*, p. 2908.

(40) Section 1124(h) is amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(41) Section 1164 is amended by redesignating subsection (c) as subsection (b).

(42) Section 1208(a) is amended—

(A) by striking out "Environmental Science Services Administration" in paragraph (2)(B) and inserting in lieu thereof "National Oceanic and Atmospheric Administration"; and

(B) by striking out "Environmental Science Services Administration includes active service as a member" and inserting in lieu thereof "National Oceanic and Atmospheric

Administration includes active service as a member of the Environmental Science Services Administration and".

10 USC 1212.

(43) Section 1212(a)(2)(B) is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(44) Section 1213 is amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(45) Section 1216(d) is amended by striking out "Assistant Secretary of Defense for Health and Environment" and inserting in lieu thereof "Assistant Secretary of Defense for Health Affairs".

(46) Section 1263(a) is amended by striking out "section 311 of title 37" and inserting in lieu thereof "section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114; 10 U.S.C. 564 note)".

(47) Section 1331 is amended—

(A) in subsection (b), by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation"; and

(B) in subsection (e), by striking out "United States Code,".

(48) Section 1332(a)(4) is amended—

(A) by striking out "Coast and Geodetic Survey" and inserting in lieu thereof "National Oceanic and Atmospheric Administration (including active commissioned service in the Environmental Science Services Administration and in the Coast and Geodetic Survey)"; and

(B) by striking out "pursuant to" and inserting in lieu thereof "under".

(49) Section 1401 is amended—

(A) by striking out "of this title) on or after the date of the enactment of the Department of Defense Authorization Act, 1981" in the heading in column 1 of the table contained in such section and inserting in lieu thereof ") after September 7, 1980";

Ante, p. 1077.

(B) by striking out "1255" under the column headed "For sections" in such table; and

(C) by striking out "senior enlisted advisor of the Navy" in footnote 4 of such table and inserting in lieu thereof "master chief petty officer of the Navy".

(50) Section 1402 is amended by striking out "the armed forces before the date of the enactment of the Department of Defense Authorization Act, 1981" in subsections (a), (b), and (c) and inserting in lieu thereof "a uniformed service (as defined in section 1407(a)(2) of this title) before September 8, 1980".

(51)(A) Section 1402a is amended by striking out "on or after the date of the enactment of the Department of Defense Authorization Act, 1981" in subsections (a), (b), and (c) and inserting in lieu thereof "after September 7, 1980".

(B) The heading of such section is amended to read as follows:

"§ 1402a. Recomputation of retired or retainer pay to reflect later active duty of members who first became members after September 7, 1980".

(C) The item relating to such section in the table of sections at the beginning of chapter 71 is amended to read as follows:

"1402a. Recomputation of retired or retainer pay to reflect later active duty of members who first became members after September 7, 1980.".

(52)(A) Section 1403 is amended by striking out "title 26" and inserting in lieu thereof "the Internal Revenue Code of 1954". 10 USC 1403.

(B) The heading of such section is amended to read as follows:

"§ 1403. Disability retired pay; treatment under Internal Revenue Code of 1954".

(C) The item relating to such section in the table of sections at the beginning of chapter 71 is amended to read as follows:

"1403. Disability retired pay; treatment under Internal Revenue Code of 1954.".

(53) Section 1407(a) is amended by striking out "on or after the date of the enactment of the Department of Defense Authorization Act, 1981" and inserting in lieu thereof "after September 7, 1980". *Ante*, p. 1077.

(54)(A) The heading of chapter 73 is amended to read as follows:

"CHAPTER 73—ANNUITIES BASED ON RETIRED OR RETAINER PAY".

(B) The items relating to such chapter in the table of chapters at the beginning of subtitle A, and in the table of chapters at the beginning of part II of such subtitle, are amended to read as follows:

"73. Annuities Based on Retired or Retainer Pay ..... 1431".

(55) Section 1431(b) is amended by striking out "the date of enactment of this amendment" and inserting in lieu thereof "August 13, 1968,".

(56) Section 1434 is amended by striking out "per centum" each place it appears and inserting in lieu thereof "percent".

(57) Section 1437(b) is amended by striking out "prior to the effective date of this subsection" and inserting in lieu thereof "before November 1, 1968".

(58) Section 1444 is amended—

(A) by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration"; and

(B) by redesignating subsection (c) as subsection (b).

(59) Section 1475(a)(5)(B) is amended by striking out "Universal Military Training and Service Act (50 App. U.S.C. 451 et seq.)" and inserting in lieu thereof "Military Selective Service Act (50 U.S.C. App. 451 et seq.)".

(60) Section 1552(a) is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(61) Section 1586 is amended by striking out "United States Civil Service Commission" in subsections (c)(5) and (e)(2) and inserting in lieu thereof "Office of Personnel Management".

(62) Section 2107 is amended—

(A) by striking out "Miilitary" in subsection (e) and inserting in lieu thereof "Military"; and

(B) by striking out "section 2107 of this title" in subsection (h) and inserting in lieu thereof "this section".

(63) Section 2112(a) is amended by striking out "10 years after the date of the enactment of this chapter" and inserting in lieu thereof "September 21, 1982".

Ante, p. 2925.
10 USC 2112, 2113.

(64) Sections 2112(a), 2113(a), and 2113(d) are amended by inserting "in this chapter" after "hereinafter".

(65) Section 2114(b) is amended by striking out "Secretary of Health, Education, and Welfare" both places it appears and inserting in lieu thereof "Secretary of Health and Human Services".

(66) The table of sections at the beginning of chapter 105 is amended by striking out the first semicolon in the item relating to section 2123 and the semicolons in the items relating to sections 2124, 2125, 2126, and 2127 and inserting in lieu thereof colons.

(67) Sections 2123(e) and 2127(d) are amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(68) Section 2131 is amended—

(A) by striking out "armed force" in subsection (a) and inserting in lieu thereof "armed forces";

(B) by inserting "of this title" in subsection (b)(2) after "section 2132"; and

(C) by striking out "Commissioner of Education, Department of Health, Education, and Welfare" in subsection (d) and inserting in lieu thereof "Secretary of Education".

(69) Section 2132 is amended by inserting "of this title" after "section 2131" each place it appears.

(70) Section 2133(a) is amended by inserting "of this title" after "section 2131" and after "section 2107".

(71) Section 2205 is amended by striking out "section 686 of title 31" and inserting in lieu thereof "the Act of March 4, 1915 (31 U.S.C. 686)".

(72) Section 2210(b) is amended by striking out "Director of the Bureau of the Budget" and inserting in lieu thereof "President".

(73) Section 2211 is amended by striking out "section 2392(d) of title 22" and inserting in lieu thereof "section 632(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2392(d))".

(74) Section 2302(1) is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(75) The item relating to section 2304 in the table of sections at the beginning of chapter 137 is amended to read as follows:

"2304. Purchases and contracts: formal advertising; exceptions.".

(76)(A) Clauses (1) and (2) of section 2304(f) are amended to read as follows:

"(1) The Act entitled 'An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes', approved June 30, 1936 (commonly referred to as the 'Walsh-Healy Act') (41 U.S.C. 35-45).

"(2) The Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly referred to as the 'Davis-Bacon Act') (40 U.S.C. 276a—276a-5).".

(B) Clause (3) of such section is repealed.

(77)(A) Subsection (f) of section 2306 is amended—

(i) by inserting "(1)" after "(f)";

(ii) by redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D), respectively;

(iii) by striking out "Prior" each place it appears and inserting in lieu thereof "prior";

(iv) by striking out "(3) above" and inserting in lieu thereof "clause (C)";

(v) by inserting "(2)" before "Any prime contract" in the first undesignated paragraph in such subsection; and

(vi) by inserting "(3)" before "For the purpose of" in the second undesignated paragraph in such subsection.

(B) Subsection (g) of such section is amended—

(i) by striking out "that:" in paragraph (1) and inserting in lieu thereof "that—";

(ii) by striking out "the" at the beginning of clause (A) of paragraph (2) and inserting in lieu thereof "The";

(iii) by striking out "consideration" at the beginning of clauses (B) and (C) of paragraph (2) and inserting in lieu thereof "Consideration"; and

(iv) by striking out "from:" in paragraph (3) and inserting in lieu thereof "from—".

(78) Section 2314 is amended by striking out "Sections 5, 6, 6a, and 13 of title 41" and inserting in lieu thereof "Sections 3709 and 3735 of the Revised Statutes (41 U.S.C. 5 and 13)". 10 USC 2314.

(79) The table of sections at the beginning of chapter 141 is amended by striking out the item relating to section 2383.

(80) Section 2390 is amended by striking out "(a)" before "The Secretary".

(81) Section 2543(a) is amended by striking out "section 721 of title 36" and inserting in lieu thereof "the first section of the Presidential Inaugural Ceremonies Act (36 U.S.C. 721)".

(82) Section 2572 is amended by striking out "section 486 of title 40, the Secretary of a military department or the Secretary of the Treasury" and inserting in lieu thereof "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486), the Secretary of a military department or the Secretary of Transportation".

(83)(A) Section 2573 is repealed. Repeal.

(B) The table of sections at the beginning of chapter 153 is amended by striking out the item relating to section 2573.

(84) Section 2575 is amended—

(A) in subsection (a), by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation"; and

(B) in subsection (c), by striking out "the Soldiers' Home" and inserting in lieu thereof "the United States Soldiers' and Airmen's Home".

(85) Section 2576(a) is amended—

(A) by striking out "pursuant to" and inserting in lieu thereof "under"; and

(B) by striking out "(63 Stat. 377), as amended" and inserting in lieu thereof "(40 U.S.C. 471 et seq.)".

(86) Section 2601(b)(4) is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(87) Section 2633 is amended by striking out "section 628 of title 31" and inserting in lieu thereof "section 3678 of the Revised Statutes (31 U.S.C. 628)".

10 USC 2635.

(88) Section 2635(a) is amended by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Health and Human Services".

(89) The table of sections at the beginning of chapter 159 is amended by striking out the item relating to section 2680.

(90) Section 2664(a) is amended—

(A) by striking out "the Federal Maritime Board" both places it appears and inserting in lieu thereof "Federal Maritime Commission"; and

(B) by striking out "by 1950 Reorganization Plan No. 21, effective May 24, 1950 (64 Stat. 1273)" and inserting in lieu thereof "under Reorganization Plan No. 7 of 1961, effective August 12, 1961 (75 Stat. 840)".

(91) Section 2665 is amended by striking out "Federal Maritime Board" each place it appears and inserting in lieu thereof "Federal Maritime Commission".

(92) Section 2667 is amended—

(A) by striking out "section 472 of title 40" in subsection (a)(3) and inserting in lieu thereof "section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472)";

(B) by striking out "section 303b of title 40" in subsection (b)(4) and inserting in lieu thereof "section 321 of the Act entitled 'An Act making appropriations for the Legislative Branch of the Government for the fiscal year ending June 30, 1933, and for other purposes', approved June 30, 1932 (40 U.S.C. 303b),";

(C) by striking out "act of Congress" in subsection (e) and inserting in lieu thereof "Act of Congress"; and

(D) in subsection (f)—

(i) by striking out "The Secretary" and inserting in lieu thereof "the Secretary"; and

(ii) by striking out "The Administrator of the General Services Administration" and inserting in lieu thereof "the Administrator of General Services".

(93) Section 2681(a) is amended by striking out "Director of the Bureau of the Budget" and inserting in lieu thereof "President".

(94) Section 2733(f) is amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(95) Section 2734(g) is amended by striking out "Department of the Treasury" and inserting in lieu thereof "Department of Transportation".

(96) The table of sections at the beginning of chapter 165 is amended by striking out the item relating to section 2772.

(97) Section 2771 is amended—

(A) in subsection (b), by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration"; and

(B) in subsection (c), by striking out "Department of the Treasury" and inserting in lieu thereof "Department of Transportation".

(98) Section 2774(a) is amended by striking out "the effective date of this section" and inserting in lieu thereof "October 2, 1972".

(99) The items relating to chapter 107 in the tables of chapters at the beginning of subtitle A, and at the beginning of part III of such subtitle, are each amended to read as follows:

"107. Educational Assistance for Persons Enlisting for Active Duty ..... 2141".

AMENDMENTS TO SUBTITLE B OF TITLE 10, UNITED STATES CODE

SEC. 512. Subtitle B is amended as follows:

(1) The items relating to chapter 303 in the table of chapters at the beginning of subtitle B, and in the table of chapters at the beginning of part I of such subtitle, are amended to read as follows:

"303. Department of the Army ..... 3010".

(2) The items relating to sections 3035 and 3036 in the table of sections at the beginning of chapter 305 are amended to read as follows:

"3035. Vice Chief of Staff, Deputy Chiefs of Staff, and Assistant Chiefs of Staff: succession to duties of Chief of Staff.
"3036. Chiefs of branches: appointment; duties.".

(3) Section 3253 is amended by striking out "chapter 12 of title 8" and inserting in lieu thereof "the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)". 10 USC 3253.

(4) Section 3360 is amended by striking out "the Act enacting this section" each place it appears and inserting in lieu thereof "Public Law 85-861".

(5)(A) Section 3534 is amended by striking out "Commissioner" and inserting in lieu thereof "Mayor".

(B) The heading of such section is amended to read as follows:

"§ 3534. Corps of Engineers: detail of officers to assist Mayor of District of Columbia".

(C) The item relating to such section in the table of sections at the beginning of chapter 343 is amended to read as follows:

"3534. Corps of Engineers: detail of officers to assist Mayor of District of Columbia.".

(6) The table of sections at the beginning of chapter 349 is amended by striking out the items relating to sections 3632, 3633, and 3636.

(7) The table of sections at the beginning of chapter 353 is amended by striking out the item relating to section 3689.

(8) Sections 3848(c)(2) and 3851(c)(2) are amended by striking out ", United States Code,".

(9) Section 3853 is amended by striking out "the Act enacting this section" both places it appears and inserting in lieu thereof "Public Law 85-861".

(10) The tables contained in sections 3991 and 3992 are each amended by striking out "on or after the date of the enactment of the Department of Defense Authorization Act, 1981" in the heading for column 1 and inserting in lieu thereof "after September 7, 1980". *Ante*, p. 1077.

(11) Section 4314 is amended by striking out "Commissioner of Education, Department of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Education".

(12) Section 4331(a) is amended by striking out "New York, in this chapter called the 'Academy' " and inserting in lieu thereof "New York (hereinafter in this chapter referred to as the 'Academy')".

10 USC 4342.

(13) Section 4342(h) is amended by striking out "Effective beginning with nominations for appointment to the Academy in the calendar year 1964, the" and inserting in lieu thereof "The".

(14) Section 4537 is amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(15) Section 4538(b) is amended by striking out "section 486 of title 40" and inserting in lieu thereof "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

(16) Section 4540(c) is amended by striking out "5101-5115, 5331-5338, 5341, 5342, and 7204 of title 5 and subchapter VI of chapter 53 of such title 5" and inserting in lieu thereof "and 7204, chapter 51, and subchapters III, IV, and VI of chapter 53 of title 5".

(17) Section 4621(f) is amended by striking out "sections 772, 773, or 3612" and inserting in lieu thereof "section 772 or 773".

(18)(A) Section 4624(c) is amended by striking out "Soldiers' Home" and inserting in lieu thereof "United States Soldiers' and Airmen's Home".

(B) The heading of section 4624 is amended to read as follows:

"§ 4624. Medical supplies: civilian employees of the Army; American National Red Cross; Soldiers' and Airmen's Home".

(C) The item relating to such section in the table of sections at the beginning of chapter 439 is amended to read as follows:

"4624. Medical supplies; civilian employees of the Army; American National Red Cross; Soldiers' and Airmen's Home.".

(19) Sections 4681, 4682, 4684, and 4686 are amended by striking out "section 486 of title 40" and inserting in lieu thereof "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

(20) Section 4712 is amended by striking out "Soldiers' Home" in subsections (a)(2) and (f) and inserting in lieu thereof "United States Soldiers' and Airmen's Home".

(21)(A) Section 4713(a) is amended by striking out "Soldiers' Home" and inserting in lieu thereof "United States Soldiers' and Airmen's Home".

(B) The heading of section 4713 is amended to read as follows:

"§ 4713. Disposition of effects of deceased persons by Soldiers' and Airmen's Home".

(C) The item relating to such section in the table of sections at the beginning of chapter 445 is amended to read as follows:

"4713. Disposition of effects of deceased persons by Soldiers' and Airmen's Home.".

(22) Section 4745(a) is amended by striking out "chairman of the Federal Maritime Board" and inserting in lieu thereof "Secretary of Commerce".

(23) The heading of section 4777 is amended to read as follows:

"§ 4777. Permits: military reservations; landing ferries, erecting bridges, driving livestock".

(24)(A) Section 4837 is amended by striking out "(d)".

(B) The heading of such section is amended to read as follows:

"§ 4837. Settlement of accounts: remission or cancellation of indebtedness of enlisted members".

(C) The item relating to such section in the table of sections at the beginning of chapter 453 is amended to read as follows:

"4837. Settlement of accounts: remission or cancellation of indebtedness of enlisted members.".

AMENDMENTS TO SUBTITLE C OF TITLE 10, UNITED STATES CODE

SEC. 513. Subtitle C is amended as follows:

(1) The items relating to chapter 641 in the table of chapters at the beginning of subtitle C, and in the table of chapters at the beginning of part IV of such subtitle, are amended to read as follows:

"641. Naval Petroleum Reserves ..... 7420".

(2) Section 5001(a)(3) is amended by striking out ", male or female,". 10 USC 5001.

(3) Section 5032(a) is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(4) Section 5036(c) is amended by striking out "section 6" and inserting in lieu thereof "section 3347".

(5)(A) The table of sections at the beginning of chapter 507 is amended by striking out the item relating to section 5062.

(B) The item in such table relating to section 5064 is amended to read as follows:

"5064. Office of Budget and Reports: Director; Assistant Director.".

(6) The table of sections at the beginning of chapter 513 is amended by striking out the item relating to section 5134.

(7)(A) The item relating to section 5202 in the table of sections at the beginning of chapter 515 is amended to read as follows:

"5202. Assistant Commandant: detail; succession to duties.".

(B) The heading of section 5202 is amended to read as follows:

"§ 5202. Assistant Commandant: detail; succession to duties".

(8)(A) The item relating to section 5414 in the table of sections at the beginning of chapter 531 is amended to read as follows:

"5414. Naval Reserve and Marine Corps Reserve: officers in an active status in grades above chief warrant officer, W-4.".

(B) The heading of section 5414 is amended to read as follows:

"§ 5414. Naval Reserve and Marine Corps Reserve: officers in an active status in grades above chief warrant officer, W-4".

(9)(A) The items relating to sections 5457 and 5458 in the table of sections at the beginning of chapter 533 are amended to read as follows:

"5457. Naval Reserve: officers in an active status in grades above chief warrant officer, W-4.

"5458. Marine Corps Reserve: officers in an active status in grades above chief warrant officer, W-4.".

(B) The heading of section 5457 is amended to read as follows:

"§ 5457. Naval Reserve: officers in an active status in grades above chief warrant officer, W-4".

(C) The heading of section 5458 is amended to read as follows:

"§ 5458. Marine Corps Reserve: officers in an active status in grades above chief warrant officer, W-4".

(10) The table of sections at the beginning of chapter 535 is amended by striking out the item relating to section 5507.

(11) The table of sections at the beginning of chapter 549 is amended by striking out the item relating to section 5907.

(12) The table of sections at the beginning of chapter 559 is amended by striking out the item relating to section 6111.

(13) The table of sections at the beginning of chapter 561 is amended by striking out the items relating to sections 6141, 6142, 6143, 6144, 6145, 6146, and 6147.

10 USC 6201.

(14) Section 6201(b) is amended by striking out "section 16 of title 24" and inserting in lieu thereof "section 4812 of the Revised Statutes (24 U.S.C. 16)".

(15)(A) The item relating to section 6221 in the table of sections at the beginning of chapter 565 is amended to read as follows:

"6221. United States Navy Band.".

(B) Such table of sections is further amended by striking out the item relating to section 6224.

(16) Section 6221 is amended to read as follows:

"§ 6221. United States Navy Band

"There is a Navy band known as the United States Navy Band.".

(17) The following sections are each amended by striking out "the date of the enactment of the Department of Defense Authorization Act, 1981" each place it appears and inserting in lieu thereof "September 8, 1980": sections 6151(b), 6151(c), 6322(c), 6323(e), 6325(a)(2), 6325(b)(2), 6326(c)(2), 6330(c), and 6383(c)(2).

Ante, p. 1077.

(18) Subsections (f) and (g) of section 6222 are redesignated as subsections (e) and (f), respectively.

(19) Sections 6326(c)(2)(A) and 6330(c)(1)(A) are amended by striking out "senior enlisted advisor of the Navy" and inserting in lieu thereof "master chief petty officer of the Navy".

(20) Section 6913(a) is amended by striking out "section 6023(b)" and inserting in lieu thereof "section 2003".

(21) Subsections (g), (h), and (i) of section 6915 are redesignated as subsections (f), (g), and (h), respectively.

(22) Section 7043(b) is amended by striking out "provided for grade 18 of the general schedule of the Classification Act of 1949, as amended" and inserting in lieu thereof "authorized for grade GS-18 of the General Schedule under section 5332 of title 5".

5 USC 5332 note.

(23) Section 7045 is amended—

(A) by striking out "and Treasury" both places it appears and inserting in lieu thereof "and Transportation"; and

(B) by striking out "the Treasury" in subsection (b) and inserting in lieu thereof "Transportation".

(24) Sections 7204(a)(1)(D), 7205(a)(4), and 7211(a)(4) are amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(25) Section 7212(a) is amended by striking out "5101-5115, 5331-5338, 5341, 5342, and 7204 of title 5 and subchapter VI of chapter 53 of such" and inserting in lieu thereof "and 7204, chapter 51, and subchapters III, IV, and VI of chapter 53 of".

(26) Section 7299 is amended by striking out "the Act of June 30, 1936, chapter 881 (49 Stat. 2036)" and inserting in lieu thereof

"the Act entitled 'An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes', approved June 30, 1936 (commonly referred to as the 'Walsh-Healy Act') (41 U.S.C. 35–45)".

(27) Section 7305 is amended by striking out ", as amended" in subsections (a) and (k). 10 USC 7305.

(28) Section 7307(b) is amended—

(A) by striking out "the date of enactment of this paragraph" both places it appears and inserting in lieu thereof "August 5, 1974"; and

(B) by striking out "of enactment" after "such date".

(29) Section 7308(a) is amended by striking out "section 474 of title 40" and inserting in lieu thereof "subsections (c) and (d) of section 602 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474)".

(30) Section 7420 is amended—

(A) by striking out "(a)" before "In this chapter";

(B) by striking out "Naval Petroleum Reserve Numbered 4" and all that follows through "Naval Petroleum Reserves Production Act of 1976);" in paragraph (2); and

(C) by striking out "Secretary of the Navy" in paragraph (4) and inserting in lieu thereof "Secretary of Energy".

(31) Section 7422(c) is amended—

(A) by striking out paragraph (1)(B) and inserting in lieu thereof the following:

"(B) to produce such reserves at the maximum efficient rate consistent with sound engineering practices for a period ending not later than April 5, 1982;";

(B) by striking out "hereinafter provided" in paragraph (1)(C) and inserting in lieu thereof "provided in section 7430 of this title";

(C) by striking out "discrimiation" in the second sentence of paragraph (1) and inserting in lieu thereof "discrimination";

(D) by striking out ", chapter 307 (46 Stat. 1421; 40 U.S.C. 258(a))" in the fourth sentence of paragraph (1) and inserting in lieu thereof "(40 U.S.C. 258a–258e)";

(E) by striking out "At the conclusion of the six-year production period authorized by paragraph (1)(B) of this subsection" in paragraph (2) and inserting in lieu thereof "After April 5, 1982,"; and

(F) by striking out "within ninety days after the date of enactment of the Naval Petroleum Reserves Production Act of 1976" in paragraph (3) and inserting in lieu thereof "by July 4, 1976".

(32)(A) Sections 7424(a)(2), 7425(a), and 7426(a) are amended by striking out "naval petroleum reserve numbered 1" each place it appears and inserting in lieu thereof "Naval Petroleum Reserve Numbered 1".

(B) The heading of section 7426 is amended to read as follows:

"§ 7426. Cooperative or unit plans affecting Naval Petroleum Reserve Numbered 1".

(C) The item relating to such section in the table of sections at the beginning of chapter 641 is amended to read as follows:

"7426. Cooperative or unit plans affecting Naval Petroleum Reserve Numbered 1.".

10 USC 7427.

(33) Section 7427 is amended by striking out "section 226e of title 30" and inserting in lieu thereof "section 17(j) of the Act of February 25, 1920 (30 U.S.C. 226(j))".

(34) Section 7430 is amended—

(A) by striking out "per centum" in subsections (c) and (d)(3) and inserting in lieu thereof "percent";

(B) by striking out "(83 Stat. 841)" in subsection (e) and inserting in lieu thereof "(50 U.S.C. App. 2401 et seq.)";

(C) by inserting "of this title" in subsection (f) after "section 7422(c)" and after "section 7431(a)(3)";

(D) by striking out clauses (1), (2), (3), (4), and (5) in subsection (i) and inserting in lieu thereof the following:

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9); and

"(5) sections 2, 3, and 4 of the Act of June 19, 1936 (commonly referred to as the 'Robinson-Patman Act') (15 U.S.C. 13a, 13b, and 21a).";

and

(E) by inserting "(15 U.S.C. 717 et seq.)" in subsection (j) after "the Natural Gas Act".

(35) Section 7432(a)(1) is amended by striking out the semicolon and inserting in lieu thereof a period.

(36) Section 7434 is amended by striking out "of the Navy".

(37) Section 7438 is amended—

(A) in subsection (a)—

(i) by striking out "The Administrator of the Energy Research and Development Administration" and inserting in lieu thereof "The Secretary"; and

(ii) by striking out "; chapter 172 (58 Stat. 190), as amended" and inserting in lieu thereof "(30 U.S.C. 321 et seq.)";

(B) in subsection (b)—

(i) in the first sentence, by striking out "The Administrator of the Energy Research and Development Administration" and inserting in lieu thereof "The Secretary", and by striking out "above" after "subsection (a)";

(ii) in the second sentence, by striking out "the Administrator" and all that follows through "subsection (a) above" and inserting in lieu thereof "the Secretary may use or lease for use by institutions, organizations, or individuals, public or private, the facility described in subsection (a)"; and

(iii) in the third sentence, by striking out "The Administrator" and all that follows through "the Secretary" and inserting in lieu thereof "The Secretary may, after consultation"; and

(C) in subsection (c), by striking out "herein contained" and inserting in lieu thereof "in this chapter".

(38) Section 7522(b) is amended by striking out "Section 529 of title 31" and inserting in lieu thereof "Section 3648 of the Revised Statutes (31 U.S.C. 529)".

(39) Sections 7541, 7541a, 7542(a), and 7545(a) are amended by striking out "section 486 of title 40" and inserting in lieu thereof "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

(40) Section 7545(b) is amended by striking out "section 366" and inserting in lieu thereof "section 3301". 10 USC 7545.

(41) Sections 7571(a)(3), 7572(a)(3), and 7576(a)(3) are amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(42) Section 7605 is amended by striking out "sections 521 and 543 of title 31" and inserting in lieu thereof "sections 3639 and 3651 of the Revised Statutes (31 U.S.C. 521 and 543)".

(43) Section 7721 is amended by striking out "sections 781-790 of title 46" and inserting in lieu thereof "the Act of March 3, 1925 (commonly referred to as the 'Public Vessels Act') (46 U.S.C. 781-790)".

AMENDMENTS TO SUBTITLE D OF TITLE 10, UNITED STATES CODE

SEC. 514. Subtitle D is amended as follows:

(1) The items relating to chapter 803 in the table of chapters at the beginning of subtitle D, and in the table of chapters at the beginning of part I of such subtitle, are amended to read as follows:

"803. Department of the Air Force ..... 8010".

(2) Section 8253 is amended by striking out "chapter 12 of title 8" and inserting in lieu thereof "the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)".

(3) The heading of section 8375 is amended to read as follows:

"§ 8375. Commissioned officers; brigadier general or major general; procedure on reassignment".

(4) The table of sections at the beginning of chapter 849 is amended by striking out the items relating to sections 8632, 8633, and 8636.

(5) The table of sections at the beginning of chapter 853 is amended by striking out the item relating to section 8689.

(6) The item relating to section 8852 in the table of sections at the beginning of chapter 863 is amended to read as follows:

"8852. Thirty-five years or five years in grade: reserve major generals.".

(7) Sections 8848(c) and 8851(c) are amended by striking out ", United States Code,".

(8) The tables contained in sections 8991 and 8992 are each amended by striking out "on or after the date of the enactment of the Department of Defense Authorization Act, 1981" in the heading for column 1 and inserting in lieu thereof "after September 7, 1980".

(9) Section 9315(c) is amended by striking out "Commissioner of Education of the Department of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Education".

(10) Section 9331(a) is amended by striking out ", in this chapter called the 'Academy'," and inserting in lieu thereof "(hereinafter in this chapter referred to as the 'Academy')".

(11) Section 9342(h) is amended by striking out "Effective beginning with the nominations for appointment to the Academy in the calendar year 1964, the" and inserting in lieu thereof "The".

(12) Section 9441(b) is amended—

(A) by striking out "section 202 of title 36" and inserting in lieu thereof "section 2 of the Act of July 1, 1946 (36 U.S.C. 202)"; and

(B) by striking out "the Travel Expense Act of 1949 (5 U.S.C. 835 et seq.)" in clause (7) and inserting in lieu thereof "subchapter I of chapter 57 of title 5".

10 USC 9537.

(13) Section 9537 is amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(14) Section 9538(b) is amended by striking out "section 486 of title 40" and inserting in lieu thereof "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

(15) Section 9540(c) is amended by striking out "5101-5115, 5331-5338, 5341, 5342, and 7204 of title 5 and subchapter VI of chapter 53 of such title 5" and inserting in lieu thereof "and 7204, chapter 51, and subchapters III, IV, and VI of chapter 53 of title 5".

(16) Section 9621(f) is amended by striking out "773, or 8612" and inserting in lieu thereof "or 773".

(17)(A) Section 9624(c) is amended by striking out "Soldiers' Home" and inserting in lieu thereof "United States Soldiers' and Airmen's Home".

(B) The heading of section 9624 is amended to read as follows:

"§ 9624. Medical supplies: civilian employees of the Air Force; American National Red Cross; Soldiers' and Airmen's Home".

(C) The item relating to such section in the table of sections at the beginning of chapter 939 is amended to read as follows:

"9624. Medical supplies: civilian employees of the Air Force; American National Red Cross; Soldiers' and Airmen's Home.".

(18) Sections 9681, 9682, 9684, and 9686 are amended by striking out "section 486 of title 40" and inserting in lieu thereof "section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)".

(19) Section 9712 is amended by striking out "Soldiers' Home" in subsections (a)(2) and (f) and inserting in lieu thereof "United States Soldiers' and Airmen's Home".

(20)(A) Section 9713(a) is amended by striking out "Soldiers' Home" and inserting in lieu thereof "United States Soldiers' and Airmen's Home".

(B) The heading of such section is amended to read as follows:

"§ 9713. Disposition of effects of deceased persons by Soldiers' and Airmen's Home".

(C) The item relating to such section in the table of sections at the beginning of chapter 945 is amended to read as follows:

"9713. Disposition of effects of deceased persons by Soldiers' and Airmen's Home.".

(21) The table of sections at the beginning of chapter 949 is amended by striking out the item relating to section 9772.

(22)(A) Section 9837 is amended by striking out "(d)".

(B) The heading of such section is amended to read as follows:

"§ 9837. Settlement of accounts: remission or cancellation of indebtedness of enlisted members".

(C) The item relating to such section in the table of sections at the beginning of chapter 953 is amended to read as follows:

"9837. Settlement of accounts: remission or cancellation of indebtedness of enlisted members.".

AMENDMENTS TO TITLE 32, UNITED STATES CODE

SEC. 515. Title 32 of the United States Code is amended as follows:

(1) The item relating to section 307 in the table of sections at the beginning of chapter 3 is amended to read as follows:

"307. Federal recognition of officers: examination; certificate of eligibility."

(2) Subsection (d) of section 303 is redesignated as subsection (c). 32 USC 303.

(3) Section 334(e) is amended by striking out "title 32" and inserting in lieu thereof "this title".

(4) Clauses (2) and (3) of section 708(b) are redesignated as clauses (1) and (2), respectively.

(5) Section 709(f) is amended by striking out ", United States Code,".

(6) Section 709(g) is amended—

(A) by striking out "6102 of title 5, United States Code," both places it appears and inserting in lieu thereof "6101(a) of title 5";

(B) by striking out "section 5332 of title 5, United States Code" and inserting in lieu thereof "section 5332 of title 5"; and

(C) by striking out "5543 of title 5, United States Code," and inserting in lieu thereof "5543 of title 5".

(7) Section 709(h) is amended by striking out ", except that" and all that follows in such section and inserting in lieu thereof a period.

(8) Section 710(d) is amended by striking out "section 725c(b)(22) of title 31" and inserting in lieu thereof "section 4(b)(22) of the Permanent Appropriation Repeal Act, 1934 (31 U.S.C. 725c(b)(22))".

(9) Section 716(a) is amended by striking out "the effective date of this section" and inserting in lieu thereof "October 2, 1972".

AMENDMENTS TO TITLE 37, UNITED STATES CODE

SEC. 516. Title 37 of the United States Code is amended as follows:

(1) Section 101 is amended— 37 USC 101.

(A) in paragraphs (3) and (5)(E), by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration"; and

(B) in paragraph (5)(F), by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(2) Section 201(f) is amended by striking out "subsections (e) and (f)" and inserting in lieu thereof "subsections (d) and (e)".

(3) Section 205(a) is amended—

(A) by striking out "Environmental Science Services Administration" in clause (5) and in the last sentence and

inserting in lieu thereof "National Oceanic and Atmospheric Administration"; and

(B) by inserting "Environmental Science Services Administration or the" in the last sentence before "Coast and Geodetic Survey".

37 USC 209.

(4) Section 209(a) is amended by striking out "section 456(d)(1) of title 50, appendix" and inserting in lieu thereof "section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1))".

(5) Section 301 is amended—

(A) in subsection (a)(2)(B), by striking out "clause (A) above" and inserting in lieu thereof "subclause (A) of this clause";

(B) in subsection (a)(2)(C), by striking out "clause (B) above" and inserting in lieu thereof "subclause (B) of this clause"; and

(C) in subsection (f), by striking out "subsection (a)(1)–(12)" and inserting in lieu thereof "subsection (a)".

(6) Section 301a(a)(3) is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(7) Section 311(c) is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(8) Section 312(a) is amended by redesignating clauses (3), (4), and (5) as clauses (2), (3), and (4), respectively.

(9) Section 312c is amended—

(A) in subsection (a), by striking out "301a of this title: *Provided*, That—" and inserting in lieu thereof "301a of this title. However—"; and

(B) in subsection (d), by striking out "House and Senate Armed Services Committees" and inserting in lieu thereof "Committees on Armed Services of the Senate and House of Representatives".

(10) Section 403 is amended—

(A) by striking out "Environmental Science Services Administration" in subsection (e) and inserting in lieu thereof "National Oceanic and Atmospheric Administration"; and

(B) by striking out "words" in subsection (j) and inserting in lieu thereof "terms".

(11) Section 406b is amended—

(A) by striking out "Uniformed Services" and inserting in lieu thereof "uniformed services";

(B) by striking out "of this chapter" and inserting in lieu thereof "of this title"; and

(C) by striking out "later: *Provided, however*, That" and inserting in lieu thereof "later. However,".

(12) Section 411(d) is amended by striking out "words" and inserting in lieu thereof "term".

(13) The heading of section 416 is amended to read as follows:

"§ 416. Uniform allowance: officers; additional allowances".

(14) Section 501 is amended—

(A) by striking out "the first day of the second calendar month following the month in which the Department of Defense Appropriation Authorization Act, 1977, was enacted" both places it appears and inserting in lieu thereof "September 1, 1976";

(B) by striking out "unusued" in subsection (d) and inserting in lieu thereof "unused";

(C) by inserting "of this section" in subsection (f) after "subsection (b), (d), or (g)"; and

(D) by striking out "Surgeon General" in subsection (g) and inserting in lieu thereof "Secretary of Health and Human Services".

(15) Sections 502(a) and 503 are amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration". 37 USC 502, 503.

(16) Section 558 is amended by striking out "title 26" and inserting in lieu thereof "the Internal Revenue Code of 1954".

(17) Section 602(b)(4) is amended by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Health and Human Services".

(18)(A) The text of section 706 is amended by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(B) The heading of such section is amended to read as follows:

"§ 706. Allotments: commissioned officers of the National Oceanic and Atmospheric Administration".

(C) The item relating to such section in the table of sections at the beginning of chapter 13 is amended to read as follows:

"706. Allotments: commissioned officers of the National Oceanic and Atmospheric Administration.".

(19) Section 707 is amended by striking out "(a)".

(20) Section 801 is amended—

(A) by redesignating subsection (c) as subsection (b); and

(B) by striking out "Environmental Science Services Administration" both places it appears and inserting in lieu thereof "National Oceanic and Atmospheric Administration".

(21) The item relating to section 1005 in the table of sections at the beginning of chapter 19 is amended to read as follows:

"1005. Army and Air Force: prompt payments required.".

(22) Section 1001 is amended—

(A) in subsection (b), by striking out "Environmental Science Services Administration" and inserting in lieu thereof "National Oceanic and Atmospheric Administration"; and

(B) in subsection (c), by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(23) Section 1006(h) is amended by striking out "section 529 of title 31" and inserting in lieu thereof "section 3648 of the Revised Statutes (31 U.S.C. 529)".

(24) Section 1009 is amended—

(A) by striking out ", United States Code," in subsection (a); and

(B) by striking out "section 8 of the Act of December 16, 1967 (Public Law 90-207; 81 Stat. 654), section 402 or 403 of this title," in subsection (b)(2) and inserting in lieu thereof "section 402 or 403 of this title".

TITLE VI—TRANSITION PROVISIONS

PART A—TRANSITION PROVISIONS RELATING ONLY TO THE ARMY AND AIR FORCE

REGULAR OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW LIEUTENANT GENERAL OR RECOMMENDED FOR PROMOTION TO A HIGHER GRADE

10 USC 611 note.
Post, p. 2941.

SEC. 601. (a) Except as provided in sections 603 and 604, any regular officer of the Army or Air Force who on the effective date of this Act is on active duty and—

(1) is serving in a temporary grade below lieutenant general that is higher than his regular grade;

(2) is on a list of officers recommended for promotion to a temporary grade below lieutenant general; or

(3) is on a list of officers recommended for promotion to a regular grade higher than the grade in which he is serving;

shall be considered to have been recommended by a board convened under section 611(a) of title 10, United States Code, as added by this Act, for promotion to the regular grade equivalent to the grade in which he is serving or for which he has been recommended for promotion, as the case may be.

Ante, p. 2851.

(b) An officer referred to in clause (1) of subsection (a) who is not promoted to the grade to which he is considered under such subsection to have been recommended for promotion because his name is removed from a list of officers who are considered under such paragraph to have been recommended for promotion shall be considered under chapter 36 of title 10, United States Code, as added by this Act, for promotion to the regular grade equivalent to the temporary grade in which he was serving on the effective date of this Act as if he were serving in his regular grade.

Ante, p. 2850.

Ante, p. 2869.

(c) Notwithstanding section 741(d) of title 10, United States Code, as added by this Act, the date of rank of an officer referred to in subsection (a)(1) who is promoted to the temporary grade in which he is serving on the effective date of this Act is the date of his temporary appointment in that grade.

RESERVE OFFICERS SERVING IN A HIGHER TEMPORARY GRADE BELOW LIEUTENANT GENERAL OR RECOMMENDED FOR PROMOTION TO A HIGHER GRADE

10 USC 611 note.

SEC. 602. (a)(1) Except as provided in subsection (b) and sections 605 and 606, any reserve officer of the Army or Air Force who on the effective date of this Act is subject to placement on the active-duty list of his armed force and—

(A) is serving in a temporary grade below lieutenant general that is higher than his reserve grade; or

(B) is on a list of officers recommended for promotion to a temporary grade below lieutenant general that is the same as or higher than his reserve grade;

shall be considered to have been recommended by a board convened under section 611(a) of title 10, United States Code, as added by this Act, for promotion to the reserve grade equivalent to the grade in which he is serving or for which he has been recommended for promotion, as the case may be.

Ante, p. 2851.

Ante, p. 2869.

(2) Notwithstanding section 741(d) of title 10, United States Code, as added by this Act, the date of rank of an officer referred to in

paragraph (1)(A) who is promoted to the grade to which he is considered under such paragraph to have been recommended for promotion is the date of his temporary appointment in that grade.

(b) A reserve officer of the Army or Air Force who on the effective date of this Act—

(1) is subject to placement on the active-duty list of his armed force;

(2) is serving on active duty in a temporary grade; and

(3) holds a reserve grade higher than the temporary grade in which he is serving,

shall while continuing on active duty retain such temporary grade and shall be considered for promotion under chapter 36 of title 10, United States Code, as added by this Act, to a grade equal to or lower than his reserve grade as if such temporary grade is a permanent grade. If such officer is recommended for promotion under such chapter to such a grade, his appointment to such grade shall be a temporary appointment.

Ante, p. 2850.

REGULAR OFFICERS ONCE FAILED OF SELECTION FOR PROMOTION

SEC. 603. (a) An officer of the Army or Air Force who on the effective date of this Act— 10 USC 611 note.

(1) holds the regular grade of first lieutenant, captain, or major; and

(2) has been considered once but not recommended for promotion to the next higher regular grade by a selection board convened under the laws in effect on the day before the effective date of this Act,

shall, within one year after the effective date of this Act, be considered for promotion to the next higher regular grade by a selection board convened by the Secretary concerned under the laws in effect on the day before the effective date of this Act.

(b)(1)(A) An officer described in subsection (a) who is recommended for promotion by the selection board which considers him pursuant to such subsection shall be considered to have been recommended for promotion to the next higher regular grade or the grade in which he is serving, whichever grade is higher, by a board convened under section 611(a) of title 10, United States Code, as added by this Act. Notwithstanding section 741(d) of title 10, United States Code, as added by this Act, the date of rank of an officer referred to in the preceding sentence who was serving in the temporary grade equivalent to the grade to which he is considered to have been recommended for promotion and who is promoted to that grade is the date of his temporary appointment in that grade.

Ante, p. 2851.

Ante, p. 2869.

(2) An officer described in subsection (a) who is not recommended for promotion by such board shall, unless continued on active duty under section 637 of such title, as added by this Act, be retired, if eligible to retire, be discharged, or be continued on active duty until eligible to retire and then be retired, under the laws applicable on the day before the effective date of this Act.

Ante, p. 2863.

REGULAR OFFICERS TWICE FAILED OF SELECTION FOR PROMOTION

SEC. 604. An officer of the Army or Air Force who on the day before the effective date of this Act— 10 USC 611 note.

(1) holds the regular grade of first lieutenant, captain, or major; and

(2) has twice failed of selection for promotion to the next higher regular grade,

shall, unless continued on active duty under section 637 of title 10, United States Code, as added by this Act, be retired, if eligible to retire, be discharged, or be continued on active duty until eligible to retire and then be retired, under the laws in effect on the day before the effective date of this Act.

Ante, p. 2863.

RESERVE OFFICERS ONCE FAILED OF SELECTION FOR PROMOTION

10 USC 611 note.

SEC. 605. (a) A reserve officer of the Army or Air Force who on the effective date of this Act—

(1) is on active duty and subject to placement on the active-duty list of his armed force;

(2) holds the reserve grade of first lieutenant, captain, or major; and

(3) has been considered once but not selected for promotion to the next higher reserve grade under section 3366, 3367, 8366, or 8367, as appropriate, of title 10, United States Code,

shall, unless sooner promoted, be considered again for promotion to that grade by a selection board convened under section 3366, 3367, 8366, or 8367, as appropriate, of such title.

(b)(1) An officer described in subsection (a) who is serving on active duty in a temporary grade higher than his reserve grade on the effective date of this Act and who is recommended by the selection board which considers him pursuant to such subsection for promotion to the reserve grade equivalent to the temporary grade in which he is serving on such date shall be considered as having been recommended for promotion to that reserve grade in the report of a selection board convened under section 611(a) of title 10, United States Code, as added by this Act. Notwithstanding section 741(d) of title 10, United States Code, as added by this Act, the date of rank of an officer referred to in the preceding sentence who is promoted to the reserve grade equivalent to the temporary grade in which he is serving on such date is the date of his temporary appointment in that grade.

Ante, p. 2851.

Ante, p. 2869.

(2) An officer described in subsection (a) who is serving on active duty in a temporary grade equivalent to or lower than his reserve grade on the effective date of this Act and who is recommended by the selection board which considers him pursuant to such subsection for promotion to a reserve grade higher than the temporary grade in which he was serving on such date shall be considered as having been recommended for promotion to that reserve grade in the report of a selection board convened under section 3366, 3367, 8366, or 8367, as appropriate, of such title. If such an officer is not ordered to active duty in his reserve grade, he shall while continuing on active duty retain such temporary grade and shall be considered for promotion under chapter 36 of title 10, United States Code, as added by this Act, to a grade equal to or lower than his reserve grade as if such temporary grade is a permanent grade. If such officer is recommended for promotion under such chapter to such a grade, his appointment to such grade shall be a temporary appointment to such grade.

Ante, p. 2850.

(3) An officer described in subsection (a) who is not recommended for promotion by the selection board which considers him pursuant to such subsection shall be governed by section 3846 or 8846, as appropriate, of title 10, United States Code, as a deferred officer.

RESERVE OFFICERS TWICE FAILED OF SELECTION FOR PROMOTION

SEC. 606. An officer of the Army or Air Force who on the day before the effective date of this Act— 10 USC 611 note.

(1) was on active duty and subject to placement on the active-duty list of his armed force; and

(2) held the reserve grade of first lieutenant, captain, or major; and

(3) was considered to have twice failed of selection for promotion to the next higher reserve grade,

shall be governed by section 3846 or 8846, as appropriate, of title 10, United States Code, as a deferred officer.

ENTITLEMENT TO SEVERANCE PAY OR SEPARATION PAY OF OFFICERS SEPARATED OR DISCHARGED PURSUANT TO THIS PART

SEC. 607. (a) An officer who is discharged in accordance with section 603(b)(2) or 604 is entitled, at his election, to— 10 USC 611 note.

(1) the severance pay to which he would have been entitled under the laws in effect before the effective date of this Act; or

(2) separation pay, if eligible therefor, under section 1174(a) of title 10, United States Code, as added by this Act. *Ante*, p. 2870.

(b) An officer who is separated in accordance with section 605(b)(3) or 606 is entitled, at his election, to—

(1) readjustment pay under section 687 of title 10, United States Code, as in effect on the day before the effective date of this Act; or *Ante*, p. 2870.

(2) separation pay, if eligible therefor, under section 1174(c) of title 10, United States Code, as added by this Act. *Ante*, p. 2870.

SPECIAL TENURE PROVISIONS FOR OFFICERS SERVING IN TEMPORARY GRADES OF BRIGADIER GENERAL AND MAJOR GENERAL

SEC. 608. (a) Notwithstanding section 635 or 636 of title 10, United States Code, as added by this Act, but subject to subsection (b), a regular officer of the Army or Air Force— 10 USC 611 note. *Ante*, p. 2863.

(1) who on the effective date of this Act is serving in the temporary grade of brigadier general or major general;

(2) whose regular grade on such date is below such temporary grade; and

(3) who is promoted pursuant to section 601(a) to the regular grade equivalent to such temporary grade, *Ante*, p. 2849.

shall be subject to mandatory retirement for years of service in accordance with the laws applicable on the day before the effective date of this Act to officers in the permanent grade he held on such date. However, such an officer shall not be subject to a mandatory retirement date which is earlier than the first day of the month following the month of the thirtieth day after he completes 30 years of service as computed under section 3927(a) or 8927(a), as appropriate, of title 10, United States Code, as in effect on the day before the effective date of this Act. *Ante*, p. 2886.

(b)(1) The Secretary of the Army or the Secretary of the Air Force, as appropriate, may convene selection boards under this section for the purpose of recommending from among officers described in subsection (a) officers to be selected to be subject to mandatory retirement for years of service in accordance with the laws applicable on the day before the effective date of this Act to officers in the permanent grade to which such officers were promoted pursuant to

section 601(a) or to officers in a lower permanent grade higher than the permanent grade held by such officers on the day before the effective date of this Act.

(2) Upon the recommendation of a selection board convened under this section, the Secretary concerned may select officers described in subsection (a) to be subject to mandatory retirement in accordance with the provisions of section 3922, 3923, 8922, or 8923, as appropriate, of title 10, United States Code, as in effect on the day before the effective date of this Act, rather than in the manner described in subsection (a).

(3) Any selection board convened under this section shall be convened in accordance with the provisions of section 3297 or 8297, as appropriate, of title 10, United States Code, as in effect on the day before the effective date of this Act.

(c) This section does not apply to an officer who—

(1) is sooner retired or separated under another provision of law;

(2) is promoted to the permanent grade of brigadier general pursuant to section 601(a) and is subsequently promoted to the permanent grade of major general under chapter 36 of title 10, United States Code, as added by this Act; or

(3) is continued on active duty under section 637 of title 10, United States Code, as added by this Act.

RIGHT OF MAJORS AND COLONELS TO COMPLETE YEARS OF SERVICE ALLOWED UNDER PRIOR LAW

10 USC 611 note.

SEC. 609. (a)(1) Subject to paragraph (2), an officer of the Army or Air Force who on the effective date of this Act—

(A) holds the regular grade of major; or

(B) is on a list of officers recommended for promotion to the regular grade of major,

shall be retained on active duty until he completes twenty-one years of service as computed under section 3927(a) or 8927(a), as appropriate, of title 10, United States Code (as in effect on the day before the effective date of this Act), and then be retired under the provisions of section 3913 or 8913 of such title (as in effect on the day before the effective date of this Act) on the first day of the month after the month in which he completes that service.

(2) Paragraph (1) does not apply to an officer who—

(A) is sooner retired or separated under another provision of law;

(B) is promoted to the regular grade of lieutenant colonel; or

(C) is continued on active duty under section 637 of title 10, United States Code, as added by this Act.

(b)(1) Subject to paragraph (2), an officer of the Army or Air Force who on the effective date of this Act—

(A) holds the regular grade of colonel; or

(B) is on a list of officers recommended for promotion to the regular grade of colonel,

shall be retired under section 3921 or 8921, as appropriate, of such title (as in effect on the day before the effective date of this Act).

(2) Paragraph (1) does not apply to an officer who—

(A) is sooner retired or separated under another provision of law;

(B) is promoted to the regular grade of brigadier general; or

(C) is continued on active duty under section 637 of title 10, United States Code, as added by this Act.

REGULAR OFFICERS WHOSE RETIREMENT HAS BEEN DEFERRED

SEC. 610. A regular officer of the Army or Air Force serving on active duty on the effective date of this Act whose retirement under chapter 367 or 867 of title 10, United States Code, has been deferred before that date— 10 USC 611 note. 10 USC 3911 *et seq.*, 8911 *et seq.*

(1) under a provision of such chapter; or

(2) by virtue of a suspension, under any provision of law, of provisions of such chapter which would otherwise require such retirement,

may continue to serve on active duty to complete the period for which his retirement was deferred or until such suspension is removed.

PART B—TRANSITION PROVISIONS RELATING ONLY TO THE NAVY AND MARINE CORPS

OFFICERS SERVING IN A TEMPORARY GRADE BELOW VICE ADMIRAL OR LIEUTENANT GENERAL OR RECOMMENDED FOR PROMOTION

SEC. 611. (a) Subject to subsection (b), any regular officer of the Navy or Marine Corps, and any reserve officer of the Navy and Marine Corps who on the effective date of this Act is subject to placement on the active-duty list, who on the effective date of this Act— 10 USC 611 note.

(1) is serving on active duty in a temporary grade below vice admiral or lieutenant general that is higher than his permanent grade; or

(2) is on a promotion list,

shall be considered to have been recommended for promotion to the permanent grade equivalent to the grade in which he is serving or for which he has been recommended for promotion, as the case may be, by a board convened under section 611(a) of title 10, United States Code, as added by this Act.

(b) This section does not apply to an officer—

(1) serving in a temporary grade which, by its own terms, is limited in duration;

(2) designated for limited duty in a grade to which he was appointed under section 5596 of title 10, United States Code, before the effective date of this Act; or *Ante*, p. 2894.

(3) recommended for promotion or promoted to a grade under section 5787 of such title, as in effect before the effective date of this Act.

OFFICERS FAILED OF SELECTION FOR PROMOTION

SEC. 612. An officer of the Navy or Marine Corps who on the effective date of this Act is considered to have failed of selection for promotion one or more times to a grade below the grade of captain, in the case of an officer of the Navy, or below the grade of colonel, in the case of an officer of the Marine Corps, is subject to chapter 36 of title 10, United States Code, as added by this Act, as if such failure or failures had occurred under the provisions of such chapter. 10 USC 611 note. *Ante*, p. 2850.

RIGHT OF CERTAIN OFFICERS TO RETIRE UNDER PRIOR LAW

SEC. 613. (a)(1) Subject to paragraph (2), an officer who on the effective date of this Act— 10 USC 611 note.

(A) holds the grade of lieutenant commander, commander, or captain in the Regular Navy or the grade of major, lieutenant colonel, or colonel in the Regular Marine Corps; or

(B) is on a promotion list to any such grade,

shall be retired on the date provided under the laws in effect on the day before the effective date of this Act.

(2) This subsection does not apply to an officer—

(A) sooner retired or separated under another provision of law;

(B) promoted to a higher grade in the Regular Navy or Regular Marine Corps; or

(C) continued on active duty under section 637 of title 10, United States Code, as added by this Act.

Ante, p. 2863.

(b)(1) An officer of the Navy who on the effective date of this Act—

(A) has the grade of rear admiral in the Regular Navy; or

(B) was on a promotion list to such grade,

shall be continued on active duty or retired in accordance with the laws in effect on the day before the effective date of this Act.

(2) An officer of the Marine Corps who on the effective date of this Act—

(A) has the grade of brigadier general in the Regular Marine Corps; or

(B) was on a promotion list to such grade,

shall be retired in accordance with the laws in effect on the day before the effective date of this Act.

TRANSITION PROVISIONS TO NEW COMMODORE ADMIRAL GRADE

10 USC 611 note.

SEC. 614. (a)(1) An officer of the Navy who on the day before the effective date of this Act—

(A) was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the upper half; or

(B) was serving on active duty in the grade of admiral or vice admiral and would have been entitled to receive the basic pay of a rear admiral of the upper half had he not been serving in such grade on such date,

shall after such date hold the permanent grade of rear admiral.

(2) An officer of the Navy who on the day before the effective date of this Act—

(A) was serving on active duty in the grade of rear admiral and was receiving the basic pay of a rear admiral of the lower half; or

(B) was serving on active duty in the grade of admiral or vice admiral and would have been entitled to receive the basic pay of a rear admiral of the lower half had he not been serving in such grade on such date,

shall after such date hold the permanent grade of commodore admiral, but shall retain the title of rear admiral.

(3) An officer who on the day before the effective date of this Act was on a list of officers recommended for promotion to the grade of rear admiral shall, upon promotion, hold the grade of commodore admiral with the title of rear admiral.

(b) An officer who on the day before the effective date of this Act—

(1) was serving on active duty in the grade of rear admiral and was entitled to the basic pay of a rear admiral of the lower half; or

(2) was on a list of officers recommended for promotion to the grade of rear admiral,

shall, on and after the effective date of this Act, or in the case of an officer on such a list, upon promotion to the grade of commodore

admiral, be entitled to wear the uniform and insignia of a rear admiral.

(c) Except as otherwise provided by law, an officer of the Navy who on the day before the effective date of this Act held the grade of rear admiral on the retired list or the temporary disability retired list retains the grade of rear admiral and is entitled after such date to wear the uniform and insignia of a rear admiral. Such an officer, when ordered to active duty—

(1) holds the grade and has the right to wear the uniform and insignia of a rear admiral; and

(2) ranks among commissioned officers of the armed forces as and is entitled to the basic pay of—

(A) a commodore admiral, if his retired pay was based on the basic pay of a rear admiral of the lower half on the day before the effective date of this Act; or

(B) a rear admiral, if his retired pay was based on the basic pay of a rear admiral of the upper half on the day before the effective date of this Act.

(d)(1) An officer of the Navy who—

(A) on the effective date of this Act—

(i) was serving on active duty in the grade of rear admiral and was entitled to the basic pay of a rear admiral of the lower half or was serving on active duty in the grade of admiral or vice admiral and would have been entitled to receive the basic pay of a rear admiral of the lower half had he not been serving in such grade on such date; or

(ii) was on a list of officers recommended for promotion to the grade of rear admiral; and

(B) after such date holds the permanent grade of commodore admiral pursuant to subsection (a),

shall not be subject to the provisions of chapter 36 of title 10, United States Code, as added by this Act, relating to selection for promotion and promotion to the next higher grade. *Ante*, p. 2850.

(2) Officers to whom this subsection applies become entitled to hold the permanent grade of rear admiral under the circumstances prescribed for entitlement to the basic pay of a rear admiral of the upper half under the provisions of subsections (a) through (d) of section 202 of title 37, United States Code, as in effect on the day before the effective date of this Act. For the purposes of this subsection, officers serving in the permanent grade of rear admiral or commodore admiral in accordance with subsection (a) shall be considered as serving in the grade of rear admiral, as such grade was in effect on the day before the effective date of this Act.

(e) Unless entitled to a higher grade under another provision of law, an officer of the Navy who on the day before the effective date of this Act—

(1) was serving on active duty; and

(2) held the grade of rear admiral;

and who retires on or after the effective date of this Act, retires in the grade of rear admiral and is entitled to wear the uniform and insignia of a rear admiral. If such an officer is ordered to active duty after his retirement, he is considered, for the purposes of determining his pay, uniform and insignia, and rank among other commissioned officers, as having held the grade of rear admiral on the retired list on the day before the effective date of this Act.

(f) A reserve officer of the Navy who on the day before the effective date of this Act was in an active status and was serving in the grade of rear admiral or was on a list of reserve officers recommended for

promotion to the grade of rear admiral is not subject to subsection (f) of section 6389 of title 10, United States Code, as added by this Act.

Ante, p. 2900.

FEMALE OFFICERS

10 USC 611 note.

SEC. 615. (a) Except as provided under subsection (c), each regular officer who on the effective date of this Act is serving on the active list in the line of the Navy or on the active list of the Marine Corps under an appointment made under section 5590 of title 10, United States Code, shall be reappointed in the line of the Navy or in the Marine Corps, as appropriate, in the grade and with the date of rank held by such officer immediately before such reappointment. Each such reappointment shall be made in accordance with the provisions of such title as amended by this Act but notwithstanding any limitation otherwise applicable with regard to age, grade, or physical standards.

Ante, p. 2903.

(b) Each officer of the Navy who on the effective date of this Act is serving in a staff corps under an appointment made under section 5590 of title 10, United States Code, shall be reappointed in that corps in the grade and with the date of rank held by such officer immediately before such reappointment. Each such reappointment shall be made in accordance with the provisions of such title as amended by this Act but notwithstanding any limitation otherwise applicable with regard to age, grade, or physical standards.

(c) Any officer who on the effective date of this Act is serving on the active list in the line of the Navy under an appointment made under section 5590 of title 10, United States Code, and who meets the qualifications for appointment in a staff corps of the Navy may, in lieu of being reappointed in the line of the Navy under subsection (a), be appointed in that staff corps.

(d) Each officer reappointed in a staff corps pursuant to subsection (b) or appointed in a staff corps under subsection (c) shall be considered for all purposes as having been originally appointed in such staff corps in accordance with the provisions of title 10, United States Code, as amended by this Act.

(e) Except as otherwise specifically provided by law, all provisions of law relating to appointment, promotion, separation, and retirement which are applicable to male officers of the Regular Navy or Regular Marine Corps, as appropriate, apply to officers reappointed pursuant to subsection (a) or (b) or appointed under subsection (c).

(f)(1) As soon as practicable after completion of the appointments and reappointments provided for in subsections (a), (b), and (c), the name of each officer so appointed or reappointed shall be entered on the appropriate active-duty list of the Navy or the Marine Corps in a position among officers of her grade determined in accordance with regulations prescribed by the Secretary of the Navy. Such officers shall be placed on the appropriate active-duty list without change in their relative positions held on the lineal list or any list for promotion established for them while they were serving under an appointment under any provision of title 10, United States Code, repealed by this Act.

(2) Any female officer—

(A) who, by virtue of her date of rank and other considerations, would be placed on a list of officers eligible for consideration for promotion in a position senior to an officer who has failed of selection for promotion one or more times; and

(B) who is considered to have failed of selection for promotion once or is considered to have never failed of selection for promotion,

shall, for purposes of determining her eligibility for consideration for promotion to the next higher grade, be considered with those officers who are considered to have failed of selection for promotion once, or who are considered never to have failed of selection for promotion, as the case may be.

(3) A female officer who is considered to have failed of selection for promotion one or more times and whose position on the active-duty list is junior to the position of any male officer who is considered to have failed of selection for promotion a fewer number of times or not at all may not derive any advantage in the selection process by virtue of such position on the active-duty list.

(g) Except as provided in section 638 of title 10, United States Code, as added by this Act, a regular officer of the Navy or Marine Corps appointed under section 5590 of such title who— *Ante*, p. 2864. *Ante*, p. 2903.

(1) before the effective date of this Act had not twice failed of selection for promotion to the next higher grade; and

(2) is not selected for promotion to a higher regular grade on or after such effective date,

may not be retired earlier than such officer would have been retired had this Act not been enacted.

(h)(1) Any officer who—

(A) on the effective date of this Act is a lieutenant in the Navy or a captain in the Marine Corps;

(B) under section 6396(c) or 6401 of title 10, United States Code (as in effect on the day before the effective date of this Act), would have been discharged on June 30 of the fiscal year in which that officer (i) was not on a promotion list, and (ii) had completed 13 years of active commissioned service; and

(C) because of the enactment of this Act, is subject to discharge under section 632 of such title because such officer has twice failed of selection for promotion, *Ante*, p. 2862.

shall, if such officer has not completed 13 years of active commissioned service at the time otherwise prescribed for the discharge of such officer under such section and such officer so requests, not be discharged until June 30 of the fiscal year in which the officer completes 13 years of active commissioned service.

(2) Any officer who—

(A) on the effective date of this Act is a lieutenant (junior grade) in the Navy or a first lieutenant in the Marine Corps;

(B) under section 6396(d) or 6402 of title 10, United States Code (as in effect on the day before the effective date of this Act), would have been discharged on June 30 of the fiscal year in which that officer (i) was not on a promotion list, and (ii) had completed 7 years of active commissioned service; and

(C) because of the enactment of this Act, is subject to discharge under section 631 of such title because such officer has twice failed of selection for promotion, *Ante*, p. 2861.

shall, if that officer has not completed 7 years of active commissioned service at the time otherwise prescribed for such discharge under such section and such officer so requests, not be discharged until June 30 of the fiscal year in which the officer completes 7 years of active commissioned service.

LIMITED-DUTY OFFICERS

SEC. 616. An officer of the Regular Navy or Regular Marine Corps who on the effective date of this Act is an officer who was designated for limited duty before that date under section 5589 of title 10, United 10 USC 611 note.

Ante, pp. 2893, 2898.
Ante, p. 2850.

States Code, is subject to section 6383 of such title (as in effect on the day before the effective date of this Act), unless promoted to a higher permanent grade under chapter 36 of title 10, United States Code, as added by this Act.

CERTAIN NAVY LIEUTENANTS HOLDING TEMPORARY APPOINTMENTS IN THE GRADE OF LIEUTENANT COMMANDER

10 USC 611 note.

SEC. 617. Any officer who on the effective date of this Act holds a temporary appointment in the grade of lieutenant commander under section 5787d of title 10, United States Code, shall on and after such date be considered to be serving in such grade as if such appointment had been made under section 5721 of such title, as added by this Act.

DIRECTOR OF BUDGET AND REPORTS OF THE NAVY

10 USC 611 note.

SEC. 618. (a) An officer of the Navy who on the day before the effective date of this Act was serving on active duty and entitled to rank and privileges of retirement under section 5064 of title 10, United States Code, as in effect on the day before the effective date of this Act, shall have his rank and retirement privileges determined under the laws in effect on such date.

PART C—GENERAL TRANSITION PROVISIONS

ESTABLISHMENT OF INITIAL ACTIVE-DUTY LISTS

10 USC 611 note.

SEC. 621. (a)(1) Not later than 6 months after the effective date of this Act, all officers of the Army, Navy, Air Force, and Marine Corps who are required to be placed on the active-duty list for their armed force under chapter 36 of title 10, United States Code, as added by this Act, shall be placed on such list with the same relative seniority which they held on the day before the effective date of this Act. An officer placed on an active-duty list under this section shall be considered to have been placed on such list as of the effective date of this Act.

Ante, p. 2850.

Ante, p. 2855.

(2) Regulations prescribed under section 620 of title 10, United States Code, as added by this Act, shall be applicable to the placement of officers on the active-duty list under paragraph (1).

(b) In order to maintain the relative seniority among officers of the Army, Navy, Air Force, or Marine Corps as it existed on the day before the effective date of this Act, the Secretary of the military department concerned may, during the 1-year period beginning on the effective date of this Act, adjust the date of rank of any officer of such armed force who was serving on active duty on such effective date. The authority of the Secretary concerned under this section shall be administered under regulations prescribed by the Secretary of Defense which shall apply uniformly among the Army, Navy, Air Force, and Marine Corps.

OFFICERS SERVING IN THE SAME TEMPORARY GRADE AND PERMANENT GRADE; DATE OF RANK

10 USC 611 note.

SEC. 622. (a) Any officer of the Army, Navy, Air Force, or Marine Corps who on the effective date of this Act is serving on active duty in a temporary grade which is the same as his permanent grade shall on such date be serving in such grade subject to this title and the amendments made by this Act. The date of rank of such officer in that grade is the date of his temporary appointment to that grade.

OFFICERS SERVING IN GRADES ABOVE MAJOR GENERAL OR REAR ADMIRAL

SEC. 623. (a) Any officer who on the day before the effective date of this Act held a temporary appointment in the grade of lieutenant general or general under section 3066, 5232, or 8066 of title 10, United States Code, or a temporary appointment in the grade of vice admiral or admiral under section 5231 of such title, shall on and after such date be considered to be serving in such grade as if such appointment had been made under section 601 of such title, as added by this Act. 10 USC 611 note. *Ante*, pp. 2878, 2896. *Ante*, p. 2896. *Ante*, p. 2849.

(b)(1) Any designation of a position as a position of importance and responsibility made by the President under section 3066 or 8066 of title 10, United States Code, before the effective date of this Act, shall remain in effect, unless changed by the President, as a designation of such position as a position of importance and responsibility under section 601 of such title, as added by this Act. *Ante*, p. 2849.

(2) Any position held by an officer under section 5231 or 5232 of title 10, United States Code, on the effective date of this Act shall, unless changed by the President, be deemed to be a position of importance and responsibility designated by the President under section 601 of title 10, United States Code. *Ante*, p. 2896. *Ante*, p. 2849.

(c) Any officer who before the effective date of this Act served in the grade of lieutenant general, general, vice admiral, or admiral but was not serving in such grade on the day before the effective date of this Act shall for the purposes of section 1370(c) of title 10, United States Code, as added by this Act, be deemed to have held such position under an appointment made under section 601 of such title, as added by this Act. *Ante*, p. 2876. *Ante*, p. 2849.

YEARS OF SERVICE FOR INVOLUNTARY RETIREMENT OR DISCHARGE

SEC. 624. (a) In determining whether any officer of the Army, Navy, Air Force, or Marine Corps who was on active duty on the day before the effective date of this Act is subject to involuntary retirement or discharge under chapter 36 of title 10, United States Code, as added by this Act, the years of service of the officer for such purpose shall be computed by adding— 10 USC 611 note. *Ante*, p. 2850.

(1) the amount of service creditable to such officer on the day before the effective date of this Act for the purpose of determining whether the officer is subject to involuntary retirement or discharge; and

(2) all subsequent active commissioned service of such officer.

(b) In the case of an officer for whom no means of computing service creditable in determining whether the officer is subject to involuntary retirement or discharge existed under the law in effect on the day before the effective date of this Act, the amount of creditable service of such officer for such purpose for the period before the effective date of this Act shall be determined under regulations prescribed by the Secretary of Defense, except that such an officer may not be credited with an amount of service less than the amount of his active commissioned service.

SAVINGS PROVISION FOR CONSTRUCTIVE SERVICE PREVIOUSLY GRANTED

SEC. 625. (a) The amendments made by this Act do not affect the crediting of years of service to any person who on the day before the effective date of this Act— 10 USC 611 note.

(1) had been credited with years of service upon an original appointment as an officer or after such an appointment; or

(2) was participating in a program leading to an appointment as an officer in the Army, Navy, Air Force, or Marine Corps and the crediting of years of service.

(b)(1) Any officer who on the effective date of this Act is an officer of the Army or Navy in the Medical or Dental Corps of his armed force, an officer of the Air Force designated as a medical or dental officer, or an officer of the Public Health Service commissioned as a medical or dental officer is entitled to include in the years of service creditable to him for the computation of basic pay and retired pay the years of service creditable to him for such purposes under clauses (7) and (8) of section 205(a) of title 37, United States Code, as in effect on the day before the effective date of this Act.

(2) Any person who on the day before the effective date of this Act was enrolled in the Uniformed Services University of the Health Sciences under chapter 104 of this title or the Armed Forces Health Professions Scholarship Program under chapter 105 of this title and who on or after the effective date of this Act graduates from such university or completes such program, as the case may be, and is appointed in one of the categories specified in paragraph (1) is entitled to include in the years of service creditable to him for the computation of basic pay and retired pay the years of service that would have been credited to him under clauses (7) and (8) of section 205(a) of title 37, United States Code, as in effect on the day before the effective date of this Act, had such clauses not been repealed by this Act.

10 USC 2112 *et seq.*
10 USC 2120 *et seq.*

MISCELLANEOUS PROVISIONS RELATING TO YEARS OF SERVICE

10 USC 611 note.

SEC. 626. (a) For the purpose of computing the years of service for pay and allowances of an officer of the Army, Navy, Air Force, or Marine Corps, including retired pay, severance pay, readjustment pay, separation pay, and basic pay, the total years of service of such officer shall be computed by adding to that service so creditable on the day before the effective date of this Act all subsequent service as computed under title 10, United States Code, as amended by this Act.

(b) An officer of the Army, Navy, Air Force, or Marine Corps who was on active duty on the effective date of this Act and who is retired under any provision of chapter 36 of title 10, United States Code, as added by this Act, shall be entitled to retired pay in an amount equal to not less than 50 percent of the basic pay upon which his retired pay is based.

Ante, p. 2850.

(c) The service that an officer of the Army, Navy, Air Force, or Marine Corps has in a particular grade is the sum of—

(A) the years, months, and days of service in that grade accrued under the laws in effect before the effective date of this Act; and

(B) the years, months, and days of service in that grade accrued under the laws in effect on and after the effective date of this Act.

TRANSITION TO OFFICER GRADE-STRENGTH TABLES DURING FISCAL YEAR 1981

10 USC 611 note.

SEC. 627. For the fiscal year ending on September 30, 1981, the maximum number of officers authorized to be serving on active duty as of the end of such fiscal year in each of the grades of major, lieutenant colonel, and colonel for the Army, Air Force, and Marine Corps, and in each of the grades of lieutenant commander,

commander, and captain for the Navy, under section 523 of title 10, United States Code, as added by this Act, is increased by the number equal to one-half the difference between (1) the actual number of officers of that armed force serving on active duty in that grade on September 30, 1980 (excluding officers in categories specified in subsection (b) of such section), and (2) the number specified in the table contained in such section for such armed force and grade based upon the total number of commissioned officers of such armed force on active duty on September 30, 1981 (excluding officers in categories specified in subsection (b) of such section). *Ante*, p. 2842.

RIGHT OF COMMISSIONED OFFICERS WITH PERMANENT ENLISTED OR WARRANT OFFICER STATUS TO RETIRE IN HIGHEST ENLISTED OR WARRANT OFFICER GRADE HELD

SEC. 628. (a) A member of the Army, Navy, Air Force, or Marine Corps who— 10 USC 611 note.

(1) on the day before the effective date of this Act had a permanent status as an enlisted member or as a warrant officer (or had a statutory right to be enlisted or to be appointed as a warrant officer) and was serving as an officer under a temporary appointment; and

(2) on or after the effective date of this Act and before completing 10 years of commissioned service for purposes of retirement eligibility under section 3911, 6323, or 8911 of title 10, United States Code, completes 20 years of total service, as determined under section 1405 of such title, *Ante*, p. 2877.

is entitled to retire or transfer to the Fleet Reserve or Fleet Marine Corps Reserve in the highest grade he held as an enlisted member or a warrant officer.

SAVINGS PROVISION FOR RETIRED GRADE FOR OFFICERS NOT SUBSEQUENTLY PROMOTED

SEC. 629. In applying section 1370(a)(2) of title 10, United States Code, as added by this Act, to an officer of the Army, Navy, Air Force, or Marine Corps who was on active duty on the day before the effective date of this Act and who on or after the effective date of this Act is not promoted to a grade higher than the grade he held on the day before the effective date of this Act or, in the case of an officer who was on a list of officers recommended for promotion on such date, is not promoted to a grade higher than the grade to which he was recommended for promotion, "two years" shall be substituted for "three years". 10 USC 611 note. *Ante*, p. 2876.

EXEMPTION OF CERTAIN OFFICERS FROM SELECTIVE EARLY RETIREMENT PROVISIONS

SEC. 630. An officer of the Army, Navy, Air Force, or Marine Corps who was recommended for continuation on the active list under the Act entitled "An Act to provide improved opportunity for promotion for certain officers in the naval service, and for other purposes", approved August 11, 1959 (Public Law 86-155; 10 U.S.C. 5701 note), or under section 10 of the Act entitled "An Act relating to the promotion and separation of certain officers of the regular components of the armed forces", approved July 12, 1960 (Public Law 86-616; 10 U.S.C. 3297 note), is not subject to section 638 of title 10, United States Code, as added by this Act, relating to selective early retirement. 10 USC 611 note. *Ante*, p. 2864.

SAVINGS PROVISION FOR ENTITLEMENT TO READJUSTMENT PAY OR SEVERANCE PAY UNDER PRIOR PROVISIONS OF LAW

10 USC 611 note.

SEC. 631. (a) A member of the Army, Navy, Air Force, or Marine Corps who—

(1) was on active duty (other than for training) on the day before the effective date of this Act; and

(2) after such date is involuntarily discharged or released from active duty under any provision of title 10, United States Code, as in effect on or after such date,

is entitled to receive any readjustment payment or severance pay to which he would have been entitled under laws in effect on the day before the effective date of this Act.

(b) If a member to whom subsection (a) applies is eligible to receive separation pay under section 1174 of title 10, United States Code, as added by this Act, the member may not receive both a readjustment payment or severance pay under laws in effect on the day before the effective date of this Act and separation pay under such section, but shall elect which he will receive. If the member fails to make an election in a timely manner, he shall be paid the amount which is more favorable to him.

Ante, p. 2870.

OFFICERS ON ACTIVE DUTY IN GRADE ABOVE GENERAL

10 USC 611 note.
Ante, p. 2875.

SEC. 632. Section 1251 of title 10, United States Code, as added by this Act, relating to mandatory retirement for age, shall not apply to any officer who on the effective date of this Act was on active duty in a grade above general.

DEFINITIONS

10 USC 611 note.

SEC. 633. For the purposes of this title:

(1) The term "officer" does not include warrant officers.

(2) The term "active-duty list" means the active-duty list established by the Secretary of the military department concerned pursuant to section 620 of title 10, United States Code, as added by this Act.

Ante, p. 2855.

PART D—ADJUSTMENTS TO TRANSITION PROVISIONS FOR HEALTH PROFESSIONALS SPECIAL PAY

PRESERVATION OF ENTITLEMENT FOR RESERVE MEDICAL OFFICERS

10 USC 611 note.

SEC. 641. Any person—

(1) who before June 30, 1980, served on active duty for not less than one year as a reserve officer of the Medical Corps of the Army or the Medical Corps of the Navy, as a reserve officer of the Air Force designated as a medical officer, or as a reserve medical officer of the Public Health Service; and

(2) who after having so served on active duty for not less than one year received special pay under section 302 of title 37, United States Code, as in effect during the period beginning on May 6, 1974, and ending on June 30, 1980, for service performed during such period,

shall be considered to have been entitled to such pay as if that part of such section, as in effect during such period, which read "who is on active duty for a period of at least one year" read "who has served on active duty for not less than one year".

PRESERVATION OF LEVEL OF PAY FOR SENIOR DENTAL OFFICERS

SEC. 642. (a) Any officer of the Dental Corps of the Army or the Dental Corps of the Navy, and any officer of the Air Force designated as a dental officer, who was serving on active duty as such an officer on September 30, 1979, and who completes 20 years of active service after such date is entitled, while serving on active duty, to receive for any period after he completes such 20 years of service a total amount of basic pay and special pay paid under section 311 of title 37, United States Code, in an amount not less than the sum of— 10 USC 611 note.

(1) the amount of basic pay which such officer would be entitled to receive if the rates of basic pay in effect on October 1, 1979, had continued in effect; and

(2) the amount of special pay under section 311 of such title which such officer would be entitled to receive under the regulations of the Secretary of Defense in effect on September 30, 1979, if such regulations had continued in effect.

(b) For the purposes of this section, special pay under section 311 of title 37, United States Code, shall be determined—

(1) on a monthly, rather than an annual, basis; and

(2) based on the rates of basic pay in effect on October 1, 1979.

TITLE VII—EFFECTIVE DATES AND GENERAL SAVINGS PROVISIONS

EFFECTIVE DATES

SEC. 701. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on September 15, 1981. 10 USC 101 note.

(b)(1) The authority to prescribe regulations under the amendments made by titles I through IV and under the provisions of title VI shall take effect on the date of the enactment of this Act.

(2) The amendment made by section 415 shall take effect as of July 1, 1980. *Ante*, p. 2906.

(3) The amendments made by part B of title V shall take effect on the date of the enactment of this Act. *Ante*, p. 2920.

(4) Part D of title VI shall take effect on the date of the enactment of this Act. *Ante*, p. 2954.

PRESERVATION OF SUSPENDED STATUS OF LAW IN SUSPENDED STATUS ON EFFECTIVE DATE

SEC. 702. If a provision of law that is in a suspended status on the day before the effective date of this Act is amended by this Act, the suspended status of that provision is not affected by that amendment. 10 USC 101 note.

GENERAL SAVINGS PROVISION

10 USC 101 note.

SEC. 703. Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act do not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this Act.

Approved December 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1462 (Comm. on Armed Services).
SENATE REPORT No. 96-375 (Comm. on Armed Services).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 30, considered and passed Senate.
Vol. 126 (1980): Nov. 17, considered and passed House, amended.
Nov. 21, Senate concurred in House amendment.

Public Law 96-514
96th Congress

An Act

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes.

Dec. 12, 1980
[H.R. 7724]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1981, and for other purposes, namely:

Department of the Interior and related agencies. Appropriations, fiscal year 1981.

TITLE I—DEPARTMENT OF THE INTERIOR

LAND AND WATER RESOURCES

Bureau of Land Management

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, $343,962,000.

ACQUISITION, CONSTRUCTION, AND MAINTENANCE

For acquisition of lands and interests therein, and construction and maintenance of buildings, recreation facilities, roads, trails, and appurtenant facilities, $14,768,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 1601), $103,000,000, of which not to exceed $400,000 shall be available for administrative expenses: *Provided,* That this appropriation may be used to correct underpayments in the previous fiscal year to achieve equity among all qualified recipients.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; an amount equivalent to 25 per centum of the aggregate of all receipts during the current fiscal year from the

revested Oregon and California Railroad grant lands, to remain available until expended: *Provided,* That the amount appropriated herein for the purposes of this appropriation on lands administered by the Forest Service shall be transferred to the Forest Service, Department of Agriculture: *Provided further,* That the amount appropriated herein for road construction on lands other than those administered by the Forest Service shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further,* That the amount appropriated herein is hereby made a reimbursable charge against the Oregon and California land grant fund and shall be reimbursed to the general fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876): *Provided further,* That not to exceed $58,200,000 available from receipts shall be obligated in fiscal year 1981 for Oregon and California grant lands.

RANGE IMPROVEMENTS

For rehabilitation, protection, acquisition of lands and interests therein, and improvement of Federal range lands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), sums equal to fifty percent of all monies received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.), but not less than $10,000,000 (43 U.S.C. 1901), and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, to remain available until expended.

43 USC 1751.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701); and sections 101 and 203 of Public Law 93-153, to be immediately available until expended.

43 USC 1734, 1735, 1764. 30 USC 185, 43 USC 1652.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act.

43 USC 1737.

43 USC 1721.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, insurance on official motor vehicles, aircraft, and boats operated by the Bureau of Land Management in Canada; and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; $10,000 for payment, at

the discretion of the Secretary, for information or evidence concerning violations of laws administered by the United States Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided,* That appropriations herein made for the Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the general fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further,* That appropriations herein made may be expended on a reimbursable basis for (1) surveys of lands other than those under the jurisdiction of the Bureau of Land Management and (2) protection of lands for the State of Alaska: *Provided further,* That the Secretary of the Interior shall develop criteria for extending, on a case-by-case basis, the period allowed for phased livestock reductions on public rangelands administered through the Bureau of Land Management up to five years. Such criteria shall take into account available agricultural assistance programs, the magnitude of projected livestock reductions, alternative pasturage available, and ability of such public rangelands to sustain such phasing in of livestock reductions without damage to rangeland productivity: *Provided further,* That an appeal of any reductions in grazing allotments on public rangelands must be taken within 30 days after receipt of a final grazing allotment decision or 90 days after the effective date of this Act in the case of reductions ordered during 1979, whichever occurs later. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within 2 years after the appeal is filed: *Provided further,* That, none of the funds provided in this Act to the Bureau of Land Management may be expended to determine suitability or nonsuitability for wilderness or for any wilderness study area designation as directed in 43 U.S.C. 1782 of the Federal Land Policy and Management Act of the lands withdrawn by the Executive Order numbered 3767 of December 19, 1922, to be used by the United States Department of Agriculture for a sheep experiment station.

43 USC 1752 note.

OFFICE OF WATER RESEARCH AND TECHNOLOGY

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Water Research and Development Act of 1978 (Public Law 95-467) and provisions of Public Law 95-84, as amended (42 U.S.C. 1959-1959i), $30,485,000 of which $10,720,000 shall remain available for obligation until September 30, 1982.

42 USC 7801 note.
42 USC 7836.

FISH AND WILDLIFE AND PARKS

HERITAGE CONSERVATION AND RECREATION SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Heritage Conservation and Recreation Service, not otherwise provided for, $15,980,000.

URBAN PARK AND RECREATION FUND

16 USC 2501 note.

For expenses necessary to carry out the provisions of the Urban Park and Recreation Recovery Act of 1978 (title 10 of Public Law 95-625), $20,000,000, to remain available until expended.

LAND AND WATER CONSERVATION FUND

16 USC 460*l*-4—460*l*-11.

16 USC 460*l*-5.

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including $7,708,000 for administrative expenses of the Heritage Conservation and Recreation Service during the current fiscal year, and acquisition of land or waters, or interest therein, in accordance with the statutory authority applicable to the State or Federal agency concerned, to be derived from the Land and Water Conservation Fund, established by section 2 of said Act as amended, to remain available until expended, $378,593,000, of which (1) $228,745,000 shall be available for payments to the States in accordance with section 6(c) of said Act; (2) $1,135,000 shall be available to the Bureau of Land Management; (3) $39,416,000 shall be available to the Forest Service; (4) $21,520,000 shall be available to the United States Fish and Wildlife Service; and (5) $80,211,000 shall be available to the National Park Service: *Provided,* That not to exceed $6,000,000 of the amount provided for State assistance may be available as a contingency reserve to be administered by the Secretary to meet unforeseen needs of the States.

16 USC 460*l*-5a.
16 USC 460*l*-5 and note, 460*l*-7, 460*l*-9, 460*l*-10a—460*l*-10c, 460*l*-22.
16 USC 460*l*-4 note.

Notwithstanding the provisions of Public Law 90-401, revenues from recreation fee collections by Federal agencies shall hereafter be paid into the Land and Water Conservation Fund, to be available for appropriation for any or all purposes authorized by the Land and Water Conservation Fund Act of 1965, as amended, without regard to the source of such revenues.

16 USC 396e.
16 USC 396d.

Notwithstanding any other provision of law, the Secretary is authorized and shall seek to acquire the lands described in section 505(a) of the Act of November 10, 1978 (92 Stat. 3467) by first acquiring Federal surplus lands of equivalent value from the General Services Administration and then exchanging such surplus lands for the lands described in section 505(a) of that Act with the land owners. Exchanges shall be on the basis of equal value, and any party to the exchange may pay or accept cash in order to equalize the value of the property exchanged.

HISTORIC PRESERVATION FUND

16 USC 470h.

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $32,500,000, to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1982: *Provided,* That not to exceed fifteen percent of the funds in this appropriation may be

used for grants for renovation of State and local government buildings still in use for governmental purposes: *Provided further,* That not to exceed $1,000,000 may be available as a discretionary reserve to be administered by the Secretary for special or innovative preservation programs.

ADMINISTRATIVE PROVISION

None of the funds appropriated to the Heritage Conservation and Recreation Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided,* That none of the funds appropriated to the Heritage Conservation and Recreation Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; and maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge, $225,566,000, of which not to exceed $4,000,000 shall remain available until expended: *Provided,* That funds in this appropriation may be used to issue regulations that will permit modification to the habitat of a threatened or endangered species when the net effect of the modification is equal to, favorable to, and not adverse to the protection of the species.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $8,500,000.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; and for expenses necessary to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757f); $37,897,000, to remain available until expended.

MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account, as authorized by the Act of October 4, 1971, as amended (16 U.S.C. 715k 3, 5), $1,250,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 160 passenger motor vehicles, of which 137 are for replacement only (including 71 for police-type use); purchase of one aircraft for replacement only; not to exceed $100,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife

Service; miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $75,000; insurance on official motor vehicles, aircraft and boats operated by the United States Fish and Wildlife Service in Mexico and Canada; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are not inconsistent with their primary purpose, and the maintenance and improvement of aquaria, buildings and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), including not to exceed $341,000 for the Roosevelt Campobello International Park Commission, $444,828,000 without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451): *Provided,* That not to exceed $5,000,000 may be available for operation of the National Visitor Center and of that amount not to exceed $3,500,000 may be used for payment of rent: *Provided further,* That the Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: *Provided further,* That $150,000 shall be available for the National Park Service to assist the Town of Harpers Ferry, West Virginia, for police force use: *Provided further,* That $1,000,000 shall be available for assistance to the National Symphony Orchestra of Washington, District of Columbia, such assistance to be available only to the extent matched by the National Symphony Orchestra with a like amount of contributions or pledges derived from non-government sources which have not previously been used for Federal matching purposes: *Provided further,* That appropriations for maintenance and improvement of roads within the boundary of Indiana Dunes National Lakeshore shall be available for such purposes without regard to whether title to such road rights-of-way is in the United States: *Provided further,* That not to exceed $200,000 shall be available for commemoration of the 200th anniversary of the Battle of Yorktown at Colonial National Historical Park.

16 USC 20b note.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $43,367,000, to remain available until expended.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $4,400,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 179 passenger motor vehicles, of which 128 shall be for replacement only, including not to exceed 105 for police-type use; and to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; and options for the purchase of land at not to exceed $1 for each option: *Provided,* That any funds available to the National Park Service may be used, with the approval of the Secretary, to maintain law and order in emergency and other unforeseen law enforcement situations in the National Park System; and to provide insurance on official motor vehicles and aircraft operated by the National Park Service in Mexico and Canada: *Provided further,* That none of the funds appropriated to the National Park Service shall be used to implement or enforce any component of the National Park Service's Noise Abatement Plan for Grand Teton National Park or any other proposed regulations to apply to the Jackson Hole Airport.

ENERGY AND MINERALS

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332, and 1340); classify lands as to mineral character and water and power resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; enforce departmental regulations applicable to oil, gas, and other mining leases, permits, licenses, and operating contracts; control the interstate shipment of contraband oil as required by law (15 U.S.C. 715); administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $486,537,000, of which $40,724,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided,* That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: *Provided further,* That up to $150,000 shall be expended to conduct studies of the structure and stratigraphy and to develop a geological mapping system near the Osburn fault in the Coeur d' Alene mining district of northern Idaho. 43 USC USC 50.

EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA

42 USC 6508.
42 USC 6504.

For necessary expenses of carrying out the provisions of section 104 of Public Law 94-258, and for conducting hereafter and with funds appropriated by this Act and by subsequent appropriation Acts, notwithstanding any other provision of law and pursuant to such rules and regulations as the Secretary may prescribe, an expeditious program of competitive leasing of oil and gas in the National Petroleum Reserve in Alaska, $107,001,000, to remain available until expended: *Provided,* That (1) activities undertaken pursuant to this Act shall include or provide for such conditions, restrictions, and prohibitions as the Secretary deems necessary or appropriate to mitigate reasonably foreseeable and significantly adverse effects on the surface resources of the National Petroleum Reserve in Alaska (the Reserve); (2) the provisions of section 202 and section 603 of the Federal Lands Policy and Management Act of 1976 (90 Stat. 2743) shall not be applicable to the Reserve; (3) the first lease sale shall be conducted within twenty months of the date of enactment of this Act: *Provided,* That the first lease sale shall be conducted only after publication of a final environmental impact statement if such is deemed necessary under the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4332); (4) the withdrawals established by section 102 of Public Law 94-258 are rescinded for the purposes of the oil and gas leasing program authorized herein; (5) bidding systems used in lease sales shall be based on bidding systems included in section 205(a)(1)(A) through (H) of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629); (6) lease tracts may encompass identified geological structures; (7) the size of lease tracts may be up to sixty thousand acres, as determined by the Secretary; (8) each lease shall be issued for an initial period of up to ten years, and shall be extended for so long thereafter as oil or gas is produced from the lease in paying quantities, or as drilling or reworking operations, as approved by the Secretary, are conducted thereon; and (9) all receipts from sales, rentals, bonuses, and royalties on leases issued pursuant to this Act shall be paid into the Treasury of the United States: *Provided,* That 50 per centum thereof shall be paid by the Secretary of the Treasury semiannually, as soon as practicable after March 30 and September 30 each year, to the State of Alaska for (a) planning, (b) construction, maintenance, and operation of essential public facilities, and (c) other necessary provisions of public service: *Provided further,* That in the allocation of such funds, the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act.

43 USC 1712, 1782.
42 USC 6502.
43 USC 1337.

Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the National Petroleum Reserve in Alaska which do not interfere with operations under any contract maintained or granted previously. Any information acquired in such explorations shall be subject to the conditions of 43 U.S.C. 1352(a)(1)(A).

Judicial review.
Publication in Federal Register.

Any action seeking judicial review of the adequacy of any program or site-specific environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) concerning oil and gas leasing in the National Petroleum Reserve-Alaska shall be barred unless brought in the appropriate District Court within 60 days after notice of the availability of such statement is published in the Federal Register. Any proceeding on such action

shall be assigned for hearing at the earliest possible date and shall be expedited by such Court.

The detailed environmental studies and assessments that have been conducted on the exploration program and the comprehensive land-use studies carried out in response to sections 105 (b) and (c) of Public Law 94-258 shall be deemed to have fulfilled the requirements of section 102(2)(c) of the National Environmental Policy Act (Public Law 91-190), with regard to the first two oil and gas lease sales in the National Petroleum Reserve-Alaska: *Provided,* That not more than a total of 2,000,000 acres may be leased in these two sales: *Provided further,* That any exploration or production undertaken pursuant to this section shall be in accordance with section 104(b) of the Naval Petroleum Reserves Production Act of 1976 (90 Stat. 304; 42 U.S.C. 6504).

42 USC 6505.

42 USC 4332.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 22 passenger motor vehicles, of which 19 shall be for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for observation wells; expenses of the U.S. National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations and research concerning the extraction, processing, use and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $139,428,000, of which $107,726,000 shall remain available until expended.

ADMINISTRATIVE PROVISION

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided,* That the Bureau of Mines is authorized during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

79-194 O—81—pt. 3——21 : QL3

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

30 USC 1201 note.

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, $92,833,000 including the purchase of not to exceed 34 passenger motor vehicles for replacement only.

ABANDONED MINE RECLAMATION FUND

30 USC 1231.

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 34 passenger motor vehicles for replacement only, to remain available until expended, $82,485,000, of which $16,000,000 shall be available to the Bureau of Mines to carry out research, demonstration, and reclamation projects authorized by section 403, Public Law 95-87, to be derived from receipts of the Abandoned Mine Reclamation Fund.

30 USC 1233.

INDIAN AFFAIRS

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment (in advance or from date of admission) of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order and payment of rewards for information or evidence concerning violations of law on Indian reservation lands or treaty fishing rights tribal use areas; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; and for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $812,739,000, of which not to exceed $58,345,000 for higher education scholarships and assistance to public schools under the Act of April 16, 1934, shall remain available for obligation until September 30, 1982, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450) shall remain available until September 30, 1982: *Provided,* That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs; and includes expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531, $5,498,000, to remain available until expended: *Provided further,* That none of these funds shall be expended as matching funds for programs funded under section 103(a)(1)(B)(iii) of the Vocational Education Act of 1963 as amended by the Act of June 3, 1977 (Public Law 95-40): *Provided further,* That notwithstanding the provisions of section 6 of the Act of April 16, 1934 (48 Stat. 596), as added by section

25 USC 640d-18.

20 USC 2303.

202 of the Indian Education Assistance Act (88 Stat. 2213, 2214; 25 U.S.C. 457) funds appropriated pursuant to this or any other Act for fiscal years ending September 30 of 1980 and 1981 may be utilized to reimburse school districts for up to the full per capita cost of educating Indian students (1) who are normally residents of the State in which such school districts are located but do not normally reside in such districts, and (2) who are residing in Federal boarding facilities for the purpose of attending public schools within such districts.

CONSTRUCTION

For construction, major repair and improvement of irrigation and power systems, buildings, utilities, and other facilities; acquisition of lands and interests in land; preparation of lands for farming; and architectural and engineering services by contract, $100,182,000, to remain available until expended: *Provided,* That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Water and Power Resources Service.

ROAD CONSTRUCTION

For construction of roads and bridges pursuant to authority contained in 23 U.S.C. 203, and 25 U.S.C. 13, 318a, $48,625,000, to remain available until expended.

ALASKA NATIVE FUND

For transfer to the Alaska Native Fund, in the fourth quarter of fiscal year 1981, to provide for settlement of certain land claims by Natives and Native groups of Alaska, and for other purposes, based on aboriginal land claims, as authorized by the Act of December 18, 1971 (Public Law 92-203), $30,000,000: *Provided,* That for purposes of meeting its obligation under section 6(a)(3) and section 9 of the Alaska Native Claims Settlement Act in connection with the requirement that $500,000,000 be paid into the Alaska Native Fund, any and all revenues paid into such fund by the State of Alaska from sources other than those specified in section 9 of such Act shall, notwithstanding any other provision of law, be construed as payments by the State of Alaska to the Fund within the meaning of sections 6(a)(3) and 9 of the Alaska Native Claims Settlement Act and credited toward the $500,000,000 to be deposited in the Alaska Native Fund under such sections.

43 USC 1601 note.

43 USC 1605, 1608.

TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is hereby appropriated not to exceed $3,000,000 from tribal funds not otherwise available for expenditure for the benefit of Indians and Indian tribes, including pay and travel expenses of employees; care, tuition, and other assistance to Indian children attending public and private schools (which may be paid in advance or from date of admission); purchase of land and improvements on land, title to which shall be taken in the name of the United States in trust for the tribe for which purchased; lease of lands and water rights; compensation and expenses of attorneys and other persons employed by Indian tribes under approved contracts; pay, travel, and other expenses of tribal officers, councils, and committees thereof, or other tribal organizations, including mileage for use of privately owned automobiles and per diem in lieu of subsistence at rates established administratively but not to exceed those applicable

18 USC 4124.

to civilian employees of the Government; relief of Indians, without regard to section 7 of the Act of May 27, 1930 (46 Stat. 391) including cash grants: *Provided,* That in addition to the amount appropriated herein, tribal funds may be advanced to Indian tribes during the current fiscal year for such purposes as may be designated by the governing body of the particular tribe involved and approved by the Secretary.

REVOLVING FUND FOR LOANS

During fiscal year 1981, and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $12,680,000.

INDIAN LOAN GUARANTY AND INSURANCE FUND

During fiscal year 1981, and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $2,900,000, and total commitments to guarantee loans shall not exceed $2,250,000 of contingent liability for loan principal.

EASTERN INDIAN LAND CLAIMS

For payment to the Eastern Indian Land Claims Settlement Fund, $81,500,000, to remain available until expended, to settle the land claims of the Passamaquoddy Tribe, the Penobscot Nation, and Houlton Band of Maliseet Indians in the State of Maine.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans) shall be available for expenses of exhibits; purchase of not to exceed 115 passenger carrying motor vehicles of which 75 shall be for replacement only, which may be used for the transportation of Indians; advance payments for services (including services which may extend beyond the current fiscal year) under contracts executed pursuant to the Act of June 4, 1936 (25 U.S.C. 452), the Act of August 3, 1956 (25 U.S.C. 309), and legislation terminating Federal supervision over certain Indian tribes; and expenses required by continuing or permanent treaty provisions: *Provided,* That no part of any appropriations to the Bureau of Indian Affairs shall be available to continue academic and residential programs of the Chilocco, Seneca, and Fort Sill boarding schools, Oklahoma; and Stewart boarding school, Nevada: *Provided further,* That no part of any appropriation to the Bureau of Indian Affairs shall be used to subject the transportation of school children to any limitation on travel or transportation expenditures for Federal employees: *Provided further,* That no action to develop and provide water for agricultural purposes on the Gila River Indian Reservation, when agreed to by the Gila River Indian Council, shall be a major Federal action under the National Environmental Policy Act.

TERRITORIAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of Territories under the jurisdiction of the Department of the Interior, $72,284,000, of which (1) not to exceed $68,000,000 shall be available for grants to the judiciary in American Samoa for compensation and expenses, as

authorized by law (48 U.S.C. 1661(c)); grants to American Samoa, in addition to current local revenues, for support of governmental functions; grants to Guam, as authorized by law (48 U.S.C. 1428–1428e; Public Law 95–134; 91 Stat. 1161, 1162, 1163; Public Law 95–348; 92 Stat. 487, 488); grants to the Government of the Virgin Islands as authorized by law (Public Law 95–348, 92 Stat. 490); expenses of the Northern Mariana Islands Federal Laws Commission as authorized by law (Public Law 94–241, 90 Stat. 268); direct grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241, 90 Stat. 272), to remain available until expended; and (2) not to exceed $4,284,000 shall be available for expenses of the offices of the Government Comptroller for the Virgin Islands, the Government Comptroller for Guam, Trust Territory of the Pacific Islands, and the Northern Mariana Islands as authorized by law (Public Law 95–134; 91 Stat. 1161, 1162), and the Government Comptroller for American Samoa, and for salaries and expenses of the Office of Territorial Affairs: *Provided,* That the Territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further,* That appropriations available for the administration of Territories may be expended for the purchase, charter, maintenance, and operation of surface vessels for official purposes and for commercial transportation purposes found by the Secretary to be necessary: *Provided further,* That all financial transactions of the Territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with the provisions of the Budget and Accounting Act, 1921 (42 Stat. 23) as amended, and the Accounting and Auditing Act of 1950 (64 Stat. 834): *Provided further,* That $10,000,000 provided under this head in Public Law 96–126 for the purposes of matching new local tax revenues of the Government of the Virgin Islands shall be available for grants for new construction.

48 USC 1681 note.

48 USC 1681 note.

48 USC 1401f, 1423*l*, 1665.

48 USC 1470a.

48 USC 1469b.

31 USC 1.

31 USC 65 note.

93 Stat. 965.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495), grants for the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; grants for the compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands in addition to local revenues, for support of governmental functions; $94,354,000, to remain available until expended: *Provided,* That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with the provisions of the Budget and Accounting Act, 1921 (42 Stat. 23), as amended, and the Accounting and Auditing Act of 1950 (64 Stat. 834): *Provided further,* That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further,* That appropriations available for the administration of the Trust Territory of the Pacific Islands may be expended for the purchase, charter, maintenance, and operation of surface vessels for official purposes and for commercial

22 USC 287 note.

48 USC 1681 note.

48 USC 1683.

31 USC 1.

31 USC 65 note.

48 USC 1682.

48 USC 1687.

transportation purposes found by the Secretary to be necessary in carrying out the provisions of article 6(2) of the Trusteeship Agreement approved by Congress.

SECRETARIAL OFFICES

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $16,313,000.

OFFICE OF THE SECRETARY

DEPARTMENTAL MANAGEMENT

For necessary expenses of the Office of the Secretary of the Interior, including necessary expenses for certain operations that provide departmentwide services, $37,619,000, of which not to exceed $5,000 may be for official reception and representation expenses, and of which not to exceed $576,000 shall be available, on a departmentwide basis, for payment of bonuses for the Senior Executive Service as authorized by the Civil Service Reform Act of 1978.

5 USC 1101 note.

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, $8,750,000, to remain available for obligation until September 30, 1982.

INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, $8,500,000.

YOUTH CONSERVATION CORPS

For expenses necessary to carry out the provisions of the Act of August 13, 1970, as amended by Public Law 93-408, $60,000,000: *Provided,* That $30,000,000 shall be available to the Secretary of the Interior and $30,000,000 shall be available to the Secretary of Agriculture.

16 USC 1701-1706.

RURAL WATER TREATMENT AND DISTRIBUTION SYSTEM

For expenses for initial planning and construction of a rural water treatment and distribution system pursuant to section 9 of the Rural Development and Policy Act of 1980, $1,900,000.

Ante, p. 1175.

ADMINISTRATIVE PROVISION

There is hereby authorized for acquisition, from available resources within the Working Capital Fund, two aircraft for replacement only, both of which shall be from surplus.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replace-

ment, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 102. The Secretary may authorize the expenditure or transfer of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior and for the emergency rehabilitation of burned-over lands under its jurisdiction, and for emergency reclamation projects under section 410 of Public Law 95-87: *Provided,* That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further,* That no appropriations made in this title shall be available for acquisition of automatic data processing equipment, software, or services in excess of $1,000,000 systems life cost, without prior approval of the Secretary. 30 USC 1240.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 686): *Provided,* That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $300,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary, and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. No appropriations made in this title shall be available for the identification of lands not now so identified or acquisition (by withdrawal, transfer, or purchase) of lands for or associated with the Unique Wildlife Ecosystem Program as now defined by the United States Fish and Wildlife Service not authorized by law under an existing program.

Advisory group.
40 USC 131 note.

SEC. 108. The Secretary is authorized to appoint an advisory group which may include government officials, as well as members from outside the government to undertake such activities as may be appropriate to study the effect of future growth and development on the beauty, historic values and other features that make the national capital area unique, and to recommend measures that will protect its values. The advisory group shall designate a chairman and shall complete its work and submit to the Secretary and to the Congress a report with its findings and recommendations within three years of the date of its organization. To support its activities, the advisory group may also receive gifts and grants from private sources. Members of the group shall receive no compensation, but may be reimbursed for travel, per diem, and other reasonable expenses.

Report to Secretary of Interior and Congress.

SEC. 109. Except as specifically provided otherwise in this Act, no funds appropriated in this title shall be available to fulfill the requirements of section 8 of Public Law 94-458 as they apply to reporting to Congress on potential new areas of the National Park System: *Provided,* That not to exceed $100,000 may be available to study proposed new areas of the National Park System.

16 USC 1a-5.

SEC. 110. No appropriations made in this title shall be available for the withdrawal, transfer or purchase of any lands for the purpose of extending the current boundaries of the Snake River Birds of Prey Natural Area, Idaho, without specific provision therefor in appropriation Acts.

SEC. 111. The Secretary's authority to enter into contracts and agreements in any fiscal year pursuant to the Department of the Interior and Related Agencies Appropriations Act of 1962 for the development and operation of helium properties is terminated.

75 Stat. 246.

SEC. 112. (a) None of the funds appropriated in this Act shall be used for the implementation of any management plan for the Colorado River within the Grand Canyon National Park which reduces the number of user days or passenger-launches for commercial motorized watercraft excursions, for the preferred use period, from all current launch points below that which was available for the same period of use in the calendar year 1978.

"Preferred use period."

(b) For the purposes of this section "perferred use period" denotes the period May 1 through September 30, inclusive.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $122,200,000.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest insect and disease activities, $73,116,000, of which $66,136,000 shall remain available for obligation until September 30, 1982, to carry out activities authorized in Public Law 95-313.

16 USC 2101 note.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for liquidation of obligations incurred in the preceding fiscal year for forest fire protection and emergency rehabilitation, $879,614,000, of which $197,362,000 for reforestation, timber stand improvement, cooperative law enforcement, and maintenance of forest development roads and trails shall remain available for obligation until September 30, 1982.

CONSTRUCTION AND LAND ACQUISITION

For necessary expenses of the Forest Service, not otherwise provided for, for construction and land acquisition, $378,586,000, to remain available until expended, of which $22,429,000 is for construction and acquisition of buildings and other facilities; $353,662,000 is for construction of forest development roads and trails by the Forest Service and construction and maintenance of forest development roads by timber purchasers; and $2,495,000 is for acquisition of land and interests therein, required for management, protection, utilization, and research for the National Forest System and other Forest Service resources.

ACQUISITION OF LANDS FOR NATIONAL FORESTS

SPECIAL ACTS

For acquisition of land within the exterior boundaries of the Cache National Forest, Utah; Uinta and Wasatch National Forests, Utah; Toiyabe National Forest, Nevada; Angeles National Forest, California; and, San Bernardino and Cleveland National Forests, California, as authorized by law, $754,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands in accordance with the Act of December 4, 1967 (16 U.S.C. 484a), all funds deposited by public school authorities pursuant to that Act, to remain available until expended.

RANGELAND IMPROVEMENTS

For necessary expenses of range rehabilitation, protection, and improvement in accordance with section 401(b)(1), of the Act of October 21, 1976, Public Law 94-579, as amended, fifty percent of all moneys received during the prior fiscal year as fees for grazing domestic livestock on lands in National Forests in the sixteen western States, to remain available until expended. 43 USC 1751.

TIMBER SALVAGE SALES

Funds previously appropriated under this head may be recovered from receipts deposited on the applicable national forest. Such funds, when recovered, may be expended and recovered on any national forest.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 271 passenger

motor vehicles of which 8 will be used primarily for law enforcement purposes and of which 245 shall be for replacement only, acquisition of 51 passenger motor vehicles from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed 4 for replacement only, and acquisition of 61 aircraft from excess sources; (b) employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, and National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the U.S. Senate and the Committee on Agriculture in the U.S. House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System limitation for the emergency rehabilitation of burned-over lands under its jurisdiction.

Appropriations and funds available to the Forest Service shall be available to comply with the requirements of section 313(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)).

Funds available under the Act of March 4, 1913 (16 U.S.C. 501), may be merged with and made a part of the Construction and Land Acquisition and/or the National Forest System appropriations.

DEPARTMENT OF THE TREASURY

ENERGY SECURITY RESERVE

42 USC 5915 note.
Ante, p. 881.

In title I, chapter VIII of Public Law 96-304, under the subheading "ENERGY SECURITY RESERVE", the second paragraph shall be amended to read as follows:

93 Stat. 954.

"The total available funding (including funds committed or conditionally committed under authority of Public Law 96-126) shall be apportioned so as to provide $17,522,000,000 for purposes of title I, of which $6,000,000,000 shall be immediately available, $6,212,000,000 shall be available for obligation after June 30, 1982, and up to $5,310,000,000 shall be derived by transfer as provided above; and to provide $1,270,000,000 for purposes of title II, to be immediately available and to be appropriated as follows:

Ante, p. 685.

"(i) not to exceed $525,000,000 to the Secretary of Agriculture under section 204(a)(1) of Public Law 96-294;

"(ii) not to exceed $525,000,000 to the Secretary of Energy under section 204(a)(2) of Public Law 96-294: *Provided,* That $52,500,000 of such amount shall be available to the Secretary of Energy for carrying out commercialization activities other than those carried out by the Office of Alcohol Fuels; and

"(iii) not to exceed $220,000,000 to the Secretary of Energy for purposes of subtitle B."

Notwithstanding any other provision of law, funds committed to a loan guarantee default reserve for biomass energy projects author-

ized by title II of the Energy Security Act may be used to guarantee loans up to three times the amount held in reserve. Notwithstanding any public notice or solicitation announcement to the contrary, the Secretary of Energy and the Secretary of Agriculture may apply this loan guarantee leveraging authority to applications for alcohol fuel loan guarantees submitted under title II of the Energy Security Act prior to passage of this Act. *Ante*, p. 683.

DEPARTMENT OF ENERGY

ALTERNATIVE FUELS PRODUCTION

The provisions of section 19(m) of the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended, shall not apply to alternative fuels actions under Public Law 96-126 and Public Law 96-304. 42 USC 5915 note. 42 USC 5919. 93 Stat. 954. *Ante*, p. 857.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), $711,435,000, to remain available until expended: *Provided,* That no part of the sum herein appropriated shall be used for the field testing of nuclear explosives in the recovery of oil and gas. 42 USC 7101 note.

FOSSIL ENERGY CONSTRUCTION

For necessary expenses in connection with the purchase and construction of fossil energy plants, including the acquisition of interests, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $423,300,000, to remain available until expended.

ENERGY PRODUCTION, DEMONSTRATION, AND DISTRIBUTION

For necessary expenses in carrying out energy production, demonstration, and distribution activities, $226,062,000, of which $206,466,000 shall remain available until expended.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $862,107,000, to remain available until expended: *Provided,* That of the total amount of this appropriation, not to exceed $1,100,000 shall be available for a reserve to cover any defaults from loan guarantees issued for electric or hybrid vehicle research, development, and production as authorized by section 10 of the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976, as amended (15 U.S.C. 2509): *Provided further,* That the indebtedness guaranteed or committed to be guaranteed under said law shall not exceed the aggregate of $21,500,000: *Provided further,* That none of the funds provided for State energy conservation grants shall be available to any jurisdiction that has not implemented section 362(c)(5) of Public Law 94-163: *Provided further,* That for the purposes of section 601 of the Powerplant and Industrial Fuel Use Act of 1978, the term "local government" shall include— 42 USC 6322. 42 USC 8401a. 42 USC 8401. "Local government."

(1) any county, parish, city, town, township, village or other general purpose political subdivision of a State with the power to

levy taxes and expend Federal, State, and local funds and exercise governmental powers; and

(2) which (in whole or in part) is located in, or has authority over the energy impacted area: *Provided further,* That such term shall include a public or private nonprofit corporation, or a school, water, sewer, highway, or other public special purpose district, authority, or body, with the concurrence of the Governor: *Provided further,* That such term shall be applicable to all applications for assistance received since the effective date of section 601 of the Powerplant and Industrial Fuel Use Act of 1978.

42 USC 8401.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $176,867,000: *Provided,* That none of the funds herein appropriated shall be available to pay the expenses of parties intervening in regulatory proceedings before the Economic Regulatory Administration.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $102,000,000, to remain available until expended: *Provided,* That the President shall immediately seek to undertake, and thereafter continue, crude oil acquisition, transportation, and injection activities at a level sufficient to assure that crude oil storage in the Strategic Petroleum Reserve will be increased to an average annual rate of at least 300,000 barrels per day or a sustained average annual daily rate of fill which would fully utilize appropriated funds: *Provided further,* That the requirements of the preceding provision shall be in addition to the provisions of title VIII of the Energy Security Act and shall not affect such provisions of the Energy Security Act in any way.

42 USC 6231-6246. 42 USC 6240 note.

Ante, p. 775.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $104,117,000.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations to the Department of Energy under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From this appropriation, transfers of sums may be made to other agencies of the government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided,* That (1) revenues received from the sale of any products produced in facilities other than demonstration

plants operated as part of Department of Energy programs appropriated under this Act shall be covered into the Treasury as miscellaneous receipts: and (2) revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with demonstration plant projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further,* That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further,* That any contract, agreement or provision thereof entered into by the Secretary pursuant to this authority shall be submitted to the Senate Committee on Appropriations and the House Committee on Appropriations and a period of thirty days shall elapse while Congress is in session (in computing the thirty days, there shall be excluded the days on which either the Senate or the House is not in session because of adjournment for more than three days) before the contract, agreement or provision thereof shall become effective, except that such committees, after having received the proposed contract, agreement or provision thereof, may, by separate resolutions in writing, waive the condition of all or any portion of such thirty-day period.

Where the Secretary has the legal authority under other provisions of law, including other provisions of this Act, to undertake projects for the design, construction, or operation of Government-owned facilities for developing or demonstrating the conversion of coal into gaseous, liquid, or solid hydrocarbon products, the Secretary may use the authority contained in Public Law 85-804 (50 U.S.C. 1431-1435) with respect to such contracts or agreements for or related to such projects: *Provided,* That any contract, agreement, or provision thereof entered into by the Secretary using the authority of Public Law 85-804 shall be submitted to the Senate Committee on Appropriations and the House Committee on Appropriations and a period of thirty days shall elapse while Congress is in session (in computing the thirty days, there shall be excluded the days on which either the Senate or the House is not in session because of adjournment for more than three days) before the contract, agreement or provision thereof shall become effective, except that such committees, after having received the proposed contract, agreement or provision thereof, may, by separate resolutions in writing, waive the condition of all or any portion of such thirty-day period. The notification required herein shall be in lieu of the notification requirements of Public Law 85-804.

Contracts, submittal to congressional committees.

Notification.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH SERVICES ADMINISTRATION

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and V and section 757 of the Public Health Service Act, including hire of passenger motor vehicles and aircraft; purchase of reprints; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary, $594,119,000: *Provided,* That funds made available to tribes and tribal organizations through grants and

42 USC 2001-2004b.
25 USC 450 note.
25 USC 1601 note.
42 USC 241, 219, 294y-1.

contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450) shall remain available until September 30, 1982. Funds provided in this Act, and those provided in fiscal year 1980, for the Indian Health Service, may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further,* That not to exceed $20,000,000 of the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available until September 30, 1982, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further,* That funding herein shall be available for the lease of 24 units of existing housing in Bethel, Alaska, to be used as staff housing for the Bethel Alaska Native Hospital: *Provided further,* That funding herein shall be available for the lease of 47 units of housing to be constructed at Bethel, Alaska, for the Bethel Alaska Native Hospital.

42 USC 1395f, 1395n, 1395qq and note, 1396j and note, 1396d; 25 USC 1671 note.
42 USC 1395, 1396.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites; purchase and erection of portable buildings, purchase of trailers, and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $84,469,000, to remain available until expended.

25 USC 450 note.
25 USC 1601 note.

ADMINISTRATIVE PROVISIONS, HEALTH SERVICES ADMINISTRATION

Appropriations in this Act to the Health Services Administration, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided,* That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further,* That non-Indian patients may be extended health care at the Talihina Hospital in Talihina, Oklahoma, and the Zuni-Ramah Indian Health Service Unit in Zuni, New Mexico, subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe: *Provided further,* That notwithstanding the provisions of any other law, funds appropriated to the Indian Health Service in this Act and in Public Law 96-126, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation.

93 Stat 973.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For carrying out, to the extent not otherwise provided, Part A ($58,250,000), and Parts B and C ($19,930,000) of the Indian Education Act, and the General Education Provisions Act, $81,680,000. 20 USC 240, 242-244, 241aa-241ff, 241aa note, 241c and note, 241a note, 821 note, 822, 842, 887c 1412, 1211a, 1221.

DEPARTMENTAL MANAGEMENT

INSTITUTE OF MUSEUM SERVICES

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, $12,857,000: *Provided,* That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further,* That none of the funds appropriated to the Institute of Museum Services may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913. 20 USC 961 note.

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, $2,680,000 for operating expenses of the Commission. 25 USC 640d—640d-24.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 3 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $117,665,000: *Provided,* That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: *Provided further,* That none of these funds shall be available to a Smithsonian Research Foundation.

MUSEUM PROGRAMS AND RELATED RESEARCH

(SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department shall determine to be excess to the normal requirements of the United States, for necessary expenses for carrying out museum programs, scientific and cultural research, and related educational activities, as authorized by law, $3,650,000, to remain available until

expended and to be available only to United States institutions: *Provided,* That this appropriation shall be available, in addition to other appropriations to the Smithsonian Institution, for payments in the foregoing currencies: *Provided further,* That none of these funds shall be available to a Smithsonian Research Foundation: *Provided further,* That not to exceed $500,000 may be used to make grant awards to employees of the Smithsonian Institution.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $3,290,000, to remain available until expended.

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $7,539,000, to remain available until expended.

20 USC 53a.

CONSTRUCTION

For necessary expenses to construct museum support facilities, including not to exceed $50,000 for services as authorized by 5 U.S.C. 3109, $5,000,000, to remain available until expended.

SALARIES AND EXPENSES, NATIONAL GALLERY OF ART

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards and elevator operators, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and not to exceed $70,000 for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $24,314,000.

20 USC 71.

SALARIES AND EXPENSES, WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $1,795,000.

20 USC 80e note.

ARCHITECT OF THE CAPITOL

MEMORIAL TO HALE BOGGS

For use by the Architect of the Capitol for processing, and installing in the Congressional Cemetery, a traditional cenotaph for the late Honorable Hale Boggs, $7,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

SALARIES AND EXPENSES

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $125,860,000, of which $113,960,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, of which not less than 20 per centum of the funds provided for section 5(c) shall be available for assistance pursuant to section 5(g) of the Act, and $11,900,000 shall be available for administering the functions of the Act. 20 USC 951 note. 20 USC 954.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $32,700,000, to remain available until September 30, 1982, to the National Endowment for the Arts, of which $13,450,000 shall be available for purposes of section 5(1): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman under the provisions of section 10(a)(2) during the current and preceding fiscal years and the transition period, for which equal amounts have not previously been appropriated. 20 USC 959. 20 USC 954.

NATIONAL ENDOWMENT FOR THE HUMANITIES

SALARIES AND EXPENSES

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $117,799,000, of which $106,522,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, of which not less than 20 per centum shall be available for assistance pursuant to section 7(f) of the Act, and $11,277,000, shall be available for administering the functions of the Act. 20 USC 951 note. 20 USC 956.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $33,500,000, to remain available until September 30, 1982, of which $24,000,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of 20 USC 959. 20 USC 956.

20 USC 959.

money, and other property accepted by the Chairman under the provisions of section 10(a)(2) during the current and preceding fiscal years and the transition period, for which equal amounts have not previously been appropriated.

ADMINISTRATIVE PROVISION

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $285,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

16 USC 460*l*-5, 460*l*-7—460*l*-10, 460*l*-10d, 470b, 470c, 470f, 470h, 470i, 470*l*-470t.
5 USC 5316, 30 USC 191.

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 94-422, $1,523,000: *Provided,* That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), $2,270,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $30,000 to remain available for obligation until September 30, 1982.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

40 USC 885.

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,443,000 for operating and administrative expenses of the Corporation.

LAND ACQUISITION AND DEVELOPMENT FUND

40 USC 875.

The Pennsylvania Avenue Development Corporation is authorized to borrow from the Treasury of the United States $15,000,000, pursuant to the terms and conditions specified in paragraph 10, section 6, of Public Law 92-578.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $14,169,000, to remain available for obligation until expended. 40 USC 885.

FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE

PERMITTING AND ENFORCEMENT

For necessary expenses of the Federal Inspector for the Alaska Gas Pipeline, $21,483,000, of which not to exceed $1,500 may be used for offical reception and representation expenses.

HOLOCAUST MEMORIAL COUNCIL

For expenses necessary to carry out the Holocaust Memorial Council upon the enactment of the Act entitled "An Act to establish the United States Holocaust Memorial Council", $722,000. *Ante*, p. 1547.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided,* That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided,* That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete, in accordance with 18 U.S.C. 1913.

SEC. 305. No funds appropriated by this Act shall be available for the implementation or enforcement of any rule or regulation of the United States Fish and Wildlife Service, Department of the Interior, requiring the use of steel shot in connection with the hunting of waterfowl in any State of the United States unless the appropriate State regulatory authority approves such implementation and enforcement.

SEC. 306. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Audits.

SEC. 307. All unresolved audits currently pending within agencies and departments, for which appropriations are made under this Act, shall be resolved not later than September 30, 1981. Any new audits, involving questioned expenditures, arising after the enactment of this Act shall be resolved within 6 months of completing the initial audit report.

SEC. 308. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible.

SEC. 309. (a) Notwithstanding any other provisions of this Act, the amounts otherwise available to agencies under the Act for procurement of consultant services shall be reduced by the following: Forest Service, $156,000: *Provided,* That not to exceed $4,600,000 of the funds made available by section 112 of Public Law 96-369 shall be available to the Forest Service until expended for continuing development and demonstration of aerial logging systems.

Ante, p. 1356.

Submittal to congressional committees.
31 USC 28.
31 USC 2.

(b) For fiscal year 1982 and thereafter, a department or establishment—as defined in section 2 of the Budget and Accounting Act, 1921—shall submit annually to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which such funds are located; and a brief description of the need for consulting services, including a list of major programs that require consulting services.

Submittal to Congress.

(c) For fiscal year 1982 and thereafter, the Inspector General of such department or establishment, or comparable official, or if there is no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements.

16 USC 1606 note.

SEC. 310. The Statement of Policy transmitted by the President to the Speaker of the House of Representatives and the President of the Senate on June 19, 1980, as required under section 8 of the Forest and Rangeland Renewable Resources Planning Act of 1974, is revised and modified to read as follows:

16 USC 1606.

STATEMENT OF POLICY

BASIC PRINCIPLES

It is the policy of the United States—

(1) forests and rangeland, in all ownerships, should be managed to maximize their net social and economic contributions to the Nation's well being, in an environmentally sound manner.

(2) the Nation's forested land, except such public land that is determined by law or policy to be maintained in its existing or natural state, should be managed at levels that realize its capabilities to satisfy the Nation's need for food, fiber, energy, water, soil stability, wildlife and fish, recreation, and esthetic values.

(3) the productivity of suitable forested land, in all ownerships, should be maintained and enhanced to minimize the inflationary impacts of wood product prices on the domestic economy and permit a net export of forest products by the year 2030.

(4) in order to achieve this goal, it is recognized that in the major timber growing regions most of the commercial timber lands will have to be brought to and maintained, where possible, at 90 percent of their potential level of growth, consistent with the provisions of the National Forest Management Act of 1976 on Federal lands, so that all resources are utilized in the combination that will best meet the needs of the American people. 16 USC 1600 note.

(5) forest and rangeland protection programs should be improved to more adequately protect forest and rangeland resources from fire, erosion, insects, disease, and the introduction or spread of noxious weeds, insects, and animals.

(6) the Federal agencies carrying out the policies contained in this Statement will cooperate and coordinate their efforts to accomplish the goals contained in this Statement and will consult, coordinate, and cooperate with the planning efforts of the States.

(7) in carrying out the Assessment and the Program under the Forest and Rangeland Renewable Resources Planning Act of 1974 and the Appraisal and the Program under the Soil and Water Resources Conservation Act of 1977, the Secretary of Agriculture shall assure that resource and economic information and evaluation data will be continually improved so that the best possible information is always available for use by Federal agencies and the public. 16 USC 1600 note. 16 USC 2001 note.

RANGE LAND DATA BASE AND ITS IMPROVEMENT

The data on and understanding of the cover and condition of range lands is less refined than the data on and understanding of commercial forest land. Range lands have significant value in the production of water and protection of watersheds; the production of fish and wildlife food and habitat; recreation; and the production of livestock forage. An adequate data base on the cover and condition of range lands should be developed by the year 1990. Currently, cattle production from these lands is annually estimated at 213 million animal unit months of livestock forage. These lands should be maintained and enhanced, including their water and other resource values, so that they can annually provide 310 million animal units months of forage by the year 2030, along with other benefits.

GENERAL ACCEPTANCE OF HIGH BOUND PROGRAM

Congress generally accepts the "high-bound" program described on pages 7 through 18 of the 1980 Report to Congress on the Nation's Renewable Resources prepared by the Secretary of Agriculture. However, Congress finds that the "high-bound" program may not be sufficient to accomplish the goals contained in this statement, particularly in the areas of range and watershed resources, State and private forest cooperation and timber management.

STATE AND PRIVATE LANDS

States and owners of private forest and rangelands will be encouraged, consistent with their individual objectives, to manage their land in support of this Statement of Policy. The State and private forestry and range programs of the Forest Service will be essential to the furtherance of this Statement of Policy.

FUNDING THE GOALS

In order to accomplish the policy goals contained in this statement by the year 2030, the Federal Government should adequately fund programs of research (including cooperative research), extension, cooperative forestry assistance and protection, and improved management of the forest and rangelands. The Secretary of Agriculture shall continue his efforts to evaluate the cost-effectiveness of the renewable resource programs.

SEC. 311. None of the funds contained in this Act shall be used to demolish shelters erected on lands owned or managed by the Federal Government where no other shelter exists within a 5-mile radius.

Approved December 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1147 (Comm. on Appropriations) and No. 96-1470 (Comm. of Conference).

SENATE REPORT No. 96-985 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 126 (1980):

July 30, considered and passed House.

Nov. 13, 14, 17, considered and passed Senate, amended.

Nov. 21, House agreed to conference report; receded from its disagreement and concurred in certain Senate amendments, in others with amendments, and insisted on its disagreement to Senate amendment No. 128.

Dec. 1, Senate agreed to conference report; receded from its amendment No. 128 and concurred in House amendments.

Public Law 96-515
96th Congress

An Act

To amend the National Historic Preservation Act of 1966, and for other purposes.

Dec. 12, 1980
[H.R. 5496]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Historic Preservation Act Amendments of 1980".

National Historic Preservation Act Amendments of 1980.
16 USC 470 note.

TITLE I—FINDINGS AND POLICY OF NATIONAL HISTORIC PRESERVATION ACT

SEC. 101. (a) The first section of the Act of October 15, 1966 (16 U.S.C. 470-470t), hereinafter in this Act referred to as the "National Historic Preservation Act", is amended to read as follows:

"SEC. 1. (a) This Act may be cited as the 'National Historic Preservation Act'.

Short title.
16 USC 470.

"(b) The Congress finds and declares that—

"(1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;

"(2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;

"(3) historic properties significant to the Nation's heritage are being lost or substantially altered, often inadvertently, with increasing frequency;

"(4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;

"(5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation;

"(6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and

"(7) although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic

Preservation in the United States to expand and accelerate their historic preservation programs and activities.

16 USC 470-1.

"SEC. 2. It shall be the policy of the Federal Government, in cooperation with other nations and in partnership with the States, local governments, Indian tribes, and private organizations and individuals to—

"(1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;

"(2) provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations;

"(3) administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;

"(4) contribute to the preservation of nonfederally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;

"(5) encourage the public and private preservation and utilization of all usable elements of the Nation's historic built environment; and

"(6) assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.".

TITLE II—HISTORIC PRESERVATION PROGRAM

National Register of Historic Places, expansion and maintenance. 16 USC 470a.

SEC. 201. (a) Section 101 of the National Historic Preservation Act is amended to read as follows:

"SEC. 101. (a)(1)(A) The Secretary of the Interior is authorized to expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture.

National Historic Landmarks.

"(B) Properties meeting the criteria for National Historic Landmarks established pursuant to paragraph (2) shall be designated as 'National Historic Landmarks' and included on the National Register, subject to the requirements of paragraph (6). All historic properties included on the National Register on the date of the enactment of the National Historic Preservation Act Amendments of 1980 shall be deemed to be included on the National Register as of their initial listing for purposes of this Act. All historic properties listed in the Federal Register of February 6, 1979, as 'National Historic Landmarks' or thereafter prior to the effective date of this Act are declared by Congress to be National Historic Landmarks of national historic significance as of their initial listing as such in the Federal Register for purposes of this Act and the Act of August 21, 1935 (49 Stat. 666); except that in cases of National Historic Landmark districts for which no boundaries have been established, boundaries must first be published in the Federal Register and submitted to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

Publication in Federal Register. Submittal to congressional committees. *Ante*, p. 2987.

16 USC 450m, 450n.

Criteria and regulations.

"(2) The Secretary in consultation with national historical and archaeological associations, shall establish or revise criteria for

properties to be included on the National Register and criteria for National Historic Landmarks, and shall also promulgate or revise regulations as may be necessary for—

"(A) nominating properties for inclusion in, and removal from, the National Register and the recommendation of properties by certified local governments;

"(B) designating properties as National Historic Landmarks and removing such designation;

"(C) considering appeals from such recommendations, nominations, removals, and designations (or any failure or refusal by a nominating authority to nominate or designate);

"(D) nominating historic properties for inclusion in the World Heritage List in accordance with the terms of the Convention concerning the Protection of the World Cultural and Natural Heritage;

"(E) making determinations of eligibility of properties for inclusion on the National Register; and

"(F) notifying the owner of a property, any appropriate local governments, and the general public, when the property is being considered for inclusion on the National Register, for designation as a National Historic Landmark or for nomination to the World Heritage List.

Properties, nomination.

"(3) Subject to the requirements of paragraph (6), any State which is carrying out a program approved under subsection (b), shall nominate to the Secretary properties which meet the criteria promulgated under subsection (a) for inclusion on the National Register. Subject to paragraph (6), any property nominated under this paragraph or under section 110(a)(2) shall be included on the National Register on the date forty-five days after receipt by the Secretary of the nomination and the necessary documentation, unless the Secretary disapproves such nomination within such forty-five day period or unless an appeal is filed under paragraph (5).

Post, p. 2996.

Determinations.

"(4) Subject to the requirements of paragraph (6) the Secretary may accept a nomination directly from any person or local government for inclusion of a property on the National Register only if such property is located in a State where there is no program approved under subsection (b). The Secretary may include on the National Register any property for which such a nomination is made if he determines that such property is eligible in accordance with the regulations promulgated under paragraph (2). Such determination shall be made within ninety days from the date of the nomination unless the nomination is appealed under paragraph (5).

Appeals.

"(5) Any person or local government may appeal to the Secretary a nomination of any historic property for inclusion on the National Register and may appeal to the Secretary the failure or refusal of a nominating authority to nominate a property in accordance with this subsection.

Regulations.
Owner concurrence or objections.

"(6) The Secretary shall promulgate regulations requiring that before any property or district may be included on the National Register or designated as a National Historic Landmark, the owner or owners of such property, or a majority of the owners of the properties within the district in the case of an historic district, shall be given the opportunity (including a reasonable period of time) to concur in, or object to, the nomination of the property or district for such inclusion or designation. If the owner or owners of any privately owned property, or a majority of the owners of such properties within the district in the case of an historic district, object to such inclusion or designation, such property shall not be included on the National

Review.

Register or designated as a National Historic Landmark until such objection is withdrawn. The Secretary shall review the nomination of the property or district where any such objection has been made and shall determine whether or not the property or district is eligible for such inclusion or designation, and if the Secretary determines that such property or district is eligible for such inclusion or designation, he shall inform the Advisory Council on Historic Preservation, the appropriate State Historic Preservation Officer, the appropriate chief elected local official and the owner or owners of such property, of his determination. The regulations under this paragraph shall include provisions to carry out the purposes of this paragraph in the case of multiple ownership of a single property.

Regulations.

"(7) The Secretary shall promulgate, or revise, regulations—

"(A) ensuring that significant prehistoric and historic artifacts, and associated records, subject to section 110 of this Act, the Act of June 27, 1960 (16 U.S.C 469c), and the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa and following) are deposited in an institution with adequate long-term curatorial capabilities;

Post, p. 2996.

"(B) establishing a uniform process and standards for documenting historic properties by public agencies and private parties for purposes of incorporation into, or complementing, the national historical architectural and engineering records within the Library of Congress; and

"(C) certifying local governments, in accordance with subsection (c)(1) and for the allocation of funds pursuant to section 103(c) of this Act.

Post, p. 2994.

State Historic Preservation Programs, regulations.

"(b)(1) The Secretary, in consultation with the National Conference of State Historic Preservation Officers and the National Trust for Historic Preservation, shall promulgate or revise regulations for State Historic Preservation Programs. Such regulations shall provide that a State program submitted to the Secretary under this section shall be approved by the Secretary if he determines that the program—

"(A) provides for the designation and appointment by the Governor of a 'State Historic Preservation Officer' to administer such program in accordance with paragraph (3) and for the employment or appointment by such officer of such professionally qualified staff as may be necessary for such purposes;

"(B) provides for an adequate and qualified State historic preservation review board designated by the State Historic Preservation Officer unless otherwise provided for by State law; and

"(C) provides for adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register.

Evaluation.

"(2) Periodically, but not less than every four years after the approval of any State program under this subsection, the Secretary shall evaluate such program to make a determination as to whether or not it is in compliance with the requirements of this Act. If at any time, the Secretary determines that a State program does not comply with such requirements, he shall disapprove such program, and suspend in whole or in part assistance to such State under subsection (d)(1), unless there are adequate assurances that the program will comply with such requirements within a reasonable period of time.

Audits.

The Secretary may also conduct periodic fiscal audits of State programs approved under this section.

"(ii) for demonstration projects which will provide information concerning professional methods and techniques having application to historic properties,

"(iii) for the training and development of skilled labor in trades and crafts, and in analysis and curation, relating to historic preservation; and

"(iv) to assist persons or small businesses within any historic district included in the National Register to remain within the district.

"(B) The Secretary may also, in consultation with the appropriate State Historic Preservation Officer, make grants or loans or both under this section to Indian tribes and to nonprofit organizations representing ethnic or minority groups for the preservation of their cultural heritage. Grants or loans.

"(C) Grants may be made under subparagraph (A) (i) and (iv) only to the extent that the project cannot be carried out in as effective a manner through the use of an insured loan under section 104. *Post*, p. 2994.

"(e) No part of any grant made under this section may be used to compensate any person intervening in any proceeding under this Act.

"(f) In consultation with the Advisory Council on Historic Preservation, the Secretary shall promulgate guidelines for Federal agency responsibilities under section 110 of this title. *Post*, p. 2996.

"(g) Within one year after the date of enactment of the National Historic Preservation Act Amendments of 1980, the Secretary shall establish, in consultation with the Secretaries of Agriculture and Defense, the Smithsonian Institution, and the Administrator of the General Services Administration, professional standards for the preservation of historic properties in Federal ownership or control. *Ante*, p. 2987.

"(h) The Secretary shall develop and make available to Federal agencies, State and local governments, private organizations and individuals, and other nations and international organizations pursuant to the World Heritage Convention, training in, and information concerning, professional methods and techniques for the preservation of historic properties and for the administration of the historic preservation program at the Federal, State, and local level. The Secretary shall also develop mechanisms to provide information concerning historic preservation to the general public including students.". Historic property preservation, information availability.

SEC. 202. (a) Section 102(a)(3) of the National Historic Preservation Act is amended to read as follows: 16 USC 470b.

"(3) for more than 50 per centum of the aggregate cost of carrying out projects and programs specified in section 101(d) (1) and (2) in any one fiscal year, except that for the costs of State or local historic surveys or inventories the Secretary shall provide 70 per centum of the aggregate cost involved in any one fiscal year.". *Ante*, p. 2988.

(b) Section 102(a) of such Act is amended by adding the following at the end thereof: "Except as permitted by other law, the State share of the costs referred to in paragraph (3) shall be contributed by non-Federal sources. Notwithstanding any other provision of law, no grant made pursuant to this Act shall be treated as taxable income for purposes of the Internal Revenue Code of 1954.". 26 USC 1.

(c) Subsection (c) of section 102 of such Act is repealed. Repeal.

SEC. 203. (a) Subsection (b) of section 103 of the National Historic Preservation Act is amended by inserting after "projects" the words "and programs" and by striking out the second sentence thereof and substituting the following: "The Secretary shall notify each State of its apportionment under this subsection within thirty days following Apportionment. 16 USC 470c.

the date of enactment of legislation appropriating funds under this Act.".

16 USC 470c. (b) Section 103 of such Act is amended by adding at the end thereof the following:

"(c) A minimum of 10 per centum of the annual apportionment distributed by the Secretary to each State for the purposes of carrying out this Act shall be transferred by the State, pursuant to the requirements of this Act, to local governments which are certified under section 101(c) for historic preservation projects or programs of such local governments. In any year in which the total annual apportionment to the States exceeds $65,000,000, one half of the excess shall also be transferred by the States to local governments certified pursuant to section 101(c).

Funds, distribution guidelines. "(d) The Secretary shall establish guidelines for the use and distribution of funds under subsection (c) to insure that no local government receives a disproportionate share of the funds available, and may include a maximum or minimum limitation on the amount of funds distributed to any single local government. The guidelines shall not limit the ability of any State to distribute more than 10 per centum of its annual apportionment under subsection (c), nor shall the Secretary require any State to exceed the 10 per centum minimum distribution to local governments.".

Loan insurance. 16 USC 470d. SEC. 204. Section 104 of the National Historic Preservation Act is amended to read as follows:

"SEC. 104. (a) The Secretary shall establish and maintain a program by which he may, upon application of a private lender, insure loans (including loans made in accordance with a mortgage) made by such lender to finance any project for the preservation of a property included on the National Register.

"(b) A loan may be insured under this section only if—

"(1) the loan is made by a private lender approved by the Secretary as financially sound and able to service the loan properly;

"(2) the amount of the loan, and interest rate charged with respect to the loan, do not exceed such amount, and such a rate, as is established by the Secretary, by rule;

"(3) the Secretary has consulted the appropriate State Historic Preservation Officer concerning the preservation of the historic property;

"(4) the Secretary has determined that the loan is adequately secured and there is reasonable assurance of repayment;

"(5) the repayment period of the loan does not exceed the lesser of forty years or the expected life of the asset financed;

"(6) the amount insured with respect to such loan does not exceed 90 per centum of the loss sustained by the lender with respect to the loan; and

"(7) the loan, the borrower, and the historic property to be preserved meet other terms and conditions as may be prescribed by the Secretary, by rule, especially terms and conditions relating to the nature and quality of the preservation work.

Interest rates. The Secretary shall consult with the Secretary of the Treasury regarding the interest rate of loans insured under this section.

"(c) The aggregate unpaid principal balance of loans insured under this section and outstanding at any one time may not exceed the amount which has been covered into the Historic Preservation Fund pursuant to section 108 and subsections (g) and (i) of this section, as in effect on the date of the enactment of this Act but which has not been appropriated for any purpose.

16 USC 470h.

"(ii) for demonstration projects which will provide information concerning professional methods and techniques having application to historic properties,

"(iii) for the training and development of skilled labor in trades and crafts, and in analysis and curation, relating to historic preservation; and

"(iv) to assist persons or small businesses within any historic district included in the National Register to remain within the district.

"(B) The Secretary may also, in consultation with the appropriate State Historic Preservation Officer, make grants or loans or both under this section to Indian tribes and to nonprofit organizations representing ethnic or minority groups for the preservation of their cultural heritage. Grants or loans.

"(C) Grants may be made under subparagraph (A) (i) and (iv) only to the extent that the project cannot be carried out in as effective a manner through the use of an insured loan under section 104. *Post*, p. 2994.

"(e) No part of any grant made under this section may be used to compensate any person intervening in any proceeding under this Act.

"(f) In consultation with the Advisory Council on Historic Preservation, the Secretary shall promulgate guidelines for Federal agency responsibilities under section 110 of this title. *Post*, p. 2996.

"(g) Within one year after the date of enactment of the National Historic Preservation Act Amendments of 1980, the Secretary shall establish, in consultation with the Secretaries of Agriculture and Defense, the Smithsonian Institution, and the Administrator of the General Services Administration, professional standards for the preservation of historic properties in Federal ownership or control. *Ante*, p. 2987.

"(h) The Secretary shall develop and make available to Federal agencies, State and local governments, private organizations and individuals, and other nations and international organizations pursuant to the World Heritage Convention, training in, and information concerning, professional methods and techniques for the preservation of historic properties and for the administration of the historic preservation program at the Federal, State, and local level. The Secretary shall also develop mechanisms to provide information concerning historic preservation to the general public including students.". Historic property preservation, information availability.

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(b) Section 102(a) of such Act is amended by adding the following at the end thereof: "Except as permitted by other law, the State share of the costs referred to in paragraph (3) shall be contributed by non-Federal sources. Notwithstanding any other provision of law, no grant made pursuant to this Act shall be treated as taxable income for purposes of the Internal Revenue Code of 1954.". 26 USC 1.

(c) Subsection (c) of section 102 of such Act is repealed. Repeal.

SEC. 203. (a) Subsection (b) of section 103 of the National Historic Preservation Act is amended by inserting after "projects" the words "and programs" and by striking out the second sentence thereof and substituting the following: "The Secretary shall notify each State of its apportionment under this subsection within thirty days following Apportionment. 16 USC 470c.

the date of enactment of legislation appropriating funds under this Act.".

16 USC 470c. (b) Section 103 of such Act is amended by adding at the end thereof the following:

"(c) A minimum of 10 per centum of the annual apportionment distributed by the Secretary to each State for the purposes of carrying out this Act shall be transferred by the State, pursuant to the requirements of this Act, to local governments which are certified under section 101(c) for historic preservation projects or programs of such local governments. In any year in which the total annual apportionment to the States exceeds $65,000,000, one half of the excess shall also be transferred by the States to local governments certified pursuant to section 101(c).

Funds, distribution guidelines. "(d) The Secretary shall establish guidelines for the use and distribution of funds under subsection (c) to insure that no local government receives a disproportionate share of the funds available, and may include a maximum or minimum limitation on the amount of funds distributed to any single local government. The guidelines shall not limit the ability of any State to distribute more than 10 per centum of its annual apportionment under subsection (c), nor shall the Secretary require any State to exceed the 10 per centum minimum distribution to local governments.".

Loan insurance. 16 USC 470d. SEC. 204. Section 104 of the National Historic Preservation Act is amended to read as follows:

"SEC. 104. (a) The Secretary shall establish and maintain a program by which he may, upon application of a private lender, insure loans (including loans made in accordance with a mortgage) made by such lender to finance any project for the preservation of a property included on the National Register.

"(b) A loan may be insured under this section only if—

"(1) the loan is made by a private lender approved by the Secretary as financially sound and able to service the loan properly;

"(2) the amount of the loan, and interest rate charged with respect to the loan, do not exceed such amount, and such a rate, as is established by the Secretary, by rule;

"(3) the Secretary has consulted the appropriate State Historic Preservation Officer concerning the preservation of the historic property;

"(4) the Secretary has determined that the loan is adequately secured and there is reasonable assurance of repayment;

"(5) the repayment period of the loan does not exceed the lesser of forty years or the expected life of the asset financed;

"(6) the amount insured with respect to such loan does not exceed 90 per centum of the loss sustained by the lender with respect to the loan; and

"(7) the loan, the borrower, and the historic property to be preserved meet other terms and conditions as may be prescribed by the Secretary, by rule, especially terms and conditions relating to the nature and quality of the preservation work.

Interest rates. The Secretary shall consult with the Secretary of the Treasury regarding the interest rate of loans insured under this section.

"(c) The aggregate unpaid principal balance of loans insured under this section and outstanding at any one time may not exceed the amount which has been covered into the Historic Preservation Fund pursuant to section 108 and subsections (g) and (i) of this section, as in effect on the date of the enactment of this Act but which has not been appropriated for any purpose.

16 USC 470h.

"(d) Any contract of insurance executed by the Secretary under this section may be assignable, shall be an obligation supported by the full faith and credit of the United States, and shall be incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder. Insurance contract.

"(e) The Secretary shall specify, by rule and in each contract entered into under this section, the conditions and method of payment to a private lender as a result of losses incurred by the lender on any loan insured under this section.

"(f) In entering into any contract to insure a loan under this section, the Secretary shall take steps to assure adequate protection of the financial interests of the Federal Government. The Secretary may— Federal financial interests, protection.

"(1) in connection with any foreclosure proceeding, obtain, on behalf of the Federal Government, the property securing a loan insured under this title; and

"(2) operate or lease such property for such period as may be necessary to protect the interest of the Federal Government and to carry out subsection (g).

"(g)(1) In any case in which a historic property is obtained pursuant to subsection (f), the Secretary shall attempt to convey such property to any governmental or nongovernmental entity under such conditions as will ensure the property's continued preservation and use; except that if, after a reasonable time, the Secretary, in consultation with the Advisory Council on Historic Preservation, determines that there is no feasible and prudent means to convey such property and to ensure its continued preservation and use, then the Secretary may convey the property at the fair market value of its interest in such property to any entity without restriction. Property conveyance.

"(2) Any funds obtained by the Secretary in connection with the conveyance of any property pursuant to paragraph (1) shall be covered into the historic preservation fund, in addition to the amounts covered into such fund pursuant to section 108 and subsection (i) of this section, and shall remain available in such fund until appropriated by the Congress to carry out the purposes of this Act. 16 USC 470h.

"(h) The Secretary may assess appropriate and reasonable fees in connection with insuring loans under this section. Any such fees shall be covered into the Historic Preservation Fund, in addition to the amounts covered into such fund pursuant to section 108 and subsection (g) of this section, and shall remain available in such fund until appropriated by the Congress to carry out purposes of this Act. Fees.

"(i) Notwithstanding any other provision of law, any loan insured under this section shall be treated as non-Federal funds for the purposes of satisfying any requirement of any other provision of law under which Federal funds to be used for any project or activity are conditioned upon the use of non-Federal funds by the recipient for payment of any portion of the costs of such project or activity.

"(j) Effective after the fiscal year 1981 there are authorized to be appropriated, such sums as may be necessary to cover payments incurred pursuant to subsection (e). Appropriation authorization.

"(k) No debt obligation which is made or committed to be made, or which is insured or committed to be insured, by the Secretary under this section shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank.".

SEC. 205. Section 108 of the National Historic Preservation Act is amended by inserting after the term "1981" the phrase "and $150,000,000 for each of fiscal years 1982 through 1987". 16 USC 470h.

SEC. 206. Title I of the National Historic Preservation Act is amended by adding the following new section at the end thereof:

Federal agencies, responsibilities. 16 USC 470h-2.

"SEC. 110. (a)(1) The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each Federal agency shall use, to the maximum extent feasible, historic properties available to the agency. Each agency shall undertake, consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 101(f), any preservation, as may be necessary to carry out this section.

Ante, p. 2988.

Agency-owned properties.

"(2) With the advice of the Secretary and in cooperation with the State historic preservation officer for the State involved, each Federal agency shall establish a program to locate, inventory, and nominate to the Secretary all properties under the agency's ownership or control by the agency, that appear to qualify for inclusion on the National Register in accordance with the regulations promulgated under section 101(a)(2)(A). Each Federal agency shall exercise caution to assure that any such property that might qualify for inclusion is not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly.

Ante, p. 2988.

Records, storage.

"(b) Each Federal agency shall initiate measures to assure that where, as a result of Federal action or assistance carried out by such agency, an historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records, and that such records then be deposited, in accordance with section 101(a), in the Library of Congress or with such other appropriate agency as may be designated by the Secretary, for future use and reference.

Preservation officer. *Post*, p. 3000.

"(c) The head of each Federal agency shall, unless exempted under section 214, designate a qualified official to be known as the agency's 'preservation officer' who shall be responsible for coordinating that agency's activities under this Act. Each Preservation Officer may, in order to be considered qualified, satisfactorily complete an appropriate training program established by the Secretary under section 101(g).

Ante, p. 2988.

"(d) Consistent with the agency's missions and mandates, all Federal agencies shall carry out agency programs and projects (including those under which any Federal assistance is provided or any Federal license, permit, or other approval is required) in accordance with the purposes of this Act and, give consideration to programs and projects which will further the purposes of this Act.

Plans, review and approval.

"(e) The Secretary shall review and approve the plans of transferees of surplus federally owned historic properties not later than ninety days after his receipt of such plans to ensure that the prehistorical, historical, architectural, or culturally significant values will be preserved or enhanced.

"(f) Prior to the approval of any Federal undertaking which may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking.

Preservation costs.

"(g) Each Federal agency may include the costs of preservation activities of such agency under this Act as eligible project costs in all undertakings of such agency or assisted by such agency. The

eligible project costs may also include amounts paid by a Federal agency to any State to be used in carrying out such preservation responsibilities of the Federal agency under this Act, and reasonable costs may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit.

"(h) The Secretary shall establish an annual preservation awards program under which he may make monetary awards in amounts of not to exceed $1,000 and provide citations for special achievement to officers and employees of Federal, State, and certified local governments in recognition of their outstanding contributions to the preservation of historic resources. Such program may include the issuance of annual awards by the President of the United States to any citizen of the United States recommended for such award by the Secretary. Preservation awards program.

"(i) Nothing in this Act shall be construed to require the preparation of an environmental impact statement where such a statement would not otherwise be required under the National Environmental Policy Act of 1969, and nothing in this Act shall be construed to provide any exemption from any requirement respecting the preparation of such a statement under such Act. 42 USC 4321 note.

"(j) The Secretary shall promulgate regulations under which the requirements of this section may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the national security.". Regulations.

SEC. 207. Title I of the National Historic Preservation Act is amended by adding the following at the end thereof:

"SEC. 111. (a) Notwithstanding any other provision of law, any Federal agency may, after consultation with the Advisory Council on Historic Preservation, lease an historic property owned by the agency to any person or organization, or exchange any property owned by the agency with comparable historic property, if the agency head determines that the lease or exchange will adequately insure the preservation of the historic property. Leases. 16 USC 470h-3.

"(b) The proceeds of any lease under subsection (a) may, notwithstanding any other provision of law, be retained by the agency entering into such lease and used to defray the costs of administration, maintenance, repair, and related expenses incurred by the agency with respect to such property or other properties which are on the National Register which are owned by, or are under the jurisdiction or control of, such agency. Any surplus proceeds from such leases shall be deposited into the Treasury of the United States at the end of the second fiscal year following the fiscal year in which such proceeds were received. Proceeds. Surplus funds.

"(c) The head of any Federal agency having responsibility for the management of any historic property may, after consultation with the Advisory Council on Historic Preservation, enter into contracts for the management of such property. Any such contract shall contain such terms and conditions as the head of such agency deems necessary or appropriate to protect the interests of the United States and insure adequate preservation of the historic property.". Contracts.

SEC. 208. Notwithstanding section 7(a) of the Act of June 27, 1960 (16 U.S.C. 469c), or any other provision of law to the contrary— 16 USC 469c-2.

(1) identification, surveys, and evaluation carried out with respect to historic properties within project areas may be treated for purposes of any law or rule of law as planning costs of the project and not as costs of mitigation;

(2) reasonable costs for identification, surveys, evaluation, and data recovery carried out with respect to historic properties within project areas may be charged to Federal licensees and

permittees as a condition to the issuance of such license or permit; and

Waiver.

(3) Federal agencies, with the concurrence of the Secretary and after notification of the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, are authorized to waive, in appropriate cases, the 1 per centum limitation contained in section 7(a) of such Act.

16 USC 469c.

TITLE III—AMENDMENTS TO TITLE II OF NATIONAL HISTORIC PRESERVATION ACT

16 USC 470i.

SEC. 301. (a) Section 201(a) of the National Historic Preservation Act is amended by striking out "twenty-nine" and all that follows and substituting: "the following members:

"(1) a Chairman appointed by the President selected from the general public;

"(2) the Secretary of the Interior;

"(3) the Architect of the Capitol;

"(4) the Secretary of Agriculture and the heads of four other agencies of the United States (other than the Department of the Interior) the activities of which affect historic preservation, appointed by the President;

"(5) one Governor appointed by the President;

"(6) one mayor appointed by the President;

"(7) the President of the National Conference of State Historic Preservation Officers;

"(8) the Chairman of the National Trust for Historic Preservation;

"(9) four experts in the field of historic preservation appointed by the President from the disciplines of architecture, history, archeology, and other appropriate disciplines; and

"(10) three at-large members from the general public, appointed by the President.".

(b) Section 201(b) of such Act is amended by deleting (1) through (17) and substituting (2) through (8) (other than (5) and (6))" and by inserting the following before the period ", except that, in the case of paragraphs (2) and (4), no such officer other than an Assistant Secretary or an officer having major department-wide or agency-wide responsibilities may be so designated".

Term of office.

(c) Section 201(c) of such Act is amended to read as follows:

"(c) Each member of the Council appointed under paragraph (1), and under paragraphs (9) and (10) of subsection (a) shall serve for a term of four years from the expiration of his predecessor's term; except that the members first appointed under that paragraph shall serve for terms of one to four years, as designated by the President at the time of appointment, in such manner as to insure that the terms of not more than two of them will expire in any one year. The members appointed under paragraphs (5) and (6) shall serve for the term of their elected office but not in excess of four years. An appointed member may not serve more than two terms. An appointed member whose term has expired shall serve until that member's successor has been appointed.".

Vacancies.

(d) Section 201(d) of such Act is amended to read as follows:

"(d) A vacancy in the Council shall not affect its powers, but shall be filled, not later than sixty days after such vacancy commences, in the same manner as the original appointment (and for the balance of any unexpired terms). The members of the Advisory Council on

Historic Preservation appointed by the President under this Act as in effect on the day before the enactment of the National Historic Preservation Act Amendments of 1980 shall remain in office until all members of the Council, as specified in this section, have been appointed. The members first appointed under this section shall be appointed not later than one hundred and eighty days after the enactment of the National Historic Preservation Act Amendments of 1980.". *Ante*, p. 2987.

(e) Section 201(e) of such Act is amended to read as follows: 16 USC 470i.

"(e) The President shall designate a Vice Chairman, from the members appointed under paragraph (5), (6), (9), or (10). The Vice Chairman may act in place of the Chairman during the absence or disability of the Chairman or when the office is vacant.".

(f) Section 201(f) of such Act is amended by deleting the word "Fifteen" and substituting in lieu thereof the word "Nine".

(g)(1) Section 202(a) of such Act is amended by striking out "and" after the semicolon in paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraphs: 16 USC 470j.

"(6) review the policies and programs of Federal agencies and recommend to such agencies methods to improve the effectiveness, coordination, and consistency of those policies and programs with the policies and programs carried out under this Act; and

"(7) inform and educate Federal agencies, State and local governments, Indian tribes, other nations and international organizations and private groups and individuals as to the Council's authorized activities.".

(2) Section 202(b) of such Act is amended by inserting the following before the period at the end thereof: "and shall provide the Council's assessment of current and emerging problems in the field of historic preservation and an evaluation of the effectiveness of the programs of Federal agencies, State and local governments, and the private sector in carrying out the purposes of this Act".

(h) Section 204 of such Act is amended by striking out the first sentence and so much of the second sentence as precedes the words "shall receive" and substituting "The members of the Council specified in paragraphs (2), (3), and (4) of section 201(a) shall serve without additional compensation. The other members of the Council". 16 USC 470*l*. *Ante*, p. 2998.

(i) The third sentence of section 205(b) of such Act is amended by inserting after the words "whenever appropriate" the phrase ", including enforcement of agreements with Federal agencies to which the Council is a party". 16 USC 470m.

(j) Section 205(g) of such Act is amended by (1) inserting after the word "duties" in the second sentence "and may also receive donations of moneys for such purpose, and the Executive Director is authorized, in his discretion, to accept, hold, use, expend, and administer the same for the purposes of this Act"; and (2) striking out "(1) through (16)" and substituting "(2) through (4)".

(k) Section 210 of such Act is amended by striking out the first sentence thereof. 16 USC 470r.

(l) Section 211 of such Act is amended by adding the following at the end thereof: "The Council shall, by regulation, establish such procedures as may be necessary to provide for participation by local governments in proceedings and other actions taken by the Council with respect to undertakings referred to in section 106 which affect such local governments.". 16 USC 470s. 16 USC 470f.

SEC. 302. (a) Title II of the National Historic Preservation Act is amended by adding the following new sections at the end thereof:

Report.
16 USC 470u.

"SEC. 213. To assist the Council in discharging its responsibilities under this Act, the Secretary at the request of the Chairman, shall provide a report to the Council detailing the significance of any historic property, describing the effects of any proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects.

Regulations or guidelines.
16 USC 470v.

"SEC. 214. The Council, with the concurrence of the Secretary, shall promulgate regulations or guidelines, as appropriate, under which Federal programs or undertakings may be exempted from any or all of the requirements of this Act when such exemption is determined to be consistent with the purposes of this Act, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic properties.".

16 USC 470t.

(b) Section 212(b) of such Act is amended by striking out "Senate Committee on Interior and Insular Affairs" and substituting "Senate Committee on Energy and Natural Resources".

TITLE IV—INTERNATIONAL ACTIVITIES AND WORLD HERITAGE CONVENTION

16 USC 470a-1.

SEC. 401. (a) The Secretary of the Interior shall direct and coordinate United States participation in the Convention Concerning the

27 UST 37.

Protection of the World Cultural and Natural Heritage, approved by the Senate on October 26, 1973, in cooperation with the Secretary of State, the Smithsonian Institution, and the Advisory Council on Historic Preservation. Whenever possible, expenditures incurred in carrying out activities in cooperation with other nations and international organizations shall be paid for in such excess currency of the country or area where the expense is incurred as may be available to the United States.

World Heritage Committee nominations.

(b) The Secretary of the Interior shall periodically nominate properties he determines are of international significance to the World Heritage Committee on behalf of the United States. No property may be so nominated unless it has previously been determined to be of national significance. Each such nomination shall include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment (including restrictive covenants, easements, or other forms of protection). Before making any such nomination, the Secretary shall notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

Notification of congressional committees.

(c) No non-Federal property may be nominated by the Secretary of the Interior to the World Heritage Committee for inclusion on the World Heritage List unless the owner of the property concurs in writing to such nomination.

16 USC 470a-2.

SEC. 402. Prior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on the applicable country's equivalent of the National Register, the head of a Federal agency having direct or indirect jurisdiction over such undertaking shall take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effects.

TITLE V—GENERAL, ADMINISTRATIVE, AND MISCELLANEOUS PROVISIONS

SEC. 501. The National Historic Preservation Act is amended by adding the following new title at the end thereof:

"TITLE III

"SEC. 301. As used in this Act, the term— Definitions. 16 USC 470w.

"(1) 'Agency' means agency as such term is defined in section 551 of title 5, United States Code, except that in the case of any Federal program exempted under section 214, the agency administering such program shall not be treated as an agency with respect to such program. *Ante*, p. 3000.

"(2) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands.

"(3) 'Local government' means a city, county, parish, township, municipality, or borough, or any other general purpose political subdivision of any State.

"(4) 'Indian tribe' means the governing body of any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary of the Interior and for which the United States holds land in trust or restricted status for that entity or its members. Such term also includes any Native village corporation, regional corporation, and Native Group established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1701 et seq.). 43 USC 1601 note.

"(5) 'Historic property' or 'historic resource' means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register; such term includes artifacts, records, and remains which are related to such a district, site, building, structure, or object.

"(6) 'National Register' or 'Register' means the National Register of Historic Places established under section 101. *Ante*, p. 2988.

"(7) 'Undertaking' means any action as described in section 106. 16 USC 470f.

"(8) 'Preservation' or 'historic preservation' includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance and reconstruction, or any combination of the foregoing activities.

"(9) 'Cultural park' means a definable urban area which is distinguished by historic resources and land related to such resources and which constitutes an interpretive, educational, and recreational resource for the public at large.

"(10) 'Historic conservation district' means an urban area of one or more neighborhoods and which contains (A) historic properties, (B) buildings having similar or related architectural characteristics, (C) cultural cohesiveness, or (D) any combination of the foregoing.

"(11) 'Secretary' means the Secretary of the Interior except where otherwise specified.

"(12) 'State historic preservation review board' means a board, council, commission, or other similar collegial body established as provided in section 101(b)(1)(B)— *Ante*, p. 2988.

Membership.

"(A) the members of which are appointed by the State Historic Preservation Officer (unless otherwise provided for by State law),

"(B) a majority of the members of which are professionals qualified in the following and related disciplines: history, prehistoric and historic archaeology, architectural history, and architecture, and

Authority.

"(C) which has the authority to—

"(i) review National Register nominations and appeals from nominations;

"(ii) review appropriate documentation submitted in conjunction with the Historic Preservation Fund;

"(iii) provide general advice and guidance to the State Historic Preservation Officer, and

"(iv) perform such other duties as may be appropriate.

"(13) 'Historic preservation review commission' means a board, council, commission, or other similar collegial body which is established by State or local legislation as provided in section 101(c)(1)(B), and the members of which are appointed, unless otherwise provided by State or local legislation, by the chief elected official of the jurisdiction concerned from among—

Ante, p. 2988.

"(A) professionals in the disciplines of architecture, history, architectural history, planning, archaeology, or related disciplines, to the extent such professionals are available in the community concerned, and

"(B) such other persons as have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines and as will provide for an adequate and qualified commission.

Expenditures.
16 USC 470w-1.

"SEC. 302. Where appropriate, each Federal agency is authorized to expend funds appropriated for its authorized programs for the purposes of activities carried out pursuant to this Act, except to the extent appropriations legislation expressly provides otherwise.

Gifts or donations.
16 USC 470w-2.

"SEC. 303. (a) The Secretary is authorized to accept donations and bequests of money and personal property for the purposes of this Act and shall hold, use, expend, and administer the same for such purposes.

"(b) The Secretary is authorized to accept gifts or donations of less than fee interests in any historic property where the acceptance of such interests will facilitate the conservation or preservation of such properties. Nothing in this section or in any provision of this Act shall be construed to affect or impair any other authority of the Secretary under other provision of law to accept or acquire any property for conservation or preservation or for any other purpose.

Information disclosure.
16 USC 470w-3.

"SEC. 304. The head of any Federal agency, after consultation with the Secretary, shall withhold from disclosure to the public, information relating to the location or character of historic resources whenever the head of the agency or the Secretary determines that the disclosure of such information may create a substantial risk of harm, theft, or destruction to such resources or to the area or place where such resources are located.

16 USC 470w-4.

"SEC. 305. In any civil action brought in any United States district court by any interested person to enforce the provisions of this Act, if such person substantially prevails in such action, the court may award attorneys' fees, expert witness fees, and other costs of participating in such action, as the court deems reasonable.

National Museum for the Building Arts.
16 USC 470w-5.

"SEC. 306. (a) In order to provide a national center to commemorate and encourage the building arts and to preserve and maintain a

nationally significant building which exemplifies the great achievements of the building arts in the United States, the Secretary and the Administrator of the General Services Administration are authorized and directed to enter into a cooperative agreement with the Committee for a National Museum of the Building Arts, Incorporated, a nonprofit corporation organized and existing under the laws of the District of Columbia, or its successor, for the operation of a National Museum for the Building Arts in the Federal Building located in the block bounded by Fourth Street, Fifth Street, F Street, and G Street, Northwest in Washington, District of Columbia. Such museum shall—

"(1) collect and disseminate information concerning the building arts, including the establishment of a national reference center for current and historic documents, publications, and research relating to the building arts;

"(2) foster educational programs relating to the history, practice and contribution to society of the building arts, including promotion of imaginative educational approaches to enhance understanding and appreciation of all facets of the building arts;

"(3) publicly display temporary and permanent exhibits illustrating, interpreting and demonstrating the building arts;

"(4) sponsor or conduct research and study into the history of the building arts and their role in shaping our civilization; and

"(5) encourage contributions to the building arts.

"(b) The cooperative agreement referred to in subsection (a) shall include provisions which—

"(1) make the site available to the Committee referred to in subsection (a) without charge;

"(2) provide, subject to available appropriations, such maintenance, security, information, janitorial and other services as may be necessary to assure the preservation and operation of the site; and

"(3) prescribe reasonable terms and conditions by which the Committee can fulfill its responsibilities under this Act.

"(c) The Secretary is authorized and directed to provide matching grants-in-aid to the Committee referred to in subsection (a) for its programs related to historic preservation. The Committee shall match such grants-in-aid in a manner and with such funds and services as shall be satisfactory to the Secretary, except that no more than $500,000 may be provided to the Committee in any one fiscal year. Grants-in-aid.

"(d) The renovation of the site shall be carried out by the Administrator with the advice of the Secretary. Such renovation shall, as far as practicable— Renovation.

"(1) be commenced immediately,

"(2) preserve, enhance, and restore the distinctive and historically authentic architectural character of the site consistent with the needs of a national museum of the building arts and other compatible use, and

"(3) retain the availability of the central court of the building, or portions thereof, for appropriate public activities.

"(e) The Committee shall submit an annual report to the Secretary and the Administrator concerning its activities under this section and shall provide the Secretary and the Administrator with such other information as the Secretary may, from time to time, deem necessary or advisable. Report submittal.

"(f) For purposes of this section, the term 'building arts' includes, but shall not be limited to, all practical and scholarly aspects of "Building arts."

prehistoric, historic, and contemporary architecture, archaeology, construction, building technology and skills, landscape architecture, preservation and conservation, building and construction, engineering, urban and community design and renewal, city and regional planning, and related professsions, skills, trades, and crafts.

Publication in Federal Register. Regulations, transmittal to congressional committees. 16 USC 470w-6.

"SEC. 307. (a) At least thirty days prior to publishing in the Federal Register any proposed regulation required by this Act, the Secretary shall transmit a copy of the regulation to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The Secretary also shall transmit to such committees a copy of any final regulation prior to its publication in the Federal Register. Except as provided in subsection (b) of this section, no final regulation of the Secretary shall become effective prior to the expiration of thirty calendar days after it is published in the Federal Register during which either or both Houses of Congress are in session.

Final regulations. Notification of congressional committees.

"(b) In the case of an emergency, a final regulation of the Secretary may become effective without regard to the last sentence of subsection (a) if the Secretary notified in writing the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate setting forth the reasons why it is necessary to make the regulation effective prior to the expiration of the thirty-day period.

Noneffective regulations.

"(c) Except as provided in subsection (b), the regulation shall not become effective if, within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the regulation promulgated by the Secretary dealing with the matter of , which regulation was transmitted to Congress on ,' the blank spaces therein being appropriately filled.

"(d) If at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the regulation, and neither House has adopted such a resolution, the regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, the regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after its promulgation unless disapproved as provided for.

"(e) For the purposes of this section—

"(1) continuity of session is broken only by an adjournment sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of sixty and ninety calendar days of continuous session of Congress.

"(f) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such regulation.".

Report to President and Congress. 16 USC 470a note.

SEC. 502. The Secretary, in cooperation with the American Folklife Center of the Library of Congress shall, within two years after the date of the enactment of this Act, submit a report to the President and the Congress on preserving and conserving the intangible elements of our cultural heritage such as arts, skills, folklife, and

folkways. The report shall take into account the view of other public and private organizations, as appropriate. This report shall include recommendations for legislative and administrative actions by the Federal Government in order to preserve, conserve, and encourage the continuation of the diverse traditional prehistoric, historic, ethnic, and folk cultural traditions that underlie and are a living expression of our American heritage.

Report to President and Congress. 16 USC 470j note.

SEC. 503. The Advisory Council on Historic Preservation, in cooperation with the Secretary and the Secretary of the Treasury, shall submit a report to the President and the Congress on Federal tax laws relating to historic preservation or affecting in any manner historic preservation. Such report shall include recommendations respecting amendments to such laws which would further the purposes of this Act. Such report shall be submitted within one year after the date of enactment of this Act.

Report to President and Congress. 16 USC 470h note.

SEC. 504. The Secretary shall submit a report directly to the President and the Congress on or before June 1, 1986, reviewing the operation of the Historic Preservation Fund and the national historic preservation program since the enactment of this Act and recommending appropriate funding levels, the time period for the reauthorization for appropriations from the fund, and other appropriate legislative action to be undertaken upon the expiration of the current fund authorization.

Development plan, review. 40 USC 874 note.

SEC. 505. The Pennsylvania Avenue Development Corporation shall review the development plan for those parts of the development area which are not under development or committed for development as of the date of the enactment of this Act, to identify means by which the historic values of such parts of the development area may be preserved and enhanced to the maximum extent feasible. The foregoing review shall not be limited by the applicable provisions of the development plan in effect at the time of the review; nor shall the review require any actions by the Corporation during the course of the review or during its consideration by the Congress. Within one year of the date of this Act the Corporation shall submit to the appropriate committees of Congress a report containing the findings of the review required under this section, together with the Corporation's recommendations for any legislative measures or funding necessary to carry out the purposes of this section. The report shall also include a description of those activities which the Corporation proposes to undertake to carry out the purposes of this section and the financial implications of carrying out those activities.

Report to congressional committees.

Study. 16 USC 470a note.

SEC. 506. The Secretary shall undertake a comprehensive study and formulate recommendations for a coordinated system of cultural parks and historic conservation districts that provide for the preservation, interpretation, development, and use by public and private entities of the prehistoric, historic, architectural, cultural, and recreational resources found in definable urban areas throughout the Nation. The study shall propose alternatives concerning the management and funding of such system by public and private entities and by various levels of government. The Secretary shall submit a report of his study and recommendations to the President and the Congress within two years after the enactment of this Act.

Report to President and Congress.

Report to President and Congress. 16 USC 470a note.

SEC. 507. The Secretary, in cooperation with the Secretary of the Treasury, the Administrator of the United States Fire Administration, and the Administrator of the Federal Insurance Administration, shall submit a report to the President and the Congress on fire in historic properties. Such report shall include a review of Federal laws to determine any relationship between these laws and arson or fire by

"suspicious origin", and to make recommendations respecting amendments to such laws should a correlation be found to exist. Such report shall include the feasibility and necessity of establishing or developing protective measures at the Federal, State, or local level for the prevention, detection, and control of arson or fire by "suspicious origin" in historic properties. Such report shall also include recommendations regarding the Federal role in assisting the States and local governments with protecting historic properties from damage by fire. Such report shall be submitted within eighteen months after the date of enactment of this Act.

Approved December 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1457 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-943 accompanying S. 3116 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Nov. 17, considered and passed House.
Nov. 19, considered and passed Senate, in lieu of S. 3116.

Public Law 96-516
96th Congress

An Act

To authorize appropriations for activities for the National Science Foundation for the fiscal year 1981, and to promote the full use of human resources in science and technology through a comprehensive and continuing program to increase substantially the contribution and advancement of women and minorities in scientific, professional, and technical careers, and for other purposes.

Dec. 12, 1980
[S. 568]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Science Foundation Authorization and Science and Technology Equal Opportunities Act".

National Science Foundation Authorization and Science and Technology Equal Opportunities Act.
42 USC 1861 note.

PART A—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. There are authorized to be appropriated to the National Science Foundation (hereinafter referred to as the "Foundation") for the fiscal year 1981, the sums indicated for the following categories:

(1) Mathematical and Physical Sciences, $259,800,000.

(2) Astronomical, Atmospheric, Earth and Ocean Sciences, $237,100,000.

(3) United States Antarctic Program, $64,200,000.

(4) Ocean Drilling Programs, $22,000,000.

(5) Biological, Behavioral, and Social Sciences, $182,000,000.

(6) Science Education Programs, $91,200,000.

(7)(A) Engineering, $62,615,000.

(B) Applied Sciences, $74,385,000 of which not less than 12.5 per centum shall be expended to small business concerns.

(8) Scientific, Technological, and International Affairs, $28,000,000.

(9) Cross-Directorate Programs, $33,200,000.

(10) Program Development and Management, $60,000,000.

AVAILABILITY OF APPROPRIATIONS

SEC. 12. Appropriations made under authority provided in sections 11 and 15 shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making the appropriations.

SPECIAL EMPHASIS PROGRAMS

SEC. 13. (a) Of the total amount authorized under section 11(6)—

(1) not less than $1,500,000 shall be available for science education programs relating to Appropriate Technology;

(2) not less than $2,400,000 shall be available for Science Faculty Improvement Programs, for year-long awards to experienced, full-time, two- and four-year college and university science teachers who are involved primarily in undergraduate science instruction to increase their competence in science;

(3) not less than $2,250,000 shall be available for the program Ethics and Values in Science and Technology; and

(4) not less than $500,000 shall be available for the program Handicapped in Science.

(b) Of the total amount authorized under sections 11(1), 11(2), 11(5), 11(7)(A), and 11(7)(B) for equipment and instrumentation, not less than $5,000,000 shall be made available for grants to two- and four-year colleges for equipment and instrumentation costing $35,000, or less.

(c) Of the total amount authorized under sections 11(1), 11(2), 11(5), and 11(7), not less than $2,000,000 shall be available for the salaries of faculty members of two-year and four-year colleges that have only small or no doctoral programs in science and engineering or of universities that have very limited science and engineering programs, for the purpose of enabling them to participate in research projects at institutions other than the faculty members' home institutions.

(d) Of the total amount authorized under section 11(7)—

(1) not less than $19,400,000 shall be available for Earthquake Hazards Mitigation;

(2) not less than $1,000,000 shall be available for the Small Business Innovation Program, for projects to aid the handicapped;

(3) not less than $3,000,000 shall be available for Research and Development in Appropriate Technology;

(4) not less than $5,000,000 shall be available for a Center for Innovation Development to be located in an area which experienced an unemployment rate in excess of 10 per centum in 1979, and which is centrally located to serve several major metropolitan centers; and

(5) not less than $1,800,000 shall be available for the establishment and operation of three university-based Innovation Centers.

(e) Of the total amount authorized under section 11(8), $14,500,000 is authorized for International Cooperative Science Activities.

(f) Of the total amount authorized under section 11(9), not more than $1,600,000 is authorized for United States/Union Soviet Socialist Republics cooperative research, no portion of which shall be expended until the President has certified in writing to the Congress that such expenditures shall be of direct and very substantial benefit to the United States of America.

OCEAN MARGIN DRILLING PROJECT REPORT

Report to Congress.

SEC. 14. (a) The Foundation shall prepare a report on the Ocean Margin Drilling Project and shall transmit the report to Congress not later than December 31, 1980. The report shall include—

(1) plans for conversion of the Glomar Explorer or other drilling platform;

(2) plans for drilling;

(3) detailed cost estimates;

(4) a discussion of the feasibility and cost of alternative drilling platforms;

(5) plans for funding; and

(6) other plans.

Study, report to Congress.

(b) The National Academy of Sciences shall study marine earth sciences research and report to the Congress.

(c) To the extent permitted by law, all Federal funding of the Ocean Margin Drilling Project shall be provided from the Windfall Profit Tax Account.

OFFICIAL EXPENSES

SEC. 15. From appropriations made under this Act, not more than $5,000 for fiscal year 1981 may be used for official consultation, representation, or other extraordinary expenses at the discretion of the Director of the National Science Foundation (hereinafter referred to as the "Director"). His determination will be final and conclusive upon the accounting officers of the Government.

FOREIGN CURRENCY

SEC. 16. Besides the sums authorized by section 11, not more than $5,500,000 for fiscal year 1981 are authorized to be appropriated for expenses of the National Science Foundation incurred outside the United States, to be drawn from foreign currencies that the Treasury Department determines to be excess to the normal requirements of the United States.

TRANSFER AUTHORITY

SEC. 17. (a) Funds may be transferred among the categories listed in section 11, so long as the net funds transferred to or from any category do not exceed 10 per centum of the amount authorized for that category in section 11. Transfer of funds.

(b) The Director of the Foundation may propose transfers to or from any category exceeding 10 per centum of the amounts authorized for that category in section 11 or available for that category after the application of section 19. Such a proposed transfer must be explained and transmitted in writing to the Speaker of the House, the President of the Senate, and the Senate Committee on Labor and Human Resources and the House Committee on Science and Technology. The proposed transfer may be made only when— Proposed transfer, submittal to congressional committees.

(1) thirty calendar days have passed after submission of the written proposal, or

(2) the chairman of the House Committee on Science and Technology and the chairman of the Senate Committee on Labor and Human Resources have each written the Director to the effect that the respective committee has no objection to the proposed transfer.

DIRECTORATE CONSOLIDATION

SEC. 18. The National Science Foundation is directed to consolidate all Directorates, including the Science Education Directorate, under one roof, in the present location of the central administrative offices, on or before August 1, 1982. 42 USC 1866 note.

RATABLE REDUCTION

SEC. 19. If the total amount of appropriations made by any Act for program activities included in section 11 and section 13 for the fiscal year 1981 is less than the total amount authorized to be appropriated for those activities by section 11 and section 13, the amount available from such appropriations for any particular program activity shall bear the same ratio to the amount authorized to be appropriated for that activity by section 11 and section 13 as the total amount of the appropriations made by such appropriation Act for all included

program activities bears to the total amount authorized to be appropriated for those activities by section 11 and section 13 (with each ceiling and floor set forth in section 11 and section 13 being reduced in the same ratio for purposes of determining the amounts so available), except to the extent specifically otherwise provided in the text of the Act making the appropriations for the program activities involved.

GRANT TITLES

42 USC 1864 note.

SEC. 20. The Director of the National Science Foundation shall require the titles of all its grants to contain a brief statement of the purpose of the research being undertaken. Insofar as possible such statements shall be in layman's language.

AMENDMENTS TO THE NATIONAL SCIENCE FOUNDATION ACT OF 1950

42 USC 1863.

SEC. 21. (a) Section 4(c) of the National Science Foundation Act of 1950 is amended by inserting after the first sentence the following new sentence: "In making nominations under this section, the President shall give due regard to equitable representation of scientists who are women or who represent minority groups.".

Repeal. 42 USC 1874.

(b)(1) Section 15(c) of the National Science Foundation Act of 1950 is repealed.

(2) Subsection (d) of section 15 of such Act is redesignated as subsection (c).

42 USC 1875.

(c) Section 16 of the National Science Foundation Act of 1950 is amended to read as follows:

"APPROPRIATIONS

"SEC. 16. To enable the Foundation to carry out its powers and duties, only such sums may be appropriated as the Congress may authorize by law.".

AMENDMENTS TO AWARDS

42 USC 1881.

SEC. 22. (a)(1) Section 2(a) of the Act entitled "An Act to establish a National Medal of Science to provide recognition for individuals who make outstanding contributions in the physical, biological, mathematical, and engineering sciences" approved August 25, 1959, is amended by striking "or engineering" and inserting in lieu thereof "engineering, behavioral or social".

(2) The title of such Act is amended by striking out "and engineering" and inserting in lieu thereof "engineering, behavioral, and social".

42 USC 1881a.

(b) Section 6(a) of the National Science Foundation Authorization Act, 1976 is amended by inserting after "engineering" a comma and the following: "behavioral, social".

PART B—WOMEN, MINORITIES, SCIENCE, AND TECHNOLOGY

Science and Technology Equal Opportunities Act.

SHORT TITLE

42 USC 1861 note.

SEC. 31. This part may be cited as the "Science and Technology Equal Opportunities Act".

FINDINGS AND POLICY

42 USC 1885.

SEC. 32. (a) The Congress finds that it is in the national interest to promote the full use of human resources in science and technology

and to insure the full development and use of the scientific talent and technical skills of men and women, equally, of all ethnic, racial, and economic backgrounds.

(b) The Congress declares it is the policy of the United States to encourage men and women, equally, of all ethnic, racial, and economic backgrounds to acquire skills in science and mathematics, to have equal opportunity in education, training, and employment in scientific and technical fields, and thereby to promote scientific literacy and the full use of the human resources of the Nation in science and technology. To this end, the Congress declares that the highest quality science over the long-term requires substantial support, from currently available research and educational funds, for increased participation in science and technology by women and minorities. The Congress further declares that the impact on women and minorities which is produced by advances in science and technology must be included as essential factors in national and international science, technology, and economic policies.

WOMEN IN SCIENCE

SEC. 33. The Foundation is authorized to— 42 USC 1885a.

(1) support activities designed to—

(A) increase the participation of women in courses of study at the undergraduate, graduate, and postgraduate levels leading to degrees in scientific and technical fields;

(B) encourage women to consider and prepare for careers in science and technology; or

(C) provide traineeship and fellowship opportunities for women in science and technology;

(2) support programs in science and mathematics in elementary and secondary schools so as to stimulate the acquisition of knowledge, skills, and information by female students and to increase female student awareness of career opportunities requiring scientific and technical skills;

(3) support activities in continuing education in science and engineering which provide opportunities for women who—

(A) are in the work force, or

(B) who are not in the work force because their careers have been interrupted,

to acquire new knowledge, techniques, and skills in scientific and technical fields;

(4) undertake a comprehensive research program designed to increase public understanding of (A) the potential contribution of women in science and technology and (B) the means to facilitate the participation and advancement of women in scientific and technical careers;

(5) establish a visiting women scientists program;

(6) support activities designed to improve the availability and quality of public information concerning the importance of the participation of women in careers in science and technology;

(7) support activities of museums and science centers which demonstrate potential to interest and involve women in science and technology;

(8) make grants, to be known as the National Research Opportunity Grants, to women scientists who (A) have received their doctorates within five years prior to the date of the award or (B) have received their doctorates, have had their careers inter- National Research Opportunity Grants.

rupted, and are re-entering the work force within five years after such interruption;

(9) make grants to women eligible under paragraph (8) to assist such women in planning and developing a research project eligible for support under such paragraph;

(10) provide support to individuals or academic institutions for full-time or part-time visiting professorships for women in science; and

(11) support demonstration project activities of individuals, public agencies, and private entities designed to encourage the employment and advancement of women in science, engineering, and technology.

MINORITIES IN SCIENCE

Science education program. 42 USC 1885b.

SEC. 34. (a) The Foundation is authorized (1) to undertake or support a comprehensive science education program to increase the participation of minorities in science and technology, and (2) to support activities to initiate research at minority institutions.

Report to congressional committee.

(b) By September 30, 1981, the Director, with the advice and assistance of the Committee on Equal Opportunities in Science and Technology established in section 36, shall prepare and transmit to the Committee on Labor and Human Resources of the Senate and the Committee on Science and Technology of the House of Representatives a report proposing a comprehensive and continuing program at the Foundation to promote the full participation of minorities in science and technology. Such report shall contain budgetary and legislative recommendations for the carrying out of such program by the Foundation.

NATIONAL POLICY DEVELOPMENT

Report to Congress. 42 USC 1885 note.

SEC. 35. (a) By January 20, 1982, the President, with the assistance of the Director of the Office of Science and Technology Policy and the Director of the Foundation, shall prepare and transmit a report to the Congress proposing a comprehensive national policy and program, including budgetary and legislative recommendations, for the promotion of equal opportunity for women and minorities in science and technology.

Report to Congress.

(b) On or before January 1, 1983, the President, with the assistance of the Director of the Office of Science and Technology Policy, the heads of appropriate executive departments, and the Director of the Foundation shall prepare and transmit a report to the Congress proposing a comprehensive policy, including budgetary and legislative recommendations, concerning the direct and indirect impacts of science and technology on women and minorities.

COMMITTEE ON EQUAL OPPORTUNITIES IN SCIENCE AND TECHNOLOGY

Establishment. 42 USC 1885c.

SEC. 36. (a) There is established within the Foundation a Committee on Equal Opportunities in Science and Technology (hereinafter referred to as the "Committee"). The Committee shall provide advice to the Foundation concerning (1) the implementation of the provisions of this Act and (2) other policies and activities of the Foundation to encourage full participation of women, minorities, and other groups currently underrepresented in scientific engineering, professional, and technical fields.

(b) Each member of the Committee shall be appointed by the Director with the concurrence of the National Science Board. The Chairperson of the National Science Board Committee on Minorities

and Women shall be an ex officio member of the Committee. Members of the Committee shall be appointed to serve for a three-year term, and may be reappointed to serve one additional term of three years. Term.

(c) There shall be a subcommittee of the Committee which shall be known as the Subcommittee on Women in Science and Technology. The Subcommittee on Women in Science and Technology shall have responsibility for all Committee matters relating to (1) the participation in and opportunities for the education, training, and research of women in science and technology and (2) the impact of science and technology on women. The Subcommittee shall be composed of all the women members of the Committee and such other members of the Committee as the Committee may designate. Subcommittee on Women in Science and Technology.

(d) There shall be a subcommittee of the Committee which shall be known as the Subcommittee on Minorities in Science and Technology. The Subcommittee on Minorities in Science and Technology shall have responsibility for all Committee matters relating to (1) the participation in and opportunities for education, training, and research for minorities in science and technology and (2) the impact of science and technology on minorities. The Subcommittee shall be composed of all minority members of the Committee and such other members of the Committee as the Committee may designate. Subcommittee on Minorities in Science and Technology.

(e) The Committee may organize such additional standing or ad hoc subcommittees as the Committee finds appropriate.

(f) Each year the Committee shall prepare and transmit to the Director a report concerning its activities during the previous year and its proposed activities for the next year. The Director shall transmit to Congress the report, unaltered, along with comments. Report to Director and Congress.

BIENNIAL REPORT

SEC. 37. (a) By January 30, 1982, and biennially thereafter, the Director shall simultaneously transmit a report to the Congress, the Attorney General, the Director of the Office of Science and Technology Policy, the Chairman of the Equal Employment Opportunity Commission, the Director of the Office of Personnel Management, the Secretary of Labor, the Secretary of Education, and the Secretary of Health and Human Services. Report to Congress and certain Federal agencies. 42 USC 1885d.

(b) The report required by subsection (a) shall contain— Contents.

(1) an accounting and comparison, by sex, race, and ethnic group and by discipline, of the participation of women and men in scientific and technical positions, including—

(A) the number of individuals in permanent and temporary and in full-time and part-time scientific and technical positions by appropriate level or similar category;

(B) the average salary of individuals in such scientific and technical positions;

(C) the number and type of promotional opportunities realized by individuals in such scientific and technical positions;

(D) the number of individuals serving as principal investigators in federally conducted or federally supported research and development; and

(E) the unemployment rate of individuals seeking scientific and technical positions;

(2) an assessment, including quantitative and other data, of the proportion of women and minorities studying scientific and

technical fields, including mathematics and computer skills, at all educational levels; and

(3) such other data, analyses, and evaluations as the Director, acting on the advice of the Committee on Equal Opportunities in Science and Technology, determines appropriate to carry out the Foundation's functions as well as the policies and programs of this Act.

SEVERABILITY

42 USC 1885 note.

SEC. 38. If a provision of this Act is held invalid, the validity of the other provisions of the Act shall not be affected. If an application of a provision of this Act to a person or circumstance is held invalid, the validity of the application of the provisions to another person or circumstance shall not be affected.

AUTHORIZATION OF APPROPRIATIONS

SEC. 39. Of the sums appropriated for the National Science Foundation pursuant to section 11, not less then $30,000,000 shall be available in fiscal year 1981 to carry out the provisions of this part.

Approved December 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-999 accompanying H.R. 7115 (Comm. on Science and Technology) and No. 96-1474 (Comm. of Conference).

SENATE REPORTS: No. 96-713 (Comm. on Labor and Human Resources) and No. 96-1028 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 126 (1980):

June 16, H.R. 7115 considered in House.

June 23, S. 568 considered and passed Senate.

Sept. 4, H.R. 7115 considered and passed House; passage vacated and S. 568, amended, passed in lieu.

Nov. 21, Senate agreed to conference report.

Dec. 2, House agreed to conference report.

Public Law 96-517
96th Congress

An Act

To amend the patent and trademark laws.

Dec. 12, 1980
[H.R. 6933]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 35 of the United States Code, entitled "Patents", is amended by adding after chapter 29 the following new chapter 30:

Patent and trademark laws, amendment.

"CHAPTER 30—PRIOR ART CITATIONS TO OFFICE AND REEXAMINATION OF PATENTS

"Sec.
"301. Citation of prior art.
"302. Request for reexamination.
"303. Determination of issue by Commissioner.
"304. Reexamination order by Commissioner.
"305. Conduct of reexamination proceedings.
"306. Appeal.
"307. Certificate of patentability, unpatentability, and claim cancellation.

"§ 301. Citation of prior art

35 USC 301.

"Any person at any time may cite to the Office in writing prior art consisting of patents or printed publications which that person believes to have a bearing on the patentability of any claim of a particular patent. If the person explains in writing the pertinency and manner of applying such prior art to at least one claim of the patent, the citation of such prior art and the explanation thereof will become a part of the official file of the patent. At the written request of the person citing the prior art, his or her identity will be excluded from the patent file and kept confidential.

"§ 302. Request for reexamination

35 USC 302.

"Any person at any time may file a request for reexamination by the Office of any claim of a patent on the basis of any prior art cited under the provisions of section 301 of this title. The request must be in writing and must be accompanied by payment of a reexamination fee established by the Commissioner of Patents pursuant to the provisions of section 41 of this title. The request must set forth the pertinency and manner of applying cited prior art to every claim for which reexamination is requested. Unless the requesting person is the owner of the patent, the Commissioner promptly will send a copy of the request to the owner of record of the patent.

Fee.

Post, p. 3017.

"§ 303. Determination of issue by Commissioner

35 USC 303.

"(a) Within three months following the filing of a request for reexamination under the provisions of section 302 of this title, the Commissioner will determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request, with or without consideration of other patents or printed publications. On his own initiative, and any time, the Commissioner may determine whether a substantial new question of patentability is

raised by patents and publications discovered by him or cited under the provisions of section 301 of this title.

Record.

"(b) A record of the Commissioner's determination under subsection (a) of this section will be placed in the official file of the patent, and a copy promptly will be given or mailed to the owner of record of the patent and to the person requesting reexamination, if any.

"(c) A determination by the Commissioner pursuant to subsection (a) of this section that no substantial new question of patentability has been raised will be final and nonappealable. Upon such a determination, the Commissioner may refund a portion of the reexamination fee required under section 302 of this title.

Refund.

35 USC 304.

"§ 304. Reexamination order by Commissioner

"If, in a determination made under the provisions of subsection 303(a) of this title, the Commissioner finds that a substantial new question of patentability affecting any claim of a patent is raised, the determination will include an order for reexamination of the patent for resolution of the question. The patent owner will be given a reasonable period, not less than two months from the date a copy of the determination is given or mailed to him, within which he may file a statement on such question, including any amendment to his patent and new claim or claims he may wish to propose, for consideration in the reexamination. If the patent owner files such a statement, he promptly will serve a copy of it on the person who has requested reexamination under the provisions of section 302 of this title. Within a period of two months from the date of service, that person may file and have considered in the reexamination a reply to any statement filed by the patent owner. That person promptly will serve on the patent owner a copy of any reply filed.

Filing period.

35 USC 305.

"§ 305. Conduct of reexamination proceedings

"After the times for filing the statement and reply provided for by section 304 of this title have expired, reexamination will be conducted according to the procedures established for initial examination under the provisions of sections 132 and 133 of this title. In any reexamination proceeding under this chapter, the patent owner will be permitted to propose any amendment to his patent and a new claim or claims thereto, in order to distinguish the invention as claimed from the prior art cited under the provisions of section 301 of this title, or in response to a decision adverse to the patentability of a claim of a patent. No proposed amended or new claim enlarging the scope of a claim of the patent will be permitted in a reexamination proceeding under this chapter. All reexamination proceedings under this section, including any appeal to the Board of Appeals, will be conducted with special dispatch within the Office.

35 USC 132, 133.

35 USC 306.

"§ 306. Appeal

"The patent owner involved in a reexamination proceeding under this chapter may appeal under the provisions of section 134 of this title, and may seek court review under the provisions of sections 141 to 145 of this title, with respect to any decision adverse to the patentability of any original or proposed amended or new claim of the patent.

35 USC 134.

35 USC 141-145.

35 USC 307.

"§ 307. Certificate of patentability, unpatentability, and claim cancellation

"(a) In a reexamination proceeding under this chapter, when the time for appeal has expired or any appeal proceeding has terminated,

the Commissioner will issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable, confirming any claim of the patent determined to be patentable, and incorporating in the patent any proposed amended or new claim determined to be patentable.

"(b) Any proposed amended or new claim determined to be patentable and incorporated into a patent following a reexamination proceeding will have the same effect as that specified in section 252 of this title for reissued patents on the right of any person who made, purchased, or used anything patented by such proposed amended or new claim, or who made substantial preparation for the same, prior to issuance of a certificate under the provisions of subsection (a) of this section.". 35 USC 252.

SEC. 2. Section 41 of title 35, United States Code, is amended to read as follows:

"§ 41. Patent fees 35 USC 41.

"(a) The Commissioner of Patents will establish fees for the processing of an application for a patent, from filing through disposition by issuance or abandonment, for maintaining a patent in force, and for providing all other services and materials related to patents. No fee will be established for maintaining a design patent in force.

"(b) By the first day of the first fiscal year beginning on or after one calendar year after enactment of this Act, fees for the actual processing of an application for a patent, other than for a design patent, from filing through disposition by issuance or abandonment, will recover in aggregate 25 per centum of the estimated average cost to the Office of such processing. By the first day of the first fiscal year beginning on or after one calendar year after enactment, fees for the processing of an application for a design patent, from filing through disposition by issuance or abandonment, will recover in aggregate 50 per centum of the estimated average cost to the Office of such processing.

"(c) By the fifteenth fiscal year following the date of enactment of this Act, fees for maintaining patents in force will recover 25 per centum of the estimated cost to the Office, for the year in which such maintenance fees are received, of the actual processing all applications for patents, other than for design patents, from filing through disposition by issuance or abandonment. Fees for maintaining a patent in force will be due three years and six months, seven years and six months, and eleven years and six months after the grant of the patent. Unless payment of the applicable maintenance fee is received in the Patent and Trademark Office on or before the date the fee is due or within a grace period of six months thereafter, the patent will expire as of the end of such grace period. The Commissioner may require the payment of a surcharge as a condition of accepting within such six-month grace period the late payment of an applicable maintenance fee.

"(d) By the first day of the first fiscal year beginning on or after one calendar year after enactment, fees for all other services or materials related to patents will recover the estimated average cost to the Office of performing the service or furnishing the material. The yearly fee for providing a library specified in section 13 of this title with uncertified printed copies of the specifications and drawings for all patents issued in that year will be $50. 35 USC 13.

"(e) The Commissioner may waive the payment of any fee for any service or material related to patents in connection with an occasional or incidental request made by a department or agency of the Waiver.

35 USC 132.

Government, or any officer thereof. The Commissioner may provide any applicant issued a notice under section 132 of this title with a copy of the specifications and drawings for all patents referred to in that notice without charge.

"(f) Fees will be adjusted by the Commissioner to achieve the levels of recovery specified in this section; however, no patent application processing fee or fee for maintaining a patent in force will be adjusted more than once every three years.

Notice.

"(g) No fee established by the Commissioner under this section will take effect prior to sixty days following notice in the Federal Register.".

SEC. 3. Section 42 of title 35, United States Code, is amended to read as follows:

35 USC 42.

"§ 42. Patent and Trademark Office funding

"(a) All fees for services performed by or materials furnished by the Patent and Trademark Office will be payable to the Commissioner.

"(b) All fees paid to the Commissioner and all appropriations for defraying the costs of the activities of the Patent and Trademark Office will be credited to the Patent and Trademark Office Appropriation Account in the Treasury of the United States, the provisions of section 725e of title 31, United States Code, notwithstanding.

"(c) Revenues from fees will be available to the Commissioner of Patents to carry out, to the extent provided for in appropriation Acts, the activities of the Patent and Trademark Office.

Refund.

"(d) The Commissioner may refund any fee paid by mistake or any amount paid in excess of that required.".

SEC. 4. Section 154 of title 35, United States Code, is amended by deleting the word "issue".

SEC. 5. Section 31 of the Trademark Act of 1946, as amended (15 U.S.C. 1113), is amended to read as follows:

"§ 31. Fees

"(a) The Commissioner of Patents will establish fees for the filing and processing of an application for the registration of a trademark or other mark and for all other services performed by and materials furnished by the Patent and Trademark Office related to trademarks and other marks. Fees will be set and adjusted by the Commissioner to recover in aggregate 50 per centum of the estimated average cost to the Office of such processing. Fees for all other services or materials related to trademarks and other marks will recover the estimated average cost to the Office of performing the service or furnishing the material. However, no fee for the filing or processing of an application for the registration of a trademark or other mark or for the renewal or assignment of a trademark or other mark will be adjusted more than once every three years. No fee established under this section will take effect prior to sixty days following notice in the Federal Register.

Notice.

Waiver.

"(b) The Commissioner may waive the payment of any fee for any service or material related to trademarks or other marks in connection with an occasional request made by a department or agency of the Government, or any officer thereof. The Indian Arts and Crafts Board will not be charged any fee to register Government trademarks of genuineness and quality for Indian products or for products of particular Indian tribes and groups.".

Indian products, exception.

SEC. 6. (a) Title 35 of the United States Code, entitled "Patents", is amended by adding after chapter 37 the following new chapter 38:

"CHAPTER 38—PATENT RIGHTS IN INVENTIONS MADE WITH FEDERAL ASSISTANCE

"Sec.
"200. Policy and objective.
"201. Definitions.
"202. Disposition of rights.
"203. March-in rights.
"204. Preference for United States industry.
"205. Confidentiality.
"206. Uniform clauses and regulations.
"207. Domestic and foreign protection of federally owned inventions.
"208. Regulations governing Federal licensing.
"209. Restrictions on licensing of federally owned inventions.
"210. Precedence of chapter.
"211. Relationship to antitrust laws.

"§ 200. Policy and objective

35 USC 200.

"It is the policy and objective of the Congress to use the patent system to promote the utilization of inventions arising from federally supported research or development; to encourage maximum participation of small business firms in federally supported research and development efforts; to promote collaboration between commercial concerns and nonprofit organizations, including universities; to ensure that inventions made by nonprofit organizations and small business firms are used in a manner to promote free competition and enterprise; to promote the commercialization and public availability of inventions made in the United States by United States industry and labor; to ensure that the Government obtains sufficient rights in federally supported inventions to meet the needs of the Government and protect the public against nonuse or unreasonable use of inventions; and to minimize the costs of administering policies in this area.

"§ 201. Definitions

35 USC 201.

"As used in this chapter—

"(a) The term 'Federal agency' means any executive agency as defined in section 105 of title 5, United States Code, and the military departments as defined by section 102 of title 5, United States Code.

"(b) The term 'funding agreement' means any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government. Such term includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as herein defined.

"(c) The term 'contractor' means any person, small business firm, or nonprofit organization that is a party to a funding agreement.

"(d) The term 'invention' means any invention or discovery which is or may be patentable or otherwise protectable under this title.

"(e) The term 'subject invention' means any invention of the contractor conceived or first actually reduced to practice in the performance of work under a funding agreement.

"(f) The term 'practical application' means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish

that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

"(g) The term 'made' when used in relation to any invention means the conception or first actual reduction to practice of such invention.

"(h) The term 'small business firm' means a small business concern as defined at section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration.

"(i) The term 'nonprofit organization' means universities and other institutions of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a State nonprofit organization statute.

35 USC 202.

"§ 202. Disposition of rights

"(a) Each nonprofit organization or small business firm may, within a reasonable time after disclosure as required by paragraph (c)(1) of this section, elect to retain title to any subject invention: *Provided, however,* That a funding agreement may provide otherwise (i) when the funding agreement is for the operation of a Government-owned research or production facility, (ii) in exceptional circumstances when it is determined by the agency that restriction or elimination of the right to retain title to any subject invention will better promote the policy and objectives of this chapter or (iii) when it is determined by a Government authority which is authorized by statute or Executive order to conduct foreign intelligence or counter-intelligence activities that the restriction or elimination of the right to retain title to any subject invention is necessary to protect the security of such activities. The rights of the nonprofit organization or small business firm shall be subject to the provisions of paragraph (c) of this section and the other provisions of this chapter.

Funding agreement.

Written determination.

"(b)(1) Any determination under (ii) of paragraph (a) of this section shall be in writing and accompanied by a written statement of facts justifying the determination. A copy of each such determination and justification shall be sent to the Comptroller General of the United States within thirty days after the award of the applicable funding agreement. In the case of determinations applicable to funding agreements with small business firms copies shall also be sent to the Chief Counsel for Advocacy of the Small Business Administration.

Copy to Comptroller General.

Copy to SBA.

Contrary agency determinations.

"(2) If the Comptroller General believes that any pattern of determinations by a Federal agency is contrary to the policy and objectives of this chapter or that an agency's policies or practices are otherwise not in conformance with this chapter, the Comptroller General shall so advise the head of the agency. The head of the agency shall advise the Comptroller General in writing within one hundred and twenty days of what action, if any, the agency has taken or plans to take with respect to the matters raised by the Comptroller General.

Report to congressional committees.

"(3) At least once each year, the Comptroller General shall transmit a report to the Committees on the Judiciary of the Senate and House of Representatives on the manner in which this chapter is being implemented by the agencies and on such other aspects of Government patent policies and practices with respect to federally funded inventions as the Comptroller General believes appropriate.

"(c) Each funding agreement with a small business firm or nonprofit organization shall contain appropriate provisions to effectuate the following: Funding agreement requirements.

"(1) A requirement that the contractor disclose each subject invention to the Federal agency within a reasonable time after it is made and that the Federal Government may receive title to any subject invention not reported to it within such time.

"(2) A requirement that the contractor make an election to retain title to any subject invention within a reasonable time after disclosure and that the Federal Government may receive title to any subject invention in which the contractor does not elect to retain rights or fails to elect rights within such time.

"(3) A requirement that a contractor electing rights file patent applications within reasonable times and that the Federal Government may receive title to any subject inventions in the United States or other countries in which the contractor has not filed patent applications on the subject invention within such times.

"(4) With respect to any invention in which the contractor elects rights, the Federal agency shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world, and may, if provided in the funding agreement, have additional rights to sublicense any foreign government or international organization pursuant to any existing or future treaty or agreement.

"(5) The right of the Federal agency to require periodic reporting on the utilization or efforts at obtaining utilization that are being made by the contractor or his licensees or assignees: *Provided,* That any such information may be treated by the Federal agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of title 5 of the United States Code.

"(6) An obligation on the part of the contractor, in the event a United States patent application is filed by or on its behalf or by any assignee of the contractor, to include within the specification of such application and any patent issuing thereon, a statement specifying that the invention was made with Government support and that the Government has certain rights in the invention.

"(7) In the case of a nonprofit organization, (A) a prohibition upon the assignment of rights to a subject invention in the United States without the approval of the Federal agency, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention (provided that such assignee shall be subject to the same provisions as the contractor); (B) a prohibition against the granting of exclusive licenses under United States Patents or Patent Applications in a subject invention by the contractor to persons other than small business firms for a period in excess of the earlier of five years from first commercial sale or use of the invention or eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to

obtain premarket clearance unless, on a case-by-case basis, the Federal agency approves a longer exclusive license. If exclusive field of use licenses are granted, commercial sale or use in one field of use shall not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention shall not be deemed to end the exclusive period to different subsequent products covered by the invention; (C) a requirement that the contractor share royalties with the inventor; and (D) a requirement that the balance of any royalties or income earned by the contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, be utilized for the support of scientific research or education.

"(8) The requirements of sections 203 and 204 of this chapter.

Rights, retention.

"(d) If a contractor does not elect to retain title to a subject invention in cases subject to this section, the Federal agency may consider and after consultation with the contractor grant requests for retention of rights by the inventor subject to the provisions of this Act and regulations promulgated hereunder.

Rights, transfer or assignment.

"(e) In any case when a Federal employee is a coinventor of any invention made under a funding agreement with a nonprofit organization or small business firm, the Federal agency employing such coinventor is authorized to transfer or assign whatever rights it may acquire in the subject invention from its employee to the contractor subject to the conditions set forth in this chapter.

Third-party licensing, prohibition.

"(f)(1) No funding agreement with a small business firm or nonprofit organization shall contain a provision allowing a Federal agency to require the licensing to third parties of inventions owned by the contractor that are not subject inventions unless such provision has been approved by the head of the agency and a written justification has been signed by the head of the agency. Any such provision shall clearly state whether the licensing may be required in connection with the practice of a subject invention, a specifically identified work object, or both. The head of the agency may not delegate the authority to approve provisions or sign justifications required by this paragraph.

"(2) A Federal agency shall not require the licensing of third parties under any such provision unless the head of the agency determines that the use of the invention by others is necessary for the practice of a subject invention or for the use of a work object of the funding agreement and that such action is necessary to achieve the practical application of the subject invention or work object. Any such determination shall be on the record after an opportunity for an agency hearing. Any action commenced for judicial review of such determination shall be brought within sixty days after notification of such determination.

35 USC 203.

"§ 203. March-in rights

"With respect to any subject invention in which a small business firm or nonprofit organization has acquired title under this chapter, the Federal agency under whose funding agreement the subject invention was made shall have the right, in accordance with such procedures as are provided in regulations promulgated hereunder to require the contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such request, to

grant such a license itself, if the Federal agency determines that such—

"(a) action is necessary because the contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;

"(b) action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or their licensees;

"(c) action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensees; or

"(d) action is necessary because the agreement required by section 204 has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of its agreement obtained pursuant to section 204.

"§ 204. Preference for United States industry 35 USC 204.

"Notwithstanding any other provision of this chapter, no small business firm or nonprofit organization which receives title to any subject invention and no assignee of any such small business firm or nonprofit organization shall grant to any person the exclusive right to use or sell any subject invention in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal agency under whose funding agreement the invention was made upon a showing by the small business firm, nonprofit organization, or assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible. Waiver.

"§ 205. Confidentiality 35 USC 205.

"Federal agencies are authorized to withhold from disclosure to the public information disclosing any invention in which the Federal Government owns or may own a right, title, or interest (including a nonexclusive license) for a reasonable time in order for a patent application to be filed. Furthermore, Federal agencies shall not be required to release copies of any document which is part of an application for patent filed with the United States Patent and Trademark Office or with any foreign patent office.

"§ 206. Uniform clauses and regulations 35 USC 206.

"The Office of Federal Procurement Policy, after receiving recommendations of the Office of Science and Technology Policy, may issue regulations which may be made applicable to Federal agencies implementing the provisions of sections 202 through 204 of this chapter and the Office of Federal Procurement Policy shall establish standard funding agreement provisions required under this chapter.

"§ 207. Domestic and foreign protection of federally owned inventions 35 USC 207.

"Each Federal agency is authorized to—

"(1) apply for, obtain, and maintain patents or other forms of protection in the United States and in foreign countries on inventions in which the Federal Government owns a right, title, or interest;

"(2) grant nonexclusive, exclusive, or partially exclusive licenses under federally owned patent applications, patents, or other forms of protection obtained, royalty-free or for royalties or other consideration, and on such terms and conditions, including the grant to the licensee of the right of enforcement pursuant to the provisions of chapter 29 of this title as determined appropriate in the public interest;

35 USC 281 *et seq.*

"(3) undertake all other suitable and necessary steps to protect and administer rights to federally owned inventions on behalf of the Federal Government either directly or through contract; and

"(4) transfer custody and administration, in whole or in part, to another Federal agency, of the right, title, or interest in any federally owned invention.

35 USC 208.

"§ 208. Regulations governing Federal licensing

"The Administrator of General Services is authorized to promulgate regulations specifying the terms and conditions upon which any federally owned invention, other than inventions owned by the Tennessee Valley Authority, may be licensed on a nonexclusive, partially exclusive, or exclusive basis.

35 USC 209.

"§ 209. Restrictions on licensing of federally owned inventions

Development or marketing plan.

"(a) No Federal agency shall grant any license under a patent or patent application on a federally owned invention unless the person requesting the license has supplied the agency with a plan for development and/or marketing of the invention, except that any such plan may be treated by the Federal agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of title 5 of the United States Code.

Manufacture in U.S.

"(b) A Federal agency shall normally grant the right to use or sell any federally owned invention in the United States only to a licensee that agrees that any products embodying the invention or produced through the use of the invention will be manufactured substantially in the United States.

"(c)(1) Each Federal agency may grant exclusive or partially exclusive licenses in any invention covered by a federally owned domestic patent or patent application only if, after public notice and opportunity for filing written objections, it is determined that—

"(A) the interests of the Federal Government and the public will best be served by the proposed license, in view of the applicant's intentions, plans, and ability to bring the invention to practical application or otherwise promote the invention's utilization by the public;

"(B) the desired practical application has not been achieved, or is not likely expeditiously to be achieved, under any nonexclusive license which has been granted, or which may be granted, on the invention;

"(C) exclusive or partially exclusive licensing is a reasonable and necessary incentive to call forth the investment of risk capital and expenditures to bring the invention to practical application or otherwise promote the invention's utilization by the public; and

"(D) the proposed terms and scope of exclusivity are not greater than reasonably necessary to provide the incentive for bringing the invention to practical application or otherwise promote the invention's utilization by the public.

"(2) A Federal agency shall not grant such exclusive or partially exclusive license under paragraph (1) of this subsection if it determines that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the country in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with the antitrust laws. Antitrust factors.

"(3) First preference in the exclusive or partially exclusive licensing of federally owned inventions shall go to small business firms submitting plans that are determined by the agency to be within the capabilities of the firms and equally likely, if executed, to bring the invention to practical application as any plans submitted by applicants that are not small business firms. Small business preference.

"(d) After consideration of whether the interests of the Federal Government or United States industry in foreign commerce will be enhanced, any Federal agency may grant exclusive or partially exclusive licenses in any invention covered by a foreign patent application or patent, after public notice and opportunity for filing written objections, except that a Federal agency shall not grant such exclusive or partially exclusive license if it determines that the grant of such license will tend substantially to lessen competition or result in undue concentration in any section of the United States in any line of commerce to which the technology to be licensed relates, or to create or maintain other situations inconsistent with antitrust laws. Antitrust factors.

"(e) The Federal agency shall maintain a record of determinations to grant exclusive or partially exclusive licenses. Record.

"(f) Any grant of a license shall contain such terms and conditions as the Federal agency determines appropriate for the protection of the interests of the Federal Government and the public, including provisions for the following: Terms and conditions.

"(1) periodic reporting on the utilization or efforts at obtaining utilization that are being made by the licensee with particular reference to the plan submitted: *Provided,* That any such information may be treated by the Federal agency as commercial and financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of title 5 of the United States Code;

"(2) the right of the Federal agency to terminate such license in whole or in part if it determines that the licensee is not executing the plan submitted with its request for a license and the licensee cannot otherwise demonstrate to the satisfaction of the Federal agency that it has taken or can be expected to take within a reasonable time, effective steps to achieve practical application of the invention;

"(3) the right of the Federal agency to terminate such license in whole or in part if the licensee is in breach of an agreement obtained pursuant to paragraph (b) of this section; and

"(4) the right of the Federal agency to terminate the license in whole or in part if the agency determines that such action is necessary to meet requirements for public use specified by Federal regulations issued after the date of the license and such requirements are not reasonably satisfied by the licensee.

35 USC 210.

"§ 210. Precedence of chapter

"(a) This chapter shall take precedence over any other Act which would require a disposition of rights in subject inventions of small business firms or nonprofit organizations contractors in a manner that is inconsistent with this chapter, including but not necessarily limited to the following:

"(1) section 10(a) of the Act of June 29, 1935, as added by title I of the Act of August 14, 1946 (7 U.S.C. 427i(a); 60 Stat. 1085);

"(2) section 205(a) of the Act of August 14, 1946 (7 U.S.C. 1624(a); 60 Stat. 1090);

"(3) section 501(c) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951(c); 83 Stat. 742);

91 Stat. 1320.

"(4) section 106(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C 1395(c); 80 Stat. 721);

"(5) section 12 of the National Science Foundation Act of 1950 (42 U.S.C. 1871(a); 82 Stat. 360);

64 Stat. 154.

"(6) section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182; 68 Stat. 943);

68 Stat. 944.

"(7) section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457);

"(8) section 6 of the Coal Research Development Act of 1960 (30 U.S.C. 666; 74 Stat. 337);

"(9) section 4 of the Helium Act Amendments of 1960 (50 U.S.C. 167b; 74 Stat. 920);

"(10) section 32 of the Arms Control and Disarmament Act of 1961 (22 U.S.C. 2572; 75 Stat. 634);

"(11) subsection (e) of section 302 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 302(e); 79 Stat. 5);

"(12) section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901; 88 Stat. 1878);

88 Stat. 1887.
42 USC 5908.

"(13) section 5(d) of the Consumer Product Safety Act (15 U.S.C. 2054(d); 86 Stat. 1211);

"(14) section 3 of the Act of April 5, 1944 (30 U.S.C. 323; 58 Stat. 191);

"(15) section 8001(c)(3) of the Solid Waste Disposal Act (42 U.S.C. 6981(c); 90 Stat. 2829);

"(16) section 219 of the Foreign Assistance Act of 1961 (22 U.S.C. 2179; 83 Stat. 806);

"(17) section 427(b) of the Federal Mine Health and Safety Act of 1977 (30 U.S.C. 937(b); 86 Stat. 155);

"(18) section 306(d) of the Surface Mining and Reclamation Act of 1977 (30 U.S.C. 1226(d); 91 Stat. 455);

"(19) section 21(d) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2218(d); 88 Stat. 1548);

"(20) section 6(b) of the Solar Photovoltaic Energy Research Development and Demonstration Act of 1978 (42 U.S.C. 5585(b); 92 Stat. 2516);

"(21) section 12 of the Native Latex Commercialization and Economic Development Act of 1978 (7 U.S.C. 178(j); 92 Stat. 2533); and

7 USC 178j.

"(22) section 408 of the Water Resources and Development Act of 1978 (42 U.S.C. 7879; 92 Stat. 1360).

92 Stat. 1316.

The Act creating this chapter shall be construed to take precedence over any future Act unless that Act specifically cites this Act and provides that it shall take precedence over this Act.

"(b) Nothing in this chapter is intended to alter the effect of the laws cited in paragraph (a) of this section or any other laws with respect to the disposition of rights in inventions made in the perform-

ance of funding agreements with persons other than nonprofit organizations or small business firms.

"(c) Nothing in this chapter is intended to limit the authority of agencies to agree to the disposition of rights in inventions made in the performance of work under funding agreements with persons other than nonprofit organizations or small business firms in accordance with the Statement of Government Patent Policy issued on August 23, 1971 (36 Fed. Reg. 16887), agency regulations, or other applicable regulations or to otherwise limit the authority of agencies to allow such persons to retain ownership of inventions. Any disposition of rights in inventions made in accordance with the Statement or implementing regulations, including any disposition occurring before enactment of this section, are hereby authorized. Rights, disposition.

"(d) Nothing in this chapter shall be construed to require the disclosure of intelligence sources or methods or to otherwise affect the authority granted to the Director of Central Intelligence by statute or Executive order for the protection of intelligence sources or methods. Disclosure.

"§ 211. Relationship to antitrust laws 35 USC 211.

"Nothing in this chapter shall be deemed to convey to any person immunity from civil or criminal liability, or to create any defenses to actions, under any antitrust law.".

(b) The table of chapters for title 35, United States Code, is amended by adding immediately after the item relating to chapter 37 the following:

"38. Patent rights in inventions made with Federal assistance.".

SEC. 7. AMENDMENTS TO OTHER ACTS.—The following Acts are amended as follows:

(a) Section 156 of the Atomic Energy Act of 1954 (42 U.S.C. 2186; 68 Stat. 947) is amended by deleting the words "held by the Commission or".

(b) The National Aeronautics and Space Act of 1958 is amended by repealing paragraph (g) of section 305 (42 U.S.C. 2457(g); 72 Stat. 436).

(c) The Federal Nonnuclear Energy Research and Development Act of 1974 is amended by repealing paragraphs (g), (h), and (i) of section 9 (42 U.S.C. 5908 (g), (h), and (i); 88 Stat. 1889–1891).

SEC. 8. (a) Sections 2, 4, and 5 of this Act will take effect upon enactment. Effective dates. 35 USC 41 note.

(b) Section 1 of this Act will take effect on the first day of the seventh month beginning after its enactment and will apply to patents in force as of that date or issued thereafter.

(c) Section 3 of this Act will take effect on the first day of the first fiscal year beginning on or after one calendar year after enactment. However, until section 3 takes effect, the Commissioner may credit the Patent and Trademark Office appropriation account in the Treasury of the United States with the revenues from collected reexamination fees, which will be available to pay the costs to the Office of reexamination proceedings.

(d) Any fee in effect as of the date of enactment of this Act will remain in effect until a corresponding fee established under section 41 of title 35, United States Code, or section 1113 of title 15, United States Code, takes effect.

(e) Fees for maintaining a patent in force will not be applicable to patents applied for prior to the date of enactment of this Act.

(f) Sections 6 and 7 of this Act will take effect on the first day of the seventh month beginning after its enactment. Implementing regulations may be issued earlier.

(g) Sections 8 and 9 will take effect on the date of enactment of this Act.

Computerized data and retrieval system, report to Congress.
35 USC 14 note.

SEC. 9. The Commissioner of Patents and Trademarks shall report to Congress, within two years after the effective date of this Act, a plan to identify, and if necessary develop or have developed, computerized data and retrieval systems equivalent to the latest state of the art which can be applied to all aspects of the operation of the Patent and Trademark Office, and particularly to the patent search file, the patent classification system, and the trademark search file. The report shall specify the cost of implementing the plan, how rapidly the plan can be implemented by the Patent and Trademark Office, without regard to funding which is or which may be available for this purpose in the future.

SEC. 10. (a) Section 101 of title 17 of the United States Code is amended to add at the end thereof the following new language:

"Computer program."

"A 'computer program' is a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result.".

(b) Section 117 of title 17 of the United States Code is amended to read as follows:

17 USC 117.

"§ 117. Limitations on exclusive rights: Computer programs

17 USC 106.

"Notwithstanding the provisions of section 106, it is not an infringement for the owner of a copy of a computer program to make or authorize the making of another copy or adaptation of that computer program provided:

"(1) that such a new copy or adaptation is created as an essential step in the utilization of the computer program in conjunction with a machine and that it is used in no other manner, or

"(2) that such new copy or adaptation is for archival purposes only and that all archival copies are destroyed in the event that continued possession of the computer program should cease to be rightful.

"Any exact copies prepared in accordance with the provisions of this section may be leased, sold, or otherwise transferred, along with the copy from which such copies were prepared, only as part of the lease, sale, or other transfer of all rights in the program. Adaptations so prepared may be transferred only with the authorization of the copyright owner."

Approved December 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1307, Pt. I (Comm. on the Judiciary) and No. 96-1307, Pt. 2 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 20, S. 2446 considered and passed Senate.
Nov. 17, considered and passed House.
Nov. 20, considered and passed Senate, amended.
Nov. 21, House concurred in Senate amendment.

79-194 O—81—pt. 3——25 : QL3

Public Law 96-518
96th Congress

Joint Resolution

Dec. 12, 1980
[S.J. Res. 213]

To designate the Clinical Center of the National Institutes of Health located in Montgomery County, Maryland, as the "Warren Grant Magnuson Clinical Center of the National Institutes of Health".

Whereas throughout his distinguished congressional career, Senator Warren Grant Magnuson has fundamentally enriched the lives of the people of his country through his steadfast devotion to improving the quality of health care services and advancing biomedical research: Now, therefore, be it

Warren Grant Magnuson Clinical Center of the National Institutes of Health. Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Clinical Center of the National Institutes of Health located in Montgomery County, Maryland, is designated as the "Warren Grant Magnuson Clinical Center of the National Institutes of Health".

SEC. 2. Any reference in law, map, regulation, document, record, or other paper of the United States to that clinical center shall be held to be a reference to the "Warren Grant Magnuson Clinical Center of the National Institutes of Health".

SEC. 3. The Committee on Rules and Administration shall place appropriate markers or inscriptions at suitable locations within the clinical center referred to in the first section of this resolution to commemorate and designate such building as provided in this resolution. Expenses incurred under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

Approved December 12, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 2, considered and passed Senate.
Dec. 3, considered and passed House.

Public Law 96-519
96th Congress

An Act

To provide for the settlement and payment of claims of United States civilian and military personnel against the United States for losses resulting from acts of violence directed against the United States Government or its representatives in a foreign country or from an authorized evacuation of personnel from a foreign country.

Dec. 12, 1980
[H.R. 6086]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Military Personnel and Civilian Employees' Claims Act of 1964 (78 Stat. 767, 31 U.S.C. 240 et seq.) is amended by adding at the end thereof the following new section:

U.S. civilian and military personnel. Claims against U.S., payment. 31 USC 243a.

"SEC. 9. (a) Subject to any policies that the President may prescribe, the head of any agency, or his designee, may settle and pay not more than $40,000 for any claim against the United States made by a member of the uniformed services under the jurisdiction of that agency or by a civilian officer or employee of that agency for damage to, or loss of, personal property in a foreign country, incurred on or after December 31, 1978, which damage or loss was incident to the service of that member, officer, or employee, and

"(1)(A) that member, officer, or employee was evacuated from that country on or after December 31, 1978, in accordance with a recommendation or order of the Secretary of State or other competent authority which was made in response to incidents of political unrest or hostile acts by people in that country, and (B) that damage or loss resulted from that evacuation or from any such incident or hostile act; or

"(2) that damage or loss resulted from acts of mob violence, terrorist attacks, or other hostile acts, directed against the United States Government or its officers or employees.

Survivors' claims.

"(b) The head of the agency, or his designee, authorized under subsection (a) to settle and pay a claim of a person described in such subsection may, if such person is deceased, settle and pay any claim made by the decedent's surviving (1) spouse, (2) children, (3) father or mother, or both, or (4) brothers or sisters, or both, that arose before, concurrently with, or after the decedent's death and is otherwise covered by this section. Claims of survivors shall be settled and paid in the order set forth in the preceding sentence.

"(c) A claim may be allowed under this section only if it is presented in writing within two years after the claim accrues, or within one year after the date of the enactment of this section, whichever is later.

Regulations.

"(d) The head of each agency shall issue regulations to carry out this section. The same standards applied in adjudicating a claim under section 3 of this Act shall be applied in adjudicating a claim under this section. Any claim to which this section applies but which has been adjudicated under section 3 of this Act by the applicable head of an agency before the date of the enactment of this section shall not be adjudicated under this section, but any amount of loss

31 USC 241.

adjudicated under such section 3 in connection with that claim which has not been paid shall be payable to the extent permitted in this section.

"(e) Upon payment of a claim under this section, the United States shall, to the extent of the amount of such payment, be subrogated to any right or claim, with respect to the same damage or loss for which the claim under this section was paid, that the claimant may have against the foreign country in which that damage or loss occurred.".

31 U.S.C. 243a.

SEC. 2. No funds may be obligated or expended pursuant to the amendments made by this Act, for fiscal years beginning on or after October 1, 1980, except to the extent provided in advance in appropriation Acts. Any payments made pursuant to such amendments before October 1, 1980, may only be made from funds appropriated before the date of enactment of the Act.

Approved December 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-858 (Comm. on the Judiciary).
SENATE REPORTS: No. 96-881 accompanying S. 2582 and No. 96-882 accompanying H.R. 6086 (both from Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Apr. 21, considered and passed House.
Oct. 1, considered and passed Senate, amended.
Oct. 2, House disagreed to Senate amendments.
Dec. 1, Senate receded from its amendments.

Public Law 96-520
96th Congress

An Act

To provide that a certain portion of Lake Erie shall be declared nonnavigable.

Dec. 12, 1980
[H.R. 8228]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That portion of the Erie Basin in the Buffalo Harbor lying within the following described area is hereby declared to be not a navigable water of the United States within the meaning of the Constitution and the laws of the United States:

Lake Erie, nonnavigable portion.
33 USC 59q.

All that piece or parcel of land, situate, lying and being in the city of Buffalo, County of Erie, State of New York, being part of outer lots 2, 4, 6, 8, 10, 12, and 14, 3, 5, 7, 9, 11, and 15, Buffalo Village, township 11, range 8 of the Holland Land Company's survey and also being part of the New York State Mile Strip Reservation, lots 4, 5, 14, and 15, and the abandoned rights-of-way of Georgia Street (66 feet wide), Erie Street (99 feet wide) and River Street (60 feet wide), and Genesee Street (99 feet wide):

Description.

Beginning at the point of intersection of the northerly right-of-way line of Erie Street (99 feet wide) with the westerly blue line of the former Erie Canal, now the westerly line of P.S.C. grade crossing elimination case numbered 5472;

thence south 60 degrees 59 minutes 41 seconds west along said northerly right-of-way of Erie Street, 200.19 feet to a point;

thence continuing along said northerly right-of-way, the following courses and distances, south 14 degrees 39 minutes 13 seconds west 6.89 feet to a point;

thence south 61 degrees 00 minutes 11 seconds west 35.15 feet to a point of curvature;

thence along a curve to the left of 195.0 feet radius an arc distance of 154.86 feet to a point of tangency;

thence south 15 degrees 30 minutes 00 seconds west 333.34 feet to a point of curvature;

thence along a curve to the right of 273.0 feet radius, an arc distance of 367.28 feet to a point of tangency, said point being in the northerly right-of-way of the Marina Access Road;

thence continuing along said right-of-way line, the following courses and distances north 87 degrees 25 minutes 00 seconds west 241.90 feet to a point of curvature;

thence along a curve to the right of 1,493.00 feet radius an arc distance of 141.14 feet to a point of reverse curvature;

thence along a curve to the left of 487.26 feet radius an arc distance of 139.90 feet to a point of tangency;

thence south 81 degrees 32 minutes 59 seconds west 59.44 feet to a point;

thence north 08 degrees 43 minutes 10 seconds west along a line 266.54 feet to a point on the waters edge of the Erie Basin as now existing;

thence along the following courses and distances along said Erie Basin north 69 degrees 52 minutes 33 seconds east along a line 139.85 feet to a point;
thence north 61 degrees 05 minutes 54 seconds east along a line 255.80 feet to a point;
thence north 15 degrees 47 minutes 39 seconds west along a line 74.47 feet to a point;
thence north 88 degrees 38 minutes 07 seconds west along a line 120.08 feet to a point;
thence north 48 degrees 37 minutes 57 seconds west along a line 78.12 feet to a point;
thence north 18 degrees 38 minutes 10 seconds west along a line 113.53 feet to a point;
thence north 41 degrees 22 minutes 02 seconds east along a line 77.56 feet to a point;
thence north 61 degrees 21 minutes 56 seconds east along a line 277.91 feet to a point;
thence north 28 degrees 37 minutes 56 seconds west along a line 65.59 feet to a point;
thence south 69 degrees 22 minutes 05 seconds west along a line 205.24 feet to a point;
thence north 53 degrees 38 minutes 06 seconds west along a line 120.28 feet to a point;
thence north 13 degrees 35 minutes 39 seconds west along a line 348.76 feet to a point;
thence north 14 degrees 50 minutes 41 seconds east along a line 39.52 feet to a point;
thence north 36 degrees 39 minutes 44 seconds east along a line 69.55 feet to a point;
thence north 61 degrees 47 minutes 02 seconds east along a line 20.14 feet to a point;
thence south 38 degrees 59 minutes 02 seconds east along a line 5.68 feet to a point;
thence north 60 degrees 15 minutes 46 seconds east along a line 116.70 feet to a point;
thence north 28 degrees 41 minutes 22 seconds west along a line 71.77 feet to a point;
thence south 61 degrees 01 minutes 06 seconds west along a line 116.16 feet to a point;
thence south 40 degrees 01 minutes 24 seconds west along a line 3.54 feet to a point;
thence south 61 degrees 38 minutes 00 seconds west along a line 26.80 feet to a point;
thence south 78 degrees 35 minutes 17 seconds west along a line 62.24 feet to a point;
thence north 57 degrees 34 minutes 24 seconds west along a line 155.64 feet to a point;
thence south 41 degrees 52 minutes 34 seconds west along a line 210.98 feet to a point;
thence south 72 degrees 42 minutes 05 seconds west along a line 58.68 feet to a point;
thence north 48 degrees 06 minutes 56 seconds west along a line 92.12 feet to a point;
thence north 11 degrees 03 minutes 41 seconds east along a line 60.10 feet to a point;
thence north 41 degrees 51 minutes 30 seconds east along a line 277.79 feet to a point;

thence north 48 degrees 31 minutes 25 seconds west along a line 246.32 feet to a point;
thence south 41 degrees 58 minutes 24 seconds west along a line 340.29 feet to a point;
thence south 73 degrees 49 minutes 18 seconds west along a line 57.42 feet to a point;
thence north 48 degrees 06 minutes 07 seconds west along a line 92.12 feet to a point;
thence north 11 degrees 06 minutes 02 seconds east along a line 60.09 feet to a point;
thence north 41 degrees 52 minutes 59 seconds east along a line 229.52 feet to a point;
thence north 39 degrees 01 minutes 22 seconds west along a line 1060.30 feet to a point in the northerly boundary of abandoned Georgia Street (66 feet wide);
thence north 55 degrees 22 minutes 10 seconds east along said boundary 895.12 feet to a point in the westerly blue line of the former Erie Canal;
thence south 36 degrees 07 minutes 00 seconds east along said blue line 66.02 feet to a point;
thence south 55 degrees 22 minutes 10 seconds west 6.0 feet to a point;
thence south 36 degrees 07 minutes 00 seconds east 377.01 feet to a point;
thence north 55 degrees 22 minutes 10 seconds east 6.0 feet to a point in the said blue line;
thence on the following courses and distances along said blue line south 36 degrees 07 minutes 00 seconds east 1,144.41 feet to a point;
thence south 53 degrees 53 minutes 03 seconds west 2.65 feet to a point;
thence south 36 degrees 07 minutes 10 seconds east 192.43 feet to a point;
thence south 36 degrees 24 minutes 34 seconds east 100.03 feet to a point;
thence south 36 degrees 26 minutes 22 seconds east 310.03 feet to a point;
thence south 40 degrees 25 minutes 16 seconds east 227.11 feet to a point in the north line of the former Peacock Slip numbered 1;
thence south 27 degrees 10 minutes 49 seconds east 99.66 feet to a point in the south line of the former Peacock Slip numbered 1;
thence north 62 degrees 49 minutes 43 seconds east along said south line 40.14 feet to a point in the said blue line;
thence south 50 degrees 58 minutes 05 seconds east along said blue line 49.31 feet;
thence south 36 degrees 28 minutes 10 seconds east 382.36 feet to a point;
thence south 38 degrees 33 minutes 02 seconds east along said blue line 63.20 feet to the point or place of beginning, containing 64.48 acres, more or less.

Levees, construction.

SEC. 2. Any Federal project submitted for authorization for construction of new levees or modification of existing levees for the control of floods within the Rio Grande from Bernalillo, New Mexico, to Belen, New Mexico, shall not require raising or modification of existing bridge structures within the project area to pass river flows in excess of that the bridges can now accommodate and estimated to be 42,000 cubic feet per second.

Nonnavigable waters.
33 USC 59r.

SEC. 3. Those portions of the Trent River in the city of New Bern, county of Craven, State of North Carolina, bounded and described in Committee Print 95-56 of the Committee on Public Works and Transportation of the House of Representatives are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States.

Approved December 12, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 30, considered and passed House; considered and passed Senate, amended Nov. 21, House concurred in Senate amendment.

Public Law 96-521
96th Congress

An Act

To authorize the Secretary of the Interior to issue certain patents under the Color of Title Act.

Dec. 12, 1980
[H.R. 6211]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Rio Grande Occupancy Resolution Program Area, N. Mex.
Patent issuance.

SECTION 1. That, in the administration of the Color of Title Act, as amended (43 U.S.C. 1068) and the Act of February 23, 1932 (43 U.S.C. 178), the Secretary of the Interior is authorized to issue a patent under such Acts to any applicant for a patent covering lands within the Rio Grande Occupancy Resolution Program Area, New Mexico (hereinafter in this Act referred to as "the area"), if (1) such applicant is otherwise qualified to receive such patent but for the fact that the land covered by the application for such patent involves an adverse claim or claims arising out of, or in connection with, a withdrawal order; and (2) the Secretary has determined, with the concurrence of the agency for which the withdrawal was made, that the continuation of the withdrawal is no longer needed, and that termination of the withdrawal will not adversely affect any Federal program as projected.

SEC. 2. No interest in any Federal land or water resource values are intended to be affected by this Act other than by express terms in the patents authorized to be issued pursuant to section 1 hereof.

SEC. 3. This Act does not apply to Indian lands or lands withdrawn for Indian use unless the applicant is a beneficiary of such Indian withdrawal.

SEC. 4. No later than one year after the date of enactment of this Act, each agency for whom a withdrawal of lands within the area was made shall advise the Secretary as to whether the continuation of each such withdrawal is needed and as to whether termination of any such withdrawal would adversely affect any Federal program as projected. Upon receipt of such advice from such agencies, but in no event later than two years after the date of enactment of this Act, the Secretary shall decide whether or not to make the determination described in section 1 of this Act.

Approved December 12, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 1, considered and passed House and Senate.

Public Law 96-522
96th Congress

An Act

Dec. 12, 1980
[H.R. 7805]

To authorize appropriations for the American Folklife Center for fiscal years 1982, 1983, and 1984.

American Folklife Center. Appropriation authorization, fiscal years 1982-1984.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the American Folklife Preservation Act (20 U.S.C. 2107) is amended—

(1) by inserting a comma after "1978";

(2) by striking out "and" after "1980,"; and

(3) by inserting after "1981" the following: ", $740,000 for the fiscal year ending September 30, 1982, $890,000 for the fiscal year ending September 30, 1983, and $990,000 for the fiscal year ending September 30, 1984".

Approved December 12, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Nov. 20, considered and passed House.
Dec. 1, considered and passed Senate.

Public Law 96-523
96th Congress

An Act

To amend section 3102 of title 5, United States Code, and section 7 of the Federal Advisory Committee Act to permit the employment of personal assistants for handicapped Federal employees both at their regular duty station and while on travel status.

Dec. 12, 1980
[H.R. 7466]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3102 of title 5, United States Code, is amended to read as follows:

Handicapped Federal employees. Personal assistants, employment.

"§ 3102. Employment of personal assistants for handicapped employees, including blind and deaf employees

Definitions.

"(a) For the purpose of this section—

"(1) 'agency' means—

"(A) an Executive agency; and

"(B) the Library of Congress;

"(2) 'handicapped employee' means an individual employed by an agency who is blind or deaf or who otherwise qualifies as a handicapped individual within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

29 USC 791.

"(3) 'nonprofit organization' means an organization determined by the Secretary of the Treasury to be an organization described in section 501(c) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) which is exempt from taxation under section 501(a) of such Code.

"(b)(1) The head of each agency may employ one or more personal assistants who the head of the agency determines are necessary to enable a handicapped employee of that agency to perform the employee's official duties and who shall serve without pay from the agency, without regard to—

"(A) the provisions of this title governing appointment in the competitive service;

"(B) chapter 51 and subchapter III of chapter 53 of this title; and

5 USC 5101 *et seq*, 5331.

"(C) section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

Such employment may include the employing of a reading assistant or assistants for a blind employee or an interpreting assistant or assistants for a deaf employee.

"(2) A personal assistant, including a reading or interpreting assistant, employed under this subsection may receive pay for services performed by the assistant from the handicapped employee or a nonprofit organization, without regard to section 209 of title 18.

"(c) The head of each agency may also employ or assign one or more personal assistants who the head of the agency determines are necessary to enable a handicapped employee of that agency to perform the employee's official duties. Such employment may include the employing of a reading assistant or assistants for a blind employee or an interpreting assistant or assistants for a deaf employee.

Travel expenses.

"(d)(1) In the case of any handicapped employee (including a blind or deaf employee) traveling on official business, the head of the agency may authorize the payment to an individual to accompany or assist (or both) the handicapped employee for all or a portion of the travel period involved. Any payment under this subsection to such an individual may be made either directly to that individual or by advancement or reimbursement to the handicapped employee.

Payment limitation.

"(2) With respect to any individual paid to accompany or assist a handicapped employee under paragraph (1) of this subsection—

"(A) the amount paid to that individual shall not exceed the limit or limits which the Office of Personnel Management shall prescribe by regulation to ensure that the payment does not exceed amounts (including pay and, if appropriate, travel expenses and per diem allowances) which could be paid to an employee assigned to accompany or assist the handicapped employee; and

5 USC 8101 *et seq.*

"(B) that individual shall be considered an employee, but only for purposes of chapter 81 of this title (relating to compensation for injury) and sections 2671 through 2680 of title 28 (relating to tort claims).

"(e) This section may not be held or considered to prevent or limit in any way the assignment to a handicapped employee (including a blind or deaf employee) by an agency of clerical or secretarial assistance, at the expense of the agency under statutes and regulations currently applicable at the time, if that assistance normally is provided, or authorized to be provided, in that manner under currently applicable statutes and regulations.".

(b) The item relating to section 3102 in the analysis of chapter 31 of title 5, United States Code, is amended to read as follows:

"3102. Employment of personal assistants for handicapped employees, including blind and deaf employees.".

(c)(1) Section 604(a)(16)(A) of title 28, United States Code, is amended by striking out "3102" and inserting in lieu thereof "3102(b)".

(2) Section 410(b)(1) of title 39, United States Code, is amended by striking out "3102 (employment of reading assistants for blind employees and interpreting assistants for deaf employees)," and inserting in lieu thereof "section 3102 (employment of personal assistants for blind, deaf, or otherwise handicapped employees),".

Ante, p. 3039.

SEC. 2. Section 7(d)(1) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting "; and" in lieu thereof, and by adding at the end thereof the following new subparagraph:

"(C) such members—

"(i) who are blind or deaf or who otherwise qualify as handicapped individuals (within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 794)), and

29 USC 791.

"(ii) who do not otherwise qualify for assistance under section 3102 of title 5, United States Code, by reason of being an employee of an agency (within the meaning of section 3102(a)(1) of such title 5),

Ante, p. 3039.

may be provided services pursuant to section 3102 of such title 5 while in performance of their advisory committee duties.".

Effective date.
5 USC 3102 note.

SEC. 3. The amendments made by this Act shall take effect sixty days after the date of the enactment of this Act.

SEC. 4. (a) Section 8332 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(m)(1) Upon application to the Office of Personnel Management, any individual who is an employee on the date of the enactment of this subsection, and who has on such date or thereafter acquires 5 years or more of creditable civilian service under this section (exclusive of service for which credit is allowed under this subsection) shall be allowed credit (as service as a Congressional employee) for service before the date of the enactment of this subsection while employed by the Democratic Senatorial Campaign Committee, the Republican Senatorial Campaign Committee, the Democratic National Congressional Committee, or the Republican National Congressional Committee, if— Federal civilian employees, service credit.

"(A) such employee has at least 5 years service on such committees as of the effective date of this section, and

"(B) such employee makes a deposit to the Fund in an amount equal to the amount which would be required under section 8334(c) of this title if such service were service as a Congressional employee. 5 USC 8334.

"(2) The Office shall accept the certification of the President of the Senate (or his designee) or the Speaker of the House (or his designee), as the case may be, concerning the service of, and the amount of compensation received by, an employee with respect to which credit is to be sought under this subsection. Service and compensation.

"(3) An individual receiving credit for service for any period under this subsection shall not be granted credit for such service under the provisions of the Social Security Act.". 42 USC 1305.

(b) The amendments made by this section shall take effect on the date of the enactment of this Act. Effective date. 5 USC 8332 note.

Approved December 12, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1279 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 8, considered and passed House.
Nov. 21, considered and passed Senate, amended.
Dec. 1, House concurred in Senate amendment.

Public Law 96-524
96th Congress

An Act

Dec. 12, 1980
[H.R. 7815]

To recognize the meritorious achievements of certain individuals by providing for the designation of certain post offices in their honor, and for other purposes.

Post offices, name designations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, as soon as practicable after the date of the enactment of this Act, the Postmaster General shall—

(1) designate the post office located at 1140 Olive Street, Saint Louis, Missouri, as the "Henry Winfield Wheeler Post Office";

(2) designate the post office located at 3106 Indiana Street, Kansas City, Missouri, as the "Leon Mercer Jordan Post Office";

(3) designate the post office located at 1720 Market Street, Saint Louis, Missouri, as the "Bernard F. Dickmann Post Office"; and

Designation plaques.

(4) install in each post office referred to in paragraphs (1), (2), and (3), in places in open view of the public, an appropriate plaque indicating the designation of the post office pursuant to this Act.

Approved December 12, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 25, considered and passed House.
Dec. 4, considered and passed Senate.

Public Law 96-525
96th Congress

An Act

To amend the Foreign Assistance Act of 1961 to authorize appropriations for international disaster assistance for the victims of the recent earthquakes in southern Italy.

Dec. 12, 1980
[H.R. 8388]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 495B of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

Italian earthquake victims.
International disaster assistance.
22 USC 2292h.
Appropriation authorization.

"(d)(1) The Congress recognizes that prompt United States assistance is necessary to alleviate the human suffering arising from the earthquakes in southern Italy in late 1980. Accordingly, there are authorized to be appropriated to the President, in addition to amounts otherwise available for such purpose, $50,000,000 for the fiscal year 1981 for relief, rehabilitation, and reconstruction assistance for the victims of those earthquakes. Such assistance shall be provided in accordance with the policies and general authorities of section 491 and on such terms and conditions as the President may determine.

22 USC 2292.

"(2) Amounts appropriated under this subsection are authorized to remain available until expended.

"(3) Obligations incurred against other appropriations or accounts for the purpose of providing relief, rehabilitation, and reconstruction assistance for the victims of the late 1980 earthquakes in southern Italy may be charged to appropriations, enacted after those obligations were incurred, for assistance for that purpose under this chapter.".

Approved December 12, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 1, considered and passed House.
Dec. 3, considered and passed Senate.

Public Law 96-526
96th Congress

An Act

Dec. 15, 1980
[H.R. 7631]

Making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes.

Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1981.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1981, and for other purposes, namely:

TITLE I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and heretofore approved in annual appropriations Acts, is increased by $1,417,400,000 of which $100,000,000 shall be for the modernization of existing low-income housing projects: *Provided,* That budget authority obligated under such contracts shall be increased above amounts heretofore provided in annual appropriations Acts by $30,877,500,000: *Provided further,* That any balances of authorities remaining at the end of fiscal year 1980 shall be added to and merged with the authority provided herein and made subject only to terms and conditions of law applicable to authorizations becoming available in fiscal year 1981.

The limitation otherwise applicable to the maximum payments that may be required by all contracts entered into under section 235 of the National Housing Act, as amended (12 U.S.C. 1715z), is increased by $70,000,000: *Provided,* That $2,100,000,000 of budget authority provided under this head for the previous fiscal year shall be transferred to, merged with, and used for the homeownership assistance program authorized by section 235 of the National Housing Act, as amended (12 U.S.C. 1715z): *Provided further,* That none of the authority provided herein shall be available for the homeownership assistance program authorized by section 207 of the Housing and Community Development Act of 1980 (Public Law 96-399).

Ante, p. 1631.

RENT SUPPLEMENT

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is reduced in fiscal year 1981 by not more than $30,000,000 in uncommitted balances of authorizations provided for this purpose in Appropriation Acts.

HOUSING PAYMENTS

For the payment of annual contributions, not otherwise provided for, in accordance with section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c); for payments authorized by title IV of the Housing Act of 1950, as amended (12 U.S.C. 1749 et seq.); for rent supplement payments authorized by section 101 of the Housing and Urban Development Act of 1965, as amended (12 U.S.C. 1701s); and for payments as authorized by sections 235 and 236 of the National Housing Act, as amended (12 U.S.C. 1715z, 1715z-1), $7,127,000,000.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

In 1981, $855,000,000 of gross loan commitments may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing collections and other resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection, and up to $65,000,000 of additional gross 1981 loan commitments may be made from prior year commitments cancelled in 1981: *Provided,* That such commitments shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further,* That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further,* That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further,* That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $970,800,000.

TROUBLED PROJECTS OPERATING SUBSIDY

For assistance payments to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, in the program of operating subsidies for troubled multifamily housing projects under the Housing and Community

42 USC 5301 note.

Development Amendments of 1978, $18,050,000, together with all unobligated balances of excess rental charges and with any collections after September 30, 1980, to remain available until September 30, 1982: *Provided,* That assistance payments to an owner of a multifamily housing project assisted, but not insured, under the

12 USC 1701.

National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and the General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $268,640,000, to remain available until expended: *Provided,* That none of the funds in this or any other Act shall be available to cover losses incurred as the result of any employment program not specifically justified at the time the budget was submitted without the prior approval of the Committees on Appropriations: *Provided further,* That during fiscal year 1981, gross obligations of not to exceed $14,040,000 are authorized for payments under section 230(a) of the National Housing Act as amended by section 341 of the Housing and Community Development Act of 1980

Ante, p. 1659.

(Public Law 96-399), from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

During 1981, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary, to carry out the purposes of the National Housing Act, as amended.

12 USC 1701.

During 1981, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed $34,154,732,000.

LOW-RENT PUBLIC HOUSING—LOANS AND OTHER EXPENSES

During 1981, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the low-rent public housing loan fund.

During 1981, total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the low-rent public housing loan fund.

NONPROFIT SPONSOR ASSISTANCE

During 1981, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed $2,300,000.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SPECIAL ASSISTANCE FUNCTIONS FUND

During 1981, within the resources and authority available, gross obligations for the principal amounts of direct loans made pursuant to section 305 of the National Housing Act, as amended (12 U.S.C. 1720), shall not exceed $1,800,000,000, which may be financed with collections received in 1981, and additional obligations are author-

ized in such amounts as are necessary for increases to prior year commitments.

PAYMENT OF PARTICIPATION SALES INSUFFICIENCIES

For the payment of such insufficiencies as may be required by the Government National Mortgage Association, as trustee, on account of outstanding beneficial interests or participations in assets of the Department of Housing and Urban Development (including the Government National Mortgage Association) authorized by the Independent Offices and Department of Housing and Urban Development Appropriation Act, 1968, to be issued pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, as amended (12 U.S.C. 1717), $4,967,000. 81 Stat. 341.

EMERGENCY MORTGAGE PURCHASE ASSISTANCE

During 1981, within the resources and authority available, gross obligations for the principal amounts of direct loans are authorized in such amounts as are necessary for increases to prior year commitment contracts.

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During 1981, additional commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $53,000,000,000.

SOLAR ENERGY AND ENERGY CONSERVATION BANK

ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

(BY TRANSFER)

For financial assistance and other expenses, not otherwise provided for, to carry out the provisions of the Solar Energy and Energy Conservation Bank Act of 1980, which shall be derived by transfer from the "Solar and Conservation Reserve" established pursuant to Public Law 96-126 (93 Stat. 954, 971), $125,000,000, to remain available until September 30, 1982. *Ante*, p. 719.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grant program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $3,770,000,000, to remain available until September 30, 1983: *Provided*, That not to exceed 20 per centum of any grant made pursuant to section 103(a) of title I of the Housing and Community Development Act of 1974, as amended, shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development. *Ante*, p. 1618.

During 1981, total commitments to guarantee loans, as authorized by section 108 of the aforementioned Act, shall not exceed $250,000,000 of contingent liability for loan principal.

URBAN DEVELOPMENT ACTION GRANTS

Ante, p. 1618.

For grants pursuant to section 103(c) of title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $675,000,000, to remain available until September 30, 1983.

CONGREGATE SERVICES PROGRAM

42 USC 8001 note.

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs as authorized by the Congregate Housing Services Act of 1978, $10,000,000, to remain available until September 30, 1984.

COMPREHENSIVE PLANNING GRANTS

For grants as authorized by section 701 of the Housing Act of 1954, as amended (40 U.S.C. 461), $33,750,000, to remain available until expended.

REHABILITATION LOAN FUND

For the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), $134,000,000, together with collections, unexpended balances of prior appropriations, and all other amounts in the revolving fund which will be available on or after September 30, 1980, to remain available until expended, for commitments for loans and operating costs.

During 1981, within the resources and authority available, gross amounts administratively committed for the principal amounts of direct loans shall not exceed $186,000,000 in new commitments, in addition to which up to $15,000,000 may also be committed from cancelled prior year commitments.

URBAN HOMESTEADING

92 Stat. 791.

12 USC 1706e.

Funds provided for Urban Homesteading in the Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1979, may be used for reimbursement to the Administrator of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Administrator and the Secretary for use in connection with a HUD-approved urban homesteading program as authorized by section 810 of the Housing and Community Development Act of 1974, as amended.

URBAN RENEWAL PROGRAMS

During 1981, within the resources available, obligations for direct loans and commitments to guarantee loans are authorized in such amounts as may be necessary in connection with previously approved urban renewal projects.

NEW COMMUNITY DEVELOPMENT CORPORATION

NEW COMMUNITIES FUND

For the redemption of new community debentures and related expenses, authorized by section 713, Housing and Urban Development Act of 1970, as amended (42 U.S.C. 4514), and section 403, Housing and Urban Development Act of 1968, as amended (42 U.S.C.

3902), such sums as may be necessary, to be financed as provided by section 717, Housing and Urban Development Act of 1970, as amended (42 U.S.C. 4518).

NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS AND CONSUMER PROTECTION

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii) and section 106(a)(2) of the Housing and Urban Development Act of 1968, as amended, $10,000,000. 12 USC 1701x.

NEIGHBORHOOD SELF-HELP DEVELOPMENT PROGRAM

For contracts, grants, and other assistance, not otherwise provided for, to neighborhood organizations as authorized by the Neighborhood Self-Help Development Act of 1978 (42 U.S.C. 8121-8124), $9,000,000, to remain available until September 30, 1982.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $44,650,000, to remain available until September 30, 1982. 5 USC app.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, $5,700,000, to remain available until expended. 42 USC 3601.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $3,000 for official reception and representation expenses, $572,609,000, of which $249,513,000 shall

be provided from the various funds of the Federal Housing Administration.

ADMINISTRATIVE PROVISION

None of the funds appropriated by this title may be expended to implement final energy conservation performance standards for new residential or commercial buildings.

TITLE II

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries when required by law of such countries; $8,967,000: *Provided,* That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further,* That when traveling on business of the Commission, officers of the Armed Forces serving as members or as secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further,* That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it.

36 USC 121b.

36 USC 122.

36 USC 122a.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including rent in the District of Columbia, hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, and not to exceed $500 for official reception and representation expenses, $43,000,000: *Provided,* That the effective date of the safety standard for walk behind power lawnmowers as promulgated in 16 CFR part 1205 is hereby delayed to June 30, 1982: *Provided further,* That funds provided by this appropriation for laboratories shall be available only for the acquisition or conversion of existing laboratories.

5 USC 5332 note.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of maintenance, operation, and improvement of the cemetery at the Soldiers' and Airmen's Home and Arlington National Cemetery, including the purchase of two passenger motor vehicles of which one shall be for replacement only, $5,135,000, to remain available until expended: *Provided,* That reimbursement shall be made to the applicable military appropriation for the pay and allowances of any military personnel performing services primarily for the purposes of this appropriation.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; and not to exceed $3,000 for official reception and representation expenses; $547,558,000, of which not to exceed $500,000 shall be available for purposes of Resource Recovery and Conservation Panels established under section 2003 of the Resource Conservation and Recovery Act (42 U.S.C. 6913). 5 USC 5332 note.

RESEARCH AND DEVELOPMENT

For research and development activities, $253,520,000, to remain available until September 30, 1982.

ABATEMENT, CONTROL AND COMPLIANCE

For abatement, control and compliance activities, $545,183,000, to remain available until September 30, 1982, of which not to exceed $4,500,000 shall be available for purposes of Resource Recovery and Conservation Panels established under section 2003 of the Resource Conservation and Recovery Act (42 U.S.C. 6913): *Provided,* That notwithstanding any other provision of law, not to exceed $8,000,000 shall be available for support to State, regional, local and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009. 42 USC 6941, 6948, 6949.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment of facilities of or used by the Environmental Protection Agency, $4,115,000, to remain available until expended.

CONSTRUCTION GRANTS

33 USC 1281. 33 USC 1286, 1288, 1289. 33 USC 1283.

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 206, 208, and 209, $3,400,000,000, to remain available until expended, and for liquidation of obligations incurred pursuant to authority contained in section 203, $1,700,000,000, to remain available until expended: *Provided,* That none of the funds appropriated in this Act shall be used to enforce, retroactively, any regulation issued under the construction grants program or any project requirements or conditions not in effect at the time the grant for a project is awarded, except as expressly required by law or by executive order: *Provided further,* That advanced wastewater treatment reviews initiated by program review memorandum 79-7 shall be exempt from this requirement.

UNITED STATES REGULATORY COUNCIL

For necessary expenses of the United States Regulatory Council, including services as authorized by 5 U.S.C. 3109, $2,500,000.

ADMINISTRATIVE PROVISIONS

The foregoing appropriations shall only be available for the purposes of preparing, reviewing, or approving State Implementation Plans or revisions thereto that comply with section 110(a)(2)(E) of the Clean Air Act, as amended. 42 USC 1857c-5.

Not to exceed 1 per centum of any appropriation made available to the Environmental Protection Agency by this Act (except appropriations for "Construction grants") may be transferred to any other such appropriation prior to March 31, 1981.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

42 USC 4321 note. 42 USC 4371 note, 5 USC app.

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, $3,250,000.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $2,712,000.

FEDERAL EMERGENCY MANAGEMENT AGENCY

FUNDS APPROPRIATED TO THE PRESIDENT

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Disaster Relief Act of 1970, as amended (42 U.S.C. 4401), and the Disaster Relief Act of 1974, as amended (42 U.S.C. 5202), $375,570,000, to remain available until expended. 42 USC 4401 note.

EMERGENCY PLANNING, PREPAREDNESS AND MOBILIZATION

For necessary expenses, not otherwise provided for, to carry out civil defense and emergency preparedness activities, including activities authorized by section 103 of the National Security Act (50 U.S.C. 404 et seq.), the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), and the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), $159,017,000, of which not to exceed $39,034,000 shall be available for allocation under section 205 of the Federal Civil Defense Act of 1950, as amended. 50 USC 2286 app.

HAZARD MITIGATION AND DISASTER ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973 (42 U.S.C. 400 et seq.), the Urban Property Protection and Reinsurance Act of 1968, as amended, and the National Insurance Development Act of 1975 (12 U.S.C. 1749 bbb et seq.), the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 278f, 278q, and 2201 et seq.), the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671) and Reorganization Plan No. 3 of 1978, including not to exceed $500 for official reception and representation expenses, $109,350,000. 42 USC 4001 note. 42 USC 4001 note, 12 USC 1701 note. 12 USC 1701 note. 5 USC app.

NATIONAL FLOOD INSURANCE FUND

For repayment under notes dated April 17, 1979, and September 28, 1979, issued by the Director of the Federal Emergency Management Agency to the Secretary of the Treasury pursuant to section 15(e) of the Federal Flood Insurance Act of 1956, as amended, $575,000,000. 42 USC 2414.

ADMINISTRATIVE PROVISION

Appropriations contained in this Act for the Federal Emergency Management Agency shall be available for hire of motor vehicles, services as authorized by 5 U.S.C. 3109, expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness, and transportation in connection with the continuity of government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,409,000.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $2,200,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; and including not to exceed (1) $29,000,000 for Space Transportation Systems Upper Stages, (2) $30,900,000 for Space Transportation Systems Operations—Upper Stages, (3) $119,300,000 for the Space Telescope, (4) $39,600,000 for the International Solar Polar Mission, (5) $19,100,000 for the Gamma Ray Observatory, (6) $63,100,000 for Project Galileo, (7) $88,500,000 for Landsat D, (8) $1,873,000,000 for the Space Shuttle, and (9) $149,700,000 for Spacelab, without the approval of the Committees on Appropriations, $4,396,200,000, to remain available until September 30, 1982.

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $115,000,000, to remain available until September 30, 1983: *Provided,* That, notwithstanding the limitation on the availability of funds appropriated under this head by this appropriation Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design.

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C.

5901-5902); awards; purchase (for replacement only, of one aircraft, for which partial payment may be made by exchange of at least one existing administrative aircraft and such other existing aircraft as may be considered appropriate), hire, maintenance and operation of administrative aircraft; purchase (not to exceed thirty-six for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $75,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; $1,030,000,000: *Provided,* That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That not to exceed $25,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

NATIONAL COMMISSION ON AIR QUALITY

SALARIES AND EXPENSES

For necessary expenses of the National Commission on Air Quality as authorized by the Clean Air Act Amendments of 1977 (42 U.S.C. 7623 and 7626), including services as authorized by 5 U.S.C. 3109, $2,000,000.

NATIONAL CONSUMER COOPERATIVE BANK

SALARIES AND EXPENSES

For necessary administrative expenses and technical assistance of the National Consumer Cooperative Bank, including the Office of Self-Help Development and Technical Assistance, as authorized by sections 112 and 209 of the National Consumer Cooperative Bank Act (12 U.S.C. 3022 and 3049), $8,700,000: *Provided,* That none of these funds shall be used to retire any of the indebtedness of the National Consumer Cooperative Bank.

SELF-HELP DEVELOPMENT

For advances by the Office of Self-Help Development and Technical Assistance as authorized by section 202 of the National Consumer Cooperative Bank Act (12 U.S.C. 3042), $27,000,000, to remain available until September 30, 1982.

During 1981, within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $41,108,000.

NATIONAL CONSUMER COOPERATIVE BANK FUND

During 1981, within the resources available, the principal amount of direct loans outstanding shall not exceed $169,050,000.

During 1981, total commitments to guarantee loans shall not exceed $5,000,000 of contingent liability for loan principal.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

The amount which may be borrowed, from the public or any other source except the Secretary of the Treasury, by the Central Liquidity Facility as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795), shall not exceed $600,000,000: *Provided,* That administrative expenses of the Central Liquidity Facility in fiscal year 1981 shall not exceed $1,936,000.

During 1981, within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $4,400,000,000.

NATIONAL INSTITUTE OF BUILDING SCIENCES

SALARIES AND EXPENSES

For payment to the National Institute of Building Sciences as authorized by section 809 of the Housing and Community Development Act of 1974, as amended (12 U.S.C. 1701j-2), $625,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), title IX of the National Defense Education Act of 1958 (42 U.S.C. 1876-1879), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; lease of one aircraft with option to purchase; maintenance and operation of aircraft and purchase of flight services for research support; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; not to exceed $57,700,000 for program development and management; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; $987,900,000, including not more than $6,000,000 for new research opportunities grants for women, to remain available until September 30, 1982: *Provided,* That not more than (1) $115,600,000 shall be available for Engineering and Applied Science, (2) $25,750,000 shall be available for Scientific, Technological, and International Affairs, (3) $28,750,000 shall be available for Cross-Directorate Programs and (4) $5,000,000 shall be available for grants to two-year and four-year colleges for equipment and instrumentation costing $35,000 or less: *Provided further,* That none of these funds shall be available for a new Center for Innovation Development: *Provided further,* That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further,* That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further,* That if an institution of higher education receiving funds hereunder

determines after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has, after the date of enactment of this Act, willfully refused to obey a lawful regulation or order of such institution and that such refusal was of a serious nature and contributed to the disruption of the administration of such institution, then the institution shall deny any further payment to, or for the benefit of, such individual.

SCIENCE EDUCATION ACTIVITIES

For necessary expenses in carrying out science education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including award of graduate fellowships, services as authorized by 5 U.S.C. 3109, and rental of conference rooms in the District of Columbia, $83,200,000: *Provided,* That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States, for scientific activities, as authorized by law, $5,000,000, to remain available until September 30, 1982: *Provided,* That this appropriation shall be available in addition to other appropriations to the National Science Foundation, for payments in the foregoing currencies.

NEIGHBORHOOD REINVESTMENT CORPORATION

SALARIES AND EXPENSES

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), $12,713,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed $500 for official reception and representation expenses; $27,137,000: *Provided,* That during the current fiscal year, the President may exempt this appropriation from the provisions of subsection (c) of section 3679 of the Revised Statutes, as amended, whenever he deems such action to be necessary in the interest of national defense: *Provided further,* That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

31 USC 665.

DEPARTMENT OF THE TREASURY

PAYMENTS TO STATE AND LOCAL GOVERNMENT FISCAL ASSISTANCE TRUST FUND

For payments to the State and Local Government Fiscal Assistance Trust Fund, as authorized by the State and Local Fiscal Assistance Act of 1972, as amended (31 U.S.C. 1221-1263), $4,569,949,000.

OFFICE OF REVENUE SHARING, SALARIES AND EXPENSES

For necessary expenses in the Office of Revenue Sharing, including the hire of passenger motor vehicles, $6,518,000.

NEW YORK CITY LOAN GUARANTEE PROGRAM

31 USC 1521 note.

For necessary administrative expenses as authorized by the New York City Loan Guarantee Act of 1978 (Public Law 95-415), $922,000.

Total commitments to guarantee loans through June 30, 1982, shall not exceed $900,000,000 of contingent liability for loan principal.

INVESTMENT IN NATIONAL CONSUMER COOPERATIVE BANK

For the purchase of class A stock issued by the National Consumer Cooperative Bank as authorized by section 104 of the National Consumer Cooperative Bank Act (12 U.S.C. 3014), $89,000,000, to remain available until September 30, 1982.

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

50 USC 540 app.

For the payment of compensation, pensions, gratuities, and allowances, including burial awards, plot allowances, burial flags, headstones and grave markers, emergency and other officers' retirement pay, adjusted-service credits and certificates, and other benefits as authorized by law; and for payment of premiums due on commercial life insurance policies guaranteed under the provisions of article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, $11,602,000,000, to remain available until expended.

READJUSTMENT BENEFITS

38 USC 801 *et seq.*, 1501 *et seq.*, 1601 *et seq.*, 1651-1770 *et seq.*, 1901 *et seq.*, 3001-3501 *et seq.*

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 31, 32, 34-36, 39, and 51-61), $1,822,308,000, to remain available until expended.

VETERANS INSURANCE AND INDEMNITIES

38 USC 701 *et seq.*

For military and naval insurance, national service life insurance, servicemen's indemnities, and service-disabled veterans insurance, as authorized by law (38 U.S.C. chapter 19, 70 Stat. 887, 72 Stat. 487), $1,360,000, to remain available until expended.

During 1981, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the "Veterans insurance and indemnities fund".

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans Administration, including care and treatment in facilities not under the jurisdiction of the Veterans Administration, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); and aid to State homes as authorized by law (38 U.S.C. 641); $6,020,013,000 plus reimbursements.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development, as authorized by law, to remain available until September 30, 1982, $132,153,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, domiciliary, construction and supply, research, employee education and training activities, as authorized by law, and for carrying out the provisions of section 5055, title 38, United States Code, relating to pilot programs and grants for exchange of medical information, $51,218,000, plus reimbursements.

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Veterans Administration, not otherwise provided for, including uniforms or allowance therefor, as authorized by law; not to exceed $3,000 for official reception and representation expenses; cemeterial expenses as authorized by law, purchase of nine passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $627,592,000.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, and site acquisition, where the estimated cost of a project is $2,000,000 or more or where funds for a project were made available in a previous major project appropriation, $423,774,000, of which $409,534,000 shall remain available until expended and $14,240,000 shall be for construction of replacement facilities at Little Rock, Arkansas, and shall remain available until April 30, 1981: *Provided,*

That, except for advance planning of projects funded through the Advance Planning Fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process.

For settlement of a contractor's claim involving the Veterans Administration Medical Center, Boston, Massachusetts, from existing balances, $1,150,000.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, including planning, architectural and engineering services, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than $2,000,000, $108,908,000, to remain available until expended: *Provided,* That not more than $26,344,000 shall be available for expenses of the Office of Construction.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED FACILITIES

For grants to assist the several States to construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans, as authorized by law (38 U.S.C. 5031-5037), $15,000,000, to remain available until September 30, 1983.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding or improving State veterans' cemeteries as authorized by law (Public Law 95-476, section 202), $5,000,000, to remain available until September 30, 1983.

38 USC 903, 1008.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants as authorized by law (38 U.S.C. 631-634), $1,200,000, of which $50,000 for hospital equipment, plant, and facilities rehabilitation grants shall remain available until expended.

LOAN GUARANTY REVOLVING FUND

During 1981, the Loan guaranty revolving fund shall be available for expenses for property acquisitions, payment of participation sales insufficiencies, and other loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided,* That the unobligated balances including retained earnings of the Direct loan revolving fund shall be available, during 1981, for transfer to the Loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund and the Administrator of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

38 USC 1801 *et seq.*
38 USC 1824.

During 1981, within the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

DIRECT LOAN REVOLVING FUND

During 1981, within the resources available, gross obligations for direct loans are authorized only for specially adapted housing loans and obligations for such loans shall not exceed $1,000,000 (38 U.S.C. chapter 37). 38 USC 1801 *et seq.*

SERVICE-DISABLED VETERANS INSURANCE FUND

During 1981, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the "Service-disabled veterans insurance fund" (38 U.S.C. chapter 19). 38 USC 701 *et seq.*

VETERANS REOPENED INSURANCE FUND

During 1981, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the "Veterans reopened insurance fund" (38 U.S.C. chapter 19).

EDUCATION LOAN FUND

During 1981, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the "Education loan fund" (38 U.S.C. chapters 32, 34, 35 and 36). 38 USC 1601 *et seq*, 1651 *et seq.*, 1700 *et seq.*, 1770 *et seq.*

VOCATIONAL REHABILITATION REVOLVING FUND

During 1981, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the "Vocational rehabilitation revolving fund" (38 U.S.C. chapter 31). 38 USC 1501 *et seq.*

NATIONAL SERVICE LIFE INSURANCE FUND

During 1981, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the "National service life insurance fund" (38 U.S.C. chapter 19). 38 USC 701 *et seq.*

UNITED STATES GOVERNMENT LIFE INSURANCE FUND

During 1981, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the "United States Government life insurance fund" (38 U.S.C. chapter 19).

VETERANS SPECIAL LIFE INSURANCE FUND

During 1981, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the "Veterans special life insurance fund" (38 U.S.C. chapter 19).

ADMINISTRATIVE PROVISIONS

Not to exceed 5 per centum of any appropriation for 1981 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of

the mentioned appropriations, but not to exceed 10 per centum of the appropriations so augmented.

Appropriations available to the Veterans Administration for 1981 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Veterans Administration (except the appropriations for "Construction, major projects" and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Administrator of Veterans Affairs.

TITLE III

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development and the Federal Home Loan Bank Board which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1981 for such corporation or agency except as hereinafter provided: *Provided,* That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriation Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

31 USC 841 *note.*

31 USC 849.

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE AND NONADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

Not to exceed a total of $53,135,000 shall be available for expenses of the Federal Home Loan Bank Board, which amount shall include nonadministrative expenses for the examination and supervision of Federal and State-chartered institutions in an amount not to exceed $33,105,000, and administrative expenses in an amount not to exceed $20,030,000, and said total amount shall be available for procurement of services as authorized by 5 U.S.C. 3109, and contracts for such services with one organization may be renewed annually, and uniforms or allowances therefor in accordance with law (5 U.S.C. 5901-5902), and said amount shall be derived from funds available to the Federal Home Loan Bank Board, including those in the Federal Home Loan Bank Board revolving fund and receipts of the Board for the current fiscal year and prior fiscal years, and the Board may utilize and may make payment for services and facilities of the Federal home loan banks, the Federal Reserve Banks, the Federal

Savings and Loan Insurance Corporation, the Federal Home Loan Mortgage Corporation, and other agencies of the Government (including payment for office space): *Provided,* That expenses for special examinations of Federal and State-chartered institutions determined by the Board to be necessary, all necessary expenses in connection with the conservatorship or liquidation of institutions insured by the Federal Savings and Loan Insurance Corporation, liquidation or handling of assets of or derived from such insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of such insured institutions, or activities relating to section 5A(f) or 6(i) of the Federal Home Loan Bank Act, section 5(d) of the Home Owners' Loan Act of 1933, section 12(i) of the Securities Exchange Act of 1934, or section 406(c), 407, or 408 of the National Housing Act and all necessary expenses (including services performed on a contract or fee basis, but not including other personal services) in connection with the handling, including the purchase, sale, and exchange, of securities on behalf of Federal home loan banks, and the sale, issuance, and retirement of, or payment of interest on, debentures or bonds, under the Federal Home Loan Bank Act, as amended, shall be excluded from the above limitations: *Provided further,* That members and alternates of the Federal Savings and Loan Advisory Council shall be entitled to reimbursement from the Board as approved by the Board for transportation expenses incurred in attendance at meetings of or concerned with the work of such Council and may be paid in lieu of subsistence per diem not to exceed the dollar amount set forth in 5 U.S.C. 5703: *Provided further,* That not to exceed $1,500 shall be available for official reception and representation expenses: *Provided further,* That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the expenses and other obligations of the Board shall be incurred, allowed, and paid in accordance with the provisions of the Federal Home Loan Bank Act of July 22, 1932, as amended (12 U.S.C. 1421-1449).

12 USC 1425a, 1426.
12 USC 1464, 15 USC 78*l*.
12 USC 1729-1730a.
12 USC 1428a note.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Not to exceed $1,000,000 shall be available for administrative expenses, which shall be on an accrual basis and shall be exclusive of interest paid, depreciation, properly capitalized expenditures, expenses in connection with liquidation of insured institutions or activities relating to section 406(c), 407, or 408 of the National Housing Act, liquidation or handling of assets of or derived from insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of insured institutions, legal fees and expenses and payments for expenses of the Federal Home Loan Bank Board determined by said Board to be properly allocable to said Corporation, and said Corporation may utilize and may make payments for services and facilities of the Federal home loan banks, the Federal Reserve Banks, the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, and other agencies of the Government: *Provided,* That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the administrative expenses and other obligations of said Corporation shall be incurred, allowed, and paid in accordance with title IV of the Act of June 27, 1934, as amended (12 U.S.C. 1724-1730f).

12 USC 1729-1730a.

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION FUND

During 1981, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purpose of 12 U.S.C. 1729(f).

TITLE IV

GENERAL PROVISIONS

Travel expenses.
Ante, pp. 3044, 3050.

SEC. 401. Where appropriations in titles I and II of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans Administration; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further,* That the limitations may be increased by the Secretary when necessary to allow for travel performed by employees of the Department of Housing and Urban Development as a result of increased Federal Housing Administration inspection and appraisal workload.

42 USC 5121 note.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

Legal services.
31 USC 841 note.
12 USC 1749a.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal home loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such an audit.

Certain government transportation, prohibition.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitations.

Research projects.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided,* That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

5 USC 5332 note.

SEC. 409. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations without the approval of the Committees on Appropriations.

SEC. 410. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

Consulting service contracts. Public record, availability.

SEC. 411. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 412. Notwithstanding any other provision of this Act, the total budget authority provided by this Act for payments not required by law shall be reduced by 2 per centum: *Provided,* That of the amount provided in this Act for each appropriation account, activity, and project for payments not required by law, the amount reduced shall not exceed 3 per centum: *Provided further,* That this section shall not apply to budget authority provided by this Act for the Veterans Administration.

SEC. 413. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations

promulgated thereunder and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared and (B) the contractor who prepared the report pursuant to such contract.

SEC. 414. (a) No appropriations made available in this Act shall be obligated in a manner that would cause obligations from the total budget authority available to any department or establishment, as defined in section 2 of the Budget and Accounting Act 1921, or any major administrative subdivision thereof, during the fiscal year ending September 30, 1981, to exceed 30 per centum for the last quarter of such fiscal year or 15 per centum for any month in the last quarter of such fiscal year. The Director of the Office of Management and Budget may waive the requirements of the preceding sentence with respect to any program or activity if the Director determines in writing that the waiver is necessary to avoid a serious disruption in carrying out such program or activity.

31 USC 2.

Report submittal.

(b) Not later than forty-five days after the end of each quarter of the fiscal year, the head of each department and establishment shall submit a report to the Committees on Appropriations and to the Director of the Office of Management and Budget, specifying the amount of obligations incurred during the quarter and the percentage of total available budget authority for the fiscal year which the obligations constitute.

(c) The Director of the Office of Management and Budget shall keep the Committees on Appropriations fully informed of actions taken to carry out the requirements of this section, including any waivers granted, and shall promptly report in writing any situation in which the obligations of any department and establishment exceed such requirements other than pursuant to a waiver. Not later than December 31, 1981, the Director shall submit a report to the Committees on Appropriations on the results of the requirements of this section and actions taken under this section, including the effects upon procurement and apportionment processes, together with any recommendations the Director considers appropriate. Concurrent with the submittal of the report to the Committees on Appropriations under the preceding sentence, the Director shall submit a copy of such report to the Comptroller General, who shall promptly review that report and submit to the Committees on Appropriations an analysis of the report and any recommendations which the Comptroller General considers appropriate.

Report to congressional committees.

Report to Comptroller General. Review.

Audits.

SEC. 415. All unresolved audits currently pending within agencies and departments, for which appropriations are made under this Act, shall be resolved not later than September 30, 1981. Any new audits, involving questioned expenditures, arising after the enactment of this Act shall be resolved within six months of completing the initial audit report.

Debt collection.

SEC. 416. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible.

OUTLAY SCHEDULES AND REPORTS

SEC. 417. Departments and independent agencies receiving appropriations in excess of $50,000,000 under this Act shall, within thirty days following enactment, submit to the Committees on Appropriations of the two Houses of Congress a schedule of anticipated outlays for each month of the fiscal year beginning October 1, 1980. These departments and agencies shall also submit to the Appropriations Committees, within thirty days after the end of each calendar quarter, reports showing actual outlays for the preceding quarter and any necessary changes in the schedule of outlays originally submitted. In the event a department or agency determines that its total outlays during the fiscal year will vary by more than 1 per centum from the total projected in its original schedule, it shall immediately submit to the Committee on Appropriations of the two Houses a revised schedule. Unless disapproved by both of the Appropriations Committees within fifteen legislative days after submission, the department or agency may implement the revised outlay schedule. Departments and independent agencies shall submit copies of the outlay schedules and reports required herein to the Congressional Budget Office concurrently with their submission to the House and Senate Committees on Appropriations. The Congressional Budget Office shall analyze these schedules and reports and assess their implications for Congressional budget and appropriations policies and submit the results of its analyses on a timely basis to the Committees on Appropriations and Budgets of the two Houses of Congress.

Submittal to congressional committees.

Schedule implementation.

Submittal to congressional committees.

Report analysis.

SEC. 418. Notwithstanding any other provision of this Act, any amount appropriated by this Act for the fiscal year ending September 30, 1981, for any department, agency, or instrumentality of the United States Government, which is available to pay for or conduct advertising or public relations activities is reduced by 10 per centum: *Provided,* That this section shall not apply to funds provided for the Veterans Administration.

This Act may be cited as the "Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1981".

Short title.

Approved December 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1114 (Comm. on Appropriations) and No. 96-1476 (Comm. of Conference).
SENATE REPORT No. 96-926 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 24, 25, 28, considered and passed House.
Sept. 15-19, 22, 23, considered and passed Senate, amended.
Dec. 2, House agreed to conference report; receded from its disagreement and concurred in certain Senate amendments and in others with amendments.
Dec. 3, Senate agreed to conference report and concurred in House amendments.

Public Law 96-527
96th Congress

An Act

Dec. 15, 1980
[H.R. 8105]

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes.

Department of Defense Appropriation Act, 1981.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1981, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

Military Personnel, Army

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; $11,060,468,000.

Military Personnel, Navy

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; $7,857,423,000.

Military Personnel, Marine Corps

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); $2,350,086,000.

Military Personnel, Air Force

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for mem-

bers of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; $8,976,309,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3019, and 3033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $789,150,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Naval Reserve on active duty under section 265 of title 10, United States Code, or personnel while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $302,003,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $102,767,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8019, and 8033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $258,974,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under sections 265, 3033, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on active duty under section

672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $1,035,997,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under sections 265, 8033, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on active duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; $341,172,000.

TITLE II

RETIRED MILITARY PERSONNEL

RETIRED PAY, DEFENSE

For retired pay and retirement pay, as authorized by law, of military personnel on the retired lists of the Army, Navy, Marine Corps, and Air Force, including the reserve components thereof, retainer pay for personnel of the Inactive Fleet Reserve, and payments under section 4 of Public Law 92-425 and chapter 73 of title 10, United States Code; $13,887,800,000.

10 USC 1448 note.
10 USC 1431 *et seq.*

TITLE III

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $3,965,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $12,302,784,000, and in addition, $5,000,000, which shall be derived by transfer from "Army Stock Fund", of which not less than $641,500,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $1,555,000 can be used for emergencies and extraordinary expenses, to be expended on the

approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $16,735,394,000, and in addition, $135,500,000, of which $13,700,000 shall be derived by transfer from "Aircraft procurement, Navy, 1980/1982"; $86,400,000 shall be derived by transfer from the subdivision "FFG–7 guided missile frigate program" of "Shipbuilding and conversion, Navy, 1980/1984"; $21,500,000 shall be derived by transfer from "Other procurement, Navy, 1980/1982"; $6,900,000 shall be derived by transfer from "Research, development, test, and evaluation, Navy, 1980/1981"; and $7,000,000 shall be derived by transfer from "Navy Stock Fund", of which not less than $547,300,000 shall be available only for the maintenance of real property facilities: *Provided,* That of the total amount of this appropriation made available for the alteration, overhaul, and repair of naval vessels, not more than $2,600,000,000 shall be available for the performance of such work in Navy shipyards: *Provided further,* That not less than $3,745,700,000 of this appropriation shall be available only for regularly scheduled ship overhauls, restricted availabilities and expenses associated with the installation of equipment, improvements, and modifications scheduled to be accomplished concurrently during an overhaul or restricted availability of which not less than $24,000,000 shall be available for such work at the Ship Repair Facilities, Guam: *Provided further,* That such amounts of the funds available for work only at the Ship Repair Facilities, Guam, may be used for work in other Navy shipyards in amounts equal to the amount of work placed at the Ship Repair Facilities, Guam, funded from other sources.

NAVY STOCK FUND

For the Navy stock fund, $309,000.

OPERATION AND MAINTENANCE, MARINE CORPS

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $994,200,000, and in addition, $9,700,000 of which $8,700,000, which shall be derived by transfer from "Procurement, Marine Corps, 1980/1982"; and $1,000,000 shall be derived by transfer from "Marine Corps Stock Fund", of which not less than $149,800,000 shall be available only for the maintenance of real property facilities.

MARINE CORPS STOCK FUND

For the Marine Corps stock fund, $4,108,000.

OPERATION AND MAINTENANCE, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $3,787,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $13,555,046,000, and in addition, $56,000,000, of which $39,600,000 shall be derived by trans-

fer from "Research, development, test, and evaluation, Air Force, 1980/1981"; $9,400,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1980/1982"; and $7,000,000 shall be derived by transfer from "Air Force Stock Fund", of which not less than $832,300,000 shall be available only for the maintenance of real property facilities.

AIR FORCE STOCK FUND

For the Air Force stock fund, $28,300,000.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $4,056,793,000, and in addition, $20,000,000, which shall be derived by transfer from "Defense Stock Fund": *Provided,* That not to exceed $4,854,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further,* That not less than $68,100,000 of the total amount of this appropriation shall be available only for the maintenance of real property facilities.

DEFENSE STOCK FUND

For the Defense stock fund, $35,000,000.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $488,393,000, of which not less than $27,400,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $531,435,000, of which not less than $19,200,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $28,854,000, of which not less

than $1,800,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $558,680,000, of which not less than $13,500,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $890,820,000, of which not less than $21,300,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; $1,419,607,000, of which not less than $28,400,000 shall be available only for the maintenance of real property facilities.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses, in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; and the travel of rifle teams, military personnel, and individuals attending

regional, national, and international competitions; $825,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board; and from other funds provided in this Act, not to exceed $340,000 worth of ammunition may be issued under authority of title 10, United States Code, section 4311: *Provided,* That competitors at national matches under title 10, United States Code, section 4312, may be paid subsistence and travel allowances in excess of the amounts provided under title 10, United States Code, section 4313.

CLAIMS, DEFENSE

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof; $135,850,000.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $2,197,000, and not to exceed $1,500 can be used for official representation purposes and, in addition, $68,000 for "Court of Military Appeals, Defense, 1976" for the liquidation of obligations incurred for fiscal year 1976.

TITLE IV

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,076,400,000, to remain available for obligation until September 30, 1983.

40 USC 255.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construc-

tion prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,519,800,000, to remain available for obligation until September 30, 1983. 40 USC 255.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,582,200,000, to remain available for obligation until September 30, 1983.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2673, title 10, United States Code, and the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,531,000,000, to remain available for obligation until September 30, 1983.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed one thousand and eighty-four passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary

for the foregoing purposes; $2,223,658,000, to remain available for obligation until September 30, 1983.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $6,110,707,000, to remain available for obligation until September 30, 1983.

40 USC 255.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $2,766,029,000, to remain available for obligation until September 30, 1983.

SHIPBUILDING AND CONVERSION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended, as follows: for the Trident submarine program, $1,088,200,000; for the T-AK FBM resupply ship conversion program, $45,300,000; for the SSN-688 nuclear attack submarine program, $991,700,000; for the aircraft carrier service life extension program, $501,400,000; for the CG-47 AEGIS cruiser program, $1,759,500,000; for the LSD-41 landing ship dock program, $387,700,000; for the FFG-7 guided missile frigate program, $1,510,000,000; for the T-AGOS SURTASS ship program, $180,800,000; for the ARS salvage ship program, $93,000,000; for the maritime prepositioning ship programs, $318,000,000, of which not to exceed $33,000,000 shall be for the T-AKX ship program, and for the roll-on/roll-off prepositioning ship program and the SL-7 cargo ship program, $285,000,000; for craft, outfitting, post delivery, cost growth, and escalation on prior

year programs, $580,100,000; and in addition, $27,900,000 which shall be derived by transfer from the "CGN-42 class nuclear-powered cruiser program" of "Shipbuilding and Conversion, Navy, 1978/1982"; in all: $7,455,700,000, and in addition, $27,900,000 to be derived by transfer, to remain available for obligation until September 30, 1985: *Provided,* That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further,* That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed one hundred and seventy-seven passenger motor vehicles for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $3,037,657,000, to remain available for obligation until September 30, 1983. 40 USC 255.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and vehicles for the Marine Corps, including purchase of not to exceed eighty-nine passenger motor vehicles for replacement only; $486,813,000, to remain available for obligation until September 30, 1983.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $9,674,143,000, of which $382,044,000 shall be available for contribution of the United States share of the cost of the acquisition by the North Atlantic Treaty Organization of an Airborne Early Warning and Control System (AWACS) and, in

addition, the Department of Defense may make a commitment to the North Atlantic Treaty Organization to assume the United States share of contingent liability in connection with the NATO E-3A Cooperative Programme, to remain available for obligation until September 30, 1983.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $3,140,917,000, to remain available for obligation until September 30, 1983.

40 USC 255.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed four hundred and one passenger motor vehicles for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; $2,999,372,000, to remain available for obligation until September 30, 1983.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed two hundred and seventy-six passenger motor vehicles for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; $305,028,000, to remain available for obligation until September 30, 1983.

TITLE V

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $3,086,757,000, to remain available for obligation until September 30, 1982.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $4,861,160,000, and in addition, $6,052,000 of which $4,086,000 shall be derived by transfer from "Research, Development, Test, and Evaluation, Navy, 1979/1980", and $1,966,000 shall be derived by transfer from "Research, Development, Test, and Evaluation, Navy, 1980/1981", to remain available for obligation until September 30, 1982.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $6,774,011,000, to remain available for obligation until September 30, 1982.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $1,254,602,000, to remain available for obligation until September 30, 1982: *Provided,* That such amounts as may be determined by the Secretary of Defense to have been made available in other appropriations available to the Department of Defense during the current fiscal year for programs related to advanced research may be transferred to and merged with this appropriation to be available for the same purposes and time period: *Provided further,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred.

Funds, transfer and merger.

DIRECTOR OF TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Director of Defense Test and Evaluation in the direction and supervision of test and evaluation, including initial operational testing and evaluation; and performance of joint testing and evaluation; and administrative expenses in connection therewith; $42,100,000, to remain available for obligation until September 30, 1982.

TITLE VI

SPECIAL FOREIGN CURRENCY PROGRAM

For payment in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for expenses in carrying out programs of the Department of Defense, as authorized by law; $2,760,000, to remain available for obligation until September 30, 1982: *Provided,* That this appropriation shall be available in addition to other appropriations to such Department, for payments in the foregoing currencies.

TITLE VII

GENERAL PROVISIONS

Consulting services.

SEC. 701. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Publicity or propaganda.

SEC. 702. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

Experts and consultants.

SEC. 703. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: *Provided,* That such contracts may be renewed annually.

Noncitizens, compensation and employment. 31 USC 700.

SEC. 704. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 705. Appropriations contained in this Act shall be available for insurance of official motor vehicles in foreign countries, when required by laws of such countries; payments in advance of expenses determined by the investigating officer to be necessary and in accord with local custom for conducting investigations in foreign countries incident to matters relating to the activities of the department concerned; reimbursement to General Services Administration for security guard services for protection of confidential files; and all

necessary expenses, at the seat of government of the United States of America or elsewhere, in connection with communication and other services and supplies as may be necessary to carry out the purposes of this Act.

Prisoners of war. 31 USC 649a.

SEC. 706. Any appropriation available to the Army, Navy, or Air Force may, under such regulations as the Secretary concerned may prescribe, be used for expenses incident to the maintenance, pay, and allowances of prisoners of war, other persons in Army, Navy, or Air Force custody whose status is determined by the Secretary concerned to be similar to prisoners of war, and persons detained in such custody pursuant to Presidential proclamation.

Land acquisition.

SEC. 707. Appropriations available to the Department of Defense for the current fiscal year for maintenance or construction shall be available for acquisition of land or interest therein as authorized by section 2672 or 2675 of title 10, United States Code.

SEC. 708. Appropriations for the Department of Defense for the current fiscal year shall be available, (a) for transportation to primary and secondary schools of minor dependents of military and civilian personnel of the Department of Defense as authorized for the Navy by section 7204 of title 10, United States Code; (b) for expenses in connection with administration of occupied areas; (c) for payment of rewards as authorized for the Navy by section 7209(a) of title 10, United States Code, for information leading to the discovery of missing naval property or the recovery thereof; (d) for payment of deficiency judgments and interests thereon arising out of condemnation proceedings; (e) for leasing of buildings and facilities including payment of rentals for special purpose space at the seat of government, and in the conduct of field exercises and maneuvers or, in administering the provisions of title 43, United States Code, section 315q, rentals may be paid in advance; (f) payments under contracts for maintenance of tools and facilities for twelve months beginning at any time during the fiscal year; (g) maintenance of defense access roads certified as important to national defense in accordance with section 210 of title 23, United States Code; (h) for the purchase of milk for enlisted personnel of the Department of Defense heretofore made available pursuant to section 1446a, title 7, United States Code, and the cost of milk so purchased, as determined by the Secretary of Defense, shall be included in the value of the commuted ration; (i) transporting civilian clothing to the home of record of selective service inductees and recruits on entering the military services; (j) payments under leases for real or personal property, including maintenance thereof when contracted for as a part of the lease agreement, for twelve months beginning at any time during the fiscal year; and (k) pay and allowances of not to exceed nine persons, including personnel detailed to International Military Headquarters and Organizations, at rates provided for under section 625(d)(1) of the Foreign Assistance Act of 1961, as amended; and (l) the purchase of right-hand-drive vehicles not to exceed $12,000 per vehicle.

22 USC 2385.

10 USC 858 note.

SEC. 709. Appropriations for the Department of Defense for the current fiscal year shall be available for: (a) donations of not to exceed $25 to each prisoner upon each release from confinement in military or contract prison and to each person discharged for fraudulent enlistment; (b) authorized issues of articles to prisoners, applicants for enlistment and persons in military custody; (c) subsistence of selective service registrants called for induction, applicants for enlistment, prisoners, civilian employees as authorized by law, and supernumeraries when necessitated by emergent military circumstances; (d) reimbursement for subsistence of enlisted personnel while sick in

hospitals; (e) expenses of prisoners confined in nonmilitary facilities; (f) military courts, boards, and commissions; (g) utility services for buildings erected at private cost, as authorized by law, and buildings on military reservations authorized by regulations to be used for welfare and recreational purposes; (h) exchange fees, and losses in the accounts of disbursing officers or agents in accordance with law; (i) expenses of Latin American cooperation as authorized for the Navy by law (10 U.S.C. 7208); (j) expenses of apprehension and delivery of deserters, prisoners, and members absent without leave, including payment of rewards of not to exceed $75 in any one case; and (k) expenses of arrangements with foreign countries for cryptologic support.

10 USC 807 note.

Small and minority-owned business, contract opportunities.

SEC. 710. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

Mess operations.

SEC. 711. No appropriation contained in this Act shall be available for expenses of operation of messes (other than organized messes the operating expenses of which are financed principally from nonappropriated funds) at which meals are sold to officers or civilians, except under regulations approved by the Secretary of Defense, which shall (except under unusual or extraordinary circumstances) establish rates for such meals sufficient to provide reimbursements of operating expenses and food costs to the appropriations concerned: *Provided,* That officers and civilians in a travel status receiving a per diem allowance in lieu of subsistence shall be charged at the rate of not less than $2.50 per day: *Provided further,* That for the purposes of this section payments for meals at the rates established hereunder may be made in cash or by deduction from the pay of civilian employees: *Provided further,* That members of organized nonprofit youth groups sponsored at either the national or local level, when extended the privilege of visiting a military installation and permitted to eat in the general mess by the commanding officer of the installation, shall pay the commuted ration cost of such meal or meals.

Fiscal year limitation.

SEC. 712. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Metal scrap processing facilities.
50 USC 100a.

SEC. 713. During the current fiscal year no funds available to agencies of the Department of Defense shall be used for the operation, acquisition, or construction of new facilities or equipment for new facilities in the continental limits of the United States for metal scrap bailing or shearing or for melting or sweating aluminum scrap unless the Secretary of Defense or an Assistant Secretary of Defense designated by him determines, with respect to each facility involved, that the operation of such facility is in the national interest.

Funds and contract authorizations, exemption.

31 USC 665.

SEC. 714. (a) During the current fiscal year, the President may exempt appropriations, funds, and contract authorizations, available for military functions under the Department of Defense, from the provisions of subsection (c) of section 3679 of the Revised Statutes, as amended, whenever he deems such action to be necessary in the interest of national defense.

Airborne alert expenses.

(b) Upon determination by the President that such action is necessary, the Secretary of Defense is authorized to provide for the cost of an airborne alert as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

Active duty military personnel increases.

(c) Upon determination by the President that it is necessary to increase the number of military personnel on active duty subject to existing laws beyond the number for which funds are provided in this Act, the Secretary of Defense is authorized to provide for the cost of such increased military personnel, as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

Reports to Congress.

(d) The Secretary of Defense shall immediately advise Congress of the exercise of any authority granted in this section, and shall report monthly on the estimated obligations incurred pursuant to subsections (b) and (c).

Commissary stores.

SEC. 715. No appropriation contained in this Act shall be available in connection with the operation of commissary stores of the agencies of the Department of Defense for the cost of purchase (including commercial transportation in the United States to the place of sale but excluding all transportation outside the United States) and maintenance of operating equipment and supplies, and for the actual or estimated cost of utilities as may be furnished by the Government and of shrinkage, spoilage, and pilferage of merchandise under the control of such commissary stores, except as authorized under regulations promulgated by the Secretaries of the military departments concerned with the approval of the Secretary of Defense, which regulations shall provide for reimbursement therefor to the appropriations concerned and, notwithstanding any other provision of law, shall provide for the adjustment of the sales prices in such commissary stores to the extent necessary to furnish sufficient gross revenues from sales of commissary stores to make such reimbursement: *Provided,* That under such regulations as may be issued pursuant to this section all utilities may be furnished without cost to the commissary stores outside the continental United States and in Alaska: *Provided further,* That no appropriation contained in this Act shall be available to pay any costs incurred by any commissary store or other entity acting on behalf of any commissary store in connection with obtaining the face value amount of manufacturer or vendor cents-off discount coupons unless all fees or moneys received for handling or processing such coupons are reimbursed to the appropriation charged with the incurred costs: *Provided further,* That no appropriation contained in this Act shall be available in connection with the operation of commissary stores within the continental United States unless the Secretary of Defense has certified that items normally procured from commissary stores are not otherwise available at a reasonable distance and a reasonable price in satisfactory quality and quantity to the military and civilian employees of the Department of Defense.

Proficiency flying.

SEC. 716. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with

regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

Household goods.

SEC. 717. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of thirteen thousand five hundred pounds.

Vessels transfer. 40 USC 483a.

SEC. 718. Vessels under the jurisdiction of the Department of Commerce, the Department of the Army, the Department of the Air Force, or the Department of the Navy may be transferred or otherwise made available without reimbursement to any such agencies upon the request of the head of one agency and the approval of the agency having jurisdiction of the vessels concerned.

Obligated funds, limitation.

SEC. 719. Not more than 20 per centum of the appropriations in this Act which are limited for obligations during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided,* That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army.

Foreign real property commodities, and services.

SEC. 720. During the current fiscal year the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

31 USC 700a.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: *Provided,* That the foregoing authority shall not be available for the conversion of heating plants from coal to oil at defense facilities in Europe: *Provided further,* That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

Report to Congress and OMB.

Research and development funds.

SEC. 721. During the current fiscal year, appropriations available to the Department of Defense for research and development may be used for the purposes of section 2353 of title 10, United States Code, and for purposes related to research and development for which expenditures are specifically authorized in other appropriations of the service concerned.

Educational expenses limitation.

SEC. 722. No appropriation contained in this Act shall be available for the payment of more than 75 per centum of charges of educational institutions for tuition or expenses of off-duty training of military personnel (except with regard to such charges of educational institutions (a) for enlisted personnel in the pay grade E–5 or higher with less than 14 years' service, for which payment of 90 per centum may be made or (b) for military personnel in off-duty high school completion programs, for which payment of 100 per centum may be made),

nor for the payment of any part of tuition or expenses for such training for commissioned personnel who do not agree to remain on active duty for two years after completion of such training.

Loyalty certificate or oath. 10 USC 2103 note.

SEC. 723. No part of the funds appropriated herein shall be expended for the support of any formally enrolled student in basic courses of the senior division, Reserve Officers' Training Corps, who has not executed a certificate of loyalty or loyalty oath in such form as shall be prescribed by the Secretary of Defense.

Procurement limitations.

SEC. 724. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $10,000, shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that a satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided,* That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 814 of the Department of Defense Appropriation Authorization Act, 1976: *Provided further,* That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further,* That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations other than certain contracts not involving fuel made on a test basis by the Defense Logistics Agency with a cumulative value not to exceed $3,400,000,000, as may be determined by the Secretary of Defense pursuant to existing laws and regulations as not to be inappropriate therefor by reason of national security considerations: *Provided further,* That the Secretary specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards of such contracts will be made at a reasonable price and that no award shall be made for such contracts if the price differential exceeds 5 per centum: *Provided further,* That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be

22 USC 2776. 89 Stat. 540.

awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 725. None of the funds appropriated by this Act shall be used for the construction, replacement, or reactivation of any bakery, laundry, or drycleaning facility in the United States, its territories or possessions, as to which the Secretary of Defense does not certify in writing, giving his reasons therefor, that the services to be furnished by such facilities are not obtainable from commercial sources at reasonable rates.

Inactive duty training pay.

SEC. 726. None of the funds appropriated by this Act may be obligated under section 206 of title 37, United States Code, for inactive duty training pay of a member of the National Guard or a member of a reserve component of a uniformed service for more than four periods of equivalent training, instruction, duty or appropriate duties that are performed instead of that member's regular period of instruction or regular period of appropriate duty.

Furnishings and automobiles, purchase.

SEC. 727. Appropriations contained in this Act shall be available for the purchase of household furnishings, and automobiles from military and civilian personnel on duty outside the continental United States, for the purpose of resale at cost to incoming personnel, and for providing furnishings, without charge, in other than public quarters occupied by military or civilian personnel of the Department of Defense on duty outside the continental United States or in Alaska, upon a determination, under regulations approved by the Secretary of Defense, that such action is advantageous to the Government.

Uniforms.

SEC. 728. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901; 80 Stat. 508).

Legislative liaison activities.

SEC. 729. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed $7,500,000 for the current fiscal year: *Provided,* That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense.

Civil reserve air fleet.

SEC. 730. Of the funds made available by this Act for the services of the Military Airlift Command, $100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: *Provided,* That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

Civilian clothing.

SEC. 731. During the current fiscal year, appropriations available to the Department of Defense for operation may be used for civilian clothing, not to exceed $40 in cost for enlisted personnel: (1) discharged for misconduct, unsuitability, or otherwise than honorably; (2) sentenced by a civil court to confinement in a civil prison or interned or discharged as an alien enemy; or (3) discharged prior to completion of recruit training under honorable conditions for dependency, hardship, minority, disability, or for the convenience of the Government.

Defense contractors, advertising costs, limitation.

SEC. 732. No part of the funds appropriated herein shall be available for paying the costs of advertising by any defense contractor, except advertising for which payment is made from profits, and

such advertising shall not be considered a part of any defense contract cost. The prohibition contained in this section shall not apply with respect to advertising conducted by any such contractor, in compliance with regulations which shall be promulgated by the Secretary of Defense, solely for (1) the recruitment by the contractor of personnel required for the performance by the contractor of obligations under a defense contract, (2) the procurement of scarce items required by the contractor for the performance of a defense contract, or (3) the disposal of scrap or surplus materials acquired by the contractor in the performance of a defense contract.

New facilities, limitation.

SEC. 733. Funds appropriated in this Act for maintenance and repair of facilities and installations shall not be available for acquisition of new facilities, or alteration, expansion, extension, or addition of existing facilities, as defined in Department of Defense Directive 7040.2, dated January 18, 1961, in excess of $100,000: *Provided,* That the Secretary of Defense may amend or change the said directive during the current fiscal year, consistent with the purpose of this section.

Funds, transfer.

SEC. 734. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $750,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided,* That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

Notification of Congress.

Working capital funds.

SEC. 735. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided,* That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

Funds, transfer.

Notification of Congress.

Federal Employees Compensation Fund.

SEC. 736. Not more than $192,800,000 of the funds appropriated by this Act shall be made available for payment to the Federal Employees Compensation Fund, as established by 5 U.S.C. 8147.

Loan restrictions.

SEC. 737. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, or a grant to any applicant who has been convicted by any court of general jurisdiction of any crime which involves the use of or the assistance to others in the use of force, trespass, or the seizure of property under control of an institution of higher education to prevent officials or students at such an institution from engaging in their duties or pursuing their studies.

Heating plant conversion.

SEC. 738. None of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil at defense facilities in Europe.

Nonvoluntary experimental subjects.

SEC. 739. None of the funds appropriated by this Act shall be available for any research involving uninformed or nonvoluntary human beings as experimental subjects.

SEC. 740. Appropriations for the current fiscal year for operation and maintenance of the active forces shall be available for medical and dental care of personnel entitled thereto by law or regulation (including charges of private facilities for care of military personnel, except elective private treatment); welfare and recreation; hire of passenger motor vehicles; repair of facilities; modification of personal property; design of vessels; industrial mobilization; installation of equipment in public and private plants; military communications facilities on merchant vessels; acquisition of services, special clothing, supplies, and equipment; and expenses for the Reserve Officers' Training Corps and other units at educational institutions.

Funds, reprogramming.

SEC. 741. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for the reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

Health program, limitations.

SEC. 742. No funds appropriated by this Act shall be available to pay claims for nonemergency inpatient hospital care provided under the Civilian Health and Medical Program of the Uniformed Services for services available at a facility of the uniformed services within a 40-mile radius of the patient's residence.

SEC. 743. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for (a) services of pastoral counselors, or family and child counselors, or marital counselors unless the patient has been referred to such counselor by a medical doctor for treatment of a specific problem with results of that treatment to be communicated back to the physician who made such referral; (b) special education, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basis; (c) therapy or counseling for sexual dysfunctions or sexual inadequacies; (d) treatment of obesity when obesity is the sole or major condition treated; (e) reconstructive surgery (other than post-mastectomy reconstructive surgery to overcome the effects of trauma or disease), justified solely on psychiatric needs including, but not limited to, mammary augmentation, face lifts and sex gender changes; (f) reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code; or (g) any service or supply which is not medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or diagnosed by a physician, dentist, clinical psychologist, optometrist, podiatrist, certified nurse-midwife, or, for the purpose of conducting a test during fiscal year 1981, by a certified psychiatric nurse, other certified nurse practitioner, or certified clinical social worker, as appropriate, except as authorized by section 1079(a)(4) of title 10, United States Code.

SEC. 744. Appropriations available to the Department of Defense for the current fiscal year shall be available to provide an individual entitled to health care under chapter 55 of title 10, United States Code, with one wig if the individual has alopecia that resulted from treatment of malignant disease: *Provided,* That the individual has not previously received a wig from the Government. 10 USC 1071 *et seq.*

SEC. 745. Funds appropriated in this Act shall be available for the appointment, pay, and support of persons appointed as cadets and midshipmen in the two-year Senior Reserve Officers' Training Corps course in excess of the 20 percent limitation on such persons imposed by section 2107(a) of title 10, United States Code, but not to exceed 60 percent of total authorized scholarships.

SEC. 746. None of the funds appropriated by this Act shall be available to pay any member of the uniformed service for unused accrued leave pursuant to section 501 of title 37, United States Code, for more than sixty days of such leave, less the number of days for which payment was previously made under section 501 after February 9, 1976. Unused accrued leave.

SEC. 747. None of the funds appropriated by this Act may be used to support more than 300 enlisted aides for officers in the United States Armed Forces. Enlisted aides, limitations.

SEC. 748. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $28,000,000. Public affairs activities.

SEC. 749. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1) of that Act: *Provided,* That such amounts so credited shall be deposited in the Treasury as miscellaneous receipts as provided in 31 U.S.C. 484. 22 USC 2777. 22 USC 2761.

SEC. 750. During the current fiscal year, for the purpose of conducting a test to evaluate a capitation approach to providing medical care and to that end for the purpose of providing adequate funds in Department of Defense Medical Regions 1 and 7 for medical care, including the expenses of the Civilian Health and Medical Program of the Uniformed Services, funds available to the Department of Defense in the appropriation "Operation and Maintenance, Defense Agencies" for expenses of the Civilian Health and Medical Program of the Uniformed Services may be transferred to appropriations available to the military departments for operation and maintenance, and funds available to the military departments for operation and maintenance may be transferred between such appropriations: *Provided,* That funds transferred pursuant to this authority shall be merged with and made available for the same purpose as the appropriation to which transferred: *Provided further,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority: *Provided further,* That transfer authority provided herein shall be in addition to that provided in section 734 of this Act. Medical care. Notification of Congress.

SEC. 751. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1980, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve Senior ROTC unit, limitation. Effective date.

students where the institution prescribes a two-year program: *Provided,* That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: *Provided further,* That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: *Provided further,* That if enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units are revised, then the revised standards may be used to determine compliance with this provision, in lieu of the standards cited above.

SEC. 751A. None of the funds appropriated by this Act shall be obligated under the Competitive Rate Program of the Department of Defense for the transportation of household goods to or from Alaska or Hawaii.

SEC. 752. (a) None of the funds appropriated by this Act or available in any working capital fund of the Department of Defense shall be available to pay the expenses attributable to lodging of any person on official business away from his designated post of duty, or in the case of an individual described under section 5703 of title 5, United States Code, his home or regular place of duty, when adequate government quarters are available, but are not occupied by such person.

(b) The limitation set forth in subsection (a) is not applicable to employees whose duties require official travel in excess of fifty percent of the total number of the basic administrative work weeks during the current fiscal year.

Enlisted members, transfer; retainer pay.

SEC. 753. (a) None of the funds appropriated by this Act shall be available to pay the retainer pay of any enlisted member of the Regular Navy, the Naval Reserve, the Regular Marine Corps, or the Marine Corps Reserve who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of title 10, United States Code, on or after December 31, 1977, if the provisions of section 6330(d) of title 10, are utilized in determining such member's eligibility for retirement under section 6330(b) of title 10: *Provided,* That notwithstanding the foregoing, time creditable as active service for a completed minority enlistment, and an enlistment terminated within three months before the end of the term of enlistment under section 6330(d) of title 10, prior to December 31, 1977, may be utilized in determining eligibility for retirement: *Provided further,* That notwithstanding the foregoing, time may be credited as active service in determining a member's eligibility for retirement under section 6330(b) of title 10 pursuant to the provisions of the first sentence of section 6330(d) of title 10 for those members who had formally requested transfer to the Fleet Reserve or the Fleet Marine Corps Reserve on or before October 1, 1977.

(b) None of the funds appropriated by this Act shall be available to pay that portion of the retainer pay of any enlisted member of the Regular Navy, the Naval Reserve, the Regular Marine Corps, or the Marine Corps Reserve who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of title 10, United States Code, on or after December 31, 1977, which is attributable under the second sentence of section 6330(d) of title 10 to time which, after December 31, 1977, is not actually served by such member.

CIA programs, fiscal year limitation.

SEC. 754. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year.

CIA salaries, limitation.

SEC. 755. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of

unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 756. None of the funds appropriated by this Act may be used to support more than 9,901 full-time and 2,603 part-time military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated July 17, 1974.

Loan guarantees, limitation.

SEC. 757. During the current fiscal year, the Department of Defense may guarantee loans pursuant to title III of the Defense Production Act of 1950 as amended (50 U.S.C. App. 2091, 64 Stat. 800) in an amount not to exceed $30,000,000.

Pilot training squadrons.

SEC. 758. None of the funds appropriated by this Act may be used for the consolidation or realignment of advanced or undergraduate pilot training squadrons of the Navy.

SEC. 759. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

Abortion funding, limitation.

SEC. 760. None of the funds provided by this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape has within seventy-two hours been reported to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy: *Provided, however,* That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

Cryptologic personnel and facilities.

SEC. 761. During the current fiscal year, funds appropriated by this Act shall be available to provide for the lease of a facility, regardless of location, designated by the Secretary of Defense for cryptologic purposes; and for alterations, improvement, and repair of that facility notwithstanding any other provisions of law. Funding for lease, alterations, improvement, and repair shall not exceed one million dollars. Further, funds appropriated by this Act shall be available to provide support in accordance with sections 4 and 8 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403e and 403j), to certain Department of Defense cryptologic personnel stationed overseas as designated by the Secretary of Defense.

Retired or retainer pay, limitation.

SEC. 762. Effective the first day of the second month following enactment of this Act, none of the funds appropriated by this Act shall be available to pay the retired pay or retainer pay of a person for any month who, on or after December 1, 1980, is retired under section 8337 of title 5, United States Code, in an amount that is more than—

(a) the monthly amount of retired pay or retainer pay that the person is otherwise entitled to receive, minus

(b) the amount equal to the difference between:

(1) the amount the person is entitled to receive for that month as a civil service annuity computed based on the provisions of section 8339(g) of title 5, United States Code, and

(2) the amount the person would be entitled to receive for that month if the person's civil service annuity was computed under the provisions of section 8339 (a), (b), or (c), as appropriate, excluding credit for military service:

Provided, That the foregoing limitation shall not serve to reduce the retired or retainer pay below that necessary to make deductions from

the retired pay of a person for deductions for Survivor Benefit Plan payments: *Provided further,* That the foregoing limitation shall not apply to a person who has applied for retirement under section 8337 of title 5, United States Code, prior to December 1, 1980: *Provided further,* That the foregoing limitation shall not apply to a person who is covered by the provisions of section 8332(c) (1) or (2) of title 5, United States Code.

SEC. 763. None of the funds appropriated by this Act shall be used for the provision, care or treatment to dependents of members or former members of the Armed Services or the Department of Defense for the elective correction of minor dermatological blemishes and marks or minor anatomical anomalies.

SEC. 764. None of the funds appropriated by this Act shall be available for the purchase of insignia for resale unless the sales price of such insignia is adjusted to the extent necessary to recover the cost of purchase of such insignia and the estimated cost of all related expenses, including but not limited to management, storage, handling, transportation, loss, disposal of obsolete material, and management fees paid to the military exchange systems: *Provided,* That amounts derived by the adjustment covered by the foregoing limitations may be credited to the appropriations against which the charges have been made to recover the cost of purchase and related expense.

Audits.

SEC. 764A. All unresolved audits currently pending within agencies and departments, for which appropriations are made under this Act, shall be resolved not later than September 30, 1981. Any new audits, involving questioned expenditures, arising after the enactment of this Act shall be resolved within 6 months of completing the initial audit report.

Claim payments to Federal Republic of Germany.

SEC. 764B. None of the funds appropriated by this Act or heretofore appropriated by any other Act shall be obligated or expended for the payment of anticipatory possession compensation claims to the Federal Republic of Germany other than claims listed in the 1973 agreement (commonly referred to as the Global Agreement) between the United States and the Federal Republic of Germany.

Overdue and delinquent debts.

SEC. 765. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible.

Procurement limitation.

SEC. 766. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of

equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

Foreign military and diplomatic personnel, medical care.

SEC. 767. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: *Provided,* That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care.

Funds transfer, limitation.

SEC. 767A. The appropriation "Foreign Currency Fluctuations, Defense" shall not be available hereafter to transfer funds between that account and appropriations available to the Department of Defense for military personnel expenses with regard to obligations incurred after September 30, 1980.

Second career training program.
Ante, p. 1150.

SEC. 768. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347.

Small arms demilitarization.

SEC. 769. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of small firearms.

Pre-paid health benefits, demonstration projects.

SEC. 770. During the current fiscal year, not to exceed $125,000,000 of the funds provided in this Act for the Civilian Health and Medical Program of the Uniformed Services may be used to conduct a test program in accordance with the following guidelines: In carrying out the provisions of sections 1079 and 1086 of title 10, United States Code, the Secretary of Defense, after consulting with the Secretary of Health and Human Services, may contract with organizations that assume responsibility for the maintenance of the health of a defined population, for the purpose of experiments and demonstration projects designed to determine the relative advantages and disadvantages of providing pre-paid health benefits: *Provided,* That such projects must be designed in such a way as to determine methods of reducing the cost of health benefits provided under such sections without adversely affecting the quality of care. Except as provided otherwise, the provisions of such a contract may deviate from the cost-sharing arrangements prescribed and the types of health care authorized under sections 1079 and 1086, when the Secretary of Defense determines that such a deviation would serve the purpose of this section.

Kennebec Arsenal, Maine.

SEC. 771. (a) The Act entitled "An Act authorizing the Secretary of War to convey the Kennebec Arsenal property, situated in Augusta, Maine, to the State of Maine for public purposes", approved March 3, 1905 (33 Stat. 1270), is amended by inserting "or for other public purposes" after "in conformity with the terms of this Act".

(b) The Secretary of the Army shall issue such written instructions, deeds, or other instruments as may be necessary to bring the conveyance made to the State of Maine under the authority of the Act referred to in subsection (a) into conformity with the amendment made by such subsection.

Cash awards.

SEC. 772. Subsection (c) of section 1124 of title 10, United States Code, is amended to read as follows:

(c) An award under this section may be paid notwithstanding the member's death, separation, or retirement from the armed force concerned. However, the suggestion, invention, or scientific achievement forming the basis for the award must have been made while the

5 USC 4501 *et seq.*

member was on active duty or in an active reserve status and not otherwise eligible for an award under chapter 45 of title 5.".

TITLE VIII

RELATED AGENCIES

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $17,824,000.

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $55,300,000.

Short title.

This Act may be cited as the "Department of Defense Appropriation Act, 1981".

Approved December 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1317 (Comm. on Appropriations) and No. 96-1528 (Comm. of Conference).
SENATE REPORT No. 96-1020 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 15, 16, considered and passed House.
Nov. 21, considered and passed Senate, amended.
Dec. 5, House agreed to conference report; receded from its disagreement and concurred in certain Senate amendments and in others with amendments; Senate agreed to conference report and concurred in House amendments.

Public Law 96-528
96th Congress

An Act

Making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1981, and for other purposes.

Dec. 15, 1980
[H.R. 7591]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1981, and for other purposes, namely:

Agriculture, rural development, and related agencies appropriations, fiscal year 1981.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including not to exceed $75,000 for employment under 5 U.S.C. 3109, $4,810,000: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558: *Provided further,* That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

DEPARTMENTAL ADMINISTRATION

For Budget, Planning and Evaluation, and Public Participation, $3,493,800; for Operations and Finance, Personnel, Equal Opportunity, Safety and Health Management, Management Analysis and Small and Disadvantaged Business Utilization, $9,256,200; for Capper-Volstead Monitoring, $200,000, to be transferred to the Economics and Statistics Service; making a total of $12,950,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, of which not to exceed $10,000 is for employment under 5 U.S.C. 3109.

GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving governmental and public affairs and emergency preparedness; acting as liaison within the executive branch and with the Congress on legislative matters; and for the dissemination of agricultural information and the coordination of information work and programs authorized by Congress in the

Department, $8,861,000; of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and, not to exceed $2,748,000 may be used for farmers' bulletins and not less than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided,* That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

OFFICE OF THE INSPECTOR GENERAL

Funds; transfer.

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), $28,052,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978 (Public Law 95-452), and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and in addition, $10,000,000 shall be derived by transfer from the appropriation, "Food Stamp Program" and merged with this appropriation.

5 USC app.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses, including payment of fees or dues for the use of law libraries by attorneys in the field service, $11,609,000.

FEDERAL GRAIN INSPECTION SERVICE

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 for employment under 5 U.S.C. 3109, $24,457,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further,* That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require non-export, non-terminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

7 USC 71.

7 USC 1621 note.

7 USC 71 note.

SCIENCE AND EDUCATION ADMINISTRATION

AGRICULTURAL RESEARCH

For necessary expenses to enable Agricultural Research to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $414,367,000: *Provided,* That appropriations hereunder

shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further,* That of the appropriations hereunder, not less than $10,526,600 shall be available to conduct marketing research: *Provided further,* That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but, unless otherwise provided, the cost of constructing any one building shall not exceed $88,000, except for headhouses connecting greenhouses which shall each be limited to $500,000, and except for ten buildings to be constructed or improved at a cost not to exceed $165,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $88,000 whichever is greater: *Provided further,* That the limitations on construction contained in this Act shall not apply to the establishment of a fruit and nut germ plasm repository at Davis, California, the establishment of a photo-period house at Canal Point, Florida, and construction of facilities at Plum Island, New York; Beckley, West Virginia; and Stillwater, Oklahoma: *Provided further,* That the limitations on alterations contained in this Act shall not apply to a total of $100,000 for facilities at Beltsville, Maryland: *Provided further,* That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further,* That $12,100,000 of the appropriation provided herein for construction of facilities shall remain available until expended.

7 USC 2254.

Construction costs.
7 USC 2254.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $2,000,000.

Special fund.

SCIENTIFIC ACTIVITIES OVERSEAS (SPECIAL FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b) (1), (3)), $5,000,000: *Provided,* That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further,* That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed, and can be used most effectively to carry out the purposes of this paragraph: *Provided further,* That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

COOPERATIVE RESEARCH

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $128,615,000 to carry into effect the provisions of the Hatch

Act, approved March 2, 1887, as amended by the Act approved August 11, 1955 (7 U.S.C. 361a-361i), and further amended by Public Law 92-318 approved June 23, 1972, and further amended by Public Law 93-471 approved October 26, 1974, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended; $10,774,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a—582a-7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses; $19,270,000 for payments to the 1890 land-grant colleges, including Tuskegee Institute, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95-113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee Institute; $17,076,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $16,000,000 for competitive research grants, including administrative expenses; $6,500,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; $500,000 for grants in accordance with section 1419 of Public Law 95-113; $650,000 for research authorized by the Native Latex Commercialization and Economic Development Act of 1978; and $1,512,000 for necessary expenses of Cooperative Research activities, including administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 for employment under 5 U.S.C. 3109; in all, $200,897,000.

20 USC 1001 note.
D.C. Code 31-1701 note.
7 USC 361f.
20 USC 1001 note.
7 USC 3222.
7 USC 3195.
7 USC 3154.
7 USC 178 note.

EXTENSION ACTIVITIES

Payments to States, Puerto Rico, Guam, and the Virgin Islands: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962 (7 U.S.C. 341-349), section 506 of the Act of June 23, 1972, and the Act of September 29, 1977 (7 U.S.C. 341-349), to be distributed under sections 3(b) and 3(c) of the Act, for retirement and employees' compensation costs for extension agents, and for costs of penalty mail for cooperative extension agents and State extension directors, $205,448,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $55,017,000; payments for the urban gardening programs under section 3(d) of the Act, $3,000,000; payments for the pest management program under section 3(d) of the Act, $7,435,000; payments for the farm safety program under section 3(d) of the Act, $1,020,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $1,805,000; payments for the energy demonstration program under section 3(d) of the Act, $300,000; payments for extension work under section 209(c) of Public Law 93-471, $910,000; payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee Institute under section 1444 of the National Agricultural Research, Extension and Teaching Policy Act of 1977 (Public Law 95-113), $11,250,000; and for carrying out the provisions of section 22 of the Act of June 29, 1935, as amended (7 U.S.C. 329), $11,500,000; in all, $297,685,000, of which not less than $78,600,000 is for Home Economics: *Provided,* That funds hereby appropriated pursuant to

86 Stat. 350.
7 USC 1281 note.
7 USC 343.
D.C. Code 31-1719.
7 USC 3221.

section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year. 7 USC 343. 86 Stat. 350.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93-471, and the Act of September 29, 1977 (7 U.S.C. 341-349), and to coordinate and provide program leadership for the extension and higher education work of the Department and the several States and insular possessions, $5,948,000, of which not less than $2,100,000 is for Home Economics. 7 USC 1281 note.

TECHNICAL INFORMATION SYSTEMS

For necessary expenses of the Technical Information Systems, $8,541,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $100,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b-c) necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; and to protect the environment, as authorized by law, $259,255,000, of which $2,500,000 shall be available for the control of outbreaks of insects, plant diseases and animal diseases to the extent necessary to meet emergency conditions: *Provided,* That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: *Provided further,* That, in addition, in emergencies which threaten the livestock or poultry industries of the country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of foot-and-mouth disease, rinderpest, contagious pleuropneumonia, or other contagious or infectious diseases of animals, or European fowl pest and similar diseases in poultry, and for expenses in accordance with the Act of February 28, 1947, as amended, and any unexpended balances of funds transferred for such emergency pur- Aircraft. Funds, transfer. 21 USC 129. 21 USC 114b.

poses in the next preceding fiscal year shall be merged with such transferred amounts.

BUILDINGS AND FACILITIES

For plans, construction, repair, extension, alteration, purchase and improvement of fixed equipment or facilities, $6,986,000, to remain available until expended: *Provided,* That this appropriation shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements: *Provided further,* That unless otherwise provided, the cost of constructing any one building shall not exceed $88,000, except for one building to be constructed for biological control activities at a cost of $1,400,000; a facility in Hawaii at a Federal cost of $3,800,000; four buildings to be constructed or improved at a cost not to exceed $175,000 each; and $100,000 for planning a rearing facility: *Provided further,* That the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further,* That this appropriation shall be available for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100.

FOOD SAFETY AND QUALITY SERVICE

For necessary expenses to carry on services related to consumer protection and agricultural marketing and distribution, $293,318,000: *Provided,* That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the construction, alteration, and repair of buildings and improvements, but, unless otherwise provided, the cost of constructing any one building shall not exceed $90,000, except for two buildings to be constructed or improved at a cost not to exceed $150,000, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further,* That this appropriation shall be available for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100.

Land acquisition.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $5,210,000 for formulation and administration of marketing agreements and orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

16 USC 742a note.

7 USC 601 note.
7 USC 1911 note.

ECONOMICS AND STATISTICS SERVICE

For necessary expenses of the Economics and Statistics Service to carry out the Act of July 2, 1926 (7 U.S.C. 451-457), and as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and other laws, in conducting: Statistical reporting and service work,

including crop and livestock estimates, statistical coordination and improvements, and marketing surveys; economic research and service relating to agricultural production, marketing, and distribution, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, cost and returns in farming, and farm finance; and for analyses of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products; $90,203,000, of which not less than $200,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said administrator, other agencies or before the Courts: *Provided,* That not less than $350,000 of the funds contained in this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and consumer: *Provided further,* That not less than $145,000 of the funds contained in this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis: *Provided further,* That no part of the funds herein appropriated shall be available for any expense incident to publishing estimates of apple production for other than the commercial crop: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $140,000 shall be available for employment under 5 U.S.C. 3109.

Study.

7 USC 411b.

AGRICULTURAL COOPERATIVES SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $4,500,000: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109.

WORLD FOOD AND AGRICULTURAL OUTLOOK AND SITUATION BOARD

For necessary expenses of the World Food and Agricultural Outlook and Situation Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $1,731,000, of which $500,000 shall be available only for the establishment of a secure lock-up facility: *Provided,* That this appropriation

7 USC 1622.

shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 for employment under 5 U.S.C. 3109, $49,109,000; of which not less than $1,365,000 shall be available for the Wholesale Market Development Program and $819,000 for the Information Offices: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

Building repair.

TRANSPORTATION OFFICE

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $2,000,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,600,000.

FARM INCOME STABILIZATION

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Salaries and Expenses

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301-1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(d), 16(e), 16(f), 16(i), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g, 590o, 590p(a) and 590q); sections 1001 to 1008 and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1508 and 1510); the Water Bank Act (16 U.S.C. 1301-1311); the Cooperative Forestry Assistance Act of 1978

(16 U.S.C. 2101); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); and laws pertaining to the Commodity Credit Corporation, $195,671,000: *Provided,* That, in addition, not to exceed $159,789,000 may be transferred to and merged with this appropriation from the Commodity Credit Corporation fund (including not to exceed $44,994,000 under the limitation on Commodity Credit Corporation administrative expenses for a total of $355,460,000): *Provided further,* That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this appropriation: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That no part of the funds appropriated or made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

Funds, transfer.

16 USC 590h.

DAIRY AND BEEKEEPER INDEMNITY PROGRAMS

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, and to beekeepers who through no fault of their own have suffered losses as a result of the use of economic poisons which had been registered and approved for use by the Federal Government, $1,700,000: *Provided,* That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government.

CORPORATIONS

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the

Contracts.
15 USC 713a-10.

31 USC 849.

current fiscal year for such corporation or agency, except as hereinafter provided:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, $29,558,000.

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

To reimburse the Commodity Credit Corporation for net realized losses sustained in prior years, but not previously reimbursed, pursuant to the Act of August 17, 1961 (15 U.S.C. 713a-11, 713a-12), $3,299,887,000.

LIMITATION ON ADMINISTRATIVE EXPENSES

15 USC 713a-10.

Not to exceed $52,750,000 shall be available for administrative expenses of the Commodity Credit Corporation: *Provided,* That this authorization shall be available to support the General Sales Manager who shall work to expand and strengthen sales of U.S. commodities in world markets (including those of the Corporation) pursuant to existing authority (including that contained in the Corporation's charter), and that such funds shall be used by the General Sales Manager to carry out the above activities. The General Sales Manager shall report directly to the Board of Directors of the Corporation of which the Secretary of Agriculture is a member. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501 and shall submit quarterly reports to the appropriate committees of Congress concerning such developments: *Provided further,* That none of the funds in this Act may be used to carry out an Export Credit Sales program in excess of $2,200,000,000 in fiscal year 1981: *Provided further,* That not less than 7 per centum of this authorization shall be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That all necessary expenses (including legal and special services performed on a contract or fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Corporation or in which it has an interest, including expenses of collections of pledged collateral, shall be considered as nonadministrative expenses for the purposes hereof: *Provided further,* That none of the funds in this Act may be used to carry out a program of loan guarantees by the Corporation for the production and marketing of industrial hydrocarbons and alcohols from agricultural commodities and forest products in excess of $500,000,000.

Reporting.

Reports to congressional committees.

7 USC 1707a, 1707b.

31 USC 665.

Land acquisition.

TITLE II—RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

For direct loans and related advances pursuant to section 517(m) of the Housing Act of 1949, as amended, $24,000,000 shall be available from funds in the rural housing insurance fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, $4,075,600,000, of which not less than $3,195,600,000 shall be available for subsidized interest loans to low-income borrowers as determined by the Secretary; and not to exceed $5,000,000 for advances as authorized by section 501(e) of such Act and not to exceed $2,000,000 for compensation of construction defects as authorized by section 509(c) of such Act: *Provided,* That unsubsidized interest guaranteed loans of not to exceed $25,000,000 shall be in addition to these amounts. 42 USC 1487. 42 USC 1471. 42 USC 1471. 42 USC 1479.

During fiscal year 1981, no more than 17,655 units may be assisted under rental assistance agreements entered into during the year pursuant to authority under section 521(a)(2) of the Housing Act of 1949, as amended, and the total obligation incurred over the life of these agreements shall not exceed $403,000,000 to be added to and merged with the authority provided for this purpose in prior fiscal years. 42 USC 1490a.

For an additional amount to reimburse the rural housing insurance fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487e, and 1490a(c)), including $8,712,000, as authorized by section 521(c) of the Act, $504,318,000, and for an additional amount as authorized by section 521(c) of the Act as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

AGRICULTURAL CREDIT INSURANCE FUND

For an additional amount to reimburse the agricultural credit insurance fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $297,032,000.

Loans may be insured, or made to be sold and insured, under this fund in accordance with and subject to the provisions of 7 U.S.C. 1928–1929, or guaranteed, as follows: Real estate loans, $999,600,000, including not less than $920,000,000 for farm ownership loans of which $50,000,000 shall be guaranteed loans; and not less than $60,500,000 for water development, use, and conservation loans of which $6,000,000 shall be guaranteed loans; operating loans, $875,000,000 of which $25,000,000 shall be guaranteed loans; and emergency insured and guaranteed loans in amounts necessary to meet the needs resulting from natural disasters. Loans.

RURAL DEVELOPMENT INSURANCE FUND

For an additional amount to reimburse the rural development insurance fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $143,282,000.

Loans.

For loans to be insured, or made to be sold and insured, under this fund in accordance with and subject to the provisions of 7 U.S.C. 1928 and 86 Stat. 661-664, as follows: Insured water and sewer facility loans, $750,000,000; guaranteed industrial development loans, $741,000,000; and insured community facility loans, $260,000,000.

7 USC 1929a, 1931-1933.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $200,000,000, to remain available until expended, pursuant to section 306(d) of the above Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the elderly pursuant to section 504 of the Housing Act of 1949, as amended, $25,000,000.

42 USC 1474.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $25,000,000.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

During 1981 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $2,000,000.

For an additional amount to provide capitalization to the self-help housing land development fund under section 523(f) and (g), $1,000,000.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313), $3,500,000 to fund up to 50 per centum of the cost of organizing, training, and equipment for rural volunteer fire departments.

16 USC 2106.

RURAL DEVELOPMENT PLANNING GRANTS

For rural development planning grants pursuant to section 306(a)(11) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926(a)(11)), $5,000,000.

RURAL HOUSING SUPERVISORY ASSISTANCE GRANTS

For grants pursuant to section 525(a) of the Housing Act of 1949, as amended (42 U.S.C. 1490(e)), $1,500,000.

RURAL DEVELOPMENT GRANTS

For grants pursuant to section 310B(c) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1932), $5,000,000.

SALARIES AND EXPENSES

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490h); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title IIIA of the Economic Opportunity Act of 1964 (Public Law 88-452, approved August 20, 1964), as amended, and such other programs for which Farmers Home Administration has the responsibility for administering, $244,984,000, including $1,730,000 for the coordination of rural development activities as authorized by section 603 of the Rural Development Act of 1972, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(e) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided,* That, in addition, not to exceed $500,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further,* That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109.

42 USC 2841.

7 USC 2201, 2204, 2204a.

7 USC 1929.
42 USC 1487.
42 USC 1472.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: Rural electrification loans, not less than $850,000,000, nor more than $1,100,000,000, and rural telephone loans, not less than $250,000,000, nor more than $325,000,000, to remain available until expended: *Provided,* That loans made pursuant to section 306 of that Act are in addition to these amounts.

7 USC 936.

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $22,500,000, to remain available until expended (7 U.S.C. 901-950(b)).

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized

31 USC 849.

programs for the current fiscal year. During 1981, and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $160,000,000 nor more than $220,000,000.

RURAL COMMUNICATION DEVELOPMENT FUND

For loans to be insured, or made to be sold and insured, under this fund in accordance with and subject to the provisions of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1928 and 86 Stat. 661-664 as follows: Community Antenna Television loans under section 306 of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1926, $10,000,000. Community Antenna Television loans under section 310B of the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1932, $24,000,000.

7 USC 1929a, 1931-1933.

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), and to carry out a loan and loan guarantee program for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 for employment under 5 U.S.C. 3109, $27,719,000.

CONSERVATION

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C 590a-590f), including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant material centers; classification and mapping of soil; dissemination of information; purchase and erection or alteration of permanent buildings; and operation and maintenance of aircraft, $293,001,000, of which not less than $3,396,000 is for snow survey and water forecasting and not less than $2,933,000 is for operation of the plant materials centers: *Provided,* That the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $5,000, except for one building to be constructed at a cost not to exceed $50,000 and eight buildings to be constructed or improved at a cost not to exceed $30,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $1,000 per building: *Provided further,* That no part of this appropriation shall be available for the construction of any such building on

16 USC 590e-1.

land not owned by the Government: *Provided further,* That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a-590f) in demonstration projects: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service. 16 USC 590e-2.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigations, and surveys of the watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act, approved August 4, 1954, as amended (16 U.S.C. 1006-1009), $17,442,000: *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001-1008), $10,000,000: *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act, approved August 4, 1954, as amended (16 U.S.C. 1001-1005, 1007-1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and in accordance with the provisons of laws relating to the activities of the Department, $192,524,000 (of which $23,500,000 shall be available for the watersheds authorized under the Flood Control Act, approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $10,000,000 shall be available for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205) and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That $26,000,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (86 Stat. 663): *Provided further,* That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate 33 USC 701a. 7 USC 1929. 16 USC 1531 note.

endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010-1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), $34,046,000, of which $300,000 shall be for the authorization of 4 new areas: *Provided,* That $4,000,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (86 Stat. 663): *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

7 USC 1929.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $20,000,000, to remain available until expended.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), and 17 of the Soil Conservation and Domestic Allotment Act, approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), and 590q), and sections 1001-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501-1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $190,000,000 to remain available until expended for agreements, excluding administration but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall receive more than $3,500, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community: *Provided,* That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetland Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further,* That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation material, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees

16 USC 590q.

and the Secretary, under programs provided for herein: *Provided further,* That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further,* That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further,* That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further,* That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities", approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913, to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

53 Stat. 1147.

RURAL CLEAN WATER PROGRAM

For necessary expenses for carrying out an experimental Rural Clean Water Program, $20,000,000, to remain available until expended and to be targeted at areas with identified and significant agricultural nonpoint source water pollution problems to be selected by the Secretary: *Provided,* That practices under the above program shall be recommended by the County Committees, approved by the State Committees and the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, or recommended by the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, and approved by the State Committees and the County Committees: *Provided further,* That such program shall be in addition to the regular Agricultural Conservation Program, and coordinated therewith, with the Soil Conservation Service and others providing technical assistance and the Agricultural Stabilization and Conservation Service providing administrative services for the program, including, but not limited to, the negotiation and administration of contracts and the disbursement of payments: *Provided further,* That such funds as may be required shall be transferred to the Soil Conservation Service,.or others, for necessary technical assistance.

Funds, transfer.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $12,500,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301-1311), $10,000,000, to remain available until expended.

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $10,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204.

TITLE III—DOMESTIC FOOD PROGRAMS

Food and Nutrition Service

CHILD NUTRITION PROGRAMS

Funds, transfer.

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751-1761, and 1766), and the applicable provisions other than section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1773-1785, and 1787); $3,638,776,000, of which $1,759,123,000 is hereby appropriated, and $1,879,653,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), including $80,000,000 for purchase and distribution of agricultural commodities and other foods pursuant to section 6 of the National School Lunch Act: *Provided,* That of the foregoing total amount there shall be available $15,000,000 for the food service equipment assistance program: *Provided further,* That funds provided herein shall remain available until September 30, 1982: *Provided further,* That only claims for reimbursement for meals served after September 1, 1980 submitted to State agencies prior to January 1982, shall be eligible for reimbursement: *Provided further,* That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966 when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further,* That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs

42 USC 1772.
42 USC 1755.
42 USC 1776a.
42 USC 1776.
42 USC 1751 note, 1771 note.
42 USC 1776b.
42 USC 1776.
42 USC 1761.

are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further,* That no part of the funds appropriated in this Act for the summer food service program shall be available for payments to service institutions other than to: (1) public service institutions, (2) private nonprofit service institutions including residential camps which use self-preparation facilities to prepare meals or obtain meals from a public facility, such as a school district, public hospital, or State university, (3) private nonprofit schools including colleges and universities, (4) private nonprofit migrant farmworker organizations including those that purchase meals from a food service management company, (5) private nonprofit service institutions which serve not more than 500 children daily at not more than three sites and which purchase meals from a food service management company, and (6) in areas where no service institutions delineated in items (1) through (5) are available to operate the program, private nonprofit service institutions which purchase meals from a food service management company, determined by the Secretary of Agriculture to have a record of reliable and honest community service in feeding programs: *Provided further,* That none of the funds appropriated in this Act shall be used to provide meal services at or for Job Corps Centers: *Provided further,* That $285,000,000 of the amount appropriated herein shall be held in reserve until the Omnibus Reconciliation Act of 1980 is enacted or the 96th Congress adjourns sine die: *Provided further,* That upon enactment of the Omnibus Reconciliation Act of 1980, which requires reductions in Child Nutrition Program levels, $285,000,000 of the amount herein appropriated shall be hereby rescinded, and the program level shall be reduced by a similar amount: *Provided further,* That, of the funds provided herein for the school lunch program, there shall be available $1,975,000 with which the Secretary shall conduct a 3-year pilot project study in 60 school districts of all cash assistance and all commodity letter of credit assistance in lieu of commodities for the school lunch programs operated in such districts.

Ante, p. 2599.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $118,800,000, to remain available until September 30, 1982: *Provided,* That only claims for reimbursement for milk served during fiscal year 1981 submitted to State agencies prior to January 1, 1982, shall be eligible for reimbursement: *Provided further,* That none of the funds appropriated in this Act may be used for payments which exceed 5 cents per half-pint of milk served after September 1, 1980, which is served to children who are not eligible for free milk and which is served in schools, child care institutions, and summer camps participating in meal service programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966.

42 USC 1751 note, 1771 note.

SPECIAL SUPPLEMENTAL FOOD PROGRAMS (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), and the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), $927,040,000: *Provided,* That funds provided herein shall remain available until September 30, 1982.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027), $9,451,276,000: *Provided,* That funds provided herein shall remain available until September 30, 1981, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3697 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act.

7 USC 2027.

31 USC 665.

7 USC 2025.

For an additional amount to carry out the Food Stamp Act (7 U.S.C. 2011-2027), $288,000,000, should it become necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste and abuse in the program: *Provided,* That funds provided herein shall remain available until September 30, 1981.

FOOD DONATIONS PROGRAMS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), and section 311 of the Older Americans Act of 1965 (42 U.S.C. 303a), $128,660,000.

42 USC 3030a.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Domestic Food Programs funded under this Act, $84,000,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification and prosecution of fraud and other violations of law: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That no funds appropriated in this or any other Act shall be used by the Secretary to administer directly in any State any program authorized under the National School Lunch Act or the Child Nutrition Act of 1966 that the Secretary did not directly administer in fiscal year 1980.

42 USC 1751 note.
42 USC 1771 note.

TITLE IV—INTERNATIONAL PROGRAMS

Foreign Agricultural Service

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954 (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $75,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $60,535,000: *Provided,* That not less than $255,000 of the funds contained in this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan and direct activities involving international development, technical assistance and training, international scientific and technical cooperation in the Department of Agriculture, $3,500,000, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), and the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

PUBLIC LAW 480

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1701-1715, 1721-1726, 1727-1727f, 1731-1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, not more than $892,400,000, of which $406,330,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales and carryover balances; and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $822,600,000, of which $822,600,000 is hereby appropriated and the balance to be derived from Commodity Credit Corporation funds and from carryover balances: *Provided,* That not to exceed 10 percent of the funds made available to carry out any title of this paragraph may be used to carry out any other title of this paragraph.

7 USC 1701, 1727.

7 USC 1721.

TITLE V—RELATED AGENCIES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Food and Drug Administration; for payment of salaries and expenses for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; for rental of special purpose space in the District of Columbia or elsewhere; for miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $10,000; $321,035,000.

5 USC 5332 note.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $28,253,000.

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.) including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109, $17,966,000 to be available as authorized by law: *Provided,* That not to exceed $700 shall be available for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $13,444,000 (from assessments collected from farm credit agencies) shall be obligated during the current fiscal year for administrative expenses including the hire of one passenger motor vehicle.

TITLE VI—GENERAL PROVISIONS

Consulting contracts.

SEC. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Passenger motor vehicles.

SEC. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1981 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed six hundred eighty-nine (689) passenger motor vehicles of which six hundred fourteen (614) shall be for replacement only, and for the hire of such vehicles.

Uniforms.

SEC. 603. Funds available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

Contracts.
7 USC 1623a.

SEC. 604. Not less than $1,500,000 of the appropriations of the Department of Agriculture for research and service work authorized by the Acts of August 14, 1946, July 28, 1954, and September 6, 1958 (7 U.S.C. 427, 1621-1629; 42 U.S.C. 1891-1893), shall be available for contracting in accordance with said Acts.

Marihuana.

SEC. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations who harvest or knowingly permit to be harvested for illegal use, marihuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

Advance funds.

SEC. 606. Advances of money from any appropriation for the Department of Agriculture may be made by authority of the Secretary of Agriculture to chiefs of field parties.

Working capital fund.

SEC. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $1,000,000: *Provided,* That no funds appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Scientific Activities Overseas (Special Foreign Currency

Program); Public Law 480; Rural Housing for Domestic Farm Labor; Watershed and Flood Prevention Operations; Resource Conservation and Development; Agricultural Stabilization and Conservation Service Salaries and Expenses funds made available to county committees; and Buildings and Facilities, Food and Drug Administration. 7 USC 1691 note.

SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein. Fiscal year limitation.

SEC. 610. Not to exceed $50,000 of the appropriations available to the Department of Agriculture shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449. Orientation and language training. 7 USC 1762.

SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agriculture Stabilization and Conservation County Committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized. Part-time and intermittent assistance.

SEC. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SEC. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 614. Not later than 45 days after the end of each quarter of the fiscal year, the head of each department and establishment shall submit a report to the Committees on Appropriations and to the Director of the Office of Management and Budget, specifying the amount of obligations incurred during the quarter and the percentage of total available budget authority for the fiscal year which the obligations constitute. Reports to congressional committees and OMB.

SEC. 615. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States. Disapproved regulations.

SEC. 616. (a) For fiscal year 1982 and thereafter, a department or establishment—as defined in section 2 of the Budget and Accounting Act, 1921—shall submit annually to the House and Senate Appropriations Committees, as part of its budget justification, the estimated amount of funds requested for consulting services; the appropriation accounts in which such funds are located; and a brief description of the need for consulting services, including a list of major programs that require consulting services. Submittal to congressional committees. 31 USC 28. 31 USC 2.

(b) For fiscal year 1982 and thereafter, the Inspector General of such department or establishment, or comparable official, or if there is no Inspector General or comparable official, the agency head or the agency head's designee, shall submit to the Congress along with the budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements. Submittal to Congress.

SEC. 617. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, Rural Housing Insurance Fund, and the Rural Development Insurance Fund shall be not less than 75 per centum of the value of the loans closed during the fiscal year. Beneficial ownership certificates.

SEC. 618. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the value of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

Fuel research funds, transfer.

SEC. 619. Within 60 days of enactment of this Act, the Department of Energy shall transfer $10,800,000 to the Department of Agriculture for biomass and alcohol fuels research in accordance with existing inter-agency agreements. This sum represents the total fiscal year 1981 funding for the Department of Energy's on-farm and herbaceous programs, the near-term silviculture program and on-farm alcohol stills.

Crop acreage.

SEC. 620. None of the funds appropriated in this Act shall be used to require producers to remain within their normal crop acreage to be eligible for price-support loans, target price protection, or disaster assistance with regard to the 1981 programs for cotton, wheat, feed grains, and rice under the Food and Agriculture Act of 1977, as amended (7 U.S.C. 1281): *Provided,* That any increases in acreage in 1981 shall not be used in determining normal crop acreage in future years.

Submittal to congressional committees.

SEC. 621. Departments and related agencies receiving appropriations in excess of $50,000,000 under this Act shall, within 30 days following enactment, submit to the Committees on Appropriations of the two Houses of Congress a schedule of anticipated outlays for each month of the fiscal year beginning October 1, 1980.

Watershed projects.
42 USC 1962 note.
16 USC 1001 note.
42 USC 1962 note.

SEC. 622. Notwithstanding any other provision of law, watershed projects under Public Law 83-566 are hereby exempted from the requirements of Executive Orders 12113 and 12141.

Approved December 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1095 (Comm. on Appropriations) and No. 96-1519 (Comm. of Conference).
SENATE REPORT No. 96-1030 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 29, 30, considered and passed House.
Nov. 25, considered and passed Senate, amended.
Dec. 4, House agreed to conference report; receded from its disagreement and concurred in certain Senate amendments and in others with amendments; Senate agreed to conference report and concurred in House amendments.

Public Law 96-529
96th Congress

Joint Resolution

Authorizing appropriation of funds for acquisition of a monument to Doctor Ralph J. Bunche and installation of such monument in Ralph J. Bunche Park in New York City.

Dec. 15, 1980
[H.J. Res. 205]

Whereas Doctor Ralph J. Bunche, winner of the Nobel Peace Prize and former Under Secretary of the United Nations, was a man of great vision and strength and was one of the most distinguished citizens of the United States and the world;

Whereas the proposed acquisition of a monument to Doctor Bunche (consisting of a fifty-foot, sculptured stainless steel obelisk) and its installation in Ralph J. Bunche Park in New York City is conceived as a symbol of man's renunciation of war and corruption and has been approved and endorsed by the United Nations Art Committee, the Visual Arts Committee of New York, and the New York City Parks Commission; and

Whereas the acquisition and installation of this monument will contribute to the artistic and cultural vitality of New York City and will combine the beauty and timeliness of art with a perspective of historical greatness, a hope for future prosperity and peace, and a tribute to a man whose illustrious career was a dedication to the achievement of world peace: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there are authorized to be appropriated not more than $45,000 to the Secretary of the Interior for payment to the Phelps-Stokes Fund of New York City for use by such Fund for acquisition and installation (including related landscaping) of a monument to Doctor Ralph J. Bunche.

Ralph J. Bunche. Monument acquisition. Appropriation authorization.

(b) Not later than one year after the date on which funds are appropriated under this Act, the Phelps-Stokes Fund shall report to the Congress the amount and source of all sums used for acquisition and installation of such monument.

Report to Congress.

SEC. 2. The monument referred to in the first section shall consist of a fifty-foot, sculptured, stainless steel obelisk created by Daniel Johnson and named "Peace Form One", and shall be installed in Ralph J. Bunche Park in New York City.

Approved December 15, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 1, considered and passed House and Senate.

Public Law 96-530
96th Congress

An Act

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1981, and for other purposes.

Dec. 15, 1980
[H. R. 8061]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1981, and for other purposes, namely:

District of Columbia Appropriation Act.

Federal Payment to the District of Columbia

For payment to the District of Columbia for the fiscal year ending September 30, 1981, $295,400,000, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code 47-2501d); and $8,100,000 in lieu of reimbursements for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government as authorized by the Act of May 18, 1954, as amended (D.C. Code 43-1541 and 1611).

For the Federal contribution to the Police Officers and Fire Fighters', Teachers' and Judges' Retirement Funds as authorized by the District of Columbia Retirement Reform Act, Public Law 96-122, approved November 17, 1979 (93 Stat. 866), $52,070,000.

For reimbursement for necessary expenses incurred in connection with inauguration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-827(b)), $1,330,100.

For reimbursement for necessary expenses incurred in connection with demonstration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-827(b)), $3,315,000.

Loans to the District of Columbia for Capital Outlay

For loans to the District of Columbia, as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended, $130,567,600, which together with balances of previous appropriations for this purpose, shall remain available until expended and be advanced upon request of the Mayor: *Provided,* That during fiscal year 1981 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $200,000,000.

D.C. Code 1-121 note.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided:

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $84,728,900: *Provided,* That not to exceed $2,500 for the Mayor and $2,500 for the Chairman of the Council of the District of Columbia shall be available from this appropriation for expenditures for official purposes: *Provided further,* That not to exceed $7,500 of this appropriation shall be available for test borings and soil investigations: *Provided further,* That not to exceed $500,000 of this appropriation shall be available for settlement of property damage claims not in excess of $1,500 each and personal injury claims not in excess of $5,000 each: *Provided further,* That $5,344,500 of the funds appropriated for the Department of General Services shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $29,111,800: *Provided,* That the Convention Center Board, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602) shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual convention center audit: *Provided further,* That $2,561,600 of the funds appropriated for the Washington Convention Center shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of one hundred and thirty-five passenger motor vehicles for replacement only (including one hundred and thirty for police-type use and five for fire-type use without regard to the general purchase price limitation for the current fiscal year); $352,705,600, of which $5,850,000 shall be payable from the revenue sharing trust fund: *Provided,* That the Police Department is authorized to replace not to exceed twenty-five passenger carrying vehicles, and the Fire Department not to exceed five such vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths the cost of the replacement: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, Public Law 93-412, approved September 3, 1974 (D.C. Code, section 11-2601 et seq.) for fiscal year 1981 shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1975: *Provided further,* That not to exceed $200,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That $50,000 of any appropriations available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and

supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further,* That $1,790,500 of the funds appropriated for the Metropolitan Police Department; $789,500 of the funds appropriated for the Fire Department; $4,157,400 of the funds appropriated for the Department of Corrections; and $3,322,400 of the funds appropriated for the Courts shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $393,956,500, of which $8,750,000 shall be payable from the revenue sharing trust fund, to be allocated as follows: $275,599,700 for the District of Columbia Public Schools; $38,717,200 for the Teachers' Retirement and Annuity Fund; $60,266,600 for the University of the District of Columbia; $14,046,400 for the Public Library; $551,100 for the Commission on the Arts and Humanities; $90,500 for the Educational Institution Licensure Commission; and $4,685,000 for the School Transit Subsidy: *Provided,* That the District of Columbia Public Schools are authorized to accept not to exceed thirty-one motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $1,000 for the Superintendent of Schools and $2,500 for the President of the University of the District of Columbia shall be available from this appropriation for expenditures for official purposes: *Provided further,* That the $38,717,200 of this appropriation allocated for the Teachers' Retirement and Annuity Fund shall be transferred to the Teachers' Retirement and Annuity Fund, in accordance with the provisions of section 7 of An Act for the retirement of public-school teachers in the District of Columbia, approved August 7, 1946 (60 Stat. 879; D.C. Code section 31-727): *Provided further,* That not less than $7,257,800 of this appropriation shall be used exclusively for maintenance of the public schools: *Provided further,* That $29,810,400 of the funds appropriated for the District of Columbia Public Schools, $7,673,800 of the funds appropriated for the University of the District of Columbia, and $2,803,200 of the funds appropriated for the Public Library shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

HUMAN SUPPORT SERVICES

Human support services, including care and treatment of indigent patients in institutions under contracts to be made by the Director of the Department of Human Resources, $381,742,000, of which $8,200,000 shall be payable from the revenue sharing trust fund: *Provided,* That the inpatient rate under such contracts shall not exceed $76 per diem and the outpatient rate shall not exceed $12 per visit except for services provided to patients who are eligible for such services under the District of Columbia plan for medical assistance under title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. 1396 et seq.) and the inpatient rate (excluding the proportionate share for repairs and construction) for services rendered by Saint Elizabeths Hospital for patient care shall be at the per diem rate established pursuant to section 2 of An Act to authorize certain expenditures from the appropriation of Saint Elizabeths Hospital, and for other purposes, approved August 4, 1947 (61 Stat. 751; 24 U.S.C. 168a): *Provided further,* That total reimbursements to

D.C. Code 32-406a.

Saint Elizabeths Hospital, including funds from title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. 1396 et seq.) shall not exceed $21,348,700: *Provided further,* That $5,807,100 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That none of the funds appropriated for the summer youth jobs program shall be obligated until the Subcommittees on District of Columbia Appropriations of the House of Representatives and the Senate have approved a plan submitted by the Mayor and the City Council detailing proposed expenditures: *Provided further,* That $2,107,200 of the funds appropriated for the Department of Recreation, $3,121,300 of the funds appropriated for the Department of Human Services, $1,302,000 of the funds appropriated for the District of Columbia General Hospital, and $1,947,600 of the funds appropriated for District of Columbia Obligations shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

TRANSPORTATION SERVICES AND ASSISTANCE

Transportation services and assistance, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of sixteen passenger-carrying vehicles, for replacement only, $147,919,000, of which $2,500,000 shall be payable from the revenue sharing trust fund: *Provided,* That this appropriation shall not be available for the purchase of driver-training vehicles: *Provided further,* That $13,743,200 of the funds appropriated for the Department of Transportation and $26,471,400 of the funds appropriated for the Washington Metropolitan Area Transit Authority shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

ENVIRONMENTAL SERVICES AND SUPPLY

Environmental services and supply, $43,126,000, of which $1,000,000 shall be payable from the revenue sharing trust fund: *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia: *Provided further,* That $10,848,300 of the funds appropriated for the Department of Environmental Services shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

INAUGURAL EXPENSES

For reimbursement for necessary expenses incurred in connection with inauguration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-827(b)), $1,330,100.

DEMONSTRATION EXPENSES

For reimbursement for necessary expenses incurred in connection with demonstration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-827(b)), $3,315,000.

WATER AND SEWER ENTERPRISE FUND

For establishment of the Water and Sewer Enterprise Fund, $82,190,200: *Provided,* That $14,937,500 of the funds appropriated to the Water and Sewer Enterprise Fund shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

CAPITAL OUTLAY

For construction projects as authorized by An Act Authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; D.C. Code section 43-1510 et seq.); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101); An Act To authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; D.C. Code, section 9-220); An Act To amend the District of Columbia Motor Vehicle Parking Facility Act of 1942, as amended, approved August 20, 1958 (72 Stat. 686); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 321; D.C. Code, sections 1-1443 and 9-220(b)(3)); including acquisition of sites; preparation of plans and specifications; conducting preliminary surveys; erection of structures, including building improvement and alteration and treatment of grounds; to remain available until expended, $220,908,400: *Provided,* That $2,813,300 shall be available for project management and $2,516,600 for design by the Director of the Department of General Services or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That all such funds shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, Public Law 90-495, approved August 23, 1968 (82 Stat. 827, D.C. Code, section 7-135 note), for which funds are provided by this paragraph, shall expire on September 30, 1982, except authorizations for projects as to which funds have been obligated in whole or in part prior to such date. Upon expiration of any such project authorization the funds provided herein for such project shall lapse.

D.C. Code 43-1601 note.

D.C. Code 40-804.

D.C. Code 1-1441 note.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5

Consulting services.

U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Vouchers.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

Maximum allowances.

SEC. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or object of expenditures, such amount, unless otherwise specified, shall be considered as the maximum amount which may be expended for said purpose or object rather than an amount set apart exclusively therefor.

Automobile and motorcycle allowances.

SEC. 104. Appropriations in this Act shall be available, when authorized or approved by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided,* That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed from time to time in the Federal Travel Regulations.

Travel expenses and organization dues.

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided,* That the Council of the District of Columbia may expend such funds without authorization by the Mayor.

Taxicab regulation.

SEC. 106. Appropriations in this Act shall not be used for or in connection with the preparation, issuance, publication, or enforcement of any regulation or order of the Public Service Commission requiring the installation of meters in taxicabs, or for or in connection with the licensing of any vehicle to be operated as a taxicab except for operation in accordance with such system of uniform zones and rates and regulations applicable thereto as shall have been prescribed by the Public Service Commission.

Judgement payments.

SEC. 107. There are hereby appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments which have been entered against the government of the District of Columbia: *Provided,* That nothing contained in this section shall be construed as modifying or affecting the provisions of paragraph 3, subsection (c) of section 11 of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (61 Stat. 355; D.C. Code, section 47-1586j), as amended.

D.C. Code 3-204 note.

SEC. 108. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 5(b) of the District of Columbia Public Assistance Act of 1962, approved October 15, 1962 (76 Stat. 915; D.C. Code, section 3-204) and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, Public Law 90-445, approved July 31, 1968 (82 Stat. 462; 42 U.S.C. 3801).

Fiscal year limitation.

SEC. 109. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Overtime and temporary positions, cost limitation.

SEC. 110. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personal compensation may be used to pay the cost of overtime or temporary positions.

Travel expenditure limitation.

SEC. 111. The total expenditure of funds appropriated by this Act for authorized travel and per diem costs outside the District of Columbia, Maryland, and Virginia shall not exceed $225,000.

Employment limitation. D.C. Code 1-216 note.

SEC. 112. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1981, for the compensation of any person appointed—

(1) as a full-time employee to a permanent, authorized position in the government of the District of Columbia during any month when the number of such employees is greater than 35,313: *Provided*, That—

(A) positions within this city employment limitation shall be set aside as the maximum number of permanent, authorized employees as follows: Appropriated positions, 31,005 of which 8,869 shall be for Public Schools; intra-District positions, 1,952; District of Columbia General Hospital, 2,356; and

(B) the District of Columbia Public Schools and the District of Columbia General Hospital shall not exceed their respective employment limitations and are hereby required to report monthly to the Mayor, for the purpose of maintaining controls on city-wide employment, regarding the total number of current employees and the total number of separations and filling of positions within their respective employment limitations; or

(2) as a temporary or part-time employee in the government of the District of Columbia during any month in which the number of such employees exceeds the number of such employees for the same month of the preceding fiscal year.

Partisan political activities.

SEC. 113. No funds appropriated in this Act for the government of the District of Columbia for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

D.C. annual budget, transmittal to Congress.

SEC. 114. The annual budget for the District of Columbia government for fiscal year 1982 shall be transmitted to the Congress by not later than February 1, 1981. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the government of the District of Columbia whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations or their duly authorized representatives.

SEC. 115. There are hereby appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, section 47-331 et seq.).

SEC. 116. None of the funds contained in this Act shall be made available to pay the salary of any employee of the government of the District of Columbia whose name and salary are not available for public inspection.

Congressional or State legislation, partisan publicity.

SEC. 117. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

Abortion funding.

SEC. 118. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would

be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Short title.

This Act may be cited as the "District of Columbia Appropriation Act."

Approved December 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1271 (Comm. on Appropriations) and No. 96-1477 (Comm. of Conference).
SENATE REPORT No. 96-969 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 3, considered and passed House.
Nov. 17, considered and passed Senate, amended.
Dec. 2, House agreed to conference report; receded from its disagreement and concurred in certain Senate amendments and in others with amendments.
Dec. 4, Senate agreed to conference report and concurred in House amendments.

Public Law 96-531
96th Congress

An Act

To provide that the park referred to as the East Lake Park located within the West Point Lake project on the Chattahoochee River, Georgia, shall hereafter be known and designated as the "R. Shaefer Heard Park".

Dec. 15, 1980
[H.R. 6243]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the East Lake Park, located within the West Point Lake project on the Chattahoochee River, Georgia, shall hereafter be known and designated as the "R. Shaefer Heard Park".

R. Shaefer Heard Park, Ga. Designation.

SEC. 2. Any reference in any law, map, regulation, document, record, or other paper of the United States to such park shall be deemed to be a reference to such park as the "R. Shaefer Heard Park".

Approved December 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1332 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 29, considered and passed House.
Dec. 2, considered and passed Senate.

Public Law 96-532
96th Congress

An Act

Dec. 15, 1980
[S. 2134]

To provide for the acquisition of certain property in square 758 in the District of Columbia as an addition to the grounds of the United States Supreme Court Building.

U.S. Supreme Court Building, property acquisition.
Location.
40 USC 13 p note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Architect of the Capitol is authorized to acquire on behalf of the United States by purchase, condemnation, transfer, or otherwise, as an addition to the grounds of the United States Supreme Court Building, all privately owned real property contained in lots 2, 3, 800, 801, and 802 in square 758 in the District of Columbia, as such lots appear on the records in the office of the Surveyor of the District of Columbia as of the date of the enactment of this Act.

40 USC 13 p note.

SEC. 2. The acquisition of real property under this Act shall be conducted in accordance with the Act entitled "Uniform Relocation Assistance and Land Acquisition Policies Act of 1970", Public Law 91-646, approved January 2, 1971, and any proceeding for condemnation brought in its course shall be conducted in accordance with the Act entitled "An Act to provide for the acquisition of land in the District of Columbia for the use of the United States", approved March 1, 1929 (16 D.C. Code, secs. 1351-1368).

42 USC 4601 note.

40 USC 13 p note.

SEC. 3. Upon acquisition of such real property by the Architect of the Capitol, on behalf of the United States, such property shall become a part of the grounds of the United States Supreme Court Building and shall be subject to all of the provisions of the Act of May 7, 1934 (40 U.S.C. 13a through 13p), as amended.

Expenditures.
40 USC 13 p note.

SEC. 4. The Architect of the Capitol is authorized to enter into contracts and to make expenditures for grading and paving and such other expenditures, including expenditures for personal and other services, as may be necessary to carry out the purposes of this Act.

Appropriation authorization.
40 USC 13 p note.

SEC. 5. There is hereby authorized to be appropriated the sum of $645,000 for fiscal year 1981 for the purpose of carrying out the provisions of this Act, said appropriation to remain available until expended.

Approved December 15, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-696 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 16, considered and passed Senate.
Dec. 4, considered and passed House.

Public Law 96-533
96th Congress

An Act

To authorize appropriations for the fiscal year 1981 for international security and development assistance, the Peace Corps, and refugee assistance, and for other purposes.

Dec. 16, 1980
[H.R. 6942]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

International Security and Development Cooperation Act of 1980.

SHORT TITLE

SECTION 1. This Act may be cited as the "International Security and Development Cooperation Act of 1980". 22 USC 2151 note.

TITLE I—MILITARY AND RELATED ASSISTANCE AND SALES PROGRAMS

THIRD COUNTRY TRANSFERS

SEC. 101. (a)(1) Section 3(d) of the Arms Export Control Act is amended— 22 USC 2753.

(A) by redesignating existing paragraph (3) as paragraph (4); and

(B) by inserting the following new paragraph (3) immediately after paragraph (2):

"(3) The President may not give his consent to the transfer to a third country of a defense article or a defense service valued (in terms of its original acquisition costs) at $25,000,000 or more, or of major defense equipment valued (in terms of its original acquisition costs) at $7,000,000 or more, the export of which has been licensed or approved under section 38 of this Act, unless at least 30 calendar days before giving such consent the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate a report containing the information specified in subparagraphs (A) through (E) of paragraph (1).". Report to Congress. 22 USC 2778.

(2) Such section is further amended—

(A) in the last sentence of paragraph (1) by striking out "subsection" and inserting in lieu thereof "paragraph"; and

(B) in paragraph (2) by inserting "paragraph (1) of" immediately before "this subsection".

(b) Paragraph (4) of section 3(d) of such Act, as so redesignated by subsection (a)(1)(A) of this section, is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of clause (ii) of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) to transfers to the North Atlantic Treaty Organization, any member country of such Organization, Japan, Australia, or New Zealand, of any major defense equipment valued (in terms of its original acquisition cost) at less than $7,000,000 or of any

defense article or related training or other defense service valued (in terms of its original acquisition cost) at less than $25,000,000.".

PERFORMANCE OF DEFENSE SERVICES

22 USC 2761.

SEC. 102. Section 21(c) of the Arms Export Control Act is amended—

(1) by striking out "training, advising, or otherwise providing assistance regarding combat activities" and inserting in lieu thereof "training and advising that may engage United States personnel in combat activities";

(2) by inserting "(1)" immediately after "(c)"; and

(3) by adding at the end thereof the following:

Report to Congress.

"(2) Within 48 hours after the outbreak of significant hostilities involving a country in which United States personnel are performing defense services pursuant to this Act or the Foreign Assistance Act of 1961, the President shall submit to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

22 USC 2151 note.

"(A) the identity of such country and a description of such hostilities; and

"(B) the number of members of the United States Armed Forces and the number of United States civilian personnel performing defense services related to such hostilities in such country, their location, the precise nature of their activities, and the likelihood of their becoming engaged in or endangered by hostilities.".

RECIPROCAL TRAINING AGREEMENTS

22 USC 2761.

SEC. 103. Section 21(g) of the Arms Export Control Act is amended by striking out "In carrying out section 814 of the Act of October 7, 1975 (Public Law 94-106), the President may enter into North Atlantic Treaty Organization standardization agreements" and inserting in lieu thereof "The President may enter into North Atlantic Treaty Organization standardization agreements in carrying out section 814 of the Act of October 7, 1975 (Public Law 94-106), and may enter into similar agreements with Japan, Australia, and New Zealand,".

10 USC 2451 note.

GUARANTY RESERVE

22 USC 2764.

SEC. 104. (a) Section 24(c) of the Arms Export Control Act is amended to read as follows:

"(c) Funds obligated under this section before the date of enactment of the International Security and Development Cooperation Act of 1980 which constitute a single reserve for the payment of claims under guaranties issued under this section shall remain available for expenditure for the purposes of this section on and after that date. The President shall report promptly to the Congress whenever the payment of a claim under any such guaranty reduces the total amount of funds in the single reserve under this subsection to an amount less than $750,000,000, together with his recommendations for the authorization of appropriations of additional funds for such reserve. For purposes of any provision in this Act or any other Act relating to a prohibition or limitation on the availability of funds under this Act, whenever a guaranty is issued under this section, the

Ante, p. 3131.

Report to Congress.

principal amount of the loan so guaranteed shall be deemed to be funds made available for use under this Act. Any guaranties issued hereunder shall be backed by the full faith and credit of the United States.".

(b) Section 37 of such Act is amended by adding at the end thereof the following: 22 USC 2777.

"(c) Notwithstanding the provisions of subsection (b), to the extent that any of the funds constituting the reserve under section 24(c) are paid out for a claim arising out of a loan guaranteed under section 24, amounts received from a foreign government or international organization after the date of such payment, with respect to such claim, shall be credited to such reserve, shall be merged with the funds in such reserve, and shall be available for any purpose for which funds in such reserve are available.". *Ante*, p. 3132.

(c) Section 25(a) of such Act is amended— 22 USC 2765.

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5); and

(2) by inserting after paragraph (2) the following:

"(3) the total amount of funds in the reserve under section 24(c) at the end of the fiscal year immediately preceding the fiscal year in which a report under this section is made, together with an assessment of the adequacy of such total amount of funds as a reserve for the payment of claims under guaranties issued pursuant to section 24 in view of the current debt servicing capacity of borrowing countries, as reported to the Congress pursuant to section 634(a)(5) of the Foreign Assistance Act of 1961;". *Ante*, p. 3132. 22 USC 2394.

(d) Section 31(a) of such Act is amended by inserting immediately after the first sentence the following new sentence: "Credits may not be extended under section 23 of this Act in an amount, and loans may not be guaranteed under section 24(a) of this Act in a principal amount, which exceeds any maximum amount which may be established with respect to such credits or such loan guarantees in legislation appropriating funds to carry out this Act.". 22 USC 2771. 22 USC 2763. 22 USC 2764.

MILITARY CONSTRUCTION

SEC. 105. (a) The Arms Export Control Act is amended by inserting immediately after chapter 2 the following new chapter:

"CHAPTER 2A—FOREIGN MILITARY CONSTRUCTION SALES

"SEC. 29. FOREIGN MILITARY CONSTRUCTION SALES.—The President may sell design and construction services to any eligible foreign country or international organization if such country or international organization agrees to pay in United States dollars not less than the full cost to the United States Government of furnishing such services. Payment shall be made to the United States Government in advance of the performance of such services by officers or employees of the United States Government. The President may, without requirement for charge to any appropriation or contract authorization otherwise provided, enter into contracts for the procurement of design and construction services for sale under this section if such country or international organization provides the United States Government with a dependable undertaking (1) to pay the full amount of such contract which will assure the United States Government against any loss on the contract, and (2) to make funds available in such amounts and at such time as may be required to meet the 22 USC 2769. Contracts.

payments required by the contract and any damages and costs that may accrue from the cancellation of such contract, in advance of the time such payments, damages, or costs are due.".

22 USC 2761. (b)(1) Section 21(h) of such Act is amended by striking out "defense articles or defense services" both places it appears and inserting in lieu thereof "defense articles, defense services, or design and construction services".

22 USC 2762. 50 USC app. 1211 note. (2) Section 22(c) of such Act is amended to read as follows: "(c) The provisions of the Renegotiation Act of 1951 do not apply to procurement contracts heretofore or hereafter entered into under this section, section 29, or predecessor provisions of law.".

Ante, p. 3133.

22 USC 2763, 2764, 2771. (3) Sections 23, 24(a), and 31(c) of such Act are each amended by striking out "defense articles and defense services" each place it appears and inserting in lieu thereof "defense articles, defense services, and design and construction services".

22 USC 2776. (c) Section 36(a) of such Act is amended—

(1) by striking out "and" immediately after the semicolon at the end of paragraph (7);

(2) by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraph:

Ante, p. 3133. "(9) a listing of each sale under section 29 during the quarter for which such report is made, specifying (A) the purchaser, (B) the United States Government department or agency responsible for implementing the sale, (C) an estimate of the dollar amount of the sale, and (D) a general description of the real property facilities to be constructed pursuant to such sale; and".

22 USC 2776. (d)(1) Section 36(b)(1) of such Act is amended in the first sentence by inserting "any design and construction services for $200,000,000 or more," immediately after "$25,000,000 or more,".

(2) Such section is further amended—

(A) in the first sentence by inserting ", or (in the case of a sale of design and construction services) the information specified in clauses (A) through (D) of paragraph (9) of subsection (a)," immediately after "subsection (a)" the first place it appears;

(B) in the second sentence by striking out "or defense services" and inserting in lieu thereof ", defense services, or design and construction services,"; and

(C) in the third sentence—

(i) in subparagraph (A) by striking out "or services" and inserting in lieu thereof ", defense services, or design and construction services";

(ii) in subparagraph (C) by striking out "or defense service" and inserting in lieu thereof ", defense service, or design and construction service";

(iii) in subparagraph (E) by striking out "or services" both places it appears and inserting in lieu thereof ", defense services, or design and construction services";

(iv) in subparagraph (I) by striking out "or services" both places it appears and inserting in lieu thereof ", defense services, or design and construction services";

(v) in subparagraph (J) by striking out "or services" and inserting in lieu thereof ", defense services, or design and construction services";

(vi) in subparagraph (K) by striking out "or services" and inserting in lieu thereof ", defense services, or design and construction services";

(vii) in subparagraph (L) by striking out "or services" and inserting in lieu thereof ", defense services, or design and construction services";

(viii) in subparagraph (M) by striking out "services, or" the first place it appears and inserting in lieu thereof "defense services, design and construction services, or defense"; and

(ix) in subparagraph (N) by inserting ", defense services, or design and construction services" immediately after "defense articles".

(e)(1) Section 37(a) of such Act is amended by striking out "sections 21 and 22" and inserting in lieu thereof "sections 21, 22, and 29". 22 USC 2777.

(2) Section 39 of such Act is amended— 22 USC 2779.

(A) in subsection (a) by inserting ", or of design and construction services under section 29," immediately after "section 22"; and

(B) in subsection (c) by inserting "or section 29" immediately after "section 22".

(3) Section 42 of such Act is amended— 22 USC 2791.

(A) in subsection (d) by striking out "and 24" and inserting in lieu thereof "24, and 29"; and

(B) in subsection (e) by striking out "and 22" both places that it appears and inserting in lieu thereof ", 22, and 29".

(f) Section 47 of such Act is amended— 22 USC 2794.

(1) in paragraph (4) by inserting ", but does not include design and construction services under section 29 of this Act" immediately after "military sales";

(2) in paragraph (6) by striking out "and" immediately after the semicolon;

(3) in paragraph (7) by striking out the period and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(8) 'design and construction services' means, with respect to sales under section 29 of this Act, the design and construction of real property facilities, including necessary construction equipment and materials, engineering services, construction contract management services relating thereto, and technical advisory assistance in the operation and maintenance of real property facilities provided or performed by any department or agency of the Department of Defense or by a contractor pursuant to a contract with such department or agency.". "Design and construction services." *Ante*, p. 3133.

FOREIGN MILITARY SALES AUTHORIZATION AND AGGREGATE CEILING

SEC. 106. (a) Section 31(a) of the Arms Export Control Act is amended by striking out "$673,500,000 for the fiscal year 1980" and inserting in lieu thereof "$500,000,000 for the fiscal year 1981". 22 USC 2771.

(b) Section 31(b) of such Act is amended to read as follows:

"(b)(1) The total amount of credits, or participations in credits, extended pursuant to section 23 of this Act for the fiscal year 1981 shall not exceed $500,000,000. 22 USC 2763.

"(2) The total principal amount of loans guaranteed pursuant to section 24(a) of this Act for the fiscal year 1981 shall not exceed $2,616,000,000. 22 USC 2764.

"(3) Of the aggregate total of such credits, or participations in credits, and of the total principal amount of such loans guaranteed, not less than $1,400,000,000 for the fiscal year 1981 shall be available only for Israel, of which $200,000,000 shall be available only for costs associated with the relocation of Israeli forces from the Sinai.".

22 USC 2771.

(c) Section 31(c) of such Act is amended—

(1) in the first sentence by striking out "fiscal year 1980" and inserting in lieu thereof "fiscal year 1981"; and

(2) in the last sentence by striking out "one-half" and inserting in lieu thereof "$500,000,000".

22 USC 2764.

(d) The principal amount of the loans guaranteed under section 24(a) of such Act for the fiscal year 1981 with respect to Egypt, the Sudan, Greece, and Turkey shall be repaid, and with respect to Somalia may be repaid, in not less than twenty years, following a grace period of ten years on repayment of principal.

COMMERCIAL EXPORTS OF DEFENSE ARTICLES AND DEFENSE SERVICES

22 USC 2778.

SEC. 107. (a) Section 38(b)(3) of the Arms Export Control Act is amended by striking out "$35,000,000" and inserting in lieu thereof "$100,000,000".

22 USC 2776.

(b) Section 36(c) of such Act is amended—

(1) in the first sentence by striking out "not less than 30 days";

(2) by redesignating paragraphs (1), (2), and (3) as clauses (A), (B), and (C), respectively;

(3) in the last sentence by striking out "paragraph (2)" and inserting in lieu thereof "clause (B)" and by striking out "paragraph (3)" and inserting in lieu thereof "clause (C)";

(4) by inserting "(1)" immediately after "(c)"; and

(5) by adding at the end thereof the following:

Export license.

"(2) Unless the President states in his certification that an emergency exists which requires the proposed export in the national security interests of the United States, a license for export described in paragraph (1)—

"(A) shall not be issued until at least 30 calendar days after the Congress receives such certification; and

"(B) shall not be issued then if the Congress, within such 30-day period, adopts a concurrent resolution stating that it objects to the proposed export, except that this subparagraph does not apply with respect to a license issued for an export to the North Atlantic Treaty Organization, any member country of that Organization, Japan, Australia, or New Zealand.

If the President states in his certification that an emergency exists which requires the proposed export in the national security interests of the United States, thus waiving the requirements of subparagraphs (A) and (B) of this paragraph, he shall set forth in the certification a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate issuance of the export license and a discussion of the national security interests involved.

"(3)(A) Any resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

90 Stat. 765.

"(B) For the purpose of expediting the consideration and adoption of concurrent resolutions under this subsection, a motion to proceed to the consideration of any such resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.".

22 USC 2778.

(c) Section 38(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) In exercising the authorities conferred by this section, the President may require that any defense article or defense service be

sold under this Act as a condition of its eligibility for export, and may require that persons engaged in the negotiation for the export of defense articles and services keep the President fully and currently informed of the progress and future prospects of such negotiations.".

(d) Section 25(d)(1) of such Act is amended— 22 USC 2765.

(1) in the first sentence by inserting "and licensed commercial exports" immediately after "sales" both places it appears; and

(2) in the second sentence—

(A) by inserting "and licensed commercial exports" immediately after "Sales", and

(B) by inserting "or of an export license" immediately after "letter of offer".

EXPORT CONTROLS ON CERTAIN ITEMS ON THE MUNITIONS LIST

SEC. 108. (a) The President shall review the categories of defense articles and defense services on the United States Munitions List in order to determine which of such articles and services, if any, should be removed from such List. The President shall report to the Congress concerning the results of this review not later than 120 days after the date of enactment of this Act. With respect to this review, it is the sense of the Congress that defense articles and services should not be removed from the United States Munitions List— Review. Report to Congress.

(1) if they are specifically designed, modified, adapted, or equipped for military application or use;

(2) if they do contain sensitive technology used for military, security, intelligence, or cryptographic purposes;

(3) if they are related to nuclear weapons development, production, or testing, or to systems capable of delivering nuclear weapons, or to spacecraft; or

(4) if they are otherwise of such a particular nature as to warrant continued export control under section 38 of the Arms Export Control Act. 22 USC 2778.

(b) In addition, the President shall study whether section 620B of the Foreign Assistance Act of 1961 should be amended in order to allow the issuance of licenses under section 38 of the Arms Export Control Act for the export of (1) communications and electronics equipment with a direct civilian application; (2) transport, utility, or training helicopters with a direct civilian application; (3) propeller-driven transport, utility, or training aircraft; (4) trucks and vehicles with a direct civilian application; or (5) defense services related to any of the items described in clauses (1) through (4). The President shall report the results of this study to the Congress within 120 days after the date of enactment of this Act. Study. 22 USC 2372. Report to Congress.

LEASING OF DEFENSE PROPERTY

SEC. 109. (a) Not less than thirty days before the Secretary of a military department exercises his authority under section 2667 of title 10, United States Code, in order to lease defense property to a foreign government for a period of more than six months, the President shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, a written notification which specifies— Notification of Congress. 10 USC 2667 note.

(1) the country to which such defense property is to be leased;

(2) the type, quantity, and value of the defense property to be leased;

(3) the terms and duration of the lease; and

(4) a justification for the lease.

(b) Each such lease agreement shall be subject to the approval of the Secretary of State.

(c) Each such lease agreement shall be provided to the Congress not later than thirty days after its date of signature.

Waiver; report to Congress.

(d) The President may waive the requirements of subsections (a) and (b) of this section if he determines and immediately reports such determination to the Congress that an emergency exists which requires such lease in the national security interests of the United States.

"Defense property."

22 USC 2794.

(e) As used in this section, the term "defense property" means any major defense equipment (as defined in section 47(6) of the Arms Export Control Act) valued at $7,000,000 or more and any other property valued at $25,000,000 or more.

22 USC 2776.

(f) Section 36(a) of the Arms Export Control Act is amended by inserting the following new paragraph immediately after paragraph (9), as added by section 105(c) of this Act:

"(10) a listing (classified if necessary) of all property valued at $1,000,000 or more which was leased, during the quarter for which such report is submitted, to a foreign government for a period of more than six months under section 2667 of title 10, United States Code.".

EXPORTATION OF URANIUM DEPLETED IN THE ISOTOPE 235

22 USC 2778a.

SEC. 110. Upon a finding that an export of uranium depleted in the isotope 235 is incorporated in defense articles or commodities solely to take advantage of high density or pyrophoric characteristics unrelated to its radioactivity, such exports shall be exempt from the provisions of the Atomic Energy Act of 1954 and of the Nuclear Non-Proliferation Act of 1978 when such exports are subject to the controls established under the Arms Export Control Act or the Export Administration Act of 1979.

42 USC 2011 note.
22 USC 3201 note.
22 USC 2751 note.

NOTIFICATION OF CERTAIN COMMERCIAL EXPORTS TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

50 USC app. 2401 note.

50 USC app. 2405.

SEC. 111. Section 6(i) of the Export Administration Act of 1979 is amended in text preceding paragraph (1) by striking out "of the Senate" and inserting in lieu thereof "and the Committee on Foreign Relations of the Senate at least 30 days".

MILITARY ASSISTANCE

22 USC 2311.

SEC. 112. (a) Section 503(a) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

Funds, transfer.

(3) by inserting at the end thereof the following new paragraph:

"(3) transferring such of the funds appropriated or otherwise made available under this chapter as the President may determine for assistance to a recipient specified in section 504(a)(1) of this Act, within the dollar limitations of that section, to the account in which funds for the procurement of defense articles and defense services under section 21 and section 22 of the Arms Export Control Act have been deposited for such recipient, to be

Post, p. 3139.

22 USC 2761, 2762.

merged with such deposited funds, and to be used solely to meet obligations of the recipient for payment for sales under that Act.".

(b) Section 504(a)(1) of such Act is amended to read as follows: Appropriation authorization.

"(a)(1) There are authorized to be appropriated to the President to carry out the purposes of this chapter not to exceed $106,100,000 for the fiscal year 1981. Not more than the following amounts of funds available to carry out this chapter may be allocated and made available for assistance to each of the following countries for the fiscal year 1981: 22 USC 2312.

Portugal	$51,000,000
Spain	3,600,000
The Philippines	25,000,000
The Sudan	1,700,000

The amount specified in this paragraph for military assistance to any such country may be increased by not more than 10 percent of such amount if the President deems such increase necessary for the purposes of this chapter.".

(c) Section 506(a) of such Act is amended by striking out "$10,000,000" and inserting in lieu thereof "$50,000,000". 22 USC 2318.

(d) Section 516(a) of such Act is amended— 22 USC 2321j.

(1) by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1982"; and

(2) by striking out "three" and inserting in lieu thereof "five".

STOCKPILING OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES

SEC. 113. Section 514(b)(2) of the Foreign Assistance Act of 1961 is amended by striking out "$95,000,000 for the fiscal year 1980" and inserting in lieu thereof "$85,000,000 for the fiscal year 1981". 22 USC 2321h.

INTERNATIONAL MILITARY ASSISTANCE AND SALES PROGRAM MANAGEMENT

SEC. 114. Section 515 of the Foreign Assistance Act of 1961 is amended— 22 USC 2321i.

(1) in subsection (b)(1)—

(A) by striking out "fiscal year 1980" and inserting in lieu thereof "fiscal year 1981";

(B) by striking out "the countries specified in section 504(a)(1) and in" and inserting in lieu thereof "Portugal, Spain, Jordan, the Philippines,"; and *Supra.*

(C) by striking out "Iran, Kuwait" and inserting in lieu thereof "Egypt";

(2) in subsection (b)(3)—

(A) by striking out "Iran, Kuwait, and";

(B) by striking out "countries" and inserting in lieu thereof "country"; and

(C) by striking out "each"; and

(3) in the last sentence of subsection (f)—

(A) by inserting "six more than" immediately after "may not exceed";

(B) by striking out "December 31, 1978" and inserting in lieu thereof "December 31, 1979"; and

(C) by inserting "and countries to which military personnel have been assigned pursuant to subsection (c)" immediately after "such countries".

INTERNATIONAL MILITARY EDUCATION AND TRAINING

22 USC 2347a.

SEC. 115. (a) The first sentence of section 542 of the Foreign Assistance Act of 1961 is amended by striking out all that follows "the purposes of this chapter" and inserting in lieu thereof "$34,000,000 for the fiscal year 1981.".

22 USC 2403.

(b)(1) Section 644(m) of such Act is amended—

(A) by striking out "and" at the end of paragraph (3);

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) with respect to military education and training, the additional costs that are incurred by the United States Government in furnishing such assistance.".

22 USC 2761.

(2) Section 21(a)(3) of the Arms Export Control Act is amended by inserting immediately before the period the following: ", except that in the case of training sold to a purchaser who is concurrently receiving assistance under chapter 5 of part II of the Foreign Assistance Act of 1961, only those additional costs that are incurred by the United States Government in furnishing such training".

22 USC 2347.

PEACEKEEPING OPERATIONS

22 USC 2348a.

SEC. 116. (a) Section 552(a) of the Foreign Assistance Act of 1961 is amended by striking out "$21,100,000 for the fiscal year 1980" and inserting in lieu thereof "$25,000,000 for the fiscal year 1981".

Repeal.
22 USC 2348b, 2348c.

(b) Section 553 of such Act is repealed and section 554 is redesignated as section 553.

SPECIAL AUTHORITY

22 USC 2364.

SEC. 117. (a) Section 614(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

Notification of Congress.
22 USC 2751 note.

"(a)(1) The President may authorize the furnishing of assistance under this Act without regard to any provision of this Act, the Arms Export Control Act, any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under this Act, in furtherance of any of the purposes of this Act, when the President determines, and so notifies in writing the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that to do so is important to the security interests of the United States.

Notification of Congress.

"(2) The President may make sales, extend credit, and issue guaranties under the Arms Export Control Act, without regard to any provision of this Act, the Arms Export Control Act, any law relating to receipts and credits accruing to the United States, and any Act authorizing or appropriating funds for use under the Arms Export Control Act, in furtherance of any of the purposes of such Act, when the President determines, and so notifies in writing the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, that to do so is vital to the national security interests of the United States.

Policy justification.

"(3) Before exercising the authority granted in this subsection, the President shall consult with, and shall provide a written policy justification to, the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

"(4) The authority of this subsection may not be used to authorize the use of more than $250,000,000 of funds made available for use under this Act or the Arms Export Control Act, or the use of more than $100,000,000 of foreign currencies accruing under this Act or any other law, in any fiscal year. Not more than $50,000,000 of the funds available under this subsection may be allocated to any one country in any fiscal year, unless such country is a victim of active Communist or Communist-supported aggression. 22 USC 2751 note.

"(5) The authority of this section may not be used to waive the limitations on transfers contained in section 610(a) of this Act.". 22 USC 2360.

(b) Section 652 of such Act is amended by striking out ", 610(a), or 614(a)" and inserting in lieu thereof "or 610(a)". 22 USC 2411.

MILITARY OR PARAMILITARY OPERATIONS IN ANGOLA

SEC. 118. (a) Notwithstanding any other provision of law, no assistance of any kind may be provided for the purpose, or which would have the effect, of promoting or augmenting, directly or indirectly, the capacity of any nation, group, organization, movement, or individual to conduct military or paramilitary operations in Angola unless and until— 22 USC 2293 note.

(1) the President determines that such assistance should be furnished in the national security interests of the United States;

(2) the President submits to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report containing— Report to congressional committees.

(A) a description of the amounts and categories of assistance which he recommends be furnished and the identity of the proposed recipients of such assistance; and

(B) a certification that he has determined that the furnishing of such assistance is important to the national security interests of the United States and a detailed statement of the reasons supporting such determination; and

(3) the Congress enacts a joint resolution approving the furnishing of such assistance. Joint resolution.

(b) If introduced within 30 days after the submission of the report required by paragraph (2) of subsection (a), a resolution under paragraph (3) of subsection (a) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 and in the House of Representatives in accordance with the procedures applicable to the consideration of resolutions of disapproval under section 36(b) of the Arms Export Control Act. 90 Stat. 765. 22 USC 2776.

(c) The prohibition contained in subsection (a) does not apply with respect to assistance which is furnished solely for humanitarian purposes.

(d) The provisions of this section may not be waived under any other provision of law.

(e) Section 404 of the International Security Assistance and Arms Export Control Act of 1976 is repealed. Repeal. 22 USC 2293 note.

PROHIBITION ON MILITARY ASSISTANCE TO NICARAGUA

SEC. 119. None of the funds authorized to be appropriated by this title shall be made available for any aid or assistance to Nicaragua. 22 USC 2151 note.

TITLE II—ECONOMIC SUPPORT FUND

AUTHORIZATION OF APPROPRIATIONS

22 USC 2346.

SEC. 201. Section 531(b)(1) of the Foreign Assistance Act of 1961 is amended by striking out "fiscal year 1980, $1,935,000,000" and inserting in lieu thereof "fiscal year 1981, $2,065,300,000".

USE OF FUNDS

22 USC 2346a–2346e.

SEC. 202. Chapter 4 of part II of the Foreign Assistance Act of 1961 is amended by striking out all that follows section 531 and inserting in lieu thereof the following:

22 USC 2346a.

"SEC. 532. USE OF FISCAL YEAR 1981 FUNDS.—(a)(1) Of the funds authorized to be appropriated to carry out this chapter for the fiscal year 1981, not less than $785,000,000 shall be available only for Israel and not less than $750,000,000 shall be available only for Egypt.

"(2) All of the funds made available to Israel and to Egypt under this chapter for the fiscal year 1981 shall be provided on a grant basis.

Cash transfer.

"(3) The total amount of funds allocated for Israel under this chapter for the fiscal year 1981 may be made available as a cash transfer. In exercising the authority of this paragraph, the President shall ensure that the level of cash transfers made to Israel does not cause an adverse impact on the total amount of nonmilitary exports from the United States to Israel.

"(b) Of the funds authorized to be appropriated to carry out this chapter for the fiscal year 1981, not less than $200,000,000 shall be available only for Turkey. Not less than two-thirds of the funds made available to Turkey under this chapter for the fiscal year 1981 shall be provided on a grant basis.

"(c) Of the funds authorized to be appropriated to carry out this chapter for the fiscal year 1981, $15,000,000 shall be available only for Cyprus for refugee relief, reconstruction, and educational exchange programs.

"(d)(1) Of the amount authorized to be appropriated to carry out this chapter for the fiscal year 1981, $12,500,000 may be used for special requirements in the Middle East, including regional programs and development programs on the West Bank and in Gaza.

"(2) The President may obligate or expend funds under this subsection only if—

Report to Congress.

"(A) he has transmitted to the Speaker of the House of Representatives, and to the chairman of the Committee on Foreign Relations and the chairman of the Committee on Appropriations of the Senate, a report setting forth—

"(i) the name of the proposed recipient of such funds,

"(ii) the amount of funds to be made available to such recipient, and

"(iii) the purpose for which such funds are to be made available;

"(B) a period of 30 calendar days has elapsed since the Congress received such report; and

"(C) the Congress did not adopt, during such 30-day period, a concurrent resolution stating in substance that the Congress does not approve the proposed use of funds described in such report.

Emergency use.

"(e)(1) Up to $50,000,000 of the funds appropriated to carry out this chapter for the fiscal year 1981 may be made available for emergency use under this chapter when the national interests of the United

States urgently require economic support to promote economic or political stability.

"(2) Notwithstanding subsections (a)(1), (b), (c), and (d)(1) of this section, up to 5 percent of the funds available for any country or region pursuant to such subsections may be used under paragraph (1) of this subsection.

"(f) None of the funds appropriated to carry out this chapter for fiscal year 1981 may be made available for Syria.

"(g) Funds available to carry out this chapter for the fiscal year 1981 may not be used to finance the construction of, the operation or maintenance of, or the supplying of fuel for, any nuclear facility in a foreign country unless the President certifies to the Congress that use of funds for such purpose is indispensable to the achievement of nonproliferation objectives which are uniquely significant and of paramount importance to the United States.

Nicaragua, assistance. 22 USC 2346b.

"SEC. 533. CENTRAL AMERICAN ECONOMIC SUPPORT.—(a) The Congress finds that peaceful and democratic development in Central America is in the interest of the United States and of the community of American States generally, that the recent civil strife in Nicaragua has caused great human suffering and disruption to the economy of that country, and that substantial external assistance to Nicaragua is necessary to help alleviate that suffering and to promote economic recovery within a peaceful and democratic process. The Congress further finds that peaceful and democratic development in certain other Central American countries will be significantly assisted by additional economic support at this time.

"(b) In furnishing assistance under this chapter to the Government of Nicaragua, the President shall take into account the extent to which that Government has engaged in violations of the right to organize and operate labor unions free from political oppression, has engaged in or permitted violations of human rights, has engaged in violations of the right to freedom of the press, or has engaged in violations of the right to freedom of religion.

"(c) The President shall encourage the Government of Nicaragua to respect the right to freedom of the press, the right to organize and operate free labor unions, the right to freedom of religion, as well as all other fundamental human rights.

"(d) The Congress reaffirms the requirement of section 502B(a)(1) of this Act that a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries. In furtherance of the goal, assistance to Nicaragua for the fiscal year 1981 under this chapter shall be terminated, in accordance with sections 116 and 502B of this Act, if the Government of Nicaragua engages in a consistent pattern of gross violations of internationally recognized human rights.

22 USC 2304.

22 USC 2151n.

Report to Congress.

"(e) The President shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a report for each 6-month period in which funds are expended under this chapter for Nicaragua for the fiscal year 1981. Each such report shall discuss fully and completely the status of respect in Nicaragua for human rights, political pluralism, freedom of the press and assembly, freedom of religion, and freedom of labor to organize and bargain collectively.

Certification, transmittal to Congress.

"(f) Prior to releasing any assistance to the Government of Nicaragua under this chapter, the President shall transmit a certification to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the Government of Nicaragua has not cooperated with or harbored any international terrorist

organization and is not aiding, abetting, or supporting acts of violence or terrorism in other countries. In the event that the President transmits such a certification, but at a later date he determines that the Government of Nicaragua cooperates with or harbors any international terrorist organization or is aiding, abetting, or supporting acts of violence or terrorism in other countries, the President shall terminate assistance to the Government of Nicaragua under this chapter, and the outstanding balance of any loan to the Government of Nicaragua, or any of its agencies or instrumentalities, with funds authorized to be appropriated by this chapter shall become immediately due and payable.

"(g) It is the sense of the Congress that the United States should support those traditionally faithful allies of the United States which are responsible members of the Organization of American States, including Guatemala, El Salvador, Costa Rica, Nicaragua, Panama, and Honduras, against terrorism and external subversion.

"(h) Funds made available under this chapter for the National School of Agriculture in Nicaragua shall be used under an understanding with the Autonomous National University of Nicaragua that the National School of Agriculture will cooperate in programs with United States institutions of higher education.

Private sector, assistance.

"(i) Any agreement between the United States and the Government of Nicaragua regarding the use of funds authorized to be appropriated under this chapter, which are to be made available in the form of loans, shall specifically require that at least 60 percent of such loan funds, and any local currency generated in conjunction therewith, shall be used for assistance to the private sector. Insofar as practicable, local currency used for assistance to the private sector in Nicaragua shall, consistent with the accomplishment of the purposes set forth in subsection (a) of this section, be used in ways which will strengthen private financial institutions which will help keep the private sector in Nicaragua financially independent. Local currency loan programs in Nicaragua shall be monitored and audited in accordance with section 624(g) of this Act. The President shall report on the implementation of this subsection in the reports required under subsection (e) of this section.

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"(j) The President shall terminate assistance to the Government of Nicaragua under this chapter if he determines and reports to the Congress that Soviet, Cuban, or other foreign combat military forces are stationed or situated within the borders of Nicaragua and that the presence of such forces constitutes a threat to the national security of the United States or to any Latin American ally of the United States.

"(k) The President shall terminate assistance to Nicaragua under this chapter for the fiscal year 1981 if he determines that the Government of Nicaragua has engaged in a consistent pattern of violations of the right to organize and operate labor unions free from political oppression.

Elections.

"(l) The President shall encourage the holding of free, open elections in Nicaragua within a reasonable period of time and shall, in providing any additional assistance to Nicaragua, take into consideration the progress which is being made toward holding such elections.

"(m) None of the funds made available for Nicaragua under this chapter may be used for assistance for any school or other educational instrumentality or facility which would house, employ, or be made available to Cuban personnel.

"(n) The President shall terminate assistance to Nicaragua under this chapter if he determines that the Government of Nicaragua engages in systematic violations of free speech and press.

"(o) Any agreement between the United States and the Government of Nicaragua regarding the use of funds authorized to be appropriated under this chapter, which are to be made available in the form of loans, shall specifically require that such loan funds shall be used for the purchase of goods or services of United States origin.

"(p) Up to one percent of the funds made available to Nicaragua under this chapter for the fiscal year 1981 shall be used to make publicly known to the people of Nicaragua the extent of United States aid programs to them. The President shall periodically report to the Congress on the effectiveness of his efforts to carry out this subsection.". Report to Congress.

CONSTRUCTION OF PRODUCTIVE ENTERPRISE IN EGYPT

SEC. 203. The first sentence of section 620(k) of the Foreign Assistance Act of 1961 is amended by inserting ", fiscal year 1980, or fiscal year 1981" immediately after "fiscal year 1977". 22 USC 2370.

TITLE III—DEVELOPMENT ASSISTANCE PROGRAMS

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION

SEC. 301. The first sentence of section 103(a)(2) of the Foreign Assistance Act of 1961 is amended to read as follows: "There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $713,500,000 for the fiscal year 1981.". 22 USC 2151a.

POPULATION AND HEALTH

SEC. 302. (a) Section 104(b) of the Foreign Assistance Act of 1961 is amended by inserting after "information and services" in the second sentence the following: ", including also information and services which relate to and support natural family planning methods,". 22 USC 2151b.

(b) The first sentence of section 104(g) of such Act is amended to read as follows: "There are authorized to be appropriated to the President, in addition to funds otherwise available for such purposes—

"(1) $238,000,000 for the fiscal year 1981 to carry out subsection (b) of this section, of which not less than $3,000,000 shall be available only to support the World Health Organization's Special Program of Research, Development and Research Training in Human Reproduction; and

"(2) $145,300,000 for the fiscal year 1981 to carry out subsection (c) of this section.".

EDUCATION AND HUMAN RESOURCES DEVELOPMENT

SEC. 303. The second sentence of section 105(a) of the Foreign Assistance Act of 1961 is amended to read as follows: "There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $101,000,000 for the fiscal year 1981, which are authorized to remain available until expended.". 22 USC 2151c.

ENERGY, PRIVATE VOLUNTARY ORGANIZATIONS, AND SELECTED DEVELOPMENT ACTIVITIES

22 USC 2151d.

SEC. 304. (a) The section caption of section 106 of the Foreign Assistance Act of 1961 is amended by striking out "technical assistance, energy, research, reconstruction, and selected development problems" and inserting in lieu thereof "energy, private voluntary organizations, and selected development activities".

(b) Subsection (a) of such section is amended—

(1) by inserting "(A)" immediately after "(a)(1)";

(2) by striking out "(2)", "(3)", and "(4)" and inserting in lieu thereof "(B)", "(C)", and "(D)", respectively;

(3) by striking out "(A)", "(B)", and "(C)" in paragraph (3) and inserting in lieu thereof "(i)", "(ii)", and "(iii)", respectively; and

(4) by adding at the end thereof the following new paragraph:

Findings.

"(2) The Congress also finds that energy production from renewable, decentralized sources and energy conservation are vital elements in the development process. Inadequate access by the poor to energy sources as well as the prospect of depleted fossil fuel reserves and higher energy prices require an enhanced effort to expand the energy resources of developing countries through greater emphasis on renewable sources. Renewable and decentralized energy technologies have particular applicability for the poor, especially in rural areas.".

(c) Subsection (b) of such section is amended—

(1) by inserting "(A)" immediately after "(b)(1)";

(2) by striking out "(2)" and inserting in lieu thereof "(B)"; and

(3) by striking out "fiscal year 1980 shall be used for purposes of paragraph (1)" and inserting in lieu thereof "fiscal year 1981 shall be used for purposes of subparagraph (A)".

(d) Such section is further amended by inserting at the end of subsection (b) the following:

Cooperative programs.

"(2) The President is authorized to furnish assistance under this chapter for cooperative programs with developing countries in energy production and conservation through research on and development and use of small-scale, decentralized, renewable energy sources for rural areas carried out as integral parts of rural development efforts in accordance with section 103 of this Act. Such programs shall also be directed toward the earliest practicable development and use of energy technologies which are environmentally acceptable, require minimum capital investment, are most acceptable to and affordable by the people using them, are simple and inexpensive to use and maintain, and are transferable from one region of the world to another. Such programs may include research on and the development, demonstration, and application of suitable energy technologies (including use of wood); analysis of energy uses, needs, and resources; training and institutional development; and scientific interchange.

22 USC 2151a.

Agency coordination.

"(c) The agency primarily responsible for administering this part and the Department of Energy shall coordinate with one another, to the maximum extent possible, the planning and implementation of energy programs under this chapter.".

(e) Existing subsection (c) of such section is redesignated as subsection (d).

(f) Existing subsection (d) of such section is amended to read as follows:

"(e)(1) There are authorized to be appropriated to the President for purposes of this section, in addition to funds otherwise available for such purposes, $140,000,000 for the fiscal year 1981. Appropriation authorization.

"(2) Amounts appropriated under this section are authorized to remain available until expended.".

(g) Section 119 of such Act is repealed. Repeal. 22 USC 2151q.

HUMAN RIGHTS IN DEVELOPING COUNTRIES

SEC. 305. Section 116(e) of the Foreign Assistance Act of 1961 is amended by striking out "fiscal year 1980" and inserting in lieu thereof "fiscal year 1981". 22 USC 2151n.

SAHEL DEVELOPMENT PROGRAM

SEC. 306. Section 121(c) of the Foreign Assistance Act of 1961 is amended by inserting immediately after the second sentence the following new sentence: "In addition to the amounts authorized in the preceding sentences and to funds otherwise available for such purposes, there are authorized to be appropriated to the President for purposes of this section $88,442,000 for the fiscal year 1981.". 22 USC 2151s.

PRIVATE AND VOLUNTARY ORGANIZATIONS AND COOPERATIVES

SEC. 307. Section 123 of the Foreign Assistance Act of 1961 is amended— 22 USC 2151u.

(1) in subsection (a) by inserting before the period at the end of the fourth sentence the following: "and, if necessary and determined on a case-by-case basis, for the purpose of sharing the cost of developing programs related to such activities";

(2) in subsection (a) by inserting before the period at the end of the fifth sentence the following: "and to establish simplified procedures for the development and approval of programs to be carried out by such private and voluntary organizations and cooperatives as have demonstrated a capacity to undertake effective development activities"; and

(3) by adding at the end thereof the following new subsection:

"(e) Prohibitions on assistance to countries contained in this or any other Act shall not be construed to prohibit assistance by the agency primarily responsible for administering this part in support of programs of private and voluntary organizations and cooperatives already being supported prior to the date such prohibition becomes applicable. The President shall take into consideration, in any case in which statutory prohibitions on assistance would be applicable but for this subsection, whether continuation of support for such programs is in the national interest of the United States. If the President continues such support after such date, he shall prepare and transmit, not later than thirty days after such date, to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report setting forth the reasons for such continuation.". Report to Congress.

RELATIVELY LEAST DEVELOPED COUNTRIES

SEC. 308. The last sentence of section 124(c)(2) of the Foreign Assistance Act of 1961 is amended— 22 USC 2151v.

(1) by striking out "1980" and inserting in lieu thereof "1981"; and

(2) by striking out "$18,800,000" and inserting in lieu thereof "$10,845,000".

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

22 USC 2222.

SEC. 309. Section 302(a)(1) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the President for grants to carry out the purposes of this chapter, in addition to funds available under any other Acts for such purposes, $233,350,000 for the fiscal year 1981.".

PARTICIPANT TRAINING

22 USC 2367.

SEC. 310. Section 617 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new sentence: "In order to ensure the effectiveness of assistance under this Act, such expenses for orderly termination of programs may include the obligation and expenditure of funds to complete the training or studies outside their countries of origin of students whose course of study or training program began before assistance was terminated.".

REIMBURSABLE DEVELOPMENT PROGRAMS

22 USC 2421.

SEC. 311. Section 661 of the Foreign Assistance Act of 1961 is amended in the first sentence by striking out "$3,800,000 of the funds made available for the purposes of this Act for the fiscal year 1980" and inserting in lieu thereof "$4,000,000 of the funds made available for the fiscal year 1981 for the purposes of this Act".

INSTITUTE FOR SCIENTIFIC AND TECHNOLOGICAL COOPERATION

22 USC 3510.

SEC. 312. The first sentence of section 410 of the International Development Cooperation Act of 1979 is amended by striking out "$23,750,000 for the fiscal year 1980" and inserting in lieu thereof "$12,000,000 for the fiscal year 1981".

ASSISTANCE TO THE EASTERN CARIBBEAN

SEC. 313. (a) The Congress urges the President to use up to $7,000,000 for the fiscal year 1981 for bilateral development assistance for the countries of the eastern Caribbean.

Report to Congress.

(b) Not later than February 1, 1981, the President shall report to the Congress on the implementation of this section.

ASSISTANCE FOR EQUATORIAL GUINEA

SEC. 314. The President is urged to provide up to $3,000,000 of the funds authorized to be appropriated for the fiscal year 1981 by this title for assistance to Equatorial Guinea if he deems that conditions in that country warrant such assistance.

CARIBBEAN DEVELOPMENT BANK

22 USC 2370 note.

SEC. 315. Notwithstanding section 620(r) of the Foreign Assistance Act of 1961, the President may, after consultation with the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, make arrangements at his discretion for the assumption by the recipient members of the

Caribbean Development Bank of any loans made to the Bank under the authority of that Act.

WORLD HUNGER

SEC. 316. (a) In order to further the purposes of section 103 of the Foreign Assistance Act of 1961, the Director of the United States International Development Cooperation Agency shall encourage the ongoing work of private and voluntary organizations to deal with world hunger problems abroad. To this end, the Director shall help facilitate widespread public discussion, analysis, and review of the issues raised by the Report of the Presidential Commission on World Hunger of March 1980, especially the issues raised by the Commission's call for increased public awareness of the political, economic, technical, and social factors relating to hunger and poverty. 22 USC 2151a note.

(b) As a means of carrying out subsection (a), and to ensure the effectiveness of private and voluntary organizations in dealing with world hunger abroad, the Director is urged to provide assistance to private and voluntary organizations engaged in facilitating public discussion of hunger and other related issues.

REDUCTION OF POSTHARVEST LOSSES OF FOOD

SEC. 317. It is the sense of the Congress that— 22 USC 2151a note.

(1) the President should reaffirm the policy of the United States Government to support the goal established by the United Nations General Assembly of reducing by 50 percent postharvest losses of food in developing countries; and

(2) the President, acting through the Agency for International Development, should increase substantially the proportion of funds made available under the Foreign Assistance Act of 1961 for the purpose of assisting, together with other donor countries and with developing countries, in the reduction of postharvest losses of food in developing countries. 22 USC 2151 note.

TITLE IV—OTHER ASSISTANCE PROGRAMS

AMERICAN SCHOOLS AND HOSPITALS ABROAD

SEC. 401. Section 214(c) of the Foreign Assistance Act of 1961 is amended by striking out "$25,000,000 for the fiscal year 1980" and inserting in lieu thereof "$30,000,000 for the fiscal year 1981". 22 USC 2174.

INTERNATIONAL NARCOTICS CONTROL

SEC. 402. (a) Section 482(a) of the Foreign Assistance Act of 1961 is amended to read as follows: 22 USC 2291a.

"(a)(1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $38,573,000 for the fiscal year 1981. 22 USC 2291.

"(2) Funds appropriated under this subsection for the fiscal year 1981 may not be used for a contribution to the United Nations Fund for Drug Abuse Control in an amount which exceeds the lesser of $3,000,000 or 50 percent of the total contributions by all countries to such Fund for the calendar year with respect to which the United States contribution is made. U.N. drug abuse control fund.

"(3) Amounts appropriated under this subsection are authorized to remain available until expended.".

(b) Section 482 of such Act is amended by adding at the end thereof the following new subsection:

Pakistan.
31 USC 724.
75 Stat. 283.
7 USC 1705.
22 USC 2291.

"(c) Notwithstanding section 1415 of the Supplemental Appropriation Act, 1953, section 508 of the General Government Matters, Department of Commerce, and Related Agencies Appropriation Act, 1962, and section 105 of the Agricultural Trade Development and Assistance Act of 1954, up to the equivalent of $10,000,000 in currencies or credits of the Government of Pakistan held by the United States shall, to such extent as may be provided in an appropriation Act, be available to the President for the fiscal year 1981 (and shall remain available until expended) to carry out the purposes of section 481 through assistance to the Government of Pakistan. Notwithstanding any other provision of law, the availability or expenditure of such foreign currencies shall not affect or reduce appropriations otherwise available to carry out the administration of the international narcotics control program.".

Colombia.
22 USC 2291a note.
22 USC 2291.

(c) Notwithstanding the provisions of section 482(a)(2) of the Foreign Assistance Act of 1961 as in effect immediately prior to the enactment of this Act, funds appropriated for the fiscal year 1980 to carry out the purposes of section 481 of that Act which were obligated for assistance for Colombia may be used for fixed-wing aircraft, communications equipment, and such other equipment and operational support, including aviation services, as are essential to the Colombian anti-narcotics enforcement program.

INTERNATIONAL DISASTER ASSISTANCE

22 USC 2292a.

SEC. 403. Section 492 of the Foreign Assistance Act of 1961 is amended by striking out "$21,800,000 for the fiscal year 1980" and inserting in lieu thereof "$25,000,000 for the fiscal year 1981".

DISASTER ASSISTANCE BORROWING AUTHORITY

SEC. 404. (a) Section 492 of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(a)" immediately before "There is"; and

(2) by adding at the end thereof the following new subsection:

"(b) In addition to amounts otherwise available to carry out this chapter, up to $50,000,000 in any fiscal year may be obligated against appropriations under this part (other than this chapter) for use in providing assistance in accordance with the authorities and general policies of section 491. Amounts subsequently appropriated under this chapter with respect to a disaster may be used to reimburse any appropriation account against which obligations were incurred under this subsection with respect to that disaster.".

22 USC 2292.
22 USC 2292.

(b) Section 491(b) of such Act is amended by striking out "limitation on appropriations" and inserting in lieu thereof "limitations".

AFRICAN REHABILITATION AND RESETTLEMENT

SEC. 405. Section 495F of the Foreign Assistance Act of 1961 is amended to read as follows:

22 USC 2292*l*.

"SEC. 495F. AFRICAN REHABILITATION AND RESETTLEMENT.—(a) The Congress recognizes that United States assistance is necessary to help developing countries in Africa meet the longer term rehabilitation and resettlement needs of displaced persons and other innocent victims of civil strife. Therefore, the President is authorized to furnish assistance, on such terms and conditions as he may determine, for the longer term rehabilitation and resettlement needs of such victims. Funds for this purpose should be used to assist African

governments in providing semipermanent housing, potable water supply systems, and sanitary facilities which are generally not provided by existing refugee relief agencies.

"(b) There are authorized to be appropriated to the President for the purposes of this section, in addition to amounts otherwise available for such purposes, $15,000,000 for the fiscal year 1981. Amounts appropriated under this subsection are authorized to remain available until expended.

"(c) Assistance under this section shall be provided in accordance with the policies and general authorities contained in section 491.". 22 USC 2292.

MIGRATION AND REFUGEE ASSISTANCE

SEC. 406. Section 102(a)(4) of the Department of State Authorization Act, Fiscal Years 1980 and 1981, is amended by striking out "$457,798,000" and inserting in lieu thereof "$517,209,000". 93 Stat. 395, 843.

PUBLIC LAW 480 TRANSFER AUTHORITY

SEC. 407. Section 403 of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end thereof the following: 7 USC 1733.

"(c) Notwithstanding any other provision of this Act or any other Act, if the President determines it to be necessary for the purposes of this Act, he may direct that not to exceed 15 percent of the funds available in any fiscal year for carrying out any title of this Act be used to carry out any other title of this Act.".

EAST TIMOR

SEC. 408. It is the sense of the Congress that the President should take all appropriate measures to—

(1) continue to support and encourage relief operations by the Government of Indonesia and by international relief agencies in East Timor;

(2) assist the Government of Indonesia to facilitate the reuniting of families separated because of developments in recent years in East Timor; and

(3) encourage the Government of Indonesia to allow access to East Timor by international journalists.

TITLE V—AFRICAN DEVELOPMENT FOUNDATION

African Development Foundation Act.

SHORT TITLE

SEC. 501. This title may be cited as the "African Development Foundation Act". 22 USC 290h note.

FINDINGS

SEC. 502. The Congress finds that— 22 USC 290h.

(1) social and economic development ultimately depends on the active participation of individuals within a society and on the enhancement of opportunities for those individuals;

(2) the development of individuals and institutions in African countries can benefit by the provision of support for community-based self-help activities;

(3) by enacting title IX of chapter 2 of part I of the Foreign Assistance Act of 1961, and recent amendments to that Act, the 22 USC 2218.

Congress has sought to enable the poor to participate in the process of development;

22 USC 2151 note.

(4) the Inter-American Foundation, established by Congress in the Foreign Assistance Act of 1969 to support the efforts of the people of Latin America and the Caribbean to solve their development problems, has demonstrated a successful approach to development; and

(5) an African Development Foundation similar in structure to the Inter-American Foundation, but adapted to the specific needs of Africa, can complement current United States development programs in Africa.

ESTABLISHMENT

22 USC 290h-1.

SEC. 503. (a) There is established a body corporate to be known as the "African Development Foundation" (hereafter in this title referred to as the "Foundation").

(b) The Foundation shall establish a principal office in the United States and may establish such branch offices in Africa as may be necessary to carry out its functions.

PURPOSES

22 USC 290h-2.

SEC. 504. (a) In order to enable the people of African countries to develop their potential, fulfill their aspirations, and enjoy better, more productive lives, the purposes of the Foundation shall be—

(1) to strengthen the bonds of friendship and understanding between the people of Africa and the United States;

(2) to support self-help activities at the local level designed to enlarge opportunities for community development;

(3) to stimulate and assist effective and expanding participation of Africans in their development process; and

(4) to encourage the establishment and growth of development institutions which are indigenous to particular countries in Africa and which can respond to the requirements of the poor in those countries.

(b) The Foundation shall carry out the purposes specified in subsection (a) in cooperation with, and in response to, organizations indigenous to Africa which are representative of the needs and aspirations of the poor in Africa and, in carrying out such purposes, the Foundation shall, to the extent possible, coordinate its development assistance activities with the activities of the United States Government and private, regional, and international organizations.

FUNCTIONS

Grants and loans.
22 USC 290h-3.

SEC. 505. (a)(1) In order to carry out the purposes set forth in section 504, the Foundation may make grants, loans, and loan guarantees to any African private or public group, association, or other entity engaged in peaceful activities for—

(A) the fostering of local development institutions and the support of development efforts initiated by communities themselves;

(B) the development of self-evaluation techniques by participants in projects supported under this section, for the purpose of transferring experience gained in such projects to similar development activities;

(C) development research by Africans and the transfer of development resources, expertise, and knowledge within Africa;

(D) the procurement of such technical or other assistance as is deemed appropriate by the recipient of such grant, loan, or guarantee, to carry out the purposes of this title; and

(E) other projects that would carry out the purposes set forth in section 504.

(2) The total amount of grants, loans, and loan guarantees that may be made under this section for a project may not exceed $250,000.

(3) The Foundation may disseminate to the American public and to United States and multilateral development institutions insights gained from African development projects assisted under this title.

(b) In making grants, loans, and loan guarantees under subsection (a), the Foundation shall give priority to projects which community groups undertake to foster their own development and in the initiation, design, implementation, and evaluation of which there is the maximum feasible participation of the poor. Where appropriate and in keeping with the purposes of this title, the Foundation may make such grants, loans, and loan guarantees to African entities which are representative and knowledgeable of, and sensitive to, the needs and aspirations of the poor and which would disburse funds acquired under such grants, loans, and loan guarantees to other African entities to carry out the purposes of this title.

POWERS

SEC. 506. (a) The Foundation, as a corporation— 22 USC 290h-4.

(1) shall have perpetual succession unless dissolved by an Act of Congress;

(2) may sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction;

(3) may adopt, alter, and use a seal, which shall be judicially noticed;

(4) may prescribe, amend, and repeal such rules and regulations as may be necessary for carrying out the functions of the Foundation;

(5) may make and perform such contracts and other agreements with any individual, corporation, or other private or public entity however designated and wherever situated, as may be necessary for carrying out the functions of the Foundation;

(6) may determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid, including expenses for representation not exceeding $10,000 in any fiscal year;

(7) may, as necessary for carrying out the functions of the Foundation, employ and fix the compensation of not to exceed the following number of persons at any one time: 25 during the fiscal year 1981, 50 during the fiscal year 1982, and 75 thereafter;

(8) may lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with such property (real, personal, or mixed) or any interest therein, wherever situated, as may be necessary for carrying out the functions of the Foundation;

(9) may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this title;

(10) may use the United States mails in the same manner and on the same conditions as the executive departments of the Government;

(11) may, with the consent of any agency of the United States, use the information, services, facilities, and personnel of that agency in carrying out the purposes of this title; and

(12) shall have such other powers as may be necessary and incident to carrying out this title.

(b) The Foundation shall be a nonprofit corporation and shall have no capital stock. No part of its revenue, earnings, or other income or property shall inure to the benefit of any of its directors, officers, or employees, and such revenue, earnings, or other income or property shall only be used for carrying out the purposes of this title. No director, officer, or employee of the corporation shall in any manner directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

(c) The Foundation, including its franchise and income, shall be exempt from taxation now or hereafter imposed by the United States, by any territory or possession of the United States, or by any State, county, municipality, or local taxing authority.

(d) Upon termination of the corporate life of the Foundation its assets shall be liquidated and, unless otherwise provided by Congress, shall be transferred to the United States Treasury as the property of the United States.

MANAGEMENT

Board of directors.
22 USC 290h-5.

SEC. 507. (a)(1) The management of the Foundation shall be vested in a board of directors (hereafter in this title referred to as the "Board") composed of seven members appointed by the President, by and with the advice and consent of the Senate. The President shall designate one member of the Board to serve as Chairperson of the Board and one member to serve as Vice Chairperson of the Board. Five members of the Board shall be appointed from private life. Two members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with African affairs. All members of the Board shall be appointed on the basis of their understanding of and sensitivity to community level development processes.

Terms.

(2) Members of the Board shall be appointed for terms of six years, except that of the members first appointed, as designated by the President at the time of their appointment, two shall be appointed for terms of two years and two shall be appointed for terms of four years. A member of the Board appointed to fill a vacancy occurring before the expiration of the term for which that member's predecessor was appointed shall be appointed only for the remainder of that term. Upon the expiration of his or her term a member shall continue to serve until a successor is appointed and shall have qualified.

Expenses.

(b) Members of the Board shall serve without additional compensation, but may be reimbursed for actual and necessary expenses not exceeding $100 per day, and for transportation expenses, while engaged in their duties on behalf of the Foundation.

Quorum.

(c) A majority of the Board shall constitute a quorum.

President.

(d)(1) The Board of Directors shall appoint a president of the Foundation on such terms as the Board may determine. The president of the Foundation shall receive compensation at a rate not to exceed that provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

Experts and consultants.

(2) Experts and consultants may be employed by the Board as authorized by section 3109 of title 5, United States Code.

(e)(1) The Board shall establish an advisory council to be composed of such number of individuals as may be selected by the Board from among individuals knowledgeable about development activities in Africa. The advisory council may include African recipients of grants, loans, or loan guarantees under this title. Advisory council.

(2) The Board shall, at least once each year, consult the advisory council concerning the objectives and activities of the Foundation.

(3) Members of the advisory council shall receive no compensation for their services but may be allowed travel and other expenses in accordance with section 5703 of title 5, United States Code, which are incurred by them in the performance of their functions under this subsection. Expenses.

GOVERNMENT CORPORATION CONTROL ACT

SEC. 508. The Foundation shall be subject to title I of the Government Corporation Control Act. 22 USC 290h-6. 31 USC 846.

LIMITATION ON SPENDING AUTHORITY

SEC. 509. Any authority provided by this title involving the expenditure of funds (other than the funds made available pursuant to section 510) shall be effective for a fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts. 22 USC 290h-7.

USE OF CERTAIN FUNDS

SEC. 510. Of the funds appropriated for the fiscal year 1981 to carry out part I of the Foreign Assistance Act of 1961, other than funds appropriated for the Economic Support Fund, $2,000,000 shall be used to carry out this title. 22 USC 290h-8. 22 USC 2151.

EXPIRATION OF AUTHORITIES

SEC. 511. The authority of the Foundation to make grants, loans, and loan guarantees and otherwise to carry out the purposes of this title shall expire on September 30, 1985, except that this section shall not preclude the Foundation from acquiring obligations prior to that date which mature subsequent to that date or from assuming liability prior to that date as a guarantor of obligations which mature subsequent to that date or from continuing as a body corporate and exercising any of its powers subsequent to that date for purposes of the orderly liquidation of its activities. 22 USC 290h-9.

TITLE VI—PEACE CORPS

AUTHORIZATION OF APPROPRIATIONS

SEC. 601. (a) Section 3(b) of the Peace Corps Act is amended by striking out "fiscal year 1980 not to exceed $105,404,000" and inserting in lieu thereof "fiscal year 1981 not to exceed $118,000,000". 22 USC 2502.

(b) Section 3(c) of such Act is amended by striking out "fiscal year 1980" and inserting in lieu thereof "fiscal year 1981".

(c) Section 15(d)(7) of such Act is amended by striking out "$5,000" and inserting in lieu thereof "$20,000". 22 USC 2514.

AMENDMENTS TO THE DOMESTIC VOLUNTEER SERVICE ACT

SEC. 602. (a) Section 401 of the Domestic Volunteer Service Act of 1973 is amended— 42 USC 5041.

(1) by striking out "two Associate Directors" in the fifth sentence and inserting in lieu thereof "one Associate Director";

(2) by striking out "One such" and by inserting in lieu thereof "Such"; and

(3) by striking out ", and the other such Associate Director" and all that follows through "(22 U.S.C. 2501 et seq.)".

42 USC 5045.

(b) Section 405 of such Act is amended—

(1) in subsection (a) by striking out "and the Peace Corps Act (22 U.S.C. 2501 et seq.)";

(2) in subsection (b)(1) by striking out "and the Peace Corps Act (22 U.S.C. 2501 et seq.)"; and

(3) in subsection (b)(2)—

(A) by striking out "and the Peace Corps Act", and

(B) by striking out "Acts" both places it appears and inserting in lieu thereof "Act".

UTILIZATION OF RETURNED PEACE CORPS VOLUNTEERS

SEC. 603. The Director of the Peace Corps shall develop a plan providing for more effective utilization of returned Peace Corps volunteers in order to promote a better understanding of other peoples and cultures on the part of the American people. The Director shall report to the Congress no later than January 15, 1981, on the plan and necessary procedures for implementing the plan.

Report to Congress.

TITLE VII—MISCELLANEOUS PROVISIONS

HUMAN RIGHTS

22 USC 2151n.

SEC. 701. (a) Section 116(a) of the Foreign Assistance Act of 1961 is amended by inserting "causing the disappearance of persons by the abduction and clandestine detention of those persons," immediately after "without charges,".

22 USC 2304.

(b) Section 502B(d)(1) of such Act is amended by inserting "causing the disappearance of persons by the abduction and clandestine detention of those persons," immediately after "trial,".

7 USC 1712.

(c) Section 112(a) of the Agricultural Trade Development and Assistance Act of 1954 is amended by inserting "causing the disappearance of persons by the abduction and clandestine detention of those persons," immediately after "without charges,".

AUDITING OF INTERNATIONAL PROGRAMS

Report to President and Congress.
22 USC 2221.

SEC. 702. (a) Section 301(d) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following: "The Comptroller General shall report simultaneously to the Congress and the President the results of the audits conducted under this subsection.".

(b) Section 301(e) of such Act is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking out "a single professionally qualified group" and inserting in lieu thereof "of external, professionally qualified groups", and

(B) by striking out "and evaluation" and inserting in lieu thereof "evaluation, and audits";

(2) in the second sentence of paragraph (1)—

(A) by striking out "group" both places it appears and inserting in lieu thereof "groups", and

(B) by striking out "and evaluation" and inserting in lieu thereof "evaluation, or audit";

(3) in the third sentence of paragraph (1) by striking out "group" and inserting in lieu thereof "groups";

(4) in the first sentence of paragraph (2) by striking out "and evaluation" and inserting in lieu thereof "evaluation, and audits";

(5) in the second sentence of paragraph (2) by striking out "and evaluation" and inserting in lieu thereof "evaluation, or audit"; and

(6) in the second sentence of paragraph (3) by inserting "his evaluation of such reports and related information," immediately after "to the President".

REPORTS ON INTERNATIONAL ORGANIZATIONS

SEC. 703. Chapter 3 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 306. REPORTS ON INTERNATIONAL ORGANIZATIONS.—(a) The annual reports to the Congress under section 2 of the Act of September 21, 1950 (64 Stat. 902; 22 U.S.C. 262a), shall be submitted within nine months after the end of the fiscal year to which they relate. 22 USC 2226.

"(b)(1) The President shall submit semiannual reports to the Congress listing all voluntary contributions by the United States Government to international organizations. One of the semiannual reports shall be submitted no later than July 1 and shall list all contributions made during the first six months of the then current fiscal year. The other semiannual report shall be submitted no later than January 1 and shall list all contributions made during the last six months of the preceding fiscal year. Each such report shall specify the Government agency making the voluntary contribution, the international organization to which the contribution was made, the amount and form of the contribution, and the purpose of the contribution. Contributions shall be listed on both an agency-by-agency basis and an organization-by-organization basis. Submittal to Congress.

"(2) In order to facilitate the preparation of the reports required by paragraph (1), the head of any Government agency which makes a voluntary contribution to any international organization shall promptly report that contribution to the Director of the Office of Management and Budget. Report to OMB Director.

"(3) As used in this subsection, the term 'contribution' means any contribution of any kind, including the furnishing of funds or other financial support, services of any kind (including the use of experts or other personnel), or commodities, equipment, supplies, or other materiel.". "Contribution."

TECHNICAL AMENDMENT CORRECTING CROSS REFERENCE

SEC. 704. Section 502B(a)(2) of the Foreign Assistance Act of 1961 is amended by striking out "Export Administration Act of 1969" and inserting in lieu thereof "Export Administration Act of 1979". 22 USC 2304.

PROCUREMENT

SEC. 705. (a) Section 604(e) of the Foreign Assistance Act of 1961 is amended by inserting the following immediately before the period at the end thereof: ", unless the commodity to be financed could not reasonably be procured in the United States in fulfillment of the 22 USC 2354.

objectives of a particular assistance program under which such commodity procurement is to be financed".

22 USC 2354.

(b) Section 604 of such Act is amended by adding at the end thereof the following new subsection:

"(g) None of the funds authorized to be appropriated or made available for obligation or expenditure under this Act may be made available for the procurement of construction or engineering services from advanced developing countries, eligible under the Geographic Code 941, which have attained a competitive capability in international markets for construction services or engineering services.".

INSPECTOR GENERAL

22 USC 2384.

SEC. 706. Section 624(g) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "Auditor General" each place it appears and inserting in lieu thereof "Inspector General";

(2) in paragraph (3)—

(A) by striking out "and investigative" and inserting in lieu thereof ", investigative, and security"; and

(B) by adding at the end thereof the following: "In addition, to the extent requested by the Director of the United States International Development Cooperation Agency (after consultation with the Administrator), the Inspector General shall with respect to the duties and responsibilities of that Agency supervise, direct, and control all audit, investigative, and security activities relating to programs and operations within the United States International Development Cooperation Agency.";

(3) in paragraph (4) by inserting "and the Director" immediately after "Administrator"; and

(4) by adding at the end thereof the following:

Subpena.

"(6) The Inspector General shall have the authority to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of functions under this subsection. Any such subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court. Procedures other than subpenas shall be used to obtain documents and information from agencies of the United States Government.

Auditing activities.

"(7) In carrying out the responsibilities specified in paragraph (3), the Inspector General shall—

"(A) comply with standards established by the Comptroller General of the United States for audits of Federal establishments, organizations, programs, activities, and functions;

"(B) establish guidelines for determining when it is appropriate to use non-Federal auditors; and

"(C) take appropriate steps to assure that any work performed by non-Federal auditors complies with the standards established by the Comptroller General as described in subparagraph (A).

Administrative assistance.

"(8) The Administrator shall provide the Inspector General with appropriate and adequate office space at central and field office locations of the agency primarily responsible for administering part I of this Act, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices and the equipment and facilities located in such offices. In establishing and staffing such field offices, the

22 USC 2151.

Administrator shall not be bound by overseas personnel ceilings established under the Monitoring Overseas Direct Employment policy.

"(9)(A) The Inspector General may receive and investigate complaints or information from any employee of or under the United States International Development Cooperation Agency concerning the possible existence of an activity constituting a violation of law, rules, or regulations, constituting mismanagement, gross waste of funds, abuse of authority, or constituting a substantial and specific danger to the public health and safety. Complaints or information.

"(B) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

"(C) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action shall not exercise or threaten to exercise such authority in order to take any action against any employee as a reprisal for making a complaint or disclosing information to the Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.".

ANNUAL REPORT

SEC. 707. Section 634(a) of the Foreign Assistance Act of 1961 is amended— 22 USC 2394.

(1) by striking out "and" at the end of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (8); and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) the dollar value of all official development assistance, security assistance, international disaster assistance, refugee assistance, and international narcotics control assistance provided by each government of a country which is a member of the Organization for Economic Cooperation and Development or of the Organization of Petroleum Exporting Countries;

"(7) the percentage which each type of assistance described in paragraph (6) represents of (A) the gross national product of each country referred to in paragraph (6), and (B) the budget of the government of such country, as well as the per capita contribution for each country for each type of assistance described in paragraph (6); and".

SHIPPING DIFFERENTIAL

SEC. 708. Section 640C of the Foreign Assistance Act of 1961 is amended by striking out "Part V" and inserting in lieu thereof "chapter 4 of part II". 22 USC 2399d.

OPERATING EXPENSES

SEC. 709. Section 667(a) of the Foreign Assistance Act of 1961 is amended— 22 USC 2427.

(1) by striking out "fiscal year 1980" and inserting in lieu thereof "fiscal year 1981"; and

(2) in paragraph (1) by striking out "$263,000,000" and inserting in lieu thereof "$293,800,000".

INTERAGENCY GROUP ON HUMAN RIGHTS AND FOREIGN ASSISTANCE

SEC. 710. It is the sense of the Congress that—

(1) the Interagency Group on Human Rights and Foreign Assistance has been an effective mechanism for coordinating and implementing United States human rights policies;

(2) the President should consider establishing the Interagency Group on a more permanent basis;

(3) the Interagency Group should examine proposals for not only economic assistance but also for security assistance; and

(4) the President should report his recommendations for strengthening the Interagency Group to the Congress no later than July 1, 1981.

PEACE IN THE MIDDLE EAST

22 USC 3401 note.

SEC. 711. (a) It is the sense of the Congress that all parties to the Arab-Israeli conflict need to reaffirm their unequivocal commitment to the peace process in order to achieve further progress toward a comprehensive settlement, to reinforce the principles of the Camp David accords, and to take actions to encourage parties not currently involved in the peace process to become active participants in peace efforts.

(b) It is further the sense of the Congress that to further these goals (1) all parties to the conflict should accept Israel's unequivocal right to exist within secure and recognized borders; (2) the Governments of Israel and Egypt should maintain and strengthen their commitment to the process of normalization of relations and continue actions to support that commitment; (3) the Governments of Israel and Egypt should reaffirm their commitment to United Nations Resolution 242 and its applicability, in all its aspects, to territories under negotiations; and (4) the governments of countries in the Middle East should assure that their policies and actions are consistent with the objectives of achieving peace and of involving other parties in the peace process.

ASSISTANCE FOR JORDAN

22 USC 2151 note.

SEC. 712. It is the sense of the Congress that for Jordan to receive any funds authorized to be appropriated by this Act, it should be judged by the President that Jordan is acting in good faith to achieve peace in the Middle East and that the expenditure of such funds for Jordan will serve to further peace in the Middle East.

EXTERNAL DEBT BURDENS OF EGYPT, ISRAEL, PORTUGAL, AND TURKEY

SEC. 713. The Congress finds that the Governments of Egypt, Israel, Portugal, and Turkey each have an enormous external debt burden which may be made more difficult by virtue of financing provided for those governments under various United States assistance programs.

Report to Congress.

In order to assist the Congress in examining United States assistance for these countries, the President shall transmit to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate, no later than January 15, 1981, a report regarding economic conditions prevailing in Egypt, Israel, Portugal, and Turkey which may affect their respective ability to meet their international debt obligations and to stabilize their economies.

SOVIET MILITARY PERSONNEL AND ACTIVITIES IN CUBA

SEC. 714. (a) At intervals of 90 days during the first year after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report identifying the military capabilities and deployment of Soviet military personnel in Cuba, together with his appraisal of the mission performed by such personnel. Reports to Congress. 22 USC 2370 note.

(b) At intervals of one year after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report setting forth the amount and nature of Soviet military assistance to the armed forces of Cuba during the preceding year and the military capabilities of those armed forces.

CUBAN REFUGEES

SEC. 715. (a) The Congress finds that— 22 USC 2151 note.

(1) the flow of refugees for political, economic, or other compelling reasons is a growing and world-wide phenomenon;

(2) the United States represents freedom of thought and action and economic opportunity and has historically played a major role in providing a home to the refugees of the world;

(3) an orderly and lawful refugee process is necessary for the furtherance of United States domestic well-being;

(4) continuation of the traditional compassionate and humanitarian policy of the United States regarding entry to its shores of refugees and other victims of oppression is threatened by the precipitate influx of large numbers of Cubans fleeing their country;

(5) the United States has sought to negotiate with the Government of Cuba to establish a lawful, safe, and orderly process by which Cubans may be allowed to leave their country; and

(6) the Cuban refugee crisis is a problem of international concern and other nations should contribute to its resolution.

(b)(1) The Congress urges the President to take the necessary steps to encourage and secure greater international cooperation with respect to the large number of Cuban natives who have recently fled or are attempting to flee Cuba. Such steps should include seeking the agreement of other countries to admit some of those persons into their respective countries and to contribute funds and other assistance for the resettlement of those persons.

(2) In order to encourage countries throughout the world which are recipients of United States bilateral and multilateral assistance to permit and to help finance the resettlement of Cuban and other refugees within their borders, the President shall, to the maximum extent feasible, attempt to channel such assistance to countries which have demonstrated a willingness to provide assistance to Cuban and other refugees.

(c) It is the sense of the Congress that, in carrying out subsection (b)(1), the President should seek the discussion, in an appropriate international forum such as the United Nations or the Organization of American States, of the situation involving the flight of large numbers of Cuban natives from Cuba, of the resettlement of Cuban refugees, and of means by which a more orderly process may be established to handle future crises of a similar nature.

INCARCERATION AND DEPORTATION OF CERTAIN CUBANS

8 USC 1522 note.

SEC. 716. The Congress finds that the United States Government has already incarcerated recently arrived Cubans who are admitted criminals, are security threats, or have incited civil disturbances in Federal processing facilities. The Congress urges the Executive branch, consistent with United States law, to seek the deportation of such individuals.

PROHIBITION ON ASSISTANCE TO THE GOVERNMENTS OF CUBA, VIETNAM, AND CAMBODIA

22 USC 2151 note.

SEC. 717. None of the funds authorized to be appropriated by this Act may be used to provide assistance to the Governments of Cuba, Vietnam, or Cambodia. Nothing in this section shall be construed to prohibit food assistance or humanitarian assistance which is distributed directly to the people of Cambodia.

COOPERATION OF OTHER GOVERNMENTS IN THE BOYCOTT OF THE 1980 SUMMER OLYMPIC GAMES IN MOSCOW

SEC. 718. In determining the levels of assistance to be provided to a foreign government with funds authorized to be appropriated by this Act, the President shall take into account the position of that government with respect to the United States-proposed boycott of the 1980 summer Olympic games in Moscow.

ELECTIONS IN UGANDA

SEC. 719. The President shall encourage the holding of free, open elections in Uganda and shall, in considering assistance for Uganda with funds authorized to be appropriated by this Act, take into account whether such elections are held.

REPORT TO CONGRESS ON THE IMPLEMENTATION OF THE LANCASTER HOUSE DECLARATION OF RIGHTS IN ZIMBABWE

SEC. 720. If Zimbabwe receives assistance from funds authorized to be appropriated by this Act, the President shall report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives every sixty days after the obligation of such funds on the internal situation in Zimbabwe, particularly upon the implementation of the Declaration of Rights contained in Annex C of the agreement signed at Lancaster House, London, by the participants in the Constitutional Conference on Southern Rhodesia on December 22, 1979.

RESTRICTION ON ASSISTANCE TO EL SALVADOR

SEC. 721. None of the funds authorized to be appropriated by this Act may be made available for the provision of assistance to El Salvador for the purpose of planning for compensation, or for the purpose of compensation, for the confiscation, nationalization, acquisition, or expropriation of any agricultural or banking enterprise, or of the properties or stock shares which may be pertaining thereto.

Approved December 16, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-884, pt. 1 (Comm. on Foreign Affairs), No. 96-884, pt. 2, (Permanent Select Comm. on Intelligence), and No. 96-1471 (Comm. of Conference).
SENATE REPORT No. 96-732 accompanying S. 2714 (Comm. on Foreign Relations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 22, 28, 20, June 5, considered and passed House.
June 17, considered and passed Senate, amended, in lieu of S. 2714.
Dec. 2, House agreed to conference report.
Dec. 3, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 51:
Dec. 16, Presidential statement.

Public Law 96-534
96th Congress

An Act

Dec. 16, 1980
[S. 1835]

To extend the Joint Funding Simplification Act of 1974.

Joint Funding Simplification Act of 1974, extension.
42 USC 4251 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13 of the Joint Funding Simplification Act of 1974 is amended by striking out "five" and inserting "ten".

Approved December 16, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1485 (Comm. on Government Operations).
SENATE REPORT No. 96-530 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD,
Vol. 125 (1979): Dec. 20, considered and passed Senate.
Vol. 126 (1980): Dec. 2, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 51:
Dec. 16, Presidential statement.

Public Law 96-535
96th Congress

An Act

To amend title 32, United States Code, to allow Federal recognition as officers of the National Guard of members of the National Guard of the Virgin Islands in grades above the grade of colonel.

Dec. 16, 1980
[H.R. 5856]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (g) of section 307 of title 32, United States Code, is repealed.

National Guard of the Virgin Islands.

Approved December 16, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1225 (Comm. on Armed Services).
SENATE REPORT No. 96-1050 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 15, considered and passed House.
Dec. 4, considered and passed Senate.

Public Law 96-536
96th Congress

Joint Resolution

Dec. 16, 1980
[H.J. Res. 644]

Making further continuing appropriations for the fiscal year 1981, and for other purposes.

Further Continuing appropriations for fiscal year 1981.

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1981, and for other purposes, namely:

SEC. 101. (a)(1) Such amounts as may be necessary for projects or activities (not otherwise specifically provided for in this joint resolution) for which appropriations, funds, or other authority would be available in the following appropriation Acts:

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981; and

Treasury, Postal Service, and General Government Appropriation Act, 1981.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed by the House as of October 1, 1980, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1980, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided,* That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980.

(4) Whenever an Act listed in this subsection has been passed by only the House as of October 1, 1980, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the rate permitted by the action of the House, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1980, except section 201 of title II of the Departments of Labor, and Health, Education, and Welfare and Related Agencies Appropriations Act, 1980 (H.R. 4389) as adopted by the House of Representatives on August 2, 1979.

(5) No provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1980, and which by its terms is applicable to

more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(b) Notwithstanding section 10 of Public Law 91-672, the amendments made by sections 201 and 501 of Public Law 95-118, and section 15(a) of the Act entitled, "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, as amended, such amounts as are necessary to carry out the rates and terms agreed to in the Conference Report 96-1536 as reported and agreed to December 13, 1980, for section 101(b) of H.J. Res. 637. 22 USC 2412. 22 USC 286e-1f, 285s, 285t. 22 USC 2680.

(c) Such amounts as may be necessary for continuing projects and activities under all the conditions and to the extent and in the manner as provided in H.R. 7593, entitled the "Legislative Branch Appropriation Act, 1981", as passed the House of Representatives, July 21, 1980, and the provisions of H.R. 7593 shall be effective as if enacted into law; except that the provisions of section 309 of H.R. 7593 shall not apply to the General Accounting Office, and the last proviso under the heading "Government Printing Office, Office of Superintendent of Documents, Salaries and Expenses" in H.R. 7593 shall not apply, and the provisions of section 306 (a), (b), and (d) of H.R. 7593 (providing salary pay cap limitations for executive, legislative, and judicial employees and officials) shall apply to any appropriation, fund, or authority made available for the period October 1, 1980, through June 5, 1981, by this or any other Act. Notwithstanding section 102(c) of this joint resolution, for mileage of Members, as authorized by law, $210,000. 5 USC 5318 note.

(d) Such amounts as may be necessary for continuing the following activities not otherwise provided for, which were conducted in fiscal year 1980, but at a rate for operations not in excess of the rate for fiscal year 1980: *Provided,* That no appropriation or fund made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or authority were not available during fiscal year 1980:

activities of the Council on Wage and Price Stability;

activities for which disbursements are made by the Secretary of the Senate, and the Senate items under the Architect of the Capitol;

activities of the National Health Service Corps under section 338(a) of the Public Health Service Act; 42 USC 254k.

activities for support of nursing research under section 301 of the Public Health Service Act; 42 USC 241.

activities for support of health professions education and nurse training under titles VII and VIII of the Public Health Service Act including authority to guarantee new loans under the Health Education Assistance Loans (HEAL) program; 42 USC 292, 296.

activities under the Community Mental Health Centers Act; 42 USC 2689 *et seq.*

activities of the National Arthritis Advisory Board and the National Diabetes Advisory Board; and

activities under title IV, part A, subparts 2 and 3, and titles VII and VIII of the Comprehensive Employment and Training Act, except that activities under title VIII shall be conducted at not to exceed an annual rate for new obligations of $200,000,000. 29 USC 891, 893, 899, 907, 981, 991.

(e) Such amounts as may be necessary to permit payments and assistance mandated by law for the following activities under the terms, conditions and limitations included in the applicable appropriation Act for 1980:

30 USC 901.
42 USC 1305.
20 USC 1071.
Effective date.
Ante, p. 1504.
Ante, p. 1442.

activities under title IV of the Federal Mine Health and Safety Act of 1977;

activities under the Social Security Act;

retirement pay and medical benefits for commissioned officers of the Public Health Service;

activities under title IV, part B, of the Higher Education Act; Notwithstanding paragraph 1393(a) of the Education Amendments of 1980, paragraph 446 of such amendments shall be effective on July 1, 1981;

notwithstanding any other provision of this joint resolution except section 102, activities of the Department of Labor, Employment and Training Administration for "Federal unemployment benefits and allowances" and "Advances to the unemployment trust fund and other funds"; and

activities of the Department of Labor, Employment Standards Administration for "Special benefits" and "Black Lung Disability Trust Fund".

(f) Such amounts as may be necessary for Department of Energy, Operating Expenses, Energy Supply, Research and Development Activities, to continue the breeder reactor demonstration project, or such project alternative as may be approved by Congress in authorizing legislation, at the current rate of operations notwithstanding the provisions of section 102 (a) and (b) of this joint resolution.

(g) Activities of the Department of Health and Human Services to process, maintain, return or resettle Cuban and Haitian entrants shall be funded at not to exceed an annual rate provided in the budget estimate.

(h) Notwithstanding any other provision of law, amounts appropriated to the State and Local Government Fiscal Assistance Trust Fund shall be available for payments to units of local government in accordance with the provisions and conditions set forth in the State and Local Fiscal Assistance Act of 1972, as amended and as further amended by H.R. 7112 as enacted by the Congress, for a one-year entitlement period beginning October 1, 1980, but at not to exceed an annual rate for operations of $4,566,700,000.

31 USC 1221 note.
Post, p. 3516.

Appropriation authorization.

(i) Notwithstanding any other provision of this joint resolution: There is appropriated an additional amount of $46,700,000, to remain available until expended, for Department of Energy, Operating Expenses, Atomic Energy Defense Activities, and an additional amount of $65,300,000, to remain available until expended, for Department of Energy, Plant and Capital Equipment, Atomic Energy Defense Activities, such amounts to be merged with and subject to the same provisions as amounts previously provided for such Activities in Public Law 96-367, Energy and Water Development Appropriation Act, 1981; section 120(b) of the Water Resources Development Act of 1976 (90 Stat. 2924) is amended by striking out "for the fiscal years ending September 30, 1978, and September 30, 1979,"; and appropriations and funds made available to the Appalachian Regional Commission, including the Appalachian Regional Development Programs, by this or any other Act shall be used by the Commission in accordance with the provisions of the applicable appropriation Act and pursuant to the Appalachian Regional Development Act of 1965, as amended, notwithstanding the provisions of section 405 of said Act.

Ante, p. 1331.
42 USC 1962d-5d.
40 USC app. 1.
40 USC app. 405.

(j) Notwithstanding section 101(a) of this joint resolution, not to exceed $1,850,000,000 shall be available for an annual rate for operations to continue the low-income energy assistance program under the State allocations provided for in H.R. 7998 as passed the House of Representatives August 27, 1980, and in House Report

96-1244, except that the sum of $50,000,000 shall be reserved for payments to any State which would receive under the above formula an amount less than 75 per centum of the amount it would have received under the State allocation formula for low-income energy assistance as provided in the regulations published on May 30, 1980, in volume 45, numbered 106, Federal Register, pages 36810-36838, such payments to be, to the maximum extent possible, the amount necessary for the allocations to those States to be equal to 75 per centum of their allocation under such regulations; the energy assistance program shall be continued under the terms and conditions of such regulations and any nonformula amendments thereto, except that an eligible household shall also include any single person household at or below 125 per centum of poverty: *Provided,* That none of the funds appropriated in this paragraph shall be used to provide assistance either in cash or in kind to any household during fiscal year 1981 which exceeds a value of $750, except this $750 limitation may be waived by the Secretary of Health and Human Services upon request of a State. Waiver.

(k) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Agriculture, Rural Development, and Related Agencies Appropriation Act, 1981 (H.R. 7591), to the extent and in the manner provided for in such Act as enacted by the Congress. *Ante,* p. 3095.

(l) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the District of Columbia Appropriation Act, 1981 (H.R. 8061), to the extent and in the manner provided for in such Act as enacted by the Congress. *Ante,* p. 3121.

(m) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1981 (H.R. 7631), to the extent and in the manner provided for in such Act as enacted by the Congress. *Ante,* p. 3044.

(n) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of the Interior and Related Agencies Appropriation Act, 1981 (H.R. 7724) to the extent and in the manner provided for in such Act as enacted by the Congress. *Ante,* p. 2957.

(o) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1981 (H.R. 7584), to the extent and in the manner provided for in such Act as enacted by the Congress, except section 606 of such Act.

(p) Notwithstanding section 102(c) of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Department of Defense Appropriation Act, 1981 (H.R. 8105) to the extent and in the manner provided for in such Act as enacted by the Congress. *Ante,* p. 3068.

SEC. 102. Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available from December 15, 1980, and shall remain available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriation Act by both Houses without any provision for such project or activity, or (c) June 5, 1981, whichever first occurs. Funding availability.

SEC. 103. Appropriations and funds made available or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 665(d)(2) of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 104. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such projects or activity are available under this joint resolution.

SEC. 105. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 106. All obligations incurred in anticipation of the appropriations and authority provided in this joint resolution for the purposes of maintaining the minimum level of essential activities necessary to protect life and property and bringing about orderly termination of other functions are hereby ratified and confirmed if otherwise in accordance with the provisions of this joint resolution.

SEC. 107. No provision in any appropriation Act for the fiscal year 1981 that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

Prayer and meditation in public schools.

SEC. 108. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

Abortions.

SEC. 109. Notwithstanding any other provision of this joint resolution except section 102, none of the funds made available by this joint resolution for programs and activities for which appropriations would be available in H.R. 7998, entitled the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1981, as passed the House of Representatives on August 27, 1980, shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims or rape or incest when such rape has been reported within seventy-two hours to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy; *Provided, however,* That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

91 Stat. 1460.
20 USC 2565.

SEC. 110. Funds contained in Public Law 95-205 for carrying out section 525 of the Education Amendments of 1976 shall remain available through September 30, 1982.

SEC. 111. Notwithstanding any other provision of this joint resolution, there is appropriated such amounts as are required for allowances and office staff for the former President pursuant to 3 U.S.C. 102 note: *Provided,* That the aggregate amount to be expended for the Allowances and Office Staff for Former Presidents account

shall not exceed $823,000: *Provided further,* That such amounts as are necessary may be expended under Operating Expenses, National Archives and Records Service for the provision of a temporary repository and essential archival processing of Presidential materials.

SEC. 112. Notwithstanding any other provision of this joint resolution, there is appropriated for settlement of claims against the Coast Guard pursuant to section 646 of title 14, United States Code, $198,523.41 and for settlement of claims by the Seneca Nation of Indians pursuant to section 10 of the Act of August 31, 1964 (78 Stat. 738), $19,774.95.

SEC. 113. Notwithstanding the provisions of section 101(a) of this joint resolution, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,000, except station wagons, for which the maximum shall be $6,400: *Provided,* That these limits may be exceeded by not to exceed $1,700 for police-type vehicles, and by not to exceed $3,600 for special heavy duty vehicles: *Provided further,* That preference should be given for the purchase of American made vehicles.

31 USC 638c.

SEC. 114. The Administrator of the Small Business Administration, pursuant to section 4(c)(5)(A) of the Small Business Act, as amended, is authorized to issue notes to the Secretary of the Treasury in an amount not to exceed $600,000,000 for the purpose of providing Disaster Loans in addition to the amount provided for such purpose in H.R. 7584 as adopted by the House of Representatives on November 21, 1980, and to transfer an amount not to exceed $10,000,000 to "Salaries and Expenses".

Ante, p. 842.

SEC. 115. Notwithstanding any other provision of this joint resolution, there is hereby appropriated an additional amount for capital outlay, Panama Canal Commission, of $10,210,000 for navigation projects to be derived from the Panama Canal Commission Fund and to remain available until expended: *Provided,* That all such funds be derived solely from tolls and other charges for services provided by the Panama Canal Commission.

Appropriation authorization.

SEC. 116. None of the funds appropriated by this joint resolution may be used to disqualify, pursuant to section 411(d)(1)(B) of the Internal Revenue Code of 1954, any plan which has vesting requirements or provides for nonforfeitable rights to benefits, equal to or more stringent than 4/40.

26 USC 411.

None of the funds appropriated by this joint resolution may be used to issue an unfavorable advance determination letter, pursuant to section 411(d)(1)(B) of the Internal Revenue Code of 1954, with respect to any plan which has vesting requirements or provides for nonforfeitable rights to benefits, equal to or more stringent than 4/40.

SEC. 117. Notwithstanding any other provision of law, no funds available to the Secretary of Education shall be used to adopt or enforce any final regulations which replace the current "Lau remedies" for use as a guideline concerning the scope or adequacy of services to be provided to students of limited English-language proficiency, or for defining entry and exit criteria for such services, before June 1, 1981.

SEC. 118. Notwithstanding any other provision of this joint resolution, or Public Law 96-369: For temporary employment assistance under title VI of the Comprehensive Employment and Training Act, no more than $729,000,000 of new budget authority shall be available during fiscal year 1981; notwithstanding subpart (4) of part A of title

Ante, p. 1351.
29 USC 961.

29 USC 893.

IV of the Comprehensive Employment and Training Act, new budget authority for the youth employment and training program under subpart (3) of part A of title IV of that Act shall be at the annual rate of $746,000,000.

Publication in Federal Register, use of funds.

SEC. 119. None of these funds may be used for the purpose of publishing in the Federal Register, implementing or enforcing the proposed Conditions of Participation for Skilled Nursing Facilities (SNF's) or Intermediate Care Facilities (ICF's) which were first published as proposed in the Federal Register on July 14, 1980, prior to receipt of revised cost estimates by the Department and the final draft of a General Accounting Office evaluation of the impact of the proposed regulations, and in no case, prior to January 12, 1981.

Approved December 16, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1484 accompanying H.J. Res. 637 (Comm. on Appropriations) and No. 96-1536 accompanying H.J. Res. 637 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 126 (1980):

Dec. 3, H.J. Res. 637 considered and passed House.

Dec. 10, 11, H.J. Res. 637 considered and passed Senate, amended.

Dec. 12, House disagreed to Senate amendments.

Dec. 13, House agreed to conference report; concurred in certain Senate amendments and in others with amendments; Senate agreed to conference report, and insisted on its amendment No. 7; House agreed to further conference; H.J. Res. 644 considered and passed House.

Dec. 15, Senate further insisted on its amendment No. 7 to H.J. Res. 637; H.J. Res. 644 considered and passed Senate, amended; House agreed to Senate amendment with an amendment.

Dec. 16, Senate agreed to House amendment.

Public Law 96-537
96th Congress

An Act

To amend the Indian Health Care Improvement Act and the Public Health Service Act with respect to Indian health care, and for other purposes.

Dec. 17, 1980
[S. 2728]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Indian Health Care Amendments of 1980". Indian Health Care Amendments of 1980. 25 USC 1601 note.

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Health Care Improvement Act (90 Stat. 1400). 25 USC 1601 note.

DEFINITIONS

SEC. 2. (a) Section 4(a) is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services". 25 USC 1603.

(b) Section 4(h) is amended by striking out "composed of urban Indians" and inserting in lieu thereof "governed by an Indian controlled board of directors".

(c) Section 4 is amended by adding the following new subsections at the end thereof:

"(i) 'Rural Indian' means any individual who resides in a rural community as defined in subsection (j), who is an Indian within the meaning of subsection (c), and who is not otherwise eligible to receive health services from the Service.

"(j) 'Rural community' means any community that—

"(1) is not located on a Federal Indian reservation or trust area;

"(2) is not an Alaskan Native village;

"(3) is not an urban center; and

"(4) has a sufficient rural Indian population with unmet health needs, as determined by the Secretary, to warrant assistance under title V of this Act. *Post*, p. 3176.

"(k) 'Rural Indian organization' means a nonprofit corporate body governed by a board of directors controlled by rural Indians and providing for the maximum participation of all interested Indian groups and individuals, which body is capable of legally cooperating with other public and private entities for the purpose of performing the activities described in section 503(a).". *Post*, p. 3177.

INDIAN HEALTH MANPOWER

SEC. 3. (a) Section 102(c) is amended by striking out the last sentence and inserting in lieu thereof the following: "There are authorized to be appropriated to carry out this section $2,300,000 for the fiscal year ending September 30, 1981, $2,600,000 for the fiscal year ending September 30, 1982, $3,000,000 for the fiscal year ending September 30, 1983, and $3,500,000 for the fiscal year ending September 30, 1984.". 25 USC 1612.

25 USC 1613.

(b)(1) Section 103(b) is amended to read as follows:

"(b) Scholarship grants made pursuant to this section shall be for the following purposes:

"(1) Compensatory preprofessional education of any grantee, such scholarship not to exceed two years.

"(2) Pregraduate education of any grantee leading to a baccalaureate degree in an approved premedicine, predentistry, preosteopathy, preveterinary medicine, preoptometry, or prepodiatry curriculum, such scholarship not to exceed four years.".

(2) Section 103(d) is amended by striking out the last sentence and inserting in lieu thereof the following: "There are authorized to be appropriated to carry out this section $3,510,000 for the fiscal year ending September 30, 1981, $4,000,000 for the fiscal year ending September 30, 1982, $4,620,000 for the fiscal year ending September 30, 1983, and $5,300,000 for the fiscal year ending September 30, 1984.".

25 USC 1614.

(c) Section 105(d) is amended by striking out the last sentence thereof and inserting in lieu thereof the following: "There are authorized to be appropriated to carry out this section $990,000 for the fiscal year ending September 30, 1981, $1,140,000 for the fiscal year ending September 30, 1982, $1,310,000 for the fiscal year ending September 30, 1983, and $1,510,000 for the fiscal year ending September 30, 1984.".

42 USC 294y-1.

(d)(1) The first sentence of section 757(a) of the Public Health Service Act is amended by striking out "and for each of the succeeding four fiscal years such sums as may be specifically authorized by an Act enacted after the date of enactment of this section" and inserting in lieu thereof "$9,000,000 for the fiscal year ending September 30, 1981, $10,300,000 for the fiscal year ending September 30, 1982, $11,800,000 for the fiscal year ending September 30, 1983, and $13,600,000 for the fiscal year ending September 30, 1984".

(2) Section 757(b)(2) is amended—

(A) by striking out "his" and inserting in lieu thereof "the applicable"; and

(B) by striking out "him" and inserting in lieu thereof "the Secretary".

INDIAN HEALTH SERVICES

Appropriation authorization.
25 USC 1621.

SEC. 4. (a)(1) Section 201(c)(1) is amended by adding the following sentence at the end thereof: "There are authorized to be appropriated $20,250,000 for the fiscal year ending September 30, 1981, $23,000,000 for the fiscal year ending September 30, 1982, $26,500,000 for the fiscal year ending September 30, 1983, and $30,500,000 for the fiscal year ending September 30, 1984, and such further additional positions are authorized as may be necessary for each such fiscal year.".

(2) Section 201(c)(2) is amended by adding the following sentence at the end thereof: "There are authorized to be appropriated $6,400,000 for the fiscal year ending September 30, 1981, $7,350,000 for the fiscal year ending September 30, 1982, $8,450,000 for the fiscal year ending September 30, 1983, and $9,700,000 for the fiscal year ending September 30, 1984, and such further additional positions are authorized as may be necessary for each such fiscal year.".

(3) Section 201(c)(3) is amended by adding the following sentence at the end thereof: "There are authorized to be appropriated $1,875,000, for the fiscal year ending September 30, 1981, $2,150,000 for the fiscal year ending September 30, 1982, $2,500,000 for the fiscal year ending September 30, 1983, and $2,875,000 for the fiscal year ending Septem-

ber 30, 1984, and such further additional positions are authorized as may be necessary for each such fiscal year.".

(b)(1) Section 201(c)(4)(A) is amended by adding the following sentence at the end thereof: "There are authorized to be appropriated $2,500,000 for the fiscal year ending September 30, 1981, $2,875,000 for the fiscal year ending September 30, 1982, $3,300,000 for the fiscal year ending September 30, 1983, and $3,800,000 for the fiscal year ending September 30, 1984, and such further additional positions are authorized as may be necessary for each such fiscal year.". 25 USC 1621.

(2) Section 201(c)(4)(B) is amended by adding the following sentence at the end thereof: "There are authorized to be appropriated $750,000 for the fiscal year ending September 30, 1981, $870,000 for the fiscal year ending September 30, 1982, $1,000,000 for the fiscal year ending September 30, 1983, and $1,150,000 for the fiscal year ending September 30, 1984, and such further additional positions are authorized as may be necessary for each such fiscal year.".

(3) Section 201(c)(4)(C) is amended by adding the following sentence at the end thereof: "There are authorized to be appropriated $2,350,000 for the fiscal year ending September 30, 1981, $2,700,000 for the fiscal year ending September 30, 1982, $3,100,000 for the fiscal year ending September 30, 1983, and $3,600,000 for the fiscal year ending September 30, 1984, and such further positions are authorized as may be necessary for each such fiscal year.".

(4) Section 201(c)(4)(D) is amended by adding the following sentence at the end thereof: "There are authorized to be appropriated $460,000 for the fiscal year ending September 30, 1981, $525,000 for the fiscal year ending September 30, 1982, $600,000 for the fiscal year ending September 30, 1983, and $690,000 for the fiscal year ending September 30, 1984, and such further additional positions are authorized as may be necessary for each such fiscal year.".

(5) Section 201(c)(4)(E) is amended by adding the following sentence at the end thereof: "There are authorized to be appropriated $250,000 for the fiscal year ending September 30, 1981, $285,000 for the fiscal year ending September 30, 1982, $325,000 for the fiscal year ending September 30, 1983, and $375,000 for the fiscal year ending September 30, 1984.".

(c)(1) Section 201(c)(5) is amended by adding the following sentence at the end thereof: "There are authorized to be appropriated $16,500,000 for the fiscal year ending September 30, 1981, $19,000,000 for the fiscal year ending September 30, 1982, $22,000,000 for the fiscal year ending September 30, 1983, and $25,100,000 for the fiscal year ending September 30, 1984.".

(2) Section 201(c)(6) is amended by adding the following sentence at the end thereof: "There are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1981, $5,750,000 for the fiscal year ending September 30, 1982, $6,600,000 for the fiscal year ending September 30, 1983, and $7,600,000 for the fiscal year ending September 30, 1984, and such further additional positions are authorized as may be necessary for each such fiscal year.".

(3) Section 201(c) is amended by striking out paragraph (7).

INDIAN HEALTH FACILITIES

SEC. 5. Title III is amended by adding the following new section at the end thereof:

"AUTHORIZATIONS

25 USC 1634. "SEC. 305. There are authorized to be appropriated to carry out sections 301 and 302 for the fiscal year ending September 30, 1981, for the fiscal year ending September 30, 1982, for the fiscal year ending September 30, 1983, and for the fiscal year ending September 30, 1984, such sums as may be necessary.".

ACCESS TO HEALTH SERVICES

SEC. 6. Title IV is amended by adding the following new section at the end thereof:

"GRANTS TO AND CONTRACTS WITH TRIBAL ORGANIZATIONS

25 USC 1622. "SEC. 404. (a) The Secretary, acting through the Service, shall make grants to or enter into contracts with tribal organizations to assist such organizations in establishing and administering programs on or near Federal Indian reservations and trust areas and in or near Alaska Native villages to assist individual Indians to—

"(1) enroll under section 1818 of part A and sections 1836 and 1837 of part B of title XVIII of the Social Security Act;

42 USC 1395i-2, 1395o, 1395p. "(2) pay monthly premiums for coverage due to financial need of such individual; and

"(3) apply for medical assistance provided pursuant to title XIX of the Social Security Act.

42 USC 1396.

"(b) The Secretary, acting through the Service, shall place conditions as deemed necessary to effect the purpose of this section in any contract or grant which the Secretary makes with any tribal organization pursuant to this section. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake to—

"(1) determine the population of Indians to be served that are or could be recipients of benefits under titles XVIII and XIX of the Social Security Act;

42 USC 1395, 1396. "(2) assist individual Indians in becoming familiar with and utilizing such benefits;

"(3) provide transportation to such individual Indians to the appropriate offices for enrollment or application for medical assistance;

"(4) develop and implement a schedule of income levels to determine the extent of payment of premiums by such organization for coverage of needy individuals; and methods of improving the participation of Indians in receiving the benefits provided pursuant to titles XVIII and XIX of the Social Security Act.

Appropriation authorization. "(c) There are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1981, $5,750,000 for the fiscal year ending September 30, 1982, $6,615,000 for the fiscal year ending September 30, 1983, and $7,610,000 for the fiscal year ending September 30, 1984.".

HEALTH SERVICES FOR URBAN AND RURAL INDIANS

SEC. 7. Title V is amended to read as follows:

"TITLE V—HEALTH SERVICES FOR URBAN AND RURAL INDIANS

"PURPOSE

"SEC. 501. The purpose of this title is to encourage the establishment of programs in urban areas and rural communities to make health services more accessible to the urban and rural Indian populations, respectively. 25 USC 1651.

"CONTRACTS WITH URBAN AND RURAL INDIAN ORGANIZATIONS

"SEC. 502. The Secretary, acting through the Service, shall enter into contracts with urban Indian organizations and with rural Indian organizations to assist such organizations to establish and administer, in the urban centers or rural communities in which such organizations are situated, programs which meet the requirements set forth in sections 503 and 504. 25 USC 1652.

"CONTRACT ELIGIBILITY

"SEC. 503. (a) The Secretary, acting through the Service, shall place such conditions as deemed necessary to effect the purpose of this title in any contract which the Secretary makes with any urban or rural Indian organization pursuant to this title. Such conditions shall include, but are not limited to, requirements that the organization successfully undertake to— 25 USC 1653.

"(1) determine the population of urban or rural Indians which are or could be recipients of health referral or care services;

"(2) identify all public and private health service resources within the urban center or rural community in which the organization is situated which are or may be available to urban Indians or rural Indians, respectively;

"(3) assist such health services resources in providing service to such urban or rural Indians;

"(4) assist such urban or rural Indians in becoming familiar with and utilizing such resources;

"(5) provide basic health education to such urban or rural Indians;

"(6) establish and implement manpower training programs to accomplish the referral and education tasks set forth in clauses (3) through (5) of this subsection;

"(7) identify gaps between unmet health needs of urban Indians or rural Indians and the resources available to meet such needs;

"(8) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban or rural Indians; and

"(9) where necessary, provide or contract for health care services to urban or rural Indians.

"(b) The Secretary, acting through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations and rural Indian organizations to enter into contracts pursuant to this title. Such criteria shall, among other factors, take into consideration—

"(1) the extent of the unmet health care needs of urban Indians in the urban center or of rural Indians in the rural community involved;

"(2) the size of the urban Indian population or the rural Indian community to receive assistance;

"(3) the relative accessibility of health care services to such population in such urban center or rural community;

"(4) the extent, if any, to which the activities set forth in subsection (a) would duplicate any previous or current public or private health services project in such urban center or rural community that was or is funded in a manner other than pursuant to this title;

"(5) the appropriateness and likely effectiveness of the activities set forth in subsection (a) in such urban center or rural community;

"(6) the existence of an urban Indian organization or a rural Indian organization capable of performing the activities set forth in subsection (a) and entering into a contract with the Secretary pursuant to this title; and

"(7) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other agencies.

"OTHER CONTRACT REQUIREMENTS

Federal laws and regulations, exceptions. 25 USC 1654.

"SEC. 504. (a) Contracts with urban Indian organizations or rural Indian organizations pursuant to this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (49 Stat. 793), as amended.

Payments.

"(b) Payments under any contracts pursuant to this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title.

Amendments and revisions.

"(c) Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization or a rural Indian organization, revise or amend any contract made by the Secretary with such organization under this title as necessary to carry out the purposes of this title: *Provided, however,* That whenever an urban Indian organization or a rural Indian organization requests retrocession of the Secretary for any contract entered into pursuant to this title, such retrocession shall become effective upon a date specified by the Secretary not more than one hundred and twenty days from the date of the request by the organization or at such later date as may be mutually agreed to by the Secretary and the organization.

Federal facility utilization.

"(d) In connection with any contract made pursuant to this title, the Secretary may permit an urban Indian organization or a rural Indian organization to utilize, in carrying out such contract, existing facilities owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for the use and maintenance of such facilities.

"(e) Contracts with urban or rural Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban or rural Indians of services and assistance under such contracts by such organizations.

"REPORTS AND RECORDS

"SEC. 505. For each fiscal year during which an urban Indian organization or a rural Indian organization receives or expends funds pursuant to a contract under this title, such organization shall submit to the Secretary a report including information gathered pursuant to section 503(a) (7) and (8), information on activities conducted by the organization pursuant to the contract, an accounting of the amounts and purposes for which Federal funds were expended, and such other information as the Secretary may request. The reports and records of the urban Indian organization or the rural Indian organization with respect to such contract shall be subject to audit by the Secretary and the Comptroller General of the United States. 25 USC 1655.

"AUTHORIZATIONS

"SEC. 506. (a) There are authorized to be appropriated for contracts with urban Indian organizations under this title $18,750,000 for the fiscal year ending September 30, 1981, $21,500,000 for the fiscal year ending September 30, 1982, $24,725,000 for the fiscal year ending September 30, 1983, and $28,500,000 for the fiscal year ending September 30, 1984. 25 USC 1656.

"(b) There are authorized to be appropriated for contracts with rural Indian organizations under this title $3,000,000 for the fiscal year ending September 30, 1981, $3,000,000 for the fiscal year ending September 30, 1982, $3,000,000 for the fiscal year ending September 30, 1983, and $3,000,000 for the fiscal year ending September 30, 1984.

"REVIEW OF PROGRAM

"SEC. 507. Not later than the date six months after September 30, 1983, the Secretary, acting through the Service and with the assistance of the urban and rural Indian organizations that have entered into contracts under this title, shall review the program established under this title and submit to the Congress an assessment thereof and recommendations for any further legislative efforts the Secretary deems necessary to meet the purpose of this title.". Submittal to Congress. 25 USC 1657.

MISCELLANEOUS

SEC. 8. (a) Section 704 is amended by adding the following new sentence at the end thereof: "Property leased by the Secretary from an Indian tribe may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe.". 25 USC 1674.

(b) Title VII is amended by adding the following new sections at the end thereof:

"RESOURCE ALLOCATION PLAN

"SEC. 706. Within one year from the date of the enactment of this section, the Secretary shall submit to the Congress a resource allocation plan. Such plan shall explain the future allocation of services and funds among the service population of the Service and shall provide a schedule for reducing deficiencies in resources of tribes and nontribal specific entities. Submittal to Congress. 25 USC 1676.

"NUCLEAR RESOURCE DEVELOPMENT HEALTH HAZARDS

"SEC. 707. (a) The Secretary and the Service shall conduct, in conjunction with other appropriate Federal agencies and in consultation with concerned Indian tribes and organizations, a study of the Study. 25 USC 1677.

health hazards to Indian miners and Indians on or near Indian reservations and in Indian communities as a result of nuclear resource development. Such study shall include—

"(1) an evaluation of the nature and extent of nuclear resource development related health problems currently exhibited among Indians and the causes of such health problems;

"(2) an analysis of the potential effect of ongoing and future nuclear resource development on or near Indian reservations and communities;

"(3) an evaluation of the types and nature of activities, practices, and conditions causing or affecting such health problems, including uranium mining and milling, uranium mine tailing deposits, nuclear powerplant operation and construction, and nuclear waste disposal;

"(4) a summary of any findings and recommendations provided in Federal and State studies, reports, investigations, and inspections during the five years prior to the date of the enactment of this section that directly or indirectly relate to the activities, practices, and conditions affecting the health or safety of such Indians; and

"(5) the efforts that have been made by Federal and State agencies and mining and milling companies to effectively carry out an education program for such Indians regarding the health and safety hazards of such nuclear resource development.

Health care plan, development.

"(b) Upon completion of such study the Secretary and the Service shall take into account the results of such study and develop a health care plan to address the health problems studied under subsection (a). The plan shall include—

"(1) methods for diagnosing and treating Indians currently exhibiting such health problems;

"(2) preventive care for Indians who may be exposed to such health hazards, including the monitoring of the health of individuals who have or may have been exposed to excessive amounts of radiation, or affected by other nuclear development activities that have had or could have a serious impact upon the health of such individuals; and

"(3) a program of education for Indians who, by reason of their work or geographic proximity to such nuclear development activities, may experience health problems.

Report to Congress.

"(c) The Secretary and the Service shall submit to Congress the study prepared under subsection (a) no later than the date eighteen months after the date of enactment of this section. The health care plan prepared under subsection (b) shall be submitted in a report no later than the date one year after the date that the study prepared under subsection (a) is submitted to Congress. Such report shall include recommended activities for the implementation of the plan, as well as an evaluation of any activities previously undertaken by the Service to address such health problems.

Intergovernmental Task Force, establishment.

"(d)(1) There is established an Intergovernmental Task Force to be composed of the following individuals (or their designees): the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Director of the Bureau of Mines, the Assistant Secretary for Occupational Safety and Health, and the Secretary of the Interior.

"(2) The Task Force shall identify existing and potential operations related to nuclear resource development that affect or may affect the health of Indians on or near an Indian reservation or in an Indian community and enter into activities to correct existing health haz-

ards and insure that current and future health problems resulting from nuclear resource development activities are minimized or reduced.

"(3) The Secretary shall be Chairman of the Task Force. The Task Force shall meet at least twice each year. Each member of the Task Force shall furnish necessary assistance to the Task Force.

"(e) In the case of any Indian who— Medical care.

"(1) as a result of employment in or near a uranium mine or mill, suffers from a work related illness or condition;

"(2) is eligible to receive diagnosis and treatment services from a Service facility; and

"(3) by reason of such Indian's employment, is entitled to medical care at the expense of such mine or mill operator;

the Service shall, at the request of such Indian, render appropriate medical care to such Indian for such illness or condition and may recover the costs of any medical care so rendered to which such Indian is entitled at the expense of such operator from such operator. Nothing in this subsection shall affect the rights of such Indian to recover damages other than such costs paid to the Service from the employer for such illness or condition.

"(f) There is authorized to be appropriated $300,000 to carry out the study as provided in subsection (a), such amount to be expended by the date eighteen months after the date of the enactment of this section. Appropriation authorization.

"ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA

"SEC. 708. (a) For the fiscal years beginning with the fiscal year ending September 30, 1982, and ending with the fiscal year ending September 30, 1984, the State of Arizona shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health care services to Indians in such State. Designation. 25 USC 1678.

"(b) The Service shall not curtail any health care services provided to Indians residing on Federal reservations in the State of Arizona if such curtailment is due to the provision of contract services in such State pursuant to the designation of such State as a contract health service delivery area pursuant to subsection (a).

"(c) There are authorized to be appropriated to carry out this section $2,000,000 for the fiscal year ending September 30, 1982, $2,000,000 for the fiscal year ending September 30, 1983, and $2,000,000 for the fiscal year ending September 30, 1984. Appropriation authorization.

"CALIFORNIA FORMER FEDERALLY RECOGNIZED TRIBES

"SEC. 709. Indians in the State of California who are members or descendants of members of former federally recognized tribes of the State of California shall be eligible for services from the Service in the fiscal years beginning with the fiscal year ending September 30, 1982, and ending with the fiscal year ending September 30, 1984. Health services, eligibility. 25 USC 1679.

"PERSONNEL CEILINGS DEMONSTRATION PROJECT

"SEC. 710. (a) In order to determine whether the Service can be better managed through fiscal controls without personnel ceilings, the Service shall, in conjunction with the Office of Personnel Management and the Secretary, conduct a demonstration project in which certain personnel ceilings in the Service are lifted. Such demonstra- 25 USC 1680.

tion project shall be conducted in two of the Indian Health Service areas and shall be closely monitored by the Service.

Report to Congress.

"(b) Not later than the date 2 years after the date of the enactment of this section, the Service shall submit a report to Congress regarding the demonstration project carried out under subsection (a). Such report shall include a discussion of whether the lifting of personnel ceilings would improve the Service's ability to deliver services, what potential negative impact the lifting of personnel ceilings might have on the control of Federal employment, and a determination as to whether the lifting of personnel ceilings should be expanded to the entire Service.".

Approved December 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-975, Pt. 1 accompanying H.R. 6629 (Comm. on Interior and Insular Affairs) and No. 96-1483 (Comm. of Conference).
SENATE REPORT No. 96-758 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 2, considered and passed Senate.
Sept. 8, 9, H.R. 6629 considered and passed House; passage vacated and S.2728, amended, passed in lieu.
Dec. 2, House agreed to conference report.
Dec. 3, Senate agreed to conference report.

Public Law 96-538
96th Congress

An Act

To amend the Public Health Service Act to revise and extend the authorities under that Act relating to national research institutes, and for other purposes.

Dec. 17, 1980
[S. 988]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Health Programs Extension Act of 1980".

Health Programs Extension Act of 1980.
42 USC 201 note.

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

TITLE I—NATIONAL CANCER INSTITUTE AND NATIONAL HEART, LUNG, AND BLOOD INSTITUTE AUTHORIZATIONS

SEC. 101. (a) Section 410(a) (42 U.S.C. 286e(a)) is amended—

(1) by striking out "and" after "1979;"; and

(2) by inserting the following before the period at the end thereof: "; $1,015,700,000 for the fiscal year ending September 30, 1981; and $1,109,000,000 for the fiscal year ending September 30, 1982".

(b) Section 410(b) is amended—

(1) by striking out "and" after "1979;"; and

(2) by inserting the following before the period at the end thereof: "; $112,900,000 for the fiscal year ending September 30, 1981; and $123,200,000 for the fiscal year ending September 30, 1982".

(c) Section 414(b) (42 U.S.C. 287c(b)) is amended—

(1) by striking out "and" after "1979,"; and

(2) by inserting the following before the period at the end thereof: ", $49,300,000 for the fiscal year ending September 30, 1981, and $53,800,000 for the fiscal year ending September 30, 1982".

(d) The first sentence of section 419B (42 U.S.C. 287i) is amended—

(1) by striking out "and" after "1979,"; and

(2) by inserting the following before the period at the end thereof: ", $564,300,000 for the fiscal year ending September 30, 1981, and $616,100,000 for the fiscal year ending September 30, 1982".

TITLE II—AMENDMENTS RELATING TO ARTHRITIS, DIABETES, DIGESTIVE DISEASES, AND KIDNEY DISEASES

SEC. 201. (a) The heading of part D of title IV is amended to read as follows:

"PART D—NATIONAL INSTITUTE OF ARTHRITIS, DIABETES, AND DIGESTIVE AND KIDNEY DISEASES, NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE, AND OTHER INSTITUTES".

Repeal.

SEC. 202. Section 431(c) (42 U.S.C. 289a(c)) is repealed.

SEC. 203. (a) The heading of section 434 is amended to read as follows:

"NATIONAL INSTITUTE OF ARTHRITIS, DIABETES, AND DIGESTIVE AND KIDNEY DISEASES".

(b) Subsection (a) of section 434 (42 U.S.C. 289c-1(a)) is amended—

(1) by striking out "National Institute of Arthritis, Metabolism, and Digestive Diseases" and inserting in lieu thereof "National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases";

(2) by striking out "National Arthritis, Metabolism, and Digestive Diseases Advisory Council" and inserting in lieu thereof "National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council"; and

(3) by striking out the last sentence.

(c) Section 434 is amended by striking out subsections (b) through (e) and inserting in lieu thereof the following:

"(b) In the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (hereinafter referred to in this section as the 'Institute') there shall be an Associate Director for Arthritis and Musculoskeletal and Skin Diseases, an Associate Director for Diabetes, Endocrinology, and Metabolic Diseases, an Associate Director for Digestive Diseases, and an Associate Director for Kidney, Urologic, and Hematologic Diseases who, under the supervision of the Director of the Institute, shall be responsible for—

"(1) developing a coordinated plan (including recommendations for expenditures) for each of the national research institutes within the National Institutes of Health with respect to research and training concerning the diseases for which the positions of the Associate Directors were created;

"(2) assessing the adequacy of management approaches for the activities within such institutes concerning such diseases and developing improved approaches if needed;

"(3) monitoring and reviewing expenditures by such institutes concerning such diseases; and

"(4) identifying research opportunities concerning such diseases and recommending ways to utilize such opportunities.

Comments and recommendations, transmittal to NIH.

The Director of the Institute shall transmit to the Director of the National Institutes of Health the plans, recommendations, and reviews of the Associate Directors under paragraphs (1) through (4) together with such comments and recommendations as the Director of the Institute determines appropriate.

Subcommittees, establishment.

"(c) There are established within the Advisory Council of the Institute a subcommittee on diabetes and endocrine and metabolic diseases, a subcommittee on arthritis and musculoskeletal and skin diseases, a subcommittee on digestive diseases, and a subcommittee on kidney, urologic, and hematologic diseases. The subcommittees shall be composed of members of the Advisory Council who are outstanding in the diagnosis, prevention, and treatment of the diseases for which the subcommittees are established and members of the Advisory Council who are leaders in the fields of education and public affairs. The subcommittees are authorized to review applications made to the Director for grants for research and training

projects relating to the diagnosis, prevention, and treatment of the diseases for which the subcommittees are established and shall recommend to the Advisory Council those applications and contracts that the subcommittees determine will best carry out the purposes of this part. The subcommittees shall also review and evaluate the diabetes and endocrine and metabolic diseases, arthritis, musculoskeletal and skin diseases, digestive diseases, and kidney, urologic, and hematologic diseases programs under this part and recommend to the Advisory Council such changes in the administration of such programs as the subcommittees determine are necessary.

"(d) The Director of the Institute, acting through the Associate Director for Arthritis and Musculoskeletal and Skin Diseases, the Associate Director for Kidney, Urologic, and Hematologic Diseases, the Associate Director for Digestive Diseases, and the Associate Director for Diabetes, Endocrinology, and Metabolic Diseases, shall—

"(1) carry out programs of support for research and training (other than training for which National Research Service Awards may be made under section 472) in the diagnosis, prevention, and treatment of arthritis, digestive diseases, diabetes mellitus, and endocrine and metabolic, kidney, urologic, and hematologic diseases, including support for training in medical schools, graduate clinical training, graduate training in epidemiology, epidemiology studies, clinical trials, and interdisciplinary research programs; and 42 USC 289*l*-1.

"(2) establish programs of evaluation, planning, and dissemination of knowledge related to such research and training.".

(d) Subsection (f) of section 434 is redesignated as subsection (e) and is amended (1) by striking out "a report" in the first sentence and inserting in lieu thereof "an annual report", and (2) by amending the second sentence to read as follows: "The annual report shall include a description of the Institute's activities— 42 USC 289c-1.

"(1) under the current Arthritis Plan prepared under the National Arthritis Act of 1974, 42 USC 201 note.

"(2) under the current diabetes plan prepared under the National Diabetes Mellitus Research and Education Act, and 42 USC 201 note.

"(3) under the current digestive diseases plan prepared under the Arthritis, Diabetes, and Digestive Diseases Amendments of 1976.". 42 USC 201 note.

SEC. 204. (a) The heading of section 435 is amended to read as follows:

"DIABETES RESEARCH AND TRAINING CENTERS; DIABETES DATA GROUP AND CLEARINGHOUSE".

(b) The first sentence of subsection (a) of section 435 (42 U.S.C. 289c-2(a)) is amended by striking out "National Commission on Diabetes" and inserting in lieu thereof "the current diabetes plan under the National Diabetes Mellitus Research and Education Act".

(c) Subsection (a) of section 435 is amended by adding at the end the following: "A center may use funds provided under this subsection to provide stipends for health professionals enrolled in training programs described in clause (2)(B).".

(d) Subsection (b) of section 435 is amended by striking out "September 30" and inserting in lieu thereof "November 30".

(e) Subsection (c) of section 435 is redesignated as subsection (d) and the following new subsection is inserted after subsection (b):

"(c)(1) The Secretary, with the Associate Director for Diabetes, Endocrinology, and Metabolic Diseases, shall (A) establish the

Diabetes Data Group and the Diabetes Information Clearinghouse, and (B) through such entities, establish the diabetes data system for the collection, storage, analysis, retrieval, and dissemination of data concerning diabetes, including, where possible, data involving general populations for the purpose of detecting individuals with a risk of developing diabetes.

Appropriation authorization.

"(2) There is authorized to be appropriated to carry out this subsection $2,000,000 for the fiscal year ending September 30, 1981; $2,000,000 for the fiscal year ending September 30, 1982; and $2,000,000 for the fiscal year ending September 30, 1983.".

Ante, p. 3185.

(f) Subsection (d) of section 435 (as so redesignated) is amended (1) by striking out "this section" and inserting in lieu thereof "this section (other than subsection (c))", (2) by striking out "and" after "1979,", and (3) by inserting before the period a comma and the following: "$14,000,000 for the fiscal year ending September 30, 1981, $17,000,000 for the fiscal year ending September 30, 1982, and $20,000,000 for the fiscal year ending September 30, 1983".

Repeals.

SEC. 205. Sections 436, 437, and 440A (42 U.S.C. 289c-3, 289c-4, and 289c-8) are repealed, and the following section is inserted after section 435:

"INTERAGENCY COORDINATING COMMITTEES

42 USC 289c-3.

"SEC. 436. (a) For the purpose of—

"(1) better coordinating the research activities of all the national research institutes relating to arthritis, diabetes mellitus, and digestive diseases; and

"(2) coordinating those aspects of all Federal health programs and activities relating to such diseases to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities,

Establishment.

the Secretary shall establish an Arthritis Interagency Coordinating Committee, a Diabetes Mellitus Interagency Coordinating Committee, and a Digestive Diseases Interagency Coordinating Committee (hereinafter in this section individually referred to as a 'Committee').

Membership.

"(b) Each Committee shall be composed of the Directors (or their designees) of each of the national research institutes and divisions involved in research regarding the diseases with respect to which the Committee is established, the Associate Director of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases for the diseases for which the Committee is established, the chief medical director (or the director's designee) of the Veterans' Administration, and a medical officer designated by the Department of Defense, and shall include representation from all other Federal departments and agencies whose programs involve health functions or responsibilities relevant to such diseases, as determined by the Secretary. Each Committee shall be chaired by the Director of the National Institutes of Health (or the Director's designee). Each Committee shall meet at the call of the chairman, but not less often than four times a year.

Report.

"(c) Each Committee shall prepare an annual report for—

"(1) the Secretary,

"(2) the Director of the National Institutes of Health, and

Supra.

"(3) the Advisory Board established under section 437 for the disease for which the Committee was established,

detailing the work of the Committee in the fiscal year for which the report was prepared in carrying out the coordinating activities

described in paragraphs (1) and (2) of subsection (a). Such report shall be submitted not later than the sixtieth day after the end of each fiscal year.".

SEC. 206. Sections 436A and 440 (42 U.S.C. 289c-3a and 289c-7) are repealed, and the following new section is inserted after the section added by section 205 of this title: Repeals.

"DIABETES, ARTHRITIS, AND DIGESTIVE DISEASES ADVISORY BOARDS

"SEC. 437. (a) The Secretary shall establish the National Arthritis Advisory Board, the National Diabetes Advisory Board, and the National Digestive Diseases Advisory Board (hereinafter in this section individually referred to as an 'Advisory Board'). Establishment. 42 USC 289c-4.

"(b) Each Advisory Board shall be composed of eighteen appointed members and nonvoting, ex officio members as follows:

"(1) The Secretary shall appoint—

"(A) twelve members from individuals who are scientists, physicians, and other health professionals, who are not officers or employees of the United States, and who represent the specialities and disciplines relevant to the diseases with respect to which the Advisory Board is established; and

"(B) six members from the general public who are knowledgeable with respect to such diseases, including at least one member who is a person who suffers from the disease and one member who is a parent of a person who suffers from the disease.

Of the appointed members, at least five shall by virtue of training or experience be knowledgeable in health education, nursing, data systems, public information, or community program development.

"(2) The following shall be ex officio members of each Advisory Board: The Assistant Secretary for Health, the Director of the National Institutes of Health, the Director of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, the Director of the Center for Disease Control, the chief medical director of the Veterans' Administration, a medical officer designated by the Department of Defense (or the designees of such ex officio members), the Associate Director of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases for the diseases for which the Board is established, and such other officers and employees of the United States as the Secretary deems necessary for the Advisory Board to carry out its functions. In the case of the National Diabetes Advisory Board, the following shall also be ex officio members: The Director of the National Heart, Lung, and Blood Institute, the Director of the National Eye Institute, the Director of the National Institute of Child Health and Human Development, the Administrator of the Health Resources Administration, and the Administrator of the Health Services Administration (or their designees of such ex officio members).

"(c) Members of an Advisory Board who are officers or employees of the Federal Government shall serve as members of the Advisory Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board. Compensation. 5 USC 5332 note.

"(d) The term of office of an appointed member of an Advisory Board is three years, except that no term of office may extend beyond the expiration of the Advisory Board. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office. If a vacancy occurs in an Advisory Board, the Secretary shall make an appointment to fill the vacancy not later than ninety days from the date the vacancy occurs. In the case of the National Diabetes Advisory Board and the National Arthritis Advisory Board, six of the members of each such Advisory Board whose terms expired on September 30, 1980, shall be reappointed for a term of three years.

"(e) The members of each Advisory Board shall select a chairman from among the appointed members.

"(f) The Secretary shall, after consultation with and consideration of the recommendations of an Advisory Board, provide the Advisory Board with an executive director and one other professional staff member. In addition, the Secretary shall, after consultation with and consideration of the recommendations of the Advisory Board, provide the Advisory Board with such additional professional staff members, such clerical staff members, and (through contracts or other arrangements) with such administrative support services and facilities, such information, and such services of consultants, as the Secretary determines are necessary for the Advisory Board to carry out its functions.

Meetings. "(g) Each Advisory Board shall meet at the call of the chairman or upon request of the Director of the National Institute for Arthritis, Diabetes, and Digestive and Kidney Diseases, but not less often than four times a year.

"(h) Each Advisory Board shall—

"(1) review and evaluate the implementation of the plan referred to in section 434(e) regarding the diseases with respect to which the Advisory Board was established;

Ante, p. 3185.

"(2) periodically update the plan referred to in paragraph (1) to ensure its continuing relevance;

"(3) for the purpose of assuring the most effective use and organization of resources respecting such diseases, advise and make recommendations to Congress, the Secretary, the Director of the National Institutes of Health, the Director of the National Institute for Arthritis, Diabetes, and Digestive and Kidney Diseases, and the heads of other appropriate Federal agencies for the implementation of such plan; and

"(4) maintain liaison with other advisory bodies related to Federal agencies involved in the implementation of such plan, the Coordinating Committee for such diseases, and with key non-Federal entities involved in activities affecting the control of such diseases.

"(i) In carrying out its functions, the Advisory Board may establish subcommittees, convene workshops and conferences, and collect data. Such subcommittees may be composed of Advisory Board members and nonmember consultants with expertise in the particular area addressed by such subcommittees. The subcommittees may hold such meetings as are necessary to enable them to carry out their activities.

Report. "(j) Each Advisory Board shall submit to the Secretary and Congress an annual report which—

"(1) describes the Advisory Board's activities in the fiscal year for which the report is made;

"(2) describes and evaluates the progress made during such year in research, treatment, education, and training with respect to the diseases with respect to which the Advisory Board was established;

"(3) summarizes and analyzes expenditures made by the Federal Government for activities respecting such diseases in the fiscal year for which the report is made; and

"(4) contains the Advisory Board's recommendations, if any, for changes in the plan referred to in subsection (h)(1).

"(k) For each Advisory Board there is authorized to be appropriated $300,000 for the fiscal year ending September 30, 1981; $300,000 for the fiscal year ending September 30, 1982; and $300,000 for the fiscal year ending September 30, 1983. Appropriation authorization.

"(l) Each Advisory Board shall expire on September 30, 1983.".

SEC. 207. (a) Subsection (a) of section 438 (42 U.S.C. 289c-5a(a)) is amended by striking out ", acting through the Assistant Secretary for Health,". 42 USC 289c-5.

(b) Subsection (b) of such section is amended (1) by striking out "and" at the end of paragraph (4), (2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and", and (3) by adding after paragraph (5) the following:

"(6) projects for the investigation into the epidemiology of all forms and aspects of arthritis, including investigations into the social, environmental, behavioral, nutritional, and genetic determinants and influences involved in the epidemiology of arthritis.".

(c) Paragraphs (2) and (3) of subsection (d) of such section are each amended by inserting before the period a comma and the following: "and for each of the next 3 fiscal years".

SEC. 208. (a) Subsection (a) of section 439 (289c-6(a)) is amended by striking out ", acting through the Assistant Secretary for Health". 42 USC 289c-6.

(b) Subsection (b) of such section is amended by adding after and below paragraph (2) the following: "A center may use funds provided under this subsection to provide stipends for health professionals enrolled in training programs described in paragraph (2)(B).".

(c) Subsection (e) of such section is amended by striking out "not later than four months after the end of each fiscal year" and inserting in lieu thereof "on or before November 30 of each year".

(d) Subsection (f) of such section is repealed and subsection (g) is redesignated as subsection (f) and amended (1) by striking out "and" after "1979,"; and (2) by inserting before the period a comma and the following: "$14,000,000 for the fiscal year ending September 30, 1981, $17,000,000 for the fiscal year ending September 30, 1982, and $20,000,000 for the fiscal year ending September 30, 1983".

SEC. 209. The following section is inserted after section 439:

"INFORMATION AND EDUCATION CENTER FOR DIGESTIVE DISEASES

"SEC. 440. The Secretary, acting through the Director of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, shall establish an information and education center for digestive diseases (1) to identify, collect, analyze, and disseminate information respecting the diseases, and (2) to serve as a national educational resource for patients with such diseases and their families, physicians, and other health professionals.". Establishment. 42 USC 289c-7.

TITLE III—HEALTH PLANNING AMENDMENTS

SEC. 301. The second sentence of section 1501(b)(1) (42 U.S.C. 300k-1(b)(1)) is amended by striking out "in" and inserting in lieu thereof "including those in".

SEC. 302. Effective with respect to fiscal years beginning after September 30, 1981, section 1516(d)(3) (42 U.S.C. 3001-5(d)(3)) is amended to read as follows:

"(3) Notwithstanding subsection (c)(1), if the total of the amounts appropriated under paragraph (1) for any fiscal year (reduced by the amount to be retained by the Secretary for use under paragraph (2)) is less than the amount required to make grants to each health systems agency designated under section 1515(c) in the amount prescribed for such agency by subsection (c)(1), the Secretary shall make a pro rata reduction in the amount of the grant to each such agency as follows:

42 USC 300*l*-4.

Grant, pro-rata reduction.

"(A) The Secretary shall compute the amount of the grant each such agency would be entitled to receive under such subsection if the dollar limit prescribed by subparagraph (A)(ii) of such subsection did not apply.

"(B) The Secretary shall reduce on a pro rata basis the amount of the grant to each such agency computed under subparagraph (A) of this paragraph so that the total amount of such grants equals the total of the amounts appropriated for such fiscal year (as so reduced), except that—

"(i) the amount of the grant to any such agency may not exceed $3,750,000,

"(ii) to the extent of available appropriations, no such agency shall receive a grant in an amount less than the amount prescribed by subparagraph (C) of subsection (c)(1) for such fiscal year, and

"(iii) if the total of the appropriations for the fiscal year ending September 30, 1982, for such grants—

"(I) is equal to or greater than the total of the appropriations for such grants for the preceding fiscal year, no such agency shall receive a grant in an amount less than the amount of the grant it received in such preceding fiscal year unless the population of the area for which it is designated has decreased, unless the level of non-Federal funds on which its grant is computed had decreased, or unless the amount available for its grant is decreased because of an increase in the minimum grant prescribed by subsection (c)(1)(C), or

"(II) is less than the total of the appropriations for such grants for the preceding fiscal year, no such agency shall receive a grant in an amount greater than the amount of the grant it received in such preceding fiscal year unless the population of the area for which it is designated has increased, unless the level of non-Federal funds on which its grant is computed has increased, or unless the amount of its grant is increased under subsection (c)(1)(C).".

42 USC 300n-6 note.

SEC. 303. (a) Section 129(b)(2)(A) of Public Law 96-79 (93 Stat. 630) is amended by striking out "Health Planning and Resources Development Amendments of 1979" and inserting in lieu thereof "Health Programs Extension Act of 1980".

Ante, p. 3183.

(b) Section 1521(d)(1)(B)(i) (42 U.S.C. 300m(d)(1)(B)(i)) is amended by striking out "Health Planning and Resources Development Amendments of 1979" and inserting in lieu thereof "Health Programs Extension Act of 1980".

Ante, p. 3183.

42 USC 300m-6 note.

(c) Section 117(c) of the Health Planning and Resources Development Amendments of 1979 (93 Stat. 620) is amended by striking out

"February 1, 1982" and inserting in lieu thereof "February 1, 1983".

SEC. 304. Section 124(c) of Public Law 96-79 (93 Stat. 627) is amended to read as follows: 42 USC 300m-3.

"(c)(1) Section 1524(b)(1)(C) is amended by striking out 'one-third' and inserting in lieu thereof 'one-half'. 42 USC 300m-3.

"(2) Section 1524(b)(1)(D) is amended (A) by striking out 'two' and inserting in lieu thereof 'one', and (B) by striking out 'an ex officio' and inserting in lieu thereof 'a nonvoting, ex officio'.".

SEC. 305. The first sentence of section 1524(c)(6) (42 U.S.C. 300m-3(c)(6)) is amended by striking out "section 409" and inserting in lieu thereof "section 409 or 410".

SEC. 306. Section 1527(b)(3)(B) (42 U.S.C. 300m-6(b)(3)(B)) is amended (1) by striking out "that (i)" and inserting in lieu thereof "that", (2) by striking out ", which intends to acquire the controlling interest or which intends to use the facility is" and inserting in lieu thereof "which intends to acquire the controlling interest in or use the facility is (i)", (3) by striking out "and (ii)" and inserting in lieu thereof "and", and (4) by striking out "or the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (1)" and inserting in lieu thereof ", or (ii) a health care facility which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (B) of paragraph (1) and with respect to its patients meets the requirements of clause (iv) of such subparagraph". Certificate of need program.

SEC. 307. Section 1527 (42 U.S.C. 300m-6) is amended by adding at the end the following new subsection:

"(h)(1) Subsection (a) does not require a certificate of need program to require a health care facility to obtain a certificate of need for the acquisition of major medical equipment to be used solely for research, institutional health services to be offered solely for research, or the obligation of a capital expenditure to be made solely for research if the acquisition, offering, or obligation does not— Major medical equipment; acquisition, conditions.

"(A) affect the charges of the facility for the provision of medical or other patient care services other than the services which are included in the research;

"(B) substantially change the bed capacity of the facility; or

"(C) substantially change the medical or other patient care services of the facility which were offered before the acquisition, offering, or obligation.

"(2)(A) Before a health care facility acquires major medical equipment to be used solely for research, offers an institutional health service solely for research, or obligates a capital expenditure solely for research, such health care facility shall notify in writing the State Agency of the State in which such facility is located of such facility's intent and the use to be made of such medical equipment, institutional health service, or capital expenditure. State Agency of the State, notification.

"(B) Paragraph (1) does not apply with respect to the acquisition of major medical equipment, the offering of institutional health services, or the obligation of a capital expenditure if—

"(i) the notice required by subparagraph (A) is not filed with the State Agency with respect to such acquisition, offering, or obligation, or

"(ii) the State Agency finds, within 60 days after the date it receives a notice in accordance with subparagraph (A) respecting the acquisition, offering, or obligation, that the acquisition, offering, or obligation will have the effect or make a change described in subparagraph (A), (B), or (C) of paragraph (1).

"(3) If major medical equipment is acquired, an institutional health service is offered, or a capital expenditure is obligated and a certificate of need is not required for such acquisition, offering, or obligation as provided in paragraph (1), such equipment or service or equipment or facilities acquired through the obligation of such capital expenditure may not be used in such a manner as to have the effect or to make a change described in subparagraph (A), (B), or (C)

of paragraph (1) unless the State Agency issues a certificate of need approving such use.

"Solely for research."

"(4) For purposes of this subsection, the term 'solely for research' includes patient care provided on an occasional and irregular basis and not as part of a research program.".

SEC. 308. The last sentence of section 1531(3) (42 U.S.C. 300n(3)) is amended (1) by striking out "An individual" and inserting in lieu thereof "Notwithstanding subparagraph (B), an individual", and (2) by striking out "an entity" and inserting in lieu thereof "one or more entities".

SEC. 309. Section 1531(5) (42 U.S.C. 300n(5)) is amended by striking out "maintained or developed by the Department of Commerce and".

SEC. 310. Section 1532(b)(12)(D) (42 U.S.C. 300n-l(b)(12)(D)) is amended by striking out "administratively".

TITLE IV—HEALTH PROFESSIONS PROGRAMS

SEC. 401. The first sentence of section 728(a) (42 U.S.C. 294a(a)) is amended by inserting a comma before the period and the following: "and for the next fiscal year".

SEC. 402. (a) Section 731(a)(1)(A) (42 U.S.C. 294d(a)(1)(A)) is amended (1) by inserting "and" at the end of clause (iv), and (2) by striking out clause (v) and redesignating clause (vi) as clause (v).

(b) Section 731(b) is amended by striking out "12 percent per annum on the unpaid principal balance of the loan" and inserting in lieu thereof "the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the previous quarter plus 3½ percentage points, rounded to the next higher one-eighth of 1 percent".

SEC. 403. (a) Section 753(a)(2) (42 U.S.C. 294v(a)(2)) is amended—

(1) by striking out "(A)" after "designated under section 332) which";

(2) by striking out ", and" after "section 333(c)"; and

(3) by striking out subclause (B) thereof and inserting in lieu thereof a period.

(b) Section 753(a) is amended by striking out the last sentence.

SEC. 404. Section 212(j)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(j)(2)(A)) is amended by striking out "1980" and inserting in lieu thereof "1981".

TITLE V—NEUROLOGICAL RESEARCH

42 USC 289 note.

SEC. 501. (a) The Secretary of Health and Human Services shall enter into a contract, in accordance with subsection (b), with a private, nonprofit entity pursuant to which such entity shall—

Review.

(1) conduct a general review of past and ongoing neurological research;

(2) include, in the review described in paragraph (1), a review of past and ongoing research regarding spinal cord regeneration following acute and chronic damage to the spinal cord;

(3) identify those areas of neurological research which appear to be the most promising;

5-year plan outline.

(4) prepare an outline of a 5-year plan for neurological research, including (A) recommendations regarding the resources needed to effectively implement such a plan, and (B) specific recommendations with respect to spinal cord regeneration research; and

Report.

(5) transmit to the Secretary a report summarizing its findings and recommendations.

(b) The Secretary shall enter into the contract described in subsection (a) with the Institute of Medicine of the National Academy of Science, except that, if the Institute of Medicine of the National Academy of Science declines to enter into such contract after a reasonable period of time determined by the Secretary, the Secretary shall enter into such contract with any other private, nonprofit entity which the Secretary has determined is qualified to carry out the terms of such contract.

(c) The report described in subsection (a)(5) shall be transmitted to the Secretary no later than 12 months after the date of the enactment of this Act.

(d) The authority of the Secretary to enter into a contract under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

Approved December 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-997 accompanying H.R. 7036 (Comm. on Interstate and Foreign Commerce) and No. 96-1478 (Comm. of Conference).
SENATE REPORT No. 96-714 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 19, considered and passed Senate.
Aug. 28, H.R. 7036 considered and passed House; passage vacated and S. 988, amended, passed in lieu.
Dec. 1, Senate agreed to conference report.
Dec. 4, House agreed to conference report.

Public Law 96-539
96th Congress

An Act

Dec. 17, 1980
[H.R. 7018]

To extend the Federal Insecticide, Fungicide, and Rodenticide Act until September 30, 1981, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Insecticide, Fungicide, and Rodenticide Act, amendment.

SCIENTIFIC ADVISORY PANEL

SECTION 1. Section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by— 7 USC 136w.

(1) inserting immediately after the fifth sentence the following new sentences: "The subpanels may be composed of scientists other than members of the advisory panel, as deemed necessary for the purpose of evaluating scientific studies relied upon by the Administrator with respect to proposed action. Such additional scientists shall be selected by the advisory panel."; and

(2) adding at the end thereof the following sentence: "Whenever the Administrator exercises authority under section 6(c) of this Act to immediately suspend the registration of any pesticide to prevent an imminent hazard, the Administrator shall promptly submit to the advisory panel for comment, as to the impact on health and the environment, the action taken to suspend the registration of such pesticide.". 7 USC 136d.

PEER REVIEW

SEC. 2. (a) Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof the following new subsection (e): 7 USC 136w.

"(e) PEER REVIEW.—The Administrator shall, by written procedures, provide for peer review with respect to the design, protocols, and conduct of major scientific studies conducted under this Act by the Environmental Protection Agency or by any other Federal agency, any State or political subdivision thereof, or any institution or individual under grant, contract, or cooperative agreement from or with the Environmental Protection Agency. In such procedures, the Administrator shall also provide for peer review, using the advisory panel established under subsection (d) of this section or appropriate experts appointed by the Administrator from a current list of nominees maintained by such panel, with respect to the results of any such scientific studies relied upon by the Administrator with respect to actions the Administrator may take relating to the change in classification, suspension, or cancellation of a pesticide: *Provided,* That whenever the Administrator determines that circumstances do not permit the peer review of the results of any such scientific study prior to the Administrator's exercising authority under section 6(c) of this Act to immediately suspend the registration of any pesticide to prevent an imminent hazard, the Administrator shall promptly thereafter provide for the conduct of peer review as pro- 7 USC 136d.

vided in this sentence. The evaluations and relevant documentation constituting the peer review that relate to the proposed scientific studies and the results of the completed scientific studies shall be included in the submission for comment forwarded by the Administrator to the advisory panel as provided in subsection (d). As used in this subsection, the term 'peer review' shall mean an independent evaluation by scientific experts, either within or outside the Environmental Protection Agency, in the appropriate disciplines.".

Comments.

"Peer review."

(b) The provisions of this section shall become effective upon publication in the Federal Register of final procedures for peer review as provided in this section, but in no event shall such provisions become effective later than one year after the date of enactment of this Act.

Publication in Federal Register.

7 USC 136w note.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 3. Section 31 of the Federal Insecticide, Fungicide, and Rodenticide Act, is amended by adding at the end thereof the following new sentence: "There are hereby authorized to be appropriated to carry out the provisions of this Act for the period beginning October 1, 1979, and ending September 30, 1980, such sums as may be necessary, but not in excess of $72,160,000, and for the period beginning October 1, 1980, and ending September 30, 1981, such sums as may be necessary, but not in excess of $77,500,000.".

7 USC 136y.

CONGRESSIONAL REVIEW

SEC. 4. Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof the following new paragraph (4):

7 USC 136w.

"(4) RULE AND REGULATION REVIEW.—

"(A) CONGRESSIONAL REVIEW.—Notwithstanding any other provision of this Act, simultaneously with promulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subparagraph (B), the rule or regulation shall not become effective, if within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule or regulation promulgated by the Administrator of the Environmental Protection Agency dealing with the matter of , which rule or regulation was transmitted to Congress on ', the blank spaces therein being appropriately filled.

Transmittal.

"(B) EFFECTIVE DATE.—If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in subparagraph (A).

"(C) For the purposes of subparagraphs (A) and (B) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 60 and 90 calendar days of continuous session of Congress.

"(D) EFFECT OF CONGRESSIONAL INACTION.—Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.

"(E) JUDICIAL REVIEW.—

"(i) Any interested party, including any person who participated in the rulemaking involved, may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this paragraph. The district court immediately shall certify all questions of the constitutionality of this paragraph to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

"(ii) Notwithstanding any other provision of law, any decision on a matter certified under clause (i) of this subparagraph shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than 20 days after the decision of the court of appeals.

"(iii) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under clause (i) of this subparagraph.".

Approved December 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1020 (Comm. on Agriculture) and No. 96-1480 (Comm. of Conference).

SENATE REPORT No. 96-764 accompanying S. 2587 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 126 (1980):

June 17, considered and failed of passage in House.

June 24, considered and passed House.

July 24, S. 2587 passed Senate; passage vacated and H.R. 7018, amended, passed in lieu.

Dec. 1, Senate agreed to conference report.

Dec. 4, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 51:

Dec. 17, Presidential statement.

Public Law 96-540
96th Congress

An Act

To authorize appropriations for the Department of Energy for national defense programs for fiscal year 1981, and for other purposes.

Dec. 17, 1980
[S. 3074]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981".

Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981.

TITLE I—NATIONAL SECURITY PROGRAMS

OPERATING EXPENSES

SEC. 101. Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1981 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the armed services, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For the defense inertial confinement fusion program, $141,775,000, to be allocated as follows:

(A) For glass laser experiments, $69,800,000.

(B) For gas laser experiments, $38,000,000.

(C) For particle beam experiments, $15,700,000.

(D) For supporting research and experiments, $17,000,000, none of which may be used for the research, development, or demonstration of the use of heavy ion devices as drivers for inertial confinement fusion experiments and inertial confinement fusion systems.

(E) For program direction, $1,275,000.

(2) For the naval reactors development program, $250,350,000, including $10,350,000 for program direction.

(3) For weapons activities, $1,836,823,000, to be allocated as follows:

(A) For research and development, $501,064,000.

(B) For weapons testing, $318,000,000.

(C) For production and surveillance, $980,100,000.

(D) For program direction, $37,659,000.

(4) For verification and control technology, $38,591,000, including $1,765,000 for program direction.

(5) For the defense nuclear materials production and byproducts management program, to be administered by the Assistant Secretary for Defense Programs, $709,255,000, to be allocated as follows:

(A) For production reactor expenses, $226,907,000.

(B) For the processing of defense nuclear materials, $104,419,000.

(C) For supporting services, $93,739,000, of which $15,000,000 shall be used for the fiscal year 1981 increment

of startup costs for the Purex chemical processing plant and N-reactor mode conversion at Richland, Washington.

(D) For fluorinel processing of nonproduction fuels and related activities, $26,890,000.

(E) For special isotope separations research, $14,815,000.

(F) For decontamination and decommissioning, $4,000,000.

(G) For interim waste operations, $149,940,000.

(H) For long term waste management technology, $75,500,000, of which $5,000,000 shall be used only for the waste isolation pilot plant as authorized by section 213 of Public Law 96-164. 93 Stat. 1265.

(I) For transportation research and development, $5,000,000.

(J) For program direction $3,045,000, of which $1,330,000 shall be used for materials production and $1,715,000 shall be used for byproducts management.

(6) For nuclear materials security and safeguards technology development program (defense program), $43,304,000, including $3,795,000 for program direction.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1981 for plant and capital equipment (including planning, construction, acquisition and modification of facilities, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs, as follows:

(1) For defense inertial confinement fusion:

Project 81-D-101, particle beam fusion accelerator-II, Sandia National Laboratories, New Mexico, $36,750,000.

Project 80-AE-11, target fabrication facility, Los Alamos National Scientific Laboratory, New Mexico, $14,300,000, for a total project authorization of $15,300,000.

Project 80-AE-12, target fabrication facility, Ernest Orlando Lawrence Livermore National Laboratory, California, $6,600,000 for a total project authorization of $7,600,000.

Project 75-3-b, high energy laser facility, Los Alamos National Scientific Laboratory, New Mexico, an additional sum of $8,000,000, for a total project authorization of $62,500,000.

(2) For naval reactors development:

Project 81-T-111, general plant projects, various locations, $3,300,000.

Project 81-T-112, modifications and additions to prototype facilities, various locations, $103,000,000.

Project 81-T-113, fuel materials examination area upgrading, Bettis Atomic Power Laboratory, West Mifflin, Pennsylvania, $2,700,000.

(3) For weapons activities:

Project 81-D-102, general plant projects, various locations, $28,900,000.

Project 81-D-103, plant engineering and design, various locations, $4,600,000.

Project 81-D-104, heavy duty drill repair facility, Nevada Test Site, Nevada, $1,700,000.

Project 81-D-105, engineering office building, Nevada Test Site, Nevada, $1,800,000.

Project 81-D-106, weaponization facilities, Ernest Orlando Lawrence Livermore National Laboratory, California, $6,600,000.

Project 81-D-107, utilities and equipment restoration, replacement, and upgrade, various locations, $31,000,000.

Project 81-D-108, reactor support facilities, Sandia National Laboratories, New Mexico, $9,000,000.

Project 81-D-110, upgrade industrial liquid waste treatment plants, Los Alamos National Scientific Laboratory, New Mexico, $8,000,000.

Project 81-D-111, water system upgrade, Los Alamos National Scientific Laboratory, New Mexico, $9,000,000.

Project 81-D-112, tritium handling facility, Los Alamos National Scientific Laboratory, New Mexico, $4,100,000.

Project 81-D-115, MX warhead production facilities, various locations, $10,000,000.

Project 81-D-116, utilities and equipment restoration, replacement, and upgrade, Phase II, various locations, $75,000,000.

Project 81-D-119, reclamation facility improvements, Savannah River Plant, Aiken, South Carolina, $1,200,000.

Project 81-D-120, control of effluents and pollutants, Y-12 Plant, Oak Ridge, Tennessee, $3,000,000.

Project 81-D-121, upgrade weapons staging area roads, Pantex Plant, Texas, $1,600,000.

Project 81-D-133, earthquake damage restoration, Ernest Orlando Lawrence Livermore National Laboratory, California, $3,000,000.

Project 81-D-134, earthquake damage restoration, Sandia National Laboratory at Livermore, California, $2,000,000.

Project 80-AE-5, ground launched cruise missile (GLCM) warhead production facilities, various locations, an additional sum of $3,000,000, for a total project authorization of $7,000,000.

Project 80-AE-6, utilities and equipment restoration, replacement, and upgrade, various locations, an additional sum of $29,900,000 for a total project authorization of $69,300,000.

Project 79-7-e production and assembly facilities, Pantex plant, Amarillo, Texas, an additional sum of $13,000,000, for a total project authorization of $23,000,000.

Project 79-7-p, facilities for new modern strategic bomb, various locations, an additional sum of $7,000,000 for a total project authorization of $35,000,000.

(4) For materials production and byproducts management:

Project 81-D-123, general plant projects, various locations, $14,600,000.

Project 81-D-124, plant engineering and design, various locations, $4,200,000.

Project 81-D-125, N-reactor safety and environmental improvements, security and surveillance, Richland, Washington, $5,100,000.

Project 81-D-126, pollution abatement facilities, Richland, Washington, $1,000,000.

Project 81-D-128, restoration of production capabilities, various locations, $35,000,000.

Project 81-D-131, remote analytical facility upgrade and expansion, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $28,500,000.

Project 81-D-141, hangers for N-reactor irradiated fuel storage, Richland, Washington, $5,000,000.

Project 81-D-142, steam transfer header, Savannah River, South Carolina, $7,000,000.

Project 81-D-143, L-reactor upgrade, Savannah River, South Carolina, $49,000,000.

Project 77-13-a, fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, an additional sum of $34,000,000, for a total project authorization of $149,400,000.

Project 81-T-101, general plant projects, various locations, $9,140,000.

Project 81-T-102, plant engineering and design, various locations, $5,130,000.

Project 81-T-103, sixth set of calcined solids storage bins, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $15,000,000.

Project 81-T-104, radioactive waste facilities improvements, Oak Ridge National Laboratory, Tennessee, $20,000,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $10,000,000.

Project 81-T-106, transuranic waste treatment facility, Idaho National Engineering Laboratory, Idaho, $10,000,000 (AE only).

Project 77-13-f, waste isolation pilot plant, Delaware Basin, southeast New Mexico, an additional sum of $29,000,000, for a total project authorization of $119,000,000.

(5) For capital equipment not related to construction—

(A) for defense inertial confinement fusion, $11,000,000;

(B) for naval reactors development, $39,000,000;

(C) for weapons activities, $113,700,000;

(D) for verification and control technology, $800,000;

(E) for materials production and byproducts management, $75,507,000 of which $53,000,000 shall be used for materials production and $22,507,000 shall be used for byproducts management; and

(F) for nuclear materials security and safeguards development, $3,400,000.

TITLE II—GENERAL PROVISIONS

REPROGRAMING

SEC. 201. (a) Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of 105 percent of the amount authorized for that program by this Act or $10,000,000 more than the amount authorized for that program by this Act, whichever is the lesser, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) has passed after receipt by the appropriate committees of Congress of notice from the Secretary of Energy (hereinafter in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(b) In no event may the total amount of funds obligated pursuant to this Act exceed the total amount authorized to be appropriated by this Act.

LIMITS ON GENERAL PLANT PROJECTS

SEC. 202. (a) The Secretary may carry out any construction project under the general plant projects provisions authorized by this Act if the total estimated cost of the construction project does not exceed $1,000,000.

(b) If at any time during the construction of any general plant project authorized by this Act, the estimated cost of the project is revised due to unforeseen cost variations and the revised cost of the project exceeds $1,000,000, the Secretary shall immediately furnish a complete report to the appropriate committees of Congress explaining the reasons for the cost variation. Report to congressional committees.

(c) In no event may the total amount of funds obligated to carry out all general plant projects authorized by this Act exceed the total amount authorized to be appropriated for such projects by this Act.

LIMITS ON CONSTRUCTION PROJECTS

SEC. 203. (a) Whenever the current estimated cost of a construction project which is authorized by section 102 of this Act, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of (1) the amount authorized for the project, or (2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress, the project may not be started or additional obligations incurred in connection with the project above the total estimated cost, as the case may be, unless a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 days to a day certain) has passed after receipt by the appropriate committees of Congress of written notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the action, or unless each committee before the expiration of such period has notified the Secretary it has no objection to the proposed action.

(b) Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

FUND TRANSFER AUTHORITY

SEC. 204. To the extent specified in appropriation Acts, funds appropriated pursuant to this Act may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be

merged with the appropriations of the agency to which the funds are transferred.

AUTHORITY FOR CONSTRUCTION DESIGN

SEC. 205. (a)(1) Within the amounts authorized by this Act for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

Notification to congressional committees.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the appropriate committees of Congress in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

SEC. 206. In addition to the advance planning and construction design authorized by section 102, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

SEC. 207. Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this Act for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

ADJUSTMENTS FOR PAY INCREASES

SEC. 208. Appropriations authorized by this Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

AVAILABILITY OF FUNDS

SEC. 209. When so specified in an appropriation Act, amounts appropriated for "Operating Expenses" or for "Plant and Capital Equipment" may remain available until expended.

RESTRICTION ON LICENSING REQUIREMENT FOR CERTAIN DEFENSE ACTIVITIES AND FACILITIES

42 USC 7272.

SEC. 210. None of the funds authorized to be appropriated by this or any other Act may be used for any purpose related to licensing of any defense activity or facility of the Department of Energy by the Nuclear Regulatory Commission.

RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER CLEAN AIR ACT

SEC. 211. None of the funds authorized to be appropriated by this or any other Act may be used to pay any penalty, fine, forfeiture, or settlement resulting from a failure to comply with the Clean Air Act (42 U.S.C. 7401 et seq.) with respect to any defense activity of the Department of Energy if (1) the Secretary finds that compliance is physically impossible within the time prescribed for compliance, or (2) the President has specifically requested appropriations for compliance and the Congress has failed to appropriate funds for such purpose. 42 USC 7273.

ENHANCED RADIATION WARHEADS

SEC. 212. The Secretary of Energy shall produce and stockpile the nuclear materials and the warhead components necessary to enable the rapid conversion of the W70-3 and W79-1 warheads to an enhanced radiation capability.

URANIUM MILL TAILINGS PLAN

SEC. 213. The Secretary of Energy shall develop a plan for a cooperative program to provide assistance in the stabilization and management of uranium mill tailings which have resulted from ore processing to extract uranium under contract with the United States for use primarily in defense programs and which are now commingled with other tailings. In developing the plan, the Secretary shall establish the amount and condition of the tailings resulting from such Federal contracts at each currently operating or currently licensed extraction site in order to permit calculation of the federally contracted share of the total tailings which must be stabilized and managed over time. The plan shall include a methodology for establishing the extent of Federal assistance appropriate to meet the costs for stabilizing and managing such tailings at each such site in order to comply with a requirement of Federal law or regulation imposed after termination of such Federal contracts. The Secretary shall consult with the owners and operators of each such site and shall submit the plan and his recommendations to the Armed Services Committees of the Congress not later than October 1, 1981. Submittal to congressional committees.

Approved December 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-947 accompanying H.R. 7265 (Comm. on Armed Services).
SENATE REPORT No. 96-920 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 30, considered and passed Senate.
Nov. 20, H.R. 7265 considered and passed House; passage vacated and S. 3074, amended, passed in lieu.
Nov. 25, Senate agreed to House amendment with an amendment.
Dec. 1, House concurred in Senate amendment.

Public Law 96-541
96th Congress

An Act

Dec. 17, 1980
[H.R. 6975]

To extend certain temporary tax provisions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Temporary tax provisions, extension.

SECTION 1. 18-MONTH EXTENSION OF PROVISIONS RELATING TO EMPLOYMENT STATUS FOR EMPLOYMENT TAXES.

26 USC 3401 note.

(a) IN GENERAL.—Subsection (a) of section 530 of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before 1981) is amended—

(1) by striking out "January 1, 1981" in paragraphs (1)(A) and (3) and inserting in lieu thereof "July 1, 1982",

(2) by striking out "1981" in the subsection heading and inserting in lieu thereof "July 1, 1982", and

(3) by striking out "1979 and 1980" in the heading for paragraph (3) and inserting in lieu thereof "prior".

(b) PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.—Subsection (b) of section 530 of the Revenue Act of 1978 is amended by striking out "January 1, 1981" and inserting in lieu thereof "July 1, 1982".

SEC. 2. THREE-YEAR EXTENSION OF PROVISIONS RELATING TO HISTORIC PRESERVATION.

26 USC 191.

(a) AMORTIZATION OF CERTAIN REHABILITATION EXPENDITURES.—Section 191 of the Internal Revenue Code of 1954 (relating to amortization of certain rehabilitation expenditures for certified historic structures) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) APPLICATION OF SECTION.—This section shall apply with respect to additions to capital account made after June 14, 1976, and before January 1, 1984.".

26 USC 280B.

(b) DENIAL OF DEDUCTIONS FOR CERTAIN DEMOLITIONS.—Section 280B of such Code (relating to denial of deduction for demolition of certain historic structures) is amended by adding at the end thereof the following new subsection:

"(c) APPLICATION OF SECTION.—This section shall apply with respect to demolitions commencing after June 30, 1976, and before January 1, 1984.".

26 USC 167.

(c) DEPRECIATION OF IMPROVEMENTS.—Subsection (n) of section 167 of such Code (relating to depreciation of improvements) is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF SUBSECTION.—This subsection shall apply to that portion of the basis which is attributable to construction, reconstruction, or erection after December 31, 1975, and before January 1, 1984.".

(d) DEPRECIATION OF CERTAIN SUBSTANTIALLY REHABILITATED HISTORIC PROPERTY.—Subsection (o) of section 167 of such Code (relating

to depreciation of substantially rehabilitated historic property) is amended by adding at the end thereof the following new paragraph:

"(3) APPLICATION OF SUBSECTION.—This subsection shall apply with respect to additions to capital account occurring after June 30, 1976, and before January 1, 1984.".

(e) CONFORMING AMENDMENT.—The following provisions of section 2124 of the Tax Reform Act of 1976 are hereby repealed: Repeals.

(1) paragraph (4) of subsection (a), 26 USC 191 note.
(2) paragraph (3) of subsection (b), 26 USC 280B note.
(3) paragraph (2) of subsection (c), and 26 USC 167 note.
(4) paragraph (2) of subsection (d).

SEC. 3. TWO-YEAR EXTENSION OF PROVISION FOR 60-MONTH DEPRECIATION OF EXPENDITURES TO REHABILITATE LOW-INCOME RENTAL HOUSING.

Subsection (k) of section 167 of the Internal Revenue Code of 1954 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1982" each place it appears and inserting in lieu thereof "January 1, 1984". 26 USC 167.

SEC. 4. TWO-YEAR EXTENSION OF CREDIT OR REFUND OF TAX ON FUELS USED IN CERTAIN TAXICABS.

Paragraph (3) of section 6427(e) of the Internal Revenue Code of 1954 (relating to termination of credit or refund of tax on fuels used in certain taxicabs) is amended by striking out "1980" and inserting in lieu thereof "1982". 26 USC 6427.

SEC. 5. EXTENSION OF CERTAIN PROVISIONS RELATING TO EXCLUSION OF SCHOLARSHIP INCOME.

(a) FEDERAL GRANTS NOT INCLUDABLE IN GROSS INCOME MERELY BECAUSE THE RECIPIENT IS REQUIRED TO RENDER FUTURE SERVICE AS A FEDERAL EMPLOYEE.—

(1) IN GENERAL.—Section 117 of the Internal Revenue Code of 1954 (relating to scholarships and fellowship grants) is amended by adding at the end thereof the following new subsection: 26 USC 117.

"(c) FEDERAL GRANTS FOR TUITION AND RELATED EXPENSES NOT INCLUDABLE MERELY BECAUSE THERE IS REQUIREMENT OF FUTURE SERVICE AS FEDERAL EMPLOYEE.—

"(1) IN GENERAL.—If—

"(A) an amount received by an individual under a Federal program would be excludable under subsections (a) and (b) as a scholarship or fellowship grant but for the fact that the individual is required to perform future service as a Federal employee, and

"(B) the individual establishes that, in accordance with the terms of the grant, such amount was used for qualified tuition and related expenses,

gross income shall not include such amount.

"(2) QUALIFIED TUITION AND RELATED EXPENSES DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified tuition and related expenses' means—

"(i) tuition and fees required for the enrollment or attendance of a student at an institution of higher education, and

"(ii) fees, books, supplies, and equipment required for courses of instruction at an institution of higher education.

"(B) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an educational institution in any State which—

"(i) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate,

"(ii) is legally authorized within such State to provide a program of education beyond high school,

"(iii) provides an educational program for which it awards a bachelor's or higher degree, provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized health profession, and

"(iv) is a public or other nonprofit institution.

"(3) SERVICE AS FEDERAL EMPLOYEE.—For purposes of this subsection, service in a health manpower shortage area shall be treated as service as a Federal employee.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1980.

(b) NATIONAL RESEARCH SERVICE AWARDS.—Paragraph (2) of section 161(b) of the Revenue Act of 1978 (relating to national research service awards) is amended by striking out "1980" and inserting in lieu thereof "1981".

26 USC 117 note.

SEC. 6. REVISING AND MAKING PERMANENT RULES ALLOWING DEDUCTION FOR CONTRIBUTIONS FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Paragraph (3) of section 170(f) of the Internal Revenue Code of 1954 (relating to denial of deduction in case of certain contributions of partial interests in property) is amended by striking out subparagraphs (B) and (C) thereof and inserting in lieu thereof the following new subparagraph:

26 USC 170.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

"(i) a contribution of a remainder interest in a personal residence or farm,

"(ii) a contribution of an undivided portion of the taxpayer's entire interest in property, and

"(iii) a qualified conservation contribution.".

(b) QUALIFIED CONSERVATION CONTRIBUTION DEFINED.—Section 170 of such Code is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following new subsection:

"(h) QUALIFIED CONSERVATION CONTRIBUTION.—

Supra.

"(1) IN GENERAL.—For purposes of subsection (f)(3)(B)(iii), the term 'qualified conservation contribution' means a contribution—

"(A) of a qualified real property interest,

"(B) to a qualified organization,

"(C) exclusively for conservation purposes.

"(2) QUALIFIED REAL PROPERTY INTEREST.—For purposes of this subsection, the term 'qualified real property interest' means any of the following interests in real property:

"(A) the entire interest of the donor other than a qualified mineral interest,

"(B) a remainder interest, and

"(C) a restriction (granted in perpetuity) on the use which may be made of the real property.

"(3) QUALIFIED ORGANIZATION.—For purposes of paragraph (1), the term 'qualified organization' means an organization which—

"(A) is described in clause (v) or (vi) of subsection (b)(1)(A), or

"(B) is described in section 501(c)(3) and— 26 USC 501.

"(i) meets the requirements of section 509(a)(2), or 26 USC 509.

"(ii) meets the requirements of section 509(a)(3) and is controlled by an organization described in subparagraph (A) or in clause (i) of this subparagraph.

"(4) CONSERVATION PURPOSE DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'conservation purpose' means—

"(i) the preservation of land areas for outdoor recreation by, or the education of, the general public,

"(ii) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,

"(iii) the preservation of open space (including farmland and forest land) where such preservation is—

"(I) for the scenic enjoyment of the general public, or

"(II) pursuant to a clearly delineated Federal, State, or local governmental conservation policy, and will yield a significant public benefit, or

"(iv) the preservation of an historically important land area or a certified historic structure.

"(B) CERTIFIED HISTORIC STRUCTURE.—For purposes of subparagraph (A)(iv), the term 'certified historic structure' means any building, structure, or land area which—

"(i) is listed in the National Register, or

"(ii) is located in a registered historic district (as defined in section 191(d)(2)) and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district. 26 USC 191.

A building, structure, or land area satisfies the preceding sentence if it satisfies such sentence either at the time of the transfer or on the due date (including extensions) for filing the transferor's return under this chapter for the taxable year in which the transfer is made.

"(5) EXCLUSIVELY FOR CONSERVATION PURPOSES.—For purposes of this subsection—

"(A) CONSERVATION PURPOSE MUST BE PROTECTED.—A contribution shall not be treated as exclusively for conservation purposes unless the conservation purpose is protected in perpetuity.

"(B) NO SURFACE MINING PERMITTED.—In the case of a contribution of any interest where there is a retention of a qualified mineral interest, subparagraph (A) shall not be treated as met if at any time there may be extraction or removal of minerals by any surface mining method.

"(6) QUALIFIED MINERAL INTEREST.—For purposes of this subsection, the term 'qualified mineral interest' means—

"(A) subsurface oil, gas, or other minerals, and

"(B) the right to access to such minerals.".

(c) DEDUCTION FOR CONTRIBUTIONS FOR CONSERVATION PURPOSES MADE PERMANENT.—Section 309(b)(1) of the Tax Reduction and Simplification Act of 1977 and section 2124(e)(4) of the Tax Reform Act of 1976 are each amended by striking out ", and before June 14, 1981". 26 USC 170 note. 26 USC 170 note.

26 USC 170 note.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to transfers made after the date of the enactment of this Act in taxable years ending after such date.

Approved December 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1108 (Comm. on Ways and Means).
SENATE REPORT No. 96-1007 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 21, considered and passed House.
Oct. 2, considered and passed Senate, amended.
Dec. 1, House agreed to Senate amendments.

Public Law 96-542
96th Congress

An Act

To clarify certain effective date provisions of the Customs Courts Act of 1980.

Dec. 17, 1980
[S. 3235]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 701(a) of the Customs Courts Act of 1980 (94 Stat. 1747; 28 U.S.C. 251 note) is amended—

Customs Courts Act of 1980, clarification.

(1) by striking out "provided in subsection (b) of" and inserting in lieu thereof "otherwise provided in"; and

(2) by adding immediately before the period at the end thereof the following: "and shall apply with respect to civil actions pending on or commenced on or after such date".

(b) Section 701 of the Customs Courts Act of 1980 (94 Stat. 1747; 28 U.S.C. 251 note) is amended by redesignating subsection (b) as subsection (c) and by inserting immediately after subsection (a) the following new subsection:

"(b)(1) The following sections of title 28, United States Code, shall apply with respect to civil actions commenced on or after the effective date of this Act:

"(A) Sections 1581(d), 1581(g), 1581(h), 1581(i), and 1583, as amended by section 201 of this Act. *Ante*, p. 1728.

"(B) Sections 2631(d), 2631(g), 2631(h), 2631(i), 2631(j), 2632(a), 2635, 2636, 2637(c), 2639(b), 2640(a)(5), 2640(c), 2640(d), 2643(a), 2643(c)(2), 2643(c)(4), and 2644, as amended by section 301 of this Act. *Ante*, p. 1730.

"(C) Section 1876, as added by section 302(a) of this Act. *Ante*, p. 1739.

"(D) Sections 2601 and 2602, as amended by section 403 of this Act. *Ante*, p. 1740.

"(E) Section 1919, as amended by section 510 of this Act. *Ante*, p. 1743.

"(F) Section 1963A, as added by section 511(a) of this Act. *Ante*, p. 1743.

"(2) Sections 337(c) and 641(b) of the Tariff Act of 1930, as amended by sections 604 and 611 of this Act, shall apply with respect to civil actions commenced on or after the effective date of this Act. *Ante*, p. 1744, 1746.

"(3) Section 284 of the Trade Act of 1974, as added by section 613 of this Act, shall apply with respect to civil actions commenced on or after the effective date of this Act.". *Ante*, p. 1746.

SEC. 2. Section 516A(a)(3) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)(3)) is amended by striking out "subsections (b), (c), and (e) of".

Effective date. 19 USC 1516a note.

SEC. 3. The amendments made by this Act shall be effective as of November 1, 1980.

Approved December 17, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 2, considered and passed Senate.
Dec. 3, considered and passed House.

Public Law 96-543
96th Congress

An Act

To authorize the Secretary of the Interior to transfer certain land and facilities used by the Bureau of Mines, and for other purposes.

Dec. 17, 1980
[H.R. 7385]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) the Secretary of the Interior is authorized to enter into a contract with Carnegie-Mellon University, whereby the United States agrees to convey, and Carnegie-Mellon University agrees to accept, all right, title, and interest of the United States in and to the property described in subsection (b) hereof. The contract shall provide, inter alia, that Carnegie-Mellon University, at the time of the conveyance of title to said property, shall pay to the United States the amount which the Secretary of the Interior determines to be the fair market value of the property conveyed, or $5,400,000, whichever is greater. Should the cost of the engineering, design, and construction of the facility and related improvements authorized by section 2 of this Act and the fair market value each amount to less than $5,400,000, Carnegie-Mellon University shall pay the higher of the two amounts.

Carnegie-Mellon University, Pa. Land conveyance.

(2) The conveyance shall not be effective until (i) the facility authorized pursuant to section 2 of this Act is completed and ready for occupancy; and (ii) Carnegie-Mellon University enters into a long-term agreement with the Secretary of Labor, to the extent and in such amounts as are provided in advance in appropriations Acts, on behalf of the Mine Safety and Health Administration to lease to the Mine Safety and Health Administration all of that portion of the property designated as Building A (Main Building) and Building B (Service Building) and adjacent parking areas until such time as the Secretary of Labor determines that the property is no longer needed for occupancy and use by the Mine Safety and Health Administration.

(b) The property referred to in subsection (a) includes the land and improvements thereon owned by the United States and used for the Pittsburgh facility of the Bureau of Mines, such land being situated in the Oakland area of Pittsburgh, Pennsylvania, and known as 4800 Forbes Avenue.

Description.

(c) The Secretary of Labor, on behalf of the Mine Safety and Health Administration, is authorized to enter into a lease agreement with Carnegie-Mellon University, to the extent and in such amounts as are provided in advance in appropriations Acts, and take such other actions as are necessary to occupy and use the space referred to in clause (ii) of subsection (a)(2) at a fair and reasonable price and under terms to be determined by the Secretary of Labor.

Lease agreement.

SEC. 2. (a) After a duly authorized representative of Carnegie-Mellon University has executed the contract referred to in paragraph (1) of subsection (a) of section 1 of this Act, the Secretary of the Interior may, with funds appropriated for such purposes, enlarge, equip, and improve the research facility of the Bureau of Mines near Bruceton, Pennsylvania, and may transfer such operations as he

deems appropriate to such facility from the facility at Pittsburgh, Pennsylvania.

Appropriation authorization.

(b) In order to carry out this section, there is hereby authorized to be appropriated not more than $5,400,000 for the engineering, design, and construction of facilities and related improvements at the research facility of the Bureau of Mines near Bruceton, Pennsylvania.

Approved December 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1140 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-977 accompanying S. 2734 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 23, considered and passed House.
Nov. 21, considered and passed Senate, amended, in lieu of S. 2734.
Dec. 2, House concurred in Senate amendments.

Public Law 96-544
96th Congress

Joint Resolution

Making an appropriation for the International Monetary Fund for the fiscal year ending September 30, 1981.

Dec. 17, 1980
[H.J. Res. 601]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sum is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1981, namely:

International Monetary Fund, appropriation.

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MONETARY PROGRAMS

United States Quota, International Monetary Fund

For an increase in the United States quota in the International Monetary Fund, the dollar equivalent of 4,202.5 million Special Drawing Rights (approximately $5,537,839,000), to remain available until expended, and balances equivalent to the current SDR value of the United States quota in the Fund shall be merged with this appropriation. Amounts equivalent to the United States reserve position in the Fund shall be credited to this appropriation. Amounts available in this account may be transferred to the Fund by the Secretary of the Treasury to meet United States obligations in the Fund in an amount not to exceed at any time the United States quota in the Fund. The amounts provided for valuation adjustments of Fund holdings of United States dollars shall continue to be available for this purpose and shall be available for transfers to this appropriation account for the purpose of such adjustments. In the administration of these funds it shall be the policy of the United States:

22 USC 286e note.

(1) that the Palestine Liberation Organization should not be given membership in the Fund or be given observer status or any other official status at any meeting sponsored by or associated with the Fund;

Palestine Liberation Organization.

(2) that the United States Executive Director of the Fund shall promptly notify the Fund of such policy;

(3) that in the event that the Fund provides either membership, observer status, or any other official status to the Palestine Liberation Organization, such action would result in a serious diminution of United States support; and

Report to Congress.

(4) that upon review of such action, the President would be required to report his recommendations to the Congress with regard to any further United States participation in the Fund.

Approved December 17, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1263 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 17, 25, considered and passed House.
Dec. 13, considered and passed Senate.

Public Law 96-545
96th Congress

An Act

To designate the United States Post Office and Federal Building in Huntington, West Virginia, as the "Sidney L. Christie Federal Building".

Dec. 18, 1980
[H.R. 1298]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office and Federal Building located in Huntington, West Virginia, is hereby designated as the "Sidney L. Christie Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Sidney L. Christie Federal Building.

Sidney L. Christie Federal Building, W. Va. Designation.

SEC. 2. The seventh sentence of section 202(c) of the Appalachian Regional Development Act of 1965 is amended by striking everything after "except" and through "child development demonstrations" and inserting in lieu thereof "that child development demonstrations assisted under this section during fiscal year 1979 may, upon State request, be approved under section 303 of this Act for continued support beyond that period".

40 USC app. 202.

40 USC app. 303.

Approved December 18, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-431 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 15, considered and passed House.
Vol. 126 (1980): Dec. 3, considered and passed Senate, amended.
Dec. 4, House concurred in Senate amendment.

Public Law 96-546
96th Congress

An Act

Dec. 18, 1980
[H.R. 8173]

To provide for distribution in the United States of certain International Communication Agency films relating to President Lyndon Baines Johnson.

Lyndon Baines Johnson. International Communication Agency films, distribution. Deposit in National Archives.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the International Communication Agency shall, upon receipt of reimbursement for any expenses involved, and upon the securing by the Administrator of General Services of any necessary music rights, make available to the Administrator for deposit in the National Archives of the United States, a master copy of each film listed in subsection (b) of this section, including any trims and outs from such films; and

Public availability.

(2) the Administrator shall make copies of those films available for purchase and public viewing in the United States.

(b) The films to be made available pursuant to subsection (a) of this section are the following:

"A President's Country".
"The President".
"Bridge of Friendship and Faith".
"President of Upper Volta Visits America".
"Journey to the Pacific".
"A Day in Malaysia".
"In Common Cause".
"Guest of Honor".
"A Day in April".
"El Weekend".
"Asian Journey".
"Common Purpose".
"LBJ at San Antonio".
"Day of the Oath".
"Meeting at Glasboro".

Approved December 18, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Nov. 17, considered and passed House.
Dec. 8, considered and passed Senate.

Public Law 96-547
96th Congress

An Act

To amend section 9 of the National Climate Program Act to extend the authorization for appropriations for fiscal years 1981, and for other purposes.

Dec. 18, 1980
[S. 1391]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9 of the National Climate Program Act (15 U.S.C. 2908) is amended to read as follows:

National Climate Program Act, appropriation authorization extension.

"SEC. 9. AUTHORIZATION FOR APPROPRIATIONS.

"In addition to any other funds otherwise authorized to be appropriated for the purpose of conducting climate-related programs, there are authorized to be appropriated to the Secretary, for the purpose of carrying out the provisions of this Act, not to exceed $50,000,000 for the fiscal year ending September 30, 1979, not to exceed $65,000,000 for the fiscal year ending September 30, 1980, and not to exceed $25,500,000 for the fiscal year ending September 30, 1981, of which amount not less than $2,653,000 shall be made directly available to the National Climate Program Office in the form of a budget item separate from the activities of the National Oceanic and Atmospheric Administration.".

SEC. 2. Section 6(b) of the National Weather Modification Policy Act of 1976 (15 U.S.C. 330e) is amended to read as follows: "There are authorized to be appropriated $150,000 for the fiscal year ending June 30, 1972, $200,000 each for the fiscal years 1973 through 1980, and $100,000 for the fiscal year ending September 30, 1981, to carry out the provisions of this chapter.".

Approved December 18, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1392 (Comm. on Science and Technology).
SENATE REPORT No. 96-782 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 27, considered and passed Senate.
Oct. 1, considered and passed House, amended.
Dec. 4, Senate concurred in House amendments.

Public Law 96-548
96th Congress

An Act

Dec. 18, 1980
[H.R. 8404]

To designate the Federal Building-United States Courthouse in Sacramento, California, the "John E. Moss Federal Building-United States Courthouse".

John E. Moss Federal Building-United States Courthouse, Calif. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Building-United States Courthouse, 650 Capitol Mall, Sacramento, California, shall hereafter be known and designated as the "John E. Moss Federal Building-United States Courthouse". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "John E. Moss Federal Building-United States Courthouse".

Approved December 18, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 5, considered and passed House.
Dec. 9, considered and passed Senate.

Public Law 96-549
96th Congress

An Act

To authorize the Secretary of the Interior to reimburse certain purchasers of subleases from, and creditors of, the Sangre de Cristo Development Company, Incorporated, and for other purposes.

Dec.18, 1980
[S. 1972]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior is authorized to reimburse persons who are determined by the Secretary to be bona fide purchasers of subleases from the Sangre de Cristo Development Company, Incorporated (a corporation incorporated under the laws of the State of New Mexico), for subdivision lots on the Pueblo of Tesuque Indian Reservation near Santa Fe, New Mexico. The Secretary is authorized to reimburse such persons for the amounts they have expended in the acquisition of a sublease or subleases and upon receipt of such compensation such persons must relinquish all claims or rights, if any, they may have arising from their sublease.

Sangre de Cristo Development Company, Inc. Reimbursements.

(b) Applications for reimbursement under this Act shall be in such form and contain such information as the Secretary of the Interior, by regulation, shall prescribe. No application for reimbursement shall be considered by the Secretary unless it is submitted on or before the date of expiration of the twenty-four-month period following the date of enactment of this Act.

Applications.

(c) Subject to the availability of appropriations, the Secretary shall reimburse those applicants who are determined to be bona fide purchasers of subleases from the Sangre de Cristo Development Company, Incorporated, pursuant to its master lease with Tesuque Pueblo initially approved May 24, 1970, by the Bureau of Indian Affairs and subsequently disapproved on August 24, 1977. As used in this Act, the term "bona fide purchasers" shall mean anyone who purchased a sublease in an arm's-length transaction, for value and without notice.

(d) Within the one-hundred-and-eighty-day period following the date of the enactment of this Act, the Secretary of the Interior shall take such action as may be necessary to inform purchasers of such subleases from the Sangre de Cristo Development Company, Incorporated, of the fact that the Secretary of the Interior has authority to reimburse any such person determined by the Secretary to be a bona fide purchaser of such sublease for the amounts expended by such purchaser in the acquisition of such sublease. The Secretary shall further inform such purchasers that any application for reimbursement must be submitted on or before the date of expiration of the twenty-four-month period following the date of the enactment of this Act.

SEC. 2. (a) Subject to the availability of appropriations, the Secretary of the Interior shall reimburse bona fide creditors of the Sangre de Cristo Development Company, Incorporated, who shall have been certified as such by the United States District Court for the District of New Mexico, Bankruptcy Division, in the action entitled "Sangre de Cristo Development Company, Incorporated, No. 77-1044 in Bank-

ruptcy", for the amount the court determines is owing to such creditors from such corporation. The United States shall have a right to intervene in such action as its interests may warrant in consideration of the provisions of this section and shall have the rights of a party in interest under section 502 of title II, United States Code. No person or entity having or having had an equity interest in the Sangre de Cristo Development Company, Incorporated, shall be deemed to be a bona fide creditor of the corporation for purposes of this section.

(b) Any creditor, who has accepted a sublease from the corporation for subdivision lots in compensation for services or materials provided to the corporation and who is otherwise a bona fide creditor under subsection (a) of this section, may be reimbursed pursuant to subsection (a) for the actual value of such services or materials upon certification by the court as provided in subsection (a) or upon proof satisfactory to the Secretary.

Jurisdiction.

SEC. 3. Jurisdiction is hereby conferred on the United States District Court for the District of New Mexico to hear, determine, and render judgment on any legal claim for damages, under existing law, that the Sangre de Cristo Development Company, Incorporated, may have against the United States arising from the action of the United States in the initial approval and subsequent disapproval of the lease described in section 1(c) of this Act or from the preparation of the environmental impact statement attendant to such lease. Such action must be filed within one year from the date of enactment of this Act and jurisdiction conferred by this section includes jurisdiction of any setoff, counterclaim, or other claim or demand whatever on the part of the United States against such corporation.

Appropriation authorization.

SEC. 4. Effective October 1, 1981, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 1 and 2 of this Act.

Approved December 18, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1408 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-798 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 20, considered and passed Senate.
Nov. 17, considered and passed House, amended.
Dec. 4, Senate concurred in House amendments.

Public Law 96-550
96th Congress

An Act

To designate certain National Forest System lands in the State of New Mexico for inclusion in the National Wilderness Preservation System, and for other purposes.

Dec. 19, 1980
[H.R. 8298]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Forest System lands, N. Mex. Designation.

TITLE I

SEC. 101. The purposes of this Act are to—

(1) designate certain National Forest System lands in New Mexico for inclusion in the National Wilderness Preservation System in order to promote, perpetuate, and preserve the wilderness character of the land, to protect watersheds and wildlife habitat, preserve scenic and historic resources, and to promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people;

(2) insure that certain other National Forest System lands in New Mexico be promptly available for nonwilderness uses including, but not limited to, campground and other recreation site development, timber harvesting, intensive range management, mineral development, and watershed and vegetation manipulation; and

(3) designate certain other National Forest System land in New Mexico for further study in furtherance of the purposes of the Wilderness Act.

16 USC 1131 note.

SEC. 102. (a) In furtherance of the purposes of the Wilderness Act, the following National Forest System lands in the State of New Mexico are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Gila National Forest, New Mexico, which comprise approximately two hundred and eleven thousand three hundred acres, as generally depicted on a map entitled "Aldo Leopold Wilderness—Proposed", dated August 1980, and which shall be known as the Aldo Leopold Wilderness;

16 USC 1132 note.

(2) certain lands in the Cibola National Forest, New Mexico, which comprise approximately forty-five thousand acres, as generally depicted on a map entitled "Apache Kid Wilderness—Proposed", dated November 1980, and which shall be known as the Apache Kid Wilderness;

16 USC 1132 note.

(3) certain lands in the Apache and Gila National Forests, New Mexico, which comprise approximately thirty thousand acres, as generally depicted on a map entitled "Blue Range Wilderness—Proposed", dated August 1980, and which shall be known as the Blue Range Wilderness;

16 USC 1132 note.

(4) certain lands in the Lincoln National Forest, New Mexico, which comprise approximately thirty-four thousand acres, as generally depicted on a map entitled "Capitan Mountains Wil-

16 USC 1132 note.

derness—Proposed", dated August 1980, and which shall be known as the Capitan Mountains Wilderness;

16 USC 1132 note.

(5) certain lands in the Carson National Forest, New Mexico, which comprise approximately eighteen thousand acres, as generally depicted on a map entitled "Cruces Basin Wilderness—Proposed", dated November 1980, and which shall be known as the Cruces Basin Wilderness: *Provided, however,* That the designation of this area as wilderness shall not interfere with the construction of additional fencing authorized by the grazing allotment management plan for the area, and shall not be cause to require reductions in existing potential animal unit months under the applicable grazing allotment management plan for the area;

16 USC 1132 note.

(6) certain lands in the Santa Fe National Forest, New Mexico, which comprise approximately five thousand two hundred acres, as generally depicted on a map entitled "Dome Wilderness—Proposed", dated August 1980, and which shall be known as the Dome Wilderness;

(7) certain lands in the Gila National Forest, New Mexico, which comprise approximately one hundred and forty thousand acres, as generally depicted on a map entitled "Gila Wilderness Additions—Proposed", dated November 1980, and which are hereby incorporated in and shall be deemed a part of the Gila Wilderness as designated by Public Law 88-577;

16 USC 1131 note.

16 USC 1132 note.

(8) certain lands in the Carson National Forest, New Mexico, which comprise approximately twenty thousand acres, as generally depicted on a map entitled "Latir Peak Wilderness—Proposed", dated November 1980, and which shall be known as the Latir Peak Wilderness;

(9) certain lands in the Carson and Santa Fe National Forests, New Mexico, which comprise approximately fifty-five thousand acres, as generally depicted on a map entitled "Pecos Wilderness Additions—Proposed", dated November 1980, and which are hereby incorporated in and shall be deemed a part of the Pecos Wilderness as designated by Public Law 88-577: *Provided,* That nothing in this Act shall interfere with the management of, or rules, regulations and law applying to the Santa Fe Municipal Watershed;

(10) certain lands in the Carson National Forest, New Mexico, which comprise approximately fourteen thousand seven hundred acres, as generally depicted on a map entitled "Wheeler Peak Wilderness Additions—Proposed", dated November 1980, and which are hereby incorporated in and shall be deemed to be a part of the Wheeler Peak Wilderness as designated by Public Law 88-577;

(11) certain lands in the Lincoln National Forest, New Mexico, which comprise approximately sixteen thousand eight hundred and sixty acres, as generally depicted on a map entitled "White Mountain Wilderness Additions—Proposed", dated August 1980, and which are hereby incorporated in and shall be deemed to be a part of the White Mountain Wilderness as designated by Public Law 88-577;

16 USC 1132 note.

(12) certain lands in the Cibola National Forest, New Mexico, which comprise approximately nineteen thousand acres, as generally depicted on a map entitled "Withington Wilderness—Proposed", dated August 1980, and which shall be known as the Withington Wilderness;

(b) The previous classifications of the Black Range Primitive Area, the Blue Range Primitive Area in the State of New Mexico, and the Gila Primitive Area are hereby abolished.

(c) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in this Act and legal descriptions of each wilderness area designated by this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, United States House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

Maps and legal descriptions, filing with congressional committees.

(d) Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 (78 Stat. 892) governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

16 USC 1131 note.

SEC. 103. (a) The Secretary of Agriculture shall review the following lands, in conjunction with the requirements of the National Forest Management Act of 1976 and in furtherance of the purposes of the Wilderness Act, as to their suitability or nonsuitability for preservation as wilderness, and shall submit his report and findings to the President, and the President shall submit his recommendations to the United States Senate and the United States House of Representatives no later than January 1, 1986:

Lands review, report to President and Presidential recommendations to Congress. 16 USC 1132 note. 16 USC 1600 note, 1131 note.

(1) Certain lands in the Coronado National Forest, New Mexico, which comprise approximately fifteen thousand one hundred and ten acres, as generally depicted on a map entitled "Bunk Robinson Wilderness Study Area—Proposed", dated November 1980, and which shall be known as the Bunk Robinson Wilderness Study Area.

(2) Certain lands in the Carson National Forest, New Mexico, which comprise approximately forty-six thousand acres, as generally depicted on a map entitled "Columbine Hondo Wilderness Study Area—Proposed", dated November 1980, and which shall be known as the Columbine Hondo Wilderness Study Area.

(3) Certain lands in the Lincoln National Forest, New Mexico, which comprise approximately twenty-one thousand acres, as generally depicted on a map entitled "Guadalupe Escarpment Wilderness Study Area—Proposed", dated November 1980, and which shall be known as the Guadalupe Escarpment Wilderness Study Area.

(4) Certain lands in the Gila National Forest, New Mexico, which comprise approximately eighteen thousand eight hundred and sixty acres, as generally depicted on a map entitled "Hell Hole Wilderness Study Area—Proposed", dated November 1980, and which shall be known as the Hell Hole Wilderness Study Area.

(5) Certain lands in the Apache and Gila National Forests, New Mexico, which comprise approximately eight thousand eight hundred acres, as generally depicted on a map entitled "Lower San Francisco Wilderness Study Area—Proposed", dated

November 1980, and which shall be known as the Lower San Francisco Wilderness Study Area.

(6) Certain lands in the Coronado National Forest, New Mexico, which comprise approximately seven thousand seven hundred and sixty acres, as generally depicted on a map entitled "Whitmire Canyon Wilderness Study Area—Proposed", dated November 1980, and which shall be known as the Whitmire Canyon Wilderness Study Area.

Administration.

(b) Subject to valid existing rights, the wilderness study areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System: *Provided,* That within the areas, current levels of motorized and other uses and improvements shall be permitted to continue subject to such reasonable rules and regulations as the Secretary of Agriculture shall prescribe.

SEC. 104. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of New Mexico and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to National Forest System lands in States other than New Mexico such statement shall not be subject to judicial review with respect to National Forest System lands in the State of New Mexico;

(2) with respect to the National Forest System lands in the State of New Mexico which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), except those areas designated for Wilderness Study by section 103 of this Act, or designated as wilderness by this Act, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System, and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans, and in no case prior to the date established by law for completion of the initial planning cycle;

16 USC 1600 note.

(3) areas in the State of New Mexico reviewed in such Final Environmental Statement and not designated as wilderness, or for wilderness study by this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans.

(c) Unless expressly authorized by Congress, the Secretary shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of New Mexico for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

SEC. 105. Congress does not intend that designation of wilderness areas in the State of New Mexico lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

TITLE II—TO ESTABLISH THE LANGMUIR RESEARCH SITE IN THE STATE OF NEW MEXICO

Establishment.
16 USC 542.

SEC. 201. That in order to encourage scientific research into atmospheric processes and astronomical phenomena, and to preserve conditions necessary for that research, there is hereby established the Langmuir Research Site (hereinafter referred to as the "research site") in the Cibola National Forest in the State of New Mexico.

16 USC 542a.

SEC. 202. The Congress finds that the high altitude and freedom from air pollution and night luminosity caused by human activity, make the research site uniquely suited to the conduct of research probes into thunder clouds and for other atmospheric and astronomical research purposes.

Administration.
16 USC 542b.

SEC. 203. The Secretary of Agriculture shall administer, protect, and regulate use of the research site in accordance with the laws, rules, and regulations applicable to National Forest System lands, and in such manner as will best contribute to purposes of this Act.

Land use agreement.
16 USC 542c.

SEC. 204. The Secretary of Agriculture in furtherance of the purposes of this Act, is hereby authorized, and directed, to enter into an appropriate land use agreement with New Mexico Institute of Mining and Technology for the Langmuir Research Site for the purpose of establishing conditions for use of the national forest land, and to set forth working relationships during such period of use.

16 USC 542d.

SEC. 205. (a) The research site shall consist of approximately thirty-one thousand acres, including a principle research facility of approximately one thousand acres. The boundaries are depicted on a map entitled "Langmuir Research Site", dated August 1980, which is on file and available for public inspection in the office of the Chief, Forest Service, United States Department of Agriculture.

Management plan, development.

(b) As soon as practicable, after enactment of this Act, the Secretary of Agriculture shall develop a comprehensive management plan for the research site consistent with requirements of the National Forest Management Act of 1976 (Public Law 94-588) (16 U.S.C. 1604), which shall be incorporated into the initial Cibola National Forest land and resource management plan as provided for under that Act.

Minor boundary adjustments, notice to congressional committees.

(c) Following timely notice in writing to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of his intention to do so, the Secretary may make minor adjustments in the boundaries of the research site to provide for more effective management or to encourage further research activity. For the purposes of this subsection, minor boundary adjustments shall not increase or decrease the amount of land within the research site by more than seven thousand acres.

(d) In developing the plan, the Secretary shall consult with the National Science Foundation, the New Mexico Institute of Mining and Technology, the New Mexico Academy of Science and appropriate conservation, wilderness, wildlife, industry, and other public interest groups.

(e) The plan shall prescribe specific research and management objectives necessary for the protection, management, and regulation of the research site as outlined in subsection (f) of this section.

Management.

(f) The research site shall be managed in accordance with the following objectives:

(1) The principal research facility shall be managed primarily for scientific research purposes. Dispersed recreation, grazing, and other uses which the Secretary determines to be compatible with scientific research may be permitted.

(2) The research site shall be managed to enhance scientific research objectives. Scientific research activities and associated research equipment and structures shall be permitted within the research site in accordance with the plan.

(3) Roads shall be limited to those necessary for scientific research activities and other reasonable activities as determined by the Secretary. Motor vehicle use shall be restricted to roads designated in the plan.

(4) The landing of small instrumented research rockets shall be permitted to continue in portions of the research site designated for such purposes in the plan.

TITLE III—FOR THE RELIEF OF ALBERT AND EULALIA RODRIGUEZ

SEC. 301. The Secretary of the Interior is authorized and directed to reimburse Albert and Eulalia Rodriguez for improvements to land situated in section 5, township 25 north, range 13 east of the New Mexico principal meridian within the Taos Pueblo Grant, State of New Mexico.

Appropriation authorization.

SEC. 302. Beginning October 1, 1981, there is hereby authorized to be appropriated not more than $20,000 for the purposes of this Act.

TITLE IV—FOR THE RELIEF OF THE VERMEJO CONSERVANCY DISTRICT

SEC. 401. That, notwithstanding any other provision of law, the Secretary of the Interior is authorized, subject to the written consent of the Vermejo Conservancy District, to amend contract numbered 178r-458, dated August 7, 1952, as amended, between the Vermejo Conservancy District, located in the State of New Mexico, and the United States for the construction, operation, and maintenance of the Vermejo reclamation project, to defer payments on the remaining repayment obligation of the Vermejo Conservancy District under such contract, until such time or times as the Secretary determines additional repayment to be reasonably feasible, to relieve the district of such other penalties, assessments, or costs, including interest, which have accrued or may become due under the existing contract prior to enactment of this Act, and to transfer all right, title, and interest in or to the project facilities serving the Vermejo Conservancy District: *Provided,* That the Vermejo Conservancy District shall, to the extent practicable, continue to operate and maintain the facilities of the Vermejo project for the benefit of all authorized project beneficiaries, including the Maxwell National Wildlife Refuge, and in accordance with the authorized project purposes: *Provided further,* That with the exception of assistance, if needed, under the Disaster Relief Act of 1974, as amended, the Federal Government shall incur no further expense on behalf of the Vermejo project or the Vermejo Conservancy District for the operation and

42 USC 5121 note.

maintenance or rehabilitation of existing facilities or for the development of any new facilities related to the delivery or impoundment of water, and further Federal expenditures related to the Vermejo Federal reclamation project shall be limited to administration of such amended contract for the purpose of determining and obtaining such reasonable repayment as may be feasible, and to necessary expenses for fish and wildlife purposes. Transfer of project facilities to the district shall be without any additional consideration in excess of the existing repayment obligation of the district, and shall include any related lands or interest in lands acquired by the Federal Government for the project, except that any lands or interests in land, or interests in water, or other contractual arrangements which may be held by the Secretary for management of the Maxwell National Wildlife Refuge, for wildlife enhancement purposes, shall not be transferred and shall be maintained consistently with existing arrangements. Any amended contract which provides for deferral of the district's repayment obligation shall provide that the obligation shall continue in effect until repaid or for the useful life of the existing facilities, and the Secretary shall provide for a flexible plan of repayment of the remaining obligation of the district according to the district's ability to repay as determined by the Secretary. Determinations of ability to repay shall include water deliveries achieved in a given year, as well as such other factors as the Secretary considers to be pertinent.

TITLE V—CHACO CULTURE NATIONAL HISTORICAL PARK

SEC. 501. (a) The Congress finds that— 16 USC 410ii.

(1) archeological research in the San Juan Basin conducted over the past several years has greatly increased public knowledge of the scope of the prehistoric culture referred to as Chacoan Anasazi;

(2) the discoveries and the increased general interest in the Chaco phenomenon have come at a time when the San Juan Basin is experiencing extensive exploration and development for a wide variety of energy-related resources, including coal, uranium, oil, and natural gas;

(3) development of the San Juan Basin's important natural resources and the valid existing rights of private property owners will not be adversely affected by the preservation of the archeological integrity of the area; and

(4) in light of the national significance of the Chacoan sites and the urgent need to protect them, continued cooperation between Federal agencies and private corporations is necessary to provide for development in the San Juan Basin in a manner compatible with preservation and archeological research.

(b) It is the purpose of this title to recognize the unique archeological resources associated with the prehistoric Chacoan culture in the San Juan Basin; to provide for the preservation and interpretation of these resources; and to facilitate research activities associated with these resources.

SEC. 502. (a) There is hereby established in the State of New Mexico, the Chaco Culture National Historical Park comprising approximately thirty three thousand nine hundred and eighty nine acres as generally depicted on the map entitled "Chaco Culture National Historical Park", numbered 310/80,032-A and dated August 1979. The Chaco Canyon National Monument is hereby abolished, as such, and any funds available for the purpose of the monument shall be

Establishment. 16 USC 410ii-1.

Abolishment. 16 USC 431 note.

available for the purpose of the Chaco Culture National Historical Park.

(b) Thirty three outlying sites generally depicted on a map entitled "Chaco Culture Archeological Protection Sites", numbered 310/80,033-A and dated August 1980, are hereby designated as "Chaco Culture Archeological Protection Sites". The thirty three archeological protection sites totaling approximately eight thousand seven hundred and seventy one acres are identified as follows:

Name:	Acres
Allentown	42
Andrews Ranch	640
Bee Burrow	40
Bisa'ani	131
Casa del Rio	40
Coolidge	15
Dalton Pass	10
Great Bend	19
Greenlee Ruin	60
Grey Hill Spring	23
Halfway House	40
Haystack	115
Hogback	371
Indian Creek	100
Jacques	40
Kin Nizhoni	726
Lake Valley	30
Las Ventanas	31
Morris 41	85
Muddy Water	1,210
Newcomb	44
Peach Springs	985
Pierre's Site	440
Raton Well	23
San Mateo	14
Sanostee	1,565
Section 8	40
Skunk Springs/Crumbled House	588
Standing Rock	321
Twin Angels	40
Toh-la-kai	10
Upper Kin Klizhin	60
Squaw Springs	870

List additions or deletions, submittal to Congress.
16 USC 410ii-2.
Supra.

SEC. 503. The Secretary of the Interior shall continue to search for additional evidences of Chacoan sites and submit to Congress within two years of date of enactment of this Act and thereafter as needed, his recommendations for additions to, or deletions from, the list of archeological protection sites in section 502(b) of this title. Additions to or deletions from such list shall be made only by an Act of Congress.

Lands, waters, and interests, acquisition.
16 USC 410ii-3.

SEC. 504. (a) The Secretary is authorized to acquire lands, waters, and interests therein within the boundaries of the Chaco Culture National Historical Park (hereinafter referred to as the "park") and the archeological protection sites as identified in section 502 of this title by donation, purchase with donated or appropriated funds, or exchange. Property owned by the State of New Mexico or any political subdivision thereof, may be acquired by exchange or donation only. Property held in trust for the benefit of any Indian tribe or for the benefit of any individual member thereof may be acquired only with the consent of such owner or beneficial owner as the case may be.

(b) The respective tribal authorities are authorized to convey by exchange, purchase, on donation the beneficial interest in any lands designated by section 502 of this Act and held in trust by the United States for the respective tribes, to the Secretary, subject to such terms

and conditions as the tribal authority deems necessary and which the Secretary deems are consistent with the purposes of this title.

(c)(1) The Secretary shall attempt to acquire private lands or interests therein by exchange prior to acquiring lands by any other method authorized pursuant to section 504 of this Act. Private lands or interests, acquisition.

(2) The Secretary shall attempt to enter into cooperative agreements pursuant to section 505 of this Act with owners of private property for those archeological protection sites described in section 502(b) of this Act. The Secretary shall acquire fee title to any such private property only if it is necessary to prevent direct and material damage to, or destruction of, Chaco cultural resources and no cooperative agreement with the owner of the private property interest can be effected. Private property owners, cooperative agreements.

(d)(1) For purposes of completing an exchange pursuant to subsections (a) and (b), the Secretary shall designate a pool of at least three times the private acreage described in subsections (a) and (b), comprised of Federal property interests of a similar resource character to property to be exchanged. Federal property shall, whenever possible, be designated in blocks of at least one section in size, but in no event shall the blocks designated be less than one-quarter of a section in size. Federal property pool, designation.

(2) The Secretary may include within the pool any Federal property under his jurisdiction except units of the National Park System, National Forest System, or the National Wildlife Refuge System that are nominated by the owner of the private property to be exchanged. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchange, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchange may be made for other than equal values.

(e) All Federal lands, waters, and interests therein excluded from the boundaries of Chaco Canyon National Monument by this title may be exchanged for non-Federal property to be acquired pursuant to this title. Any lands so excluded shall be managed by the Secretary under the provisions of the Federal Land Policy and Management Act of 1976. Transfer of administration of such lands to the Bureau of Land Management shall not be considered a withdrawal as that term is defined in section 103(j) of the Federal Land Policy and Management Act of 1976. Federal lands exchanged for non-Federal property.

43 USC 1701 note.

43 USC 1702.

SEC. 505. The Secretary shall seek to enter into cooperative agreements with the owners, including the beneficial owners, of the properties located in whole or in part within the park or the archeological protection sites. The purposes of such agreements shall be to protect, preserve, maintain, and administer the archeological resources and associated site regardless of whether title to the property or site is vested in the United States. Any such agreement shall contain provisions to assure that (1) the Secretary, or his representative, shall have a right of access at all reasonable times to appropriate portions of the property for the purpose of cultural resource protection and conducting research, and (2) no changes or alterations shall be permitted with respect to the cultural resources without the written consent of the Secretary. Nothing in this title shall be deemed to prevent the continuation of traditional Native American religious uses of properties which are the subject of cooperative agreements. 16 USC 410ii-4.

SEC. 506. (a) The Secretary shall administer the park in accordance with the provisions of this title and the provisions of law generally applicable to the administration of units of the National Park Administration. 16 USC 410ii-5.

System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-7).

(b) The Secretary shall protect, preserve, maintain, and administer the Chaco Culture Archeological Protection Sites, in a manner that will preserve the Chaco cultural resource and provide for its interpretation and research. Such sites shall be managed by the Secretary in accordance with the provisions of this title and the provisions of law generally applicable to public lands as defined in section 103(e) of the Federal Land Policy and Management Act of 1976: *Provided, however,* That lands held in trust by the Secretary for an Indian tribe or any individual member thereof, or held in restricted fee status shall continue to be so managed or held by the Secretary.

43 USC 1702.

(c) No activities shall be permitted upon the upper surface of the archeological protection sites which shall endanger their cultural values. For the purposes of this title, upper surface shall be considered to extend to a depth of twenty meters below ground level. Nothing in this title shall be deemed to prevent exploration and development of subsurface oil and gas, mineral, and coal resources from without the sites which does not infringe upon the upper surface of the sites.

(d) Nothing in this title shall be deemed to prevent the continuation of livestock grazing on properties which are the subject of cooperative agreements.

General management plan, transmittal to congressional committees.

(e) Within three complete fiscal years from the date of enactment, the Secretary shall transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a general management plan for the identification, research, and protection of the park, pursuant to the provisions of subsection (12)(b) of the Act of August 18, 1970, to be developed by the Director, National Park Service, in consultation with the Directors, Bureau of Land Management and Bureau of Indian Affairs and the Governor, State of New Mexico, and a joint management plan for the identification, research, and protection of the archeological protection sites, to be developed by the Director, National Park Service, in consultation and concurrence with the Directors, Bureau of Land Management and Bureau of Indian Affairs, and the Governor, State of New Mexico.

16 USC 1a-7.

16 USC 410ii-6.

SEC. 507. (a) Consistent with and in furtherance of the purposes of the Division of Cultural Research of the Southwest Cultural Resources Center, operated by the National Park Service, the Secretary shall continue such research and data gathering activities as may be appropriate to further the purposes of this title and knowledge of the Chaco culture. The Secretary shall submit in writing within six months of the effective date of this section, to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a plan for the continued operational program of the Division. The Secretary is authorized and encouraged to establish a committee composed of professional archeologists and others with related professional expertise including the designee of the Governor of the State of New Mexico to advise the Secretary in matters related to the surveying, excavation, curation, interpretation, protection, and management of the cultural resources of the historical park and archeological protection sites.

Plan, submittal to congressional committees.

Computer-generated data base, development.

(b) The Secretary shall, through the Division of Cultural Research of the Southwest Cultural Resources Center of the National Park Service, be responsible for the development of a computer-generated

data base of the San Juan Basin, and make such information available to Federal and private groups when to do so will assist such groups in the preservation, management, and development of the resources of the basin.

(c) The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking with respect to the lands and waters in the archeological protection sites, and the head of any Federal agency having authority to license or permit any undertaking with respect to such lands and waters, shall prior to the approval of the expenditure of any Federal funds on such undertaking, or prior to the issuance of any license or permit, as the case may be, afford the Secretary a reasonable opportunity to comment in writing with regard to such undertaking and its effect upon such sites, and shall give due consideration to any comments made by the Secretary and to the effect of such undertaking on the purposes for which such sites are established.

Appropriation authorization. 16 USC 410ii-7.

SEC. 508. Effective October 1, 1981, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title but not to exceed $11,000,000 for acquisition and $500,000 for development.

TITLE VI—SALINAS NATIONAL MONUMENT

Designation. 16 USC 431 note.

SEC. 601. (a) In order to set apart and preserve for the benefit and enjoyment of the American people the ruins of prehistoric Indian pueblos and associated seventeenth century Franciscan Spanish mission ruins, the Secretary is authorized to acquire by donation, or by purchase with donated or appropriated funds, or otherwise, not to exceed four hundred and sixty six acres of land in the State of New Mexico which, in addition to the lands now comprising Gran Quivira National Monument, shall be designated as the Salinas National Monument. The Secretary is further authorized to acquire, in or near the town of Mountainair, such additional lands as may be necessary for an administrative site for the monument.

Additional lands, acquisition.

Abolishment. 16 USC 431 note.

(b) Gran Quivira National Monument is hereby abolished as such, and any funds available for purposes of the monument shall be available for purposes of the Salinas National Monument.

Administration.

(c) The Secretary shall administer and protect the monument in accordance with the provisions of this section and the provisions of law generally applicable to the administration of units of the national park system, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467). The Secretary is encouraged to transfer to the employment of the National Park Service such personnel associated with the administration of the State-owned lands as are interested in and qualified for such transfer, as such State lands are acquired by the Secretary.

Personnel transfer.

Appropriation authorization.

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not to exceed $1,140,000 for acquisition and $500,000 for development.

Approved December 19, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Nov. 21, considered and passed House.
Dec. 1, considered and passed Senate.

Public Law 96-551
96th Congress

An Act

To grant the consent of the Congress to the Tahoe Regional Planning Compact, and to authorize the Secretary of Agriculture and others to cooperate with the planning agency thereby created.

Dec. 19, 1980
[H.R. 8235]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to encourage the wise use and conservation of the waters of Lake Tahoe and of the resources of the area around said lake, the consent of the Congress is hereby given to the Tahoe Regional Planning Compact heretofore adopted by the States of California and Nevada, which compact reads as follows:

Tahoe Regional Planning Compact.
Congressional consent.

TAHOE REGIONAL PLANNING COMPACT

ARTICLE I.—FINDINGS AND DECLARATIONS OF POLICY

(a) It is found and declared that:

(1) The waters of Lake Tahoe and other resources of the region are threatened with deterioration or degeneration, which endangers the natural beauty and economic productivity of the region.

(2) The public and private interests and investments in the region are substantial.

(3) The region exhibits unique environmental and ecological values which are irreplaceable.

(4) By virtue of the special conditions and circumstances of the region's natural ecology, developmental pattern, population distribution and human needs, the region is experiencing problems of resource use and deficiencies of environmental control.

(5) Increasing urbanization is threatening the ecological values of the region and threatening the public opportunities for use of the public lands.

(6) Maintenance of the social and economic health of the region depends on maintaining the significant scenic, recreational, educational, scientific, natural and public health values provided by the Lake Tahoe Basin.

(7) There is a public interest in protecting, preserving and enhancing these values for the residents of the region and for visitors to the region.

(8) Responsibilities for providing recreational and scientific opportunities, preserving scenic and natural areas, and safeguarding the public who live, work and play in or visit the region are divided among local governments, regional agencies, the States of California and Nevada, and the Federal Government.

(9) In recognition of the public investment and multistate and national significance of the recreational values, the Federal Government has an interest in the acquisition of recreational property and the management of resources in the region to preserve environmental and recreational values, and the Federal

Government should assist the States in fulfilling their responsibilities.

(10) In order to preserve the scenic beauty and outdoor recreational opportunities of the region, there is a need to insure an equilibrium between the region's natural endowment and its manmade environment.

(b) In order to enhance the efficiency and governmental effectiveness of the region, it is imperative that there be established a Tahoe Regional Planning Agency with the powers conferred by this compact including the power to establish environmental threshold carrying capacities and to adopt and enforce a regional plan and implementing ordinances which will achieve and maintain such capacities while providing opportunities for orderly growth and development consistent with such capacities.

(c) The Tahoe Regional Planning Agency shall interpret and administer its plans, ordinances, rules and regulations in accordance with the provisions of this compact.

ARTICLE II.—DEFINITIONS

As used in this compact:

(a) "Region," includes Lake Tahoe, the adjacent parts of Douglas and Washoe Counties and Carson City, which for the purposes of this compact shall be deemed a county, lying within the Tahoe Basin in the State of Nevada, and the adjacent parts of the counties of Placer and El Dorado lying within the Tahoe Basin in the State of California, and that additional and adjacent part of the county of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of section 1, thence west to the northwest corner of section 3, thence south to the intersection of the basin crestline and the west boundary of section 10; all sections referring to township 15 north, range 16 east, M.D.B. & M. The region defined and described herein shall be as precisely delineated on official maps of the agency.

(b) "Agency" means the Tahoe Regional Planning Agency.

(c) "Governing body" means the governing board of the Tahoe Regional Planning Agency.

(d) "Regional plan" means the long-term general plan for the development of the region.

(e) "Planning commission" means the advisory planning commission appointed pursuant to subdivision (h) of article III.

(f) "Gaming" means to deal, operate, carry on, conduct, maintain or expose for play any banking or percentage game played with cards, dice or any mechanical device or machine for money, property, checks, credit or any representative of value, including, without limiting the generality of the foregoing, faro, monte, roulette, keno, bingo, fantan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, stud poker, draw poker or slot machine, but does not include social games played solely for drinks, or cigars or cigarettes served individually, games played in private homes or residences for prizes or games operated by charitable or educational organizations, to the extent excluded by applicable State law.

(g) "Restricted gaming license" means a license to operate not more than 15 slot machines on which a quarterly fee is charged pursuant to NRS 463.373 and no other games.

(h) "Project" means an activity undertaken by any person, including any public agency, if the activity may substantially affect the land, water, air, space or any other natural resources of the region.

(i) "Environmental threshold carrying capacity" means an environmental standard necessary to maintain a significant scenic, recreational, educational, scientific or natural value of the region or to maintain public health and safety within the region. Such standards shall include but not be limited to standards for air quality, water quality, soil conservation, vegetation preservation and noise.

(j) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

(k) "Areas open to public use" means all of the areas within a structure housing gaming under a nonrestricted license except areas devoted to the private use of guests.

(l) "Areas devoted to private use of guests" means hotel rooms and hallways to serve hotel room areas, and any parking areas. A hallway serves hotel room areas if more than 50 percent of the areas on each side of the hallway are hotel rooms.

(m) "Nonrestricted license" means a gaming license which is not a restricted gaming license.

ARTICLE III.—ORGANIZATION

Establishment.

(a) There is created the Tahoe Regional Planning Agency as a separate legal entity.

The governing body of the agency shall be constituted as follows:

California delegation, membership.

(1) California delegation:

(A) One member appointed by each of the county boards of supervisors of the counties of El Dorado and Placer and one member appointed by the city council of the city of South Lake Tahoe. Any such member may be a member of the county board of supervisors or city council, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) Two members appointed by the Governor of California, one member appointed by the speaker of the assembly of California and one member appointed by the senate rules committee of the State of California. The members appointed pursuant to this subparagraph shall not be residents of the region and shall represent the public at large within the State of California.

Nevada delegation, membership.

(2) Nevada delegation:

(A) One member appointed by each of the boards of county commissioners of Douglas and Washoe Counties and one member appointed by the board of supervisors of Carson City. Any such member may be a member of the board of county commissioners or board of supervisors, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) One member appointed by the Governor of Nevada, the secretary of State of Nevada or his designee, and the director of the State department of conservation and natural resources of Nevada or his designee. Except for the secretary of State and the director of the State department of conservation and natural resources, the members or designees appointed pursuant to this subparagraph shall not be residents of the region. All members appointed pursuant to this

subparagraph shall represent the public at large within the State of Nevada.

(C) One member appointed for a 1-year term by the six other members of the Nevada delegation. If at least four members of the Nevada delegation are unable to agree upon the selection of a seventh member within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body for that State the Governor of the State of Nevada shall make such an appointment. The member appointed pursuant to this subparagraph may, but is not required to, be a resident of the region within the State of Nevada.

(3) If any appointing authority under paragraph (1)(A), (1)(B), (2)(A) or (2)(B) fails to make such an appointment within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body, the Governor of the State in which the appointing authority is located shall make the appointment. The term of any member so appointed shall be 1 year.

Term.

Vacancies.

(4) The position of any member of the governing body shall be deemed vacant if such a member is absent from three consecutive meetings of the governing body in any calendar year.

(5) Each member and employee of the agency shall disclose his economic interests in the region within 10 days after taking his seat on the governing board or being employed by the agency and shall thereafter disclose any further economic interest which he acquires, as soon as feasible after he acquires it. As used in this paragraph, "economic interests" means:

"Economic interests."

(A) Any business entity operating in the region in which the member or employee has a direct or indirect investment worth more than $1,000.

(B) Any real property located in the region in which the member or employee has a direct or indirect interest worth more than $1,000.

(C) Any source of income attributable to activities in the region, other than loans by or deposits with a commercial lending institution in the regular course of business, aggregating $250 or more in value received by or promised to the member within the preceding 12 months; or

(D) Any business entity operating in the region in which the member or employee is a director, officer, partner, trustee, employee or holds any position of management.

No member or employee of the agency shall make, or attempt to influence, an agency decision in which he knows or has reason to know he has an economic interest. Members and employees of the agency must disqualify themselves from making or participating in the making of the agency when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the economic interests of the member or employee.

Expenses.

(b) The members of the agency shall serve without compensation, but the expenses of each member shall be met by the body which he represents in accordance with the law of that body. All other expenses incurred by the governing body in the course of exercising the powers conferred upon it by this compact unless met in some other manner specifically provided, shall be paid by the agency out of its own funds.

(c) Except for the secretary of State and director of the State department of conservation and natural resources of Nevada and the member appointed pursuant to subdivision (a)(2)(C), the members of the governing body serve at the pleasure of the appointing authority in each case, but each appointment shall be reviewed no less often than every 4 years. Members may be reappointed.

Monthly meetings.

(d) The governing body of the agency shall meet at least monthly. All meetings shall be open to the public to the extent required by the law of the State of California or the State of Nevada, whichever imposes the greater requirement, applicable to local governments at the time such meeting is held. The governing body shall fix a date for its regular monthly meeting in such terms as "the first Monday of each month," and shall not change such date more often than once in any calendar year. Notice of the date so fixed shall be given by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region. Notice of any special meeting, except an emergency meeting, shall be given by so publishing the date and place and posting an agenda at least 5 days prior to the meeting.

Vacancies.

(e) The position of a member of the governing body shall be considered vacated upon his loss of any of the qualifications required for his appointment and in such event the appointing authority shall appoint a successor.

Chairman and vice chairman, terms.

(f) The governing body shall elect from its own members a chairman and vice chairman, whose terms of office shall be 2 years, and who may be reelected. If a vacancy occurs in either office, the governing body may fill such vacancy for the unexpired term.

Voting procedures.

(g) Four of the members of the governing body from each State constitute a quorum for the transaction of the business of the agency. The voting procedures shall be as follows:

(1) For adopting, amending or repealing environmental threshold carrying capacities, the regional plan, and ordinances, rules and regulations, and for granting variances from the ordinances, rules and regulations, the vote of at least four of the members of each State agreeing with the vote of at least four members of the other State shall be required to take action. If there is no vote of at least four of the members from one State agreeing with the vote of at least four of the members of the other State on the actions specified in this paragraph, an action of rejection shall be deemed to have been taken.

(2) For approving a project, the affirmative vote of at least five members from the State in which the project is located and the affirmative vote of at least nine members of the governing body are required. If at least five members of the governing body from the State in which the project is located and at least nine members of the entire governing body do not vote in favor of the project, upon a motion for approval, an action of rejection shall be deemed to have been taken. A decision by the agency to approve a project shall be supported by a statement of findings, adopted by the agency, which indicates that the project complies with the regional plan and with applicable ordinances, rules and regulations of the agency.

(3) For routine business and for directing the agency's staff on litigation and enforcement actions, at least eight members of the governing body must agree to take action. If at least eight votes in favor of such action are not cast, an action of rejection shall be deemed to have been taken.

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Whenever under the provisions of this compact or any ordinance, rule, regulation or policy adopted pursuant thereto, the agency is required to review or approve any project, public or private, the agency shall take final action by vote, whether to approve, to require modification or to reject such project, within 180 days after the application for such project is accepted as complete by the agency in compliance with the agency's rules and regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If a final action by vote does not take place within 180 days, the applicant may bring an action in a court of competent jurisdiction to compel a vote unless he has agreed to an extension. This provision does not limit the right of any person to obtain judicial review of agency action under subdivision (h) of article VI. The vote of each member of the governing body shall be individually recorded. The governing body shall adopt its own rules, regulations and procedures.

Advisory planning commission.

(h) An advisory planning commission shall be appointed by the agency. The commission shall include: The chief planning officers of Placer County, El Dorado County, and the city of South Lake Tahoe in California and of Douglas County, Washoe County and Carson City in Nevada, the executive officer of the Lahontan Regional Water Quality Control Board of the State of California, the executive officer of the Air Resources Board of the State of California, the director of the State department of conservation and natural resources of the State of Nevada, the administrator of the division of environmental protection in the State department of conservation and natural resources of the State of Nevada, the administrator of the Lake Tahoe Management Unit of the United States Forest Service, and at least four lay members with an equal number from each State, at least half of whom shall be residents of the region. Any official member may designate an alternate.

Term.

The term of office of each lay member of the advisory planning commission shall be 2 years. Members may be reappointed.

Vacancies.

The position of each member of the advisory planning commission shall be considered vacated upon loss of any of the qualifications required for appointments, and in such an event the appointing authority shall appoint a successor.

Chairman and vice chairman, terms.

The advisory planning commission shall elect from its own members a chairman and a vice chairman, whose terms of office shall be 2 years and who may be reelected. If a vacancy occurs in either office, the advisory planning commission shall fill such vacancy for the unexpired term.

A majority of the members of the advisory planning commission constitutes a quorum for the transaction of the business of the commission. A majority vote of the quorum present shall be required to take action with respect to any matter.

(i) The agency shall establish and maintain an office within the region, and for this purpose the agency may rent or own property and equipment. Every plan, ordinance and other record of the agency which is of such nature as to constitute a public record under the law of either the State of California or the State of Nevada shall be open to inspection and copying during regular office hours.

(j) Each authority charged under this compact or by the law of either State with the duty of appointing a member of the governing body of the agency shall by certified copy of its resolution or other action notify the Secretary of State of its own State of the action taken.

ARTICLE IV.—PERSONNEL

(a) The governing body shall determine the qualification of, and it shall appoint and fix the salary of, the executive officer of the agency, and shall employ such other staff and legal counsel as may be necessary to execute the powers and functions provided for under this compact or in accordance with any intergovernmental contracts or agreements the agency may be responsible for administering.

(b) Agency personnel standards and regulations shall conform insofar as possible to the regulations and procedures of the civil service of the State of California or the State of Nevada, as may be determined by the governing body of the agency; and shall be regional and bistate in application and effect; provided that the governing body may, for administrative convenience and at its discretion, assign the administration of designated personnel arrangements to an agency of either State, and provided that administratively convenient adjustments be made in the standards and regulations governing personnel assigned under intergovernmental agreements.

(c) The agency may establish and maintain or participate in such additional programs of employee benefits as may be appropriate to afford employees of the agency terms and conditions of employment similar to those enjoyed by employees of California and Nevada generally.

ARTICLE V.—PLANNING

(1) In preparing each of the plans required by this article and each amendment thereto, if any, subsequent to its adoption, the planning commission after due notice shall hold at least one public hearing which may be continued from time to time, and shall review the testimony and any written recommendations presented at such hearing before recommending the plan or amendment. The notice required by this subdivision shall be given at least 20 days prior to the public hearing by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region. Hearing.

The planning commission shall then recommend such plan or amendment to the governing body for adoption by ordinance. The governing body may adopt, modify or reject the proposed plan or amendment, or may initiate and adopt a plan or amendment without referring it to the planning commission. If the governing body initiates or substantially modifies a plan or amendment, it shall hold at least one public hearing thereon after due notice as required in this subdivision.

If a request is made for the amendment of the regional plan by:

(1) A political subdivision a part of whose territory would be affected by such amendment; or

(2) The owner or lessee of real property which would be affected by such amendment,

the governing body shall complete its action on such amendment within 180 days after such request is accepted as complete according to standards which must be prescribed by ordinance of the agency.

(b) The agency shall develop, in cooperation with the States of California and Nevada, environmental threshold carrying capacities for the region. The agency should request the President's Council on Environmental Quality, the U.S. Forest Service and other appropriate agencies to assist in developing such environmental threshold Environmental threshold carrying capacities.

carrying capacities. Within 18 months after the effective date of the amendments to this compact, the agency shall adopt environmental threshold carrying capacities for the region.

Regional plan.

(c) Within 1 year after the adoption of the environmental threshold carrying capacities for the region, the agency shall amend the regional plan so that, at a minimum, the plan and all of its elements, as implemented through agency ordinances, rules and regulations, achieves and maintains the adopted environmental threshold carrying capacities. Each element of the plan shall contain implementation provisions and time schedules for such implementation by ordinance. The planning commission and governing body shall continuously review and maintain the regional plan. The regional plan shall consist of a diagram, or diagrams, and text, or texts setting forth the projects and proposals for implementation of the regional plan, a description of the needs and goals of the region and a statement of the policies, standards and elements of the regional plan.

The regional plan shall be a single enforceable plan and includes all of the following correlated elements:

Land-use.

(1) A land-use plan for the integrated arrangement and general location and extent of, and the criteria and standards for, the uses of land, water, air, space and other natural resources within the region, including but not limited to an indication or allocation of maximum population densities and permitted uses.

Transportation.

(2) A transportation plan for the integrated development of a regional system of transportation, including but not limited to parkways, highways, transportation facilities, transit routes, waterways, navigation facilities, public transportation facilities, bicycle facilities, and appurtenant terminals and facilities for the movement of people and goods within the region. The goal of transportation planning shall be:

(A) To reduce dependency on the automobile by making more effective use of existing transportation modes and of public transit to move people and goods within the region; and

(B) To reduce to the extent feasible air pollution which is caused by motor vehicles.

Where increases in capacity are required, the agency shall give preference to providing such capacity through public transportation and public programs and projects related to transportation. The agency shall review and consider all existing transportation plans in preparing its regional transportation plan pursuant to this paragraph.

The plan shall provide for an appropriate transit system for the region.

The plan shall give consideration to:

(A) Completion of the Loop Road in the States of Nevada and California;

(B) Utilization of a light rail mass transit system in the South Shore area; and

(C) Utilization of a transit terminal in the Kingsbury Grade area.

Until the regional plan is revised, or a new transportation plan is adopted in accordance with this paragraph, the agency has no effective transportation plan.

Conservation.

(3) A conservation plan for the preservation, development, utilization, and management of the scenic and other natural resources within the basin, including but not limited to, soils, shoreline and submerged lands, scenic corridors along transportation routes, open spaces, recreational and historical facilities.

(4) A recreation plan for the development, utilization, and management of the recreational resources of the region, including but not limited to, wilderness and forested lands, parks and parkways, riding and hiking trails, beaches and playgrounds, marinas, areas for skiing and other recreational facilities. Recreation.

(5) A public services and facilities plan for the general location, scale and provision of public services and facilities, which, by the nature of their function, size, extent and other characteristics are necessary or appropriate for inclusion in the regional plan. Public services and facilities.

In formulating and maintaining the regional plan, the planning commission and governing body shall take account of and shall seek to harmonize the needs of the region as a whole, the plans of the counties and cities within the region, the plans and planning activities of the State, Federal and other public agencies and nongovernmental agencies and organizations which affect or are concerned with planning and development within the region.

(d) The regional plan shall provide for attaining and maintaining Federal, State, or local air and water quality standards, whichever are strictest, in the respective portions of the region for which the standards are applicable.

The agency may, however, adopt air or water quality standards or control measures more stringent than the applicable State implementation plan or the applicable Federal, State, or local standards for the region, if it finds that such additional standards or control measures are necessary to achieve the purposes of this compact. Each element of the regional plan, where applicable, shall, by ordinance, identify the means and time schedule by which air and water quality standards will be attained.

(e) Except for the Regional Transportation Plan of the California Tahoe Regional Planning Agency, the regional plan, ordinances, rules and regulations adopted by the California Tahoe Regional Planning Agency in effect on July 1, 1980, shall be the regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency for that portion of the Tahoe region located in the State of California. Such plan, ordinance, rule or regulation may be amended or repealed by the governing body of the agency. The plans, ordinances, rules and regulations of the Tahoe Regional Planning Agency that do not conflict with, or are not addressed by, the California Tahoe Regional Planning Agency's plans, ordinances, rules and regulations referred to in this subdivision shall continue to be applicable unless amended or repealed by the governing body of the agency. No provision of the regional plan, ordinances, rules and regulations of the California Tahoe Regional Planning Agency referred to in this subdivision shall apply to that portion of the region within the State of Nevada, unless such provision is adopted for the Nevada portion of the region by the governing body of the agency.

(f) The regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency apply to that portion of the region within the State of Nevada.

(g) The agency shall adopt ordinances prescribing specific written findings that the agency must make prior to approving any project in the region. These findings shall relate to environmental protection and shall insure that the project under review will not adversely affect implementation of the regional plan and will not cause the adopted environmental threshold carrying capacities of the region to be exceeded.

(h) The agency shall maintain the data, maps and other information developed in the course of formulating and administering the

regional plan, in a form suitable to assure a consistent view of developmental trends and other relevant information for the availability of and use by other agencies of government and by private organizations and individuals concerned.

(i) Where necessary for the realization of the regional plan, the agency may engage in collaborative planning with local governmental jurisdictions located outside the region, but contiguous to its boundaries. In formulating and implementing the regional plan, the agency shall seek the cooperation and consider the recommendations of counties and cities and other agencies of local government, of State and Federal agencies, of educational institutions and research organizations, whether public or private, and of civic groups and private persons.

ARTICLE VI.—AGENCY'S POWERS

(a) The governing body shall adopt all necessary ordinances, rules, and regulations to effectuate the adopted regional plan. Except as otherwise provided in this compact, every such ordinance, rule or regulation shall establish a minimum standard applicable throughout the region. Any political subdivision or public agency may adopt and enforce an equal or higher requirement applicable to the same subject of regulation in its territory. The regulations of the agency shall contain standards including but not limited to the following: Water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; land fills, excavations, cuts and grading; piers, harbors, breakwaters or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobile-home parks; house relocation; outdoor advertising; flood plain protection; soil and sedimentation control; air pollution; and watershed protection. Whenever possible without diminishing the effectiveness of the regional plan, the ordinances, rules, regulations and policies shall be confined to matters which are general and regional in application, leaving to the jurisdiction of the respective States, counties and cities the enactment of specific and local ordinances, rules, regulations and policies which conform to the regional plan.

The agency shall prescribe by ordinance those activities which it has determined will not have substantial effect on the land, water, air, space or any other natural resources in the region and therefore will be exempt from its review and approval.

Every ordinance adopted by the agency shall be published at least once by title in a newspaper or combination of newspapers whose circulation is general throughout the region. Except an ordinance adopting or amending the regional plan, no ordinance shall become effective until 60 days after its adoption. Immediately after its adoption, a copy of each ordinance shall be transmitted to the governing body of each political subdivision having territory within the region.

Projects, development.

(b) No project other than those to be reviewed and approved under the special provisions of subdivisions (d), (e), (f) and (g) may be developed in the region without obtaining the review and approval of the agency and no project may be approved unless it is found to comply with the regional plan and with the ordinances, rules and regulations enacted pursuant to subdivision (a) to effectuate that plan. The agency may approve a project in the region only after making the written findings required by this subdivision or subdivision (g) of article V. Such findings shall be based on substantial evidence in the record.

Before adoption by the agency of the ordinances required in subdivision (g) of article V, the agency may approve a project in the region only after making written findings on the basis of substantial evidence in the record that the project is consistent with the regional plan then in effect and with applicable plans, ordinances, regulations, and standards of Federal and State agencies relating to the protection, maintenance and enhancement of environmental quality in the region.

Developmental work, temporary halt.

(c) The legislatures of the States of California and Nevada find that in order to make effective the regional plan as revised by the agency, it is necessary to halt temporarily works of development in the region which might otherwise absorb the entire capability of the region for further development or direct it out of harmony with the ultimate plan. Subject to the limitation provided in this subdivision, from the effective date of the amendments to this compact until the regional plan is amended pursuant to subdivision (c) of article V, or until May 1, 1983, whichever is earlier:

(1) Except as otherwise provided in this paragraph, no new subdivision, planned unit development, or condominium project may be approved unless a complete tentative map or plan has been approved before the effective date of the amendments to this compact by all agencies having jurisdiction. The subdivision of land owned by a general improvement district, which existed and owned the land before the effective date of the amendments to this compact, may be approved if subdivision of the land is necessary to avoid insolvency of the district.

(2) Except as provided in paragraph (3), no apartment building may be erected unless the required permits for such building have been secured from all agencies having jurisdiction, prior to the effective date of the amendments to this compact.

(3) During each of the calendar years 1980, 1981 and 1982, no city or county may issue building permits which authorize the construction of a greater number of new residential units within the region than were authorized within the region by building permits issued by that city or county during the calendar year 1978. For the period of January through April, 1983, building permits authorizing the construction of no more than one-third of that number may be issued by each such city or county. For purposes of this paragraph a "residential unit" means either a single family residence or an individual residential unit within a larger building, such as an apartment building, a duplex or a condominium.

Residential units, 1978.

The legislatures find the respective numbers of residential units authorized within the region during the calendar year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County (combined)	252
2. Placer County	278
3. Carson City	0
4. Douglas County	339
5. Washoe County	739

(4) During each of the calendar years 1980, 1981 and 1982, no city or county may issue building permits which authorize construction of a greater square footage of new commercial buildings within the region than were authorized within the region by building permits for commercial purposes issued by that city or county during the calendar year 1978. For the period of January through April, 1983, building permits authorizing the

construction of no more than one-third the amount of that square footage may be issued by each such city or county.

Commercial buildings, 1978.

The legislatures find the respective square footages of commercial buildings authorized within the region during calendar year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County (combined)	64,324
2. Placer County	23,000
3. Carson City	0
4. Douglas County	57,354
5. Washoe County	50,600

(5) No structure may be erected to house gaming under a nonrestricted license.

(6) No facility for the treatment of sewage may be constructed or enlarged except:

(A) To comply, as ordered by the appropriate State agency for the control of water pollution, with existing limitations of effluent under the Clean Water Act, 33 U.S.C. §1251 et seq., and the applicable State law for control of water pollution;

(B) To accommodate development which is not prohibited or limited by this subdivision; or

(C) In the case of Douglas County Sewer District #1, to modify or otherwise alter sewage treatment facilities existing on the effective date of the amendments to this compact so that such facilities will be able to treat the total volume of effluent for which they were originally designed, which is 3.0 million gallons per day. Such modification or alteration is not a "project"; is not subject to the requirements of article VII; and does not require a permit from the agency. Before commencing such modification or alteration, however, the district shall submit to the agency its report identifying any significant soil erosion problems which may be caused by such modifications or alterations and the measures which the district proposes to take to mitigate or avoid such problems.

Highway construction.

The moratorium imposed by this subdivision does not apply to work done pursuant to a right vested before the effective date of the amendments to this compact. Notwithstanding the expiration date of the moratorium imposed by this subdivision, no new highway may be built or existing highway widened to accommodate additional continuous lanes for automobiles until the regional transportation plan is revised and adopted.

Parking garage, construction.

The moratorium imposed by this subdivision does not apply to the construction of any parking garage which has been approved by the agency prior to May 4, 1979, whether that approval was affirmative or by default. The provisions of this paragraph are not an expression of legislative intent that any such parking garage, the approval of which is the subject of litigation which was pending on the effective date of the amendments to this compact, should or should not be constructed. The provisions of this paragraph are intended solely to permit construction of such a parking garage if a judgment sustaining the agency's approval to construct that parking garage has become final and no appeal is pending or may lawfully be taken to a higher court.

Litigation.

(d) Subject to the final order of any court of competent jurisdiction entered in litigation contesting the validity of an approval by the Tahoe Regional Planning Agency, whether that approval was affirmative or by default, if that litigation was pending on May 4, 1979, the

agency and the States of California and Nevada shall recognize as a permitted and conforming use:

(1) Every structure housing gaming under a nonrestricted license which existed as a licensed gaming establishment on May 4, 1979, or whose construction was approved by the Tahoe Regional Planning Agency affirmatively or deemed approved before that date. The construction or use of any structure to house gaming under a nonrestricted license not so existing or approved, or the enlargement in cubic volume of any such existing or approved structure is prohibited.

(2) Every other nonrestricted gaming establishment whose use was seasonal and whose license was issued before May 4, 1979, for the same season and for the number and type of games and slot machines on which taxes or fees were paid in the calendar year 1978.

(3) Gaming conducted pursuant to a restricted gaming license issued before May 4, 1979, to the extent permitted by that license on that date.

The area within any structure housing gaming under a nonrestricted license which may be open to public use (as distinct from that devoted to the private use of guests and exclusive of any parking area) is limited to the area existing or approved for public use on May 4, 1979. Within these limits, any external modification of the structure which requires a permit from a local government also requires approval from the agency. The agency shall not permit restaurants, convention facilities, showrooms or other public areas to be constructed elsewhere in the region outside the structure in order to replace areas existing or approved for public use on May 4, 1979.

(e) Any structure housing licensed gaming may be rebuilt or replaced to a size not to exceed the cubic volume, height and land coverage existing or approved on May 4, 1979, without the review or approval of the agency or any planning or regulatory authority of the State of Nevada whose review or approval would be required for a new structure.

Structure housing gaming, modification.

(f) The following provisions apply to any internal or external modification, remodeling, change in use, or repair of a structure housing gaming under a nonrestricted license which is not prohibited by article VI(d):

(1) The agency's review of an external modification of the structure which requires a permit from a local government is limited to determining whether the external modification will do any of the following:

(A) Enlarge the cubic volume of the structure;

(B) Increase the total square footage of area open to one approved for public use on May 4, 1979;

(C) Convert an area devoted to the private use of guests to an area open to public use;

(D) Increase the public area open to public use which is used for gaming beyond the limits contained in paragraph (3); and

(E) Conflict with or be subject to the provisions of any of the agency's ordinances that are generally applicable throughout the region.

The agency shall make this determination within 60 days after the proposal is delivered to the agency in compliance with the agency's rules or regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If an external modification is determined to have any of the effects

enumerated in subparagraphs (A) through (C), it is prohibited. If an external modification is determined to have any of the effects enumerated in subparagraph (D) or (E), it is subject to the applicable provisions of this compact. If an external modification is determined to have no such effect, it is not subject to the provisions of this compact.

(2) Except as provided in paragraph (3), internal modification, remodeling, change in use or repair of a structure housing gaming under a nonrestricted license is not a project and does not require the review or approval of the agency.

(3) Internal modification, remodeling, change in use or repair of areas open to public use within a structure housing gaming under a nonrestricted license which alone or in combination with any other such modification, remodeling, change in use or repair will increase the total portion of those areas which is actually used for gaming by more than the product of the total base area, as defined below, in square feet existing on or approved before August 4, 1980, multiplied by 15 percent constitutes a project and is subject to all of the provisions of this compact relating to projects. For purposes of this paragraph and the determination required by article VI(g), base area means all of the area within a structure housing gaming under a nonrestricted license which may be open to public use, whether or not gaming is actually conducted or carried on in that area, except retail stores, convention centers and meeting rooms, administrative offices, kitchens, maintenance and storage areas, rest rooms, engineering and mechanical rooms, accounting rooms and counting rooms.

Base area.

Enforcement provisions.

(g) In order to administer and enforce the provisions of paragraphs (d), (e) and (f), the State of Nevada, through its appropriate planning or regulatory agency, shall require the owner or licensee of a structure housing gaming under a nonrestricted license to provide:

(1) Documents containing sufficient information for the Nevada agency to establish the following relative to the structure:

(A) The location of its external walls;

(B) Its total cubic volume;

(C) Within its external walls, the area in square feet open or approved for public use and the area in square feet devoted to or approved for the private use of guests on May 4, 1979;

(D) The amount of surface area of land under the structure; and

(E) The base area as defined in paragraph (f)(3) in square feet existing on or approved before August 4, 1980.

(2) An informational report whenever any internal modification, remodeling, change in use, or repair will increase the total portion of the areas open to public use which is used for gaming.

The Nevada agency shall transmit this information to the Tahoe Regional Planning Agency.

(h) Gaming conducted pursuant to a restricted gaming license is exempt from review by the agency if it is incidental to the primary use of the premises.

(i) The provisions of subdivisions (d) and (e) are intended only to limit gaming and related activities as conducted within a gaming establishment, or construction designed to permit the enlargement of such activities, and not to limit any other use of property zoned for commercial use or the accommodation of tourists, as approved by the agency.

(j) Legal actions arising out of or alleging a violation of the provisions of this compact, of the regional plan or of an ordinance or regulation of the agency or of a permit or a condition of a permit issued by the agency are governed by the following provisions: Violations.

(1) This subdivision applies to:

(A) Actions arising out of activities directly undertaken by the agency.

(B) Actions arising out of the issuance to a person of a lease, permit, license or other entitlement for use by the agency.

(C) Actions arising out of any other act or failure to act by any person or public agency.

Such legal actions may be filed and the provisions of this subdivision apply equally in the appropriate courts of California and Nevada and of the United States.

(2) Venue lies:

(A) If a civil or criminal action challenges an activity by the agency or any person which is undertaken or to be undertaken upon a parcel of real property, in the State or Federal judicial district where the real property is situated.

(B) If an action challenges an activity which does not involve a specific parcel of land (such as an action challenging an ordinance of the agency), in any State or Federal court having jurisdiction within the region.

(3) Any aggrieved person may file an action in an appropriate court of the States of California or Nevada or of the United States alleging noncompliance with the provisions of this compact or with an ordinance or regulation of the agency. In the case of governmental agencies, "aggrieved person" means the Tahoe Regional Planning Agency or any State, Federal or local agency. In the case of any person other than a governmental agency who challenges an action of the Tahoe Regional Planning Agency, "aggrieved person" means any person who has appeared, either in person, through an authorized representative, or in writing, before the agency at an appropriate administrative hearing to register objection to the action which is being challenged, or who had good cause for not making such an appearance. "Aggrieved person."

(4) A legal action arising out of the adoption or amendment of the regional plan or of any ordinance or regulation of the agency, or out of the granting or denial of any permit, shall be commenced within 60 days after final action by the agency. All other legal actions shall be commenced within 65 days after discovery of the cause of action.

(5) In any legal action filed pursuant to this subdivision which challenges an adjudicatory act or decision of the agency to approve or disapprove a project, the scope of judicial inquiry shall extend only to whether there was prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the agency has not proceeded in a manner required by law or if the act or decision of the agency was not supported by substantial evidence in light of the whole record. In making such a determination the court shall not exercise its independent judgment on evidence but shall only determine whether the act or decision was supported by substantial evidence in light of the whole record. In any legal action filed pursuant to this subdivision which challenges a legislative act or decision of the agency (such as the adoption of the regional plan and the enactment of implementing ordinances), the scope of the judicial inquiry shall

extend only to the questions of whether the act or decision has been arbitrary, capricious or lacking substantial evidentiary support or whether the agency has failed to proceed in a manner required by law.

(6) The provisions of this subdivision do not apply to any legal proceeding pending on the date when this subdivision becomes effective. Any such legal proceeding shall be conducted and concluded under the provisions of law which were applicable prior to the effective date of this subdivision.

(7) The security required for the issuance of a temporary restraining order or preliminary injunction based upon an alleged violation of this compact or any ordinance, plan, rule or regulation adopted pursuant thereto is governed by the rule or statute applicable to the court in which the action is brought, unless the action is brought by a public agency or political subdivision to enforce its own rules, regulations and ordinances in which case no security shall be required.

Compliance.

(k) The agency shall monitor activities in the region and may bring enforcement actions in the region to insure compliance with the regional plan and adopted ordinances, rules, regulations and policies. If it is found that the regional plan, or ordinances, rules, regulations and policies are not being enforced by a local jurisdiction, the agency may bring action in a court of competent jurisdiction to insure compliance.

Penalties.

(l) Any person who violates any provision of this compact or of any ordinance or regulation of the agency or of any condition of approval imposed by the agency is subject to a civil penalty not to exceed $5,000. Any such person is subject to an additional civil penalty not to exceed $5,000 per day, for each day on which such a violation persists. In imposing the penalties authorized by this subdivision, the court shall consider the nature of the violation and shall impose a greater penalty if it was willful or resulted from gross negligence than if it resulted from inadvertence or simple negligence.

Contracts and agreements.

(m) The agency is hereby empowered to initiate, negotiate and participate in contracts and agreements among the local governmental authorities of the region, or any other intergovernmental contracts or agreements authorized by State or Federal law.

(n) Each intergovernmental contract or agreement shall provide for its own funding and staffing, but this shall not preclude financial contributions from the local authorities concerned or from supplementary sources.

Records.

(o) Every record of the agency, whether public or not, shall be open for examination to the legislature and controller of the State of California and the legislative auditor of the State of Nevada.

Project expiration.

(p) Approval by the agency of any project expires 3 years after the date of final action by the agency or the effective date of the amendments to this compact, whichever is late, unless construction is begun within that time and diligently pursued thereafter, or the use or activity has commenced. In computing the 3-year period any period of time during which the project is the subject of a legal action which delays or renders impossible the diligent pursuit of that project shall not be counted. Any license, permit or certificate issued by the agency which has an expiration date shall be extended by that period of time during which the project is the subject of such legal action as provided in this subdivision.

Real property list.

(q) The governing body shall maintain a current list of real property known to be available for exchange with the United States

or with other owners of real property in order to facilitate exchanges of real property by owners of real property in the region.

ARTICLE VII.—ENVIRONMENTAL IMPACT STATEMENTS

(a) The Tahoe Regional Planning Agency when acting upon matters that have a significant effect on the environment shall:

(1) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(2) Prepare and consider a detailed environmental impact statement before deciding to approve or carry out any project. The detailed environmental impact statement shall include the following:

(A) The significant environmental impacts of the proposed project;

(B) Any significant adverse environmental effects which cannot be avoided should the project be implemented;

(C) Alternatives to the proposed project;

(D) Mitigation measures which must be implemented to assure meeting standards of the region;

(E) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

(F) Any significant irreversible and irretrievable commitments of resources which would be involved in the proposed project should it be implemented; and

(G) The growth-inducing impact of the proposed project;

(3) Study, develop and describe appropriate alternatives to recommended courses of action for any project which involves unresolved conflicts concerning alternative uses of available resources;

(4) Make available to States, counties, municipalities, institutions and individuals, advice and information useful in restoring, maintaining and enhancing the quality of the region's environment; and

(5) Initiate and utilize ecological information in the planning and development of resource-oriented projects.

(b) Prior to completing an environmental impact statement, the agency shall consult with and obtain the comments of any Federal, State or local agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State and local agencies which are authorized to develop and enforce environmental standards shall be made available to the public and shall accompany the project through the review processes. The public shall be consulted during the environmental impact statement process and views shall be solicited during a public comment period not to be less than 60 days.

Public comments.

(c) Any environmental impact statement required pursuant to this article need not repeat in its entirety any information or data which is relevant to such a statement and is a matter of public record or is generally available to the public, such as information contained in an environmental impact report prepared pursuant to the California Environmental Quality Act or a Federal environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969. However, such information or data shall be briefly described in

Information, repetition.

42 USC 4321 note.

the environmental impact statement and its relationship to the environmental impact statement shall be indicated.

In addition, any person may submit information relative to a proposed project which may be included, in whole or in part, in any environmental impact statement required by this article.

Written findings.

(d) In addition to the written findings specified by agency ordinance to implement the regional plan, the agency shall make either of the following written findings before approving a project for which an environmental impact statement was prepared:

(1) Changes or alterations have been required in or incorporated into such project which avoid or reduce the significant adverse environmental effects to a less than significant level; or

(2) Specific considerations, such as economic, social or technical, make infeasible the mitigation measures or project alternatives discussed in the environmental impact statement on the project.

A separate written finding shall be made for each significant effect identified in the environmental impact statement on the project. All written findings must be supported by substantial evidence in the record.

Fees.

(e) The agency may charge and collect a reasonable fee from any person proposing a project subject to the provisions of this compact in order to recover the estimated costs incurred by the agency in preparing an environmental impact statement under this article.

Exemptions.

(f) The agency shall adopt by ordinance a list of classes of projects which the agency has determined will not have a significant effect on the environment and therefore will be exempt from the requirement for the preparation of an environmental impact statement under this article. Prior to adopting the list, the agency shall make a written finding supported by substantial evidence in the record that each class of projects will not have a significant effect on the environment.

ARTICLE VIII.—FINANCES

(a) On or before September 30 of each calendar year the agency shall establish the amount of money necessary to support its activities for the next succeeding fiscal year commencing July 1 of the following year. The agency shall apportion $75,000 of this amount among the counties within the region on the same ratio to the total sum required as the full cash valuation of taxable property within the region in each county bears to the total full cash valuation of taxable property within the region. In addition, each county within the region in California shall pay $18,750 to the agency and each county within the region in Nevada, including Carson City, shall pay $12,500 to the agency, from any funds available therefor. The State of California and the State of Nevada may pay to the agency by July 1 of each year any additional sums necessary to support the operations of the agency pursuant to this compact. If additional funds are required, the agency shall make a request for the funds to the States of California and Nevada. Requests for State funds must be apportioned two-thirds from California and one-third from Nevada. Money appropriated shall be paid within 30 days.

Fees.

(b) The agency may fix and collect reasonable fees for any services rendered by it.

Budget.

(c) The agency shall submit an itemized budget to the States for review with any request for State funds, shall be strictly accountable to any county in the region and the States for all funds paid by them

to the agency and shall be strictly accountable to all participating bodies for all receipts and disbursement.

(d) The agency is authorized to receive gifts, donations, subventions, grants, and other financial aids and funds; but the agency may not own land except as provided in subdivision (i) of article III. Gifts.

(e) The agency shall not obligate itself beyond the moneys due under this article for its support from the several counties and the States for the current fiscal year, plus any moneys on hand or irrevocably pledged to its support from other sources. No obligation contracted by the agency shall bind either of the party States or any political subdivision thereof. Obligations.

ARTICLE IX.—TRANSPORTATION DISTRICT

(a) The Tahoe transportation district is hereby established as a special purpose district. The boundaries of the district are coterminous with those of the region. Establishment.

(b) The business of the district shall be managed by a board of directors consisting of: Board of directors.

(1) One member of the county board of supervisors of each of the counties of El Dorado and Placer;

(2) One member of the city council of the city of South Lake Tahoe;

(3) One member each of the board of county commissioners of Douglas County and of Washoe County;

(4) One member of the board of supervisors of Carson City;

(5) The director of the California Department of Transportation; and

(6) The director of the department of transportation of the State of Nevada.

Any director may designate an alternate.

(c) The vote of at least five of the directors must agree to take action. If at least five votes in favor of an action are not cast, an action of rejection shall be deemed to have been taken. Voting.

(d) The Tahoe transportation district may in accordance with the adopted transportation plan: Powers.

(1) Own and operate a public transportation system to the exclusion of all other publicly owned transportation systems in the region.

(2) Acquire upon mutually agreeable terms any public transportation system or facility owned by a county, city or special purpose district within the region.

(3) Hire the employees of existing public transportation systems that are acquired by the district without loss of benefits to the employees, bargain collectively with employee organizations, and extend pension and other collateral benefits to employees.

(4) Fix the rates and charges for transit services provided pursuant to this subdivision.

(5) Issue revenue bonds and other evidence of indebtedness.

(6) By resolution, determine and propose for adoption a tax for the purpose of obtaining services of the district. The tax proposed must be general and of uniform operation throughout the region, and may not be graduated in any way. The district is prohibited from imposing an ad valorem tax, a tax measured by gross or net receipts on business, a tax or charge that is assessed against people or vehicles as they enter or leave the region, and any tax, direct or indirect, on gaming tables and devices.

Any such proposition must be submitted to the voters of the district and shall become effective upon approval of two-thirds of the voters voting on the proposition. The revenues from any such tax must be used for the service for which it was imposed, and for no other purpose.

(7) Provide service from inside the region to convenient airport, railroad and interstate bus terminals without regard to the boundaries of the region.

Amendment.

(e) The legislatures of the States of California and Nevada may, by substantively identical enactments, amend this article.

ARTICLE X.—MISCELLANEOUS

(a) It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. Except as provided in subdivision (c), the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating State or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating therein, the compact shall remain in full force and effect as to the remaining State and in full force and effect as to the State affected as to all severable matters.

(b) The agency shall have such additional powers and duties as may hereafter be delegated or imposed upon it from time to time by the action of the legislature of either State concurred in by the legislature of the other.

Withdrawal.

(c) A State party to this compact may withdraw therefrom by enacting a statute repealing the compact. Notice of withdrawal shall be communicated officially and in writing to the Governor of the other State and to the agency administrators. This provision is not severable, and if it is held to be unconstitutional or invalid, no other provision of this compact shall be binding upon the State of Nevada or the State of California.

Interstate waters.

(d) No provision of this compact shall have any effect upon the allocation, distribution or storage or interstate waters or upon any appropriative water right.

Inter-agency cooperation.

SEC. 2. The Secretary of Agriculture and the heads of other appropriate agencies are authorized, upon the request of the Tahoe Regional Planning Agency, to cooperate with the Tahoe Regional Planning Agency in all respects compatible with carrying out the normal duties of their agencies.

U.S. representative.

SEC. 3. The consent to the compact by the United States is subject to the condition that the President may appoint a nonvoting representative of the United States to the governing body of the Tahoe Regional Planning Agency.

SEC. 4. Any additional powers conferred on the agency pursuant to article X, section 1(b) of the compact shall not be exercised unless consented to by the Congress.

SEC. 5. Nothing contained in this Act or in the compact consented to shall in any way affect the powers, rights, or obligations of the United States, or the applicability of any law or regulation of the United States in, over or to the region or waters which are the subject of the compact, or in any way affect rights owned or held by or for Indians or Indian tribes subject to the jurisdiction of the United States.

SEC. 6. The right is hereby reserved by the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by or concerning the Tahoe Regional Planning Agency as is deemed appropriate by the Congress or such committee. Disclosure.

SEC. 7. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved December 19, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 1, considered and passed House.
Dec. 3, considered and passed Senate.

79-194 O—81—pt. 3——39 : QL3

Public Law 96-552
96th Congress

An Act

Dec. 19, 1980
[H.R. 3351]

To amend chapter 55 of title 10, United States Code, to authorize dependents of members of the uniformed services serving on active duty to use CHAMPUS inpatient cost-sharing rates for certain surgery performed on an outpatient basis.

CHAMPUS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1079(b) of title 10, United States Code, relating to contracts for medical care for spouses and children of members of the uniformed services, is amended by adding at the end thereof the following new clause:

"(4) $25 for surgical care that is authorized by subsection (a) and received while in an outpatient status and that has been designated (under joint regulations to be prescribed by the Secretary of Defense and the Secretary of Health, Education, and Welfare) as care to be treated as inpatient care for purposes of this subsection. Any care for which payment is made under this clause shall not be considered to be care received while in an outpatient status for purposes of clauses (2) and (3).".

Approved December 19, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1127 (Comm. on Armed Services).
SENATE REPORT No. 96-1049 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 26, considered and passed House.
Dec. 4, considered and passed Senate.

Public Law 96-553
96th Congress

An Act

To revise the boundary of Crater Lake National Park in the State of Oregon, and for other purposes.

Dec. 19, 1980
[S. 2318]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act entitled, "An Act reserving from the public lands in the State of Oregon, as a public park for the benefit of the people of the United States, and for the protection and preservation of the game, fish, timber, and all other natural objects therein, a tract of land herein described, and so forth", approved May 22, 1902 (32 Stat. 202), is amended to read as follows:

Crater Lake National Park, Oreg., boundary revision.

16 USC 121.

"That in order to preserve for the benefit, education, and inspiration of the people of the United States certain unique and ancient volcanic features, including Crater Lake, together with significant forest and fish and wildlife resources, there is hereby established the Crater Lake National Park in the State of Oregon. The boundary of the park shall encompass the lands, waters, and interests therein within the area generally depicted on the map entitled, 'Crater Lake National Park, Oregon', numbered 106-80,001, and dated February 1980, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior. Lands, waters, and interests therein within the boundary of the park which were within the boundary of any national forest are excluded from such national forest and the boundary of such national forest is revised accordingly.".

(b) The Act entitled "An Act to add certain land to the Crater Lake National Park in the State of Oregon, and for other purposes", approved May 14, 1932 (47 Stat. 155), is repealed.

Repeal.
16 USC 121a.

SEC. 2. To make possible more effective protection of the Alpine Lakes Wilderness and more comprehensive and effective management of the management unit within the Alpine Lakes Area, established by the Alpine Lakes Area Management Act of 1976, the Secretary of Agriculture is authorized to acquire any or all of the following described lands in the State of Washington: in township 23 north, range 9 east, Willamette meridian, the southeast quarter of

16 USC 1132 note.

section 24. Such lands may be acquired by donation or exchange for national forest lands or other lands administered by the Forest Service in the same State having a value approximately equal to the value of the lands so acquired, as determined by the Secretary of Agriculture: *Provided,* That the Secretary may accept cash or pay cash to the grantor in such an exchange in order to equalize minor differences in the values of the properties exchanged. Any lands acquired pursuant to this section shall, upon acceptance of title, become part of the Mount Baker-Snoqualmie National Forest.

Approved December 19, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-959 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 4, considered and passed Senate.
Dec. 5, considered and passed House.

Public Law 96-554
96th Congress

An Act

To authorize a pilot program to encourage the efficient utilization of wood residues, and for other purposes.

Dec. 19, 1980
[S. 1996]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wood Residue Utilization Act of 1980".

Wood Residue Utilization Act of 1980.
16 USC 1600 note.

SEC. 2. The purpose of this Act is to develop, demonstrate, and make available information on feasible methods that have potential for commercial application to increase and improve utilization, in residential, commercial, and industrial or powerplant applications, of wood residues resulting from timber harvesting and forest protection and management activities occurring on public and private forest lands, and from the manufacture of forest products, including woodpulp.

16 USC 1681.

Pilot projects and demonstrations, establishment.
16 USC 1682.

SEC. 3. (a) The Secretary may establish pilot projects and demonstrations to carry out the purposes of this Act. The pilot projects and demonstrations established under this section (1) may be operated by the Secretary; or (2) may be carried out through contracts or agreements with owners of private forest lands or other persons, or in conjunction with projects, contracts, or agreements entered into under any other authority which the Secretary may possess: *Provided,* That nothing contained in this Act shall abrogate or modify provisions of existing contracts or agreements, including contracts or agreements for the sale of national forest timber, except to the extent such changes are mutually agreed to by the parties to such contracts or agreements.

(b) Pilot projects and demonstrations carried out under this section may include, but are not limited to (1) establishment and operation of utilization demonstration areas; (2) establishment and operation of fuel wood concentration and distribution centers; and (3) construction of access roads needed to facilitate wood residue utilization: *Provided,* That residue removal credits may be utilized by the Secretary only as provided in section 4.

Residue removal credits.
16 USC 1683.

SEC. 4. The Secretary may carry out pilot wood residue utilization projects under which purchasers of National Forest System timber under contracts awarded prior to October 1, 1986, may, except as otherwise provided in this section, be required to remove wood residues not purchased by them to points of prospective use in return for compensation in the form of "residue removal credits." Such projects may be carried out where the Secretary identifies situations in which pilot wood residue utilization projects on the National Forest System can provide important information on various methods and approaches to increasing the utilization, in residential, commercial, and industrial or powerplant applications, of wood residues and where such information cannot reasonably be obtained unless the pilot projects are done in conjunction with normal National Forest timber sale activities. The residue removal credits

shall be applied against the amount payable for the timber purchased and shall represent the anticipated cost of removal of wood residues.

Guidelines.

The following guidelines shall apply to projects carried out under this section:

(1) Except in cases where wood residue removal is determined to be necessary for fire prevention, site preparation for regeneration, wildlife habitat improvement, or other land management purposes, the Secretary may not provide for removal of wood residues in instances where the anticipated cost of removal would exceed the anticipated value.

(2) The residue removal credits authorized by this section shall not exceed the amount payable by the purchaser for timber after the application of all other designated charges and credits.

(3) The Secretary may sell the wood residues removed to points of prospective use for not less than their appraised value.

(4) Pilot projects, demonstrations, and other programs established pursuant to this Act shall be carried out in a manner which does not result in an adverse effect on the furnishing of timber, free of charge, under any other provision of law.

(5) Wood residues shall be collected from a site so as to avoid soil depletion or erosion giving full consideration to the protection of wildlife habitat.

(6) For the purposes of the sixth undesignated paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908 (35 Stat. 260; 16 U.S.C. 500), and section 13 of the Act of March 1, 1911 (36 Stat. 963; 16 U.S.C. 500), (A) any residue removal credit applied under this section shall be considered as "money received" or "moneys received", respectively, and (B) the "money received" or "moneys received", respectively, from the sales of wood residues removed to points of prospective use shall be the proceeds of the sales less the sum of any residue removal credit applied with respect to such residues plus any costs incurred by the Forest Service in processing and storing such residues.

Reports to Congress.
16 USC 1684.

SEC. 5. The Secretary shall make annual reports to the Congress on the programs authorized by this Act. These reports shall be submitted with the reports required under section 8(c) of the Forest and Rangeland Renewable Resources Planning Act of 1974.

16 USC 1606.

16 USC 1685.

SEC. 6. The Secretary shall issue such regulations as the Secretary deems necessary to implement the provisions of this Act.

Definitions.
16 USC 1686.

SEC. 7. For purposes of this Act, the term:

(1) "Anticipated cost of removal" means the projected cost of removal of wood residues from timber sales areas to points of prospective use, as determined by the Secretary at the time of advertisement of the timber sales contract in accordance with appropriate appraisal and sale procedures.

(2) "Anticipated value" means the projected value of wood residues as fuel or other merchantable wood products, as determined by the Secretary at the time of advertisement of the timber sales contract in accordance with appropriate appraisal and sale procedures.

(3) "Points of prospective use" means the locations where the wood residues are sold or otherwise put to use, as determined by the Secretary in accordance with appropriate appraisal and sale procedures.

(4) "Person" means an individual, partnership, joint-stock company, corporation, association, trust, estate, or any other legal entity, or any agency of Federal or State government or of a political subdivision of a State.

(5) "Secretary" means the Secretary of Agriculture.

(6) "Wood residues" includes, but is not limited to, logging slash, down timber material, woody plants, and standing live or dead trees which do not meet utilization standards because of size, species, merchantable volume, or economic selection criteria and which, in the case of live trees, are surplus to growing stock needs.

Appropriation authorization. 16 USC 1687.

SEC. 8. There is hereby authorized to be appropriated not to exceed $25,000,000 for each of the fiscal years 1982, 1983, 1984, 1985, and 1986 to carry out the pilot projects and demonstrations authorized by section 3 of this Act, the residue removal credits authorized by section 4 of this Act, and the other provisions of this Act: *Provided,* That not to exceed $2,500,000 of such amount may be appropriated for administrative expenses to carry out this Act for the period beginning October 1, 1981, and ending September 30, 1986. Such sums shall be in addition to those provided under other provisions of law and shall remain available until expended.

Effective date. 16 USC 1681 note.

SEC. 9. This Act shall become effective October 1, 1981.

Approved December 19, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-913 accompanying H.R. 6755 (Comm. on Agriculture) and No. 96-1526 (Comm. of Conference).

SENATE REPORT No. 96-634 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 126 (1980):

Mar. 25, considered and passed Senate.

Aug. 18, H.R. 6755 considered and passed House; passage vacated and S. 1996, amended, passed in lieu.

Dec. 5, House agreed to conference report.

Dec. 8, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 51:

Dec. 19, Presidential statement.

Public Law 96-555
96th Congress

An Act

Dec. 19, 1980
[H.R. 5182]

To amend the Chesapeake and Ohio Canal Development Act to change the termination date of the Chesapeake and Ohio Canal National Historical Park Commission from the date ten years after the effective date of such Act to the date twenty years after such effective date.

Chesapeake and Ohio Canal Development Act, amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6(g) of the Chesapeake and Ohio Canal Development Act (16 U.S.C. 410y-4(g)) is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

Approved December 19, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-593 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-889 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 27, considered and passed House.
Vol. 126 (1980): Dec. 5, considered and passed Senate.

Public Law 96-556
96th Congress

Joint Resolution

To provide for a temporary increase in the public debt limit.

Dec. 19, 1980
[H.J. Res. 570]

Public debt limit, temporary increase.
31 USC 757b note.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, During the period beginning on October 1, 1980, and ending on September 30, 1981, the public debt limit set forth in the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) shall be temporarily increased by $535,100,000,000.

Approved December 19, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
June 13, considered and passed House.
Dec. 12, considered and passed Senate.

Public Law 96-557
96th Congress

An Act

Dec. 19, 1980
[H.R. 7147]

To provide that certain land of the United States shall be held by the United States in trust for certain communities of the Mdewakanton Sioux in Minnesota.

Mdewakanton Sioux Indians, Minn., U.S. land held in trust.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all right, title, and interest of the United States in those lands (including any structures or other improvements of the United States on such lands) which were acquired and are now held by the United States for the use or benefit of certain Mdewakanton Sioux Indians under the Act of June 29, 1888 (25 Stat. 217); the Act of March 2, 1889 (25 Stat. 980); and the Act of August 19, 1890 (26 Stat. 336), are hereby declared to hereafter be held by the United States—

(1) with respect to the some 258.25 acres of such lands located within Scott County, Minnesota, in trust for the Shakopee Mdewakanton Sioux Community of Minnesota;

(2) with respect to the some 572.5 acres of such lands located within Redwood County, Minnesota, in trust for the Lower Sioux Indian Community of Minnesota; and

(3) with respect to the some 120 acres of such lands located in Goodhue County, Minnesota, in trust for the Prairie Island Indian Community of Minnesota.

Notice, publication in Federal Register.

SEC. 2. The Secretary of the Interior shall cause a notice to be published in the Federal Register describing the lands transferred by section 1 of this Act. The lands so transferred are hereby declared to be a part of the reservations of the respective Indian communities for which they are held in trust by the United States.

SEC. 3. Nothing in this Act shall (1) alter, or require the alteration, of any rights under any contract, lease, or assignment entered into or issued prior to enactment of this Act, or (2) restrict the authorities of the Secretary of the Interior under or with respect to any such contract, lease, or assignment.

Approved December 19, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1409 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-1047 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Nov. 17, considered and passed House.
Dec. 8, considered and passed Senate.

Public Law 96-558
96th Congress

An Act

To authorize the Architect of the Capitol to contract for personal services with individuals, firms, partnerships, corporations, associations, and other legal entities.

Dec. 19, 1980
[S. 2069]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Architect of the Capitol is authorized to contract for personal services with any firm, partnership, corporation, association, or other legal entity in the same manner as he is authorized to contract for personal services with individuals under the provisions of section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).

Architect of the Capitol, contracts.
41 USC 6a-2.

Approved December 19, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-442 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 6, considered and passed Senate.
Vol. 126 (1980): Dec. 5, considered and passed House.

Public Law 96-559
96th Congress

An Act

Dec. 22, 1980
[H.R. 2170]

To provide for the reimbursement of legal expenses incurred by the city of Fairfax with respect to a 1971 entry and search by employees of the Federal Government.

City of Fairfax, Va.
Legal expenses reimbursement.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective October 1, 1980, there are authorized to be appropriated $41,958.78 to the Secretary of the Treasury who shall pay sums so appropriated to the city of Fairfax, Virginia, as reimbursement to the city for the legal expenses it incurred with respect to legal actions arising out of a 1971 entry into and search of a private building in the city by employees of the Federal Government.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1270 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 15, considered and passed House.
Dec. 8, considered and passed Senate.

Public Law 96-560
96th Congress

An Act

To designate certain National Forest System lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion in the National Wilderness Preservation System, and for other purposes.

Dec. 22, 1980
[H.R. 5487]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Forest System lands, designations.

TITLE I

STATEMENT OF FINDINGS AND POLICY

SEC. 101. (a) The Congress finds that—

(1) many areas of undeveloped National Forest System lands in the State of Colorado possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second Roadless Area Review and Evaluation (RARE II) of National Forest System lands in the State of Colorado and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System; and

(3) the Department of Agriculture's second Roadless Area Review and Evaluation of National Forest System lands in the State of Colorado and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values and which should not now be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws.

(b) The purposes of this title are to—

(1) designate certain National Forest System lands in the State of Colorado as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the land, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and

(2) insure that certain other National Forest System lands in the State of Colorado be available for nonwilderness multiple uses.

SEC. 102. (a) In furtherance of the purposes of the Wilderness Act, the following lands in the State of Colorado are hereby designated as

16 USC 1131 note.

wilderness and, therefore, as components of the National Wilderness Preservation System:

16 USC 1132 note.

(1) certain lands in the Uncompahgre National Forest, Colorado, which comprise approximately ninety-seven thousand seven hundred acres, as generally depicted on a map entitled "Big Blue Wilderness—Proposed", dated November 1980, and which shall be known as the Big Blue Wilderness;

16 USC 1132 note.

(2) certain lands in the Roosevelt National Forest, Colorado, which comprise approximately nine thousand four hundred acres, as generally depicted on a map entitled "Cache La Poudre Wilderness—Proposed", dated October 1979, and which shall be known as the Cache La Poudre Wilderness;

16 USC 1132 note.

(3) certain lands in the Gunnison, San Isabel, and White River National Forests, Colorado, which comprise approximately one hundred and fifty-nine thousand nine hundred acres, as generally depicted on a map entitled "Collegiate Peaks Wilderness—Proposed", dated November 1980, and which shall be known as the Collegiate Peaks Wilderness;

16 USC 1132 note.

(4) certain lands in the Roosevelt National Forest, Colorado, which comprise approximately sixty-seven thousand five hundred acres, as generally depicted on a map entitled "Comanche Peak Wilderness—Proposed", dated November 1980, and which shall be known as the Comanche Peak Wilderness;

16 USC 1132 note.

(5) certain lands in the San Isabel and White River National Forests, Colorado, which comprise approximately one hundred and twenty-six thousand acreas, as generally depicted on a map entitled "Holy Cross Wilderness—Proposed", dated November 1980, and which shall be known as the Holy Cross Wilderness: *Provided,* That no right, or claim of right, to the diversion and use of existing conditional water rights for the Homestake Water Development project by the cities of Aurora and Colorado Springs shall be prejudiced, expanded, diminished, altered, or affected by this Act. Nothing in this Act shall be construed to expand, abate, impair, impede, or interfere with the construction, maintenance or repair of said project, nor the operation thereof, or any exchange or modification of the same agreed to by the cities and the United States, acting through any appropriate agency thereof;

(6) certain lands in the Rio Grande and Gunnison National Forests, Colorado, which comprise approximately sixty thousand acres, as generally depicted on a map entitled "La Garita Additions—Proposed", dated October 1979, and which are hereby incorporated in and shall be deemed to be a part of the La Garita Wilderness as designated by Public Law 88-577;

16 USC 1131 note.

16 USC 1132 note.

(7) certain lands in the San Juan and Uncompahgre National Forests, Colorado, which comprise approximately forty thousand acres, as generally depicted on a map entitled "Lizard Head Wilderness—Proposed", dated November 1980, and which shall be known as the Lizard Head Wilderness;

16 USC 1132 note.

(8) certain lands in the Pike National Forest, Colorado, which comprise approximately one hundred and six thousand acres, as generally depicted on a map entitled "Lost Creek Wilderness—Proposed", dated June 1980, and which shall be known as the Lost Creek Wilderness;

(9) certain lands in the Gunnison and White River National Forests, Colorado, which comprise approximately one hundred and three thousand acres, as generally depicted on a map entitled "Maroon Bells—Snowmass Additions—Proposed",

dated November 1980, and which are hereby incorporated in and shall be deemed to be a part of the Maroon Bells-Snowmass Wilderness as designated by Public Law 88-577; 16 USC 1131 note.

(10) certain lands in the Arapaho and Pike National Forests, Colorado, which comprise approximately seventy-three thousand acres, as generally depicted on a map entitled "Mount Evans Wilderness—Proposed", dated June 1980, and which shall be known as the Mount Evans Wilderness; 16 USC 1132 note.

(11) certain lands in the San Isabel National Forest, Colorado, which comprise approximately twenty-six thousand acres, as generally depicted on a map entitled "Mount Massive Wilderness—Proposed", dated October 1979, and which shall be known as the Mount Massive Wilderness; 16 USC 1132 note.

(12) certain lands in the Uncompahgre National Forest, Colorado, which comprise approximately sixteen thousand two hundred acres, as generally depicted on a map entitled "Mount Sneffels Wilderness—Proposed", dated October 1979, and which shall be known as the Mount Sneffels Wilderness; 16 USC 1132 note.

(13) certain lands in the Routt National Forest, Colorado, which comprise approximately sixty-eight thousand five hundred acres, as generally depicted on a map entitled "Mount Zirkel Wilderness Additions—Proposed", dated November 1980, and which are hereby incorporated in and shall be deemed to be a part of the Mount Zirkel Wilderness as designated by Public Law 88-577; 16 USC 1131 note.

(14) certain lands in the Roosevelt National Forest, Colorado, which comprise approximately nine thousand nine hundred acres, as generally depicted on a map entitled "Neota Wilderness Proposal", dated October 1979, and which shall be known as the Neota Wilderness; 16 USC 1132 note.

(15) certain lands in the Arapaho National Forest, Colorado, which comprise approximately fourteen thousand one hundred acres, as generally depicted on a map entitled "Never Summer Wilderness—Proposed", dated September 1980, and which shall be known as the Never Summer Wilderness; 16 USC 1132 note.

(16) certain lands in the Gunnison and White River National Forests, Colorado, which comprise approximately sixty-eight thousand acres, as generally depicted on a map entitled "Raggeds Wilderness—Proposed", dated November 1980, and which shall be known as the Raggeds Wilderness; 16 USC 1132 note.

(17) certain lands in the Roosevelt and Routt National Forests, Colorado, which comprise approximately forty-eight thousand nine hundred and thirty acres, as generally depicted on a map entitled "Mount Rawah Wilderness Additions—Proposed", dated October 1979, and which are hereby incorporated in and shall be deemed to be a part of the Rawah Wilderness as designated by Public Law 88-577: *Provided,* That the Secretary shall permit motorized access and the use of motorized equipment used for the periodic maintenance and repair of the McGuire Water Transmission Line ditch; 16 USC 1131 note.

(18) certain lands in the San Juan National Forest, Colorado, which comprise approximately one hundred and thirty thousand acres, as generally depicted on a map entitled "South San Juan Wilderness—Proposed", dated October 1979, and which shall be known as the South San Juan Wilderness; 16 USC 1132 note.

(19) certain lands in the Rio Grande and San Juan National Forests, Colorado, which comprise approximately sixty-six thousand acres, as generally depicted on a map entitled "Weminuche

Wilderness Additions—Proposed", dated October 1979, and which are hereby incorporated in and shall be deemed to be a part of the Weminuche Wilderness as designated by Public Law 93-632; and

16 USC 1132 note.

(20) certain lands in the Gunnison National Forest, Colorado, which comprise approximately one hundred and thirty-three thousand acres, as generally depicted on a map entitled "West Elk Wilderness Additions—Proposed", dated November 1980, and which are hereby incorporated in and shall be deemed to be a part of the West Elk Wilderness as designated by Public Law 88-577.

16 USC 1131 note.

(b) The previous classifications of the Uncompahgre Primitive Area and the Wilson Mountains Primitive Area are hereby abolished.

16 USC 1132 note.

SEC. 103. In furtherance of the purposes of the Wilderness Act, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System: certain lands in the Black Hills National Forest, South Dakota, which comprise approximately ten thousand seven hundred acres, as generally depicted on a map entitled "Black Elk Wilderness—Proposed", dated October 1979, and shall be known as the Black Elk Wilderness: *Provided,* That the provisions of the Act establishing the Custer State Park Sanctuary (41 Stat. 986) and the later named Norbeck Wildlife Preserve (63 Stat. 708) shall also apply to the Black Elk Wilderness to the extent they are not inconsistent with the provisions of the Wilderness Act.

16 USC 675-678b.

SEC. 104. (a) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in this title and legal descriptions of each wilderness area designated by this title with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(b) Subject to valid existing rights, each wilderness area designated by this title shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 (78 Stat. 892) governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

16 USC 1131 note.

16 USC 1132 note.

SEC. 105. (a) The Secretary of Agriculture shall review and within three years after the date of enactment of this Act, shall report to the President and the Congress in accordance with subsections 3(c) and 3(d) of the Wilderness Act of 1964 (78 Stat. 892), his recommendations on the suitability or unsuitability for inclusion in the National Wilderness Preservation System of the following lands:

16 USC 1132.

(1) the Buffalo Peaks Wilderness Study Area, consisting of approximately fifty-six thousand nine hundred acres in the San Isabel National Forest, as generally depicted on a map entitled "Buffalo Peaks Wilderness Study Area Proposal", dated June 1980;

(2) the Fossil Ridge Wilderness Study Area, consisting of approximately fifty-four thousand seven hundred acres in the Gunnison National Forest, as generally depicted on a map

entitled "Fossil Ridge Wilderness Study Area Proposal", dated December 1979;

(3) the Greenhorn Mountain Wilderness Study Area, consisting of approximately twenty-two thousand three hundred acres in the San Isabel National Forest, as generally depicted on a map entitled "Greenhorn Mountain Wilderness Study Area Proposal", dated June 1980;

(4) the South San Juan Wilderness Expansion Study Area, consisting of approximately thirty-two thousand eight hundred acres in the San Juan National Forest, as generally depicted on a map entitled "Montezuma Peak-V Rock Trail Wilderness Study Area", dated June 1980;

(5) the Piedra Wilderness Study Area, consisting of approximately forty-one thousand five hundred acres in the San Juan National Forest, as generally depicted on a map entitled "Piedra Wilderness Study Area Proposal", dated June 1980;

(6) the Sangre de Cristo Wilderness Study Area, consisting of approximately two hundred and twenty-one thousand acres in the Rio Grande and San Isabel National Forests, as generally depicted on a map entitled "Sangre de Cristo Wilderness Study Area Proposal", dated June 1980;

(7) the Spanish Peaks Wilderness Study Area, consisting of approximately nineteen thousand six hundred acres in the San Isabel National Forest, as generally depicted on a map entitled "Spanish Peaks Wilderness Study Area Proposal", dated June 1980;

(8) the Vasquez Peak Wilderness Study Area, consisting of approximately twelve thousand eight hundred acres in the Arapaho National Forest, as generally depicted on a map entitled "Vasquez Peak Wilderness Study Area Proposal", dated September 1980; and

(9) the West Needle Wilderness Study Area, consisting of approximately fifteen thousand eight hundred acres in the San Juan National Forest, as generally depicted on a map entitled "West Needle Wilderness Study Area Proposal", dated June 1980.

Review and report to President and Congress.

(b) The Secretary of the Interior and the Secretary of Agriculture shall review jointly the Wheeler Geologic Study Area consisting of approximately fourteen thousand acres in the Gunnison National Forest, as generally depicted on a map entitled "Wheeler Geologic Study Area Proposal", dated November 1980, and within three years following the date of enactment of this Act shall report to the President and to Congress their recommendations for management of the lands in such study area. In making such review and report, such Secretaries shall consider—

(1) the natural, historical, cultural, scenic, economic, educational, scientific, energy, mineral, and geologic values of the study area;

(2) the management and protection of fragile geologic resources within the area;

(3) possible land management options or designations including national park, national monument, or national recreation area designation; addition to the National Wilderness Preservation System; special administrative designations; and management under the general laws and regulations applicable to the National Forest System;

(4) the effect of possible land managment options on consumers, national security, and national, State and local economies,

including timber harvest, tourism, grazing, energy, water, mineral, and other commercial activities;

(5) the need for additional mineral exploration in such area; and

(6) the suitability and desirability of permanent or temporary road or other mechanized access into the study area, with special attention to access by the elderly and the handicapped.

(c) Subject to valid existing rights, the study areas designated by subsections (a) and (b) of this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System: *Provided,* That with respect to grazing of livestock and oil, gas, or mineral exploration and development activities, such study areas shall be administered according to the laws generally applicable to the National Forest System.

16 USC 1132 note.

SEC. 106. (a) The Secretary of Agriculture shall review and within three years after the date of enactment of this Act, shall report to the President and the Congress in accordance with subsections 3(c) and 3(d) of the Wilderness Act of 1964 (78 Stat. 892), his recommendations on the suitability or unsuitability for inclusion in the National Wilderness Preservation System of the following area:

16 USC 1132.

(1) the Oh-Be-Joyful Wilderness Study Area, consisting of approximately five thousand five hundred acres in the Gunnison National Forest, as generally depicted on a map entitled "Oh-Be-Joyful Wilderness Study Area—Proposed", dated November 1980.

(b) Subject to valid existing rights, the Oh-Be-Joyful Wilderness Study Area shall be administered by the Secretary of Agriculture so as to maintain its presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System: *Provided,* That such management requirement shall not extend beyond a period of two years from the date of submission to Congress of the President's recommendation that such area be designated as wilderness, or beyond the date of submission to Congress of the President's recommendation that such area not be designated as wilderness: *Provided further,* That, with respect to oil, gas and mineral exploration and development operations in such study area, the terms of the Wilderness Act of 1964 shall apply.

16 USC 1131 note.

SEC. 107. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second Roadless Area Review and Evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Colorado and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to National Forest System lands in States other than Colorado, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Colorado;

(2) with respect to the National Forest System lands in the State of Colorado which were reviewed by the Department of Agriculture in the second Roadless Area Review and Evaluation (RARE II), except those lands remaining in further planning

upon enactment of this Act, areas listed in sections 105 and 106 of this Act, or previously congressional designated wilderness study areas, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle; 16 USC 1600 note. 16 USC 1600 note.

(3) areas in the State of Colorado reviewed in such Final Environmental Statement and not designated as wilderness or for study by Congress or remaining in further planning upon enactment of this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide Roadless Area Review and Evaluation of National Forest System lands in the State of Colorado for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

SEC. 108. The Congress hereby declares that, without amending the Wilderness Act of 1964, with respect to livestock grazing in National Forest wilderness areas, the provisions of the Wilderness Act relating to grazing shall be interpreted and administered in accordance with the guidelines contained under the heading "Grazing in National Forest Wilderness" in the House Committee Report (H. Report 96-617) accompanying this Act. 16 USC 1133 note. 16 USC 1131 note.

SEC. 109. The Secretary of Agriculture is directed to review all policies, practices, and regulations of the Department of Agriculture regarding disease or insect outbreaks, forest fires, and the use of modern suppression methods and equipment in National Forest System components of the National Wilderness Preservation System in the State of Colorado, to insure that—

(a) such policies, practices, and regulations fully conform with and implement the intent of Congress regarding forest fire, disease and insect control, as such intent is expressed in the Wilderness Act and this Act; and

(b) policies, practices, and regulations are developed that will allow timely, and efficient fire, insect, and disease control, to provide, to the extent reasonably practicable, adequate protection of adjacent Federal, State, and private nonwilderness lands from forest fires and disease or insect infestations.

SEC. 110. Congress does not intend that designation of wilderness areas in the State of Colorado lead to the creation of protective perimeters of buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 111. (a) The boundaries of Rocky Mountain National Park, the Roosevelt National Forest, and the Arapaho National Forest are revised as generally depicted on the map entitled "Boundary Adjustments, Rocky Mountain National Park", numbered 121-80,047, dated October 1, 1979, which shall be on file and available for public inspection in the Office of the Director, National Park Service, 16 USC 192b-9.

Department of the Interior, and the Office of the Chief, Forest Service, Department of Agriculture: *Provided,* That the area shown on such map as E-5 and known as the Twin Sisters area shall remain a part of the Rocky Mountain National Park. All lands added or tranferred by this Act to Rocky Mountain National Park, Roosevelt National Forest, and Arapaho National Forest shall be subject to the laws and regulations applicable to the appropriate National Park or National Forest. Lands within the Indian Peaks Wilderness Area as designated by Public Law 95-450 (92 Stat. 1099) that are transferred by this Act to Rocky Mountain National Park shall remain in the National Wilderness Preservation System. Lands within the Rocky Mountain National Park that are adjacent to the Indian Peaks Wilderness and that are transferred by this Act to the Roosevelt National Forest shall be incorporated in and become part of the Indian Peaks Wilderness.

16 USC 460jj note.

(b) The Secretary of the Interior, with respect to lands added or transfered by this Act to Rocky Mountain National Park, and the Secretary of Agriculture, with respect to lands added or transferred by this Act to Roosevelt and Arapaho National Forests, may acquire lands and interests in such lands, by donation, purchase with donated or appropriated funds, or by exchange. The Secretary of Agriculture, under the provisions of the Act of March 20, 1922 (42 Stat. 465), as amended, may accept on behalf of the United States title to any land in section 30, township 7 north, range 73 west, of the sixth principal meridian which lies within the boundary of Rocky Mountain National Park as revised by this Act, in exchange for which the Secretary of the Interior, notwithstanding section 8(a) of the Wild and Scenic Rivers Act (Public Law 90-542, 82 Stat. 906), is authorized to issue patent to lands lying within the Cache La Poudre Wild and Scenic River study corridor. Upon completion of the exchange, the Secretary of Agriculture shall transfer to the administrative jurisdiction by the Secretary of the Interior the portion of such land lying within the boundary of the Rocky Mountain National Park as revised by this Act.

16 USC 485, 486.

16 USC 1279.

(c) The Federal lands within the administrative jurisdiction of the Bureau of Land Management and within the areas referred to as E-2 and GL-3 on the map referred to in subsection (a) shall be transferred to Rocky Mountain National Park without transfer of funds.

(d) If the city of Longmont, Colorado, notifies the Secretary of the Interior that lands within the area referred to as E-8 on the map referred to in subsection (a) of this section that are owned by such city are necessary for the development of a reservoir, the Secretary shall by publication of a revised boundary description in the Federal Register revise the boundary of Rocky Mountain Park within such area to exclude the lands which are necessary for the development of the reservoir: *Provided,* That the authority of such Secretary to revise the boundary for this purpose shall expire on November 1, 1981; and the only lands which may be excluded are the approximately one hundred twenty-nine acres owned by such city.

(e) If after the completion of two complete fiscal years following the date of enactment of this Act the Secretary of the Interior has not purchased interests in the lands of approximately one thousand two hundred acres known as the Old McGregor Ranch located within the area referred to as E-2 on the map referred to in subsection (a), and the owner of such lands petitions the Secretary to exclude such lands from Rocky Mountain National Park, the Secretary shall by publication of a revised boundary description in the Federal Register return

the boundary of Rocky Mountain National Park in such area E-2 to the boundary as it existed before the enactment of this Act.

(f) The Secretary of the Interior shall convey, to the city of Grand Lake, Colorado, without compensation or consideration, the lands, not to exceed two acres, within the area referred to as GL-5 on the map referred to in subsection (a).

(g) The Secretary of the Interior may provide for the use of snowmobiles along the East Shore Trail of Shadow Mountain Lake if after study the Secretary determines such use will not result in any significant adverse impact upon wildlife.

TITLE II

SEC. 201. In furtherance of the purposes of the Wilderness Act, the following lands are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System—

(a) certain lands in the Mark Twain National Forest, Missouri, which comprise approximately eight thousand five hundred and thirty acres, are generally depicted on a map entitled "Bell Mountain Wilderness—Proposed", dated February 1980, and shall be known as the Bell Mountain Wilderness; 16 USC 1132 note.

(b) certain lands in the Mark Twain National Forest, Missouri, which comprise approximately three thousand nine hundred and twenty acres, are generally depicted on a map entitled "Rockpile Mountain Wilderness—Proposed", dated February 1980, and shall be known as the Rockpile Mountain Wilderness; 16 USC 1132 note.

(c) certain lands in the Mark Twain National Forest, Missouri, which comprise approximately eight thousand four hundred acres, are generally depicted on a map entitled "Piney Creek Wilderness—Proposed", dated February 1980, and shall be known as the Piney Creek Wilderness; 16 USC 1132 note.

(d) certain lands in the Mark Twain National Forest, Missouri, which comprise approximately six thousand eight hundred acres, are generally depicted on a map entitled "Devils Backbone Wilderness—Proposed", dated February 1980, and shall be known as the Devils Backbone Wilderness; 16 USC 1132 note.

(e) certain lands in the Francis Marion National Forest, South Carolina, which comprise approximately five thousand one hundred acres, are generally depicted on a map entitled "Wambaw Swamp Wilderness—Proposed", dated May 1980, and shall be known as the Wambaw Swamp Wilderness; 16 USC 1132 note.

(f) certain lands in the Francis Marion National Forest, South Carolina, which comprise approximately one thousand nine hundred and eighty acres, are generally depicted on a map entitled "Hell Hole Bay Wilderness—Proposed", dated May 1980, and shall be known as the Hell Hole Bay Wilderness; 16 USC 1132 note.

(g) certain lands in the Francis Marion National Forest, South Carolina, which comprise approximately five thousand acres, are generally depicted on a map entitled "Little Wambaw Swamp Wilderness—Proposed", dated May 1980, and shall be known as the Wambaw Swamp Wilderness; 16 USC 1132 note.

(h) certain lands in the Francis Marion National Forest, South Carolina, which comprise approximately one thousand six hundred and forty acres, are generally depicted on a map entitled "Wambaw Creek Wilderness—Proposed", dated May 1980, and shall be known as the Wambaw Creek Wilderness; 16 USC 1132 note.

(i) certain lands in the Kisatchie National Forest, Louisiana, which comprise approximately eight thousand seven hundred 16 USC 1132 note.

acres, are generally depicted on a map entitled "Kisatchie Hills Wilderness—Proposed", dated May 1980, and shall be known as the Kisatchie Hills Wilderness.

MAPS AND DESCRIPTIONS

SEC. 202. As soon as practicable after the provisions of this Act take effect, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by this title with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives and the Committees on Energy and Natural Resources and Agriculture, Nutrition, and Forestry of the United States Senate, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief, United States Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 203. Subject to valid existing rights, each wilderness area designated by this title shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 (78 Stat. 892) governing areas designated by that Act as wilderness areas, except that, with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

16 USC 1131 note.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-617 (Comm. on Interior and Insular Affairs) and No. 96-1521 (Comm. of Conference).
SENATE REPORT No. 96-914 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 10, considered and passed House.
Vol. 126 (1980): Sept. 25, considered and passed Senate, amended.
Dec. 3, House agreed to conference report.
Dec. 4, Senate agreed to conference report.

Public Law 96-561
96th Congress

An Act

To provide for the conservation and enhancement of the salmon and steelhead resources of the United States, assistance to treaty and nontreaty harvesters of those resources, and for other purposes.

Dec. 22, 1980
[S. 2163]

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

U.S. salmon and steelhead resources, conservation.
Salmon and Steelhead Conservation and Enhancement Act of 1980.
16 USC 3301 note.

TITLE I—CONSERVATION AND ENHANCEMENT OF SALMON AND STEELHEAD RESOURCES

PART A—GENERAL PROVISIONS

SEC. 101. SHORT TITLE.

This title may be cited as the "Salmon and Steelhead Conservation and Enhancement Act of 1980".

SEC. 102. FINDINGS AND PURPOSES.

16 USC 3301.

(a) FINDINGS.—The Congress finds and declares the following:

(1) The stocks of salmon and steelhead which originate in the rivers of the conservation areas constitute valuable and renewable natural resources. Many groups of commercial, recreational, and treaty fishermen have historically depended upon these stocks of fish for their livelihoods and avocations. These fishery resources contribute to the food supply and economic health of the Pacific Northwest and the Nation as a whole, provide valuable recreational experiences for thousands of citizens from various parts of the United States, and represent a central element of the cultures and economies of Indian tribes and the citizens of the Pacific Northwest.

(2) Over a period of several decades, competing uses of salmon and steelhead habitat and historical problems relating to conservation measures, the regulation of harvest and enhancement have depressed several of these stocks of salmon and steelhead.

(3) Improved management and enhancement planning and coordination among salmon and steelhead managers will help prevent a further decline of salmon and steelhead stocks and will assist in increasing the supply of these stocks.

(4) Due in principal part to the Federal court decisions in the United States against Washington and Sohappy against Smith, the fishing capacity of nontreaty fishermen in the conservation areas established by this title exceeds that required to harvest the available salmon resources. This excess capacity causes severe economic problems for these fishermen.

(5) The supply of salmon and steelhead can be increased through carefully planned enhancement measures designed to improve the survival of stocks and to augment the production of artificially propagated stocks. By careful choice of species, areas,

and stocking procedures, enhancement programs can be used to—

(A) improve the distribution of fish among different groups of treaty and nontreaty fishermen; and

(B) add stability to the treaty and nontreaty fisheries by reducing variations in fish availability.

(b) PURPOSES.—In order to assist the harvesters of the salmon and steelhead resources within the Columbia River conservation area and the Washington conservation area established by this title to overcome temporary dislocations arising from the decisions in the cases of United States against Washington and Sohappy against Smith and from other causes, this title authorizes the establishment of a cooperative program involving the United States, the States of Washington and Oregon, the treaty tribes acting through the appropriate tribal coordinating bodies, and other parties, to—

(1) encourage stability in and promote the economic well being of the treaty and nontreaty commercial fishing and charter fishing industries and improve the distribution of fishing power between treaty and nontreaty fisheries through—

(A) the purchase of nontreaty commercial and charter fishing vessels, gear, and licenses; and

(B) coordinated research, enhancement, and management of salmon and steelhead resources and habitat; and

(2) improve the quality of, and maintain the opportunities for, salmon and steelhead recreational fishing.

16 USC 3302.

SEC. 103. DEFINITIONS.

As used in this title—

(1) The term "appropriate tribal coordinating body" means the Columbia River tribal coordinating body or the Washington tribal coordinating body, as the context requires.

(2) The term "charter vessel" means any vessel licensed by the State to carry passengers for hire for the purpose of recreational salmon fishing.

(3) The term "charter fishing" means fishing undertaken aboard charter vessels.

(4) The term "Columbia River conservation area" means—

(A) all habitat within the Columbia River drainage basin; and

(B) those areas in—

(i) the fishery conservation zone over which the Pacific Fishery Management Council has jurisdiction, and

(ii) the territorial seas of Oregon and Washington,

in which one or more stocks that originate in the habitat describe in subparagraph (A) migrate.

(5) The term "Columbia River tribal coordinating body" means the organization duly authorized by those treaty tribes of the Columbia River drainage basin to coordinate activities for them for purposes of this title.

(6) The term "commercial fishing" means fishing for the purpose of sale or barter.

(7) The term "commercial fishing vessel" or "fishing vessel" means any vessel, boat, ship, or other craft which is licensed for, and used for, equipped to be used for, or of a type which is normally used for, commercial salmon fishing.

(8) The term "enhancement" means projects undertaken to increase the production of naturally spawning or artificially

propagated stocks of salmon or steelhead, or to protect, conserve, or improve the habitat of such stocks.

(9) The term "habitat" means those portions of the land or water, including the constituent elements thereof, (A) which salmon or steelhead occupy at any time during their life cycle, or (B) which affect the salmon or steelhead resources.

(10) The term "recreational fishing" means fishing for personal use and enjoyment using conventional angling gear, and not for sale or barter.

(11) The term "salmon" means any anadromous species of the family Salmonidae and Genus Oncorhynchus, commonly known as Pacific salmon.

(12) The term "salmon or steelhead resource" means any stock of salmon or steelhead.

(13) The term "steelhead" means the anadromous rainbow trout species Salmo gairdneri, commonly known as steelhead.

(14) The term "stock" means a species, subspecies, race, geographical grouping, run, or other category of salmon or steelhead.

(15) The term "treaty" means any treaty between the United States and any treaty tribe that relates to the reserved right of such tribe to harvest salmon and steelhead within the Washington or Columbia River conservation areas.

(16) The term "treaty tribe" means any Indian tribe recognized by the United States Government, with usual and accustomed fishing grounds in the Washington or Columbia River conservation areas, whose fishing right under a treaty has been recognized by a Federal court.

(17) The term "Washington conservation area" means all salmon and steelhead habitat within the State of Washington except for the Columbia River drainage basin, and in the fishery conservation zone adjacent to the State of Washington which is subject to the jurisdiction of the United States.

(18) The term "Washington tribal coordinating body" means the organization duly authorized by the treaty tribes of the Washington conservation area to coordinate their activities for them for the purposes of this title.

PART B—COORDINATED MANAGEMENT OF SALMON AND STEELHEAD

SEC. 110. ESTABLISHMENT AND FUNCTIONS OF SALMON AND STEELHEAD ADVISORY COMMISSION.

16 USC 3311.

(a) ESTABLISHMENT.—Within 90 days after the date of the enactment of this Act, the Secretary of Commerce (hereinafter in this part referred to as the "Secretary") shall establish the Salmon and Steelhead Advisory Commission (hereinafter referred to in this title as the "Commission"), which shall consist of one voting member from each of the following:

(1) The State of Washington.
(2) The State of Oregon.
(3) The Washington tribal coordinating body.
(4) The Columbia River tribal coordinating body.
(5) The Pacific Fishery Management Council.
(6) The National Marine Fisheries Service.

(b) MEMBERSHIP.—(1) The voting representatives shall be appointed by the Secretary from a list of qualified individuals submitted by the Governor of each applicable State, by each appropriate tribal coordinating body, and by the Pacific Fishery Management Council. The

representative for the National Marine Fisheries Service shall be the Northwest regional director of the Service or his designee.

(2) The Commission shall have 6 nonvoting members, 5 of which shall be qualified individuals appointed by the Secretary. The sixth nonvoting member shall be the regional director of the United States Fish and Wildlife Service or his designee.

"Qualified individual."

(3) For the purposes of this subsection, the term "qualified individual" means an individual who is knowledgeable with regard to the management, conservation, or harvesting of the salmon and steelhead resources of the conservation areas.

(c) REPORT BY COMMISSION.—Within 15 months after the date of the establishment of the Commission, it shall prepare, and submit to the Secretary and Congress, a comprehensive report containing conclusions, comments, and recommendations for the development of a management structure (including effective procedures, mechanisms, and institutional arrangements) for the effective coordination of research, enhancement, management, and enforcement policies for the salmon and steelhead resources of the Columbia River and Washington conservation areas, and for the resolution of disputes between management entities that are concerned with stocks of common interest. The principal objectives of, and the standards for, the management structure shall include, but not be limited to—

(1) the development of common principles to govern and coordinate effectively management and enhancement activities;

(2) the prevention of overfishing;

(3) the use of the best scientific information available;

(4) the consideration of, and allowance for, variations among, and contingencies in, fisheries and catches;

(5) the promotion of harvest strategies and regulations which will encourage continued and increased investment by the salmon and steelhead producing jurisdictions;

(6) the optimization of the use of resources for enforcement;

(7) the consideration of harvest activities as they relate to existing and future international commitments;

(8) the minimization of costs and the avoidance of unnecessary duplication; and

(9) the harvest of fish by treaty tribes, in accordance with treaty rights, unless agreed otherwise by the affected treaty tribes.

(d) UNANIMOUS VOTE REQUIRED.—No report or revision thereto may be submitted by the Commission to the Secretary for approval under this section unless the report or revision is approved by all of the voting members of the Commission.

Approval.

(e) SECRETARIAL ACTION ON REPORT.—Within 4 months after the date of the submission of the comprehensive report, or any revision thereto, under subsection (c), the Secretary, in consultation with the Secretary of the Interior, shall review the report and, if he finds that the management structure recommended in the report would, if implemented, meet the objectives and standards specified in this section and be consistent with this title, approve the report. If the Secretary, in consultation with the Secretary of the Interior, finds that such structure is not in conformity with the standards and objectives set forth in this section, the provisions of this title, or other applicable law, he shall return the report to the Commission together with a written statement of the reasons for not approving the report. If the Commission submits a revised report to the Secretary within 2 months after the date of return, the Secretary shall approve the

report if he finds that the objections on which the prior disapproval was based are overcome.

(f) PER DIEM AND TRAVEL ALLOWANCES.—The members of the Commission (other than those who are full-time employees of the Federal or a State government), while away from their homes or regular places of business for purposes of carrying out their duties as members, shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons intermittently employed in Government service.

(g) ADMINISTRATIVE SUPPORT.—The Secretary shall provide such clerical and technical support as may be necessary to enable the Commission to carry out its functions.

(h) TERMINATION OF COMMISSION.—Unless otherwise agreed to by the voting members of the Commission and approved by the Secretary, the Commission shall terminate upon the Secretary's approval of the Commission's report pursuant to subsection (e).

SEC. 111. PRECONDITION FOR ELIGIBILITY FOR ASSISTANCE UNDER PART C. 16 USC 3312.

Upon approval by the Secretary of the Commission's report under section 110, a State represented by a voting member on the Commission and any treaty tribe represented by a tribal coordinating body shall be eligible for financial assistance under part C if the State or treaty tribe enters into an agreement with the Secretary under which that State or treaty tribe obligates itself—

(1) to implement and enforce the provisions of the report and revisions thereto, through laws, regulations, ordinances, or other appropriate means, within such geographical areas and with respect to such persons as may be subject to its jurisdiction and to the extent of its enforcement power; and

(2) to engage in such coordination and consultation as may be necessary or appropriate to ensure, to the maximum extent practicable, that the report and revisions thereto are fully and effectively implemented.

SEC. 112. COORDINATION GRANTS. 16 USC 3313.

The Secretary, in consultation with the Secretary of the Interior, is authorized to establish a program to provide grants to prepare reports and plans provided for in parts B and C in order to promote coordinated research, enforcement, enhancement, and management of the salmon and steelhead resources within the Washington and Columbia River conservation areas consistent with the purposes of this title. Such grants shall be available for use by the State of Washington, the State of Oregon, appropriate tribal coordinating bodies, or any joint governmental entity established for undertaking research, or providing advice on or mechanisms for coordinating management or enforcement, or preparing the reports and plans described in parts B and C.

SEC. 113. DISCONTINUANCE OF ASSISTANCE UNDER PARTS B AND C. 16 USC 3314.

If the Secretary finds that as of the close of the 18th month after secretarial approval of the Commission report under section 110(e), the number of parties which have adopted and implemented the Commission's management program in accordance with the provisions of this title and the report is insufficient to ensure that the management structure is effective and consistent with the standards and objectives in section 110(c), he shall discontinue any further funding under part B or C of this title.

16 USC 3315.

SEC. 114. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this part in fiscal years commencing after September 30, 1981, an aggregate amount of $3,000,000. Funds appropriated pursuant to this section remain available to the Secretary until expended.

PART C—RESOURCE ENHANCEMENT

16 USC 3321.

SEC. 120. GRANTS FOR PROJECTS UNDER APPROVED ENHANCEMENT PLANS.

(a) AUTHORITY.—The Secretary of the Interior (hereinafter referred to in this part as the "Secretary"), in consultation with the Secretary of Commerce, is authorized to establish a program to provide grants for projects for the enhancement of the salmon and steelhead resources of the Washington conservation area and the Columbia River conservation area.

(b) PLANS.—Any such project in the Washington conservation area must be in accordance with a comprehensive enhancement plan developed and agreed to by the State of Washington and the Washington tribal coordinating body within 18 months after the date of enactment of this title. Any enhancement project in the Columbia River conservation area must be in accordance with a comprehensive enhancement plan developed and agreed to by the State of Washington, the State of Oregon, and the Columbia River tribal coordinating body within 18 months after the date of enactment of this title. Such plans must be approved by the Secretary, in consultation with the Secretary of Commerce, as provided in this part. The States shall solicit and consider the comments and views of interested commercial and recreational fishermen, and other interested parties, in developing the comprehensive enhancement plan.

(c) SCOPE.—Each comprehensive enhancement plan, and any revisions, or modifications of such plan, shall describe all enhancement projects in the conservation area, and associated stocking policies (when relevant), including any related research necessary to such enhancement anticipated by the States and the treaty tribes (acting through the appropriate tribal coordinating body) for a period of at least 5 years.

(d) STANDARDS.—Each comprehensive enhancement plan shall include such standards, restrictions, or conditions as are necessary, to assure that any project included in the plans contributes to the balanced and integrated development of the salmon and steelhead resources of the area. Such standards shall include, but not be limited to, provisions designed to—

(1) assure that all commercial and recreational fishermen and the treaty tribes shall have a reasonable opportunity to participate in the benefits, considered as a whole, of the salmon and steelhead resources development;

(2) minimize, to the extent practicable, significant adverse interaction between naturally spawning and artifically propagated stocks;

(3) ensure that all projects included within the plan are designed to complement the contribution of sound State, Federal, and tribal enhancement activities;

(4) ensure that all projects included within the plan are economically and biologically sound and supported by adequate scientific research;

(5) assure that all projects included within the plan achieve significant benefits relative to the overall cost of each such project;

(6) consider the effect of enhancement activities as they relate to existing and future international commitments; and

(7) notwithstanding any of the above measures, provide for the harvest of fish by treaty tribes in accordance with treaty rights, unless agreed otherwise by the affected treaty tribes.

(e) APPROVAL.—(1) The Secretary, in consultation with the Secretary of Commerce, shall review each comprehensive enhancement plan and approve such plan within 120 days of the date of its receipt, if found to be consistent with this title and other applicable law. If the Secretary, in consultation with the Secretary of Commerce, finds that a plan is not in conformity with the provisions of this title or other applicable law, he shall return such plan to the State of Washington or the State of Oregon, or both, as appropriate, and the appropriate tribal coordinating body with recommendations.

(2) Upon receiving such a plan, the Secretary, in consultation with the Secretary of Commerce, shall—

(A) publish a notice in the Federal Register of the availability of the plan; Publication in Federal Register.

(B) provide a copy of the plan to the Pacific Fishery Management Council and, upon request, to any other interested person or group, and solicit and consider the comments and views of such persons or groups with respect to the plan;

(C) undertake a biological and technical review of the plan, in consultation with individuals who are knowledgeable with regard to the management, conservation, enhancement, and harvest of the salmon and steelhead resources of the area;

(D) provide a copy of the plan to and consult with the Secretary of State and the Secretary of Commerce, with respect to the effect of such plan on any international fisheries; and

(E) determine whether the State of Washington or the State of Oregon, as appropriate, and the treaty tribes, acting through their chosen agency or agencies, have the authority to carry out the plan in accordance with this title, and in accordance with standards included within the plan.

(3) The Secretary, in consultation with the Secretary of Commerce, shall not approve a comprehensive enhancement plan unless the State of Washington or the State of Oregon, or both, as appropriate, and the treaty tribes, acting through the appropriate tribal coordinating body, agree not to undertake any salmon or steelhead enhancement project, using funds provided pursuant to this part or otherwise, that would be inconsistent with the plan.

(4) The Secretary may not approve a comprehensive plan unless the Secretary of Commerce concurs that such plan satisfactorily complies with standards (1), (6), and (7) of subsection (d) of this section.

(f) REVIEW, MODIFICATION, OR REVISIONS.—Each comprehensive enhancement plan shall be reviewed periodically. The Secretary, the Secretary of Commerce, the State of Washington, the State of Oregon, or the appropriate tribal coordinating body may request a review, modification, or revision of a plan at any time. Any revision or modification of a plan, developed and agreed to by the State of Washington or the State of Oregon, as appropriate, and the appropriate tribal coordinating body, shall be approved by the Secretary, in consultation with the Secretary of Commerce, within 45 days of receipt of the proposed revision or modification, if such revision or modification is in conformity with this title and other applicable law.

The Secretary, in consultation with the Secretary of Commerce, may withdraw approval of a plan if he finds that (1) the plan or its implementation is not consistent with this title, and (2) no modification or revision has been agreed to by the State of Washington or the State of Oregon, as appropriate, and the appropriate tribal coordinating body to correct any such inconsistencies.

16 USC 3322.

SEC. 121. ENHANCEMENT PROJECTS.

After the approval of a comprehensive enhancement plan, the State of Washington, the State of Oregon, or a treaty tribe acting through the appropriate tribal coordinating body may submit project proposals to the Secretary in such manner and form as the Secretary shall prescribe. Such application shall include, but not be limited to—

(1) plans, specifications, and cost estimates of the proposed enhancement project, including estimates of both the capital construction costs of the project and the operation and maintenance costs after commencement of the project;

(2) the enhancement goals that are sought to be achieved by the proposed project, including, but not limited to—

(A) a description of the affected stock;

(B) an analysis of the expected impacts on the salmon and steelhead resource; and

(C) a projection of the expected impacts on each type of commercial, recreational and treaty Indian fishing;

(3) evidence that the State of Washington, the State of Oregon, or the treaty tribe, acting through its chosen agency or agencies, has obtained or is likely to obtain any necessary titles to, interests in, rights-of-way over, or licenses covering the use of the relevant land;

(4) an analysis of, and supporting data for, the economic and biological integrity and viability of the project;

(5) such other information as the Secretary, in consultation with the Secretary of Commerce, determines is necessary to assure that the proposed project is consistent with the approved enhancement plan and the provisions of this title; and

(6) after approval of the Commission's report pursuant to section 110 of this title, documentation that the appropriate State or treaty tribe submitting or undertaking the project proposal has adopted and begun all necessary implementation of the Commission's management program.

16 USC 3323.

SEC. 122. APPROVAL AND FUNDING OF PROJECTS.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Commerce, may approve any project that is consistent with an approved enhancement plan and the provisions of this title, and shall promptly notify the States, the treaty tribes and, upon request, any other interested party of the approval of a project and the amount of funding made available under this title for such project.

(b) LIMITATIONS ON FEDERAL SHARE.—The total Federal share of all enhancement projects funded annually by this section shall not exceed 50 percent of the total amount expended for such projects, except that this limitation shall not apply to projects proposed by treaty tribes acting through the appropriate tribal coordinating body. A State share may include both real and personal property. Title to, or other interest in, such property shall remain within the State. The State of Washington shall be treated on the date of the enactment of this title as having expended $32,000,000 (reduced by the amount treated as expended by the State under section 135 of this title) on

enhancement projects set forth in the plan which are eligible for assistance under this title. The Federal share shall be paid in such amounts and at such times as the Secretary deems appropriate, consistent with this title and the goals of the comprehensive plan.

SEC. 123. REVIEW OF ENHANCEMENT PROJECTS. 16 USC 3324.

The Secretary, in cooperation with the Secretary of Commerce, shall establish, in consultation with the State of Washington, the State of Oregon, and the appropriate tribal coordinating body, a system to monitor and evaluate on a continuing basis all enhancement projects for which funds have been distributed under this part, and may discontinue or suspend distribution of all or part of the funds if any project is not being carried out in a manner consistent with the comprehensive enhancement plan concerned and this title. Each recipient of a grant under this part shall make available to the Secretary and to the Comptroller General of the United States for purposes of audit and examination, any book, document, paper, and record that is pertinent to the funds received under the grant.

SEC. 124. AUTHORIZATION OF APPROPRIATIONS. 16 USC 3325.

(a) SALMON ENHANCEMENT.—For purposes of carrying out the provisions of this part for salmon enhancement (including, but not limited to, the operation and maintenance of enhancement facilities) there are authorized to be appropriated not to exceed $45,000,000 for the ten-year period beginning on October 1, 1982, for the Washington conservation area, and not to exceed $25,000,000 for the ten-year period beginning on such date for the Columbia River conservation area.

(b) STEELHEAD ENHANCEMENT.—In addition to the amounts authorized under subsection (a), there are authorized to be appropriated to carry out steelhead enhancement projects under this part (including, but not limited to, operation and maintenance of enhancement facilities) not to exceed $7,000,000 for the ten-year period beginning on October 1, 1982, for the Washington conservation area; and not to exceed $7,000,000 for the ten-year period beginning on such date for the Columbia River conservation area.

(c) LIMITATION.—No moneys appropriated pursuant to subsection (a) or (b) may be used for the operation and maintenance of enhancement programs and related facilities as they existed on or before the date of the approval by the Secretary under section 120 of the enhancement plan for the conservation area concerned.

PART D—COMMERCIAL FISHING FLEET ADJUSTMENT

SEC. 130. FLEET ADJUSTMENT PROGRAM. 16 USC 3331.

(a) IN GENERAL.—The Secretary of Commerce (hereinafter referred to in this part as the "Secretary"), upon approval of a program submitted pursuant to section 132 of this part, is authorized to distribute Federal funds to the State of Washington (hereinafter in this part referred to as the "State"), subject to the standards, conditions, and restrictions set forth in this part, for the purchase of commercial fishing and charter vessels (including the associated fishing gear) and licenses by the State in accordance with the provisions of this part. The Federal share payable under this part shall not exceed 75 percent of the total cost of the program.

(b) LEGAL TITLE.—Title to any vessel or other personal property purchased under a State program approved by the Secretary in accordance with the provisions of this part shall vest upon purchase

in the State. If the State sells such vessels or other property, title may pass in accordance with such sale.

16 USC 3332.

SEC. 131. STANDARDS.

The State shall submit to the Secretary a program within three months of the date of enactment of this title designed to—

(1) provide incentives for early retirement of licenses, or early sale of vessels;

(2) set aside specific allocations of funds for each gear type to achieve the specific fleet reductions provided for in the program;

(3) obtain an effective and expeditious reduction in the overall fishing capacity of and the number of vessels and licenses in the non-Indian commercial and charter salmon fishing fleets in the Washington conservation area; and

(4) provide State funding for 25 per centum of the total cost of the program.

16 USC 3333.

SEC. 132. PROGRAM APPROVAL.

(a) SUBMISSION FOR APPROVAL.—The State shall submit its program and submit revisions, modifications, or amendments to the Secretary in accordance with standards established pursuant to section 131 and in such manner and form as the Secretary shall prescribe.

(b) REQUIREMENTS FOR APPROVAL.—Prior to approving such program or any revision, modification, or amendment, and authorizing Federal funds to be distributed in accordance with this part, the Secretary must find that—

(1) the State, acting through its chosen agency or agencies, has authority to carry out a commercial and charter vessel fleet reduction program in accordance with the provisions of this part;

(2) the State program provides that a fishing or charter vessel may not be purchased by the State from other than the person who owned the vessel on the date of the enactment of this title;

(3) the State program prevents the expenditure of a disproportionate amount of funds available for vessel acquisition on vessels owned by any one person;

(4) the State program prohibits the purchase of any fishing or charter vessel unless all State commercial and charter salmon fishing licenses attached to the vessel are also sold to the State;

(5) the State program provides that no person may purchase from the State any vessel which that person or a member of that person's immediate family had previously sold to the State;

(6) the State program provides that no person may purchase any vessel sold to the State pursuant to the program and use such vessel for commercial or charter salmon fishing in the Washington conservation area, unless State law provides that the use of such vessel could not result in any additional fishing effort in the non-Indian fishing fleet;

(7) the State program provides for purchase of vessels at their fair market value;

(8) the State program provides for the reduction of salmon fishing licenses, through purchase of such licenses at their fair market value, and the use of bonuses and schedules, to—

(A) secure an early retirement from the salmon fishery;

(B) recognize productiveness if the commercial harvesters using a gear type wish that gear type's specific allocation of funds to recognize productiveness; and

(C) recognize passenger-carrying capacity for charter fishing licenses;

(9) the State program provides, with respect to marginally productive commercial salmon fishermen, for the purchase of their salmon fishing licenses, but not their fishing vessels;

(10) the State maintains a moratorium, or similar program, to preclude the issuance of new commercial or charter salmon fishing licenses; and

(11) the State has established a revolving fund for the operation of the fleet reduction program that includes an individual account for each category of fishing license (based on type of fishing gear used) and that any moneys received by the State or its agents from the resale of any fishing vessel or gear purchased under the program (A) shall be placed in such revolving fund, (B) shall, for at least 2 years from the date of the program's inception, be placed in the appropriate individual account, and (C) shall be used exclusively to purchase commercial fishing and charter vessels and licenses in accordance with the provisions of this part. Revolving fund.

(c) SECRETARIAL ACTION.—The Secretary shall approve such program within ninety days of the date of receipt of the program if found to be consistent with this title and other applicable law. If the Secretary finds that such program is not in conformity with the provisions of this title or other applicable law, he shall return such program to the State with recommendations. Any revision, modification, or amendment to the program shall be approved within thirty days of receipt unless found to be inconsistent with this title or other applicable law.

SEC. 133. REVIEW BY SECRETARY. 16 USC 3334.

(a) IN GENERAL.—The Secretary shall conduct a continuing review of the State program to determine whether the program remains consistent with this title or other applicable law. Such review shall include a biennial audit of the records of the State program.

(b) ACTION UPON FINDING OF NONCOMPLIANCE.—If the Secretary finds that the program or the administration thereof is no longer in compliance with this part, he shall reduce or discontinue distribution of funds under this part, or take other appropriate action.

(c) DISPOSITION OF CERTAIN MONEYS.—If the Secretary finds that any money provided to the State or obtained by the State from the resale of any fishing or charter vessel purchased under the program is not being used in accordance with the provisions of this part, the Secretary shall recover from the fund, and place in the United States Treasury, such moneys.

SEC. 134. AUTHORIZATION OF APPROPRIATIONS. 16 USC 3335.

There are authorized to be appropriated to the Secretary, for the purposes of carrying out the provisions of this part, $37,500,000 for the 5-year period beginning October 1, 1981.

SEC. 135. SPECIAL PROVISION. 16 USC 3336.

On the date the Secretary approves the program under section 132, the State shall be treated as having expended such portion of $32,000,000 as the State deems appropriate for purposes of implementing the program.

PART E—MISCELLANEOUS

16 USC 3341. **SEC. 140. REGULATIONS.**

The Secretary of Commerce and the Secretary of the Interior may each promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out his functions under this title.

16 USC 3342. **SEC. 141. REPORTS AND MONITORING.**

(a) REPORTS.—The State of Washington, the State of Oregon, and the appropriate tribal coordinating bodies shall submit to the appropriate Secretary an annual report on the status of the programs authorized by this title or any other relevant report requested by such Secretary.

(b) MONITORING.—After the 18-month period after approval of the report of the Salmon and Steelhead Advisory Commission under Part B, the Secretary of Commerce shall establish a system to monitor and evaluate on a continuing basis whether the management program set forth in the report is being effectively implemented. If at any time after the monitoring system is established, the Secretary finds that—

(1) the number of parties referred to in section 113 has been reduced to the extent that such program cannot be implemented effectively; or

(2) the general implementation of the program is ineffective;

the Secretary shall immediately discontinue any further funding under part C.

16 USC 3343. **SEC. 142. RELATIONSHIP TO PROVISIONS OF FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976.**

(a) CONSISTENCY.—Nothing in this title shall be construed as affecting the provisions of title III of the Fishery Conservation and
16 USC 1851. Management Act of 1976 as it applies with respect to fishery management plans and their application to any fishery, except that the Pacific Fishery Management Council shall ensure that existing and future fishery management plans are consistent with any recommended program approved under section 110 and any enhancement plan under part C.

(b) FLEET MOBILITY.—The Secretary of Commerce in coordination with the Pacific Fishery Management Council in its salmon management plan shall ensure that the fishing effort reduction that results from the fleet adjustment program of part D and the license moratorium of the State of Washington is not replaced by new fishing effort from outside such State.

16 USC 3344. **SEC. 143. RELATION TO OTHER LAWS.**

Nothing in this title shall be construed—

(1) to diminish Federal, State, or tribal jurisdiction, responsibility, or rights in the field of resource enhancement and management, or control of water resources, submerged lands, or navigable waters; nor to limit the authority of Congress to authorize and fund projects; or

(2) as superseding, modifying, or repealing any existing applicable law, except as provided for in section 143 of this title.

16 USC 3345. **SEC. 144. AUTHORIZATION OF ADDITIONAL APPROPRIATION.**

In addition to other authorizations of appropriations contained in this title, there are authorized to be appropriated to the Secretary of Commerce beginning October 1, 1981, an amount not to exceed $5,000,000 for the purpose of developing fisheries port facilities in the

State of Oregon. The Secretary shall obligate such funds for projects proposed by units of State or local government, Indian tribes, or private nonprofit entities, and approved by the State of Oregon in consultation with the National Marine Fisheries Service and the Economic Development Administration. To the extent practicable, the Secretary shall assure that projects under this section are integrated with planning and assistance under the Public Works and Economic Development Act. Funds available under this section shall not be used for any navigational improvement or other modification of the navigable waters of the United States. Funds appropriated pursuant to this section shall remain available until expended.

SEC. 145. GOVERNING INTERNATIONAL FISHERY AGREEMENT WITH PORTUGAL.

16 USC 1823 note.

Notwithstanding section 203 of the Fishery Conservation and Management Act of 1976, the governing international fishery agreement between the Government of the United States of America and the Government of Portugal Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated December 1, 1980—

16 USC 1823.

(1) is hereby approved by Congress as a governing international fishery agreement for the purposes of such Act of 1976; and

(2) shall enter into force and effect with respect to the United States on the date of the enactment of this title.

TITLE II—PROMOTION OF AMERICAN FISHERIES

American Fisheries Promotion Act. 16 USC 1801 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "American Fisheries Promotion Act".

PART A—RESEARCH AND DEVELOPMENT REGARDING UNITED STATES FISHERIES

SEC. 210. RESEARCH AND DEVELOPMENT PROJECTS AND PROGRAMS.

AMENDMENTS TO SALTONSTALL-KENNEDY ACT.—Section 2 of the Act of August 11, 1939 (commonly referred to as the Saltonstall-Kennedy Act, 15 U.S.C. 713c-3), is amended—

(1) by striking out subsections (b), (c), (d), and (e);

(2) by redesignating subsection (a) as subsection (b);

(3) by inserting immediately before subsection (b) (as so redesignated) the following new subsection:

"SEC. 2. (a) DEFINITIONS.—As used in this section—

"(1) The term 'person' means—

"(A) any individual who is a citizen or national of the United States or a citizen of the Northern Mariana Islands;

"(B) any fishery development foundation or other private nonprofit corporation located in Alaska; and

"(C) any corporation, partnership, association, or other entity (including, but not limited to, any fishery development foundation or other private nonprofit corporation not located in Alaska), nonprofit or otherwise, if such entity is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802) and for purposes of applying such section 2 with respect to this section—

"(i) the term 'State' as used therein includes any State referred to in paragraph (3),

"(ii) citizens of the United States must own not less than 75 percent of the interest in the entity or, in the case of a nonprofit entity, exercise control in the entity that is determined by the Secretary to be the equivalent of such ownership, and

"(iii) nationals of the United States and citizens of the Northern Mariana Islands shall be treated as citizens of the United States in meeting the ownership and control requirements referred to in clause (ii).

"(2) The term 'Secretary' means the Secretary of Commerce.

"(3) The term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States.

"(4) The term 'United States fishery' means any fishery, including any tuna fishery, that is, or may be, engaged in by citizens or nationals of the United States or citizens of the Northern Mariana Islands.

"(5) The term 'citizen of the Northern Mariana Islands' means—

"(A) an individual who qualifies as such under section 8 of the Schedule on Transitional Matters attached to the Constitution of the Northern Mariana Islands; or

"(B) a corporation, partnership, association, or other entity organized or existing under the laws of the Northern Mariana Islands, not less than 75 percent of the interest in which is owned by individuals referred to in subparagraph (A) or citizens or nationals of the United States, in cases in which 'owned' is used in the same sense as in section 2 of the Shipping Act, 1916 (46 U.S.C. 802).";

(4) by amending subsection (b) (as so redesignated)—

(i) by inserting "FUND.—" immediately after "(b)" and before the first word of such subsection,

(ii) by striking out "Secretary of the Interior" the first place it appears therein and inserting in lieu thereof "Secretary",

(iii) by striking out "and used by the Secretary of the Interior" and inserting in lieu thereof "only for use by the Secretary", and

(iv) by striking out clauses (1), (2), and (3) and inserting in lieu thereof the following: "(1) to provide financial assistance for the purpose of carrying out fisheries research and development projects approved under subsection (c), and (2) to implement the national fisheries research and development program provided for under subsection (d).";

(5) by adding immediately after subsection (b) (as so redesignated) the following:

"(c) FISHERIES RESEARCH AND DEVELOPMENT PROJECTS.—(1) The Secretary shall make grants from the fund established under subsection (b) to assist persons in carrying out research and development projects addressed to any aspect of United States fisheries, including, but not limited to, harvesting, processing, marketing, and associated infrastructures.

Application for grants.

"(2) The Secretary shall—

"(A) at least once each fiscal year, receive, during a 60-day period specified by him, applications for grants under this subsection;

"(B) prescribe the form and manner in which applications for grants under this subsection must be made, including, but not limited to, the specification of the information which must accompany applications to ensure that the proposed projects comply with Federal law and can be evaluated in accordance with paragraph (3)(B); and

"(C) approve or disapprove each such application before the close of the 120th day after the last day of the 60-day period (specified under subparagraph (A)) in which the application was received.

"(3) No application for a grant under this subsection may be approved unless the Secretary— Approval provisions.

"(A) is satisfied that the applicant has the requisite technical and financial capability to carry out the project; and

"(B) evaluates the proposed project as to—

"(i) soundness of design,

"(ii) the possibilities of securing productive results,

"(iii) minimization of duplication with other fisheries research and development projects,

"(iv) the organization and management of the project,

"(v) methods proposed for monitoring and evaluating the success or failure of the project, and

"(vi) such other criteria as the Secretary may require.

"(4) Each grant made under this subsection shall be subject to such terms and conditions as the Secretary may require to protect the interests of the United States, including, but not limited to, the following: Terms and conditions.

"(A) The recipient of the grant must keep such records as the Secretary shall require as being necessary or appropriate for disclosing the use made of grant funds and shall allow the Secretary and the Comptroller General of the United States, or any of their authorized representatives, access to such records for purposes of audit and examination. Recordkeeping requirements.

"(B) The amount of a grant may not be less than 50 percent of the estimated cost of the project.

"(C) The recipient of the grant must submit to the Secretary periodic project status reports. Reports.

"(5)(A) If the cost of a project will be shared by the grant recipient, the Secretary shall accept, as a part or all of that share, the value of in-kind contributions made by the recipient, or made available to, and applied by, the recipient, with respect to the project.

"(B) For purposes of subparagraph (A), in-kind contributions may be in the form of, but are not limited to, personal services rendered in carrying out functions related to, and permission to use real or personal property owned by others (for which consideration is not required) in carrying out the project. The Secretary shall establish (i) the training, experience, and other qualifications which shall be required in order for services to be considered as in-kind contributions; and (ii) the standards under which the Secretary will determine the value of in-kind contributions for purposes of subparagraph (A).

"(C) Any valuation determination made by the Secretary for purposes of this paragraph shall be conclusive.

"(d) NATIONAL FISHERIES RESEARCH AND DEVELOPMENT PROGRAM.—(1) The Secretary shall carry out a national program of research and development addressed to such aspects of United States fisheries (including, but not limited to, harvesting, processing, marketing, and associated infrastructures), if not adequately covered by projects assisted under subsection (c), as the Secretary deems appropriate.

Report to congressional committees.

"(2) The Secretary shall, after consultation with appropriate representatives of the fishing industry, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives, an annual report, that must be submitted not later than 60 days before the close of each fiscal year, containing—

"(A) the fisheries development goals and funding priorities under paragraph (1) for the next fiscal year;

"(B) a description of all pending projects assisted under subsection (c) or carried out under paragraph (1), in addition to—

"(i) a list of those applications approved and those disapproved under subsection (c), and the total amount of grants made, for the current fiscal year, and

"(ii) a statement of the extent to which available funds were not obligated or expended by the Secretary for grants under subsection (c) during the current fiscal year; and

"(C) an assessment of each project assisted under subsection (c) or carried out under paragraph (1) that was completed in the preceding fiscal year regarding the extent to which (i) the objectives of the project were attained, and (ii) the project contributed to fishery development.

"(e) ALLOCATION OF FUND MONEYS.—(1) With respect to any fiscal year, not less than 50 percent of—

"(A) the moneys transferred to the fund under subsection (b) or any other provision of law with respect to that fiscal year; and

"(B) such existing fund moneys carried over into that fiscal year;

shall be used by the Secretary during that fiscal year to provide financial assistance for projects under subsection (c); and the remainder of such moneys in the fund shall be used to implement the national fisheries research and development program established under subsection (d) during that fiscal year.

"(2) Moneys accruing to the fund established under subsection (b) for any fiscal year and not expended with respect to that year shall remain available for expenditure under this section without fiscal year limitation.".

15 USC 1511b.

SEC. 211. UNITED STATES FISHERY TRADE OFFICERS.

(a) APPOINTMENT.—For purposes of carrying out export promotion and other fishery development responsibilities, the Secretary of Commerce (hereinafter in this section referred to as the "Secretary") shall appoint not fewer than six officers who shall serve abroad to promote United States fishing interests. These officers shall be knowledgeable about the United States fishing industry, preferably with experience derived from the harvesting, processing, or marketing sectors of the industry or from the administration of fisheries programs. Such officers, who shall be employees of the Department of Commerce, shall have the designation of fishery trade officers.

(b) ASSIGNMENT.—Upon the request of the Secretary, the Secretary of State shall officially assign fishery trade officers to such diplomatic missions of the United States as the Secretary designates (three of which shall be those in Brussels, Belgium; Rome, Italy; and Tokyo, Japan) and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by foreign service personnel of comparable rank and salary.

(c) FUNCTIONS OF FISHERY TRADE OFFICERS.—The functions of fishery trade officers appointed under subsection (a) shall be—

(1) to increase the effectiveness of United States fishery export promotion efforts through such activities as the coordination of market development efforts and the provision of services and facilities for exporters of United States fishery products;

(2) to develop, maintain, and make available to interested persons listings of (A) trade, government, and other organizations that are concerned with, or have an interest in, international trade in United States fishery products, and (B) United States fishery products available for such trade;

(3) to prepare quarterly reports regarding (A) the supply, demand, and prices of each United States fishery product exported, or for which there may be export potential, to the foreign nation or area concerned, and (B) the trade barriers or incentives of such nation or area that affect imports of such products;

(4) to prepare weekly statements regarding the prices for each fishery product for which there may be United States export potential to the foreign nation or area concerned; and

(5) to carry out such other functions as the Secretary may require.

(d) ADMINISTRATION.—The Secretary of State and the Secretary shall enter into cooperative arrangements concerning the provision of office space, equipment, facilities, clerical services, and such other administrative support as may be required for fishery trade officers and their families.

PART B—FINANCIAL ASSISTANCE WITH RESPECT TO FISHING VESSELS AND FISHERY FACILITIES

SEC. 220. GUARANTEE OF OBLIGATIONS FOR FISHING VESSELS AND FOR FISHERY FACILITIES.

Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1280) is amended as follows: 46 USC 1271.

(1) Section 1101 is amended: Definitions. 46 USC 1271.

(A) in subsection (h) by striking "equipping; and" and substituting "equipping;";

(B) in subsection (i) by striking "mark." and substituting "mark;"; and

(C) by adding at the end thereof the following new subsections:

"(j) The term 'citizen of the Northern Mariana Islands' means—

"(1) an individual who qualifies as such under section 8 of the Schedule on Transitional Matters attached to the Constitution of the Northern Mariana Islands; or

"(2) a corporation, partnership, association, or other entity formed under the laws of the Northern Mariana Islands, not less than 75 percent of the interest in which is owned by individuals referred to in paragraph (1) or citizens or nationals of the United States, in cases in which 'owned' is used in the same sense as in section 2 of the Shipping Act, 1916 (46 U.S.C. 802);

"(k) The term 'fishery facility' means—

"(1) for operations on land—

"(A) any structure or appurtenance thereto designed for the unloading and receiving from vessels, the processing, the holding pending processing, the distribution after processing, or the holding pending distribution, of fish from one or more fisheries,

"(B) the land necessary for any such structure or appurtenance described in subparagraph (A), and

"(C) equipment which is for use in connection with any such structure or appurtenance and which is necessary for the performance of any function referred to in subparagraph (A); or

"(2) for operations other than on land, any vessel built in the United States used for, equipped to be used for, or of a type which is normally used for, the processing of fish;

but only if such structure, appurtenance, land, equipment, or vessel is owned by an individual who is a citizen or national of the United States or a citizen of the Northern Mariana Islands or by a corporation, partnership, association, or other entity that is a citizen of the United States within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802), and for purposes of applying such section 2 with respect to this section—

"(i) the term 'State' as used therein includes any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other Commonwealth, territory, or possession of the United States; and

"(ii) citizens of the United States must own not less than 75 percent of the interest in the entity and nationals of the United States or citizens of the Northern Mariana Islands shall be treated as citizens of the United States in meeting such ownership requirement;

"(l) The term 'fishing vessel' has the meaning given such term by section 3(11) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802(11)); and any reference in this title to a vessel designed principally for commercial use in the fishing trade or industry shall be treated as a reference to a fishing vessel;

"(m) The term 'United States' when used in a geographical context with respect to fishing vessels or fishery facilities includes all States referred to in subsection (k)(i).".

46 USC 1273. (2) Section 1103(f) is amended by inserting immediately before the period the following: "; except that—

"(1) not less than 3 percent, nor more than 7 percent, of such sum shall be reserved for the guarantee of obligations for fishing vessels and fishery facilities that meet the economic soundness criteria set forth in section 1104(d)(1), and

"(2) not less than 3 percent, nor more than 7 percent, of such sum shall be reserved for the guarantee of obligations for fishing vessels and fishery facilities that meet the economic soundness criteria set forth in section 1104(d)(2),

but the aggregate amount reserved for the purposes set forth in paragraphs (1) and (2) must equal 10 percent of such sum.".

46 USC 1274. (3) Section 1104 is amended—

(A) in subsection (a)—

(i) by striking out "(D) in the fishing trade or industry; or (E)" in paragraph (1) and inserting in lieu thereof "; or (D)";

(ii) by redesignating subparagraph (F) in paragraph (1) as subparagraph (E);

(iii) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively, and by inserting immediately after paragraph (1) the following new paragraph:

"(2) financing, including reimbursement of an obligor for expenditures previously made for, construction, reconstruction, reconditioning, or purchase of a vessel or vessels owned by citizens or nationals of the United States or citizens of the Northern Mariana Islands which are designed principally for research, or for commercial use in the fishing trade or industry;";

(iv) by striking out "or" at the end of paragraph (4) (as redesignated by clause (iii));

(v) by striking out "or (3)" in paragraph (5) (as so redesignated) and inserting in lieu thereof "(3), or (4)", and by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(vi) by adding immediately after paragraph (5) the following:

"(6) financing or refinancing, including, but not limited to, the reimbursement of obligors for expenditures previously made for, the construction, reconstruction, reconditioning, or purchase of fishery facilities; or

"(7) financing the purchase of fishing vessels or fishery facilities, the construction, reconstruction, reconditioning, or purchase of which was guaranteed under this title, that are sold at foreclosure instituted by the Secretary, or are sold by the Secretary following purchase at foreclosure, and the reconstruction or reconditioning thereof.

Any obligation guaranteed under paragraph (6) shall be treated, for purposes of this title, in the same manner and to the same extent as an obligation guaranteed under this title which aids in the construction, reconstruction, reconditioning, or purchase of a vessel; except with respect to provisions of this title that by their nature can only be applied to vessels.";

(B) by adding at the end of subsection (b) the following: "The Secretary may not establish, as a condition of eligibility for guarantee under this title, a minimum principal amount for an obligation covering the reconstruction or reconditioning of a fishing vessel or fishery facility. For purposes of this title, the reconstruction or reconditioning of a fishing vessel or fishery facility does not include the routine minor repair or maintenance of the vessel or facility.";

(C) in subsection (d)—

(i) by striking out "No" and inserting in lieu thereof "(1) Except as provided in paragraph (2), no"; and

(ii) by adding at the end thereof the following:

"(2) In applying paragraph (1) with respect to commitments to guarantee, and the guarantee of, obligations for fishing vessels and fishery facilities used for underutilized fisheries, the Secretary of Commerce may apply an economic soundness test that is less stringent than that which has been traditionally applied to obligation guarantees under this paragraph.

"(3) No commitment to guarantee, or guarantee of an obligation may be made by the Secretary of Commerce under this title for the purchase of a used fishing vessel or used fishery facility unless—

"(A) the vessel or facility will be reconstructed or reconditioned in the United States and will contribute to the development of the United States fishing industry; or

"(B) the vessel or facility will be used in the harvesting of fish from, or for a purpose described in section 1101(k) with respect to, an underutilized fishery."; and

Ante, p. 3291.

(D) in subsection (g)—

(i) by inserting "(1)" immediately after "(g)"; and

(ii) by adding at the end thereof the following new paragraph:

"(2) The Secretary of Commerce shall establish within the Fund the following subfunds:

"(A) The standard fishery subfund which shall contain all moneys received for, and incident to, the guarantee of obligations with respect to fishing vessels and fishery facilities to which the economic soundness criteria set forth in section 1104(d)(1) apply.

Ante, p. 3292.

"(B) The underutilized fishery subfund which shall contain all moneys received for, and incident to, the guarantee of obligations with respect to fishing vessels and fishery facilities to which the economic soundness criteria set forth in section 1104(d)(2) apply.

Ante, p. 3292.

"(C) The general subfund which shall contain all moneys received for, and incident to, the guarantee of obligations for vessels other than fishing vessels.".

46 USC 1275.

(4) The first sentence of section 1105(d) is amended by inserting immediately before the period at the end thereof the following: ", and shall be paid from the appropriate subfund required to be established under section 1104(g)(2)".

Supra.

16 USC 742c note.

SEC. 221. LOANS UNDER THE FISH AND WILDLIFE ACT OF 1956.

(a) LOAN AUTHORITY UNTIL OCTOBER 1, 1982.—During the period beginning on the date of the enactment of this title and ending at the close of September 30, 1982, the Secretary of Commerce (hereinafter in this section referred to as the "Secretary") may make loans from the fisheries loan fund established under subsection (c) of section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) only for the purposes set forth in subsections (b) and (c) of this section. Except to the extent that they are inconsistent with, or contrary to, this section, the provisions of such section 4 shall apply with respect to loans made for such purposes.

(b) LOANS TO AVOID DEFAULT ON OBLIGATIONS COVERING FISHING VESSELS.—(1) The Secretary may make loans for the purpose of assisting obligors to avoid default on obligations that are issued with respect to the construction, reconstruction, reconditioning or purchase of fishing vessels and that—

(A) are guaranteed by the United States under title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271-1280, relating to Federal ship mortgage insurance); or

Ante, p. 3291.

(B) are not guaranteed under such title XI, but the fishing vessels concerned meet the use and documentation requirements, and the obligors meet the citizenship requirements, that would apply if the obligations were guaranteed under that title.

(2)(A) Within the 30-day period beginning on the date of the enactment of this title in the case of fiscal year 1981, and before the beginning of fiscal year 1982, the Secretary shall estimate the number, and the aggregate amount, of loans described in paragraph (1)(A) for which application will likely be made during each of such fiscal years and shall reserve that amount in the fisheries loan fund for the purpose of making such loans during such year (or if such amount is larger than the fund balance, the Secretary shall reserve the whole fund for such purpose).

(B) If any moneys are available in the fisheries loan fund for each such fiscal year after subparagraph (A) is complied with for that year, the Secretary shall use such moneys for the purpose of making loans described in paragraph (1)(B) during that year.

(C) At an appropriate time during each of fiscal years 1981 and 1982, the Secretary shall compare the actual loan experience during that year with the estimate made for that year under subparagraph (A) and if the Secretary determines, on the basis of such comparison, that the demand for loans described in paragraph (1)(A) will be less than estimated, the Secretary shall, for the fiscal year concerned, apply moneys reserved for such loans for the purpose of making loans described in paragraph (1)(B) and, to the extent not utilized for loans described in paragraph (1)(B), for the purpose of making loans under subsection (c).

Eligibility requirements.

(3) The Secretary may make loans under this subsection only to owners or operators who, in the judgment of the Secretary, have substantial experience and proven ability in the management and financing of fishing operations, and only if (A) loans for the purpose described in paragraph (1) are not otherwise available at reasonable rates which permit continued operation, and (B) the loans are likely to result in the financial viability of the fishing operations of the owners or operators. Each such loan shall be subject to such terms and conditions as the Secretary deems necessary or appropriate to protect the interests of the United States and to carry out the purpose of this subsection. In establishing such terms and conditions, the Secretary shall take into account, among such other factors he deems pertinent, the extent to which the obligations concerned have been retired, and the overall financial condition of the obligors. The interest rate on loans made under the authority of this subsection shall not exceed that rate determined by the Secretary to be sufficient to cover the costs incurred in processing and servicing of such loans.

Terms and conditions.

(c) LOANS TO COVER OPERATING LOSSES.—(1) If the Secretary determines that moneys will be available in such fisheries loan fund for fiscal year 1981 or 1982, or both, after loans under subsection (b) are provided for for that year, the Secretary may make loans for the purpose of assisting owners and operators of fishing vessels to cover vessel operating expenses in cases where an owner or operator incurs, or may incur, a net operating loss within such fiscal year.

Terms and conditions.

(2) Each loan made by the Secretary under this subsection shall be subject to such terms and conditions as the Secretary deems necessary or appropriate to protect the interests of the United States and to carry out the purposes of this subsection. The Secretary may make loans under this subsection only to owners or operators who, in the judgment of the Secretary, have substantial experience and proven ability in the management and financing of fishing operations, and only if (A) loans for the purpose described in paragraph (1) are not otherwise available at reasonable rates which permit continued operation, and (B) the loans are likely to result in the financial viability of the fishing operations of the owners or operators. The interest rate on loans made under this subsection shall be the rate prevailing for loans made under the Emergency Agricultural Credit Act of 1978 (7 U.S.C. preceding 1961 note).

PART C—AMENDMENTS TO THE FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

SUBPART 1—FOREIGN FISHING IN FISHERIES SUBJECT TO THE EXCLUSIVE FISHERY MANAGEMENT AUTHORITY OF THE UNITED STATES

SEC. 230. FOREIGN FISHING.

Section 201(d) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821(d)) is amended to read as follows:

Definitions.

"(d) TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.—(1) As used in this subsection—

"(A) The term 'base harvest' means, with respect to any United States fishery, the total allowable level of foreign fishing during the 1979 harvesting season.

"(B) The term 'harvesting season' means the period established under this Act by the Secretary during which foreign fishing is permitted within a United States fishery. For purposes of this subsection, a harvesting season is designated by the calendar year in which the last day of the harvesting season occurs, regardless whether fishing is not permitted on that day due to emergency or other closure of the fishery.

"(C) The term 'calculation factor' means, with respect to each United States fishery, 15 percent of the base harvest.

"(D) The term 'reduction factor amount' means, with respect to each United States fishery, for any harvesting season after the 1980 harvesting season—

"(i) an amount equal to 15 percent of the base harvest for that fishery, if, in addition to the level of harvest by vessels of the United States in the designated preceding harvesting season for the fishery, such vessels harvest, in one or more harvesting seasons, not less than 75 percent of the calculation factor;

"(ii) an amount equal to 10 percent of the base harvest for the fishery, if, in addition to the level of harvest by vessels of the United States in the designated preceding harvesting season for the fishery, such vessels harvest, in one or more harvesting seasons, not less than 50 percent, but less than 75 percent, of the calculation factor; or

"(iii) an amount equal to 5 percent of the base harvest for the fishery, if, in addition to the level of harvest by vessels of the United States in the designated previous harvesting season for the fishery, such vessels harvest, in one or more harvesting seasons, not less than 25 percent, but less than 50 percent, of the calculation factor.

For purposes of this paragraph, the term 'designated preceding harvest season' means—

"(I) until a reduction factor amount is first achieved under this paragraph with respect to the fishery concerned, the 1979 harvesting season, and

"(II) after such amount is first achieved, the most recent harvesting season in which a reduction factor amount was achieved.

"(E) The term 'annual fishing level' for any United States fishery during any harvesting season after the 1980 harvesting season is the base harvest for the fishery reduced by—

"(i) an amount equal to the reduction factor amount for that harvesting season; and

"(ii) an amount equal to the increased level of harvest by vessels of the United States over the level achieved by such vessels in the 1979 harvesting season for the fishery.

"(F) The term 'United States fishery' means any fishery subject to the exclusive fishery management authority of the United States.

Foreign fishing, total allowable level.

"(2) The total allowable level of foreign fishing, if any, with respect to any United States fishery for each harvesting season after the 1980 harvesting season shall be—

"(A) the level representing that portion of the optimum yield of such fishery that will not be harvested by vessels of the United States as determined in accordance with the provisions of this Act (other than those relating to the determination of annual fishing levels), or

"(B) the annual fishing level determined pursuant to paragraph (3) for the harvesting season.

Annual fishing level.

"(3) For each United States fishery, the appropriate fishery management council, on a timely basis, may determine and certify to the Secretary of State and the Secretary the annual fishing level for that fishery for each harvesting season after the 1980 harvesting season.

Allowable levels, allocation.

"(4) If with respect to any harvesting season for any United States fishery for which the total allowable level of foreign fishing is determined under paragraph (2)(B), the Secretary, in consultation with the Secretary of State, approves the determination by any appropriate fishery management council that any portion of the optimum yield for that harvesting season will not be harvested by vessels of the United States, the Secretary of State, in accordance with subsection (e), shall allocate such portion for use during that harvesting season by foreign fishing vessels; except that if—

"(A) the making available of such portion (or any part thereof) during that harvesting season is determined to be detrimental to the development of the United States fishing industry; and

"(B) such portion or part will be available for harvest in the immediately succeeding harvesting season, as determined on the basis of the best available scientific information;

then such portion or part shall be allocated for use by foreign fishing vessels in such succeeding harvesting season. The determinations required to be made under subparagraphs (A) and (B) of the preceding sentence shall be made by the Secretary in consultation with the Secretary of State and on the basis of any recomendation of any appropriate fishery management council.".

SEC. 231. ALLOCATION OF ALLOWABLE LEVELS OF FOREIGN FISHING.

(a) AMENDMENTS.—The last sentence of section 201(e)(1) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821(e)(1)) is amended to read as follows: "All such determinations shall be made by the Secretary of State and the Secretary on the basis of—

"(A) whether, and to what extent, such nations impose tariff barriers or nontariff barriers on the importation, or otherwise restrict the market access, of United States fish or fishery products;

"(B) whether, and to what extent, such nations are cooperating with the United States in the advancement of existing and new opportunities for fisheries trade, particularly through the purchase of fish or fishery products from United States processors or from United States fishermen;

"(C) whether, and to what extent, such nations and the fishing fleets of such nations have cooperated with the United States in the enforcement of United States fishing regulations;

"(D) whether, and to what extent, such nations require the fish harvested from the fishery conservation zone for their domestic consumption;

"(E) whether, and to what extent, such nations otherwise contribute to, or foster the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing industry;

"(F) whether, and to what extent, the fishing vessels of such nations have traditionally engaged in fishing in such fishery;

"(G) whether, and to what extent, such nations are cooperating with the United States in, and making substantial contributions to fishery research and the identification of fishery resources; and

"(H) such other matters as the Secretary of State, in cooperation with the Secretary, deems appropriate.".

16 USC 1821 note.

(b) TAKING EFFECT OF AMENDMENTS.—The amendments made by subsection (a) shall apply with respect to the 1981 harvesting season and harvesting seasons thereafter (as defined in section 201(d)(1) of the Fishery Conservation and Management Act of 1976, as amended by section 301).

Ante, p. 3296.

SEC. 232. PERMIT FEES.

(a) INTERIM FEES.—(1) Effective with respect to permits issued under section 204(b) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1824(b)(10)) for 1981, paragraph (10) of such section is amended by striking out the last sentence thereof and inserting in lieu thereof the following: "Such fees shall be formulated so as to ensure that the receipts resulting from the payment of the fees under this paragraph for permits issued for 1981 are not less than an amount equal to 7 percent of the ex vessel value of the total harvest by foreign fishing vessels in the fishery conservation zone during 1979. The fees collected by the Secretary under this paragraph for permits issued for 1981 shall be transferred to the fisheries loan fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) and used for the purpose of making loans therefrom, but only to the extent and in amounts provided for in advance in appropriation Acts.".

(b) PERMANENT FEES.—Effective with respect to permits issued under section 204(b) of such Act of 1976 after 1981, paragraph (10) of such section is amended to read as follows—

"(10) FEES.—Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish a schedule of such fees which shall apply nondiscriminatorily to each foreign nation. The fees imposed under this paragraph shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act (including, but not limited to, fishery conservation and management, fisheries research, administration, and enforcement, but excluding costs for observers covered by surcharges under section 201(i)(4)) during each fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing

Schedule.

Post, p. 3299.

vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during such preceding year. The amount collected by the Secretary under this paragraph shall be transferred to the fisheries loan fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c) for so long as such fund exists and used for the purpose of making loans therefrom, but only to the extent and in amounts provided for in advance in appropriation Acts.".

SEC. 233. FISHERY DEVELOPMENT OBJECTIVES.

Section 2(b)(6) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801(b)(6)) is amended by inserting immediately before the period at the end thereof the following: ", and to that end, to ensure that optimum yield determinations promote such development".

SEC. 234. FISHERY MANAGEMENT COUNCIL TRAVEL FUNDS.

The second sentence of section 302(d) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852(d)) is amended by striking out the period and inserting in lieu thereof the following: ", and other nonvoting members may be reimbursed for actual expenses".

SEC. 235. NOTICE OF AVAILABILITY OF MANAGEMENT PLANS.

Section 305(a) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1855(a)) is amended by inserting "a notice of availability of" immediately after "Federal Register (A)".

SUBPART 2—FULL OBSERVER COVERAGE PROGRAM

SEC. 236. ESTABLISHMENT OF FULL OBSERVER COVERAGE PROGRAM.

Section 201 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821) is amended by adding at the end thereof the following new subsection:

"(i) FULL OBSERVER COVERAGE PROGRAM.—(1) Except as provided in paragraph (2), the Secretary shall establish a program under which a United States observer will be stationed aboard each foreign fishing vessel while that vessel is engaged in fishing within the fishery conservation zone.

"(2) The requirement in paragraph (1) that a United States observer be placed aboard each foreign fishing vessel may be waived by the Secretary if he finds that— Waiver.

"(A) in a situation where a fleet of harvesting vessels transfers its catch taken within the fishery conservation zone to another vessel, aboard which is a United States observer, the stationing of United States observers on only a portion of the harvesting vessel fleet will provide a representative sampling of the by-catch of the fleet that is sufficient for purposes of determining whether the requirements of the applicable management plans for the by-catch species are being complied with;

"(B) with respect to any foreign fishing vessel while it is engaged in fishing within the fishery conservation zone—

"(i) the time during which the vessel engages in such fishing will be of such short duration that the placing of a United States observer aboard the vessel would be impractical, or

"(ii) the facilities of the vessel for the quartering of a United States observer, or for the carrying out of observer functions, are so inadequate or unsafe that the health or safety of an observer would be jeopardized; or

"(C) for reasons beyond the control of the Secretary, an observer is not available.

"(3) United States observers, while aboard foreign fishing vessels, shall carry out such scientific and other functions as the Secretary deems necessary or appropriate to carry out the purposes of this Act.

Ante, p. 3298.

"(4) In addition to any fee imposed under section 204(b)(10) of this Act and section 10(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980(e)) with respect to foreign fishing for any year after 1980, the Secretary shall impose, with respect to each foreign fishing vessel for which a permit is issued under such section 204, a surcharge in an amount sufficient to cover all the costs of providing a United States observer aboard that vessel. The failure to pay any surcharge imposed under this paragraph shall be treated by the Secretary as a failure to pay the permit fee for such vessel under section 204(b)(10). All surcharges collected by the Secretary under this paragraph shall be deposited in the Foreign Fishing Observer Fund established by paragraph (5).

Foreign Fishing Observer Fund. Establishment.

"(5) There is established in the Treasury of the United States the Foreign Fishing Observer Fund. The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out this subsection. The Fund shall consist of the surcharges deposited into it as required under paragraph (4). All payments made by the Secretary to carry out this subsection shall be paid from the Fund, only to the extent and in the amounts provided for in advance in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of this subsection shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.".

16 USC 1821 note.

SEC. 237. EFFECTIVE DATE.

The amendment made by section 236 shall take effect October 1, 1981, and shall apply with respect to permits issued under section 204 of the Fishery Conservation and Management Act of 1976 after December 31, 1981.

16 USC 1824.

16 USC 1801 note.

SEC. 238. SHORT TITLE.

(a) Effective 15 days after the date of enactment of this title, section 1 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801) is amended to read as follows: "That this Act may be cited as the 'Magnuson Fishery Conservation and Management Act'.".

(b) Effective 15 days after the date of enactment of this title, all references to the Fishery Conservation and Management Act of 1976 shall be redesignated as references to the Magnuson Fishery Conservation and Management Act.

PART D—MISCELLANEOUS PROVISIONS

22 USC 1980 note.

SEC. 240. APPLICATIONS AND FILINGS FOR COMPENSATION FOR CERTAIN FISHING VESSEL AND GEAR DAMAGE.

(a) IN GENERAL.—If—

(1) any owner or operator of a fishing vessel who suffered, after September 17, 1978, and before the date of the enactment of this title, damage to, or loss or destruction of, such vessel or fishing gear used with such vessel, but did not apply for compensation therefor under section 10 of the Fishermen's Protective Act of

1967 (22 U.S.C. 1980) within the 60-day period prescribed in subsection (c)(1) of such section; or

(2) any commercial fisherman who suffered, after September 17, 1978, and before the date of the enactment of this title, damages compensable under title IV of the Outer Continental Shelf Lands Act of 1978 (43 U.S.C. 1841 et seq.), but who did not timely file a claim therefor within the 60-day period prescribed in section 405(a) of such Act; 43 USC 1845.

such owner or operator may make application for compensation with respect to such damage, loss or destruction under such section 10, and such commercial fisherman may file a claim for, compensation for such damages under such title IV, to the Secretary of Commerce, within the 60-day period beginning on the date of the enactment of this title.

(b) SPECIAL PROVISIONS.—(1) Notwithstanding any other provision of law—

(A) any application or filing timely made under subsection (a) shall be treated by the Secretary of Commerce as an application timely made under such section 10(c)(1), or as a filing timely made under such section 405(a), as the case may be, with respect to the damage, loss, or destruction claimed; and 22 USC 1980. 43 USC 1845.

(B) any claim for fishing gear loss that was pending on June 1, 1980, before the United States-Union of Soviet Socialist Republics Fisheries Claims Board or the American-Spanish Fisheries Board shall be treated by the Secretary of Commerce as a timely application made, on the date of the enactment of this title, under such section 10(c)(1) for compensation for such loss.

(2) Section 403(c)(2)(A) of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1843(c)(2)(A)) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof "and the party admits responsibility;".

SEC. 241. AMENDMENTS TO FISHERMEN'S PROTECTIVE ACT OF 1967.

Section 10 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980) is amended as follows:

(1) Subsection (a) is amended by adding at the end thereof the following:

"(4) The term 'resulting economic loss' means the gross income, as estimated by the Secretary, that a fishing vessel owner or operator who is eligible for compensation under this section for damage to, loss of, or destruction of, a fishing vessel or the fishing gear used with such vessel will lose by reason of not being able to engage in fishing, or having to reduce his fishing effort, during the period before the vessel or gear, or both, are repaired or replaced and available for use.". "Resulting economic loss."

(2) Subsection (b) is amended—

(A) by inserting "and for any resulting economic loss", immediately after ", or both," in the matter preceding paragraph (1); and

(B) by striking out paragraph (2)(B) and inserting in lieu thereof the following:

"(B) is attributable to any other vessel, whether or not such vessel is a vessel of the United States.

For purposes of subparagraph (B), there shall be a rebuttable presumption that any damage, loss, or destruction of fishing gear is attributable to another vessel.".

(3) Subsection (c) is amended by inserting "and resulting economic loss" immediately after "destruction" in the matter appearing immediately before paragraph (1).

(4) Subsection (d) is amended—

(A) by inserting ", and resulting economic loss," immediately after "destruction" in paragraph (1); and

(B) by amending paragraph (2) to read as follows:

"(2) The amount of compensation awarded to any vessel owner under this section shall be—

"(A) the depreciated replacement cost, or the repair cost, whichever cost is less, of the fishing vessel or the fishing gear concerned; and

"(B) 25 percent of any resulting economic loss.

Any amount determined pursuant to subparagraph (A) or (B) shall be reduced to the extent that evidence indicates that negligence by the vessel owner or operator contributed to the cause or the extent of the damage, loss, or destruction and shall be further reduced by the amount of compensation, if any, that the vessel owner or operator has received or will receive with respect to the damage, loss, destruction, or resulting economic loss through insurance, pursuant to any other provision of law, or otherwise.".

Approved December 22, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1243, pt. 1 accompanying H.R. 6959 (Comm. on Merchant Marine and Fisheries) and No. 96-1243, pt. 2 accompanying H.R. 6959 (Comm. on Interior and Insular Affairs).

SENATE REPORT No. 96-667 (Comm. on Commerce, Science, and Transportation and Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 126 (1980):

May 5, considered and passed Senate.

Sept. 23, H.R. 6959 considered and passed House; passage vacated and S. 2163, amended, passed in lieu.

Dec. 3, Senate concurred in House amendments with an amendment.

Dec. 4, House concurred in Senate amendment.

Public Law 96-562
96th Congress

An Act

To designate the "John D. Larkins, Jr., Federal Building".

Dec. 22, 1980
[S. 1824]

John D. Larkins, Jr., Federal Building. Designation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at Market Street, Trenton, North Carolina, is hereby designated as the "John D. Larkins, Jr., Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the John D. Larkins, Jr., Federal Building.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1168 accompanying H.R. 4231 (Comm. on Public Works and Transportation).

CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 18, H.R. 4231 considered and passed House.
Dec. 5, H.R. 4231 considered and passed Senate, amended.
Dec. 12, S. 1824 considered and passed Senate.
Dec. 13, considered and passed House.

Public Law 96-563
96th Congress

Joint Resolution

Dec. 22, 1980
[H.J. Res. 615]

Providing for appointment of David C. Acheson as a citizen regent of the Board of Regents of the Smithsonian Institution.

Smithsonian Institution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the vacancy in the Board of Regents of the Smithsonian Institution, of the class other than Members of Congress, caused by expiration of the term of Caryl P. Haskins of the District of Columbia on August 30, 1980, is filled by appointment of David C. Acheson of the District of Columbia for the statutory term of six years.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Oct. 1, considered and passed House.
Dec. 11, considered and passed Senate.

Public Law 96-564
96th Congress

An Act

To grant the consent of the United States to the Red River Compact among the States of Arkansas, Louisiana, Oklahoma, and Texas.

Dec. 22, 1980
[S. 2227]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Arkansas, Louisiana, Oklahoma and Texas Red River Compact. Congressional consent.

SECTION 1. The consent of Congress is hereby given to the Red River Compact among the States of Arkansas, Louisiana, Oklahoma, and Texas, of May 12, 1978, as ratified by the States of Arkansas, Louisiana, Oklahoma, and Texas, as follows:

PREAMBLE

The States of Arkansas, Louisiana, Oklahoma, and Texas, pursuant to the acts of their respective Governors or legislatures, or both, being moved by considerations of interstate comity, have resolved to compact with respect to the water of the Red River and its tributaries. By Act of Congress, Public Law No. 346 (84th Congress, First Session), the consent of the United States has been granted for said States to negotiate and enter into a compact providing for an equitable apportionment of such water; and pursuant to that Act the President has designated the representative of the United States.

Further, the consent of Congress has been given for two or more States to negotiate and enter into agreements relating to water pollution control by the provisions of the Federal Water Pollution Control Act (Public Law 92-500, 33 U.S.C. 1251 et seq.).

The Signatory States acting through their duly authorized Compact Commissioners, after several years of negotiations, have agreed to an equitable apportionment of the water of the Red River and its tributaries and do hereby submit and recommend that this compact be adopted by the respective legislatures and approved by Congress as hereinafter set forth:

ARTICLE I

PURPOSES

SECTION 1.01. The principal purposes of this Compact are:

(a) To promote interstate comity and remove causes of controversy between each of the affected states by governing the use, control and distribution of the interstate water of the Red River and its tributaries;

(b) To provide an equitable apportionment among the Signatory States of the water of the Red River and its tributaries;

(c) To promote an active program for the control and alleviation of natural deterioration and pollution of the water of the Red River Basin and to provide for enforcement of the laws related thereto;

(d) To provide the means for an active program for the conservation of water, protection of lives and property from

floods, improvement of water quality, development of navigation and regulation of flows in the Red River Basin; and

(e) To provide a basis for state or joint state planning and action by ascertaining and identifying each state's share in the interstate water of the Red River Basin and the apportionment thereof.

ARTICLE II

GENERAL PROVISIONS

SECTION 2.01. Each Signatory State may use the water allocated to it by this Compact in any manner deemed beneficial by that state. Each state may freely administer water rights and uses in accordance with the laws of that state, but such uses shall be subject to the availability of water in accordance with the apportionments made by this Compact.

SECTION 2.02. The use of water by the United States in connection with any individual Federal project shall be in accordance with the Act of Congress authorizing the project and the water shall be charged to the state or states receiving the benefit therefrom.

SECTION 2.03. Any Signatory State using the channel of Red River or its tributaries to convey stored water shall be subject to an appropriate reduction in the amount which may be withdrawn at the point of removal to account for transmission losses.

SECTION 2.04. The failure of any state to use any portion of the water allocated to it shall not constitute relinquishment or forfeiture of the right to such use.

Storage facilities.

SECTION 2.05. Each Signatory State shall have the right to:

(a) Construct conservation storage capacity for the impoundment of water allocated by this Compact;

(b) Replace within the same area any storage capacity recognized or authorized by this Compact made unusable by any cause, including losses due to sediment storage;

(c) Construct reservoir storage capacity for the purposes of flood and sediment control as well as storage of water which is either imported or is to be exported if such storage does not adversely affect the delivery of water apportioned to any other Signatory State; and

(d) Use the bed and banks of the Red River and its tributaries to convey stored water, imported or exported water, and water apportioned according to this Compact.

SECTION 2.06. Signatory States may cooperate to obtain construction of facilities of joint benefits to such states.

SECTION 2.07. Nothing in this Compact shall be deemed to impair or affect the powers, rights, or obligations of the United States, or those claiming under its authority, in, over and to water of the Red River Basin.

SECTION 2.08. Nothing in this Compact shall be construed to include within the water apportioned by this Compact any water consumed in each state by livestock or for domestic purposes: *Provided, however,* the storage of such water is in accordance with the laws of the respective states but any such impoundment shall not exceed 200 acre-feet, or such smaller quantity as may be provided for by the laws of each state.

SECTION 2.09. In the event any state shall import water into the Red River Basin from any other river basin, the Signatory State making the importation shall have the use of such imported water.

SECTION 2.10. Nothing in this Compact shall be deemed to:

(a) Interfere with or impair the right or power of any Signatory State to regulate within its boundaries the appropriation, use, and control of water, or quality of water, not inconsistent with its obligations under this Compact;

(b) Repeal or prevent the enactment of any legislation or the enforcement of any requirement by any Signatory State imposing any additional conditions or restrictions to further lessen or prevent the pollution or natural deterioration of water within its jurisdiction; provided nothing contained in this paragraph shall alter any provision of this Compact dealing with the apportionment of water or the rights thereto; or

(c) Waive any state's immunity under the Eleventh Amendment of the Constitution of the United States, or as constituting the consent of any state to be sued by its own citizens. Waiver.

SECTION 2.11. Accounting for apportionment purposes on interstate streams shall not be mandatory under the terms of the Compact until one or more affected states deem the accounting necessary.

SECTION 2.12. For the purposes of apportionment of the water among the Signatory States, the Red River is hereby divided into the following major subdivision: Description.

(a) Reach I—the Red River and tributaries from the New Mexico-Texas State boundary to Denison Dam;

(b) Reach II—the Red River from Denison Dam to the point where it crosses the Arkansas-Louisiana state boundary and all tributaries which contribute to the flow of the River within this reach;

(c) Reach III—the tributaries west of the Red River which cross the Texas-Louisiana state boundary, the Arkansas-Louisiana state boundary, and those which cross both the Texas-Arkansas state boundary and the Arkansas-Louisiana state boundary;

(d) Reach IV—the tributaries east of the Red River in Arkansas which cross the Arkansas-Louisiana state boundary; and

(e) Reach V—that portion of the Red River and tributaries in Louisiana not included in Reach III or in Reach IV.

SECTION 2.13. If any part or application of this Compact shall be declared invalid by a court of competent jurisdiction, all other severable provisions and applications of this Compact shall remain in full force and effect.

SECTION 2.14. Subject to the availability of water in accordance with this Compact, nothing in this Compact shall be held or construed to alter, impair, or increase, validate, or prejudice any existing water right or right of water use that is legally recognized on the effective date of this Compact by either statutes or courts of the Signatory State within which it is located.

ARTICLE III

DEFINITIONS

SECTION 3.01. In this Compact:

(a) The States of Arkansas, Louisiana, Oklahoma, and Texas are referred to as "Arkansas," "Louisiana," "Oklahoma," and "Texas," respectively, or individually as "State" or "Signatory State," or collectively as "States" or "Signatory States."

(b) The term "Red River" means the stream below the crossing of the Texas-Oklahoma state boundary at longitude 100 degrees west.

(c) The term "Red River Basin" means all of the natural drainage area of the Red River and its tributaries east of the New Mexico-Texas state boundary and above its junction with Atchafalaya and Old Rivers.

(d) The term "water of the Red River Basin" means the water originating in any part of the Red River Basin and flowing to or in the Red River or any of its tributaries.

(e) The term "tributary" means any stream which contributes to the flow of the Red River.

(f) The term "interstate tributary" means a tributary of the Red River, the drainage area of which includes portions of two or more Signatory States.

(g) The term "intrastate tributary" means a tributary of the Red River, the drainage area of which is entirely within a single Signatory State.

(h) The term "Commission" means the agency created by Article IX of this Compact for the administration thereof.

(i) The term "pollution" means the alteration of the physical, chemical or biological characteristics of water by the acts or instrumentalities of man which create or are likely to result in a material and adverse effect upon human beings, domestic or wild animals, fish and other aquatic life, or adversely affect any other lawful use of such water; *provided,* that for the purpose of this Compact, "pollution" shall not mean or include "natural deterioration."

(j) The term "natural deterioration" means the material reduction in the quality of water resulting from the leaching of solubles from the soils and rocks through or over which the water flows naturally.

(k) The term "designated water" means water released from storage, paid for by non-Federal interests, for delivery to a specific point of use or diversion.

(l) The term "undesignated water" means all water released from storage other than "designated water."

(m) The term "conservation storage capacity" means that portion of the active capacity of reservoirs available for the storage of water for subsequent beneficial use, and it excludes any portion of the capacity of reservoirs allocated solely to flood control and sediment control, or either of them.

(n) The term "runoff" means both the portion of precipitation which runs off the surface of a drainage area and that portion of the precipitation that enters the streams after passing through the portions of the earth.

ARTICLE IV

APPORTIONMENT OF WATER—REACH I

OKLAHOMA—TEXAS

Subdivision of Reach I and Apportionment of Water Therein

Reach I of the Red River is divided into topographic subbasins, with the water therein allocated as follows:

SECTION 4.01. Subbasin 1—Interstate streams—Texas.

(a) This includes the Texas portion of Buck Creek, Sand (lebos) Creek, Salt Fork Red River, Elm Creek, North Fork Red River,

Sweetwater Creek, and Washita River, together with all their tributaries in Texas which lie west of the 100th Meridian.

(b) The annual flow within this subbasin is hereby apportioned sixty (60) percent to Texas and forty (40) percent to Oklahoma.

SECTION 4.02. Subbasin 2—Intrastate and Interstate streams—Oklahoma.

(a) This subbasin is composed of all tributaries of the Red River in Oklahoma and portions thereof upstream to the Texas-Oklahoma state boundary at longitude 100 degrees west, beginning from Denison Dam and upstream to and including Buck Creek.

(b) The State of Oklahoma shall have free and unrestricted use of the water of this subbasin.

SECTION 4.03. Subbasin 3—Intrastate streams—Texas.

(a) This includes the tributaries of the Red River in Texas, beginning from Denison Dam and upstream to and including Prairie Dog Town Fork Red River.

(b) The State of Texas shall have free and unrestricted use of the water in this subbasin.

SECTION 4.04. Subbasin 4—Mainstem of the Red River and Lake Texoma.

(a) This subbasin includes all of Lake Texoma and the Red River beginning at Denison Dam and continuing upstream to the Texas-Oklahoma state boundary at longitude 100 degrees west.

(b) The storage of Lake Texoma and flow from the mainstem of the Red River into Lake Texoma is apportioned as follows:

(1) Oklahoma 200,000 acre-feet and Texas 200,000 acre-feet, which quantities shall include existing allocations and uses; and

(2) Additional quantities in a ratio of fifty (50) percent to Oklahoma and fifty (50) percent to Texas.

SECTION 4.05. Special Provisions.

(a) Texas and Oklahoma may construct, jointly or in cooperation with the United States, storage or other facilities for the conservation and use of water; provided that any facilities constructed on the Red River boundary between the two states shall not be inconsistent with the Federal legislation authorizing Denison Dam and Reservoir project.

Dam construction.

(b) Texas shall not accept for filing, or grant a permit, for the construction of a dam to impound water solely for irrigation, flood control, soil conservation, mining and recovery of minerals, hydroelectric power, navigation, recreation and pleasure, or for any other purpose other than for domestic, municipal, and industrial water supply, on the mainstem of the North Fork Red River or any of its tributaries within Texas above Lugert-Altus Reservoir until the date that imported water, sufficient to meet the municipal and irrigation needs of Western Oklahoma is provided, or until January 1, 2000, whichever occurs first.

ARTICLE V

APPORTIONMENT OF WATER—REACH II

ARKANSAS, OKLAHOMA, TEXAS, AND LOUISIANA

Subdivision of Reach II and Allocation of Water Therein

Reach II of the Red River is divided into topographic subbasins, and the water therein is allocated as follows:

SECTION 5.01. Subbasin 1—Intrastate streams—Oklahoma.

quantity of water equal to all the weekly runoff originating in subbasin 5 and all undesignated water flowing in subbasin 5 within their respective states to flow into the Red River as required to maintain a 1,000 cubic foot per second flow at the Arkansas-Louisiana state boundary.

(c) Whenever the flow at Index, Arkansas, is less than 526 c.f.s., the states of Oklahoma and Texas shall each allow a quantity of water equal to 40 percent of the total weekly runoff originating in subbasin 5 within their respective states to flow into the Red River: *Provided, however,* this provision shall be invoked only at the request of Arkansas, only after Arkansas has ceased all diversions from the Red River itself in Arkansas above Index, and only if the provisions of Subsections 5.05(b) (2) and (3) have not caused a limitation of diversions in subbasin 5.

(d) No state guarantees to maintain a minimum low flow to a downstream state.

SECTION 5.06. Special Provisions.

Reservoirs.

(a) Reservoirs within the limits of Reach II, subbasin 5, with a conservation storage capacity of 1,000 acre feet or less in existence or authorized on the date of the Compact pursuant to the rights and privileges granted by a Signatory State authorizing such reservoirs, shall be exempt from the provisions of Section 5.05; provided, if any right to store water in, or use water from, an existing exempt reservoir expires or is cancelled after the effective date of the Compact the exemption for such rights provided by this section shall be lost.

(b) A Signatory State may authorize a change in the purpose or place of use of water from a reservoir exempted by subparagraph (a) of this section without losing that exemption, if the quantity of authorized use and storage is not increased.

(c) Additionally, exemptions from the provisions of Section 5.05 shall not apply to direct diversions from Red River to off-channel reservoirs or lands.

ARTICLE VI

APPORTIONMENT OF WATER—REACH III

ARKANSAS, LOUISIANA, AND TEXAS

Subdivision of Reach III and Allocation of Water Therein

Reach III of the Red River is divided into topographic subbasins, and the water therein allocated, as follows:

SECTION 6.01. Subbasin 1—Interstate streams—Arkansas and Texas.

(a) This subbasin includes the Texas portion of those streams crossing the Arkansas-Texas state boundary one or more times and flowing through Arkansas into Cypress Creek-Twelve Mile Bayou watershed in Louisiana.

(b) Texas is apportioned sixty (60) percent of the runoff of this subbasin and shall have unrestricted use thereof; Arkansas is entitled to forty (40) percent of the runoff of this subbasin.

SECTION 6.02. Subbasin 2—Interstate streams—Arkansas and Louisiana.

(a) This subbasin includes the Arkansas portion of those streams flowing from Subbasin 1 into Arkansas, as well as other streams in Arkansas which cross the Arkansas-Louisiana state boundary one or

more times and flow into Cypress Creek-Twelve Mile Bayou watershed in Louisiana.

(b) Arkansas is apportioned sixty (60) percent of the runoff of this subbasin and shall have unrestricted use thereof; Louisiana is entitled to forty (40) percent of the runoff of this subbasin.

SECTION 6.03. Subbasin 3—Interstate streams—Texas and Louisiana.

(a) This subbasin includes the Texas portion of all tributaries crossing the Texas-Louisiana state boundary one or more times and flowing into Caddo Lake, Cypress Creek-Twelve Mile Bayou or Cross Lake, as well as the Louisiana portion of such tributaries.

(b) Texas and Louisiana within their respective boundaries shall each have the unrestricted use of the water of this subbasin subject to the following allocation:

(1) Texas shall have the unrestricted right to all water above Marshall, Lake O' the Pines, and Black Cypress damsites; however, Texas shall not cause runoff to be depleted to a quantity less than that which would have occurred with the full operation of Franklin County, Titus County, Ellison Creek, Johnson Creek, Lake O' the Pines, Marshall, and Black Cypress Reservoirs constructed, and those other impoundments and diversions existing on the effective date of this Compact. Any depletions of runoff in excess of the depletions described above shall be charged against Texas' apportionment of the water in Caddo Reservoir.

(2) Texas and Louisiana shall each have the unrestricted right to use fifty (50) percent of the conservation storage capacity in the present Caddo Lake for the impoundment of water for state use, subject to the provision that supplies for existing uses of water from Caddo Lake, on date of Compact, are not reduced.

(3) Texas and Louisiana shall each have the unrestricted right to fifty (50) percent of the conservation storage capacity of any future enlargement of Caddo Lake, provided, the two states may negotiate for the release of each state's share of the storage space on terms mutually agreed upon by the two states after the effective date of this Compact.

(4) Inflow to Caddo Lake from its drainage area downstream from Marshall, Lake O' the Pines, and Black Cypress damsites and downstream from other last downstream dams in existence on the date of the signing of the Compact document by the Compact Commissioners, will be allowed to continue flowing into Caddo Lake except that any manmade depletions to this inflow by Texas will be subtracted from the Texas share of the water in Caddo Lake.

(c) In regard to the water of interstate streams which do not contribute to the inflow to Cross Lake or Caddo Lake, Texas shall have the unrestricted right to divert and use this water on the basis of a division of runoff above the state boundary of sixty (60) percent to Texas and forty (40) percent to Louisiana.

(d) Texas and Louisiana will not construct improvements on the Cross Lake watershed in either state that will affect the yield of Cross Lake; provided, however, this subsection shall be subject to the provisions of Section 2.08.

SECTION 6.04. Subbasin 4—Intrastate streams—Louisiana.

(a) This subbasin includes that area of Louisiana in Reach III not included within any other subbasin.

(b) Louisiana shall have free and unrestricted use of the water of this subbasin.

out herein to flow into the State of Louisiana. In its control and regulation of the water of Reach IV any adjudication or order rendered by the State of Arkansas or any of its instrumentalities or agencies affecting the terms of this Compact shall not be effective against the State of Louisiana nor any of its citizens or inhabitants until approved by the Commission.

ARTICLE VIII

APPORTIONMENT OF WATER—REACH V

SECTION 8.01. Reach V of the Red River consists of the mainstem Red River and all of its tributaries lying wholly within the State of Louisiana. The State of Louisiana shall have free and unrestricted use of the water of this subbasin.

ARTICLE IX

ADMINISTRATION OF THE COMPACT

Red River Compact Commission. Establishment.

SECTION 9.01. There is hereby created an interstate administrative agency to be known as the "Red River Compact Commission," hereinafter called the "Commission." The Commission shall be composed of two representatives from each Signatory State who shall be designated or appointed in accordance with the laws of each state, and one Commissioner representing the United States, who shall be appointed by the President. The Federal Commissioner shall be the Chairman of the Commission but shall not have the right to vote. The failure of the President to appoint a Federal Commissioner will not prevent the operation or effect of this Compact, and the eight representatives from the Signatory States will elect a Chairman for the Commission.

SECTION 9.02. The Commission shall meet and organize within 60 days after the effective date of this Compact. Thereafter, meetings shall be held at such times and places as the Commission shall decide.

SECTION 9.03. Each of the two Commissioners from each state shall have one vote: *Provided, however,* That if only one representative from a state attends he is authorized to vote on behalf of the absent Commissioner from that state. Representatives from three states shall constitute a quorum. Any action concerned with administration of this Compact or any action requiring compliance with specific terms of this Compact shall require six concurring votes. If a proposed action of the Commission affects existing water rights in a State, and that action is not expressly provided for in this Compact, eight concurring votes shall be required.

Salaries and expenses.

SECTION 9.04.

(a) The salaries and personal expenses of each state's representative shall be paid by the government that it represents, and the salaries and personal expenses of the Federal Commissioner will be paid for by the United States.

(b) The Commission's expenses for any additional stream flow gaging stations shall be equitably apportioned among the states involved in the reach in which the stream flow gaging stations are located.

Red River Compact Commission Fund.

(c) All other expenses incurred by the Commission shall be borne equally by the Signatory States and shall be paid by the Commission out of the "Red River Compact Commission Fund." Such Fund shall be initiated and maintained by equal payments of each state into the

Audits.

fund. Disbursement shall be made from the fund in such manner as may be authorized by the Commission. Such fund shall not be subject to audit and accounting procedures of the State; however, all receipts and disbursements of the fund by the Commission shall be audited by a qualified independent public accountant at regular intervals, and the report of such audits shall be included in and become a part of the annual report of the Commission. Each State shall have the right to make its own audit of the accounts of the Commission at any reasonable time.

ARTICLE X

POWERS AND DUTIES OF THE COMMISSION

SECTION 10.01. The Commission shall have the power to:

(a) Adopt rules and regulations governing its operation and enforcement of the terms of the Compact;

(b) Establish and maintain an office for the conduct of its affairs and, if desirable, from time to time, change its location;

(c) Employ or contract with such engineering, legal, clerical, and other personnel as it may determine necessary for the exercise of its functions under this Compact without regard to the Civil Service Laws of any Signatory State; provided that such employees shall be paid by and be responsible to the Commission and shall not be considered employees of any Signatory State;

(d) Acquire, use and dispose of such real and personal property as it may consider necessary;

(e) Enter into contracts with appropriate State or Federal agencies for the collection, correlation, and presentation of factual data, for the maintenance of records and for the preparation of reports;

(f) Secure from the head of any department or agency of the Federal or State government such information as it may need or deem to be useful for carrying out its functions and as may be available to or procurable by the department or agency to which the request is addressed; provided such information is not privileged and the department or agency is not precluded by law from releasing same;

(g) Make findings, recommendations, or reports in connection with carrying out the purposes of this compact, including, but not limited to, a finding that a Signatory State is or is not in violation of any of the provisions of this Compact. The Commission is authorized to make such investigations and studies, and to hold such hearings as it may deem necessary for said purposes. It is authorized to make and file official certified copies of any of its findings, recommendations or reports with such officers or agencies of any Signatory State, or the United States, as may have any interest in or jurisdiction over the subject matter. The making of finds, recommendations, or reports by the Commission shall not be a condition precedent to the instituting or maintaining of any action or proceeding of any kind by a Signatory State in any court or tribunal, or before any agency or officer, for the protection of any right under this Compact or for the enforcement of any of its provisions; and

(h) Print or otherwise reproduce and distribute its proceedings and reports.

SECTION 10.02. The Commission shall:

(a) Cause to be established, maintained, and operated such stream, reservoir and other gaging stations as are necessary for the proper administration of the Compact;

(b) Cause to be collected, analyzed and reported such information on stream flows, water quality, water storage and such other data as are necessary for the proper administration of the Compact;

(c) Perform all other functions required of it by the Compact and do all things necessary, proper and convenient in the performance of its duties thereunder;

(d) Prepare and submit to the Governor of each of the Signatory States a budget covering the anticipated expenses of the Commission for the following fiscal biennium; Budget, submittal to Governors.

(e) Prepare and submit an annual report to the Governor of each Signatory State and to the President of the United States covering the activities of the Commission for the preceding fiscal year, together with an accounting of all funds received and expended by it in the conduct of its work; Report to Governors and President.

(f) Make available to the Governor or to any official agency of the Signatory State or to any authorized representative of the United States, upon request, any information within its possession;

(g) Not incur any obligation in excess of the unencumbered balance of its funds, nor pledge the credit of any of the Signatory States; and

(h) Make available to a Signatory State or the United States in any action arising under this Compact; without subpena, the testimony of any officer or employee of the Commission having knowledge of any relevant facts.

ARTICLE XI

POLLUTION

SECTION 11.01. The Signatory States recognize that the increase in population and the growth of industrial, agricultural, mining and other activities combined with natural pollution sources may lead to a diminution of the quality of water in the Red River Basin which may render the water harmful or injurious to the health and welfare of the people and impair the usefulness or public enjoyment of the water for benficial purposes, thereby resulting in adverse social, economic, and environmental impacts.

SECTION 11.02. Although affirming the primary duty and responsibility of each Signatory State to take appropriate action under its own laws to prevent, diminish, and regulate all pollution sources within its boundaries which adversely affect the water of the Red River Basin, the states recognize that the control and abatement of the naturally occurring salinity sources as well as, under certain circumstances, the maintenance and enhancement of the quality of water in the Red River Basin may require the cooperative action of all states.

SECTION 11.03. The Signatory States agree to cooperate with agencies of the United States to devise and effectuate means of alleviating the natural deterioration of the water of the Red River Basin.

SECTION 11.04. The Commission shall have the power to cooperate with the United States, the Signatory States and other entities in programs for abating and controlling pollution and natural deteriora-

tion of the water of the Red River Basin, and to recommend reasonable water quality objectives to the states.

Waste discharge records.

SECTION 11.05. Each Signatory State agrees to maintain current records of waste discharges into the Red River Basin and the type and quality of such discharges, which records shall be furnished to the Commission upon request.

Complaints.

SECTION 11.06. Upon receipt of a complaint from the Governor of a Signatory State that the interstate water of the Red River Basin in which it has an interest are being materially and adversely affected by pollution and that the state in which the pollution originates has failed after reasonable notice to take appropriate abatement measures, the Commission shall make such findings as are appropriate and thereafter provide such findings to the Governor of the state in which such pollution originates and request appropriate corrective action. The Commission, however, shall not take any action with respect to pollution which adversely affects only the state in which such pollution originates.

Litigation.

SECTION 11.07. In addition to its other powers set forth under this Article, the Commission shall have the authority, upon receipt of six concurring votes, to utilize applicable Federal statutes to institute legal action in its own name against the person or entity responsible for interstate pollution problems; provided, however, sixty (60) days before initiating legal action the Commission shall notify the Governor of the state in which the pollution source is located to allow that state an opportunity to initiate action in its own name.

SECTION 11.08. Without predjudice to any other remedy available to the Commission, or any Signatory State, any state which is materially and adversely affected by the pollution of the water of the Red River Basin by pollution originating in another Signatory State may institute a suit against any individual, corporation, partnership, or association, or against any Signatory State or political or governmental subdivision thereof, or against any officer, agency, department, bureau, district or instrumentality of or in any Signatory State contributing to such pollution in accordance with applicable Federal statutes. Nothing herein shall be construed as depriving any persons of any rights of action relating to pollution which such person would have if this Compact had not been made.

ARTICLE XII

TERMINATION AND AMENDMENT OF COMPACT

SECTION 12.01. This Compact may be terminated at any time by appropriate action of the legislatures of all of the four Signatory States. In the event of such termination, all rights established under it shall continue unimpaired.

SECTION 12.02. This Compact may be amended at any time by appropriate action of the legislatures of all Signatory States that are affected by such amendment. The consent of the United States Congress must be obtained before any such amendment is effective.

ARTICLE XIII

RATIFICATION AND EFFECTIVE DATE OF COMPACT

SECTION 13.01. Notice of ratification of this Compact by the legislature of each Signatory State shall be given by the governor thereof to the governors of each of the other Signatory States and to the

President of the United States. The President is hereby requested to give notice to the governors of each of the Signatory States of the consent of this Compact by the Congress of the United States. Notification.

SECTION 13.02. This Compact shall become effective, binding and obligatory when, and only when:

(a) It has been duly ratified by each of the Signatory States; and

(b) It has been consented to by an Act of the Congress of the United States,

which act provides that:

Any other statute of the United States to the contrary notwithstanding, in any case or controversy:

which involves the construction or application of this Compact; in which one or more of the Signatory States to this Compact is a plaintiff or plaintiffs; and which is within the judicial power of the United States as set forth in the Constitution of the United States;

and without any requirement, limitation or regard as to the sum or value of the matter in controversy, or of the place of residence or citizenship of, or of the nature, character or legal status of, any of the other proper parties plaintiff or defendant in such case or controversy:

The consent of Congress is given to name and join the United States as a party defendant or otherwise in any such case or controversy in the Supreme Court of the United States if the United States is an indispensable party thereto.

SECTION 13.03. The United States District Courts shall have original jurisdiction (concurrent with that of the Supreme Court of the United States, and concurrent with that of any other Federal or state court, in matters in which the Supreme Court, or other court has original jurisdiction) of any case or controversy involving the application or construction of this Compact; that said jurisdiction shall include, but not be limited to, suits between Signatory States; and that the venue of such case or controversy may be brought in any judicial district in which the acts complained of (or any portion thereof) occur. Jurisdiction.

SIGNED AND APPROVED on the 12th day of May, 1978 at Denison Dam.

FOR ARKANSAS:
JOHN P. SAXTON
Commissioner

FOR LOUISIANA:
ARTHUR R. THEIS
Commissioner

FOR OKLAHOMA:
ORVILLE B. SAUNDERS
Commissioner

FOR TEXAS:
FRED PARKEY
Commissioner

FOR UNITED STATES OF AMERICA:
R. C. MARSHALL, Major General
Representative

SECTION 2. In order to carry out the purposes of this Act, and the purposes of article XIII of this compact consented to by Congress by

this Act, the congressional consent to this compact includes and expressly gives the consent of Congress to have the United States of America named and joined as a party defendant or otherwise in the United States Supreme Court or in a district court with concurrent jurisdiction in matters in which the Supreme Court has original jurisdiction, in any case or controversy involving the construction or application of this Compact in which one or more of the Signatory States to this Compact is a plaintiff, and which is within the judicial power of the United States as set forth in the Constitution of the United States, if the United States of America is an indispensable party and without any requirement, limitation or regard as to the sum or value of the matter in controversy, or of the place of residence or citizenship of, or of the nature, character or legal status of, any of the other proper parties plaintiff or defendant in such case or controversy.

SECTION 3. The right to alter, amend, or repeal this Act is expressly reserved.

Jurisdiction.

SECTION 4. The United States District Courts shall have original jurisdiction (concurrent with that of the Supreme Court of the United States, and concurrent with that of any other Federal or state court, in matters in which the Supreme Court, or other court has original jurisdiction) of any case or controversy involving the application or construction of this Compact; that said jurisdiction shall include, but not be limited to, suits between Signatory States; and that the venue of such case or controversy may be in any judicial district in which the acts complained of (or any portion thereof) occur.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-964 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 24, considered and passed Senate.
Dec. 1, H.R. 7206 considered and passed House; passage vacated and S. 2227, amended, passed in lieu.
Dec. 12, Senate agreed to House amendment.

Public Law 96-565
96th Congress

An Act

To establish the Kalaupapa National Historical Park in the State of Hawaii, and for other purposes.

Dec. 22, 1980
[H.R. 7217]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Kalaupapa National Historical Park, Hawaii. Establishment. 16 USC 410jj.

SEC. 101. In order to provide for the preservation of the unique nationally and internationally significant cultural, historic, educational, and scenic resources of the Kalaupapa settlement on the island of Molokai in the State of Hawaii, there is hereby established the Kalaupapa National Historical Park (hereinafter referred to as the "park").

Purposes. 16 USC 410jj-1.

SEC. 102. The Congress declares the following to constitute the principal purposes of the park:

(1) to preserve and interpret the Kalaupapa settlement for the education and inspiration of present and future generations;

(2) to provide a well-maintained community in which the Kalaupapa leprosy patients are guaranteed that they may remain at Kalaupapa as long as they wish; to protect the current lifestyle of these patients and their individual privacy; to research, preserve, and maintain the present character of the community; to research, preserve, and maintain important historic structures, traditional Hawaiian sites, cultural values, and natural features; and to provide for limited visitation by the general public; and

(3) to provide that the preservation and interpretation of the settlement be managed and performed by patients and Native Hawaiians to the extent practical, and that training opportunities be provided such persons in management and interpretation of the settlement's cultural, historical, educational, and scenic resources.

Boundaries; public inspection. 16 USC 410jj-2.

SEC. 103. The boundaries of the park shall include the lands, waters, and interests therein within the area generally depicted on the map entitled "Boundary Map, Kalaupapa National Historical Park", numbered P07-80024, and dated May 1980, which shall be on file and available for public inspection in the local and Washington, District of Columbia offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the "Secretary") may make minor revisions in the boundary of the park by publication of a revised boundary map or other description to that effect in the Federal Register.

Land acquisition. 16 USC 410jj-3.

SEC. 104. (a) Within the boundary of the park, the Secretary is authorized to acquire those lands owned by the State of Hawaii or any political subdivision thereof only by donation or exchange, and only with the consent of the owner. Any such exchange shall be accomplished in accordance with the provisions of sections 5 (b) and (c) of the Act approved July 15, 1968 (82 Stat. 354). Any property conveyed to the State or a political subdivision thereof in exchange for property within the park which is held in trust for the benefit of Native

16 USC 460*l*-22.

48 USC 691.

48 USC 697.
48 USC 698.

Hawaiians, as defined in the Hawaiian Homes Commission Act of 1920 shall, as a matter of Federal law, be held by the grantee subject to an equitable estate of the same class and degree as encumbers the property within the preserve; and "available lands" defined in section 203 of the Hawaiian Homes Commission Act may be exchanged in accordance with section 204 of said Act. The vesting of title in the United States to property within the park shall operate to extinguish any such equitable estate with respect to property acquired by exchange within the park.

(b) The Secretary is authorized to acquire privately-owned lands within the boundary of the park by donation, purchase with donated or appropriated funds, or exchange.

(c) The Secretary is authorized to acquire by any of the foregoing methods except condemnation, lands, waters, and interests therein outside the boundary of the park and outside the boundaries of any other unit of the National Park System but within the State of Hawaii, and to convey the same to the Department of Hawaiian Home Lands in exchange for lands, waters, and interests therein within the park owned by that Department. Any such exchange shall be accomplished in accordance with the provisions defined in subsection (a) of this section.

Administration.
16 USC 410jj-4.
43 USC 1457, 16 USC 1, 2, 3, 4, 22, 43.
16 USC 461-467.

SEC. 105. (a) The Secretary shall administer the park in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535), the Act of August 21, 1935 (49 Stat. 666), and the provisions of this Act.

(b)(1) With the approval of the owner thereof, the Secretary may undertake critical or emergency stabilization of utilities and historic structures, develop and occupy temporary office space, and conduct interim interpretive and visitor services on non-Federal property within the park.

Cooperative agreements.

(2) The Secretary shall seek and may enter into cooperative agreements with the owner or owners of property within the park pursuant to which the Secretary may preserve, protect, maintain, construct, reconstruct, develop, improve, and interpret sites, facilities, and resources of historic, natural, architectural, and cultural significance. Such agreements shall be of not less than twenty years duration, may be extended and amended by mutual agreement, and shall include, without limitation, provisions that the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes, and that no changes or alterations shall be made in the property except by mutual agreement. Each such agreement shall also provide that the owner shall be liable to the United States in an amount equal to the fair market value of any capital improvements made to or placed upon the property in the event the agreement is terminated prior to its natural expiration, or any extension thereof, by the owner, such value to be determined as of the date of such termination, or, at the election of the Secretary, that the Secretary be permitted to remove such capital improvements within a reasonable time of such termination. Upon the expiration of such agreement, the improvements thereon shall become the property of the owner, unless the United States desires to remove such capital improvements and restore the property to its natural state within a reasonable time for such expiration.

(3) Except for emergency, temporary, and interim activities as authorized in paragraph (1) of this subsection, no funds appropriated pursuant to this Act shall be expended on non-Federal property unless such expenditure is pursuant to a cooperative agreement with the owner.

(4) The Secretary may stabilize and rehabilitate structures and other properties used for religious or sectarian purposes only if such properties constitute a substantial and integral part of the historical fabric of the Kalaupapa settlement, and only to the extent necessary and appropriate to interpret adequately the nationally significant historical features and events of the settlement for the benefit of the public. Religious structures.

SEC. 106. The following provisions are made with respect to the special needs of the leprosy patients residing in the Kalaupapa settlement— Leprosy patients. 16 USC 410jj-5.

(1) So long as the patients may direct, the Secretary shall not permit public visitation to the settlement in excess of one hundred persons in any one day.

(2) Health care for the patients shall continue to be provided by the State of Hawaii, with assistance from Federal programs other than those authorized herein.

(3) Notwithstanding any other provision of law, the Secretary shall provide patients a first right of refusal to provide revenue-producing visitor services, including such services as providing food, accommodations, transportation, tours, and guides.

(4) Patients shall continue to have the right to take and utilize fish and wildlife resources without regard to Federal fish and game laws and regulations.

(5) Patients shall continue to have the right to take and utilize plant and other natural resources for traditional purposes in accordance with applicable State and Federal laws.

SEC. 107. The following provisions are made with respect to additional needs of the leprosy patients and Native Hawaiians for employment and training. (The term "Native Hawaiian" as used in this title, means a descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to the year 1778.)— Employment and training. 16 USC 410jj-6. "Native Hawaiian."

(1) Notwithstanding any other provision of law, the Secretary shall give first preference to qualified patients and Native Hawaiians in making appointments to positions established for the administration of the park, and the appointment of patients and Native Hawaiians shall be without regard to any provision of the Federal civil service laws giving an employment preference to any other class of applicant and without regard to any numerical limitation on personnel otherwise applicable.

(2) The Secretary shall provide training opportunities for patients and Native Hawaiians to develop skills necessary to qualify for the provision of visitor services and for appointment to positions referred to in paragraph (1).

SEC. 108. (a) There is hereby established the Kalaupapa National Historical Park Advisory Commission (hereinafter referred to as the "Commission"), which shall consist of eleven members each appointed by the Secretary for a term of five years as follows: Kalaupapa National Historical Park Advisory Commission. Establishment. Membership. 16 USC 410jj-7.

(1) seven members who shall be present or former patients, elected by the patient community; and

(2) four members appointed from recommendations submitted by the Governor of Hawaii, at least one of whom shall be a Native Hawaiian.

(b) The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made. Chairman. Vacancies.

(c) A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably Compensation. Expenses.

incurred by the Commission in carrying out its responsibilities under this Act on vouchers signed by the Chairman.

(d) The Secretary shall consult with and seek the advice of the Commission with respect to the development and operation of the park including training programs. The Commission shall, in addition, advise the Secretary concerning public visitation to the park, and such advice with respect to numbers of visitors shall be binding upon the Secretary if the Commission certifies to him that such advice is based on a referendum, held under the auspices of the Commission, of all patients on the official Kalaupapa Registry.

Expiration.

(e) The Commission shall expire twenty-five years from the date of enactment of this Act.

Reevaluation. 16 USC 410jj-8.

SEC. 109. At such time when there is no longer a resident patient community at Kalaupapa, the Secretary shall reevaluate the policies governing the management, administration, and public use of the park in order to identify any changes deemed to be appropriate.

Appropriation authorization. 16 USC 410jj-9.

SEC. 110. Effective October 1, 1981, there are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title but not to exceed $2,500,000 for acquisition of lands and interests in lands and $1,000,000 for development.

TITLE II

Historic sailing ship, financial assistance. 49 Stat. 666, 16 USC 462.

SEC. 201. In furtherance of the purposes of subsection 2(e) of the Act of August 21, 1935 (49 Stat. 6666), the Secretary of the Interior is authorized to provide financial assistance for the operation, maintenance and protection of the historic sailing ship Falls of Clyde, located in Honolulu Harbor, Hawaii. Such authorization shall terminate at such time as the Falls of Clyde is no longer located in the State of Hawaii.

SEC. 202. Authority to enter into contracts or cooperative agreements, to incur obligations or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

TITLE III

Native Hawaiians Study Commission Act. 42 USC 2991a note.

SEC. 301. This title may be cited as the "Native Hawaiians Study Commission Act".

NATIVE HAWAIIANS STUDY COMMISSION

Establishment. 42 USC 2991a note.

SEC. 302. There is hereby established the Native Hawaiians Study Commission (hereinafter in this title referred to as the "Commission").

Membership.

(b) The Commission shall be composed of nine members appointed by the President. Not more than three of such members shall be residents of the State of Hawaii.

Chairman.

(c) The Chairman and Vice Chairman of the Commission shall be designated by the President at the time of appointment.

Vacancies.

(d) Vacancies in the membership of the Commission shall not affect the powers of the remaining members to execute the functions of the Commission and shall be filled in the same manner in which the original appointments were made.

(e) The President shall call the first meeting of the Commission not more than ninety days after the date of the enactment of this title.

(f) Five members of the Commission shall constitute a quorum, but a smaller number specified by the Commission may conduct hearings.

(g) Each member of the Commission shall receive $100 for each day such member is engaged in performing the duties of the Commission, except that members of the Commission who are fulltime officers or employees of the United States shall receive no additional pay on account of their service on the Commission other than official travel expenses. Pay.

(h) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission (including members who are fulltime officers or employees of the United States) shall be allowed travel expenses, including per diem, in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code. Travel expenses.

(i) Subject to such rules and regulations as may be adopted by the Commission, the Chairman may—

(1) appoint and fix the compensation of an executive director, a general counsel, and such additional staff as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate of pay in effect from time to time for grade GS-18 of the General Schedule under section 5332 of such title; and Staff. 5 USC 5101, 5331. 5 USC 5332.

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals. Temporary and intermittent services.

(j) Subject to section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(k) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

DUTIES OF THE COMMISSION

SEC. 303. (a) The Commission shall conduct a study of the culture, needs and concerns of the Native Hawaiians. Study. 42 USC 2991a note.

(b) The Commission shall conduct such hearings as it considers appropriate and shall provide notice of such hearings to the public, including information concerning the date, location and topic of each hearing. The Commission shall take such other actions as it considers necessary to obtain full public participation in the study undertaken by the Commission. Hearings; public notice.

(c) Within one year after the date of its first meeting, the Commission shall publish a draft report of the findings of the study and shall distribute copies of the draft report to appropriate Federal and State agencies, to Native Hawaiian organizations, and upon request, to members of the public. The Commission shall solicit written comments from the organizations and individuals to whom copies of the draft report are distributed. Draft report. Comments.

(d) After taking into consideration any comments submitted to the Commission, the Commission shall issue a final report of the results of its study within nine months after the publication of its draft report. The Commission shall submit copies of the final report and Final report. Submittal to President and congressional committees.

copies of all written comments on the draft submitted to the Commission under paragraph (c) to the President and to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(e) The Commission shall make recommendations to the Congress based on its findings and conclusions under subsection (a) of this section.

TERMINATION OF THE COMMISSION

42 USC 2991a note.

SEC. 304. Except as provided in subsection (b) of section 307, upon the expiration of the sixty-day period following the submission of the report required by section 303, the Commission shall cease to exist.

DEFINITIONS

42 USC 2991a note.

SEC. 305. For the purposes of this title, the term "Native Hawaiian" means any individual whose ancestors were natives of the area which consisted of the Hawaiian Islands prior to 1778.

SAVINGS CLAUSES

42 USC 2991a note.

SEC. 306. No provision of this title shall be construed as—

(1) constituting a jurisdictional act, conferring jurisdiction to sue, or granting implied consent to Native Hawaiians to sue the United States or any of its offices; or

(2) constituting a precedent for reopening, renegotiating, or legislating any past settlement involving land claims or other matters with any Native organization or any tribe, band, or identifiable group of American Indians.

AUTHORIZATION

42 USC 2991a note.

SEC. 307. (a) There are hereby authorized to be appropriated for fiscal years 1982 and 1983 such sums as are necessary to carry out the provisions of this title. Until October 1, 1981, salaries and expenses of the Commission shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman. To the extent that any payments are made from the contingent fund of the Senate prior to the time appropriation is made, such payments shall be chargeable against the authorization provided herein.

(b) The Secretary of the Treasury shall reserve a reasonable portion of the funds appropriated pursuant to subsection (a) of this section for the purpose of providing payment for the transportation, subsistence, and reasonable expenses of the members of the Commission in testifying before the Congress with respect to their duties and activities while serving on the Commission or to such matters as may involve the findings of the study of the Commission after the expiration of the Commission pursuant to section 304.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1019 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-1027 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 19, considered and passed House.
Dec. 4, considered and passed Senate, amended.
Dec. 5, House concurred in Senate amendments.

Public Law 96-566
96th Congress

Joint Resolution

Dec. 22, 1980
[H.J. Res. 642]

Providing for convening of the first regular session of the Ninety-seventh Congress on January 5, 1981, and for other purposes.

97th Congress. First session.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first regular session of the Ninety-seventh Congress shall begin at 12 o'clock meridian on Monday, January 5, 1981.

Reports.

SEC. 2. That (a) notwithstanding the provisions of section 605(a) of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 11(a)), the President shall submit to the Senate and the House of Representatives the estimates required to be submitted by said subsection for the fiscal year 1982 not later than the date on which the President transmits to the Congress the budget for the fiscal year 1982, and (b) notwithstanding the provisions of section 605(b) of the Congressional Budget and Impoundment Control Act of 1974, the Joint Economic Committee shall submit to the Committees on the Budget of both Houses the evaluation required to be submitted by said subsection for the fiscal year 1982 not later than the date on which the report for the fiscal year 1982 pursuant to section 5(b)(3) of the Employment Act of 1946 (15 U.S.C. 1024b) is filed with the Senate and House of Representatives.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 12, considered and passed House.
Dec. 16, considered and passed Senate.

Public Law 96-567
96th Congress

An Act

To provide for an accelerated and coordinated program of light water nuclear reactor safety research, development, and demonstration, to be carried out by the Department of Energy.

Dec. 22, 1980
[H.R. 7865]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Nuclear Safety Research, Development, and Demonstration Act of 1980".

Nuclear Safety Research, Development, and Demonstration Act of 1980.
42 USC 9701 note.

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) nuclear energy is one of the two major energy sources available for electric energy production in the United States during the balance of the twentieth century;

(2) continued development of nuclear power is dependent upon maintaining an extremely high level of safety in the operation of nuclear plants, and on public recognition that these facilities do not constitute a significant threat to human health or safety;

(3) it is the responsibility of utilities, as owners and operators of nuclear powerplants, to assure that such plants are designed and operated safely and reliably; and

(4) a proper role of the Federal Government in assuring nuclear powerplant safety, in addition to its regulatory function, is the conduct of a research, development, and demonstration program to provide important scientific and technical information which can contribute to sound design and safe operation of these plants.

42 USC 9701.

(b) It is declared to be the policy of the United States and the purpose of this Act to establish a research, development, and demonstration program for developing practical improvements in the generic safety of nuclear powerplants during the next five years, beginning in the fiscal year 1981. The objectives of such program shall be—

(1) to reduce the likelihood and severity of potentially serious nuclear powerplant accidents; and

(2) to reduce the likelihood of disrupting the population in the vicinity of nuclear powerplants as the result of nuclear powerplant accidents.

Nothing in this Act shall be construed as preventing the Secretary from undertaking projects or activities, in addition to those specified in this Act, which appropriately further the purpose and objectives set forth in this subsection. Nothing in this Act shall authorize the Secretary to assume responsibility for the management, cleanup or repair of any commercial nuclear powerplant. Nothing in this Act shall be construed as limiting the authority of the Secretary under any other law.

DEFINITIONS

SEC. 3. For purposes of this Act— 42 USC 9702.

(1) the term "Secretary" means the Secretary of Energy;

(2) the term "Government agency" means any department, agency, commission, or independent establishment in the executive branch of the Federal Government, or any corporation, wholly or partly owned by the United States, which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Federal Government;

(3) the term "Commission" means the Nuclear Regulatory Commission; and

(4) the term "Advisory Committee" means the Advisory Committee on Reactor Safeguards established by section 29 of the Atomic Energy Act of 1954, as amended.

42 USC 2039.

ESTABLISHMENT OF RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM FOR IMPROVING THE SAFETY OF NUCLEAR POWERPLANTS

42 USC 9703.

SEC. 4. (a) The Secretary shall establish a research, development, and demonstration program to carry out the purpose of this Act. As part of such program, the Secretary shall at a minimum—

(1) refine further the assessment of risk factors associated with the generic design and operation of nuclear powerplants to determine the degree and consequences of propagation of failures of systems, subsystems, and components, including consideration of the interaction between the primary and secondary systems;

(2) develop potentially cost-beneficial changes in the generic design and operation of nuclear powerplants that can (A) significantly reduce the risks from unintentional release of radioactive material from the various engineered barriers of nuclear powerplants and (B) reduce the radiation exposure to workers during plant operation and maintenance;

(3) develop potentially cost-beneficial generic methods and designs that will significantly improve the performance of operators of nuclear powerplants under routine, abnormal, and accident conditions;

(4) identify the effect of total or partial automation of generic plant systems on reactor safety, operation, reliability, economics, and operator performance;

Experimental investigations.

(5) conduct further experimental investigations under abnormal operational and postulated accident conditions primarily for light water reactors to determine the consequences of such conditions. These investigations shall include, but not be limited to, the following:

(A) fuel failure at higher than standard burn-up levels;

(B) fuel-cladding interactions;

(C) fuel and cladding interactions with coolant under various temperatures and pressures;

(D) thermohydraulic behavior in the reactor core;

(E) mechanisms to suppress and control the generation of hydrogen gas;

(F) improved instrumentation for monitoring reactor cores;

(G) engineered-barrier failure modes; and

(H) fission product release and transport from failed fuel;

(6) provide for the examination and analysis of any nuclear powerplant fuel, component, or system which the Secretary

deems to offer significant benefit in safety analysis and which is made available to the Secretary for a nominal cost, such as $1: *Provided, however,* That the Secretary shall accept only the number of samples of such fuel, component, or system necessary to carry out such examination and analysis; and

(7) identify the aptitudes, training, and manning levels which are necessary to assure reliable operator performance under normal, abnormal, and emergency conditions.

(b) In carrying out the generic safety research, development, and demonstration program established under this Act, the Secretary—

(1) shall coordinate with the Commission and, to the extent necessary, enter into a new memorandum of understanding or revise existing memoranda for the purpose of eliminating unnecessary duplication and avoiding programmatic conflict with any reactor safety research program of the Commission, including the Improved Safety Systems Research program;

(2) shall, to the extent practical, coordinate his activities with such other Government agencies, foreign governments, and industry as he deems appropriate to utilize their expertise, to minimize duplication of effort, and to ensure that information useful for improved concepts applicable to nuclear powerplant safety can be applied in a timely manner. The Secretary may enter into agreements and memoranda of understanding to accomplish these ends, but no such agreement shall have the effect of delaying the development and implementation of programs authorized under this Act;

(3) shall utilize, to the extent feasible, underutilized federally owned research reactors and facilities, along with the associated personnel, to maintain existing capabilities and to ensure that the research is generic in nature; and

(4) shall make such recommendations as are practical to minimize the complexity of nuclear powerplant systems, including secondary systems, and operations.

NATIONAL REACTOR ENGINEERING SIMULATOR

SEC. 5. (a) The Secretary, in consultation with the Commission and the Advisory Committee, shall initiate a study of the need for and feasibility of establishing a reactor engineering simulator facility at a national laboratory, for the primary purpose of fostering research in generic design improvements and simplifications through the simulation of the performance of various types of light water reactors under a wide variety of abnormal conditions and postulated accident conditions. 42 USC 9704.

(b) In performing the study, the Secretary shall consider relevant factors including, but not limited to—

(1) the potential advantages that would accrue from the establishment of such a facility;

(2) the extent to which such a facility would further the generic safety research and development program established by this Act;

(3) the extent to which such a facility can be established by nongovernmental entities;

(4) the opportunities for cost sharing by nongovernmental entities in the construction and operation of such a facility;

(5) the importance of such a facility in emergencies to limit the extent of any future nuclear powerplant excursions;

(6) the potential for international cooperation in the establishment and operation of such a facility; and

(7) the appropriate national laboratory for siting such a facility.

Report to congressional committees.

(c) The Secretary shall, by January 1, 1982, submit to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report characterizing the study and the resulting conclusions and recommendations.

FEDERAL NUCLEAR OPERATIONS CORPS

Study.
42 USC 9705.

SEC. 6. (a) The Secretary, in cooperation with the Nuclear Regulatory Commission, shall initiate a study as to the sufficiency of efforts in the United States to provide specially trained professionals to operate the controls of nuclear powerplants and other facilities in the back-end of the nuclear fuel cycle. In carrying out the study, the Secretary shall coordinate his activities with the ongoing programs of the utility industry and other Federal governmental agencies for obtaining high standards of operator performance.

(b)(1) In conducting the study the Secretary shall assess the desirability and feasibility of creating a Federal Corps of such professionals to inspect and supervise such operations.

(2) The assessment shall consider the establishment of an academy to train Corps professionals in all aspects of nuclear technology, nuclear operations, nuclear regulatory and related law, and health science.

(3) The assessment shall include the appropriate organizational approach for the establishment of a Federal Corps within the executive branch.

Report to Congress.

(c) The Secretary shall complete the study within one year after the date of enactment of this Act and shall submit a report along with his recommendations to the Congress.

REPORTS AND DISSEMINATION OF INFORMATION

42 USC 9706.

SEC. 7. The Secretary shall assure that full and complete safety-related information resulting from any project or other activity conducted under this Act is made available in a timely manner to appropriate committees of Congress, Federal, State, and local authorities, relevant segments of private industry, the scientific community, and the public.

COMPREHENSIVE PROGRAM MANAGEMENT PLAN

42 USC 9707.

SEC. 8. (a) The Secretary is authorized and directed to prepare a comprehensive program management plan for the conduct of research, development, and demonstration activities under this Act consistent with the provisions of section 4. In the preparation of such plan, the Secretary shall consult with the Commission and the Advisory Committee and with the heads of such other Government agencies and such public and private organizations as he deems appropriate.

(b) The Secretary shall transmit the comprehensive program management plan along with any comments by the Commission on the plan to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of

the Senate within twelve months after the date of the enactment of this Act. Revisions to the plan shall be transmitted to such committees whenever deemed appropriate by the Secretary.

Revisions, transmittal to congressional committees.

(c) Concurrently with the submission of the President's annual budget to the Congress for each year after the year in which the comprehensive plan is initially transmitted under subsection (b), the Secretary shall transmit to the Congress a detailed description of the comprehensive plan as then in effect. The detailed description of the comprehensive plan under this subsection shall include, but need not be limited to, a statement setting forth any change in—

Plan description.

(1) the program strategies and plans, including detailed milestone goals to be achieved during the next fiscal year for all major activities and projects;

(2) the economic, environmental, and societal significance which the program may have;

(3) the total estimated cost of individual program items; and

(4) the estimated relative financial contributions of the Federal Government and non-Federal participants in the program.

Such description shall also include a detailed justification of any such changes, a description of the progress made toward achieving the goals of this Act, a statement on the status of interagency cooperation in meeting such goals, and any legislative or other recommendations which the Secretary may have to help attain such goals.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There is authorized to be appropriated to the Secretary to carry out this Act such sums as may be authorized by legislation hereafter enacted.

42 USC 9708.

SEC. 10. Project 78-3-b, authorized by section 102 of Public Law 95-238, the fusion materials irradiation test facility, is hereby designated as the "Mike McCormack Fusion Materials Test Facility". Any reference in any law, regulation, map, record, or other document of the United States to the fusion materials irradiation test facility shall be considered a reference to the "Mike McCormack Fusion Materials Test Facility".

92 Stat. 49.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1242 (Comm. on Science and Technology).
SENATE REPORT No. 96-941 accompanying S. 2884 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 25, considered and passed House.
Sept. 26, considered and passed Senate, amended, in lieu of S. 2884.
Dec. 4, House concurred in Senate amendment with an amendment.
Dec. 12, Senate agreed to House amendment with amendments.
Dec. 13, House agreed to Senate amendments.

Public Law 96-568
96th Congress

An Act

Dec. 22, 1980
[S. 3027]

To extend authorization for the Disaster Relief Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Disaster Relief Act Amendments of 1980".

Disaster Relief Act Amendments of 1980.
42 USC 5121 note.

SEC. 2. Section 606 of the Disaster Relief Act of 1974, as amended, is amended by striking "September 30, 1980" and inserting in lieu thereof "September 30, 1981, and to the Federal Emergency Management Agency such sums as may be necessary for administrative expenses through the close of September 30, 1981.".
42 USC 5202.

Erroneous relief payments, liability.

SEC. 3. (a) Notwithstanding any provision of the Disaster Relief Act of 1970 (the Act), any unit of local government or any of the privately owned nonprofit libraries listed in subsection (b) is relieved from any liability for the repayment of contributions erroneously made by the United States for disaster relief activities for the benefit of such libraries which were damaged or destroyed by Hurricane Agnes in 1972 in the State of Pennsylvania.

Libraries, assistance eligibility.

(b) The following libraries are hereby entitled to assistance as if eligible under the provisions of the Act as in effect at the time of such disaster:

(1) the William D. Himmelreich Memorial Library in Lewisburg, Pennsylvania;

(2) the Milton Library in Milton, Pennsylvania;

(3) the Shippensburg Public Library in Shippensburg, Pennsylvania;

(4) the West Shore Public Library in Camp Hill, Pennsylvania;

(5) the Osterhout Library in Wilkes-Barre, Pennsylvania; and

(6) the West Pittston Library in West Pittston, Pennsylvania.

(c) In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for the amount for which liability is relieved by this Act.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-962 accompanying H.R. 6863 (Comm. on Public Works and Transportation).
SENATE REPORT No. 96-891 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 26, considered and passed Senate.
Nov. 21, H.R. 6863 considered and passed House; passage vacated and S. 3027, amended, passed in lieu.
Dec. 15, Senate disagreed to House amendments.
Dec. 16, House receded from its amendments.

Public Law 96-569
96th Congress

An Act

To authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1981, and for other purposes.

Dec. 22, 1980
[S. 2726]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Environmental Research, Development, and Demonstration Authorization Act of 1981.

SHORT TITLE

SECTION 1. This Act may be cited as the "Environmental Research, Development, and Demonstration Authorization Act of 1981".

PROGRAM AUTHORIZATIONS

SEC. 2. (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities for the fiscal year 1981 for the following activities:

(1) for air quality activities authorized under the Clean Air Act— 42 USC 1857 note.

(A) in the Health and Ecological Effects program, $45,243,000;

(B) in the Industrial Processes program, $4,099,000;

(C) in the Monitoring and Technical Support program, $20,825,000;

(2) for water quality activities authorized under the Clean Water Act— 33 USC 1251 note.

(A) in the Health and Ecological Effects program, $23,884,000: *Provided,* That of the funds appropriated pursuant to this paragraph, $3,600,000 may be obligated and expended on the Great Lakes Research program through the Environmental Protection Agency's Large Lakes Research Station, Grosse Ile, Michigan: *Provided further,* That of the funds appropriated pursuant to this paragraph, $1,000,000 may be obligated and expended on research to develop environmentally sound methods to control aquatic weeds: *Provided further,* That of the funds appropriated pursuant to this paragraph, $950,000 may be obligated and expended on the Cold Climate Research program through the Environmental Protection Agency's Corvallis Environmental Research Laboratory, Corvallis, Oregon;

(B) in the Industrial Processes program, $13,737,000, of which $2,500,000 is for the Renewable Resources program;

(C) in the Public Sector Activities program, $14,300,000: *Provided,* That of the funds appropriated pursuant to this paragraph, $500,000 may be obligated and expended on a program to develop and demonstrate wet-weather technology at New York, New York;

(D) in the Monitoring and Technical Support program, $12,101,000;

42 USC 201 note.

(3) for water supply activities authorized under the Safe Drinking Water Act—

(A) in the Health and Ecological Effects program, $12,359,000;

(B) in the Public Sector Activities program, $14,080,000;

(C) in the Monitoring and Technical Support program, $1,008,000:

Submittal to Congress.

Provided, That of the funds appropriated pursuant to this paragraph, $4,000,000 may be obligated and expended on the Groundwater Research program (and no part of such sum shall be subject to transfer to any other category under subsection (e)), and the Administrator shall submit to the Congress a plan for the conduct of groundwater research and the use of the results of this research within one hundred and twenty days after the date of the enactment of this Act;

42 USC 6901 note.

(4) for solid waste activities authorized under the Solid Waste Disposal Act, $26,446,000: *Provided,* That of the funds appropriated pursuant to this paragraph—

(A) $300,000 may be obligated and expended on a program to demonstrate the effectiveness of in-place solidification of hazardous wastes at a site in Charles City, Iowa;

(B) $68,000 may be obligated and expended on a program to demonstrate monitoring and isolation methods for hazardous wastes at a site in Coventry, Rhode Island;

(C) $500,000 may be obligated and expended on a program to demonstrate cleanup technologies, monitoring methods, scoping studies and related activities for hazardous wastes at two hazardous waste sites in Burrillville and North Smithfield, and Smithfield, Rhode Island;

7 USC 136 note.

(5) for pesticide activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act—

(A) in the Health and Ecological Effects program, $5,970,000: *Provided,* That no part of any amount appropriated pursuant to this paragraph may be obligated or expended except to the extent hereafter specifically authorized by law;

(B) in the Industrial Processes program, $2,900,000: *Provided,* That no part of any amount appropriated pursuant to this paragraph may be obligated or expended except to the extent hereafter specifically authorized by law;

(C) in the Monitoring and Technical Support program, $565,000: *Provided,* That no part of any amount appropriated pursuant to this paragraph may be obligated or expended except to the extent hereafter specifically authorized by law;

42 USC 201 note.

(6) for radiation activities authorized under the Public Health Service Act—

(A) in the Health and Ecological Effects program, $2,990,000;

(B) in the Monitoring and Technical Support program, $191,000;

(7) for interdisciplinary activities—

(A) in the Health and Ecological Effects program, $5,232,000;

(B) in the Monitoring and Technical Support program, $2,868,000;

(C) in the Anticipatory Research program, $14,745,000;

15 USC 2601 note.

(8) for toxic substance activities authorized under the Toxic Substances Control Act—

(A) in the Health and Ecological Effects program, $31,876,000;

(B) in the Industrial Processes program, $1,772,000;

(C) in the Monitoring and Technical Support program, $3,247,000;

(9) for energy activities—

(A) in the Health and Ecological Effects program, $50,096,000;

(B) in the Energy Control program, $57,503,000, of which $500,000 is for a study of uranium mining wastes.

(b) There is authorized to be appropriated to the Environmental Protection Agency, Office of Research and Development, for the fiscal year 1981, for program management, $4,666,000.

(c) The aggregate authorization under subsection (a) of this section shall be limited to the sum $8,000,000 less than the total of all authorizations otherwise provided in subsection (a). Limitation.

(d) When he finds it in the public interest, the Administrator of the Environmental Protection Agency is authorized to utilize funds authorized in subsection (a), (b), or (c) for appropriate scientific and professional review of research and development grant, contract, and cooperative agreement applications. Grant, contract, and cooperative agreement applications, review.

(e) Funds may be transferred between the categories listed in subsections (a), (b), and (c); except that no funds may be transferred from any particular category listed in any such subsection if the total of the funds so transferred from that particular category would exceed 10 per centum thereof, and no funds may be transferred to any particular category listed in subsection (a), (b), or (c) from any other category or categories listed in any such subsection if the total of the funds so transferred to that particular category would exceed 10 per centum thereof, unless— Transfer of funds.

(1) a period of thirty legislative days has passed after the Administrator of the Environmental Protection Agency or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor; or

(2) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(f) The Administrator shall establish a separately identified program of continuing, long-term environmental research and development for each activity listed in subsection (a) of this section. Unless otherwise specified by law, at least 15 per centum of funds appropriated to the Administrator for environmental research and development for each activity listed in subsection (a) of this section shall be obligated and expended for such long-term environmental research and development under this subsection. Long-term research and development program. 42 USC 4363.

AMENDMENT TO SCIENCE ADVISORY BOARD ESTABLISHMENT

SEC. 3. Section 8(a) of Public Law 95-155 (relating to the provision of advice by the Science Advisory Board) is amended by striking out "Science Advisory Board which shall provide such scientific advice as the Administrator requests" and inserting in lieu thereof "Science Advisory Board which shall provide such scientific advice as may be requested by the Administrator, the Committee on Environment and 42 USC 4365.

Public Works of the United States Senate, or the Committees on Science and Technology, Interstate and Foreign Commerce, or Public Works and Transportation of the House of Representatives".

Approved December 22, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-959 accompanying H.R. 7099 (Comm. on Science and Technology).

SENATE REPORT No. 96-745 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 126 (1980):

May 22, considered and passed Senate.

Dec. 1, H.R. 7099 considered and passed House; passage vacated and S. 2726, amended, passed in lieu.

Dec. 5, Senate concurred in House amendment with amendments.

Dec. 9, House concurred in Senate amendments.

Public Law 96-570
96th Congress

An Act

To extend the service area for the Sacramento Valley Canals, Central Valley project, California, and for other purposes.

Dec. 22, 1980
[H.R. 2111]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the features authorized under section 2 of the Act of September 26, 1950 (64 Stat. 1036), as amended, and generally consisting of the Tehama-Colusa Canal with all necessary pumping plants and appurtenances, were intended to serve and were thereby authorized to serve those lands in Yolo County, California, lying within the boundaries of the Colusa County and Dunnigan water districts and existing contracts between the Secretary of the Interior and the Colusa County and Dunnigan water districts are hereby validated by the Congress with respect to the inclusion of said districts in the authorized service area of the Tehama-Colusa Canal.

Sacramento Valley Canals, Central Valley project, Calif. Service area extension.

SEC. 2. Section 2 of the Act of September 26, 1950 (64 Stat. 1036), as amended, is further amended by striking the phrase "Tehama, Glenn, and Colusa Counties or" and inserting in lieu thereof the phrase "Tehama, Glenn, and Colusa Counties, and those portions of Yolo County within the boundaries of the Colusa County, Dunnigan, and Yolo-Zamora water districts or".

Yolo-Zamora Water District.

SEC. 3. Any water service contract hereinafter entered into by the Secretary of the Interior with the Yolo-Zamora Water District shall contain provisions establishing—

(a) that water users shall pay for such water at a rate equivalent to the cost of service to the Yolo-Zamora Water District or the district's repayment capacity, whichever is less, but in no case less than the annual operations, maintenance, and replacement costs allocable to the district for service of Central Valley project water, all as determined by the Secretary of the Interior in conformance with reclamation law and in consultation with the district: *Provided,* That the district's repayment capacity and the operations, maintenance, and replacement costs shall be recalculated and revised no less frequently than every five years and the water rates adjusted as appropriate to reflect such revisions;

(b) that any water supply contract between the Secretary and the Yolo-Zamora Water District shall provide that in the event of a dry or critically dry year the water supply provided to the Yolo-Zamora Water District may be reduced by the Secretary for salinity control purposes consistent with administrative and operations practices of the Central Valley project; and

(c) that the lands in the Yolo-Zamora Water District which are classified as class 4 and 6 pursuant to the Secretary of the Interior's classification standards for irrigable lands and which have not previously been under active cultivation shall not be irrigated with project water.

Imperial Irrigation District.
43 USC 423e note.

SEC. 4. The following provisions of the Federal reclamation laws shall not apply to lands within the Imperial Irrigation District of California after the date of enactment of this Act:

(a) section 5 of the Act entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands", approved June 17, 1902 (43 U.S.C. 431);

(b) section 46 of the Act entitled "An Act to adjust water-right charges, to grant certain other relief on the Federal irrigation projects, and for other purposes", approved May 25, 1926 (42 U.S.C. 423e); and

43 USC 423e.

(c) any other provision of law amendatory or supplementary to either of such sections.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-600 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-907 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 27, considered and passed House.
Vol. 126 (1980): Sept. 4, considered and passed Senate, amended.
Nov. 21, House concurred in Senate amendment with an amendment.
Dec. 12, Senate agreed to House amendment with an amendment.
Dec. 13, House agreed to Senate amendment.

Public Law 96-571
96th Congress

An Act

To provide certain authority for the purchase and sale of electric energy by Federal departments in Alaska, and for other purposes.

Dec. 22, 1980
[S. 1784]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Alaska Federal-Civilian Energy Efficiency Swap Act of 1980.

SHORT TITLE

SECTION 1. This Act shall be referred to as the "Alaska Federal-Civilian Energy Efficiency Swap Act of 1980". 40 USC 795 note.

DEFINITIONS

SEC. 2. As used in this Act— 40 USC 795.

(1) The term "non-Federal electric energy" means electric energy generated by any facility other than a federally owned electric generating facility.

(2) The term "agency" means the head of any department, agency, or instrumentality of the United States.

(3) The term "federally generated electric energy" means any electric power generated by an electric generating facility owned and operated by an agency.

(4) The term "non-Federal person" means any corporation, cooperative, municipality, or other non-Federal entity which generates non-Federal electric energy.

AUTHORITY TO SELL CERTAIN ELECTRIC ENERGY

SEC. 3. (a) For the purposes of conserving oil and natural gas and better utilizing coal, any agency is authorized to sell to any non-Federal person, and to enter into contracts for the sale to any non-Federal person of, electric energy generated by coal-fired electric generating facilities of such agency in Alaska without regard to any provision of law which precludes such sale where such energy is available from other local sources, if the agency determines that— 40 USC 795a.

(1) such energy is generated by an existing coal-fired generating facility;

(2) such energy is surplus to such agency's needs and is in excess of the electric energy specifically generated for consumption by, or necessary to serve the requirements of, any department, agency, or instrumentality of the United States;

(3) the costs to the ultimate consumers of such energy is less than the costs which, in the absence of such sale, would be incurred by such consumers for the purchase of an equivalent amount of energy; and

(4) such sale will result in a reduction in the total consumption of oil or natural gas by the non-Federal person purchasing such electric energy below that consumption which would occur in the absence of such sale.

(b) Federally generated electric energy sold by an agency as provided in subsection (a) shall be priced to recover the fuel costs and variable operation and maintenance costs of the Federal generating facility concerned which costs are attributable to such sale, plus an amount equal to one-half the difference between—

(1) the costs of producing the electric energy by coal generation, and

(2) the costs of producing electric energy by the oil or gas generation being displaced.

PURCHASE AUTHORITY

40 USC 795b.

SEC. 4. For purposes of economy and efficiency and conserving oil and natural gas, whenever practicable and consistent with other laws applicable to any agency and whenever consistent with the requirements applicable to any agency, such agency shall endeavor to purchase electric power from any non-Federal person for consumption in Alaska by any facility of such agency where such purchase—

(1) will result in a savings to other consumers of electric energy sold by such non-Federal person without increasing the cost incurred by any agency for electric energy, or

(2) will result in a cost savings to such agency of electric energy without increasing costs to other consumers of electric energy,

taking into account the remaining useful life of any facility available to such agency to generate electric energy for such agency and the cost of maintaining such facility on a standby basis.

SAVINGS PROVISIONS

40 USC 795c.

SEC. 5. (a) Nothing in this Act shall be construed as requiring or authorizing any department, agency, or instrumentality of the United States to construct any new electric generating facility or related facility, to modify any existing facility, or to employ reserve or standby equipment in order to accommodate the needs of any non-Federal person for electric energy.

(b) Revenues received by any agency pursuant to section 3 of this Act from the sale of electric energy generated from any facility of such agency shall be available to the agency without fiscal year limitation for the purchase of fuel and for operation, maintenance, and other costs associated with such facility.

(c) The authorities of this Act shall be exercised for such periods and pursuant to such terms and conditions as the agency concerned deems necessary consistent with the provisions of this Act and consistent with its responsibilities under other provisions of law.

(d) All contracts or other agreements executed under this Act, notwithstanding any other provision of law, shall be negotiated and executed by the agency selling or purchasing electric energy under this Act.

REPORTS

Submittal to congressional committees.
40 USC 795d.

SEC. 6. (a) The Secretary of Energy shall biennially report to the Senate Committee on Energy and Natural Resources and the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs of the House of Representatives on the actions taken pursuant to this Act by any agency. The report shall include an analysis of the costs of electric energy purchased or sold as provided in this Act, the revenues and profits generated from such sales, and the oil and natural gas conserved as a result of any such

purchases and sales. Such agencies shall cooperate with the Secretary of Energy in providing information for the purpose of such report.

(b) The Secretary of Energy shall conduct a study to determine whether and to what extent the provisions of section 3 of this Act should be extended to apply to electric power generated by coal-fired Federal electric generating facilities located in the United States outside of Alaska. The study shall identify such facilities, their capacity and purpose and other pertinent information. The Secretary shall provide by October 1, 1981, a report of such study, together with appropriate recommendations for legislation, to the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

Study.

Submittal to congressional committees.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-966 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 25, considered and passed Senate.
Dec. 5, considered and passed House, amended.
Dec. 12, Senate agreed to House amendments.

Public Law 96-572
96th Congress

An Act

Dec. 22, 1980
[S. 1148]

To reauthorize title I of the Marine Protection, Research, and Sanctuaries Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Marine Protection, Research, and Sanctuaries Act, title I reauthorization.
33 USC 1420.

SECTION 1. Section 111 of the Marine Protection, Research, and Sanctuaries Act is amended by striking "and" following "1977," and inserting "not to exceed $2,000,000 for each of fiscal year 1980, fiscal year 1981, and fiscal year 1982," immediately after "1978,".

SEC. 2. Section 4 of Public Law 95-153 (33 U.S.C. 1412a) is amended—

(1) by amending subsection (a)—

(A) by inserting "and industrial waste" immediately after "sewage sludge",

(B) by striking out "Public Law 92-532" and inserting in lieu thereof "the Marine Protection, Research, and Sanctuaries Act of 1972",

(C) by inserting ", except as provided in subsections (b) and (c)," immediately before "in no case", and

(D) by striking out "the Marine Protection, Research, and Sanctuaries" and inserting in lieu thereof "such"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

Dumping permits.
33 USC 1411.
33 USC 1411.

"(b) After December 31, 1981, the Administrator may issue permits under such title I for the dumping of industrial waste into ocean waters, or into waters described in such section 101(b), if the Administrator determines—

"(1) that the proposed dumping is necessary to conduct research—

"(A) on new technology related to ocean dumping, or

"(B) to determine whether the dumping of such substance will unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, or economic potentialities;

"(2) that the scale of the proposed dumping is such that the dumping will have minimal adverse impact upon the human health, welfare, and amenities, and the marine environment, ecological systems, and economic potentialities; and

"(3) after consultation with the Secretary of Commerce, that the potential benefits of such research will outweigh any such adverse impact.

Each permit issued pursuant to this subsection shall be subject to such conditions and restrictions as the Administrator determines to be necessary to minimize possible adverse impacts of such dumping. No permit issued by the Administrator pursuant to this subsection may have an effective period of more than six consecutive months.

"(c) After December 31, 1981, the Administrator may issue emergency permits under such title I for the dumping of industrial waste into ocean waters, or into waters described in such section 101(b), if

the Administrator determines that there has been demonstrated to exist an emergency, requiring the dumping of such waste, which poses an unacceptable risk relating to human health and admits of no other feasible solution. As used herein, 'emergency' refers to situations requiring action with a marked degree of urgency.

"Emergency."

"(d) For purposes of this section—

"(1) the term 'sewage sludge' means any solid, semisolid, or liquid waste generated by a municipal wastewater treatment plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, and economic potentialities; and

"Sewage sludge."

"(2) the term 'industrial waste' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant the ocean dumping of which may unreasonably degrade or endanger human health, welfare, or amenities, or the marine environment, ecological systems, and economic potentialities.".

"Industrial waste."

SEC. 3. Section 102(e) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1412(e)) is further amended—

(1) by inserting after "transportation of material," the words "by an agency or instrumentality of the United States or", and

(2) by striking out "section." and inserting "section: *Provided*, That in the case of an agency or instrumentality of the United States, no application shall be made for a permit to be issued pursuant to the authority of a foreign State Party to the Convention unless the Administrator concurs in the filing of such application.".

SEC. 4. Section 106 of the Marine Protection, Research, and Sanctuaries Act of 1972 is amended by adding at the end thereof a new subsection as follows:

33 USC 1416.

"(f) In addition to other provisions of law and not withstanding the specific exclusion relating to dredged material in the first sentence in section 102(a) of this Act, the dumping of dredged material in Long Island Sound from any Federal project (or pursuant to Federal authorization) or from a dredging project by a non-Federal applicant exceeding 25,000 cubic yards shall comply with the criteria established pursuant to the second sentence of section 102(a) of the Act relating to the effects of dumping. Subsection (d) of this section shall not apply to this subsection.".

Long Island Sound, dumping.

33 USC 1412.

SEC. 5. Title II of the Marine Protection, Research, and Sanctuaries Act is amended by adding at the end thereof the following new section:

New York City, sewage sludge study.
33 USC 1445.

"SEC. 205. The Administrator of the Environmental Protection Agency is authorized to conduct a study to assist the city of New York in evaluating the technological options available for the removal of heavy metals and other toxic organic materials from the sewage sludge of the city of New York. The study shall also examine options available to reduce the amount of such pollutants entering the sewage system. The study is to be completed by July 1, 1981.".

Approved December 22, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-894, pt. 1 (Comm. on Merchant Marine and Fisheries) and No. 96-894, pt. 2 (Comm. on Science and Technology), both accompanying H.R. 6616.
SENATE REPORT No. 96-163 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 125 (1979): June 6, considered and passed Senate.
Vol. 126 (1980): May 12, 13, H.R. 6616 considered and passed House; passage vacated and S. 1148, amended, passed in lieu.
Sept. 30, Senate concurred in House amendment with an amendment.
Dec. 3, House concurred in Senate amendment with amendments.
Dec. 12, Senate agreed to House amendments with an amendment.
Dec. 13, House agreed to Senate amendment.

Public Law 96-573
96th Congress

An Act

To set forth a Federal policy for the disposal of low-level radioactive wastes, and for other purposes.

Dec. 22, 1980
[S. 2189]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Low-Level Radioactive Waste Policy Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "Low-Level Radioactive Waste Policy Act". 42 USC 2021b note.

DEFINITIONS

SEC. 2. As used in this Act— 42 USC 2021b.

(1) The term "disposal" means the isolation of low-level radioactive waste pursuant to requirements established by the Nuclear Regulatory Commission under applicable laws.

(2) The term "low-level radioactive waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in section 11 e. (2) of the Atomic Energy Act of 1954.

(3) The term "State" means any State of the United States, the District of Columbia, and, subject to the provisions of Public Law 96-205, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(4) For purposes of this Act the term "atomic energy defense activities of the Secretary" includes those activities and facilities of the Department of Energy carrying out the function of—

(i) Naval reactors development and propulsion,

(ii) weapons activities, verification and control technology,

(iii) defense materials production,

(iv) inertial confinement fusion,

(v) defense waste management, and

(vi) defense nuclear materials security and safeguards (all as included in the Department of Energy appropriations account in any fiscal year for atomic energy defense activities).

GENERAL PROVISIONS

SEC. 3. (a) Compacts established under this Act or actions taken under such compacts shall not be applicable to the transportation, management, or disposal of low-level radioactive waste from atomic energy defense activities of the Secretary or Federal research and development activities. 42 USC 2021c.

(b) Any facility established or operated exclusively for the disposal of low-level radioactive waste produced by atomic energy defense activities of the Secretary or Federal research and development

activities shall not be subject to compacts established under this Act or actions taken under such compacts.

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

State compacts regarding regional facilities.
42 USC 2021d.

SEC. 4. (a)(1) It is the policy of the Federal Government that—

(A) each State is responsible for providing for the availability of capacity either within or outside the State for the disposal of low-level radioactive waste generated within its borders except for waste generated as a result of defense activities of the Secretary or Federal research and development activities; and

(B) low-level radioactive waste can be most safely and efficiently managed on a regional basis.

(2)(A) To carry out the policy set forth in paragraph (1), the States may enter into such compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

Congressional consent.

(B) A compact entered into under subparagraph (A) shall not take effect until the Congress has by law consented to the compact. Each such compact shall provide that every 5 years after the compact has taken effect the Congress may by law withdraw its consent. After January 1, 1986, any such compact may restrict the use of the regional disposal facilities under the compact to the disposal of low-level radioactive waste generated within the region.

Report to Congress and States.

(b)(1) In order to assist the States in carrying out the policy set forth in subsection (a)(1), the Secretary shall prepare and submit to Congress and to each of the States within 120 days after the date of the enactment of this Act a report which—

(A) defines the disposal capacity needed for present and future low-level radioactive waste on a regional basis;

(B) defines the status of all commercial low-level radioactive waste disposal sites and includes an evaluation of the license status of each such site, the state of operation of each site, including operating history, an analysis of the adequacy of disposal technology employed at each site to contain low-level radioactive wastes for their hazardous lifetimes, and such recommendations as the Secretary considers appropriate to assure protection of the public health and safety from wastes transported to such sites;

(C) evaluates the transportation requirements on a regional basis and in comparison with performance of present transportation practices for the shipment of low-level radioactive wastes, including an inventory of types and quantities of low-level wastes, and evaluation of shipment requirements for each type of waste and an evaluation of the ability of generators, shippers, and carriers to meet such requirements; and

(D) evaluates the capability of the low-level radioactive waste disposal facilities owned and operated by the Department of Energy to provide interim storage for commercially generated low-level waste and estimates the costs associated with such interim storage.

(2) In carrying out this subsection, the Secretary shall consult with the Governors of the States, the Nuclear Regulatory Commission, the Environmental Protection Agency, the United States Geological Survey, and the Secretary of Transportation, and such other agencies and departments as he finds appropriate.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-548 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 28-30, considered and passed Senate.
Dec. 3, H.R. 8378 considered and passed House; passage vacated and S. 2189, amended, passed in lieu.
Dec. 13, Senate agreed to House amendment with amendments; House agreed to Senate amendments.

79-194 O—81—pt. 3——45 : QL3

Public Law 96-574
96th Congress

An Act

Dec. 22, 1980
[H.R. 999]

To amend the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) to clarify its provisions, and for other purposes.

Plant Variety Protection Act, amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Plant Variety Protection Act (7 U.S.C. 2321) is amended by striking out "a bureau" and inserting in lieu thereof "an office".

Repeal.

SEC. 2. Section 5 of such Act (7 U.S.C. 2325) is repealed.

SEC. 3. Section 8 of such Act (7 U.S.C. 2328) is amended by striking out "officers" and inserting in lieu thereof "examiners".

SEC. 4. Section 9 of such Act (7 U.S.C. 2329) is amended by (1) striking out "published specifications" and inserting in lieu thereof "descriptions" and (2) striking out "and a file of such other scientific and technical information as may be necessary or practicable".

SEC. 5. Section 10(a)(1) of such Act (7 U.S.C. 2330(a)(1)) is amended by striking out "specifications for plant variety protection" and inserting in lieu thereof "descriptions of plant varieties protected".

SEC. 6. Section 10(b) of such Act (7 U.S.C. 2330(b)) is repealed.

SEC. 7. Section 10(c) of such Act (7 U.S.C. 2330(c)), is redesignated as section 10(b) and is amended by striking out "the useful arts" and inserting in lieu thereof "plant breeding".

SEC. 8. Section 10(d) of such Act (7 U.S.C. 2330(d)) is redesignated as section 10(c) and is amended by striking out "specifications" from the second sentence each time it appears and inserting in lieu thereof "descriptions".

SEC. 9. Section 11 of such Act (7 U.S.C. 2331) is amended by striking out "specifications" and inserting in lieu thereof "descriptions".

SEC. 10. Section 31 of such Act (7 U.S.C. 2371) is amended by striking out all after the first sentence and inserting in lieu thereof the following: "Such fees shall be deposited into the Treasury as miscellaneous receipts. There are hereby authorized to be appropriated such funds as may be necessary to carry out the provisions of this Act.".

SEC. 11. Section 52(3) of such Act (7 U.S.C. 2422(3)) is amended by striking out the last sentence.

SEC. 12. Section 56 of such Act (7 U.S.C. 2426) is amended by changing the period at the end of the second sentence to a comma and adding immediately thereafter the following: "the name of the applicant, and whether the applicant specified that the variety is to be sold by variety name only as a class of certified seed.".

SEC. 13. Section 57 of such Act (7 U.S.C. 2427) is amended by inserting "information regarding" immediately after "for the publication of".

SEC. 14. Section 83(b) of such Act (7 U.S.C. 2483) is amended by striking out "seventeen years" in the first sentence and inserting in lieu thereof "eighteen years".

SEC. 15. Section 84 of such Act (7 U.S.C. 2484) is amended to read as follows:

"Sec. 84. Correction of Plant Variety Protection Office mistake. 7 USC 2484.

"Whenever a mistake in a certificate of plant variety protection incurred through the fault of the Plant Variety Protection Office is clearly disclosed by the records of the Office, the Secretary may issue, without charge, a corrected certificate of plant variety protection, stating the fact and nature of such mistake. Such certificate of plant variety protection shall have the same effect and operation in law as if the same had been originally issued in such corrected form.".

SEC. 16. Section 85 of such Act (7 U.S.C. 2485) is amended to read as follows:

"Sec. 85. Correction of applicant's mistake.

"Whenever a mistake of a clerical or typographical nature, or of minor character, or in the description of the variety, which was not the fault of the Plant Variety Protection Office, appears in a certificate of plant variety protection and a showing has been made that such mistake occurred in good faith, the Secretary may, upon payment of the required fee, issue a corrected certificate if the correction could have been made before the certificate issued. Such certificate of plant variety protection shall have the same effect and operation in law as if the same had been originally issued in such corrected form.".

SEC. 17. Section 91(b) of such Act (7 U.S.C. 2501(b)) is amended by striking out "specification" in the second sentence and inserting in lieu thereof "description".

SEC. 18. Section 93(a) of such Act (7 U.S.C. 2503(a)) is amended by striking out "Specifications" and inserting in lieu thereof "description".

SEC. 19. (a) Section 111(5) of such Act (7 U.S.C. 2541(5)) is amended by striking out "propagation prohibited" and inserting in lieu thereof "'Unauthorized Propagation Prohibited' or 'Unauthorized Seed Multiplication Prohibited'".

(b) Section 127 of such Act (7 U.S.C. 2567) is amended by striking out "the words 'Propagation Prohibited'" and inserting in lieu thereof "either the words 'Unauthorized Propagation Prohibited' or the words 'Unauthorized Seed Multiplication Prohibited'".

(c) Section 128(a)(3) of such Act (7 U.S.C. 2568(a)(3)) is amended by striking out "Use of the phrase 'propagation prohibited' or similar phrase without reasonable basis, a statement of this basis being promptly filed with the Secretary if the phrase is used beyond testing and no application has been filed." and inserting in lieu thereof "Use of either the phrase 'Unauthorized Propagation Prohibited' or 'Unauthorized Seed Multiplication Prohibited' or similar phrase without reasonable basis.".

Repeal.

SEC. 20. Section 144 of such Act (7 U.S.C. 2583) is repealed.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1115 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Nov. 17, considered and passed House.
Dec. 8, considered and passed Senate.

Public Law 96-575
96th Congress

An Act

To name a dam and reservoir on the San Gabriel River, Texas, as the "North San Gabriel Dam" and "Lake Georgetown", respectively.

Dec. 22, 1980
[H.R. 4941]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the dam on the San Gabriel River near Georgetown, Texas, authorized by section 203 of the Flood Control Act of 1962, shall hereafter be known and designated as the "North San Gabriel Dam", and the reservoir to be created by such dam shall hereafter be known and designated as "Lake Georgetown". Any law, regulation, document, or record of the United States in which such dam or reservoir is referred to shall be held to refer to such dam as the "North San Gabriel Dam" and to such reservoir as "Lake Georgetown".

North San Gabriel Dam; Lake Georgetown. Designations. 76 Stat. 1180.

SEC. 2. (a) In accordance with section 7 of the Public Buildings Act of 1959, as amended, there is hereby authorized to be appropriated $18,498,000 from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended, for major repairs and alterations to public buildings, as follows:

Appropriation authorization.

40 USC 490.

(1) United States Post Office and Courthouse, New Haven, Connecticut, $6,800,000;

(2) Old Post Office Building, Washington, District of Columbia, $11,698,000, in addition to that previously authorized, of which not to exceed $2,000,000 is authorized for the purchase and installation of building furnishings and office equipment.

(b) In accordance with section 7 of the Public Buildings Act of 1959, as amended, there is hereby authorized to be appropriated $27,060,000 to the Federal Aviation Administration for the lease, at a maximum term of twenty years, of technical support facilities at the Technical Center of the Federal Aviation Administration in Atlantic County, New Jersey: *Provided,* That the authorization contained in this subsection shall be effective only upon the proper delegation of authority to the Federal Aviation Administrator from the Administrator of the General Services Administration.

Appropriation authorization. 40 USC 606.

Appropriation authorization.
40 USC 606.

40 USC 490.

SEC. 3. In accordance with section 7 of the Public Buildings Act of 1959, as amended, there is hereby authorized to be appropriated $12,844,000 from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended, for the construction of a public building in Redding, California: *Provided*, That the Administrator of General Services shall conduct a design competition to select an architect for the building, said competition to be conducted under such procedures that it shall cost no more than one-half of 1 percent of the cost of the building and shall be conducted under such procedures as will assure that fair compensation for work required from the firms participating in the competition does not exceed that amount.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1331 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 29, considered and passed House.
Dec. 8, considered and passed Senate, amended.
Dec. 9, House concurred in Senate amendments.

Public Law 96-576
96th Congress

An Act

To name the United States Customs House in Ogdensburg, New York, the "Robert C. McEwen United States Customs House".

Dec. 22, 1980
[H.R. 8345]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Customs House located at 127 North Water Street, Ogdensburg, New York, shall hereafter be known and designated as the "Robert C. McEwen United States Customs House". Any reference in a law, map, regulation, document, record, or other paper of the United States to such building shall be held to be a reference to the "Robert C. McEwen United States Customs House".

Robert C. McEwen United States Customs House. Designation.

SEC. 2. This Act shall take effect on January 3, 1981.

Effective date.

SEC. 3. (a) Any provision of law which provides that any member of a commission, board, committee, advisory group, or similar body is to be appointed by the President pro tempore of the Senate shall be construed to require that the appointment be made—

2 USC 199.

(1) upon recommendation of the Majority Leader of the Senate, if such provision of law specifies that the appointment is to be made on the basis of the appointee's affiliation with the majority political party,

(2) upon the recommendation of the Minority Leader of the Senate, if such provision of law specifies that the appointment is to be made on the basis of the appointee's affiliation with the minority party, and

(3) upon the joint recommendation of the Majority Leader of the Senate and the Minority Leader of the Senate, if such provision of law does not specify that the appointment is to be made on the appointee's affiliation with the majority or minority political party.

(b) The provisions of subsection (a) shall be applicable in the case of appointments made after the date of enactment of this Act pursuant to provisions of law enacted on, before, and after, the date of enactment of this Act.

Appropriation authorization.
40 USC 606.

40 USC 490.

SEC. 4. In accordance with section 7 of the Public Buildings Act of 1959, as amended, there is hereby authorized to be appropriated $2,459,300 from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended, for the repair and alteration of the United States Postal Service Building at 115 East Sixth Avenue, Gary, Indiana.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Nov. 21, considered and passed House.
Dec. 9, considered and passed Senate, amended.
Dec. 10, House concurred in Senate amendment with an amendment.
Dec. 11, Senate concurred in House amendment.

Public Law 96-577
96th Congress

Joint Resolution

Designating February 11, 1981, "National Inventors' Day".

Dec. 22, 1980
[H.J. Res. 337]

National Inventors' Day. Designation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in honor of the important role played by inventors in promoting progress in the useful arts and in recognition of the invaluable contribution of inventors to the welfare of our people, February 11, 1981, is hereby designated "National Inventors' Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to celebrate such day with appropriate ceremonies and activities.

Approved December 22, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 5, considered and passed House and Senate.

Public Law 96-578
96th Congress

An Act

Dec. 23, 1980
[H.R. 7709]

To amend the Tariff Schedules of the United States to increase the quantity of cigarettes that may be accorded duty-free treatment if acquired in the insular possessions and entered by returning United States residents.

Duty-free cigarettes, increase.
U.S. Tariff Schedules, amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart A of part 2 to schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by striking out ", including not more than 200 cigarettes and 100 cigars," in the superior heading to items 813.30 and 813.31;

(2) by inserting ", and including not more than 200 cigarettes and 100 cigars" immediately after "alcoholic beverages" in item 813.30; and

(3) by amending the article description for item 813.31 to read as follows:

"Articles whether or not accompanying a person, not over $600 in aggregate fair market value in the country of acquisition, including—

"(a) but only in the case of an individual who has attained the age of 21, not more than 4 liters of alcoholic beverages, not more than 1 liter of which shall have been acquired elsewhere than in American Samoa, Guam, or the Virgin Islands of the United States, and

"(b) not more than 1,000 cigarettes, not more than 200 of which shall have been acquired elsewhere than in such insular possessions, and not more than 100 cigars,

if such person arrives directly or indirectly from such insular possessions, not more than $300 of which shall have been acquired elsewhere than in such insular possessions (but this item does not permit the entry of articles not accompanying a person which were acquired elsewhere than in such insular possessions)".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to persons arriving in the United States on or after the 30th day after the date of the enactment of this Act.

Approved December 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1360 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Nov. 17, considered and passed House.
Dec. 15, considered and passed Senate.

Public Law 96-579
96th Congress

An Act

To amend title 37, United States Code, to improve certain special pay and allowance benefits for members of the uniformed services, and for other purposes.

Dec. 23, 1980
[H.R. 7626]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Military Pay and Allowances Benefits Act of 1980.

SHORT TITLE

SECTION 1. This Act may be cited as the "Military Pay and Allowances Benefits Act of 1980". 37 USC 101 note.

SPECIAL PAY FOR NUCLEAR DUTY

SEC. 2. (a)(1) Subsection (a) of section 312 of title 37, United States Code, is amended by striking out "$5,000" and "$4,000" and inserting in lieu thereof "$7,000" and "$5,600".

(2) Subsection (e) of such section is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1987".

(b)(1) Section 312b of such title is amended— 37 USC 312b.

(A) by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively; and

(B) by inserting above subsection (b), as redesignated by clause (A), the following new subsection (a):

"(a)(1) Under regulations prescribed by the Secretary of the Navy, an individual who is selected for officer naval nuclear power training and who executes a written agreement to participate in a program of training for duty in connection with the supervision, operation, and maintenance of naval nuclear submarine propulsion plants may be paid a bonus of $3,000 upon acceptance by the Secretary of the written agreement. Bonus.

"(2) Under such regulations, and subject to such exceptions, as the Secretary of the Navy may prescribe, an individual who has entered into an agreement with the Secretary under this subsection, who has been paid a bonus under this subsection, and who fails to commence or satisfactorily complete the nuclear power training specified in the agreement shall be required to refund such bonus.". Refund.

(2) Subsection (c) of section 312b of such title, as redesignated by paragraph (1)(A), is amended by striking out "subsection (a)" and inserting in lieu thereof "subsections (a) and (b)".

(3) Subsection (d) of section 312b of such title, as redesignated by paragraph (1)(A), is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1987".

(c)(1) Subsection (a) of section 312c of such title is amended by striking out "$4,000 for each nuclear service year beginning after September 30, 1975, and ending before October 1, 1981" and inserting in lieu thereof "$6,000 for each nuclear service year ending before October 1, 1987". 37 USC 312c.

(2) Subsection (b) of such section is amended by striking out "$2,400 for each nuclear service year beginning after September 30, 1975, and ending before October 1, 1981" and inserting in lieu thereof "$3,500 for each nuclear service year ending before October 1, 1987".

(3) Subsection (e) of such section is amended to read as follows:

"Nuclear service year."

"(e) For the purposes of this section, a 'nuclear service year' is any fiscal year beginning before October 1, 1987.".

Effective dates.
37 USC 312 note.

(d)(1) The amendments made by subsection (a)(1) shall apply only with respect to active-duty agreements under section 312 of title 37, United States Code, executed on or after the first day of the first month following the month in which this section is enacted.

37 USC 312b note.
Ante, p. 3359.

(2) The amendments made by subsection (b)(1) shall apply only with respect to agreements executed under section 312b(a) of title 37, United States Code, executed on or after the first day of the first month following the month in which this section is enacted.

37 USC 312c note.

(3) The amendments made by subsection (c) shall become effective on the first day of the first month following the month in which this section is enacted.

INCENTIVE PAY FOR SUBMARINE DUTY

SEC. 3. (a) Section 301(a) of title 37, United States Code, is amended by striking out clauses (2) and (3) and redesignating clauses (4) through (12) as clauses (2) through (10), respectively.

(b) Section 301(b) of such title is amended—

(1) by striking out "(1)" after the subsection designation "(b)"; and

(2) by striking out paragraph (2).

(c) Section 301(c) of such title is amended by striking out "clause (4), (5), (6), (7), (8), (9), (10), (11), or (12)" and inserting in lieu thereof "clause (2), (3), (4), (5), (6), (7), (8), (9), or (10)".

(d) Title 37, United States Code, is amended by inserting after section 301b the following new section:

37 USC 301c.

§ 301c. Incentive pay: submarine duty

"(a)(1) Subject to regulations prescribed by the President, a member of the Navy who is entitled to basic pay is also entitled to submarine duty incentive pay in the amount set forth in subsection (b) of this section for the frequent and regular performance of operational submarine duty required by orders.

"(2) Submarine duty incentive pay shall be restricted to members who hold or are in training leading to a submarine duty designator and who are in and remain in the submarine service on a career basis.

"(3) To be entitled to continuous monthly submarine duty incentive pay through 26 years of service (as computed under section 205 of this title), a member must perform operational submarine duties for at least 6 of the first 12, and at least 10 of the first 18, years of his submarine service. However, if a member performs the prescribed operational submarine duties for at least 8 but less than 10 of the first 18 years of his submarine service, he is entitled to continuous monthly submarine duty incentive pay for the first 22 years of his service (as computed under section 205 of this title).

37 USC 205.

"(4) If upon completion of either 12 or 18 years of submarine service it is determined that a member has failed to perform the minimum prescribed operational submarine duty requirements during the prescribed periods of time, his entitlement to continuous monthly submarine duty incentive pay ceases. If entitlement to continuous monthly submarine duty incentive pay ceases upon completion of 12

a period that the ship is away from its homeport for 30 consecutive days or more.

A ship is considered away from its homeport for purposes of clause (B) of the first sentence when it is at sea or in a port that is more than 50 miles from its homeport.".

Effective date. 37 USC 305a note.

(b) The amendment made by this section shall be effective with respect to special pay payable under section 305a of title 37, United States Code, for months after the month in which this section is enacted.

INCENTIVES FOR ENLISTED MEMBERS TO EXTEND TOURS OF DUTY OVERSEAS

SEC. 5. (a)(1) Chapter 5 of title 37, United States Code, is amended by adding at the end thereof the following new section:

37 USC 314.

"§ 314. Special pay: qualified enlisted members extending duty at designated locations overseas

"(a) Under regulations prescribed by the Secretary concerned, an enlisted member of an armed force who—

"(1) is entitled to basic pay;

"(2) has a specialty that is designated by the Secretary concerned for the purposes of this section;

"(3) has completed a tour of duty (as defined in accordance with regulations prescribed by the Secretary concerned) at a location outside the 48 contiguous States and the District of Columbia that is designated by the Secretary concerned for the purposes of this section; and

"(4) at the end of that tour of duty executes an agreement to extend that tour for a period of not less than one year;

is entitled, upon acceptance of the agreement providing for such extension by the Secretary concerned, to special pay for duty performed during the period of the extension at a rate of not more than $50 per month, as prescribed by the Secretary concerned.

"(b) A member who elects to receive rest and recuperative absence or transportation at Government expense, or any combination thereof, under section 705 of title 10 is not entitled to the special pay authorized by this section for the period of extension of duty for which the rest and recuperative absence or transportation is authorized.".

Infra.

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"314. Special pay: qualified enlisted members extending duty at designated locations overseas.".

(b)(1) Chapter 40 of title 10, United States Code, is amended by adding at the end thereof the following new section:

10 USC 705.

"§ 705. Rest and recuperative absence for qualified enlisted members extending duty at designated locations overseas

"(a) Under regulations prescribed by the Secretary concerned, an enlisted member of an armed force who—

"(1) is entitled to basic pay;

"(2) has a specialty that is designated by the Secretary concerned for the purposes of this section;

"(3) has completed a tour of duty (as defined in accordance with regulations prescribed by the Secretary concerned) at a location

outside the 48 contiguous States and the District of Columbia that is designated by the Secretary concerned for the purposes of this section; and

"(4) at the end of that tour of duty executes an agreement to extend that tour for a period of not less than one year;

may, in lieu of receiving special pay under section 314 of title 37 for duty performed during such extension of duty, elect to receive one of the benefits specified in subsection (b). Receipt of any such benefit is in addition to any other leave or transportation to which the member may be entitled.

"(b) The benefits authorized by subsection (a) are—

"(1) a period of rest and recuperative absence for not more than 30 days; or

"(2) a period of rest and recuperative absence for not more than 15 days and round-trip transportation at Government expense from the location of the extended tour of duty to the nearest port in the 48 contiguous States and return.

"(c) The provisions of this section shall not be effective unless the Secretary concerned determines that the application of this section will not adversely affect combat or unit readiness.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"705. Rest and recuperative absence for qualified enlisted members extending duty at designated locations overseas.".

(c)(1) Section 314 of title 37, United States Code, as added by subsection (a), shall take effect on the first day of the first month following the month in which this section is enacted and shall apply to periods of extended duty overseas beginning before, on, or after such date, but no payment may be made under such section for any month before the first day of the first month following the month in which this section is enacted. Effective dates. 37 USC 314 note.

(2) Section 705 of title 10, United States Code, as added by subsection (b), shall take effect upon the date of the enactment of this section and shall apply only with respect to periods of extended duty overseas beginning on or after such date of enactment. 10 USC 705 note.

BASIC ALLOWANCE FOR QUARTERS IN LIEU OF ASSIGNED QUARTERS FOR CERTAIN MEMBERS WITHOUT DEPENDENTS

SEC. 6. (a) The second sentence of subsection (b) of section 403 of title 37, United States Code, is amended—

(1) by striking out "except as provided by regulations prescribed under" and inserting in lieu thereof "subject to the provisions of"; and

(2) by striking out "commissioned officer" and "C-3" and inserting in lieu thereof "member" and "F-6", respectively.

(b) Subsection (c) of such section is amended to read as follows:

"(c)(1) A member of a uniformed service without dependents is not entitled to a basic allowance for quarters while he is on field duty unless his commanding officer certifies that the member was necessarily required to procure quarters at his expense.

"(2) A member of a uniformed service without dependents who is in a pay grade below pay grade E-7 is not entitled to a basic allowance for quarters while he is on sea duty. A member of a uniformed service without dependents who is in a pay grade above E-6 and who is on sea duty is not entitled to a basic allowance for quarters while the unit to which he is assigned is deployed for a period in excess of 90 days.

"(3) For the purposes of this subsection, duty for a period of less than three months is not considered to be field duty or sea duty.".

(c) Subsection (j) of such section is amended—

(1) by inserting "(1)" after the subsection designation "(j)"; and

(2) by adding the following new paragraph:

"(2) The Secretary concerned may deny the right to make an election under subsection (b) of this section if he determines that the exercise of such an election would adversely affect military discipline or military readiness.".

37 USC 403 note.

(d) The amendments made by this section shall only apply to payment of basic allowance for quarters for months after September 1980.

CHARGES FOR PARKING FACILITIES FOR HOUSE TRAILERS AND MOBILE HOMES

SEC. 7. Section 403 of title 37, United States Code, is amended by adding at the end thereof the following new subsection:

"(k) Parking facilities (including utility connections) provided members of the uniformed services for house trailers and mobile homes not owned by the Government shall not be considered to be quarters for the purposes of this section or any other provision of law. Any fee established by the Government for the use of such a facility shall be established in an amount sufficient to cover the cost of maintenance, services, and utilities and to amortize the cost of construction of the facility over the 15-year period beginning with the completion of such construction.".

PERMANENT AUTHORITY FOR SUBSISTENCE ALLOWANCES FOR MEMBERS OF MARINE CORPS OFFICER CANDIDATE PROGRAMS

SEC. 8. Section 209(d) of title 37, United States Code, relating to members of precommissioning programs, is amended—

(1) by striking out "(1)" after the subsection designation "(b)"; and

(2) by striking out paragraph (2).

REPEAL OF AUTHORITY TO WAIVE CERTAIN PROVISIONS RELATING TO THE ENLISTMENT AND INDUCTION OF PERSONS INTO THE ARMED FORCES

SEC. 9. Section 520 of title 10, United States Code, is amended—

(1) by striking out the subsection designation "(a)"; and

(2) by striking out subsection (b).

ACCRUED LEAVE

SEC. 10. Section 701(f) of title 10, United States Code, is amended by inserting "or a member assigned to a deployable ship, mobile unit, or to other duty designated for the purpose of this section," after "title 37".

REVISION ON DEFINITION OF "REGULAR COMPENSATION" AND "REGULAR MILITARY COMPENSATION (RMC)"

SEC. 11. Paragraph (25) of section 101 of title 37, United States Code, is amended by inserting "(including any variable housing allowance or station housing allowance)" after "basic allowance for quarters".

TERMS OF OFFICE OF JUDGES OF THE UNITED STATES COURT OF MILITARY APPEALS; APPLICATION OF THE ETHICS IN GOVERNMENT ACT OF 1978 TO THE JUDGES AND EMPLOYEES OF SUCH COURT

SEC. 12. (a) Section 867(a)(1) (article 67(a)(1)) of title 10, United States Code, is amended by striking out the third sentence.

(b) The term of office of a judge of the United States Court of Military Appeals serving on such court on the date of the enactment of this Act shall expire (1) on the date the term of such judge would have expired under the law in effect on the day before such date of enactment, or (2) ten years after the date on which such judge took office as a judge of the United States Court of Military Appeals, whichever is later. 10 USC 867 note.

(c) Section 308 of the Ethics in Government Act of 1978 (28 U.S.C. App. 308) is amended—

(1) by inserting "United States Court of Military Appeals;" in paragraph (9) after "Tax Court;"; and

(2) by striking out "or of the Tax Court" in paragraph (10) and inserting in lieu thereof ", of the Tax Court, or of the United States Court of Military Appeals".

TERMS OF CERTAIN MEMBERS OF THE BOARD OF VISITORS TO THE SERVICE ACADEMIES

SEC. 13. (a) Section 4355(b) of title 10, United States Code, is amended to read as follows:

"(b) The persons designated by the President serve for three years each except that any member whose term of office has expired shall continue to serve until his successor is appointed. The President shall designate two persons each year to succeed the members whose terms expire that year.".

(b) Section 6968(b) of such title is amended to read as follows: 10 USC 6968.

"(b) The persons designated by the President serve for three years each except that any member whose term of office has expired shall continue to serve until his successor is appointed. The President shall designate two persons each year to succeed the members whose terms expire that year.".

(c) Section 9355(b) of such title is amended to read as follows: 10 USC 9355.

"(b) The persons designated by the President serve for three years each except that any member whose term of office has expired shall continue to serve until his successor is appointed. The President shall designate two persons each year to succeed the members whose terms expire that year.".

Approved December 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT: No. 96-1230 (Comm. on Armed Services).
SENATE REPORT: No. 96-1051 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 15, considered and passed House.
Dec. 4, considered and passed Senate, amended.
Dec. 5, House concurred in Senate amendment.

Public Law 96-580
96th Congress

An Act

Dec. 23, 1980
[S. 3096]

To amend the Wild and Scenic Rivers Act to authorize the acquisition of certain lands in Douglas County, Wisconsin.

Wild and Scenic Rivers Act, amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (6) of section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274) is amended by adding at the end thereof the following new sentence: "A one-thousand-three-hundred-and-eighty-acre portion of the area commonly known as the Velie Estate, located adjacent to the Saint Croix River in Douglas County, Wisconsin, as depicted on the map entitled 'Boundary Map/Velie Estate—Saint Croix National Scenic Riverway', dated September 1980, and numbered 630-90,001, may be acquired by the Secretary without regard to any acreage limitation set forth in subsection (b) of this section or subsection (a) or (b) of section 6 of this Act.".

Approved December 23, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-1024 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 9, considered and passed Senate.
Dec. 10, considered and passed House.

Public Law 96-581
96th Congress

An Act

To authorize the Secretary of Agriculture to convey certain lands in the State of Arizona, to authorize the Secretary of the Interior to convey certain interests in lands in the State of Arizona, to amend the Act of March 14, 1978 (92 Stat. 154), and for other purposes.

Dec. 23, 1980
[S. 1985]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Agriculture (hereafter in this section referred to as the "Secretary") is authorized to convey by quitclaim deed, subject to the provisions of subsections (b) and (c) of this section, all right, title, and interest of the United States in and to the following described tract of lands and improvements thereon:

State of Arizona. Certain lands, conveyance.

GILA AND SALT RIVER MERIDIAN

(Coconino County, Arizona)

Township 21 North, Range 7 East

Section 15:
North half northeast quarter,
Northeast quarter northwest quarter,
Northeast quarter southeast quarter northwest quarter northwest quarter,
North half southeast quarter southeast quarter northwest quarter northwest quarter.

Section 16:
South half northeast quarter northeast quarter northwest quarter,
Northwest quarter northeast quarter northwest quarter,
South half northeast quarter northwest quarter,
Northwest quarter northwest quarter,
North half northeast quarter southwest quarter northwest quarter,
Southeast quarter northeast quarter southwest quarter northwest quarter,
North half northwest quarter southwest quarter northwest quarter,
East half southeast quarter southwest quarter northwest quarter,
Southeast quarter northwest quarter.

The area described contains 256.25 acres more or less.

(b)(1) Any conveyances pursuant to subsection (a) of this section shall be conditioned upon the Secretary entering into agreements or land exchanges, sufficient to assure the Secretary that any party with whom such agreements or land exchanges are to be made will construct on a site to be determined by the Secretary, administrative improvements equal in value to the lands and improvements authorized to be conveyed by subsection (a) of this section. The lands and

improvements may be conveyed by a series of transactions or land exchanges.

Depositing cash.

(2) Each party to whom conveyances are to be made may, in the discretion of the Secretary, deposit cash in an amount not less than the fair market value, to be determined at the time of conveyance, of the lands and improvements conveyed. The cash so received shall be deposited into a special fund in the Treasury which when appropriated is authorized to remain available until expended by the Secretary for the purposes of constructing administrative improvements as described in this Act. If the value of any land and improvements thereon authorized to be conveyed by subsection (a) of this section exceeds the value of administrative improvements determined to be necessary by the Secretary to be constructed with respect to such land under this Act, the party to whom such conveyance is to be made shall make a cash payment to the United States in an amount equal to such difference in value.

Flagstaff Medical Regional Center.

(c)(1) Of the tract of land described in subsection (a) of this section, the Secretary shall offer to sell at the fair market value, as determined on the date of enactment of this Act, to the Flagstaff Medical Regional Center, Flagstaff, Arizona, not to exceed 18.25 acres immediately adjacent to said Flagstaff Medical Regional Center and to the city of Flagstaff, Arizona, not to exceed 132.5 acres, under special use permit in effect on the date of enactment of this Act to the city of Flagstaff. Such offers to sell to the Flagstaff Medical Regional Center and to the city of Flagstaff shall remain in effect for periods of not to exceed 3 years and 10 years, respectively. Subject to the limitations contained in this paragraph, the city of Flagstaff and the Flagstaff Medical Regional Center may identify any specific tracts of land they want to purchase.

Public offers.

(2) Except for any land to be conveyed to the Flagstaff Medical Regional Center and the city of Flagstaff, the Secretary shall solicit public offers for the remaining lands and improvements authorized under subsection (a) of this section. All offers shall be publicly opened at the time and place stated in the solicitation in accordance with the administrative requirements of the Secretary. The Secretary shall consider price and land values before entering into agreements or land exchanges with any party whose offer conforming to the solicitation notice is determined by the Secretary to be most advantageous to the Government. Notwithstanding any other provision of this Act, the Secretary may reject any offer if the Secretary determines that such rejection is in the public interest.

SEC. 2. (a) The Secretary of the Interior (hereafter in this section referred to as the Secretary) shall convey by quitclaim deed, without consideration, to the owners that appear on record in the office of the county recorder, Pima County, Arizona, any right, title, or interest, including any mineral rights, which the United States may have in and to the real property described in subsection (b) of this section.

(b) The real property referred to in subsection (a) of this section consists of four separate strips of land that extend for a total distance of nearly four miles, designated as roadways in a certain White Survey, dated December 15, 1876, made pursuant to an Act of Congress dated February 5, 1875, crossing sections 2, 11, and 14, and the east half of sections 3 and 10 of township 14 south, range 13 east of the Gila and Salt River base and meridian, in Pima County, Arizona.

18 USC 305.

Quitclaim deed.

(c) As soon as practicable after the date of enactment of this Act, the Secretary shall cause to be prepared a quitclaim deed effecting the title transfer described in section 1, and shall record such deed in the office of the county recorder, Pima County, Arizona.

(d) Within one year after the date of enactment of this Act, the Secretary shall notify all individuals or other legal entities which, as of the date of such notice, appear upon the tax rolls of Pima County, Arizona, as the owners of lands referred to in subsection (b) of this section, or of interests in such lands—

(1) of the conveyance by the United States of its interests in such lands under section 1 of this Act,

(2) of the possible defect in the title to such lands resulting from such interests of the United States, and

(3) of the opportunity to record a quitclaim deed evidencing the conveyance described in subsection (a) of this section in the records of the affected grantee.

SEC. 3. The Act of March 14, 1978 (92 Stat. 154), is amended as follows: 20 USC 238 note.

(a) In section 1(a), in the first sentence, delete the phrase "two-year", and change "September 30, 1980" to "September 30, 1985"; and

(b) In section 1(c) strike the second sentence in its entirety and insert the following: "There is authorized to be appropriated an amount not to exceed $1,500,000 annually for fiscal years 1979 through 1982 to carry out the provisions of this Act: *Provided,* That any appropriations made pursuant to this Act shall be reduced by the amount of any payments made to said districts pursuant to the Acts of September 23, 1950 (64 Stat. 906), as amended (20 U.S.C. 631 et seq.), and September 30, 1950 (64 Stat. 1100), as amended (20 U.S.C. 236 et seq.). For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.". Appropriation authorization.

SEC. 4. Any mining claim located under the Mining Laws of the United States subsequent to June 18, 1879, and prior to January 17, 1969, in the northwest quarter of the northwest quarter of section 9, township 1 north, range 5 east of the Gila and Salt River base and meridian, State of Arizona, shall be effective to the same extent in all respects as if such lands at the time in location, and at all times thereafter had been open to the operation of the Mining Laws of the United States: *Provided, however,* That the claimants have complied with all requirements of the Mining Laws of the United States, including section 314 of the Federal Land Policy and Management Act of 1976 and that the claims would be subject to any valid intervening rights by private parties under the laws of the United States. 43 USC 1744.

Approved December 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1473, accompanying S. 1985 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-954 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 24, considered and passed Senate.
Nov. 21, considered and passed House, amended.
Dec. 9, Senate concurred in House amendments.

Public Law 96-582
96th Congress

An Act

Dec. 23, 1980
[H.R. 8195]

To amend the Railroad Retirement Act of 1974 to extend certain cost-of-living increases.

Railroad Retirement Act of 1974, amendments.
45 USC 231b.
Cost-of-living increase, extension.
45 USC 231a.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(g) of the Railroad Retirement Act of 1974 is amended by inserting "(1)" after "(g)" and by inserting at the end thereof the following new subdivision:

"(2) Those portions of the annuity of an individual as are computed under subsections (b) and (d) of this section shall, if such individual's annuity under section 2(a)(1) of this Act began to accrue on or before June 1, 1981, be increased by 32.5 per centum of the percentage increase, if any (rounded to the nearest one-tenth of 1 per centum), obtained by comparing the unadjusted Consumer Price Index for the calendar quarter ending March 31, 1981, with such index for the calendar quarter ending March 31, 1980. The unadjusted Consumer Price Index for any calendar quarter shall be the arithmetical mean of such index for the three months in such quarter. The increase provided under this subdivision shall be effective on June 1, 1981.".

REPORT ON RECOMMENDATIONS

Report to congressional committees.

SEC. 2. No later than March 1, 1981, representatives of employees and representatives of carriers, acting through a group designated by them, shall submit to the Senate Committee on Labor and Human Resources and the House of Representatives Committee on Interstate and Foreign Commerce a report containing their joint recommendations for further restructuring of the railroad retirement system in a manner which will assure the long-term actuarial soundness of such system.

Effective date.
45 USC 231b note.

SEC. 3. The provisions of this Act shall take effect on the date of the enactment of this Act.

Approved December 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1437 (Comm. on Interstate and Foreign Commerce).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 30, considered and passed House.
Dec. 8, considered and passed Senate, amended.
Dec. 10, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 52:
Dec. 23, Presidential statement.

Public Law 96-583
96th Congress

An Act

To amend and extend title VII of the Comprehensive Employment and Training Act.

Dec. 23, 1980
[H.R. 6796]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 112(a)(7) of the Comprehensive Employment and Training Act is amended by adding at the end thereof the following new subparagraph:

Comprehensive Employment and Training Act, amendment.

"(C) There are authorized to be appropriated such sums as may be necessary for the fiscal years 1981 and 1982 to carry out title VII.".

29 USC 822. Appropriation authorization.

SEC. 2. Title VII of the Comprehensive Employment and Training Act is amended—

(1) by inserting ", in cooperation with other Federal programs that generate employment," immediately after "under this Act, and" in the first sentence of section 701;

29 USC 981.

(2) by striking out subsection (b) of section 702 and inserting in lieu thereof the following:

29 USC 982.

"(b)(1) Eighty-five per centum of the funds made available for carrying out this title shall be allocated by the Secretary on an equitable basis among such prime sponsors, taking into account the factors set forth in section 202(a).

29 USC 842.

"(2) Ten per centum of the funds made available for carrying out this title shall be used by the Secretary to provide incentive bonuses to prime sponsors who engage in efforts to promote coordination with economic development activities supported by Federal, State, or local funds. Funds used for such coordinated activities shall not be taken into account in the computation of cost per participant or cost per placement for purposes of program evaluation.

"(3) The remainder of the funds made available for carrying out this title shall be used by the Secretary to provide financial assistance to prime sponsors who jointly establish a single private industry council and to Native American entities described in section 302(c)(1)(A) and (B) for carrying out the purposes of this title.";

29 USC 872.

(3) by inserting ", local economic development councils established under the Public Works and Economic Development Act of 1965," immediately after "community-based organizations" in section 703(b)(5);

29 USC 983.

(4) by inserting "local economic development councils (such as those established under the Public Works and Economic Development Act of 1965)," immediately after "community-based organizations," in section 704(a)(1);

29 USC 984.

(5) by inserting "(particularly persons with expertise in on-site, industry specific vocational education)" immediately after "educational agencies and institutions" in the second sentence of section 704(a)(1);

(6) by striking "and" at the end of paragraph (14) of section 705(a);

29 USC 985.

(7) by striking the period at the end of paragraph (15) of section 705(a) and inserting in lieu thereof "; and";

(8) by adding after such paragraph the following new paragraph:

"(16) developing on-site, industry specific training programs supportive of industrial and economic development in cooperation with State vocational education boards: *Provided,* That, where feasible, funds made available under this Act for such programs are supplemented by Federal, State, or local vocational education funds or by non-governmental funds made specifically available for such programs, or both."; and

29 USC 985. (9) by adding at the end of section 705 the following new subsection:

"(c) Activities under this section may include upgrading and
29 USC 852. retraining in accordance with the provisions of part C of title II. Not more than 15 per centum of the funds available for this title may be used for programs under this subsection. No employer may participate in such a program unless the employer agrees that the employer will hire one economically disadvantaged person for every employee
Waiver. participating in the upgrading or retraining program. The Secretary may waive the provisions of the preceding sentence in whole or in part where the Secretary finds that it would be impracticable for the employer to comply with such provisions or that a waiver would facilitate participation by the employer in an experimental or demonstration project approved or being carried out by the Secretary.".

SEC. 3. The Comprehensive Employment and Training Act is further amended as follows:

29 USC 824. (a) Section 122(i)(2) of such Act is amended by deleting "$7,200" and substituting in lieu thereof "$8,000".

29 USC 842, 855, 964. (b) Section 202(f)(2)(B), section 233(d)(1), and section 604(b)(1) of such Act are each amended by deleting "1980" and substituting in lieu thereof "1982".

(c) Wherever the terms "Secretary of Health, Education, and Welfare" or "Department of Health, Education, and Welfare"
29 USC 879, 930, 935. appear in sections 311(b), 457(c), and 462(b) of such Act, they are amended to read "Secretary of Education" or "Department of Education", respectively.

29 USC 875. (d) Section 305 of such Act is amended by deleting the words "and the Secretary of Health, Education, and Welfare" and the words "Labor and Health, Education, and Welfare" where they occur, and substituting in lieu thereof, respectively, the words "the Secretary of Health and Human Services and the Secretary of Education" and "Labor, Health and Human Services, and Education".

Approved December 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-985 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 15, considered and passed House.
Dec. 8, considered and passed Senate, amended.
Dec. 9, House concurred in Senate amendments.

Public Law 96-584
96th Congress

An Act

To amend title 10, United States Code, to provide greater flexibility for the Armed Forces in ordering Reserves to active duty, and for other purposes.

Dec. 23, 1980
[H.R. 7682]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (e) of section 672 of title 10, United States Code, is amended to read as follows:

Armed Forces Reserves, active duty, amendment.

"(e) The period of time allowed between the date when a Reserve ordered to active duty (other than for training) is alerted for that duty and the date when the Reserve is required to enter upon that duty shall be determined by the Secretary concerned based upon military requirements at that time.".

SEC. 2. Section 673b(c) of title 10, United States Code, is amended by striking out "50,000" and inserting in lieu thereof "100,000".

SEC. 3. (a) Section 6(d)(1) of the Military Selective Service Act (50 U.S.C. App. 456(d)(1)) is amended by striking out "less than three months or" in the fifth sentence.

(b) The amendment made by subsection (a) shall apply only to persons ordered to active duty for training after the effective date of this Act.

50 USC app. 456 note.

SEC. 4. Section 517 of title 10, United States Code, relating to the authorized daily average in enlisted members that may be on active duty in the grades of E-8 and E-9, is amended—

(1) by inserting "(a)" before "Except";

(2) by adding the following new sentence: "In computing the limitations prescribed in the preceding sentence, there shall be excluded enlisted members of an armed force on active duty (other than for training) in connection with organizing, administering, recruiting, instructing, or training the reserve component of an armed force."; and

(3) by adding the following new subsection:

"(b) The number of enlisted members in pay grades E–8 and E–9 who may be on active duty as of the end of any fiscal year in connection with organizing, administering, recruiting, instructing, or training the reserve components of the armed forces may not exceed the number prescribed for the grade and the armed force in the following table:

"Grade	Army	Navy	Air Force
E–9	209	140	71
E–8	823	302	302".

Approved December 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1215 (Comm. on Armed Services).
SENATE REPORT No. 96-1052 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 25, considered and passed House.
Dec. 4, considered and passed Senate, amended.
Dec. 5, House concurred in Senate amendments.

Public Law 96-585
96th Congress

An Act

To designate certain lands of the Fire Island National Seashore as the "Otis Pike Fire Island High Dune Wilderness", and for other purposes.

Dec. 23, 1980
[H.R. 7814]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)), certain lands in the Fire Island National Seashore, New York, comprising approximately one thousand three hundred and sixty-three acres, and potential wilderness additions comprising approximately eighteen acres, as depicted on the map entitled "Wilderness Plan—Fire Island National Seashore", dated December 1980, are hereby designated as the "Fire Island Wilderness". The southern boundary of the wilderness shall be the toe of the primary dunes.

Otis Pike Fire Island High Dune Wilderness, N.Y. Designation. 16 USC 1132 note.

(b) As soon as practicable after this Act takes effect, a map and a description of the boundaries of the wilderness area shall be filed with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, and such map and description shall have the same force and effect as if included in this Act: *Provided,* That correction of clerical and typographical errors in such map and description may be made. The map and description of boundaries shall be on file and available for public inspection in the offices of the Superintendent of the Fire Island National Seashore and the Director of the National Park Service.

Boundary description and map, filing with congressional committees.

(c) Lands which represent potential wilderness additions, upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses prohibited thereon by the Wilderness Act have ceased, shall thereby be designated wilderness. Pending such designation, the Secretary shall administer such lands in such manner as to preserve, insofar as is possible, their wilderness or potential wilderness character.

Potential wilderness additions, administration.

(d) Wilderness designation shall not preclude the repair of breaches that occur in the wilderness area, in order to prevent loss of life, flooding, and other severe economic and physical damage to the Great South Bay and surrounding areas.

(e) Section 10 of the Act of September 11, 1964 (78 Stat. 928) is amended by changing the period to a comma, and by adding the following: "and, after the date of enactment of this provision, not more than $500,000 for development.".

Appropriation authorization. 16 USC 459e-9.

(f) Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1981. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts as are provided in advance in appropriation Acts.

Approved December 23, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 10, considered and passed House.
Dec. 13, considered and passed Senate.

Public Law 96-586
96th Congress

An Act

To provide for the orderly disposal of certain Federal lands in Nevada and for the acquisition of certain other lands in the Lake Tahoe Basin, and for other purposes.

Dec. 23, 1980
[H.R. 7306]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Nevada and Lake Tahoe Basin, land disposal and acquisition.

SECTION 1. (a) The Congress finds that—

(1) the Bureau of Land Management has extensive land ownership in small parcels interspersed with or adjacent to private lands in urban areas of Clark County, Nevada;

(2) for orderly development of the communities in that county certain of those lands should be sold by the Federal Government;

(3) the Lake Tahoe Basin is a closed basin two-thirds of which is located within the State of California and one-third within the State of Nevada;

(4) the environmental quality of the Lake Tahoe Basin is seriously jeopardized by overdevelopment of sensitive land areas;

(5) a majority of the acreage developed within the Lake Tahoe Basin and the potential for further development of sensitive land areas is within California;

(6) further tourist oriented development within the basin encourages significant permanent development of other kinds as well as tourist visitation; and

(7) the unique character of the Lake Tahoe Basin is of national significance deserving of further protection and management.

(b) The purpose of this Act is to provide for the orderly disposal of Federal lands in Clark County, Nevada, and to provide for acquisition of environmentally sensitive lands in the Lake Tahoe Basin.

Clark County, Nev.; land disposal.

SEC. 2. (a) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized and directed to dispose of lands under the jurisdiction of the Bureau of Land Management in Clark County, Nevada, as shown on the map numbered 7306A, dated May 1980, and entitled "Las Vegas Valley, Nevada, Land Sales Map", which map shall be on file and available for public inspection in the offices of the Bureau of Land Management. Such disposal shall be in accordance with regulations developed jointly by the Secretary and the affected local governmental jurisdictions and shall be consistent with the provisions of the Federal Land Policy and Management Act and other applicable law except to the extent necessary to expeditiously carry out the provisions of this Act.

43 USC 1701 note.

Annual acreage limit.

(b) No more than seven hundred acres per calendar year may be offered for sale by the Bureau of Land Management in Clark County.

Land selection.

(c) Notwithstanding section 1(b), the Secretary and the affected local governmental jurisdictions shall jointly select lands to be offered for sale under this Act. The Secretary may not offer any land for sale if in his judgment such land has not been appropriately classified in accordance with adjacent land use by the local governmental jurisdiction. In the event agreement cannot be reached on joint selection, no lands shall be offered for sale.

Revenues.

(d)(1) Except as otherwise provided in this subsection, the revenues from the sale of public lands under this subsection within Clark County, Nevada, shall, notwithstanding any other provision of law, be deposited annually, in the general fund of the Treasury of the United States: *Provided,* That from these revenues, an amount equal to that actually appropriated from the Land and Water Conservation Fund pursuant to section 3 of this Act, shall be deposited in the Fund prior to fiscal year 1995.

(2) Five per centum of the annual revenues referred to in paragraph (1) shall be returned to the State of Nevada annually for use in the general education program of the State.

(3) Ten per centum of the net annual revenues referred to in paragraph (1) shall be returned annually directly to the county or municipality within the boundaries of which such land sale occurred to be used for the purpose of acquisition and development of recreational lands and facilities. The total annual revenue returned under this paragraph to each such county or municipality shall be an amount proportional to the amount of revenues generated under this section from sales under this section of Federal land located within each such county or municipality.

(e) The revenues deposited in the general fund of the Treasury of the United States under subsection (d) are deemed to be in the nature of repayment for those authorizations set forth in section 3 of this Act. The Secretary, in cooperation with the Secretary of Agriculture, shall submit an accounting report biannually of income and expenditure provided for by this Act to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

Report to congressional committees.

(f) The Secretary shall, subject to the provisions of subsection (c), make the first land sale offering of Clark County, Nevada, land no later than one year after the date of enactment of this Act.

Payments to localities.

(g)(1) The Secretary of Agriculture is authorized and directed to make annual payments to the governing bodies of each of the political subdivisions any portion of which is located in the area depicted on the final map filed pursuant to section 3(a). Such payments may be used only for water pollution control, soil erosion mitigation, or acquisition by local government authorities of lands and interests in lands within the Lake Tahoe Basin, or for any combination of the foregoing purposes.

(2) The total amounts appropriated for payments pursuant to this subsection shall be allocated proportionately among such political subdivisions in any fiscal year on the basis of the relative amounts of acreage acquired under this Act in each such political subdivision.

(3) In addition to the amounts authorized to be appropriated to carry out the provisions of section 3 of this Act, there is authorized to be appropriated for making payments under this subsection a sum equal to 15 per centum of the amount appropriated under such section 3.

Water pollution control and land management.

(h) In addition to the amounts authorized to be appropriated to carry out the provisions of section 3 of this Act, there is authorized to be appropriated a sum equal to 5 per centum of the amount appropriated under such section 3 to be used by the Secretary of Agriculture only for purposes of preventing, controlling, or mitigating water pollution associated with National Forest System lands in the Lake Tahoe Basin and for managing acquired lands within the Lake Tahoe Basin. Such sum shall be in addition to any other amounts available

to the Secretary of Agriculture for expenditure in the Lake Tahoe Basin.

(i) The provisions of section 3 of the Act of October 20, 1976 (31 U.S.C. 1601) and the provisions of subsections (a) through (c) of section 106 of the Act of March 27, 1978 (16 U.S.C. 79o) shall apply to lands acquired by the Secretary of Agriculture under this Act in the same manner and to the same extent as such provisions apply to lands owned by the United States and referred to in such section 106. For purposes of applying such provisions, any reference in such provisions to the lands referred to in such section 106 or to the National Park System shall be treated as including reference to the lands acquired by the Secretary of Agriculture under this Act. 31 USC 1603.

SEC. 3. (a)(1) The Secretary of Agriculture is authorized to acquire by donation, purchase with donated or appropriated funds, or otherwise, lands and interests in lands which were unimproved as of the date of enactment of this Act (except as provided in subsection (c)), and which are environmentally sensitive lands within the meaning of paragraph (2). The funds used for acquisition of such lands and interests in lands shall be the funds authorized to be appropriated pursuant to this Act, and no such funds may be expended until the final map has been filed in accordance with paragraph (2)(B). Such funds shall be in addition to any other amounts available to the Secretary of Agriculture for expenditure in the Lake Tahoe Basin.

(2)(A) The Secretary of Agriculture, in consultation with the governments of Nevada and California, the Tahoe Regional Planning Agency and with local governments, including the appropriate planning and regulatory agencies, after notice and opportunity for public hearing, shall prepare a map of the lands to be acquired pursuant to this subsection. Map, preparation; notice and hearing.

(B) The Secretary of Agriculture shall, within six months of the date of enactment of this Act, and after notice and opportunity for public hearing, file with the United States Senate Committee on Energy and Natural Resources and the United States House of Representatives Committee on Interior and Insular Affairs a map which in the Secretary of Agriculture's judgment best achieves the objectives set forth in this Act and includes the environmentally sensitive land defined in subparagraph (C) of this paragraph. Submittal to congressional committees.

(C) For purposes of this paragraph, the term "environmentally sensitive land" means— "Environmentally sensitive land."

(i) stream environment zones which are—

(I) areas generally located within the one-hundred-year flood plain;

(II) areas containing soils which are associated with high runoff or high water tables;

(III) areas of riparian vegetation types; or

(IV) minimum protective buffer areas for the areas referred to in subclauses (I) through (III);

(ii) high hazard lands which are characterized by steep slopes and a fragile environmental balance or with a high erosion potential;

(iii) unimproved lands previously modified by man which are causing unacceptably high rates of sedimentation; and

(iv) shore zone areas which are sensitive to cliff erosion, beach erosion, and near-shore instability.

(D) The map filed pursuant to subparagraph (B) shall be prepared at such scale as to clearly identify the affected land tracts by ownership and shall designate such tracts for acquisition or nonacquisition.

(3) Before initiating acquisition proceedings for any lands under this subsection, the Secretary shall consult annually with State and local government agencies, the Tahoe Regional Planning Agency as to the necessity for such acquisition, the potential impacts on State and local government, and other appropriate aspects of the acquisition. The Secretary of Agriculture shall notify the public of the approved land acquisition program on an annual basis.

Public notice.

Donation.

(4) Lands within the boundaries of the area subject to acquisition under this section which are owned by any State or local government may be acquired only by donation.

Administration.

(b) Lands acquired under this section shall be administered as a part of the United States National Forest System; except that the Secretary of Agriculture, acting through the Chief of the Forest Service, may, in the case of lands which are unsuitable for Forest Service administration, transfer such lands or interests therein to an appropriate unit of State or local government with appropriate deed restrictions to protect the environmental quality and public recreational use of the lands concerned.

Improved lands, acquisition.

(c)(1) Except as provided in paragraph (2), with respect to that portion of the Lake Tahoe Basin, as defined as of the date of the enactment of this Act by the Secretary of Agriculture, which lies within the boundary of the State of California, as in effect on the date of the establishment of the Tahoe National Forest (October 3, 1905), the Secretary of Agriculture may acquire improved lands or interests in improved lands with the consent of the owner thereof or upon a finding by the Secretary of Agriculture that such lands are being used, or that an imminent threat exists that they will be used, in a manner detrimental to the preservation of the existing water quality of the basin.

Single family dwellings, acquisition restrictions.

(2) No single family dwelling which is improved land (as defined in this subsection) may be acquired under the provisions of this subsection without the consent of the owner thereof unless the Secretary of Agriculture with the concurrence of the Tahoe Regional Planning Agency finds that (A) a change in the use of such dwelling has occurred subsequent to the date of enactment of this Act or that such a change in use is threatened, and (B) in the case of a single family dwelling having a change or threatened change in use but maintained as a single family dwelling, such change or threatened change will result in a detriment to the preservation of the existing water quality of the basin.

(3) At such time as the Tahoe Regional Planning Agency has adopted final requirements for the protection of the water quality of the basin, the Secretary of Agriculture shall make the findings provided for in sections 3(c)(1) and 3(c)(2) herein in a manner consistent with such requirements.

(4) For purposes of this Act, the term—

"Improved land."

(A) "improved land" means any land on which there is located a single family dwelling or other residential or commercial building, the construction of which commenced before the date of enactment of this Act, together with so much of the land on which such building is located as is reasonably necessary to the use and enjoyment of such building; and

"Unimproved land."

(B) "unimproved land" means any land other than improved land.

Right of use and occupancy.

(5)(A) The owner or owners of any improved land acquired by the Secretary of Agriculture under this Act may retain a right of use and occupancy of such land for—

(i) a definite term of not more than twenty-five years from the date of the enactment of this Act, or,

(ii) a term ending at the death of the owner or owners of such land.

The owner shall elect the term to be reserved, except that if the owner is a corporation, the term shall not exceed twenty-five years from the date of the enactment of this Act. Unless the improved land is wholly or partially donated, the Secretary of Agriculture shall pay to the owner the fair market value of the improved land on the date of its acquisition, less the fair market value on that date of the right retained by the owner. For purposes of applying the preceding provisions of this subparagraph, ownership shall be determined as of the date of acquisition, except that in applying clause (ii) ownership shall be determined as of May 1, 1980.

(B) A right retained by the owner pursuant to this paragraph shall be subject to termination by the Secretary of Agriculture upon his determination that it is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon notification by the Secretary of Agriculture to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

Acquisition without owner's consent.

(d) Lands and interests therein may be acquired by the Secretary of Agriculture with concurrence of the Tahoe Regional Planning Agency in accordance with this section without the consent of the owner thereof only where, in his judgment, all reasonable efforts to acquire such lands or interests therein by negotiation have failed.

Fair market value.

(e) The fair market value of any land or interest in land to be acquired by the Secretary of Agriculture under this section shall be determined by an independent appraisal made, where practicable, on the basis of comparable sales at the time of such acquisition. For purposes of the appraisal of any property to be acquired under this section, in determining the comparability of other property sales, the independent appraisal shall take into account the utilities, services, and facilities associated with the property concerned. Any change after the date of the enactment of this Act in the value of any property to be acquired under this section shall not be taken into account for purposes of determining the fair market value of such property to the extent that such change is attributable to the enactment of this Act.

Purchase price, installments.

(f) In acquiring any property under this section, the Secretary of Agriculture and the owner of the property to be acquired may agree that the purchase price will be paid in periodic installments over a period that does not exceed ten years, with interest on the unpaid principal balance thereof at a rate which is not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining period of maturity comparable to average maturities on the installments.

Appropriation authorization.

(g) There is hereby authorized to be appropriated, for the purposes of this Act, from the Land and Water Conservation Fund, $10,000,000 for the fiscal year 1982, and $20,000,000 for the fiscal year 1983. In addition there is hereby authorized to be appropriated for these and subsequent fiscal years an amount equal to the amount of revenue obtained by the Federal Government from the sale of federally owned lands in Clark County, Nevada, after October 1, 1978, reduced for any fiscal year by the amount appropriated, pursuant to this sentence, in the prior fiscal years. Funds appropriated pursuant to this section may be expended without regard to any limitations contained in the

16 USC 460*l*-9.

provisions of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965. Amounts authorized to be appropriated under this subsection shall remain available until expended. Authorizations of moneys to be appropriated under this Act shall be effective October 1, 1981. Authority to enter into contracts and agreements and to make payments under this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.

Mar-A-Lago National Historic Site. Repeal. 16 USC 467a and note, 467a-1. 16 USC 461 note, 467a note.

SEC. 4. (a)(1) Effective upon the conveyance or transfer authorized in subsection b, the Act of October 21, 1972, entitled "An Act to provide for the administration of the Mar-A-Lago National Historic Site, in Palm Beach, Florida" is repealed.

(2) The order of designation of the Mar-A-Lago National Historic Site, dated January 16, 1969, is repealed and the site described therein is hereby designated as the Mar-A-Lago National Historic Landmark.

Marjorie Merriweather Post Foundation, property transfer. 16 USC 467a note.

(b) The Secretary of the Interior shall, within one hundred and twenty days of the date of enactment of this Act, take such measures, consistent with the terms and conditions of the deed of conveyance from Marjorie M. Post to the United States of America, dated December 18, 1972, as may be necessary to transfer the property described in the order of designation of the Mar-A-Lago National Historic Site to the Majorie Merriweather Post Foundation of the District of Columbia (a charitable foundation organized under the District of Columbia Nonprofit Corporation Act).

D.C. Code 29-1001. Funds, adjustments.

(c) The Secretary is authorized upon conveyance, to make appropriate adjustments in the funds available for the administration and management of the property, including but not limited to, return of unobligated donated funds to the trustees of the Marjorie Merriweather Post Foundation of the District of Columbia, and reprogram existing appropriations to related functions and activities of the National Park Service.

Approved December 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1023 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-1026 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 8, considered and passed House.
Dec. 4, considered and passed Senate, amended.
Dec. 5, House concurred in Senate amendments.

Public Law 96-587
96th Congress

An Act

Dec. 23, 1980
[S. 1142]

Authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes.

John F. Kennedy Center for the Performing Arts. Appropriation authorization. 20 USC 76*l*.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (e) of section 6 of the John F. Kennedy Center Act (Public Law 85-874, as amended; 20 U.S.C. 76l) is amended by adding at the end thereof the following: "There is authorized to be appropriated to carry out this subsection not to exceed $4,287,000 for the fiscal year ending September 30, 1980, and not to exceed $4,400,000 for the fiscal year ending September 30, 1981.".

SEC. 2. Ralph E. Becker is hereby designated an honorary trustee of the John F. Kennedy Center for the Performing Arts in recognition of his distinguished service as a founding trustee and general counsel for the Center from 1958 to 1976.

Approved December 23, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-179 (Comm. on Public Works and Transportation) accompanying H.R. 3051 and No. 96-1530 (Comm. of Conference).
SENATE REPORT No. 96-150 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 6, considered and passed Senate.
Vol. 126 (1980): Jan. 24, H.R. 3051 considered and passed House; proceedings vacated and S. 1142, amended, passed in lieu.
Aug. 22, Senate concurred in House amendment with an amendment.
Dec. 9, Senate agreed to conference report.
Dec. 10, House agreed to conference report.

Public Law 96-588
96th Congress

An Act

Dec. 24, 1980
[S. 3212]

To designate the "Thomas J. McIntyre Federal Building".

Certain Federal facilities. Designations. Thomas J. McIntyre Federal Building.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building at 80 Daniel Street, Portsmouth, New Hampshire (commonly known as the Federal Building), shall hereafter be known, called, and designated as the "Thomas J. McIntyre Federal Building". Any reference in any law, map, regulation, document, record, or other paper of the United States to such building shall be deemed to be a reference to the Thomas J. McIntyre Federal Building.

Colmery-O'Neil Veterans' Administration Medical Center.

SEC. 2. (a) The Veterans' Administration Medical Center in Topeka, Kansas, is designated as the "Colmery-O'Neil Veterans' Administration Medical Center", in honor of the late Harry W. Colmery and Ralph T. O'Neil.

(b) Any reference to such center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed a reference to the Colmery-O'Neil Veterans' Administration Medical Center.

(c) The Committee on Rules and Administration shall place appropriate markers or inscriptions at suitable locations within the clinical center referred to in subsection (a) of this section to commemorate and designate such building as provided in this section. Expenses incurred under this section shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

Louis C. Wyman Forest Experiment Station.

SEC. 3. (a) The facility known as the Northeastern Forest Experiment Station in Durham, New Hampshire, shall hereafter be known, called, and designated as the "Louis C. Wyman Forest Experiment Station". Any reference in any law, map, regulation, document, record, or other paper of the United States to such experiment station shall be deemed to be a reference to the "Louis C. Wyman Forest Experiment Station".

Effective date.

(b) This section shall become effective January 3, 1981.

Approved December 24, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 5, H.R. 8377, considered and passed House.
Dec. 13, S. 3212 considered and passed Senate.
Dec. 16, considered and passed House, amended; Senate agreed to House amendment.

Public Law 96-589
96th Congress

An Act

To amend the Internal Revenue Code of 1954 to provide for the tax treatment of bankruptcy, insolvency, and similar proceedings, and for other purposes.

Dec. 24, 1980
[H.R. 5043]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Bankruptcy Tax Act of 1980.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Bankruptcy Tax Act of 1980". 26 USC 1 note.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; amendment of 1954 Code.
Sec. 2. Tax treatment of discharge of indebtedness.
Sec. 3. Rules relating to title 11 cases for individuals.
Sec. 4. Corporate reorganization provisions.
Sec. 5. Miscellaneous corporate amendments.
Sec. 6. Changes in tax procedures.
Sec. 7. Effective dates.

(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954. 26 USC 1 *et seq.*

SEC. 2. TAX TREATMENT OF DISCHARGE OF INDEBTEDNESS.

(a) AMENDMENT OF SECTION 108.—Section 108 (relating to discharge of indebtedness) is amended to read as follows:

"SEC. 108. INCOME FROM DISCHARGE OF INDEBTEDNESS. 26 USC 108.

"(a) EXCLUSION FROM GROSS INCOME.—

"(1) IN GENERAL.—Gross income does not include any amount which (but for this subsection) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of the taxpayer if—

"(A) the discharge occurs in a title 11 case, 11 USC 101 *et seq.*

"(B) the discharge occurs when the taxpayer is insolvent, or

"(C) the indebtedness discharged is qualified business indebtedness.

"(2) COORDINATION OF EXCLUSIONS.—

"(A) TITLE 11 EXCLUSION TAKES PRECEDENCE.—Subparagraphs (B) and (C) of paragraph (1) shall not apply to a discharge which occurs in a title 11 case.

"(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED BUSINESS EXCLUSION.—Subparagraph (C) of paragraph (1) shall not apply to a discharge to the extent that the taxpayer is insolvent.

"(3) INSOLVENCY EXCLUSION LIMITED TO AMOUNT OF INSOLVENCY.—In the case of a discharge to which paragraph (1)(B)

applies, the amount excluded under paragraph (1)(B) shall not exceed the amount by which the taxpayer is insolvent.

11 USC 101 *et seq.*

"(b) REDUCTION OF TAX ATTRIBUTES IN TITLE 11 CASE OR INSOLVENCY.—

"(1) IN GENERAL.—The amount excluded from gross income under subparagraph (A) or (B) of subsection (a)(1) shall be applied to reduce the tax attributes of the taxpayer as provided in paragraph (2).

"(2) TAX ATTRIBUTES AFFECTED; ORDER OF REDUCTION.—Except as provided in paragraph (5), the reduction referred to in paragraph (1) shall be made in the following tax attributes in the following order:

"(A) NOL.—Any net operating loss for the taxable year of the discharge, and any net operating loss carryover to such taxable year.

"(B) CERTAIN CREDIT CARRYOVERS.—Any carryover to or from the taxable year of the discharge of an amount for purposes of determining the amount of a credit allowable under—

"(i) section 38 (relating to investment in certain depreciable property),

"(ii) section 40 (relating to expenses of work incentive programs),

"(iii) section 44B (relating to credit for employment of certain new employees), or

"(iv) section 44E (relating to alcohol used as a fuel).

For purposes of clause (i), there shall not be taken into account any portion of a carryover which is attributable to the employee plan credit (within the meaning of section 48(o)(3)).

"(C) CAPITAL LOSS CARRYOVERS.—Any net capital loss for the taxable year of the discharge, and any capital loss carryover to such taxable year under section 1212.

"(D) BASIS REDUCTION.—

"(i) IN GENERAL.—The basis of the property of the taxpayer.

"(ii) CROSS REFERENCE.—

"For provisions for making the reduction described in clause (i), see section 1017.

"(E) FOREIGN TAX CREDIT CARRYOVERS.—Any carryover to or from the taxable year of the discharge for purposes of determining the amount of the credit allowable under section 33.

"(3) AMOUNT OF REDUCTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the reductions described in paragraph (2) shall be one dollar for each dollar excluded by subsection (a).

"(B) CREDIT CARRYOVER REDUCTION.—The reductions described in subparagraphs (B) and (E) of paragraph (2) shall be 50 cents for each dollar excluded by subsection (a).

"(4) ORDERING RULES.—

"(A) REDUCTIONS MADE AFTER DETERMINATION OF TAX FOR YEAR.—The reductions described in paragraph (2) shall be made after the determination of the tax imposed by this chapter for the taxable year of the discharge.

"(B) REDUCTIONS UNDER SUBPARAGRAPH (A) OR (C) OF PARAGRAPH (2).—The reductions described in subparagraph (A) or (C) of paragraph (2) (as the case may be) shall be made first in

the loss for the taxable year of the discharge and then in the carryovers to such taxable year in the order of the taxable years from which each such carryover arose.

"(C) REDUCTIONS UNDER SUBPARAGRAPHS (B) AND (E) OF PARAGRAPH (2).—The reductions described in subparagraphs (B) and (E) of paragraph (2) shall be made in the order in which carryovers are taken into account under this chapter for the taxable year of the discharge.

"(5) ELECTION TO APPLY REDUCTION FIRST AGAINST DEPRECIABLE PROPERTY.—

"(A) IN GENERAL.—The taxpayer may elect to apply any portion of the reduction referred to in paragraph (1) to the reduction under section 1017 of the basis of the depreciable property of the taxpayer.

Post, p. 3394.

"(B) LIMITATION.—The amount to which an election under subparagraph (A) applies shall not exceed the aggregate adjusted bases of the depreciable property held by the taxpayer as of the beginning of the taxable year following the taxable year in which the discharge occurs.

"(C) OTHER TAX ATTRIBUTES NOT REDUCED.—Paragraph (2) shall not apply to any amount to which an election under this paragraph applies.

"(c) TAX TREATMENT OF DISCHARGE OF QUALIFIED BUSINESS INDEBTEDNESS.—In the case of a discharge of qualified business indebtedness—

"(1) BASIS REDUCTION.—

"(A) IN GENERAL.—The amount excluded from gross income under subparagraph (C) of subsection (a)(1) shall be applied to reduce the basis of the depreciable property of the taxpayer.

"(B) CROSS REFERENCE.—

"For provisions for making the reduction described in subparagraph (A), see section 1017.

"(2) LIMITATION.—The amount excluded under subparagraph (C) of subsection (a)(1) shall not exceed the aggregate adjusted bases of the depreciable property held by the taxpayer as of the beginning of the taxable year following the taxable year in which the discharge occurs (determined after any reductions under subsection (b)).

"(d) MEANING OF TERMS; SPECIAL RULES RELATING TO SUBSECTIONS (a), (b), AND (c).—

"(1) INDEBTEDNESS OF TAXPAYER.—For purposes of this section, the term 'indebtedness of the taxpayer' means any indebtedness—

"(A) for which the taxpayer is liable, or

"(B) subject to which the taxpayer holds property.

"(2) TITLE 11 CASE.—For purposes of this section, the term 'title 11 case' means a case under title 11 of the United States Code (relating to bankruptcy), but only if the taxpayer is under the jurisdiction of the court in such case and the discharge of indebtedness is granted by the court or is pursuant to a plan approved by the court.

11 USC 101 *et seq.*

"(3) INSOLVENT.—For purposes of this section, the term 'insolvent' means the excess of liabilities over the fair market value of assets. With respect to any discharge, whether or not the taxpayer is insolvent, and the amount by which the taxpayer is insolvent, shall be determined on the basis of the taxpayer's assets and liabilities immediately before the discharge.

"(4) QUALIFIED BUSINESS INDEBTEDNESS.—Indebtedness of the taxpayer shall be treated as qualified business indebtedness if (and only if)—

"(A) the indebtedness was incurred or assumed—

"(i) by a corporation, or

"(ii) by an individual in connection with property used in his trade or business, and

"(B) such taxpayer makes an election under this paragraph with respect to such indebtedness.

"(5) DEPRECIABLE PROPERTY.—The term 'depreciable property' has the same meaning as when used in section 1017.

Post, p. 3394.

"(6) SUBSECTIONS (a), (b), AND (c) TO BE APPLIED AT PARTNER LEVEL.—In the case of a partnership, subsections (a), (b), and (c) shall be applied at the partner level.

"(7) REDUCTIONS OF TAX ATTRIBUTES IN TITLE 11 CASES OF INDIVIDUALS TO BE MADE BY ESTATE.—In any case under chapter 7 or 11 of title 11 of the United States Code to which section 1398 applies, for purposes of paragraphs (1) and (5) of subsection (b) the estate (and not the individual) shall be treated as the taxpayer. The preceding sentence shall not apply for purposes of applying section 1017 to property transferred by the estate to the individual.

11 USC 701 *et seq.*, 1101 *et seq.*

Post, p. 3397.

Post, p. 3394.

"(8) TIME FOR MAKING ELECTION, ETC.—

"(A) TIME.—An election under paragraph (4) of this subsection or under paragraph (5) of subsection (b) shall be made on the taxpayer's return for the taxable year in which the discharge occurs or at such other time as may be permitted in regulations prescribed by the Secretary.

"(B) REVOCATION ONLY WITH CONSENT.—An election referred to in subparagraph (A), once made, may be revoked only with the consent of the Secretary.

"(C) MANNER.—An election referred to in subparagraph (A) shall be made in such manner as the Secretary may by regulations prescribe.

"(9) CROSS REFERENCE.—

"For provision that no reduction is to be made in the basis of exempt property of an individual debtor, see section 1017(c)(1).

"(e) GENERAL RULES FOR DISCHARGE OF INDEBTEDNESS (INCLUDING DISCHARGES NOT IN TITLE 11 CASES OR INSOLVENCY).—For purposes of this title—

11 USC 101 *et seq.*

"(1) NO OTHER INSOLVENCY EXCEPTION.—Except as otherwise provided in this section, there shall be no insolvency exception from the general rule that gross income includes income from the discharge of indebtedness.

"(2) INCOME NOT REALIZED TO EXTENT OF LOST DEDUCTIONS.—No income shall be realized from the discharge of indebtedness to the extent that payment of the liability would have given rise to a deduction.

"(3) ADJUSTMENTS FOR UNAMORTIZED PREMIUM AND DISCOUNT.—The amount taken into account with respect to any discharge shall be properly adjusted for unamortized premium and unamortized discount with respect to the indebtedness discharged.

"(4) ACQUISITION OF INDEBTEDNESS BY PERSON RELATED TO DEBTOR.—

"(A) TREATED AS ACQUISITION BY DEBTOR.—For purposes of determining income of the debtor from discharge of indebtedness, to the extent provided in regulations prescribed by the Secretary, the acquisition of outstanding indebtedness

by a person bearing a relationship to the debtor specified in section 267(b) or 707(b)(1) from a person who does not bear such a relationship to the debtor shall be treated as the acquisition of such indebtedness by the debtor. Such regulations shall provide for such adjustments in the treatment of any subsequent transactions involving the indebtedness as may be appropriate by reason of the application of the preceding sentence. 26 USC 267, 707.

"(B) MEMBERS OF FAMILY.—For purposes of this paragraph, sections 267(b) and 707(b)(1) shall be applied as if section 267(c)(4) provided that the family of an individual consists of the individual's spouse, the individual's children, grandchildren, and parents, and any spouse of the individual's children or grandchildren.

"(C) ENTITIES UNDER COMMON CONTROL TREATED AS RELATED.—For purposes of this paragraph, two entities which are treated as a single employer under subsection (b) or (c) of section 414 shall be treated as bearing a relationship to each other which is described in section 267(b).

"(5) PURCHASE-MONEY DEBT REDUCTION FOR SOLVENT DEBTOR TREATED AS PRICE REDUCTION.—If—

"(A) the debt of a purchaser of property to the seller of such property which arose out of the purchase of such property is reduced,

"(B) such reduction does not occur—

"(i) in a title 11 case, or

"(ii) when the purchaser is insolvent, and

"(C) but for this paragraph, such reduction would be treated as income to the purchaser from the discharge of indebtedness,

11 USC 101 *et seq.*

then such reduction shall be treated as a purchase price adjustment.

"(6) INDEBTEDNESS CONTRIBUTED TO CAPITAL.—For purposes of determining income of the debtor from discharge of indebtedness, if a debtor corporation acquires its indebtedness from a shareholder as a contribution to capital—

"(A) section 118 shall not apply, but

"(B) such corporation shall be treated as having satisfied the indebtedness with an amount of money equal to the shareholder's adjusted basis in the indebtedness.

"(7) RECAPTURE OF GAIN ON SUBSEQUENT SALE OF STOCK.—

"(A) IN GENERAL.—If a creditor acquires stock of a debtor corporation in satisfaction of such corporation's indebtedness, for purposes of section 1245—

"(i) such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) shall be treated as section 1245 property, and

"(ii) the aggregate amount allowed to the creditor—

"(I) as deductions under subsection (a), (b), or (c) of section 166 (by reason of the worthlessness or partial worthlessness of the indebtedness), or

"(II) as an ordinary loss on the exchange,

shall be treated as an amount allowed as a deduction for depreciation.

The amount determined under clause (ii) shall be reduced by the amount (if any) included in the creditor's gross income on the exchange.

"(B) TAXPAYERS ON RESERVE METHOD.—In the case of a taxpayer to whom subsection (c) of section 166 (relating to reserve for bad debts) applies, the amount determined under clause (ii) of subparagraph (A) shall be the aggregate charges to the reserve resulting from the worthlessness or partial worthlessness of the indebtedness.

"(C) SPECIAL RULE FOR CASH BASIS TAXPAYERS.—In the case of any creditor who computes his taxable income under the cash receipts and disbursements method, proper adjustment shall be made in the amount taken into account under clause (ii) of subparagraph (A) for any amount which was not included in the creditor's gross income but which would have been included in such gross income if such indebtedness had been satisfied in full.

"(D) STOCK OF PARENT CORPORATION.—For purposes of this paragraph, stock of a corporation in control (within the meaning of section 368(c)) of the debtor corporation shall be treated as stock of the debtor corporation.

"Debtor corporation."

"(E) TREATMENT OF SUCCESSOR CORPORATION.—For purposes of this paragraph, the term 'debtor corporation' includes a successor corporation.

"(F) PARTNERSHIP RULE.—Under regulations prescribed by the Secretary, rules similar to the rules of subparagraphs (A), (B), (C), (D), and (E) of this paragraph shall apply with respect to the indebtedness of a partnership.

"(8) STOCK FOR DEBT EXCEPTION NOT TO APPLY IN DE MINIMIS CASES.—For purposes of determining income of the debtor from discharge of indebtedness, the stock for debt exception shall not apply—

"(A) to the issuance of nominal or token shares, or

"(B) with respect to an unsecured creditor, where the ratio of the value of the stock received by such unsecured creditor to the amount of his indebtedness cancelled or exchanged for stock in the workout is less than 50 percent of a similar ratio computed for all unsecured creditors participating in the workout.

"(9) DISCHARGE OF INDEBTEDNESS INCOME NOT TAKEN INTO ACCOUNT IN DETERMINING WHETHER ENTITY MEETS REIT QUALIFICATIONS.—Any amount included in gross income by reason of the discharge of indebtedness shall not be taken into account for purposes of paragraphs (2) and (3) of section 856(c)."

(b) AMENDMENT OF SECTION 1017.—Section 1017 (relating to discharge of indebtedness) is amended to read as follows:

26 USC 1017.

"SEC. 1017. DISCHARGE OF INDEBTEDNESS.

"(a) GENERAL RULE.—If—

"(1) an amount is excluded from gross income under subsection (a) of section 108 (relating to discharge of indebtedness), and

Ante, p. 3389.

"(2) under subsection (b)(2)(D), (b)(5), or (c)(1)(A) of section 108,

any portion of such amount is to be applied to reduce basis, then such portion shall be applied in reduction of the basis of any property held by the taxpayer at the beginning of the taxable year following the taxable year in which the discharge occurs.

"(b) AMOUNT AND PROPERTIES DETERMINED UNDER REGULATIONS.—

"(1) IN GENERAL.—The amount of reduction to be applied under subsection (a) (not in excess of the portion referred to in subsection (a)), and the particular properties the bases of which are to

be reduced, shall be determined under regulations prescribed by the Secretary.

"(2) LIMITATION IN TITLE 11 CASE OR INSOLVENCY.—In the case of a discharge to which subparagraph (A) or (B) of section 108(a)(1) applies, the reduction in basis under subsection (a) of this section shall not exceed the excess of— 11 USC 101 *et seq.* *Ante*, p. 3389.

"(A) the aggregate of the bases of the property held by the taxpayer immediately after the discharge, over

"(B) the aggregate of the liabilities of the taxpayer immediately after the discharge.

The preceding sentence shall not apply to any reduction in basis by reason of an election under section 108(b)(5).

"(3) CERTAIN REDUCTIONS MAY ONLY BE MADE IN THE BASIS OF DEPRECIABLE PROPERTY.—

"(A) IN GENERAL.—Any amount which under subsection (b)(5) or (c)(1)(A) of section 108 is to be applied to reduce basis shall be applied only to reduce the basis of depreciable property held by the taxpayer.

"(B) DEPRECIABLE PROPERTY.—For purposes of this section, the term 'depreciable property' means any property of a character subject to the allowance for depreciation, but only if a basis reduction under subsection (a) will reduce the amount of depreciation or amortization which otherwise would be allowable for the period immediately following such reduction.

"(C) SPECIAL RULE FOR PARTNERSHIP INTERESTS.—For purposes of this section, any interest of a partner in a partnership shall be treated as depreciable property to the extent of such partner's proportionate interest in the depreciable property held by such partnership. The preceding sentence shall apply only if there is a corresponding reduction in the partnership's basis in depreciable property with respect to such partner.

"(D) SPECIAL RULE IN CASE OF AFFILIATED GROUP.—For purposes of this section, if—

"(i) a corporation holds stock in another corporation (hereinafter in this subparagraph referred to as the 'subsidiary'), and

"(ii) such corporations are members of the same affiliated group which file a consolidated return under section 1501 for the taxable year in which the discharge occurs,

then such stock shall be treated as depreciable property to the extent that such subsidiary consents to a corresponding reduction in the basis of its depreciable property.

"(E) ELECTION TO TREAT CERTAIN INVENTORY AS DEPRECIABLE PROPERTY.—

"(i) IN GENERAL.—At the election of the taxpayer, for purposes of this section, the term 'depreciable property' includes any real property which is described in section 1221(1). "Depreciable property."

"(ii) ELECTION.—An election under clause (i) shall be made on the taxpayer's return for the taxable year in which the discharge occurs or at such other time as may be permitted in regulations prescribed by the Secretary. Such an election, once made, may be revoked only with the consent of the Secretary.

"(c) SPECIAL RULES.—

"(1) REDUCTION NOT TO BE MADE IN EXEMPT PROPERTY.—In the case of an amount excluded from gross income under section 108(a)(1)(A), no reduction in basis shall be made under this section in the basis of property which the debtor treats as exempt property under section 522 of title 11 of the United States Code.

Ante, p. 3389.

"(2) REDUCTIONS IN BASIS NOT TREATED AS DISPOSITIONS.—For purposes of this title, a reduction in basis under this section shall not be treated as a disposition.

"(d) RECAPTURE OF REDUCTIONS.—

"(1) IN GENERAL.—For purposes of sections 1245 and 1250—

"(A) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(B) any reduction under this section shall be treated as a deduction allowed for depreciation.

"(2) SPECIAL RULE FOR SECTION 1250.—For purposes of section 1250(b), the determination of what would have been the depreciation adjustments under the straight line method shall be made as if there had been no reduction under this section."

26 USC 111.

(c) AMENDMENT OF SECTION 111.—Section 111 (relating to recovery of bad debts, prior taxes, and delinquency amounts) is amended by adding at the end thereof the following new subsection:

"(d) INCREASE IN CARRYOVER TREATED AS YIELDING TAX BENEFIT.—For purposes of paragraph (4) of subsection (b), an increase in a carryover which has not expired shall be treated as a reduction in tax."

26 USC 382.

(d) AMENDMENT OF SECTION 382(b).—Subsection (b) of section 382 (relating to special limitations on net operating loss carryover), as in effect before its amendment by section 806 of the Tax Reform Act of 1976, is amended by adding at the end thereof the following new paragraph:

90 Stat. 1598.

11 USC 101 *et seq.*

(7) SPECIAL RULE FOR REORGANIZATIONS IN TITLE 11 OR SIMILAR CASES.—For purposes of this subsection, a creditor who receives stock in a reorganization in a title 11 or similar case (within the meaning of section 368(a)(3)(A)) shall be treated as a stockholder immediately before the reorganization."

(e) TECHNICAL AMENDMENTS.—

26 USC 703.

(1) Subsection (b) of section 703 (relating to elections of the partnership) is amended to read as follows:

"(b) ELECTIONS OF THE PARTNERSHIP.—Any election affecting the computation of taxable income derived from a partnership shall be made by the partnership, except that any election under—

"(1) section 57(c) (defining net lease),

Ante, p. 3389.

"(2) subsection (b)(5) or (d)(4) of section 108 (relating to income from discharge of indebtedness),

"(3) section 163(d) (relating to limitation of interest on investment indebtedness),

"(4) section 617 (relating to deduction and recapture of certain mining exploration expenditures), or

"(5) section 901 (relating to taxes of foreign countries and possessions of the United States),

shall be made by each partner separately."

26 USC 118.

(2) Subsection (c) of section 118 (relating to cross reference) is amended to read as follows:

"(c) CROSS REFERENCES.—

"(1) For basis of property acquired by a corporation through a contribution to its capital, see section 362.
"(2) For special rules in the case of contributions of indebtedness, see section 108(e)(6)."

SEC. 3. RULES RELATING TO TITLE 11 CASES FOR INDIVIDUALS. 11 USC 101 *et seq.*

(a) IN GENERAL.—

(1) ADDITION OF RULES.—Chapter 1 (relating to normal taxes and surtaxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter V—Title 11 Cases

"Sec. 1398. Rules relating to individuals' title 11 cases.
"Sec. 1399. No separate taxable entities for partnerships, corporations, etc.

"SEC. 1398. RULES RELATING TO INDIVIDUALS' TITLE 11 CASES. 26 USC 1398.

"(a) CASES TO WHICH SECTION APPLIES.—Except as provided in subsection (b), this section shall apply to any case under chapter 7 (relating to liquidations) or chapter 11 (relating to reorganizations) of title 11 of the United States Code in which the debtor is an individual. 11 USC 701 *et seq.*, 1101 *et seq.*

"(b) EXCEPTIONS WHERE CASE IS DISMISSED, ETC.—

"(1) SECTION DOES NOT APPLY WHERE CASE IS DISMISSED.—This section shall not apply if the case under chapter 7 or 11 of title 11 of the United States Code is dismissed.

"(2) SECTION DOES NOT APPLY AT PARTNERSHIP LEVEL.—For purposes of subsection (a), a partnership shall not be treated as an individual, but the interest in a partnership of a debtor who is an individual shall be taken into account under this section in the same manner as any other interest of the debtor.

"(c) COMPUTATION AND PAYMENT OF TAX; ZERO BRACKET AMOUNT.—

"(1) COMPUTATION AND PAYMENT OF TAX.—Except as otherwise provided in this section, the taxable income of the estate shall be computed in the same manner as for an individual. The tax shall be computed on such taxable income and shall be paid by the trustee.

"(2) TAX RATES.—The tax on the taxable income of the estate shall be determined under subsection (d) of section 1.

"(3) AMOUNT OF ZERO BRACKET AMOUNT.—The amount of the estate's zero bracket amount for the taxable year shall be the same as for a married individual filing a separate return for such year.

"(d) TAXABLE YEAR OF DEBTORS.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), the taxable year of the debtor shall be determined without regard to the case under title 11 of the United States Code to which this section applies. 11 USC 101 *et seq.*

"(2) ELECTION TO TERMINATE DEBTOR'S YEAR WHEN CASE COMMENCES.—

"(A) IN GENERAL.—Notwithstanding section 442, the debtor may (without the approval of the Secretary) elect to treat the debtor's taxable year which includes the commencement date as 2 taxable years—

"(i) the first of which ends on the day before the commencement date, and

"(ii) the second of which begins on the commencement date.

"(B) SPOUSE MAY JOIN IN ELECTION.—In the case of a married individual (within the meaning of section 143), the

spouse may elect to have the debtor's election under subparagraph (A) also apply to the spouse, but only if the debtor and the spouse file a joint return for the taxable year referred to in subparagraph (A)(i).

"(C) NO ELECTION WHERE DEBTOR HAS NO ASSETS.—No election may be made under subparagraph (A) by a debtor who has no assets other than property which the debtor may treat as exempt property under section 522 of title 11 of the United States Code.

"(D) TIME FOR MAKING ELECTION.—An election under subparagraph (A) or (B) may be made only on or before the due date for filing the return for the taxable year referred to in subparagraph (A)(i). Any such election, once made, shall be irrevocable.

"(E) RETURNS.—A return shall be made for each of the taxable years specified in subparagraph (A).

"(F) ANNUALIZATION.—For purposes of subsections (b), (c), and (d) of section 443, a return filed for either of the taxable years referred to in subparagraph (A) shall be treated as a return made under paragraph (1) of subsection (a) of section 443.

"(3) COMMENCEMENT DATE DEFINED.—For purposes of this subsection, the term 'commencement date' means the day on which the case under title 11 of the United States Code to which this section applies commences.

11 USC 101 *et seq.*

"(e) TREATMENT OF INCOME, DEDUCTIONS, AND CREDITS.—

"(1) ESTATE'S SHARE OF DEBTOR'S INCOME.—The gross income of the estate for each taxable year shall include the gross income of the debtor to which the estate is entitled under title 11 of the United States Code. The preceding sentence shall not apply to any amount received or accrued by the debtor before the commencement date (as defined in subsection (d)(3)).

"(2) DEBTOR'S SHARE OF DEBTOR'S INCOME.—The gross income of the debtor for any taxable year shall not include any item to the extent that such item is included in the gross income of the estate by reason of paragraph (1).

"(3) RULE FOR MAKING DETERMINATIONS WITH RESPECT TO DEDUCTIONS, CREDITS, AND EMPLOYMENT TAXES.—Except as otherwise provided in this section, the determination of whether or not any amount paid or incurred by the estate—

"(A) is allowable as a deduction or credit under this chapter, or

"(B) is wages for purposes of subtitle C,

shall be made as if the amount were paid or incurred by the debtor and as if the debtor were still engaged in the trades and businesses, and in the activities, the debtor was engaged in before the commencement of the case.

"(f) TREATMENT OF TRANSFERS BETWEEN DEBTOR AND ESTATE.—

"(1) TRANSFER TO ESTATE NOT TREATED AS DISPOSITION.—A transfer (other than by sale or exchange) of an asset from the debtor to the estate shall not be treated as a disposition for purposes of any provision of this title assigning tax consequences to a disposition, and the estate shall be treated as the debtor would be treated with respect to such asset.

"(2) TRANSFER FROM ESTATE TO DEBTOR NOT TREATED AS DISPOSITION.—In the case of a termination of the estate, a transfer (other than by sale or exchange) of an asset from the estate to the debtor shall not be treated as a disposition for purposes of any provision

of this title assigning tax consequences to a disposition, and the debtor shall be treated as the estate would be treated with respect to such asset.

"(g) ESTATE SUCCEEDS TO TAX ATTRIBUTES OF DEBTOR.—The estate shall succeed to and take into account the following items (determined as of the first day of the debtor's taxable year in which the case commences) of the debtor—

"(1) NET OPERATING LOSS CARRYOVERS.—The net operating loss carryovers determined under section 172.

"(2) CHARITABLE CONTRIBUTIONS CARRYOVERS.—The carryover of excess charitable contributions determined under section 170(d)(1).

"(3) RECOVERY EXCLUSION.—Any recovery exclusion under section 111 (relating to recovery of bad debts, prior taxes, and delinquency amounts).

"(4) CREDIT CARRYOVERS, ETC.—The carryovers of any credit, and all other items which, but for the commencement of the case, would be required to be taken into account by the debtor with respect to any credit.

"(5) CAPITAL LOSS CARRYOVERS.—The capital loss carryover determined under section 1212.

"(6) BASIS, HOLDING PERIOD, AND CHARACTER OF ASSETS.—In the case of any asset acquired (other than by sale or exchange) by the estate from the debtor, the basis, holding period, and character it had in the hands of the debtor.

"(7) METHOD OF ACCOUNTING.—The method of accounting used by the debtor.

"(8) OTHER ATTRIBUTES.—Other tax attributes of the debtor, to the extent provided in regulations prescribed by the Secretary as necessary or appropriate to carry out the purposes of this section.

"(h) ADMINISTRATION, LIQUIDATION, AND REORGANIZATION EXPENSES; CARRYOVERS AND CARRYBACKS OF CERTAIN EXCESS EXPENSES.—

"(1) ADMINISTRATION, LIQUIDATION, AND REORGANIZATION EXPENSES.—Any administrative expense allowed under section 503 of title 11 of the United States Code, and any fee or charge assessed against the estate under chapter 123 of title 28 of the United States Code, to the extent not disallowed under any other provision of this title, shall be allowed as a deduction. 28 USC 1911 *et seq.*

"(2) CARRYBACK AND CARRYOVER OF EXCESS ADMINISTRATIVE COSTS, ETC., TO ESTATE TAXABLE YEARS.—

"(A) DEDUCTION ALLOWED.—There shall be allowed as a deduction for the taxable year an amount equal to the aggregate of (i) the administrative expense carryovers to such year, plus (ii) the administrative expense carrybacks to such year.

"(B) ADMINISTRATIVE EXPENSE LOSS, ETC.—If a net operating loss would be created or increased for any estate taxable year if section 172(c) were applied without the modification contained in paragraph (4) of section 172(d), then the amount of the net operating loss so created (or the amount of the increase in the net operating loss) shall be an administrative expense loss for such taxable year which shall be an administrative expense carryback to each of the 3 preceding taxable years and an administrative expense carryover to each of the 7 succeeding taxable years.

"(C) DETERMINATION OF AMOUNT CARRIED TO EACH TAXABLE YEAR.—The portion of any administrative expense loss

which may be carried to any other taxable year shall be determined under section 172(b)(2), except that for each taxable year the computation under section 172(b)(2) with respect to the net operating loss shall be made before the computation under this paragraph.

"(D) ADMINISTRATIVE EXPENSE DEDUCTIONS ALLOWED ONLY TO ESTATE.—The deductions allowable under this chapter solely by reason of paragraph (1), and the deduction provided by subparagraph (A) of this paragraph, shall be allowable only to the estate.

"(i) DEBTOR SUCCEEDS TO TAX ATTRIBUTES OF ESTATE.—In the case of a termination of an estate, the debtor shall succeed to and take into account the items referred to in paragraphs (1), (2), (3), (4), (5), and (6) of subsection (g) in a manner similar to that provided in such paragraphs (but taking into account that the transfer is from the estate to the debtor instead of from the debtor to the estate). In addition, the debtor shall succeed to and take into account the other tax attributes of the estate, to the extent provided in regulations prescribed by the Secretary as necessary or appropriate to carry out the purposes of this section.

"(j) OTHER SPECIAL RULES.—

"(1) CHANGE OF ACCOUNTING PERIOD WITHOUT APPROVAL.—Notwithstanding section 442, the estate may change its annual accounting period one time without the approval of the Secretary.

"(2) TREATMENT OF CERTAIN CARRYBACKS.—

"(A) CARRYBACKS FROM ESTATE.—If any carryback year of the estate is a taxable year before the estate's first taxable year, the carryback to such carryback year shall be taken into account for the debtor's taxable year corresponding to the carryback year.

"(B) CARRYBACKS FROM DEBTOR'S ACTIVITIES.—The debtor may not carry back to a taxable year before the debtor's taxable year in which the case commences any carryback from a taxable year ending after the case commences.

"(C) CARRYBACK AND CARRYBACK YEAR DEFINED.—For purposes of this paragraph—

"(i) CARRYBACK.—The term 'carryback' means a net operating loss carryback under section 172 or a carryback of any credit provided by part IV of subchapter A. 26 USC 31.

"(ii) CARRYBACK YEAR.—The term 'carryback year' means the taxable year to which a carryback is carried.

26 USC 1399. "SEC. 1399. NO SEPARATE TAXABLE ENTITIES FOR PARTNERSHIPS, CORPORATIONS, ETC.

"Except in any case to which section 1398 applies, no separate taxable entity shall result from the commencement of a case under title 11 of the United States Code." 11 USC 101 *et seq.*

(2) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by adding at the end thereof the following new item:

"SUBCHAPTER V. Title 11 cases."

(b) RETURN REQUIREMENTS.—

26 USC 6012. (1) Subsection (a) of section 6012 (relating to persons required to make returns of income) is amended by adding at the end thereof the following new paragraph:

"(9) Every estate of an individual under chapter 7 or 11 of title 11 of the United States Code (relating to bankruptcy) the gross income of which for the taxable year is $2,700 or more." 11 USC 701 *et seq.*, 1101 *et seq.*

(2) Paragraph (4) of section 6012(b) (relating to returns of estates and trusts) is amended by striking out "an estate or a trust" and inserting in lieu thereof "an estate, a trust, or an estate of an individual under chapter 7 or 11 of title 11 of the United States Code". 26 USC 6012.

(c) DISCLOSURE OF RETURNS.—

(1) Subsection (e) of section 6103 (relating to confidentiality and disclosure of returns and return information) is amended by striking out paragraph (4), by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (3) the following new paragraphs: 26 USC 6103.

"(4) TITLE 11 CASES AND RECEIVERSHIP PROCEEDINGS.—If—

"(A) there is a trustee in a title 11 case in which the debtor is the person with respect to whom the return is filed, or 11 USC 101 *et seq.*

"(B) substantially all of the property of the person with respect to whom the return is filed is in the hands of a receiver,

such return or returns for prior years of such person shall, upon written request, be open to inspection by or disclosure to such trustee or receiver, but only if the Secretary finds that such trustee or receiver, in his fiduciary capacity, has a material interest which will be affected by information contained therein.

"(5) INDIVIDUAL'S TITLE 11 CASE.—

"(A) IN GENERAL.—In any case to which section 1398 applies (determined without regard to section 1398(b)(1)), any return of the debtor for the taxable year in which the case commenced or any preceding taxable year shall, upon written request, be open to inspection by or disclosure to the trustee in such case. *Ante*, p. 3397.

"(B) RETURN OF ESTATE AVAILABLE TO DEBTOR.—Any return of an estate in a case to which section 1398 applies shall, upon written request, be open to inspection by or disclosure to the debtor in such case.

"(C) SPECIAL RULE FOR INVOLUNTARY CASES.—In an involuntary case, no disclosure shall be made under subparagraph (A) until the order for relief has been entered by the court having jurisdiction of such case unless such court finds that such disclosure is appropriate for purposes of determining whether an order for relief should be entered."

(2) Paragraph (6) of section 6103(e) (as redesignated by paragraph (1)) is amended by striking out "or (4)" and inserting in lieu thereof "(4), or (5)". *Supra.*

(d) TECHNICAL AMENDMENT.—Subsection (e) of section 443 (relating to cross references) is amended by adding at the end thereof the following new sentence: 26 USC 443.

"For returns for a period of less than 12 months in the case of a debtor's election to terminate a taxable year, see section 1398(d)(3)(E)."

SEC. 4. CORPORATE REORGANIZATION PROVISIONS.

(a) CERTAIN TRANSFERS IN TITLE 11 OR SIMILAR CASES TO BE INCLUDED IN DEFINITION OF REORGANIZATION.—Paragraph (1) of section 368(a) (defining reorganization) is amended by adding at the end thereof the following new subparagraph: 11 USC 101 *et seq.* 26 USC 368.

"(G) a transfer by a corporation of all or part of its assets to another corporation in a title 11 or similar case; but only if,

in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 354, 355, or 356."

11 USC 101 *et seq.* 26 USC 368.

(b) ADDITIONAL RULES FOR COORDINATING TITLE 11 AND SIMILAR CASES WITH THE GENERAL REORGANIZATION RULES.—Section 368(a) is amended by adding at the end thereof the following new paragraph:

"(3) ADDITIONAL RULES RELATING TO TITLE 11 AND SIMILAR CASES.—

"(A) TITLE 11 OR SIMILAR CASE DEFINED.—For purposes of this part, the term 'title 11 or similar case' means—

"(i) a case under title 11 of the United States Code, or

"(ii) a receivership, foreclosure, or similar proceeding in a Federal or State court.

"(B) TRANSFER OF ASSETS IN A TITLE 11 OR SIMILAR CASE.—In applying paragraph (1)(G), a transfer of the assets of a corporation shall be treated as made in a title 11 or similar case if and only if—

"(i) such corporation is under the jurisdiction of the court in such case, and

"(ii) the transfer is pursuant to a plan of reorganization approved by the court.

"(C) REORGANIZATIONS QUALIFYING UNDER PARAGRAPH (1)(G) AND ANOTHER PROVISION.—If a transaction would (but for this subparagraph) qualify both—

"(i) under subparagraph (G) of paragraph (1), and

"(ii) under any other subparagraph of paragraph (1) or under section 332 or 351,

then, for purposes of this subchapter (other than section 357(c)(1)), such transaction shall be treated as qualifying only under subparagraph (G) of paragraph (1).

"(D) AGENCY RECEIVERSHIP PROCEEDINGS WHICH INVOLVE FINANCIAL INSTITUTIONS.—For purposes of subparagraphs (A) and (B), in the case of a receivership, foreclosure, or similar proceeding before a Federal or State agency involving a financial institution to which section 585 or 593 applies, the agency shall be treated as a court.

"(E) APPLICATION OF PARAGRAPH (2)(E)(ii).—In the case of a title 11 or similar case, the requirement of clause (ii) of paragraph (2)(E) shall be treated as met if—

"(i) no former shareholder of the surviving corporation received any consideration for his stock, and

"(ii) the former creditors of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, debt of the surviving corporation which had a fair market value equal to 80 percent or more of the total fair market value of the debt of the surviving corporation."

(c) TRANSFERS OF ASSETS TO SUBSIDIARIES.—Subparagraph (C) of section 368(a)(2) (relating to transfers of assets or stock to subsidiaries in certain paragraph (1)(A), (1)(B), and (1)(C) cases) is amended to read as follows:

"(C) TRANSFERS OF ASSETS OR STOCK TO SUBSIDIARIES IN CERTAIN PARAGRAPH (1)(A), (1)(B), (1)(C), AND (1)(G) CASES.—A transaction otherwise qualifying under paragraph (1)(A), (1)(B), or (1)(C) shall not be disqualified by reason of the fact that part or all of the assets or stock which were acquired in the transaction are transferred to a corporation controlled by the corporation acquiring such assets or stock. A similar

rule shall apply to a transaction otherwise qualifying under paragraph (1)(G) where the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met with respect to the acquisition of the assets or stock."

(d) USE OF STOCK OF CONTROLLING CORPORATION.—Subparagraph (D) of section 368(a)(2) (relating to use of stock of controlling corporation in paragraph (1)(A) cases) is amended to read as follows: 26 USC 368.

"(D) USE OF STOCK OF CONTROLLING CORPORATION IN PARAGRAPH (1)(A) AND (1)(G) CASES.—The acquisition by one corporation, in exchange for stock of a corporation (referred to in this subparagraph as 'controlling corporation') which is in control of the acquiring corporation, of substantially all of the properties of another corporation shall not disqualify a transaction under paragraph (1)(A) or (1)(G) if—

"(i) no stock of the acquiring corporation is used in the transaction, and

"(ii) in the case of a transaction under paragraph (1)(A), such transaction would have qualified under paragraph (1)(A) had the merger been into the controlling corporation."

(e) TREATMENT OF PROPERTY ATTRIBUTABLE TO ACCRUED INTEREST.—

(1) AMENDMENT OF SECTION 354.—Subsection (a) of section 354 (relating to exchanges of stocks and securities in certain reorganizations) is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following: 26 USC 354.

"(2) LIMITATIONS.—

"(A) EXCESS PRINCIPAL AMOUNT.—Paragraph (1) shall not apply if—

"(i) the principal amount of any such securities received exceeds the principal amount of any such securities surrendered, or

"(ii) any such securities are received and no such securities are surrendered.

"(B) PROPERTY ATTRIBUTABLE TO ACCRUED INTEREST.—Neither paragraph (1) nor so much of section 356 as relates to paragraph (1) shall apply to the extent that any stock, securities, or other property received is attributable to interest which has accrued on securities on or after the beginning of the holder's holding period.

"(3) CROSS REFERENCES.—

"(A) For treatment of the exchange if any property is received which is not permitted to be received under this subsection (including an excess principal amount of securities received over securities surrendered, but not including property to which paragraph (2)(B) applies), see section 356.

"(B) For treatment of accrued interest in the case of an exchange described in paragraph (2)(B), see section 61."

(2) AMENDMENT OF SECTION 355.—Subsection (a) of section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following: 26 USC 355.

"(3) LIMITATIONS.—

"(A) EXCESS PRINCIPAL AMOUNT.—Paragraph (1) shall not apply if—

"(i) the principal amount of the securities in the controlled corporation which are received exceeds the principal amount of the securities which are surrendered in connection with such distribution, or

"(ii) securities in the controlled corporation are received and no securities are surrendered in connection with such distribution.

"(B) STOCK ACQUIRED IN TAXABLE TRANSACTIONS WITHIN 5 YEARS TREATED AS BOOT.—For purposes of this section (other than paragraph (1)(D) of this subsection) and so much of section 356 as relates to this section, stock of a controlled corporation acquired by the distributing corporation by reason of any transaction—

"(i) which occurs within 5 years of the distribution of such stock, and

"(ii) in which gain or loss was recognized in whole or in part,

shall not be treated as stock of such controlled corporation, but as other property.

"(C) PROPERTY ATTRIBUTABLE TO ACCRUED INTEREST.—Neither paragraph (1) nor so much of section 356 as relates to paragraph (1) shall apply to the extent that any stock, securities, or other property received is attributable to interest which has accrued on securities on or after the beginning of the holder's holding period.

"(4) CROSS REFERENCES.—

"(A) For treatment of the exchange if any property is received which is not permitted to be received under this subsection (including an excess principal amount of securities received over securities surrendered, but not including property to which paragraph (3)(C) applies), see section 356.

"(B) For treatment of accrued interest in the case of an exchange described in paragraph (3)(C), see section 61."

(f) TERMINATION OF EXISTING PROVISIONS RELATING TO INSOLVENCY REORGANIZATIONS.—Part IV of subchapter C of chapter 1 (relating to insolvency reorganizations) is amended by inserting before section 371 the following new section:

26 USC 370.

"SEC. 370. TERMINATION OF PART.

"(a) GENERAL RULE.—Except as provided in subsection (b), this part shall not apply to any proceeding which is begun after September 30, 1979.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to subsections (c) and (e) of section 374."

26 USC 381.
Ante, p. 3401.

(g) CARRYOVER OF SECTION 381 ITEMS IN SECTION 368(a)(1)(G) REORGANIZATIONS.—Subsection (a) of section 381 (relating to carryovers in certain corporate acquisitions) is amended—

(1) by striking out "subparagraph (A), (C), (D) (but only if the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met), or (F) of section 368(a)(1)" in paragraph (2) and inserting in lieu thereof "subparagraph (A), (C), (D), (F), or (G) of section 368(a)(1)", and

(2) by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, a reorganization shall be treated as meeting the requirements of subparagraph (D) or (G) of section 368(a)(1) only if the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met."

26 USC 354.

(h) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraphs (1) and (2) of section 354(b) (relating to exception to general rule on exchanges of stock and securities in certain reorganizations) are each amended by striking out "section 368(a)(1)(D)" and inserting in lieu thereof "subparagraph (D) or (G) of section 368(a)(1)".

(2) Paragraph (2) of section 357(c) (relating to liabilities in excess of basis) is amended to read as follows: 26 USC 357.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to any exchange—

"(A) to which subsection (b)(1) of this section applies,

"(B) to which section 371 or 374 applies, or

"(C) which is pursuant to a plan of reorganization within the meaning of section 368(a)(1)(G) where no former shareholder of the transferor corporation receives any consideration for his stock."

(3) Paragraph (1) of section 368(a) (defining reorganization) is amended— 26 USC 368.

(A) by striking out "or" at the end of subparagraph (E), and

(B) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; or".

(4) Subsection (b) of section 368 (defining party to reorganization) is amended—

(A) by striking out "or (1)(C)" in the third sentence and inserting in lieu thereof "(1)(C), or (1)(G)", and

(B) by striking out "paragraph (1)(A)" in the fourth sentence and inserting in lieu thereof "paragraph (1)(A) or (1)(G)".

(5) The table of sections for part IV of subchapter C of chapter 1 is amended by inserting before the item relating to section 371 the following new item:

"Sec. 370. Termination of part."

SEC. 5. MISCELLANEOUS CORPORATE AMENDMENTS.

(a) EXCEPTION FROM PERSONAL HOLDING COMPANY TAX FOR CORPORATIONS IN TITLE 11 OR SIMILAR CASES.—Subsection (c) of section 542 (relating to exceptions from definition of personal holding company) is amended by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and" and by adding at the end thereof the following new paragraph: 11 USC 101 *et seq.* 26 USC 542.

"(9) a corporation which is subject to the jurisdiction of the court in a title 11 or similar case (within the meaning of section 368(a)(3)(A)) unless a major purpose of instituting or continuing such case is the avoidance of the tax imposed by section 541."

(b) REDEMPTION OF STOCK ISSUED IN RAILROAD REORGANIZATIONS.—

(1) IN GENERAL.—Subsection (b) of section 302 (relating to redemptions treated as exchanges) is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4). 26 USC 302.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 302 is amended by striking out "(2), (3), or (4)" and inserting in lieu thereof "(2), or (3)".

(B) Paragraph (4) of section 302(b) (as redesignated by paragraph (1)) is amended—

(i) by striking out "(2), (3), or (4)" and inserting in lieu thereof "(2) or (3)", and

(ii) by striking out "(1), (2), or (4)" and inserting in lieu thereof "(1) or (2)".

(c) SECTION 337 TO APPLY WHERE LIQUIDATING CORPORATION IS INSOLVENT.—Section 337 (relating to gain or loss on sales or exchanges in connection with certain liquidations) is amended by adding at the end thereof the following new subsection: 26 USC 337.

11 USC 101 *et seq.*
Ante, p. 3402.

"(g) TITLE 11 OR SIMILAR CASES.—If a corporation completely liquidates pursuant to a plan of complete liquidation adopted in a title 11 or similar case (within the meaning of section 368(a)(3)(A))—

"(1) for purposes of subsection (a), the term 'property' shall not include any item acquired on or after the date of the adoption of the plan of liquidation if such item is not property within the meaning of subsection (b)(2), and

"(2) subsection (a) shall apply to sales and exchanges by the corporation of property within the period beginning on the date of the adoption of the plan and ending on the date of the termination of the case."

26 USC 1371.

(d) ESTATE OF INDIVIDUAL IN TITLE 11 CASE PERMITTED TO BE SHAREHOLDER OF SUBCHAPTER S CORPORATION.—Section 1371 (defining small business corporation) is amended by adding at the end thereof the following new subsection:

"Estate."

"(f) ESTATE OF INDIVIDUAL IN TITLE 11 CASE MAY BE SHAREHOLDER.—For purposes of subsection (a)(2), the term 'estate' includes the estate of an individual in a case under title 11 of the United States Code."

26 USC 351.

(e) AMENDMENTS OF SECTION 351.—

(1) Section 351 (relating to transfer to corporation controlled by transferor) is amended by redesignating subsection (e) as subsection (f) and by striking out subsection (d) and inserting in lieu thereof the following new subsections:

"(d) SERVICES, CERTAIN INDEBTEDNESS, AND ACCRUED INTEREST NOT TREATED AS PROPERTY.—For purposes of this section, stock or securities issued for—

"(1) services,

"(2) indebtedness of the transferee corporation which is not evidenced by a security, or

"(3) interest on indebtedness of the transferee corporation which accrued on or after the beginning of the transferor's holding period for the debt,

shall not be considered as issued in return for property.

"(e) EXCEPTIONS.—This section shall not apply to—

"(1) TRANSFER OF PROPERTY TO AN INVESTMENT COMPANY.—A transfer of property to an investment company.

11 USC 101 *et seq.*
Ante, p. 3402.

"(2) TITLE 11 OR SIMILAR CASE.—A transfer of property of a debtor pursuant to a plan while the debtor is under the jurisdiction of a court in a title 11 or similar case (within the meaning of section 368(a)(3)(A)), to the extent that the stock or securities received in the exchange are used to satisfy the indebtedness of such debtor."

(2) Subsection (a) of section 351 is amended by striking out the last sentence.

26 USC 312.

(f) EFFECT ON EARNINGS AND PROFITS.—Section 312 (relating to effect on earnings and profits) is amended by adding at the end thereof the following new subsection:

"(l) DISCHARGE OF INDEBTEDNESS INCOME.—

"(1) DOES NOT INCREASE EARNINGS AND PROFITS IF APPLIED TO REDUCE BASIS.—The earnings and profits of a corporation shall not include income from the discharge of indebtedness to the extent of the amount applied to reduce basis under section 1017.
Ante, p. 3394.

"(2) REDUCTION OF DEFICIT IN EARNINGS AND PROFITS IN CERTAIN CASES.—If—

"(A) the interest of any shareholder of a corporation is terminated or extinguished in a title 11 or similar case (within the meaning of section 368(a)(3)(A)), and
Ante, p. 3402.

"(B) there is a deficit in the earnings and profits of the corporation,

then such deficit shall be reduced by an amount equal to the paid-in capital which is allocable to the interest of the shareholder which is so terminated or extinguished."

SEC. 6. CHANGES IN TAX PROCEDURES.

(a) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS DURING TITLE 11 CASES.—Section 6503 (relating to suspension of running of period of limitation) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection: 11 USC 101 *et seq.* 26 USC 6503.

"(i) CASES UNDER TITLE 11 OF THE UNITED STATES CODE.—The running of the period of limitations provided in section 6501 or 6502 on the making of assessments or collection shall, in a case under title 11 of the United States Code, be suspended for the period during which the Secretary is prohibited by reason of such case from making the assessment or from collecting and—

"(1) for assessment, 60 days thereafter, and

"(2) for collection, 6 months thereafter."

(b) COORDINATION OF DEFICIENCY PROCEDURES WITH TITLE 11 CASES.—

(1) IN GENERAL.—Section 6213 (relating to restrictions applicable to deficiencies; petition to Tax Court) is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection: 26 USC 6213.

"(f) COORDINATION WITH TITLE 11.—

"(1) SUSPENSION OF RUNNING OF PERIOD FOR FILING PETITION IN TITLE 11 CASES.—In any case under title 11 of the United States Code, the running of the time prescribed by subsection (a) for filing a petition in the Tax Court with respect to any deficiency shall be suspended for the period during which the debtor is prohibited by reason of such case from filing a petition in the Tax Court with respect to such deficiency, and for 60 days thereafter.

"(2) CERTAIN ACTION NOT TAKEN INTO ACCOUNT.—For purposes of the second and third sentences of subsection (a), the filing of a proof of claim or request for payment (or the taking of any other action) in a case under title 11 of the United States Code shall not be treated as action prohibited by such second sentence."

(2) CLERICAL AMENDMENT.—Subsection (d) of section 6404 (relating to abatements) is amended by striking out "section 6213(f)(2)(A)" and inserting in lieu thereof "section 6213(g)(2)(A)". 26 USC 6404. *Supra.*

(c) TRUSTEE OF DEBTOR'S ESTATE MAY INTERVENE IN TAX COURT PROCEEDING.—

(1) IN GENERAL.—Part II of subchapter C of chapter 76 (relating to Tax Court procedure) is amended by redesignating section 7464 as section 7465 and by inserting after section 7463 the following new section:

"SEC. 7464. INTERVENTION BY TRUSTEE OF DEBTOR'S ESTATE. 26 USC 7464.

"The trustee of the debtor's estate in any case under title 11 of the United States Code may intervene, on behalf of the debtor's estate, in any proceeding before the Tax Court to which the debtor is a party."

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter C of chapter 76 is amended by striking out the item relating to section 7464 and by inserting in lieu thereof the following:

"Sec. 7464. Intervention by trustee of debtor's estate.
"Sec. 7465. Provisions of special application to transferees."

11 USC 101 *et seq.*

(d) CROSS REFERENCES TO TAX DETERMINATIONS IN TITLE 11 CASES.—

26 USC 7430.

(1) AMENDMENT OF SECTION 7430.—Section 7430 (relating to cross references) is amended by striking out paragraphs (1), (2), (3), and (4) and inserting in lieu thereof the following new paragraph:

"(1) For determination of amount of any tax, additions to tax, etc., in title 11 cases, see section 505 of title 11 of the United States Code."

26 USC 6212.

(2) AMENDMENT OF SECTION 6212.—Paragraph (2) of section 6212(c) (relating to cross references) is amended by adding at the end thereof the following new sentence:

"For provisions allowing determination of tax in title 11 cases, see section 505(a) of title 11 of the United States Code."

26 USC 6512.

(3) AMENDMENT OF SECTION 6512.—Section 6512 (relating to limitations in case of petition to Tax Court) is amended by adding at the end thereof the following new subsection:

"(c) CROSS REFERENCE.—

"For provisions allowing determination of tax in title 11 cases, see section 505(a) of title 11 of the United States Code."

26 USC 6532.

(4) AMENDMENT OF SECTION 6532.—Subsection (a) of section 6532 (relating to periods of limitations on suits) is amended by adding at the end thereof the following new paragraph:

"(5) CROSS REFERENCE.—

"For substitution of 120-day period for the 6-month period contained in paragraph (1) in a title 11 case, see section 505(a)(2) of title 11 of the United States Code."

(e) RELIEF FROM CERTAIN PENALTIES IN TITLE 11 CASES.—

(1) IN GENERAL.—Subchapter A of chapter 68 (relating to additions to the tax and additional amounts) is amended by inserting after section 6657 the following new section:

26 USC 6658.

"SEC. 6658. COORDINATION WITH TITLE 11.

"(a) CERTAIN FAILURES TO PAY TAX.—No addition to the tax shall be made under section 6651, 6654, or 6655 for failure to make timely payment of tax with respect to a period during which a case is pending under title 11 of the United States Code—

11 USC 101 *et seq.*

"(1) if such tax was incurred by the estate and the failure occurred pursuant to an order of the court finding probable insufficiency of funds of the estate to pay administrative expenses, or

"(2) if—

"(A) such tax was incurred by the debtor before the earlier of the order for relief or (in the involuntary case) the appointment of a trustee, and

"(B)(i) the petition was filed before the due date prescribed by law (including extensions) for filing a return of such tax, or

"(ii) the date for making the addition to the tax occurs on or after the day on which the petition was filed.

"(b) EXCEPTION FOR COLLECTED TAXES.—Subsection (a) shall not apply to any liability for an addition to the tax which arises from the failure to pay or deposit a tax withheld or collected from others and required to be paid to the United States."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 68 is amended by inserting after the item relating to section 6657 the following:

"Sec. 6658. Coordination with title 11."

(f) CREDIT AGAINST FEDERAL UNEMPLOYMENT TAX NOT REDUCED IN CERTAIN CASES.—Subsection (a) of section 3302 (relating to credits against unemployment tax) is amended by adding at the end thereof the following new paragraph: 26 USC 3302.

"(5) In the case of wages paid by the trustee of an estate under title 11 of the United States Code, if the failure to pay contributions on time was without fault by the trustee, paragraph (3) shall be applied by substituting '100 percent' for '90 percent'." 11 USC 101 *et seq.*

(g) REMOVAL OF PROVISION FOR IMMEDIATE ASSESSMENT IN CERTAIN TITLE 11 CASES.—

(1) IN GENERAL.—Section 6871 (relating to claims for income, estate, and gift taxes in bankruptcy and receivership proceedings) is amended to read as follows: 26 USC 6871.

"SEC. 6871. CLAIMS FOR INCOME, ESTATE, GIFT, AND CERTAIN EXCISE TAXES IN RECEIVERSHIP PROCEEDINGS, ETC.

"(a) IMMEDIATE ASSESSMENT IN RECEIVERSHIP PROCEEDINGS.—On the appointment of a receiver for the taxpayer in any receivership proceeding before any court of the United States or of any State or of the District of Columbia, any deficiency (together with all interest, additional amounts, and additions to the tax provided by law) determined by the Secretary in respect of a tax imposed by subtitle A or B or by chapter 41, 42, 43, 44, or 45 on such taxpayer may, despite the restrictions imposed by section 6213(a) on assessments, be immediately assessed if such deficiency has not theretofore been assessed in accordance with law. 26 USC 1, 2001, 4911, 4940, 4971, 4981 *ante*, p. 230.

"(b) IMMEDIATE ASSESSMENT WITH RESPECT TO CERTAIN TITLE 11 CASES.—Any deficiency (together with all interest, additional amounts, and additions to the tax provided by law) determined by the Secretary in respect of a tax imposed by subtitle A or B or by chapter 41, 42, 43, 44, or 45 on—

"(1) the debtor's estate in a case under title 11 of the United States Code, or

"(2) the debtor, but only if liability for such tax has become res judicata pursuant to a determination in a case under title 11 of the United States Code,

may, despite the restrictions imposed by section 6213(a) on assessments, be immediately assessed if such deficiency has not theretofore been assessed in accordance with law.

"(c) CLAIM FILED DESPITE PENDENCY OF TAX COURT PROCEEDINGS.—In the case of a tax imposed by subtitle A or B or by chapter 41, 42, 43, 44, or 45—

"(1) claims for the deficiency and for interest, additional amounts, and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the receivership proceeding (or the case under title 11 of the United States Code) is pending, despite the pendency of proceedings for the redetermination of the deficiency pursuant to a petition to the Tax Court; but

"(2) in the case of a receivership proceeding, no petition for any such redetermination shall be filed with the Tax Court after the appointment of the receiver."

(2) AMENDMENT OF SECTION 6873.—Subsection (a) of section 6873 (relating to unpaid claims) is amended by striking out "or any proceeding under the Bankruptcy Act". 26 USC 6873.

(3) CLERICAL AMENDMENTS.—

(A) The table of sections for subchapter B of chapter 70 is amended by striking out the item relating to section 6871 and inserting in lieu thereof the following:

"Sec. 6871. Claims for income, estate, gift, and certain excise taxes in receivership proceedings, etc."

(B) The heading of subchapter B of chapter 70 is amended to read as follows:

"Subchapter B—Receiverships, Etc."

(C) The item relating to subchapter B in the table of subchapters for chapter 70 is amended to read as follows:

"SUBCHAPTER B. Receiverships, etc."

(D) The heading of chapter 70 is amended to read as follows:

"CHAPTER 70—JEOPARDY, RECEIVERSHIPS, ETC."

(E) The item relating to chapter 70 in the table of chapters for subtitle F is amended to read as follows:

"CHAPTER 70. Jeopardy, receiverships, etc."

26 USC 1018.

(h) REPEAL OF SECTION 1018.—

(1) IN GENERAL.—Section 1018 (relating to adjustment of capital structure before September 22, 1938) is hereby repealed.

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1018.

(i) TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 128.

(1) Subsection (a) of section 128 (relating to cross references) is amended by striking out paragraph (1) and by redesignating paragraphs (2) through (9) as paragraphs (1) through (8), respectively.

26 USC 354.

(2) Subsection (c) of section 354 (relating to certain railroad reorganizations) is amended by striking out "approved by the Interstate Commerce Commission under section 77 of the Bankruptcy Act, or" and inserting in lieu thereof "confirmed under section 1173 of title 11 of the United States Code, or approved by the Interstate Commerce Commission".

26 USC 422.

(3) Paragraph (5) of section 422(c) (relating to certain transfers by insolvent individuals) is amended by striking out "under the Bankruptcy Act" and inserting in lieu thereof "under title 11 of the United States Code".

26 USC 1023.

(4) Section 1023 (relating to cross references) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

26 USC 6012.

(5) Paragraph (3) of section 6012(b) (relating to receivers, trustees, and assignees for corporations) is amended by striking out "trustee in bankruptcy" and inserting in lieu thereof "trustee in a case under title 11 of the United States Code".

26 USC 6036.

(6) Section 6036 (relating to notice of qualification as executor or receiver) is amended by striking out "trustee in bankruptcy" and inserting in lieu thereof "trustee in a case under title 11 of the United States Code".

26 USC 6155.

(7) Paragraph (2) of section 6155(b) (relating to cross references) is amended by striking out "bankruptcy or".

26 USC 6161.

(8) Subsection (c) of section 6161 (relating to claims in bankruptcy or receivership proceedings) is amended—

(A) by striking out "in bankruptcy or receivership proceedings" and inserting in lieu thereof "in cases under title 11 of the United States Code or in receivership proceedings", and 11 USC 101 *et seq.*

(B) by striking out "BANKRUPTCY OR RECEIVERSHIP PROCEEDINGS" in the subsection heading and inserting in lieu thereof "CASES UNDER TITLE 11 OF THE UNITED STATES CODE OR IN RECEIVERSHIP PROCEEDINGS".

(9) Paragraph (1) of section 6216 (relating to cross references) is amended to read as follows: 26 USC 6216.

"(1) For procedures relating to receivership proceedings, see subchapter B of chapter 70."

(10)(A) Section 6326 (relating to cross references) is amended by striking out paragraphs (2), (3), (4), and (5) and inserting in lieu thereof the following: 26 USC 6326.

"(2) For exclusion of tax liability from discharge in cases under title 11 of the United States Code, see section 523 of such title 11.

"(3) For recognition of tax liens in cases under title 11 of the United States Code, see sections 545 and 724 of such title 11.

"(4) For collection of taxes in connection with plans for individuals with regular income in cases under title 11 of the United States Code, see section 1328 of such title 11."

(B) Section 6326 is amended by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(11) Paragraph (2) of section 6503(i) (relating to cross references) is amended to read as follows: 26 USC 6503.

"(2) Receiverships, see subchapter B of chapter 70."

(12) Section 6872 (relating to suspension period on assessment) is amended by striking out "any proceeding under the Bankruptcy Act" and by inserting in lieu thereof "any case under title 11 of the United States Code". 26 USC 6872.

(13) Section 7430 (as amended by this Act) is amended by inserting after paragraph (1) the following new paragraphs: 26 USC 7430.

"(2) For exclusion of tax liability from discharge in cases under title 11 of the United States Code, see section 523 of such title 11.

"(3) For recognition of tax liens in cases under title 11 of the United States Code, see sections 545 and 724 of such title 11.

"(4) For collection of taxes in connection with plans for individuals with regular income in cases under title 11 of the United States Code, see section 1328 of such title 11."

(14) Paragraph (1) of section 7508(d) is amended by striking out "BANKRUPTCY AND RECEIVERSHIPS" in the paragraph heading and inserting in lieu thereof "CASES UNDER TITLE 11 OF THE UNITED STATES CODE AND RECEIVERSHIPS". 26 USC 7508.

SEC. 7. EFFECTIVE DATES. 26 USC 108 note.

(a) For section 2 (Relating to Tax Treatment of Discharge of Indebtedness).— *Ante*, p. 3389.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by section 2 shall apply to any transaction which occurs after December 31, 1980, other than a transaction which occurs in a proceeding in a bankruptcy case or similar judicial proceeding (or in a proceeding under the Bankruptcy Act) commencing on or before December 31, 1980. 11 USC note prec. 101.

(2) TRANSITIONAL RULE.—In the case of any discharge of indebtedness to which subparagraph (A) or (B) of section 108(a)(1) of the Internal Revenue Code of 1954 (relating to exclusion from gross income), as amended by section 2, applies and which occurs before January 1, 1982, or which occurs in a proceeding in a *Ante*, p. 3389.

bankruptcy case or similar judicial proceedings commencing before January 1, 1982, then—

Ante, p. 3389.

(A) section 108(b)(2) of the such Code (relating to reduction of tax attributes), as so amended, shall be applied without regard to subparagraphs (A), (B), (C), and (E) thereof, and

Ante, p. 3394.

(B) the basis of any property shall not be reduced under section 1017 of such Code (relating to reduction in basis in connection with discharges of indebtedness), as so amended, below the fair market value of such property on the date the debt is discharged.

(b) FOR SECTION 3 (RELATING TO RULES RELATING TO TITLE 11 CASES FOR INDIVIDUALS).—The amendments made by section 3 shall apply to any bankruptcy case commencing more than 90 days after the date of the enactment of this Act.

Ante, p. 3397.
11 USC 101 *et seq.*

Ante, p. 3401.

(c) FOR SECTION 4 (RELATING TO CORPORATE REORGANIZATION PROVISIONS).—

(1) IN GENERAL.—The amendments made by section 4 shall apply to any bankruptcy case or similar judicial proceeding commencing after December 31, 1980.

(2) EXCHANGES OF PROPERTY FOR ACCRUED INTEREST.—The amendments made by subsection (e) of section 4 (relating to treatment of property attributable to accrued interest) shall also apply to any exchange—

(A) which occurs after December 31, 1980, and

(B) which does not occur in a bankruptcy case or similar judicial proceeding (or in a proceeding under the Bankruptcy Act) commenced on or before December 31, 1980.

Ante, p. 3405.

(d) FOR SECTION 5 (RELATING TO MISCELLANEOUS CORPORATE AMENDMENTS).—

(1) FOR SUBSECTION (a) (RELATING TO EXEMPTION FROM PERSONAL HOLDING COMPANY TAX).—The amendments made by subsection (a) of section 5 shall apply to any bankruptcy case or similar judicial proceeding commenced after December 31, 1980.

(2) FOR SUBSECTION (b) (RELATING TO REPEAL OF SPECIAL TREATMENT FOR CERTAIN RAILROAD REDEMPTIONS).—The amendments made by subsection (b) of section 5 shall apply to stock which is issued after December 31, 1980 (other than stock issued pursuant to a plan of reorganization approved on or before that date).

(3) FOR SUBSECTION (c) (RELATING TO APPLICATION OF 12-MONTH LIQUIDATION RULE).—The amendment made by subsection (c) of section 5 shall apply to any bankruptcy case or similar judicial proceeding commenced after December 31, 1980.

(4) FOR SUBSECTION (d) (RELATING TO PERMITTING BANKRUPTCY ESTATE TO BE SUBCHAPTER S SHAREHOLDER).—The amendment made by subsection (d) of section 5 shall apply to any bankruptcy case commenced on or after October 1, 1979.

(5) FOR SUBSECTION (e) (RELATING TO CERTAIN TRANSFERS TO CONTROLLED CORPORATIONS).—The amendments made by subsection (e) of section 5 shall apply as provided in subsection (a) of this section.

(6) FOR SUBSECTION (f) (RELATING TO EFFECT OF DEBT DISCHARGE ON EARNINGS AND PROFITS).—The amendment made by subsection (f) of section 5 shall apply as provided in subsection (a) of this section.

Ante, p. 3407.

(e) FOR SECTION 6 (RELATING TO CHANGES IN TAX PROCEDURES).—The amendments made by section 6 shall take effect on October 1, 1979, but shall not apply to any proceeding under the Bankruptcy Act commenced before October 1, 1979.

(f) ELECTION TO SUBSTITUTE SEPTEMBER 30, 1979, FOR DECEMBER 31, 1980.—

(1) IN GENERAL.—The debtor (or debtors) in a bankruptcy case or similar judicial proceeding may (with the approval of the court) elect to apply subsections (a), (c), and (d) by substituting "September 30, 1979" for "December 31, 1980" each place it appears in such subsections.

(2) EFFECT OF ELECTION.—Any election made under paragraph (1) with respect to any proceeding shall apply to all parties to the proceeding.

(3) REVOCATION ONLY WITH CONSENT.—Any election under this subsection may be revoked only with the consent of the Secretary of the Treasury or his delegate.

(4) TIME AND MANNER OF ELECTION.—Any election under this subsection shall be made at such time, and in such manner, as the Secretary of the Treasury or his delegate may by regulations prescribe.

(g) DEFINITIONS.—For purposes of this section—

(1) BANKRUPTCY CASE.—The term "bankruptcy case" means any case under title 11 of the United States Code (as recodified by Public Law 95-598). 11 USC 101 *et seq.*

(2) SIMILAR JUDICIAL PROCEEDING.—The term "similar judicial proceeding" means a receivership, foreclosure, or similar proceeding in a Federal or State court (as modified by section 368(a)(3)(D) of the Internal Revenue Code of 1954). *Ante*, p. 3402.

Approved December 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT: No. 96-833 (Comm. on Ways and Means).
SENATE REPORT: No. 96-1035 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Mar. 24, considered and passed House.
Dec. 13, considered and passed Senate, amended; House agreed to Senate amendments.

79-194 O—81—pt. 3——49 : QL3

Public Law 96-590
96th Congress

An Act

Dec. 24, 1980
[S. 3261]

To amend section 222 of the Communications Act of 1934 in order to include Hawaii in the same category as other States for the purposes of such section.

Communications Act of 1934, amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 222(a)(10) of the Communications Act of 1934 (47 U.S.C. 222(a)(10)) is amended by striking out ", except Hawaii".

SEC. 2. Section 222 of the Communications Act of 1934 (47 U.S.C. 222), as amended, is further amended by adding at the end thereof the following new subsection:

"(g)(1) The authority of any carrier to provide any service or operate any facilities which it is authorized to provide or operate on the date of enactment of this subsection shall not be altered solely by the inclusion of Hawaii within the definition of 'Continental United States', nor shall such inclusion restrict or impair any carrier's eligibility after the date of enactment of this subsection for new or additional authority.

"(2) Whenever, upon a complaint or upon its own initiative, and after opportunity for a hearing, the Commission finds that any charge, classification, regulation, or practice relating to intercarrier arrangements of any carrier serving Hawaii is or will be unjust, unreasonable, discriminatory, or not in the public interest, the Commission shall determine and prescribe what charge, classification, regulation, or practice, or such other remedy as is or will be just, reasonable, nondiscriminatory and in the public interest to be thereafter followed.".

Approved December 24, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 11, considered and passed Senate.
Dec. 12, considered and passed House.

Public Law 96-591
96th Congress

An Act

To unify the rules for preventing collisions on the inland waters of the United States, and for other purposes.

Dec. 24, 1980
[H.R. 6671]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Inland Navigational Rules Act of 1980"

Inland Navigational Rules Act of 1980. 33 USC 2001 note.

SEC. 2. Inland Navigational Rules:

PART A—GENERAL

RULE 1

Application

(a) These Rules apply to all vessels upon the inland waters of the United States, and to vessels of the United States on the Canadian waters of the Great Lakes to the extent that there is no conflict with Canadian law. 33 USC 2001.

(b)(i) These Rules constitute special rules made by an appropriate authority within the meaning of Rule 1(b) of the International Regulations.

(ii) All vessels complying with the construction and equipment requirements of the International Regulations are considered to be in compliance with these Rules.

(c) Nothing in these Rules shall interfere with the operation of any special rules made by the Secretary of the Navy with respect to additional station or signal lights and shapes or whistle signals for ships of war and vessels proceeding under convoy, or by the Secretary with respect to additional station or signal lights and shapes for fishing vessels engaged in fishing as a fleet. These additional station or signal lights and shapes or whistle signals shall, so far as possible, be such that they cannot be mistaken for any light, shape, or signal authorized elsewhere under these Rules. Notice of such special rules shall be published in the Federal Register and, after the effective date specified in such notice, they shall have effect as if they were a part of these Rules.

(d) Vessel traffic service regulations may be in effect in certain areas.

(e) Whenever the Secretary determines that a vessel or class of vessels of special construction or purpose cannot comply fully with the provisions of any of these Rules with respect to the number, position, range, or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signaling appliances, without interfering with the special function of the vessel, the vessel shall comply with such other provisions in regard to the number, position, range, or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signaling appliances, as the Secretary shall have determined to be the closest possible compliance with these Rules. The Secretary may issue a certificate of alternative

compliance for a vessel or class of vessels specifying the closest possible compliance with these Rules. The Secretary of the Navy shall make these determinations and issue certificates of alternative compliance for vessels of the Navy.

(f) The Secretary may accept a certificate of alternative compliance issued by a contracting party to the International Regulations if he determines that the alternative compliance standards of the contracting party are substantially the same as those of the United States.

RULE 2

Responsibility

33 USC 2002.

(a) Nothing in these Rules shall exonerate any vessel, or the owner, master, or crew thereof, from the consequences of any neglect to comply with these Rules or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

(b) In construing and complying with these Rules due regard shall be had to all dangers of navigation and collision and to any special circumstances, including the limitations of the vessels involved, which may make a departure from these Rules necessary to avoid immediate danger.

RULE 3

General Definitions

33 USC 2003.

For the purpose of these Rules and this Act, except where the context otherwise requires:

(a) The word "vessel" includes every description of water craft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water;

(b) The term "power-driven vessel" means any vessel propelled by machinery;

(c) The term "sailing vessel" means any vessel under sail provided that propelling machinery, if fitted, is not being used;

(d) The term "vessel engaged in fishing" means any vessel fishing with nets, lines, trawls, or other fishing apparatus which restricts maneuverability, but does not include a vessel fishing with trolling lines or other fishing apparatus which do not restrict maneuverability;

(e) The word "seaplane" includes any aircraft designed to maneuver on the water;

(f) The term "vessel not under command" means a vessel which through some exceptional circumstance is unable to maneuver as required by these Rules and is therefore unable to keep out of the way of another vessel;

(g) The term "vessel restricted in her ability to maneuver" means a vessel which from the nature of her work is restricted in her ability to maneuver as required by these Rules and is therefore unable to keep out of the way of another vessel; vessels restricted in their ability to maneuver include, but are not limited to:

(i) a vessel engaged in laying, servicing, or picking up a navigation mark, submarine cable, or pipeline;

(ii) a vessel engaged in dredging, surveying, or underwater operations;

(iii) a vessel engaged in replenishment or transferring persons, provisions, or cargo while underway;

(iv) a vessel engaged in the launching or recovery of aircraft;

(v) a vessel engaged in minesweeping operations; and

(vi) a vessel engaged in a towing operation such as severely restricts the towing vessel and her tow in their ability to deviate from their course.

(h) The word "underway" means that a vessel is not at anchor, or made fast to the shore, or aground;

(i) The words "length" and "breadth" of a vessel mean her length overall and greatest breadth;

(j) Vessels shall be deemed to be in sight of one another only when one can be observed visually from the other;

(k) The term "restricted visibility" means any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms, or any other similar causes;

(l) "Western Rivers" means the Mississippi River, its tributaries, South Pass, and Southwest Pass, to the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States, and the Port Allen-Morgan City Alternate Route, and that part of the Atchafalaya River above its junction with the Port Allen-Morgan City Alternate Route including the Old River and the Red River;

(m) "Great Lakes" means the Great Lakes and their connecting and tributary waters including the Calumet River as far as the Thomas J. O'Brien Lock and Controlling Works (between mile 326 and 327), the Chicago River as far as the east side of the Ashland Avenue Bridge (between mile 321 and 322), and the Saint Lawrence River as far east as the lower exit of Saint Lambert Lock;

(n) "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(o) "Inland Waters" means the navigable waters of the United States shoreward of the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States and the waters of the Great Lakes on the United States side of the International Boundary;

(p) "Inland Rules" or "Rules" mean the Inland Navigational Rules and the annexes thereto, which govern the conduct of vessels and specify the lights, shapes, and sound signals that apply on inland waters; and

(q) "International Regulations" means the International Regulations for Preventing Collisions at Sea, 1972, including annexes currently in force for the United States. 33 USC 1602 note.

PART B—STEERING AND SAILING RULES

SUBPART I—CONDUCT OF VESSELS IN ANY CONDITION OF VISIBILITY

RULE 4

Application

Rules in this subpart apply in any condition of visibility. 33 USC 2004.

RULE 5

Look-out

33 USC 2005.

Every vessel shall at all times maintain a proper look-out by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

RULE 6

Safe Speed

33 USC 2006.

Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions.

In determining a safe speed the following factors shall be among those taken into account:

(a) By all vessels:

(i) the state of visibility;

(ii) the traffic density including concentration of fishing vessels or any other vessels;

(iii) the maneuverability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions;

(iv) at night the presence of background light such as from shores lights or from back scatter of her own lights;

(v) the state of wind, sea, and current, and the proximity of navigational hazards;

(vi) the draft in relation to the available depth of water.

(b) Additionally, by vessels with operational radar:

(i) the characteristics, efficiency and limitations of the radar equipment;

(ii) any constraints imposed by the radar range scale in use;

(iii) the effect on radar detection of the sea state, weather, and other sources of interference;

(iv) the possibility that small vessels, ice and other floating objects may not be detected by radar at an adequate range;

(v) the number, location, and movement of vessels detected by radar; and

(vi) the more exact assessment of the visibility that may be possible when radar is used to determine the range of vessels or other objects in the vicinity.

RULE 7

Risk of Collision

33 USC 2007.

(a) Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt such risk shall be deemed to exist.

(b) Proper use shall be made of radar equipment if fitted and operational, including long-range scanning to obtain early warning of risk of collision and radar plotting or equivalent systematic observation of detected objects.

(c) Assumptions shall not be made on the basis of scanty information, especially scanty radar information.

(d) In determining if risk of collision exists the following considerations shall be among those taken into account:

(i) such risk shall be deemed to exist if the compass bearing of an approaching vessel does not appreciably change; and

(ii) such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large vessel or a tow or when approaching a vessel at close range.

RULE 8

Action To Avoid Collision

(a) Any action taken to avoid collision shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship. 33 USC 2008.

(b) Any alteration of course or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another vessel observing visually or by radar; a succession of small alterations of course or speed should be avoided.

(c) If there is sufficient sea room, alteration of course alone may be the most effective action to avoid a close-quarters situation provided that it is made in good time, is substantial and does not result in another close-quarters situation.

(d) Action taken to avoid collision with another vessel shall be such as to result in passing at a safe distance. The effectiveness of the action shall be carefully checked until the other vessel is finally past and clear.

(e) If necessary to avoid collision or allow more time to assess the situation, a vessel shall slacken her speed or take all way off by stopping or reversing her means of propulsion.

RULE 9

Narrow Channels

(a)(i) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable. 33 USC 2009.

(ii) Notwithstanding paragraph (a)(i) and Rule 14(a), a power-driven vessel operating in narrow channels or fairways on the Great Lakes, Western Rivers, or waters specified by the Secretary, and proceeding downbound with a following current shall have the right-of-way over an upbound vessel, shall propose the manner and place of passage, and shall initiate the maneuvering signals prescribed by Rule 34(a)(i), as appropriate. The vessel proceeding upbound against the current shall hold as necessary to permit safe passing.

(b) A vessel of less than 20 meters in length or a sailing vessel shall not impede the passage of a vessel that can safely navigate only within a narrow channel or fairway.

(c) A vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway.

(d) A vessel shall not cross a narrow channel or fairway if such crossing impedes the passage of a vessel which can safely navigate only within that channel or fairway. The latter vessel shall use the danger signal prescribed in Rule 34(d) if in doubt as to the intention of the crossing vessel.

(e)(i) In a narrow channel or fairway when overtaking, the vessel intending to overtake shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) and take steps to permit safe passing. The overtaken vessel, if in agreement, shall sound the same signal. If in doubt she shall sound the danger signal prescribed in Rule 34(d).

(ii) This Rule does not relieve the overtaking vessel of her obligation under Rule 13.

(f) A vessel nearing a bend or an area of a narrow channel or fairway where other vessels may be obscured by an intervening obstruction shall navigate with particular alertness and caution and shall sound the appropriate signal prescribed in Rule 34(e).

(g) Every vessel shall, if the circumstances of the case admit, avoid anchoring in a narrow channel.

RULE 10

Vessel Traffic Services

33 USC 2010. Each vessel required by regulation to participate in a vessel traffic service shall comply with the applicable regulations.

SUBPART II—CONDUCT OF VESSELS IN SIGHT OF ONE ANOTHER

RULE 11

Application

33 USC 2011. Rules in this subpart apply to vessels in sight of one another.

RULE 12

Sailing Vessels

33 USC 2012. (a) When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows:

(i) when each has the wind on a different side, the vessel which has the wind on the port side shall keep out of the way of the other;

(ii) when both have the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward; and

(iii) if a vessel with the wind on the port side sees a vessel to windward and cannot determine with certainty whether the other vessel has the wind on the port or on the starboard side, she shall keep out of the way of the other.

(b) For the purpose of this Rule the windward side shall be deemed to be the side opposite to that on which the mainsail is carried or, in the case of a square-rigged vessel, the side opposite to that on which the largest fore-and-aft sail is carried.

RULE 13

Overtaking

33 USC 2013. (a) Notwithstanding anything contained in Rules 4 through 18, any vessel overtaking any other shall keep out of the way of the vessel being overtaken.

(b) A vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft her beam; that is, in such a position with reference to the vessel she is overtaking, that at night she would be able to see only the sternlight of that vessel but neither of her sidelights.

(c) When a vessel is in any doubt as to whether she is overtaking another, she shall assume that this is the case and act accordingly.

(d) Any subsequent alteration of the bearing between the two vessels shall not make the overtaking vessel a crossing vessel within the meaning of these Rules or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

RULE 14

Head-on Situation

(a) When two power-driven vessels are meeting on reciprocal or nearly reciprocal courses so as to involve risk of collision each shall alter her course to starboard so that each shall pass on the port side of the other. 33 USC 2014.

(b) Such a situation shall be deemed to exist when a vessel sees the other ahead or nearly ahead and by night she could see the masthead lights of the other in a line or nearly in a line or both sidelights and by day she observes the corresponding aspect of the other vessel.

(c) When a vessel is in any doubt as to whether such a situation exists she shall assume that it does exist and act accordingly.

RULE 15

Crossing Situation

(a) When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on her starboard side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel. 33 USC 2015.

(b) Notwithstanding paragraph (a), on the Great Lakes, Western Rivers, or water specified by the Secretary, a vessel crossing a river shall keep out of the way of a power-driven vessel ascending or descending the river.

RULE 16

Action by Give-Way Vessel

Every vessel which is directed to keep out of the way of another vessel shall, so far as possible, take early and substantial action to keep well clear. 33 USC 2016.

RULE 17

Action by Stand-on Vessel

(a)(i) Where one of two vessels is to keep out of the way, the other shall keep her course and speed. 33 USC 2017.

(ii) The latter vessel may, however, take action to avoid collision by her maneuver alone, as soon as it becomes apparent to her that the vessel required to keep out of the way is not taking appropriate action in compliance with these Rules.

(b) When, from any cause, the vessel required to keep her course and speed finds herself so close that collision cannot be avoided by the

action of the give-way vessel alone, she shall take such action as will best aid to avoid collision.

(c) A power-driven vessel which takes action in a crossing situation in accordance with subparagraph (a)(ii) of this Rule to avoid collision with another power-driven vessel shall, if the circumstances of the case admit, not alter course to port for a vessel on her own port side.

(d) This Rule does not relieve the give-way vessel of her obligation to keep out of the way.

RULE 18

Responsibilities Between Vessels

33 USC 2018.

Except where Rules 9, 10, and 13 otherwise require:

(a) A power-driven vessel underway shall keep out of the way of:
(i) a vessel not under command;
(ii) a vessel restricted in her ability to maneuver;
(iii) a vessel engaged in fishing; and
(iv) a sailing vessel.

(b) A sailing vessel underway shall keep out of the way of:
(i) a vessel not under command;
(ii) a vessel restricted in her ability to maneuver; and
(iii) a vessel engaged in fishing.

(c) A vessel engaged in fishing when underway shall, so far as possible, keep out of the way of:
(i) a vessel not under command; and
(ii) a vessel restricted in her ability to maneuver.

(d) A seaplane on the water shall, in general, keep well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, she shall comply with the Rules of this Part.

SUBPART III—CONDUCT OF VESSELS IN RESTRICTED VISIBILITY

RULE 19

Conduct of Vessels in Restricted Visibility

33 USC 2019.

(a) This Rule applies to vessels not in sight of one another when navigating in or near an area of restricted visibility.

(b) Every vessel shall proceed at a safe speed adapted to the prevailing circumstances and conditions of restricted visibility. A power-driven vessel shall have her engines ready for immediate maneuver.

(c) Every vessel shall have due regard to the prevailing circumstances and conditions of restricted visibility when complying with Rules 4 through 10.

(d) A vessel which detects by radar alone the presence of another vessel shall determine if a close-quarters situation is developing or risk of collision exists. If so, she shall take avoiding action in ample time, provided that when such action consists of an alteration of course, so far as possible the following shall be avoided:

(i) an alteration of course to port for a vessel forward of the beam, other than for a vessel being overtaken; and

(ii) an alteration of course toward a vessel abeam or abaft the beam.

(e) Except where it has been determined that a risk of collision does not exist, every vessel which hears apparently forward of her beam the fog signal of another vessel, or which cannot avoid a close-

quarters situation with another vessel forward of her beam, shall reduce her speed to the minimum at which she can be kept on course. She shall if necessary take all her way off and, in any event, navigate with extreme caution until danger of collision is over.

PART C—LIGHTS AND SHAPES

RULE 20

Application

(a) Rules in this Part shall be complied with in all weathers. 33 USC 2020.
(b) The Rules concerning lights shall be complied with from sunset to sunrise, and during such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in these Rules or do not impair their visibility or distinctive character, or interfere with the keeping of a proper lookout.
(c) The lights prescribed by these Rules shall, if carried, also be exhibited from sunrise to sunset in restricted visibility and may be exhibited in all other circumstances when it is deemed necessary.
(d) The Rules concerning shapes shall be complied with by day.
(e) The lights and shapes specified in these Rules shall comply with the provisions of Annex I of these Rules.

RULE 21

Definitions

(a) "Masthead light" means a white light placed over the fore and 33 USC 2021.
aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side of the vessel, except that on a vessel of less than 12 meters in length the masthead light shall be placed as nearly as practicable to the fore and aft centerline of the vessel.
(b) "Sidelights" mean a green light on the starboard side and a red light on the port side each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on its respective side. On a vessel of less than 20 meters in length the side lights may be combined in one lantern carried on the fore and aft centerline of the vessel, except that on a vessel of less than 12 meters in length the sidelights when combined in one lantern shall be placed as nearly as practicable to the fore and aft centerline of the vessel.
(c) "Sternlight" means a white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel.
(d) "Towing light" means a yellow light having the same characteristics as the "sternlight" defined in paragraph (c) of this Rule.
(e) "All-round light" means a light showing an unbroken light over an arc of the horizon of 360 degrees.
(f) "Flashing light" means a light flashing at regular intervals at a frequency of 120 flashes or more per minute.
(g) "Special flashing light" means a yellow light flashing at regular intervals at a frequency of 50 to 70 flashes per minute, placed as far forward and as nearly as practicable on the fore and aft centerline of the tow and showing an unbroken light over an arc of the horizon of

not less than 180 degrees nor more than 225 degrees and so fixed as to show the light from right ahead to abeam and no more than 22.5 degrees abaft the beam on either side of the vessel.

RULE 22

Visibility of Lights

33 USC 2022.

The lights prescribed in these Rules shall have an intensity as specified in Annex I to these Rules, so as to be visible at the following minimum ranges:

(a) In a vessel of 50 meters or more in length:
a masthead light, 6 miles;
a sidelight, 3 miles;
a sternlight, 3 miles;
a towing light, 3 miles;
a white, red, green or yellow all-round light, 3 miles; and
a special flashing light, 2 miles.

(b) In a vessel of 12 meters or more in length but less than 50 meters in length:
a masthead light, 5 miles; except that where the length of the vessel is less than 20 meters, 3 miles;
a sidelight, 2 miles;
a sternlight, 2 miles;
a towing light, 2 miles;
a white, red, green or yellow all-round light, 2 miles; and
a special flashing light, 2 miles.

(c) In a vessel of less than 12 meters in length:
a masthead light, 2 miles;
a sidelight, 1 mile;
a sternlight, 2 miles;
a towing light, 2 miles;
a white, red, green or yellow all-round light, 2 miles; and
a special flashing light, 2 miles.

(d) In an inconspicuous, partly submerged vessel or object being towed:
a white all-round light, 3 miles.

RULE 23

Power-Driven Vessels Underway

33 USC 2023.

(a) A power-driven vessel underway shall exhibit:
(i) a masthead light forward; except that a vessel of less than 20 meters in length need not exhibit this light forward of amidships but shall exhibit it as far forward as is practicable;
(ii) a second masthead light abaft of and higher than the forward one; except that a vessel of less than 50 meters in length shall not be obliged to exhibit such light but may do so;
(iii) sidelights; and
(iv) a sternlight.

(b) An air-cushion vessel when operating in the nondisplacement mode shall, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit an all-round flashing yellow light where it can best be seen.

(c) A power-driven vessel of less than 12 meters in length may, in lieu of the lights prescribed in paragraph (a) of this Rule, exhibit an all-round white light and sidelights.

(d) A power-driven vessel when operating on the Great Lakes may carry an all-round white light in lieu of the second masthead light and sternlight prescribed in paragraph (a) of this Rule. The light shall be carried in the position of the second masthead light and be visible at the same minimum range.

RULE 24

Towing and Pushing

(a) A power-driven vessel when towing astern shall exhibit: 33 USC 2024.

(i) instead of the light prescribed either in Rule 23 (a)(i) or 23(a)(ii), two masthead lights in a vertical line. When the length of the tow, measuring from the stern of the towing vessel to the after end of the tow exceeds 200 meters, three such lights in a vertical line;

(ii) sidelights;

(iii) a sternlight;

(iv) a towing light in a vertical line above the sternlight; and

(v) when the length of the tow exceeds 200 meters, a diamond shape where it can best be seen.

(b) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and exhibit the lights prescribed in Rule 23.

(c) A power-driven vessel when pushing ahead or towing alongside, except as required by paragraphs (b) and (i) of this Rule, shall exhibit:

(i) instead of the light prescribed either in Rule 23(a)(i) or 23(a)(ii), two masthead lights in a vertical line;

(ii) sidelights; and

(iii) two towing lights in a vertical line.

(d) A power-driven vessel to which paragraphs (a) or (c) of this Rule apply shall also comply with Rule 23(a)(i) and 23(a)(ii).

(e) A vessel or object other than those referred to in paragraph (g) of this Rule being towed shall exhibit:

(i) sidelights;

(ii) a sternlight; and

(iii) when the length of the tow exceeds 200 meters, a diamond shape where it can best be seen.

(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel:

(i) a vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end sidelights, and a special flashing light; and

(ii) a vessel being towed alongside shall exhibit a sternlight and at the forward end sidelights.

(g) An inconspicuous, partly submerged vessel or object being towed shall exhibit:

(i) if it is less than 25 meters in breadth, one all-round white light at or near each end;

(ii) if it is 25 meters or more in breadth, four all-round white lights to mark its length and breadth;

(iii) if it exceeds 100 meters in length, additional all-round white lights between the lights prescribed in subparagraphs (i) and (ii) so that the distance between the lights shall not exceed 100 meters: *Provided,* That any vessels or objects being towed alongside each other shall be lighted as one vessel or object;

(iv) a diamond shape at or near the aftermost extremity of the last vessel or object being towed; and

(v) the towing vessel may direct a searchlight in the direction of the tow to indicate its presence to an approaching vessel.

(h) Where from any sufficient cause it is impracticable for a vessel or object being towed to exhibit the lights prescribed in paragraph (e) or (g) of this Rule, all possible measures shall be taken to light the vessel or object towed or at least to indicate the presence of the unlighted vessel or object.

(i) Notwithstanding paragraph (c), on the Western Rivers and on waters specified by the Secretary, a power-driven vessel when pushing ahead or towing alongside, except as paragraph (b) applies, shall exhibit:

(i) sidelights; and

(ii) two towing lights in a vertical line.

(j) Where from any sufficient cause it is impracticable for a vessel not normally engaged in towing operations to display the lights prescribed by paragraph (a), (c) or (i) of this Rule, such vessel shall not be required to exhibit those lights when engaged in towing another vessel in distress or otherwise in need of assistance. All possible measures shall be taken to indicate the nature of the relationship between the towing vessel and the vessel being assisted. The searchlight authorized by Rule 36 may be used to illuminate the tow.

RULE 25

Sailing Vessels Underway and Vessels Under Oars

33 USC 2025.

(a) A sailing vessel underway shall exhibit:

(i) sidelights; and

(ii) a sternlight.

(b) In a sailing vessel of less than 20 meters in length the lights prescribed in paragraph (a) of this Rule may be combined in one lantern carried at or near the top of the mast where it can best be seen.

(c) A sailing vessel underway may, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower green, but these lights shall not be exhibited in conjunction with the combined lantern permitted by paragraph (b) of this Rule.

(d)(i) A sailing vessel of less than 7 meters in length shall, if practicable, exhibit the lights prescribed in paragraph (a) or (b) of this Rule, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.

(ii) A vessel under oars may exhibit the lights prescribed in this Rule for sailing vessels, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.

(e) A vessel proceeding under sail when also being propelled by machinery shall exhibit forward where it can best be seen a conical shape, apex downward. A vessel of less than 12 meters in length is not required to exhibit this shape, but may do so.

RULE 26

Fishing Vessels

(a) A vessel engaged in fishing, whether underway or at anchor, shall exhibit only the lights and shapes prescribed in this Rule. 33 USC 2026.

(b) A vessel when engaged in trawling, by which is meant the dragging through the water of a dredge net or other apparatus used as a fishing appliance, shall exhibit:

(i) two all-round lights in a vertical line, the upper being green and the lower white, or a shape consisting of two cones with their apexes together in a vertical line one above the other; a vessel of less than 20 meters in length may instead of this shape exhibit a basket;

(ii) a masthead light abaft of and higher than the all-round green light; a vessel of less than 50 meters in length shall not be obliged to exhibit such a light but may do so; and

(iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(c) A vessel engaged in fishing, other than trawling, shall exhibit:

(i) two all-round lights in a vertical line, the upper being red and the lower white, or a shape consisting of two cones with apexes together in a vertical line one above the other; a vessel of less than 20 meters in length may instead of this shape exhibit a basket;

(ii) when there is outlying gear extending more than 150 meters horizontally from the vessel, an all-round white light or a cone apex upward in the direction of the gear; and

(iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(d) A vessel engaged in fishing in close proximity to other vessels engaged in fishing may exhibit the additional signals described in Annex II to these Rules.

(e) A vessel when not engaged in fishing shall not exhibit the lights or shapes prescribed in this Rule, but only those prescribed for a vessel of her length.

RULE 27

Vessels Not Under Command or Restricted in Their Ability To Maneuver 33 USC 2027.

(a) A vessel not under command shall exhibit:

(i) two all-round red lights in a vertical line where they can best be seen;

(ii) two balls or similar shapes in a vertical line where they can best be seen; and

(iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(b) A vessel restricted in her ability to maneuver, except a vessel engaged in minesweeping operations, shall exhibit:

(i) three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;

(ii) three shapes in a vertical line where they can best be seen. The highest and lowest of these shapes shall be balls and the middle one a diamond;

(iii) when making way through the water, masthead lights, sidelights and a sternlight, in addition to the lights prescribed in subparagraph (b)(i); and

(iv) when at anchor, in addition to the lights or shapes prescribed in subparagraphs (b) (i) and (ii), the light, lights or shapes prescribed in Rule 30.

(c) A vessel engaged in a towing operation which severely restricts the towing vessel and her tow in their ability to deviate from their course shall, in addition to the lights or shapes prescribed in subparagraphs (b) (i) and (ii) of this Rule, exhibit the lights or shape prescribed in Rule 24.

(d) A vessel engaged in dredging or underwater operations, when restricted in her ability to maneuver, shall exhibit the lights and shapes prescribed in subparagraphs (b) (i), (ii), and (iii) of this Rule and shall in addition, when an obstruction exists, exhibit:

(i) two all-round red lights or two balls in a vertical line to indicate the side on which the obstruction exists;

(ii) two all-round green lights or two diamonds in a vertical line to indicate the side on which another vessel may pass; and

(iii) when at anchor, the lights or shape prescribed by this paragraph, instead of the lights or shapes prescribed in Rule 30 for anchored vessels.

(e) Whenever the size of a vessel engaged in diving operations makes it impracticable to exhibit all lights and shapes prescribed in paragraph (d) of this Rule, the following shall instead be exhibited:

(i) Three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white.

(ii) A rigid replica of the international Code flag "A" not less than 1 meter in height. Measures shall be taken to insure its all-round visibility.

(f) A vessel engaged in minesweeping operations shall, in addition to the lights prescribed for a power-driven vessel in Rule 23, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach closer than 1,000 meters astern or 500 meters on either side of the minesweeper.

(g) A vessel of less than 12 meters in length, except when engaged in diving operations, is not required to exhibit the lights or shapes prescribed in this Rule.

(h) The signals prescribed in this Rule are not signals of vessels in distress and requiring assistance. Such signals are contained in Annex IV to these Rules.

33 USC 2028.

RULE 28

[Reserved]

RULE 29

Pilot Vessels

33 USC 2029.

(a) A vessel engaged on pilotage duty shall exhibit:

(i) at or near the masthead, two all-round lights in a vertical line, the upper being white and the lower red;

(ii) when underway, in addition, sidelights and a sternlight; and

(iii) when at anchor, in addition to the lights prescribed in subparagraph (i), the anchor light, lights, or shape prescribed in Rule 30 for anchored vessels.

(b) A pilot vessel when not engaged on pilotage duty shall exhibit the lights or shapes prescribed for a vessel of her length.

RULE 30

Anchored Vessels and Vessels Aground

(a) A vessel at anchor shall exhibit where it can best be seen: 33 USC 2030.
(i) in the fore part, an all-round white light or one ball; and
(ii) at or near the stern and at a lower level than the light prescribed in subparagraph (i), an all-round white light.

(b) A vessel of less than 50 meters in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in paragraph (a) of this Rule.

(c) A vessel at anchor may, and a vessel of 100 meters or more in length shall, also use the available working or equivalent lights to illuminate her decks.

(d) A vessel aground shall exhibit the lights prescribed in paragraph (a) or (b) of this Rule and in addition, if practicable, where they can best be seen:
(i) two all-round red lights in a vertical line; and
(ii) three balls in a vertical line.

(e) A vessel of less than 7 meters in length, when at anchor, not in or near a narrow channel, fairway, anchorage, or where other vessels normally navigate, shall not be required to exhibit the lights or shape prescribed in paragraphs (a) and (b) of this Rule.

(f) A vessel of less than 12 meters in length when aground shall not be required to exhibit the lights or shapes prescribed in subparagraphs (d) (i) and (ii) of this Rule.

(g) A vessel of less than 20 meters in length, when at anchor in a special anchorage area designated by the Secretary, shall not be required to exhibit the anchor lights and shapes required by this Rule.

RULE 31

Seaplanes

Where it is impracticable for a seaplane to exhibit lights and shapes of the characteristics or in the positions prescribed in the Rules of this Part she shall exhibit lights and shapes as closely similar in characteristics and position as is possible. 33 USC 2031.

PART D—SOUND AND LIGHT SIGNALS

RULE 32

Definitions

(a) The word "whistle" means any sound signaling appliance capable of producing the prescribed blasts and which complies with specifications in Annex III to these Rules. 33 USC 2032.

(b) The term "short blast" means a blast of about 1 second's duration.

(c) The term "prolonged blast" means a blast of from 4 to 6 seconds' duration.

RULE 33

Equipment for Sound Signals

33 USC 2033.

(a) A vessel of 12 meters or more in length shall be provided with a whistle and a bell and a vessel of 100 meters or more in length shall, in addition, be provided with a gong, the tone and sound of which cannot be confused with that of the bell. The whistle, bell and gong shall comply with the specifications in Annex III to these Rules. The bell or gong or both may be replaced by other equipment having the same respective sound characteristics, provided that manual sounding of the prescribed signals shall always be possible.

(b) A vessel of less than 12 meters in length shall not be obliged to carry the sound signaling appliances prescribed in paragraph (a) of this Rule but if she does not, she shall be provided with some other means of making an efficient sound signal.

RULE 34

Maneuvering and Warning Signals

33 USC 2034.

(a) When power-driven vessels are in sight of one another and meeting or crossing at a distance within half a mile of each other, each vessel underway, when maneuvering as authorized or required by these Rules:

(i) shall indicate that maneuver by the following signals on her whistle: one short blast to mean "I intend to leave you on my port side"; two short blasts to mean "I intend to leave you on my starboard side"; and three short blasts to mean "I am operating astern propulsion".

(ii) upon hearing the one or two blast signal of the other shall, if in agreement, sound the same whistle signal and take the steps necessary to effect a safe passing. If, however, from any cause, the vessel doubts the safety of the proposed maneuver, she shall sound the danger signal specified in paragraph (d) of this Rule and each vessel shall take appropriate precautionary action until a safe passing agreement is made.

(b) A vessel may supplement the whistle signals prescribed in paragraph (a) of this Rule by light signals:

(i) These signals shall have the following significance: one flash to mean "I intend to leave you on my port side"; two flashes to mean "I intend to leave you on my starboard side"; three flashes to mean "I am operating astern propulsion";

(ii) The duration of each flash shall be about 1 second; and

(iii) The light used for this signal shall, if fitted, be one all-round white or yellow light, visible at a minimum range of 2 miles, synchronized with the whistle, and shall comply with the provisions of Annex I to these Rules.

(c) When in sight of one another:

(i) a power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by the following signals on her whistle: one short blast to mean "I intend to overtake you on your starboard side"; two short blasts to mean "I intend to overtake you on your port side"; and

(ii) the power-driven vessel about to be overtaken shall, if in agreement, sound a similar sound signal. If in doubt she shall sound the danger signal prescribed in paragraph (d).

(d) When vessels in sight of one another are approaching each other and from any cause either vessel fails to understand the intentions or actions of the other, or is in doubt whether sufficient action is being taken by the other to avoid collision, the vessel in doubt shall immediately indicate such doubt by giving at least five short and rapid blasts on the whistle. This signal may be supplemented by a light signal of at least five short and rapid flashes.

(e) A vessel nearing a bend or an area of a channel or fairway where other vessels may be obscured by an intervening obstruction shall sound one prolonged blast. This signal shall be answered with a prolonged blast by any approaching vessel that may be within hearing around the bend or behind the intervening obstruction.

(f) If whistles are fitted on a vessel at a distance apart of more than 100 meters, one whistle only shall be used for giving maneuvering and warning signals.

(g) When a power-driven vessel is leaving a dock or berth, she shall sound one prolonged blast.

(h) A vessel that reaches agreement with another vessel in a meeting, crossing, or overtaking situation by using the radiotelephone as prescribed by the Bridge-to-Bridge Radiotelephone Act (85 Stat. 165; 33 U.S.C. 1207), is not obliged to sound the whistle signals prescribed by this Rule, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.

RULE 35

Sound Signals in Restricted Visibility

In or near an area of restricted visibility, whether by day or night, the signals prescribed in this Rule shall be used as follows: 33 USC 2035.

(a) A power-driven vessel making way through the water shall sound at intervals of not more than 2 minutes one prolonged blast.

(b) A power-driven vessel underway but stopped and making no way through the water shall sound at intervals of not more than 2 minutes two prolonged blasts in succession with an interval of about 2 seconds between them.

(c) A vessel not under command; a vessel restricted in her ability to maneuver, whether underway or at anchor; a sailing vessel; a vessel engaged in fishing, whether underway or at anchor; and a vessel engaged in towing or pushing another vessel shall, instead of the signals prescribed in paragraphs (a) or (b) of this Rule, sound at intervals of not more than 2 minutes, three blasts in succession; namely, one prolonged followed by two short blasts.

(d) A vessel towed or if more than one vessel is towed the last vessel of the tow, if manned, shall at intervals of not more than 2 minutes sound four blasts in succession; namely, one prolonged followed by three short blasts. When practicable, this signal shall be made immediately after the signal made by the towing vessel.

(e) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and shall give the signals prescribed in paragraphs (a) or (b) of this Rule.

(f) A vessel at anchor shall at intervals of not more than 1 minute ring the bell rapidly for about 5 seconds. In a vessel of 100 meters or more in length the bell shall be sounded in the forepart of the vessel

and immediately after the ringing of the bell the gong shall be sounded rapidly for about 5 seconds in the after part of the vessel. A vessel at anchor may in addition sound three blasts in succession; namely, one short, one prolonged and one short blast, to give warning of her position and of the possibility of collision to an approaching vessel.

(g) A vessel aground shall give the bell signal and if required the gong signal prescribed in paragraph (f) of this Rule and shall, in addition, give three separate and distinct strokes on the bell immediately before and after the rapid ringing of the bell. A vessel aground may in addition sound an appropriate whistle signal.

(h) A vessel of less than 12 meters in length shall not be obliged to give the above-mentioned signals but, if she does not, shall make some other efficient sound signal at intervals of not more than 2 minutes.

(i) A pilot vessel when engaged on pilotage duty may in addition to the signals prescribed in paragraphs (a), (b) or (f) of this Rule sound an identity signal consisting of four short blasts.

(j) The following vessels shall not be required to sound signals as prescribed in paragraph (f) of this Rule when anchored in a special anchorage area designated by the Secretary:

(i) a vessel of less than 20 meters in length; and

(ii) a barge, canal boat, scow, or other nondescript craft.

RULE 36

Signals To Attract Attention

33 USC 2036.

If necessary to attract the attention of another vessel, any vessel may make light or sound signals that cannot be mistaken for any signal authorized elsewhere in these Rules, or may direct the beam of her searchlight in the direction of the danger, in such a way as not to embarrass any vessel.

RULE 37

Distress Signals

33 USC 2037.

When a vessel is in distress and requires assistance she shall use or exhibit the signals described in Annex IV to these Rules.

PART E—EXEMPTIONS

RULE 38

Exemptions

33 USC 2038.

Any vessel or class of vessels, the keel of which is laid or which is at a corresponding stage of construction before the date of enactment of this Act, provided that she complies with the requirements of—

(a) The Act of June 7, 1897 (30 Stat. 96), as amended (33 U.S.C. 154-232) for vessels navigating the waters subject to that statute;

(b) Section 4233 of the Revised Statutes (33 U.S.C. 301-356) for vessels navigating the waters subject to that statute;

(c) The Act of February 8, 1895 (28 Stat. 645), as amended (33 U.S.C. 241-295) for vessels navigating the waters subject to that statute; or

(d) Sections 3, 4, and 5 of the Act of April 25, 1940 (54 Stat. 163), as amended (46 U.S.C. 526 b, c, and d) for motorboats navigating the

waters subject to that statute; shall be exempted from compliance with the technical Annexes to these Rules as follows:

(i) the installation of lights with ranges prescribed in Rule 22, until 4 years after the effective date of these Rules, except that vessels of less than 20 meters in length are permanently exempt;

(ii) the installation of lights with color specifications as prescribed in Annex I to these Rules, until 4 years after the effective date of these Rules, except that vessels of less than 20 meters in length are permanently exempt;

(iii) the repositioning of lights as a result of conversion to metric units and rounding off measurement figures, are permanently exempt; and

(iv) the horizontal repositioning of masthead lights prescribed by Annex I to these Rules:

(1) on vessels of less than 150 meters in length, permanent exemption.

(2) on vessels of 150 meters or more in length, until 9 years after the effective date of these Rules.

(v) the restructuring or repositioning of all lights to meet the prescriptions of Annex I to these Rules, until 9 years after the effective date of these Rules;

(vi) power-driven vessels of 12 meters or more but less than 20 meters in length are permanently exempt from the provisions of Rule 23(a)(i) and 23(a)(iv) provided that, in place of these lights, the vessel exhibits a white light aft visible all round the horizon; and

(vii) the requirements for sound signal appliances prescribed in Annex III to these Rules, until 9 years after the effective date of these Rules.

Regulations.
33 USC 2071.

SEC. 3. The Secretary may issue regulations necessary to implement and interpret this Act. The Secretary shall establish the following technical annexes to these Rules: Annex I, Positioning and Technical Details of Lights and Shapes; Annex II, Additional Signals for Fishing Vessels Fishing in Close Proximity; Annex III, Technical Details of Sound Appliances; and Annex IV, Distress Signals. These annexes shall be as consistent as possible with the respective annexes to the International Regulations. The Secretary may establish other technical annexes, including local pilot rules.

Violations.
33 USC 2072.

SEC. 4. (a) Whoever operates a vessel in violation of this Act, or of any regulation issued thereunder, or in violation of a certificate of alternative compliance issued under Rule 1 is liable to a civil penalty of not more than $5,000 for each violation.

Civil penalties.

(b) Every vessel subject to this Act, other than a public vessel being used for noncommercial purposes, that is operated in violation of this Act, or of any regulation issued thereunder, or in violation of a certificate of alternative compliance issued under Rule 1 is liable to a civil penalty of not more than $5,000 for each violation, for which penalty the vessel may be seized and proceeded against in the district court of the United States of any district within which the vessel may be found.

(c) The Secretary may assess any civil penalty authorized by this section. No such penalty may be assessed until the person charged, or the owner of the vessel charged, as appropriate, shall have been given notice of the violation involved and an opportunity for a hearing. For good cause shown, the Secretary may remit, mitigate, or compromise any penalty assessed. Upon the failure of the person charged, or the owner of the vessel charged, to pay an assessed penalty, as it may have been mitigated or compromised, the Secretary may request the

Attorney General to commence an action in the appropriate district court of the United States for collection of the penalty as assessed, without regard to the amount involved, together with such other relief as may be appropriate.

(d) The Secretary of the Treasury shall withhold or revoke, at the request of the Secretary, the clearance, required by section 4197 of the Revised Statutes of the United States (46 U.S.C. 91) of any vessel, the owner or operator of which is subject to any of the penalties in this section. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.

Rules of the Road Advisory Council. Establishment. 33 USC 2073.

SEC. 5. (a) The Secretary shall establish a Rules of the Road Advisory Council (hereinafter referred to as the Council) not exceeding 21 members. To assure balanced representation, members shall be chosen, insofar as practical, from the following groups: (1) recognized experts and leaders in organizations having an active interest in the Rules of the Road and vessel and port safety, (2) representatives of owners and operators of vessels, professional mariners, recreational boaters, and the recreational boating industry, (3) individuals with an interest in maritime law, and (4) Federal and State officials with responsibility for vessel and port safety. Additional persons may be appointed to panels of the Council to assist the Council in the performance of its functions.

(b) The Council shall advise, consult with, and make recommendations to the Secretary on matters relating to any major proposals for changes to the Inland Rules. The Council may recommend changes to the Inland Rules and International Regulations to the Secretary. Any advice or recommendation made by the Council to the Secretary shall reflect the independent judgment of the Council on the matter concerned. The Council shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All proceedings of the Council shall be public, and a record of the proceedings shall be made available for public inspection.

(c) The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary for the conduct of its business. Members of the Council who are not officers or employees of the United States shall, while attending meetings of the Council or while otherwise engaged in the business of the Council, be entitled to receive compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS-18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime; and while away from their home or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Payments under this section shall not render members of the Council officers or employees of the United States for any purpose.

Termination.

(d) Unless extended by subsequent Act of Congress, the Council shall terminate 5 years from the date of enactment of this Act.

SEC. 6. The International Navigational Rules Act of 1977 (91 Stat. 308; 33 U.S.C. 1601), is amended as follows:

33 USC 1604.

(1) in section 5 by amending subsection (a) to read as follows:

"The International Regulations do not apply to vessels while in the waters of the United States shoreward of the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States.";

33 USC 1605.

(2) in section 6, by adding a new subsection (d) as follows:

Public Law 96-592
96th Congress

An Act

To amend the Farm Credit Act of 1971 to permit Farm Credit System institutions to improve their services to borrowers, and for other purposes.

Dec. 24, 1980
[S. 1465]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Credit Act Amendments of 1980".

Farm Credit Act Amendments of 1980.
12 USC 2001 note.

TITLE I—FEDERAL LAND BANKS AND ASSOCIATIONS

SEC. 101. Section 1.4 of the Farm Credit Act of 1971 is amended by— 12 USC 2012.

(1) striking out in paragraph (6) "loans and" and inserting in lieu thereof "and participate in loans, make";

(2) inserting before the period at the end of paragraph (12) ", participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act, and participate with lenders which are not Farm Credit System institutions in loans that the bank is authorized to make under this title";

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(3) inserting after "System" in the first sentence of paragraph (14) "or any insured State nonmember bank as defined in section 2 of the Federal Deposit Insurance Act";

(4) striking out everything after the second comma in paragraph (15) and inserting in lieu thereof "and, as may be authorized by its board of directors and approved by the Farm Credit Administration, (i) sell to lenders which are not Farm Credit System institutions interests in loans, (ii) buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock, and (iii) make other investments."; and

(5) adding new paragraphs (22) and (23) as follows:

"(22) Accept contributions to its capital from Federal land bank associations and account therefor as authorized by the Farm Credit Administration.

"(23) As may be authorized by its board of directors and approved by the Farm Credit Administration, agree with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose.".

SEC. 102. Section 1.5 of the Farm Credit Act of 1971 is amended by— 12 USC 2013.

(1) striking out in subsection (b) "hypotheticated" and inserting in lieu thereof "hypothecated";

(2) striking out the first sentence of subsection (d) and inserting in lieu thereof two new sentences as follows: "Nonvoting stock may be issued to the Governor of the Farm Credit Administration, to borrowers as patronage refunds, and may also be issued to Federal land bank associations in amounts that will permit the bank to extend financial assistance to eligible persons other than farmers, ranchers, and producers or harvesters of aquatic products. Nonvoting stock also may be issued to and shall be

Nonvoting stock, issuance.

retired for other Farm Credit System institutions as may be authorized by its board of directors and approved by the Farm Credit Administration."; and

(3) adding new subsections (f) and (g) as follows:

Patronage refunds.

"(f) Patronage refunds may be paid in nonvoting stock, participation certificates, allocated surplus, and other equities of the bank, or cash, or in both equities and cash, as determined by the board of the bank, to borrowers of the fiscal year for which such patronage refunds are distributed. All patronage refunds shall be paid in the proportion that the amount of interest on the loans to each borrower during the year bears to the interest on the loans of all borrowers during the year or on such other proportionate patronage basis as the Farm Credit Administration may approve.

Equities, issuance.

"(g) Equities to evidence contributions to capital may be issued to Federal land bank associations when the bylaws of the bank so provide.".

12 USC 2014.

SEC. 103. Section 1.6 of the Farm Credit Act of 1971 is amended to read as follows:

"SEC. 1.6. REAL ESTATE MORTGAGE LOANS.—The Federal land banks are authorized to make or participate with other lenders in long-term real estate mortgage loans in rural areas, as defined by the Farm Credit Administration, or to producers or harvesters of aquatic products, and make continuing commitments to make such loans under specified circumstances, or extend other financial assistance of a similar nature to eligible borrowers, for a term of not less than five nor more than forty years.".

12 USC 2015.

SEC. 104. Section 1.7 of the Farm Credit Act of 1971 is amended by inserting before the period in the first sentence "as provided in section 4.17 of this Act".

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12 USC 2016.

SEC. 105. Section 1.8 of the Farm Credit Act of 1971 is amended by striking out in clause (1) "and ranchers" and inserting in lieu thereof ", ranchers, or producers or harvesters of aquatic products".

Loan security.
12 USC 2017.

SEC. 106. Section 1.9 of the Farm Credit Act of 1971 is amended by striking out the first sentence and inserting in lieu thereof the following: "Loans originated by a Federal land bank or in which it participates with a lender which is not a Farm Credit System institution shall not exceed 85 per centum of the appraised value of the real estate security, or such greater amount, not to exceed 97 per centum of the appraised value of the real estate security, as may be authorized under regulations of the Farm Credit Administration for loans guaranteed by Federal, State, or other governmental agencies, and shall be secured by first liens on interest in real estate of such classes as may be approved by the Farm Credit Administration.".

12 USC 2018.

SEC. 107. Section 1.10 of the Farm Credit Act of 1971 is amended by striking out the first sentence and inserting in lieu thereof the following: "Loans made by the Federal land banks to farmers, ranchers, and producers or harvesters of aquatic products may be for any agricultural or aquatic purpose and other credit needs of the applicant, including financing for basic processing and marketing directly related to the applicant's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products: *Provided*, That the applicant's operations shall supply at least 20 per centum, or such larger per centum that is required by the board of directors of the bank under regulations of the Farm Credit Administration, of the total processing or marketing for which financing is extended.".

12 USC 2019.

SEC. 108. Section 1.11 of the Farm Credit Act of 1971 is amended by inserting "and aquatic" before "operations".

SEC. 109. Section 1.12 of the Farm Credit Act of 1971 is amended by striking out the designation "(a)". 12 USC 2020.

SEC. 110. Section 1.15 of the Farm Credit Act of 1971 is amended by— 12 USC 2033.

(1) striking out in paragraph (13) "shall";

(2) striking out in paragraph (14) "may" the second time it appears; and

(3) adding a new paragraph (21) as follows:

"(21) Contribute to the capital of the bank.".

SEC. 111. Section 1.16 of the Farm Credit Act of 1971 is amended by— 12 USC 2034.

(1) striking out in the sixth sentence of subsection (a) "fair"; and

(2) adding a new subsection (c) as follows:

"(c) Notwithstanding the provisions of subsection (a) of this section, the purchase of stock need not be required with respect to that part of any loan (1) made by a Federal land bank which it sells to a lender which is not a Farm Credit System institution, or (2) that such lender retains or acquires in participating in the loan with a Federal land bank.".

SEC. 112. Section 1.17 of the Farm Credit Act of 1971 is amended by— 12 USC 2051.

(1) striking out in the last sentence of subsection (a) "exess" and inserting in lieu thereof "excess"; and

(2) amending subsection (b) by inserting ", and pay patronage refunds, or do any of them, as provided in its bylaws," after "dividends", and striking out "with" and inserting in lieu thereof "the".

SEC. 113. Section 1.18(b) of the Farm Credit Act of 1971 is amended to read as follows: Dividends. 12 USC 2052.

"(b) Any association may declare a dividend or dividends and pay patronage refunds, or do any of them, as provided in its bylaws, out of the whole or any part of its net earnings available therefor which remain after (1) maintenance of the reserve required in subsection (a) of this section and (2) bank approval. All patronage refunds shall be paid on the proportionate patronage basis approved by the bank. Dividends shall be noncumulative, and the rate of dividends may be different between classes and issues of stock and participation certificates on the basis of the comparative contributions of the holders thereof to the capital or earnings of the Federal land bank by such classes and issues, but otherwise dividends shall be without preference.".

SEC. 114. Section 1.19 of the Farm Credit Act of 1971 is amended by adding at the end thereof a new sentence as follows: "As may be authorized by the bank in accordance with regulations of the Farm Credit Administration, associations also may enter into agreements with other Farm Credit System institutions to share loan and other losses, whether to protect against capital impairment or for any other purpose.". 12 USC 2053.

SEC. 115. Section 1.20 of the Farm Credit Act of 1971 is amended by inserting after "stock" the second time it appears "or participation certificates," and inserting "or other Farm Credit System institutions" after "Administration". 12 USC 2054.

TITLE II—FEDERAL INTERMEDIATE CREDIT BANKS AND PRODUCTION CREDIT ASSOCIATIONS

SEC. 201. Section 2.1 of the Farm Credit Act of 1971 is amended by— 12 USC 2072.

(1) inserting after "System" in the first sentence of paragraph (12) "or any insured State nonmember bank as defined in section 2 of the Federal Deposit Insurance Act";

(2) striking out in paragraph (13) everything after "agency" the second time it appears and inserting in lieu thereof ", and, as may be authorized by its board of directors and approved by the Farm Credit Administration, (i) buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock, and (ii) make other investments.";

(3) amending paragraph (18) to read as follows:

"(18) As may be authorized by its board of directors and approved by the Farm Credit Administration, agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purposes,"; and

(4) inserting before the period at the end of paragraph (20) ", and participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act".

12 USC 2073.

SEC. 202. Section 2.2 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of the first sentence of subsection (d) ", and may be issued to and, notwithstanding the provisions of subsection (g) of this section, shall be retired for other Farm Credit System institutions as may be authorized by its board of directors and approved by the Farm Credit Administration";

(2) striking out in the second and fourth paragraphs of subsection (g) "fair";

(3) striking out everything through "Governor" in subsection (h) and inserting in lieu thereof "Except with regard to stock or participation certificates held by the Governor or other Farm Credit System institutions"; and

(4) striking out in subsection (i) "fair".

12 USC 2074.

SEC. 203. Section 2.3 of the Farm Credit Act of 1971 is amended to read as follows:

"SEC. 2.3. LOANS; DISCOUNTS; PARTICIPATION; LEASING.—(a) The Federal intermediate credit banks are authorized to make loans and extend other similar financial assistance to, and to discount for or purchase from—

"(1) any production credit association, or

"(2) any national bank, State bank, trust company, agricultural credit corporation, incorporated livestock loan company, savings institution, credit union, or any association of agricultural producers engaged in the making of loans to farmers and ranchers, and any corporation engaged in the making of loans to producers or harvesters of aquatic products,

any note, draft, or other obligation with its endorsement or guarantee, the proceeds of which note, draft, or other obligation have been advanced to persons and for purposes eligible for financing by production credit associations under section 2.15(a) (1), (2), and (3) of this Act.

12 USC 2096.

"(b) The Federal intermediate credit banks may participate with one or more production credit associations or intermediate credit banks in the making of loans to eligible borrowers and may participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act. The banks may own and lease or lease with

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option to purchase to persons eligible for assistance under this title, equipment needed in the operations of such persons.

"(c) No paper shall be purchased from or discounted for, and no loans shall be made or other similar financial assistance extended by a Federal intermediate credit bank to any entity identified in subsection (a) (1) and (2) of this section if the amount of such paper added to the aggregate liabilities of such entity, whether direct or contingent (other than bona fide deposit liabilities), exceeds ten times the paid-in and unimpaired capital and surplus of such entity or (in the case of financing institutions under subsection (a)(2) of this section) the amount of such liabilities permitted under the laws of the jurisdiction creating such institution, whichever is the lesser. It shall be unlawful for any national bank which is indebted to any Federal intermediate credit bank, upon paper discounted or purchased under subsection (a) of this section, to incur any additional indebtedness, if by virtue of such additional indebtedness its aggregate liabilities direct or contingent, will exceed the limitation herein contained.

"(d) All of the loans, financial assistance, discounts, and purchases authorized by this section shall be subject to regulations of the Farm Credit Administration and shall be secured by collateral, if any, as may be required in such regulations. The regulations shall assure that such loans, financial assistance, discounts, and purchases are available on a reasonable basis to any financing institution authorized to receive such services under subsection (a)(2) of this section that (i) is significantly involved in lending for agricultural or aquatic purposes, (ii) demonstrates a continuing need for supplementary sources of funds to meet the credit requirements of its agricultural or aquatic borrowers, (iii) has limited access to national or regional capital markets, and (iv) does not use such services to expand its financing activities to persons and for purposes other than those authorized in section 2.15(a) (1), (2), and (3) of this Act. The regulations may authorize a Federal intermediate credit bank to charge reasonable fees for any commitment to extend service under this section to such a financing institution. For purposes of this subsection, a financing institution together with its subsidiaries and affiliates may be considered as one but such determination to consider such institution together with its subsidiaries and affiliates as one shall be made in the first instance by the bank and in the event of a denial by the bank of its services to a financial institution, thereafter by the Farm Credit Administration on a case-by-case basis with due regard to the total relationship of the financing institution, its subsidiaries, and affiliates. 12 USC 2096.

"(e) Nothing in this section shall require termination of discount relationships in existence on the effective date of the Farm Credit Act Amendments of 1980.".

SEC. 204. Section 2.4 of the Farm Credit Act of 1971 is amended by striking out the first sentence and inserting in lieu thereof the following: "Loans, advances, or discounts made under section 2.3 of this Act shall be repayable in not more than seven years (fifteen years if made to producers or harvesters of aquatic products) from the time they are made or discounted by the Federal intermediate credit bank, except that the district farm credit board, under regulations of the Farm Credit Administration, may approve policies permitting loans, advances, or discounts (other than those made to producers or harvesters of aquatic products) to be repayable in not more than ten years from the time they are made or discounted by such bank. Loans, advances, and discounts shall bear such rate or rates of interest or discount as the board of directors of the bank shall from 12 USC 2075.

Ante, p. 3440.

time to time determine with the approval of the Farm Credit Administration as provided in section 4.17 of this Act, but the rates charged financing institutions shall be the same as those charged production credit associations.".

12 USC 2076. SEC. 205. Section 2.5 of the Farm Credit Act of 1971 is amended by inserting "and aquatic" after "on-farm".

12 USC 2077. SEC. 206. Section 2.6(c) of the Farm Credit Act of 1971 is amended by striking out "of less than 25 per centum" in the second sentence.

12 USC 2091. SEC. 207. Section 2.10 of the Farm Credit Act of 1971 is amended by striking out the comma after "States" in the first sentence and inserting in lieu thereof a period.

12 USC 2093. SEC. 208. Section 2.12 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of paragraph (11) "and buy from and sell to such banks interests in loans and in other financial assistance extended and nonvoting stock, as may be authorized by the Federal intermediate credit bank in accordance with regulations of the Farm Credit Administration";

(2) inserting before the period at the end of paragraph (13) "and when authorized by the bank participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act"; and

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(3) amending paragraph (15) to read as follows:

"(15) As may be authorized by the Federal intermediate credit bank in accordance with regulations of the Farm Credit Administration, agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose.".

12 USC 2094. SEC. 209. Section 2.13 of the Farm Credit Act of 1971 is amended by—

(1) inserting before the period at the end of subsection (e) "or in lieu of nonvoting stock";

(2) striking out in the first sentence of subsection (f) "fair";

(3) amending the last sentence of subsection (f) to read as follows: "Notwithstanding any other provisions of this section, for a loan in which an association participates with a commercial bank or other financial institution other than a Farm Credit System institution, nonvoting stock or participation certificates may be issued to the commercial bank or other financial institution in satisfaction of the requirement that the borrower own stock or participation certificates, which requirement shall apply only to the portion of the loan which is retained by the association.";

(4) striking out in the first sentence in subsection (g) "fair";

(5) striking out everything through "Governor" in subsection (j) and inserting in lieu thereof "Except with regard to stock or participation certificates held by the Governor or other Farm Credit System institutions"; and

(6) striking out in subsection (k) "fair".

12 USC 2096. SEC. 210. Section 2.15 of the Farm Credit Act of 1971 is amended by—

(1) amending clause (1) in the first sentence of subsection (a) to read as follows: "(1) bona fide farmers and ranchers and the producers or harvesters of aquatic products, for agricultural or aquatic purposes and other requirements of such borrowers, including financing for basic processing and marketing directly related to the borrower's operations and those of other eligible

farmers, ranchers, and producers or harvesters of aquatic products: *Provided,* That the borrower's operations shall supply at least 20 per centum, or such larger per centum that is required by the supervising bank under regulations of the Farm Credit Administration, of the total processing or marketing for which financing is extended,"; and

(2) inserting in subsection (b) after "Administration" in the first sentence "as provided in section 4.17 of this Act".

SEC. 211. Section 2.16 of the Farm Credit Act of 1971 is amended by inserting "and aquatic" after "on-farm". 12 USC 2097.

TITLE III—BANKS FOR COOPERATIVES

SEC. 301. Section 3.1 of the Farm Credit Act of 1971 is amended by— 12 USC 2122.

(1) inserting before the period at the end of paragraph (11) ", and participate with one or more other Farm Credit System institutions in loans made under this title or other titles of this Act on the basis prescribed in section 4.18 of this Act"; *Post,* p. 3446.

(2) inserting after "System" in the first sentence in paragraph (12) "or any insured State nonmember bank as defined in section 2 of the Federal Deposit Insurance Act or, to the extent necessary to facilitate transactions which may be financed under section 3.7(b) of this Act, any other financial organization, domestic or foreign, as may be authorized by its board of directors and approved by the Farm Credit Administration"; 12 USC 264 note, 1811-1831. *Post,* p. 3444.

(3) amending paragraph (13) by:

(a) inserting immediately after "(13)" the designation "(A)";

(b) inserting after subparagraph (A) the following new subparagraphs (B) and (C):

"(B) As may be authorized by its board of directors and approved by the Farm Credit Administration, buy from and sell to Farm Credit System institutions interests in loans and in other financial assistance extended and nonvoting stock.

"(C) As may be authorized by its board of directors and approved by the Farm Credit Administration, and solely for the purposes of obtaining credit information and other services needed to facilitate transactions which may be financed under section 3.7(b) of this Act, invest in ownership interests in foreign business entities that are principally engaged in providing credit information to and performing such servicing functions for their members in connection with the members' international activities."; and

(4) adding new paragraphs (18) and (19) as follows:

"(18) As may be authorized by the board of directors and approved by the Farm Credit Administration, maintain credit balances and pay or receive fees or interest thereon, for the purpose of assisting in the transfer of funds to or from parties to transactions that may be financed under section 3.7(b) of this Act: *Provided, however,* That nothing herein shall authorize the banks for cooperatives to engage in the business of accepting domestic deposits.

"(19) As may be authorized by its board of directors and approved by the Farm Credit Administration, agree with other Farm Credit System institutions to share loan or other losses, whether to protect against capital impairment or for any other purpose.".

SEC. 302. Section 3.3 of the Farm Credit Act of 1971 is amended by adding a new subsection (f) as follows: 12 USC 2124.

"(f) Participation certificates may be issued to parties to whom voting stock may not be issued.".

12 USC 2126.

SEC. 303. Section 3.5 of the Farm Credit Act of 1971 is amended by—

(1) striking out the first three sentences and inserting in lieu thereof three new sentences as follows: "Any nonvoting stock held by the Governor of the Farm Credit Administration shall be retired to the extent required by section 4.0(b) of this Act before any other outstanding voting or nonvoting stock or participation certificates shall be retired except as may be otherwise authorized by the Farm Credit Administration. When those requirements have been satisfied, nonvoting investment stock and participation certificates may be called for retirement at par. With the approval of the issuing bank, the holder may elect not to have the called stock or participation certificates retired in response to a call, reserving the right to have such stock or participation certificates included in the next call for retirement."; and

12 USC 2151.

(2) striking out in the fourth sentence "fair book value not exceeding".

12 USC 2128.

SEC. 304. Section 3.7 of the Farm Credit Act of 1971 is amended by—

(1) adding the designation "(a)" before the text, and inserting before "collateral custody" in the first sentence, "currency exchange necessary to service individual transactions that may be financed under subsection (b) of this section,", and inserting before the period at the end of the third sentence "and may make or participate in loans or commitments and extend other technical and financial assistance to other domestic parties for the acquisition of equipment and facilities to be leased to such stockholders for use in their operations in the United States"; and

Lending powers.

(2) adding new subsections (b), (c), (d), and (e) as follows:

"(b) A bank for cooperatives is authorized to make or participate in loans and commitments to, and to extend other technical and financial assistance to (1) a domestic or foreign party with respect to its transactions with an association that is a voting stockholder of the bank for the export or import of agricultural commodities, farm supplies, or aquatic products through purchases, sales or exchanges, and (2) a domestic or foreign party in which such an association has at least the minimum ownership interest approved under regulations of the Farm Credit Administration for the purpose of facilitating the association's export or import operations of the type described in clause (1) of this subsection: *Provided,* That a bank for cooperatives determines, under regulations of the Farm Credit Administration, that the voting stockholder will benefit substantially as a result of such loan, commitment, or assistance.

"(c) Loans, commitments, and assistance authorized by subsection (b) of this section shall be extended in accordance with policies adopted by the board of directors of the bank under regulations of the Farm Credit Administration.

"(d) The regulations of the Farm Credit Administration implementing subsection (b) of this section and the other provisions of this title relating to the authority under subsection (b) of this section may not confer upon the banks for cooperatives powers and authorities greater than those specified in this title. The Farm Credit Administration shall, during the formulation of such regulations, closely consult on a continuing basis with the Board of Governors of the Federal Reserve System to ensure that such regulations conform to national banking policies, objectives, and limitations.

"(e) Notwithstanding any other provision of this title, the banks for cooperatives shall not make or participate in loans or commitments

for the purpose of financing speculative futures transactions by eligible borrowers in foreign currencies.".

SEC. 305. Section 3.8 of the Farm Credit Act of 1971 is amended by— 12 USC 2129.

(1) in the first paragraph striking out the second comma and inserting "or aquatic" before "business";

(2) striking out in subsection (c) "or farm business services" and inserting in lieu thereof "farm or aquatic business services, or services to eligible cooperatives"; and

(3) amending subsection (d) to read as follows:

"(d) A percentage of the voting control of the association not less than 80 per centum (60 per centum (1) in the case of rural electric, telephone, public utility, and service cooperatives; (2) in the case of local farm supply cooperatives that have historically served needs of the community that would not adequately be served by other suppliers and have experienced a reduction in the percentage of farmer membership due to changed circumstances beyond their control such as, but not limited to, urbanization of the community; and (3) in the case of local farm supply cooperatives that provide or will provide needed services to a community and that are or will be in competition with a cooperative specified in paragraph (2)) or, with respect to any type of association or cooperative, such higher percentage as established by the district board, is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations as defined herein;".

SEC. 306. Section 3.9(a) of the Farm Credit Act of 1971 is amended by striking out the first sentence and inserting in lieu thereof a new sentence as follows: "Each borrower entitled to hold voting stock shall, at the time a loan is made by a bank for cooperatives, own at least one share of voting stock and shall be required by the bank with the approval of the Farm Credit Administration to invest in additional voting stock or nonvoting investment stock at that time, or from time to time, as the lending bank may determine, but the requirement for investment in stock at the time the loan is closed shall not exceed an amount equal to 10 per centum of the face amount of the loan.". 12 USC 2130.

SEC. 307. Section 3.10 of the Farm Credit Act of 1971 is amended by— 12 USC 2131.

(1) inserting before the period in the first sentence of subsection (a) "as provided in section 4.17 of this Act"; and

(2) striking out in the first sentence of subsection (d) "book" and inserting in lieu thereof "market" and adding a new sentence as follows: "In no event shall the bank's equities be retired or canceled if the retirement or cancellation would adversely affect the bank's capital structure, as determined by the Farm Credit Administration.".

SEC. 308. Section 3.11 of the Farm Credit Act of 1971 is amended by— 12 USC 2132.

(1) striking out in the second sentence of subsection (b) "of less than 25 per centum" and "of not to exceed such per centum of net savings"; and

(2) striking out the first sentence of subsection (c) and inserting in lieu thereof a new sentence as follows: "The net savings of each district bank for cooperatives, after the earnings for the fiscal year have been applied in accordance with subsection (a) or (b) of this section, whichever is applicable, shall be paid in stock, participation certificates, or cash, or in any of them, as determined by its board, as patronage refunds to borrowers to whom

such refunds are payable who are borrowers of the fiscal year for which such patronage refunds are distributed.".

TITLE IV—PROVISIONS APPLICABLE TO TWO OR MORE CLASSES OF INSTITUTIONS OF THE SYSTEM

12 USC 2156.

SEC. 401. Section 4.5 of the Farm Credit Act of 1971 is amended by—

(1) striking out in the first sentence "presidents of each bank" and inserting in lieu thereof "president of each bank or the president's designee"; and

(2) striking out in the third sentence "subcommittee's" and inserting in lieu thereof "subcommittees".

12 USC 2181.

SEC. 402. Section 4.10 of the Farm Credit Act of 1971 is amended by striking out "name" and inserting in lieu thereof "same".

SEC. 403. Title IV of the Farm Credit Act of 1971 is amended by adding new sections 4.17, 4.18, 4.19, and 4.20 as follows:

12 USC 2205.

"SEC. 4.17. INTEREST RATES.—Interest rates on loans from institutions of the Farm Credit System shall be determined with the approval of the Farm Credit Administration as provided in this Act, notwithstanding any interest rate limitation imposed by any State constitution or statute or other laws which are hereby preempted for purposes of this Act. Interest rates on loans made by agricultural credit corporations organized in conjunction with cooperative associations for the purpose of financing the ordinary crop operations of the members of such associations or other producers and eligible to discount with the Federal intermediate credit banks pursuant to section 2.3 of this Act shall be exempt from any interest rate limitation imposed by any State constitution or statute or other laws which are hereby preempted for purposes of this Act.

Ante, p. 3440.

12 USC 2206.

"SEC. 4.18. PARTICIPATION LOANS.—Notwithstanding any other provisions of this Act, the terms of any loan participated in by two or more Farm Credit System institutions operating under different titles of this Act, including provisions for capitalization of the portion of the loan participated in by each institution, shall be as may be agreed upon among such institutions and authorized by the Farm Credit Administration, except that for purposes of determining borrower eligibility, membership, term, amount, loan security, and purchase of stock or participation certificates by the borrower, the provisions of law applicable to the loan shall be the provisions in the title under which the institution that originates the loan operates.

12 USC 2207.

"SEC. 4.19. YOUNG, BEGINNING, AND SMALL FARMERS AND RANCHERS.—

"(a) Under policies of the district board, each Federal land bank association and production credit association shall prepare a program for furnishing sound and constructive credit and related services to young, beginning, and small farmers and ranchers. Such programs shall assure that such credit and services are available in coordination with other units of the Farm Credit System serving the territory and with other governmental and private sources of credit. Each program shall be subject to review and approval by the supervising bank.

"(b) The Federal land bank and the Federal intermediate credit bank for each district shall annually obtain from associations under their supervision reports of activities under programs developed pursuant to subsection (a) of this section and progress toward program objectives. On the basis of such reports, the banks shall provide to the Farm Credit Administration a joint annual report summariz-

ing the operations and achievements in their district under such programs.

"SEC. 4.20. TERMINATION OF PROVISIONS.—The provisions of (1) section 2.3 authorizing the Federal intermediate credit banks to lend to or discount paper for other financial institutions, and (2) section 3.7(b) authorizing the financing of certain domestic or foreign entities in connection with the import or export activities of cooperatives which are borrowers from the banks for cooperatives, shall expire on September 30, 1990, unless extended by Act of Congress prior to that date. Any contract or agreement entered into under the authority of either provision prior to its expiration shall remain in full force and effect notwithstanding such expiration.". 12 USC 2208. *Ante*, p. 3440. *Ante*, p. 3444.

SEC. 404. Title IV of the Farm Credit Act of 1971 is amended by adding at the end thereof new parts D and E as follows:

"PART D—SERVICE ORGANIZATIONS

"SEC. 4.25. ESTABLISHMENT.—Any bank of the Farm Credit System, or two or more of such banks acting together, may organize a corporation or corporations for the purpose of performing functions and services for or on behalf of the organizing bank or banks that the bank or banks may perform pursuant to this Act: *Provided,* That a corporation so organized shall have no authority either to extend credit or provide insurance services for borrowers from Farm Credit System institutions, nor shall it have any greater authority with respect to functions and services than the organizing bank or banks possess under this Act. The organizing bank or banks shall apply for a Federal charter for the corporation by forwarding to the Governor of the Farm Credit Administration a statement of the need for the corporation and proposed articles specifying in general terms the objectives for which the corporation is formed, the powers to be exercised by it in carrying out the functions and services, and the territory it is to serve. The Governor for good cause may deny the charter applied for. Upon the approval of articles by the Governor and the issuance of a charter, the corporation shall become as of such date a federally chartered body corporate and an instrumentality of the United States. 12 USC 2211.

"SEC. 4.26. POWERS OF THE GOVERNOR.—The Governor shall have power, under rules and regulations prescribed by the Governor or by prescribing in the terms of the charter or by approval of the bylaws of the corporation, to provide for the organization of any corporation chartered under this part and the territory within which its operations may be carried on, and to direct at any time such changes in its charter as he finds necessary for the accomplishment of the purposes of this Act. The powers of the Governor to provide for the organization of any corporation chartered under this part include, but are not limited to approval of— 12 USC 2212.

"(1) corporate title;

"(2) general corporate powers;

"(3) eligibility for membership on, and the powers, composition, selection, terms, and compensation of the board of directors;

"(4) classes, issuance, value, and retirement of stock;

"(5) sources of operating funds;

"(6) dissolution, liquidation, and distribution of assets on liquidation; and

"(7) application and distribution of earnings.

"SEC. 4.27. SUPERVISION AND EXAMINATION.—The corporations organized under this part shall be institutions of the Farm Credit 12 USC 2213.

System and shall be subject to the same supervision and examination by the Farm Credit Administration as are the organizing bank or banks under this Act.

12 USC 2214.

"SEC. 4.28. STATE LAWS.—State and other laws shall apply to corporations organized pursuant to this part to the same extent such laws would apply to the organizing banks engaged in the same activity in the same jurisdiction: *Provided, however,* That to the extent that sections 1.21, 2.8, and 3.13 of this Act may exempt banks of the Farm Credit System from taxation, such exemptions, other than with respect to franchise taxes, shall not extend to corporations organized pursuant to this part.

12 USC 2055, 2079, 2134.

"PART E—SALE OF INSURANCE

12 USC 2218.

"SEC. 4.29. LINES OF INSURANCE.—(a) The regulations of the Farm Credit Administration governing financially related services that the banks and associations of the Farm Credit System may provide under sections 1.11, 1.15, 2.5, and 2.16 of this Act may authorize the sale to any member of any such bank or association, on an optional basis, of credit or term life and credit disability insurance appropriate to protect the loan commitment in the event of death or disability of the debtors and other insurance necessary to protect the member's farm or aquatic unit, but limited to, hail and multiple-peril crop insurance, title insurance, and insurance to protect the facilities and equipment of aquatic borrowers.

12 USC 2019, 2033, 2076, 2097.

Regulations.

"(b) Such regulations shall provide that—

"(1) in any case in which insurance is required as a condition for a loan or other financial assistance from a bank or association, notice be given that it is not necessary to purchase the insurance from the bank or association and that the borrower has the option of obtaining the insurance elsewhere;

"(2) such insurance services may be offered only if—

"(i) the bank or association has the capacity to render insurance service under this Act in an effective and efficient manner;

"(ii) there exists the probability that any insurance program under this Act will generate sufficient revenue to cover all costs; and

"(iii) rendering insurance service will not have an adverse effect on the bank's or association's credit or other operations; and

"(3) no bank or association shall directly or indirectly discriminate in any manner against any agent, broker, or insurer that is not affiliated with such bank or association, or against any party who purchases insurance through any such nonaffiliated insurance agent, broker, or insurer.

Existing coverage, continuation.

"(c) Notwithstanding any provision of this section to the contrary, any bank or association that on the date of enactment of the Farm Credit Act Amendments of 1980, is offering insurance coverages not authorized by this section may continue to sell such coverages for a period of not more than one year from such date of enactment and may continue to service such coverages until their expiration.".

TITLE V—DISTRICT AND FARM CREDIT ADMINISTRATION ORGANIZATION

Virgin Islands, extension of credit and services. 12 USC 2221.

SEC. 501. Section 5.0 of the Farm Credit Act of 1971 is amended by inserting before the period at the end of the first sentence the

following: "and one of which districts may, if authorized by the Federal Farm Credit Board, include the Virgin Islands of the United States: *Provided,* That the extension of credit and other services authorized by this Act in the Virgin Islands of the United States shall be undertaken only if determined to be feasible under regulations of the Farm Credit Administration".

SEC. 502. Section 5.2 of the Farm Credit Act of 1971 is amended by— 12 USC 2223.

(1) striking out in the last sentence of subsection (b) "three" and inserting in lieu thereof "two"; and

(2) striking out in the first sentence of subsection (c) "three" and inserting in lieu thereof "two".

SEC. 503. Section 5.8(h) of the Farm Credit Act of 1971 is amended by striking out in the first sentence "the sum of $100 a day" and inserting in lieu thereof "compensation at a rate equal to the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5 of the United States Code". 12 USC 2242.

SEC. 504. Section 5.10 of the Farm Credit Act of 1971 is amended by inserting after the second sentence a new sentence as follows: "Pursuant to a policy statement adopted by the Federal Farm Credit Board, the Governor of the Farm Credit Administration shall consult on a regular basis with the Secretary of the Treasury in connection with the exercise by the System and the Governor of the powers conferred under section 4.2 of this Act, and with the Board of Governors of the Federal Reserve System in connection with the effect of System lending activities on national monetary policy.". 12 USC 2244. 12 USC 2153.

SEC. 505. Section 5.15 of the Farm Credit Act of 1971 is amended by adding at the end thereof a new sentence as follows: "The Farm Credit Administration may dispose of property so acquired and any amounts collected from the disposition of such property shall be deposited in the special fund provided for in section 5.16(b) of this Act and shall be available to the Administration in the same manner and for the same purposes as the funds collected under section 5.16(a) of this Act." Property disposal. 12 USC 2249. 12 USC 2250.

SEC. 506. Section 5.17 of the Farm Credit Act of 1971 is amended by adding at the end thereof the following new clause (5) and inserting a new sentence immediately thereafter:

"(5) To sell or otherwise dispose of any interest in property leased or acquired under the foregoing if authorized by the Board.

In actions undertaken by the banks pursuant to the foregoing provisions of this section, the Farm Credit Administration may act as agent for the banks.". Property interests, sale and disposal. 12 USC 2251.

SEC. 507. Section 5.18 of the Farm Credit Act of 1971 is amended by adding at the end of paragraph (3) a new sentence as follows: "The annual reports shall include a summary and analysis of the reports submitted to the Farm Credit Administration by the Federal land banks and Federal intermediate credit banks under section 4.19(b) of this Act relating to programs for serving young, beginning, and small farmers and ranchers.". Annual reports. 12 USC 2252. *Ante,* p. 3446.

SEC. 508. Section 5.18 of the Farm Credit Act of 1971 is amended by inserting "(a)" immediately after the section designation and adding at the end thereof the following new subsections (b) and (c):

"(b)(1) At least thirty days prior to publishing any proposed regulation in the Federal Register, the Farm Credit Administration shall transmit a copy of the regulation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. The Farm Credit Administration shall also transmit to such committees a copy of any final regulation prior to its publication in the Federal Register. Proposed and final regulations. 12 USC 2252. Transmittal to congressional committees.

Except as provided in paragraph (2) of this subsection, no final regulation of the Farm Credit Administration shall become effective prior to the expiration of thirty calendar days after it is published in the Federal Register during which either or both Houses of the Congress are in session.

Emergency effective date.

"(2) In the case of an emergency, a final regulation of the Farm Credit Administration may become effective without regard to the last sentence of paragraph (1) of this subsection if the Farm Credit Administration notifies in writing the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate setting forth the reasons why it is necessary to make the regulation effective prior to the expiration of the thirty-day period.

Transmittal to Congress. Congressional approval. *Ante*, p. 3444. 12 USC 2121.

"(c)(1) If there are any unresolved differences between the Farm Credit Administration and the Board of Governors of the Federal Reserve System as to whether any regulation implementing section 3.7(b) of this Act or the other provisions of title III relating to the authority under section 3.7(b) conforms to national banking policies, objectives, and limitations, simultaneously with promulgation of any such regulation under this Act, and simultaneously with promulgation of any regulation implementing section 2.3 of this Act, the Farm Credit Administration shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the regulation shall not become effective if, within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the regulation promulgated by the Farm Credit Administration dealing with the matter of , which regulation was transmitted to Congress on ', the blank spaces therein being appropriately filled.

Ante, p. 3440.

"(2) If at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the regulation, and neither House has adopted such a resolution, the regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (1).

"(3) For the purposes of paragraphs (1) and (2) of this subsection—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of sixty and ninety calendar days of continuous session of Congress.

"(4) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such regulation.".

SEC. 509. Title V of the Farm Credit Act of 1971 is amended by adding the following section at the end thereof:

12 USC 2260.

"SEC. 5.30. GENERAL ACCOUNTING OFFICE AUDIT: REPORT TO CONGRESS.—

"(a) The Comptroller General shall conduct an evaluation of the programs and activities authorized under the 1980 amendments to this Act, and shall make an interim report to the Congress no later than December 31, 1982, and a final report to the Congress no later than December 31, 1984. The Comptroller General shall include in such evaluation the effect that this Act, as amended, will have on agricultural credit services provided by the Farm Credit System, Federal agencies, and other entities. The Comptroller General may make such interim reports to the Congress on the programs and activities under these amendments as the Comptroller General deems necessary or as requested by Members of Congress.

"(b) For the purpose of conducting program evaluations required in subsection (a) of this section, the Comptroller General or his duly authorized representatives shall have access to and the right to examine all books, documents, papers, records, or other recorded information within the possession or control of the Federal land banks and Federal land bank associations, Federal intermediate credit banks and production credit associations and banks for cooperatives.".

SEC. 510. Paragraph (1) of section 1141b of title 12 of the United States Code is amended to read as follows:

"(1) shall maintain its principal office within the Washington, D.C.-Maryland-Virginia standard metropolitan statistical area, and such other offices in the United States as in its judgment are necessary".

SEC. 511. Section 3 of the Swine Health Protection Act (Public Law 96-468, approved October 17, 1980) is amended by— *Ante*, p. 2229.

(1) striking "and" at the end of clause (2);

(2) changing the period at the end of clause (3) to a semicolon and adding "and"; and

(3) inserting a new clause (4) reading as follows:

"(4) the term 'State' means the fifty States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.".

Approved December 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1287 accompanying H.R. 7548 (Comm. on Agriculture).
SENATE REPORT No. 96-837 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 24, considered and passed Senate.
Nov. 19, H.R. 7548 considered and passed House; passage vacated and S. 1465, amended, passed in lieu.
Dec. 13, Senate agreed to House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 52:
Dec. 24, Presidential statement.

Public Law 96-593
96th Congress

An Act

Dec. 24, 1980
[H.R. 4774]

To amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so.

National Labor Relations Act, amendment.
29 USC 169.
Labor unions, conscientious objectors.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 19 of the National Labor Relations Act be replaced by a new section 19 as follows:

"SEC. 19. Any employee who is a member of and adheres to established and traditional tenets or teachings of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to join or financially support any labor organization as a condition of employment; except that such employee may be required in a contract between such employees' employer and a labor organization in lieu of periodic dues and initiation fees, to pay sums equal to such dues and initiation fees to a nonreligious, nonlabor organization charitable fund exempt from taxation under section 501(c)(3) of title 26 of the Internal Revenue Code, chosen by such employee from a list of at least three such funds, designated in such contract or if the contract fails to designate such funds, then to any such fund chosen by the employee. If such employee who holds conscientious objections pursuant to this section requests the labor organization to use the grievance-arbitration procedure on the employee's behalf, the labor organization is authorized to charge the employee for the reasonable cost of using such procedure.".

26 USC 501.

Approved December 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-496 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Feb. 11, 12, considered and passed House.
Dec. 13, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 17, No. 1:
Jan. 2, Presidential statement.

Public Law 96-594
96th Congress

An Act

To revise and improve the laws relating to the documentation of vessels, and for other purposes.

Dec. 24, 1980
[H.R. 1196]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Vessel documentation laws, improvement.

TITLE I

SEC. 101. SHORT TITLE.

Vessel Documentation Act.

This title may be cited as the "Vessel Documentation Act".

SEC. 102. DEFINITIONS.

46 USC 65 note.
46 USC 65.

As used in this title—

(1) "documented vessel" means a vessel for which a certificate of documentation has been issued under this title;

(2) "fisheries" includes the planting, cultivation, catching, taking, or harvesting of fish, shellfish, marine animals, pearls, shells, or marine vegetation at any place within the fishery conservation zone established by section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811); and

(3) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

SEC. 103. PORTS OF DOCUMENTATION.

46 USC 65a.

The Secretary shall designate ports of documentation in the United States where vessels may be documented and instruments affecting title to, or interest in, documented vessels may be recorded. The Secretary shall specify the geographic area to be served by each designated port, and he may discontinue, relocate, or designate additional ports of documentation.

SEC. 104. VESSELS ELIGIBLE FOR DOCUMENTATION.

46 USC 65b.

Any vessel of at least five net tons that is not registered under the laws of a foreign country is eligible for documentation if it is owned by—

(1) an individual who is a citizen of the United States;

(2) a partnership or association whose members are all citizens of the United States;

(3) a corporation created under the laws of the United States, or any State, territory, or possession thereof, or of the District of Columbia, or the Commonwealth of Puerto Rico; whose president or other chief executive officer and chairman of its board of directors are citizens of the United States and no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum;

(4) the United States Government; or

(5) the government of any State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

46 USC 65c.

SEC. 105. HOME PORTS.

(a) With the approval of the Secretary and subject to such regulations as he may prescribe, the port of documentation selected by an owner for the documentation of his vessel shall be the vessel's home port.

(b) Once a vessel's home port has been fixed as provided in subsection (a), it may not be changed without the approval of the Secretary, subject to such regulations as he may prescribe.

46 USC 65d.

SEC. 106. NAME OF VESSEL.

(a) At the time of application for initial documentation of a vessel, the owner shall provide a name for the vessel. Subject to the approval of the Secretary and upon the issuance of a certificate of documentation, that name shall become the vessel's name of record.

(b) Once a vessel's name of record has been fixed as provided in subsection (a), it shall not be changed without the approval of the Secretary, subject to such regulations as he may prescribe.

Fee.

(c) The Secretary may prescribe a reasonable fee for changing a documented vessel's name of record.

46 USC 65e.

SEC. 107. CERTIFICATE OF DOCUMENTATION: APPLICATION; ISSUANCE; FORM; EXHIBITION.

(a) Upon application by the owner of any vessel eligible for documentation, the Secretary shall issue a certificate of documentation of a type specified in section 110, 111, 112, 113, or 114 of this title.

(b) The Secretary may prescribe the form of, the manner of filing, and the information to be contained in, applications for certificates of documentation.

(c) Each certificate of documentation shall—

(1) contain the name, the home port, and a description of the vessel for which it is issued;

(2) identify its owner; and

(3) be in the form and contain any additional information prescribed by the Secretary.

(d) The Secretary shall, by regulation, prescribe procedures to insure the integrity of, and the accuracy of information contained in, certificates of documentation issued under this title.

(e) The owner and the master of each documented vessel shall make the vessel's certificate of documentation available for examination as the law may require or as the Secretary may prescribe.

46 USC 65f.

SEC. 108. NUMBERS; SIGNAL LETTERS; IDENTIFICATION MARKINGS.

(a) The Secretary shall maintain a numbering system for the identification of documented vessels and shall assign a number to each documented vessel.

(b) The Secretary may maintain a system of signal letters for documented vessels.

(c) The owner of each documented vessel shall affix to the vessel and maintain in the manner prescribed by the Secretary the number assigned under subsection (a) and any other identification markings the Secretary may prescribe.

46 USC 65g.

SEC. 109. PURPOSE OF DOCUMENTATION.

A certificate of documentation issued under this title is—

(1) conclusive evidence of nationality for international purposes, but not in any proceeding conducted under the laws of the United States;

(2) except in the case of a pleasure vessel license, conclusive evidence of qualification to be employed in a specified trade; and

(3) not conclusive evidence of ownership in any proceeding in which ownership is in issue.

SEC. 110. CERTIFICATE OF DOCUMENTATION; REGISTRY. 46 USC 65h.

(a) A registry may be issued for any vessel that is eligible for documentation.

(b) A vessel for which a registry is issued may be employed in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

(c) Upon application of the owner of any vessel that qualifies for a coastwise license under section 111 of this title, a Great Lakes license under section 112 of this title, or a fishery license under section 113 of this title, the Secretary may issue a registry appropriately endorsed authorizing the vessel to be employed in the coastwise trade, the Great Lakes trade, or the fisheries, as the case may be.

(d) Except as provided in sections 111, 112, and 113 of this title, a foreign built vessel registered pursuant to this section may not engage in the coastwise trade, the Great Lakes trade, or the fisheries.

SEC. 111. CERTIFICATE OF DOCUMENTATION: COASTWISE LICENSE. 46 USC 65i.

(a) A coastwise license or, as provided in section 110(c) of this title, an appropriately endorsed registry, may be issued for any vessel that—

(1) is eligible for documentation;

(2) was built in the United States (or in the case of a vessel not built in the United States, has been captured in war by citizens of the United States and lawfully condemned as prize, has been adjudged to be forfeited for a breach of the laws of the United States, or has qualified for documentation under section 4136 of the Revised Statutes of the United States, as amended (46 U.S.C. 14)); and

(3) otherwise qualifies under laws of the United States to be employed in the coastwise trade.

(b) Only a vessel for which a coastwise license or an appropriately endorsed registry is issued may, subject to the laws of the United States regulating those trades, be employed in—

(1) the coastwise trade; and

(2) the fisheries.

SEC. 112. CERTIFICATE OF DOCUMENTATION: GREAT LAKES LICENSE. 46 USC 65j.

(a) A Great Lakes license, or, as provided in section 110(c) of this title, an appropriately endorsed registry, may be issued for any vessel that—

(1) is eligible for documentation;

(2) was built in the United States (or in the case of a vessel not built in the United States, has been captured in war by citizens of the United States and lawfully condemned as prize, has been adjudged to be forfeited for a breach of the laws of the United States, or has qualified for documentation under section 4136 of the Revised Statutes of the United States, as amended (46 U.S.C. 14)); and

(3) otherwise qualifies under the laws of the United States to be employed in the coastwise trade.

(b) Only a vessel for which a Great Lakes license or an appropriately endorsed registry is issued may, on the Great Lakes and their

tributary and connecting waters and subject to the laws of the United States regulating those trades, be employed in—

(1) the coastwise trade;

(2) trade with Canada; and

(3) the fisheries.

46 USC 65k.

SEC. 113. CERTIFICATE OF DOCUMENTATION: FISHERY LICENSE.

(a) A fishery license, or, as provided in section 110(c) of this title, an appropriately endorsed registry, may be issued for any vessel that—

(1) is eligible for documentation;

(2) was built in the United States (or in the case of a vessel not built in the United States, has been captured in war by citizens of the United States and lawfully condemned as prize, has been adjudged to be forfeited for a breach of the laws of the United States, or has qualified for documentation under section 4136 of the Revised Statutes of the United States, as amended (46 U.S.C. 14)); and

(3) otherwise qualifies under the laws of the United States to be employed in the fisheries.

(b) Subject to the laws of the United States regulating the fisheries, only a vessel for which a fishery license or an appropriately endorsed registry is issued may be employed in that trade.

46 USC 65*l*.

SEC. 114. CERTIFICATE OF DOCUMENTATION: PLEASURE VESSEL LICENSE.

(a) A pleasure vessel license may be issued for any vessel that—

(1) is eligible for documentation, and

(2) is to be used exclusively for pleasure.

(b) A licensed pleasure vessel may proceed from or to any port of the United States and to any foreign port without entering or clearing with the United States Customs Service.

(c) Notwithstanding any other law, the Secretary may prescribe reasonable fees for issuing, renewing, or replacing a pleasure vessel license; or for providing any other service in connection with a pleasure vessel license. The fees shall be based on the costs of the service provided.

46 USC 65m.

SEC. 115. VESSEL LIMITED TO TRADE COVERED BY CERTIFICATE OF DOCUMENTATION; EXEMPTIONS; PENALTY.

Pleasure vessel.

(a) A vessel may not be employed in any trade other than a trade covered by the certificate of documentation issued for that vessel. A documented pleasure vessel may not be used for purposes other than pleasure. However, any certificate of documentation may, under regulations prescribed by the Secretary, be exchanged for any other type of certificate of documentation, or appropriately endorsed for any trade, for which the vessel qualifies.

(b) A non-self-propelled vessel which is qualified to be employed in the coastwise trade may, without being documented, be employed in that trade within a harbor or on the rivers or inland lakes of the United States, or on the internal waters or canals of any State.

(c) Whenever a vessel is employed in a trade that is not covered by the certificate of documentation issued for that vessel or a documented pleasure vessel is used other than for pleasure, the vessel, together with its equipment, is liable to seizure by and forfeiture to the United States.

(d) A documented vessel may not be placed under the command of a person other than a citizen of the United States.

SEC. 116. FALSIFICATION IN DOCUMENTATION: FRAUDULENT USE OF DOCUMENT; PENALTY. 46 USC 65n.

(a) Whenever the owner of a vessel knowingly falsifies or conceals a material fact, or makes a false statement or representation in connection with the documentation of his vessel under this title, in addition to any other penalty provided by law, that vessel, together with its equipment, is liable to seizure by and forfeiture to the United States.

(b) Whenever a certificate of documentation is knowingly and fraudulently used for any vessel, that vessel, together with its equipment, is liable to seizure by and forfeiture to the United States.

SEC. 117. CERTIFICATE OF DOCUMENTATION: TERMINATION OF VALIDITY. 46 USC 65o.

(a) A certificate of documentation is invalid if the vessel for which it is issued—

(1) no longer meets the requirements of this Act and the regulations prescribed thereunder pertaining to that certificate of documentation; or

(2) is placed under the command of a person who is not a citizen of the United States.

(b) Except as provided by subsection (o) of section 30 of the Act of June 5, 1920, as amended (46 U.S.C. 961(a)), an invalid certificate of documentation shall be surrendered in accordance with regulations prescribed by the Secretary.

SEC. 118. VESSELS PROCURED OUTSIDE THE UNITED STATES. 46 USC 65p.

(a) The Secretary and the Secretary of State, acting jointly, may provide for the issuance of an appropriate document for any vessel procured outside the United States that meets the ownership requirements of section 104 of this title.

(b) Subject to any limitations the Secretary may prescribe, a vessel for which an appropriate document is issued under this section may proceed to the United States and engage en route in the foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef. Upon the vessel's arrival in the United States the document shall be surrendered in accordance with regulations prescribed by the Secretary.

(c) A vessel for which a document is issued under this section is subject to the jurisdiction and laws of the United States. However, the Secretary may suspend for a period not to exceed six months the application of any vessel inspection law administered by him, or any regulation issued thereunder, if he considers the suspension to be in the public interest. Suspension.

SEC. 119. RECORDING OF UNITED STATES BUILT VESSELS. 46 USC 65q.

The Secretary may provide for the recording and certifying of any information pertaining to vessels built in the United States that he considers to be in the public interest.

SEC. 120. REGISTRATION OF FUNNEL MARKS AND HOUSE FLAGS. 46 USC 65r.

The Secretary shall provide for the registration of funnel marks and house flags by owners of vessels.

SEC. 121. LIST OF DOCUMENTED VESSELS. 46 USC 65s.

The Secretary shall publish periodically a list of all documented vessels together with any information pertaining to them that he considers pertinent or useful.

46 USC 65t.

SEC. 122. REPORTS.

To insure compliance with this title and the laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary may require owners and masters of documented vessels to submit reports in any reasonable form and manner he may prescribe.

46 USC 65u.

SEC. 123. VIOLATIONS; PENALTY.

(a) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this title or a regulation issued hereunder shall be liable to the United States for a civil penalty, not to exceed $500 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of the penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(b) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty under this section.

(c) If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection in any appropriate district court of the United States.

46 USC 65v.

SEC. 124. DELEGATIONS AND REGULATIONS.

The Secretary may—

(1) delegate, and authorize successive redelegations of, any of the duties or powers conferred on him by this title; and

(2) prescribe regulations to carry out this title.

Definitions.
46 USC 65w.

SEC. 125. RELATED TERMS IN OTHER LAWS.

With respect to the documentation of a vessel whenever used in any law, regulation, document ruling, or other official act—

(1) "certificate of registry", "registry", and "register" mean a registry as provided for in section 110 of this title;

(2) "license", "enrollment and license", "license for the coastwise (or coasting) trade", and "enrollment and license for the coastwise (or coasting) trade" mean a coastwise license as provided for in section 111 of this title;

(3) "enrollment and license to engage in the foreign and coastwise (or coasting) trade on the northern, northeastern, and northwestern frontiers, otherwise than by sea" means a Great Lakes license as provided for in section 112 of this title;

(4) "license for the fisheries" and "enrollment and license for the fisheries" mean a fishery license as provided for in section 113 of this title; and

(5) "yacht" means a pleasure vessel whether or not documented.

SEC. 126. AMENDMENTS TO OTHER LAWS.

(a) Section 4131 of the Revised Statutes of the United States, as amended (46 U.S.C. 221), is further amended to read as follows: "Only a citizen of the United States may serve as master, chief engineer, or officer in charge of a deck watch or engineering watch on any vessel documented under the laws of the United States. However, if a documented vessel is deprived of the services of any officer, other than the master, while on a foreign voyage and a vacancy is thereby created, until the vessel's first return to a United States port where a United States citizen replacement can be obtained, a person who is not a citizen of the United States may serve in— Officers.

"(1) the vacancy; or

"(2) any vacancy resulting from the promotion of another to fill the original vacancy.".

(b) Section 4311 of the Revised Statutes of the United States, as amended (46 U.S.C. 251), is further amended by striking the first and third sentences of subsection (a).

(c) Section 4320 of the Revised Statutes of the United States, as amended (46 U.S.C. 262), is further amended by—

(1) striking the word "licensed" in the first sentence and inserting in lieu thereof the word "documented"; and

(2) striking the last sentence.

(d) Section 4377 of the Revised Statutes of the United States, as amended (46 U.S.C. 325), is further amended by striking the second sentence.

(e) Section 7 of the Act of June 19, 1886, as amended (46 U.S.C. 319), is further amended by—

(1) striking the first sentence and inserting in lieu thereof the following:

"Whenever a vessel, entitled to be documented and not so documented, is employed in a trade for which certificates of documentation are issued under the vessel documentation laws, other than a trade covered by a registry, the vessel is liable to a civil penalty of $500 for each port at which it arrives without the proper certificate of documentation, and if it has on board any merchandise of foreign growth or manufacture (sea stores excepted), or any taxable domestic spirits, wines, or other alcoholic liquors, on which the duties or taxes have not been paid or secured to be paid, the vessel, together with its equipment and cargo, is liable to seizure and forfeiture."; and Trading without license, penalty.

(2) striking the last sentence.

SEC. 127. REPEALS. 46 USC 65 note.

The following laws are repealed, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun before the effective date of this title:

measured and which coefficients are appropriate. The resulting gross tonnages, taken as a group, shall reasonably reflect the relative internal volumes of the vessels measured, and the resulting net tonnages shall be in approximately the same ratios to corresponding gross tonnages as are the net and gross tonnages of comparable vessels measured under subsection (b) of this section. In accordance with regulations issued under this subsection, the Secretary may determine the gross and net tonnages of a vessel which is representative of a designated class, model, or type and may assign those gross and net tonnages to other vessels of the same class, model, or type.

"(d) A vessel shall be remeasured if—

"(1) the vessel is altered or the use of its space is changed so that its gross or net tonnage is affected;

"(2) having been measured under subsection (c) of this section, the vessel becomes, by use or alteration, subject to subsection (b) of this section; or

"(3) having been measured under subsection (b) of this section and not required to be so measured, the owner requests that the vessel be measured under subsection (c) of this section.

Except as provided in this subsection, a vessel that has been measured is not required to be remeasured to obtain another document.

Regulations.

"(e) The Secretary shall make such regulations as may be necessary to carry out the provisions of sections 4148, 4149, 4150, 4151, and 4153 of the Revised Statutes, as amended (46 U.S.C. 71, 72, 74, 75, 77).".

46 USC 71 note.
46 USC 75, 77.

SEC. 203. APPLICATION.—A vessel measured prior to the effective date of this title under sections 4151 and 4153 of the Revised Statutes of the United States, as amended, is considered as having been measured under section 4148(b) of the Revised Statutes of the United States, as amended by this Act.

Ante, p. 3461.

46 USC 71 note.

SEC. 204. EFFECTIVE DATE.—The provisions of this title shall take effect on the first day of the twelfth month following the month in which enacted.

TITLE III

46 USC 369.

SEC. 301. The penultimate sentence of section 5(b) of the Act of May 27, 1936 (49 U.S.C. 369(b)), as amended, is amended by striking "November 1, 1983," and substituting "November 1, 1988,".

Appropriation authorization.

SEC. 302. There is authorized to be appropriated to the Secretary of Transportation $500,000 for fiscal year 1981 to conduct a study of the feasibility of constructing a new two track railroad drawbridge across Coos Bay, Oregon, which would replace the existing Southern Pacific Railroad drawbridge located at mile 9.0 and would have a clear navigational opening of 400 feet or such lesser clearance as the Secretary may determine to be reasonable. Such study shall include an analysis of any modifications to the Coos Bay City Airport that would be required to permit construction of a new railroad drawbridge.

Transfer of vessel to museum.
46 USC 1151, 50 USC app. 1744.

SEC. 303. Notwithstanding the provisions of title V, Merchant Marine Act of 1936 and section 11, Merchant Ship Sales Act of 1946, the Secretary of Commerce is hereby authorized to transfer, without reimbursement, the title and ownership of V4-M-A1 ocean tug Scotch Cap to the Superior-Douglas County Museum in Superior, Wisconsin, for use as a maritime museum. The vessel shall be delivered to the museum at the place where the vessel is located on the effective date of this Act, in its present condition, without cost to the United States. While the vessel is owned by the Superior-Douglas County Museum it shall be used solely as a maritime museum, and such vessel shall not be used for operation or transportation purposes

of any nature whatsoever. In the event that the United States should have need for the vessel, the Superior-Douglas County Museum, on request of the Secretary of Commerce shall make the vessel available to the United States without cost. In the event the Superior-Douglas County Museum no longer requires the vessel for the purposes of this Act, such vessel shall be conveyed back to the United States in as good condition as when received, except for ordinary wear and tear, to be delivered by the Superior-Douglas County Museum to the point of original delivery without any cost to the United States.

Approved December 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-428 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Sept. 17, considered and passed House.
Vol. 126 (1980): Dec. 9, considered and passed Senate, amended.
Dec. 10, House concurred in Senate amendment.

Public Law 96-595
96th Congress

An Act

Dec. 24, 1980
[H.R. 4968]

To amend the Internal Revenue Code of 1954 with respect to net operating loss carryovers of taxpayers who cease to be real estate investment trusts, to increase interest rates on certain United States retirement bonds, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Internal Revenue Code of 1954, amendment.

SECTION 1. NET OPERATING LOSS CARRYOVER FOR CERTAIN REITS.

26 USC 172.

(a) IN GENERAL.—Subparagraph (E) of section 172(b)(1) of the Internal Revenue Code of 1954 (relating to net operating loss deduction) is amended to read as follows:

"(E)(i) A net operating loss for a REIT year—

"(I) shall not be a net operating loss carryback to any taxable year preceding the taxable year of such loss, and

"(II) shall be a net operating loss carryover to each of the 8 taxable years following the taxable year of such loss.

"(ii) In the case of any net operating loss for a taxable year which is not a REIT year—

"(I) such loss shall not be carried back to any taxable year which is a REIT year, and

"(II) the number of taxable years to which such loss may be a net operating loss carryover under subparagraph (B) shall be increased (to a number not greater than 8) by the number of taxable years to which such loss may not be a net operating loss carryback by reason of subclause (I).

"REIT year."

"(iii) For purposes of this subparagraph, the term 'REIT year' means any taxable year for which the provisions of part II of subchapter M (relating to real estate investment trusts) apply to the taxpayer.".

26 USC 172 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the determination of the net operating loss deduction for taxable years ending after October 4, 1976. For purposes of applying the preceding sentence to any net operating loss for a taxable year which is not a REIT year and which ends on or before October 4, 1976, subclause (II) of section 172(b)(1)(E)(ii) of the Internal Revenue Code of 1954 shall be applied by substituting "the number of REIT years to which such loss was a net operating loss carryback" for "the number of taxable years to which such loss may not be a net operating loss carryback by reason of subclause (I)". In the case of a net operating loss for a taxable year described in the preceding sentence, subclause (II) of section 172(b)(1)(E)(ii) of such Code shall not apply to any taxpayer which acted so as to cause it to cease to qualify as a "real estate investment trust" within the meaning of section 856 of such Code if the principal purpose for such action was to secure the benefit of the allowance of a net operating loss carryover under section 172(b)(1)(B) of such Code.

26 USC 172.

26 USC 856.

SEC. 2. INCREASES IN INTEREST RATES PAYABLE ON UNITED STATES RETIREMENT PLAN AND INDIVIDUAL RETIREMENT BONDS.

(a) IN GENERAL.—The first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by adding at the end thereof the following new paragraph:

"The Secretary of the Treasury, with the approval of the President, may provide by regulations that the investment yield on any offerings of bonds issued under this Act which are described in section 405(b) or 409(a) of the Internal Revenue Code of 1954 (relating to retirement plan bonds and individual retirement bonds, respectively) be increased for the interest accrual periods specified in such regulations so that the investment yield on such bonds for such periods is consistent with the investment yield on new offerings of such bonds.". 26 USC 405, 409.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to the investment yield on bonds issued before, on, or after the date of the enactment of this Act, but only for purposes of increasing the investment yield on such bonds for interest accrual periods beginning after the date of enactment of this Act. 31 USC 752 note.

SEC. 3. GENERAL STOCK OWNERSHIP CORPORATIONS.

(a) IN GENERAL.—Subchapter U of the Internal Revenue Code of 1954 (relating to general stock ownership corporations) is amended— 26 USC 1391.

(1) by inserting "or the estate of a deceased shareholder" after "State" in section 1391(a)(4)(D)(ii);

(2) by striking out "Individuals" in the caption of section 1391(c) and inserting in lieu thereof "Individual";

(3) by striking out "1393" in section 1392(a) and inserting in lieu thereof "1396(b)";

(4) by striking out "and all succeeding years" in section 1392(b)(1);

(5) by striking out "section, the term 'taxable income'" in section 1393(a)(2) and inserting in lieu thereof "subchapter, the taxable income";

(6) by striking out "a GSOC" in sections 1393(a)(2), 1393(b)(3), 1394(c), and 1396(b) and inserting in lieu thereof "an electing GSOC";

(7) by striking out "GSOC's" in the heading for section 1394 and inserting in lieu thereof "GSOC";

(8) by striking out "the GSOC" in sections 1393(b)(3) and 1394(d) and inserting in lieu thereof "an electing GSOC";

(9) by striking out "A GSOC" in section 1396(a) and inserting in lieu thereof "An electing GSOC";

(10) by adding at the end of section 1396(b) the following: "Such tax shall be deductible as an ordinary and necessary expense of the corporation under section 162."; and

(11) by amending the table of sections for such subchapter to read as follows:

"Subchapter U—General Stock Ownership Corporations

"Sec. 1391 Definitions.
"Sec. 1392. Election by GSOC.
"Sec. 1393. GSOC taxable income taxed to shareholders.
"Sec. 1394. Rules applicable to distributions of an electing GSOC.
"Sec. 1395. Adjustment to basis of stock of shareholders.
"Sec. 1396. Minimum distributions.
"Sec. 1397. Special rules applicable to an electing GSOC.".

26 USC 6039B.

(b) CONFORMING AMENDMENT.—The last sentence of section 6039B of such Code (relating to return of general stock ownership corporations) is amended by inserting "electing" after "Every".

26 USC 1391 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to corporations chartered after December 31, 1978, and before January 1, 1984.

SEC. 4. CHARITABLE SERVICES PERFORMED ABROAD.

26 USC 911.

(a) IN GENERAL.—Subsection (a) of section 911 of the Internal Revenue Code of 1954 (relating to income earned by individuals in certain camps) is amended by inserting "or who performs qualified charitable services in a lesser developed country," after "hardship area,".

(b) DOLLAR LIMITATIONS.—

(1) IN GENERAL.—Subparagraph (A) of subsection (c)(1) of such section 911 of such Code is amended to read as follows:

"(A) DOLLAR LIMITATIONS.—

"(i) CAMP RESIDENTS.—In the case of an individual who resides in a camp located in a hardship area, the amount excluded from the gross income of the individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $20,000 for days during which he resides in a camp.

"(ii) EMPLOYEES OF CHARITABLE ORGANIZATIONS.—If any individual performs qualified charitable services in a lesser developed country during any taxable year, the amount of the earned income attributable to such services excluded from the gross income of the individual under subsection (a) for the taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $20,000.

"(iii) SPECIAL RULE.—If any individual performs qualified charitable services in a lesser developed country and performs other services while residing in a camp located in a hardship area during any taxable year, the amount of the earned income attributable to such other services excluded from the gross income of the individual under subsection (a) for the taxable year shall not (after the application of clause (i) with respect to such earned income) exceed $20,000 reduced by the amount of the earned income attributable to qualified charitable services excluded from gross income under subsection (a) for the taxable year.".

(2) DEFINITIONS.—Subsection (c)(1) of such section 911 of such Code is amended by adding at the end thereof the following:

"(D) QUALIFIED CHARITABLE SERVICES.—For purposes of this subsection, the term 'qualified charitable services' means services performed by an employee for an employer which—

"(i) meets the requirements of section 501(c)(3), and

"(ii) is not a private foundation (within the meaning of section 509(a)).

"(E) LESSER DEVELOPED COUNTRY.—The term 'lesser developed country' means any foreign country other than—

"(i) a country listed in the first sentence of section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462), or

"(ii) a country designated by the President as not being a lesser developed country.".

(c) TECHNICAL AMENDMENTS.—

(1) The heading for such section 911 of such Code is amended by inserting "OR FROM CHARITABLE SERVICES" after "CAMPS". 26 USC 911.

(2) The item relating to section 911 in the table of sections for subpart B of part III of subchapter N of chapter 1 of such Code is amended by inserting "or from charitable services" after "camps".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978. 26 USC 911 note.

SEC. 5. ARBITRAGE REQUIREMENTS FOR MORTGAGE SUBSIDY BONDS.

(a) GENERAL RULE.—Paragraph (4) of section 103A(i) of the Internal Revenue Code of 1954 (relating to requirements related to arbitrage) is amended by adding at the end thereof the following new subparagraphs: *Ante*, p. 2660.

"(C) REDUCTION WHERE ISSUER DOES NOT USE FULL 1 PERCENTAGE POINT UNDER PARAGRAPH (2).—

"(i) IN GENERAL.—The amount required to be paid or credited to mortgagors under subparagraph (A) (determined under this paragraph without regard to this subparagraph) shall be reduced by the unused paragraph (2) amount.

"(ii) UNUSED PARAGRAPH (2) AMOUNT.—For purposes of clause (i), the unused paragraph (2) amount is the amount which (if it were treated as an interest payment made by mortgagors) would result in the excess referred to in paragraph (2)(A) being equal to 1 percentage point. Such amount shall be fixed and determined as of the yield determination date.

"(D) ELECTION TO PAY UNITED STATES.—Subparagraph (A) shall be satisfied with respect to any issue if the issuer elects before issuing the obligations to pay over to the United States—

"(i) not less frequently than once each 5 years after the date of issue, an amount equal to 90 percent of the aggregate amount which would be required to be paid or credited to mortgagors under subparagraph (A) (and not theretofore paid to the United States), and

"(ii) not later than 30 days after the redemption of the last obligation, 100 percent of such aggregate amount not theretofore paid to the United States.

"(E) SIMPLIFIED ACCOUNTING.—The Secretary shall permit any simplified system of accounting for purposes of this paragraph which the issuer establishes to the satisfaction of the Secretary will assure that the purposes of this paragraph are carried out.".

(b) TECHNICAL AMENDMENT.—Paragraph (8) of section 103A(l) of such Code is amended by inserting "or paid to the United States" after "credited to mortgagors".

26 USC 103A note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1102 of the Mortgage Subsidy Bond Tax Act of 1980.

Ante, p. 2660.

Approved December 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1045 (Comm. on Ways and Means).
SENATE REPORT No. 96-1037 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 17, considered and failed of passage.
Nov. 17, considered and passed House.
Dec. 13, considered and passed Senate, amended; House agreed to Senate amendments.

Public Law 96-596
96th Congress

An Act

To amend the Internal Revenue Code of 1954 with respect to the determination of second tier taxes, and for other purposes.

Dec. 24, 1980
[H.R. 5391]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Internal Revenue Code of 1954, amendment.

SECTION 1. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1 *et seq.*

SEC. 2. DETERMINATION OF SECOND TIER TAXES.

(a) DATE FOR DETERMINING AMOUNT OF SECOND TIER TAXES.—

(1) SUBSTITUTION OF TAXABLE PERIOD FOR CORRECTION PERIOD.—The following provisions are each amended by striking out "correction period" and inserting in lieu thereof "taxable period":

26 USC 4941–4945, 4951, 4952, 4971, 4975.

(A) Section 4941(b)(1) (relating to additional taxes on self-dealer).

(B) Section 4941(e)(2)(B) (defining amount involved).

(C) Section 4942(b) (relating to additional tax on failure to distribute income).

(D) Section 4943(b) (relating to additional tax on excess business holdings).

(E) Section 4944(b)(1) (relating to additional taxes on investment which jeopardizes charitable purpose).

(F) Section 4945(b)(1) (relating to additional taxes on taxable expenditures).

(G) Section 4951(b)(1) (relating to additional taxes on self-dealer).

(H) Section 4951(e)(2)(B) (defining amount involved).

(I) Section 4952(b)(1) (relating to additional taxes on taxable expenditures).

(J) Section 4971(b) (relating to additional tax on failure to meet minimum funding standards).

(K) Section 4975(b) (relating to additional taxes on disqualified persons).

(L) Section 4975(f)(4)(B) (defining amount involved).

(2) DEFINITION OF TAXABLE PERIOD.—

(A) Paragraph (1) of section 4941(e) (defining taxable period) is amended to read as follows:

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212,

"(B) the date on which the tax imposed by subsection (a)(1) is assessed, or

"(C) the date on which correction of the act of self-dealing is completed."

26 USC 4942. (B) Paragraph (1) of section 4942(j) is amended to read as follows:

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to the undistributed income for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of—

"(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, or

"(B) the date on which the tax imposed by subsection (a) is assessed."

26 USC 4943. (C) Paragraph (2) of section 4943(d) is amended to read as follows:

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any excess business holdings of a private foundation in a business enterprise, the period beginning on the first day on which there are excess holdings and ending on the earlier of—

"(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212 in respect of such holdings, or

"(B) the date on which the tax imposed by subsection (a) in respect of such holdings is assessed."

26 USC 4944. (D) Paragraph (1) of section 4944(e) is amended to read as follows:

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any investment which jeopardizes the carrying out of exempt purposes, the period beginning with the date on which the amount is so invested and ending on the earliest of—

"(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212,

"(B) the date on which the tax imposed by subsection (a)(1) is assessed, or

"(C) the date on which the amount so invested is removed from jeopardy."

26 USC 4945. (E) Paragraph (2) of section 4945(i) is amended to read as follows:

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending on the earlier of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, or

"(B) the date on which the tax imposed by subsection (a)(1) is assessed."

26 USC 4951. (F) Paragraph (1) of section 4951(e) is amended to read as follows:

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212,

"(B) the date on which the tax imposed by subsection (a)(1) is assessed, or

"(C) the date on which correction of the act of self-dealing is completed."

(G) Paragraph (2) of section 4952(e) is amended to read as follows: 26 USC 4952.

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending on the earlier of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, or

"(B) the date on which the tax imposed by subsection (a)(1) is assessed."

(H) Paragraph (3) of section 4971(c) is amended to read as follows: 26 USC 4971.

"(3) TAXABLE PERIOD.—The term 'taxable period' means, with respect to an accumulated funding deficiency, the period beginning with the end of the plan year in which there is an accumulated funding deficiency and ending on the earlier of—

"(A) the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a), or

"(B) the date on which the tax imposed by subsection (a) is assessed."

(I) Paragraph (2) of section 4975(f) is amended to read as follows: 26 USC 4975.

"(2) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any prohibited transaction, the period beginning with the date on which the prohibited transaction occurs and ending on the earliest of—

"(A) the date of mailing a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212,

"(B) the date on which the tax imposed by subsection (a) is assessed, or

"(C) the date on which correction of the prohibited transaction is completed."

(3) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 4941 is amended by striking out paragraph (4). 26 USC 4941.

(B) Subsection (j) of section 4942 is amended— 26 USC 4942.

(i) by striking out paragraph (2),

(ii) by striking out "paragraph (5)" in paragraph (3)(B)(i) and inserting in lieu thereof "paragraph (4)",

(iii) by redesignating paragraph (4) as paragraph (2), and

(iv) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(C) Subsection (d) of section 4943 is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3). 26 USC 4943.

(D) Subsection (e) of section 4944 is amended by striking out paragraph (3). 26 USC 4944.

(E) Subsection (e) of section 4951 is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4). 26 USC 4951.

(F) Subsection (f) of section 4975 is amended by striking out paragraph (6). 26 USC 4975.

(4) CLERICAL AMENDMENTS.—

26 USC 4942.

(A) Clause (ii) of section 4942(g)(2)(C) is amended by striking out "the initial correction period provided in subsection (j)(2)" and inserting in lieu thereof "the correction period (as defined in section 4962(e))".

26 USC 4943.

(B) Subparagraph (A) of section 4943(d)(3) (as redesignated by paragraph (3)(c)) is amended by striking out "4942(j)(5)" and inserting in lieu thereof "4942(j)(4)".

26 USC 6213.

(C) Subsection (e) of section 6213 (relating to suspension of filing period for certain excise taxes) is amended by striking out "section 4941(e)(4)" and all that follows through the end of such subsection and inserting in lieu thereof "section 4962(e)."

Post, p. 3473.

26 USC 6503.

(D) Subsection (g) of section 6503 (relating to suspension of running of period of limitation pending correction) is amended by striking out "section 4941(e)(4)" and all that follows through the end of such subsection and inserting in lieu thereof "section 4962(e)."

(E) Section 6503 is amended by redesignating subsection (j) as subsection (i).

26 USC 6503 note.

26 USC 6503.

(F) The amendments made by sections 1203(h)(1) and 1601(f)(2) of the Tax Reform Act of 1976, and the amendment made by section 362(d)(5) of the Revenue Act of 1978, shall be deemed to be amendments to section 6503(i) of the Internal Revenue Code of 1954 (as redesignated by subparagraph (E)).

(b) TAX COURT TO DETERMINE WHETHER TAXABLE EVENT HAS BEEN CORRECTED.—Subsection (c) of section 6214 (relating to determinations by Tax Court) is amended by adding at the end thereof the following new sentence: "The Tax Court, in redetermining a deficiency of any second tier tax (as defined in section 4962(b)), shall make a determination with respect to whether the taxable event has been corrected."

26 USC 6214.

Post, p. 3473.

(c) ABATEMENT OF TAX WHERE THERE IS CORRECTION DURING CORRECTION PERIOD.—

(1) IN GENERAL.—Chapter 42 is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Abatement of Second Tier Taxes Where There Is Correction During Correction Period

"Sec. 4961. Abatement of second tier taxes where there is correction.
"Sec. 4962. Definitions.

26 USC 4961.

"SEC. 4961. ABATEMENT OF SECOND TIER TAXES WHERE THERE IS CORRECTION.

"(a) GENERAL RULE.—If any taxable event is corrected during the correction period for such event, then any second tier tax imposed with respect to such event (including interest, additions to the tax, and additional amounts) shall not be assessed, and if assessed the assessment shall be abated, and if collected shall be credited or refunded as an overpayment.

"(b) SUPPLEMENTAL PROCEEDING.—If the determination by a court that the taxpayer is liable for a second tier tax has become final, such court shall have jurisdiction to conduct any necessary supplemental proceeding to determine whether the taxable event was corrected during the correction period. Such a supplemental proceeding may be begun only during the period which ends on the 90th day after the last day of the correction period. Where such a supplemental proceeding has begun, the reference in the second sentence of section 6213(a)

to a final decision of the Tax Court shall be treated as including a final decision in such supplemental proceeding.

"(c) SUSPENSION OF PERIOD OF COLLECTION FOR SECOND TIER TAX.—

"(1) PROCEEDING IN DISTRICT COURT OR COURT OF CLAIMS.—If, not later than 90 days after the day on which the second tier tax is assessed, the first tier tax is paid in full and a claim for refund of the amount so paid is filed, no levy or proceeding in court for the collection of the second tier tax shall be made, begun, or prosecuted until a final resolution of a proceeding begun as provided in paragraph (2) (and of any supplemental proceeding with respect thereto under subsection (b)). Notwithstanding section 7421(a), the collection by levy or proceeding may be enjoined during the time such prohibition is in force by a proceeding in the proper court.

"(2) SUIT MUST BE BROUGHT TO DETERMINE LIABILITY.—If, within 90 days after the day on which his claim for refund is denied, the person against whom the second tier tax was assessed fails to begin a proceeding described in section 7422 for the determination of his liability for such tax, paragraph (1) shall cease to apply with respect to such tax, effective on the day following the close of the 90-day period referred to in this paragraph.

"(3) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court with respect to any second tier tax described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court.

"(4) JEOPARDY COLLECTION.—If the Secretary makes a finding that the collection of the second tier tax is in jeopardy, nothing in this subsection shall prevent the immediate collection of such tax.

"SEC. 4962. DEFINITIONS. 26 USC 4962.

"(a) FIRST TIER TAX.—For purposes of this subchapter, the term 'first tier tax' means any tax imposed by subsection (a) of section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975.

"(b) SECOND TIER TAX.—For purposes of this subchapter, the term 'second tier tax' means any tax imposed by subsection (b) of section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975.

"(c) TAXABLE EVENT.—For purposes of this subchapter, the term 'taxable event' means any act (or failure to act) giving rise to liability for tax under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975.

"(d) CORRECT.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'correct' has the same meaning as when used in the section which imposes the second tier tax.

"(2) SPECIAL RULES.—The term 'correct' means—

"(A) in the case of the second tier tax imposed by section 4942(b), reducing the amount of the undistributed income to zero,

"(B) in the case of the second tier tax imposed by section 4943(b), reducing the amount of the excess business holdings to zero, and

"(C) in the case of the second tier tax imposed by section 4944, removing the investment from jeopardy.

"(e) CORRECTION PERIOD.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'correction period' means, with respect to any taxable event, the period beginning on the date on which such event occurs and ending 90 days after the date of mailing under section 6212 of a notice of deficiency with respect to the second tier tax imposed on such taxable event, extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a) (determined without regard to the last sentence of section 4961(b)), and

"(B) any other period which the Secretary determines is reasonable and necessary to bring about correction of the taxable event.

"(2) SPECIAL RULES FOR WHEN TAXABLE EVENT OCCURS.—For purposes of paragraph (1), the taxable event shall be treated as occurring—

"(A) in the case of section 4942, on the first day of the taxable year for which there was a failure to distribute income,

"(B) in the case of section 4943, on the first day on which there are excess business holdings,

"(C) in the case of section 4971, on the last day of the plan year in which there is an accumulated funding deficiency, and

"(D) in any other case, the date on which such event occurred."

(2) CIVIL ACTIONS FOR REFUNDS.—Paragraph (1) of section 7422(g) (relating to special rules for certain excise taxes imposed by chapter 42 or 43) is amended to read as follows:

26 USC 7422. 26 USC 4940 *et seq.*, 4971 *et seq.*

"(1) RIGHT TO BRING ACTIONS.—

"(A) IN GENERAL.—With respect to any taxable event, payment of the full amount of the first tier tax shall constitute sufficient payment in order to maintain an action under this section with respect to the second tier tax.

"(B) DEFINITIONS.—For purposes of subparagraph (A), the terms 'taxable event', 'first tier tax', and 'second tier tax' have the respective meanings given to such terms by section 4962."

(3) CLERICAL AMENDMENT.—The table of subchapters for chapter 42 is amended by adding at the end thereof the following new item:

"SUBCHAPTER C. Abatement of second tier taxes where there is correction during correction period."

26 USC 4961 *note.*

(d) EFFECTIVE DATES.—

(1) FIRST TIER TAXES.—The amendments made by this section with respect to any first tier tax shall take effect as if included in the Internal Revenue Code of 1954 when such tax was first imposed.

(2) SECOND TIER TAXES.—The amendments made by this section with respect to any second tier tax shall apply only with respect to taxes assessed after the date of the enactment of this Act. Nothing in the preceding sentence shall be construed to permit the assessment of a tax in a case to which, on the date of the enactment of this Act, the doctrine of res judicata applies.

(3) FIRST AND SECOND TIER TAX.—For purposes of this subsection, the terms "first tier tax" and "second tier tax" have the respective meanings given to such terms by section 4962 of the Internal Revenue Code of 1954.

26 USC 4962.

SEC. 3. TREATMENT OF CERTAIN CHARITABLE TRUSTS FOR PURPOSES OF THE MINIMUM TAX.

(a) GENERAL RULE.—Subparagraph (C) of section 57(b)(2) (relating to treatment of certain charitable contributions of trusts for purposes of the minimum tax) is amended by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively, and by inserting after clause (iii) the following new clause: 26 USC 57.

"(iv) deductions allowable to a trust—

"(I) all the income interests in which are devoted to one or more of the purposes described in section 170(c) (determined without regard to section 170(c)(2)(A)),

"(II) all of the interests (other than income interests) in which are held by a corporation, and

"(III) the grantor of which is a corporation."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1975. 26 USC 57 note.

SEC. 4. EXCISE TAXES ON TIRES.

(a) REDUCTIONS IN RATE OF TAX.—

(1) IN GENERAL.—

(A) Section 4071(a)(1) is amended by striking out "10 cents" and inserting "9.75 cents". 26 USC 4071.

(B) Section 4071(a)(2) is amended by striking out "5 cents" and inserting "4.875 cents".

(C) Section 4071(d)(1) is amended by striking out "5 cents" and inserting "4.875 cents".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply on and after January 1, 1981. 26 USC 4071 note.

(b) DETERMINATION OF OVERPAYMENT.— 26 USC 4071 note.

(1) IN GENERAL.—The determination of the extent to which any overpayment of tax imposed by section 4071(a) (1) or (2) or section 4071(b) has arisen by reason of an adjustment of a tire after the original sale pursuant to a warranty or guarantee, and the allowance of a credit or refund of any such overpayment, shall be determined in accordance with the principles set forth in regulations and rulings relating thereto to the extent in effect on March 31, 1978. *Supra.*

(2) EFFECTIVE DATE.—This subsection shall apply to the adjustment of any tire after March 31, 1978, and prior to January 1, 1983.

(c) TIRES AND INNER TUBES.—

(1) IN GENERAL.—Paragraph (1) of section 6416(b) (relating to price readjustments) is amended to read as follows: 26 USC 6416.

"(1) PRICE READJUSTMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or (C), if the price of any article in respect of which a tax, based on such price, is imposed by chapter 32, is readjusted by reason of the return or repossession of the article or a covering or container, or by a bona fide discount, rebate, or allowance, including a readjustment for local advertising (but only to the extent provided in section 4216(e) (2) and (3)), the part of the tax proportionate to the part of the price repaid or credited to the purchaser shall be deemed to be an overpayment. 26 USC 4061 *et seq.*

"(B) FURTHER MANUFACTURE.—Subparagraph (A) shall not apply in the case of an article in respect of which tax was computed under section 4223(b)(2); but if the price for which

such article was sold is readjusted by reason of the return or repossession of the article, the part of the tax proportionate to the part of such price repaid or credited to the purchaser shall be deemed to be an overpayment.

"(C) ADJUSTMENT OF TIRE PRICE.—No credit or refund of any tax imposed by section 4071(a) (1) or (2) or section 4071(b) shall be allowed or made by reason of an adjustment of a tire pursuant to a warranty or guarantee."

Ante, p. 3475.

26 USC 6416 note.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the adjustments of any tire after December 31, 1982.

SEC. 5. TAX TREATMENT OF PROCEEDS HELD IN TRUST FOR KLAMATH INDIAN TRIBE.

25 USC 564j note.

(a) IN GENERAL.—The first section of the Act entitled "An Act to exclude from gross income gains from the condemnation of certain forest lands held in trust for the Klamath Indian Tribe", approved August 9, 1975, is amended by striking out "gain resulting from" and inserting in lieu thereof "all amounts realized by the trust from".

25 USC 564j note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to all amounts whether received before, on, or after the date of the enactment of this Act.

Approved December 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-912 (Comm. on Ways and Means).
SENATE REPORT No. 96-1034 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 20, considered and passed House.
Dec. 13, considered and passed Senate, amended; House agreed to Senate amendments with amendments; Senate agreed to House amendments.

Public Law 96-597
96th Congress

An Act

To authorize appropriations for certain insular areas of the United States, and for other purposes.

Dec. 24, 1980
[H.R. 8444]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

United States insular areas. Appropriation authorization.

TITLE I—AMERICAN SAMOA

SEC. 101. Notwithstanding any other provision of law and subject to valid existing rights, all right, title, and interest of the Government of the United States in personal property situated in American Samoa shall be transferred, without reimbursement, to the American Samoa government on October 1, 1981, unless the agency of the Government of the United States having administrative responsibility for the property advises the Secretary of the Interior in writing before the date of transfer that it has a continuing requirement for such property.

48 USC 1662 note.

TITLE II—GUAM

SEC. 201. (a) Section 3 and section 5 of the Act entitled "An Act to provide for the rehabilitation of Guam, and for other purposes" (Public Law 88-170; 77 Stat. 302) are hereby repealed.

Repeal.

(b) The Act entitled "An Act to provide for the rehabilitation of Guam, and for other purposes" is amended by adding at the end thereof the following new section:

"SEC. 7. The government of Guam shall not be liable to the United States on and after the effective date of this section for repayment of any amount appropriated under this Act which was not repaid to the United States before such date.".

(c) This section shall take effect October 1, 1981.

Effective date.

TITLE III—NORTHERN MARIANA ISLANDS

SEC. 301. Within six months from the date of enactment of this Act, the Secretary of the Interior is directed to submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a report on the existing dock and harbor facilities in the Northern Mariana Islands; the need, if any, for repair, improvement, or replacement of such facilities; the cost of such rehabilitation; and the amount of Federal assistance which would be necessary to achieve such rehabilitation.

Report to congressional committees.

SEC. 302. (a) Section 12 of the Act of August 9, 1950 (64 Stat. 434), as amended, is further amended by deleting "Governor of American Samoa," and inserting in lieu thereof "Governor of American Samoa, the Governor of the Commonwealth of the Northern Mariana Islands,"; by deleting "to apportion to Puerto Rico, Guam, American Samoa," and inserting in lieu thereof "to apportion to Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mari-

16 USC 777k.

ana Islands,"; by deleting "Samoa one-third of 1 per centum," and inserting in lieu thereof "Samoa one-third of 1 per centum, for the Commonwealth of the Northern Mariana Islands one-third of 1 per centum,"; and by deleting "expenditure in Puerto Rico, Guam," and inserting in lieu thereof "expenditure in Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands,".

16 USC 669g-1.

(b) Section 8(a) of the Act of September 2, 1937 as added August 18, 1941 (55 Stat. 632), as amended, is further amended by deleting "Governor of Guam," and inserting in lieu thereof "Governor of Guam, the Governor of the Commonwealth of the Northern Mariana Islands,"; by deleting "apportion to Puerto Rico, Guam," and inserting in lieu thereof "apportion to Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands,"; by deleting "Guam one-sixth of 1 per centum," and inserting in lieu thereof "Guam one-sixth of 1 per centum, for the Commonwealth of the Northern Mariana Islands one-sixth of 1 per centum,"; and by deleting "expenditure in Puerto Rico, Guam," and inserting in lieu thereof "expenditure in Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands,".

48 USC 1681 note.

SEC. 303. (a) The Act of March 12, 1980 (Public Law 96-205; 94 Stat. 87) is hereby amended as follows: In section 205(a) change "and before January 1, 1981." to "until, but not after, January 1, 1983.".

Suspension and effective date.

(b) The provisions of section 205(c) shall be suspended and shall be of no force or effect until January 1, 1983.

TITLE IV—TRUST TERRITORY OF THE PACIFIC ISLANDS

48 USC 1681 note.

SEC. 401. Section 101 of the Act of March 12, 1980 (94 Stat. 84), is amended by changing the commas after "program" and "system" to semicolons; by deleting the word "and" after "system"; and by inserting after "Ponape;" the following: "for expenditure by grant or contract for the installation, operation, and maintenance of communications systems which will provide internal and external communications;".

Property transfer. 48 USC 1681 note.

SEC. 402. (a) Notwithstanding any other provision of law, subject to valid existing rights, and subject to subsection (b) of this section, all right, title, and interest of the Government of the United States in personal property situated in the Trust Territory of the Pacific Islands and of the government of the Trust Territory of the Pacific Islands in personal property wherever located shall be transferred, without reimbursement, by October 1, 1982, to the government of the Northern Mariana Islands, Palau, the Marshall Islands, or the Federated States of Micronesia according to a list of distribution established by the High Commissioner of the Trust Territory of the Pacific Islands in consultation with the recipient government.

(b) Personal property referred to in subsection (a) of this section shall be transferred upon declaration by the High Commissioner of the Trust Territory of the Pacific Islands that such property is surplus to the needs of the government of the Trust Territory of the Pacific Islands, which declaration shall be approved, if applicable, by the head of the agency of the Government of the United States having administrative responsibility for the property.

(c) If no government exists in Palau at the time of enactment of this section that is capable of receiving title to such property in its own name, the government of the Trust Territory of the Pacific Islands shall hold such property in trust for the prospective government of Palau until such government is established.

SEC. 403. Section 104 of the Act of March 12, 1980 is amended as follows: 48 USC 1695.

(a) strike "nor shall participation" and insert "and shall continue to be available to the extent said territory or its successor or successors are eligible to participate in such programs. Participation";

(b) change "governments be denied" to "governments shall not be denied"; and

(c) strike the period and insert "and shall continue at such levels as the Congress may provide in appropriation Acts.".

TITLE V—VIRGIN ISLANDS AND GUAM

SEC. 501. Section 5 of the Act of October 21, 1976 (Public Law 94-584; 90 Stat 2899) is amended by changing "sixty days after its submission" to "sixty legislative days (not interrupted by an adjournment sine die of the Congress) after its submission". 48 USC note prec. 1391.

SEC. 502. Notwithstanding any other provision of law, with regard to parcels 2 and 22 (Estate Upper Bethlehem, Saint Croix, United States Virgin Islands) and parcels 2A and 23 (Fredensborg and Upper Bethlehem, Saint Croix, United States Virgin Islands) and parcel 24 (Estate Body Slob and Upper Bethlehem, Saint Croix, United States Virgin Islands), the government of the Virgin Islands is hereby released from all obligation under the mortgage and note given by the government of the Virgin Islands when such parcels were conveyed to the government of the Virgin Islands by the Government of the United States. Release of parcel obligation.

TITLE VI—MISCELLANEOUS

SEC. 601. GENERAL TECHNICAL ASSISTANCE.—(a) The Secretary of the Interior is authorized to extend to the governments of American Samoa, Guam, the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands, and their agencies and instrumentalities, with or without reimbursement, technical assistance on subjects within the responsibility of the respective territorial governments. Such assistance may be provided by the Secretary of the Interior through members of his staff, reimbursements to other departments or agencies of the Federal Government under the Economy Act (31 U.S.C. 686), grants to or cooperative agreements with such governments, agreements with Federal agencies or agencies of State or local governments, or the employment of private individuals, partnerships, or corporations. Technical assistance may include research, planning assistance, studies, and demonstration projects. 48 USC 1469d.

(b) The Secretary of the Interior is further authorized to provide technical assistance to, and maintenance of agricultural plantings and physical facilities for, the peoples from Enewetak Atoll and Bikini Atoll, as well as for the purchase of food and equipment and for the transportation of such food, equipment and persons as he deems necessary and appropriate until such areas produce sufficient food to fully sustain the residents after resettlement. This provision shall not cease to be applicable either before or after the termination of the trusteeship without the express approval of the United States Congress.

(c) The Secretary of Agriculture is authorized to extend, in his discretion, programs administered by the Department of Agriculture to Guam, the Northern Mariana Islands, the Trust Territory of the

Waiver.

Congressional notification.

Pacific Islands, the Virgin Islands, and American Samoa (hereinafter called the territories). Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to waive or modify any statutory requirements relating to the provision of assistance under such programs when he deems it necessary in order to adapt the programs to the needs of the respective territory: *Provided,* That not less than sixty days prior to extending any program pursuant to this section or waiving or modifying any statutory requirement pursuant to this section, the Secretary of Agriculture shall notify the Committee on Agriculture and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate of his proposed action together with an explanation of why his action is necessary and the anticipated benefits to each territory affected. Such programs shall be carried out in cooperation with the respective governments of the territories and shall be covered by a memorandum of understanding between the respective territorial government and the Department of Agriculture. Any sums appropriated pursuant to this paragraph shall be allocated to the agencies of the Department of Agriculture concerned with the administration of programs in the territories.

Effective date. Appropriation authorization.

(d) Effective October 1, 1981, there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

Politicial unification of insular areas. 48 USC 1681 note.

SEC. 602. In the event that a political union is effected at a future time between the Territory of Guam and the Commonwealth of the Northern Mariana Islands, the Federal Government and each of its agencies is authorized and directed to assure that—

(i) there will be no diminution of any rights or entitlements otherwise eligible to said territory and Commonwealth in effect on the effective date of such union,

(ii) there will be no adverse effect on any funds which have been or may hereafter be authorized or appropriated for said territory or Commonwealth, as of the effective date of such union, or

(iii) no action is taken that would in any manner discourage such unification.

Whenever any discrepancy exists or arises between the benefits available for either said territory or Commonwealth under any policies or programs authorized by law (including, but not limited to, any formulas for matching grants-in-aid or comparable programs or benefits), the most favorable terms available to either said territory or Commonwealth shall be deemed applicable to said unified area after the effective date of unification.

SEC. 603. Notwithstanding any other provision of law to the contrary, funds appropriated under the Emergency School Aid Act for fiscal year 1980 which are available for use in American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands shall be available in such areas for the purposes set forth in section 702 of the Emergency School Aid Act as such section was in effect immediately before September 30, 1979.

20 USC 3191.

20 USC 3222.

Energy resources. 48 USC 1492.

SEC. 604. (a) The Congress finds that—

(1) the Caribbean and Pacific insular areas of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, and Palau are virtually completely dependent on imported sources of energy;

(2) the dependence of such areas on imported sources of energy coupled with the increasing cost and the uncertain availability and supply of such sources of energy will continue to frustrate the political, social, and economic development of such areas by placing increasingly severe fiscal burdens on the local governments of these areas;

(3) these insular areas are endowed with a variety of renewable sources of energy which, if developed, would alleviate their dependence on imported sources of energy, relieve the fiscal burden on local governments imposed by the costs of imported fuel, and strengthen the base for political, social, and economic development;

(4) appropriate technologies are presently available to develop the renewable energy resources of these insular areas but that comprehensive energy plans have not been adequately developed to meet the energy demands of these areas from renewable energy resources.

Energy resources, development.

(b) The Congress declares that it is the policy of the Federal Government to—

(1) develop the renewable energy resources of the Caribbean and Pacific insular areas of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, and Palau; and

(2) to assist other insular areas in the Caribbean and Pacific Basin in the development of their renewable energy resources.

Comprehensive energy plan.

(c) The Secretary of Energy or any administrative official who may succeed him shall prepare a comprehensive energy plan with emphasis on indigenous renewable sources of energy for Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands and Palau. The plan shall be prepared with the approval of the Secretary of the Interior and in cooperation with the chief executive officer of each insular area by—

(1) surveying existing sources and uses of energy;

(2) estimating future energy needs to the year 2020, giving due consideration to a range of economic development possibilities;

(3) assessing, in depth, the availability and potential for development of indigenous energy sources, including solar, wind, hydropower, ocean current and tidal, biogas, biofuel, geothermal and ocean thermal energy conversion;

(4) assessing the mix of energy sources (including fossil fuels) and identifying those technologies that are needed to meet the projected demands for energy; and

(5) drafting long-term energy plans for such insular areas with the objective of minimizing their reliance on energy imports and making maximum use of their indigenous energy resources.

(d) The Secretary of Energy or any administrative official who may succeed him, with the approval of the Secretary of the Interior, as part of the comprehensive energy planning may demonstrate those indigenous renewable energy technologies which are determined to be most cost effective through the use of existing programs.

Plan submittal to Congress.

(e) Within two years from the date of enactment of this Act, the Secretary of Energy or any administrative official who may succeed him shall submit the comprehensive energy plan for each insular area to the Congress.

Appropriation authorization.

(f) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

Effective date.
42 USC 1962d-16.

SEC. 605. Effective October 1, 1981, section 22 of the Water Resources Development Act of 1974 (Public Law 93-251) is amended by adding at the end thereof the following:

"State."

"(c) For the purposes of this section, the term 'State' means the several States of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.".

SEC. 606. (a) The Congress finds that—

(1) the Trust Territory of the Pacific Islands is composed over two thousand islands scattered over three million square miles of the North Pacific Ocean with a total land area of only seven hundred square miles supporting approximately one hundred thousand persons;

(2) the health, safety, welfare, as well as the political, social, and economic development of the peoples of the Trust Territory of the Pacific Islands are totally dependent on the adequacy and regularity of inter-island transportation;

(3) the principal form of inter-island transportation, especially for the outer islands is and will continue to be surface transportation;

(4) at present inter-island surface transportation is completely dependent on uncertain supplies of increasingly expensive imported fuel;

(5) recent developments in sail-assisted technology offer the potential for alleviating the dependence of the peoples of the Trust Territory of the Pacific Islands on imported fuel for surface transportation, thereby improving the capability for regular supply schedules to the various islands, relieving the fiscal burden on local governments caused by the costs of imported fuel, and strengthening the base for political, social, and economic development of the peoples of the Trust Territory of the Pacific Islands.

Transportation.
Report to Congress.

(b) In order to ascertain the potential for sail-assisted technology for inter-island transportation in the Trust Territory of the Pacific Islands, the Secretary of the Interior is directed to review the transportation needs of the Trust Territory of the Pacific Islands and submit a report to the Congress by October 1, 1981, on his findings and recommendations.

(c) In preparing his report, the Secretary of the Interior shall consider, but is not limited to, frequency of services, present and alternative routes, cargo delivery, operating costs, port and docking availability and adequacy, and the impact on energy costs of the use of a second generation of inter-island field trip vessels using sail-assisted technology. The report shall set forth a scientific analysis of the potential applications of sail-assisted technology as a means of reducing energy costs for inter-island transportation including, but not limited to, statistics on windspeed, direction, wave heights and currents; possible design configurations and specifications for sail-assisted vessels; cost estimates for construction, financing, and operation; and such other information as he deems appropriate to determine the feasibility of sail-assisted technology for inter-island transportation.

(d) The Secretary is directed to consult with appropriate representatives of the various local government units in the Trust Territory of the Pacific Islands as well as the Secretary of Transportation, the Secretary of Commerce, and the Secretary of Defense in preparing the report.

SEC. 607. (a) In order to assist the governments of Guam and the Virgin Islands in eliminating general fund deficits, there is authorized to be appropriated to the Secretary of the Interior for payment to Guam not to exceed $15,000,000 for fiscal year 1982, and $11,000,000 for fiscal year 1983, $7,500,000 for fiscal year 1984, and $4,000,000 for fiscal year 1985; and for payment to the Virgin Islands not to exceed $12,000,000 for fiscal year 1982, $9,000,000 for fiscal year 1983, $6,000,000 for fiscal year 1984, and $3,000,000 for fiscal year 1985.

Appropriation authorization. 48 USC 1641 note.

(b) The Governors of Guam and the Virgin Islands shall each submit a plan for approval to the Secretary of the Interior in consultation with the Secretary of the Treasury which is designed to eliminate the respective territory's general fund deficits by the beginning of fiscal year 1986. Such plan shall provide for—

Plan submittal to Secretary of Interior.

(1) implementation of an effective budgeting and accounting system;

(2) realistic revenue and expenditure projections which will progressively reduce current year general fund deficits and result in a balanced general fund budget no later than the beginning of fiscal year 1986;

(3) financing of accumulated general fund deficits;

(4) quarterly goals and timetables for implementing the plan. The plan shall also indicate that the Governor has the necessary authority to implement the plan.

(c) Not more than thirty days after the close of each quarter which occurs after the plan required under subsection (a) of this section has been approved by the Secretary of the Interior in consultation with the Secretary of the Treasury and through the close of fiscal year 1985, the respective Governor shall submit a report to the Secretary of the Interior and the Secretary of the Treasury, certified by the respective government comptroller, describing in detail the success or failure of such territory in meeting the goals and timetables described in such plan.

Report submittal to Secretaries of Interior and Treasury.

(d) No payment shall be made under this title until the plan required under this section has been approved by the Secretary of the Interior in consultation with the Secretary of the Treasury. Before making any payment under this title after such plan has been approved, the Secretary shall determine whether the respective territory is meeting the goals and timetables prescribed in such plan. If the Secretary determines that such territory is not meeting such goals or timetables, he shall withhold payments otherwise due such territory until he determines that such goals and timetables are being met.

Payments.

SEC. 608. Authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriations Acts.

Approved December 24, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 9, considered and passed House.
Dec. 12, considered and passed Senate.

Public Law 96-598
96th Congress

An Act

To amend the Internal Revenue Code of 1954 with respect to excise tax refunds in the case of certain uses of tread rubber, and for other purposes.

Dec. 24, 1980
[H.R. 3317]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Internal Revenue Code of 1954, amendment.

SECTION 1. EXCISE TAX REFUNDS IN CASE OF CERTAIN USES OF TREAD RUBBER.

(a) REFUNDS FOR CERTAIN USES.—Subparagraph (G) of section 6416(b)(2) of the Internal Revenue Code of 1954 (relating to special cases in which tax payments considered overpayments) is amended to read as follows:

26 USC 6416.

"(G) in the case of tread rubber in respect of which tax was paid under section 4071(a)(4)—

"(i) used or sold for use otherwise than in the recapping or retreading of tires of the type used on highway vehicles (as defined in section 4072(c)),

"(ii) destroyed, scrapped, wasted, or rendered useless in the recapping or retreading process,

"(iii) used in the recapping or retreading of a tire the sale of which is later adjusted pursuant to a warranty or guarantee, in which case the overpayment shall be in proportion to the adjustment in the sales price of such tire, or

"(iv) used in the recapping or retreading of a tire, if such tire is by any person exported, used or sold for use as supplies for vessels or aircraft, sold to a State or local government for the exclusive use of a State or local government, or sold to a nonprofit educational organization for its exclusive use,

unless credit or refund of such tax is allowable under paragraph (3);".

(b) USE IN FURTHER MANUFACTURE, ETC.—

(1) IN GENERAL.—Paragraph (3) of section 6416(b) of such Code (relating to tax-paid articles used for further manufacture, etc.) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) in the case of tread rubber in respect of which tax was paid under section 4071(a)(4) used in the recapping or retreading of a tire, such tire is sold by the subsequent manufacturer or producer on or in connection with, or with the sale of, any other article manufactured or produced by him and such other article is by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, unless credit or refund of such tax is allowable under subparagraph (C);".

(2) TECHNICAL AMENDMENTS.—

26 USC 6416.

(A) Subparagraph (E) of section 6416(b)(2) of such Code is amended by inserting after "paragraph (3)" the following: "(or in the case of the tread rubber on a recapped or retreaded tire, resold for use as provided in subparagraph (D) of paragraph (3)),".

(B) Subparagraph (C) of section 6416(a)(1) of such Code is amended by striking out "(b)(3)(C)" and inserting in lieu thereof "(b)(3)(C) or (D)".

(C) Subparagraph (A) of section 6416(b)(3) of such Code is amended by inserting "(D)," after "(C),".

(D) Subparagraph (A) of section 6416(b)(4) of such Code is amended by striking out "section 4071" and inserting in lieu thereof "section 4071, or a recapped or retreaded tire in respect of which tax under section 4071(a)(4) was paid on the tread rubber used in the recapping or retreading,".

26 USC 6511.

(c) STATUTE OF LIMITATIONS.—Section 6511 of such Code (relating to limitations on credit or refund) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) SPECIAL RULE FOR CERTAIN TREAD RUBBER TAX CREDITS OR REFUNDS.—The period for allowing a credit or making a refund of any overpayment of tax arising by reason of subparagraph (G)(iii) of section 6416(b)(2) with respect to any adjustment of sales price of a tire pursuant to a warranty or guarantee shall not expire if claim therefor is filed before the date which is one year after the day on which such adjustment is made.".

Ante, p. 3485.

(d) IMPORTED RECAPPED OR RETREADED UNITED STATES TIRES.—

26 USC 4071.

Section 4071 of such Code (relating to excise tax on tires and tubes) is amended by adding at the end thereof the following new subsection:

"(f) IMPORTED RECAPPED OR RETREADED UNITED STATES TIRES.—

"(1) IN GENERAL.—For purposes of subsection (a)(4), in the case of a tire which has been exported from the United States, recapped or retreaded (other than from bead to bead) outside the United States, and imported into the United States—

"(A) the person importing such tire shall be treated as importing the tread rubber used in such recapping or retreading (determined as of the completion of the recapping or retreading), and

"(B) the sale of such tire by the importer thereof shall be treated as the sale of such tread rubber.

"(2) EXCEPTION FOR CERTAIN TAXABLE SALES.—Paragraph (1) shall not apply with respect to the sale of any tire if such tire is sold on or in connection with the sale of an article on which tax is imposed under section 4061.".

26 USC 4071 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 10 days after the date of the enactment of this Act.

26 USC 1034 note.

SEC. 2. NONRECOGNITION OF GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—In the case of an individual—

(1) who sold his principal residence (within the meaning of section 1034 of the Internal Revenue Code of 1954) in 1977,

(2) who purchased property on which to construct a new principal residence (within the meaning of such section)—

(A) the construction of which commenced during such year, and

(B) the construction of which was terminated before completion,

(3) who brought an action, and obtained a judgment, against the builder who commenced construction of the new residence but failed to complete it,

(4) who suspended construction of such residence so that the partially constructed residence could be used as evidence in connection with the prosecution of the builder (without regard to whether it was so used), and

(5) who failed to meet the requirements of such section with respect to occupancy of the new principal residence because of such suspension of construction,

the Secretary of the Treasury, in the administration of section 1034(c) of the Internal Revenue Code of 1954 (relating to rules for application of section 1034), shall apply paragraph (5) of such section as if "5 years" were substituted for "2 years" where it appears in the last sentence of such paragraph.

(b) EFFECTIVE DATE.—The provisions of the first section of this Act shall apply with respect to taxable years beginning after December 31, 1976, and before January 1, 1983.

SEC. 3. DISCLOSURE OF TAX RETURNS TO STATE AUDIT AGENCIES.

(a) GENERAL RULE.—Subsection (d) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of return information to State tax officials) is amended to read as follows: 26 USC 6103.

"(d) DISCLOSURE TO STATE TAX OFFICIALS.—

"(1) IN GENERAL.—Returns and return information with respect to taxes imposed by chapters 1, 2, 6, 11, 12, 21, 23, 24, 31, 32, 44, 51, and 52 and subchapter D of chapter 36 shall be open to inspection by, or disclosure to, any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws for the purpose of, and only to the extent necessary in, the administration of such laws, including any procedures with respect to locating any person who may be entitled to a refund. Such inspection shall be permitted, or such disclosure made, only upon written request by the head of such agency, body, or commission, and only to the representatives of such agency, body, or commission designated in such written request as the individuals who are to inspect or to receive the returns or return information on behalf of such agency, body, or commission. Such representatives shall not include any individual who is the chief executive officer of such State or who is neither an employee or legal representative of such agency, body, or commission nor a person described in subsection (n). However, such return information shall not be disclosed to the extent that the Secretary determines that such disclosure would identify a confidential informant or seriously impair any civil or criminal tax investigation. 26 USC 1, 1401, 1501, 2001, 2501, 3101, 3301, 3401, 4001, 4061, 4981, 5001, 5701, 4481.

"(2) DISCLOSURE TO STATE AUDIT AGENCIES.—

"(A) IN GENERAL.—Any returns or return information obtained under paragraph (1) by any State agency, body, or commission may be open to inspection by, or disclosure to, officers and employees of the State audit agency for the purpose of, and only to the extent necessary in, making an audit of the State agency, body, or commission referred to in paragraph (1).

"(B) STATE AUDIT AGENCY.—For purposes of subparagraph (A), the term 'State audit agency' means any State agency, body, or commission which is charged under the laws of the State with the responsibility of auditing State revenues and programs.".

26 USC 6103 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 4. TREATMENT OF BONNER'S FERRY RESTORIUM UNDER THE SUPPLEMENTARY SECURITY INCOME PROGRAM.

42 USC 1381.

(a) TREATMENT AS NON-PUBLIC INSTITUTION.—For purposes of title XVI of the Social Security Act, the Boundary County Restorium (popularly known as the Bonner's Ferry Restorium) in Bonner's Ferry, Idaho, shall not be considered a public institution (within the meaning of section 1611(e)(1)(C) of such Act).

42 USC 1382.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to supplemental security income benefits payable under title XVI of the Social Security Act for months beginning with November 1980.

SEC. 5. TREATMENT OF CERTAIN EXPENSES INCLUDIBLE IN THE INCOME OF THE RECIPIENT.

26 USC 274.

(a) IN GENERAL.—Subsection (e) of section 274 of the Internal Revenue Code of 1954 (relating to specific exceptions to application of disallowance of certain entertainment, etc., expenses) is amended by inserting after paragraph (9) the following new paragraph:

"(10) EXPENSES INCLUDIBLE IN INCOME OF PERSONS WHO ARE NOT EMPLOYEES.—Expenses paid or incurred by the taxpayer for goods, services, and facilities to the extent that the expenses are includible in the gross income of a recipient of the entertainment, amusement, or recreation who is not an employee of the taxpayer as compensation for services rendered or as a prize or award under section 74. The preceding sentence shall not apply to any amount paid or incurred by the taxpayer if such amount is required to be included (or would be so required except that the amount is less than $600) in any information return filed by such taxpayer under part III of subchapter A of chapter 61 and is not so included."

26 USC 6031.

26 USC 274 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any expenses paid or incurred after December 31, 1980, in taxable years ending after such date.

SEC. 6. PRESERVING EXISTING TAX STATUS OF WINE AND FLAVORS USED IN THE PRODUCTION OF DISTILLED SPIRITS.

(a) ALLOWANCE OF CREDIT.—Subpart A of part I of subchapter A of chapter 51 of the Internal Revenue Code of 1954 (relating to distilled spirits) is amended by adding at the end thereof the following new section:

26 USC 5010.

SEC. 5010. CREDIT FOR WINE CONTENT AND FOR FLAVORS CONTENT.

"(a) ALLOWANCE OF CREDIT.—

"(1) WINE CONTENT.—On each proof gallon of the wine content of distilled spirits, there shall be allowed a credit against the tax imposed by section 5001 (or 7652) equal to the excess of—

"(A) $10.50, over

"(B) the rate of tax which would be imposed on the wine under section 5041(b) but for its removal to bonded premises.

"(2) FLAVORS CONTENT.—On each proof gallon of the flavors content of distilled spirits, there shall be allowed a credit against the tax imposed by section 5001 (or 7652) equal to $10.50.

"(3) FRACTIONAL PART OF PROOF GALLON.—In the case of any fractional part of a proof gallon of the wine content, or of the flavors content, of distilled spirits, a proportionate credit shall be allowed.

"(b) TIME FOR DETERMINING AND ALLOWING CREDIT.—

"(1) IN GENERAL.—The credit allowable by subsection (a)—

"(A) shall be determined at the same time the tax is determined under section 5006 (or 7652) on the distilled spirits containing the wine or flavors, and

"(B) shall be allowable at the time the tax imposed by section 5001 (or 7652) on such distilled spirits is payable as if the credit allowable by this section constituted a reduction in the rate of tax.

"(2) DETERMINATION OF CONTENT IN THE CASE OF IMPORTS.—For purposes of this section, the wine content, and the flavors content, of imported distilled spirits shall be established by such chemical analysis, certification, or other methods as may be set forth in regulations prescribed by the Secretary.

"(c) DEFINITIONS.—For purposes of this section—

"(1) WINE CONTENT.—

"(A) IN GENERAL.—The term 'wine content' means alcohol derived from wine.

"(B) WINE.—The term 'wine'—

"(i) means wine on which tax would be imposed by paragraph (1), (2), or (3) of section 5041(b) but for its removal to bonded premises, and

"(ii) does not include any substance which has been subject to distillation at a distilled spirits plant after receipt in bond.

"(2) FLAVORS CONTENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'flavors content' means alcohol derived from flavors of a type for which drawback is allowable under section 5134.

"(B) EXCEPTIONS.—The term 'flavors content' does not include—

"(i) alcohol derived from flavors made at a distilled spirits plant, and

"(ii) in the case of any distilled spirits product, alcohol derived from flavors to the extent such alcohol exceeds (on a proof gallon basis) 2½ percent of the finished product."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A of part I of subchapter A of chapter 51 of such Code is amended by adding at the end thereof the following new item:

"Sec. 5010. Credit for wine content and for flavors content."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1980. 26 USC 5010 note.

26 USC 5212.

(d) TRANSFERS OF ALCOHOL.—Section 5212 of the Internal Revenue Code of 1954 (relating to the transfer of spirits in bond) is amended by adding at the end thereof the following new sentence: "The provisions of this section restricting transfers to bulk distilled spirits shall not apply to alcohol bottled under the provisions of section 5235 which is to be withdrawn for industrial purposes."

Approved December 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-560 (Comm. on Ways and Means).
SENATE REPORT No. 96-898 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Nov. 27, considered and passed House.
Vol. 126 (1980): Oct. 1, considered and passed Senate, amended.
Dec. 10, House agreed to Senate amendments with amendments.
Dec. 12, Senate agreed to House amendments.

Public Law 96-599
96th Congress

An Act

To carry out the obligations of the United States under the International Coffee Agreement 1976, signed at New York on February 27, 1976, and entered into force for the United States on October 1, 1976, and for other purposes.

Dec. 24, 1980
[H.R. 3637]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "International Coffee Agreement Act of 1980".

International Coffee Agreement Act of 1980.
19 USC 1356k note.

IMPORTATION OF COFFEE UNDER INTERNATIONAL COFFEE AGREEMENT 1976; PRESIDENTIAL POWERS AND DUTIES

SEC. 2. On and after the entry into force of the International Coffee Agreement 1976, and for such period prior to October 1, 1982 as the agreement remains in effect, the President is authorized, in order to carry out and enforce the provisions of that agreement— 19 USC 1356k.

(1) to regulate the entry of coffee for consumption, or withdrawal of coffee from warehouse for consumption, or any other form of entry or withdrawal of coffee such as for transportation or exportation, including whenever quotas are in effect pursuant to the agreement, (A) the limitation of entry, or withdrawal from warehouse, of coffee imported from countries which are not members of the International Coffee Organization, and (B) the prohibition of entry of any shipment from any member of the International Coffee Organization of coffee which is not accompanied either by a valid certificate of origin, a valid certificate of reexport, a valid certificate of reshipment, or a valid certificate of transit, issued by a qualified agency in such form as required under the agreement;

(2) to require that every export or reexport of coffee from the United States shall be accompanied by a valid certificate of origin or a valid certificate of reexport, issued by a qualified agency of the United States designated by him, in such form as required under the agreement;

(3) to require the keeping of such records, statistics, and other information, and the rendering of such reports, relating to the importation, distribution, prices, and consumption of coffee as he may from time to time prescribe; and

(4) to take such other action, and issue and enforce such rules and regulations, as he may consider necessary or appropriate in order to implement the obligations of the United States under the agreement.

DEFINITION OF COFFEE

SEC. 3. As used in this Act, the term "coffee" means coffee as defined in article 3 of the International Coffee Agreement 1976. 19 USC 1356*l*. 28 UST 6401.

DELEGATION OF PRESIDENTIAL POWERS AND DUTIES; PROTECTION OF INTERESTS OF UNITED STATES CONSUMERS; REMEDIAL ACTION

19 USC 1356m.

SEC. 4. The President may exercise any powers and duties conferred on him by sections 2 through 5 of this Act through such agency or officer as he shall direct. The powers and duties conferred by sections 2 through 5 of this Act shall be exercised in the manner the President considers appropriate to protect the interest of United States consumers. In the event the President determines that there has been an unwarranted increase in the price of coffee due in whole or in part to the International Coffee Agreement, or to market manipulation by two or more members of the International Coffee Organization, the President shall request the International Coffee Council or the Executive Board to increase supplies of coffee available to world markets by suspending coffee export quotas and to take any other appropriate action. At the same time he shall report his determination to the Congress. In the event the International Coffee Council has failed to take corrective action to remedy the situation within a reasonable time after such request, the President shall submit to the Congress such recommendations as he may consider appropriate to correct the situation. In the event that members of the International Coffee Organization involved in market manipulation which has resulted in price increases have failed to remedy the situation within a reasonable time after a request for remedy, the exercise of the authority set forth in section 2 of this Act shall be suspended until the President determines that effective market manipulation activities have ceased.

Report to Congress. Recommendations, submittal to Congress.

REPORT TO THE CONGRESS

19 USC 1356n. 28 UST 6401.

SEC. 5. The President shall submit to the Congress an annual report on the International Coffee Agreement 1976. Such report shall contain full information on the operation of such agreement, including full information with respect to the general level of prices of coffee and matters pertaining to the transportation of coffee from exporting countries to the United States. The report shall also include a summary of the actions the United States and the International Coffee Organization have taken to protect the interest of United States consumers.

Approved December 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT: No. 96-1322 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 2, considered and passed House.
Dec. 15, considered and passed Senate.

Public Law 96-600
96th Congress

An Act

To authorize the Secretary of Defense to provide civilian career employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico the same relative rotation rights as apply to other career employees, to authorize the Delegates in Congress from Guam and the Virgin Islands to have two appointments at a time, rather than one appointment, to each of the service academies, and to authorize the establishment of a National Guard of Guam.

Dec. 24, 1980
[H.R. 7694]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1586 of title 10, United States Code, relating to the rotation of civilian employees of the Department of Defense assigned to duty outside the United States, is amended by adding at the end thereof the following new subsection:

Guam, Virgin Islands, Puerto Rico; DOD civilian employees, rotation rights.
10 USC 1586.

"(h) The Secretary of Defense may, under such regulations as he may prescribe, make the provisions of subsections (a) through (g) applicable to civilian employees of the Department of Defense who are residents of Guam, the Virgin Islands, or the Commonwealth of Puerto Rico at the time of their employment by the Department of Defense in the same manner as if the references in such subsections to the United States (when used in a geographical sense) were references to Guam, the Virgin Islands, or the Commonwealth of Puerto Rico, as the case may be.".

SEC. 2. (a) Section 4342(a) of title 10, United States Code, relating to the number of cadets at the United States Military Academy, is amended by striking out "One cadet" in clauses (6) and (9) and inserting in lieu thereof "Two cadets".

10 USC 4342.

(b) Section 6954(a) of such title, relating to the number of midshipmen at the United States Naval Academy, is amended by striking out "One" in clauses (6) and (9) and inserting in lieu thereof "Two".

10 USC 6954.

(c) Section 9342(a) of such title, relating to the number of cadets at the United States Air Force Academy, is amended by striking out "One cadet" in clauses (6) and (9) and inserting in lieu thereof "Two cadets".

10 USC 9342.

(d) The amendments made by this section shall be effective beginning with the nominations for appointment to the service academies for academic years beginning more than one year after the date of enactment of this Act.

10 USC 4342 note.

SEC. 3. (a) Section 101(1) of title 32, United States Code, relating to the definition of the term "Territory", is amended by inserting "Guam and" before "the Virgin Islands".

32 USC 101.

37 USC 101.

(b) Clauses (7) and (9) of section 101 of title 37, United States Code, relating to the definitions of the terms "Army National Guard" and "Air National Guard", are each amended by inserting "Guam," after "Puerto Rico,".

Approved December 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1226, Pt. 1 (Comm. on Armed Services).
SENATE REPORT No. 96-1053 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Aug. 25, considered and passed House.
Dec. 12, considered and passed Senate, amended.
Dec. 13, House agreed to Senate amendments.

Public Law 96-601
96th Congress

An Act

To simplify certain provisions of the Internal Revenue Code of 1954, and for other purposes.

Dec. 24, 1980
[H.R. 5505]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Internal Revenue Code of 1954, amendment.

SECTION 1. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

26 USC 1.

SEC. 2. TRANSFER OF DOMESTIC WINE TO CUSTOMS BONDED WAREHOUSE FOR CERTAIN PURPOSES.

(a) TRANSFER TO CUSTOMS BONDED WAREHOUSE.—Paragraph (4) of section 5362(c) (relating to withdrawals of wine free of tax or without payment of tax) is amended to read as follows:

26 USC 5362.

"(4) without payment of tax for transfer to any customs bonded warehouse;".

(b) WITHDRAWAL FROM CUSTOMS BONDED WAREHOUSES FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—Section 5362 is amended by adding at the end thereof the following new subsection:

"(e) WITHDRAWAL FROM CUSTOMS BONDED WAREHOUSES FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, wine entered into customs bonded warehouses under subsection (c)(4) may, under such regulations as the Secretary may prescribe, be withdrawn from such warehouses for consumption in the United States by and for the official or family use of such foreign governments, organizations, and individuals who are entitled to withdraw imported wines from such warehouses free of tax. Wines transferred to customs bonded warehouses under subsection (c)(4) shall be entered, stored, and accounted for in such warehouses under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported wines.

"(2) WITHDRAWAL FOR DOMESTIC USE.—Wine entered into customs bonded warehouses under subsection (c)(4) for purposes of removal under paragraph (1) may be withdrawn therefrom for domestic use. Wines so withdrawn shall be treated as American goods exported and returned.

"(3) SALE OR UNAUTHORIZED USE PROHIBITED.—Wine withdrawn from customs bonded warehouses or otherwise brought into the United States free of tax for the official or family use of foreign governments, organizations, or individuals authorized to obtain wine free of tax shall not be sold and shall not be disposed of or possessed for any use other than an authorized use. The provi-

26 USC 5043.

sions of paragraphs (1)(B) and (3) of section 5043(a) are hereby extended and made applicable to any person selling, disposing of, or possessing any wine in violation of the preceding sentence, and to the wine involved in any such violation.".

26 USC 5362 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first calendar month which begins more than 90 days after the date of the enactment of this Act.

SEC. 3. EXEMPT STATUS OF AUXILIARIES OF CERTAIN FRATERNAL BENEFICIARY SOCIETIES.

26 USC 501.

(a) GENERAL RULE.—Subsection (i) of section 501 is amended by adding at the end thereof the following new sentence: "The preceding sentence to the extent it relates to discrimination on the basis of religion shall not apply to—

"(1) an auxiliary of a fraternal beneficiary society if such society—

"(A) is described in subsection (c)(8) and exempt from tax under subsection (a), and

"(B) limits its membership to the members of a particular religion, or

"(2) a club which in good faith limits its membership to the members of a particular religion in order to further the teachings or principles of that religion, and not to exclude individuals of a particular race or color.".

26 USC 501 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after October 20, 1976.

SEC. 4. EXTENSION OF WITHHOLDING TO PAYMENTS OF SICK PAY MADE BY THIRD PARTIES.

26 USC 3402.

(a) GENERAL RULE.—Paragraph (1) of section 3402(o) (relating to extension of withholding to certain payments other than wages) is amended by striking out "and" at the end of subparagraph (A), by adding "and" at the end of subparagraph (B), and by inserting after subparagraph (B) the following new subparagraph:

"(C) any payment to an individual of sick pay which does not constitute wages (determined without regard to this subsection), if at the time the payment is made a request that such sick pay be subject to withholding under this chapter is in effect,".

(b) AMOUNT TO BE DEDUCTED AND WITHHELD.—Subsection (o) of section 3402 is amended by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) AMOUNT WITHHELD FROM ANNUITY PAYMENTS OR SICK PAY.—If a payee makes a request that an annuity or any sick pay be subject to withholding under this chapter, the amount to be deducted and withheld under this chapter from any payment to which such request applies shall be an amount (not less than a minimum amount determined under regulations prescribed by the Secretary) specified by the payee in such request. The amount deducted and withheld with respect to a payment which is greater or less than a full payment shall bear the same relation to the specified amount as such payment bears to a full payment.

"(4) REQUEST FOR WITHHOLDING.—A request that an annuity or any sick pay be subject to withholding under this chapter—

"(A) shall be made by the payee in writing to the person making the payments and shall contain the social security number of the payee,

"(B) shall specify the amount to be deducted and withheld from each full payment, and

"(C) shall take effect—

"(i) in the case of sick pay, with respect to payments made more than 7 days after the date on which such request is furnished to the payor, or

"(ii) in the case of an annuity, at such time (after the date on which such request is furnished to the payor) as the Secretary shall by regulations prescribe.

Such a request may be changed or terminated by furnishing to the person making the payments a written statement of change or termination which shall take effect in the same manner as provided in subparagraph (C). At the election of the payor, any such request (or statement of change or revocation) may take effect earlier than as provided in subparagraph (C).

"(5) SPECIAL RULE FOR SICK PAY PAID PURSUANT TO CERTAIN COLLECTIVE-BARGAINING AGREEMENTS.—In the case of any sick pay paid pursuant to a collective-bargaining agreement between employee representatives and one or more employers which contains a provision specifying that this paragraph is to apply to sick pay paid pursuant to such agreement and contains a provision for determining the amount to be deducted and withheld from each payment of such sick pay—

"(A) the requirement of paragraph (1)(C) that a request for withholding be in effect shall not apply, and

"(B) except as provided in subsection (n), the amounts to be deducted and withheld under this chapter shall be determined in accordance with such agreement.

The preceding sentence shall not apply with respect to sick pay paid pursuant to any agreement to any individual unless the social security number of such individual is furnished to the payor and the payor is furnished with such information as is necessary to determine whether the payment is pursuant to the agreement and to determine the amount to be deducted and withheld.".

(c) DEFINITION OF SICK PAY.—Paragraph (2) of section 3402(o) (relating to definitions) is amended by adding at the end thereof the following new subparagraph: 26 USC 3402.

"(C) SICK PAY.—For purposes of this subsection, the term 'sick pay' means any amount which—

"(i) is paid to an employee pursuant to a plan to which the employer is a party, and

"(ii) constitutes remuneration or a payment in lieu of remuneration for any period during which the employee is temporarily absent from work on account of sickness or personal injuries.".

(d) TECHNICAL AMENDMENT.—Subparagraph (B) of section 3402(o)(2) (defining annuity) is amended by striking out ", but only to the extent that the amount is includible in the gross income of such individual".

(e) REPORTING REQUIREMENTS.—Section 6051 (relating to receipts for employees) is amended by adding at the end thereof the following new subsection: 26 USC 6051.

"(f) STATEMENTS REQUIRED IN CASE OF SICK PAY PAID BY THIRD PARTIES.—

"(1) STATEMENTS REQUIRED FROM PAYOR.—

"(A) IN GENERAL.—If, during any calendar year, any person makes a payment of third-party sick pay to an

employee, such person shall, on or before January 15 of the succeeding year, furnish a written statement to the employer in respect of whom such payment was made showing—

"(i) the name and, if there is withholding under section 3402(o), the social security number of such employee,

"(ii) the total amount of the third-party sick pay paid to such employee during the calendar year, and

"(iii) the total amount (if any) deducted and withheld from such sick pay under section 3402.

26 USC 3402.

"Third-party sick pay."

For purposes of the preceding sentence, the term 'third-party sick pay' means any sick pay (as defined in section 3402(o)(2)(C)) which does not constitute wages for purposes of chapter 24 (determined without regard to section 3402(o)(1)).

Ante, p. 3497.

26 USC 3401 *et seq.*

"(B) SPECIAL RULES.—

"(i) STATEMENTS ARE IN LIEU OF OTHER REPORTING REQUIREMENTS.—The reporting requirements of subparagraph (A) with respect to any payments shall, with respect to such payments, be in lieu of the requirements of subsection (a) and of section 6041.

26 USC 6041.

"(ii) PENALTIES MADE APPLICABLE.—For purposes of sections 6674 and 7204, the statements required to be furnished by subparagraph (A) shall be treated as statements required under this section to be furnished to employees.

26 USC 6674, 7204.

"(2) INFORMATION REQUIRED TO BE FURNISHED BY EMPLOYER.—Every employer who receives a statement under paragraph (1)(A) with respect to sick pay paid to any employee during any calendar year shall, on or before January 31 of the succeeding year, furnish a written statement to such employee showing—

"(A) the information shown on the statement furnished under paragraph (1)(A), and

"(B) if any portion of the sick pay is excludable from gross income under section 104(a)(3), the portion which is not so excludable and the portion which is so excludable.

26 USC 104.

To the extent practicable, the information required under the preceding sentence shall be furnished on or with the statement (if any) required under subsection (a).".

26 USC 3402 note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made on or after the first day of the first calendar month beginning more than 120 days after the date of the enactment of this Act.

SEC. 5. RHODE ISLAND INDIAN CLAIMS SETTLEMENT ACT.

25 USC 1701 note.

(a) IN GENERAL.—The Rhode Island Indian Claims Settlement Act (Public Law 95-395) is amended by adding at the end thereof the following new title:

"TITLE II—TAX TREATMENT

"EXEMPTION FROM TAXATION

25 USC 1715.

"SEC. 201. (a) Except as otherwise provided in subsections (b) and (c), the settlement lands received by the State Corporation shall not be subject to any form of Federal, State, or local taxation while held by the State Corporation.

"(b) The exemption provided in subsection (a) shall not apply to any income-producing activities occurring on the settlement lands.

"(c) Nothing in this Act shall prevent the making of payments in lieu of taxes by the State Corporation for services provided in connection with the settlement lands.

"DEFERRAL OF CAPITAL GAINS

"SEC. 202. For purposes of the Internal Revenue Code of 1954, any sale or disposition of private settlement lands pursuant to the terms and conditions of the settlement agreement shall be treated as an involuntary conversion within the meaning of section 1033 of the Internal Revenue Code of 1954.". 25 USC 1716. 26 USC 1. 26 USC 1033.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on September 30, 1978. 25 USC 1715 note.

Approved December 24, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-545 (Comm. on Ways and Means).
SENATE REPORT No. 96-1033 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Oct. 30, considered and passed House.
Vol. 126 (1980): Dec. 13, considered and passed Senate, amended; House agreed to Senate amendments with amendments; Senate agreed to House amendments.

Public Law 96-602
96th Congress

An Act

Dec. 28, 1980
[S. 1803]

To modify the boundary of the Cibola National Forest in the State of New Mexico, and for other purposes.

Cibola National Forest, N. Mex. Boundary modification.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundary of the Cibola National Forest in New Mexico is hereby modified to include an area of approximately fourteen thousand four hundred and seventy-six acres as shown on United States Department of Agriculture, Forest Service map entitled "Boundary Modification, Cibola National Forest", dated April 1980.

SEC. 2. Subject to valid existing rights, all lands owned by the United States in the areas described in section 1 of this Act are hereby added to the Cibola National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable thereto.

SEC. 3. For the purpose of section 6 (renumbered section 7 by the Act of July 11, 1972, 86 Stat. 459) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903 as amended; 16 U.S.C. 4601-9 (1976)) the boundary of the Cibola National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that forest on January 1, 1965.

16 USC 460*l*-9.

20 USC 238 note.

SEC. 4. The Act of March 14, 1978 (92 Stat. 154), is amended as follows:

(a) In section 1(a), in the first sentence, delete the phrase "two-year", and change "September 30, 1980" to "September 30, 1985"; and

Appropriation authorization.

(b) In section 1(c) strike the second sentence in its entirety and insert the following: "There is authorized to be appropriated an amount not to exceed $1,500,000 annually for fiscal years 1979 through 1982 to carry out the provisions of this Act: *Provided,* That any appropriations made pursuant to this Act shall be reduced by the amount of any payments made to said districts pursuant to the Acts of September 23, 1950 (64 Stat. 906), as amended (20 U.S.C. 631 et seq.), and September 30, 1950 (64 Stat. 1100), as amended (20 U.S.C. 236 et seq.). For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.".

SEC. 5. (a) The Secretary of the Army, acting through the Chief of Engineers, is prohibited from taking any legal or administrative action in connection with the operation and maintenance of the Conchas Lake project, New Mexico, seeking to remove improvements, including dwelling, that are presently located within the flowage easement below elevation 4,220 feet mean sea level: *Provided,* That this prohibition shall not be construed as creating any liability in the United States, or any of its officers, agents, or assigns, for any injury, loss, or damage accruing to the owners of such improvements, their leasees or occupants, as a result of any flooding or inundation of such improvements by the waters of the reservoir, or for such injury, loss,

or damage as may occur through the operation and maintenance of the dam and reservoir in any manner.

(b)(1) The Secretary of the Army is prohibited from determining the forty-five-acre cabin site in the south recreation area at Conchas Lake, New Mexico, to be excess of project needs prior to 1996, unless such a determination is agreed to by the Governor of the State of New Mexico or his designee.

(2) The Secretary of the Army shall not require the removal or sale and purchase of existing cabins, cottages, or other privately owned improvements located on the site referred to in paragraph (1) of this subsection prior to 1996, unless agreed to by the Governor of the State of New Mexico or his designee. Existing and prospective lease arrangements shall reflect the requirements of this section.

SEC. 6. (a) The Secretary of the Treasury shall pay out of any funds in the Treasury, not otherwise appropriated, to the estate of Demetrio Madrid or into a court of competent jurisdiction, for distribution to such persons as shall be lawfully entitled thereto, the sum of $21,054.

(b) Upon payment being made as provided in subsection (a), the United States and all officers and employees thereof shall be forever released and discharged of and from any and all claims at law or in equity, if any, arising out of or in any way connected with the erroneous inclusion of certain lands in homestead entry and patent numbered 323419, issued on April 3, 1913, to Demetrio Madrid, a resident of New Mexico.

(c) No amount in excess of 10 per centum of any payment referred to in this section shall be paid to or received by any agent or attorney in consideration for services rendered in connection with such payment. Any violation of this subsection shall be a misdemeanor and any person convicted thereof shall be fined not more than $1,000.

SEC. 7. Any mining claim located under the Mining Laws of the United States subsequent to June 18, 1879, and prior to January 17, 1969, in the northwest quarter of the northwest quarter of section 9, township 1 north, range 5 east of the Gila and Salt River base and

meridian, State of Arizona, shall be effective to the same extent in all respects as if such lands at the time of location, and at all times thereafter had been open to the operation of the Mining Laws of the United States: *Provided, however,* That the claimants have complied with all requirements of the Mining Laws of the United States, including section 314 of the Federal Land Policy and Management Act of 1976 and that the claims would be subject to any valid intervening rights by private parties under the laws of the United States.

43 USC 1744.

Approved December 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1465 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-661 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 6, considered and passed Senate.
Dec. 9, considered and passed House, amended.
Dec. 12, Senate agreed to House amendment.

Public Law 96-603
96th Congress

An Act

To amend the Internal Revenue Code of 1954 to simplify private foundation return and reporting requirements, and for other purposes.

Dec. 28, 1980
[H.R. 4155]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Internal Revenue Code of 1954, amendment.

SECTION 1. SIMPLIFICATION OF PRIVATE FOUNDATION RETURN AND REPORTING REQUIREMENTS.

(a) AMENDMENT OF SECTION 6033.—Section 6033 of the Internal Revenue Code of 1954 (relating to returns by exempt organizations) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

26 USC 6033.

"(c) ADDITIONAL PROVISIONS RELATING TO PRIVATE FOUNDATIONS.—In the case of an organization which is a private foundation (within the meaning of section 509(a))—

26 USC 509.

"(1) the Secretary shall by regulations provide that the private foundation shall include in its annual return under this section such information (not required to be furnished by subsection (b) or the forms or regulations prescribed thereunder) as would have been required to be furnished under section 6056 (relating to annual reports by private foundations) as such section 6056 was in effect on January 1, 1979,

26 USC 6056.

"(2) a copy of the notice required by section 6104(d) (relating to public inspection of private foundations' annual returns), together with proof of publication thereof, shall be filed by the foundation together with the annual return under this section, and

26 USC 6104.

"(3) the foundation managers shall furnish copies of the annual return under this section to such State officials, at such times, and under such conditions, as the Secretary may by regulations prescribe.

Nothing in paragraph (1) shall require the inclusion of the name and address of any recipient (other than a disqualified person within the meaning of section 4946) of 1 or more charitable gifts or grants made by the foundation to such recipient as an indigent or needy person if the aggregate of such gifts or grants made by the foundation to such recipient during the year does not exceed $1,000.

26 USC 4946.

"(d) SECTION TO APPLY TO NONEXEMPT CHARITABLE TRUSTS AND NONEXEMPT PRIVATE FOUNDATIONS.—The following organizations shall comply with the requirements of this section in the same manner as organizations described in section 501(c)(3) which are exempt from tax under section 501(a):

26 USC 501.

"(1) NONEXEMPT CHARITABLE TRUSTS.—A trust described in section 4947(a)(1) (relating to nonexempt charitable trusts).

26 USC 4947.

"(2) NONEXEMPT PRIVATE FOUNDATIONS.—A private foundation which is not exempt from tax under section 501(a)."

(b) PUBLIC INSPECTION OF PRIVATE FOUNDATIONS' ANNUAL RETURNS.—

26 USC 6104. (1) IN GENERAL.—The first sentence of subsection (d) of section 6104 of such Code (relating to public inspection of private foundations' annual reports) is amended to read as follows: "The annual return required to be filed under section 6033 (relating to returns by exempt organizations) by any organization which is a private foundation within the meaning of section 509(a) shall be made available by the foundation managers for inspection at the principal office of the foundation during regular business hours by any citizen on request made within 180 days after the date of the publication of notice of its availability."

26 USC 6033.

26 USC 509.

(2) CONFORMING AMENDMENTS.—Such subsection (d) is amended—

(A) by striking out "ANNUAL REPORTS" in the heading and inserting in lieu thereof "ANNUAL RETURNS"; and

(B) by striking out "annual report" each place it appears in the second and third sentences and inserting in lieu thereof "annual return".

(c) REPEAL OF PRIVATE FOUNDATION ANNUAL REPORTING REQUIREMENTS.—Subpart D of part III of subchapter A of chapter 61 of such Code (relating to information concerning private foundations) is hereby repealed.

26 USC 6056.

(d) TECHNICAL AMENDMENTS.—

26 USC 6034. (1) Section 6034 of such Code (relating to returns by trust described in section 4947(a) or claiming charitable deductions under section 642(c)) is amended—

(A) by striking out "section 4947(a)" in subsection (a) and inserting in lieu thereof "section 4947(a)(2)";

(B) by adding at the end of subsection (b) the following new sentence: "This section shall not apply in the case of a trust described in section 4947(a)(1).";

(C) by striking out "EXCEPTION" in the heading of subsection (b) and inserting in lieu thereof "EXCEPTIONS"; and

(D) by striking out "SECTION 4947(a)" in the section heading and inserting in lieu thereof "SECTION 4947(a)(2)".

26 USC 6652. (2)(A) The first sentence of section 6652(d)(3) of such Code (relating to annual reports) is amended to read as follows: "In the case of a failure to comply with the requirements of section 6104(d) (relating to public inspection of private foundations' annual returns), on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to meet such requirement, $10 for each day during which such failure continues, but the total amount imposed hereunder on all such persons for such failure with respect to any one annual return shall not exceed $5,000."

(B) The heading of paragraph (3) of section 6652(d) of such Code is amended by striking out "REPORTS" and inserting in lieu thereof "RETURNS".

26 USC 6104. (3) Subsection (b) of section 6104 of such Code (relating to inspection of annual information returns) is amended by striking out "6056,".

26 USC 6685. (4) Section 6685 of such Code (relating to assessable penalties with respect to private foundation annual reports) is amended to read as follows:

"SEC. 6685. ASSESSABLE PENALTIES WITH RESPECT TO PRIVATE FOUNDATION ANNUAL RETURNS.

"In addition to the penalty imposed by section 7207 (relating to fraudulent returns, statements, or other documents), any person who is required to comply with the requirements of section 6104(d) (relating to private foundations' annual returns) and who fails to so comply with respect to any return, if such failure is willful, shall pay a penalty of $1,000 with respect to each such return." 26 USC 7207. 26 USC 6104.

(5) Section 7207 of such Code (relating to fraudulent returns, statements, or other documents) is amended by striking out "sections 6047 (b) or (c), 6056, or 6104(d)" and inserting in lieu thereof "subsection (b) or (c) of section 6047 or pursuant to subsection (d) of section 6104". 26 USC 7207.

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by striking out "4947(a)" in the item relating to section 6034 and inserting in lieu thereof "4947(a)(2)".

(2) The table of subparts for part III of subchapter A of chapter 61 of such Code is amended by striking out the item relating to subpart D.

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by striking out "reports" in the item relating to section 6685 and inserting in lieu thereof "returns".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1980. 26 USC 6033 note.

SEC. 2. ALLOWANCE OF DEDUCTION FOR CERTAIN FOREIGN DEFERRED COMPENSATION PLANS.

(a) ALLOWANCE.—Part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954 (relating to pension, profit sharing, stock bonus plans, etc.) is amended by inserting after section 404 the following new section:

"SEC. 404A. DEDUCTION FOR CERTAIN FOREIGN DEFERRED COMPENSATION PLANS. 26 USC 404A.

"(a) GENERAL RULE.—Amounts paid or accrued by an employer under a qualified foreign plan—

"(1) shall not be allowable as a deduction under section 162, 212, or 404, but 26 USC 162, 212, 404.

"(2) if they satisfy the conditions of section 162, shall be allowed as a deduction under this section for the taxable year for which such amounts are properly taken into account under this section.

"(b) RULES FOR QUALIFIED FUNDED PLANS.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, in the case of a qualified funded plan contributions are properly taken into account for the taxable year in which paid.

"(2) PAYMENT AFTER CLOSE OF TAXABLE YEAR.—For purposes of paragraph (1), a payment made after the close of a taxable year shall be treated as made on the last day of such year if the payment is made—

"(A) on account of such year, and

"(B) not later than the time prescribed by law for filing the return for such year (including extensions thereof).

"(3) LIMITATIONS.—In the case of a qualified funded plan, the amount allowable as a deduction for the taxable year shall be subject to—

"(A) in the case of—

"(i) a plan under which the benefits are fixed or determinable, limitations similar to those contained in clauses (ii) and (iii) of subparagraph (A) of section 404(a)(1) (determined without regard to the last sentence of such subparagraph (A)), or

"(ii) any other plan, limitations similar to the limitations contained in paragraph (3) of section 404(a), and

"(B) limitations similar to those contained in paragraph (7) of section 404(a).

26 USC 404.

"(4) CARRYOVER.—If—

"(A) the aggregate of the contributions paid during the taxable year reduced by any contributions not allowable as a deduction under paragraphs (1) and (2) of subsection (g), exceeds

"(B) the amount allowable as a deduction under subsection (a) (determined without regard to subsection (d)),

such excess shall be treated as an amount paid in the succeeding taxable year.

"(5) AMOUNTS MUST BE PAID TO QUALIFIED TRUST, ETC.—In the case of a qualified funded plan, a contribution shall be taken into account only if it is paid—

"(A) to a trust (or the equivalent of a trust) which meets the requirements of section 401(a)(2),

"(B) for a retirement annuity, or

"(C) to a participant or beneficiary.

26 USC 401.

"(c) RULES RELATING TO QUALIFIED RESERVE PLANS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a qualified reserve plan, the amount properly taken into account for the taxable year is the reasonable addition for such year to a reserve for the taxpayer's liability under the plan. Unless otherwise required or permitted in regulations prescribed by the Secretary, the reserve for the taxpayer's liability shall be determined under the unit credit method modified to reflect the requirements of paragraphs (3) and (4). All benefits paid under the plan shall be charged to the reserve.

"(2) INCOME ITEM.—In the case of a plan which is or has been a qualified reserve plan, an amount equal to that portion of any decrease for the taxable year in the reserve which is not attributable to the payment of benefits shall be included in gross income.

"(3) RIGHTS MUST BE NONFORFEITABLE, ETC.—In the case of a qualified reserve plan, an item shall be taken into account for a taxable year only if—

"(A) there is no substantial risk that the rights of the employee will be forfeited, and

"(B) such item meets such additional requirements as the Secretary may by regulations prescribe as necessary or appropriate to ensure that the liability will be satisfied.

"(4) SPREADING OF CERTAIN INCREASES AND DECREASES IN RESERVES.—There shall be amortized over a 10-year period any increase or decrease to the reserve on account of—

"(A) the adoption of the plan or a plan amendment,

"(B) experience gains and losses, and

"(C) any change in actuarial assumptions,

"(D) changes in the interest rate under subsection (g)(3)(B), and

"(E) such other factors as may be prescribed by regulations.

"(d) AMOUNTS TAKEN INTO ACCOUNT MUST BE CONSISTENT WITH AMOUNTS ALLOWED UNDER FOREIGN LAW.—

"(1) GENERAL RULE.—In the case of any plan, the amount allowed as a deduction under subsection (a) for any taxable year shall equal—

"(A) the lesser of—

"(i) the cumulative United States amount, or

"(ii) the cumulative foreign amount, reduced by

"(B) the aggregate amount determined under this section for all prior taxable years.

"(2) CUMULATIVE AMOUNTS DEFINED.—For purposes of paragraph (1)—

"(A) CUMULATIVE UNITED STATES AMOUNT.—The term 'cumulative United States amount' means the aggregate amount determined with respect to the plan under this section for the taxable year and for all prior taxable years to which this section applies. Such determination shall be made for each taxable year without regard to the application of paragraph (1).

"(B) CUMULATIVE FOREIGN AMOUNT.—The term 'cumulative foreign amount' means the aggregate amount allowed as a deduction under the appropriate foreign tax laws for the taxable year and all prior taxable years to which this section applies.

"(3) EFFECT ON EARNINGS AND PROFITS, ETC.—In determining the earnings and profits and accumulated profits of any foreign corporation with respect to a qualified foreign plan, the amount determined under paragraph (1) with respect to any plan for any taxable year shall in no event exceed the amount allowed as a deduction under the appropriate foreign tax laws for such taxable year.

"(e) QUALIFIED FOREIGN PLAN.—For purposes of this section, the term 'qualified foreign plan' means any written plan of an employer for deferring the receipt of compensation but only if—

"(1) such plan is for the exclusive benefit of the employer's employees or their beneficiaries,

"(2) 90 percent or more of the amounts taken into account for the taxable year under the plan are attributable to services—

"(A) performed by nonresident aliens, and

"(B) the compensation for which is not subject to tax under this chapter, and

"(3) the employer elects (at such time and in such manner as the Secretary shall by regulations prescribe) to have this section apply to such plan.

"(f) FUNDED AND RESERVE PLANS.—For purposes of this section—

"(1) QUALIFIED FUNDED PLAN.—The term 'qualified funded plan' means a qualified foreign plan which is not a qualified reserve plan.

"(2) QUALIFIED RESERVE PLAN.—The term 'qualified reserve plan' means a qualified foreign plan with respect to which an election made by the taxpayer is in effect for the taxable year. An election under the preceding sentence shall be made in such manner and form as the Secretary may by regulations prescribe

and, once made, may be revoked only with the consent of the Secretary.

"(g) OTHER SPECIAL RULES.—

"(1) NO DEDUCTION FOR CERTAIN AMOUNTS.—Except as provided in section 404(a)(5), no deduction shall be allowed under this section for any item to the extent such item is attributable to services— 26 USC 404.

"(A) performed by a citizen or resident of the United States who is an officer, shareholder, or highly compensated, or

"(B) performed in the United States the compensation for which is subject to tax under this chapter.

"(2) TAXPAYER MUST FURNISH INFORMATION.— Deductions.

"(A) IN GENERAL.—No deduction shall be allowed under this section with respect to any plan for any taxable year unless the taxpayer furnishes to the Secretary with respect to such plan (at such time as the Secretary may by regulations prescribe)—

"(i) a statement from the foreign tax authorities specifying the amount of the deduction allowed in computing taxable income under foreign law for such year with respect to such plan,

"(ii) if the return under foreign tax law shows the deduction for plan contributions or reserves as a separate, identifiable item, a copy of the foreign tax return for the taxable year, or

"(iii) such other statement, return, or other evidence as the Secretary prescribes by regulation as being sufficient to establish the amount of the deduction under foreign law.

"(B) REDETERMINATION WHERE FOREIGN TAX DEDUCTION IS ADJUSTED.—If the deduction under foreign tax law is adjusted, the taxpayer shall notify the Secretary of such adjustment on or before the date prescribed by regulations, and the Secretary shall redetermine the amount of the tax for the year or years affected. In any case described in the preceding sentence, rules similar to the rules of subsection (c) of section 905 shall apply. 26 USC 905.

"(3) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE; FULL FUNDING.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), principles similar to those set forth in paragraphs (3) and (7) of section 412(c) shall apply for purposes of this section. 26 USC 412.

"(B) INTEREST RATE FOR RESERVE PLAN.—

"(i) IN GENERAL.—In the case of a qualified reserve plan, in lieu of taking rates of interest into account under subparagraph (A), the rate of interest for the plan shall be the rate selected by the taxpayer which is within the permissible range.

"(ii) RATE REMAINS IN EFFECT SO LONG AS IT FALLS WITHIN PERMISSIBLE RANGE.—Any rate selected by the taxpayer for the plan under this subparagraph shall remain in effect for such plan until the first taxable year for which such rate is no longer within the permissible range. At such time, the taxpayer shall select a new rate of interest which is within the permissible range applicable at such time.

"(iii) PERMISSIBLE RANGE.—For purposes of this subparagraph, the term 'permissible range' means a rate of interest which is not more than 20 percent above, and not more than 20 percent below, the average rate of interest for long-term corporate bonds in the appropriate country for the 15-year period ending on the last day before the beginning of the taxable year.

"(4) ACCOUNTING METHOD.—Any change in the method (but not the actuarial assumptions) used to determine the amount allowed as a deduction under subsection (a) shall be treated as a change in accounting method under section 446(e). 26 USC 446.

"(5) SECTION 481 APPLIES TO ELECTION.—For purposes of section 481, any election under this section shall be treated as a change in the taxpayer's method of accounting. In applying section 481 with respect to any such election, the period for taking into account any increase or decrease in accumulated profits, earnings and profits or taxable income resulting from the application of section 481(a)(2) shall be the year for which the election is made and the fourteen succeeding years. 26 USC 481.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section (including regulations providing for the coordination of the provisions of this section with section 404 in the case of a plan which has been subject to both of such sections)." 26 USC 404.

(b) AMENDMENTS OF SECTION 679(a).—Subsection (a)(1) of section 679 of such Code (relating to foreign trusts having one or more United States beneficiaries) is amended by adding the phrase "Or section 404A" immediately after the phrase "section 404(a)(4)". 26 USC 679.

(c) TAXPAYER MUST NOTIFY SECRETARY WHERE THERE IS A REDETERMINATION OF TAX, ETC., UNDER FOREIGN LAW.—

(1) AMENDMENT OF SECTION 905(c).—Subsection (c) of section 905 of such Code (relating to adjustments on payment of accrued taxes) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply (with respect to any period after the refund or adjustment in the foreign taxes) if the taxpayer fails to notify the Secretary (on or before the date prescribed by regulations for giving such notice) unless it is shown that such failure is due to reasonable cause and not due to willful neglect." 26 USC 905.

(2) CIVIL PENALTY FOR FAILURE TO NOTIFY.—Subchapter B of chapter 68 of such Code (relating to assessable penalties) is amended by inserting after section 6688 the following new section:

"SEC. 6689. FAILURE TO FILE NOTICE OF REDETERMINATION OF FOREIGN TAX. 26 USC 6689.

"(a) CIVIL PENALTY.—If the taxpayer fails to notify the Secretary (on or before the date prescribed by regulations for giving such notice) of a foreign tax redetermination, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the deficiency attributable to such redetermination an amount (not in excess of 25 percent of the deficiency) determined as follows—

"(1) 5 percent of the deficiency if the failure is for not more than 1 month, with

"(2) an additional 5 percent of the deficiency for each month (or fraction thereof) during which the failure continues.

"(b) FOREIGN TAX REDETERMINATION DEFINED.—For purposes of this section, the term 'foreign tax redetermination' means any redetermination for which a notice is required under subsection (c) of section 905 or paragraph (2) of section 404A(g)."

26 USC 905, *Ante*, p. 3505.

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for part I of subchapter D of chapter 1 of such Code is amended by inserting after the item relating to section 404 the following new item:

"Sec. 404A. Deduction for certain foreign deferred compensation plans."

(2) The table of sections for subchapter B of chapter 68 of such Code is amended by inserting after the item relating to section 6688 the following new item:

"Sec. 6689. Failure to file notice of redetermination of foreign tax."

26 USC 404A note.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to employer contributions or accruals for taxable years beginning after December 31, 1979.

(2) ELECTION TO APPLY AMENDMENTS RETROACTIVELY WITH RESPECT TO FOREIGN SUBSIDIARIES.—

(A) IN GENERAL.—The taxpayer may elect to have the amendments made by this section apply retroactively with respect to its foreign subsidiaries.

(B) SCOPE OF RETROACTIVE APPLICATION.—Any election made under this paragraph shall apply with respect to all foreign subsidiaries of the taxpayer for the taxpayer's open period.

(C) DISTRIBUTIONS BY FOREIGN SUBSIDIARY MUST BE OUT OF POST-1971 EARNINGS AND PROFITS.—The election under this paragraph shall apply to distributions made by a foreign subsidiary only if made out of accumulated profits (or earnings and profits) earned after December 31, 1970.

(D) REVOCATION ONLY WITH CONSENT.—An election under this paragraph may be revoked only with the consent of the Secretary of the Treasury or his delegate.

(E) OPEN PERIOD.—For purposes of this subsection, the term "open period" means, with respect to any taxpayer, all taxable years which begin before January 1, 1980, and which begin after December 31, 1971, and for which, on December 31, 1980, the making of a refund, or the assessment of a deficiency, was barred by any law or rule of law.

(3) ALLOWANCE OF PRIOR DEDUCTIONS IN CASE OF CERTAIN FUNDED BRANCH PLANS.—

(A) IN GENERAL.—If—

(i) the taxpayer elects to have this paragraph apply, and

(ii) the taxpayer agrees to the assessment of all deficiencies (including interest thereon) arising from all erroneous deductions,

then an amount equal to 1/15th of the aggregate of the prior deductions which would have been allowable if the amendments made by this section applied to taxable years beginning before January 1, 1980, shall be allowed as a deduction for the taxpayer's first taxable year beginning in 1980, and an equal amount shall be allowed for each of the succeeding 14 taxable years.

(B) PRIOR DEDUCTION.—For purposes of subparagraph (A), the term "prior deduction" means a deduction with respect

to a qualified funded plan (within the meaning of section 404A(f)(1) of the Internal Revenue Code of 1954) of the taxpayer— *Ante*, p. 3505.

(i) which the taxpayer claimed for a taxable year (or could have claimed if the amendments made by this section applied to taxable years beginning before January 1, 1980) beginning before January 1, 1980,

(ii) which was not allowable, and

(iii) with respect to which, on December 1, 1980, the assessment of a deficiency was not barred by any law or rule of law.

(4) TIME AND MANNER FOR MAKING ELECTIONS.—

(A) TIME.—An election under paragraph (2) or (3) may be made only on or before the due date (including extensions) for filing the taxpayer's return of tax under chapter 1 of the Internal Revenue Code of 1954 for its first taxable year ending on or after December 31, 1980. 26 USC 1 *et seq.*

(B) MANNER.—An election under paragraph (2) may be made only by a statement attached to the taxpayer's return for its first taxable year ending on or after December 31, 1980. An election under paragraph (3) may be made only if the taxpayer, on or before the last day for making the election, files with the Secretary of the Treasury or his delegate such amended return and such other information as the Secretary of the Treasury or his delegate may require, and agrees to the assessment of a deficiency for any closed year falling within the open period, to the extent such deficiency is attributable to the operation of such election.

SEC. 3. TREATMENT OF TRANSFERS OF PROVEN OIL OR GAS PROPERTIES BY INDIVIDUALS TO CORPORATIONS.

(a) IN GENERAL.—Subsection (c) of section 613A of the Internal Revenue Code of 1954 (relating to exemption for independent producers and royalty owners) is amended by redesignating paragraphs (10) and (11) as paragraphs (11) and (12), respectively, and by inserting after paragraph (9) the following new paragraph: 26 USC 613A.

"(10) TRANSFERS BY INDIVIDUALS TO CORPORATIONS.—

"(A) IN GENERAL.—Paragraph (9)(A) shall not apply to a transfer by an individual of qualified property to a qualified transferee corporation solely in exchange for stock in such corporation.

"(B) 1,000-BARREL LIMIT FOR CORPORATION.—A tentative quantity shall be determined for the qualified transferee corporation under this subsection.

"(C) TRANSFEROR'S TENTATIVE QUANTITY REDUCED.—

"(i) IN GENERAL.—The tentative quantity for the transferor (and his family) for any period shall be reduced by the transferor's pro rata share of the corporation's depletable quantity for such period.

"(ii) PRO RATA SHARE.—For purposes of clause (i), a transferor's pro rata share for any period shall be—

"(I) in the case of production from property to which subparagraph (A) applies, that portion of the corporation's depletable quantity which is allocable to production from such property, and

"(II) in the case of production from all other property, that portion of the corporation's depletable quantity which is allocable to the production

from such property, multiplied by a fraction the numerator of which is the fair market value of the transferor's stock in the corporation, and the denominator of which is the fair market value of all stock in the corporation.

"(iii) DEPLETABLE QUANTITY.—For purposes of this paragraph, a corporation's depletable quantity for any period in the lesser of—

"(I) such corporation's tentative quantity for such period (determined under paragraphs (3) and (8)), or

"(II) such corporation's average daily production for such period.

"(D) QUALIFIED TRANSFEREE CORPORATION DEFINED.—For purposes of this paragraph, the term 'qualified transferee corporation' means a corporation all of the outstanding stock of which has been issued to individuals solely in exchange for qualified property held by such individuals.

"(E) QUALIFIED PROPERTY DEFINED.—For purposes of this paragraph, the term 'qualified property' means oil or gas property with respect to which—

"(i) there has been no prior transfer to which paragraph (9)(A) applied, and

"(ii) the transferor has made an election to have this paragraph apply.

The term also includes cash (not to exceed $1,000 in the aggregate) which one or more individuals transfer to the corporation.

"(F) TRANSFEROR MUST RETAIN STOCK DURING LIFETIME.—If at any time during his lifetime any transferor disposes of stock in the corporation (other than to a member of his family), then the depletable quantity of the corporation (determined without regard to this subparagraph) shall be reduced (for all periods on or after the date of the disposition) by an amount which bears the same ratio to such quantity as the fair market value of the stock so disposed of bears to the aggregate fair market value of all stock of the corporation on such date of disposition.

"(G) SPECIAL RULES RELATING TO FAMILY OF TRANSFEROR.—

"(i) IN GENERAL.—For purposes of this paragraph—

"(I) the issuance of stock to a member of the family of the transferor shall be treated as issuance of stock to the transferor, and

"(II) during the lifetime of the transferor, stock transferred to a member of the family of the transferor shall be treated as held by the transferor.

If stock described in the preceding sentence ceases to be held by a member of the family of the transferor, the transferor shall be treated as having disposed of such stock at the time of such cessation.

"(ii) FAMILY DEFINED.—For purposes of this paragraph, the members of the family of an individual include only his spouse and minor children.

"(H) PROPERTY SUBJECT TO LIABILITIES.—For purposes of this paragraph, section 357 shall be applied as if—

26 USC 357.

26 USC 351.

"(i) references to section 351 include references to subparagraph (A) of this paragraph, and

"(ii) the reference in subsection (a)(1) of section 357 to the nonrecognition of gain includes a reference to the nonapplication of paragraph (9)(A) of this subsection. 26 USC 357.

"(I) ELECTION.—A transferor may make an election under this paragraph only in such manner as the Secretary may by regulations prescribe and only on or before the due date (including extensions) for filing the return of the corporation of the taxes imposed by this chapter for the corporation's first taxable year ending after the date of the transfer (or, if later, after the date of the enactment of this paragraph).

"(J) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to transfers in taxable years ending after December 31, 1974, but only for purposes of applying section 613A of the Internal Revenue Code of 1954 to periods after December 31, 1979. 26 USC 613A note. 26 USC 613A.

SEC. 4. CREDITS ALLOWABLE AGAINST MINIMUM TAX.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Paragraph (1) of section 55(c) (relating to credits allowable against alternative minimum tax) is amended to read as follows: 26 USC 55.

"(1) IN GENERAL.—For purposes of—

"(A) determining the amount of any credit allowable under subpart A of part IV of this subchapter (other than the foreign tax credit allowable under section 33(a)) against the tax imposed by subsection (a), the tax imposed by subsection (a) shall be treated as a tax imposed by this chapter only to the extent of the amount which would be determined under subsection (a)(1) if the alternative minimum taxable income was reduced by the sum of— 26 USC 31. 26 USC 33.

"(i) the net capital gain, and

"(ii) the adjusted itemized deductions, and

"(B) determining the amount of any such credit (including the credit allowable under section 33(a)) against the tax imposed by this chapter (other than the tax imposed by this section) for the current taxable year, this section shall be disregarded."

(2) METHOD OF DETERMINING CREDITS TAKEN INTO ACCOUNT.—Section 55(c) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph: 26 USC 55.

"(2) RULES FOR DETERMINING AMOUNT OF CREDIT ALLOWABLE.—For purposes of determining the amount of any credit under subpart A of part IV of this subchapter (other than the credits imposed by sections 31, 39, and 43) which can be taken against the tax imposed by subsection (a)— 26 USC 31. 26 USC 31, 39, 43.

"(A) the amount of such credit shall be increased by an amount equal to the lesser of—

"(i) the amount of such credit allowable in computing the regular tax for the current taxable year, or

"(ii) the excess of—

"(I) the amount of the tax imposed by subsection (a), over

"(II) the sum of the amounts determined under this subparagraph with respect to credits allowed under a section of such subpart having a higher

number designation than such credit (other than the credits allowable by sections 31, 39, and 43), and

26 USC 31, 39, 43.

"(B) in the case of any credit under section 38, 40, or 44B, such credit shall be reduced, under regulations prescribed by the Secretary, by that portion of such credit which is not attributable to an active trade or business of the taxpayer."

26 USC 38, 40, 44B.

26 USC 55.

(3) Paragraph (4) of section 55(c) (relating to carryover and carryback of certain credits), as redesignated by paragraph (2), is amended to read as follows:

"(4) CARRYOVER AND CARRYBACK OF CERTAIN CREDITS.—

"(A) IN GENERAL.—For purposes of determining the amount of any carryover or carryback to any other taxable year of any credit allowable under subpart A of part IV of this subchapter (other than section 33), the amount of the limitation under section 44E(e)(1), 44C(b) (1) and (2), 53(b), 50A(a)(2), or 46(a)(3) (to the exent such limitation does not exceed the amount of the credit allowable in computing the regular tax for the current taxable year) shall be increased for the current taxable year by the amount determined under subparagraph (A) of paragraph (1) of this subsection, and decreased by—

26 USC 31, 33.

26 USC 44E, 44C, 53.

26 USC 50A, 46.

"(i) the sum of the credits allowed under a section having a lower number designation than the section allowing such credit (other than the credits allowable by sections 31, 33, 39, and 43) against the tax imposed by subsection (a), and

26 USC 31, 33, 39, 43.

"(ii) the amount determined with respect to such credit under paragraph (2)(B) for the current taxable year.

"(B) AMOUNT OF CREDIT.—Any increase under paragraph (2)(A) shall be taken into account in determining the amount of any carryover or carryback from the current taxable year."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

26 USC 55.

(1) Paragraph (2) of section 55(b) (defining regular tax) is amended by striking out "credit allowable under section 33" and inserting in lieu thereof "credits allowable under such subpart".

26 USC 33.

(2) Paragraph (3) of section 55(c) (relating to foreign tax credit), as redesignated by subsection (a)(2), is amended—

(A) by striking out subparagraph (B) and redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively;

(B) by striking out "subparagraph (C)" in subparagraphs

(C) and (D)(i), as so redesignated, and inserting in lieu thereof "subparagraph (B)"; and

(C) by striking out clause (ii) of subparagraph (D), as so redesignated, and inserting in lieu thereof the following:

"(ii) any increase under paragraph (2)(A) shall be taken into account."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1979. 26 USC 55 note.

Approved December 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1044 (Comm. on Ways and Means).
SENATE REPORT No. 96-1039 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 17, considered and passed House.
Dec. 13, considered and passed Senate, amended; House agreed to Senate amendments with amendments; Senate agreed to House amendments.

Public Law 96-604
96th Congress

An Act

Dec. 28, 1980
[H.R. 7112]

To authorize an extension and amendment of the revenue sharing program to provide general purpose fiscal assistance to local governments, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

State and Local Fiscal Assistance Act Amendments of 1980.
31 USC 1221 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "State and Local Fiscal Assistance Act Amendments of 1980".

SEC. 2. EXTENSION OF PROGRAM.

31 USC 1224.

(a) AUTHORIZATION OF APPROPRIATIONS FOR LOCAL SHARE.—Section 105(c)(1) of the State and Local Fiscal Assistance Act of 1972 is amended by adding at the end thereof the following: "In addition, there are authorized to be appropriated to the Trust Fund to pay the entitlements of units of local government hereinafter provided $4,566,700,000 for each of the entitlement periods beginning October 1 of 1980, 1981, and 1982.".

(b) STATE SHARE PROVISIONS.—

(1) AUTHORIZATION OF STATE SHARE APPROPRIATIONS.—Section 105 of the State and Local Fiscal Assistance Act of 1972 is further amended by redesignating subsection (d) as subsection (e) and by inserting immediately before such subsection the following new subsection:

"(d) AUTHORIZATION OF APPROPRIATIONS FOR ALLOCATIONS TO STATE GOVERNMENTS.—

"(1) IN GENERAL.—In the case of each entitlement period described in paragraph (2), there are authorized to be appropriated to the Trust Fund $2,300,000,000 for each such entitlement period to make allocations to State governments in accordance with section 107(a)(2).

31 USC 1226.

"(2) ENTITLEMENT PERIODS.—The following entitlement periods are described in this paragraph:

"(A) The entitlement period beginning October 1, 1981, and ending September 30, 1982; and

"(B) The entitlement period beginning October 1, 1982, and ending September 30, 1983.".

31 USC 1226.

(2) STATE SHARE ALLOCATION.—Subsection (a) of section 107 of the State and Local Fiscal Assistance Act of 1972 is amended to read as follows:

"(a) DIVISION BETWEEN STATE AND LOCAL GOVERNMENTS.—

"(1) ENTITLEMENT ALLOCATIONS.—

"(A) STATE GOVERNMENT SHARE.—The State government shall be entitled to receive—

"(i) one-third of the amount allocated to that State under section 106 for each entitlement period ending before October 1, 1980; and

"(ii) no part of such amount for any entitlement period beginning on or after October 1, 1980.

"(B) LOCAL GOVERNMENT SHARE.—Of the amount allocated to a State under section 106— 31 USC 1225.

"(i) for an entitlement period ending before October 1, 1980, two-thirds shall be allocated, as provided in section 108, among the units of local government of that State; 31 USC 1227. and

"(ii) for any entitlement period beginning on or after October 1, 1980, all of such amount shall be allocated, as provided in section 108, among the units of local government of that State.

"(2) NONENTITLEMENT ALLOCATION TO STATES.—From any amount appropriated pursuant to section 105(d) for any entitlement period described in section 105(d)(2), there shall be allocated to each State government an amount which bears the same ratio to the amount so appropriated for that period as the amount allocable to that State under section 106(b) bears to the 31 USC 1225. sum of the amounts allocable to all States under section 106(b), except that (A) no payment of any such allocation shall be made to any State unless the Secretary determines (in accordance with regulations prescribed by the Secretary) that such State has declined to receive or has refunded to the United States, from funds otherwise available to such State under any Federal categorical grant program (as identified in such regulations), an amount equal to such allocation, and (B) any funds which would otherwise be paid to a State but for clause (A) shall be transferred by the Secretary from the Trust Fund to the general fund of the Treasury in accordance with section 105(d).". 31 USC 1224.

(c) CONFORMING AMENDMENTS.—

(1) PAYMENTS.—Section 102(a)(1) of the Act is amended by striking out "the entitlement" and inserting in lieu thereof "the allocation, if any,". 31 USC 1221.

(2) ADJUSTMENT OF LOCAL GOVERNMENT ENTITLEMENTS.—Section 108 of the Act is amended— 31 USC 1227.

(A) by striking out "two-thirds of" in subsection (b)(6)(B);

(B) by striking out subparagraph (C) of subsection (b)(7) and inserting in lieu thereof the following:

"(C) ADJUSTMENT FOR APPLICATION OF LIMITATION.—In any case in which the amount allocated to a unit of local government is reduced under paragraph (6)(C) by the Secretary, the amount of that reduction—

"(i) in the case of a unit of local government (other than a county government), shall be added to and increase the allocation of the county government of the county area in which it is located, unless (on account of the application of paragraph (6)) that county government may not receive it, in which case the amount of the reduction shall be reallocated in accordance with subparagraph (D); and

"(ii) in the case of a county government, shall be reallocated in accordance with subparagraph (D).

"(D) REALLOCATION OF EXCESS AMOUNTS.—Amounts reallocated under this subparagraph shall be added to and increase the entitlements—

"(i) first, of units of local government within the State, to the extent that such units may (after the application of paragraph (6)) receive such a reallocation, and

"(ii) then, if no unit of local government may receive such an allocation on account of the application of paragraph (6), among all units of local government within the State on a pro rata basis.";

(C) by striking out "September 30, 1980" in subsection (c)(1)(C) and inserting in lieu thereof "September 30, 1983"; and

(D) by adding at the end of subsection (e) the following new paragraph:

"(5) RULE FOR PERIODS FOR WHICH THERE IS NO STATE GOVERNMENT AMOUNT.—For the entitlement period beginning October 1, 1980, and for any entitlement period for which the amounts authorized by section 105(d) are not appropriated, this subsection shall be applied—

31 USC 1224.

"(A) by substituting '13.5 percent' for '15 percent' in the first sentence of paragraph (1),

"(B) by substituting '6.75 percent' for '7.5 percent' in the second sentence of paragraph (1),

"(C) without regard to the words 'one half of' in the first sentence of paragraph (2),

"(D) by substituting '6.75 percent' for '3.75 percent' in the second sentence of paragraph (2), and

"(E) without regard to paragraph (3) or (4).".

31 USC 1261.

(3) DEFINITION OF ENTITLEMENT PERIOD.—Section 141(b) of the Act is amended by inserting at the end thereof the following new paragraph:

"(8) The one-year periods beginning on October 1 of 1980, 1981, and 1982.".

31 USC 1263.

(4) JUDICIAL REVIEW.—Section 143(a) of the Act is amended by striking out "State which receives a notice of reduction in entitlement under section 107(b), and any".

31 USC 1226.

31 USC 1228.

(d) POPULATION DATA.—Paragraph (1) of section 109(a) of the State and Local Fiscal Assistance Act of 1972 is amended to read as follows:

"(1) POPULATION.—

"(A) IN GENERAL.—Population shall be determined on the same basis as resident population is determined by the Bureau of the Census for general statistical purposes.

"(B) UNDERCOUNT ADJUSTMENT.—The Secretary shall request the Bureau of the Census to adjust the population data provided under subparagraph (A), as soon as practicable to include a reasonable estimate of the number of resident persons not counted in the 1980 census or subsequent revisions thereof. The Secretary shall use such estimates in the calculation of allocations for the next entitlement period beginning after receipt of such estimates.".

31 USC 1241.

(e) TRANSITION PROVISION.—Section 121(c)(2) of the Act is amended by adding at the end thereof the following new sentence: "For the entitlement period beginning on October 1, 1980, and ending September 30, 1981, a State government or unit of local government shall not be deemed to be in violation of the requirements of subsection (b) or paragraph (1) of this subsection if such government or unit has, prior to the date of enactment of the State and Local Fiscal Assistance Act Amendments of 1980, conducted hearings required under subsection (a) on proposed uses of funds on the basis of a reasonable projection of

Ante, p. 3516.

the amount of funds to be made available to such unit under such Amendments.".

(f) WAIVER PROVISION.—Section 123(c)(5) of the Act is amended to read as follows: 31 USC 1243.

"(5) WAIVER.—The Secretary may waive the requirements of paragraph (1) or paragraph (2), in whole or in part, with respect to any State government or unit of local government for any fiscal year as to which (in accordance with the regulations prescribed by the Secretary) there is a finding that—

"(A) the financial accounts of such government for such period are not auditable, and that such government demonstrates substantial progress toward making such financial accounts auditable, or

"(B) such government has been audited by a State audit agency which does not follow generally accepted auditing standards or which is not independent (in accordance with regulations prescribed by the Secretary), and such State audit agency demonstrates progress toward meeting generally accepted auditing standards or becoming independent.".

(g) MODIFICATION OF CERTAIN AUDIT REQUIREMENTS.—In any case in which— 31 USC 1243 note.

(1) a State had on July 25, 1974, entered into an agreement with the United States to conduct the audits required under section 123(c) of the Act on behalf of the units of local government in such State, and 31 USC 1243.

(2) such audits were not conducted as so required for the entitlement periods beginning after December 31, 1976, and before January 1, 1980,

then any unit of local government of such State may meet the audit requirements of section 123(c) of the Act with respect to such entitlement periods by conducting audits which otherwise meet such requirements, except that, in the aggregate, such audits need cover only those funds of accounts in the financial activity of the local unit of government into which payments under the Act have been deposited.

(h) STATEMENT OF ASSURANCES.—Section 123(a) is amended— 31 USC 1243.

(1) by striking out the semicolon at the end of paragraph (6) and inserting in lieu thereof the following: "; and";

(2) by striking out "; and" at the end of paragraph (7) and inserting in lieu thereof a period; and

(3) by striking out paragraph (8).

SEC. 3. DISCHARGE THE STATES FROM THE OBLIGATION OF REPAYMENT OF CERTAIN MONEY.

(a) IN GENERAL.—The various States with which money was deposited by the Secretary of the Treasury under the provisions of sections 13 and 14 of the Act entitled "An Act to regulate the deposits of the public money", approved June 23, 1836 (5 Stat. 55), are hereby discharged of all obligations for repayment to the United States of the money so deposited.

(b) CREDITING OF ACCOUNTS.—The proper accounting officers of the Government shall credit the various States with the amounts charged to them on the books of the Treasury Department pursuant to the proviso in the paragraph entitled "Credit in accounts of the Treasurer" in the Act of June 25, 1910 (36 Stat. 776).

SEC. 4. ADJUSTMENTS PURSUANT TO SECTION 118 OF PUBLIC LAW 96-369.

31 USC 1228.

Section 109 of the Act is amended by adding a new subsection, as follows:

"(h) The allocations to States and local jurisdictions shall reflect any adjustments made pursuant to section 118 of Public Law 96-369, and nothing in this Act shall be construed so as to preclude such adjustments being used for the purpose of allocation.".

Ante, p. 1357.

SEC. 5. EFFECTIVE DATE.

31 USC 1221 note.

The amendments made by sections 1, 2, and 4 of this Act shall apply with respect to entitlement periods (as such term is defined in section 141(b) of the State and Local Fiscal Assistance Act of 1972) beginning on or after October 1, 1980.

31 USC 1261.

Approved December 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1277 (Comm. on Government Operations).
SENATE REPORT No. 96-1009 accompanying S. 2574 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 24, Nov. 12, 13, considered and passed House.
Dec. 9, considered and passed Senate, amended.
Dec. 10, House agreed to certain Senate amendments, to others with amendments, and disagreed to remaining Senate amendments.
Dec. 12, Senate receded from certain of its amendments and agreed to remaining House amendments.

Public Law 96-605
96th Congress

An Act

To make various changes in the tax laws.

Dec. 28, 1980
[H.R. 7956]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Miscellaneous Revenue Act of 1980.

SECTION 1. SHORT TITLE; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Miscellaneous Revenue Act of 1980". 26 USC 1 note.

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954. 26 USC 1.

TITLE I—AMENDMENTS RELATING TO INCOME TAX GENERALLY

SEC. 101. TREATMENT OF COMMUNITY INCOME WHERE SPOUSES LIVE APART.

(a) GENERAL RULE.—Part I of subchapter B of chapter 1 (defining gross income, adjusted gross income, taxable income, etc.) is amended by adding at the end thereof the following new section:

"SEC. 66. TREATMENT OF COMMUNITY INCOME WHERE SPOUSES LIVE APART. 26 USC 66.

"(a) GENERAL RULE.—If—

"(1) 2 individuals are married to each other at any time during a calendar year;

"(2) such individuals—

"(A) live apart at all times during the calendar year, and

"(B) do not file a joint return under section 6013 with each other for a taxable year beginning or ending in the calendar year;

"(3) one or both of such individuals have earned income for the calendar year which is community income; and

"(4) no portion of such earned income is transferred (directly or indirectly) between such individuals before the close of the calendar year,

then, for purposes of this title, any community income of such individuals for the calendar year shall be treated in accordance with the rules provided by section 879(a). 26 USC 879.

"(b) DEFINITIONS.—For purposes of this section—

"(1) EARNED INCOME.—The term 'earned income' has the meaning given to such term by section 911(b). 26 USC 911.

"(2) COMMUNITY INCOME.—The term 'community income' means income which, under applicable community property laws, is treated as community income.

"(3) COMMUNITY PROPERTY LAWS.—The term 'community property laws' means the community property laws of a State, a foreign country, or a possession of the United States."

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 66. Treatment of community income where spouses live apart."

26 USC 66 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 1980.

SEC. 102. AMORTIZATION OF START-UP EXPENDITURES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

26 USC 195. "SEC. 195. START-UP EXPENDITURES.

"(a) ELECTION TO AMORTIZE.—Start-up expenditures may, at the election of the taxpayer, be treated as deferred expenses. Such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as may be selected by the taxpayer (beginning with the month in which the business begins).

"(b) START-UP EXPENDITURES.—For purposes of this section, the term 'start-up expenditure' means any amount—

"(1) paid or incurred in connection with—

"(A) investigating the creation or acquisition of an active trade or business, or

"(B) creating an active trade or business, and

"(2) which, if paid or incurred in connection with the expansion of an existing trade or business (in the same field as the trade or business referred to in paragraph (1)), would be allowable as a deduction for the taxable year in which paid or incurred.

"(c) ELECTION.—

"(1) TIME FOR MAKING ELECTION.—An election under subsection (a) shall be made not later than the time prescribed by law for filing the return for the taxable year in which the business begins (including extensions thereof).

"(2) SCOPE OF ELECTION.—The period selected under subsection (a) shall be adhered to in computing taxable income for the taxable year for which the election is made and all subsequent taxable years.

"(3) MANNER OF MAKING ELECTION.—An election under subsection (a) shall be made in such manner as the Secretary shall by regulations prescribe.

"(d) BUSINESS BEGINNING.—For purposes of this section, an acquired trade or business shall be treated as beginning when the taxpayer acquires it."

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 195. Start-up expenditures."

26 USC 195 note. (c) EFFECTIVE DATE.—The amendements made by this section shall apply to amounts paid or incurred after July 29, 1980, in taxable years ending after such date

SEC. 104. REVISION OF SOURCE RULES FOR INCOME FROM CERTAIN LEASED AIRCRAFT, VESSELS, AND SPACECRAFT.

(a) IN GENERAL.—Subsection (e) of section 861 (relating to election to treat income from certain aircraft and vessels as income from sources within the United States) is amended to read as follows: 26 USC 861.

"(e) INCOME FROM CERTAIN LEASED AIRCRAFT, VESSELS, AND SPACECRAFT TREATED AS INCOME FROM SOURCES WITHIN THE UNITED STATES.—

"(1) IN GENERAL.—For purposes of subsection (a) and section 862(a), if— 26 USC 862.

"(A) a taxpayer owning a craft which is section 38 property (or would be section 38 property but for section 48(a)(5)) leases such craft to a United States person, other than a member of the same controlled group of corporations (as defined in section 1563) as the taxpayer, and 26 USC 38. 26 USC 48. 26 USC 1563.

"(B) such craft is manufactured or constructed in the United States,

then all amounts includible in gross income by the taxpayer with respect to such craft for any taxable year ending after the commencement of such lease (whether during or after the period of such lease), including gain from sale, exchange, or other disposition of such craft, shall be treated as income from sources within the United States.

"(2) CERTAIN TRANSFERS INVOLVING CARRYOVER BASIS.—If the taxpayer transfers or distributes a craft to which paragraph (1) applied and the basis of such craft in the hands of the transferee or distributee is determined by reference to its basis in the hands of the transferor or distributor, paragraph (1) shall continue to apply to such craft in the hands of the transferee or distributee.

"(3) CRAFT DEFINED.—For purposes of this subsection, the term 'craft' means a vessel, aircraft, or spacecraft.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property first leased after the date of the enactment of this Act. 26 USC 861 note.

SEC. 105. TAXATION OF HOMEOWNERS ASSOCIATIONS.

(a) GENERAL RULE.—Subsection (b) of section 528 (relating to tax imposed with respect to certain homeowners associations) is amended to read as follows: 26 USC 528.

"(b) TAX IMPOSED.—A tax is hereby imposed for each taxable year on the homeowners association taxable income of every homeowners association. Such tax shall be equal to 30 percent of the homeowners association taxable income.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1980. 26 USC 528 note.

SEC. 106. TREATMENT OF CERTAIN INCOME OF MUTUAL OR COOPERATIVE ELECTRIC AND TELEPHONE COMPANIES.

(a) TREATMENT OF CERTAIN INCOME FOR PURPOSES OF TAX EXEMPT STATUS.—Paragraph (12) of section 501(c) (relating to list of exempt organizations) is amended— 26 USC 501.

(1) by striking out "(12)" and inserting in lieu thereof "(12)(A)",

(2) by striking out the second sentence, and

(3) by adding at the end thereof the following new subparagraphs:

"(B) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account any income received or accrued—

"(i) from a nonmember telephone company for the performance of communication services which involve members of the mutual or cooperative telephone company,

"(ii) from qualified pole rentals, or

"(iii) from the sale of display listings in a directory furnished to the members of the mutual or cooperative telephone company.

"(C) In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued from qualified pole rentals.

"Qualified pole rental."

"(D) For purposes of this paragraph, the term 'qualified pole rental' means any rental of a pole (or other structure used to support wires) if such pole (or other structure)—

"(i) is used by the telephone or electric company to support one or more wires which are used by such company in providing telephone or electric services to its members, and

"(ii) is used pursuant to the rental to support one or more wires (in addition to the wires described in clause (i)) for use in connection with the transmission by wire of electricity or of telephone or other communications.

"Rental."

For purposes of the preceding sentence, the term 'rental' includes any sale of the right to use the pole (or other structure)."

26 USC 513.

(b) ENGAGING IN POLE RENTALS TREATED AS NOT ENGAGING IN UNRELATED TRADE OR BUSINESS.—Section 513 (defining unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"Unrelated trade or business."

"(g) CERTAIN POLE RENTALS.—In the case of a mutual or cooperative telephone or electric company, the term 'unrelated trade or business' does not include engaging in qualified pole rentals (as defined in section 501(c)(12)(D)).

Supra.

(c) EFFECTIVE DATES.—

26 USC 501 note.

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to all taxable years to which the Internal Revenue Code of 1954 applies.

26 USC 1.

26 USC 513 note.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1969.

SEC. 107. EXEMPTION FOR CERTAIN SUBSISTENCE ALLOWANCES RECEIVED BY CERTAIN POLICE OFFICERS BEFORE JANUARY 1, 1978.

26 USC 119 note.

(a) GENERAL RULE.—Subsection (b) of section 3 of the Act of October 7, 1978, entitled "An Act to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes" is amended—

(1) by striking out "January 1, 1977" and inserting in lieu thereof "January 1, 1974", and

(2) by striking out "calendar year 1977" and inserting in lieu thereof "calendar year 1974, 1975, 1976, or 1977".

26 USC 119 note.

(b) STATUTE OF LIMITATIONS.—In the case of any allowance received during calendar year 1974, 1975, 1976, or 1977, subsections (a)(2) and (e) of such section 3 shall be applied by substituting the date one year after the date of the enactment of this Act for "April 15, 1979" each place it appears.

SEC. 108. TREATMENT OF CERTAIN EXPENSES INCLUDIBLE IN THE INCOME OF THE RECIPIENT.

26 USC 274.

(a) IN GENERAL.—Subsection (e) of section 274 (relating to specific exceptions to application of disallowance of certain entertainment,

etc., expenses) is amended by inserting after paragraph (9) the following new paragraph:

"(10) EXPENSES INCLUDIBLE IN INCOME OF PERSONS WHO ARE NOT EMPLOYEES.—Expenses paid or incurred by the taxpayer for goods, services, and facilities to the extent that the expenses are includible in the gross income of a recipient of the entertainment, amusement, or recreation who is not an employee of the taxpayer as compensation for services rendered or as a prize or award under section 74. The preceding sentence shall not apply to any amount paid or incurred by the taxpayer if such amount is required to be included (or would be so required except that the amount is less than $600) in any information return filed by such taxpayer under part III of subchapter A of chapter 61 and is not so included." 26 USC 74. 26 USC 6031.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any expenses paid or incurred after December 31, 1980, in taxable years ending after such date. 26 USC 274 note.

SEC. 109. INVESTMENT CREDIT FOR CERTAIN PROPERTY USED IN MARITIME SATELLITE COMMUNICATIONS.

(a) GENERAL RULE.—Paragraph (5) of section 48(a) (relating to property used by governmental units) is amended to read as follows: 26 USC 48.

"(5) PROPERTY USED BY GOVERNMENTAL UNITS.—Property used by the United States, any State or political subdivision thereof, any international organization, or any agency or instrumentality of any of the foregoing shall not be treated as section 38 property. For purposes of the preceding sentence, the International Telecommunications Satellite Consortium, the International Maritime Satellite Organization, and any successor organization of such Consortium or Organization shall not be treated as an international organization." 26 USC 38.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1979. 26 USC 48 note.

SEC. 110. ACQUISITION INDEBTEDNESS.

(a) IN GENERAL.—Section 514(c) of the Internal Revenue Code of 1954 (defining acquisition indebtedness) is amended by adding at the end thereof the following new paragraph: 26 USC 514.

"(9) REAL PROPERTY ACQUIRED BY QUALIFIED TRUST.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'acquisition indebtedness' does not include indebtedness incurred by a qualified trust in acquiring or improving any real property. Acquisition indebtedness.

"(B) EXCEPTIONS.—The provisions of subparagraph (A) shall not apply in any case in which—

"(i) the acquisition price is not a fixed amount determined as of the date of acquisition;

"(ii) the amount of any indebtedness or any other amount payable with respect to such indebtedness, or the time for making any payment of any such amount, is dependent, in whole or in part, upon any revenue, income, or profits derived from such real property;

"(iii) the real property is at any time after the acquisition leased by the qualified trust to the person selling such property to such trust or to any person who bears a relationship described in section 267(b) to such person; 26 USC 267.

"(iv) the real property is acquired from, or is at any time after the acquisition leased by the qualified trust to, any person who—

"(I) bears a relationship which is described in section 4975(e)(2) (C), (E), or (G) to any plan with respect to which such trust was formed, or

26 USC 4975.

"(II) bears a relationship which is described in section 4975(e)(2) (F) or (H) to any person described in subclause (I); or

"(v) any person described in clause (iii) or (iv) provides the qualified trust with nonrecourse financing in connection with such transaction and such debt—

"(I) is subordinate to any other indebtedness on such property, or

"(II) bears interest at a rate which is significantly less than the rate available from any person not described in clause (iii) or (iv) at the time such indebtedness is incurred.

"(C) QUALIFIED TRUST.—For purposes of this paragraph, the term 'qualified trust' means any trust which constitutes a qualified trust under section 401."

26 USC 401.

26 USC 514 note.

(b) NO PRECEDENT.—The amendment made by subsection (a) shall not be considered a precedent with respect to extending such amendment (or similar rules) to any other person.

26 USC 514 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1980.

TITLE II—AMENDMENTS RELATING TO PENSION PLANS

Subtitle A—Prevention of Abuse of Certain Pension Plan Provisions

SEC. 201. PREVENTION OF ABUSE OF CERTAIN PENSION PLAN PROVISIONS THROUGH THE USE OF SEPARATE CORPORATIONS OR OTHER ORGANIZATIONS.

26 USC 414.

(a) IN GENERAL.—Section 414 (relating to definitions and special rules relating to pension plan, etc.) is amended by adding at the end thereof the following new subsection:

"(m) EMPLOYEES OF AN AFFILIATED SERVICE GROUP.—

"(1) IN GENERAL.—For purposes of the employee benefit requirements listed in paragraph (4), except to the extent otherwise provided in regulations, all employees of the members of an affiliated service group shall be treated as employed by a single employer.

"(2) AFFILIATED SERVICE GROUP.—For purposes of this subsection, the term 'affiliated service group' means a group consisting of a service organization (hereinafter in this paragraph referred to as the 'first organization') and one or more of the following:

"(A) any service organization which—

"(i) is a shareholder or partner in the first organization, and

"(ii) regularly performs services for the first organization or is regularly associated with the first organization in performing services for third persons, and

"(B) any other organization if—

"(i) a significant portion of the business of such organization is the performance of services (for the first organization, for organizations described in subparagraph (A), or for both) of a type historically performed in such service field by employees, and

"(ii) 10 percent or more of the interests in such organization is held by persons who are officers, highly compensated employees, or owners of the first organization or an organization described in subparagraph (A).

"(3) SERVICE ORGANIZATIONS.—For purposes of this subsection, the term 'service organization' means an organization the principal business of which is the performance of services.

"(4) EMPLOYEE BENEFIT REQUIREMENTS.—For purposes of this subsection, the employee benefit requirements listed in this paragraph are—

"(A) paragraphs (3), (4), (7), and (16) of section 401(a), 26 USC 401.

"(B) sections 408(k), 410, 411, and 415, 26 USC 408, 410, 411, 415.

"(C) section 105(h), and 26 USC 105.

"(D) section 125. 26 USC 125.

"(5) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ORGANIZATION DEFINED.—The term 'organization' means a corporation, partnership, or other organization.

"(B) OWNERSHIP.—In determining ownership, the principles of section 267(c) shall apply. 26 USC 267.

"(6) PREVENTION OF AVOIDANCE.—The Secretary shall prescribe such regulations as may be necessary to prevent the avoidance with respect to service organizations, through the use of separate organizations, of any employee benefit requirement listed in paragraph (4)." Regulations.

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (8) of section 105(h) (relating to amount paid to highly compensated individuals under a discriminatory self-insured medical expense reimbursement plan) is amended— 26 USC 105.

(A) by striking out "subsection (b) or (c) of section 414" and inserting in lieu thereof "subsection (b), (c), or (m) of section 414", and

(B) by striking out "CONTROLLED GROUPS" in the paragraph heading and inserting in lieu thereof "CONTROLLED GROUPS, ETC.".

(2) Paragraph (4) of section 125(g) (relating to special rules for cafeteria plans) is amended— 26 USC 125.

(A) by striking out "subsection (b) or (c) of section 414" and inserting in lieu thereof "subsection (b), (c), or (m) of section 414", and

(B) by striking out "CONTROLLED GROUPS" in the paragraph heading and inserting in lieu thereof "CONTROLLED GROUPS, ETC.".

(c) EFFECTIVE DATES.— 26 USC 414 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years ending after November 30, 1980.

(2) PLANS IN EXISTENCE ON NOVEMBER 30, 1980.—In the case of a plan in existence on November 30, 1980, the amendments made by this section shall apply to plan years beginning after November 30, 1980.

Subtitle B—Amendments Relating to Employee Stock Ownership Plans

SEC. 221. CASH DISTRIBUTION OPTION AND PUT OPTION FOR STOCK BONUS PLANS.

26 USC 401.

(a) IN GENERAL.—Subsection (a) of section 401 (relating to requirements for qualification) is amended by inserting immediately before the last sentence thereof the following new paragraph:

"(23) A stock bonus plan which otherwise meets the requirements of this section shall not be considered to fail to meet the requirements of this section because it provides a cash distribution option to participants if that option meets the requirements of section 409A(h)(2)."

26 USC 409A.

26 USC 401 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to plan years beginning after December 31, 1980.

SEC. 222. LIMITATION ON ANNUAL ADDITIONS TO PARTICIPANT ACCOUNTS UNDER EMPLOYEE STOCK OWNERSHIP PLANS.

26 USC 415.

(a) IN GENERAL.—Subparagraph (A) of section 415(c)(6) (relating to special limitation for employee stock ownership plan) is amended by inserting ", or purchased with cash contributed," after "contributed".

26 USC 415 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to years beginning after December 31, 1980.

SEC. 223. VALUATION OF EMPLOYER SECURITIES IN TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLANS.

26 USC 48.

(a) IN GENERAL.—Clause (i) of section 48(n)(6)(B) (defining value for employer securities) is amended by striking out "the due date for filing the return for the taxable year (determined with regard to extensions)" and inserting in lieu thereof "the date on which the securities are contributed to the plan".

26 USC 48 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1980.

SEC. 224. PARTICIPATION OF SUBSIDIARY CORPORATION IN TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN.

26 USC 409A.

(a) IN GENERAL.—Paragraph (4) of section 409A(l) (defining controlled group of corporations) is amended—

(1) by striking out the caption and inserting in lieu thereof "(4) APPLICATION TO CONTROLLED GROUP OF CORPORATIONS.—",

(2) by striking out "COMMON PARENT MAY OWN ONLY" in the caption of subparagraph (B) and inserting in lieu thereof "WHERE COMMON PARENT OWNS AT LEAST", and

(3) by adding at the end thereof the following new subparagraph:

"(C) WHERE COMMON PARENT OWNS 100 PERCENT OF FIRST TIER SUBSIDIARY.—For purposes of subparagraph (A), if the common parent owns directly stock possessing all of the voting power of all classes of stock and all of the nonvoting stock, in a first tier subsidiary, and if the first tier subsidiary owns directly stock possessing at least 50 percent of the voting power of all classes of stock, and at least 50 percent of each class of nonvoting stock, in a second tier subsidiary of the common parent, such second tier subsidiary (and all other corporations below it in the chain which would meet the 80 percent test of section 1563(a) if the second tier

26 USC 1563.

subsidiary were the common parent) shall be treated as includible corporations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to qualified investment for taxable years beginning after December 31, 1978. 26 USC 409A note.

SEC. 225. PARTICIPATION RULES FOR TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLAN WHICH IS ONLY EMPLOYER-PROVIDED ALTERNATIVE TO INDIVIDUAL RETIREMENT SAVINGS.

(a) IN GENERAL.—Subsection (b) of section 410 (relating to eligibility) is amended— 26 USC 410.

(1) by redesignating paragraph (2) as (3),

(2) by striking out "paragraph (1)" in paragraph (3) (as so redesignated) and inserting in lieu thereof "paragraphs (1) and (2)", and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE FOR CERTAIN PLANS.—A trust which is part of a tax credit employees stock ownership plan which is the only plan of an employer intended to qualify under section 401(a) shall not be treated as not a qualified trust under section 401(a) solely because it fails to meet the requirements of paragraph (1) if— 26 USC 401.

"(A) it benefits 50 percent or more of all the employees who are eligible under the plan (excluding employees who have not satisfied the minimum age and service requirements, if any, prescribed by the plan as a condition of participation), and

"(B) the sum of the amounts allocated to each participant's account for the year does not exceed 2 percent of the compensation of that participant for the year."

(b) CONFORMING AMENDMENTS.—

(1) The last sentence of section 401(a)(4) is amended by striking out "section 410(b)(2)(A)" and inserting in lieu thereof "section 410(b)(3)(A)". 26 USC 401.

(2) Subparagraph (B) of section 401(d)(3) is amended—

(A) by striking out "section 410(b)(2)(A)" and inserting in lieu thereof "section 410(b)(3)(A)", and

(B) by striking out "section 410(b)(2)(C)" and inserting in lieu thereof "section 410(b)(3)(C)".

(3) The last sentence of section 408(k)(2) is amended by striking out "section 410(b)(2)" and inserting in lieu thereof "section 410(b)(3)". 26 USC 408.

(4) Clause (i) of section 408(k)(3)(B) is amended by striking out "section 410(b)(2)" and inserting in lieu thereof "section 410(b)(3)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 1980. 26 USC 401 note.

SEC. 226. APPLICATION OF CASH OR DEFERRED ARRANGEMENT RULES TO CAFETERIA PLANS.

(a) IN GENERAL.—Paragraph (2) of section 125(d) (relating to deferred compensation plans excluded) is amended by adding at the end thereof the following: "The preceding sentence shall not apply in the case of a profit-sharing or stock bonus plan which includes a qualified cash or deferred arrangement (as defined in section 401(k)(2)) to the extent of amounts which a covered employee may elect to have the employer pay as contributions to a trust under such plan on behalf of the employee." 26 USC 125. 26 USC 401.

26 USC 125 note. (b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1980.

SEC. 227. ELIMINATION OF WITHHOLDING TAX ON PENSIONS PAID TO CERTAIN NONRESIDENT ALIENS.

26 USC 871. (a) IN GENERAL.—Section 871(f) (relating to taxation of nonresident alien individuals) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this section, gross income does not include any amount received as an annuity under a qualified annuity plan described in section 403(a)(1), or from a qualified trust described in section 401(a) which is exempt from tax under section 501(a), if—

26 USC 403.
26 USC 401.
26 USC 501.

"(A) all of the personal services by reason of which the annuity is payable were either—

"(i) personal services performed outside the United States by an individual who, at the time of performance of such personal services, was a nonresident alien, or

26 USC 864. "(ii) personal services described in section 864(b)(1) performed within the United States by such individual, and

"(B) at the time the first amount is paid as an annuity under the annuity plan or by the trust, 90 percent or more of the employees for whom contributions or benefits are provided under such annuity plan, or under the plan or plans of which the trust is a part, are citizens or residents of the United States.

"(2) EXCLUSION.—Income received during the taxable year which would be excluded from gross income under this subsection but for the requirement of paragraph (1)(B) shall not be included in gross income if—

"(A) the recipient's country of residence grants a substantially equivalent exclusion to residents and citizens of the United States; or

"(B) the recipient's country of residence is a beneficiary developing country within the meaning of section 502 of the Trade Act of 1974 (19 U.S.C. 2462).".

26 USC 871 note. (b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts received after July 1, 1979.

TITLE III—AMENDMENTS RELATING TO ESTATE TAX

SEC. 301. ADDITIONAL 3 YEARS ALLOWED TO AMEND GOVERNING INSTRUMENTS TO MEET REQUIREMENTS FOR GIFT OF SPLIT INTEREST TO CHARITY.

26 USC 2055. (a) CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN THE CASE OF ESTATE TAXES.—The first sentence of paragraph (3) of section 2055(e) (relating to disallowance of deductions in certain cases) is amended—

(1) by striking out "December 31, 1977" and inserting in lieu thereof "December 31, 1978"; and

(2) by striking out "December 31, 1978" each place it appears and inserting in lieu thereof "December 31, 1981".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply in the case of decedents dying after December 31, 1969. 26 USC 2055 note.

(2) CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN THE CASE OF INCOME AND GIFT TAXES.—Section 514(b) (and section 514(c) insofar as it relates to section 514(b)) of the Revenue Act of 1978 shall be applied as if the amendment made by subsection (a) had been included in the amendment made by section 514(a) of such Act. 26 USC 2055 note. *Ante*, p. 219.

TITLE IV—MISCELLANEOUS AMENDMENTS

SEC. 401. TREATMENT OF CERTAIN SOCIAL SECURITY TAX WAIVER EXEMPTIONS.

(a) WAIVER CERTIFICATE.— 26 USC 3121 note.

(1) IN GENERAL.—Notwithstanding any other provision of law, any waiver certificate filed by a qualified corporation (herinafter in this section referred to as the "corporation") under section 3121(k)(1) of the Internal Revenue Code of 1954 (relating to waiver of exemption from social security taxes by certain organizations) shall be deemed not to be effective, for purposes of the taxes imposed by section 3101 of such Code, with respect to any wages— 26 USC 3121. 26 USC 3101.

(A) paid by the Corporation to any employee thereof after December 31, 1972, and before April 1, 1975, if the Corporation furnishes to the Secretary of the Treasury or his delegate evidence reasonably satisfactory to him that the Corporation as refunded, prior to February 1, 1977, to such employee (or to his survivors or estate) the full amount of the taxes imposed by section 3101 of such Code on such wages, or

(B) paid after March 31, 1975, and prior to July 1, 1977, by the Corporation to an individual as an employee of the Corporation, if the Corporation furnishes to the Secretary of the Treasury or his delegate evidence reasonably satisfactory to him that (i) such individual was not an employee of the Corporation on June 30, 1978, and (ii) no amount of the taxes imposed by section 3101 of such Code on such wages were withheld by the Corporation from such wages.

(2) APPLICATION OF PARAGRAPH (1).—

(A) EVIDENCE TO BE SUBMITTED TO SECRETARY.—The provisions of paragraph (1) shall not apply to wages described in subparagraph (A) or (B) of such paragraph unless, prior to the close of the one-year period which begins on the date of the enactment of this Act, the Corporation furnishes to the Secretary of the Treasury or his delegate the evidence referred to in either such subparagraph.

(B) TAX NOT IMPOSED.—If the provisions of paragraph (1) apply with respect to any wages paid by the Corporation to an employee thereof, no taxes imposed on such wages by section 3101 of the Internal Revenue Code of 1954 shall be payable, and no interest or penalty with respect to the imposition of taxes by such section on such wages (or with respect to the imposition of taxes by such section or section 3111 of such Code on any wages paid by the Corporation prior to January 1, 1978) shall be imposed or collected. 26 USC 3111.

(C) CREDIT AGAINST TAX.—Under regulations prescribed by the Secretary, there shall be allowed as a one-time credit against the tax imposed on the Corporation under section 3101 or 3111 of the Internal Revenue Code of 1954 (and any interest or penalties imposed thereon) an amount equal to the sum of—

26 USC 3101, 3111.

(i) all amounts of tax imposed by section 3101 of such Code which have been paid by the Corporation with respect to wages to which paragraph (1) applies, and

26 USC 3101.

(ii) all amounts paid by such Corporation as a penalty or as interest with respect to the tax imposed by section 3101 or 3111 of such Code on such wages.

(b) TREATMENT FOR PURPOSES OF SOCIAL SECURITY ACT.—In the administration of titles II and XVIII of the Social Security Act, any wages paid to any individual to which the provisions of subsection (a) apply shall be treated as wages (within the meaning of section 209 of such Act) for purposes of determining—

42 USC 401, 1395.

42 USC 409.

(1) entitlement to, or amount of, any insurance benefit payable to such individual or any other person on the basis of the wages and self-employment income of such individual, or

(2) entitlement of such individual to benefits under title XVIII of such Act or entitlement of any other person to such benefits on the basis of the wages and self-employment income of such individual.

(c) QUALIFIED CORPORATION DEFINED.—For purposes of this section, the term "qualified corporation" means any corporation which—

(1) filed a waiver certificate under section 3121 of the Internal Revenue Code of 1954 during 1968;

26 USC 3121.

(2) filed a second waiver certificate under such section during 1975 believing that no other waiver certificate had been filed;

(3) received a refund of the taxes imposed by sections 3101 and 3111 of such Code with respect to certain wages paid to more than 120 but less than 180 employees who did not concur in the filing of the second waiver certificate; and

26 USC 3101, 3111.

(4) was notified during 1977 by the Internal Revenue Service that the certificate had been filed during 1968.

(d) LIABILITY FOR TAXES.—Except as provided in subsection (a)(2)(C)(ii), nothing in this section shall be construed to relieve the Corporation of any liability for the payment of the taxes imposed by section 3111 of the Internal Revenue Code of 1954 with respect to any wages paid by it to any individual for any period.

SEC. 402. TREATMENT OF AUTHORS AND ARTISTS AS EMPLOYEES.

26 USC 7701 note.

(a) IN GENERAL.—An author or artist performing services under contract with a corporation shall be considered as an employee of the corporation for the purpose of applying the provisions specified in section 7701(a)(20) of the Internal Revenue Code of 1954, if, on December 31, 1977, such author or artist was a participant in one or more of the pension, profit-sharing or annuity plans of such corporation which are described in subsection (b)(2).

26 USC 7701.

(b) DEFINITIONS.—For purposes of this section—

(1) CONTRACT.—The term "contract" means a contract which during its term—

(A) requires such author or artist to give the corporation first reading or first refusal on writings or drawings of specified types, and prohibits him from offering any such writing or drawing to any other publication unless it has been offered to and rejected by the corporation; or

(B) requires such author or artist to use his best efforts to produce work of specified types for the corporation.

(2) CORPORATION.—The term "corporation" means a corporation which for at least 15 years prior to January 1, 1978, had in effect one or more pension, profit-sharing and annuity plans, each of which—

(A) had contained from its inception a definition of the term "employee" that included the category of "authors and artists under contract", and

(B) had been determined by the Secretary of the Treasury (taking into account the definition described in subparagraph (A)) to be a qualified plan within part I of subchapter D of chapter 1 of subtitle A of the Internal Revenue Code of 1954 for all of such years. 26 USC 401.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years ending after December 31, 1980.

Approved December 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1278 (Comm. on Ways and Means).
SENATE REPORT No. 96-1036 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 9, considered and passed House.
Dec. 13, considered and passed Senate, amended; House agreed to certain Senate amendments, to others with amendments, and disagreed to those remaining; Senate agreed to certain House amendments and receded from its remaining amendments.

Public Law 96-606
96th Congress

An Act

Dec. 28, 1980
[H.R. 5737]

To amend the International Claims Settlement Act of 1949 to allow recovery by United States nationals for losses incurred in Vietnam.

International Claims Settlement Act of 1949, amendment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the International Claims Settlement Act of 1949 (22 U.S.C. 1621 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VII

"PURPOSE OF TITLE

22 USC 1645.

"SEC. 701. It is the purpose of this title to provide for the determination of the validity and amounts of outstanding claims against Vietnam which arose out of the nationalization, expropriation, or other taking of (or special measures directed against) property of nationals of the United States. This title shall not be construed as authorizing or as any intention to authorize an appropriation by the United States for the purpose of paying such claims.

"DEFINITIONS

22 USC 1645a.

"SEC. 702. As used in this title—

"(1) the term 'national of the United States' means—

"(A) a natural person who is a citizen of the United States; and

"(B) a corporation or other legal entity which is organized under the laws of the United States or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity;

"(2) the term 'Commission' means the Foreign Claims Settlement Commission of the United States;

"(3) the term 'property' means—

"(A) any property, right, or interest, including any leasehold interest,

"(B) any debt owed by Vietnam or by any enterprise which has been nationalized, expropriated, or otherwise taken by Vietnam, and

"(C) any debt which is a charge on property which has been nationalized, expropriated, or otherwise taken by Vietnam;

"(4) the term 'Vietnam' means—

"(A) the Government of the Socialist Republic of Vietnam,

"(B) any predecessor governing authority operating in South Vietnam on or after April 29, 1975, including the Provisional Revolutionary Government of South Vietnam,

"(C) the Government of the former Democratic Republic of Vietnam, and

"(D) any political subdivision, agency, or instrumentality of any of the entities referred to in subparagraphs (A), (B), and (C); and

"(5) the term 'Claims Fund' means the special fund established in the Treasury of the United States composed of such sums as may be paid to or realized by the United States pursuant to the terms of any agreement settling those claims described in section 703 that may be entered into between the Governments of the United States and Vietnam. *Infra.*

"RECEIPT AND DETERMINATION OF CLAIMS

"SEC. 703. The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against Vietnam arising on or after April 29, 1975, for losses incurred as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property which, at the time of such nationalization, expropriation, or other taking, was owned wholly or partially, directly or indirectly, by nationals of the United States to whom no restoration or adequate compensation for such property has been made. Such claims must be submitted to the Commission within the period specified by the Commission by notice published in the Federal Register (which period shall not be more than a period of two years beginning on the date of such publication) within sixty days after the date of the enactment of this title or of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title, whichever date is later. 22 USC 1645b. Notice; publication in Federal Register.

"OWNERSHIP OF CLAIMS

"SEC. 704. A claim may be favorably considered under section 703 of this Act only if the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss and only to the extent that the claim has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission. 22 USC 1645c. *Supra.*

"CORPORATE CLAIMS

"SEC. 705. (a) A claim under section 703 of this Act based upon an ownership interest in any corporation, association, or other entity which is a national of the United States may not be considered. A claim under section 703 based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico may be considered only if such debt or other obligation is a charge on property which has been nationalized, expropriated, or otherwise taken by Vietnam. 22 USC 1645d. *Supra.*

"(b) A claim under section 703 based upon a direct ownership interest in a corporation, association, or other entity may be considered, subject to the other provisions of this title, if such corporation, association, or other entity on the date of the loss was not a national of the United States, without regard to the per centum of ownership vested in the claimant.

Ante, p. 3535.

"(c) A claim under section 703 based upon an indirect ownership interest in a corporation, association, or other entity may be considered, subject to the other provisions of this title, only if at least 25 per centum of the entire ownership interest thereof, at the time of such loss, was vested in nationals of the United States or if, at the time of the loss, nationals of the United States in fact controlled the corporation, association, or entity, as determined by the Commission.

"(d) The amount of any claim covered by subsection (b) or (c) of this section shall be calculated on the basis of the total loss suffered by the corporation, association, or other entity, with respect to which the claim is made, and shall bear the same proportion to such loss as the ownership interest of the claimant at the time of loss bears to the entire ownership interest thereof.

"OFFSETS

22 USC 1645e.

"SEC. 706. In determining the amount of any claim under this title, the Commission shall deduct all amounts the claimant has received from any source on account of the same loss or losses for which the claim is filed.

"CERTIFICATION; ASSIGNED CLAIMS

22 USC 1645f.

"SEC. 707. (a) The Commission shall certify to each claimant who files a claim under this title the amount determined by the Commission to be the loss suffered by the claimant which is covered by this title. The Commission shall certify to the Secretary of State such amount and the basic information underlying that amount, together with a statement of the evidence relied upon and the reasoning employed in making that determination.

"(b) In any case in which a claim under this title is assigned by purchase before the Commission determines the amount due on that claim, the amount so determined shall not exceed the amount of actual consideration paid by the last such assignee.

"CONSOLIDATED AWARDS

22 USC 1645g.

"SEC. 708. With respect to any claim under section 703 of this Act which, at the time of the award, is vested in persons other than the person by whom the original loss was sustained, the Commission shall issue a consolidated award in favor of all claimants then entitled to the award, which award shall indicate the respective interests of such claimants in the award, and all such claimants shall participate, in proportion to their indicated interests, in any payments that may be made under this title in all respects as if the award had been in favor of a single person.

"CLAIMS FUND

22 USC 1645h.
Establishment.

"SEC. 709. (a) The Secretary of the Treasury may establish in the Treasury of the United States the Claims Fund for the payment of unsatisfied claims of nationals of the United States against Vietnam, as authorized by this title.

"(b) The Secretary of the Treasury shall deduct from any amounts covered into the Claims Fund an amount equal to 5 per centum thereof as reimbursement to the Government of the United States for expenses incurred by the Commission and by the Treasury Department in the administration of this title. The amounts so deducted shall be covered into the Treasury as miscellaneous receipts.

"AWARD PAYMENT PROCEDURES

"SEC. 710. (a) The Commission shall certify to the Secretary of the Treasury, in terms of United States currency, each award made pursuant to section 703 of this Act. 22 USC 1645i.

Ante, p. 3535.

"(b)(1) Upon certification of each award made pursuant to section 703, the Secretary of the Treasury shall, out of the sums covered into the Claims Fund, make payments on account of such awards as follows, and in the following order of priority:

"(A) Payment in the amount of $2,500 or the principal amount of the award, whichever is less.

"(B) Thereafter, payments from time to time, in ratable proportions, on account of the unpaid balance of the principal amounts of all awards according to the proportions which the unpaid balance of such awards bear to the total amount in the Claims Fund available for distribution at the time such payments are made.

"(2) After payment has been made in full of the principal amounts of all awards pursuant to paragraph (1), pro rata payments may be made on account of any interest that may be allowed on such awards.

"(c) Payments or applications for payments under subsection (b) shall be made in accordance with such regulations as the Secretary of the Treasury may prescribe.

"SETTLEMENT PERIOD

"SEC. 711. The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than three years after the final date for the filing of claims as provided in section 703 of this Act. 22 USC 1645j.

"TRANSFER OF RECORDS

"SEC. 712. The Secretary of State, the Secretary of the Treasury, and the Secretary of Defense shall transfer or otherwise make available to the Commission such records and documents relating to claims authorized by this title as may be required by the Commission in carrying out its functions under this title. 22 USC 1645k.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 713. There are authorized to be appropriated for any fiscal year beginning on or after October 1, 1980, such sums as may be necessary to enable the Commission and the Treasury Department to pay their respective administrative expenses incurred in carrying out their functions under this title. Amounts appropriated under this section may remain available until expended. 22 USC 1645*l*.

"FEES FOR SERVICES

"SEC. 714. No remuneration on account of services rendered on behalf of any claimant, in connection with any claim filed with the Commission under this title, shall exceed 10 per centum of the total amount paid pursuant to any award certified under the provisions of this title on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, demands or receives, on account of services so rendered, any remuneration in excess of the maximum permitted by this section shall be guilty of a misdemeanor and, upon conviction thereof, 22 USC 1645m.

Violation penalty.

shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

"APPLICATION OF OTHER PROVISIONS OF THE ACT

22 USC 1645n. 22 USC 1621. 22 USC 1623, 1626.

"SEC. 715. (a) To the extent they are not inconsistent with the provisions of this title, the following provisions of title I of this Act shall be applicable to this title: subsections (b), (c), (d), (e), and (h) of section 4 and subsections (c), (d), (e), and (f) of section 7. Any reference in such provisions to 'this title' shall be deemed to be a reference to those provisions and to this title.

"(b) Except as otherwise provided in this title and in those provisions of title I referred to in subsection (a), the Commission shall comply with the provisions of subchapter II of chapter 5, and the provisions of chapter 7, of title 5, United States Code.

5 USC 551, 701 *et seq.*

"SEPARABILITY

22 USC 1645o.

"SEC. 716. If any provision of this title or the application thereof to any person or circumstances is held invalid, the remainder of this title or the application of such provision to other persons or circumstances shall not be affected.".

Approved December 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-915 (Comm. on Foreign Affairs).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 5, considered and passed House.
Dec. 15, considered and passed Senate.

Public Law 96-607
96th Congress

An Act

To provide, with respect to the national park system: for the establishment of new units; for adjustments in boundaries; for increases in appropriation authorizations for land acquisition and development; and for other purposes.

Dec. 28, 1980
[S. 2363]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Park System, amendment.

TITLE I

ROGER WILLIAMS NATIONAL MEMORIAL

SEC. 101. Section 4 of the Act of October 22, 1965 (79 Stat. 1069) entitled "An Act to provide for the establishment of the Roger Williams National Memorial in the city of Providence, Rhode Island, and for other purposes" is amended to read as follows:

16 USC 450pp-3.

"SEC. 4. There are hereby authorized to be appropriated not more than $146,000 for the acquisition of lands and interests in land and not more than $1,862,000 for the development of the Roger Williams National Memorial, as provided in this Act.".

Appropriation authorization.

TITLE II

HAMILTON GRANGE NATIONAL MEMORIAL

SEC. 201. Section 3 of the Joint Resolution of April 27, 1962 (76 Stat. 57) is amended by changing "$460,000" to "$960,000".

TITLE III

CORONADO NATIONAL MEMORIAL

SEC. 301. Section 301 of the National Parks and Recreation Act of 1978 (92 Stat. 3467, 3473) is amended by striking out "$1,410,000" in paragraph (4) and inserting in lieu thereof "$2,875,000".

TITLE IV

BIG BEND NATIONAL PARK

SEC. 401. The boundary of the Big Bend National Park in the State of Texas is hereby revised to include the lands and interests therein within the area generally depicted on the map entitled "Big Bend National Park, Boundary Additions", numbered 155/80,019-A and dated June 1980 which shall be on file and available for public inspection in the local and Washington, District of Columbia, Offices of the National Park Service, Department of the Interior. The Secretary is authorized to acquire the lands and interests therein added to the park by this section by donation, purchase with donated or appropriated funds, or exchange, except that lands and interests

16 USC 157c.

Appropriation authorization.

therein owned by the State of Texas or any political subdivision thereof may be acquired only by donation or exchange. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not to exceed $1,500,000 for the acquisition of lands and interests therein.

TITLE V

GENERAL MANAGEMENT PLANS

Submitted to congressional committees. 16 USC 410 *ll* note.

SEC. 501. Within three complete fiscal years from the effective date of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, comprehensive general management plans for the areas established pursuant to titles XII and XVI of this Act, pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 et seq.).

TITLE VI

LYNDON B. JOHNSON NATIONAL HISTORICAL PARK

SEC. 601. The Act entitled "An Act to establish the Lyndon B. Johnson National Historic Site", approved December 2, 1969 (83 Stat. 274) is amended—

16 USC 410kk.

(1) in the first section, by changing "by donation or by purchase with donated funds" to "by donation or by purchase with donated or appropriated funds" and by changing "drawing entitled 'Lyndon B. Johnson National Historic Site Boundary Map', numbered NHS-LBJ-20,000 and dated September 1969" to "drawings entitled 'Boundary Map, Lyndon B. Johnson National Historical Park', numbered 447-40,008B and 447-40,000A, and dated January 1980";

16 USC 410kk-2.

(2) in section 3, by changing "not more than $680,000 to provide for the development of" to "such sums as may be necessary to carry out the provisions of this Act, but not more than $4,100,000 for development and not more than $1,400,000 for the acquisition of lands and interests therein for"; and

16 USC 410kk, 410kk-1, 410kk-2, 461 note.

(3) by changing "National Historic Site" whenever it appears to "National Historical Park".

TITLE VII

MOUND CITY GROUP NATIONAL MONUMENT

SEC. 701. (a) In order to preserve in public ownership certain prehistoric archeological resources of outstanding significance for the benefit and education of the people of the United States, the boundary of Mound City Group National Monument, Ohio, is revised to include the lands within the area generally depicted as "Parcel X" on the map entitled "Hopeton Earthworks Study Area", numbered 353/40,025B, and dated May 1980, and within the area generally depicted as "Revised Monument Boundary" on the map entitled "Transfer of Jurisdiction, Mound City Group National Monument", numbered 353/40,001A, and dated March 1978, which maps shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. With respect to the lands within "Parcel X" above, the lands may be acquired only in fee and shall be

Lands acquired by fees.

limited to the mound area depicted on the above referenced map plus such other lands immediately adjacent to the mounds so as to assure adequate access and protection to the area: *Provided,* That the total area acquired in fee shall not exceed one hundred and fifty acres. Access to lands in the vicinity of the mounds by existing roadways shall in no manner be encumbered by Federal acquisition or by the administration of the monument.

Procurement of lands and waters.

(b) Within the boundary of the national monument, the Secretary is authorized to acquire lands and waters by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange. Notwithstanding any other provision of law to the contrary, Federal lands in the vicinity of the monument which are determined to be surplus to the needs of the United States shall upon the request of the Secretary be transferred to the Secretary for use by him in acquiring lands within the monument by exchange.

Consultation.

(c) The Secretary shall, in consultation with interested organizations and individuals, investigate other sites in the region which contain archeological data illustrating the prehistoric Hopewellian civilization that flourished in the Eastern United States, and as a part of this investigation he shall identify those sites which he determines should be protected as part of the Mound City Group National Monument. Not later than two complete fiscal years from the effective date of this section, the Secretary shall transmit a report of his investigation to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, together with his recommendations for such further legislation as may be appropriate.

Report to congressional committees.

Appropriation authorization.

(d) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, not to exceed $1,000,000 for the acquisition of lands and waters and not to exceed $100,000 for the development of facilities and the conduct of archeological investigations on the properties acquired pursuant to this section.

TITLE VIII

THEODORE ROOSEVELT INAUGURAL NATIONAL HISTORIC SITE

Ansley Wilcox House, acquisition.
16 USC 461 note.

SEC. 801. The first two sections of the Act entitled "An Act to provide for the acquisition and preservation of the real property known as the Ansley Wilcox House in Buffalo, New York, as a national historic site", approved November 2, 1966 (Public Law 89-708), are amended to read as follows: "That, notwithstanding any other provision of law, the Secretary of the Interior shall acquire on behalf of the United States the real property described in section 3 of this Act, known as the Ansley Wilcox House, which real property is of national historic significance as the place in which Theodore Roosevelt took the oath of office as President of the United States on September 14, 1901, following the assassination of President William McKinley. Such property is hereby designated as the Theodore Roosevelt Inaugural National Historic Site.

80 Stat. 1101.

"SEC. 2. (a) Notwithstanding any other provision of law, the property referred to in the first section of this Act shall be administered by the Secretary of the Interior, acting through the National Park Service, in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act entitled 'An Act to establish a National Park Service, and for other purposes', approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1,

2-4), and the provisions of the Act entitled 'An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance and for other purposes', approved August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-7).

"(b) The Secretary of the Interior shall enter into cooperative agreements with the Theodore Roosevelt Inaugural Site Foundation or other qualified public or private entities for the operation, maintenance, management, development, and interpretation of the Theodore Roosevelt Inaugural National Historic Site.

"(c) Notwithstanding any other provision of law, the Department of the Interior share in any fiscal year of the annual operating costs of the Theodore Roosevelt Inaugural National Historic Site shall not exceed two-thirds of such operating cost.".

TITLE IX

STUDY COMMITTEE

SEC. 901. The Congress finds that those portions of the Mississippi, Saint Croix, and Minnesota River corridors lying within the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties in the State of Minnesota—

(a) represent a significant recreation resource which would benefit a large population in the immediate vicinity;

(b) represent a significant historical and cultural resource worthy of preservation for the enjoyment and benefit of present and future generations;

(c) contain significant natural and scientific values that enhance the diversity and esthetic character of the metropolitan area;

(d) are important commercial resources vital to the continued economic well-being of the region and the Nation;

(e) are of national significance and constitute an area of national concern;

(f) are in need of cooperative recreational planning and management so as to improve efforts to further the preservation, enhancement, and use of these recreational resources.

Establishment.

SEC. 902. (a) A Study Committee consisting of fifteen members shall be established to examine methods by which Federal, State, regional, and local governments can cooperate to enhance the recreational opportunities along those portions of the Mississippi, Minnesota, and Saint Croix Rivers described in section 901 of this title. The members of the Study Committee shall be selected as follows:

Membership.

(1) A Chairperson shall be appointed by the Secretary of the Interior. The Secretary shall appoint the Chairperson from a list of nominees submitted by the Governor of Minnesota;

(2) A representative designated by the Secretary of the Interior shall serve as Vice Chairperson;

(3) One representative shall be designated by each of the following: the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Transportation, and the Secretary of Defense;

(4) Nine other members shall be appointed by the Secretary of the Interior. The Secretary shall appoint these members from a list of nominees submitted by the Governor of Minnesota, the Metropolitan Council, and the mayors of Minneapolis and Saint Paul;

(5) The nominations and appointments required by section 902(a) shall include representatives of each of those interests described in section 904(e).

(b) The Governor of Minnesota, the Metropolitan Council, and the mayors of Minneapolis and Saint Paul shall submit the nominations called for in section 902(a) within forty-five days of the date on which this Act is signed into law. All appointments called for in section 902(a) shall be made within sixty days of the date on which this Act is signed into law. Nominations, submittal.

(c) Each member of the Study Committee who is an officer or employee of the United States shall serve without additional compensation, but shall continue to receive the salary of his regular position when engaged in the performance of the duties vested in the Study Committee. Salary.

(d) All members of the Study Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties invested in the Study Committee from funds appropriated for this purpose.

(e) The Chairperson of the Study Committee, if other than one to whom paragraph (c) applies, shall receive per diem at the maximum daily rate for a GS-11 of the General Schedule when engaged in the actual performance of duties vested in the Study Committee from funds appropriated for this purpose. Per diem. 5 USC 5332 note.

(f) The Study Committee shall terminate within two years and two months from the date on which the initial appropriation for this title is signed into law. The funds appropriated under this title shall be available until expended. Termination.

SEC. 903. (a) If a multifunctional regional agency authorized by State law to plan for and coordinate the development of the seven counties described in section 901 is in existence on the date this bill is signed into law, the Governor of the State of Minnesota shall designate such multifunctional regional agency to assist in carrying out the study directed in this title. The agency shall hereinafter be referred to as "Regional Planning Agency". Regional Planning Agency.

(b) No later than forty-five days after receiving the report required by section 904(b), the Regional Planning Agency shall provide the Study Committee with written comments on that report. Upon receipt of those comments, the Study Committee shall submit the report, along with the written comments, to the President, the Congress, and appropriate State, regional, and local government units. Report submittal.

SEC. 904. (a) The Study Committee shall conduct a study on the preservation, enhancement, protection, and use of the designated recreation areas along the river corridors described in section 901 of this title. For the purpose of this title, designated areas shall be defined as those park, open space, recreation, or historical sites designated by an adopted Federal or State law or identified in a regional or local government plan.

(b) No later than two years after the date on which the initial appropriation for this title is signed into law, the Study Committee shall provide the Regional Planning Agency with a written report on the findings and conclusions of this study along with recommended policies. Conclusions and findings.

(c) In its report, the Study Committee shall make recommendations as to the policies which should be adopted, and actions which should be taken to optimize the recreational, fish and wildlife, historic, natural, scientific, scenic, and cultural values of the river corridor areas referred to in section 901 of this title. The study may also Recommendations.

include, but need not be limited to, recommendations for institutional changes, if any, which the Study Committee deems desirable and feasible to provide permanent management of the designated recreational areas along these river corridors. The report may also include recommendations for specific areas of local, regional, State, and Federal agency cooperation for river corridor management of the designated recreational areas. However,

(1) The Study Committee shall recommend no policy or action which would place unreasonable restrictions on existing or compatible economic uses of these resources.

(2) All policies and actions recommended by the Study Committee shall be compatible with and maintain the integrity of, existing federally designated management programs and units on the Saint Croix and Minnesota River Corridors.

Review. (d) The Study Committee shall review and utilize existing studies and consider existing plans, programs and policies as they affect the present and future recreational use of the river corridors described in section 901 of this title.

(e) The Study Committee shall provide for public participation in the planning process in order to account for the concerns of recreational, commercial, cultural, and environmental interests, and State, regional, and local government.

Appropriation authorization. SEC. 905. There are hereby authorized to be appropriated $300,000 to the Department of the Interior to be granted to the Regional Planning Agency to carry out the purposes of this Act.

TITLE X

GOLDEN GATE NATIONAL RECREATION AREA

SEC. 1001. The Act of October 27, 1972 (86 Stat. 1299; 16 U.S.C. 460bb) is amended as follows:

16 USC 460bb-1. (1) in subsection 2(a), at the end thereof, add the following: "The recreation area shall also include the lands and waters in San Mateo County generally depicted on the map entitled 'Sweeney Ridge Addition, Golden Gate National Recreation Area', numbered NRA GG-80,000-A, and dated May 1980.";

(2) strike out "map" in section 2(b) and substitute "maps";

16 USC 460bb-2. (3) by adding "Point Montara", after "Point Diablo", in section 3(g);

(4) add the following at the end of section 3(h): "That property known as the Pillar Point Military Reservation, under the jurisdiction of the Secretary of Defense shall be transferred to the administrative jurisdiction of the Secretary at such time as the property, or any portion thereof, becomes excess to the needs of the Department of Defense.";

(5) add at the end of section 3 the following:

"(p) With reference to those lands known as the San Francisco water department property shown on map numbered NRA GG-80,000-A, the Secretary shall administer such land in accordance with the provisions of the documents entitled 'Grant of Scenic Easement', and 'Grant of Scenic and Recreation Easement', both executed on January 15, 1969, between the city and county of San Francisco and the United States, including such amendments to the subject document as may be agreed to by the affected parties subsequent to the date of enactment of this subsection. The Secretary is authorized to seek appropriate agreements needed to establish a

trail within this property and connecting with a suitable beach unit under the jurisdiction of the Secretary.";

(6) in subsection 5(b), change "seventeen" to "eighteen"; and 16 USC 460bb-4.

(7) insert a comma and the phrase "San Mateo," after "Marin" in section 5(e).

TITLE XI

GRANT-KOHRS RANCH NATIONAL HISTORIC SITE

SEC. 1101. The Act entitled "An Act to authorize the establishment of the Grant-Kohrs Ranch National Historic Site in the State of Montana, and for other purposes", approved August 25, 1972 (86 Stat. 632) is amended—

(1) by inserting the following after the period in the first section: "The boundary of the National Historic Site shall be as generally depicted on the map entitled, 'Boundary Map, Grant-Kohrs Ranch National Historic Site', numbered 451-80-013, and dated January 25, 1980, which shall be on file and available for public inspection in the local and Washington, District of Columbia, offices of the National Park Service, Department of the Interior."; and

(2) by striking out "$752,000" and "$2,075,000" in section 4 and inserting in lieu thereof "$1,100,000" and "$7,818,000," respectively.

TITLE XII

JAMES A. GARFIELD NATIONAL HISTORIC SITE

SEC. 1201. In order to preserve for the benefit, education, and inspiration of present and future generations certain historically signficant properties associated with the life of James A. Garfield, the Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, the lands and buildings thereon known as "Lawnfield", comprising 7.56 acres at 1059 Mentor Avenue, Mentor, Ohio: *Provided,* That the portion of Lawnfield owned by the Western Reserve Historical Society may be only acquired by donation. Upon the acquisition of the aforesaid property, the Secretary may establish the same as the James A. Garfield National Historic Site by publication of a notice and boundary map in the Federal Register. The Secretary shall administer the site in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666), as amended, and he may enter into an agreement with the Western Reserve Historical Society pursuant to which the Society may operate and maintain the site and charge reasonable admission fees, notwithstanding any other provision of law, which may be used to defray the costs of such operation and maintenance.

Lawnfield property, acquisition. 16 USC 461 note.

Publication in Federal Register.

43 USC 1457, 16 USC 1, 2, 3, 4, 22, 43. 16 USC 461 note.

SEC. 1202. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title, but not to exceed $205,000 for the acquisition of lands and interests in lands, and $250,000 for development.

Appropriation authorization.

TITLE XIII

KEITH SEBELIUS LAKE

SEC. 1301. The water impounded by the Norton Dam, a component of the Almena Unit of the Pick-Sloan Missouri River Basin project, in

the State of Kansas, constructed under the general authority of the Act of July 24, 1946 (60 Stat. 641 et seq.) is hereby designated and hereafter shall be known as the "Keith Sebelius Lake". Any law, regulation, record, map, or other document of the United States referring to the waters impounded by the Norton Dam unit of this project shall be held to refer to the "Keith Sebelius Lake", and any future regulations, records, maps, or other documents of the United States, in reference to these waters, shall bear the name "Keith Sebelius Lake".

TITLE XIV

MONOCACY NATIONAL BATTLEFIELD

16 USC 430j.

SEC. 140. (a) The Act entitled "An Act to establish a National Military Park at the battlefield of Monocacy, Maryland" approved June 21, 1934 (48 Stat. 1198) is amended by revising the first section thereof to read as follows: "That in order to commemorate the Battle of Monocacy, Maryland, and to preserve for historical purposes the breastworks, earthworks, walls, or other defenses or shelters used by the armies therein, the battlefield at Monocacy in the State of Maryland is hereby established as the Monocacy National Battlefield. The battlefield shall comprise the area within the boundary generally depicted on the map entitled 'Monocacy National Battlefield', numbered 894/40,001A, and dated April 1980, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.".

Appropriation authorization.

(b) In addition to other funds available for purposes of the park referred to in subsection (a), there is authorized to be appropriated up to an additional $725,000 for acquisition of lands and interests in lands and $1,250,000 for development.

TITLE XV

ROGERS C. B. MORTON RECOGNITION

SEC. 1501. The Secretary is authorized to commemorate, at Assateague Island National Seashore, Maryland, the contributions of Rogers C. B. Morton, as a Member of Congress, and later as Secretary of the Interior, toward the development of the Seashore and to conservation in general. Such commemoration shall be in the form of an appropriate plaque or monument, suitably located, or may subsequently take the form of dedication of a suitable structure. Within one year of the effective date of this section, the Secretary shall inform, in writing, the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, as to actions he has taken to implement the provisions of this section.

Information, submittal to congressional committees.

TITLE XVI

WOMEN'S RIGHTS NATIONAL HISTORICAL PARK

16 USC 410 *ll.*

SEC. 1601. (a) The Congress finds that—

(1) The Women's Rights Convention held at the Wesleyan Methodist Chapel in Seneca Falls, New York, in 1848 was an event of major importance in the history of the United States because it marked the formal beginning of the struggle of women for their equal rights.

(2) The Declaration of Sentiments approved by the 1848 Women's Rights Convention is a document of enduring relevance, which expresses the goal that equality and justice should be extended to all people without regard to sex.

(3) There are nine sites located in Seneca Falls and Waterloo, New York, associated with the nineteenth century women's rights movement which should be recognized, preserved, and interpreted for the benefit of the public.

(b) It is the purpose of this section to preserve and interpret for the education, inspiration, and benefit of present and future generations the nationally significant historical and cultural sites and structures associated with the struggle for equal rights for women and to cooperate with State and local entities to preserve the character and historic setting of such sites and structures.

(c) To carry out the purpose of this section there is hereby established the Women's Rights National Historical Park (hereinafter in this section referred to as the "park"). The park shall consist initially of the following designated sites in Seneca Falls and Waterloo, New York:

(1) Stanton House, 32 Washington Street, Seneca Falls;
(2) dwelling, 30 Washington Street, Seneca Falls;
(3) dwelling, 34 Washington Street, Seneca Falls;
(4) lot, 26-28 Washington Street, Seneca Falls;
(5) former Wesleyan Chapel, 126 Fall Street, Seneca Falls;
(6) theater, 128 Fall Street, Seneca Falls;
(7) Bloomer House, 53 East Bayard Street, Seneca Falls;
(8) McClintock House, 16 East Williams Street, Waterloo; and
(9) Hunt House, 401 East Main Street, Waterloo.

(d) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange lands and interests therein within sites designated as part of the park, except that the Secretary may not acquire the fee simple title to the land comprising the sites designated in paragraphs (7) through (9) of subsection (c). Lands and interests therein owned by a State or political subdivision thereof may be acquired only by donation.

(e) The Secretary is authorized to enter into cooperative agreements with the owners of properties designated as part of the park, pursuant to which the Secretary may mark, interpret, improve, restore, and provide technical assistance with respect to the preservation and interpretation of such properties. Such agreements shall contain, but need not be limited to, provisions that the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes, and that no changes or alterations shall be made in the property except by mutual agreement.

(f) The Secretary shall encourage State and local governmental agencies to develop and implement plans for the preservation and rehabilitation of sites designated as part of the park and their immediate environs, in order to preserve the historic character of the setting in which such sites are located. The Secretary may provide technical and financial assistance to such agencies in the development and implementation of such plans, but financial assistance may not exceed 50 per centum of the cost thereof.

(g) The Secretary shall administer the park in accordance with the provisions of this section and the provisions of law generally applicable to the administration of units of the National Park System,

including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-7).

Establishment. Membership.

(h)(1) There is hereby established the Women's Rights National Historical Park Advisory Commission (hereinafter referred to as the "Commission"). The Commission shall consist of eleven members, each appointed by the Secretary for a term of five years as follows:

(A) One member appointed from recommendations submitted by the Elizabeth Cady Stanton Foundation;

(B) One member appointed from recommendations submitted by the Women's Hall of Fame;

(C) Two members appointed from recommendations submitted by the Governor of New York;

(D) One member appointed from recommendations submitted by the village of Seneca Falls;

(E) One member appointed from recommendations submitted by the town of Seneca Falls; and

(F) Five members appointed by the Secretary, at least one of whom shall represent an institution of higher learning and at least two of whom shall represent national women's rights organizations.

(2) The Secretary shall designate one member to be the Chair of the Commission. Any vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

Expenses.

(3) Members of the Commission shall serve without compensation as such, but the Secretary may pay the expenses reasonably incurred by the Commission and its members in carrying out their responsibilities under this section upon presentation of vouchers signed by the Chair of the Commission.

(4) The function of the Commission shall be to advise the Secretary with respect to matters relating to the administration of the park and the carrying out of the provisions of this section. The Secretary shall consult with the Commission from time to time with respect to his responsibilities and authorities under this section.

Termination.

(5) The Commission shall terminate ten years from the effective date of this section.

Appropriation authorization.

(i) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, but not to exceed $490,000 for acquisition, and $500,000 for development.

TITLE XVII

AUTHORIZATION OF APPROPRIATIONS

SEC. 1701. Authorization of amounts to be appropriated under this Act shall be effective October 1, 1981. Authority to enter into cooperative agreements and to make payments under this Act shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE XVIII

DEFINITION

SEC. 1801. As used in this Act, except as otherwise specifically provided, the term "Secretary" means the Secretary of the Interior.

Approved December 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1024 accompanying H.R. 3 (Comm. on Interior and Insular Affairs) and No. 96-1520 (Comm. of Conference).
SENATE REPORT No. 96-755 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
May 20, H.R. 3 considered and passed House.
June 5, considered and passed Senate.
June 17, considered and passed House, amended.
Dec. 3, House and Senate agreed to conference report.

Public Law 96-608
96th Congress

An Act

Dec. 28, 1980
[H.R. 5973]

To amend the Internal Revenue Code of 1954 to waive in certain cases the residency requirements for deductions or exclusions of individuals living abroad, to allow the tax-free rollover of certain distributions from money purchase pension plans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Internal Revenue Code of 1954, amendment.

SECTION 1. RESIDENCY REQUIREMENTS FOR DEDUCTIONS OR EXCLUSIONS OF INDIVIDUALS LIVING ABROAD.

26 USC 913.

(a) GENERAL RULE.—Subsection (j) of section 913 of the Internal Revenue Code of 1954 (relating to deduction for certain expenses of living abroad) is amended by adding at the end thereof the following new paragraph:

"(4) WAIVER OF PERIOD OF STAY IN FOREIGN COUNTRY.—For purposes of paragraphs (1) and (2) of subsection (a), an individual who—

"(A) for any period is a bona fide resident of or is present in a foreign country,

"(B) leaves such foreign country after August 31, 1978—

"(i) during any period during which the Secretary determines, after consultation with the Secretary of State or his delegate, that individuals were required to leave such foreign country because of war, civil unrest, or similar adverse conditions in such foreign country which precluded the normal conduct of business by such individuals, and

"(ii) before meeting the requirements of such paragraphs (1) and (2), and

"(C) establishes to the satisfaction of the Secretary that he could reasonably have been expected to have met such requirements but for the conditions referred to in clause (i) of subparagraph (B),

shall be treated as having met such requirements with respect to the period described in subparagraph (A) during which he was a bona fide resident or was present in the foreign country."

26 USC 913 note.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1977.

26 USC 911.

(2) APPLICATION FOR PURPOSES OF SECTION 911.—In the case of an individual who leaves the foreign country after August 31, 1978, rules similar to the rules of section 913(j)(4) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply for purposes of applying section 911 of such Code for taxable years beginning in 1977 or 1978.

Supra.

SEC. 2. ROLLOVER TREATMENT FOR CERTAIN DISTRIBUTIONS FROM MONEY PURCHASE PENSION PLANS.

(a) GENERAL RULE.—Paragraph (6) of section 402(a) of the Internal Revenue Code of 1954 (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph: 26 USC 402.

"(E) SPECIAL RULE WHERE EMPLOYER MAINTAINS MONEY PURCHASE PENSION PLAN AND OTHER PENSION PLAN.—

"(i) IN GENERAL.—In the case of any distribution from a money purchase pension plan which is maintained by an employer, for purposes of paragraph (5)(D)(i)(II), subsection (e)(4)(C) shall be applied by not taking into account any pension plan maintained by such employer which is not a money purchase pension plan. The preceding sentence shall not apply to any distribution which is a qualifying rollover distribution without regard to this subparagraph.

"(ii) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—If—

"(I) any distribution of the balance to the credit of an employee from a money purchase pension plan maintained by an employer is treated as a qualifying rollover distribution by reason of clause (i), and

"(II) any portion of such distribution is transferred in a transfer to which paragraph (5)(A) applies,

then paragraph (2) of subsection (a), and paragraphs (1) and (3) of subsection (e), shall not apply to any distribution (after the taxable year in which the distribution described in subparagraph (A) of paragraph (5) is made) of the balance to the credit of such employee from any other pension plan maintained by such employer."

(b) EFFECTIVE DATES.— 26 USC 402 note.

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to payments made in taxable years beginning after December 31, 1978.

(2) TRANSITIONAL RULE.—In the case of any payment made before January 1, 1982, in a taxable year beginning after December 31, 1978, which is treated as a qualifying rollover distribution (as defined in section 402(a)(5)(D)(i) of the Internal Revenue Code of 1954) by reason of the amendment made by subsection (a), the applicable period specified in section 402(a)(5)(C) of such Code shall not expire before the close of December 31, 1981.

SEC. 3. TREATMENT OF CERTAIN REPAYMENTS OF SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFITS.

(a) GENERAL RULE.—Section 62 of the Internal Revenue Code of 1954 (defining adjusted gross income) is amended by inserting after paragraph (15) the following new paragraph: 26 USC 62.

"(16) CERTAIN REQUIRED REPAYMENTS OF SUPPLEMENTAL UNEMPLOYMENT COMPENSATION BENEFITS.—The deduction allowed by section 165 for the repayment to a trust described in paragraph (9) or (17) of section 501(c) of supplemental unemployment compensation benefits received from such trust if such repayment is required because of the receipt of trade readjustment allowances under section 231 or 232 of the Trade Act of 1974 (19 U.S.C. 2291 and 2292)." 26 USC 165. 26 USC 501.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to repayments made in taxable years beginning after the date of the enactment of this Act. 26 USC 62 note.

SEC. 4. TAX TREATMENT OF EXPENSES IN ATTENDING FOREIGN CONVENTIONS.

26 USC 274.

(a) IN GENERAL.—Subsection (h) of section 274 of the Internal Revenue Code of 1954 (relating to attendance at foreign conventions, etc.) is amended to read as follows:

"(h) ATTENDANCE AT CONVENTIONS, ETC.—

"(1) IN GENERAL.—In the case of any individual who attends a convention, seminar, or similar meeting which is held outside the North American area, no deduction shall be allowed under section 162 or 212 for expenses allocable to such meeting unless the taxpayer establishes that the meeting is directly related to the active conduct of his trade or business or to an activity described in section 212 and that, after taking into account in the manner provided by regulations prescribed by the Secretary—

26 USC 162, 212.

"(A) the purpose of such meeting and the activities taking place at such meeting,

"(B) the purposes and activities of the sponsoring organizations or groups,

"(C) the residences of the active members of the sponsoring organization and the places at which other meetings of the sponsoring organization or groups have been held or will be held, and

"(D) such other relevant factors as the taxpayer may present,

it is as reasonable for the meeting to be held outside the North American area as within the North American area.

"(2) CONVENTIONS ON CRUISE SHIPS.—In the case of any individual who attends a convention, seminar, or other meeting which is held on any cruise ship, no deduction shall be allowed under section 162 or 212 for expenses allocable to such meeting.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) NORTH AMERICAN AREA.—The term 'North American area' means the United States, its possessions, and the Trust Territory of the Pacific Islands, and Canada and Mexico.

"(B) CRUISE SHIP.—The term 'cruise ship' means any vessel sailing within or without the territorial waters of the United States.

"(4) SUBSECTION TO APPLY TO EMPLOYER AS WELL AS TO TRAVELER.—

"(A) Except as provided in subparagraph (B), this subsection shall apply to deductions otherwise allowable under section 162 or 212 to any person, whether or not such person is the individual attending the convention, seminar, or similar meeting.

"(B) This subsection shall not deny a deduction to any person other than the individual attending the convention, seminar, or similar meeting with respect to any amount paid by such person to or on behalf of such individual if includible in the gross income of such individual. The preceding sentence shall not apply if the amount is required to be included in any information return filed by such person under part III of subchapter A of chapter 61 and is not so included.".

26 USC 6001.

26 USC 274 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall apply to conventions, seminars, and meetings beginning after December 31, 1980, except that in the case of any convention, seminar, or meeting beginning after such date which was scheduled on or before such date, a person, in such manner as the Secretary of the Treasury or his delegate may prescribe, may elect to

have the provisions of section 274(h) of the Internal Revenue Code of 1954 be applied to such convention, seminar or meeting without regard to such amendment. *Ante*, p. 3552.

SEC. 5. TAXES ON SELF-DEALING IN THE CASE OF CERTAIN LEASES.

Section 4941(d)(2) of the Internal Revenue Code of 1954 (relating to special rules in the case of self-dealing) is amended— 26 USC 4941.

(1) by striking out "and" at the end of subparagraph (F);

(2) by striking out the period at the end of subparagraph (G) and inserting a semicolon and "and"; and

(3) by adding at the end thereof the following:

"(H) the leasing by a disqualified person to a private foundation of office space for use by the foundation in a building with other tenants who are not disqualified persons shall not be treated as an act of self-dealing if—

"(i) such leasing of office space is pursuant to a binding lease which was in effect on October 9, 1969, or pursuant to renewals of such a lease;

"(ii) the execution of such lease was not a prohibited transaction (within the meaning of section 503(b) or any corresponding provision of prior law) at the time of such execution; and 26 USC 503.

"(iii) the terms of the lease (or any renewal) reflect an arm's-length transaction."

SEC. 6. TREATMENT OF CERTAIN INDEBTEDNESS INCURRED BEFORE 1965 FOR PURPOSES OF SECTION 514.

(a) GENERAL RULE.—For purposes of applying section 514 of the Internal Revenue Code of 1954 with respect to any sale of real property during 1976, indebtedness incurred before January 1, 1965, by an organization to finance the construction of a building on such property shall not be treated as acquisition indebtedness if the parcel of real property on which such building was constructed— 26 USC 514.

(1) was acquired by such organization before January 1, 1952, and

(2) is contiguous to another parcel of real property which—

(A) was acquired by such organization before January 1, 1952, and

(B) was used by such organization, on January 1, 1952, and at all times thereafter before the date of the enactment of this Act, in a manner which meets the requirements of section 514(b)(1)(A) of such Code (relating to property used in carrying out exempt purpose).

26 USC 514.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to sales during calendar year 1976.

Approved December 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-689 (Comm. on Ways and Means).
SENATE REPORT No. 96-1031 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 125 (1979): Dec. 17, considered and passed House.
Vol. 126 (1980): Dec. 13, considered and passed Senate, amended; House agreed to Senate amendments.

Public Law 96-609
96th Congress

An Act

To provide for the temporary suspension of certain duties, to extend certain existing suspensions of duties, and for other purposes.

Dec. 28, 1980
[H.R. 5047]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tariff Schedules, temporary duty suspensions.

TITLE I—AMENDMENTS TO TARIFF SCHEDULES

SEC. 101. AMENDMENT OF TARIFF SCHEDULES; DEFINITION OF ENTERED.

(a) Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, item, or other provision, the reference shall be considered to be made to a schedule, item, or other provision of the Tariff Schedules of the United States (19 U.S.C. 1202).

(b) For purposes of this title, the term "entered" means entered, or withdrawn from warehouse, for consumption within the customs territory of the United States.

SEC. 102. FOREIGN MATERIALS DETERMINATIONS RELATING TO TARIFF TREATMENT OF PRODUCTS OF INSULAR POSSESSIONS.

19 USC 1202.

General headnote 3(a)(ii) is amended to read as follows:

"(ii) In determining whether an article produced or manufactured in any such insular possession contains foreign materials to the value of more than 50 percent, no material shall be considered foreign which either—

"(A) at the time such article is entered, or

"(B) at the time such material is imported into the insular possession,

may be imported into the customs territory from a foreign country, other than Cuba or the Philippine Republic, and entered free of duty; except that no article containing material to which (B) of this subdivision applies shall be exempt from duty under subdivision (i) unless adequate documentation is supplied to show that the material has been incorporated into such article during the 18-month period after the date on which such material is imported into the insular possession.".

SEC. 103. YARNS OF SILK.

19 USC 1202.

(a) Subpart D of part 1 of schedule 3 is amended—

(1) by amending item 308.40 by striking out "8.1% ad val." and "40% ad val." in rate columns numbered 1 and 2, respectively, and inserting in lieu thereof "Free", and by striking out "5% ad val." in the LDDC column; and

(2) by amending item 308.50 by striking out "11.6% ad val." and "50% ad val." in rate columns numbered 1 and 2, respectively, and inserting in lieu thereof "Free", and by striking out "5% ad val." in the LDDC column.

commerce, and for other purposes", approved June 18, 1934 (48 Stat. 1002; 19 U.S.C. 81p(c)), is amended by striking out "on the first day of each regular session" and inserting in lieu thereof "by April 1 of each year".

SEC. 205. COUNTRY-OF-ORIGIN DETERMINATIONS.

19 USC 2515 note. 19 USC 2171 note.

Notwithstanding subparagraph (1)(A) of subsection 5(a) of Reorganization Plan No. 3 of 1979 (44 F.R. 69272, 93 Stat. 1381), the Secretary of the Treasury or his delegate shall issue such advisory rulings and make such determinations as are authorized by subsection 305(b)(1) of the Trade Agreements Act of 1979 (19 U.S.C. 2515(b)(1)).

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. TECHNICAL AMENDMENTS TO THE TARIFF SCHEDULES.

(a) The Tariff Schedules of the United States (19 U.S.C. 1202) are amended—

(1) by striking out "4% ad val." in rate of duty column numbered 1 for item 470.18 and inserting in lieu thereof "3.9% ad val.",

(2) by inserting "3.1% ad val." in the column entitled "LDDC" for item 470.18, and

(3) by striking out "provided for in item 403.60," in item 907.11 of the Appendix and inserting in lieu thereof "however provided for in items 402.36 through 406.63,".

(b) The rates of duty in column numbered 1 for item 470.18 of the Tariff Schedules of the United States (19 U.S.C. 1202) shall be subject to any staged rate reductions for item 470.15, which have been proclaimed by the President before the date of the enactment of this Act.

(c) Whenever the rate of duty specified in column numbered 1 for item 470.18 of the Tariff Schedules of the United States (19 U.S.C. 1202) is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in the column entitled "LDDC" for such item shall be deleted.

19 USC 2101.

(d) For purposes of the Trade Act of 1974, the amendments made by paragraphs (1) and (2) of subsection (a) shall be considered to be trade agreement obligations entered into and proclaimed under the Trade Act of 1974, of benefit to foreign countries or instrumentalities.

(e) This section, and the amendments made by this section, shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after October 17, 1980.

SEC. 302. CONVEYANCE OF CERTAIN LANDING CRAFT TO COOS COUNTY, OREGON.

40 USC 304f.

(a) Notwithstanding any provision of title III of the Liquor Law Repeal and Enforcement Act (49 Stat. 879), and subject to subsection (b), the District Director of the United States Customs Service, Portland, Oregon, is authorized and directed to convey to the Coos County sheriff's office, Coos County, Oregon, all right, title, and interest of the United States to the three lighter amphibious resupply cargo craft (LARC's) seized by officers of such Customs Service and officers of such sheriff's office in the drug raid conducted jointly by such officers on December 31, 1977, at Bandon, Coos County, Oregon.

(b) The conveyance described in subsection (a) shall be made subject to the payment by the Coos County sheriff's office of such storage or other expenses which may have been incurred with respect to the craft described in such section from the date of seizure of such craft to the date of delivery to the sheriff's office.

Approved December 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1109 (Comm. on Ways and Means).
SENATE REPORT No. 96-999 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 21, considered and passed House.
Dec. 13, considered and passed Senate, amended; House agreed to Senate amendments.

Public Law 96-610
96th Congress

An Act

Dec. 28, 1980
[S. 2729]

To authorize certain emergency repairs at the National Visitor Center in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Visitor Center Emergency Repair Act of 1980".

National Visitor Center Emergency Repair Act of 1980.
40 USC 801 note.

SEC. 2. (a) There is hereby authorized to be appropriated to the Secretary of the Interior for the fiscal year ending September 30, 1981, the sum of $11,000,000 for the purpose of making emergency repairs to the primary structure and roofs of the National Visitor Center in the District of Columbia and for the purpose of providing protection of the structural elements of the unfinished parking facility and southeast ramp at such Center. Such sum shall remain available until expended.

Appropriation authorization.
40 USC 802 note.

(b) Prior to entering into any contract for the repairs or protection authorized by subsection (a) of this section, the Secretary of the Interior shall consult with the Secretary of Transportation regarding the planning for such repairs or protection.

Repairs, liability.
40 USC 802 note.

SEC. 3. (a) The Office of Legal Counsel of the Department of Justice shall prepare an opinion on the question of whether the United States or the Terminal Realty Baltimore Co. and the Terminal Realty Penn Co. are legally liable for the repairs anticipated by the provisions of this Act. If the Office of Legal Counsel determines that there is a reasonable cause to believe a party other than the United States is legally obligated to bear all or a portion of the costs of that repair authorized by this Act, the Attorney General shall institute an action to recover expenditures that were incurred by the Secretary pursuant to this Act.

(b) None of the actions taken pursuant to the provisions of this Act shall be deemed to limit or affect in any way the rights of the United States under the lease for real property between Terminal Realty Baltimore Co. and Terminal Realty Penn Co. and the United States of America, dated March 1, 1972, or any additions or modifications thereto.

Contract.
40 USC 809.

SEC. 4. The Architect of the Capitol may enter into a contract or other agreement with the Secretary of the Interior providing for the Architect of the Capitol to furnish steam from the Capitol Power Plant to the Union Station-National Visitor Center complex. Under

such contract, the Secretary of the Interior shall pay for such steam at rates, not less than cost, and shall connect the Union Station-National Visitor Center complex with the Capitol Power Plant steam lines without expenses to the Congress.

Approved December 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-902 accompanying H.R. 6674 (Comm. on Public Works and Transportation).
SENATE REPORT No. 96-775 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 13, considered and passed Senate and House.

Public Law 96-611
96th Congress

An Act

Dec. 28, 1980
[H.R. 8406]

To amend title XVIII of the Social Security Act to provide for medicare coverage of pneumococcal vaccine and its administration.

Social Security Act, amendment.
42 USC 1395x.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) section 1861(s) of the Social Security Act is amended—

(A) by redesignating paragraphs (10) through (13) as paragraphs (11) through (14), respectively;

(B) by striking out "and" at the end of paragraph (8);

(C) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(D) by inserting after paragraph (9) the following paragraph:

"(10) pneumococcal vaccine and its administration.".

42 USC 1395aa.

(2) Section 1864(a) of such Act is amended by striking out "paragraphs (10) and (11) of section 1861(s)" and inserting in lieu thereof "paragraphs (11) and (12) of section 1861(s)".

42 USC 1395y.

(3) Section 1862(a) of such Act is amended—

(A) by inserting ", or, in the case of items and services described in section 1861(s)(10), which are not reasonable and necessary for the prevention of illness" before the semicolon at the end of paragraph (1), and

(B) by inserting "(except as otherwise allowed under section 1861(s)(10) and paragraph (1))" in paragraph (7) after "immunizations".

42 USC 1395*l*.

(b)(1) Section 1833(a) of such Act (as amended by sections 932(a)(1)(B), 934(d), and 942 of the Medicare and Medicaid Amendments of 1980) is amended—

Ante, pp. 2634, 2637, 2641.

(A) by striking out "and" before "(G)" in paragraph (1);

(B) by inserting at the end of paragraph (1) the following: "and (H) with respect to items and services described in section 1861(s)(10), the amounts paid shall be 100 percent of the reasonable charges for such items and services,";

(C) by inserting "and to items and services described in section 1861(s)(10)" in paragraph (2)(A) after "home health services"; and

(D) by inserting "(other than for items and services described in section 1861(s)(10))" in paragraph (3) after "but in no case may the payment for such services".

(2) The first sentence of section 1833(b) of such Act is amended by inserting "(A)" in clause (2) after "expenses incurred", and by inserting before the comma at the end of such clause the following: ", or (B) for items and services described in section 1861(s)(10)".

(3) Subparagraph (A) of section 1861(aa)(1) of such Act is amended by inserting before the comma at the end the following: "and items and services described in section 1861(s)(10)".

42 USC 1395cc.

(4) Section 1866(a)(2)(A) of such Act is amended by adding at the end the following new sentence: "A provider of services may not impose a charge under clause (ii) of the first sentence of this subparagraph with respect to items and services described in section 1861(s)(10) for which payment is made under part B.".

SEC. 2. The amendments made by this Act shall take effect on, and apply to services furnished on or after, July 1, 1981. Effective date. 42 USC 1395l note.

PAYMENTS TO STATES FOR ADOPTION ASSISTANCE AND FOSTER CARE

SEC. 3. Section 474 of the Social Security Act is amended by adding at the end the following new subsection: 42 USC 674.

"(d)(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to which a State will be entitled under subsections (a), (b), and (c) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of children in the State receiving assistance under this part, and (c) such other investigation as the secretary may find necessary. Estimates, State entitlement.

"(2) The Secretary shall then pay to the State, in such installments as he may determine, the amounts so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

"(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to foster care and adoption assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.". Pro rata share.

SEC. 4. Section 406(a)(2) of the Social Security Act is amended— 42 USC 606.

(1) by inserting "at the option of the State," after "(B)"; and

(2) by inserting before the semicolon at the end thereof the following: ", or (C) at the option of the State, under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school in grade twelve or below or regularly attending a course of vocational or technical training, other than a course provided by or through a college or university, designed to fit him for gainful employment".

SEC. 5. (a) Section 1613 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 1382b.

"DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE

"(c)(1) In determining the resources of an individual (and his eligible spouse, if any) there shall be included (but subject to the exclusions under subsection (a)) any resource (or interest therein) owned by such individual or eligible spouse within the preceding 24 months if such individual or eligible spouse gave away or sold such resource or interest at less than fair market value of such resource or interest for the purpose of establishing eligibility for benefits or assistance under this Act.

"(2) Any transaction described in paragraph (1) shall be presumed to have been for the purpose of establishing eligibility for benefits or assistance under this Act unless such individual or eligible spouse Benefits, eligibility.

furnishes convincing evidence to establish that the transaction was exclusively for some other purpose.

Fair market value or interest.

"(3) For purposes of paragraph (1) the value of such a resource or interest shall be the fair market value of such resource or interest at the time it was sold or given away, less the amount of compensation received for such resource or interest, if any.".

42 USC 1396a.

(b) Section 1902 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j)(1) Notwithstanding any other provision of this title, an individual who would otherwise be eligible for medical assistance under the State plan approved under this title may be denied such assistance if such individual would not be eligible for such medical assistance but for the fact that he disposed of resources for less than fair market value. If the State plan provides for the denial of such assistance by reason of such disposal of resources, the State plan shall specify a procedure for implementing such denial which, except as provided in paragraph (2), is not more restrictive than the procedure specified in section 1613(c) of this Act.

Ante, p. 3567.

Ineligibility period.

"(2) In any case where the uncompensated value of disposed of resources exceeds $12,000, the State plan may provide for a period of ineligibility which exceeds 24 months. If a State plan provides for a period of ineligibility exceeding 24 months, such plan shall provide for the period of ineligibility to bear a reasonable relationship to such uncompensated value.

Medical assistance, eligibility.

"(3) In any case where an individual is ineligible for medical assistance under the State plan solely because of the applicability to such individual of the provisions of section 1613(c), the State plan may provide for the eligibility of such individual for medical assistance under the plan if such individual would be so eligible if the State plan requirements with respect to disposal of resources applicable under paragraphs (1) and (2) of this subsection were applied in lieu of the provisions of section 1613(c).".

Effective date.

42 USC 1382b note.

(c) The amendment made by subsection (a) shall be effective with respect to applications for benefits under title XVI of the Social Security Act filed on or after the first day of the first month which begins at least 60 days after the date of enactment of this Act.

42 USC 1381.

SHORT TITLE

Parental Kidnaping Prevention Act of 1980.

SEC. 6. Sections 6 to 10 of this Act may be cited as the "Parental Kidnaping Prevention Act of 1980".

42 USC 1305 note.

FINDINGS AND PURPOSES

28 USC 1738A note.

SEC. 7. (a) The Congress finds that—

(1) there is a large and growing number of cases annually involving disputes between persons claiming rights of custody and visitation of children under the laws, and in the courts, of different States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(2) the laws and practices by which the courts of those jurisdictions determine their jurisdiction to decide such disputes, and the effect to be given the decisions of such disputes by the courts of other jurisdictions, are often inconsistent and conflicting;

(3) those characteristics of the law and practice in such cases, along with the limits imposed by a Federal system on the authority of each such jurisdiction to conduct investigations and

take other actions outside its own boundaries, contribute to a tendency of parties involved in such disputes to frequently resort to the seizure, restraint, concealment, and interstate transportation of children, the disregard of court orders, excessive relitigation of cases, obtaining of conflicting orders by the courts of various jurisdictions, and interstate travel and communication that is so expensive and time consuming as to disrupt their occupations and commercial activities; and

(4) among the results of those conditions and activities are the failure of the courts of such jurisdictions to give full faith and credit to the judicial proceedings of the other jurisdictions, the deprivation of rights of liberty and property without due process of law, burdens on commerce among such jurisdictions and with foreign nations, and harm to the welfare of children and their parents and other custodians.

National system of locating parents and children, establishment.

(b) For those reasons it is necessary to establish a national system for locating parents and children who travel from one such jurisdiction to another and are concealed in connection with such disputes, and to establish national standards under which the courts of such jurisdictions will determine their jurisdiction to decide such disputes and the effect to be given by each such jurisdiction to such decisions by the courts of other such jurisdictions.

(c) The general purposes of sections 6 to 10 of this Act are to—

(1) promote cooperation between State courts to the end that a determination of custody and visitation is rendered in the State which can best decide the case in the interest of the child;

(2) promote and expand the exchange of information and other forms of mutual assistance between States which are concerned with the same child;

(3) facilitate the enforcement of custody and visitation decrees of sister States;

(4) discourage continuing interstate controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;

(5) avoid jurisdictional competition and conflict between State courts in matters of child custody and visitation which have in the past resulted in the shifting of children from State to State with harmful effects on their well-being; and

(6) deter interstate abductions and other unilateral removals of children undertaken to obtain custody and visitation awards.

FULL FAITH AND CREDIT GIVEN TO CHILD CUSTODY DETERMINATIONS

SEC. 8. (a) Chapter 115 of title 28, United States Code, is amended by adding immediately after section 1738 the following new section:

28 USC 1738A.

"§1738A. Full faith and credit given to child custody determinations

"(a) The appropriate authorities of every State shall enforce according to its terms, and shall not modify except as provided in subsection (f) of this section, any child custody determination made consistently with the provisions of this section by a court of another State.

Definitions.

"(b) As used in this section, the term—

"(1) 'child' means a person under the age of eighteen;

"(2) 'contestant' means a person, including a parent, who claims a right to custody or visitation of a child;

"(3) 'custody determination' means a judgment, decree, or other order of a court providing for the custody or visitation of a

child, and includes permanent and temporary orders, and initial orders and modifications;

"(4) 'home State' means the State in which, immediately preceding the time involved, the child lived with his parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old, the State in which the child lived from birth with any of such persons. Periods of temporary absence of any of such persons are counted as part of the six-month or other period;

"(5) 'modification' and 'modify' refer to a custody determination which modifies, replaces, supersedes, or otherwise is made subsequent to, a prior custody determination concerning the same child, whether made by the same court or not;

"(6) 'person acting as a parent' means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody;

"(7) 'physical custody' means actual possession and control of a child; and

"(8) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

"(c) A child custody determination made by a court of a State is consistent with the provisions of this section only if—

"(1) such court has jurisdiction under the law of such State; and

"(2) one of the following conditions is met:

"(A) such State (i) is the home State of the child on the date of the commencement of the proceeding, or (ii) had been the child's home State within six months before the date of the commencement of the proceeding and the child is absent from such State because of his removal or retention by a contestant or for other reasons, and a contestant continues to live in such State;

"(B)(i) it appears that no other State would have jurisdiction under subparagraph (A), and (ii) it is in the best interest of the child that a court of such State assume jurisdiction because (I) the child and his parents, or the child and at least one contestant, have a significant connection with such State other than mere physical presence in such State, and (II) there is available in such State substantial evidence concerning the child's present or future care, protection, training, and personal relationships;

"(C) the child is physically present in such State and (i) the child has been abandoned, or (ii) it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse;

"(D)(i) it appears that no other State would have jurisdiction under subparagraph (A), (B), (C), or (E), or another State has declined to exercise jurisdiction on the ground that the State whose jurisdiction is in issue is the more appropriate forum to determine the custody of the child, and (ii) it is in the best interest of the child that such court assume jurisdiction; or

"(E) the court has continuing jurisdiction pursuant to subsection (d) of this section.

"(d) The jurisdiction of a court of a State which has made a child custody determination consistently with the provisions of this section continues as long as the requirement of subsection (c)(1) of this

section continues to be met and such State remains the residence of the child or of any contestant.

"(e) Before a child custody determination is made, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated and any person who has physical custody of a child.

"(f) A court of a State may modify a determination of the custody of the same child made by a court of another State, if—

"(1) it has jurisdiction to make such a child custody determination; and

"(2) the court of the other State no longer has jurisdiction, or it has declined to exercise such jurisdiction to modify such determination.

"(g) A court of a State shall not exercise jurisdiction in any proceeding for a custody determination commenced during the pendency of a proceeding in a court of another State where such court of that other State is exercising jurisdiction consistently with the provisions of this section to make a custody determination.".

(b) The table of sections at the beginning of chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1738 the following new item:

"1738A. Full faith and credit given to child custody determinations.".

(c) In furtherance of the purposes of section 1738A of title 28, United States Code, as added by subsection (a) of this section, State courts are encouraged to— 28 USC 1738A note. *Ante*, p. 3569.

(1) afford priority to proceedings for custody determinations; and

(2) award to the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, necessary travel expenses, attorneys' fees, costs of private investigations, witness fees or expenses, and other expenses incurred in connection with such custody determination in any case in which— *Ante*, p. 3569.

(A) a contestant has, without the consent of the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, (i) wrongfully removed the child from the physical custody of such person, or (ii) wrongfully retained the child after a visit or other temporary relinquishment of physical custody; or

(B) the court determines it is appropriate.

USE OF FEDERAL PARENT LOCATOR SERVICE IN CONNECTION WITH THE ENFORCEMENT OR DETERMINATION OF CHILD CUSTODY AND IN CASES OF PARENTAL KIDNAPING OF A CHILD

SEC. 9. (a) Section 454 of the Social Security Act is amended— 42 USC 654.

(1) by striking out "and" at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (16) the following new paragraph:

"(17) in the case of a State which has in effect an agreement with the Secretary entered into pursuant to section 463 for the use of the Parent Locator Service established under section 453, to accept and transmit to the Secretary requests for information authorized under the provisions of the agreement to be furnished by such Service to authorized persons, and to impose and collect (in accordance with *Post*, p. 3572. 42 USC 653.

regulations of the Secretary) a fee sufficient to cover the costs to the State and to the Secretary incurred by reason of such requests, to transmit to the Secretary from time to time (in accordance with such regulations) so much of the fees collected as are attributable to such costs to the Secretary so incurred, and during the period that such agreement is in effect, otherwise to comply with such agreement and regulations of the Secretary with respect thereto.".

(b) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"USE OF FEDERAL PARENT LOCATOR SERVICE IN CONNECTION WITH THE ENFORCEMENT OR DETERMINATION OF CHILD CUSTODY AND IN CASES OF PARENTAL KIDNAPING OF A CHILD

42 USC 663.

"SEC. 463. (a) The Secretary shall enter into an agreement with any State which is able and willing to do so, under which the services of the Parent Locator Service established under section 453 shall be made available to such State for the purpose of determining the whereabouts of any absent parent or child when such information is to be used to locate such parent or child for the purpose of—

"(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or

"(2) making or enforcing a child custody determination.

"(b) An agreement entered into under this section shall provide that the State agency described in section 454 will, under procedures prescribed by the Secretary in regulations, receive and transmit to the Secretary requests from authorized persons for information as to (or useful in determining) the whereabouts of any absent parent or child when such information is to be used to locate such parent or child for the purpose of—

42 USC 654.

"(1) enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or

"(2) making or enforcing a child custody determination.

"(c) Information authorized to be provided by the Secretary under this section shall be subject to the same conditions with respect to disclosure as information authorized to be provided under section 453, and a request for information by the Secretary under this section shall be considered to be a request for information under section 453 which is authorized to be provided under such section. Only information as to the most recent address and place of employment of any absent parent or child shall be provided under this section.

42 USC 653.

Definitions.

"(d) For purposes of this section—

"(1) the term 'custody determination' means a judgment, decree, or other order of a court providing for the custody or visitation of a child, and includes permanent and temporary orders, and initial orders and modification;

"(2) the term 'authorized person' means—

"(A) any agent or attorney of any State having an agreement under this section, who has the duty or authority under the law of such State to enforce a child custody determination;

"(B) any court having jurisdiction to make or enforce such a child custody determination, or any agent of such court; and

"(C) any agent or attorney of the United States, or of a State having an agreement under this section, who has the duty or authority to investigate, enforce, or bring a prosecu-

tion with respect to the unlawful taking or restraint of a child.".

(c) Section 455(a) of such Act is amended by adding after paragraph (3) the following: "except that no amount shall be paid to any State on account of amounts expended to carry out an agreement which it has entered into pursuant to section 463.". 42 USC 655.

(d) No agreement entered into under section 463 of the Social Security Act shall become effective before the date on which section 1738A of title 28, United States Code (as added by this title) becomes effective. *Ante*, p. 3572. Effective date. 42 USC 663 note. *Ante*, p. 3569.

PARENTAL KIDNAPING

SEC. 10. (a) In view of the findings of the Congress and the purposes of sections 6 to 10 of this Act set forth in section 302, the Congress hereby expressly declares its intent that section 1073 of title 18, United States Code, apply to cases involving parental kidnaping and interstate or international flight to avoid prosecution under applicable State felony statutes. 18 USC 1073 note.

(b) The Attorney General of the United States, not later than 120 days after the date of the enactment of this section (and once every 6 months during the 3-year period following such 120-day period), shall submit a report to the Congress with respect to steps taken to comply with the intent of the Congress set forth in subsection (a). Each such report shall include—

(1) data relating to the number of applications for complaints under section 1073 of title 18, United States Code, in cases involving parental kidnaping;

(2) data relating to the number of complaints issued in such cases; and

(3) such other information as may assist in describing the activities of the Department of Justice in conformance with such intent.

TECHNICAL AMENDMENTS AND AMENDMENTS RELATING TO CHILD SUPPORT AUDITS

SEC. 11. (a)(1) Section 127(a)(1) of the Food Stamp Act Amendments of 1980 (Public Law 96-249), is amended by striking out "Subsection (i) of section 6103" and inserting in lieu thereof "Subsection (l) of section 6103". *Ante*, p. 365.

(2)(A) Section 408(a)(1) of the Social Security Disability Amendments of 1980 (Public Law 96-265), is amended by striking out (in the new paragraph added thereby to subsection (l) of section 6103 of the Internal Revenue Code of 1954) "(7) Disclosure" and inserting in lieu thereof "(8) Disclosure". *Ante*, p. 468.

(B) Section 408(a)(2) of the Social Security Disability Amendments of 1980 is amended—

(i) in subparagraph (A), by—

(I) striking out "(l)(1) or (4)(B) or (5)" and inserting in lieu thereof "(l)(1), (4)(B), (5), or (7)", and

(II) striking out "(l)(1), (4)(B), (5), or (7)" and inserting in lieu thereof "(l)(1), (4)(B), (5), (7), or (8)";

(ii) in subparagraph (B), by—

(I) striking out "(l) (3) or (6)" and inserting in lieu thereof "(l) (3), (6), or (7)", and

(II) striking out "(l) (3), (6), or (7)" and inserting in lieu thereof "(l) (3), (6), (7), or (8)";

(iii) in subparagraph (C), by—

(I) striking out "(l)(6)" and inserting in lieu thereof "(l) (6) or (7)", and

(II) striking out "(l) (6) or (7)" and inserting in lieu thereof "(l) (6), (7), or (8)"; and

26 USC 7213. (iv) in subparagraph (D), by—

(I) striking out "subsection (d), (l)(6) or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (l) (6) or (7), or (m)(4)(B)", and

(II) striking out "subsection (d), (l) (6) or (7), or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (l) (6), (7), or (8), or (m)(4)(B)".

Effective date. 26 USC 6103 note. (3) The amendment made by paragraph (1) shall take effect on May 26, 1980 and the amendments made by paragraph (2) shall take effect on June 9, 1980.

26 USC 7213. (4)(A) The first sentence of section 7213(a)(2) of the Internal Revenue Code of 1954 (relating to unauthorized disclosure of information by State and other employees) is amended by striking out "(l) (6) or (7)" and inserting in lieu thereof "(l) (6), (7), or (8)".

Effective date. 26 USC 7213 note. (B) The amendment made by subparagraph (A) shall take effect on December 5, 1980.

Ante, p. 532. (b)(1) Section 309 of the Adoption Assistance and Child Welfare Act of 1980 is amended by striking out "fiscal year 1977 or fiscal year 1978 shall be made prior to October 1, 1980" and inserting in lieu thereof "any of the fiscal years 1977 through 1980 shall be made prior to October 1, 1981".

(2) The regulations pertaining to audit criteria (as set forth in 45 CFR 305.20) and the regulations pertaining to penalty for failure to have an effective child support enforcement program (as set forth in 45 CFR 305.50), under the child support program established by title

42 USC 651. IV-D of the Social Security Act, as in effect on the date of enactment of this Act, shall remain in effect until October 1, 1981.

42 USC 655. (c) Section 455(a) of the Social Security Act is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a period.

Approved December 28, 1980.

LEGISLATIVE HISTORY:

CONGRESSIONAL RECORD, Vol. 126 (1980):
Dec. 5, considered and passed House.
Dec. 13, considered and passed Senate, amended; House agreed to Senate amendments.

Public Law 96-612
96th Congress

An Act

To provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes.

Dec. 28, 1980
[S. 2261]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (80 Stat. 1309), as amended (16 U.S.C. 460u), is further amended as follows:

Indiana Dunes National Lakeshore, amendment.

(1) A new section is added at the end thereof to read as follows:

"SEC. 20. (a) The Indiana Dunes National Lakeshore is hereby dedicated to the memory of Paul H. Douglas in grateful recognition of his leadership in the effort to protect, preserve, and enhance the natural, scientific, historic, and recreational value of the lakeshore for the use, enjoyment, and edification of present and future generations.

Paul H. Douglas, dedication.
16 USC 460u-20.

"(b) To further accomplish the purposes of subsection (a) of this section, the Secretary of the Interior shall designate the west unit of the lakeshore as the 'Paul H. Douglas Ecological and Recreational Unit' and shall, subject to appropriations being granted, design and construct a suitable structure or designate an existing structure within the lakeshore to be known as the 'Paul H. Douglas Center for Environmental Education' which shall provide facilities designed primarily to familiarize students and other visitors with, among other things: (1) the natural history of the lakeshore and its association with the natural history of the Great Lakes region; (2) the evolution of human activities in the area; and (3) the historical features which led to the establishment of the lakeshore by the Congress of the United States.

"(c) To inform the public of the contributions of Paul H. Douglas to the creation of the lakeshore, the Secretary of the Interior shall provide such signs, markers, maps, interpretive materials, literature, and programs as he deems appropriate.".

(2) Section 1 of the Act is amended by changing "September 1976 and bearing the number 626-91007" to "December 1980, and bearing the number 626-91014".

16 USC 460u.

(3) Section 2(a) of the Act is amended by adding the following new sentence at the end thereof: "The Secretary is expressly authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, lands or interests therein which are owned for school or educational purposes by a State or a political subdivision thereof.".

Land acquisition.
16 USC 460u-1.

(4) Section 2(b) of the Act is amended by changing the phrase "section 10" to "section 9".

(5) In the first sentence of section 4 of the Act, preceding the word "February" insert: "January 1, 1981 or, in the case of improved property located within the boundaries delineated on a map identified as 'Boundary Map, Indiana Dunes National

16 USC 460u-3.

Lakeshore', dated September 1976 and bearing the number 626-91007, before".

Use and occupancy rights. 16 USC 460u-5.

(6) The first sentence of section 5(a) of the Act is amended to read as follows: "Except for owners of improved property within the area on the map referred to in the first section of this Act as area II-B, any owner or owners of record of improved property may retain a right of use and occupancy of said improved property for noncommercial residential purposes for a term (1) ending on his or her death or the death of his or her spouse, whichever occurs last, or (2) for a fixed term not to extend beyond September 30, 2010, or such lesser term as the owner or owners may elect at the time of acquisition by the Secretary: *Provided,* That the retention of a retained right under clause numbered (1) shall only be available to homeowners of record as of October 1, 1980, who have attained the age of majority as of that date and make a bona fide written offer not later than October 1, 1985, to sell to the Secretary.".

(7) Section 5 of the Act is amended by adding a new subsection (c) as follows:

Use and occupancy rights, extension.

"(c) With respect to improved properties acquired prior to the enactment of this subsection and upon which a valid existing right of use and occupancy has been reserved for a term of not more than twenty years, the Secretary may, in his discretion, extend the term of such retained right for a period of not more than nine years upon receipt of payment prior to September 30, 1983, from the holder of the retained right. The amount of such payment shall be equivalent to the amount discounted from the purchase price paid by the Secretary for the identical period of time under the terms of the original sale adjusted by a general index adopted by the Secretary reflecting overall value trends within Indiana Dunes National Lakeshore between the time of the original sale and the time of the retained right of extension offered by this subsection.".

16 USC 460u-7.

(8) Section 7(a) of the Act is amended by changing "ten years after the date of establishment of the national lakeshore pursuant to this Act" to "on September 30, 1985".

(9) Section 7(b) of the Act is amended as follows:

(A) by striking out "eleven members" and inserting in lieu thereof "thirteen members";

(B) by striking out "one member who is a year-round resident" in clause (4) and inserting in lieu thereof "two members who are year-round residents"; and

(C) by striking out "one member who is a year-round resident" in clause (7) and inserting in lieu thereof "two members who are year-round residents".

Appropriation authorization. 16 USC 460u-9.

(10) Section 9 of the Act is amended as follows:

(A) in the first sentence, change "$9,440,000 for development" to "$11,000,000 for development: *Provided,* That not more than $500,000 of said amount may be appropriated for the development of the Paul H. Douglas Environmental Education Center authorized pursuant to section 20 of this Act."; and

Ante, p. 3575.

(B) at the end thereof, add a new paragraph as follows: "In addition to any sums heretofore authorized for the acquisition of lands and interests in lands pursuant to the provisions of this Act, there are further authorized to be appropriated an additional $3,120,000.".

(11) A new section 21 is added to the Act as follows:

"SEC. 21. (a) The Secretary in consultation with the Secretary of Transportation, shall conduct a study of various modes of public access into and within the lakeshore which are consistent with the preservation of the lakeshore and conservation of energy by encouraging the use of transportation modes other than personal motor vehicles. Public access, study. 16 USC 460u-21.

"(b) In carrying out the study, the Secretary shall utilize to the greatest extent practicable the resources and facilities of the organizations designated as clearinghouses under title IV of the Intergovernmental Cooperation Act of 1968 as implemented by Office of Management and Budget Circular A-95, and which have comprehensive planning responsibilities in the regions where the lakeshore is located, as well as any other agencies or organizations which the Secretary may designate. The Secretary shall make provision for timely and substantive consultations with the appropriate agencies of the States of Indiana and Illinois, local elected officials, and the general public in the formulation and implementation of the study. Clearinghouse resources and facilities. 42 USC 4231.

"(c) The study shall address the adequacy of access facilities for members of the public who desire to visit and enjoy the lakeshore. Consideration shall be given to alternatives for alleviating the dependence on automobile transportation. The study of public transportation facilities shall cover the distance from cities of thirty-five thousand population or more within fifty miles of the lakeshore.

"(d) The study shall include proposals deemed necessary to assure equitable visitor access and public enjoyment by all segments of the population, including those who are physically or economically disadvantaged. It shall provide for retention of the natural, scenic, and historic values for which the lakeshore was established, and shall propose plans and alternatives for the protection and maintenance of these values as they relate to transportation improvements.

"(e) The study shall examine proposals for the renovation and preservation of a portion of the existing South Shore Railroad passenger car fleet. The study shall consider the historic value of the existing rolling stock and its role in transporting visitors into and within the lakeshore.

"(f) The study shall present alternative plans to improve, construct, and extend access roads, public transportation, and bicycle and pedestrian trails. It shall include cost estimates of all plans considered in this study, and shall discuss existing and proposed sources of funding for the implementation of the recommended plan alternatives.

"(g) The study shall be completed and presented to the Congress within two complete fiscal years from the effective date of this provision. Submittal to Congress.

"(h) Effective October 1, 1981, there is hereby authorized to be appropriated not to exceed $200,000 for this study.". Appropriation authorization.

(12) A new section 22 is added to the Act as follows:

"SEC. 22. In exercising his authority to acquire property under this Act, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the lakeshore to sell such property, if such individual notifies the Secretary in writing that the continued ownership of such property is causing, or would result in, undue hardship.". Land acquisition, owner's hardship. 16 USC 460u-22.

(13) A new section 23 is added to the Act as follows:

"SEC. 23. (a) The Secretary may acquire only such interest in that portion of area VII-A which is described in subsection (b) as the Secretary determines is necessary to assure public access over said portion of area VII-A. Public access. 16 USC 460u-23.

"(b) The portion of area VII-A, as designated on the map referred to in section 1, to which subsection (a) applies is a parcel of land bounded—

"(1) on the east by a line three hundred feet east of the electrical transmission line crossing area VII-A on January 1, 1979;

"(2) on the west by a line fifty feet west of such electrical transmission line; and

"(3) on the north and south by the northern and southern boundaries, respectively, of area VII-A.

"(c) Area VII-A includes the bed of the railroad tracks forming the northern and northwestern boundaries of this area and extends to the northern edge of the bed of the railroad tracks forming the southern boundaries of this area.

"(d) Area I-D includes the bed of the railroad tracks along the northern boundary of this area.

"(e) The area designated as area VII-C on the map referred to in section 1 does not include approximately 1.3 acres of land on which the Linde Air Products plant is situated, nor does it include approximately 1 acre of land on which the Old Union Station building and the adjacent REA building are situated. Except as provided in the foregoing sentence, area VII-C extends to, but does not include, the beds of the railroad tracks forming the northern and southern boundaries of such area.".

Effective date. 16 USC 460u note.

SEC. 2. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1981. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

Approved December 28, 1980.

LEGISLATIVE HISTORY:

SENATE REPORT No. 96-1005 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 126 (1980):
Sept. 30, considered and passed Senate.
Dec. 11, considered and passed House, amended.
Dec. 12, Senate agreed to House amendments.

Public Law 96-613
96th Congress

An Act

To make certain miscellaneous changes in the tax laws.

Dec. 28, 1980
[H.R. 7171]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tax laws, miscellaneous changes.

SECTION 1. ANNUITY CONTRACTS PURCHASED BY THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

(a) IN GENERAL.—An annuity contract purchased by the Uniformed Services University of the Health Sciences for any employee who is a member of the civilian faculty or staff of such university shall, for purposes of section 403(b) of the Internal Revenue Code of 1954, be treated as an annuity contract purchased for an employee by an employer described in section 501(c)(3) of such Code which is exempt from tax under section 501(a) of such Code.

26 USC 403.
26 USC 501.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to service after December 31, 1979, in taxable years ending after such date.

SEC. 2. RETIREMENT-REPLACEMENT-BETTERMENT METHOD OF DEPRECIATION.

(a) IN GENERAL.—Section 167 of the Internal Revenue Code of 1954 (relating to allowance for depreciation) is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection:

26 USC 167.

"(r) RETIREMENT-REPLACEMENT-BETTERMENT METHOD.—In the case of railroad track used by a common carrier by railroad (including a railroad switching company or a terminal company), the term 'reasonable allowance' as used in subsection (a) includes an allowance for such tract computed under the retirement-replacement-betterment method.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to taxable years ending after December 31, 1953.

26 USC 167 note.

SEC. 3. TREATMENT OF CERTAIN RAILROAD STOCK FOR PURPOSES OF CONSOLIDATED RETURN REGULATIONS.

(a) IN GENERAL.—For purposes of the consolidated return regulations prescribed under section 1502 of the Internal Revenue Code of 1954, if the determination of whether or not there has been a deemed disposition of stock in a transferor railroad (as defined in section 374(c)(5)(B) of such Code) depends on a determination of final value by the special court under the Regional Rail Reorganization Act of 1973, that deemed disposition shall not be treated as occurring before the earlier of—

26 USC 1502.
26 USC 374.
45 USC 701 note.

(1) the date on which such determination becomes final, or

(2) the first date on which there is an actual disposition of the stock or a deemed disposition not described above.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to taxable years ending after March 31, 1976.

26 USC 374 note.

SEC. 4. RESTORATION OF CERTAIN NET OPERATING LOSS CARRYOVERS TO RAILROADS IN CONRAIL PROCEEDINGS WHERE OTHER MEMBERS OF CONSOLIDATED GROUP HAD INCOME BECAUSE OF STOCK DISPOSITION.

(a) IN GENERAL.—For purposes of subsection (e) of section 374 of the Internal Revenue Code of 1954 (relating to use of expired net operating loss carryovers to offset income arising from certain railroad reorganization proceedings), if— 26 USC 374.

(1) subparagraphs (A) and (B) of paragraph (1) of such subsection are satisfied with respect to a corporation,

(2) such corporation had a net operating loss for a taxable year which would have satisfied the requirements of clause (i) of subparagraph (C) of such paragraph (1) but for the fact that such net operating loss was used to reduce the income of an affiliated group of corporations which filed a consolidated return, and

(3) any portion of the amount so used was included in an excess loss account which was required to be restored to the income of a member or members of the affiliated group (or would be required to be so restored but for an election under Regulation § 1.1502-19(a)(6)), 26 CFR 1.1502-19.

then an amount equal to the restoration amount shall be treated as meeting the requirements of subparagraph (C) of such paragraph (1).

(b) RESTORATION AMOUNT DEFINED.—

(1) IN GENERAL.—For purposes of subsection (a), the term "restoration amount" means, with respect to the net operating loss for any taxable year, an amount equal to the sum of—

(A) so much of the portion referred to in subsection (a)(3) as was required to be treated as ordinary income, and

(B) an amount equal to so much of such portion as was required to be treated as long-term capital gain, multiplied by the capital gain conversion fraction.

(2) CAPITAL GAIN CONVERSION FRACTION.—For purposes of paragraph (1), the capital gain conversion fraction is a fraction—

(A) the numerator of which is the rate of tax set forth in section 1201(a)(2) of such Code for the taxable year the portion was required to be included in income, and 26 USC 1201.

(B) the denominator of which is the highest rate of tax set forth in section 11(b) of such Code for such taxable year. 26 USC 11.

(3) FIFO RULE FOR ADDITIONS TO EXCESS LOSS ACCOUNT.—For purposes of this subsection, the amount in any excess loss account at the time of restoration (and the ordinary income portion of the restoration) shall be treated as attributable to net operating losses in the order of the years in which the respective net operating losses arose.

(4) CAPITAL GAIN TREATMENT.—For purposes of paragraph (1), any amount to which an election under Regulation § 1.1502-19(a)(6) applies shall be treated as long-term capital gain. 26 CFR 1.1502-19.

(c) EFFECTIVE DATE.—This section shall apply to restorations occurring after March 31, 1976.

SEC. 5. PREVENTION OF ABUSE OF CERTAIN PENSION PLAN PROVISIONS THROUGH THE USE OF SEPARATE CORPORATIONS OR OTHER ORGANIZATIONS.

(a) IN GENERAL.—Section 414 (relating to definitions and special rules relating to pension plan, etc.) is amended by adding at the end thereof the following new subsection: 26 USC 414.

"(m) EMPLOYEES OF AN AFFILIATED SERVICE GROUP.—

"(1) IN GENERAL.—For purposes of the employee benefit requirements listed in paragraph (4), except to the extent otherwise provided in regulations, all employees of the members of an affiliated service group shall be treated as employed by a single employer.

"(2) AFFILIATED SERVICE GROUP.—For purposes of this subsection, the term 'affiliated service group' means a group consisting of a service organization (hereinafter in this paragraph referred to as the 'first organization') and one or more of the following:

"(A) any service organization which—

"(i) is a shareholder or partner in the first organization, and

"(ii) regularly performs services for the first organization or is regularly associated with the first organization in performing services for third persons, and

"(B) any other organization if—

"(i) a significant portion of the business of such organization is the performance of services (for the first organization, for organizations described in subparagraph (A), or for both) of a type historically performed in such service field by employees, and

"(ii) 10 percent or more of the interests in such organization is held by persons who are officers, highly compensated employees, or owners of the first organization or an organization described in subparagraph (A).

"(3) SERVICE ORGANIZATIONS.—For purposes of this subsection, the term 'service organization' means an organization the principal business of which is the performance of services.

"(4) EMPLOYEE BENEFIT REQUIREMENTS.—For purposes of this subsection, the employee benefit requirements listed in this paragraph are—

"(A) paragraphs (3), (4), (7), and (16) of section 401(a), 26 USC 401.

"(B) sections 408(k), 410, 411, and 415, 26 USC 408, 410, 411, 415.

"(C) section 105(h), and 26 USC 105.

"(D) section 125. 26 USC 125.

"(5) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) ORGANIZATION DEFINED.—The term 'organization' means a corporation, partnership, or other organization.

"(B) OWNERSHIP.—In determining ownership, the principles of section 267(c) shall apply. 26 USC 267.

"(6) PREVENTION OF AVOIDANCE.—The Secretary shall prescribe such regulations as may be necessary to prevent the avoidance with respect to service organizations, through the use of separate organizations, of any employee benefit requirement listed in paragraph (4)." Regulations.

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (8) of section 105(h) (relating to amount paid to highly compensated individuals under a discriminatory self-insured medical expense reimbursement plan) is amended— 26 USC 105.

(A) by striking out "subsection (b) or (c) of section 414" and inserting in lieu thereof "subsection (b), (c), or (m) of section 414", and

(B) by striking out "CONTROLLED GROUPS" in the paragraph heading and inserting in lieu thereof "CONTROLLED GROUPS, ETC.".

(2) Paragraph (4) of section 125(g) (relating to special rules for cafeteria plans) is amended— 26 USC 125.

(A) by striking out "subsection (b) or (c) of section 414" and inserting in lieu thereof "subsection (b), (c), or (m) of section 414", and

(B) by striking out "CONTROLLED GROUPS" in the paragraph heading and inserting in lieu thereof "CONTROLLED GROUPS, ETC.".

26 USC 414 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years ending after November 30, 1980.

(2) PLANS IN EXISTENCE ON NOVEMBER 30, 1980.—In the case of a plan in existence on November 30, 1980, the amendments made by this section shall apply to plan years beginning after November 30, 1980.

Approved December 28, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1050 (Comm. on Ways and Means).
SENATE REPORT No. 96-1032 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 126 (1980):
June 17, considered and passed House.
Dec. 13, considered and passed Senate, amended; House agreed to certain Senate amendments, to others with amendments, and disagreed to Senate amendment No. 9; Senate receded from its amendment No. 9 and agreed to House amendments.